

# TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2272

Wednesday, April 25, 2001, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, April 23, 2001 at 11:10 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, 2<sup>nd</sup> Vice Chair Harmon called the meeting to order at 1:35 p.m.

## **Minutes:**

### **Approval of the minutes of April 4, 2001, Meeting No. 2270**

On **MOTION** of **HILL** the TMAPC voted 6-0-0 (Carnes, Harmon, Hill, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Boyle, Horner, Pace, Selph, Westervelt "absent") to **APPROVE** the minutes of the meeting of April 4, 2001, Meeting No. 2270.

## **REPORTS:**

### **Director's Report:**

Mr. Stump reported that there are several items on the City Council agenda for April 26, 2001.

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## SUBDIVISIONS

### LOT-SPLITS FOR WAIVER OF PRIOR SUBDIVISION REGULATIONS:

L-19207 Ben Hoos (362)

(PD-21) (County)

2524 West 181<sup>st</sup> Street South

#### Staff Recommendation:

The applicant has applied to split a 660' X 660' parcel into three tracts. All three tracts meet the AG bulk and area requirements. Because Tract B has a failing percolation test and Tract C does not have a passing percolation test, the applicant is asking for a waiver of Subdivision Regulation 6.5.4.(e) requiring a passing soil percolation test.

Staff has concerns regarding this application, including: it appears that Tract A currently has two mobile homes already, with another dwelling that is located within Tract B. Tract B has a lagoon system that needs further consideration.

Mr. Beach reminded the Planning Commission that staff is in the process of revising the Subdivision Regulations to reflect the standards of the Department of Environmental Quality (DEQ) that state "if the applicant meets the minimum of lot sizes, the DEQ will approve any variety of alternative onsite sewer systems". With this in mind the lots are large enough to accommodate a lagoon system, which is existing on Tract B, or other alternative systems.

Mr. Beach stated that there are other issues regarding this request. The line between the two tracts that front on 181<sup>st</sup> Street cuts through the middle of existing mobile homes and there has been no indication that the mobile homes will be removed. Staff would not want to see a lot-split line cutting through the middle of the mobile homes.

Mr. Beach stated that the other issue is that 27<sup>th</sup> West Avenue has not been dedicated or accepted by the County for public use and maintenance. Therefore, the southerly tract does not have frontage on a public street, which is a requirement. He concluded that there is a need for several variances from the County Board of Adjustment (CBOA) in order to accommodate this lot-split and there is also a need for some review and better conformance regarding the lagoon system. Staff doesn't know if the existing lagoon has ever been permitted.

Mr. Beach stated that with all of the issues regarding the requirements for street frontage, the lagoon system, sewer issues and the lot-split line being in the middle of two mobile homes, staff recommends **DENIAL** of the lot-split or an alternative to continue this application and allow the applicant to apply at the CBOA to obtain the relief needed and provide some evidence that the lagoon system has been permitted.

Mr. Beach indicated that the application filed did not supply the correct information in order to contact the applicant. He explained that staff has tried several times to contact the applicant; however, at this time there has been no contact. At this point, staff stands on their recommendation for denial.

**TMAPC Comments:**

Mr. Harmon asked Mr. Beach if staff is recommending denial rather than a continuance. In response, Mr. Beach answered affirmatively.

**Applicant was not present.**

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

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Carnes, Harmon, Hill, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Boyle, Horner, Pace, Selph, Westervelt "absent") to **DENY** the lot-split for waiver of Subdivision Regulations for L-19207 as recommended by staff.

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**FINAL PLAT:**

**The Park at Oak Grove II - (874)** (PD 19) (County)  
Southeast corner of East 131<sup>st</sup> Street and South Garnett Road

**Staff Recommendation:**

This plat consists of 60 lots in four blocks on 62.34 acres. It will be developed as a single-family residential neighborhood. It is surrounded by single-family residential uses and vacant land zoned RS and AG.

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

**The applicant indicated his agreement with staff's recommendation.**

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

**TMAPC Action; 6 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **6-0-0** (Carnes, Harmon, Hill, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Boyle, Horner, Pace, Selph, Westervelt "absent") to **APPROVE** the final plat for The Park at Oak Grove II as recommended by staff.

