

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2064

Wednesday, April 24, 1996, 1:30 p.m.

City Council Room, Plaza Level, Tulsa Civic Center

Members Present

Ballard
Boyle
Carnes,
Chairman
Doherty, 1st Vice
Chairman
Gray, Secretary
Horner
Ledford
Pace

Members Absent

Dick
Edwards
Midget

Staff Present

Almy
Gardner
Jones
Stump

Others Present

Linker, Legal
Counsel

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, April 24, 1996 at 11:10 a.m., in the office of the County Clerk on Friday, April 18, 1996 at 4:05 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Carnes called the meeting to order at 1:35 p.m.

Minutes:

Approval of the minutes of April 3, 1996, Meeting No. 2062:

On **MOTION** of **HORNER**, the TMAPC voted **5-0-1** (Ballard, Doherty, Gray, Horner, Pace "aye"; no "nays"; Ledford "abstained"; Boyle, Carnes, Dick, Edwards, Midget, "absent") to **APPROVE** the minutes of the meeting of April 3, 1996 Meeting No. 2062.

REPORTS:

Committee Reports:

Budget and Work Program Committee:

Mr. Horner reported that the budget has been submitted to the Mayor for consideration. Mr. Doherty advised the Commission that the Mayor has forwarded her recommendation to the Council.

Rules and Regulations Committee:

Mr. Doherty stated that Rules and Regulations Committee met today consider revising Section Titles 42, Tulsa Revised Ordinances as presented in the agenda packets. Rules and Regulations Committee recommends approval of amendment to the Tulsa Zoning Code. Rules and Regulations Committee also considered adopting policies concerning private streets and gated communities. Rules and Regulations Committee recommends adoption of these policies.

Community Participation Committee:

Ms. Gray informed the Commission that a Community Participation Committee meeting has been scheduled for May 8, 1996 following the regularly scheduled TMAPC meeting.

Director's Report:

Report of TMAPC and BOA receipts for the month of March, 1996. Mr. Doherty informed the Commission that the receipts were included in the agenda packets for review.

TMAPC Action; 6 members present:

On **MOTION** of **HORNER**, the TMAPC voted **6-0-0** (Ballard, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Boyle, Carnes, Dick, Edwards, Midget "absent ") to **APPROVE** the TMAPC and BOA report of receipts for the month of March, 1996.

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Mr. Gardner informed the Commission that there is the second reading of Rezoning Ordinance Z-6298 on the City Council agenda. Also, On May 1, 1996, students from Cascia Hall will be in attendance to observe the procedures of the TMAPC.

SUBDIVISIONS:

Preliminary Plat:

Kingsbury II (PUD 166) (2383) East 92nd Street South at
South 71st East Avenue

(PD-18)(CD-8)

TAC Comments:

Jones presented the plat with Bill Lewis and Greg Breedlove present.

Jones noted several changes on the face of the plat.

Somdecerff asked if all of lot 3, block 3 was covered by an overland drainage easement. Lewis answered that the lot will be made a reserve area and dedicated to the City.

Miller requested additional utility easements and Lewis agreed.

Root requested that all floodplain area be dedicated to the City.

Kingsbury II is a 6.2 acre residential single-family subdivision plat which contains 22 lots. The property is part of Southern Lakes plat which was approved by the City in 1982 and is in the process of being vacated. The TAC reviewed the sketch plat of Kingsbury II on August 3, 1995.

Staff would offer the following comments and/or recommendations:

1. Waiver of the Subdivision Regulations to permit the plat to be drawn at a scale of 1" = 50'. (1" = 100 required).
2. Southern Lakes plat be vacated in accordance with accepted legal procedures.
3. Minor amendment to permit front yard setback of 20'.
4. Minor amendment to permit a lot width of less than 60'.
5. All conditions of PUD-166 shall be met prior to release of final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to Section 1100-1107 of the Zoning Code in the covenants.
6. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
7. Water and sanitary sewer plans shall be approved by the Department of Public Works (Water & Sewer) prior to release of final plat. (Include language for W/S facilities in covenants.)
8. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).
9. A request for creation of a Sewer Improvement District shall be submitted to the Department of Public Works (Water & Sewer) prior to release of final plat.

10. Paving and/or drainage plans shall be approved by the Department of Public Works (Stormwater and/or Engineering) including storm drainage, detention design, and Watershed Development Permit application subject to criteria approved by the City of Tulsa.
11. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Department of Public Works (Engineering).
12. A topo map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
13. Street names shall be approved by the Department of Public Works and shown on plat.
14. All curve data, including corner radii, shall be shown on final plat as applicable.
15. City of Tulsa Floodplain determinations shall be valid for a period of one year from the date of issuance and shall not be transferred.
16. Bearings, or true N/S etc., shall be shown on perimeter of land being platted or other bearings as directed by the Department of Public Works.
17. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
18. Limits of Access or LNA as applicable shall be shown on plat as approved by the Department of Public Works (Traffic). Include applicable language in covenants.
19. It is recommended that the Developer coordinate with the Department of Public Works (Traffic) during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
20. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
21. All lots, streets, building lines, easements, etc. shall be completely dimensioned.
22. The key or location map shall be complete.
23. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
24. The restrictive covenants and/or deed of dedication shall be submitted for review with the preliminary plat. (Include subsurface provisions, dedications for storm water facilities, and PUD information as applicable.)
25. The sketch plat has been referred to Bixby and Broken Arrow because of its location near or inside a "fence line" of that municipality. Additional requirements may be made by the applicable municipality. Otherwise only the conditions listed apply.

26. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
27. All other Subdivision Regulations shall be met prior to release of final plat.

On the motion of Miller, the Technical Advisory Committee voted unanimously to recommend Approval of the Preliminary Plat of Kingsbury II, subject to all conditions listed.

Interested Parties Comments:

Gail Spies, 7202 East 92nd Street South, informed the Commission that her property, located in the South Springs Addition, backs up to the proposed plat and to the south is the Wetland Mitigation Project. There is a creek that runs through the proposed plat area and empties into the wetlands. Ms. Spies expressed concern as to the effect the proposed development will have on the wetlands and drainage in the area.

TMAPC Comments:

Mr. Doherty informed Ms. Spies that the issue of the drainage is addressed by Stormwater and City Engineering Department and as to hydrology in that area.

Mr. Jones stated that the property will have stormwater controlled by two methods. The first is with some in-ground storm drainage system and secondly, a large overland drainage easement. Public Works is aware that this is a unique drainage area and that Staff has been working with the engineers.

TMAPC Action; 7 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **7-0-0** (Ballard, Boyle, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Carnes, Dick, Edwards, Midget "absent ") to **APPROVE** the Preliminary Plat of Kingsbury II, subject to the conditions 1 - 27 as recommended by TAC.

21st and Broken Arrow Addition (1793) Southwest corner of
East 21st Street South & the Broken Arrow Expressway

(PD-6)(CD-9)

TAC Comments:

Jones presented the plat with Dwayne Wilkerson in attendance.

Mark Brown with O.D.O.T. advised the applicant that high levels of noise are present at the site and the owner/developer should be so advised.

Wilkerson was in agreement with dedication of right-of-way for East 21st Street to meet the Major Street Plan.

French recommended that existing steps in the sidewalk be eliminated in the PFPI process.

Root noted that compensatory storage would be required and requested the storage area be dedicated to the City.

Horn pointed out that the waterline layout will need to be revised.

French recommended that the access to 21st Street be 40' in width and line up with the existing median opening.

East 21st and Broken Arrow Addition is a 2.378 acre replat which contains one lot and block. The property is zoned CH (Commercial Heavy) and is not subject to the platting requirements but rather is being replatted for new easements.

Staff would offer the following comments and/or recommendations:

1. Dedication of East 21st Street South to meet the Major Street Plan or a waiver by the TMAPC.
2. Waiver to permit the plat to be drawn at a scale of 1" = 40' (1"=100' required).
3. Show book/page information for all existing right-of-way.
4. Correct type in owner's name.
5. A letter from an attorney is required stating that the L.L.C. is a duly-formed organization and the person signing has the authority to do so.
6. Since the property is a replat, the applicant is advised it is subject to Oklahoma State Statutes, Title 11 O.S. 42-106.
7. The applicant is advised to have the deed of dedication and restrictive covenants reviewed by an attorney. The current draft appears to have several problems (Legal will review at draft final).
8. Provide full signature block including lines for TMAPC.
9. Applicant is advised to vacate the underlying plat in accordance with accepted legal procedures. (Advisory, not a condition of plat approval).
10. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
11. Water and sanitary sewer plans shall be approved by the Department of Public Works (Water & Sewer) prior to release of final plat. (Include language for W/S facilities in covenants.)
12. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).

13. A request for creation of a Sewer Improvement District shall be submitted to the Department of Public Works (Water & Sewer) prior to release of final plat.
14. Paving and/or drainage plans shall be approved by the Department of Public Works (Stormwater and/or Engineering) including storm drainage, detention design, and Watershed Development Permit application subject to criteria approved by the City of Tulsa.
15. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Department of Public Works (Engineering).
16. Street names shall be approved by the Department of Public Works and shown on plat.
17. All curve data, including corner radii, shall be shown on final plat as applicable.
18. City of Tulsa Floodplain determinations shall be valid for a period of one year from the date of issuance and shall not be transferred.
19. Bearings, or true N/S etc., shall be shown on perimeter of land being platted or other bearings as directed by the Department of Public Works.
20. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
21. Limits of Access or LNA as applicable shall be shown on plat as approved by the Department of Public Works (Traffic). Include applicable language in covenants.
22. It is recommended that the Developer coordinate with the Department of Public Works (Traffic) during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
23. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
24. All lots, streets, building lines, easements, etc. shall be completely dimensioned.
25. The key or location map shall be complete.
26. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
27. The restrictive covenants and/or deed of dedication shall be submitted for review with the preliminary plat. (Include subsurface provisions, dedications for storm water facilities, and PUD information as applicable.)
28. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
29. All other Subdivision Regulations shall be met prior to release of final plat.

On the motion of Somdecerff, the Technical Advisory Committee voted unanimously to recommend Approval of the Preliminary Plat for 21st and Broken Arrow Addition, subject to all conditions listed above.

TMAPC Action; 7 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **7-0-0** (Ballard, Boyle, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Carnes, Dick, Edwards, Midget "absent ") to **APPROVE** the Preliminary Plat for 21st and Broken Arrow Addition, subject to conditions 1 - 29 as recommended by TAC.

Plat Waiver, Section 213 or Section 260:

BOA-17351 (Tri-Angle) (1994) 3132 South 108th East Avenue (PD-17)(CD-5)

TAC Comments:

Jones presented the application with Roy Johnsen and Christine Leonard present.

Root pointed out that the entire lot is in a regulatory floodplain and a Watershed Development Permit is required.

Board of Adjustment case 17351 is a special exception to permit a cellular tower in an OL- and CS-zoned district. If approved the property will be subject to the platting requirement. The applicant proposes to utilize an existing mini-storage unit to house the necessary equipment and erect the tower on a pad located outside the unit.

Based on the existing subdivision plat and usage of existing building, Staff is supportive of the plat waiver. Staff can see no benefit to the City in requiring a replat. Staff recommends Approval of the plat waiver for BOA-17351, subject to the following conditions:

1. Grading and/or drainage plan approval by the Department of Public Works in the permit process.
2. Utility extensions and/or easements if needed.

On the motion of Chronister, the Technical Advisory Committee voted unanimously to recommend Approval of the Plat Waiver for BOA-17351, subject to all conditions listed above.

TMAPC Action; 7 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **7-0-0** (Ballard, Boyle, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Carnes, Dick, Edwards, Midget "absent ") to **APPROVE** the Plat Waiver for BOA-17351, subject to the conditions 1 and 2 as recommended by TAC.

