

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2270

Wednesday, April 4, 2001, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Boyle	Carnes	Armer	Boulden, Legal
Harmon	Selph	Beach	
Hill		Dunlap	
Horner		Huntsinger	
Jackson		Matthews	
Ledford		Stump	
Midget			
Pace			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, April 2, 2001 at 9:58 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

REPORTS:

Chairman's Reports:

Mr. Westervelt stated that the agendas are becoming large and it is difficult to field check every site that is on the sheet. He requested staff to take digital pictures of the sites, adjacent property or anything that might be of interest in order to enclose in the package or for reference.

Mr. Westervelt announced the following changes to the agenda:

APPLICATION NO.: Z-6797

Applicant: Steve Coder

Location: South side of I-244 between North Garnett and North 129th East Avenue

IL TO RMH

(PD-5) (CD-5)

Staff Recommendation:

Applicant has withdrawn this item.

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Mr. Westervelt stated that Items 13 and 14 on the agenda will be taken out of order.

Committee Reports:

Comprehensive Plan Committee

Mr. Ledford reported that there will be two items on the agenda today.

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Director's Report:

Mr. Stump reported that there will be a meeting with the City Council on Thursday at 3:30 p.m. to go over TMAPC's accomplishments for the current year.

Mr. Stump indicated that there are two items on the City Council agenda for Thursday evening.

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Public Hearing for Comprehensive Plan Amendments

Consider Amending the Major Street and Highway Plan Map, a part of the Comprehensive Plan for the Tulsa Metropolitan Area. (Resolution No. 2270:837)

RESOLUTION NO. 2270:837

**A RESOLUTION AMENDING
THE TULSA METROPOLITAN MAJOR STREET AND HIGHWAY PLAN,
A PART OF THE COMPREHENSIVE PLAN
FOR THE TULSA METROPOLITAN AREA**

WHEREAS, Pursuant to Title 19, OSA, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29th day of June 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area, which Plan was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law; and

WHEREAS, the TMAPC is required to prepare, adopt and amend, as needed, in whole or in part, an official Master Plan to guide the physical development of the Tulsa Metropolitan Area; and

WHEREAS, on the 28th day of February, 1968 this Commission, by Resolution No. 696:289, did adopt the Tulsa Metropolitan Major Street and Highway Plan as a part of the Comprehensive Plan of the Tulsa Metropolitan Area, which was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma; and

WHEREAS, a Public Hearing was held on the 4th day of April, 2001, and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.7, to modify its previously adopted Tulsa Metropolitan Major Street and Highway Plan according to the list attached as Exhibit A, made a part of this resolution.

NOW, THEREFORE, BE IT RESOLVED by the TMAPC, that the amendments to the Tulsa Metropolitan Major Street and Highway Plan Map and Text, as above set out, be and are hereby adopted as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

Exhibit A

Amendments to the TMAPC Major Street and Highway Plan

1. Remove West 61st Street South between 129th and 145th West Avenues. (Currently designated as a Secondary Arterial.)
2. Change West 56th Street South from a Collector to a Secondary Arterial between 129th and 145th West Avenues.
3. Remove 145th East Avenue from the north bank of the Arkansas River to 151st Street South. (Currently designated as a Primary Arterial.)
4. Change 145th East Avenue to a Secondary Arterial from 151st Street South to US-64.
5. Remove the 121st Street South crossing of the Arkansas River and add a crossing from Yale Avenue to Yale Place as a Secondary Arterial.

6. Change 129th East Avenue to a Residential Collector between 176th and 186th Streets North.
7. Change 145th East Avenue to a Residential Collector between 176th and 186th Streets North.
8. Change 176th Street North to a Residential Collector between 129th and 145th East Avenues.
9. Change 263rd West Avenue (Coyote Trail) to a Residential Collector north of approximately 6th Street.
10. Realign the 193rd East Avenue crossing of the Arkansas River to cross perpendicular with the river and connecting to 185th East Avenue.
11. Include all portions of the Creek Turnpike Extensions.

Staff Recommendation:

Tim Armer, INCOG, Transportation Planning Manager, stated that in August 2000, the Indian Nations Council of Governments adopted the Long Range Transportation Plan for the region, which includes all of Tulsa County and adjacent portions of Creek, Rogers, Wagoner and Osage Counties. There were some improvements recommended in the plan that are different from the Major Street and Highway Plan (MSHP), and therefore it is necessary to amend the MSHP to reflect these improvements.

Mr. Armer cited the lists of improvements as stated above in Exhibit A.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-0-0** (Boyle, Harmon, Hill, Horner, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph "absent") to recommend **APPROVAL** of the amendments for the Major Street and Highway Plan Map, a part of the Comprehensive Plan for the Tulsa Metropolitan Area (Resolution No. 2270:837).

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OTHER BUSINESS:

Capital Improvement Project (CIP) Review for Conformance with the Comprehensive Plan for the Tulsa Metropolitan Area.

Staff Recommendation:

Dane Matthews stated that the CIPs have been reviewed by the Comprehensive Plan Committee and found in accordance with the Comprehensive Plan. Staff

recommends that the Planning Commission find these in accord with the Comprehensive Plan.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, TMAPC voted **8-0-0** (Boyle, Harmon, Hill, Horner, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph "absent") to **APPROVE** the Capital Improvement Project finding these in accord with the Comprehensive Plan for the Tulsa Metropolitan Area.

Mr. Midget in at 1:44 p.m.

SUBDIVISIONS

LOT-SPLIT REQUESTING WAIVER OF SUBDIVISION REGULATIONS:

L-19191 - Grant Lutz

(PD-21) (County)

20209 South Peoria Avenue

Staff Recommendation:

The applicant has applied to split the back five acres off a 15-acre tract. On March 20, 2001, the Tulsa County Board of Adjustment approved a variance of the required 30' street frontage on a publicly dedicated street to 0'. The Major Street and Highway Plan (MSHP) calls for Peoria to be a secondary arterial, requiring 100' right-of-way. The applicant has requested a waiver of the Subdivision Regulations requiring the additional right-of-way to meet the MSHP.

Given the density and development of the area, staff would agree that the deeding of the additional right-of-way is not warranted for this application, and would recommend **APPROVAL** of the waiver of Subdivision Regulations and of the lot-split.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **BOYLE**, TMAPC voted **9-0-0** (Boyle, Harmon, Hill, Horner, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Selph "absent") to **APPROVE** the waiver of Subdivision Regulations and of the lot-split for L-19191 as recommended by staff.

Mr. Midget out at 1:45 p.m.

LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

<u>L-19156 – Mike Marrara (2393)</u> 3445 South Sheridan	(PD-6) (CD-5)
<u>L-19169 – Mike Marrara (3194)</u> 5883 South Mingo Road	(PD-18) (CD-5)
<u>L-19179 – J. Stewart Nance (2282)</u> 2708 West 91 st Street	(PD-22) (County)
<u>L-19188 – Lyon Morehead (2093)</u> 2607 East 33 rd Street	(PD-6) (CD-9)
<u>L-19189 – George W. Underwood (193)</u> 441 South 87 th East Avenue	(PD-5) (CD-3)
<u>L-19201 – William B. Jones (3393)</u> 6030 South Yale	(PD-18) (CD-7)
<u>L-19202 – Sisemore Weisz & Associates, Inc. (1292)</u> 1312 South Cheyenne Avenue 2708 West 91 st Street	(PD-7) (CD-2)
<u>L-19209 – Closings of Tulsa (2083)</u> 9423 South Gary	(PD-18) (CD-2)

Staff Recommendation:

Mr. Beach stated that all are in order and staff recommends **APPROVAL** of these lot-splits.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-0-0** (Boyle, Harmon, Hill, Horner, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

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FINAL PLAT:

<u>Interstate Batteries - (1183)</u> 7102 South Memorial Drive	(PD-18) (CD-8)
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Staff Recommendation:

The property became subject to plat when it was rezoned to CS in November 1972. A plat waiver request was denied by the TMAPC on January 3, 2001 and an extension of time to file the final plat for the purpose of expediting the building permit was denied by the TMAPC on March 28, 2001.

This plat consists of one lot in one block on 0.476 acres. It will be developed as a retail automotive-related parts store.

All releases are in and the plat is in order. Staff recommends **APPROVAL** of the final plat.

Applicant was not present.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, TMAPC voted **8-0-0** (Boyle, Harmon, Hill, Horner, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph "absent") to **APPROVE** the final plat for Interstate Batteries as recommended by staff.

Mr. Midget in at 1:47 p.m.

CONTINUED ZONING PUBLIC HEARING

APPLICATION NO.: Z-6807

Applicant: Charles Norman

Location: Northwest corner of East 111th Street South and South Sheridan Road

AG TO CS/OL

(PD-26) (CD-8)

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-6753/PUD-450-A March 2000: Staff and TMAPC recommended approval of a request for a major amendment and the rezoning of the 4.5-acre tract located on the southwest corner of East 111th Street and South Sheridan Road and directly south of the subject tract from CS/PUD-450 to RS-4/PUD-450-A. City Council concurred in approval of the request.

Z-6702 September 1999: All concurred in approval of a request to rezone a ten-acre tract located on the northwest corner of East 121st Street South and South Sheridan Road from AG to CS and RS-3. Staff and TMAPC recommended CS zoning on the 467' x 467' corner node with the surrounding 195' fronting both on East 121st Street South and South Sheridan Road as a wraparound of RS-3 zoning. City Council concurred with TMAPC and staff recommendation.

Z-6700/PUD-611 June 1999: All concurred in approval of a request to rezone a 20-acre tract located west of the northwest corner of East 111th Street South and South Sheridan Road from AG to RS-2/PUD for a residential development.

BOA-17569 November 1996: A request to allow a 110' cellular tower on property located north of the northwest corner of East 111th Street South and South Sheridan Road, and zoned AG, was denied.

Z-6249/PUD-450 July 1989: A request to rezone a 4.5-acre tract located on the southwest corner of East 111th Street South and South Sheridan Road and south of the subject tract, from AG to CS/PUD for commercial shopping center was approved subject to the PUD standards and conditions.

Z-6249 May 1989: An application was filed to rezone a 44.6-acre tract located on the southwest corner of East 111th Street South and South Sheridan Road, from AG to RS-2 and CS. TMAPC recommended approval of RS-1 on the west 140' of the tract, RS-2 on the balance of the tract less the proposed commercial node (675' x 290'). All concurred in approval of the residential zoning and recommended the applicant submit a PUD along with the rezoning application for CS on the 4.5-acre node of the property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 4.75 acres in size and is located in the northwest corner of East 111th Street South and South Sheridan Road. The property is sloping, wooded, vacant, and zoned AG.

STREETS:

<u>Existing Access</u>	<u>MSHP Design</u>	<u>Exist. No.</u> <u>Lanes</u>	<u>Surface</u>	<u>Curbs</u>
East 111 th Street South	100'	2 lanes	Paved	No
South Sheridan Road	100'	2 lanes	Paved	No

The Major Street Plan designates East 111th Street South and South Sheridan Road as secondary arterial streets. The City of Tulsa Traffic counts indicate 6,000 trips per day on South Sheridan Road at East 111th Street South.

UTILITIES: Water and sewer are available to the subject property.