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## **CONTINUED ZONING PUBLIC HEARING**

**APPLICATION NO.:** PUD-431-B

**MAJOR AMENDMENT**

**Applicant:** William LaFortune

(PD-26) (CD-8)

**Location:** West of the southwest corner of East 101<sup>st</sup> Street and South Sheridan Road

### **Staff Recommendation:**

PUD-431-A was approved by the Tulsa City Council in October of 1993. The PUD is located at the southwest corner of East 101<sup>st</sup> Street and South Sheridan Road. The PUD is divided into four development areas. Development Area A is located at the southwest corner of the intersection and has been developed as a May's Drug Store and Arby's restaurant. Development Area B is located south of Development Area A and is vacant. Development Area C is located on the west side of Development Area A and remains undeveloped although uses included within Use Units 10, 11, 12 and 14 have been approved for Development Area C. Development Area D wraps around the western and southern boundaries of Development Areas A, B and C. Development Area D is undeveloped but has been approved for uses permitted by right within a CS district, excluding uses included within Use Unit 12-A, dance hall and liquor store within the South 190 feet. One of the conditions of approval for PUD-431-A was that direct access to 101<sup>st</sup> Street from Development Areas A and C shall only be from one common drive located between Development Areas A and C.

This Major Amendment applies only to Development Area C and proposes the following:

1. Add, as an additional permitted use for Development Area C, a convenience store as included within Use Unit 13.
2. Allow direct access to East 101<sup>st</sup> Street South from Development Area C.

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-431-B, 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-431-B subject to the following conditions:

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.
2. Requirements of PUD-431-A apply unless modified below.
3. **Development Standards:**

Land Area (Net): .8936 Acres

Permitted Uses: Those uses included within Use Units 10, 11, 12, 14 and a convenience store as included within Use Unit 13.

Maximum Building Floor Area: 7,200 SF

Minimum Building Floor Area: 1,500 SF

Maximum Building Height: 35 FT

Maximum Number of Stories: 1 ½

Minimum Building Setbacks:

From the Centerline of 101<sup>st</sup> Street 175 FT

From other Development Area Boundaries 10 FT

Off-Street Parking: As required by the applicable use unit of the Tulsa Zoning Code.

Signs: One ground sign shall be permitted which shall not exceed 180 SF of display surface area and 16 FT in height.

Wall signs shall not exceed an aggregate display surface area of one square foot for each lineal foot of building wall to which attached. Wall signs shall not exceed the height of the building. No flashing or intermittently lighted signs are permitted and there shall be no wall signs on the west-facing walls.

Minimum Landscaped Area: 10% of net lot area.

Access: There shall be a maximum of ~~two~~ one access point to 101<sup>st</sup> Street. ~~One of these two access points which shall be a common mutual access located between Development Areas A and C and Development Area C may share the existing access allocated to Development Area D.~~ All access points shall be approved by Traffic Engineering.

Other Bulk and Area Requirements: As established within a CS district.

4. Each lot in the PUD shall have vehicular access to all other lots in the PUD through the use of mutual access easements.
5. 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.
6. 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. A landscaped area of not less than 20 feet in width (exclusive of right-of-way) shall be provided along the 101<sup>st</sup> Street frontage excepting points of access and shall include a landscaped berm with a minimum height of three or four feet above the grade of abutting parking areas. The height of the berm will be determined at detail site plan review.
7. 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.
8. 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.

9. Lighting used to illuminate an off-street parking area shall be so arranged as to shield and direct the light away from properties within an R district. Shielding of such light shall be designed so as to prevent the light-producing element of the light fixture from being visible to a person standing in an R district. No light standard nor building-mounted light shall exceed 15 feet in height.
10. The Department of 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.
11. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets or if the City will not inspect, then a registered professional engineer shall certify that the streets have been built to City standards.
12. 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.
13. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process, which are approved by TMAPC.
14. 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.
15. 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:**

**William LaFortune**, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, submitted an exhibit packet (Exhibit A-1) and stated that he is representing the Git-n-Go Corporation for a proposed convenience store in Parcel C of PUD-431-B. He explained that the relief requested is to add an additional permitted use, convenience store use as provided for under Use Unit 13, to Parcel C only. This is an older PUD, which is located west and south of the intersection of 101<sup>st</sup> and South Sheridan Avenue. Parcels A and C are the only parcels of importance today, but Parcel D is very important as well.

Mr. LaFortune indicated that he is in agreement with staff recommendation for approval subject to the conditions imposed by staff with one minor exception. He stated that he would like to request a three-foot berm versus the four-foot berm staff has recommended. He commended staff for their recommendation and imposing a number of restrictions and setbacks that are for the protection of the neighborhood.

