

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1629
Wednesday, December 5, 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	Frank	Linker, Legal Counsel
Draughon	Crawford	Gardner	Connelly, City Development
Kempe		Setters	
Paddock, Secretary		Matthews	
Parmeale, Chairman			
Selph			
VanFossen			
Wilson, 1st Vice-Chairman			
Woodard			

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, December 2, 1986 at 10:30 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 1:56 p.m.

MINUTES:

Approval of Minutes of November 19, 1986, Meeting #1627:

On **MOTION** of **WOODARD**, the Planning Commission voted **9-0-0** (Doherty, Draughon, Kempe, Paddock, Parmeale, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; (Carnes, Crawford, "absent") to **APPROVE** the **Minutes of November 19, 1986, Meeting No. 1627.**

REPORTS:

Chairman's Report:

- a) Briefing by the City Development Staff on the status of the Capital Improvement Program (CIP) for the City of Tulsa.

Mr. Pat Connelly of the City Development Staff, first reviewed the history of the Capital Improvement Program (CIP) and commented on some of the projects and requests to be included in the current program. Mr. Connelly advised the CIP list would be coming to the TMAPC in January 1987 for review.

Chairman's Report - Cont'd

Ms. Wilson stated the CIP needs totalled approximately \$1 billion, and questioned if this was the same amount of last year's CIP total. Mr. Connelly replied that this was not uncommon as the list has usually been around \$1 billion. Ms. Wilson then stated it appeared there were not any new significant capital improvements, but maybe some "baggage" that has been there for quite some time. Mr. Connelly stated this was not the case, as there were approximately \$200 million worth of projects funded with the sales tax in 1985 and since then they have identified additional projects. There was still a large backlog of primarily street and Stormwater Management Department needs and capital facilities. Mr. Connelly continued by stating that a lot of the streets did not meet Level C service volumes and traffic counts as they needed to be widened. In regard to Stormwater Management, out of the \$250 - \$300 million, they were only able to fund approximately \$70 million of this amount in the last two years. Mr. Connelly reminded the Commission that the CIP list was a 20 year list and while some of the needs were not critical, the list would remain around \$1 billion.

Mr. Draughon asked Mr. Connelly to review the Capital Coordinating Committee (CCC) and the other groups who review the CIP list as to ranking the projects and programs of the CIP. Mr. Connelly stated the CCC was comprised of two appointments each from the Mayor and City Commissioners plus two appointments by Auditor Campbell, i.e. twelve appointees. Mr. Connelly advised the CIP list was also reviewed by 16 representatives from the District Citizen Planning Teams. In response to Mr. Draughon, Mr. Connelly clarified the review process as to determining the ranking of the various projects on the list and how projects, in fact, get on the CIP list by the CCC. This ranking list would then be reviewed by City officials and agencies, TMAPC, etc. before a final ranking determination would be made. Mr. Connelly added that once the funding for projects was voted on by the people, the money had to be spent on those specific projects.

Mr. Paddock inquired if the bond issue election, which was originally commented on by the press to be next Spring, had now been moved forward to next Summer or Fall. Mr. Connelly stated the City Commission had not taken a vote or an official position as to a bond issue. He stated his Department had recently briefed the City Commission on the CIP since there were some new administrators not familiar with the process, and at this meeting there were no comments, one way or the other, as to a bond issue next June.

Ms. Wilson requested that, when the list was to be presented to the Comprehensive Plan Committee of the TMAPC for review, there be two lists; one by the proposed ranking, and another by the year the CIP's were requested. Mr. Connelly commented that most of the projects on the current list were less than three years old, as most of the projects on the 1980, 1981 or 1982 program were virtually all funded. He stated they would try to provide the two lists as requested.

Chairman's Report - Cont'd

Mr. Draughon inquired if the Citizen Planning Team representatives would be receiving the list before or after TMAPC review, and who would be presenting the list to the Planning Commission. Mr. Connelly stated that it would be after TMAPC review, and in the past he had made the presentation, working closely with the INCOG Staff. Mr. Draughon then inquired if Mr. Connelly would be basing his presentation for the CIP ranking on the comments/suggestions of the CCC appointees, or just from the recommendations of the City Development Department. Mr. Connelly stated all that the TMAPC would be acting on would be the new requests received this Fall that have not been ranked or through the review process. These will be presented to the TMAPC, after review been by INCOG and City Development, for a resolution stating that they are in conformance with the Comprehensive Plan. In reply to Mr. Draughon, Mr. Connelly advised the TMAPC was not involved in making a ranking, just verifying conformance with the Comprehensive Plan.

- b) Discussion of a resolution from the Tulsa Development Authority requesting a Neighborhood Development Plan Amendment, Westbank II Project Plan. The resolution was approved by the TMAPC 11/26/86, but signature was pending review of the resolution text.

TMAPC ACTION: 9 members present

On **MOTION** of **DOHERTY**, the Planning Commission voted **8-0-1** (Doherty, Draughon, Kempe, Parmele, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; Paddock, "abstaining"; (Carnes, Crawford, "absent") to **APPROVE** the Signing of the Resolution from the Tulsa Development Authority requesting a Neighborhood Development Plan Amendment, Westbank II Project Plan, as recommended by Staff.

Committee Reports:

Mr. Paddock advised the **Rules & Regulations Committee** had met this date to discuss the two items continued from their previous meeting, and with respect to the request for an amendment to the Tulsa Zoning Code from Mr. Jim Rand, the Committee agreed to table consideration until a future date. As to the proposal on promotional signs and a redefinition of such in the Zoning Codes (as proposed by Mr. Bill Stokely and Mr. David Tracy), the Committee agreed to place this on the next agenda of the Rules & Regulations Committee meeting.

Director's Report:

Discussion of the "October 1986 Flood Study: Bixby, Broken Arrow, Jenks, Sand Springs, Skiatook, Tulsa County and the City of Tulsa", as prepared by the INCOG Staff.

NOTE: Due to Staff's recommendation that this be formally presented after regular business, the discussion of this item is at the end of these minutes.

