

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2321

Wednesday, September 18, 2002, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Bayles	Hill	Dunlap	Jackere, Legal
Carnes	Dick	Fernandez	
Coutant		Huntsinger	
Harmon		Stump	
Horner			
Jackson			
Ledford			
Midget			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, September 13, 2002 at 3:00 p.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 Harmon called the meeting to order at 1:30 p.m.

Minutes:

Approval of the minutes of August 21, 2002, Meeting No. 2318

On **MOTION** of **LEDFORD**, the TMAPC voted 5-0-1 (Coutant, Harmon, Jackson, Ledford, Midget "aye"; no "nays"; Horner "abstaining"; Bayles, Carnes, Dick, Hill, Westervelt "absent") to **APPROVE** the minutes of the meeting of August 21, 2002, Meeting No. 2318.

Minutes:

Approval of the minutes of August 28, 2002, Meeting No. 2319

On **MOTION** of **LEDFORD**, the TMAPC voted 5-0-1 (Coutant, Harmon, Jackson, Ledford, Midget "aye"; no "nays"; Horner "abstaining"; Bayles, Carnes, Dick, Hill, Westervelt "absent") to **APPROVE** the minutes of the meeting of August 28, 2002, Meeting No. 2319.

REPORTS:

Director's Report:

Mr. Stump reported that there wouldn't be a City Council meeting on Thursday because the Oklahoma Municipal League Conference is in town.

ITEMS TO BE CONTINUED:

L-19419 – Sisemore Weisz & Associates, Inc. (1203) (PD-16) (CD-6)

Location: 4902 North Mingo Road

TMAPC Comments:

Mr. Harmon announced that staff has requested a continuance to September 25, 2002.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **JACKSON**, TMAPC voted 6-0-0 (Coutant, Harmon, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Hill, Westervelt "absent") to **CONTINUE** L-19419 to September 25, 2002 at 1:30 p.m.

SUBDIVISIONS:

L-19418 – Ken Childress (3612) (PD-24) (County)

Location: 1100 East 76th Street North

Staff Recommendation:

The applicant desires to split Tract 1 (132' X 330') off Tract 2. Both resulting tracts meet the RS bulk and area requirements, and the applicant will be deeding additional right-of-way to Tulsa County to meet the 50' secondary arterial standards. A waiver of the Subdivision Regulations is being requested because Tract 2 would have more than three side-lot lines.

The Technical Advisory Committee had no concerns regarding this lot-split. Staff believes this lot-split would not have an adverse effect on the surrounding properties and recommends **APPROVAL** of the waiver of Subdivision

Regulations and of the lot-split, with the condition that the additional right-of-way is given to Tulsa County.

There were no interested parties wishing to speak.

The applicant was not present.

TMAPC Action; 6 members present:

On **MOTION** of **LEDFORD**, TMAPC voted 6-0-0 (Coutant, Harmon, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Hill, Westervelt "absent") to **APPROVE** the waiver of Subdivision Regulations and of the lot-split, with the condition that the additional right-of-way be given to Tulsa County as recommended by staff.

LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

L-19378 – Renee Cowen (1892) (PD-23) (County)

6821 West 25th Street South

L-19412 – Brenda Scrivner (2413) (PD-15) (County)

9227 East 86th Street North

L-19413 – David Brown (624) (PD-14) (County)

Southeast corner 182nd Street North and 97th East Avenue

L-19427 – Don VanHooser (513) (PD-12) (County)

2447 East 123rd Street North

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HORNER**, the TMAPC voted **6-0-0** (Coutant, Harmon, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Hill, Westervelt "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

Mr. Carnes in at 1:35 p.m.

FINAL PLAT:

Huang Mini-Storage – CS (683)

(PD-18) (CD-9)

Location: 6435 South Peoria Avenue, one lot, one block, four acres.

Staff Recommendation:

This plat consists of one lot in one block on four acres. The property will be used for mini-storage uses.

All release letters have been received for this final plat. Staff recommends **APPROVAL** of the final plat.