Mr. LaFortune reminded the Planning Commission that he requested a continuance at the last meeting in order to meet with the neighborhood. He indicated that there was a meeting at Mr. Rex Smith's home and he was able to show his proposal to the neighbors. He commented that the neighbors left more informed, but he doesn't think he changed their minds about protesting this application. He stated that there is a concession that Git-n-Go is willing to entertain for further protection of the neighborhood.

Mr. LaFortune stated that he feels this application should be approved for three principal reasons. The first reason is that the Use Unit 13 that is proposed is a use that is compatible and consistent with the uses that are already approved for Parcel A, C, and D. The second reason is that there are numerous safeguards and protections, which have been put in place by nature, the staff and self-imposed by the Git-n-Go. The third reason is that the proposed use at the subject location is compatible and in conformance with the Comprehensive Plan (Plan). This is a use that was contemplated by the Plan and is in accordance with the Plan. He summarized that these are three reasons why he believes that approval is appropriate.

Mr. LaFortune cited the history of the PUD and prior amendments to it. He stated that the current permitted uses for Parcels A, B and D will remain the same. He explained that the only difference in Parcel C is to add Use Unit 13, Convenience Store. What is significant regarding this PUD is that the Use Unit 13 is already allowed on Parcel A and D. He stated that the convenience store use he is proposing for Parcel C could go in this PUD as a matter of right to the west of the subject parcel, which would be closer to the neighborhood. Parcel D is unique because it allows all of the Use Units within a CS district except for a dance hall and liquor store, and the parcel is only in the south 190 feet of the PUD. The point is that there are convenience store uses already permitted on either side of the subject parcel. Parcel C allows Use Unit 14 as a permitted use, which includes liquor stores, automotive uses, etc., that could go in as a matter of right.

Mr. LaFortune stated that one of the issues discussed in the neighborhood meetings was locating the proposal south of Parcel B on Sheridan Avenue. He explained that Git-n-Go did look at that location, and because of some drainage and size issues, the engineer could not fit the convenience store at that location.

Mr. LaFortune stated that Git-n-Go is proposing to set back farther than required. Mr. LaFortune submitted photographs of the subject site and the views from different angles (Exhibit A-3). He explained that Git-n-Go would rather have the canopy, pumps, store and car wash closer to the street, but they have voluntarily and with staff's conditions moved these back. The setback from the centerline of 101<sup>st</sup> Street is, to the canopy, over 108 feet back. The store face is over 200 feet back, and the car wash is set back over 180 feet. Staff imposed a 20-foot landscaping area and the four-foot berm, which, in reality, will be over 70 feet of green and landscaped area between the centerline before the paved area and then additional paved area before the canopy. He commented that the setbacks are very significant and protective of the neighborhood.

Mr. LaFortune requested that the four-foot berm recommended by staff be lowered to three feet to improve the safety and vision of motorists are coming and going out of the subject site. He explained that his engineer has informed him that the headlights on an SUV are approximately 2.5 feet high, and if the berm is three feet, there is still the headlight protection and it adds another foot of visibility for motorists coming and going from the subject site. He stated that there is a substantial lineal footage of grassy area on the neighborhood side of 101<sup>st</sup> Street and the neighborhood has a six-foot privacy fence for protection. During the meeting with the neighbors the question was asked if Git-n-Go would be willing to install a masonry wall or gate for their neighborhood. He indicated that Git-n-Go is willing to install an eight-foot wooden privacy fence along 101<sup>st</sup> along the neighborhood boundary if the Planning Commission feels it is a necessary protection to guard against light and noise.

Mr. LaFortune indicated that the proposed convenience store is one of the smaller Git-n-Go convenience stores. He reiterated the large amount of green space that will be located between 101<sup>st</sup> Street and the canopy. He reminded the Planning Commission that the subject use is in conformance with the Plan and is an appropriate use. He indicated that the commercial development is to the east the full 660 feet, to the north 50 feet, and to the limits of the subject PUD, it would be 660 feet to the south. There are currently commercial uses existing in the subject area and this would be in conformance with the Plan to allow a convenience store use at the subject property. He stated that 15 out of 42 Git-n-Go stores are located off of the corner instead of on the corner.

Mr. LaFortune concluded that he gave three reasons for approval from a planning standpoint and the Planning Commission standpoint. This is an appropriate use for the subject location and he does concur with the staff recommendation except for the four-foot berm and requests that it be lowered to three feet.