CONTINUED ZONING PUBLIC HEARING:

Application No.: PUD 421 (Related Item Z-6126) Present Zoning: RM-1
Applicant: Heller Proposed Zoning: Unchanged
Location: SE/c of the Broken Arrow Expressway and Zunis Avenue
Size of Tract: .1 acre, approximately
Date of Hearing: November 19, 1986 (continued from November 19, 1986)
Presentation to TMAPC by: Mr. Bob Nichols, 111 West 5th (582-3222)

Staff Recommendation:

The subject tract has an area of approximately .3 acres and is located at the southeast corner of the Broken Arrow Expressway Frontage Road and Zunis Avenue. Staff is not supportive of the requested RM-1 underlying zoning per Z-6126 and, therefore, is not supportive of PUD 421. RM-1 zoning is being requested on the east half of the PUD with a Special Exception for office use. The Site Plan and the PUD Text indicate that, as a part of the proposed conversion of the east residence to office, the north porch area will be enclosed. The design of the parking area is to provide two parking spaces in two driveways (a total of four spaces) in the front yard of the east lot. The requirement for office off-street parking would be a minimum of five spaces.

The applicant is proposing a future addition of 1,080 square feet of residential use, which will result from the conversion of the existing garage and the tying of the two houses together. A variance from the BOA is pending on the requirement of livability space for the residential unit which will remain on the west half of the PUD. Also, a variance has been requested on the screening requirement.

Staff recommends DENIAL of PUD 421. If the TMAPC is supportive of the underlying zoning, Staff recommends a continuance of this application until December 3, 1986 to do a detailed analysis of the proposed development standards and outline development plan. The minutes of the August 28, 1986 and November 13, 1986 TAC meeting are attached as well as a copy of the outline development plan.

December 3, 1986: The TMAPC indicated support for a portion of the subject tract to be zoned RM-1 (the east 30') with a Special Exception for office uses to be granted in the east residence subject to approval of PUD 421. The application was continued from November 19 to December 3 to allow the applicant to submit a revised Outline Development Plan and Text for the proposed residential/office PUD. In order for the applicant to be his own buffer within the PUD, it should be clearly specified that: office use will be permitted only in the east building; the west building will continue to be used as a residence for the principal tenant of the office; and a tie-contract shall be executed between the two properties with notation on the face of the deed that title to one tract shall not be conveyed without title to the other parcel. In order that the residential character of the neighborhood be protected, no major exterior modifications to the structure, used as an office, should be permitted. Staff believes that this prohibition should also not allow the applicant or future owners to enclose the front porch of the east residence to expand the interior office floor area.

PUD 421 Heller - Cont'd

Staff has again met with the applicant and the applicant's attorney; however, has not received a revised plot plan which could be reviewed prior to the publication of this agenda. In these discussions, the applicant indicated possible drainage concerns related to paving the rear yard of the east lot.

Therefore, Staff recommends this application be continued until December 17, 1986. A summary of Staff concerns, some of which were discussed November 19th is as follows:

- (1) Office uses should be restricted to the east residence.
- (2) Parking for the office uses should be located in the rear yard on the east tract. One space exists on this lot in the front yard and no change is contemplated in this regard.
- (3) A tie-contract between the east and west lot should be executed and the principal tenant of the office shall be the resident and owner of the residence on the west lot.
- (4) No major exterior modifications shall be permitted to the east building to include prohibition of enclosing the front porch.
- (5) No signs be permitted advertising the office business at this location.
- (6) Screening shall be required along the west and south boundary of the parking lot in the rear yard of the east residence.
- (7) The hours of operation of the office business shall be limited to further reduce the impact of employees and clients coming and going from this location upon the residential neighborhood.
- (8) No on-street parking of office employees or guests shall be permitted in connection with the operation of the office.
- (9) The TAC noted a watershed development permit would be required with redevelopment.

Comments & Discussion:

In regard to condition #7, Mr. Doherty asked Staff what hours of operation they had in mind. Mr. Gardner stated normal business hours of 8:00 a.m. to 5:00 p.m. or something similar might be appropriate, but Staff did not have any specific hours in mind. Mr. Gardner commented that the item that would raise the most discussion would be the tie-contract (condition #3), if office was permitted, as well as other key issues, such as parking in the rear and screening on the western boundary.

Applicant's Comments:

Mr. Nichols, representing the Hellers, reviewed Alternate Plan B. Mr. Nichols stated agreement with the conditions of approval, except for condition #7 regarding the hours of operation. He stated the applicant was amenable to not enclosing the porch, which would limit the parking to five spaces. But by doing so, it may require the applicant to have

employees come in at different hours. Therefore, the need for flexibility with hours of operation. Mr. Nichols added they intend to go before the Board of Adjustment (BOA) to try to obtain a variance to allow four parking spaces (4.7 spaces required).

In regard to #7, Mr. VanFossen asked Mr. Nichols if he had a suggestion as to hours of operation that would be acceptable. Mr. Nichols advised they have not had much time before this meeting to consider this. Mr. VanFossen, referring to the five or six parking spaces on the submitted Plan B, confirmed these may not be needed due to the BOA variance. Mr. Nichols agreed and stated part of the presentation to the BOA will be the fact that there was the tie-contract and that two of the people working in the office will also be living in the west residence.

Mr. Doherty commented that it appeared the only differences between the Staff recommendation and the applicant's wishes were the hours of operation. Mr. Doherty suggested allowing a brief moment for the applicant and Staff to work this out in order to resolve the case today, rather than continue it again, as suggested by Staff.

Interested Parties:

Mr. Jim Rand, 2019 East 14th Place, spoke in favor of the request on behalf of the neighborhood association, as they were agreeable to the proposed use. Ms. Wilson, in regard to the possibility that some conditions may be listed in the restrictive covenants, not covered by the PUD, inquired as to what types of conditions the homeowners were not interested in having in the PUD. Mr. Rand clarified that the neighborhood association did have some concerns and that Mr. Heller had agreed to provide a solution. One concern involved any future sale of either of the lots, and the zoning reverting back to RS-3. Mr. Rand reiterated their concerns were not with what Mr. Heller might do, but what any future owner/occupant might do.

