

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1619
Wednesday, **September 10, 1986**, 1:30 p.m.
City Commission Room, Plaza Level, Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Doherty, 2nd Vice-Chairman	Carnes	Compton	Linker, Legal Counsel
Kempe	Crawford	Frank	
Paddock, Secretary	Draughon	Gardner	
Parmeale, Chairman		Matthews	
Selph		Setters	
VanFossen			
Wilson, 1st Vice-Chairman			
Woodard			

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, September 9, 1986 at 9:25 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Parmeale called the meeting to order at 1:31 p.m.

MINUTES:

Approval of Minutes of August 27, 1986, Meeting #1617:

On **MOTION** of **WOODARD**, the Planning Commission voted **6-0-1** (Doherty, Parmeale, Paddock, Selph, VanFossen, Woodard, "aye"; no "nays"; Wilson, "abstaining"; Carnes, Draughon, Kempe, Crawford, "absent") to **APPROVE** the **Minutes of August 27, 1986, Meeting #1617.**

REQUESTED CONTINUANCES

Application No.: PUD 418
Applicant: Jones (Williams, et al)
Location: West of the SW/c 91st & Delaware
Size of Tract: 23.14 acres
Date of Hearing: September 10, 1986 (continued from July 23, 1986)
Requested Continuance to: October 8, 1986

Present Zoning: CS, OL
Proposed Zoning: Unchanged

TMAPC ACTION: 7 members present

On **MOTION** of **VANFOSSEN**, the Planning Commission voted **7-0-0** (Doherty, Parmele, Paddock, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Draughon, Kempe, Crawford, "absent") to **CONTINUE Consideration of PUD 418 Jones (Williams et al)** until Wednesday, **October 8, 1986** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

* * * * *

Application No.: Z-6125
Applicant: White
Location: East of the SE/c of 1st & Quincy
Size of Tract: .1+ acres
Date of Hearing: September 10, 1986
Requested Continuance to: September 24, 1986

Present Zoning: RM-2
Proposed Zoning: CH/IL

Comments & Discussion:

Staff advised the continuance request was timely, but the legal fees for advertising were not paid. Mr. VanFossen asked if, for some reason the legal fees were still not paid at the continued hearing, would the TMAPC policy would be to drop the application from the agenda? Mr. Gardner advised that if the applicant, after being properly notified, did not take care of the delinquent fees, then dropping the application was an alternative action the TMAPC could exercise.

TMAPC ACTION: 8 members present

On **MOTION** of **VANFOSSEN**, the Planning Commission voted **8-0-0** (Doherty, Kempe, Parmele, Paddock, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Draughon, Crawford, "absent") to **CONTINUE Consideration of Z-6125 White** until Wednesday, **September 24, 1986** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

* * * * *

Application No.: Z-6126 & PUD 421 Present Zoning: RS-3
Applicant: Heller Proposed Zoning: OL
Location: SE/c of the Broken Arrow Expressway frontage road & Zunis
Size of Tract: .1 acre, approximate
Date of Hearing: September 10, 1986
Requested Continuance to: October 8, 1986

TMAPC ACTION: 7 members present

On **MOTION** of **VANFOSSEN**, the Planning Commission voted **7-0-0** (Doherty, Kempe, Parmele, Paddock, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Draughon, Crawford, "absent") to **CONTINUE Consideration of Z-6126 & PUD 421 Heller** until Wednesday, **October 8, 1986** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

REPORTS:

Director's Report:

- a) REQUEST TO CALL A PUBLIC HEARING TO CONSIDER AMENDING TITLE 42, TULSA REVISED ORDINANCES (CITY OF TULSA ZONING CODE) & THE TULSA COUNTY ZONING CODE TO PERMIT DRIVE-IN BANKING FACILITIES IN THE OL (OFFICE LOW INTENSITY) DISTRICT, AS SPECIAL EXCEPTION USES ONLY, SUBJECT TO APPROVAL BY THE BOARD OF ADJUSTMENT.

Mr. Gardner presented a background review of the request and advised Staff suggested October 8, 1986 as the public hearing date. Mr. Paddock inquired as to how Staff determined if an item needed to be changed in the Zoning Code, and if it should be reviewed by one of the TMAPC Committees prior to the request for a public hearing. Mr. Gardner explained that Staff is using this particular period where zoning activity has slowed to review these type of "housekeeping items". In instances where Staff is recommending something new or a creation of an item, as opposed to a mere clarification, then the appropriate Committee reviews the item prior to a request for a public hearing.

TMAPC ACTION: 7 members present

On **MOTION** of **VANFOSSEN**, the Planning Commission voted **7-0-0** (Doherty, Parmele, Paddock, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Draughon, Kempe, Crawford, "absent") to **APPROVE** a Public Hearing for October 8, 1986 to Consider Amending Title 42 of the City of Tulsa Zoning Code and the Tulsa County Zoning Codes.

REPORTS - Cont'd

- b) CONSIDERATION OF A RESOLUTION APPROVING AMENDMENTS TO THE DISTRICT 6 COMPREHENSIVE PLAN, AS RELATES TO THOSE AREAS ALONG EAST 15th STREET (CHERRY STREET) FROM WEST OF PEORIA, EAST TO THE BROKEN ARROW EXPRESSWAY, AND FROM THE BROKEN ARROW EXPRESSWAY (ON THE NORTH) TO EAST 17th STREET (ON THE SOUTH)

Mr. Gardner commented that the City Commission had approved a zoning change at 15th and Utica at their meeting of September 9th. Therefore, the Plan Map for this area would need to be modified to reflect this change. Mr. Doherty, in his motion for approval, instructed the modification be made to the Plan Map before transmittal of the Resolution to the City Commission for approval.