**TMAPC Comments:**

Mr. Harmon indicated that the Planning Commission has received a petition with over 50 signatures opposing the subject application (Exhibit A-2). Mr. Harmon stated that there are several issues indicated on the petition. One of the concerns is the underground fuel storage tanks may be a hazard. In response, Mr. LaFortune stated that there are EPA standards and guidelines to prevent this to the neighborhood. Mr. LaFortune reminded the Planning Commission that if a gas service station went without any presentation to the Planning Commission, which it could under the PUD, there would be the same underground tanks closer to the neighborhoods. Mr. Harmon asked Mr. LaFortune if he believes the underground tanks represent a hazard. In response, Mr. LaFortune stated that the underground tanks do not represent a hazard because of the strict Federal guidelines.

Mr. Harmon stated that another concern of the petitioners is that a car wash would in operation 24 hours a day and have the potential to be noisy. Mr. LaFortune stated that the way to solve this concern is through the setback of the carwash, and Git-n-Go has already proposed to set the car wash back to satisfy this concern. Mr. LaFortune commented that another concern of the neighbors was the noise from the gas pumps. Mr. LaFortune indicated that there are two-inch speakers mounted at the pumps and they could be pointed away from the neighborhood. Mr. LaFortune stated that Git-n-Go felt that the setbacks would be protection from the noise. Mr. LaFortune stated that the noise would have to go over the setbacks proposed by Git-n-Go, the distance of 101<sup>st</sup> Street, another grassy area and over a privacy fence for it to be of concern. Mr. LaFortune stated that during the daytime with the noise already existing from the activities along 101<sup>st</sup>, the noise should not be an issue regarding the car wash, and the traffic for car washes late at night is fairly nil.

Mr. Ledford stated that he is concerned that the Planning Commission is asked to add Use Unit 13 to Parcel C, but not being asked to mitigate any of the offensive Use Units in Parcel D. Mr. Ledford asked Mr. LaFortune why some of the offensive Use Units should not be removed from Parcel D if the Planning Commission allows a Use Unit 13 within Parcel C. In response, Mr. LaFortune stated that the problem is that Roy Johnsen represents the owner of the Parcel D and the application is specifically for Parcel C. Mr. LaFortune indicated that he tried to reach Mr. Johnsen to discuss this issue and he doesn't know how the owner of Parcel D feels about giving up his uses. Mr. LaFortune stated that there are a number of other uses in addition to the convenience store that are probably more intrusive to the neighborhoods than a convenience store. Mr. LaFortune cited the various uses that could be permitted in the subject PUD. Mr. LaFortune commented that Commissioner Ledford is making a good point, but his client is hamstrung to some degree to authorize or agree to some condition he is suggesting. Mr. LaFortune stated that he is not sure how to address this issue when his client is an applicant has negotiated a contract for a parcel.

Mr. Carnes stated that there might be a trade-off is to allow Use Unit 13 in Parcel C instead of Parcel D.

**Interested Parties Comments:**

**Rex and Cheryl Smith**, President of the neighborhood association, 10016 South Maplewood Place, Tulsa, Oklahoma 74137, stated that there are 48 single-family dwellings with two entrances, both of which are on 101<sup>st</sup> Street. He indicated that drivers come through their neighborhood looking for exits to go back into other neighborhoods. He stated that all of the 48 homes that were occupied signed the petition against this application. Mr. Smith submitted letters opposing the subject application from interested parties who were unable to attend today's hearing (Exhibit A-2).

Mr. Smith stated that the neighborhood is not against progress, growth, change and convenience stores. The neighborhood is against the convenience stores being right behind his neighborhood and disturbing the harmony. He indicated that the PUD boundaries were drawn for a reason when it was first developed. The PUD was developed to maintain some type of sanctity in the neighborhood because it immediately aligns with the very back of his neighborhood.

Mr. Smith indicated that the proposal indicates another access to 101<sup>st</sup> Street that will be an inconvenience and danger to the neighborhood. The proposed entrance aligns with the neighborhood entrance and it will create a hazard to the neighbors and their children. He stated that the neighborhood association is without dues and cannot maintain a gate as suggested by the Git-n-Go Corporation.

Mr. Smith asked the Planning Commission if they would want a 24-hour convenience store straight across the entrance of their neighborhood. He requested the Planning Commission to deny this application and leave the PUD as it is currently.