Mr. Doherty asked Mr. Rand his thought on the hours of operation. Mr. Rand stated he did not think this would be a problem in Mr. Heller's case as his activity was very slight and was hardly noticeable to the neighbors. Mr. Doherty stated the Commission's concern was mainly with any future owners and tenants, and he asked Mr. Rand what he thought might be a compromise to the suggestions of Staff and those of the applicant. Mr. Rand suggested that any activity beyond 10:00 p.m. should be restricted.

Applicant's Rebuttal:

Mr. Nichols commented that the agreement with the neighborhood involved imposing restrictive covenants (outside the PUD) to prohibit multi-family use on the tract. As to the hours of operation, Mr. Nichols stated a 10:00 p.m. restriction as suggested by Mr. Rand, would be acceptable.

In response to Ms. Wilson, Mr. Nichols reviewed the parking plan, as to existing residential parking and proposed office parking. Mr. VanFossen, in regard to condition #6 and review of the plan, stated he would prefer a fence along the south property line of the east building and forget the west. Mr. Gardner stated that, if this was approved with the tie-contract, then the west boundary would not become a problem, as the person occupying offices was also a principal tenant of the office and owner of the residence. However, without this condition, screening would be needed on the west. Mr. VanFossen stated a fence along the south property line would be more appropriate. Mr. Doherty asked Mr. VanFossen if it might also be appropriate to continue the fence to the garage to close a 5' gap along the west boundary of the office tract. Mr. VanFossen agreed that tying this to the garage was more suitable.

Additional Comments and Discussion:

Mr. Doherty stated he felt the comments by Mr. Rand as to the hours of operation indicated that this particular circumstance would not even need to have hours set. However, due to the concern of subsequent ownership, if set at normal business hours, there should be little concern. Mr. VanFossen stated this would be difficult to enforce and he personally felt 7:00 a.m. to 8:00 p.m., six days a week would be adequate for both the applicant and the neighborhood.

In reply to Chairman Parmele, Mr. Gardner commented that if the Commission agreed with the conditions, then Alternate Plan B would work. As to the parking, Mr. Gardner advised that spaces 5 and 6 could not be applied to the office as they were spaces for the residential dwelling on the west lot.

Mr. VanFossen moved for approval of the conditions, with the following modifications:

Condition #2 - "Parking for the office uses should be located in the rear yard on the east as shown on Alternate Plan B."

Condition #6 - "Screening should be required along the south boundary of the east property and returned to tie to the garage."

Condition #7 - "The hours of operation of the office business shall be limited to 7:00 a.m. to 8:00 p.m., Monday through Saturday."

Mr. Gardner, for clarification, stated condition #2 was modified so as to not allow any required parking on the west lot. Mr. VanFossen stated he did intend to note that spaces 5 and 6 were residential only.

Mr. Paddock commented that it appeared to him the Commission was inclined to approve this PUD and some of the conditions to him seemed difficult to enforce. Mr. Paddock stated this PUD, in his opinion, was a gross abuse of the whole concept of a PUD. The entire tract was only .3 of an acre, and he felt there was no way this PUD, in this particular topography, could possibly meet the standards and purposes of the PUD Chapter 11. Mr. Paddock then read from Chapter 11. Therefore, he felt the TMAPC was

refusing to recognize the fact that many on the Commission were thinking office use was appropriate at this location. If appropriate, why go through the contortions of rezoning residential to RM-1 and then overlaying a PUD for office use. Why not just plainly say there's going to be light office and zone it OL? Mr. Paddock continued addressing his reasons as to why he felt this was circumventing the use of zoning in Tulsa, and concluded by stating he had no problem voting against the zoning and/or the PUD.

In reply to Ms. Wilson regarding condition #6, Mr. Gardner clarified that the word "fence" should be added to "screening" ("screening fence shall be..."). Ms. Wilson then inquired as to why there were no conditions requiring landscaping on this PUD. Mr. Gardner advised that part of the reason the front yard not be paved was to preserve the landscaping and maintain the residential nature of the tract. Following this thought, Ms. Kempe suggested adding a condition stating that the front yard should be maintained. Mr. Gardner stated that if the Commission wanted to add a condition that, in addition to the screening fence, open areas be maintained as landscaped open space, they could certainly do so, but the plot plan already indicated this. Mr. VanFossen commented that he had been by to view the subject property and the applicant currently has a pleasant atmosphere of residential-type landscaping, and since the west property was being restricted as a residence, he personally did not feel an additional condition addressing this was necessary. Ms. Wilson asked Mr. VanFossen his thoughts on revising condition #6 to "screening fence", and he agreed.

Ms. Wilson commented that she shared Mr. Paddock's philosophical viewpoint, but she felt that on this type of case, with the two lots getting tied together, there was some value. Otherwise, she commented the TMAPC might entertain total stripping along 14th Street with a large, broad stroke of OL. Ms. Wilson stated she was not sure the Commission or the neighborhood was prepared to do this.

TMAPC ACTION: 9 members present

On **MOTION** of **VANFOSSEN**, the Planning Commission voted **7-1-1** (Doherty, Kempe, Parmele, Selph, VanFossen, Wilson, Woodard, "aye"; Paddock, "nay"; Draughton, "abstaining"; (Carnes, Crawford, "absent") to **APPROVE PUD 421 Heller**, with the following conditions, as modified:

- (1) Office uses shall be restricted to the east residence.
- (2) Parking for the office uses should be located in the rear yard on the east as shown on Alternate Plan B. Parking spaces 5 and 6 shall remain for residential use only.
- (3) A tie-contract between the east and west lot shall be executed and the principal tenant of the office shall be the resident and owner of the residence on the west lot.
- (4) No major exterior modifications shall be permitted to the east building to include prohibition of enclosing the front porch.

- (5) No signs be permitted advertising the office business at this location.
- (6) Screening fence shall be required along the south boundary of the east property and returned to tie to the garage.
- (7) The hours of operation of the office business shall be limited to 7:00 a.m. to 8:00 p.m., Monday through Saturday.
- (8) No on-street parking of office employees or guests shall be permitted in connection with the operation of the office.
- (9) The TAC noted a watershed development permit would be required with redevelopment.