TAC Comments:

Jones presented the request with no representative present.

Considerable discussion was given to the right-of-way dedication.

Tulsa County Board of Adjustment case 1414 is a special exception request to permit a 100' cellular tower in an IL-zoned district. If approved, the property will be subject to the platting requirements.

Although Staff does not have a concern with the waiver request, it should be noted that existing right-of-way for West 61st Street South and South 57th West Avenue do not meet that required by the Major Street Plan. Staff would recommend Approval of the plat waiver for CBOA-1414, subject to the following conditions:

1. Plat waiver approval be for this particular use only.
2. Dedication of right-of-way for West 61st Street and South 57th West Avenue to meet the Major Street Plan.
3. Grading and/or drainage plan approval by the County Engineer in the permit process.
4. Access control agreement, if required by the County Engineer.
5. Utility extensions and/or easements if needed.

On the motion of Rains, the Technical Advisory Committee voted unanimously to recommend Approval of the Plat Waiver for CBOA-1414, subject to all conditions listed above.

TMAPC Comments:

Mr. Doherty expressed that a tower would not cause extra traffic flow and extra right-of-way would not be needed.

TMAPC Action; 7 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **7-0-0** (Ballard, Boyle, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Carnes, Dick, Edwards, Midget "absent ") to **APPROVE** the Plat Waiver for CBOA-1414, subject to conditions 1, 3, 4 and 5 and waive condition 2 requiring additional right-of-way as recommended by TAC.

CBOA-1413 (Unplatted) (892) 1928 South 49th West Avenue

(PD-9)(County)

TAC Comments:

Jones presented the request with no representative present.

Tulsa County Board of Adjustment case 1413 is a special exception request to permit a cellular tower in an AG-zoned district. As the site plan shows, the tower location will utilize a 50' x 50' portion of the entire tract and have a 20' access easement to South 49th West Avenue.

Staff can see no benefit to the County in a replat and recommends Approval of the plat waiver, subject to the following conditions:

1. Grading and/or drainage plan approval by the County Engineer in the permit process.
2. Utility extensions and/or easements if needed.

On the motion of French, the Technical Advisory Committee voted unanimously to recommend Approval of the Plat Waiver request for CBOA-1413, subject to all conditions listed above.

TMAPC Action; 6 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **6-0-0** (Boyle, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Ballard, Carnes, Dick, Edwards, Midget "absent ") to **APPROVE** the Plat Waiver for CBOA-1413, subject to the conditions 1 and 2 as recommended by TAC.

* * * * *

Final Approval:

Winbury Center (PUD 538) (2283) Northeast corner of East
101st Street South & South Yale Avenue

(PD-26)(CD-8)

Staff Comments:

Mr. Jones informed the Commission that Ted Sack is present, representing the engineer for the project. This property is a two-lot commercial subdivision plat. Currently, grading of the property is in progress. Mr. Jones stated that the release letters from the City and the utility companies have been received. However, the owner's papers and the Corporation Commission Certificate of Non-Development have not been received. Staff recommends approval of the Final Plat of Winbury Center, having met all the subdivision regulations, subject to receipt of owner's papers and Legal's approval.

TMAPC Action; 6 members present:

On **MOTION** of **HORNER**, the TMAPC voted **6-0-0** (Boyle, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Ballard, Carnes, Dick, Edwards, Midget "absent ") to **APPROVE** the Final Plat of Winbury Center subject to receipt of owner's papers and certificate of non-development and legal's approval.

Lot Split for Ratification of Prior Approval:

<u>L-18250 William McBee Jr. (2102)</u> 2615 N. 41st W. Ave.	(PD-11)(CD-1) AG
<u>L-18269 21st Properties, Inc. (3194)</u> South and east of the Southeast corner of 51st & Mingo	(PD-18C)(CD-5) IL
<u>L-18271 Tulsa Development Authority (2502)</u> All Lot 2 & W. 25' Lot 3, Block 2, Harding Addition	(PD-2)(CD-1) RS-4
<u>L-18272 Tulsa Development Authority (2502)</u> Lots 2 & 3, Block 1, Strobel Addition	(PD-2)(CD-1) RS-4
<u>L-18273 Arthur & Nancy Edmondson (2523)</u> 14227 N. Memorial	(PD-14)(CD-0) AG
<u>L-18274 Tulsa Development Authority (2502)</u> E. 25' of Lot 3 & all Lot 4, Block 2, Harding Addition	(PD-2)(CD-1) RS-4

Staff Comments:

Mr. Jones stated that these lot-splits are in order and meet Subdivision Regulations. Staff recommends approval.

TMAPC Action; 6 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **6-0-0** (Boyle, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Ballard, Carnes, Dick, Edwards, Midget "absent ") to **APPROVE** the Lot-Splits for Ratification of Prior Approval finding them in accordance with Subdivision Regulations.

CONTINUED ZONING PUBLIC HEARING:

Application No.: Z-6526
Applicant: Michael B. Tolson
Location: 20 and 22 East 24th Street South
Date of Hearing: April 24, 1996
Presented to TMAPC: Michael B. Tolson

Present Zoning: RS-2
Proposed Zoning: RD

Staff Recommendation:

Relationship to the Comprehensive Plan:

The District 7 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as Arkansas River Corridor, Special District E, Low Intensity area.

According to the Zoning Matrix the requested RD **may be found in** accordance with the Plan Map.

Staff Comments:

Site Analysis: The subject property is 150' x 150' in size and is located east of the southeast corner of East 24th Street South and South Riverside Drive. It is sloping, partially wooded, vacant and zoned RS-2.

Surrounding Area Analysis: The tract is abutted on the north by apartments, zoned RM-2 and to the south, west, and east by single-family dwellings, zoned RS-2.

Zoning and BOA Historical Summary: The most recent rezoning activity in this area approved a PUD which allowed for a two-lot, single-family dwelling per lot on a tract located south of the subject tract.

Conclusion: The subject property is identified as Arkansas River Corridor, Special District E, Low Intensity. The adjacent properties contain single-family dwellings and it is Staff's opinion that single-family use is viable. Therefore, Staff recommends **DENIAL** of RD and **APPROVAL** of RS-3 zoning for Z-6526. This would allow the applicant to request a special exception for duplexes from the Board of Adjustment and if the design of these duplexes was found to be compatible with the area, they could be approved.

Having received a letter from the applicant withdrawing this item, the First Vice Chairman Doherty struck this item.

Application No.: PUD-544
Applicant: Stephen A. Schuller
Location: 2640 East 11th Street South
Date of Hearing: April 24, 1996
Presented to TMAPC: Stephen A. Schuller

Present Zoning: CH/OL/RS-3
Proposed Zoning: CH/OL/RS-3/PUD

Staff Recommendation:

The proposal is for a used car lot with up to a one-story 2100 S.F. sales office on the south side of the property and a smaller one-story building for accessory storage and vehicle preparation. The existing commercial buildings on the lot would be demolished. NO building setback is proposed between the single-family residential lots on the south side of the PUD and the commercial buildings in the PUD. A ten-foot high screening fence is proposed along the boundary of the PUD abutting residentially-zoned property. The PUD proposes to provide access to the site from 11th Street, Birmingham Place and Columbia Avenue. A variance of the screening requirements would need to be given to allow access to Columbia Place. The applicant is proposing to provide 10 percent landscaping within the PUD but no trees would be provided within 100 feet of 11th Street.

The Comprehensive Plan for District 4 designates this Special Consideration Area "C" which suggests that development and redevelopment of commercial and office uses in this area be to a neighborhood scale, with their principal focus of serving the TU Special District. The Plan also states that further encroachment of these commercial and office uses into the neighborhoods should be discouraged.

Staff believes this proposed PUD will have negative impacts on the surrounding neighborhood and on the appearance of 11th Street. The PUD promotes the elimination of existing neighborhood commercial buildings compatible with the commercial style of development along 11th Street and pushes commercial activities further south into the neighborhood. Staff recommends PUD 544 be **DENIED** because it does not comply with the requirements of Section 1107 D. of the PUD Chapter.

Staff Comments:

Mr. Stump stated that new proposals have not been received by Staff. Therefore, Staff still recommends denial of PUD 544.

Applicant's Comments:

Stephen A. Schuller, 320 South Boston Avenue, Suite 1024, Tulsa, Oklahoma, informed the Commission that the client is prepared to tear the building down and sell the portion that is zoned commercially for a commercial user, which is within his rights. Mr. Schuller has urged his client to appear before the TMAPC again and propose what he feels is economically feasible for the use that he was proposing under the PUD. Mr. Schuller recalls some opposition to the wash bay and small storage area, which were originally located at the rear of the property. Due to this opposition, his client is willing to remove the wash bay and add 30 feet to the building for storage. Mr. Schuller stated that unfortunately there is not any flexibility with Chevrolet to save the building or build one like it. Chevrolet has a standard on how the building will look; however, there is some flexibility with the color of the stucco building. Mr. Schuller presented a drawing of the site and described the layout, including

landscaping, lighting, entrance accesses, parking areas and fencing of the proposed site. Mr. Schuller informed the Commission that his client has met or exceeded the 10 percent landscaping requirements as indicated in green on the drawing. Mr. Schuller pointed out that additional landscaping will be provided by the property owner in the notched-out areas owned by the City. Mr. Schuller emphasized that this is a satisfactory and improved utilization of this property, under the best possible circumstances that are economically feasible for the applicant. There is no plan to save the building, which is zoned CH, and the alternative is to demolish the building and utilize the CH zoning. Again, Mr. Schuller expressed that this is an improvement and allows a more landscaped, more attractive site and use of this property.

Interested Parties Comments:

Sheila Swearingen, 1131 South College Avenue, represented the Renaissance Neighborhood Association as Chair for Code Enforcement and Zoning for the Association. Ms. Swearingen informed the Commission that the Association has talked to Mr. Wilkerson and has determined that he is willing to do some landscaping to make the car lot acceptable to the neighborhood. However, the majority of the people in the neighborhood, as indicated by the petition, feel that a lot car, no matter how beautiful, is not appropriate for the residential area. The impact on Wilson Middle School, with increased parking problems and increased traffic flow, has not been thoroughly considered. Ms. Swearingen presented photographs of the building showing the architectural details and the sidewalk in front of the building that the City spent money to upgrade last year. Ms. Swearingen expressed her desire to preserve the building.

Scott Johnson, Acting President of the Renaissance Neighborhood Association, stated that in answer to Mr. Boyle's question, his constituents in the neighborhood are highly opposed to the current plan or proposal. Mr. Johnson pointed out that the Renaissance Neighborhood Association has had a lot of support during the last year. Mr. Johnson expressed his concern with the increased traffic affecting the neighborhood and the school. The Association has completed renovations in the neighborhood and cares very much about the property. They believe the current proposal is not in the best interest of the neighborhood or the use of the land.

Tom Neal, 2507 East 11th Place, stated that he is here speaking as both a resident and as a design professional who has worked in landscape and architectural practices in this City for over ten years. Mr. Neal stated that, in his opinion, the applicant has not acted in the best faith and has not fully explored options for this particular property. Apparently it was financially viable for Mr. Wilkerson and eviction notices were given to the tenants prior to the previous hearing. Mr. Neal recognizes that the owner feels that this new building and

landscaping would be an improvement over a poorer-quality auto lot, but as a design professional he cannot see a significant difference. Mr. Neal feels the 10 percent landscaping requirement is not enough to screen this use from the neighborhood. Mr. Neal would be willing to take the risk of another business coming in.