SURROUNDING AREA: The subject tract is abutted on the north and west by vacant property, zoned AG; and to the south by vacant property, zoned RS-4/PUD-450-A. Single-family homes are farther south beyond the vacant tract, zoned RS-2. To the east is a single-family dwelling, zoned AG, and to the southeast are single-family dwellings that are in the city limits of Bixby.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 26 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property as Low/Medium Intensity – No Specific Land Use.

According to the Zoning Matrix the requested CS zoning **may be found** in accordance with the Plan Map and the requested OL zoning **is** in accordance with the Plan Map.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, the surrounding land uses, and existing zoning, staff recommends **APPROVAL** of the requested CS zoning and OL zoning, provided the accompanying PUD-645 or some version of it is approved as well.

Related item:

APPLICATION NO.: PUD-645

AG TO AG/CS/OL/PUD

Applicant: Charles Norman

(PD-26) (CD-8)

Location: Northwest corner of East 111th Street South and South Sheridan Road

Staff Recommendation:

The PUD proposes office and commercial uses on a ten-acre tract located at the northwest corner of East 111th Street and South Sheridan Road. The tract has approximately 660' of frontage on Sheridan and 663' of 111th Street. There are two development areas proposed. Development Area A would have approximately 310' of frontage on Sheridan and would extend along the entire 111th Street frontage. Office and commercial uses are proposed for this 4.73-acre tract. Development Area B contains 5.32 acres and would be located north of Development Area A. Development Area B would have approximately 350' of frontage on Sheridan. Parking and office uses are proposed for this Development Area.

The subject tract is zoned AG. Concurrently a rezoning application (Z-6807) has been filed requesting 2.25 acres of CS and 2.5 acres of OL. The remainder (5.25 acres) would continue to be zoned AG. The subject tract is abutted on the north and west by AG-zoned property and there is AG zoning to the east, across South Sheridan Road. To the south across East 111th Street is a tract that for a number of years was zoned CS/PUD, but recently has been rezoned RS-4/PUD-405-A and has been approved for a small lot residential subdivision with lots facing away from and backing to East 111th Street. To the southeast of the tract (southeast corner of the intersection), within the city limits of Bixby is a single-family subdivision zoned RS-1/PUD-14. These homes are oriented to the south and east away from the intersection.

If zoning Z-6807 is approved as recommended by staff, staff finds the uses and intensities of development proposed and as modified by staff to be in harmony with the spirit and intent of the Code. Based on the following conditions, staff finds PUD-645 as modified by staff, 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-645 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:**

DEVELOPMENT AREA A

Land Area:

Gross	4.73 Acres	206,030 SF*
Net	3.61 Acres	157,403.SF*

Permitted Uses: Those uses included within Use Unit 10, Off-Street Parking Areas; Use Unit 11, Offices, Studios and Support Services; Use Unit 12, Eating Establishments other than Drive-Ins; Use Unit 13, Convenience Goods and Services; and Use Unit 14, Shopping Goods and Services; except Auto and Truck Fuel Sales, Auto Washes, Oil and Lubrication Services as a Principal Use.

Maximum Building Floor Area: 48,000 SF

Maximum Building Height: 25 FT. Architectural elements and business logos may exceed maximum building height with Detailed Site Plan approval.

Off-Street Parking: As required by the applicable Use Unit of the Tulsa Zoning Code. Part of the required parking may be provided in Area B with approved mutual access and parking covenants.

Minimum Building Setbacks:

From the centerline of East 111th Street 100 FT

From the centerline of South Sheridan Road 100 FT
From the west boundary of the Development Area 50 FT
From the north internal boundary of the Development Area 0 FT

Access: There shall be a maximum of three access points onto East 111th Street South and one access point onto South Sheridan Road. All access shall be approved by Traffic Engineering.

Landscaped Area: A minimum of 10% of the net land area shall be improved as internal landscaped open space in accord with the provisions of the Landscape Chapter of the Tulsa Zoning Code and shall include at least five feet of street frontage landscaped area, and at least 25 feet of landscaped area along the west boundary.

Signs: 1. Ground signs shall be limited to one for each lot with a maximum of 120 square feet of display surface area and 12 feet in height
2. Wall signs shall be permitted not to exceed 1.0 square feet of display surface area per lineal foot of building wall to which attached. The length of a tenant wall sign shall not exceed seventy-five percent of the frontage of the tenant space.

Lighting: All parking lot lighting and building mounted lights shall be directed downward and away from adjacent residential areas and the exterior boundaries of the development area. Light standards shall not exceed 16 feet in height.

Trash, Mechanical and Equipment Areas: All trash, mechanical and equipment areas, including building-mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.

*The internal boundaries of Development Area A may be adjusted by a minor amendment to the Planned Unit Development approved by the Tulsa Metropolitan Area Planning Commission.

DEVELOPMENT AREA B

Land Area:

Gross	5.32 Acres	231,835 SF*
Net	4.91 Acres	213,693 SF*

Permitted Uses: Those uses included within Use Unit 10, Off-Street Parking Areas; Use Unit 11, Offices, Studios and Support Services.

Maximum Building Floor Area: 32,000 SF

Maximum Building Height: two stories, not exceeding 35 FT.

Minimum Building Setbacks:

From the centerline of South Sheridan Road	100 FT
From the north boundary of the Development Area	75 FT
From the west boundary of the Development Area	50 FT
From the south internal boundary of the Development Area	0 FT

Access: There shall be a maximum of one access point onto South Sheridan Road. All access shall be approved by Traffic Engineering.

Off-Street Parking: As required by the applicable Use Unit of the Tulsa Zoning Code.

Landscaped Area: A minimum of 15% of the net land area shall be improved as internal landscaped open space in accord with the Landscape Chapter of the Zoning Code and shall include at least five feet of street frontage landscaped area. The north 75 feet shall remain in its natural and existing condition, except for small diameter trees and underbrush may be removed for maintenance purposes and utilities in required utility easements.

Signage: 1. One business sign shall be permitted along the South Sheridan Road frontage, which shall not exceed 32 square feet in display surface area and ten feet in height. Such business sign shall be located at least 150 feet from the north boundary of Area B.

2. One wall sign shall be permitted for each building, which shall not exceed 18 square feet in display surface area, provided the wall sign shall not be permitted on the north- or west-facing walls.

Lighting: All parking lot lighting and building mounted lights shall be directed downward and away from adjacent residential areas and the exterior boundaries of the development area. Light standards shall not exceed ten feet in height.

Trash, Mechanical and Equipment Areas: All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.

*The internal boundaries of Development Area B may be adjusted by a minor amendment to the Planned Unit Development approved by the Tulsa Metropolitan Area Planning Commission.

3. Landscaping and screening shall be in substantial compliance with the applicant's text and shall include a six-foot-high or higher screening wall or fence along the north and west boundaries of the PUD.
4. No Zoning Clearance Permit shall be issued for a lot within the PUD until a Detail Site Plan for the lot, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
5. A Detail Landscape Plan for each lot shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences have been installed in accordance with the approved Landscape Plan for the lot, prior to issuance of an Occupancy Permit. The landscaping materials required under the approved Plan shall be maintained and replaced as needed, as a continuing condition of the granting of an Occupancy Permit.
6. No sign permits shall be issued for erection of a sign on a lot within the PUD until a Detail Sign Plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
7. The Department Public Works or a Professional Engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an Occupancy Permit on that lot.

8. 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 that relate to PUD conditions.
9. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process, which are approved by TMAPC.
10. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during Detail Site Plan review or the subdivision platting process.
11. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle, nor shall trucks or truck trailers be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers shall not be used for storage.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that he submitted a letter at the last meeting regarding an agreement he reached with the developer of the small-lot (single-family subdivision) located on the south side of the street. He indicated that the developer is represented by Mr. Jeff Levinson. He cited the agreed-upon deleted permitted uses as follows: Auto and truck fuel sales, auto washes, and oil and lubrication services as principal use. He stated that Mr. Levinson agreed with the deletions and has no objection to the proposal as amended.

Mr. Norman stated that he would like to withhold further comments until the completion of the interested parties comments.

Interested Parties Comments:

Elizabeth Guse, Crowe & Dunlevy, 321 South Boston, Tulsa, Oklahoma 74103, thanked Mr. Stump for circulating her letter to the Planning Commissioners (Exhibit A-1). Ms. Guse stated that she is representing three homeowner associations, Stanford Elm, Woodfield and Southern Wood.

Ms. Guse stated that she would like to begin with the District 26 Plan, which she knows that the Planning Commission is very familiar with. She described the District 26 Plan as showing an overall low intensity development and plan for the subject area with medium/low designations at some of the corners. The medium/low designation doesn't exactly tell the whole story, because a medium designation, by its very nature, has underneath the umbrella everything that is low. It is strange to have the medium/low designation and this is the only district in all of Tulsa that has two designations. The District 26 Plan was developed 22 years ago and the first amendment to the plan dealt with the subject intersection particularly. It was given two designations, not just medium/low, but low intensity

residential and medium intensity land use. She commented that the two designations do not make sense to her because low intensity development automatically falls underneath the umbrella of a medium intensity development. After researching the District 26 Plan it became very apparent that when the plan was developed the overriding concern by the planners was to have a low-intensity use for this particular part of town. There were several concerns in the subject due to topography and drainage issues, which is why there is a development sensitive overlay, and they really wanted low intensity residential. She explained that 22 years ago the planners didn't know where the services for the subject area would be located, and therefore, there is this possibility for medium intensity use at certain intersections in District 26, but it is not a mandate. The District 26 Plan is simply a policy and it is not a mandate for medium intensity development. It is a policy for providing guidance and direction for the physical development of the district. She commented that the people who developed this plan were really sharp and realized that times are going to change and whenever times change it is necessary to make sure that the development in the area is consistent with social, economic and physical conditions. Ms. Guse cited the District 26 Plan and provided excerpts from the plan for the overhead camera (Exhibit A-2).

Ms. Guse stated that she realizes that the Planning Commission is aware of the goals and aspirations of all the interested parties present today and several who were unable attend today's meeting. Their goals and aspirations are to not have an invasion of a commercial development in a low intensity residential area. The District 26 Plan states that this is something that should be considered when developing the subject area.

Ms. Guse indicated that the true designation for the subject area is low-residential designated area and the zoning matrix will prove this. The OL and CS zoning is being requested by the applicant and neither OL or CS is in accordance. To have the OL and CS in the middle of low intensity existing development or use would be spot zoning, which would be completely inconsistent with the purposes in the District 26 Plan. Ms. Guse compared the 101st and Sheridan intersection with the 111th and Sheridan intersection, which both carry the medium/low designation. Ms. Guse submitted photographs of the two intersections mentioned (Exhibit A-5). She indicated that the 111th and Sheridan case is in stark contrast to the 101st and Sheridan Intersection. There are no widened intersections, no left and right hand turn lanes and no traffic lights.

Ms. Guse stated that the subject property has huge old-growth trees and many small trees as well. The subject intersection is small and there is existing residential development on three of the four corners and it goes all the way to the corner. Ms. Guse submitted photographs of the residential developments in the subject area (Exhibit A-5). She indicated that the 111th and Sheridan and 101st and Sheridan intersections are absolutely no comparison to one another at all.

The intersection at 101st and Sheridan is a medium intensity development and the existing development at 111th and Sheridan is low intensity development. To allow commercial development at the one corner that is left for development would be completely inconsistent with the social, economic and physical development that has happened in the subject area over the last 22 years.