Legal Description:

The west 100' of Lot 1, Block 5, TERRACE DRIVE ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

SUBDIVISIONS:

PRELIMINARY PLAT APPROVAL:

Country Acres (2572)

167th & South Peoria

(AG)

On **MOTION** of **WOODARD**, the Planning Commission voted **8-0-1** (Doherty, Draughon, Kempe, Parmele, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; Paddock, "abstaining"; (Carnes, Crawford, "absent") to **CONTINUE Consideration of the Preliminary Plat for Country Acres** until Wednesday, **December 17, 1986** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

OTHER BUSINESS:

PUD 128-A-18: 7701 South Trenton, Lot 33, Block 3, Kensington II Amended

Staff Recommendation: Minor Amendment of Rear Yard Setback

The subject tract is approximately 70' x 114' in size and has an underlying zoning of RM-1. It is located on the northeast corner of South Trenton Avenue and a cul-de-sac at approximately 78th Street. Several minor amendments have been approved in the PUD, mostly due to irregular lot sizes and shapes. The applicant is now requesting a minor amendment of the rear yard requirement (north property line) from 25 feet to 15 feet. Notice of the application was given to abutting property owners.

Review of the applicant's submitted plan shows the residence to front the cul-de-sac and that it meets all other setback requirements. The plan also shows a setback of 19 feet along the property line to the north at its closest point and increasing to 20 feet at the east side. Staff supports a minor amendment to 19 feet as per plans submitted based on the size of the lot and double street frontage; relief to the requested 15' rear yard setback is not justified by these plans.

Therefore, Staff recommends **APPROVAL** of minor amendment PUD 128-A-18 to 19 feet per applicant's submitted plot plan and **DENIAL** of the request for a 15' rear yard setback.

TMAPC ACTION: 9 members present

On **MOTION** of **KEMPE**, the Planning Commission voted **9-0-0** (Doherty, Draughon, Kempe, Paddock, Parmele, Selph, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; (Carnes, Crawford, "absent") to **APPROVE** the **Minor Amendment for Rear Yard Setback for PUD 128-A-18**, as recommended by Staff.

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PUD 306-4: Located Generally East and West of South Delaware between East 91st and East 101st Street South

Staff Recommendation: Minor Amendment to Reduce the Intensity

The applicant is requesting that the approved density for residential development in PUD 306 be reduced from 3,378 units to 2,499 units. Staff notes that the 96th Street alignment of the Creek Expressway will cross portions of the subject tract in Development Areas G and I. The Staff's recommended intensity reduction shifts approved units out of Development Areas G and I into noneffected Area H at a ratio which maintains the previously approved overall densities in Areas G and I. The applicant has indicated in the Text of the minor amendment that Federal Housing Administration regulations will not approve developments for mortgage insurance where the total number of units exceeds 2,500 without an environmental impact study. The time delay required for such a study presents an unacceptable delay according to the minor amendment Text.

Staff recommends **APPROVAL** of the minor amendment for PUD 306-4 subject to the following conditions:

- 1) That the original PUD shall remain unchanged except as modified herein.
- 2) That densities be amended in the various development areas to incorporate changes requested by the applicant and to transfer intensity out of the Creek Expressway Corridor consistent with Resolution No. 1618:627, Section G as follows:

Development Standards:

Area	Size in Acres	Approved Density		Recommended Density		Decrease
		#/Units	Unit/Acre	#/Units	Units/Acres	
A*	11.5	195	16.96	66	5.74	129
B**(i)	13.5	57	4.22	57	4.22	0
C	16.6	95	5.72	77	4.64	18
D*	30.0	635	21.17	535	17.83	100
E	13.0	390	30.00	390	30.00	0
F	17.7	340	19.21	173	9.77	167
G(ii)	33.0	322	9.76	247	N/A	75
H(iii)	43.0	570	13.26	536	12.47	34
I(iv)	22.1	552	24.98	196	N/A	356
J**	10.0	N/A	N/A	N/A	N/A	N/A
K	8.7	222	25.52	222	25.52	0
		<u>3378</u>		<u>2499</u>		<u>879</u>

* Partially Developed

** Not owned by the applicant

- (i) PUD 306-A amended Development Area B by reducing it from 88 units and 14.8 acres to 55 units and 13.5 acres.
 - (ii) Area G. Staff recommends that the total number of units which appear to be included in the Creek Expressway Corridor be transferred to Area H. Calculations indicate 7.7 acres of Expressway right-of-way would be required; therefore, 7.7×9.76 units per acres = 75 units shifted to Area H. The applicant has requested that only 25 units be taken out of Area G.
 - (iii) Area H. Staff recommends that units be shifted to this Area from Areas G and I as discussed in notes "(ii)" and "(iv)". This Development Area is appropriate for the remaining intensity based on its location and that it does not appear to be affected by the Creek Expressway alignment. The applicant has requested that 467 units remain in Area H and 103 units be deleted -- a resulting density of 10.86 units per acre.
 - (iv) Area I. Staff recommends that the total number of units which appear to be included in the Creek Expressway Corridor be transferred to Area H. Calculations indicate that 14.26 acres of Expressway right-of-way would be required; therefore, 14.26×24.98 units per acre = 356 units shifted to Area H. The applicant has requested only 337 units be taken out of Area I.
- 3) That if the applicant seeks to recover any of the total units for which the overall reduction is approved, a major amendment shall be required.
 - 4) All language in previous PUD approvals referencing unallocated units or the ability to transfer such units is rescinded by approval of this minor amendment.

- 5) That notice shall be given on the face of the subdivision plat where applicable that: "A freeway is shown on the major street and highway plan as passing through or adjacent to property in this PUD. Further information as to the status of this planned freeway may be obtained from the Tulsa Metropolitan Area Planning Commission (TMAPC)."
- 6) Amended Deeds of Dedication approved by the TMAPC and City of Tulsa (as required) shall be filed of record in the County Clerk's office incorporating the provisions of PUD 306-4 within the restrictive covenants and making the City of Tulsa beneficiary to said covenants.