David Bowery, 1120 South Columbia, asked what changes could be made to the drawing if the PUD was approved. Mr. Doherty informed Mr. Bowery that the PUD is not spelled out in the zoning code, but it is basically a negotiating process. If there are things that are found offensive or things that could be found to better buffer the use from the neighborhood or improve the overall aesthetics or design of the project they can be suggested. The Commission does not have to take or reject any proposal exactly as presented. The Commission has wide latitude and would like to hear any suggestions Mr. Bowery may have. Mr. Bowery expressed his concern that originally there would not be access on Columbia and Columbia would be lined with trees. Now there will be access and the trees will be moved to the far corners. Mr. Bowery feels this is a step backwards and the access on Columbia should not be allowed, due to the safety concerns for the school children.

Applicant's Rebuttal:

Mr. Schuller informed that Commission that some things can be changed. His client is willing to close the access and provide landscaping on Columbia to shield the school. Mr. Schuller believes this is an appropriate use of the property. There are similar facilities up and down historical 11th Street. This is the kind of use that is permitted by right in the existing CH-zoning. There will be off-street parking provided as required by the Zoning Code and the PUD standards, as well as sidewalks. Mr. Schuller corrected a misstatement of fact. No tenants of this building have been given any eviction notices, and no tenants of this building have been evicted. However, some tenants learned of the proposed sale and development of the property and chose to terminate their leases. This development plan is a contingency based on the acquisition of the property by University Chevrolet - GEO. If the PUD is not approved, University Chevrolet - GEO will not acquire the property, leaving the owner to pursue his alternative plan.

TMAPC Comments:

Mr. Doherty asked for clarification on the current zoning lines and which area the building and sales office would be located. Mr. Schuller indicated on the map the different zoning areas. The building and sales office would be located in the OL-zoned area. The display of merchandise for sale would be located where the current CH zoning is and the remaining area zoned R, with BOA exception, would be for customer parking, employee parking and displays.

Mr. Boyle asked Ms. Swearingen if she or the neighborhood is willing to take the risk of a new owner and another type of business. Ms. Swearingen stated she, herself, is willing to take the risk in hopes that someone else would preserve the building with another type of business.

Mr. Boyle asked Mr. Neal if the neighborhood has met with the applicant. Mr. Neal replied that they have, but that their position is not negotiable in trying to save the building.

Mr. Doherty expressed concerns of the access located near a school area. Mr. Doherty feels that if there should be buffering, the most consideration should be to the residential areas, since they have to live with it, then the school and lastly adjacent commercial areas.

Mr. Boyle also expressed concerns of the access and landscaping on Columbia. Mr. Schuller stated that the client would agree to no access and would be willing to provide landscaping on Columbia.

Mr. Horner feels this is an improvement and wonders if the residents realize that some of the types of uses for CH are even more undesirable.

Ms. Pace stated that she does not want to scare the residents concerning the use units that can be put on CH property because they have recently instituted some protection which eliminates many of the bad uses such as adult entertainment. Use Unit 17 is about as high as is possible to get. Ms. Pace indicated support for Staff's recommendation that this property be developed according to standard zoning practices and not a PUD. Ms. Pace feels that this is a total loss for the redevelopment efforts of central Tulsa and only a gain for the GEO people. Ms. Pace would vote against the PUD.

Mr. Carnes and Ms. Ballard stated they would support the PUD, subject to the access on Columbia being closed and additional landscaping being provided.

Ms. Gray stated she has mixed emotions about the PUD. Ms. Gray feels the meeting between the developer and the homeowners was not good enough and asked that they try again to work out something that would be agreeable by everyone.

Mr. Ledford thinks that if the building could be preserved, it would be great because of the other preservation that has occurred in this area; however, there is not any guarantee of that.

Mr. Doherty regrets that we will lose the building, which is a piece of history; however, it is not in an HP zone and there is nothing that requires the owner to wait and see if an alternative offer would be made. Mr. Doherty expressed concern with this area of 11th Street due to all the effort to revitalizing this area, and, he indicated that the entire area

should be taken into consideration. Mr. Doherty feels that raised cars on the corner of the lots is not necessary. The cars should be left at ground level. Mr. Schuller stated that there are other raised cars on 11th Street; however, his client is willing to delete the ramps for the raised cars.

Mr. Boyle feels that the car lot is a wrong thing in the wrong place. The neighborhood knows what the risks are and is willing to take the chance of another undesirable business moving in.

Ms. Pace is concerned with a Use Unit 17 abutting a residential lot. Ms. Pace suggested moving the building for the use of buffering. Mr. Doherty suggested that no windows should be allowed on the side of the building that abuts the resident.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, the TMAPC voted **5-3-0** (Ballard, Carnes, Doherty, Horner, Ledford "aye"; Boyle, Gray, Pace "nays"; none "abstaining"; Dick, Edwards, Midget "absent") to recommend **APPROVAL** of PUD-544 subject to the applicant's Outline Development Plan and the conditions as stated and presented by the applicant at this meeting and limits of no access on Columbia, landscape screening along Columbia and a minimum of two street trees and landscaping on the 11th Street frontage.

Mr. Doherty requested to reconsider the motion on PUD-544.

TMAPC Action; 7 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Ballard, Boyle, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Edwards "absent ") to **RECONSIDER** of the motion on PUD-544.

TMAPC Action; 7 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **4-3-0** (Ballard, Carnes, Doherty, Ledford "aye"; Boyle, Gray, Pace "nays"; none "abstaining"; Dick, Edwards, Horner, Midget "absent ") to recommend **APPROVAL** of the PUD-544 as previously approved and adding the condition of no windows on the south side of the building and specifying that the building will be constructed of stucco and glass.

* * * * *

Legal Description for PUD-544:

Lot 1 to 9, inclusive, Block 1, and Lots 1, 2, 24, 25, and 26, Block 2, and the vacated alley between Blocks 1 and 2, all in Max Campbell Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof, less and except the East 15.3' of Lots 1 and 2, and the West 9.7' of Lot 25, and the West 9.7' of the South 10' of Lot 26, all in said Block 2, and located at 2640 East 11th Street, Tulsa, Oklahoma.

* * * * *

Consider Amending TITLE 42, TULSA REVISED ORDINANCES (Tulsa Zoning Code) as follows:

Amend Section 1002D.2 by eliminating hose attachments as an acceptable method of irrigation for required landscape areas; Sections 1003.A & B to provide for different administrative procedures within Planned Unit Developments and add a certification of compliance requirement on landscape plans and modify the current certification of installation of required landscaping provision; and Section 1800 by changing the definition of a tree.

No interested parties wished to speak on this item.

TMAPC Comments:

Mr. Doherty reported that Rules and Regulations Committee met today to consider revising Section Title 42, Tulsa Revised Ordinances as presented in the agenda packets. Rules and Regulations Committee recommends approval of amendment to the Tulsa Zoning Code.

TMAPC Action; 6 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **6-0-0** (Carnes, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Ballard, Boyle, Dick, Edwards, Midget "absent ") to recommend **APPROVAL** of Amendment to Title 42, Tulsa Revised Ordinances (Tulsa Zoning Code), Section 1002D.2, Sections 1003.A & B and Section 1800 as recommended by the Rules and Regulations Committee. The specific amendments area as follows with new additions underlined and deletions struck through:

AMENDMENTS TO LANDSCAPE CHAPTER

Amend Section 1002.D.2. Miscellaneous Requirements to read as follows:

2. Required landscaping shall be irrigated by one of the following methods:
 - a. An underground sprinkling system; or
 - b. A drip system.
 - c. A hose attachment within 100 feet of all landscaped areas. No landscape plan submitted after June 30, 1996, shall use this method to irrigate required landscape areas.

Amend Section 1003.A. to read as follows:

- A. **Landscape Plan.** All applications for a building permit for uses requiring landscaping, as set forth in Section 1001., shall include a landscape plan which provides the following:
 1. The date, scale, north arrow, project name and name of the owner;
 2. The location of property lines and dimensions of the tract;
 3. The approximate center line of existing water courses, the approximate location of significant drainage features, the location and size of existing and proposed streets and alleys, existing and proposed utility easements and overhead utility lines on or adjacent to the lot, and existing and proposed sidewalks on or adjacent to the lot;
 4. The location, size and type (tree, shrub, ground cover, or grass) of proposed landscaping and the location and size of the proposed landscaped areas;
 5. Planting details and/or specifications;
 6. The method of protecting the existing trees which are to be retained from damage during construction;
 7. The proposed irrigation system, including a description of the type of irrigation system used for each required landscape area;

8. The schedule of installation of required landscaping and appurtenances, which shall specify installation of all required landscaping and appurtenances, except trees, prior to the issuance of a certificate of occupancy and further specify installation of required trees within the landscape plan within 120 days after issuance of the occupancy permit; (Planned Unit Developments may require that all landscaping and appurtenances be installed prior to issuance of a certificate of occupancy);

9. For developments which are not part of a Planned Unit Development (PUD), written certification by an architect, landscape architect or engineer licensed to do business in the State of Oklahoma, that the landscape plan is in conformance with the requirements of Section 1002. or an Alternative Compliance Plan approved by the Planning Commission. For developments which are within a PUD, evidence that the landscape plan has been approved by the Planning Commission or its designated staff.

Amend Section 1003.B. to read as follows:

- B. Certificate of Installation.** Within a Planned Unit Development (PUD), certification of the installation of required landscaping shall be provided as required by the special provisions of that PUD, if any exist. In all other cases, within 120 days of the issuance of the occupancy permit, written certification by the owner of the property, an architect, landscape architect or engineer ~~authorized~~ licensed to do business in the State of Oklahoma shall be submitted to the City stating that all landscaping and appurtenances have been installed in accordance with the approved landscape plan.

Amend Section 1800. **DEFINITIONS**

Tree: A woody plant having one or more defined stems or trunks and having a defined crown and customarily attaining a mature height of 8' 15' or greater ~~or~~ and set forth within a list of trees certified by the Urban Forester of the City and adopted by resolution of the Planning Commission.

* * * * *

ZONING PUBLIC HEARING:

Application No.: Z-6531

Applicant: Greg Breedlove

Location: Southwest corner 116th Street between South Fulton and South Granite

Date of Hearing: April 24, 1996

Presented to TMAPC: Greg Breedlove

Present Zoning: AG

Proposed Zoning: RS-2

Staff Recommendation:

Relationship to the Comprehensive Plan:

The District 26 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the central portion of the property as Special District 1 which is an area of steep slopes and highly erodible soils (sand). The remainder of the property is designated as Low Intensity - Residential.

According to the Comprehensive Plan the requested RS-2 is not in accordance with the Plan Map. RS-1 is the highest intensity of residential zoning recommended by the Comprehensive Plan without a PUD. Residential zoning districts which permit zoning densities greater than RS-1 should be accompanied with an acceptable PUD.

Staff Comments:

Site Analysis: The subject property is 34.7 acres in size and is located south of East 116th Street and east of South Canton Avenue. It is flat, wooded, vacant and zoned AG.

Surrounding Area Analysis: The tract is abutted on the north by single-family dwellings, zoned RS-1; to the west by single-family dwellings, zoned RS-1/PUD; and to the south and east by single-family dwellings, zoned AG.

Zoning and BOA Historical Summary: Zoning actions in this area have established a pattern of large-lot, low-density, single-family development.

Conclusion: Based on the Comprehensive Plan, the surrounding land uses, and existing zoning, staff recommends **DENIAL** of RS-2 and **APPROVAL** of RS-1 for Z-6531.

Applicant's Comments:

Mr. Breedlove is in agreement with Staff's recommendation.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-0-0** (Ballard, Boyle, Carnes, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Dick, Edwards, Midget "absent ") to recommend **DENIAL** of the request for RS-2 zoning and recommends **APPROVAL** of RS-1 zoning for Z-6531.

