

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2273

Wednesday, May 2, 2001, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, April 30, 2001 at 11:00 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 1:35 p.m.

REPORTS:

Chairman's Reports:

Mr. Westervelt reported that there has been a timely request for a continuance for Z-6814/PUD-650 to May 16, 2001.

TMAPC Action; 6 members present:

On **MOTION** of **HORNER**, the TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to **CONTINUE** Z-6814/PUD-650 to May 16, 2001 at 1:30 p.m.

Director's Report:

Mr. Stump stated that there are several items on the City Council agenda for Thursday, May 3, 2001 at 6:00 p.m.

SUBDIVISIONS

PRELIMINARY PLAT:

Trinity Park East – (3304) (PD-16) (CD-6)
South of Pine Street and east of 129th East Avenue

Staff Recommendation:

GENERAL

The site is located on the north side of I-244, east of 129th East Avenue. It is bounded on the east by the west by the Trinity Park Addition and is an extension of the Willie George Ministries development in the area.

Scattered uses in the IL and AG districts are located to the north and east; church-related uses and land are to the west and southwest.

STREETS

Latimer Street runs east/west through the Trinity Park Addition from 129th East Avenue and terminates at the western boundary of this addition. The plat indicates that the intent is to vacate Latimer Street. A mutual access easement is to be dedicated through Trinity Park to provide access to Trinity Park East. The exact location of this easement is not shown.

The request for special exception to allow church use in the IL district and the variance to allow an IL lot with no public access will be in front of the BOA on the 24th. This plat will not go to the Planning Commission until the issue has been addressed.

SEWER

The site will connect to the area to the west. Easements are shown.

WATER

The site will connect to the area to the west. No specific easements are shown.

STORM DRAIN

City of Tulsa regulatory floodplain is shown on the plan.

UTILITIES

The site is be bounded by a proposed utility easement.

Staff provides the following information from TAC.

GENERAL:

Cotner, PW: the legal description on the face of the plat should match the legal description in the covenants.

STREETS:

Staff, explained the applicant's intent to vacate the existing Latimer Street and the pending hearing before the BOA to allow 0' of frontage on an IL parcel.

Somdecerff, Traffic: no comment.

French, Streets: the proposed mutual access should be located to the south of the floodplain.

SEWER:

Payne, PW: noted that the 17.5' utility easement in the south should be outside the 30' sanitary sewer easement.

WATER:

Holdman, PW: the location and alignment of the restricted 20' waterline easement should be clarified.

STORM DRAINAGE:

McCormick, PW: easement should be laid over the existing floodplain.

FIRE:

Calkins, Fire: no comment.

UTILITIES:

No comment.

Staff recommends APPROVAL of the preliminary plat subject to the following:

WAIVER OF SUBDIVISION REGULATIONS:

None.

SPECIAL CONDITIONS:

1. The legal description on the face of the plat and the in the covenants should match.
2. Location of the mutual access should be to the satisfaction of the Public Works Department.
3. Utility easements should be moved outside of the 30' sanitary sewer easement.
4. The location of the 20' restricted water line easement should be clarified to satisfaction of the Public Works Department.

5. The area of the plat within the floodplain should be overlain with an easement.
6. The plat shall be tied to the Trinity Park Plat through tie agreement or amendment of the Trinity Park Plat.

STANDARD CONDITIONS:

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topo map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the Public Works Department.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.

12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
15. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
16. The key or location map shall be complete.
17. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
18. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
19. Applicant is advised to of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
20. If the owner is a Limited Liability Corporation (L.L.C.), a letter from an attorney stating that the L.L.C. is properly organized to do business in Oklahoma is required.
21. All other Subdivision Regulations shall be met prior to release of 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 **HORNER**, TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to **APPROVE** the preliminary plat for Trinity Park East, subject to special conditions and standard conditions as recommended by staff.

* * * * *

Megami Addition – (PUD 498-B) (784) (PD 18) (CD 8)
Southwest corner of East 73rd Street South and 101st East Avenue

Staff Recommendation:

This plat consists of one lot in one block on 1.25 acres. It will be developed with hotel uses.

The following were discussed **April 19, 2001** at the Technical Advisory Committee (TAC) meeting:

1. Zoning:

The PUD Amendments allow hotel and hotel accessory uses excluding bars, restaurants, or retail. Maximum floor area is 35,000 SF in three stories. The written covenants and the setbacks shown on the plat are consistent with the PUD.

2. Streets/Access:

There are no internal streets or access easements. The PUD states that access will be as approved by the Traffic Engineer. The concept plan submitted with the PUD shows two access drives on 73rd Street. They straddle the existing drive between Lowe's and the Baby Store across the street.

Somdecerff, Transportation, stated that the covenants should be changed to dedicate the street rights-of-way instead of the streets.

3. Sewer:

An eight-inch sanitary sewer is shown along the west end of the property and cutting northeasterly across 73rd Street.

There were no comments or concerns.

4. Water:

Water appears available from any side. The most likely source seems to be a 10" line adjacent along the north property line.

There were no comments or concerns.

5. Storm Drainage:

The site generally drains to its northeast corner into a 36" RCP. There is a 40' drainage easement running diagonally through the middle of the site.

McCormick, Stormwater, stated that storm sewer work will be done in a PFPI and new easements would be needed.

Marrara, applicant, stated that the existing drainage easement will be vacated.

6. Utilities:

A 17.5' U/E is proposed along the south and west property lines, parallel to an existing 11' U/E adjacent off-site.

Bryant, PSO, requested a 15' U/E along the property lines abutting the two streets.

7. Other:

There were no other comments or concerns.

Staff recommends approval of the preliminary plat subject to the conditions below.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. Change covenant language to properly dedicate the street rights-of-way.
2. Dedicate easements for storm sewer as required by Department of Public Works.
3. Add 15' utility easement along the north and east property lines.
4. Add 25' radius to the northeast corner of the subject property.

Standard Conditions:

1. All conditions of PUD 498-B shall be met prior to release of the final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to applicable sections of the Zoning Code in the covenants.
2. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
3. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
4. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).
5. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
6. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
7. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
8. A topo map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
9. Street names shall be approved by the Public Works Department and shown on plat.
10. All curve data, including corner radii, shall be shown on final plat as applicable.
11. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
12. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
13. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
14. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.

15. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
16. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
17. The method of water supply and plans therefor shall be approved by the City/County Health Department.
18. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
19. The key or location map shall be complete.
20. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
21. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
22. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
23. All other Subdivision Regulations shall be met prior to release of 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 **HARMON**, TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to **APPROVE** the preliminary plat for Megami Addition, subject to special conditions and standard conditions as recommended by staff.

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Birmingham Square Addition – (PUD 649) (2093) (PD 6)(CD 9)
West of the intersection of 33rd Street and South Birmingham Avenue

Staff Recommendation:

Mr. Beach stated that staff is recommending continuance of this plat because the PUD has not been approved by the City Council and therefore, there is no zoning change that would trigger a platting requirement.

Interested Parties Comments:

Charles Jenkins, 2005 South Greenwood, Fort Smith, Arkansas, 72901, stated that he owns the property located at 3218 South Birmingham, Tulsa, Oklahoma. He explained that there are some drainage issues and the northwest corner was to be left fallow or a drainage holding area.

TMAPC Action; 6 members present:

On **MOTION** of **HORNER**, TMAPC voted 6-0-0 (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to **CONTINUE** the preliminary plat for Birmingham Square Addition to May 16, 2001.

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FINAL PLAT:

Calvary United Pentecostal Church – (0294) (PD-17) (CD-6)
Southwest of East Admiral Place and South 177th East Avenue

Staff Recommendation:

This plat consists of one lot in one block on 18.9 acres. It will be developed as a church. The Board of Adjustment approved church use on the property in June 1998 in Case Number 18046.

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 **HORNER**, TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to **APPROVE** the final plat for Calvary United Pentecostal Church as recommended by staff.

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PLAT WAIVER:

C-1838 – (2191)

(PD-23) (County)

Southwest of West 31st Street South and South 137th West Avenue

Staff Recommendation:

This property was approved 4/17/01 for a bed and breakfast by the County Board of Adjustment. This approval of a Use Unit 2 triggered the platting requirement.

The following information was provided at the TAC meeting of 4/19 /01.

STREETS:

Rains, County Engineer: South 137th West Avenue is a secondary arterial with a minimum right-of-way of 100 feet. South 145th West Avenue is a residential collector with a minimum right-of-way of 60 feet. Dedication of 50 feet would be required along 137th West Avenue and 30 feet along 145th West Avenue.

SEWER:

Applicant: Property is served by septic systems.

WATER:

No comments.

STORM DRAIN:

Rains, County Engineer: No concerns or requirements

FIRE:

No comments.

UTILITIES:

No comments.

Based on the intensity of the development and the single separate instrument for dedication of right-of-way identified in the checklist below, staff recommends **APPROVAL** of the request for plat waiver with the following conditions:

1. Dedication of right-of-way to meet the requirements of the Major Street and Highway Plan.
2. Current ALTA/ACSM/NSPS Land Title Survey (and as subsequently revised) shall be prepared in a recordable format and filed at the County Clerk's office.

It shall be the policy of the Tulsa Metropolitan Area Planning Commission that all requests for plat waivers shall be evaluated by the staff and by the Technical Advisory Committee based on the following list. After such evaluation, TMAPC Staff shall make a recommendation to the TMAPC as to the merits of the plat waiver request accompanied by the answers to these questions:

A YES answer to the following 3 questions would generally be FAVORABLE to a plat waiver:

	Yes	NO
1. Has Property previously been platted?		X
2. Are there restrictive covenants contained in a previously filed plat?		X
3. Is property adequately described by surrounding platted propertie or street R/W?		X

A YES answer to the remaining questions would generally NOT be favorable to a plat waiver:

4. Is right-of-way dedication required to comply with major street and highway Plan?	X	
5. Will restrictive covenants be filed by separate instrument?	X	
6. Infrastructure requirements:		
a) Water		
i. Is a main line water extension required?		X
ii. Is an internal system or fire line required?		X
iii. Are additional easements required?		X
b) Sanitary Sewer		
i. Is a main line extension required?		X
ii. Is an internal system required?		X
iii. Are additional easements required?		X
c) Storm Sewer		
i. Is a P.F.P.I. required?		X
ii. Is an Overland Drainage Easement required?		X
iii. Is on site detention required?		X
iv. Are additional easements required?		X
7. Floodplain		
a) Does the property contain a City of Tulsa (Regulatory) Floodplain?		X

	YES	NO
b) Does the property contain a F.E.M.A. (Federal) Floodplain?		X
8. Change of Access		
a) Are revisions to existing access locations necessary?		X
9. Is the property in a P.U.D.?		X
a) If yes, was plat recorded for the original P.U.D.		X
10. Is this a Major Amendment to a P.U.D.?		X
a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?		X

If, after consideration of the above criteria, a plat waiver is granted on *unplatted* properties, a current ALTA/ACSM/NSPS Land Title Survey (and as subsequently revised) shall be required. Said survey shall be prepared in a recordable format and filed at the County Clerk's office.

TMAPC Comments:

Mr. Westervelt asked staff why they are supporting this plat waiver with the three negative marks on the first portion of the plat waiver. In response, Mr. Beach stated that the intensity of the proposed development is very low and the only two separate instruments required would be dedications, which could be held in one dedication of the right-of-way on the two streets. The property has never been platted, but the purpose of platting is to define the property clearly and this could be accomplished through the ALTA survey as an alternative to the plat.

The applicant was not present.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to **APPROVE** the plat waiver for C1838 as recommended by staff.

ZONING PUBLIC HEARING

APPLICATION NO.: Z-6815

Applicant: Charles Norman

Location: South side of West 22nd Place between South Nogales and South Maybelle Avenue

CH/OL TO CH

(PD-9) (CD-2)

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-6323 May 1991: All concurred in approval of a request to rezone a residential area that is located between West 23rd Street and West 25th Street, Maybelle Avenue and Southwest Boulevard and south of the subject tract, from RM-1 to RS-3.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.63 acres in size and is located on the north side of West 23rd Street South between South Maybelle Avenue and South Nogales Avenue. The property is flat, non-wooded; contains a vacant manufacturing building, offices, and parking lot and is zoned OL and CH. The subject property is the north part of an existing manufacturing building and existing accessory parking.