Comments & Discussion:

Some of the Commission members did not agree with condition #3 that the applicant could reduce by a minor amendment, but if he then wanted an increase he would have to come back with a major amendment. Staff attempted to clarify the situation by stating an increase was a matter of public concern, while a decrease only concerned the developer. Mr. Paddock stated the PUD established a certain density, and we now have a minor amendment to decrease that density. He then questioned why it would not be a minor amendment, if at a future time, the applicant wanted to come back and restore the previously approved number of units (density); not increase it beyond what was originally approved. Why should it be a major amendment? Mr. Gardner remarked because of the change in physical facts or circumstances in surrounding areas. Mr. Linker advised this would be similar to changing the zoning from apartments to RS-3 and then coming back to request apartments (RM-1). Mr. Linker commented he had a problem when increasing density, whether it was back to what was originally approved or not. Because when changing a plan that had been platted and approved to increase the density, he had a legal problem with not giving notice to the surrounding owners and not going through a normal zoning hearing as it was a matter of rezoning.

Mr. Draughon inquired of Staff the difference between TMAPC approval of this type of development in the expressway area and what had already happened with developments like Mill Creek, Sun Meadows, Mill Creek Extended, etc. Mr. Frank stated that what was being done on this application was to protect the City from a lawsuit by recognizing that previously there was intensity allocated to those development areas without consideration being given to the Creek Expressway right-of-way. That intensity was being proportionately removed for reallocation to other development areas. Mr. Draughon inquired how Staff knew how to do this as the Department of Transportation has not yet completed the functional designs for the Creek Expressway. Mr. Frank stated Staff was operating on the best available information and the current plans.

In regard to the units being shifted from Areas G and I, Mr. Paddock inquired as to the need of dealing with this at this point as the right-of-way for the Creek Expressway had not yet been determined. Mr. Frank commented this was the first opportunity, and maybe the only opportunity, to deal with this between now and the time decisions are made on rights-of-way. Chairman Parmele stated he thought the applicant would

have to come back with preliminary plats on Areas G and I. Mr. Gardner commented that one of the practical concerns was the fact that the applicant was reducing more density out of Area H (which was not even close to any single-family) than they are out of Areas G and I (which are close to single-family subdivisions). Therefore, the applicant was reversing the usual process.

Applicant's Comments:

Mr. Tom Creekmore, attorney for the applicant, commented they have learned a good lesson from this case, and if they could do it over again, they realize that they would have asked for two PUD's; one north of the channel and one south. He stated the applicant initially submitted a different set of numbers from those approved by Staff and acquiesced to the specific allocations in Areas G, H and I. Mr. Creekmore advised that, for the most part, they do not have any objection with Staff's recommendation; however, they would like to modify some of Staff's conditions and submitted a list of these modifications.

In regard to condition #3, Mr. Creekmore stated the applicant would be willing to live with it, with the proviso that "if the acreage actually taken from Areas G and I for the Creek Expressway right-of-way is less than the amounts indicated in footnotes (ii) and (iv) to condition #2 above, the applicant shall be entitled, as a matter of right pursuant to a minor amendment, to recover within Areas G and I, respectively, the number of units equal to the product of (a) the difference between the estimated acreage to be taken (7.7 acres and 14.26 acres, respectively) and the acreage actually taken, multiplied by (b) the allowable density (9.76 units per acre and 24.98 units per acre, respectively)".

Mr. Doherty inquired of Legal, based on Mr. Linker's previous comments regarding increase in density without coming back to the Commission, if such a condition were imposed, would it fall under this subject area since it was being based on the amount of right-of-way required. Mr. Linker answered that if it were made a condition now and clarified in the approval the applicant had that right, and that with the Commission making it clear now, he did not think it would require a major amendment. Mr. Doherty added that it was because the Commission was putting it contingent upon the amount of right-of-way required, if any. Mr. Linker clarified his position was that if the Commission had nothing of record, and changed the intensity to increase it, then that would be something requiring a major amendment. In reply to Chairman Parmele, Mr. Linker stated that Mr. Creekmore's suggested modification to condition #3 would be legally acceptable; and Staff confirmed they had no problem with this, as long as the language was approved ahead of time.

Mr. Draughon asked the applicant to comment on the Environmental Impact Statement (EIS). Mr. Creekmore stated that, based on the information they have obtained, the EIS may take between two to three years, and that was a long time for platted ground to be sitting vacant. Mr. Draughon inquired, considering the location of the subject property, if the applicant had received any information from the Department of Stormwater

Management (DSM) as to any water or floodplain problems. Mr. Creekmore stated the Grupe Companies installed the channel that discharges the flood waters into the Arkansas River, and based on this, he was not aware of any water problems. Mr. VanFossen confirmed the Grupe Companies spent several millions of dollars solving the water problems in the area.

Regarding condition #4, Mr. Creekmore stated he would like to make it clear that this amendment would not limit them from transferring unused density, after this amendment, to other undeveloped areas, and suggested adding "provided that if the applicant develops any development areas to an intensity less than that approved pursuant to this amendment, the unused units may be transferred to any other development areas within the PUD that has not previously been developed". Mr. VanFossen commented he had a problem with this because of the same reasons the Commission had with changing to a major amendment, in order to protect the abutting subdivisions. Mr. Creekmore pointed out that the PUD, as drafted, allowed them to shift density and they were just wanting recognition of the fact that this rule was not being changed. Mr. VanFossen asked Staff to comment on their understanding of the original PUD, as he now understood what the applicant was requesting. Mr. Frank stated he felt the transfer within the PUD would require notice. If there came a situation where unallocated units were available from another developed area (Areas D, F or H), Staff would not have a problem of transferring within those development areas. Staff's reason for wording condition #4 as such was because of objections to transferring units back into Areas G and I; but within the other development areas it would be a normal part of the PUD process traditionally done by a minor amendment. However, Staff would not have a problem with Mr. Creekmore's suggested language of condition #4, with the exception of Areas G and I. Mr. Creekmore stated this would be acceptable, and clarified with Staff that Areas G and I were excluded all together, but anything else could be by minor amendment. Discussion followed on areas north and south of the proposed expressway line. Mr. Creekmore suggested to Staff a compromise that the applicant not be able to transfer units into any areas south of the expressway, regardless of the development parcel, but retain the right to transfer anywhere north of the expressway right-of-way.