Ms. Guse cited the traffic count from 1999, which indicates 111th and Sheridan as the second lowest intersection of all of South Tulsa. However, the 101st and Sheridan traffic count is almost three times heavier than the subject intersection. The traffic counts for the subject intersection do not support any type of medium intensity development. She indicated that the Long Range Transportation Plan also supports this argument. The 2025 Long Range Plan does not show any improvements for the 111th and Sheridan intersection.

Ms. Guse stated that, in summary, there is no support for medium intensity development on the subject property. The changes that have occurred over the last 22 years all point to and all support low intensity development, especially since there are three existing corners with existing residential development all the way to the corner. The District 26 Plan was very well thought out and very well developed, which indicates that it is only a policy that gives guidance and direction for land use and development. The general policies' concerns are to maintain predominantly single-family residential zoning and uses to the areas suitable for the subject area in respect to the natural and manmade characteristics. She described the natural characteristics of the subject property as having huge trees and rolling hills. She commented that she doesn't know of many commercial developers who want to grade the lots and bring in dirt to fill the holes. Ms. Guse cited the policies of the District 26 Plan.

Ms. Guse informed the Planning Commission that there is no desire by the existing homeowners to have commercial development at the subject corner. The subject area is more than abundantly served by commercial development. There is no need for commercial development for the subject area because it is already being served.

Ms. Guse stated that a commercial development is not going to be taking into consideration the natural physical assets. Medium intensity uses generally will clear the land to put in a parking lot, but a residential or a low intensity use is going to be very mindful of the natural physical assets of the property. A residential lot with trees on it is worth more than flat land and no trees.

Ms. Guse stated that the subject intersection is unique because it is bordered by three communities besides Tulsa. The District 16 Plan states that the development in the subject area should be consistent with the other communities. Ms. Guse pointed out the medium intensity in other intersections in the Bixby Comprehensive Plan, but pointed out that the subject intersection is

low intensity development and would not be compatible with the other communities.

Ms. Guse pointed out that other nodes indicate five acres of commercial on each corner; however that is not possible at the subject intersection because there are three existing residential development to the corner and the subject corner is the only undeveloped property. The biggest problem is that the applicant's application is for twice the size of what the Metropolitan Development Guidelines would allow for. This is a ten-acre node and the guidelines only allow for five acres.

Ms. Guse stated that she recently attended the Mayor's Smart Growth Seminar and there was concern that PUDs are not being used for what they were intended and as a result Tulsa is not having smart growth. The first purpose of a PUD is to assure compatibility with adjoining and approximate properties. This PUD does nothing to assure compatibility with the adjoining and approximate properties, it is completely inconsistent. A PUD is supposed to tell when the expected schedule for development will begin and it is completely void, it is missing and is not there. Ms. Guse stated that the PUD is not consistent with the subject area because the existing development is a low intensity use. PUD-450 was approved in 1989 for commercial use and many of the existing residential developments weren't there at the time of the approval. The zoning application is for five acres and the PUD is for ten acres, which doesn't add up. The approved PUD-450 was more restrictive in 1989 than the proposed PUD-645. Ms. Guse cited the differences between the restrictions for PUD-450 and PUD-645. Ms. Guse commented that the proposed PUD should be more restrictive and no more expansive.

Ms. Guse concluded that her recommendation and all of her remarks have been towards the conclusion that this is a low intensity area and the only type of development that is consistent would be low intensity development. This application should be denied or a recommendation for denial of the application.

TMAPC Comments:

Mr. Boyle stated that he heard a number of things Ms. Guse stated and he could not completely understand in the context of the review that he has done. Mr. Boyle further stated that his assumption from reading Ms. Guse's letter was that she believed that the District 26 Plan was something that prevented the Planning Commission from taking the action that Mr. Norman would want. Mr. Boyle asked Ms. Guse if that is accurate. In response, Ms. Guse answered affirmatively. Mr. Boyle asked if that is true even though Ms. Guse suggests that the plan is just a guide and doesn't constrain anyone from doing anything. In response, Ms. Guse stated that she wouldn't go that far. She explained that it is a guide that provides policy and direction for development and whenever one examines the District 26 Plan and look at the guidelines, the applicant's request for medium intensity development is not consistent with the guide. Ms. Guse

stated that maybe where Mr. Boyle is going is the fact that the corner has two designations, one being medium intensity, no specified use. She indicated that medium intensity, when looking at the zoning matrix, could have an OL, CS or other medium intensity zoning. She stated that the problem is that the planners were very mindful that things would change and this is a very special and unique district. She commented that the overriding policy is very clear in the District 26 Plan, which is low intensity residential development. Mr. Boyle asked Ms. Guse if she believes that the plan constrains or requires the Planning Commission to take a particular action as opposed to leaving leeway for the Planning Commission to do what they think is right. Ms. Guse stated that she believes that the District 26 Plan is a policy and it is not a mandate to have medium intensity at the corners. In response, Mr. Boyle stated that nor is it a mandate for low intensity. In response, Ms. Guse stated that if anything other than low intensity development at this intersection would not be in compliance with the policies that are set forth in the plan. Ms. Guse further stated that the policies should be followed. Mr. Boyle asked Ms. Guse if she agreed that there is no mandate to have low intensity. Ms. Guse stated that she agrees that there is no mandate to have medium intensity development at the subject corner. Ms. Guse explained that low intensity development would be only thing consistent with the policies that are set forth in the plan. In response, Mr. Boyle stated that Ms. Guse stated several times that there is nothing in the District 26 Plan that would support medium intensity development, yet the subject node is specifically designated for low/medium intensity. Mr. Boyle stated that this suggests to him that there is something in the District 26 Plan that supports medium intensity. In response, Ms. Guse stated that 22 years ago she would agree. Mr. Boyle stated that the District 26 Plan is the one available today. Ms. Guse agreed, but she stated that the plan also provides for guidance that the Planning Commission needs to be mindful of the social, economic and physical development of the subject area. Ms. Guse further stated that when one looks at the District 26 Plan as a whole, there is nothing to support medium intensity development at the subject intersection. Mr. Boyle stated that Ms. Guse doesn't want the Planning Commission to not read the word medium and that suggests that Ms. Guse doesn't want the Planning Commission to look at the District 26 Plan as a whole. Ms. Guse stated that she is absolutely suggesting that the Planning Commission look at the whole plan, because if the Planning Commission doesn't see that there was a medium intensity designation 22 years ago then the entire purpose of the plan would be missed. Ms. Guse stated that District 26 Plan is very special and the overriding concern for District 26 was to have a low intensity area, but the planners were very mindful that there would be a need for commercial development to serve the area. Is very evident from the plan that there was not a mandate nor a requirement to have commercial development at every corner in District 26 Plan. In response, Mr. Boyle stated that there is no requirement for residential either, because it is guide. Ms. Guse agreed that the District 26 Plan is a guide. Mr. Boyle stated that staff studies these things. A professional has told the Planning Commission that the CS zoning may be found in accordance with the plan map and the OL zoning is in accordance with the

plan map. Mr. Boyle further stated that Ms. Guse is stating that the Planning Commission can't find this and he doesn't understand her theory. Ms. Guse stated that in her opinion the District 26 Plan is a policy and when the policy is viewed as a whole and everything brought up to date, then it states that this is a low intensity area. Ms. Guse commented that it is important to be mindful of providing commercial services to the residents in the subject area, but there is no mandate or demand for commercial development at every single corner. Ms. Guse stated that it is evident from the plan that when it is taken as a whole, one cannot reach the conclusion that medium intensity development in the subject corner would be in compliance or accordance of the guidelines that are set forth in the plan. Mr. Boyle stated that he is trying to look at the whole thing and it sounds like Ms. Guse's argument is what might be heard in District Court if this zoning is not granted and Mr. Norman decides to appeal. Mr. Boyle commented that the District Court may be the appropriate place for Ms. Guse's argument; however, the Planning Commission has to take into account everything. Mr. Boyle stated that the public hearing is not a place for people to come and raise their hand to vote from the populace. Mr. Boyle explained that the Planning Commission is charged with looking at what is best for the City of Tulsa for all of Tulsa. Mr. Boyle commented that the Planning Commission has to look at the District 26 Plan, the fundamental designation, the node system and the concept. Ms. Guse agreed that the Planning Commission should look at everything and the broader in scope, the more support for her argument.

Mr. Boyle stated that Ms. Guse touched on how the 1989 PUD was more restrictive than the subject PUD. Mr. Boyle further stated that what he didn't hear was any argument that additional restrictions should be imposed on the subject PUD, but what he does hear is that Ms. Guse's clients are opposed under any circumstances and there is no room for discussion, negotiation, etc. Ms. Guse stated that this would be an overbroad statement. Mr. Boyle asked Ms. Guse what her clients' position is. In response, Ms. Guse stated that her clients' position is that the subject area is low intensity residential. Ms. Guse further stated that there is specific designation for the subject property as low intensity residential. Ms. Guse explained that it is her position that low intensity residential is the only acceptable designation for the subject property. Ms. Guse commented that the medium intensity should fall to the side, given everything that has happened over the course of 22 years. Ms. Guse stated that medium intensity is not a consistent designation for the subject intersection today. Mr. Boyle asked Ms. Guse if absolutely no development other than residential is her position. In response, Ms. Guse stated that her clients' position is low intensity development and that is their most important concern. Ms. Guse explained that the subject application is for a medium intensity with a medium intensity development and they are opposed to it. Mr. Boyle asked Ms. Guse how she defines low intensity development. Ms. Guse stated that whatever is allowed under the low intensity residential development under the zoning matrix, which is what this subject area has been designated as.

Ms. Pace asked Ms. Guse if she knew what would be developed on the northeast corner, which is designated AG. In response, Ms. Guse stated that she doesn't know. Ms. Guse stated that there is residential development currently existing on the northeast corner and residential development is a low intensity use.

Mr. Stump stated that there is pending PUD and rezoning for an area northeast of the intersection across the floodplain. There isn't a proposal for the northeast corner. Mr. Stump explained that staff's position is that the northeast corner is a typical large-lot residential dwelling that was built pre-urban residential development. He stated that often either additional residential dwellings are built in these types of areas or the house is removed and different development actually occurs as the urban area grows into the subject area. Mr. Stump commented that there is a significant floodplain to the northeast, but there is still an area near the intersection that is out of the floodplain.

Mr. Harmon stated that Ms. Guse's opposition to the subject request is that it would hinder development or damage property values. Ms. Guse stated that the development would be inconsistent with the existing development and residents are concerned with the potential property value loss. Mr. Harmon stated that for eleven years, the property south of the subject property was zoned CS and it didn't deter anyone from building homes. In response, Ms. Guse stated that she believes that the residents were unaware of the CS-zoned property and weren't as astute in reviewing the zoning as Planning Commissioners or real estate developers would be. Ms. Guse further stated that it tells a lot that the property did sit for eleven years and no one came along to develop it commercially. Mr. Harmon asked Ms. Guse if she was aware that there is CS-zoned property at 121st and Sheridan. In response, she stated that she is aware of it and it is actually more consistent with what is happening in the Long Range Transportation Plan. Mr. Harmon stated that there is commercial zoning at 101st and 121st, but Ms. Guse thinks that 111th is unique and commercial zoning should not be allowed. Ms. Guse stated that it is unique because there are three existing residential developments all the way to the corner at 111th and Sheridan. Ms. Guse read the guidelines of the District 26 Plan and reiterated that the subject area is well served with commercial development one mile to the north and one mile to the east.

