

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2296

Wednesday, January 2, 2002, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, December 28, 2001 at 9:00 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, Vice Chair Harmon called the meeting to order at 1:30 p.m.

Minutes:

Approval of the minutes of December 5, 2001, Meeting No. 2294

On **MOTION** of **HORNER**, the TMAPC voted 7-0-0 (Bayles, Carnes, Harmon, Horner, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ledford, Pace, Selph, Westervelt "absent") to **APPROVE** the minutes of the meeting of December 5, 2001, Meeting No. 2294.

Minutes:

Approval of the minutes of December 19, 2001, Meeting No. 2295

On **MOTION** of **HORNER**, the TMAPC voted 7-0-0 (Bayles, Carnes, Harmon, Horner, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ledford, Pace, Selph, Westervelt "absent") to **APPROVE** the minutes of the meeting of December 19, 2001, Meeting No. 2295.

Ms. Pace in at 1:32 p.m.

REPORTS:

Director's Report:

Mr. Stump reported that there are two items on the Tulsa City Council agenda, which are non-controversial.

CONTINUED ITEMS:

APPLICATION NO.: Z-6844/PUD-658

AG TO OL/CS/PUD

Applicant: Roy D. Johnsen

(PD-26) (CD-8)

Location: Northwest corner of East 101st Street South and South Yale Avenue

TMAPC Comments:

Mr. Harmon stated that the applicant and interested parties would like a continuance for this item.

Applicant's Comments:

Roy Johnsen, 201 West 5th, Suite 501, Tulsa, Oklahoma 74103, stated that both sides have been meeting and are very close to an agreement on the development standards. He requested a continuance to January 16, 2002.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, the TMAPC voted **8-0-0** (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Midget, Pace "aye"; no "nays"; none "abstaining"; Ledford, Selph, Westervelt "absent") to **CONTINUE** Z-6844/PUD-658 to January 16, 2002 at 1:30 p.m.

SUBDIVISIONS:

LOT-SPLITS FOR WAIVER OF THE PLATTING REQUIREMENT AND SUBDIVISION REGULATIONS:

L-19243 – Donald Walker

(PD-26) (CD-8)

Location: North and east of the northeast corner of East 121st Street and South Yale Avenue

Staff Recommendation:

An application has been filed to split a 166' X 162' tract (Proposed Tract 2) from Tract 1, and tie it to an abutting residential lot to the south. Both tracts are in PUD-527-B and are subject to platting. A waiver of the platting requirement is

requested for Tract 2, since no principal use would be permitted on the tract per minor amendment 527-B-1. Both lots have more than three side-lot lines. Therefore, the applicant is also seeking a waiver of Subdivision Regulations that each tract have no more than three side lot-lines.

Staff believes these waivers and lot-split would not have an adverse effect on the surrounding properties and would therefore recommend **APPROVAL** of the waiver of the platting requirement for Tract 2, the Subdivision Regulations and of the lot-split.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, TMAPC voted 8-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Midget, Pace "aye"; no "nays"; none "abstaining"; Ledford, Selph, Westervelt "absent") to **APPROVE** the lot-split for waiver of the platting requirement for Tract 2, the Subdivision Regulations and the lot-split for L-19243 as recommended by staff.

FINAL PLAT:

SOUTHERN RIDGE (2183) (PD-18B) (CD-8)

Location: South side of East 91st Street, west of the half section line between South Harvard and South Yale Avenues

Staff Recommendation:

The site includes significant tree coverage and slopes from east to west. All Saints Anglican Church abuts it on the east with AG-zoned land to the south and west. A cemetery is present to the west. The PUD allows those uses allowed in the OL district.

Release letters are in order. Staff recommends **APPROVAL**.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

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

SOUTH YALE PARK (3383)

(PD-26) (CD-8)

Location: Southwest corner of 111th Street and South Yale

Staff Recommendation:

The site is bounded by Yale on the east and 111th Street on the north. Vacant land is located across Yale to the east and 111th to the north, also to the west. Single-family additions are located to the south, northwest and northeast. Uses along Yale will be office in nature. Those along 111th will be single-family residential.

Release letters are in order. Staff recommends **APPROVAL**.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

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

French Creek Patio Homes - PUD 643 - (1283)

(PD-18) (CD-7)

Location: 74th and Memorial, south of the southeast corner

Staff Recommendation:

The property was rezoned to PUD-643 in February of this year. This triggered a requirement to plat. The PUD allows up to 80 townhouse dwellings, one story, up to 35 feet high.

This plat consists of 80 lots in ten blocks and nine reserve areas on 11.6 acres. It will be developed for townhouse uses.

One of the conditions of approval of the preliminary plat was, "Construction and dedication of a public cul-de-sac at the west end of the property to function with East 74th Place, acceptable to Public Works." The cul-de-sac shown on the plat submitted today is the result of coordination among all interested parties. Public Works has indicated their approval of the design. Staff finds it to be consistent with the PUD requirements.

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; 8 members present:

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

PRELIMINARY PLAT:

Superior Federal Bank, East 61st Street Branch, PUD 390-A (3693) (PD-18)
(CD-7)

Location: Northeast corner of East 61st Street South & South 89th East Avenue

Staff Recommendation:

This plat consists of two lots in one block on 2.29 acres. The property will be developed for bank and office uses.

The following were discussed **December 20, 2001** at the Technical Advisory Committee (TAC) meeting:

1. Zoning:

Staff: The property was the subject of a major amendment to the PUD to allow drive-in banking and office uses except funeral homes on Lot 1, and office uses except drive-in banking and funeral homes on Lot 2. Include complete PUD number on face of plat.

2. Streets/access:

Staff: LNA needs to be shown on 89th East Ave.; PUD requires mutual access for both lots; mutual access paragraph should refer to "61st Street" instead of "81st Street".

Public Works Traffic & Transportation: Agreed with staff comments and added: standard dedication language needs to be included in the covenants; 17.5' utility easement needs to be added along streets.

Applicant: No comments.

3. Sewer:

Staff: No additional information.

Public Works Waste Water: Sewer is available to serve the site. No concerns or other comments.

Applicant: No comments.

4. Water:

Staff: No additional information.

Public Works Water: Water is available to serve the site. No concerns or other comments.

Applicant: No comments.

5. Storm Drainage:

Staff: No additional information.

Public Works Stormwater: Collect drainage and pipe to existing; fees in lieu of detention will be acceptable.

Applicant: No comments.

6. Utilities:

Staff: No additional information.

Franchise Utilities: No concerns or other comments.

Applicant: No comments.

Staff recommends **APPROVAL of the preliminary plat** subject to the special and standard conditions below.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. Indicate mutual access easement; add access limits on 89th East Avenue; include dedication language in covenants.

Standard Conditions:

1. All conditions of PUD-390-A shall be met prior to release of final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to Section 1100-1107 of the Zoning Code in the covenants.
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 topography 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 therefore 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 therefore 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; 8 members present:

On **MOTION** of **MIDGET**, TMAPC voted 8-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Midget, Pace "aye"; no "nays"; none "abstaining"; Ledford, Selph, Westervelt "absent") to **APPROVE** the preliminary plat for Superior Federal Ban East 61st Street Branch subject to special conditions and standard conditions as recommended by staff.