Mr. Linker commented that, from a legal point of view, if the applicant was not increasing the number of units within a particular development area, he had no problem. But any time the number of units was increased, he felt it became a major amendment. Chairman Parmele inquired if each development area was going to be platted separately. Mr. Creekmore commented that at this point he was not able to guess as to how it was going to be platted. Mr. Linker remarked that the only way he could see, legally, handling this would be to put a "cap" on it, limiting the units. Chairman Parmele inquired as to the reason for placing a cap in the original PUD on Areas G and I. Mr. Gardner stated that the Silver Chase Development (to the east) was always a physical consideration, but he could not recall all that was involved. Chairman Parmele suggested putting a limit on density in Areas G and I.

Mr. Bill Jones, speaking on behalf of the applicant, stated that Area G was initially put in as a buffer for Silver Chase at 9.76 units per acre; Area I is at 25 units per acre. Therefore, transferring to Area I would not affect anyone. Chairman Parmele suggested capping Area G at 9.76 units. Mr. Jones agreed that this made sense. Mr. Frank explained that this could not be done because Staff's recommendation was based on an assumption there would be "x" number of acres required for the expressway right-of-way through Areas G and I. Based on the calculations for Area G (9.76 units x 7.7 acres for expressway right-of-way), Staff felt that that number of units should go out of Area G to properly protect the right-of-way. Chairman Parmele commented he felt that this was where a mistake was being made; to take away for something (expressway location) that was not, as yet, definite. Mr. Frank stated that, based on the best available information, the conceptual plan indicates the expressway location at this point.

Mr. Doherty commented that the Commission was arbitrarily asking the applicant to scale back; the applicant has asked for a reduction in density. Mr. Doherty continued by stating the discussion at this point was centering on should the Staff be too optimistic or pessimistic on the amount of land required for the expressway, and under what conditions should those reallocated units be rolled back into the original, or any other, development areas. Chairman Parmele commented that it would make a difference in the value of the land when determining fair market value price for a piece of land, based on the number of units allocated. Mr. VanFossen pointed out the applicant had withdrawn the number of units requested, thereby changing the value of the land themselves.

Mr. Doherty suggested language to the effect that "no development area could have a density greater than that approved in the original PUD". Staff, Commission and applicant were all in agreement to adding this to Staff's condition #4. Mr. Creekmore stated he understood this to mean they would still be able to transfer units, provided that when they transfer, they would not increase the density as it existed today or when originally approved.

Moving to condition #5, Mr. Creekmore stated the applicant proposed that this condition be deleted in its entirety. He stated he did not feel it was appropriate to amend the PUD to require this condition at this time on all subdivision plats, because it was totally beyond the scope of their application. He pointed out that the applicant was not requesting platting of the areas or increase or shift in densities, but they were making this request to merely get out of a bind with the FHA. Secondly, he felt that whether or not this legend belonged on any plat within PUD 306 should be dealt with at the time a particular area requested platting, as they did not know where they would be platting next. Mr. VanFossen stated agreement with this, as the time of platting was the appropriate time to review this. Chairman Parmele commented that the Commission was all in agreement that the placing of this legend should be considered at the time of platting. Mr. Frank stated he thought the earlier in the process that notice of the expressway was given, the better. Chairman

Parmele stated he felt that preliminary platting was early enough. Mr. Creekmore stated that this notice was already on Area A, because they had people ready to build houses in this area, and it was not as important at that time. But it may, at some point, become very important and the applicant would like his "day in court", i.e. if the applicant objects to this legend on a plat at a later time in an area a mile away from the expressway, he felt the applicant should have that right at that time, rather than imposing this on several acres now.

Mr. Gardner stated that the language included the statement "where applicable", because Staff realized it would not apply to every one of the areas. Chairman Parmele suggested restricting it to Areas G and I because Staff knows these are the areas in the expressway path. Mr. VanFossen stated he, personally, agreed with the applicant that the time of platting was the appropriate time for considering this, and requested Legal's opinion. Mr. Linker agreed with Mr. VanFossen that platting was the proper time to bring it up, and that the Staff's issue should be clear that it would be required, where appropriate, at the time of platting. Mr. Doherty stated he felt that the applicant should realize that at least one Commissioner believed that this language should be on there, as it would have prevented a lot of the problems that have associated with the Creek Expressway. However, at the appropriate time, he would be voting for placement of the legend on the plat. Mr. Linker interjected that he did not feel the entire condition should be stricken, as requested by the applicant, but stated it would be considered at the time of platting.

Discussions continued on condition #5, as suggested by Staff, and the proper wording to amend the condition to make the condition applicable at the time of platting. The final consensus being, as suggested by Mr. Doherty, "that notice be given on the face of the subdivision plat, where appropriate at the time of platting". Mr. Creekmore stated he could agree with this providing the record reflects that the applicant would have the right to debate appropriateness at the time of filing a subdivision plat. Chairman Parmele assured the applicant that the presentation of the subdivision plat would allow him this opportunity. Staff, Commission, Legal and applicant stated agreement with the suggested wording.

Regarding condition #6, Mr. Creekmore stated the only subdivision not in conformity with the amended density was Woodside Village I, and suggested wording of condition #6 as "the applicant shall execute and record in the office of the Tulsa County Clerk an Amended Deed of Dedication approved by the TMAPC and the City of Tulsa for the WOODSIDE VILLAGE I Subdivision which will reduce the number of dwelling units permitted in such subdivision to 39". Mr. Creekmore pointed out that, at some time, they may want to amend the Deed of Dedication for Woodside Village III (Lakewood Apartments), but they were not certain as to their final plans. Mr. Doherty inquired if the suggested wording was intended to substitute for the Staff's condition #6, or was merely an addendum. Mr. Creekmore stated it was to be a substitution, and Staff advised they had no problem with the substitution.