Mr. Ledford stated that Ms. Guse indicated that there are no plans for the intersection and arterial streets, but those are part of the Major Street and Highway Plan (secondary arterials) and they will be four-lane streets, curbed and guttered, and right-turn protected access at the subject intersection and Sheridan will be four lanes except for the intersections which will be five lanes north, south, east and west. In response, Ms. Guse stated that she doesn't follow the statement. Mr. Ledford explained that she had stated that there are no plans for construction for the subject intersection. Ms. Guse stated that the Long Range Plan does not indicate any change for 25 years. In response, Mr. Ledford stated

that Ms. Guse is overlooking the Major Street and Highway Plan, which has designated the subject intersection as a secondary arterial and that means it will be four lane, left-turn access and the intersection will be widened. Mr. Ledford explained that major infrastructure improvements are done through the third penny sales tax and the extension of that program. Mr. Ledford stated that this is the only vehicle the City has to make the improvements, and typically, those improvements are made after development occurs. Mr. Ledford explained that once development occurs, then the areas are upgraded from two-lane streets into secondary and primary arterial status. Mr. Ledford informed Ms. Guse that the Long Range Plan is only a projection and as development occurs on Memorial and south of the subject property the traffic counts are changed significantly. Ms. Guse stated that it is very telling that the subject intersection in the most recent traffic counts available is the second to the lowest intersection in all of Tulsa. In response, Mr. Ledford stated that one would expect that the farther one goes to the outskirts of the county, the traffic count will be lower and the same is true going north to the outskirts of the county. Ms. Guse stated that less than one mile to the north of the subject intersection is three times the traffic counts and the development is a medium intensity, which is very telling.

Mr. Westervelt stated that Mr. Ledford is trying to point out that there is still a good deal of undeveloped land in the subject corridor and that explains the low traffic count. It is important that this kept in respective. Ms. Guse explained that the medium intensity development in Bixby is on the Memorial Corridor and low intensity at 111th and Sheridan. Mr. Westervelt concluded that the traffic counts are low because there is quite a bit of undeveloped property and once it is developed, it will show a different number at the intersection.

Mr. Westervelt stated that the commercial piece of land on the southwest corner was recently rezoned to RS-4, but it was CS-zoned for a long time and the residential development did occur around that corner. Mr. Westervelt explained that the Planning Commission has to keep in mind how a District Court would also look at this application. Ms. Guse stated that she was aware of the CS zoned property which was rezoned RS-4 in March of 2000.

Mr. Westervelt stated that there are certainly two residential developments occurring around the subject area, but he has a difficult time with the same interpretation that Ms. Guse made about the District 26 Plan guidelines. Mr. Westervelt stated that Ms. Guse suggested that if the residents do not desire anything, then the Planning Commission should not consider this development. Mr. Westervelt commented that he reads it as desired or as in advantageous or providing support services for residents. Mr. Westervelt stated that Ms. Guse also stated that there is commercial development one or two miles away and he doesn't read the section the same as Ms. Guse. Mr. Westervelt further stated that Ms. Guse interprets that if there are services two miles away that serve the subject area, then the Planning Commission should exclude looking at non-residential uses on the subject corner. Mr. Westervelt asked staff to clarify the

meaning or intentions of the guidelines. Mr. Stump stated that staff's interpretation of the guidelines is that residents who desire certain things, such as barbershops, restaurants, food stores, the things that normally one requires in conducting life, should be available. Mr. Westervelt stated that the guidelines weren't written from the standpoint that the Planning Commission should look at whether residents desire or don't desire anything. Mr. Stump stated that this was not the intention.

Ms. Matthews stated that the feeling was that residents should not be isolated from the types of services that they needed simply because they were so far away. The residents should be able to travel no more than two miles to get the services necessary. Ms. Matthews agreed with Mr. Stump's interpretation. Mr. Westervelt stated that he is concerned that some of the materials that the Planning Commission uses are being interpreted the way two lawyers may sometimes to interpret a contract or intent of the contract. Mr. Westervelt further stated that this is something that the Planning Commission is very careful of and that is why there is a professional staff.

Mr. Westervelt asked Ms. Guse if she believes that non-residential is not compatible with residential and therefore it shouldn't occur on the corner. In response, Ms. Guse stated that she would like to answer his question and respond to the previous statement. Mr. Westervelt asked staff if the Planning Commission is interpreting the guidelines incorrectly with regard to non-residential use being adjacent to residential use. Mr. Stump stated that there is no way of keeping all types of uses not abutting residential uses, such as commercial or office, which almost invariably are adjacent to or near residential uses. Mr. Stump explained that the older type of developments along 15th, 21st and 11th have single-family residential zoning immediately adjacent to high intensity commercial and that is not done anymore, but with the use of PUDs it has been allowed to have commercial development immediately adjacent to single-family residential as immediately across the street to the south was the case for many years.

Mr. Westervelt stated that he has difficulty in the way Ms. Guse presented her views and he doesn't think the intent has been correctly presented. In response, Ms. Guse stated that there may be a difference in opinion on how the District 26 Plan should be interpreted. Ms. Guse stated concerning whether a medium intensity development would be consistent or inconsistent, allowable or not allowable, or in accordance or not in accordance, with being next door to a residential development, the zoning matrix speaks volumes. Ms. Guse stated that when it is taken into consideration that this a low intensity residential area with existing low intensity residential development, these are the uses that are absolutely in accordance with low intensity area. Ms. Guse indicated that the zoning matrix does not find OL or CS in accordance with the subject area. Mr. Boyle stated that the question was what about commercial property next door and not in the residential. Mr. Boyle commented that the zoning matrix doesn't

tell the Planning Commission anything about next door. Mr. Boyle stated that the zoning matrix tells the Planning Commission that a CS zoning cannot be put in the middle of an RS-zoned property, but it does not take into account about placing CS across the street. Ms. Guse stated that she disagrees with Mr. Boyle's statement. In response, Mr. Boyle stated that he is correct about the zoning matrix and it is interpreted the same way at every Planning Commission meeting. Ms. Guse reiterated that the District 26 Plan indicates low intensity and it tells how the entire area is to be developed. Mr. Boyle explained that the District 26 Plan indicates medium intensity at every node and asked Ms. Guse if she is trying to say that it is not possible to place a medium intensity next to a low intensity. In response, Ms. Guse stated that at this particular intersection, her entire argument is that it has two designations, with the first and foremost being low intensity residential, and to have a medium intensity use within low intensity would be inconsistent. Ms. Guse further stated that the medium intensity designation is also there, but it was given 22 years ago in an amendment. Ms. Guse commented that when one reads the District 26 Plan and reads the policies set forth, it would not be consistent with the plan to allow medium intensity. Ms. Guse stated that it would not be within the harmony and spirit of the District 26 Plan to allow medium intensity. Mr. Boyle stated that the question is then that no medium intensity development can ever go next to a low intensity development. Ms. Guse stated that at this particular intersection because it is the only concern she has.

Mr. Stump stated that for clarification, it is important to remember that the property under application is not designated by the Comprehensive Plan as low intensity residential. Mr. Stump explained that some of it is designated as Low Intensity, No Specific Land Use, which allows up to OL as a may be found, and the five acres at the node are designated as Low Intensity, No Specific Land Use or Medium Intensity, No Specific Land Use, none is designated as Low Intensity-Residential. In response, Ms. Guse stated that she would appreciate knowing where this is stated, because she has gone through the whole District 26 Plan and found these other two designations.

Mr. Westervelt stated that Ms. Guse represented that all of the other surrounding corners have residential development; however, is it really intellectually dishonest to represent that when there is a single, older home on the corner of AG-undeveloped tract as a residential development. Mr. Westervelt stated that there is only one house on the corner and there is not a developed, zoned residential community, but rather two AG tracts of land. Mr. Guse informed the Planning Commission that there is a PUD that has been approved for 30 one-acre lots with more residential development. Mr. Stump stated that the PUD application Ms. Guse is referring to is under application and pending; it has not been approved. Mr. Westervelt asked Ms. Guse if she still recognizes that even with the pending PUD, the corner is still zoned AG and is still up for zoning. It is not residentially zoned. In response, Ms. Guse agreed. Mr. Westervelt informed Ms. Guse that the Planning Commission also considers zoning maps when considering land

use relationships. Ms. Guse stated that she is mindful of the zoning maps and she has never said that the subject intersection was zoned residential. Ms. Guse reiterated that her comments were that this is a low intensity development because it is a residential development. Mr. Westervelt stated that he appreciates the work Ms. Guse has done and the tremendous amount of information she has compiled; however, he is concerned with the facts she laid out and her interpretation of them isn't consistent with that of the staff or the Planning Commission.

Ms. Pace stated that the District Plans are a good guide for development (generally future development or redevelopment). Quite often when the Planning Commission looks at a change in development trends and the plan states a certain development pattern the Planning Commission will recommend a rezoning that is not in accordance with the plan and direct the staff to change the plan text. It is not unusual for the Planning Commission to rezone or to change the zoning from what the plan might recommend that is allowable if the zoning patterns clearly are going in a particular direction. Mr. Stump stated that the Planning Commission has determined that the Comprehensive Plan has not been updated to reflect the existing current development that may be changing an area and the current development dictates a different conclusion from the plan.

Mr. Horner asked Ms. Guse to give him an acceptable example of a commercial development adjacent to low intensity residential. In response, Ms. Guse stated that in dealing with this particular intersection, because of the existing residential development on three of the four corners, it would not be appropriate to have any type of medium intensity development on the undeveloped portion of the subject intersection.

Mr. Westervelt informed the interested parties that they are allowed three minutes each speaker. He urged them to try to pool times and try to give fresh information. Mr. Westervelt requested each speaker to provide full name and address for the record.

Interested Parties Opposing Z-6807/PUD-645:

Janet Thompson, 11010 South Sheridan, Tulsa OK 74133, submitted plans for a residential development (Exhibit A-6), video (Exhibit A-4) and a letter of opposition (Exhibit A-1); **James and Shirley Bailey**, 6005 East 111th Place South, Tulsa, OK 74137; **John Benjamin**, 11119 S. Hudson Avenue, Tulsa, OK 74137; **Leslie Bruse**, 11245 S. 66th East Avenue, Bixby, OK 74008, submitted Tulsa World article (Exhibit A-3); **Linda Norris**, 6630 East 112th, Bixby, OK 74008; **Homer Mouden**, 11317 S. Oxford Avenue, Tulsa, OK 74137; **Leon and Sherry Remy**, 6910 East 111th Place, Bixby, OK 74008; **Donald Higgins and Melissa Morgan**, 6628 East 113th Street, Bixby OK 74008; **Ann Winkler**, 5450 East 110th Street, Tulsa, OK 74137; **Bill Clark**, 11208 S. Kingston, Tulsa, Oklahoma 74137; **Bill Wilkinson**, 10910 S. Sheridan, Tulsa, OK 74137; **Michael**

Studer, 11112 South 69th East Avenue, Bixby, Oklahoma 74008; **Gerald Walker**, 6826 East 112th, Bixby, Oklahoma 74008; **Michael Tolson**, 11104 South 69th East Avenue, Bixby, Oklahoma 74008 (submitted reprints of an article of the Tulsa Worlds Exhibit A-3); **Denise Lopez-Majano**, 6106 East 115th Place, Tulsa, Oklahoma 74137 (submitted photographs Exhibit A-5).