Legal Description for Z-6531:

The NE/4, SW/4, Section 34, T-18-N, R-13-E of the IBM, Tulsa County, State of Oklahoma according to the U.S. Government survey thereof, less and except the West 165' thereof, and less and except the following described tract, to-wit: starting at the northwest corner of said NE/4, SW/4; thence Easterly along the Northerly line thereof for 365' to the Point of Beginning of said tract of land; thence continuing Easterly along said Northerly line for 185'; thence Southwesterly along a deflection angle to the right of 104°15'28" for 77.38' to a point, said point being 75.00' Southerly of, as measured perpendicular to, the Northerly line of said NE/4, SW/4; thence Westerly along a deflection angle to the right of 75°44'32", and parallel to said Northerly line, for 150'; thence Northwesterly along a deflection angle to the right of 78°00'00", for 76.68' to the Point of Beginning, and located on the southwest corner of East 116th Street between South Fulton Avenue and South Granite Avenue, Tulsa, Oklahoma.

* * * * *

Application No.: Z-6533
Applicant: Stephen Schuller
Location: 412-430 South 127th East Avenue
Date of Hearing: April 24, 1996
Presented to TMAPC: Stephen Schuller

Present Zoning: RS-2
Proposed Zoning: IL or CS

Staff Recommendation:

Relationship to the Comprehensive Plan:

The District 17 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as Low Intensity - No Specific Land Use and Corridor.

According to the Zoning Matrix the requested CS or IL zoning is **not in** accordance with the Plan Map.

Staff Comments:

Site Analysis: The subject property is approximately 1.9 acres in size and is located on the southwest corner of East 4th Street and South 127th East Avenue. It is flat, partially wooded, has a single-family dwelling on it, and zoned RS-2.

Surrounding Area Analysis: The tract is abutted on the north by vacant property, zoned IL; to the northwest by Skelly Drive (I-44), zoned RS-3; to the east and southeast by single-family dwellings, zoned RS-2; and to the south by a commercial business, zoned CS, on the west end and single-family dwellings, zoned RS-2 on the east portion.

Zoning and BOA Historical Summary: This area is in transition to commercial uses with CO and CS zoning. A Planned Unit Development for a boat sales was approved in 1995 on property south of the subject tract.

Conclusion: The subject tract is within an area that is designated Low Intensity by the Comprehensive Plan. The property to the north is zoned IL and the property located to the southwest is CS with CO zoning beyond that. Because of the CS zoning to the south, Staff can recommend **APPROVAL** of CS zoning on the subject tract, less the east 218.5' which should remain RS-2 to align with the RS-2 area to the south and to serve as a buffer for the residential uses to the east.

Applicant's Comments:

Steven A. Schuller, 320 South Boston, Suite 1024, Tulsa, is the attorney for the applicant. Mr. Schuller presented a map showing the current zoning of surrounding areas in relation to the subject property. Mr. Schuller stated that the subject property extends from the Skelly Drive frontage back to 127th East Avenue and presently contains a small single-family residence, at the far east end, and farm animals. The residence is directly between the light industrial zoning district on the north, which is vacant, and a shopping center zoning district on the south, which has an office and warehouse structure and several smaller buildings at the rear of the property. Along Skelly Drive, farther south, is a corridor district with a large building under construction. Mr. Schuller expressed that the entire Skelly Drive frontage from 11th Street to 129th East Avenue is situated in some type of commercial, office, corridor or industrial zoned district except for a small residentially-zoned portion that is occupied by a church. There are large corridor-zoned districts situated immediately behind the residential district to the east of the property, which would permit a wide variety of uses. Across Skelly Drive is old industrially-zoned area and a shopping center zoning district near 11th Street. This is a transitional area, and the zoning patterns over the last several years show that the property is becoming utilized for office, commercial and industrial purposes because the property along Skelly Drive is served well by the Skelly Drive frontage road.

Mr. Schuller feels that protection for the residential area is not necessary because the property to the south sold off the commercially-zoned property for commercial use. Mr. Schuller recommended using the office zoning as a buffer between the commercial and residential districts or a small strip of residential zoning to provide buffering or screening to the residential district. Mr. Schuller requested that the property be zoned either industrial light (IL), like the adjacent property to the north, or commercial shopping (CS), like the adjacent property to the south.

Interested Parties Comments:

Rick Honey, 433 South 127th East Avenue, stated that 4th Street, 4th Place and 127th dead-end and the frontage road is a one-way street. His property floods constantly. Mr. Honey has concerns as to the effect the construction of businesses will have on flooding and added traffic in the area. Mr. Honey presented a letter from another resident in the area who could not attend the meeting and pictures of the current flooding problems.

Gary Lawson, 700 South 127th East Avenue, expressed concerns in regard to increased traffic and safety of area residents.

Applicant's Rebuttal:

Mr. Schuller stated that the buffer would prevent access to the street and the stormwater runoff issue is already addressed by existing ordinances. Mr. Schuller urged the Commission to rezone the subject property to CS or IL with a small residential buffer along the east end.

TMAPC Comments:

Mr. Doherty stated that the issue of traffic would be addressed if a strip of residential property is used for buffering because commercial traffic cannot cross residential land to access the street. The issue of drainage is more difficult and he suggested that Mr. Honey get involved in the platting stage of the project.

TMAPC Action; 7 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Ballard, Boyle, Carnes, Doherty, Gray, Ledford, Pace "aye"; no "nays"; none "abstaining"; Dick, Edwards, Horner, Midget "absent ") to recommend **APPROVAL** of the CS zoning for Z-6533, less the east 170 feet of the tract.

Legal Description of area recommended for CS Zoning for Z-6533:

Part of Lot 9, Plainview Heights Addition, Tulsa County, State of Oklahoma, described as follows; Beginning 43.99' East of the Southwest corner of said Lot 9, thence East 412.51', thence North 160.5', thence West 196.23', thence Southwesterly 166.25' along the right-of-way line of Interstate Highway No. 44 to the point of beginning and located west of 412-430 South 127th East Avenue, Tulsa, Oklahoma.

Application No.: Z-6534

Applicant: Roy D. Johnsen

Location: North of northwest corner South Yale and East 121st Street South

Date of Hearing: April 24, 1996

Presented to TMAPC: Roy D. Johnsen

Present Zoning: AG

Proposed Zoning: RS-2

Staff Recommendation:

Relationship to the Comprehensive Plan:

The District 26 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates most of the property as Special District 1 with the southwest corner designated Low Intensity Residential. Special District 1 is an area of steep slopes with highly eridable soils (sand).

According to the Comprehensive Plan the requested RS-2 zoning is **not in** accordance with the Plan Map. Residential zoning districts which permit zoning densities greater than RS-1 should be accompanied with an acceptable PUD.

Staff Comments:

Site Analysis: The subject property is approximately 20 acres in size and is located north of the northwest corner of South Yale Avenue and East 121st Street South. It is steeply sloping, partially wooded, vacant and zoned AG.

Surrounding Area Analysis: The tract is abutted on the north by vacant property, zoned PUD-399; to the west by vacant land, zoned AG; to the south and east by single-family dwellings and vacant land zoned RS-1 and PUD.

Zoning and BOA Historical Summary: Single-family PUD development with RS-1 standards has been approved on property located north, east and south of the subject tract.

Conclusion: The Development Policies recommended by the Comprehensive Plan have designated this property as being within Special District 1 with steep slopes and erodable terrain. Low intensity development no greater than RS-1 is recommended by the Plan for this area, unless accompanied by a PUD. Therefore, Staff recommends **DENIAL** of RS-2 and **APPROVAL** of RS-1 for Z-6534.

Applicant's Comments:

Mr. Roy Johnsen, 201 West 5th Street, Suite 440, Tulsa, stated that he is amending the application to RS-1 zoning.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-0-0** (Ballard, Boyle, Carnes, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Dick, Edwards, Midget "absent ") to recommend **APPROVAL** of the RS-1 zoning for Z-6534.

Legal Description for Z-6534:

The South Half of the Northeast Quarter of the Southeast Quarter, Section 33, T-18-N, R-13-E, and located north of the northwest corner of South Yale Avenue and East 121st Street South, Tulsa, Oklahoma.

* * * * *

Application No.: PUD-546

Applicant: Susan Torbett

Location: North of northeast corner East 37th Street and South Lewis Avenue

Date of Hearing: April 24, 1996

Presented to TMAPC: Susan Torbett

Present Zoning: RS-1

Proposed Zoning: PUD

Staff Recommendation:

The PUD proposes five single-family lots on an approximately 2.3 acre tract served by a private street. Access to the lots would be from Lewis Avenue and the private street would run east-west near the rear property lines of single-family lots to the south. The homes in the PUD would face south into the back yards of the homes to the south. Because of the narrowness of the tract there does not appear to be an alternative to this type of arrangement if the tract is to be developed into multiple lots. Each proposed lot would be at least 114' wide and 18,000 SF in size, which is significantly larger than the 100' of lot width and

13,500 SF of lot area required by the RS-1 district, which is the current zoning of the subject tract and surrounding area. The applicant is also proposing a minimum of 7,000 SF of livability space per lot, which is the same as required in the RS-1 district. The development will be similar to the northern portion of the Kennebunkport development (PUD 414) which is a quarter mile northwest of this PUD.

Staff is generally in agreement with the proposed development standard with the exception of the building setback from the south property line. Since the front of the houses in this PUD will face the rear of the existing homes to the south, as much separation as possible should be provided. A building setback of 55' from the south boundary of the PUD would still allow more buildable area than in a standard RS-1 lot. Also, a hedge should be provided along the south boundary of the PUD to help screen the new traffic abutting the back yards of the existing homes to the south.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Based on the following conditions, Staff finds PUD-546 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD chapter of the Zoning Code.

Therefore, Staff recommends **APPROVAL** of PUD-546 subject to the following conditions:

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.
2. Development Standards:

Land Area	(Gross):	2.40 acres
	(Net):	2.22 acres
Permitted Uses:		Use Unit 6
Minimum Lot Area		18,000 SF
Minimum Lot Width		114'
Maximum Building Height		35'
Minimum Livability Space		7,000 SF
Minimum Building Setback		
	From south boundary of PUD	50' - (lots 1-4)*; 40' (lot 5)*
	From centerline of Lewis Ave.	85'
Minimum Garage Setback		
	From south boundary of PUD*	55' - (Lots 1-4),; 15' (lot 5)
Minimum Required Yards		
	Abutting north and east boundary of PUD	25'
	Abutting new interior side lot lines	5' on one side and 10' on the other

Minimum Width of Landscaped Strip
on south boundary of PUD

5'

3. A homeowners association shall be created and vested with sufficient authority and financial resources to properly maintain all common areas, including all private streets and stormwater detention areas within the PUD.
4. All private roadways shall be a minimum of 20' in width for two-way roads and 18' for one-way loop roads, measured face-to-face of curb or edge-to-edge of paving if center drained streets are used. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor residential public street. The maximum vertical grade of private streets shall be 10%.
5. A screening hedge shall be provided along the south boundary of the PUD to help screen new traffic abutting the back yards of the existing homes to the south.*
6. No Building Permit shall be issued until the requirements of Section 1107F of the Zoning Code have 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 and making the City beneficiary to said covenants.
7. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.

* Amendments made by Staff at the TMAPC meeting.

Staff Comments:

Mr. Stump stated that the south boundary setbacks have been modified to reflect 50' building setback and 55' setback for garages in the first four lots, and 15' for garages and the main building at least 40' from the south property line due to the orientation of the garage for lot 5.

Applicant's Comments:

The applicant is in agreement with Staff's recommendations and modifications.

Interested Parties Comments:

Billie Kelley, 2428 East 36th Place, informed the Commission that her property faces the north boundary of the subject property. Ms. Kelley stated that she chose this neighborhood because it has spacious lots, lots of trees and privacy. Ms. Kelley stated that the development is needed, but that five houses in 1.9 acres is too many. Ms. Kelley expressed concern in regard to the drainage and flooding problems, and the effect five additional homes would have on the area.