Mrs. Fernandez stated that she received a call from the South Peoria Neighborhood Connection, who were concerned about the use of the property, which doesn't relate to the plat, as well as the drainage. The neighborhood association indicated that they would call Public Works with the drainage issues.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **HORNER**, TMAPC voted 7-0-0 (Carnes, Coutant, Harmon, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Bayles, Dick, Hill, Westervelt "absent") to **APPROVE** the final plat for Huang Mini-Storage as recommended by staff.

Mr. Ledford stated that he would be abstaining from the final plat for Tall Grass and the Preliminary Plat for Seminole Ridge.

Tall Grass – PUD-579-A (784)

(PD-18) (CD-8)

Location: Northwest corner of 81st Street and Mingo Valley Expressway, six lots, two blocks, 43 acres.

Staff Recommendation:

This plat consists of six lots, two blocks, on 43.3 acres. The property can be used for retail uses, restaurants, schools, churches, commercial uses and other similar uses.

All release letters have been received for this final plat. 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; 7 members present:

On **MOTION** of **HORNER**, TMAPC voted 6-0-1 (Carnes, Coutant, Harmon, Horner, Jackson, Midget "aye"; no "nays"; Ledford "abstaining"; Bayles, Dick, Hill, Westervelt "absent") to **APPROVE** the final plat for Tall Grass as recommended by staff.

PRELIMINARY PLAT:

Seminole Ridge - PUD 299 C (983) (PD-18 B) (CD-8)

Location: Northeast Corner of 81st Street South and Harvard Avenue

Staff Recommendation:

This plat consists of one lot, one block, on 3.29 acres.

The following were discussed September 5, 2002 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** Uses permitted in the OL (office light) zoning district will be allowed on this site.
2. **Streets/access:** The radius at the two arterials needs to be 30 feet. Access to 81st Street should be subject to the Traffic Engineer's approval. This will be determined after the existing driveway to the south is identified by the applicant. Any excess right-of-way should be released for use of sidewalks. If there is additional right-of-way, then Section 1 A of the covenants needs to include street right-of-way. A 17.5-foot utility easement is needed along 81st Street South. The radius and utility easement curve should be the same. An additional eight feet of right-of-way for sidewalk will be needed (if not provided, then a waiver of Public Works policy is needed). Scales for the maps need to match.
3. **Sewer:** The sewer is there and available.
4. **Water:** Water is available.

5. **Storm Drainage:** Overland drainage easements will be needed (lots of water). Additional water will need to be detained. Conceptual changes to grading need to be shown. Covenants need the standard language. Storm sewer needs to be outside of right-of-way.
6. **Utilities: Cox and ONG:** The 17.5-foot utility easement needs to continue on the south and west sides.
7. **Other:** N/A

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. Sidewalks and right-of-way need to be provided per the approval of the Public Works Department.

Standard Conditions:

1. Utility easements shall meet the approval of the utilities.
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 Engineer 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 topography 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 County Engineer.
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 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.]
15. 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.)
16. The method of water supply and plans therefore shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. 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.)
20. 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.)

21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.

Applicant's Comments:

Jerry Ledford, Jr., Tulsa Engineering and Planning, 8209 East 63rd Place, Tulsa, Oklahoma 74133, stated that he would like to address the requirement for the additional right-of-way on South Harvard Avenue. He requested that he be allowed to work with Public Works on trying to reduce the utility easement. He explained that he has no problem with dedicating the additional right-of-way for the right-turn lane. He pointed out that the intersection of Harvard and 81st is fully improved and the dedication for the right-of-way is for what exists. In the past, the developer on Harvard had granted an 80-foot right-of-way, which is above the standard right-of-way for an intersection of this magnitude. Due to the nature of the topography for this site, it is imperative that he attempt to work with Public Works to reduce the additional easement required along 81st Street.

Staff Comments:

Mrs. Fernandez stated that staff doesn't have a problem with the developer working with both utility companies and Public Works to lessen the requirement for the 17.5-foot easement, but it should be per the Public Works approval.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, TMAPC voted 6-0-1 (Carnes, Coutant, Harmon, Horner, Jackson, Midget "aye"; no "nays"; Ledford "abstaining"; Bayles, Dick, Hill, Westervelt "absent") to recommend **APPROVAL** of the preliminary plat for Seminole Ridge, subject to special conditions and standard conditions as recommended by staff, and allowing the applicant to work with Public Works regarding the utility easement.