TMAPC ACTION: 8 members present

On MOTION of DOHERTY, the Planning Commission voted 8-0-0 (Doherty, Kempe, Parmele, Paddock, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Draughon, Crawford, "absent") to APPROVE Resolution 1617:626, amending the District 6 Comprehensive Plan, as relates to the 15th (Cherry) Street Special Study Area, with the modification to the Plan Map, as recommended by Staff.

CONTINUED PUBLIC HEARING:

CONSIDERATION OF AMENDMENTS TO THE DISTRICT 4 COMPREHENSIVE PLAN, AS RELATES TO THE TULSA UNIVERSITY SPECIAL DISTRICT AND SPECIAL CONSIDERATION AREAS. (cont'd from 8/13/86)

Ms. Dane Matthews briefed the Commission on discussions at the public forum, which was held as directed by the TMAPC at the last hearing on this item. Ms. Matthews reviewed the modifications suggested at this public forum (which was attended by approximately 90 citizens), and stated the revised amendments had been presented to the TMAPC in their agenda packets.

Mr. Doherty commented the format at this meeting started with a presentation by the Staff and was then opened for a question/answer session, and concluded with comments by interested parties. It appeared the question/answer session was quite effective in clearing confusions and issues.

Ms. Kempe remarked that at the last hearing on this issue she had stated she owned some property in Subarea A and felt she could be objective in voting, therefore she did not abstain. At the public forum there were some who felt this might constitute a conflict of interest. Ms. Kempe clarified her earlier statement by advising that her property was one lot west of the eastern most boundary of Special Consideration Area A, and not in an acquisition area. Ms. Kempe asked Legal for an opinion on her participation in the discussions and vote on this matter. Mr. Linker advised that Legal has always taken the position that in matters of this type, the Planning Commissioner has to make the determination; however, it did not appear to him that there would be any reason to decline in participation. Therefore, Ms. Kempe stated she would not be abstaining.

Ms. Wilson, for clarification purposes, confirmed the acquisition area could be interpreted as any property that TU would desire to purchase in the future and would be within the boundaries of the acquisition area and they would intend to NOT purchase any land outside the acquisition area. Ms. Matthews acknowledged this to be correct.

Mr. Paddock asked for a Legal opinion as to the Urban Renewal Authority having (or not having) the power of eminent domain and thereby the power of condemnation. Mr. Linker stated it was his understanding that the Urban Renewal Authority had the power of eminent domain, but he would have to check the State Statutes to verify if they have to go through the City Commission, but he thought they had their own Counsel. Mr. Doherty commented that the Urban Renewal Authority currently had no jurisdiction or authority in this area since it was not included as part of an urban renewal area. Commissioner Selph further clarified that the area would have to be designated as a urban renewal area by the City Commission before the Urban Renewal Authority could intervene. Mr. Linker confirmed this to be correct.

Mr. VanFossen clarified with Ms. Matthews that the only changes from the previous submitted amendments was with section 3.2.; Ms. Matthews reviewed these changes.

PUBLIC HEARING: Dist 4 (TU) - Cont'd

Mr. Doherty, in regard to 3.2.10 and security in the acquisition area, stated some residents suggested there might be a need to examine security in areas outside the acquisition area. He suggested to Staff that they consider looking at an amendment (possibly 3.3.10) to read "the need for additional security around the TU campus should be examined".

Mr. VanFossen stated he had a bit of a problem with 3.2.9 and the wording "not allowed", and suggested modifying this to "such facility should be encouraged not to expand". Mr. Paddock commented he disagreed with Mr. VanFossen on this item as to the word "encouraged", and would discuss this in review session.

Interested Parties:

Address:

Mr. Stan Keithley	1336 East 20th Street	74120
Mr. Art Cotton	827 South Knoxville	74112
Ms. Sharon Bell	4333 East 60th Place	74135
Mr. David Heinz	3344 East 44th Street	74112
Mr. C.R. Cleveland	PO Box 1589	74102
Mr. Eugene Colleoni	1534 South Delaware	74104
Mr. Captola Thomas	216 South Florence	74104
Ms. Vautress Monteith	2600 East 8th	74104
Ms. Irene Bradshaw	3230 East 4th	74104
Ms. Gracie S. Cary	1147 South Evanston	74104
Mr. Charles Norman	909 Kennedy Building	74103

Mr. Keithley voiced concerns as to a non-taxpaying entity drawing in taxpayers to fend for themselves, and stated he felt the "acquisition area" label was unnecessary because TU can buy wherever they wish. He was also upset about TU buying homes at "fair market value" and others should be allowed to purchase, to avoid TU having a "purchasing monopoly". Mr. Keithley suggested postponing a vote until TU submits their plan for development.

Mr. Cotton, a resident and member of the Study Committee, while sympathizing with the others, stated he felt this plan has a positive impact on the area and encouraged the TMAPC to adopt these amendments.