Edward Sullivan, 2440 East 36th Place, feels that five lots are too dense for this neighborhood and fears other property owners will split their lots, making it even more dense. These are large, spacious lots with low-profile buildings. Mr. Sullivan also expressed concern of flooding in the area.

Huston Hubbard, 2444 East 36th Place, stated he feels the property should be developed, but has concerns because of the dead-end street. Mr. Hubbard proposed that a cul-de-sac be placed in Lot 5 for a turn-around area and to assist with the water runoff. Mr. Hubbard likes the idea of three or four houses spread out on the remaining lots. Mr. Hubbard stated that the utilities are located on the north side of the property, with transformers on the east end. Mr. Hubbard feels this is not compatible with their neighborhood.

Lloyd Prueitt, 3710 South Atlanta Place, is representing the Homeowners Association. Mr. Prueitt presented a history on the neighborhood. The neighborhood has a drainage problem due to being without a storm sewer system, undersized streets with lack of curbing to control stormwater runoff, several houses located below the streets, overland drainage, underground stream and several homes with septic tanks. It is a very fragile area. Mr. Prueitt stated that 80 percent of the ground will be covered with driveways, streets, patios and roofs that will reduce the permeable ground. Mr. Prueitt displayed transparencies showing the layout of the area and drainage problems. The neighborhood has met with Stormwater Management on several occasions in regards to the drainage problems and nothing has been accomplished. Therefore, the only way to help with the drainage problem is to limit the number of houses and preserve the ground that soaks up the water. There are a number of house that potentially will be affected by flooding in the area. Mr. Prueitt requested the Commission to consider the effects on the neighbors in this area by allowing only three homes.

Applicant's Rebuttal:

Dan Tanner, 2202 East 49th Street, stated he is the engineer who prepared the application. Mr. Tanner pointed out that there have been some changes in the development standards since the time of the application and subsequent to the mailing. Mr. Tanner is in concurrence with those changes. However, one other change is in regard to details that will be worked out during the time of platting. Mr. Tanner stated that the property qualified for six lots, but planned to develop only five. It is possible that someone could buy two lots and build only one house. Mr. Tanner stated that he is quite aware of the utilities and drainage and will be working with Public Works. Mr. Tanner feels this opportunity should not be overlooked.

TMAPC Comments:

Mr. Carnes asked if a cul-de-sac is workable. Mr. Tanner stated that he has been in contact with the Fire Department and has designed a hammerhead turn-around that is acceptable to the Fire Department. He will continue to work on the correct position for a hammerhead three-point turn toward the east of the property.

Mr. Doherty stated that with straight zoning, Mr. Tanner could plat the property with five lots, obtain the building permit and start construction without it being approved for a PUD. Mr. Doherty asked Mr. Tanner what the benefit would be for the surrounding area if the PUD is approved. Mr. Tanner believes that the buffer along the south property line is a concession that in straight zoning would not be required.

Mr. Doherty feels that the 20'-22' private drive will reduce the impervious surface over that of a public street.

Mr. Ledford stated that PUDs gives flexibility to develop private streets. A private street or driveway, in this case, can be designed around trees to salvage those that would normally be clear-cut to a 50' right-of-way. Mr. Ledford indicated he thinks there are gains through the PUD process even in a small subdivision like this. Mr. Ledford said he would not have a problem with the five lots.

Mr. Doherty stated that this is in accordance with all the criteria on private streets, and he thinks it is appropriate to do this type of development. Mr. Doherty questioned the benefit of being in a PUD, but he said he feels that with the additional screening and additional site plan reviews, it will be beneficial to the community.

TMAPC Action; 6 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **5-1-0** (Doherty, Gray, Horner, Ledford, Pace "aye"; Carnes "nays"; none "abstaining"; Ballard, Boyle, Dick, Edwards, Midget "absent ") to recommend **APPROVAL** of the PUD-546 subject to the conditions and modifications as recommended by Staff.

Legal Description for PUD-546:

A part of the NW/4, SW/4 of Section 20, T-19-N, R-13-E of the IBM, according to the recorded Plat thereof, and more particularly described as follows: Beginning at a point 660.44' South and 35' East of the NW corner of NW/4, SW/4 of Section 20, T-19-N, R-13-E; thence East a distance of 623.31' to a point; thence South a distance of 159' to a point; thence West a distance of 623.27' to a point; thence North a distance of 159' to the place of

beginning, save and except an area described as the East 1' of the South 20' of said property, (This property is sometimes described as Lot 11, Block 3, Oakview Estates, an Addition in Tulsa County, State of Oklahoma, according to the recorded Plat thereof), and located north of the northeast corner of East 37th Street South and South Lewis Avenue, Tulsa, Oklahoma.

OTHER BUSINESS:

PUD-518 Mike Dwyer

(PD-18)(CD-8)

Northwest corner Norwood Ave & 91st St. South -- Lot 1, Block 1 of Colfax Hill
Detail Site Plan for office building

Staff Recommendation:

The applicant is requesting approval for a site plan at "Colfax Court." The plan as submitted indicates a 4,200 S.F. office building with appropriate parking.

Staff has reviewed the request and finds that the plan as submitted complies with the setback, screening, window location, square footage, height, parking and landscape area requirements of the PUD.

Therefore, Staff recommends **APPROVAL**.

Note: Site plan approval does not constitute sign plan or landscape plan approval.

TMAPC Action; 6 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **6-0-0** (Carnes, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Ballard, Boyle, Dick, Edwards, Midget "absent ") to **APPROVE** the Detail Site Plan for PUD-518 as recommended by Staff.

PUD-260C Jerry Ledford, Jr. (Amerisuites Hotel)

(PD-18)(CD-8)

North of northwest corner of Canton Ave. and 71st Street South.

Detail Site Plan for a hotel

Staff Recommendation:

The applicant is requesting approval for a site plan for the "Amerisuites Hotel." The plan as submitted indicates a 72,000 S.F. hotel containing 126 suites.

Staff has reviewed the request and finds that the plan as submitted complies with the setback, square footage, height, parking and landscape area requirements of the PUD.

Therefore, Staff recommends **APPROVAL**.

Note: Site plan approval does not constitute sign plan or landscape plan approval.

TMAPC Action; 6 members present:

On **MOTION** of **HORNER**, the TMAPC voted **5-0-1** (Carnes, Doherty, Gray, Horner, Pace "aye"; no "nays"; Ledford "abstaining"; Ballard, Boyle, Dick, Edwards, Midget "absent ") to **APPROVE** the Detail Site Plan Amerisuites Hotel in PUD-260C as recommended by Staff.

Appealant: Gentra Abbey Sorem

Appeal: TMAPC Staff Approval of a Minor Revision to a Previously-approved Detail Site Plan.

Date of Hearing: April 24, 1996

Presented to TMAPC: Gentra Abeey Sorem

Ms. Sorem is appealing a TMAPC Staff Approval of a previously-approved Detail Site Plan for PUD-306 Crown Chase Apartments for her client James Spinks. Mr. Spinks objects to said Site Plan and appeals on the followings grounds:

1. The subject site plan and any other previously approved site plan relating to the trash compactor and the captioned development is invalid because the same does not comply with the parking requirements of PUD 306.
2. To the extent the subject site plan is deemed to be valid despite the noncompliance with PUD-306, Mr. Spinks objects to the subject site plan due to the following:

- (a) the trash compactor represents a nuisance to neighbors and must be properly separated and screened from its single-family residential neighbors; specifically, the trash compactor lies within a front yard area and is closer than 200 feet to single-family residential areas (other apartment complexes have required a minimum distance of 200 feet from single-family residential areas plus full screening);
- (b) the trash compactor represents a traffic hazard and is not in compliance with current public works requirements; and
- (c) the trash compactor and its location and impact on neighbors has not been adequately reviewed and discussed with neighbors and third party experts and a policy covering the same has not been adequately developed by TMAPC or its Staff.

Staff Report:

The law firm of Conner & Winters is representing Mr. James Spinks in appealing Staff's decision regarding the above-noted minor revision to a previously-approved detail site plan. Staff approved the proposed plan on March 27, 1996.

The project site is located on the west side of College Place, northeast of the intersection of 95th Street South and Delaware Avenue. The project is a portion of a PUD that runs from 91st Street to 101st Street and from Delaware to Harvard. The project site is bounded by apartments on the north, a residential collector to the east and south with existing and proposed single family residences beyond, and a commercial site to the west.

NATURE OF THE APPEAL: See appellant letter dated April 8, 1996.

STAFF COMMENTS:

Notification -

The appeal states that "...although neither Mr. Spinks nor our firm has received a copy of or written notice of any approved site plan from TMAPC or from Staff, that on or about March 26, 1996 a site plan was approved by TMAPC Staff relating to a reorientation of the proposed trash compactor for the Crown Chase Apartments."

Staff Response:

The zoning code does not provide for public notification during the site plan review process. TMAPC written policy is that Staff should notify interested parties who are of record and who have spoken at a public hearing concerning a particular PUD when a site plan is being reviewed. In November 1994, TMAPC gave Staff the authority to approve revisions to a previously-approved site plan if the revisions were deemed to be minor in nature. TMAPC also gave Staff the ability to determine whether or not the revisions were minor. The code, the original PUD approval and TMAPC policy are silent on the issue of notification in regard to review of a site plan minor revision.

On November 29, 1995 Mr. Spinks and the College Park Homeowners Association were heard by the Commission in regard to the issue of Staff authority to approve a revised site plan for this project. A presentation was included regarding the issue of trash compactor location. The Chairman noted that Staff was well within its purview in making the approval.

On March 25, 1996 Staff received payment and application for review of a revised site plan for this project and sent letters of notification to Mr. Dale Carson, President of the College Park Home Owners Association; Mr. John Moody, legal counsel for the Association; and, Mr. James Spinks, Vice President of the Association. The letters to Mr. Carson and Mr. Spinks were sent in care of the Association. On March 27, 1996 Staff approved the minor revision to the site plan and sent letters of notification to Mr. Carson, Mr. Moody and Mr. Spinks. Mr. Carson's letter was sent in care of his residence per his request and Mr. Spinks' letter was sent in care of the Association.

Prior to submittal of the application, the applicant (Mr. Leinbach) met with representatives of the Association to discuss the issue of dumpster location and screening, fencing and landscaping. He was informed at that time that if the application was approved "without modification" that the Association would not object to "the approval action of the re-orientation and the perimeter fencing plans". Mr. Leinbach contacted Staff prior to submitting the application and asked for Staff comments regarding the revised plan so that it could be approved "without modification". Staff in turn prepared a memo to Mr. Leinbach.

On the afternoon of March 25, 1996, Staff was included in a speaker-phone conversation with Mr. Carson and Mr. Leinbach in which the site plan and the Staff comments were discussed. Mr. Carson was present in Mr. Leinbach's office and reviewing the site plan at the time. The result of the conversation was that the Association submitted a letter to Staff addressed to Mr. Leinbach and stating that, "If the TMAPC approves your submission without modification based on the above documentation and agreements and notifies the Association of the approval at the time the action is taken, the College Park Homeowners Association of Tulsa, Inc. will not object to the approval action of the re-orientation and perimeter fencing plans."

On March 27, 1996 Staff provided Mr. Leinbach with copies of the approved plan and the support material for himself and the Association. In the late morning of the 27th, Staff received a call from Mr. Carson stating that he was in receipt of the information, requesting the final date for any appeal to the decision and indicating that he would make the information known to any individual members of the Association who wished to appeal.

After reviewing the information with Mr. Linker in the early afternoon of the 27th, Staff notified Mr. Carnes that the date would be 5:00 PM Friday, April 5. (Due to the Good Friday holiday the date became 5:00 PM Monday, April 8.)