STREETS:

Existing Access	MSHP R/W	Exist. No. Lanes	Surface
West 23 rd Street South	100'	4 lanes	Paved
South Nogales Avenue	N/A	2 lanes	Paved

The Major Street Plan designates West 23rd Street as a secondary arterial street and South Nogales as a residential street. The City of Tulsa County traffic counts 1998 – 1999 indicate 15,900 trips per day on West 23rd Street South at the intersection of Southwest Boulevard.

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

SURROUNDING AREA: The subject tract is the north part of an existing manufacturing building, the northern part being the parking lot originally used in conjunction with the manufacturing business. To the north and east are apartments, zoned RM-2; to the west a nonconforming storage and parking for trailers and race cars, zoned RM-1; to the southwest by a Sonic Drive-In restaurant; and to the south across West 23rd Street is another drive-up restaurant, zoned CH.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 9 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property as Low Intensity – No Specific Land Use and Medium Intensity – No Specific Land Use.

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

STAFF RECOMMENDATION:

Based on existing and proposed development in the area, and the previous use of the property as a part of a manufacturing business, staff can support the requested rezoning and recommends **APPROVAL** of CH zoning for Z-6815. If the TMAPC is inclined to recommend approval of this rezoning request, they should direct staff to prepare appropriate amendments to the District 9 Plan.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that the legal description was difficult to develop because the only legal calls were on the Atlas sheet. He indicated that he advertised a slightly larger area than the unzoned area to make certain that the noticing was correct. Mr. Norman concluded by requesting the Planning Commission to approve the CH zoning.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to recommend **APPROVAL** the CH zoning for Z-6815 as recommended by staff.

Legal Description for Z-6815:

North 65' of Lots 1 through 5, Block 40, and all of Lots 6, 7, 8, and 9, Block 40, West Tulsa Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, and the North 75' of Lots 2 and 3, Block 4, First Refinery Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, **From OL and CH (Office Low Intensity District and Commercial High Intensity District) To CH (Commercial High Intensity District).**

APPLICATION NO.: Z-6816

RM-0/RS-3 TO AG/RS-3

Applicant: Sandra Mora

(PD-17) (CD-6)

Location: North and east of the northeast corner of East 41st Street and South 177th East Avenue

Staff Recommendation:

RELEVANT ZONING HISTORY:

None.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 11.06 acres in size and is located on the northeast corner of East 41st Street and South 177th East Avenue. Sloping, partially wooded, vacant and zoned RM-0 and RS-3.

STREETS:

Existing Access	MSHP R/W	Exist. No. Lanes	Surface
East 41 st Street South	100'	2 lanes	Paved
South 177 th East Avenue	100'	2 lanes	Paved

The Major Street Plan designates East 41st Street South and South 177th East Avenue as secondary arterial streets. The City of Tulsa traffic counts 1998 – 1999 indicate 5,200 trips per day on South 177th East Avenue at the intersection of East 41st Street.

UTILITIES: Water is available to the subject property and sewer will be by private septic or lagoons.

SURROUNDING AREA: The subject tract is abutted on the north by a single-family dwelling and on the east and west by vacant land, zoned AG; to the south the property is abutted by vacant land, zoned RS-3, RM-0 and CS.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 17 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the area as Low Intensity – No Specific Land Use.

According to the Zoning Matrix the requested AG zoning **is** in accordance with the Plan Map and the requested RS-3 zoning **is** also in accordance with the Plan Map.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan and existing development, staff can support the requested rezoning and recommends **APPROVAL** of AG and RS-3 for Z-6816.

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**, the TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to recommend **APPROVAL** AG and RS-3 zoning for Z-6816 as recommended by staff.

Legal Description for Z-6816:

North 300' of the South 767' of the West 767' of the SW/4, SW/4, Section 24, T-19-N, R-14-E, Tulsa County, Oklahoma, **From** RM-0 (Residential Multifamily Lowest Density District) **To** AG (Agriculture District). And The East 300' of the West 767' of the South 467' of the SW/4, SW/4, Section 24 T-19-N, R-14-E, Tulsa County, Oklahoma, **From** RM-0 (Residential Multifamily Lowest Density District) **To** RS-3 (Residential Single-family High Density District). And The SW/4, SW/4, Section 24, T-19-N, R-14-E, Tulsa County, less and except the North 300' of the South 767' of the West 767' and less and except the South 467' thereof, Section 24, T-19-N, R-14-E, Tulsa County, Oklahoma, **From** RS-3 (Residential Single-family High Density District) **To** AG (Agriculture District).

APPLICATION NO.: Z-6817

RS-3 TO RM-1

Applicant: Gordon Pulis

(PD-3) (CD-3)

Location: South and east of southeast corner of East Woodrow Place and North Harvard Avenue

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-6372 October 1992: A request to rezone a 16-acre residential tract which was a 300' strip lying between a large IM-zoned tract on the north and RS-3 development on the south, from RS-3 to IM or OL. This tract is located south and west of East Apache Street and South Harvard Avenue. The Comprehensive Plan designated the strip as Low Intensity – Residential. Staff and TMAPC agreed that it was unlikely to develop residentially and recommended PK zoning on the tract. All concurred in approval of PK zoning that provided a buffer to the residences on the south and additional parking for the industrial use on the north. The property is located south and west of East Apache Street and South Harvard Avenue.

AREA DESCRIPTION:

SITE ANALYSIS: The property is vacant (except for some trash and debris that have apparently been dumped there), partially wooded, generally flat but with a relatively large draw that slopes to the east, and zoned RS-3. North Jamestown Avenue stubs into the property and abuts it on the eastern boundary.