Ms. Smith stated that there are a lot of retired families and young couples in the subject neighborhood. She commented that there are several children in the neighborhood who would be lured by the 24-hour convenience store and would cross 111<sup>th</sup> Street, which would be a hazard. The requested additional access would create confusion in the subject area and it is going to be a disaster. She stated that convenience stores are strong magnets to children and adults and no amount of landscaping and setback requirements will overcome this situation. A convenience store would infringe on the harmony of the subject neighborhood and place the children in harm's way. Ms. Smith requested the amendment not be approved and the original PUD lines remain in place.

**TMAPC Comments:**

Mr. Jackson pointed out that Parcel D is closer to the neighborhood and the requested use would be permitted by right. In response, Mr. Smith stated that he is aware of that. Mr. Smith explained that if the convenience store were in Parcel D, it wouldn't be aligned with the neighborhood entrances. Mr. Smith stated that his home backs up to 101<sup>st</sup> and he already listens to all of the traffic. He personally does not want the convenience store on the subject site because of the light and noise. Mr. Smith indicated that if the convenience store were permitted by right, he would prefer it be in Parcel D because of the entrance alignment. Mr. Jackson asked Mr. Smith if he thought there could be a mutual entrance for Parcel D and C in the same location as proposal Parcel C. Mr. Jackson stated that it would not be unusual for there to be a mutual access for Parcel C and D in the same location as that of the proposed convenience store, which would cause the same ingress/egress. Mr. Smith stated that if the proposal did move to the west and the access still lined up with the residential access, he doesn't know what he would do except move.

Mr. Midget asked Mr. Smith how long he has lived in the subject area. In response, Mr. Smith stated that he has lived there three years.

**Interested Parties Opposing PUD-431-B:**

**Mark Harris**, 3259 East 100<sup>th</sup> Place South; **Olivia Little**, 6223 East 100<sup>th</sup> Place, Tulsa, Oklahoma 74137; **Randall Coffman**, 10029 South Norwood, Tulsa, Oklahoma 74137; **Brad Sims**, 10028 South Norwood, Tulsa, Oklahoma 74137; **Greg Levenson**, representing Pecan Chase, 10132 South Maplewood, Tulsa, Oklahoma 74137;

**Interested Parties Concerns and Comments:**

Traffic congestion; access alignment problems; additional noise and lighting problems; would cause a saturation of convenience stores in the subject area; not in harmony with the subject neighborhood; hazard to the children in the neighborhood; disagree with the setbacks and the dba's of how the carwash will be diluted; value of homes will decrease; possibly of 72 vendors per day to service the store; noise from the speakers at the pumps may be heard in the neighborhood; would have to change the entire façade of the fence along the boundary to match the eight-foot fence the applicant is offering to install; if there is a limitation on left-hand turns from the subject property, then the cars will go straight and turn around in the neighborhood; always knew that there would be commercial development across the street and there was not a problem with that concept; however, thought it would be office use, restaurant or small retail business; object to a 24-hour a day business.

**TMAPC Comments:**

Mr. Midget stated that by right another convenience store could locate in Parcel D and the applicant wouldn't have to come before the Planning Commission, and if the Planning Commission were to deny this use, it would not solve the

neighbors' concerns and problems with this application. In response, Mr. Harris stated that if the applicant wants to put the convenience store in Parcel D, then that would be fine. Mr. Harris further stated that the applicant would not try to get in Parcel D because it wouldn't be profitable or they would have done it in the first place and not tried this application. Mr. Harris commented that he thinks the threat of having a convenience store in Parcel D is nothing but a smokescreen by the applicant.

Mr. Jackson stated that it may be a smokescreen; however, the applicant could buy Parcels C and D and put their gas services on Parcel C and their convenience store on Parcel D. Mr. Jackson commented that the neighborhood would be faced with the same issues. In response, Mr. Harris stated that this is an assumption at this point, but if they want to do that, then he will reserve his objections and comments if and when it ever happens.