Staff was not aware at the time that Mr. Spinks had procured legal counsel.

On April 8, 1996 Staff received a notice of appeal prepared by Mr. Spinks' counsel.

Item 1: Non-Compliance with PUD standards -

Item 1 of the appeal letter states that *"The subject site plan and any other previously-approved site plan relating to the trash compactor and the captioned development is invalid because the same does not comply with the parking requirements of PUD 306."*

Staff Response:

The item refers to the development standards approved on October 5, 1983 by Minor Amendment which included the requirement for one enclosed parking space per unit. Staff notes that this was not a requirement of the original PUD and that a detail site plan for a townhouse-style complex was approved on the same date.

This requirement came to Staff's attention after the approval of the revised site plan. The applicant's appeal is based in part on the fact that the approved site plan does not show one enclosed space per unit. Staff notes that the number of parking spaces provided complies with the requirements of the PUD.

Item 2a: Trash Compactor as a nuisance -

Item 2a of the appeal letter states that *"the trash compactor represents a nuisance to neighbors and must be separately screened from its single-family residential neighbors; specifically, the trash compactor lies within a front yard area and is closer than 200 feet to single-family residential areas (other apartment complexes have required a minimum distance of 200 feet from single-family residential areas, plus full screening);"*

Staff Response:

The compactor is separated from the nearest home in the College Park addition by a brick wall, trees, a wider-than-normal residential collector street, a treed berm and an internal residential street. The distance to the nearest two single-family units is 100' and 150', respectively.

The compactor will be enclosed and the wall will be faced with brick on the external portions which extend above the abutting landscaped berm. The berm will include varieties of pine with low-to-the-ground branches; evergreen shrubs; and, ornamental shrubs and grass as specified on the revision to the approved landscape plan. Wood gates will be located in the entry. The applicant has agreed to plant a maximum of five Austrian Pines with a minimum height of ten feet on the common grounds of the College Park Homeowners Association. The location(s) will be established by the Homeowners Association and the planting will occur prior to June 1, 1996.

Staff has researched the noted 200' minimum separation and finds no such standard in the Zoning Code or in TMAPC or Staff policy concerning PUD's. Staff also finds no standard in the PUD that applies to compactors in this yard.

Item 2b: Trash Compactor as a traffic hazard -

Item 2b of the appeal letter states that *"the trash compactor represents a traffic hazard and is not in compliance with public works requirements;"*

Staff Response:

The issue of a trash compactor in relationship to apartment development is a relatively new concept in Tulsa. The Public Works Department has issued a policy that will require that all future compactors access from inside the apartment project that they serve. Staff has received a letter from Mr. Charles Hardt indicating that the current location of this compactor is acceptable if the compactor entry faces south and the truck that services the compactor is able to pull completely off the street (behind the curb line) during servicing.

The revised location and the orientation of the compactor comply with these two requirements.

Item 2c: Inadequate Staff review of compactor location /operation and inadequate discussion with neighbors -

Item 2c of the appeal letter states that *“the trash compactor and its location and impact on neighbors have not been adequately reviewed and discussed with neighbors and third party experts and a policy covering the same has not been adequately developed by TMAPC or its Staff.”*

Staff response: Communications and Discussion -

In October of 1995 Mr. James Spinks reviewed the file for this PUD and discussed the issue of compactor location with Staff. Mr. Spinks at that time indicated that the Association was concerned regarding the visual, noise and odor impacts of the compactor and also regarding potential traffic impacts. The PUD file has been made available to Mr. Spinks several times.

Since that time Mr. Spinks and/or the Association have had numerous communications with Staff, members of the Commission, individual City Councilors and the Mayor's office. The Association has met with the applicant and has provided him with a letter agreeing to the location of the compactor. The Association has brought the issue before the Planning Commission in a public meeting.

TMAPC Staff and Public Works Staff have reviewed the location and orientation of the compactor and have prepared communication to that effect. Written communication has been prepared between departments and to decision-making officials.

The applicant has met with the Association and obtained an agreement that the Association will not object to the location, based on specific conditions.

Staff Response: Locational/Operational Review -

TMAPC and Public Works Staff have reviewed the location and orientation of the compactor with the result that the Public Works Department has requested that the compactor be reoriented to open to the south with room for the service truck to pull off the street behind the curb line.

Staff has reviewed the concept and is of the opinion that the cumulative impacts of trash collection (noise, odor, visibility, truck activity) will be less with a single compactor than with multiple uncovered dumpster locations.

Staff has reviewed the concept for impacts to all residences in the project area - attached and detached. These include the proposed project, the attached units to the north and the detached units across the street to the east. Staff is of the opinion that the location as proposed is an equitable solution that minimizes impacts.

Staff has reviewed the location and has required that the exposed portions of the wall surrounding the compactor be brick faced; that the truck entry to the enclosure be screened with a wood gate; and, that the enclosure be screened with evergreen trees, landscaping and berming (per the applicant's proposal). Staff has required revision to the landscape detail for this area, requiring more specific information on heights, types, spacing and amounts of plant and screening material.

Staff has reviewed the street width of College Park Place and is of the opinion that a southbound travel lane of more than 12' will be available at all times, including times when a service truck will be near the curb prior to backing into the compactor area. The northbound lane will not be affected.

Staff has field-checked the compactor at the 7700 Riverside project (which is similar to the compactor proposed for Crown Chase) and finds that the compactor enclosure is significantly cleaner than similar enclosures of other projects which house dumpsters. The enclosure was free of trash around or under the compactor, free of spills and odor except in the immediate vicinity of the trash drop-off point. The compactor at that location is a used compactor and has been in operation for more than one year at this site.

Staff has field-checked the compactor (a new compactor) in question and finds it to be quieter in operation than a passing passenger vehicle.

The applicant has filed an addition to the Restrictive Covenants of Woodside Village III with the County. The addition states that: "Any trash compactor now or hereafter located upon any part of the property must be screened in the manner required by City Ordinance, and must be continuously maintained and operated in a safe, clean and sanitary manner and in such a manner as to avoid the escape of trash or debris deposited therein or being removed from the compactor and so as to prevent the emission therefrom of garbage odors or other unpleasant odors". The City has been given the ability to enforce the covenant.

Staff Response - Staff Policy:

The location of compactors in PUDs will continue to be reviewed on a site-by-site basis as impacts vary site-by-site. Reasonable mitigation of adverse impacts on all area residents will continue to be required as is appropriate to each individual site.

Staff will enforce the newly-implemented Public Works Department policy regarding location of compactors in multi-family areas.

Staff Comments:

Mr. Gardner stated that the developer of Crown Chase Apartments is bringing back a detailed site plan as revised for the Crown Chase Apartments. The primary difference is the direction and orientation of the trash compactor in that development. The developer built the original trash compactor with approval of plans by Staff to face a northeastern direction. However, after the trash compactor was 70 percent complete, the City notified the developer that the trash compactor should be reoriented in a southeasterly direction because trucks backing up to service the container should be completely off the street. The developer has redesigned the compactor, moving all the screening wall back behind the property lines, and allowing the truck to back entirely off the street.

Mr. Stump stated that the reason minor revisions to the PUD-306 Detail Site Plan is before the Commission is because Staff, after reviewing the plan, found it acceptable and approved it. An interested party, Jim Spinks' attorney, appealed the decision to approve the minor revision to a previously-approved site plan.

Appealant's Comments:

Genra Sorem, 2400 First Place Tower, 15 East Fifth Street, Tulsa, is representing Jim Spinks, who is a neighbor of Crown Chase Apartments in College Park Addition. Specifically, Mr. Spinks objects to any site plan that places a rather large trash compactor in a front yard or within 200 feet of a residential area, specifically College Park Addition. Ms. Sorem knows of no other instances where a large trash compactor or other trash receptacle has been placed in a front yard or within 200 feet of a residential area. This trash compactor will hold approximately 20 - 30,000 pounds of household trash. Ms. Sorem admits that the developer has taken some efforts to make this trash compactor look attractive. The developer has installed a brick wall and added some trees, but her client does not believe those will help the general nuisance problem of a trash compactor. The trash compactor is going to have odors. There is no getting around it, 30,000 pounds of trash will stink. The developer says he will dump it once a week, and in Ms. Sorem's opinion, in the summer months its going to reek. Ms. Sorem stated it is not a sealed unit and the trash will eventually decay, ferment and leak. This will obviously attract insects, mice, rat and any kind of pest. Mr. Spinks believes that the best protection against this type of obvious nuisance is space and

separation. Ms. Sorem reported that there are trash compactors like this in Tulsa, and most of them are located in shopping centers. They are used generally for paper, and work fairly well, but they still create smells and odors and attract pests. They are also located on the shopping center properties and are maintained on a fairly strict basis to control the odors. The 7700 Riverside Complex is one development that has this type of trash compactor, but it is located in a side yard at least 200 feet from other residential areas. It has a nice screening area and it also has a pest problem, but they are trying to control it and keep it away from residential areas. Ms. Sorem stated that this came up because the site plans that were approved. She believes they were approved in a hurry and that Staff did not really know they were approving a trash compactor. The neighborhood and Mr. Spinks did not realize a trash compactor was going in and did not have any input before the decision to approve a trash compactor was made. Ms. Sorem stated she knows Public Works has looked into this by sending a memo to Staff requiring the reorientation of the compactor and that they prefer any compactor be located within the interior of the apartment complex. Once again, the compactor is to be separated from other residential areas. Ms. Sorem referred to information from Fulton County, Georgia in regard to plans for trash compactors. She feels that both developers and residents need to know what type of standards there will be, and that the standards will be followed and applied uniformly and consistently. Ms. Sorem feels there should be some type of coordination with Public Works and the Health Department. Ms. Sorem stated that the main objections to trash compactors are that they are a general nuisance. There is not a precedent for this type of compactor in a front yard, within 200 feet of a single-family residential development. In the case of Lincoln Apartments, located on Memorial, they do not have a trash compactor, but rather a fairly large trash receptacle area. In this case, Staff recommended a buffer zone of at least 200 feet and a kind of double screening. Ms. Sorem requested that this type of standard to be followed.

Another issue Ms. Sorem pointed out was that she felt that all the site plans that have been presented to the TMAPC or to Staff have not been in compliance with the parking standards of PUD-306. It is her understanding that before any site plan can be approved it must first be in compliance with all standards of the existing PUD. Therefore, she believes that any site plan that is approved for this compactor is invalid, and a new site plan should be presented to the Commission along with an amendment or a change in PUD standards. Ms. Sorem requested the opportunity to come forward, at that point in time, and give input regarding PUD standards and the trash compactor. Ms. Sorem stated that she would like the trash compactor relocated within the interior of the complex so that it has greater separation, or alternatively, a traditional or customary trash dumpster used within the complex itself.