STREETS:

Existing Access	MSHP R/W	Exist. No. Lanes	Surface
North Harvard Avenue	100'	4 lanes	Paved
East Woodrow Street	N/A	2 lanes	Paved

The Major Street Plan designates North Harvard Avenue as a secondary arterial street and East Woodrow Street North as a residential street. The City of Tulsa traffic counts 1998 – 1999 indicate 11,100 trips per day on North Harvard Avenue at 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 west by a Braum's store, zoned CS; on the north, east, and southeast by single-family dwellings, zoned RS-3; and to the south by a church, zoned RS-3. The Braum's store on the west provides access from North Harvard Avenue to the subject tract.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 3 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the area as Low Intensity – Residential Land Use.

According to the Zoning Matrix the requested RM-1 zoning **may be found** in accordance with the Plan Map.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan and existing uses, staff can support the requested rezoning and recommends **APPROVAL** of RM-1 for Z-6817.

There were no interested parties wishing to speak.

TMAPC Comments:

Mr. Midget asked staff if vehicles would be able to access through Woodrow into the neighborhood. In response, Ms. Matthews stated that the access is off of Harvard. Ms. Matthews explained that the staff has found that mini-storages tend to be less intrusive in residential areas and are very good for transitions. Ms. Matthews stated that people do not spend a lot of time at their storage units and do not come at peak hours and leave at peak hours.

Mr. Stump stated that the Planning Commission could put the applicant on notice that during the platting process it would be recommended that there be no access onto Jamestown. Mr. Westervelt agreed with Mr. Stump's statement.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, the TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to recommend **APPROVAL** the RM-1 zoning for Z-6817 as recommended by staff. **Note:** The Planning Commission is putting the applicant on notice that there would be an LNA along Jamestown during the platting process.

Legal Description for Z-6817:

The N/2, SW/4, SW/4, NW/4 of Section 28, T-20-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, less and except the following described property, to-wit: beginning 658.42' East of the Northwest corner of the SW/4, SW/4, NW/4 of said Section 28; thence South and parallel to the West line of said Section 28, a distance of 194' to a point, said point being 658.42' East and 194' South of said Northwest corner; thence West and parallel to the North line of said Section 28, a distance of 25' to a point, said point being 633.42' East and 194' South of said Northwest corner; thence North and parallel to the West line of said Section 28, a distance of 194' to a point, said point being 633.42' East of said Northwest corner; thence East and parallel to the North line of said Section 28, a distance of 25' to the Point of Beginning, less and except Braum's Second Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, located in the N/2, SW/4, SW/4, NW/4, Section 28, T-20-N, R-13-E of the IBM, and located south of the southeast corner of East Woodrow Street North and North Harvard Avenue, Tulsa, Oklahoma, **From** RS-3 (Residential Single-family High Density District) **To** RM-1 (Residential Multifamily Low Density District).

* * * * *

APPLICATION NO.: PUD-405-15
Applicant: Dickson Gunn
Location: 7223 East 92nd Street South

MINOR AMENDMENT
(PD-18) (CD-8)

Staff Recommendation:

The applicant is requesting an amendment of a rear yard requirement from 20 feet to 13 feet on Lot 17, Block 1, South Springs Addition, for a new residential room addition. A request for an amendment to allow an 11-foot rear setback for a room addition on the site was denied on March 21, 2001.

The applicant has revised his plans to propose a longer residential room addition (40 feet instead of the original 33 feet proposed), which would extend into the required 20-foot setback by seven feet, leaving a 13-foot rear yard behind the room addition.

Staff has reviewed the request for a minor amendment and recommends **DENIAL** of the amendment per the submitted site plan. The proposed addition to the rear yard would take up a considerable part of the required back yard. Should the Commission determine that the amendment is appropriate with the revisions to the proposal as submitted, then staff recommends that the conditions as proposed by the applicant be part of the approval including:

1. Limit the height of any expansion into the rear yard to be single-story, and demonstrate on a drawing that the height matches existing structure.
2. Design the roof to slope away from the rear property line, constructed in the hipped roof design consistent with a majority of the adjacent homes.
3. The amendment be approved per the elevations and site plan submitted.

Applicant's Comments:

Dickson Gunn, 4119 East 30th Street, Tulsa, Oklahoma 74114, stated that the information submitted focuses on how he is trying to comply with staff's concerns. Mr. Gunn reviewed the photographs submitted with the application. He indicated that the owners of the subject property discussed this application with the homeowners association and a letter has been submitted with the subject application indicating their support. He stated that all of the surrounding neighbors are in support of the proposed addition.

Mr. Gunn stated if he applied for a detached structure, it would be allowed closer to the fence, but this is an addition to the home and it would not be as close to the fence as a detached structure.

TMAPC Comments:

Mr. Westervelt asked Mr. Gunn if he agrees with the three conditions that staff has recommended. In response, Mr. Gunn stated that he would comply with all three conditions.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to **APPROVE** the minor amendment for PUD-405-15, subject to conditions as recommended by staff.

APPLICATION NO.: Z-6818

Applicant: John Moody

Location: East of northeast corner of East 41st Street and South Harvard Avenue

RS-3 TO OL

(PD-6) (CD-7)

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-6804/PUD-592-A March 2001: A request to rezone a 2.09-acre RS-3 portion of the PUD to OM and amend the entire Planned Unit Development to add funeral home use. Staff recommended approval subject to modifications of the proposed standards. TMAPC denied the request. The applicant withdrew the application prior to consideration by the City Council.

PUD-592 August 1998: A request to rezone the subject tract from CH and RS-3 zoning to a PUD to allow two existing developments to share parking through a cross-parking easement. One parcel contained a church, day nursery, parsonage and residence; the other parcel contained a movie, video, and stage production company. The PUD was approved subject to modifications and conditions established during the TMAPC public hearing.

BOA-17925 February 1998: A request for a variance to meet parking requirements on a lot other than where the principal use is located; the property included in this request was the subject property. The request was filed by owners of the northernmost tract; the lots to be used as additional parking were the southern tract owned by the existing church and zoned RS-3. The Board of Adjustment denied the request.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.34 acres in size and is located east of the northeast corner of East 41st Street South and South Harvard Avenue. The property is gently sloping; non-wooded; contains a church, children's nursery, residence, and related parking, and is zoned RS-3/PUD-592.