Mr. Jackson asked Mr. Harris if the ingress/egress were limited to a single point of access with no left turn he would still have a problem. In response, Mr. Harris stated that he would still have a problem with this application. Mr. Harris commented that even without a left-hand turn, there would still be increased traffic in the eastbound lane, which will cause problems of turning left off of 101<sup>St</sup> Street into the neighborhood. Mr. Harris expressed concerns regarding leaving his neighborhood and being able to turn left or right whenever he would like to. In response, Mr. Jackson asked Mr. Harris if he realizes that the subject property would not remain undeveloped forever. Mr. Harris stated that he understood that possibility, and when he moved into the neighborhood, he knew that there was commercial property in various locations in and around the neighborhood. Mr. Harris indicated that he checked with the realtor regarding zoning before purchasing his home, and the subject property was zoned light commercial, which does not include convenience stores. Mr. Harris stated that he made a conscious decision to move into a neighborhood with the faith that he would be protected by the existing code and now someone is trying to alter this zoning that will affect his safety. Mr. Jackson asked Mr. Harris if he realized that a McDonald's or any fast food restaurant could go onto the subject site. In response, Mr. Harris answered affirmatively. Mr. Harris stated that a fast food restaurant would not create the traffic that a convenience store would because it would not be open 24-hours. Mr. Jackson asked Mr. Harris if he functioned after 10:30 p.m. In response, Mr. Harris stated that he is still functioning at 10:30 p.m., but he is not in and out of his neighborhood. Mr. Jackson asked Mr. Harris whether, if he left his home at 1:00 a.m., he thought that there would be a traffic problem turning left. Mr. Harris stated that there probably wouldn't be a problem turning left at 1:00 a.m., but anyone stealing gas could cause a problem in his neighborhood. Mr. Harris commented that if he left his home at midnight to get cold medicine it might tip a customer at the convenience store that there is someone who just left his house.

Mr. Jackson asked Ms. Little what type of commercial entity would she support. In response, Ms. Little stated that it is very realistic that her neighborhood hopes that medical and dental offices move into the subject property.

**Applicant's Rebuttal:**

Mr. LaFortune stated that Pecan Chase is part of PUD-431, and it is an example of a classic PUD where there is commercial, medium and then a buffer before reaching the residential area. There are no residences in the neighborhood across the street facing the subject site. He explained that the back yards of the homes face 101<sup>st</sup> Street and the homes on Norwood Avenue and Maplewood face east and west looking into each other. The interested parties recognized that they knew the subject area would be developed as commercial eventually.

Mr. LaFortune stated that if Parcel D were developed, the access point would be identical to the one proposed. He explained that if the access points are limited to one, then the Git-n-Go would have to share the access point with May's Drug Store. As a viable business, this could not be done and the second point of access would relieve the congestion in general along 101<sup>st</sup> Street. He indicated that in staff's revised recommendation, it is required that there be a mutual access between Parcel C and D.

Mr. LaFortune stated that in regard to safety of the children in the neighborhood, there is no one who isn't concerned about the safety of children. Regardless of the whether the children are going to Git-n-Go or whatever goes into the other two parcels, 101<sup>st</sup> Street is a barrier. The Comprehensive Plan was laid out with arterial streets, such as 101<sup>st</sup> Street, creating barriers between residential districts and commercial districts. It depends on what neighborhood one is talking about, whether it be the residential neighborhood or the commercial neighborhood that exists. He is requesting a light-to-medium use be allowed, which is appropriate under the zoning and Comprehensive Plan on the subject site, in the commercial neighborhood. The proposal would not disrupt the harmony because it is a commercial neighborhood.

Mr. LaFortune pointed out that some type of commercial could develop on the subject site as allowed, whether it is Git-n-Go or something else. He commented that the Git-n-Go stores have a quality business and have tried to meet and offer concessions, when possible, with the neighborhood.

Mr. LaFortune stated that the staff recommendation addresses the light issues, and if Git-n-Go does not conform there will not be any permits issued. In regard to the traffic, people will not come from miles around to go to the subject Git-n-Go. He explained that there is already a good traffic load on 101<sup>st</sup> and this is the type of store that people will stop and then go to their homes and business in the subject area. It would not increase the traffic load, but it is another way for the existing traffic load to have another use that is appropriate for the subject spot.

Mr. LaFortune stated that the speakers mounted by the pumps are two inches in size and do not create a blaring noise. He has been assured that with the setback the sound will not carry over into the neighborhood. The hours during which the speakers might be most objectionable to the neighborhood would be late at night, and there usually isn't that much business at that time.

Mr. LaFortune reminded the Planning Commission that the carwash has already been approved and could be developed by right and much closer than the proposed. Mr. LaFortune cited the various uses that could be developed on the subject site.

Mr. LaFortune requested the Planning Commission to approve the staff recommendation. He explained that his client does not own Parcel D and he is unable to swap out the Use Unit 13 uses as suggested by Commissioner Ledford. He stated that he is only requesting an approval for a convenience store as provided in Use Unit 13, not the gamut of all the Use Unit 13 uses.