Interested Parties Comments:

Dale Carson, 3019 East 93rd Court, President of the College Park Homeowners Association, stated that his purpose in speaking today is not to appeal the reorientation of the trash compactor, since there is an agreement with the developer not to do so under certain conditions. The Association has kept their part of the bargain and so far so has the developer. Mr. Carson's purpose is to share the deep frustrations of a group of property owners who believe that they have been shabbily treated by the City of Tulsa, TMAPC and the developer of Crown Chase Apartments. Mr. Carson stated that the Homeowners' objective, since November 1995, has been to try to convince someone in authority that the trash compactor should not be located along College Place. The Association has felt that it has been three against one and they are the one and the City, TMAPC and the developer are the three. Mr. Carson informed the Commission that in the fall of 1994, the developer requested amendments to the PUD having to do with density and building height. The Association initially opposed the three-story height limitation. In order to gain the approval of the Association, a meeting was held in the developer's architect's office with the Association and development personnel. Mr. Carson was not in attendance at this meeting; however, the discussion centered around line-of-sight from College Park, screening and fencing. The architect submitted a rendering to the Association showing various lines of sight from College Park and a proposed screening fence consisting of a four-foot, solid brick wall trimmed with wrought iron placed on top of a three-foot earth berm. Mr. Carson said that Staff's files should have more than one copy of this rendering. The TMAPC meeting of October 5, 1994, the current homeowner's president, Mr. DeMarco, made the statement that based on the representations made by the developer, the Association would support the project. Mr. Roy Johnsen, representing the developer, also commented on meetings with area residents about how landscaping, screening and fencing would be installed. In November 1995, at the annual meeting of the Association, when asked about a curb cut along College Place, Mr. DeMarco stated that he had talked to the developer and that the curb cut and driveway was to accommodate a trash compactor, further, the perimeter fencing along College Place was to be a black, vinyl-clad, chainlink fence. Upon investigation, the Association found that February 23, 1995, a site plan had been approved by TMAPC showing a trash compactor opening to College Place in a northeasterly direction, pointing directly at the center cul-de-sac of homes in College Park. This is the first site plan the Association had seen with anything at that location. Previous site plans seen at TMAPC meetings showed an object in the northeast corner of the project, inside the project, which may have been the compactor. But no one is asked and nothing was ever mentioned. No notice was ever given to Mr. DeMarco or the Association of the site plan approval on February 23, 1995. The Association believes this is or was a TMAPC policy that would have triggered a notice to either Mr. DeMarco or the Association, since they were interested parties and had previously spoken at a public hearing concerning this PUD. Regardless, it is the Association's opinion that the moving of the compactor from the inside of the project to a location along College Place was major enough that the Association should have been notified. On November 29, 1995, the Association appeared before the Planning Commission

to object to the location of the trash compactor. No action was taken by the Planning Commission. In order to get some help, the Association retained John Moody, an attorney. Mr. Moody advised the Association that the next step was to file an appeal to appear before the City Council. The Association filed an appeal within 10 days of November 29. In subsequent discussions between Mr. Moody and the City Attorney, the Association found that it was unable to appear before the City Council because its appearance on November 29 was not couched as an appeal. Further, the City Attorney advised Mr. Moody, verbally, that the appeal to the site plan approved on February 23, 1995, should have been filed within 10 days after that date. The Association received no notice of the February 23 approval nor did the Association know about the approval until the fall of 1995. The Association met with Charles Hardt, Public Works, in December, 1995. There was hope that Mr. Hardt might be able to get the compactor moved inside the complex or at least turned so that the opening was pointed back into the project. However, the outcome of this meeting was a letter to Mr. Leinbach from Mr. Hardt requesting that the compactor be re-oriented to the southeast and that he had issued instructions to Bob Gardner that future compactors would be located on-site so that all servicing would take place on private property. This, to the Association, meant that a mistake was made, was not going to be corrected and that it would be handled differently in the future. This was no conciliation to the Association. At a special meeting of the Association in January, 1996, they considered the options of district court action, filing an appeal to the re-orientation, with the risk of ending up with a chainlink perimeter fence and the compactor oriented to the northeast per the approved site plan of February 23, or refraining from filing an appeal with the possibility of opening discussions with the developer and possibly having some input into overall appearance of the compactor at the new location and possibly getting the fence originally promised by the developer. The Association chose the latter option. Mr. Carson called Mr. Leinbach and proceeded with discussions on that basis. During one of their discussions, Mr. Carson stated that Mr. Leinbach told him and others that he never had any intentions of building a perimeter fence like the ones shown on the architectural rendering of 1994. Mr. Carson stated that Mr. Scott Bruce, of TMAPC Staff, told him on two occasions that TMAPC's interpretation of minutes of the various meetings in 1994 was that the fencing was not a requirement; therefore TMAPC could not require that type of fencing. Mr. Bruce also said that chainlink fencing had been discussed with Mr. Leinbach and if submitted, would probably be approved by TMAPC. The Association disagrees with that interpretation and believes that it might have been made to reinforce the decision already made by Mr. Leinbach not to provide the fence he had committed to provide in 1994. That forced the Association to settle for something less than what was promised. To summarize, the Association has always believed that the compactor should be located either within the complex; on other land west of the complex, owned by the developer; or in its absence, the usual individual dumpsters be used. The Association's feels they have been stone-walled at every turn and have been denied due process. The Association feels more effort has been given, in their opinion, to rallying wagons around TMAPC Staff decisions and to recognizing the necessity for correcting what they believe was a mistake. As to the letter from Mr. Leinbach, Mr. Carson understands that

there may be some liberal interpretation of its contents. Mr. Carson feels there are no hidden agendas. The Association agreed not to object to the re-orientation of the compactor based on certain commitments by Mr. Leinbach. The Association has complied with their part, and so far Mr. Leinbach has kept his side of the agreement. The Association does not agree with the decision of locating the compactor on the street and does not like it there.

Roy Johnsen, 201 West 5th Street, Suite 440, Tulsa, stated he is an attorney and that Mr. Bill Jones and himself are co-counsel representing Crown Chase LLC. Mr. Johnsen stated that this is a very serious matter before the TMAPC. It raises some serious procedural and policy questions. It is much more than a determination of what screening should be around a compactor. Mr. Johnsen submitted a chronology that he hopes fairly states the facts as they exist in the files of the Planning Commission. Mr. Johnsen went through the chronology because the entire context of the approval process that has been followed in PUD 306 needed to be understood, he believes, in considering the issues that are presented today.

Crown Chase Chronology

- 1/12/83 PUD 306 - Approved by TMAPC.
Consisted of 273 acres, 3409 dwelling units and commercial and office areas. Subject property was a part of Area "D" and general development standards for Area "D" were established as follows:
Acres: 30.0 Acres
Use: Multi-family
Dwelling Units: 636
Bulk and Area: RM-1
- 10/5/83 PUD 306-1 - Approved by TMAPC.
Minor Amendment (as to Area "D") of setback from public street and rear yard; approval of detail site plan reflecting 2 phase townhome development with garages under the units. Minutes recite the garages (1 per unit) as a condition of the minor amendment and of the approved site plan. Subject property comprised Phase II.
- 12/83 Plat - Woodside Village II - Approved by TMAPC.
Plat recorded Dec. 30, Consisted of 20 Acres of Area D and Phase I and Phase II of proposed townhome development. Restrictive covenants require 1 garage space per unit and required TMAPC approval of amendment. (Section 6 of the Deed of Dedication)
- 1984 Phase I of townhome development proceeds to completion.

- 12/3/86 PUD 306-4 - Approved by TMAPC.
Minor Amendment to transfer density out of Creek Expressway and to reduce overall density from 3378 dwelling units to 2499 dwelling units and as to Area "D" to reduce density from 635 dwelling units to 535 dwelling units. No relevant development standards except recitation that the original PUD shall remain unchanged except as therein modified.
- 10/05/94 PUD 306-9 - Approved by TMAPC.
Minor amendment to increase allocation of dwelling units to Phase II of Development Area "D" (the subject property) from 262 dwelling units to 288 dwellings; modify height requirements; and permit garages in front yard. College Park Homeowner's Association present, no objection made as to garages. Discussion pertaining to location of garages to provide screening of headlights.
- 100/5/94 Site Plan - Approved by TMAPC.
Site Plan of the subject property depicting 288 unit conventional apartment project (flats instead of townhomes) with 24 detached garages providing 96 off-street parking spaces and the balance of required parking as unenclosed parking spaces; depicting trash facility on north boundary at College; depicting access to College near North boundary. College Park Homeowners Association present, no objection made as to garages. Discussion pertaining to location of garages to provide screening of headlights.
- 2/23/95 Site Plan - Staff Approval.
Site Plan reflecting minor relocation of compactor and location of access to College.
- 4/19/95 Deed of Dedication - Approved by TMAPC.
Amendment to Deed of Dedication deleting garage requirements. (Document executed by Chairman on May 3, 1995 and recorded May 4, 1995)
- 5/17/95 Building Permits
Building permits issued and construction of multifamily buildings commences.
- 11/20/95 Landscape Plan - Staff approved.
- 11/29/95 TMAPC Discussion Item.
Jim Spinks individually and as spokesman for College Park Homeowners' Association appears and states objection to compactor location. No mention made that one garage per unit had not been provided. TMAPC confirms previous Staff approval and declines to take further action.
- 12/95 Compactor
Construction of compactor enclosure commences. Compactor is operative in mid-December.
- 12/20/95 Site Plan - Staff approved.
Site Plan reflecting minor relocation of garages in first phase of Crown Chase construction.
- 1/16/96 Public Works Response
The Department of Public Works by letter requests that the orientation of the compactor be changed.

- 3/25/96 Homeowner's Association Response
College Park Homeowner's Association reaches agreement with Crown Chase as to reorientation of compactor along with enclosure specifications and landscaping of the compactor and perimeter screening of the project.
- 3/27/96 Site Plan - Staff approved.
Revised site plan reflecting reorientation of compactor (as requested by Department of Public Works) and minor revision of garage locations.
- 4/8/96 Appeal
Jim Spinks individually appeals 3/27/96 Staff approval of Site Plan, and raises the issue of whether one garage per unit is required.
- 4/24/96 Certificates of Occupancy
Commencing 1/8/96 and to 4/24/96, Certificates of Occupancy have been issued for 10 of the 12 multi-family buildings.

Mr. Johnsen believed that there were unfair suggestions that Staff acted improperly and that the Association had been stone-walled. Mr. Johnsen indicated he resents those remarks. Mr. Johnsen feels no one has been stone-walled and the Association has received every piece of information and response that was requested.

Mr. Johnsen stated that at a meeting with Councilors Cleveland and Hall, the Association, developer and himself, it was clear that the parking question is not a true issue and that the Association does not object to the way the garages were done. Mr. Johnsen stated the Association accepted that, and the comment was the Association intends to leverage the parking issue to get some type of satisfaction on the compactor issue. Mr. Johnsen feels that the parking is not a true issue, it is not substantive, and it has no relationship to any public health, safety or welfare issues. It is being leveraged, again, to get satisfaction on the compactor issue.

Mr. Johnsen state that 10 of the 12 Certificates of Occupancy have been issued. The project is 5/6 completed and people live there. The compactor is there and in operation. Mr. Johnsen feels it is totally outside the sense of fair play and fair dealings to now present, as an issue, on parking that was never a substantive issue to begin with.

Mr. Johnsen referred to a doctrine called the equitable estoppel. Equitable estoppel embraces the concept that interpretation, actions, permits issued by or actions taken by the government, a course of conduct that someone rely upon and who rely to there substantial detriment, that at some point, on common sense and fair play, it is no longer timely or enforceable to attempt to apply that standard that was overlooked. Mr. Johnsen presented a case to support this argument. Mr. Johnsen's position is that by interpretation the requirements for the garages were amended, not through a minor amendment, but through the review of the site plans that clearly showed a departure from the townhome concept, as well as the execution of a formal document deleting the requirement. Upon interpreting that the

requirement, which also is found in the approved site plan conditions, this site plan, that is inconsistent with that, in fact amended those requires. This is an interpretive one. When the major amendment was done to reallocate all the dwelling units and reduce the density below 2500, that action effectively vacated the PUD on the undeveloped parts of the property, which includes the subject property. The legal point is that requirement is no longer enforceable. The project is 5/6 finished. It is impossible to now go back and put in garages; nor would it be reasonable to require that it be done. If it is unenforceable, then it is no longer a requirement of this PUD. The only issue that remains, then, is the location of the compactor and its orientation. Mr. Johnsen stated that they have an approved site plan, unappealed, that permits that compactor to be at its present location with its orientation/entry to the north. At the request of the City, they have filed a site plan approved by the Staff reorienting the compactor so that its entry is to the south. Mr. Johnsen feels that this the only issue before the TMAPC. As to the substantive merits of compactors, Mr. Johnsen indicated that those might need to be debated in a public hearing. Mr. Johnsen stated that the Staff has investigated what the developer is doing and feels that Staff has concluded that the compactor is state-of-the-art. Mr. Johnsen is satisfied that the compactor is the very best of systems and that it would not be to anyone's advantage to go to individual dumpsters. Mr. Johnsen informed the Commission that the compactor could be changed to face north or south, but its present location is where it now must be, given all that has transpired. The screening and those considerations have been properly addressed by agreement with the neighborhood. Mr. Johnsen stated that under these circumstances the parking question is a truly an artificial issue, has no public purpose, totally unenforceable, no longer applicable to this project and therefore has no impact on whether or not the site plans were properly approved.