TMAPC ACTION: 9 members present

On **MOTION** of **VANFOSSEN**, the Planning Commission voted **8-1-0** (Doherty, Kempe, Paddock, Parmele, Selph, VanFossen, Wilson, Woodard, "aye"; Draughton, "nay"; no "abstentions"; (Carnes, Crawford, "absent") to **APPROVE** the **Minor Amendment to Reduce Intensity for PUD 306-4**, with the following conditions, as amended:

- 1) That the original PUD shall remain unchanged except as modified herein.
- 2) That densities be amended in the various development areas to incorporate changes requested by the applicant and to transfer intensity out of the Creek Expressway Corridor consistent with Resolution No. 1618:627, Section G as follows:

Development Standards:

Area	Size in Acres	Approved Density		Recommended Density		Decrease
		#/Units	Unit/Acre	#/Units	Units/Acres	
A*	11.5	195	16.96	66	5.74	129
B**(i)	13.5	57	4.22	57	4.22	0
C	16.6	95	5.72	77	4.64	18
D*	30.0	635	21.17	535	17.83	100
E	13.0	390	30.00	390	30.00	0
F	17.7	340	19.21	173	9.77	167
G(ii)	33.0	322	9.76	247	N/A	75
H(iii)	43.0	570	13.26	536	12.47	34
I(iv)	22.1	552	24.98	196	N/A	356
J**	10.0	N/A	N/A	N/A	N/A	N/A
K	8.7	222	25.52	222	25.52	0
		<u>3378</u>		<u>2499</u>		<u>879</u>

* Partially Developed

** Not owned by the applicant

- (i) PUD 306-A amended Development Area B by reducing it from 88 units and 14.8 acres to 55 units and 13.5 acres.
- (ii) Area G. Staff recommends that the total number of units which appear to be included in the Creek Expressway Corridor be transferred to Area H. Calculations indicate 7.7 acres of Expressway right-of-way would be required; therefore, 7.7 x 9.76 units per acres = 75 units shifted to Area H. The applicant has requested that only 25 units be taken out of Area G.
- (iii) Area H. Staff recommends that units be shifted to this Area from Areas G and I as discussed in notes "(ii)" and "(iv)". This Development Area is appropriate for the remaining intensity based on its location and that it does not appear to be affected by the Creek Expressway alignment. The applicant has requested that 467 units remain in Area H and 103 units be deleted -- a resulting density of 10.86 units per acre.

- (iv) Area I. Staff recommends that the total number of units which appear to be included in the Creek Expressway Corridor be transferred to Area H. Calculations indicate that 14.26 acres of Expressway right-of-way would be required; therefore, 14.26×24.98 units per acre = 356 units shifted to Area H. The applicant has requested only 337 units be taken out of Area I.
- 3) That if the applicant seeks to recover any of the total units for which the overall reduction is approved, a major amendment shall be required, PROVIDED, that notwithstanding the foregoing, if the acreage actually taken from Areas G and I for the Creek Expressway right-of-way is less than the amounts indicated in footnotes (ii) and (iv) to condition #2 above, the applicant shall be entitled, as a matter of right pursuant to his minor amendment, to recover within Areas G and I, respectively, the number of units equal to the product of (a) the difference between the estimated acreage to be taken (7.7 acres and 14.26 acres, respectively) and the acreage actually taken, multiplied by (b) the allowable density (9.76 units per acre and 24.98 units per acre, respectively).
- 4) All language in previous PUD approvals referencing unallocated units or the ability to transfer such units is rescinded by approval of this minor amendment. No development area can have a density greater than that approved in the original PUD.
- 5) That notice shall be given on the face of the subdivision plat, where appropriate at the time of platting, that: "A freeway is shown on the major street and highway plan as passing through or adjacent to property in this PUD. Further information as to the status of this planned freeway may be obtained from the Tulsa Metropolitan Area Planning Commission (TMAPC)."
- 6) The applicant shall execute and record in the office of the Tulsa County Clerk an Amended Deed of Dedication approved by the TMAPC and the City of Tulsa for the WOODSIDE VILLAGE I Subdivision which will reduce the number of dwelling units permitted in such subdivision to 39 units.

* * * * *

PUD 179-L: South of the SE/c of East 71st Street and South Memorial,
being 7121 South Memorial.

Staff Recommendation: **Detail Site Plan**

The subject tract is the site of a Ken's Pizza Restaurant and has a net area of 34,650 SF with CS underlying zoning. The TMAPC recommended approval of PUD 179-L on November 26, 1986 with early transmittal to the City Commission. The applicant's Detail Site Plan is submitted for TMAPC review subject to approval of PUD 179-L by the City Commission. The applicant has proposed that a 541.6 SF glassed-in eating area be added on the west building elevation. Existing parking is adequate to meet current Zoning Code requirements.

Therefore, Staff recommends **APPROVAL** of the proposed Detail Site Plan subject to approval of PUD 179-L by the City Commission and subject to the following conditions:

1) That the applicant's Detail Site Plan and Text be made a condition of approval, unless modified herein.

2) **Development Standards:**

Land Area (Gross): 44,550 SF
(Net): 34,650 SF

Permitted Uses: Restaurant & as permitted by right in a CS District

Maximum Building Height: One Story/Existing

Maximum Building Floor Area: 2,908.6 SF Total Floor Area *

Minimum Off-Street Parking: 40 Spaces/Existing or as required by the Zoning Code.

Minimum Building Setbacks:

from West Boundary: 51'10"
from South Boundary: 52'6"/Existing
from East Boundary: 69'/Existing
from North Boundary: 72'/Existing to main building

Minimum Landscaped Open Space: Existing **

* An addition of 541.6 SF for a glassed-in eating area on the west elevation is proposed. The TMAPC recommended approval of allocating 508.6 SF to accommodate the addition for PUD 179-L which is pending City Commission approval at this time. A total of 2,400 SF of floor area was allocated to this tract under the original PUD. The existing restaurant is 2,367 SF.

** Landscaped open space shall include internal and external landscaped open areas, parking lots islands and buffers, but shall exclude pedestrian walkways and parking areas designed solely for circulation. Landscaping is existing on the tract. No new landscaping will be required.