**TMAPC Comments:**

Mr. Midget asked if there is any way to compromise and not have the business opened 24 hours. In response, Mr. LaFortune stated that this issue was discussed and it is not a matter of compromise as much as all of the stores are 24-hour operations, and it is a matter of policy. Mr. Midget asked Mr. LaFortune if the carwash had to stay open for 24 hours. In response, Mr. LaFortune stated that the whole development is a 24-hour unit. Mr. LaFortune reminded Mr. Midget that the carwash and gas uses are already approved uses with no hours of limitation.

Mr. Harmon asked Mr. LaFortune if the carwash could be located behind the convenience store. In response, Mr. LaFortune stated that the store has been pushed back as far as possible and it would be difficult to have the carwash behind the store. Mr. LaFortune explained that the store has given up a rear entrance in order to set the store back and away from the residential neighborhood as much as possible. Mr. LaFortune pointed out that there is an exit along the Arby's and May's building onto Sheridan.

**Allen Rengal**, Breisch and Associates, 16 South Main, Sand Springs, Oklahoma 74063, stated that typically Git-n-Go would like to have their carwashes up to the front building line, and in this case it would be 100 feet off of the centerline. He explained that the store wants a visual presence so that when people drive by they can see the store and carwash. He indicated how much closer the canopy could be to the right-of-way, but in the subject application the carwash is set back 193'. He explained that after meeting with the neighborhood, it was decided to move the carwash and store back from 101<sup>st</sup> Street and did away with the dual-entry store.

Mr. Harmon stated that it appears that the carwash could be put on the back lot line and traffic could still circulate through the carwash and exit. Mr. Ledford suggested that if the carwash can't be placed on the backside of the store, then the whole site plan could be flipped, which would put the carwash on the east side. Mr. Rengal stated that from an engineering standpoint, it could be done, but there is a mutual access with May's that he has to respect. Mr. LaFortune stated that if the carwash were moved behind the building, it would commercially kill the carwash. Mr. LaFortune pointed out that if the carwash is moved to the east side, it would have to be moved closer to the street by approximately ten feet because the carwash would be blocked by the May's Drugstore.

Mr. Carnes commented that if the Planning Commission approved the staff recommendation with a four-foot berm, then it would eliminate the noise issue regarding the carwash. Mr. Stump stated that if the applicant does get an approval for the access point on the west side of the property, then it would not have the berm in front of the carwash portion.

Mr. Harmon stated that he would be in favor of the carwash being moved to the east side and up closer by ten feet to the front. In response, Mr. LaFortune indicated that the applicant is in favor of that proposal as well.

Mr. Midget recognized Ms. Little.

Ms. Little requested clarification regarding the privacy fence proposed by the applicant.

Mr. Carnes stated that he would not vote for an eight-foot fence.

Ms. Little stated that the berm will not take care of the noise and the lighting will still encroach upon the residential homes.

Mr. Midget stated that he would like to vote against this application because it is more commercial, but it is difficult to do so because of the original PUD that was laid out 20 years ago. It is hard to find a reason to vote against this PUD because the same use could happen by right in Parcel D and it would create the same issues. By approving this use on Parcel C, the Planning Commission can provide some safeguards and make it less intrusive than what could happen.

Mr. Ledford stated that obviously Parcel C is the best location for the proposed development because it would be farther from the neighborhood. He expressed concerns with Parcel D and the uses that area still allowed in the PUD. He questioned the number of access points that would be allowed within the PUD along 101<sup>st</sup> Street. The concept plan only indicates two points of access onto 101<sup>st</sup> Street, but presently there would be a mutual access between May's Drugstore and the Git-n-Go on the east side and an additional access point on the west side. When Parcel D is developed it could be approved for another

access point, which would make three access points onto 101<sup>st</sup> Street or the access points could be limited across Parcels A, C and D to two. Mr. Ledford stated that currently it is indicated that Parcels A and C would share an access point and Parcels C and D would share an access point. Mr. Stump stated that there are currently three access points permitted onto Sheridan, and this would allow three access points onto 101<sup>st</sup> Street as well. Mr. Ledford stated that the Planning Commission would be allowing another access point that is not allowed within the PUD. Mr. Stump agreed. Mr. Ledford commented that the site plan could be flipped and the carwash put on the east side and moved up to the building line.

Mr. Carnes asked why the western access couldn't be moved to the dividing line. In response, Mr. Stump stated that it would be possible. Mr. Stump stated that it would need the same technique as that used on the east side of Parcel C (mutual access between Parcels C and D rather than inclusive to Parcel C).