Clarehouse PUD 575-A (784) (PD-18) (CD-8)

Location: Southeast corner of East 76th Street South & Mingo Road

Staff Recommendation:

This plat consists of one lot in one block and one reserve on 5.45 acres. The property is the site of a new assisted living facility.

The following were discussed **December 20, 2001** at the Technical Advisory Committee (TAC) meeting:

1. Zoning:

Staff: The property was the subject of a major amendment that changed the permitted uses to add assisted living facility to the already allowed mini storage use. It allows either/or, not both. The current proposal is for the assisted living facility.

2. Streets/access:

Staff: No additional information.

Public Works Traffic & Transportation: Change language in Section I.A. to dedicate right-of-way "to the public" instead of "for public use".

Applicant: No comments.

3. Sewer:

Staff: No additional information.

Public Works Waste Water: Extend existing 8" sewer main into this property; pay fees of \$1,128.03 per acre plus \$700 per acre Broken Arrow Development Fee.

Applicant: No comments.

4. **Water:**

Staff: No additional information.

Public Works Water: Tap 12" water line across Mingo and bore under street.

Applicant: No comments.

5. **Storm Drainage:**

Staff: No additional information.

Public Works Stormwater: Add overland drainage easement at northwest corner of property or pipe incoming off-site water to existing storm drain with PFPI; add 15' maintenance access easement to outside perimeter of Reserve outside the 100-year WSE; fees in lieu are acceptable; no new easements in the reserve.

Applicant: No comments.

6. **Utilities:**

Staff: No additional information.

Franchise Utilities: Coordinate with utility companies to extend service across Mingo Road.

Applicant: No comments.

Staff recommends **APPROVAL** of the preliminary plat subject to the special and standard conditions below.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. Modify covenant language to provide for proper dedication.
2. Extend sewer main as required.
3. Extend water service across Mingo Road consistent with City specifications.
4. Add easements or storm drains to carry off-site drainage as required.

5. Add maintenance access easement around perimeter of floodplain reserve as required.

Standard Conditions:

1. All conditions of PUD-575-A shall be met prior to release of final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to Section 1100-1107 of the Zoning Code in the covenants.
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 topography 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 therefore 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 therefore 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; 8 members present:

On **MOTION** of **HORNER**, TMAPC voted 8-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Midget, Pace "aye"; no "nays"; none "abstaining"; Ledford, Selph, Westervelt "absent") to **APPROVE** the preliminary plat for Clarehouse subject to special conditions and standard conditions as recommended by staff.

CONTINUED ZONING PUBLIC HEARING:

APPLICATION NO.: PUD-431-B-1 MINOR AMENDMENT

Applicant: Roy D. Johnsen (PD-26) (CD-8)

Location: West of southwest corner of East 101st Street and South Sheridan Road

Staff Recommendation:

The applicant is requesting a minor amendment to delete the convenience grocery use and uses included within Use Unit 12a from permitted uses in Development Area D, and to amend the boundaries of Development Areas C and D.

The minor amendment as proposed will slightly change the boundary lines between Development Area D and C. Also, Development Area D will exclude all Use Units 12a and convenience grocery uses as was discussed during the adoption of PUD 431-B-1.

Staff recommends **APPROVAL** of the amendment as proposed.

TMAPC Comments:

Mr. Harmon asked if there was a significant change in the boundary line. In response, Mr. Dunlap stated it was minor.

Applicant's Comments:

Roy Johnsen, 201 West 5th, Suite 501, Tulsa, Oklahoma 74103, stated that the original approval was subject to there being a shared access between Development Areas C and D. The Traffic Engineering Department wanted the access point to be opposite of the street to the north (Norwood) and that is the reason for the reconfiguration. This application is to implement the elimination of convenience groceries from the balance, as well as 12a uses.

Interested Parties Comments:

Paul Travis, 10169 South Maplewood Avenue, Tulsa Oklahoma 74136, stated that he is not in opposition, but attended today's meeting to be informed.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, TMAPC voted 8-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Midget, Pace "aye"; no "nays"; none "abstaining"; Ledford, Selph, Westervelt "absent") to **APPROVE** the minor amendment for PUD-431-B-1 as recommended by staff.

APPLICATION NO.: Z-6845

RM-2 to RM-3

Applicant: Charles Norman

(PD-7) (CD-9)

Location: 2300 South Riverside Drive

Staff Recommendation:

PUD 639 October 2000: An application for a Planned Unit Development was filed on a 2.5 acre tract located on the southeast corner of East 21st Street and South Main Street for a townhouse and highrise multifamily development. The underlying zoning is OL, OM and RM-2 and contained a private lodge, parking lot and two single-family dwelling units. Staff and TMAPC recommended approval of the requested PUD subject to conditions; City Council concurred in approval subject to TMAPC recommendations. Approval was granted for a 70 dwelling unit multifamily, 15-story complex and for a 3-story townhouse development for four dwelling units.

Z-6378 April 1993: All concurred in approval of a request for an HP zoning overlay on an area between South Peoria and the Midland Valley Railroad; East 15th Street and East 21st Street.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 3.45 acres and is located in the southeast corner of East 23rd Street South and South Riverside Drive. The property is sloping, non-wooded, contains an apartment complex and is zoned RM-2.

STREETS:

Exist Access	MSHP R/W	Exist. No. Lanes
East Woodward Boulevard	80'	2 lanes
South Riverside Drive	Varies	4 lanes

The Major Street Plan designates East Woodward Boulevard as an urban arterial street and South Riverside Drive as a special traffic way. The City of Tulsa Traffic Counts 1998 – 1999, indicates 31,600 trips per day on South Riverside Drive between East 21st Street and East 31st Street.

UTILITIES: The subject tract has municipal water and sewer.

SURROUNDING AREA: The subject tract is abutted on the north by the Harwelden Mansion (Arts and Humanities Council of Tulsa offices), zoned RS-3; to the south by single-family residential uses, zoned RS-3; to the west by Riverside Drive, zoned RS-2, and the Arkansas River, zoned AG; and to the east by townhouse condominiums, zoned RM-2.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 7 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject area as Medium Intensity – No Specific Land Use.

According to the Zoning Matrix the requested RM-3 zoning **is not** in accordance with the Plan Map.

STAFF RECOMMENDATION:

This apartment complex has existed in this location for many years, and there are other similarly- sized multifamily residential uses in the area and proposed for the area. They have proven to be quite compatible with other existing uses, which include other residential, office and club/restaurants. Therefore, staff can support the requested rezoning and recommends **APPROVAL** of RM-3 zoning for Z-6845.

Staff also notes that if the Planning Commission recommends approval of this request, they should direct staff to prepare appropriate amendments to the District 7 Plan map.

TMAPC Comments:

Mr. Harmon asked if the building now exists as a special exception to the zoning. In response, Ms. Matthews stated that there is some debate and the applicant may be able to explain the status. Ms. Matthews commented that the subject building appears to be a legal non-conforming use depending on the time of development and the adoption of zoning.

Ms. Bayles asked staff why they are reporting the support of the requested rezoning and recommending approval when it is not in accordance with the plan. In response, Ms. Matthews stated that there are three reasons for amending a plan, when trends show that conditions are changing, different information is available or perhaps a mistake was made when the plan was developed. Ms. Matthews stated that she was not personally involved when the plan was developed in 1976, but her guess is that the overlying zoning and overlying development trend is why the medium intensity was found to be appropriate.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, representing the 2300 Owner's Association, stated that the purpose of this application is to correct what he believes to be a mapping error in 1970 when the new Zoning Code was established.