- 3) That all trash, utility and equipment areas shall be screened from public view.
- 4) All new signs shall be subject to Detail Sign Plan review and approval by TMAPC prior to installation and in accordance with Section 1130.2(b) of the PUD Chapter of the Zoning Code.
- 5) That the Detail Landscape Plan requirement is satisfied by existing planting on the perimeter of the site. The required landscaping materials shall be maintained and replaced as needed, as a continued condition of the granting of an Occupancy Permit.
- 6) Subject to review and approval of conditions, as recommended by the Technical Advisory Committee. The Department of Stormwater Management noted 10/22/86 that an application for a Watershed Development Permit would be required.
- 7) That no Building Permit shall be issued until the requirements of Section 260 of the Zoning Code has been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the Restrictive Covenants the PUD conditions of approval, making the City of Tulsa beneficiary to said Covenants. This requirement can be satisfied by the filing of amended deeds of dedication with TMAPC approval.
- 8) Staff notes that if unallocated commercial floor area under the amended Zoning Code was assigned "proportionately" to the subject tract, a total of 2,475 SF would be available. Approval of PUD 179-L and this Detail Site Plan could reduce this number by 508.6 SF. Therefore, 1,966.4 SF of CS floor area would continue to be available to the subject tract upon submission and approval of future major amendment(s) if unallocated square footage was assigned on a proportionate basis to this and similar tracts having frontage on a major arterial street.

Comments & Discussion:

Chairman Parmele confirmed with the applicant his agreement to the Staff recommendation and conditions of approval.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the Planning Commission voted **8-0-0** (Doherty, Draughon, Kempe, Paddock, Parmele, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; (Carnes, Crawford, Selph, "absent") to **APPROVE** the **Detail Site Plan for PUD 179-L**, as recommended by Staff.

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Director's Report: Discussion of the "October 1986 Flood Study: Bixby, Broken Arrow, Jenks, Sand Springs, Skiatook, Tulsa County and the City of Tulsa", as prepared by the INCOG Staff.

Mr. Irving Frank of the INCOG Staff, presented the purpose and origin of the Flood Study, those areas included in the report, and acknowledged others from the INCOG Staff who contributed to the report to provide a perspective of the flooding from a development/planning standpoint.

Mr. Frank reviewed the maps of the areas affected by the October 1986 flood and pointed out that some of the areas with the major flooding were illegally platted. Mr. Frank briefed the Commission on the exhibits (Appendix A of the report) indicating the platting of the various subdivisions in the flooded or partially flooded areas. A major point of fact was that the areas with the least damage were those areas where subdivision regulations were in place, drainage ordinances had been adopted, and floodplain maps were done; indicating that the planning and subdivision process does work, when properly applied.

Mr. Frank advised of the presentation to the INCOG Board on November 13, 1986, and noted that there were 20 recommendations and/or work elements identified (Appendix B) in a mitigation report prepared by the Federal Emergency Management Administration (FEMA), identifying things that could be done by the various entities that were affected by the flood. Appendix B of the report also identified those items that Staff felt directly impacted the functions and services provided by INCOG, as well as those areas where Staff was indirectly involved. Mr. Frank advised a major recommendation of the mitigation report (work element #5) was that a regional steering stormwater management committee be formed to make recommendations that would promote stormwater management on a regional basis. The Steering Committee has already met once (November 20th) and was attended by 30 - 40 people from within the INCOG region, representatives from the Department of Stormwater Management (DSM), Commissioners Metcalfe and Rice, representatives from the Oklahoma Municipal League and INCOG Staff members. Work was still being continued by the inter-agency hazard mitigation team which was planning to meet again on December 5th.

In regard to controlling illegal subdivisions, Mr. Frank stated he felt stricter controls at the time of recording a plat might be needed, as the County Clerk could not accept plats for recording without the stamp of the Planning Commission, according to Oklahoma State Statutes. Mr. Frank stated a finding that HUD/FHA mortgage insurance on a subdivision, which could be given on a lot-by-lot or block basis, was a good indication that these subdivisions had been reviewed quite thoroughly as to drainage matters. Mr. Frank indicated that HUD/FHA was interested in restarting a process whereby the INCOG Staff would review their applications for subdivision approval of mortgage insurance and one plat had already been submitted for this review.

Flood Study Briefing - Cont'd

Commissioner Selph asked if a request had been made to the Corps of Engineers to review their mapping procedures along the Arkansas River for floodplain areas. Mr. Frank stated that, based on discussion with HUD/FHA, it appeared they would be making some requests for FEMA map amendments. Mr. Brierre commented he was not sure if a formal request had gone to the Corps from HUD/FHA, but suggested that it might be a good idea to submit a request on behalf of INCOG/TMAPC. Commissioner Selph agreed that the Planning Commission do this, along with Tulsa County and/or the City of Tulsa, in order to get those maps updated.

Mr. Draughton inquired if there had been any discussions with Stan Williams with DSM and/or Commissioner Metcalfe directly. Mr. Frank stated that there have been some direct discussions with the staff of Stormwater Management and the INCOG Staff. Mr. Gardner informed the Commission that, in his conversations with DSM, it has been established that DSM will be providing information on those cases indicated to be in a floodplain area and it was agreed that this information would be in the tentative agenda packets for the TMAPC for cases checked as being in a flood hazard area at the time of application for rezoning or a PUD.

Mr. Paddock stated it appeared that from time-to-time this Commission and the City Commission would rezone property which was different from what the Comprehensive Plan Maps called for, as far as the intensity of land use. Since this was based on full urbanization, he inquired of Mr. Gardner as to some kind of procedure for inputting information based on the updated amendments to indicate what that full urbanization was intended to be. Mr. Gardner stated there were two areas involved; one has to do with the transportation system, and every time there is an update, Staff does go back and take into account the things that have transpired. But when the vacant areas are projected they are based on the intensities as shown by the Comprehensive Plans; therefore, every time intensities are increased over and above the Plan, it changes the traffic. This update is done, but not on an annual basis. Mr. Gardner stated drainage was the other aspect involved, and differences in intensities could be very substantial in the low intensity areas, so far as drainage. Staff recognized that the drainage concerns should also be included and considered as to the Comprehensive Plan is changed.

There being no further business, the Chairman declared the meeting adjourned at 4:00 p.m.

Date Approved 12-17-86
Rant J. [Signature]
Chairman

ATTEST:

RBPaddock
Secretary