Ms. Bell stated she used to live in District 4 as a resident and a TU student. She also felt this plan offered a stabilizing force for the area and asked that the plan be approved.

Mr. Heinz, in an effort to bring up Ms. Kempe's ownership of property near the acquisition area, was informed by Chairman Parmele that this matter had been addressed and settled by Legal Counsel and Ms. Kempe. Mr. Heinz then proceeded to address the tax situation due to TU acquiring property in the acquisition area, and stated concerns as to clarification of the wording in 3.2.3 "all available tools". He also had concerns as to security outside the greenbelt areas.

PUBLIC HEARING: Dist 4 (TU) - Cont'd

Mr. Cleveland advised he owns property in the acquisition areas and Subarea B. Mr. Cleveland stated he was concerned as to the number of citizens against this plan as he had not heard any real good reasons for this, but he also had not heard why TU was for the plan. He also stated a desire to see a plan submitted by TU as directed in the Master Plan.

Mr. Colleoni objected to the deletion of 3.2.5 of the old plan, and voiced concerns with any TU stadium expansion because of the present parking situation in this area. Mr. Colleoni also objected to the method these plans were being forced on the low and middle income residents.

Ms. Thomas submitted a petition with 332 signatures of residents opposing the plan amendments. She requested replanning not be opened for a 15 year period and asked that the notification procedure should apply as on zoning cases.

Ms. Monteith commented she has lived in this area for over 35 years and was opposed to anyone or anything that would force any of the homeowners out of their homes.

Ms. Bradshaw, a resident in this area for 15 years, stated concerns as to the boundary expansion over the past years in the TU area, and the continued efforts to expand. She said she would "like TU to make up their minds and keep it made up".

Ms. Cary first spoke on behalf of Ms. Jewell Tyner, 2119 East 10th Street, in opposition of the suggested amendments. Ms. Cary then proceeded by stating her main issue was the opening of the District 4 Plan for amendment, and she was concerned about the boundary expansions, as TU had previously stated that they would not extend their boundaries beyond Delaware, the alley between 4th Place and 4th Street, Harvard or 11th Street. Ms. Cary submitted a petition signed by 342 residents asking that the present plan stand without amendment. Mr. Paddock asked Ms. Cary what the amended plan did that the present plan did not do. Ms. Cary commented that it extended TU's boundaries. Mr. VanFossen confirmed with Ms. Cary that she was on the original plan study committee, and asked her if she was for the plan at that time. Ms. Cary stated "we finally conceded that TU might profit by this and it would not devastate our neighborhood, so we half-heartedly relented that they could come to Delaware."

Mr. Norman, representing Tulsa University, asked the Commission to keep in mind the purpose of the Comprehensive Plan and how it works with the other elements of our community guidelines. The Plan under consideration specifies in Section 1.1 that its purpose is to serve as a framework in which decisions can be made by individuals and public bodies. This also provides, contrary to some statements made by protestants, for keeping the Plan current, as Section 1.4 states this is an ongoing and continuously changing process and the Plan must be reviewed (even annually) to determine if the Plan still complies with the conditions that exist in the

neighborhood, as well as the economic and development conditions. Mr. Norman stated that the Comprehensive Plan, and the portion that TU would prepare for presentation to the TMAPC, would consist of public and private elements and for that reason, Mr. Norman advised he had some concerns about the language proposed in Section 3.2 that provides that once the plan is adopted, any changes shall be reviewed and approved by the TMAPC. Mr. Norman commented this was a superfluous statement in that this was already the law with respect to the Comprehensive Plan. It is appropriate with respect to any public element of the Plan, such as changes of streets, but those parts of a plan for a campus or university that are not a part of the public domain are not the kinds of items that should be expected to come to the TMAPC for review or monitoring, as they are not within the scope of the Plan itself. Therefore, Mr. Norman stated he had concerns as to including this new sentence.

With reference to the sports facilities section that was recommended for inclusion, Mr. Norman stated that this was, essentially, already in the Plan and he had no objection, except to state that the probability of the development of an all-sports stadium was less now than in 1980-81. Mr. Norman stated support of those comments for security in other areas than just the acquisition area, and TU would like to see this restated to include security for the entire area.

In regard to Section 3.2.9, Mr. Norman questioned if reference to "District" meant to imply District 4 or the Special District, as the language could apply to the Fair Grounds and Expo Center. Mr. VanFossen commented he interpreted this to be a district greater than the Special District as the parking extended beyond the Special District.

Mr. VanFossen, in reference to changes in the TU Special District Plan, remarked that he felt the concern was those that relate to the private entities certainly should have public review, such as facilities in an area near private entities not owned by TU. Mr. Norman commented there were some aspects that would be reviewed if the Subdivision Regulations were involved or zoning changes were made at a different level than the Comprehensive Plan level. Realizing the difficulty of handling the wording on this, Mr. Norman stated that the process of Comprehensive Planning does not require or demand that TU, or any other property owner, come before the TMAPC with a detail plan of all of the elements of development. Acknowledging that the Planning Commissioners understood this process, Mr. Norman clarified that TU's participation in the process did not mean that the public was acquiring more jurisdiction over TU than it already had. Mr. Norman stated a previous comment made was correct in that TU had the right to acquire property outside the district boundaries and, contrary to a comment made by Staff, he did not recall TU agreeing they would not acquire property outside this Special District.