Mr. Norman cited the history of the construction of the subject building. He indicated that he has been unable to establish what the zoning was in 1964, but toward the end of the 1960's the property was mapped as a U-2B, which is the equivalent, under the current Zoning Code, to RM-2. Mr. Norman submitted the 1968 or 1969 Zoning Code (Exhibit A-1) and cited the U-2B category with the maximum building height of 35 feet. He stated that the subject building has always had 17 floors and was constructed before this time. The actual zoning during construction is not available and if it was zoned U-2B, then the permit was erroneously issued because the building is more than 35 feet in height. There was a category, U-2C, which is the equivalent to the RM-3 zoning and there is no height limitation. The reason for the application is to correct the situation, which left his client as a non-conforming use as to height for the last 31 years, and to obtain permission to continue the operation of an internal restaurant that has been located inside the building since it was first constructed.

Mr. Norman stated that in the U-2B there were no permitted accessory commercial uses allowed. The present Zoning Code does not allow accessory commercial uses in RM-1 or RM-2, which is reflected in Section 402. A restaurant opened to public use is a commercial use. Within the RM-3 district accessory commercial uses are allowed as long as they comply with these four requirements: 1) limited to those designed for the convenience of the occupants of a multifamily dwelling; 2) the use has to be located entirely within a multifamily structure and may have an exterior public entrance for each interior lobby entrance; 3) the commercial use cannot occupy more than 10% of the gross floor area of the building in which it is located; 4) no outside signs or other advertising may be permitted. This provision of the current Zoning Code and the 1970 Code was to reflect the trend of development that began in the 1960's, like the University Club Tower, which had residences, offices, convenience store, and a restaurant. Mr. Norman cited several similar buildings in the City of Tulsa and throughout the country where there were combinations of office, residential and accessory commercial uses.

Mr. Norman submitted photographs (Exhibit A-4) of the subject building. He indicated that the subject building is in the same condition and exterior boundaries as it was when constructed. There are no outside signs indicating the restaurant that is located inside. He stated that the existing dining room and restaurant was part of the original construction and original design. He commented that the restaurant has had City/County food licenses throughout the period of time. Mr. Norman submitted an article from the Tulsa Tribune (1969) (Exhibit A-2), which mentioned a large lobby and restaurant located in the 2300

Building. He stated that he has talked to City staff and enforcement people who have actually been to the small restaurant. He indicated that the Alcohol and Beverage Control now require proof of zoning authorization in order to change or renew a mixed-beverage license. This license renewal is what brought the question about whether the building is non-conforming or illegal in height and the restaurant operation, even though it has been in existence for 35 years.

Mr. Norman stated that he believes there was a mapping error and the subject property should have been mapped in the RM-3 category when the new Code was in place in the 1970's. Mr. Norman submitted case maps indicating the surrounding zoning in the immediate area that allow highrise multifamily dwellings that would be permitted to have the accessory commercial uses in the interior. RM-3 or OH permits the highrise and accessory commercial uses inside.

Mr. Norman stated that the Board of Directors have informed him that there are no plans to change the exterior of the subject building. Each owner owns his/her individual unit and an undivided percentage of the real estate or the land around the subject property. It would not be possible to add any further structures or buildings to the site without unanimous approval of the owners. Mr. Norman concluded that expansion of the building is not intended and it is not possible under the condominium documents.

TMAPC Comments:

Mr. Midget asked Mr. Norman if there were any plans to expand the restaurant inside the subject building. In response, Mr. Norman stated that there are no plans to expand the restaurant and there is no other place to put the restaurant. Mr. Norman explained that the existing restaurant has never had any outside signage, but there have been small ads in local magazines about dining and has been featured in publications over the years. Mr. Norman stated that with the technical requirement from the ABC organization and with the occasional questions about the height of the building in connection with financing, his clients immediately run into the problem that the subject building is more than 35 feet high and possibly non-conforming or perhaps not. Mr. Norman commented that he would assume that the building would be found non-conforming in height because he doesn't think the City could prove, any more than he can disprove, that the building was not constructed properly in the beginning.

Mr. Harmon asked Mr. Norman if the primary reason for this application is the beverage license. Mr. Norman stated that his client could get a beverage license for a private club and there could be a private club inside the subject building for the use of residents only. Mr. Norman stated that his client is not conforming as to a restaurant that accepts people from the outside. Mr. Harmon asked Mr. Norman if rezoning is the only way to accomplish what his client needs. Mr. Norman explained that he couldn't prove that the existing building and restaurant were lawful uses because of the time the building was built and when the zoning was revised.

Mr. Stump stated that if this application was granted today and the City Council agreed with the rezoning, then the restaurant would fall under the criteria of accessory commercial, which is permitted in the RM-3 district. Mr. Harmon asked Mr. Stump if the Planning Commission didn't rezone the subject property, they could allow the restaurant as a non-conforming exception. In response, Mr. Stump stated that the Board of Adjustment's job is to pass on whether something is a lawful existing non-conforming use. Mr. Norman stated that he looked at that possibility, but under the State Law the Board of Adjustment can't grant use variances or use exceptions. Mr. Norman further stated that in the 1980's the law was changed to prohibit the Board of Adjustment from granting a use that is not permitted in the district (example: permitting a restaurant in a residential district).

In response, Mr. Harmon, Mr. Norman stated that in an RM-3 district there are no height limitations and the restaurant would be allowed as an accessory commercial use.

Mr. Harmon asked if the applicant could build ten more stories on top of the subject building if it were zoned RM-3. In response, Mr. Norman stated that it could be allowed, but that is not his client's intention because the subject building was not designed to allow more stories on top.

Mr. Horner agreed that architecturally the subject building was never designed for additional floors. He stated that this appears to be a minor housekeeping issue that should have been corrected in 1970 but fell between the cracks and wasn't done. In response, Mr. Norman stated that the subject restaurant has never been in question and several of the Code Enforcement Officers have had meals at the restaurant and never realized that it may be an unlawful use. In response, Mr. Horner stated that this would never have been questionable if the beverage license had not required proof of zoning. Mr. Norman stated that there is no distinction between a mixed beverage license for a private club and a public restaurant. Mr. Norman explained that what happened was that a question was raised about the lawfulness of the restaurant operation with or without alcohol if the public is allowed access to the restaurant. Mr. Norman stated that if the public is allowed into the restaurant then it is no longer a private club and becomes a commercial restaurant. Mr. Norman indicated that his client mailed out over 170 letters to the subject area residents to explain the licensing and zoning problem.

Ms. Pace asked Mr. Norman what the gross floor area of the subject building is. In response, Mr. Norman stated that he doesn't know the total floor area. Ms. Pace stated that the restaurant could occupy 10% of the building, which is probably one floor and a half if maximized. Ms. Pace asked if there would be required parking for the restaurant use or any other uses that would be allowed as an accessory commercial use. In response, Mr. Stump answered negatively.