Mr. Ledford stated that he would like to initiate the request to consider the removal of Use Unit 13 uses from Parcel D of the subject PUD.

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, the TMAPC voted **5-1-0** (Harmon, Hill, Ledford, Midget "aye"; Jackson "nay"; none "abstaining"; Boyle, Horner, Pace, Selph, Westervelt") to recommend **APPROVAL** of the major amendment for PUD-431-B subject to staff recommendation, subject to keeping the access point as a mutual access between Parcels C and A and allowing Development Area C to share the existing access allocated to Development Area D; subject to moving the carwash to the east side of the building and the north/south location to be determined upon site plan review; and determining the height of the berm of three to four feet upon detail site plan review.

Mr. Midget recognized Mr. LaFortune.

Mr. LaFortune requested clarification of the access points. Mr. Stump stated that the Planning Commission should defer to Traffic Engineering to determine the most appropriate location for the access point.

Mr. Carnes amended his motion.

**TMAPC Action; 6 members present:**

On amended **MOTION** of **CARNES**, the TMAPC voted **6-0-0** (Harmon, Hill, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Boyle, Horner, Pace, Selph, Westervelt") to recommend **APPROVAL** of the major amendment for PUD-431-B subject to staff recommendation, subject to keeping the access point as a mutual access between Parcels C and A and allowing Development Area C to share the existing access allocated to Development Area D, all access points shall be approved by Traffic Engineering; subject to moving the carwash to

the east side of the building and the north/south location to be determined upon site plan review; and determining the height of the berm of three to four feet upon detail site plan review.

**Legal Description for PUD-431-B:**

A tract of land all being part of the NE/4, Section 27, T-18-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, said tract being more particularly described as follows: the West 203.00' of the East 484.00' of the North 293.00' of the NE/4 of said Section, and located on the southwest corner of East 101<sup>st</sup> Street South and South Sheridan Road, Tulsa, Oklahoma, From PUD-431-A To PUD-431-B.

\* \* \* \* \*

**OTHER BUSINESS:**

**APPLICATION NO.:** AC-056 **ALTERNATIVE LANDSCAPE COMPLIANCE**

**Applicant:** Stephen Schuller (PD-18) (CD-2)

**Location:** North of the intersection of South Riverside Drive and Delaware Avenue

**Staff Recommendation:**

The applicant is requesting alternative compliance to Zoning Code landscaping requirements for a Quik Trip Store at Riverside Parkway and South Delaware Avenue. The request is for relief from the requirement to have a landscaped area of 30 square feet within 50 feet from every parking space, as it affects 21 spaces in front of the store.

Alternative Compliance allows the Planning Commission to review a proposed plan and determine that, although not meeting the technical requirements of the landscape chapter in the Zoning Code, the plan is equivalent to or better than the requirements.

Staff can agree that this particular site provides a good landscape plan for the size of the lot and the location of the site and recommends **APPROVAL** of the alternative compliance request per the site plan proposed.

**The applicant indicated his agreement with staff's recommendation.**

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

**TMAPC Action; 6 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **6-0-0** (Carnes, Harmon, Hill, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Boyle, Horner, Pace, Selph, Westervelt "absent") to **APPROVE** the alternative landscaping compliance for AC-056 as recommended by staff.

Mr. Ledford recommended that the TMAPC investigate the removal of Use Unit 12a, Adult Entertainment; Use Unit 13, Convenience Store; Use Unit 14, Liquor Stores, and Use Unit 19, Dancehalls, from Parcel D of PUD-431.

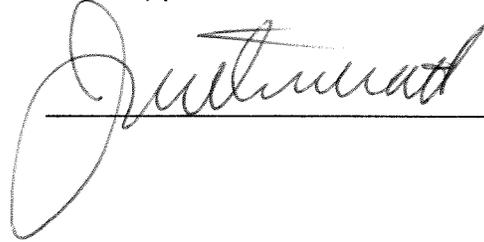
**TMAPC Action; 6 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **6-0-0** (Carnes, Harmon, Hill, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Boyle, Horner, Pace, Selph, Westervelt "absent") to **APPROVE** investigation of the removal of Use Unit 12a, Adult Entertainment; Use Unit 13, Convenience Store; Use Unit 14, Liquor Stores, and Use Unit 19, Dancehalls, from Parcel D of PUD-431.

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There being no further business, the Chairman declared the meeting adjourned at 3:33 p.m.

Date Approved:



Chairman

ATTEST:



Secretary