STREETS:

<u>Existing Access</u>	<u>MSHP R/W</u>	<u>Exist. No. Lanes</u>	<u>Surface</u>
East 41 st Street South	100'	4 lanes	Paved
South Harvard Avenue	100'	4 lanes	Paved

The Major Street Plan designates East 41st Street South and South Harvard Avenue as secondary arterial streets. The City of Tulsa Traffic Counts 1998 – 1999, indicates 29,200 trips per day on South Harvard at East 41st Street South intersection.

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

SURROUNDING AREA: The subject tract is abutted on the north by an office use, zoned CH and PUD 592 and single-family dwellings, zoned RS-3; to the south by single-family dwellings, zoned RS-1 and vacant property, zoned RM-2 and CS; to the east by a church and church office, zoned RS-3; and to the southwest by an office and a convenience store, zoned CS.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 6 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the north tract of the subject property as Low Intensity – Residential.

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

STAFF RECOMMENDATION:

Although the requested OL zoning is not in accordance with the Comprehensive Plan, due to the surrounding existing uses and zoning, staff would recommend **APPROVAL** of the OL zoning for Z-6818 if the Planning Commission finds PUD-592-B to be satisfactory.

If the Planning Commission is inclined to approve the requested OL zoning and PUD-592-B, staff should be directed to prepare appropriate changes to the District 6 Plan.

RELATED ITEM:

APPLICATION NO.: PUD-592-B RS-3/CS/CH/PUD TO RS-3/OL/CS/CH/PUD-592-A

Applicant: John Moody (PD-6) (CD-7)

Location: North and east of northeast corner of East 41st Street and South Harvard Avenue

Staff Recommendation:

PUD-592 was approved in August 1998 to allow two existing developments to share parking through a cross-parking easement. One Development Area contained a church, day nursery, parsonage and residence. The other Development Area housed a company that develops religious movies, videos and stage productions. Maximum building floor area was limited to the existing buildings with the provision that new construction may be allowed only if TMAPC approves a minor amendment. Permitted uses were limited to the existing uses and there were significant screening and parking standards to limit the impact on the abutting residentially zoned property.

A variance of the required off-street parking spaces was granted (Board of Adjustment (BOA Case No. 18181) in September of 1998. A total of 306 spaces were required for the combined office and church use. The BOA approved a variance to allow 210 parking spaces per PUD-592 and site plan. The BOA approval only applies to the existing uses and site plan. PUD-592-A was considered by TMAPC on February 28, 2001. TMAPC made no recommendation and the request was withdrawn by the applicant. The applicant has revised his request. The applicant is proposing that the existing daycare and other accessory buildings of the church be removed. A portion of the main church building, which presently encroaches into the building setback on East

41st Street, would also be removed. It is also proposed that the two existing buildings east of the church currently used for offices and a single-family dwelling would continue to be used for these purposes. The applicant is proposing changing the church use to funeral home use and also proposing to build an additional structure. Again a variance of the parking requirements might be needed from the Board of Adjustment. The underlying zoning for PUD-592 is CS, CH and RS-3. Concurrently, an application has been filed (Z-6818) to rezone a portion of the RS-3 zoned property to OL. The existing church development area consists of the south 278 feet ± of the PUD and has frontage along 41st Street. The existing Impact Productions development area consists of the north 237 feet ± of the PUD and has frontage on South Harvard Avenue.

The applicant is proposing three development areas. Development Area A consists of the existing Impact parcel and it is proposed that the existing uses continued to be permitted on that tract. Development Area B consists of the west 328 feet of the existing church parcel and it is proposed a funeral home be permitted on this tract. Development Area C consists of the east 281 feet of the existing church parcel and it is proposed that the existing residential and office uses be allowed to continue and also parking for Development Area A be permitted on this tract.

The subject tract is abutted on the north by a tire store and garden center, zoned CS and single-family dwellings, zoned RS-3; and on the east by single-family dwellings zoned RS-3. To the south of the tract, across East 41st Street, are single-family homes zoned RS-1 and a vacant tract zoned CS and RM-2. To the west of the northwest portion of the PUD across South Harvard Avenue are single-family homes zoned RS-2 and RS-1. The existing church tract is abutted on the west by commercial uses, zoned CS and RS-3.

If Z-6818 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-592-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-592-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. **Development Standards:**

DEVELOPMENT AREA A

Land Area (Gross): 70,049.25 SF

Permitted Uses: Offices, video and sound recording studios and warehousing of equipment, materials and props accessory with the office use and off-street parking accessory to the principal use in the Impact Development Area.

Maximum Building Floor Area: Limited to only the existing building. New construction may be allowed only if TMAPC approves a minor amendment.

DEVELOPMENT AREA B

Land Area (Gross): 96,064.53 SF

(Net): 86,250.53 SF

Permitted Uses: Funeral Home and Office as included within Use Unit 11.

Maximum Building Floor Area: 19,285 SF (includes basement floor area of 7,347.71 SF).

Maximum Building Height For New Construction: Two stories, not to exceed 35 FT.

Minimum Building Setbacks from PUD Development Area Boundaries for New Construction:

North	110 FT
West	80 FT
East	34 FT

Minimum Building Setback from Centerline of 41st Street 100 FT

DEVELOPMENT AREA C

Land Area: (Gross) 84,348.19 SF

(Net) 73,942.19 SF

Permitted Uses: Offices as included within Use Unit 11; Single-Family Dwelling as included within Use Unit 6; and Off-Street Parking accessory to uses in Development Area A.

Maximum Building Floor Area for Office Uses: Limited to the existing 3,790 SF building.

Maximum Number of Dwelling Units: Limited to the one existing 1,315 SF Single-Family Dwelling.

New Construction: May be allowed only if TMAPC approves a minor amendment.

Maximum Building Height: One Story

3. Signs shall comply with the requirements of Section 1103.B.2 of the Zoning Code, and there shall be no signs allowed in Development Area C. There shall be no wall signs on the east-facing walls in Development Area A.