Interested Parties' Comments Opposing Z-6807/PUD-645:

The 111th and Sheridan corner was not designated for commercial zoning 30 years ago when parties purchased their home and acreage; the subject area is development sensitive based on its steep slopes and eroding soil; residents are not against change to single-family residential use; property values will be devalued; concerns of drainage; stagnant water will cause mosquitoes, turtles and snakes to be attracted to the area, which is already happening, there is currently a great deal of standing water and that causes concern; the detention pond will be dangerous for the children in the subject area; indicated that they did recommend changes and met with the attorneys; would like to be notified of changes or future plans of construction or PUDs; there are no developers for the subject property at this time; there are trade-offs for living in the subject area, such as limited infrastructure, but prefer the natural beauty and quiet neighborhoods; this application would set a precedent and could be considered spot zoning; no buffer zone and CS will impact the houses; noise from the CS activity; there are 47 commercial developments to the north and east of the subject intersection and these 47 commercial services meet the subject neighborhood's needs; the proposed development will not enhance the subject area; 111th and Sheridan is a neighborhood community and will be greatly impacted by the proposed commercial development; realtors either do not know or pretend to not know about any type of development in the subject area; concerns about notification of changes in the subject area; there is a myth that has permeated the Planning Commission and the staff that as Tulsa grows there has to be some kind of commercial development at every intersection; nothing in the written criteria dictates that there has to be a commercial development at every intersection; the proposal does not harmonize with the existing and expected development in the subject area; the owner of the subject property would profit if he developed it residentially; there is an insidious concept that at every intersection in this community there must be commercial development; the majority do not want CS development in the subject area and it should be decided by majority of the people; protect the beauty of the subject area; the subject area is very fragile; the southwest corner, which was zoned CS, never developed and now has been downzoned to RS-4; the subject area should be considered within the context of the particular situation and not in a vacuum; this is urban sprawl and it is creating a hostile city environment; the Planning Commission's mission is to look at the situation and balance the applicant's arguments (and precedent, of which there is considerable amount) and balance it with the interest, harmony, etc., then decide what is in the betterment of the City; there is a better way to develop the subject area; the Planning Commission is commercial-friendly and tries to find a way to approve CS zoning on every

corner; large homes and lots would create a better tax base than a commercial development; save the trees by not allowing OL or CS zoning on the subject property.

TMAPC Comments:

Mr. Westervelt asked Mr. Bailey if he built his home before the CS zoning on the corner. In response, Mr. Bailey stated that the southwest corner was zoned commercial when he purchased his home. Mr. Bailey further stated that the CS property on the southwest corner, which has been rezoned RS-4, is a smaller scale than what is being proposed with this application.

Mr. Jackson asked Ms. Remy if she sells homes all over Tulsa and if she is familiar with the 43rd and Peoria area. In response, Ms. Remy answered affirmatively. Mr. Jackson stated that Paul Coury built a upper-end commercial/retail place in front of his residential development called Brooktowne. Mr. Jackson asked Ms. Remy if she thought the shopping center took away from the value of the homes in Brooktowne. In response, Ms. Remy stated that she does think it did take the value away from the homes. Ms. Remy commented that the homes in Brooktowne are beautiful, but they could have blossomed more financially if they were not adjacent to the commercial area. Mr. Jackson pointed out that the lots in Brooktowne have increased over 20% in value and home sales are usually within five days. Ms. Remy stated that she could also challenge with what the values of homes have gone up in the subject area. Ms. Remy explained that an appraiser would state that when homes are adjacent to commercial uses, it should take longer to sell and it reduces the overall price. Ms. Remy stated that if Brooktowne were in another location that is not surrounded by commercial uses, there is no telling what the price could be for the homes. Ms. Remy commented that when Brooktowne was plotted, it was obvious to the buyer that they would be driving by commercial, but when Stanford Elm was plotted, the buyers had no idea there would be commercial on the corner. Ms. Remy stated that there are houses to the corner and they will be impacted on their financial value gravely by having the intersection widened and having the commercial property there. Mr. Boyle asked Ms. Remy if she is speaking of homes that back up directly to the proposed commercial, because there are no houses that back up to this proposal. Ms. Remy stated that she does believe that there is a residential home that will back up to the proposal.

Mr. Midget asked Ms. Morgan is she would have moved into her home if she knew that the southeast corner was zoned CS. In response, Ms. Morgan indicated that she was not aware of the zoning and it appeared to be residential. Ms. Morgan stated that had she known it was zoned CS at the time she purchased her home, it would have made her think twice before buying. Mr. Stump explained the procedures for notification regarding major amendments, PUDs, minor amendments, etc.

Mr. Jackson pointed out that the neighborhood has stated that they would prefer a residential subdivision on the subject property, which could possibly have 40 to 50 units, and Mr. Wilkinson would have to view this instead of looking down at a water feature and a single residential design that is light office. In response, Mr. Wilkinson stated that he would prefer to look at 40 to 50 rooftops instead of a multi-story office, parking or a pool of stagnant water. Mr. Jackson stated that typically the water wouldn't be stagnant because there would be a fountain in it to keep the water aerated and moving around. Mr. Wilkinson asked Mr. Jackson how he knows this to be true and how the neighbors know this to be true, since there are no plans available. Mr. Wilkinson stated that Mr. Norman was invited to a meeting and it was Mr. Norman who was recalcitrant.

Mr. Boyle stated that he believes that Mr. Wilkinson has misconstrued what is called a "myth". Mr. Boyle asked Mr. Wilkinson if he would agree that the Planning Commission has an obligation to be fair. In response, Mr. Wilkinson stated that the Planning Commission has an obligation to be fair to the residents who live in District 26. Mr. Boyle stated that the Planning Commission has an obligation to be fair to everyone in Tulsa, as well as the property owners at the various nodes and including undeveloped property. Mr. Boyle again asked Mr. Wilkinson if he would agree that the Planning Commission has an obligation to be fair to everyone, not just the existing residents and not just the subject property owner. Mr. Wilkinson stated that the Planning Commission has an obligation to hear from both sides. Mr. Boyle asked Mr. Wilkinson if he would dispute that the Planning Commission is supposed to be fair. Mr. Wilkinson stated that the Planning Commission has an obligation to be fair under the guidelines of the District Plan, not fair based on commercial or real estate value. Mr. Boyle asked Mr. Wilkinson if the Planning Commission granted a similar zoning to a node one mile away, why it isn't unfair to suggest to Mr. Norman's client that he cannot do the same. Mr. Wilkinson stated that this rationale is twisted, and granting commercial zoning at 101st and Sheridan has nothing to do with whether it is permitted at 111th and Sheridan. Mr. Boyle stated that this type of reasoning is not twisted but fair. Mr. Boyle further stated that it would be inappropriate to the Planning Commission's duty to suggest that it should be fair to one party. Mr. Wilkinson stated that being fair to the subject owner simply means that he could sell his property today for tenfold.

Mr. Westervelt asked Mr. Wilkinson if he ever applied for any change of zoning, use or expansion on his property. In response, Mr. Wilkinson answered negatively.

Mr. Boyle stated that the Planning Commission's job is to take into consideration everyone's in the City interest. Mr. Studer stated that he believes that the Planning Commission's concern is a legal issue. In response, Mr. Boyle stated that his interest is in everybody's interest, including the owner of the subject property and the City's interest as a whole.

Mr. Midget asked Mr. Tolson if he understood that when commercial use develops away from the neighborhood, it is contributing to urban sprawl because it makes development accommodate the automobile. There are no convenient goods or shopping for the neighborhood, Mr. Midget stated that he would not want the community to think that when a proposed commercial use is on a corner, the Planning Commission rolls over and approves it, or as Mr. Tolson suggested, find a way to approve the CS zoning. In response, Mr. Tolson agreed that there should be commercial resources, but he feels that the subject neighborhood is already adequately served within one mile in several directions. Mr. Tolson stated that corners are appropriate for commercial development in many senses, but by the very nature of 71st and Yale and 61st and Harvard, these areas are deemed to be inappropriate for commercial uses. Mr. Tolson asked how the subject area is, in reality, any different from the two before-mentioned intersections. Mr. Tolson commented that there are some exceptions to commercial on corner use, and the subject corner is one of them due to the esthetics, the attributes of the subject area and the desires of the neighborhood. Mr. Tolson stated that, to his knowledge, no one has come out to support this application.

Mr. Midget asked Mr. Tolson if he is suggesting that a medium intensity use is inappropriate for the subject area. In response, Mr. Tolson stated that he cannot say whether it is or not because he does not know the legalities. Mr. Tolson commented that his perception is that medium intensity is inappropriate for the subject property.

Mr. Westervelt asked staff to verify the time limit allowed Mr. Norman for a rebuttal. In response, Mr. Stump stated that it is Planning Commission's policy to allow ten minutes.

Applicant's Rebuttal:

Mr. Norman stated that the District 26 Plan does not designate the subject property as low intensity residential as Ms. Guse indicated, when in fact the corners were designated for medium/low intensity use. All of the nodes in District 26 are striped in the same way, which indicates medium/low intensity. The plan could read to say that these nodes are identified as low or medium intensity or perhaps both low/medium intensity. Since the adoption of this plan, not only in District 26 but in all the districts, there has been a uniformed and consistent pattern by the Planning Commission and the City Council of Tulsa in approving medium intensity uses where requested by the owner in accord with the development guidelines and of the District Plan, which encourages the use of PUDs. Mr. Norman cited other intersections that have been approved for CS zoning covering more than five acres.

Mr. Norman stated that medium to low intensity has been applied to the subject property and this application meets those designations because of the way it has been designed, planned and submitted to the Planning Commission. The

request for CS is for 2 ¼ acres, which is less than half of what the node would ordinarily support and which is customarily and usually granted. This in itself is a low intensity request. The 2 ½ acres of OL zoning is completely in accord with the Comprehensive Plan, even according to Ms. Guse's interpretation of the zoning district matrix. Area B is proposing 4.91 acres out of 8.88-plus acres of net usable land, which is to be used for OL-type office development with a maximum floor area 32,000 SF, which is less than 15% FAR.

Mr. Norman stated that the commercial area requested is 3.6 acres net, with 48,000 SF, less than half of 108,000 CS floor area that is typically approved with respect to CS-zoned nodes of this kind. Mr. Norman cited the commercial section of the District 26 Plan. He indicated that the use of the PUD ensures compatibility for the subject area. The plan was presented with development standards taken from the PUD that was approved by the Planning Commission and City Council at 101st and South Yale, which was developed in 1996. There are single-family homes that are immediately adjacent to the commercial development at 101st and South Yale. The proposed commercial area will be buffered by a low intensity office area of 350 feet in depth. The signs have been limited to 12 feet in height and the light standards have been limited to 16 feet in height.

Mr. Norman commented that when one thinks of compatibility, the residents have been taken into consideration by the applicant in the design of the proposed project. It is misleading to suggest that the house on the corner opposite of the subject property confirms that the subject intersection is a low intensity residential corner, because the home has been located on the subject corner before WW II.

Mr. Norman stated that a two-story office building in the subject area is completely consistent with the transition used in many areas of the community. The Thompson house is at least 125 feet to the north of the boundary and there will be a 75-foot wide area to be preserved in a natural condition. The Wilkinson property is probably 300 feet farther to the north of the Thompson property.