Mr. Westervelt in at 1:42 p.m.

The Village on Utica – PUD 659 (1993) (PD 6) (CD 9)

Location: West of the Southwest corner of East 31st Street and South Utica Avenue

Staff Recommendation:

The plat consists of seven lots, one block on 1.7 acres.

The following were discussed September 5, 2002 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned PUD 659 and allows a maximum of seven single-family lots with a private street of 18 feet in width.
2. **Streets/access:** Show existing mutual access for the abutting neighbor. The reserves are not shown on the face of the plat as described in the Covenants. The reserves need to be clarified, separated and defined, as does the drainage area. The east access drive needs to be constructed to maintain a 16-foot access drive, especially in the area near Lot 1. A PFPI will be necessary. Show the proper right-of-way on the plat. In the covenants on page 6, B, clarify and depict on the face of the plat. On page 9, check setbacks per PUD. The 17.5-foot utility easement should be outside of the right-of-way. A sidewalk will be needed on East 31st Street South. (The applicant said there were no other sidewalks in the area and that they would request a waiver.) The street is an Urban Arterial so there is possibly more right-of-way available to accommodate sidewalks, so a waiver through Public Works may not be necessary.
3. **Sewer:** The sewer plans have been approved.
4. **Water:** A plan to loop the line is necessary. Buildings need to be sprinkled for the Fire Department per the PUD.
5. **Storm Drainage:** Show easements on the face of the plat. An overland drainage easement will be necessary. Standard language needs to be put in the covenants. Reserves must be labeled and easements separated. Storm drainage between lots needs to be shown. Outflows need to be shown and public versus private stormwater detention easements clarified.
6. **Utilities: Cox, ONG, PSO:** Additional easements will be needed based upon the pipe conduit layout.
7. **Other:** N/A

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. Extension of water and sanitary sewer mains with appropriate easements

satisfactory to the Department of Public Works.

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 Engineer 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 topography 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 County Engineer.
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 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.]
15. 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.)
16. The method of water supply and plans therefore shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. 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.)
20. 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.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. 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 7-0-1 (Carnes, Coutant, Harmon, Horner, Jackson, Ledford, Midget, "aye"; no "nays"; Westervelt "abstaining"; Bayles, Dick, Hill "absent") to recommend **APPROVAL** of the preliminary plat for The Village on Utica subject to the applicant working out the sidewalk issues being worked out to the satisfaction of Public Works, and subject to the special conditions and standard conditions as recommended by staff.

Waynesfield - AGR (1272) (PD 21) (County)
Location: West of Peoria and south of 131st Street

Staff Recommendation:

This plat consists of ten lots, one block, on 21 acres.

The following were discussed September 5, 2002 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property has recently been zoned AGR in Tulsa County. The plat consists of ten lots, one block on 21 acres. Septic systems are proposed.
2. **Streets/access:** The County Engineer requests that the entrance access not be greater than 60 feet. He requests a 55-foot setback from the property line between Lots 5 and 6. The dimensions are off on the perimeter of the plat. In the covenants the reference to the second structure in Section 1 needs to be removed. The building setbacks in Section K need to be corrected. The clipped corner on 131st Street necessitates either a waiver or a 30-foot radius or 28 feet on either side. The legal description needs to be corrected. Easements must be put outside the right-of-way.
3. **Sewer:** N/A (This will have septic systems.)
4. **Water:** N/A (Water will be from Creek RWD # 2.)
5. **Storm Drainage:** N/A
6. **Utilities:** No comment.
7. **Other:** The County Engineer stated that all the improvements must be in place before the plat was accepted, in accordance with the new rules for plats in the County.

The City of Glenpool forwarded their comments and these will be taken care of by the engineer for the project.