Mr. Stump stated that grocery stores are not allowed, but convenience goods, services and restaurants are allowed as accessory commercial uses in Use Unit 13. Mr. Stump stated that typically in highrises there would be a barber/beauty shop or those types of services for the residents of the building. Ms. Pace stated that there are several uses that would be allowed with RM-3 and with no additional parking being required, she is wondering why the applicant didn't submit a PUD. In response, Mr. Norman stated that if he filed a PUD he would have to request some commercial zoning to allow the uses. Mr. Norman explained that with RM-3 and the restrictions that prohibit signage, requiring separate entrances from the outside and with the way the building is designed, the PUD would not be necessary. Ms. Pace stated that if there were a PUD with RM-3 the applicant could still tailor it more carefully. Mr. Norman stated that he had hoped that the Planning Commission would feel comfortable from the design of the building and the fact that it is not physically appropriate to change the lobby, plus confidence in the residents that they would not allow anything to change that would ruin the quality of their homes by expanding some sort of commercial use in a building that has never had it. Mr. Norman commented that this activity has been done for over 30 years and there should be confidence that it would continue the same.

Ms. Bayles stated that she has had ex parte communication with a number of neighbors adjacent and including 2300. She indicated that her employer offices in the Harwelden/Arts and Humanities offices and some of these examples cited today have been communicated to her, such as the zoning clearance and the need for a public restaurant to support the restaurant operator, as opposed to it being a private use only. She asked if there had been any examples of problems with obtaining financing for the owners under the current zoning. In response, Mr. Norman stated that there had not been to his knowledge; however, the question has come up. Ms. Bayles stated that she might be mistaken because staff referred to the restaurant as a club. In response, Mr. Norman stated that the restaurant has been operated and opened to the public prior to 1970. Mr. Norman further stated that if the restaurant was started illegally, because U-2B did not permit accessory uses, then it couldn't be a lawful non-conforming use even though it has been in existence for 35 years or more. Mr. Norman explained that the dilemma is how to validate what everyone thought was valid for that period of time. Mr. Norman stated that he has looked for other approaches and this is the only one that would work.

Ms. Bayles asked if the commercial kitchen would support a catering enterprise in addition to the restaurant. In response, Mr. Norman stated that he doesn't know, but he doesn't think it would happen because it is a kitchen designed to serve a dining room. Mr. Norman commented that the dining room is a very small space and the kitchen is a third of the size of the dining room.

Ms. Bayles asked if there was any concern on the part of the residents living in the 2300 Building regarding the restaurant being opened to the public. In

response, Mr. Norman stated that there has never been any problem in the past and the association has no problem with the restaurant being opened to the public. Mr. Norman commented that he believes that all of the residents have moved there since the restaurant was in operation.

Ms. Pace asked Mr. Norman if the association holds monthly meetings and how many units are in 2300. In response, Mr. Norman stated that there are 71 or 72 units.

John Arrington, President of the Homeowners Association for 2300, stated that the association meets annually unless there is a special meeting required. He indicated that there was a special meeting regarding this issue and there were only three people who didn't care whether there was a restaurant inside the building. He stated that everyone who responded (upper 30's) favored having a restaurant. He commented that he has been working on this issue for 1-½ years.

Ms. Pace asked if the association members knew that this would require a zoning change. In response, Mr. Arrington stated that they did not at first. Mr. Arrington explained that in order to have the restaurant in the building then it has to be opened to the public in order to make it economically viable. Mr. Arrington stated that the Board of Directors decided to request the zoning change after having exhausted every other means that could be found. Mr. Arrington commented that it would be unlikely that there would be any other commercial uses in the building. Mr. Arrington explained that the residents of 2300 are mostly in their 60's and above and enjoy having the convenience of a restaurant in the building to have evening meals. He stated that the restaurant makes the building more valuable.

Ms. Pace stated that she would feel more comfortable if a second notice had gone out to the residents regarding the rezoning decision. In response, Mr. Arrington stated that the association submits copies of the minutes to each resident. He indicated that not one person came to him stating that they disagreed with the decision to go forward.

Mr. Harmon thanked Mr. Norman for explaining the connection between a liquor license and the private club/public restaurant.

Interested Parties Comments:

William Mitchell, 16 East 16th Street, Suite 302, Tulsa, Oklahoma 74119, representing Riverside Alliance of Maple Ridge, stated that the alliance is made up of members from south of 24th Street down to the old railroad tracks. He indicated that his clients question why the significant zoning change is necessary. He commented that there are no RM-3 districts in the immediate neighborhood. He stated that it is his understanding that the 2300 Building is considered a non-conforming structure since it was in existence when the current Zoning Code changed. No one would argue that simply because the subject

building does not meet the requirement of the district that was assigned to it in the 1970's that it should be torn down. The subject building is allowed to exist as it was prior to the 1970 zoning changes. It is his position that the restaurant would also be a non-conforming use that would be grandfathered in, not just the structure, but also everything within the structure.

Mr. Mitchell stated that the neighborhood is very concerned about the RM-3 zoning change. This neighborhood is under transition with infill redevelopment. The neighbors want to stop the idea of allowing less restrictive zoning districts in one door and then utilize it as a precedent to when another developer comes along and tries to apply for similar lower restrictive zoning districts. There is no one in the neighborhood who is opposed to the building as it stands, nor the restaurant.

Mr. Mitchell disagreed that by applying an RM-3 district to the subject building it would allow a new restaurant into the structure. The provisions do not allow a public restaurant, but specifically for the use of the occupants. Mr. Mitchell cited to Section 402.B.2.a language.

Mr. Mitchell stated that his clients would be in favor of keeping the subject building and restaurant as it is and assisting the applicant in anyway to obtain approval. He reiterated that his clients are opposed to the RM-3 zoning change and his client would like to offer to help obtain a different solution.

The Following Interested Parties Expressed their Opposition:

Janice Nicklas, 122 East 25th Street, Tulsa, Oklahoma 74114; **Carolyn Boatman**, 114 East 24th, Tulsa, Oklahoma 74114; **Mary Kathryn Goodhead**, 12 East 25th Street, Tulsa, Oklahoma 74114.

Comments of Interested Parties in Opposition:

Far reaching impact for the historical neighborhood; set a precedent for other developers; spot zoning; 2300 is perfectly legal as it stands today; the only reason for the zoning change is to allow a commercial restaurant with a bar opened to the general public; RM-2 zoning in the 1970's was not a mistake; neighborhood is trying to stabilize the downtown area and make it a livable place for older citizens to live; the restaurant was always intended to be solely for the residents of 2300 and guests; the restaurant has never been legally opened to the public; the restaurant has always been done with a wink and most people in the neighborhood have not been too concerned by this; there are a number of neighbors concerned about a public bar and restaurant; the neighborhood lives compatibly with the 2300 Building but do not want anymore projects that are similar; restaurant was intended to be a private-club type of use; the Planning Commission keeps picking away at the neighborhood's homes; the Planning Commission should think of another way to allow the restaurant use to continue without changing the zoning.

TMAPC Comments:

Mr. Midget asked staff if the restaurant would be allowed in the RM-3 district. In response, Mr. Stump stated 12a is not allowed in any residential districts. Mr. Stump stated that the only thing allowed as accessory uses (commercial) is in the RM-3 district, which is restaurant use or Use Unit 12 and Use Unit 13.

Mr. Romig stated that it is important to understand the difference from an ABLE perspective. The criterion to determine if the subject property is a bar or restaurant is by the percentage of sales. If 50% or more of the sales come from alcohol, then it is considered a bar and if it is otherwise, it is considered a restaurant.

Ms. Nicklas stated that she understands the Zoning Code to read that the restaurant has to be for the occupants of the building and not opened to the public. In response, Mr. Midget stated that he doesn't believe the Zoning Code prohibits the residents from using the restaurant, but it also states that the public may come in to purchase a meal.