Mr. Norman explained that the studies have indicated that there will be a detention facility and the City of Tulsa's Stormwater Management Plan is consistent with the City's development policies and practices and has been given conceptual approval. In every respect, he has demonstrated that the subject proposal is consistent and compatible with the existing and proposed development. The proposal can be accomplished in accord with the development policies of the community.

Mr. Norman stated that he would like to address the fairness and equal treatment under the law, uniformity, due process, etc. He commented that sometimes these things are taken for granted, but they are meaningful principles for the administration of the government. To approve to the north, south and the

southwest requests for zoning in accord with the development guidelines and the District 26 Plan is important to the preservation of those principles that all are devoted to, but sometimes feel are inapplicable where there is a local situation under concern. The Bill of Rights is adopted to the United States Constitution to prevent the majority from abusing the minority. All civil rights laws are based on the same premise: that just because a lot of people may not want the proposal, it is not the reason on which the Planning Commission should base their decisions. He indicated that he only expects to be treated consistently as he has demonstrated in other applications in similar corners and what the Planning Commission has approved in the past for similar situations. Mr. Norman concluded that this is a well-conceived and planned proposal for the development of the subject property.

TMAPC Comments:

Ms. Pace asked Mr. Norman why each arterial intersection should be set aside for a commercial node development. In response, Mr. Norman stated that the reason this was done in 1970 was to avoid the haphazard method by which zoning decisions had been made. Mr. Norman explained that 60 acres of commercial zoning were approved at 61st and Memorial and 80 acres of CH (high intensity) zoning was approved at 61st and Yale and some corners were denied zoning at all. There was no rationale regarding how to treat property owners uniformly, consistently and fairly. Mr. Norman stated that the decision was made by this Planning Commission, City Council and County Commission to designate the intersections of the arterial streets as development nodes according to their planned capacities in order to provide a rational basis for accomplishing those goals mentioned. Mr. Norman commented that there were five or six corners that had already been developed in this city and were not identified as nodes (31st and Lewis, 41st and Lewis, 61st and Harvard, and 71st and Harvard). Mr. Norman explained that several interested parties have referred to the denial of a zoning case at 71st and Harvard and it is important to remember that there was never a node designation there because that intersection had been fully developed at the time of the adoption. Mr. Norman further explained that the designations were done to avoid the controversial and emotional situations that we find ourselves in this application. In response, Ms. Pace stated that the District 26 Plan is a general guide and its permissive; it is not obligatory, and the cases Mr. Norman mentioned were developed. Ms. Pace commented that the subject intersection is not the type of intersection that has two arterial streets conducive of moving large amounts of traffic, which is needed to have sustainable commercial development. Ms. Pace stated that 111th dead-ends in very rocky terrain going toward the river. To the east, the street improvement would have to be done by Bixby, and the Planning Commission has no control over that. Ms. Pace stated that the subject intersection is not typical of the node Mr. Norman has described and that will be her reason for voting against this project. In response, Mr. Norman stated that when Ms. Pace votes on this issue he will ask her to recall that she voted to approve the five acres at 121st and Sheridan. Ms. Pace stated that the intersection Mr. Norman is referring to is very different because it is on Riverside

Drive, which is the longest street in the City, fully developed and fully intended to be developed in sod farms. Mr. Norman stated that it is the same type of street one mile to the south and Ms. Pace voted for it because it was in accord with the Comprehensive Plan.

Mr. Boyle stated that the argument he is hearing from the neighborhood is to forget about the fairness issue and forget what happened at 121st Street and 101st Street. Mr. Boyle asked Mr. Norman how he would address the interested parties' argument that at this intersection, based on what has happened since the plan was adopted, the existing development, and the residents, why is it appropriate to have commercial at the subject intersection as opposed to some other intersection. In response, Mr. Norman stated that the pattern of development at the subject intersection has been consistent with the plan, except the developer of the property across the street to the south chose to use part of the node for single-family development. Mr. Norman further stated that there are areas still in the process of developing and it is evident from the vacant areas. Mr. Norman commented that he doesn't find anything but consistency and the area has developed low-intensity residential, which means low with 85-foot lots and this argument ignores the facts. Mr. Norman stated that the subject intersection is no different from 101st Street was five or eight years ago, which were all two-lane secondary-arterial-designated county roads. Mr. Norman explained that when the development started at 101st and Sheridan or 91st and Sheridan, the same conditions existed that are present at the subject intersection. Mr. Norman stated that if they are not intended to be a secondary arterials, then the Major Street and Highway Plan could have been amended to remove the nodes; however, the nodes have been there for a long time and why couldn't his client be entitled to rely upon that continued designation.

Mr. Boyle asked Mr. Norman to address the concerns about the direct negative impact to the neighborhoods. In response, Mr. Norman stated that at one time, all of the subject area was wooded except for areas that had been cleared for pasture and crops. Mr. Norman explained that development naturally takes away trees, but residential development takes away more trees than any other type of development. Mr. Norman explained that when a residential development is being developed, the land has to be stripped almost completely. Mr. Norman stated that rural land has the consequences with respect to owls and trees, and trees can be replaced. Developers have become more knowledgeable about ways to preserve trees in both commercial and residential areas. Mr. Norman stated that there was an argument that the commercial services are not needed and that is an opinion of those persons with respect to the situation today. The concept was that one would drive close to neighborhood facilities or convenience-type facilities and drive several miles away for the regional or area malls. Mr. Norman concluded that he finds himself defending a concept, in this particular application, that has been taken for granted for the last 30 years. With the District Comprehensive Plans, PUDs and the node concepts, there has been

better development than ever before, specifically along Mingo Road where there was strip-zoning and large, unplanned areas of commercial development.

Mr. Norman stated that the single-family homes that back up to the southeast corner of 101st and Sheridan were existing when this Planning Commission approved development standards and landscaping in the rear of the shopping center area that resulted in those homes, which, in his opinion, maintain their same value and desirability today as before the development. Mr. Norman recognized that this is not always the best solution, but it is an example where it has happened. Mr. Norman stated that there is no evidence that commercial development adversely affects the value or the livability of homes on the other side.

Mr. Jackson stated that when the Planning Commission looked at this application several months ago and today, it is apparent that the AG-zoned property is starting to transition into single-family lots. He explained that the streets will not be widened until the rooftops increase and the traffic counts increase. Typically the rooftops come in before any commercial entity would be viable to be in place, and a lot of things have changed in the subject area since the mid 1990s, and in his opinion, increased the rooftops and increased the viability of commercial entities. It is indicative of the City of Tulsa that major intersections are commercial nodes and buyers buy for location and accessibility. People moved to the urban areas rather than the country because they are accustomed to the services that are provided. The proposal will not detract from the natural beauty, based on the development standards set by Mr. Norman and his client.

Ms. Pace stated that it cannot be both ways and the design guidelines with the nodes were put in place to get a handle on runaway commercial development. However, they have not been consistently adhered to. Ms. Pace commented that 25% of the corner had recently been down zoned and it sends a message that the subject area is not a viable corner for commercial development.

Mr. Midget stated that this has been one of the hardest applications he has had to deal with in quite a while. As he looks at this application, he sees that the current development in the area reflects a pattern of single-family homes and it would seem unfair to permit a high intensity use, office or commercial, in the area. Notwithstanding, the development guidelines not only permit, but encourage, commercial and office development to be located on the corner nodes. This application has attempted to provide for the lowest possible intensity use and most restrictive commercial use for this development. It is aided by the selection of the PUD process and it provides for further restrictions and conditions to be placed on the development. He had hoped that when this application was continued that the neighbors and the developer could have met and worked on something that would have permitted more restrictions on the development and provide the neighborhood with more safeguards. He stated that he cannot support commercial zoning just for commercial's sake at every

corner, in particular, if there is an intense use involved along every intersection. However, not in good conscience can he deny commercial just because it is commercial at the intersection. In this particular instance, there are some things he is concerned with and if the subject property doesn't develop 11 years from now, what kind of commercial would go in this particular area if the owner decided to sell it. Office use is compatible with the subject area, but he does have a problem with commercial uses. He concluded that he still has problems with this application, even though it is in the PUD. He stated that another thing about this application that is troubling is the fact that up until last year, the southwest corner was zoned CS and the residents would have had to live with it whether they were aware of the zoning or not. Mr. Midget stated that he only sees that 50% of the subject area is developed because below 111th there are houses, but above 111th there are not. He reiterated that this will be a difficult decision for him.

Mr. Ledford asked staff to explain the areas designated as Areas One and Two on the map. Mr. Stump stated that Area One is a special district and the reason is because it has highly erodible soils and steep slopes. Mr. Stump stated that Area Two is a sump area. Mr. Ledford stated that Area Two has been designated as development sensitive for 15 years and now there is change that went the other direction. Mr. Ledford further stated that Area Two was considered development sensitive because at the time the plan was put together it was unknown how this area could ever be developed. However, creatively it did become developed and now it is zoned RS-2 and RS-1, which is Area Two. Mr. Ledford stated that his point is that sometimes the plan changes in another direction. Mr. Ledford stated that he would like to address the issue about the ignorance of the buying public; fortunately, there are published maps that can be purchased from a realtor and the realtor knows what the zoning districts are. Realtors are obligated to give the buyer this information. Unfortunately, they do not in many cases.

Mr. Boyle stated that he can see arguments on both sides of this question, unfortunately, the Planning Commission has a task of weeding out a lot of irrelevant arguments. The Comprehensive Plan is a guide and it does not tell what the decision is today. Mr. Boyle explained that the plan is a guide that the Planning Commission takes into account with numerous other factors, e.g., impact on neighborhoods, property owners, balance and fairness. He stated that he can see the neighbors' point that it is unfair to allow commercial development here, but he can also see the argument from the property owner that is unfair to not grant him the type of relief that has been granted to others. The single most impacted neighborhood or area is in agreement that it should be allowed, which is the RS-4 PUD to the south. He noted that Mr. Norman's client has put together an extraordinarily controlled PUD where there are very tight controls on what can be done and where there is a very responsible development to the north of office that is well removed from the neighboring resident. He commented that he finds himself in the same kind of situation that Mr. Midget is

in. He congratulated the interested parties and applicant on their preparation and the amount brought to the Planning Commission; however, he is disappointed that the residents and the developer were unable to work out an agreement. When interested parties bring the Planning Commission a disagreement that is a yes-or-no disagreement, then the Planning Commission does not have a lot of choices.

Mr. Westervelt stated that Mr. Boyle and Mr. Midget have summed up his feelings after looking at all of the data. This is a difficult application for the Planning Commission to analyze and he is glad that the City Council will be making the final decision on this. He urged all of the interested parties to participate in the City Council process. He thanked the interested parties and applicant for the manner in which they conducted themselves and delivered their information to the Planning Commission.

TMAPC Action; 9 members present:

On **MOTION** of **PACE**, the TMAPC voted **3-6-0** (Hill, Midget, Pace "aye"; Boyle, Harmon Horner, Jackson, Ledford Westervelt no "nays"; none "abstaining"; Carnes, Selph "absent") to recommend **DENIAL** of the CS/OL zoning for Z-6807 and recommend **DENIAL** of PUD-645.

MOTION FAILED.

TMAPC Comments:

Mr. Jackson stated that he believes that the reason for the southwest corner not being sustainable is because the parcel was small and it was going away from versus going to home. When a developer looks for commercial development, it usually going toward the house and not away from the house. The developments toward the south would support the types of goods and services that this proposal could provide and it would be a good thing for the neighborhood.