4. Landscaping and Screening: An eight-foot high screening wall or fence shall be provided along the eastern boundary of Development Area A where it abuts residentially-zoned property. A six- to eight-foot high screening wall or fence shall be provided along the north boundaries of Development Areas B and C and also the east boundary of Development Area C where they abut residentially zoned property. Landscaping shall comply with the PUD and Landscape Chapters of the Zoning Code and shall include a 35-foot wide landscaped buffer strip along the south boundary of Development Area C except for approved access points. All landscaped areas shall be outside the planned right-of-way of 41st Street South.

5. Vehicle Parking: The use of Development Area C for parking accessory to uses in Development Area A shall be limited to the hours of 7:30 a.m. to 5:30 p.m., Monday through Friday only. Vehicles parked within the PUD shall be limited to automobiles and other light passenger vehicles, such as pickup trucks, SUVs and vans. No semi-trucks, trailers or buses will be permitted to be parked within the PUD. All Development Area B parking must be separate and distinct from parking for other Use Unit 11 uses or parking accessory to the uses in the Development Area A, required parking for the Development Area A, which is not provided on the Development Area A, shall be provided on Development Area C. All new parking shall comply with the Landscape Chapter and the landscape requirements of the PUD.

6. Access: Each Development Area within the PUD shall have internal pedestrian and vehicular access to other Development Areas within the PUD. All access onto a public street shall be approved by Traffic Engineering.
7. 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.
8. 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.
9. 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.
10. 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.
11. All new parking lot lighting shall be hooded and directed downward and away from adjacent residential areas. No light standard nor building-mounted light shall exceed 12 feet in height and all such lights shall be set back at least 50 feet from an RS district.
12. 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.
13. 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.

14. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
15. 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.
16. 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.

TMAPC Comments:

Mr. Harmon stated that when this proposal appeared before the Planning Commission previously he abstained due to the fact that the bank where he is employed has a mortgage on the subject property. He explained that he has reconsidered this proposal and discussed it with Legal. The proposal will not enhance or detract from the position of the bank, and he will be participating in the discussion and voting on this item.

Mr. Westervelt stated that there are 23 individuals signed up speak today on this application. There will be a three-minute limit set for each individual speaker.

Applicant's Comments:

John Moody, 7146 South Canton Avenue, Tulsa, Oklahoma 74136-6303, representing 47th and Mingo, L.L.C. and Impact Productions, stated this application was presented to the Planning Commission in February 2001 and it resulted in a tied vote. After consideration and review his client decided to withdraw the application. He explained that his client decided to change the application to consider the many comments and concerns that the Planning Commissioners expressed.

Mr. Moody cited the differences between the old application and the new application. The amended PUD will not remove or change the easternmost lot nor the center lot. The existing residential structure will remain and the only change will be the additional parking. The church building currently has a wing that extends out into the existing building setback line. This portion of the church will be removed and there will be a single-story addition, which will be attached to the remaining church structure. He indicated the existing accessory buildings and a daycare center that would be removed from the subject property. By removing these buildings, the intensity of the types of usage will be reduced on the subject property. He stated that there are some paved areas that would be removed and replaced with open area and landscaping. Additional parking will be provided on the subject property and it will be improved by reducing the number of buildings and structures.

Mr. Moody submitted photographs of the various views of the subject property and the properties across 41st Street (Exhibit A-3). He indicated the existing views that would not change on the subject property. He indicated that the existing residence will remain on the subject property and the uses would remain the same (office use). He explained that the only change would be additional parking on the west property line; however, the view from 41st Street would remain the same. He indicated that currently there is an eight-foot high screening fence along the entire northern boundary of the property that was installed by Impact Productions when the original PUD was approved.

Mr. Moody stated that originally he requested OM zoning; however, it did not conform to the Comprehensive Plan and he withdrew that request. The subject application is requesting 210 feet of OL zoning and it may be found to be in accordance with the Comprehensive Plan. The 210 feet of OL zoning lines up with the existing RM-2 and the existing OL approximately at the north and south side. The OL requested would line up with the current OL in the subject area and some of the OL actually projects farther to the east than the requested OL. The OL request is consistent with the depth of OL zoning that has been approved on the southwest corner of 41st and Harvard. The requested OL zoning is consistent with all of the approved OL zoning in the subject area.

Mr. Moody stated that funeral home use is permitted by right in the OL district. The Planning Commission and the City Council have already decided that funeral home uses are compatible and appropriate uses in an OL district. Funeral home uses are considered transitional uses in residential areas. There is an existing PUD and it is necessary to have the PUD amendment as part of the Impact property ownership and the parking necessary for Impact Productions. If it were only the funeral home use being considered, the PUD could be abandoned and OL zoning requested, which in all fairness, one could conclude that it would be highly discriminatory against the applicant to not approve the transitional OL zoning as exists for all of the other properties within the subject area.

Mr. Moody submitted the traffic report from the previous PUD application (Exhibit A-1). He commented that the traffic report did conclude that funeral home use would have no worse impact on traffic than the daycare center and the church on the subject property have.

TMAPC Comments:

Mr. Harmon asked Mr. Moody if the subject PUD is under ownership of three different entities currently. In response, Mr. Moody stated that there are two different entities. Mr. Harmon asked if the tract that is being rezoned is the tract that Mr. Buford is purchasing and the balance belongs to Impact Productions. In response, Mr. Moody stated that his client would own a larger tract than the rezoned amount.

Mr. Westervelt stated that he is unsure how the parking changed between the two parcels with the residential homes. In response, Mr. Moody clarified the proposed parking and existing parking. Mr. Moody stated that the 6,000 SF office building is no longer proposed and the parking that was proposed for the 6,000 SF building would not be developed and it would remain yard as it is today.

Mr. Moody stated that the funeral home proposal would remove some of the impervious material, which will result in 32% of landscaping for the funeral home site. He commented that 32% is a high percentage of landscaping for any development.

Mr. Westervelt questioned the OL zoning line compared to adjacent properties. Mr. Moody stated that the OL zoning has extended farther east beyond Harvard and that is the line he is referring to, as well as the line to the north. Mr. Moody commented that the requested OL zoning would not be the first extension off of Harvard to this depth because it exists south and north of 41st Street.