Mr. Stump stated that 402.B.2.b states that the restaurant should be located entirely within the multifamily structure and may have an exterior public entrance (one for each interior lobby entrance), which sends the message that the public is allowed to enter because otherwise it wouldn't be a public entrance.

Ms. Pace stated that there are some zoning tools available, except they are not used in this City, to tailor mixed use to a development so that it is not destructive to the neighborhood. Ms. Pace asked Ms. Nicklas if the Planning Commission could limit this proposal with a PUD with RM-3 and right a limitation on the size of the restaurant if it would be more appealing to her. In response, Ms. Nicklas stated that it is the RM-3 that she is concerned about because it would set a precedent for the next block. Ms. Nicklas stated that developers use this as a tool to say that there is already RM-3 in the subject area, so therefore they are entitled to RM-3. Ms. Nicklas further stated that the subject area is primarily single-family residential. Ms. Nicklas indicated that when the subject building was developed in the 1960's there was opposition but it was approved. Ms. Nicklas stated that there was a promise made to the neighborhood that nothing like this would happen again. Ms. Nicklas commented that an RM-3 in the middle of the neighborhood would set a precedent for what happens next.

Mr. Midget stated that now that this issue has been brought to the Planning Commission's attention with a zoning application, it couldn't continue operating with a "wink". At some point the Planning Commission would have to make a decision to allow the restaurant operate legally or cease to exist. In response, Ms. Boatman stated that the Planning Commission doesn't have to allow the restaurant and bar to be opened to the public. Mr. Midget stated that he doesn't believe the restaurant is being operated as a bar, as he understands what a bar

is. In response, Ms. Boatman stated that the restaurant serves liquor and is applying for a liquor license.

Mr. Jackson asked Ms. Boatman if there have been any problems in the past 25 years regarding the restaurant and the public utilizing the restaurant. In response, Ms. Boatman stated that she has been to the restaurant at the invitation of the residents. Ms. Boatman further stated that she personally has not had any problems with the restaurant, but it has never been operated as open to the public. Ms. Boatman stated that the distinction is very important; the restaurant was available for the residents and their guests and not opened to the public without invitation. Mr. Jackson stated that he has known people who have visited the restaurant. Mr. Jackson stated that what Ms. Boatman is stating is not totally true regarding the operation of the restaurant. Ms. Boatman stated that her statement is totally true and the restaurant has been operated with a "wink" and it is illegal to do that. Mr. Jackson stated that the public has utilized the restaurant in the past.

Ms. Pace stated that there are four other dense apartments that surround the subject property. If the subject property is changed to RM-3, then the other four apartments requested a change to RM-3, it would be difficult to deny their request if this proposal were approved. In response Mr. Stump answered affirmatively

Applicant's Rebuttal:

Mr. Norman stated that there is no other way to make the subject use legal without rezoning to RM-3. He explained that he has looked for other ways to obtain the legal use of the restaurant, but each time the same problem comes up. The restaurant can't be made a legal non-conforming because it was not legal in 1970. The use was not lawfully established and could not become non-conforming when there was a change in the law. The restaurant would continue to be unlawful if it was established unlawfully in 1960. Once this becomes a matter of public debate or a question is asked regarding a zoning clearance letter to provide to the ABC, then the Neighborhood Inspections staff would have to enforce the law. After reviewing the history and previous zoning, it appears that the restaurant was established unlawfully.

Mr. Norman stated that there are 71 or 72 units in the subject building and a restaurant would not be able to continue operating by depending on the residents of the building for sales. The restaurant has been opened to the public in the past and it has never been a problem. Now it is a technical problem and RM-3 seems to be the only solution to allow the restaurant to continue as it has in the past. He commented that if there were another solution to this situation, he would be happy to cooperate.

Mr. Norman stated that he has dealt with many situations that have been precedents for many years and the precedent is not established by lines on the

map, but established by the physical facts. This building is what it is and what it has always been, which is an RM-3 building. This is a highrise building with an accessory commercial use that was considered an appropriate type of lifestyle in the 1960's as long as it was designed primarily for the residents and their guests or people from the neighborhood. This proposal would not change the character or generate significant traffic in the subject area. The proposal would not change the subject area if it is approved by the Planning Commission or approved by the Court. No one has stated that the subject property and accessory use has been a problem in the past and that would not change with the zoning change. He further stated that he should not be expected to argue every single piece of property that might come before the Planning Commission in the future requesting RM-3 zoning or any other kind of zoning. He explained that the Planning Commission looks at each application as a case-by-case basis and makes the appropriate decision when and if that time comes. There is no precedent being set because the building has existed for over 35 years.

Mr. Norman concluded by requesting the Planning Commission to approve his request and correct an error in zoning established in 1970.

TMAPC Comments:

Ms. Pace stated that she feels that the Planning Commission is being asked to do more than one thing today. This area is a hot area and once RM-3 is approved, it would be difficult to turn it down in the future if the other apartments requested RM-3. Ms. Pace asked Mr. Norman if he agrees that he would be setting a precedent for the other dense units. In response, Mr. Norman stated that he doesn't feel he would be setting a precedent. He explained that the other apartments do not have dining rooms to his knowledge. Ms. Pace stated that they could have restaurants if they are allowed RM-3 zoning as well. Mr. Norman explained that Ms. Pace is asking him to argue about other cases that have not happened. Mr. Norman explained to Ms. Pace that there is a traditional transition of uses from high to medium to low and less intense and this would be an appropriate reason to deny the request for RM-3 for the other apartments in the immediate area. Mr. Norman stated that the only issue today is to correct zoning that should have been done automatically in the 1970's. Mr. Norman explained that in 1970, staff was to map the new zoning districts as close to the old districts as possible, except when the Commission directed otherwise. There is no record of this direction being given. Mr. Norman explained that the restrictions in the Zoning Code for accessory commercial use are the same restrictions one would have in a PUD. Mr. Norman stated that the public would never know the restaurant exists because there is no outside signage. Mr. Norman explained that even if he submitted a PUD he would have to have some CS or RM-3 zoning to allow the restaurant use, and then it would establish the precedent that the interested parties are concerned about.

Ms. Hill stated that she was born and raised in Tulsa and never knew the restaurant existed. Ms. Hill asked Mr. Norman if the restaurant advertises in the

paper or any other way. In response, Mr. Norman stated that he has seen some small notices in some of the local home decorating magazines. Mr. Norman indicated that there may be 35 to 40 tables in the restaurant and he thinks there have been listings in the phone book. Mr. Norman stated that the restaurant is not large enough to support an expensive ad. Ms. Hill remarked that the restaurant area is not large enough to allow the other uses that were mentioned as may be allowed if the RM-3 zoning is granted.

Mr. Midget stated that he wished he had the luxury of "winking" at this thing and letting it continue as it has been for 30 or more years; however, it can't be done. It has already been pointed out that currently there is no one in 2300 who is opposed to the request. The applicant has been working on this issue for a year. There is a distinction between a bar and a restaurant and the restaurant is not that large and shouldn't create a problem. The residents are not complaining about the restaurant serving drinks, but the real issue is the change of zoning to RM-3. Unfortunately, RM-3 is what this building and accessory use is. Mr. Midget concluded that he is inclined to approve the RM-3 request because that is what this building is and has existed for more than 30 years.