TMAPC Action; 9 members present:

On **MOTION** of **JACKSON**, the TMAPC voted **6-3-0** (Boyle, Harmon, Hill, Horner, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph "absent") to recommend **APPROVAL** of the CS/OL zoning for Z-6807 and PUD-645 as recommended by staff, including the additional modifications made by the applicant.

Legal Description for Z-6807:

AREA OF CS ZONING:

A TRACT OF LAND THAT IS PART OF THE SE/4 OF THE SE/4 OF THE SE/4 OF SECTION 27, T-18-N, R-13-E, CITY OF TULSA, TULSA COUNTY, OKLAHOMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:"BEGINNING AT A POINT" WHICH IS THE SOUTHEAST CORNER OF SAID SECTION 27; THENCE DUE WEST ALONG THE SOUTHERLY LINE OF SECTION 27 FOR 313.07'; THENCE N 00°08'22" E PARALLEL WITH THE

EASTERLY LINE OF SECTION 27 FOR 313.07'; THENCE DUE EAST PARALLEL WITH SAID SOUTHERLY LINE OF SECTION 27 FOR 313.07' TO A POINT ON THE EASTERLY LINE OF SECTION 27; THENCE S 00°08'22" W ALONG SAID EASTERLY LINE FOR 313.07' TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND. **From:** AG (Agriculture District) **To** CS (Commercial Shopping Center District).

AREA OF OL ZONING:

A TRACT OF LAND THAT IS PART OF THE SE/4 OF THE SE/4 OF THE SE/4 OF SECTION 27, T-18-N, R-13-E, CITY OF TULSA, TULSA COUNTY, OKLAHOMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: STARTING AT THE SOUTHEAST CORNER OF SAID SECTION 27; THENCE DUE WEST ALONG THE SOUTHERLY LINE OF SECTION 27 FOR 313.07' TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND; THENCE CONTINUING DUE WEST ALONG SAID SOUTHERLY LINE FOR 141.80'; THENCE N 00°08'22" E PARALLEL WITH THE EASTERLY LINE OF SECTION 27 FOR 454.87'; THENCE DUE EAST PARALLEL WITH THE SOUTHERLY LINE OF SECTION 27 FOR 454.87' TO A POINT ON THE EASTERLY LINE OF SECTION 27; THENCE S 00°08'22" W ALONG SAID EASTERLY LINE FOR 141.80'; THENCE DUE WEST PARALLEL WITH THE SOUTHERLY LINE OF SECTION 27 FOR 313.07'; THENCE S 00°08'22" W PARALLEL WITH THE EASTERLY LINE OF SECTION 27 FOR 313.07' TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND. **From** AG (Agriculture District) **To** OL (Office Low Intensity District).

Legal Description for PUD-645:

And to consider the proposed Planned Unit Development (PUD-645) on the following described property: the SE/4, SE/4, SE/4 of Section 27, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma, and located in the northwest corner of East 111th Street South and South Sheridan Road, Tulsa Oklahoma, **To** AG/OL/CS/PUD (Agriculture District/Office Low Intensity District/Commercial Shopping Center District/Planned Unit Development).

ZONING PUBLIC HEARING

APPLICATION NO.: Z-6812

Applicant: Malek Elkhoury

Location: Northeast corner of East Pine and North Peoria

CH/RM-1 TO CS/CH

(PD-2) (CD-3)

Staff Recommendation:

RELEVANT ZONING HISTORY:

BOA-15633 January 1991: The Board of Adjustment approved a request to permit an auto salvage business on property located at the southwest corner of East Pine Street and North St. Louis Avenue, subject to screening on the south and east property lines abutting residentially zoned districts, and subject to Stormwater Management approval, with no additional entrance or exit gates to the business.

Z-6301 October 1990: A request to rezone a three-acre tract located at the southwest corner of East Pine Street and North St. Louis Avenue from IL to IH for a salvage yard. Staff and TMAPC recommended denial of IH and recommended approval of IM in the alternative with a 50' IL buffer on the south and east sides. City Council concurred in approval of IM and the 50' strip of IL.

AREA DESCRIPTION:

STREETS:

Exist Access	MSHP DESIGN	Exist. No. Lanes	SURFACE	CURBS
East Pine Street	100'	Four lanes	Asphalt	Yes
North Peoria Avenue	100'	Four lanes	Asphalt	Yes

The Major Street Plan designates East Pine Street and North Peoria Avenue as secondary arterial streets. The City of Tulsa 1998 – 1999 Traffic Counts indicate 9,900 trips per day on North Peoria Avenue immediately south of the intersection of East Pine Street.

UTILITIES: Water and sewer are available to the subject property.

SURROUNDING AREA: The subject tract is abutted on the north by a vacant daycare facility and shopping center, zoned CS; to the east by the Cherokee Expressway, zoned RM-1; to the west by vacant land recently cleared for the widening of Peoria Avenue, zoned RS-4 and CS; to the southwest by a major PSO installation, zoned CS; and to the south by a drive-through fast-food restaurant and the Cherokee Expressway, zoned IM.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 2 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property Medium Intensity – Commercial land use. The District Plan and the Urban Renewal Plan for this area were amended several years ago to accommodate and encourage development of medium intensity uses on this site. According to the Zoning Matrix, the requested CS zoning is in accordance with the Plan Map and the requested CH zoning is not in accordance with the Plan Map; however, the frontage lots on the east side of Peoria are currently zoned CH.

STAFF RECOMMENDATION:

Based on existing and proposed development in the area, staff can support the requested CS zoning and because the CH zoning is pre-existing, staff can support retaining the CH where it is requested (Lot 3, which is the southernmost lot) on this property. Therefore, staff recommends **APPROVAL** of CS and CH zoning for Z-6812.

The applicant indicated his agreement with staff's recommendation.

Mr. Midget out at 5:00 p.m.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, the TMAPC voted **8-0-0** (Boyle, Harmon, Hill, Horner, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph "absent") to recommend **APPROVAL** of the CS and CH zoning for Z-6812 as recommended by staff.

Legal Description for Z-6812:

Tract 1: A tract of land that is part of the S/2, SW, of Section 30, T-20-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, said tract being described as follows: Commencing at the Southwest corner of said Section 30; thence N 01°10'19" W along the Westerly line of said Section 30 for 75.01'; thence N 88°02'00" E parallel to the South line of said Section 30 for 37.00'; thence N 01°10'19" W for 205.02'; thence N 05°10'47" W for 100.16'; thence N 01°10'19" W for 710.98' to a point on the South ROW line of E. Reading Street; thence N 88°02'12" E along said ROW for 194.01' to the Point of Beginning; thence continuing N 88°02'12" E along said ROW for 381.14'; thence S 01°10'19" E for 214.69'; thence S 88°49'41" W for 79.60'; thence S 01°10'19" E for 7.00'; thence S 88°49'41" W for 301.50'; thence N 01°10'19" W for 216.43' to the Point of Beginning **FROM RM-1 (Residential Multifamily Low Density District) TO CS (Commercial Shopping Center District).**

Tract 2: A tract of land that is part of the S/2, SW, of Section 30, T-20-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, said tract being described as follows: Commencing at the Southwest corner of said Section 30; thence N 01°10'19" W along the Westerly line of said Section 30 for 75.01'; thence N 88°02'00" E parallel to the South line of said Section 30 for 37.00'; thence N 01°10'19" W for 205.02'; thence N 05°10'47" W for 21.22' to the POB; thence continuing N 05°10'47" W for 78.94'; thence N 01°10'19" W for 458.12'; thence N 88°49'41" E for 194.00'; thence N 01°10'19" W for 39.11'; thence N 88°49'41" W for 301.50'; thence N 01°10'19" W for 7.00'; thence N 88°49'41" E for 79.60'; thence N 01°10'19" W for 214.69' to the South ROW line of E. Reading Street; thence N 88°02'12" E along said ROW for 84.91'; thence S 01°10'19" E for 539.77' to a point on the Northwesterly ROW of State Highway 75; thence along said ROW line as follows: S 01°10'19" E for 21.16'; thence S 88°02'00" W for 110.02'; thence S 74°02'30" W for 82.73'; thence S 45°30'57" W for 44.39'; thence S 45°31'32" W for 158.99'; thence S 01°10'19" E for 75.78' to the end point of said ROW; thence S 88°49'41" W for 316.48' to the POB; **FROM RM-1 and CH (Residential Multifamily Low Density District and Commercial High Intensity District) TO CS (Commercial Shopping Center District).**

Tract 3: A tract of land that is part of the S/2, SW, of Section 30, T-20-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, said tract being described as follows: Commencing at the Southwest corner of said Section 30; thence N 01°10'19" W along the Westerly line of said Section 30 for 75.01'; thence N 88°02'00" E parallel to the South line of said Section 30 for 37.00' to the POB; thence N 01°10'19" W for 205.02'; thence N 05°10'47" W for 21.22'; thence N 88°49'41" E for 316.48' to a point on the Northwesterly ROW line of State Highway 75; thence along said ROW line as follows: S 01°10'19" E for 116.81'; thence S 88°02'00" W for 42.00'; thence S 15°27'32" W for 52.41'; thence S 01°10'19" E for 61.55'; thence S 45°05'02" W for 37.41'; thence S 85°36'13" W for 200.28'; thence N 38°53'30" W for 50.69' to the end point of said ROW and the POB of said tract; **FROM RM-1 and CH (Residential Multifamily Low Density District and Commercial High Intensity District) TO CH (Commercial High Intensity District).**

Tract 4: A tract of land that is part of the S/2, SW, of Section 30, T-20-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, said tract being described as follows: Commencing at the Southwest corner of said Section 30; thence N 01°10'19" W along the Westerly line of said Section 30 for 75.01'; thence N 88°02'00" E parallel to the South line of said Section 30 for 37.00'; thence N 01°10'19" W for 205.02'; thence N 05°10'47" W for 100.16'; thence N 01°10'19" W for 458.12' to the POB; thence continuing N 01°10'19" W for 252.86' to a point on the South ROW line of E. Reading Street; thence N 88°02'12" E along said ROW for 194.01'; thence S 01°10'19" E for 255.54'; thence S 88°49'41" W for 194.00' to the POB; **FROM RM-1 and CH (Residential Multifamily Low Density District and Commercial High Intensity District) TO CS (Commercial Shopping Center District).**

Tract 5: A tract of land that is part of the S/2, SW, of Section 30, T-20-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, said tract being described as follows: Commencing at the Southwest corner of said Section 30; thence N 01°10'19" W along the Westerly line of said Section 30 for 75.01'; thence N 88°02'00" E parallel to the South line of said Section 30 for 37.00'; thence N 01°10'19" W for 205.02'; thence N 05°10'47" W for 100.16'; thence N 01°10'19" W for 710.98' to a point on the South ROW line of E. Reading Street; thence N 88°02'12" E along said ROW for 600.06' to the Point of Beginning; thence continuing N 88°02'12" E along said ROW for 1,135.11' to a point on the Northwesterly ROW line of St. Highway 75; thence along said ROW line as follows: S 54°40'58" W for 90.93'; thence S 55°06'45" W for 136.75'; thence S 59°49'57" W for 160.06'; thence S 57°52'04" W for 99.47'; thence S 59°28'50" W for 62.75'; thence S 01°10'19" E for 70.00'; thence S 88°02'33" W for 114.00'; thence S 54°35'50" W for 990.72'; thence S 52°19'10" W for 96.06'; thence S 74°08'01" W for 72.15'; thence S 77°56'06" W for 142.57'; thence S 76°25'33" W for 143.35' to the end point of said ROW; thence N 01°10'19" W for 539.77' to the POB; and all located in the northeast corner of East Pine Street and North

Peoria Avenue, Tulsa, Oklahoma, FROM RM-1 (Residential Multifamily Low Density District) TO CS (Commercial Shopping Center District).