Mr. Westervelt questioned the types of uses being conducted in the two residential properties directly across from the existing church along 41st Street.

Mr. Moody indicated that his client is in agreement with staff's recommendation.

Interested Parties Opposing PUD-592-B:

Tom & Colleen Hulett, 4114 South Jamestown, Tulsa, Oklahoma 74135; **William Zich**, 4329 South Jamestown, Tulsa, Oklahoma 74135; **Patricia Cooley**, 4342 South Louisville, Tulsa, Oklahoma 74135; **Mary Miller**, 3736 East 43rd Place, Tulsa, Oklahoma 74135; **Steve Sembritzky**, 4525 South Jamestown, Tulsa, Oklahoma 74135; **Clint Fuhrmann**, 4135 South New Haven Place, Tulsa, Oklahoma 74135; **Weyman Ryker**, 4344 South Jamestown, Tulsa, Oklahoma 74135; **Cecile Richards**, 4153 South New Haven Place, Tulsa, Oklahoma 74135; **Marc Facci**, 3621 East 40th Place, Tulsa, Oklahoma 74135; **Nancy Halvy**, 3621 East 40th Place, Tulsa, Oklahoma 74135; **Judy Durnel**, 3626 East 40th Place, Tulsa, Oklahoma 74135.

Interested Parties Comments:

The house in question is being used as residential only and has been for the past 15 years; the residence on 41st Street next to the Christmas Tree lot has recently been remodeled for residential use; OL zoning line is not an extension of zoning on Harvard and this would be spot zoning; the subject property does not front Harvard and this would be rezoning along 41st Street; the OL zoning would cause a domino effect along 41st Street and residential zoning would be greatly impacted; concerned that property values will decrease; 41st Street is basically all residential and should remain residential; purchased homes with a church on the subject property, not commercial use; if OL is approved, other uses besides funeral home could be permitted on the subject property; currently homes in the subject area have increased in value by 2.5% and fear that the funeral home use

will cause a decline in property value; the current use (church) is only used on weekends and a funeral home would be seven days a week; may cause creeping commercialism; drainage concerns; increased traffic and safety issues; funerals will cause 41st Street traffic to back up onto Harvard and Yale; residential community will be boxed in by commercial uses; it appears that the intent of the applicant is to have a much larger office building on the subject lots and fear that this would happen in the future if OL zoning is approved; this application would not increase the quality to the neighborhood; this would be a detriment to the neighborhood; the burden should not be on the residents to prove that this would be a detriment to the neighborhood; the daycare facility uses vans to transport the children; therefore, the traffic is not impacted; a funeral service would impact the traffic along 41st Street; once the property is rezoned there is no control of the uses; the funeral home should move into a vacated shopping center where there is already parking available; do not want a funeral home on the subject property.

TMAPC Comments:

Mr. Midget asked Mr. Hulett what type of zoning he would deem appropriate for PUD-592. In response, Mr. Hulett stated that it should remain at its current zoning.

Mr. Westervelt asked Ms. Cooley if her appraisal work is predominantly residential appraising. In response, Ms. Cooley stated that she appraises residential property.

Mr. Harmon asked Mr. Sembritzky if he was aware that there was a childcare facility on the church property that is used five days a week. In response, Mr. Sembritzky stated that he is aware of the childcare facility. Mr. Sembritzky commented that the daycare facility has never contributed to the traffic and he has never seen anyone come out of the subject lot.

Mr. Westervelt reminded the interested parties that the Planning Commission was not comfortable with the previously-proposed office building on the east end of the site. Mr. Westervelt stated that looking at the land uses that occurred and the type of uses that the Planning Commission use as a buffer between non-residential and residential uses, OL zoning is one used for buffering with regularity. Mr. Westervelt reminded the interested parties that he voted against the previous application as it was submitted and cautioned that if a responsible, single-story, pitched-roof light office proposal were submitted, it would be looked at in a positive way. This is done on a regular basis and it is a good buffer and transition to residential. In response, Mr. Facci stated that this is the concern of all of the residents in the subject area because it would allow the same type of uses up and down 41st Street.

Mr. Westervelt explained to Mr. Facci that today's hearing is a public process and it does involve the community, as well as the applicant. Mr. Westervelt stated that this process is what makes the community work and the Planning Commission appreciates the public input.

Mr. Westervelt reminded Ms. Halvy that the OL zoning is for only a portion of the PUD. In response, Ms. Halvy stated that the portion requesting OL zoning faces 41st Street. Ms. Halvy requested that 41st Street remain single-family residential. Mr. Westervelt reminded Ms. Halvy that the residential homes on the subject property are not currently being used as residential because the PUD overlay allowed other uses to occur; however, they still look like residences. Mr. Westervelt stated that the residential homes that are being used for offices are not changing with the subject application and the view from 41st would not change. Mr. Westervelt explained that any changes to the subject PUD would have to come back to the Planning Commission and would be looked at very closely. Ms. Halvy stated that she is still opposed to the OL zoning.

Applicant's Rebuttal:

Mr. Moody stated that he did not want to misrepresent anything to the Planning Commission. He explained that he stated he did not know what is happening with the houses across from the subject property. He commented that judging from the parking lot in front of the house, it did not appear to be a residential use.

Mr. Moody stated that the OL transitional zoning has proven to be an adequate buffer over the years. The proof of this lies on 41st Street, because there is OL zoning along 41st Street along with commercial zoning. Mr. Moody pointed out a similar zoning along the south side of 41st Street across from residential. He commented that this proves that an OL buffer does work and it is compatible between the commercial and the arterial street. The applicant would be buffering its use with residential because the residential zoning is remaining on the eastern portion of the PUD. This would be significant buffer for the neighborhood and it would remain as residential with the existing residential house. The idea that there would be a domino effect or spreading of the OL zoning would be limited by the fact that the applicant is restricting the zoning to existing zoning pattern boundaries, which have been proven to be upheld and useful as a transitional use. The other properties along 40th Place, for example, are not conducive to any other type of use and he believes that the domino effect would not be a factor. Mr. Moody concluded and requested the Planning Commission to approve the staff recommendation.