Ms. Pace said that this is actually low density for five acres and it should remain RM-2. She further stated that she does understand the concept of gradual density buffers, but 21st from 24th should have lesser densities and not higher. She commented that this request has been discussed like it was a Board of Adjustment case and it is not. The Planning Commission cannot take into consideration that the existing restaurant is small because once the RM-3 zoning is allowed then it could change. RM-3 is permissive zoning and one floor could be devoted to a full-scale restaurant and club. The subject area is where a special district study should take place and look at mixed use and limits, traditional neighborhood design-type zoning. Maybe the Zoning Code is lacking in tools to handle these kinds of mixed uses because the current Zoning Code is not doing justice to the neighborhood.

Ms. Bayles stated that she has four concerns: the staff recommendation for approval as it references clubs/restaurants, which are not found in the immediate vicinity; Mr. Norman stated that there are no examples that he could relate in terms of the height limitation causing a problem of obtaining financing under the current zoning; the restaurant is to be a convenience to the tenants and yet it cannot be profitable to the operator unless it is opened to the public; the condominiums' board and the association stated that they would not add the retail and services establishments as permitted under Use Unit 13, but these uses would be permitted if the zoning is changed to RM-3; this change could become more attractive to the board and association as that population ages (food, bakery, drugs, etc.), and the argument then would apply that these establishments would have to be opened to the public in order to make them profitable to the operators as well.

Mr. Jackson stated that the issues seem to go back to the restaurant being opened to the public and the multiple uses that could be allowed under RM-3. When a developer looks at retail spaces he looks for destinations and how many people would be passing by. He doesn't believe that anyone would stop at the 2300 Building to go to a convenience store when the QuikTrip is on the corner. The restaurant does not appear to have a vast amount of traffic from the outside and the main participation comes from the residents. Influx of traffic and more people coming from the outside are not really issues because they just wouldn't happen in this location.

Mr. Harmon stated that he is tempted to look at the reality that the subject property has operated as an RM-3 property for 30 plus years and there is no reason to not make it legal.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, the TMAPC voted 6-2-0 (Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; Bayles, Pace "nays"; none "abstaining"; Ledford, Selph, Westervelt "absent") to recommend **APPROVAL** of the RM-3 zoning for Z-6845 as recommended by staff.

Legal Description for Z-6845:

Block 8, less the East 344.58' of Third Amended Plat Riverside Drive Addition to the City of Tulsa, Tulsa County, State of Oklahoma, and located at 2300 South Riverside Drive, Tulsa, Oklahoma, **From RM-2 (Residential Multifamily Medium Density District) To RM-3 (Residential Multifamily High Density District).**

ZONING PUBLIC HEARING

APPLICATION NO.: Z-6847

RS-1 to IL

Applicant: Sandra Melton

(PD-17) (CD-6)

Location: East of northeast corner of East Admiral Place and South Lynn Lane

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-6832 October 2001: All concurred in approval of a request to rezone a 2.6-acre tract abutting the subject property on the west from RS-1 to IL for warehousing and light industrial use.

Z-6731 January 2000: All concurred in approval of a request to rezone a 2.5-acre tract located south of the southeast corner of East Admiral Place and South 177th East Avenue from RS-3 to AG.

Z-6505 October 1995: An application to rezone a 3.5-acre tract located approximately 500' east of the subject property from RS-1 to CG or IL was filed. Staff and TMAPC recommended denial of CG and approval of IL. City Council denied the IL zoning.

Z-6465 October 1994: All concurred in denial of a request to rezone a five-acre tract from AG to CH or CG for a machine shop. The property is located south of the southeast corner of East Admiral Place on South 177th East Avenue and approximately 300' from the subject property,

Z-6135 January 1987: A request to rezone a 1.8-acre tract located west of the northwest corner of East Admiral Place and North 183rd East Avenue and east of the subject tract from RS-1 to IL. All concurred in approval of IL zoning on the property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 2.04 acres in size and is located north of East Admiral Place and east of South 177th East Avenue. The property is sloping, non-wooded, contains a single-family dwelling, and is zoned RS-1.

STREETS:

Exist Access	MSHP Desig.	MSHP ROW	Exist. No. Lanes
East Admiral Place	100'	100'	2 lanes
South 177 th East Avenue	100'	100'	2 lanes

The City of Tulsa Traffic Counts 1998 – 1999 indicates 6,800 trips per day on East Admiral Place between South 177th East Avenue and South 193rd East Avenue.

UTILITIES: Water and sewer are available.

SURROUNDING AREA: The subject tract is abutted on the north by U. S. Highway 412, zoned RS-3 and AR (Catoosa) and farther north by large-lot single-family residential and agricultural uses, zoned RS-25 (Catoosa); on the south by vacant agricultural land, zoned OL and AG; on the west by vacant land, zoned IL; and on the east by a single-family dwelling, zoned RS-1.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 17 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Special District – Industrial.

According to the Zoning Matrix the requested IL zoning **may be found** in accordance with the Plan Map by virtue of its location in the a Special District.

STAFF RECOMMENDATION:

Based on District 17 Plan, existing adjacent zoning, and development in the area, staff recommends **APPROVAL** of the requested IL zoning for Z-6847.

Applicant's Comments:

Leon Melton, 17929 East Admiral Place, Tulsa, Oklahoma 74105, stated that he would like to change the RS zoning to IL zoning.

TMAPC Comments:

Mr. Midget asked Mr. Melton if he is in agreement with staff's recommendation. In response, Mr. Melton answered affirmatively.

Interested Parties Comments:

Virginia Maddox, 18005 East Admiral Place, Tulsa, Oklahoma 74105, stated that she lives next door to the east for the last 34 years. She indicated that she has been to the Planning Commission many times trying to keep the immediate area as residential. She commented that there are seven or eight houses in the subject area.

Ms. Maddox stated that she doesn't want a car sales lot next to her home. She commented that the Meltons are nice people, but she does not want car sales next door. She stated that all of the area around is vacant and the only homes that are there are four to five on one side of the street and three or four on the opposite side of the street.

Sid Schmoker, 17702 East Admiral Place, Tulsa, Oklahoma 74105, stated that he lives across the street from the subject property and opposes this application. He explained that he moved there because of the openness and the trees.

Mr. Schmoker expressed concerns regarding stormwater runoff and pollution from the cars for sale. He stated that he would not like to see the traffic that a car lot would generate into the neighborhood. He further stated that there is a potential for housing to develop on five acres across the street from him and he would not like to see additional IL zoning.

TMAPC Comments:

Mr. Harmon asked Mr. Schmoker how long he has lived in the subject area. In response, Mr. Schmoker stated that he has lived there seven years. Mr. Harmon asked Mr. Schmoker if there was IL zoning in existence when he purchased his property. In response, Mr. Schmoker answered affirmatively. Mr. Harmon asked Mr. Schmoker if there have been any new housing development in the subject area. In response, Mr. Schmoker answered negatively.

Ms. Pace stated that the applicant would have to install a privacy fence in order to screen the neighbor. Ms. Pace asked staff if the applicant had to have an all-weather surface if this was indeed a car lot. In response, Mr. Stump stated that there would have to be an all-weather surface for vehicles on display.

Ms. Pace recognized Mr. Melton.