PUBLIC HEARING: Dist 4 (TU) - Cont'd

Mr. Doherty, in regard to the sports facility paragraph, remarked this was placed here primarily because the Citizen Planning Team addressed just the TU special consideration and acquisition area, and these amendments apply specifically to those areas.

Mr. Paddock requested clarification on TU paying (or not paying) property taxes. Mr. Norman stated, while not representing TU on these matters, it was his understanding that the organization would be exempt with respect to educational activities. If not related to educational activities, then the properties and the income they were producing would be subject to taxation. Mr. Paddock then inquired why TU was in favor of the amendments to the existing Plan and Map. Mr. Norman replied that TU's major concern and the basic purpose in support of this was to gain two objectives: general approval of what the University, as an institution, hopes to accomplish; and recognition that the University needs some cooperation and assistance from the public sector to protect its area of legitimate concern that also affect the community as a whole. For these reasons, the language was added referencing Areas A, B and C as extremely important to TU, due to the deterioration in some areas between Delaware and Lewis, and the benefit to be gained by upgrading these areas .

Commissioner Selph, in regard to property taxes, asked if it was TU's intention to acquire homes for long term use and utilize these as rental property. Mr. Norman replied it was not, as there was no incentive for TU to be in the rental business on a small scale basis, as TU's only interest would be to have temporary housing resources, and any long term use would be in a typical university fashion such as dormitories. Commissioner Selph inquired if TU wanted to request the assistance Urban Renewal in order to use eminent domain, would they not have this right now, regardless of the action today by TMAPC. Mr. Norman confirmed that TU does have, as does any citizen, the right to propose an urban renewal project plan. But basically, this process has been used frequently to accomplish public objectives which must be found to exist before the power of eminent domain can be exercised, and those accomplishing public objectives often assist private institutions (such as the Osteopathic Hospital and Tulsa's downtown area). Mr. Norman stressed this cannot happen without a number of processes taking place, such as submission of a detail project plan, TMAPC review, public hearing by the Urban Renewal Authority and, ultimately, review by the City Commission. Commissioner Selph stated he felt this was a legitimate concern on the part of the residents and he wanted to clarify that TU had the right, today, to request assistance of the Urban Renewal Authority should they so desire.

Ms. Wilson, in regard to the submission of a detail plan by TU, questioned putting a time frame on this Plan, such as four to six months for future review. Mr. Norman commented that this was not a TU plan, but TU has assumed some responsibility in the development of the Plan by stating it would prepare and submit a plan and fully intends to do so but, as a matter

PUBLIC HEARING: Dist 4 (TU) - Cont'd

of semantics, the Commission does not really have the right to require TU, by putting in this Plan, to do that. TU has stated they will do this and they intend to do so, and if they do not, the Commission has the right to change the Plan. Ms. Wilson commented, in looking at the District 4 Plan there was an item stating that TU should develop a master plan for review by the Planning Commission, and this was done in 1980 and 1981, and nothing has come forward. Ms. Wilson further inquired, in regard to this particular section, if the only reason this was new was because TU was inferring this was where they chose to acquire property, even though they are not restricting themselves to the acquisition area (as stated earlier). Mr. Norman commented that, as far as a stabilizing force, this was a question each would have to decide for themselves, but in evaluating all elements of the Plan, those who worked on it feel it is a stabilizing effect, realizing plans change with updating and revision.

Mr. Paddock stated confusion as to TU's support of this when it has been determined that TU has the right to acquire whatever properties they want, and they do not need this to do it. Mr. Norman commented that most of TU's concern was on stabilizing their boundaries, and if TU was going to expect community support to upgrade, stabilize and improve the neighborhood areas, it was only fair that they participate in the planning process on a complete basis. Mr. Doherty interjected that at the Committee meetings it was mentioned by one of the TU Trustees that in the past, TU had a less than spotless record in neighborhood relationships, and they were now trying to delineate their ultimate plans for expansion. This was not meant to imply that this was the only place they wish to acquire property, as there were matters involving faculty housing, etc. that might dictate property acquisition outside of this area. Mr. Doherty added that, as times change so does the campus, as TU is no longer considered a commuter campus exclusively, and the plans are based on growth ten, twelve, etc. years in the future.

Commissioner Selph confirmed with Mr. Norman that it should **not** be construed that TU would have sole authority to purchase property within the acquisition area. Chairman Parmele added that the definition of "fair market value" requires a willing seller, a willing buyer, a reasonable length of time on the market at a reasonable price, and an arms length transaction with no undue influence exerted on either party. Discussion followed as to the protective policies or standards available to residents.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the Planning Commission voted **8-0-0** (Doherty, Kempe, Parmele, Paddock, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Draughon, Crawford, "absent") to **APPROVE** Closing of the Public Hearing Portion and Proceed to the TMAPC Review Session of the District 4 Plan Amendments, as relates to the TU Special District and Consideration Areas.

PUBLIC HEARING: Dist 4 (TU) - Cont'd

Ms. Wilson inquired of Staff, in reference to any changes coming back for TMAPC review and Mr. Norman's comments on this, if it was Staff's intent to have everything reviewed by the Commission. Mr. Gardner stated, for example, that in this level of planning, one of the items to be shown would be which of the streets were intended for closing, and those areas of the campus which TU considers for expansion, open space, etc. If there were major changes in the plan, once adopted by the TMAPC, then TU would have to come back for resubmission. Individual buildings and uses would go through the Board of Adjustment (BOA).