Mr. Boyle out at 5:15 p.m.

APPLICATION NO.: PUD-193-A

MAJOR AMENDMENT

Applicant: Kevin Coutant

(PD-10) (CD-4)

Location: 550 North Frisco (southwest corner West Edison and Keystone Expressway)

Staff Recommendation:

RELEVANT ZONING HISTORY:

PUD-223-B June 1994: A request for a major amendment to permit a group home for pregnant women on the eastern half of PUD-223 was denied. The property is located north of the subject tract on the north side of West Edison Street between North Country Club Drive and North Guthrie Avenue.

PUD-223-A February 1982: All concurred in approval of a major amendment to 2.2 acres of the original PUD-223 to reduce the number of dwelling units allowed on a portion of the PUD with amendments to the development standards. The property is located in the northeast corner of West Edison Street and North Country Club Drive and north of the subject property.

PUD-223 December 1979: A request to rezone a six-acre tract located in the northwest corner of West Edison Street and North Osage Drive (now the L. L. Tisdale Parkway right-of-way) from RS-2 to RM-0 for a mixed residential development. All concurred in approval of the PUD subject to conditions. The tract is located north across West Edison Street from the subject property.

Z-4943/PUD-193 December 1976: TMAPC, staff and the Planning Team from District 10 reviewed a request to rezone the subject property from RM-1 to CS. After consideration of the need for controls of development, the applicant submitted a Planned Unit Development. All concurred in approval of underlying zoning of OL on the north 105' and along the west 40' with CS zoning on the balance.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is less than one acre in size and is located in the southwest corner of West Edison Street and the Keystone Expressway. The property is steeply sloping, non-wooded, contains a multi-story building that is presently vacant, and is zoned RM-1/OL/CS/PUD.

STREETS:

<u>Existing Access</u>	<u>MSHP Design.</u>	<u>Exist. No. Lanes</u>	<u>Surface</u>	<u>Curbs</u>
West Edison Street	100'	4 lanes	Paved	Yes

The Major Street Plan designates West Edison Street as a secondary arterial street. The City of Tulsa Traffic Counts – 1998 – 1999, indicate 5,100 trips per day on Edison at the intersection of North Denver Avenue.

UTILITIES: Water and sewer are available to the subject property.

SURROUNDING AREA: The subject tract is totally surrounded by land under public ownership. Owen Park abuts the site to the west and is zoned RS-3; a City of Tulsa fire station, zoned RM-1, is abutting the tract on the north; and the northwest interchange of I-244 and the Keystone Expressway, zoned RS-3, forms the south and east boundaries.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 10 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property as Low Intensity – No Specific Land Use.

PUD-193 was approved by the City Council in 1976. The PUD is slightly over one acre in size and has been approved for a restaurant, office space and living quarters. The underlying zoning for the original PUD is OL and CS. The site is elevated higher than the abutting properties and is surrounded by land under public ownership. The tract is abutted on the north by a fire station zoned RM-1; on the west by Owen Park zoned RS-3; and on the southeast by Keystone Expressway right-of-way. This major amendment proposes to allow as a permitted use, a cellular communication tower, as included within Use Unit 4, on the southern portion of the original PUD. The center of the tower would be approximately 40 feet from the west boundary of the PUD and approximately 16 feet from the Keystone Expressway right-of-way. The maximum height would be 120 feet and it would be of a monopole design.

Staff finds the uses and intensities of development proposed and as modified by staff to be in harmony with the spirit and intent of the Code. Based on the following conditions, staff finds PUD-193-A, as modified by staff, 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-193-A subject to the following conditions:

1. **Development Standards:**

Land Area (Net):	2400 SF
Permitted Uses:	Cellular communication tower as included within Use Unit 4, which is of a monopole design.
Maximum Tower Height:	120 FT
Maximum Number of Towers	One
Minimum Setbacks:	As depicted on attached Exhibit A and B.*
Other Conditions:	As established within Use Unit 4.

*The center of the tower shall be 16 feet from the expressway right-of-way and approximately 40 feet from the west boundary of the PUD.

2. No Zoning Clearance Permit shall be issued for a lot within the PUD until a Detail Site Plan for the lot, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
3. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.
4. The Department Public Works or a Professional Engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an Occupancy Permit on that lot.
5. 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 that relate to PUD conditions.
6. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.

7. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during Detail Site Plan review or the subdivision platting process.
8. There shall be no outside storage of recyclable material, trash or similar material, nor shall trucks or truck trailers be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers shall not be used for storage.

Mr. Midget in at 5:06 p.m.

TMAPC Comments:

Mr. Westervelt acknowledged a letter from the Brady Heights Association (Exhibit B-1) opposing this application.

Applicant's Comments:

Kevin Coutant, 320 South Boston, Suite 500, Tulsa, Oklahoma 74103, stated that the monopole will be located in the very south end of the PUD that was approved in 1976. Mr. Coutant submitted a photographs of the site (Exhibit B-2) and site plans and Code requirements for monopoles (Exhibit B-3). Mr. Coutant informed the Planning Commission that he is amending his application by limiting the tower height to 80 feet. The monopole will be made of wood and the antennas in the photographs are the type that will be installed on the proposed monopole. Mr. Coutant indicated that the monopole would not obstruct the view of the building that is currently existing.

TMAPC Comments:

Mr. Midget asked Mr. Coutant if he shared his modifications with the Brady Heights Association. In response, Mr. Coutant stated that he did; however, it was just before the meeting started today. Mr. Coutant explained that he did discuss the changes with Emily Warner during today's meeting.

Mr. Westervelt asked Mr. Coutant if there is an existing pole north of the site and what is the purpose of the pole. In response, Mr. Coutant stated that there is a pole located north of the site and it is a warning pole that is located at the fire station.

Mr. Midget asked Mr. Coutant if the monopole would have blinking lights. Mr. Coutant answered negatively.

Mr. Jackson asked Mr. Coutant if the monopole would be a single tenant or multiple tenants. In response, Mr. Coutant stated that the monopole would have the ability to handle two more tenants.

Ms. Pace asked Mr. Coutant if he would have to remove any trees. In response, Mr. Coutant answered negatively. He explained that the subject site was an unimproved dump and the new owner recently cleaned it up in the last year. Ms. Pace requested to see the detail site plan and the landscape plan once it is submitted. In response, Mr. Stump stated that the detail site plan would be brought to the Planning Commission, but typically the landscaping plan is approved administratively. Ms. Pace asked if the Planning Commission has the option to see the landscape plan. Mr. Stump informed Ms. Pace that if it is part of the condition then the landscape plan will be brought before the Planning Commission. Mr. Coutant stated that he would not have a problem with submitting the landscape plans to the Planning Commission for approval. Ms. Pace stated that she would like to see some substantial trees between the residential area and the proposed site for the tower.

Interested Parties Comments:

David Denham, 606 North Osage, Tulsa, Oklahoma 74127, stated that he purchased the Kennedy House on North Osage Drive and he is currently restoring the house. He indicated that he is concerned about the tower and its height. He stated that he hasn't seen the plans and would like to know more about the tower.

Phillip Elder, 506 West Fairview, Tulsa, Oklahoma 74106, stated that he purchased the Kennedy Home, which is across from Mr. Denham. Mr. Elder expressed concerns with the tower and described it as a regressive move. He stated that the tower will be visible to everyone in the subject area. He requested the Planning Commission to deny this application.

Mr. Boyle in at 5:18 p.m.

Russell Burkhart, 752 North Denver, Tulsa, Oklahoma 74106, stated that he has heard some encouraging things today regarding this proposal. He indicated that the Brady Heights Board is not in favor of this tower and the new information submitted today might mitigate some of the concerns, but it is last-minute. Mr. Burkhart requested that the Planning Commission continue this application in order to allow the developer and the residents to meet. Mr. Burkhart asked why the applicant didn't approach one of the tall buildings in downtown Tulsa to locate the tower on.

Bill Sawyer, 701 North Denver, Tulsa, Oklahoma 74106, stated that he concurs with the previous speakers. He agrees with the suggestion to continue this application. He questioned why the tower couldn't be located in the Gilcrease Hills area.

TMAPC Comments:

Mr. Westervelt asked Mr. Elder if he had overhead utility lines. In response, Mr. Elder answered affirmatively.

Mr. Boyle asked Mr. Coutant if he would agree to a two-week continuance to meet with the residents. In response, Mr. Coutant stated that he would agree to the two-week continuance, but the meeting will not be of value if the residents want to suggest other site locations for the subject tower. Mr. Coutant commented that he would be happy to meet with the neighbors to discuss the application.

Mr. Midget stated that it may be effective to meet with the neighbors, and the Planning Commission does encourage developers and neighborhoods to work out these types of issues.

TMAPC Action; 9 members present:

On **MOTION** of **HORNER**, the TMAPC voted **4-5-0** (Boyle, Harmon, Horner, Ledford, "aye"; Midget, Hill, Jackson, Pace, Westervelt "nays"; none "abstaining"; Carnes, Selph "absent") to recommend **APPROVAL** of the major amendment for PUD-193-A subject to the modification of the tower height to 80 feet, subject to detail site plan and landscaping plan approval by the TMAPC, and subject to the applicant meeting with the neighborhood to discuss issues.

Motion Failed.

After lengthy discussion it was determined to continue this application to April 18, 2001.

TMAPC Action; 9 members present:

On **MOTION** of **JACKSON**, the TMAPC voted **9-0-0** (Boyle, Harmon, Horner, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Selph "absent") to **CONTINUE** to continue PUD-193-A to April 18, 2001 in order to allow the developer and residents to discuss issues of concern.

OTHER BUSINESS:

APPLICATION NO.: PUD-613

Applicant: Ronald Spencer

Location: Southeast corner of East 53rd Street and South Lewis

DETAIL SITE PLAN

(PD-18) (CD-9)

Staff Recommendation:

Staff indicated that this item has been stricken.

APPLICATION NO.: PUD-587-A

DETAIL SITE PLAN

Applicant: Ted Sack

(PD-18) (CD-8)

Location: 83rd Street and South Urbana Avenue

Staff Recommendation:

The applicant is requesting detail site plan review for a gated entryway for a cul-de-sac on a private street on South Urbana Avenue.

Staff can recommend **APPROVAL** of the proposed gateway per the submitted site plan with the approval of Traffic Engineering and the Tulsa Fire Department.

Note: Detail site plan approval does not constitute sign or landscape plan approval.

The applicant indicated his agreement with staff's recommendation.

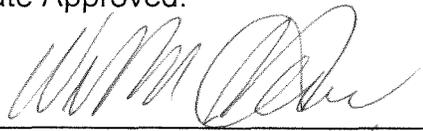
There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **BOYLE**, TMAPC voted **9-0-0** (Boyle, Harmon, Hill, Horner, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Selph "absent") to **APPROVE** the detail site plan for PUD-587-A, subject to conditions as recommended by staff.

There being no further business, the Chairman declared the meeting adjourned at 5:36 p.m.

Date Approved:



Acting Chairman

ATTEST: 

Secretary