Mr. Melton asked if he would have to install a wooden fence between his property and Ms. Maddox. In response, Mr. Harmon answered affirmatively. Mr. Melton stated that he would be installing asphalt. Ms. Pace informed Mr. Melton that he would have to have landscaping as well. Mr. Stump stated that the applicant would have to meet of the City's requirements regarding stormwater runoff. Mr. Midget asked Mr. Melton if he understood everything. In response, Mr. Melton stated that it would be difficult to install a fence because of some trees. Mr. Midget stated that he would have to figure out how to put a fence between his property and the neighbors.

Ms. Hill stated that Mr. Melton would have to get a building permit to lay the asphalt. Mr. Melton stated that he wouldn't be building anything. Mr. Stump informed Mr. Melton that he had to have a building permit to lay the asphalt.

Mr. Harmon explained to Mr. Melton that there are specific requirements and he should get with staff. Mr. Melton stated that he intended to adhere to the requirements.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, the TMAPC voted 7-1-0 (Bayles, Carnes Harmon, Horner, Jackson, Midget Pace, "aye"; Hill "nay"; none "abstaining"; Ledford, Selph, Westervelt "absent") to recommend **APPROVAL** of the IL zoning for Z-6847 as recommended by staff.

Legal Description for Z-6847:

The E/2, W/2, E/2, Lot 4, in Section 1, T-19-N, R-14-E, of the IBM, Tulsa County, State of Oklahoma, and located east of the northeast corner of East Admiral Place and South Lynn Lane, Tulsa, Oklahoma, **From RS-1 (Residential Single-family Low Density District) To IL (Industrial Light District).**

APPLICATION NO.: CZ-296

AG to CS

Applicant: F. Morrison Cox

(PD-17) (County)

Location: South of southwest corner of East 86th Street North and North Yale Avenue

Staff Recommendation:

RELEVANT ZONING HISTORY:

CZ-214 December 1994: A request to rezone a 3.8-acre tract located on the northwest corner of East 86th Street North and North Yale Avenue from AG to CG for a mini-storage facility was denied for CG and approved for CS zoning.

CZ-174 January 1989: An application to rezone 253.7 acres with tracts located on both the east and west side of U. S. Highway 75 and south of East 76th Street North. The request was to rezone all of this property from AG to RS. Based on earlier development patterns and the lack of public utilities in the area, staff recommended denial of RS density and recommended approval of RE zoning on all the property except the west 450' of the north 660' of the westernmost tract.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 15.1 acres in size and is located south of the southwest corner of East 86th Street North and North Yale Avenue. The property is flat, non-wooded, contains a single-family dwelling and accessory buildings, and is zoned AG.

STREETS:

Exist Access	MSHP Desig.	MSHP ROW	Exist. No. Lanes
East 86 th Street North	120'	120'	2 lanes
North Yale Avenue	100'	100'	2 lanes

The Tulsa County Counts 1993 – 1994 indicate 5,022 trips per day on East 86th Street North between North Yale Avenue and North Sheridan Avenue.

UTILITIES: Rural Water District 3 provides water service for this area. Lagoons and septic systems would be required for sewers.

SURROUNDING AREA: The subject tract is abutted on the north, south and west by vacant land, zoned AG, and on the east and southeast by scattered single-family homes, also zoned AG.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The North Tulsa County Comprehensive Plan 1980 – 2000 designates the subject tract as Corridor District – High Intensity.

According to the Zoning Matrix that illustrates District Plan Map categories and relationship to zoning districts indicate the requested CS zoning is in accordance with the High Intensity Corridor District designation on the Plan Map.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, this area was originally proposed for industrial development and still appears to be suited to industrial and commercial use due to the accessibility and undeveloped nature and physical characteristics of the area. Therefore, staff recommends **APPROVAL** of CS zoning as requested for CZ-296.

TMAPC Comments:

In response to Ms. Pace, Mr. Stump stated that the County has the same requirements for screening as the City.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, the TMAPC voted 8-0-0 (Bayles, Carnes Harmon, Hill, Horner, Jackson, Midget Pace, "aye"; no "nays"; none "abstaining"; Ledford, Selph, Westervelt "absent") to recommend **APPROVAL** of the CS zoning for CZ-296 as recommended by staff.

Legal Description for CZ-296:

The S/2, NE/4, NE/4; less and except that portion occupied by Highway right-of-way, all in Section 28, T-21-N, R-13-E, being more particularly described as follows: Commencing at the Northeast corner of said NE/4, NE/4; thence S 01°17'21" E along the East line of said NE/4, NE/4, a distance of 660.14' to the Northeast corner of said S/2, NE/4, NE/4; thence S 88°36'09" W along the North line of said S/2, NE/4, NE/4 a distance of 918.73' to the Easterly right-of-way line of U. S. Highway 75; thence Southerly along said Easterly right-of-way line along a curve to the left (tangent bears S 17°44'14" W), said curve having a radius of 1,332.40' and a central angle of 15°09'14", for an arc distance of 352.40'; thence S 02°34'59" W along said Easterly right-of-way line a distance of 316.61' to a point on the South line of said S/2, NE/4, NE/4; thence N 88°34'36" E along said South line a distance of 1,010.36' to the Southeast corner of said S/2, NE/4, NE/4; thence N 01°17'21" W a distance of 660.14' to the Point of Beginning, containing 14.8 acres, more or less and located south of the southwest corner of East 86th Street North and North Whirlpool Drive (8416 North Whirlpool Drive),

Tulsa, Oklahoma, From AG (Agriculture District) To CS (Commercial Shopping Center District).

Mr. Midget out at 3:20 p.m.

APPLICATION NO.: PUD-548-2 MINOR AMENDMENT

Applicant: Marilyn Shores (PD-26) (CD-8)

Location: 11726 South Granite

Staff Recommendation:

The applicant is requesting a minor amendment to change the required 25-foot front yard setback to 23 feet along South Granite Avenue for a new residential structure.

The 23-foot setback requested would not infringe upon an existing 15-foot utility easement located along the eastern property line. The private street easement in the PUD is not affected by the proposed new setback.

Staff recommends **APPROVAL** of the minor amendment as submitted.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **HORNER**, TMAPC voted 7-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Pace "aye"; no "nays"; none "abstaining"; Ledford, Midget, Selph, Westervelt "absent") to **APPROVE** the minor amendment for PUD-548-2 as recommended by staff.

APPLICATION NO.: PUD-179-Y-1 MINOR AMENDMENT

Applicant: Michael R. Parrish (PD-18) (CD-8)

Location: South of southeast corner of East 71st Street and South 85th East Avenue

Staff Recommendation:

The applicant is requesting a minor amendment to remove a 50-foot green belt line and a 100-foot building setback line from the eastern property boundary.

This lot is located in one of the older Planned Unit Developments, although PUD-179-Y was approved as a major amendment in October of 2001. Staff does not see the need for the green belt or setback lines at this time. There is commercial development surrounding the site and residential multifamily uses nearby. There appears to be no need to buffer the east side of the tract from abutting uses with the use of the setback or green belt lines.

Staff can recommend **APPROVAL** of the requested amendment with the condition that there be a 15-foot setback from the east property line in conformance with the concept proposal for PUD-179-Y, and that landscape plans for each development area meet a 15% landscape area requirement.