Mr. Paddock commented that he understood one good reason to enlarge the boundaries of this Special District was to enable the BOA to grant, in a proper case, an application from the University for a variance, special use, etc. Mr. Gardner clarified that this would allow the BOA to know where the areas designated by the Comprehensive Plan were for University use, as it must first be designated before the BOA can entertain it as far as compliance with the Plan.

Mr. VanFossen advised the Comprehensive Plan Committee recommended adoption of the Plan Amendments and, as he saw no significant changes since the Committee review, moved for approval with the modification to Section 3.2.9 (second sentence), "For this reason, such facility should be discouraged from expansion." Mr. Doherty asked Staff, in regard to expansion of Skelly Stadium, what the process would be should they need to expand with additional seats, bleachers, etc., and what mechanism would this Commission have for blocking such expansion. Mr. Gardner stated that, Skelly Stadium or any other facility or building on campus wishing to expand, must have approval of the BOA, which is a public hearing and would require notice. Ms. Kempe, regarding the area of the general policies, commented one of the provisions calls for providing health facilities, entertainment facilities, etc., and she questioned if this presented a conflict when we say we are discouraging the expansions of what could be termed an entertainment facility when the plan calls for providing these in the general policies. Ms. Matthews stated that, because it was a general policy, the Stadium was already there and was not being removed. But, at some point when another similar facility is available, then perhaps Skelly Stadium should be phased out or a new use applied. Mr. VanFossen amended his motion to read "Skelly Stadium", rather than "such facility".

Mr. Doherty asked Mr. VanFossen if he would further amend his motion to include wording in Section 3.3 to express the same need for security in the areas surrounding the campus as on the campus; Mr. VanFossen concurred.

PUBLIC HEARING: Dist 4 (TU) - Cont'd

In regard to Section 3.2.7 and AG downzoning, Mr. Paddock questioned if AG would be appropriate for all properties. Ms. Matthews commented that AG was the only holding zone available, and if a piece of property was purchased and cleared, then TU would not be renting a house on it. Mr. Gardner suggested using the wording "AG or equivalent open space zoning classification". Discussion followed among the Commissioners on this matter.

Commissioner Selph, addressing Mr. VanFossen's motion for 3.2.9, suggested going back to the original wording "not allowed", since it specifically names Skelly Stadium. Mr. VanFossen suggested voting on this particular amendment separately. Mr. Doherty moved to amend the suggested language (specifically as a separate amendment) to Mr. VanFossen's motion to read:

"Sports facilities such as Skelly Stadium place a burden on the transportation and parking facilities that exist in this District. For such reason, Skelly Stadium should not be allowed to expand. At such time as a new all-sports stadium is developed at a more accessible site, Skelly Stadium should be phased out."

Legal Counsel advised this procedure has been followed in the past by the Commission and he did not have a problem with this.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the Planning Commission voted 7-1-0 (Doherty, Kempe, Parmele, Paddock, Selph, Wilson, Woodard, "aye"; VanFossen, "nay"; no "abstentions"; Carnes, Draughon, Crawford, "absent") to **APPROVE** the Modification to Section 3.2.9 to read, "Sports facilities such as Skelly Stadium place a burden on the transportation and parking facilities that exist in this District. For such reason, Skelly Stadium should not be allowed to expand. At such time as a new all-sports stadium is developed at a more accessible site, Skelly Stadium should be phased out."

In regard to Section 3.2, titled "TU Special District - Acquisition Area", Ms. Wilson suggested it be modified to "TU Special District - **Planned** Acquisition Area". Commissioners Kempe and Doherty agreed with Ms. Wilson; therefore, Mr. VanFossen amended his motion to include this suggestion.

Mr. Paddock again stated he did not understand why this was being discussed if TU can do what they want to do. Mr. VanFossen stated, as the purpose of this Commission was planning, he felt they were trying to recognize what would be appropriate in this area as it relates to an existing facility, and this helps the people in and around the area understand better what is planned. Commissioner Selph commented he agreed with Mr. Paddock in that TU has the authority to do everything that is in the plan today, whether or not approved. But he thought it was also obvious, based on the protestants comments, that TU had made some mistakes in the past in dealing with residents, and he perceived this to be an attempt on TU's part to have open communication with the residents of the neighborhood so as to eliminate some of the uncertainties and, hopefully, stabilize that neighborhood. Mr. Doherty added that this Commission, as well as TU, had made mistakes in zoning and one reason for

PUBLIC HEARING: Dist 4 (TU) - Cont'd

reviewing this today was to help the Commissioners and their successors to avoid similar mistakes. Ms. Wilson commented that what should be viewed as more critical is what TU actually does do in following their plan, and it appears TU has entered into this process in good faith.

Mr. Doherty commented that there were some suggestions submitted at the forum to improve public involvement, those being notification of planning meetings, district meetings, etc. might be best served by notice on the cable channel that lists upcoming events, and notices in branch libraries and post offices in the effected areas.

Chairman Parmele reviewed the motion and suggested modifications. Ms. Kempe inquired if the downzoning to AG or an equivalent open space zoning (3.2.7) was included in the motion. Mr. VanFossen amended his motion to include this suggestion as previously discussed.