TMAPC Comments:

Mr. Westervelt asked Mr. Moody if the Planning Commission has failed in anyway, regardless of how the vote goes today, to make it abundantly clear how important the east side of the PUD is. In response, Mr. Moody stated that he is very clear and that Mr. Nix, the property owner, is very clear about the importance of the east side. Mr. Moody commented that it is very significant for

Mr. Nix, because he has been approached for other uses on the east side, but has turned them down. Mr. Moody stated that he would not be making any applications for different use on the east side portion of the subject property.

Mr. Midget stated that he understood that the portion for rezoning does face 41st Street and he didn't understand that Mr. Moody inferred that it was facing off of Harvard. The Planning Commission is not dealing with storm drainage, but dealing with land use only. He stated that he could support this proposal as a reasonable transition and it would not have a negative impact on the neighborhood. He explained that he lives one half block from a funeral home and it has not negatively impacted his neighborhood. He indicated that there are new homes being built around the funeral home in his neighborhood. This proposal would be a good buffer between the commercial and residential areas.

Mr. Ledford stated that the traffic study conducted by Jon Eshelman, retired from the City of Tulsa Traffic Engineering, and the traffic impact would be very minimal. There would be disruption from the funeral home for a brief period of time, but it would be during off-peak hours and that would minimize the disruption. The traffic concern is not a real one at this time.

Mr. Harmon stated that he is pleased with the changes made to the PUD and it is appropriate for the subject area. He indicated that he would support a motion of approval of the staff recommendation.

Mr. Stump that there is one technical conflict between the staff recommendation and the site plan submitted by Mr. Moody (Exhibit A-2). In Area C (southwest portion) the staff required all along the southern boundary a 35' landscape strip, except where there are points of access. That would not allow the parking spaces that the applicant has indicated for the west side as an addition. Staff would want to exempt the points of access from the 35' strip and the west 20' of the development area, which would allow the four parking spaces. Mr. Carnes stated that he would feel more comfortable maintaining the 35' strip of landscaping.

TMAPC Action; 6 members present:

On **MOTION** of **HORNER**, the TMAPC voted **6-0-0** (Carnes, Harmon, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Boyle, Hill, Jackson, Pace, Selph "absent") to recommend **APPROVAL** of the OL Zoning for Z-6818 and recommend **APPROVAL** of PUD-592-B, subject to conditions as recommended by staff.

Legal Description for Z-6818:

A tract of land in the SW/4, SW/4, SW/4 of Section 21, T-19-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, and being more particularly described as follows, to-wit: Beginning at a point 155' E and 35' N of the Southwest corner of said Section 21;

thence East and parallel to the South line of said Section, a distance of 210'; thence North and parallel to the West line of said Section, a distance of 278.28'; thence West and parallel to the South line of said Section, a distance of 210'; thence South and parallel to the West line of said Section, a distance of 278.28' to the Point and Place of Beginning, **From** RS-3/PUD (Residential Single-family High Density District/Planned Unit Development) **To** OL/PUD (Office Low Intensity District/Planned Unit Development).

Legal Description for PUD-592-B:

Tract I: a tract of land in the SW/4, SW/4 SW4, of Section 21, T-19-N, R-13-E, of the IBM, Tulsa County, State of Oklahoma, according to the US Government survey thereof, and being more particularly described as follows, to-wit: Beginning at a point 155' East and 35' North of the Southwest corner of said Section 21; thence East and parallel to the South line of said Section, a distance of 187.6'; thence North and parallel to the West line of said Section, a distance of 278.28'; thence West and parallel to the South line of said Section, a distance of 187.6'; thence South and parallel to the West line of said Section, a distance of 278.28' to the Point of Beginning; and **Tract II:** The East 140' of the West 482.6' of the South 313.28' of the SW/4, SW/4, SW/4, Section 21, T-19-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U.S. Government survey thereof; and **Tract III:** The South 313.28' of the East 176.95' of the SW/4, SW/4, SW/4 of Section 21, T-19-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof; and **Tract IV:** The South 313.28' of the West 103.9' of the SE/4, SW/4, SW/4, less the South 35', in Section 21, T-19-N, R-13-E of the IBM, Tulsa, State of Oklahoma, according to the U. S. Government survey thereof, **And**, that part of SW/4 of Section 21, T-19-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof; beginning 481.75' North of the southwest corner of Section 21; thence East 285'; thence North 68.45'; thence West 285'; thence South 68.45' to the POB; And the West 300' of the North 168.47' of the South 481.75' of the SW/4, SW/4, SW/4, of Section 21, T-19-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, **From RS-3/CS/CH/PUD-592 To RS-3/OL/CS/CH/PUD-592-B.**

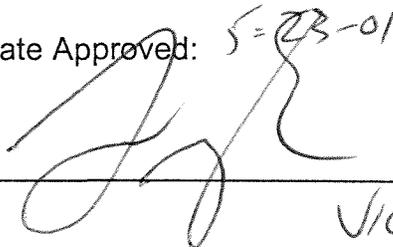
TMAPC Comments:

Mr. Westervelt that he did vote against this application previously and he hopes that is an indication to the interested parties of his resolve to be very sensitive to the east side of the subject property. The proposed funeral home is a use allowed by right in OL zoning, which means the use of low enough intensity to be compatible.

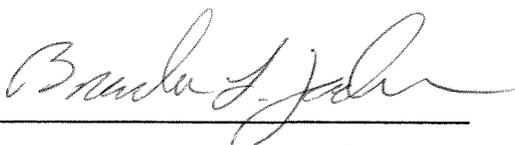
Mr. Carnes stated that he supports the revised proposal and that the eastern boundary would be maintained. Churches also conduct funerals and the funeral home will not be impacting the neighborhood.

Mr. Westervelt thanked the interested parties for the attendance and their conduct. He stated that the interested parties comments were to the point and the Planning Commission appreciates the manner in which the comments were delivered.

There being no further business, the Chairman declared the meeting adjourned at 3:35 p.m.

Date Approved: 5-23-01


VICE -Chairman

ATTEST: 

Secretary