Bill Jones, 201 West 5th Street, Suite 440, Tulsa, stated that he feels the objections to the trash compactor has not been presented in good faith. Mr. Jones stated that he talked to Mr. Carson at length and drafted a restrictive covenant concerning the compactor. Mr. Jones presented and read the restrictive covenant that had been filed of record at the County Clerk's office. It is Mr. Jones' understanding that this is an enclosed, sealed compactor, and he feels this is state-of-the-art.

Ed Leinbach, 2104 South Madison, addressed Ms. Pace's concerns about the compactor. Mr. Leinbach (developer of the Crown Chase Apartments) described in detail the compactor, which consists of two parts. The first part is a hopper with a plunger and the second part is the sealed system. He described the benefits of this two-part compactor. Mr. Leinbach stated that he had contacted BFI and this is the unit that BFI recommended. Mr. Leinbach feels this is indeed the very best way to dispose efficiently of garbage.

Appealant's Rebuttal:

Genra Sorem addressed the points that Mr. Johnsen had made regarding the parking and the PUD 306 requirements on garages. Mr. Johnsen implied that by TMAPC's mere approval of a site plan that shows that it is not compliance with PUD 306, that has, by implication, approved a change in the PUD. Mr. Sorem informed the Commission that she has spoken with Mr. Linker and Mr. Stump regarding the procedures for TMAPC and Staff to amend the standards of PUDs. It is Ms. Sorem's understanding that a standard to be amended must be brought to the attention of Staff and the TMAPC; it is not done by implication. The standard was in place, whether voluntary or involuntary. Mr. Johnsen also mentioned that there was an amendment to a Deed of Dedication which took out the parking requirements in the original covenants. Ms. Sorem disagreed with Mr. Johnsen's interpretation of that amendment; it merely says that the specific requirement that says one garage per unit now says parking will be in compliance with Tulsa Ordinances and PUD 306 as it exists or as amended or modified, or as amended in the future. Ms. Sorem interpreted that particular amendment to say that parking is in compliance with whatever 306 is and 306 still provides one garage per unit. In reference to Mr. Johnsen's comments that her client does not care about parking and was using it as leverage, she indicated a more accurate statement is that her client is more interested, priority-wise, in the trash compactor, and her client may be influenced, when it comes to the parking requirements, by the location of the trash compactor. Ms. Sorem stated that her client is willing to negotiate. Ms. Sorem stated that the developer has the option to come back before the TMAPC with an amendment to the garage requirement and file his site plan. Ms. Sorem referred to following the procedures and stated that it is the developer's responsibility to ensure that any site plan submitted to the TMAPC be in compliance with the PUD. Ms. Sorem stated the burden is on the developer. In regard to the location of the trash compactor, Ms. Sorem stated this may be a solution for the apartment; she does not dispute that. However, the location is too close for comfort for Mr. Spinks, his home and the residential area. Ms. Sorem stated she has no objections to a relocation or an alternative means of trash disposal.

TMAPC Comments:

Mr. Gardner commented that what the applicant proposed and what Staff looked at was a trash container on the north side of the driveway, not the south side. It is the same size as what the appealant looked at. Mr. Gardner presented two site plans, one from October 1994 and a current one. Mr. Stump replied the previously proposed compactor is as near the road as the current one, if not closer. According to Mr. Gardner, when Staff reviewed the Site Plan, the compactor was not closer to the road. It is on the south side of the driveway and it is serviced from College Avenue rather than from the parking lot, but it is not any closer.

Mr. Doherty asked Ms. Sorem if she was referring to provisions in the original PUD that required one garage per unit. Ms. Sorem replied affirmatively.

Ms. Pace stated she found the issue interesting that this is not a sealed unit and that in Atlanta they require a compactor unit be connected to a sewer. Ms Pace was under the assumption that this was a sealed, high-tech unit with new, cutting-edge method of collecting and dispensing of trash. Ms. Pace feels that the unit should be located inside the complex.

Mr. Doherty questioned when Staff approved the minor revision to the previously-approved plan, did the previously-approved site plan or minutes of prior discussion lead Staff to believe that they were going beyond the scope of previously-approved conditions of the PUD. Mr. Stump replied negatively and indicated that the new orientation is not the best, but is a better location of the compactor. Mr. Stump indicated that College Place is a 50-foot wide, paved street and a large truck parked on the roadway will not obstruct the street. He indicated he feels it is not a traffic hazard.

Mr. Doherty questioned if the new plans submitted for the reorientation at the request of Public Works showed the compactor adequately set back from the curb and adequately screened under the conditions of the PUD. Mr. Stump replied affirmatively, that the most recent plan showed it out of the street right-of-way. Its location allowed for the truck servicing the unit to be completely off the street. Staff applied the same criteria to that revision as they did to the first revision. Mr. Stump stated that at that time, Staff received more information that this was definitely a trash compactor and on characteristics of use. Staff has also surveyed other similar trash compactors, smelled them and looked for leaks. Staff found no evidence of odor or leakage. Staff had the developer operate the unit and found it was quieter than a passing car. The closest residences are apartment units that are about 80 feet away; the closest single-family homes are located across the street are about 120-200 feet away. There is an extremely small amount of noise at that distance and no odor or seepage problems. Visually, they have produced a very attractive screen that will look like a brick wall with trees in front of it. Pick up is infrequent, and Staff feels that accessing it from the outside of the complex seems like an efficient use of that very wide roadway. Staff could not see a design reason for the compactor to not be located there.

Mr. Doherty asked for Mr. Linker's opinion in this matter. Mr. Linker stated he is concerned with how far this matter has gone. Mr. Linker indicated that if there had been no change of position by the developer and this had just come to the Commission for an amendment, he would call it a minor amendment. Mr. Linker stated that the problem was that it has been before the Planning Commission on several occasions when the Planning Commission approved site plans without one garage per unit. The garage issue was also involved in the restrictive covenant amendments that were approved; therefore, Mr. Linker cannot say that the Planning Commission has not given approval and that it would not be upheld, legally. Then there is the estoppel situation in which permits have been issued based on a definite change in conditions. Mr. Linker stated he has very serious concerns with taking any actions that would attempt to stop this development or impede it without court judgment to that

effect. Mr. Doherty indicated that a letter in Ms. Sorem's packets suggests that no further certificates of occupancy be issued and asked advice from Mr. Linker in that regard. Mr. Linker stated he would not recommend that course of action.

Ms. Pace stated that her major concern is with 288 households dumping their trash in a central location and questioned why the compactor was not located in the middle of the complex so that the complex's residents have to look at it instead of the single-family residents. Ms. Pace thinks the single-family homeowners do not deserve more protection than an apartment dweller, but the nature of home ownership is different. Ms. Pace prefers that the compactor unit be moved to the middle of the complex.

Mr. Horner stated he made a personal inspection of the compactor and he did not find any flies, odors, bees or insects around the area.

Mr. Ledford stated that he has spent considerable time studying this project. Mr. Ledford cannot see that the Staff and the Planning Commission has procedurally done anything wrong. Mr. Ledford stated they looked at site plans and approved them, modified site plans and approved them. Mr. Ledford feels the situation on garages can be interpreted several ways. Mr. Ledford's conclusion was that the garages were intended to be for the patio homes and he felt that if it came to a court case, it would follow that direction. Mr. Ledford stated this has gone too far, and to stop this project would be a mistake. Mr. Ledford informed the Commission if he were asked to approve that location as a new project today, he would not. Again, Mr. Ledford expressed that he feels that the Staff and the Planning Commission have done nothing wrong. He indicated he supports the Staff in this decision.

Mr. Doherty reviewed a letter submitted by Ms. Cathy Russell, the property manager of the Grupe Managing Company.

TMAPC Action; 6 members present:

On **MOTION** of **LEDFORD**, the TMAPC voted **5-1-0** (Carnes, Doherty, Gray, Horner, Ledford "aye"; Pace "nays"; none "abstaining"; Ballard, Boyle, Dick, Edwards, Midget "absent ") to **DENY** the appeal of staff approval of a minor revision to a previously approved site plan and subject to eliminating the limitations on occupancy state in a letter written by Mr. Bruce.

* * * * *

Consider adoption of new TMAPC policy concerning private streets

Interested Parties Comments:

Jeff Levinson, stated he had concerns with these policies being adopted prior to review and input from developers. Mr. Levinson pointed out concerns with the standards for width, the standards that the private streets must be isolated and particular items involving collector streets. Mr. Levinson asked if there will be a meeting to discuss these policies. Mr. Doherty stated that there will be a meeting prior to subdivision regulations amendment.

Roy Johnsen stated he agreed with Mr. Levinson that these things are fundamental and important. He said that when an application is filed, and Staff states that it is TMAPC's policies there may be a prior denial because of a policy that has been adopted and followed without any participation from those in the development industries. Mr. Johnsen feels that it is so important at least one work session is reasonable before its adoption as policy. Mr. Doherty informed Mr. Johnsen that there have been several meetings in regards to private streets and gated communities.

Lindsey Perkins stated he represents the Homebuilders Association of Metropolitan Tulsa. Mr. Perkins stated that he has several problems with adopting these policies because once adopted, the policies are applied. Mr. Perkins requested the opportunity to participate discussion prior to the adoption of the policy.

TMAPC Comments:

Mr. Doherty reported that Rules and Regulations Committee met today to consider adoption of policies concerning private streets and gated communities as presented in the agenda packets. This is to be a policy only at this point. They will review it after testing and a public hearing, with further discussion before incorporating them in to the subdivision regulations.

Mr. Doherty stated that the reason that the TMAPC went the policy change instead of subdivision regulations change is because policies can be more easily waived or changed.

Ms. Gray informed Mr. Johnsen that these meetings have been posted

TMAPC Action; 6 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **6-0-0** (Carnes, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Ballard, Boyle, Dick, Edwards, Midget "absent ") to **APPROVE** the adoption of policies concerning private streets and gated communities as recommended by the Rules and Regulations Committee as follows:

Section I.J.4. Subdivisions with Private Streets. The following standards shall apply to subdivisions having approved private streets.

Private streets shall only be allowed when presented as part of a Planned Unit Development (PUD).

Private streets shall not be approved on subdivisions of more than twenty (20) acres in the City of Tulsa, nor in subdivisions of more than forty (40) acres in the unincorporated areas of Tulsa County.

Private streets must meet the same standards for width, paving and drainage as required of public streets, per the City of Tulsa Public Works Department or the County Engineer.

Subdivisions whose developments include private streets must be physically isolated from adjacent subdivisions, such that no public streets are stubbed into a boundary of the proposed subdivision.

Subdivisions whose developments include private streets must be located such that construction of the planned east/west and north/south collector streets is not rendered impossible.

Subdivisions having a private street as a single entry point shall not serve more than twenty (20) dwelling units (DUs).

Continued maintenance of the private street system shall be the responsibility of the property owner or owners association for the subdivision.

* * * * *

There being no further business, the Chairman declared the meeting adjourned at ____ p.m.

Date Approved: 5-1-96


Chairman

ATTEST:


Secretary