TMAPC Comments:

Mr. Harmon asked staff to explain the reason for the changes. In response, Mr. Stump stated that the shopping center to the east was originally planned to be residential when the zoning and setbacks were put in place. Mr. Stump stated that it is now commercial and there is no need for the buffer.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **HORNER**, TMAPC voted 7-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Pace "aye"; no "nays"; none "abstaining"; Ledford, Midget, Selph, Westervelt "absent") to **APPROVE** the minor amendment for PUD-179-Y-1, subject to the condition that there be a 15-foot setback from the east property line in conformance with the concept proposal for PUD-179-Y and landscape plans for each development area meet a 15% landscape area requirement as recommended by staff.

OTHER BUSINESS:

APPLICATION NO.: PUD-623

DETAIL SITE PLAN

Applicant: Paul Vakilizadeh

(PD-17) (CD-6)

Location: Southeast corner of East 5th Street and South 129th East Avenue

Staff Recommendation:

The applicant is requesting detail site plan approval for a 3,160 square foot retail and office facility on a 14,625 square foot lot.

Staff has examined the detail site plan and finds conformance to the approved PUD-623 specifications including bulk and area, building square footage and height, setback, parking, access, screening and total landscaped area.

Staff therefore, recommends **APPROVAL** of the site plan as submitted. The applicant has satisfied the conditions of PUD approval concerning the plat for this site.

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

Mr. Midget in at 3:26 p.m.

TMAPC Comments:

Mr. Carnes asked why the garage door is facing 5th Street through the bar ditch to get into the door. Mr. Carnes stated that the site plan does not seem to work.

Mr. Stump stated that the applicant does not indicate a curb cut onto 5th Street. Mr. Dunlap commented that there is no access allowed onto 5th Street. Mr. Carnes stated that it is designed to have a 12-foot garage door to face 5th Street.

The applicant was not present.

Ms. Hill requested that this application be continued to the next meeting in order to have the applicant present and answer these questions.

TMAPC Action; 8 members present:

On **MOTION** of **HILL**, the TMAPC voted **8-0-0** (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Midget, Pace "aye"; no "nays"; none "abstaining"; Ledford, Selph, Westervelt "absent") to **CONTINUE** the detail site plan for PUD-623 to January 16, 2002 at 1:30 p.m.

Mr. Horner out at 3:30 p.m.

Amendment to the Subdivision Regulations for the Tulsa Metropolitan Area

Discussion of and possible action regarding a resolution (2296:839) to amend the Subdivision Regulations (Chapters 1-6) and to add a new Chapter (7).

RESOLUTION 2296:839 – Revision to the Tulsa Metropolitan Area Subdivision Regulations

Staff Recommendation:

On August 22, 2001 the TMAPC held a public hearing to discuss potential changes to the Zoning Code and Subdivision Regulations. At that hearing the Commission directed staff to work with the City Attorney's Office to prepare an

ordinance that could be presented to the City Council with the purpose of amending Section 213 of the Zoning Code. That amendment would clarify the authority of the Commission in regard to the platting process and would be the precursor to the proposed amendment to the Subdivision Regulations.

On December 20 the City Council approved the Ordinance amending Section 213. That action clears the way for the Commission to amend the regulations as previously discussed.

The current amendments to the text include revision to Sections 1-6 and the addition of a new Chapter 7. The primary changes include a "Minor Subdivision Plat", an "Accelerated Release of a Building Permit" and changes to the requirements regarding alternative sewage disposal systems.

If the Commission decides to approve this resolution, State Law indicates that such amendment shall be certified to the Council, the Board and to the County Clerk. The authority for amendment to the Regulations (passed by a majority of the full Commission) is placed with the Commission, certification to the Council and Board is an informational exercise.

Staff recommends **APPROVAL**.

RESOLUTION NO. 2296: 839

A RESOLUTION AMENDING THE TULSA METROPOLITAN AREA SUBDIVISION REGULATIONS

WHEREAS, Pursuant to Title 19, OSA, Section 863.9, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the --th day of August 1978, adopt Subdivision Regulations for the Tulsa Metropolitan Area, which Regulations were subsequently certified to the Board of Commissioners of the City of Tulsa, Oklahoma, and to the Board of County Commissioners of Tulsa County, Oklahoma, and were filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law; and

WHEREAS, pursuant to the above noted Section the TMAPC is authorized to prepare, adopt and amend, as needed, in whole or in part, the above noted Regulations to guide the subdivision of land in the Tulsa Metropolitan Area; and

WHEREAS, a Public Hearing was held on the 22nd day of August, 2001, and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.9, to modify its previously adopted Tulsa Metropolitan Area

Subdivision Regulations as indicated by the attached Exhibit A, made a part of this resolution.

NOW, THEREFORE, BE IT RESOLVED by the TMAPC, that the amendments to the Tulsa Metropolitan Area Subdivision Regulations as above set out, be and are hereby adopted.

DATED this ____ day of _____, 2002.

TULSA METROPOLITAN AREA PLANNING COMMISSION

Chair

ATTEST:

Secretary

Staff Comments:

Mr. Stump informed the Planning Commission that they have the power to change the Subdivision Regulations without going to the City Council for their adoption.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted 7-0-0 (Bayles, Carnes, Harmon, Hill, Jackson, Midget, Pace "aye"; no "nays"; none "abstaining"; Horner, Ledford, Selph, Westervelt "absent") to **APPROVE** the amendments to the Subdivision Regulations for the Tulsa Metropolitan Area and **ADOPT** Resolution No. 2296:839 as recommended by staff.

Amendments to 11 O.S., Section 42 (Oklahoma Statutes)

Discussion of and possible action endorsing proposed amendments for 11 O.S., Section 42 as to the requirements for replatting and providing that restrictive covenants otherwise enforceable shall not be terminated by replatting or vacating of a plat.

Staff Recommendation:

Mr. Stump reminded the Planning Commission that they were briefed on this at the last worksession concerning a State Law change that eliminates the 60% approval of property owners in existing subdivisions to allow the replatting of a

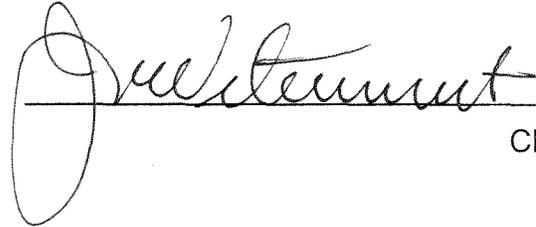
portion of a subdivision. This would also state that a replatting does not change the existing restrictive covenants that are on the underlying plat. Protections are not lost, but it allows developers in infill development to replat portions of older subdivisions into more modern, economical lot patterns without obtaining the 60% consensus of the subdivision or having to take the lot owners to District Court.

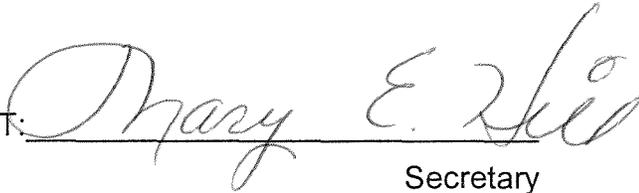
TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, TMAPC voted 7-0-0 (Bayles, Carnes, Harmon, Hill, Jackson, Midget, Pace "aye"; no "nays"; none "abstaining"; Horner, Ledford, Selph, Westervelt "absent") to **ENDORSE** the amendments to 11 O.S., Section 42 (Oklahoma Statutes) as recommended by staff.

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

Date Approved: 1-16-02


Chairman

ATTEST: 
Secretary