TMAPC ACTION: 8 members present

On **MOTION** of **VANFOSSEN**, the Planning Commission voted **8-0-0** (Doherty, Kempe, Parmele, Paddock, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Draughon, Crawford, "absent") to **APPROVE** the Amendments to the District 4 Comprehensive Plan - Tulsa University Special District and Special Considerations Areas, as recommended by Staff and modified as follows:

Section 3.2: TU Special District - **Planned** Acquisition Area

Section 3.2.7: TU is encouraged to downzone to AG, **or an equivalent open space zoning classification**, all properties it has acquired and cleared for green space.

Section 3.2.9: (Modified by separate motion; see page 12 of these minutes.)

Section 3.3.2: Stronger code enforcement measures are encouraged in order to minimize incompatible land uses and better stabilize the neighborhoods. **The need for additional security around the TU campus should be examined and security improved where needed.**

ZONING PUBLIC HEARING:

Application No.: Z-6127 Present Zoning: RS-3, RM-1, OL
Applicant: Wallace Proposed Zoning: CO
Location: North & West of the NW/c of 71st & Garnett
Size of Tract: 28.4 acres, approximately

Date of Hearing: September 10, 1986
Presentation to TMAPC by: Mr. Louis Levy, 5200 South Yale (496-9258)

Relationship to the Comprehensive Plan:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity No Specific Use.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the requested CO District is not in accordance with the Plan Map.

Staff Recommendation:

Site Analysis: The subject tract is approximately 28.4 acres in size and located north and west of the northwest corner of 71st Street and Garnett Road. It is partially wooded, flat, vacant, and zoned RS-3, RM-1 and OL.

Surrounding Area Analysis: The tract is abutted on the north by single family residential zoned RS-3, on the east by vacant property zoned R-1, within the Broken Arrow City Limits, on the south by vacant land zoned CS and CO, and on the west by vacant property zoned RS-3 and OL.

Zoning and BOA Historical Summary: Recent actions by the TMAPC and City Commission have established zoning patterns which closely adhere to the Comprehensive Plan.

Conclusion: Based upon the Comprehensive Plan and the existing zoning patterns, Staff cannot support the requested CO zoning. If the applicant needs flexibility within the existing zoning pattern, a PUD could be submitted which would grant said flexibility and include the necessary buffer along the north boundary on the applicant's tract to the existing single-family area. Therefore, based upon the Comprehensive Plan and existing land use and zoning, the Staff recommends **DENIAL** of CO zoning.

Comments & Discussion:

Ms. Wilson asked for clarification of the CS and CO zonings in this area. Chairman Parmele inquired as to the parameters of CO zoning. Mr. Gardner explained that when the Comprehensive Plan was adopted for this area, the existing single-family was recognized and the areas east of the single-family were to hold the conventional subdistrict classifications, while everything west was allowed CO zoning. Mr. Gardner pointed out the buffer areas on the map. Chairman Parmele confirmed that single-family could also be allowed in CO.

Applicant's Comments:

Mr. Levy, representing the applicant, advised of a modification to the amount of acreage requesting CO to a 15 acre tract and defined this area on the map. Mr. Levy stated agreement with Staff that the original amount of acreage might have been too much, and agreed the RS-3 should remain. Mr. Levy advised the amount to be excluded from the original application was approximately 3.65 acres (210 feet) of the existing RS-3 on the north, and elimination of the OL on the bottom on the area under consideration. Mr. Levy pointed out this OL zoning appeared to be spot zoning, and with this amended application, the request was more compatible with the surrounding area.

Mr. Gardner commented that, with the amended application, the applicant's CO zoning was now bordering CO on two sides, buffered by RS-3 on the north and RM-1 on the east and was consistent with the zoning patterns in the area.

Interested Parties:

Mr. Frank Gravitt, 6802 South Garnett, stated that the reason Broken Arrow had their residential on the east side of Garnett was due to the Tulsa zoning on the west side.

TMAPC ACTION: 7 members present

On **MOTION** of **DOHERTY**, the Planning Commission voted **7-0-0** (Doherty, Kempe, Parmele, Paddock, Selph, VanFossen, Wilson, "aye"; no "nays"; no "abstentions"; Carnes, Draughon, Woodard, Crawford, "absent") to **APPROVE** the **Amended Application for Z-6127 Wallace for CO**, as recommended by Staff.

Legal Description:

A tract of land located in the SE/4 of the SE/4 of Section 6, T-18-N, R-14-E, Tulsa County, State of Oklahoma, to-wit: Beginning at the southeast corner of said section, thence west a distance of 710 feet to the POB; thence continuing west for 610 feet to a point; thence north a distance of 1,075 feet to a point; thence east a distance of 610 feet to a point; thence south a distance of 1,075 feet to the POB; containing 15 acres, more or less.

FINAL PLAT APPROVAL & RELEASE:

9700 Memorial (PUD 411) NE/c of East 98th Street & South Memorial (CO)

On **MOTION** of **DOHERTY**, the Planning Commission voted **8-0-0** (Doherty, Draughon, Parmele, Paddock, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Kempe, Carnes, Crawford, "absent") to **APPROVE** the **Final Plat of 9700 Memorial (PUD 411)** and release same as having met all conditions of approval.

OTHER BUSINESS:

PUD 407: Northwest corner of East 68th Street South and South Yale Avenue

Staff Recommendation: Detail Landscape Plan

The subject tract is approximately 22 acres in size and is located at the northwest corner of East 68th Street South and South Yale Avenue. PUD 407 was approved by the TMAPC on November 12, 1985 and the City Commission on January 28, 1986. One of the purposes for the PUD was to provide for parcelization of the present development of the Resource Sciences Center (RSC) site and requirements related to that approval included submission of a parking plan and reinforcement of the existing landscaping.

The concept of the landscape approval included the following criteria:

- 1) Increased and improved treatment of a modified east/west corridor through the tract.
- 2) Detailed design of an improved landscape layout for the main "east entry" from Yale Avenue.
- 3) Grade stabilization and increased landscape treatment of portions of the slope along East 68th Street.
- 4) Improved landscape treatment of the west entry to the site from South Toledo.
- 5) A landscape buffer along a portion of the tract at the northwest corner.

The proposed Plan addresses each of the above criteria in detail and shows the location of both existing and new landscaping materials. The Plan also includes a detailed schedule of the various types, sizes and locations of trees, shrubs, plants and grassed areas to be installed.

Staff notes that the Detail Landscape Plan submission has preceded submission of the Detail Parking Plan and Site Plan. Therefore, Staff recommends **APPROVAL** of the Detail Landscape Plan, subject to it being consistent with the required TMAPC approval of the Detail Parking Plan and Site Plan.

Staff notes that a condition of approval of PUD 407 was that materials required under the Detail Landscape Plan must be reviewed and approved and installed prior to conveyance of any parcels created by the PUD and plat on a parcel-by-parcel basis. This will not be feasible on landscaping at the east entry as the grade and elevations of that portion of the tract will change significantly with possible future construction of a building (as approved per PUD 407) to be located south of the east entry from Yale and north of East 68th Street South. It is, therefore, recognized that phased installation of the Landscape Plan could be necessary as parcels are created and conveyed. PUD 407 condition #8 will assure that the required landscaping is installed on each parcel prior to granting an Occupancy Permit on a new building.

Comments & Discussion:

Mr. Doherty clarified the zoning across from the buffer area as RS-2, and discussed with Staff the landscaping and screening. Mr. VanFossen inquired if this request dealt with the east entry and was informed that the TMAPC was just approving the landscaping plan and phasing of the Plan would be required.

TMAPC ACTION: 8 members present

On **MOTION** of **KEMPE**, the Planning Commission voted **7-0-1** (Doherty, Kempe, Parmele, Paddock, Selph, VanFossen, Woodard, "aye"; no "nays"; Wilson, "abstaining"; Carnes, Draughon, Crawford, "absent") to **APPROVE** the **Detail Landscape Plan for PUD 407**, as recommended by Staff.

Applicant's Comments:

Mr. Roy Johnsen (324 Main Mall) explained that the Landscaping Plan did not show an existing retaining wall and part of the commitment and obligation on this project was that, before any new buildings were constructed, the applicant would have to widen the entry way.

Mr. VanFossen reminded that the TMAPC approval excluded the east entry. Mr. Johnsen commented that, because of close scrutiny, he wanted to make it clear that the wall was not, necessarily, omitted or included in this. Staff clarified that Mr. Johnsen was wanting the Commission's blessing (in the record) as to whether the wall would stay or go, as there were other agencies interested in this project. Chairman Parmele confirmed that the TMAPC did not make a determination on the issue of the wall.

* * * * *

Z-4900-SP-3-B: NE/c corner of South Mingo and East 73rd Street South

Staff Recommendation: Minor Amendment & Amendment to Deeds of Dedication/Declaration of Covenants

The subject tract is located at the northeast corner of South Mingo and East 73rd Street South and is the site of a recently completed Federal Express building which is being used as an office and mail distribution center. The CO District requirements of the Zoning Code for Corridor Site Plan approval, landscaping and screening have been met and are now in place on the site. The applicant is requesting, by a minor amendment, that the "Permitted Uses" language of the approved Site Plan be clarified as including uses of a similar or less intensity for purposes of securing permanent financing. The "Permitted Uses" language of the approved site plan is as follows:

Courier/mail service (any change of the principal uses or any material change in the exterior operational or exterior physical characteristics of the use shall require the approval of the TMAPC upon review of an amended site plan and/or amended development standards). No business materials shall be stored outside an enclosed building and no business activities related to a principal use shall be conducted outside an enclosed building.

Staff concurs with the applicant's request to include additional similar or less intense uses and considers this request to be minor and of a clarification nature. A similar application was approved immediately north of the subject tract which permitted a range of similar use units, but did not allow business or activities to be conducted outside an enclosed building. Consistent with Section 850.7 Amendments to Corridor Site Plans, minor changes to approved corridor developments may be authorized by the TMAPC as long as substantial compliance is maintained with the approved plan and, purposes and standards of the CO Chapter. Staff notes that the "Permitted Uses" section of the Development Standards which received TMAPC and City Commission approval, provided specifically that "...any change of the principal uses...shall require the approval of the TMAPC upon review of an amended site plan and/or amended development standards." Staff notes this condition would grant TMAPC the basis upon which to consider the applicant's request as a minor amendment and that the requested amendment would be consistent with the original specific language of the Site Plan. It is also significant that the amendment is conditioned upon future uses being conducted within the existing buildings, and the required screening and landscaping is in place.

Therefore, Staff recommends APPROVAL of the Minor Amendment and Amended Deeds of Dedication/Declaration of Covenants per Z-4900-SP-3-B as follows:

Development Standards:

Permitted Uses: Courier/mail service. Also, Use Units 11, 12, 13 and 14. Use Unit 15, excluding air conditioning and heating, bait shops, bottled gas, fence, fuel oil, ice plant, lumber yard, model homes, portable storage buildings/sales, plumbing shop and kennel. All permitted uses shall be conducted within existing enclosed buildings and materials associated with those uses shall also be stored within an enclosed building.

Minimum Off-Street Parking: 87 spaces and/or as required by the applicable Use Units per the Zoning Code.

Maximum Building Floor Area:
Courier/Mail Service 37,400 sf
Minimum Office Area 4,800 sf
Maximum Operations Area 32,600 sf
Other Approved Uses No minimum office or maximum operations

NOTE: All other Development Standards remain unchanged, unless otherwise specified in Z-4900-SP-3-B.

Comments & Discussion:

Mr. Linker advised he wished the record to reflect that Legal feels this should be treated as a major amendment rather than a minor amendment because of the change of use, which constitutes rezoning. Mr. VanFossen commented he would recommend this be done. Mr. Frank stated Staff has discussed Legal's position with them and feels that, based on the language approved in the original PUD text, this request can be handled as a minor amendment. Mr. Frank also advised that the mortgage company requested the applicant go through this process in order to get permanent, rather than temporary, financing.

Applicant's Comments:

Mr. Roy Johnsen (324 Main Mall), representing the applicant, presented the background information as to the requested change in the Permitted Uses. Mr. Johnsen reviewed the extenuating circumstances with this application: The Ordinance was not specific as to what constitutes a major amendment; an out-of-state mortgage company trying to obtain a clearer definition of the uses; the loan commitment expired August 29th and was given a two week extension, and should the deadline not be met the transaction may fail; notice has been given to those within 300' and the request was posted; the approval language of the original PUD Text (approved by the TMAPC and City); there were no protestants at the first hearing and none are present this date; and the buildings and landscaping were now in place and the other site controls have been met. Mr. Johnsen concluded by stating the real risk was to the applicant and the above factors, collectively, warrant approval of this request.

In response to Mr. VanFossen, Mr. Johnsen stated the minor amendment specifies what alternative uses would be permitted. Mr. VanFossen remarked he understood the need, but he would not go against Legal's recommendation. Mr. Johnsen commented he did not view Legal's position to be as strong as a recommendation, other than to follow a consistent pattern. Mr. Linker interjected that Mr. Johnsen was correct that Legal can only advise and the TMAPC must determine whether they wish to follow that advise. Mr. Linker added that Mr. Johnsen has set out extenuating circumstances in this particular situation and he agreed that the party most at risk was the applicant.

Mr. Gardner stated that, when this particular item was first brought before the Planning Commission, the Staff and the Commission were more concerned with putting a "cap" on the intensity of use proposed, as opposed to ruling out all other less intense uses, and that was the purpose of the language in the PUD Text. The key was to establish the intensities, buildings, setbacks, etc. and whether this was used for a Federal Express or a general office building should not be the issue.

Mr. Doherty asked Legal if this was in fact a major amendment, and the TMAPC approved it as such, were there sufficient extenuating circumstances to preclude any reference to precedent. Mr. Linker advised that there was the unusual wording of the minutes, and suggested the Commission instruct the Staff to look at defining what constitutes a major and minor amendment. Mr. Linker stated he felt there was something he could distinguish, from a Legal point of view, should the TMAPC decide to approve this.

Ms. Wilson recalled the applicant, in the original presentation, indicated a desire to work within the system and there was a great deal of discussion on the one particular use (courier/mail service). Mr. Gardner commented that the screening (for example) was built as such to provide a buffer for the more intense use of the courier service, and Staff compares this to a situation where the TMAPC approves an application to build 150 apartments, and should the applicant decide to only build 100 units, he does not have to come back before the TMAPC. In this case, the maximum intensity has been established and the applicant is requesting more restrictive, less intense uses.

Mr. Paddock remarked he could not recall the unusual wording of the previous PUD particularly being brought to their attention, and he felt the TMAPC was being called upon to make a judgement as to whether this request was substantial compliance. He also stated appreciation to Legal Counsel for suggesting a definition be made as to what constitutes a major amendment. Due to the fact that the requested intensities were similar or less, Mr. Paddock stated he could support this request.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the Planning Commission voted **7-1-0** (Doherty, Kempe, Parmele, Paddock, VanFossen, Wilson, Woodard, "aye"; Selph, "nay"; no "abstentions"; Carnes, Draughon, Crawford, "absent") to **APPROVE** the Minor Amendment and Amended Deeds of Dedication/Declaration of Covenants for Z-4900-SP-3-B, as recommended by Staff.

* * * * *

On Ms. Wilson's suggestion, the Commission instructed that Staff prepare a separate map of the Creek Expressway to indicate the various subdivisions along the expressway path.

There being no further business, the Chairman declared the meeting adjourned at 4:40 p.m.

Date Approved Sept 24, 1986
Robert J. Doherty
Chairman

ATTEST:

Bob Paddock
Secretary