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

Waivers of Subdivision Regulations:

1. A waiver to allow more than three side-lot lines is needed.

Special Conditions:

1. The concerns of the County Engineer must be addressed in the specifications. The City of Glenpool's concerns must be taken care of to their satisfaction.

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 Engineer 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 topography 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 County Engineer.
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 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.]
15. 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.)
16. The method of water supply and plans therefore shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. 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.)
20. 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.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.

Ms. Bayles in at 1:47 p.m.

TMAPC Comments:

Mr. Carnes asked staff why the cul-de-sac doesn't pick up the two last lots rather than the two panhandles. He commented that this is extremely unusual. In response, Mrs. Fernandez stated that the County Engineer and the applicant had

worked this out together, and it is unusual, and that is why the exceptional setback is requested. There is room for 30 feet of frontage on a public roadway, which shows both lots having 30 feet accessing onto the cul-de-sac, and there is additional room for right-of-way to come through to create a road in the future if there is development to the south. In response, Mr. Carnes stated that this answer doesn't make sense to him.

Mr. Harmon asked if there is an established roadway on the south side of these lots. In response, Mrs. Fernandez stated that should future development occur, then there would be additional right-of-way to create a road on the south side. Mrs. Fernandez explained that one of the reasons is that the County Engineer would like to have the access set back from the middle of the cul-de-sac back on Lots 5 and 6 for future right-of-way, if needed, for development to the south in the future. In response, Mr. Harmon stated that he doesn't understand this proposal.

Mr. Carnes requested the applicant to come forward and explain his proposal.

Applicant's Comments:

Jack Ramsey, 16905 South 86th East Avenue, Bixby, Oklahoma 74008, stated that the lots do have direct connection to the cul-de-sac and each has a 30-foot wide lane that accesses the centerline of the separation between the Lots 5 and 6 connects to the cul-de-sac. He indicated that Mr. Raines recommended that he have a 30-foot easement on each side and leave it as general easement with no utilities in the event development is extended to the south. Lots 5 and 6 do have 30 feet of frontage on the cul-de-sac.

Mr. Midget asked Mr. Ramsey if there would be development toward the south then would he open up the cul-de-sac. Mr. Ramsey stated that at this time the topography does not lend itself well to extending the street because it is a wetland. Should anyone want to develop toward the south, there would be a 60-foot easement and the cul-de-sac would go away.

Mr. Westervelt said that he knows that there is some chance there would not be a connection due to the topography, the applicant could move the cul-de-sac back where it would traditionally been at the end of the subdivision. If the south end is developed, the street could be connected and the cul-de-sac removed. Mr. Westervelt asked Mr. Ramsey why he is holding the cul-de-sac one lot short of what he believes would be the end of this development. In response, Mr. Ramsey stated that the extended length of the cul-de-sac would require side streets out to the adjacent properties to the east and west. Mr. Westervelt asked Mr. Ramsey if there would be another waiver request of the requirement due to the length of the cul-de-sac if it were extended. In response, Mr. Ramsey answered affirmatively.

Mr. Westervelt stated that he is perplexed because the reason for a cul-de-sac is to provide adequate turnaround for emergency vehicles, and holding it back to Lots 5 and 6 really doesn't do much to help those lots. He commented that he would rather waive the regulations to allow a longer cul-de-sac than the proposed.

Mr. Carnes suggested that this application be continued in order to allow the staff and applicant to extend the cul-de-sac and then the Planning Commission could take the appropriate actions at that time.

Mr. Ramsey stated that this proposal was a recommendation of Mr. Raines, County Engineer, at the pre-design conference. Mr. Ramsey indicated that he could extend the cul-de-sac if that is what the Planning Commission recommends. He would have to apply for a waiver of the side streets.

Mr. Stump stated that the existing application requires a waiver as it stands at this point. The last two lots have more than three side-lot lines.

Mr. Jackson asked Mr. Ramsey if he would be amenable to the Planning Commission extending the cul-de-sac 150 feet. In response, Mr. Ramsey stated that he wouldn't have a problem with that request.

Mr. Harmon asked staff if Mr. Ramsey would need another waiver in order to extend the cul-de-sac. In response, Mr. Stump stated that he assumes that the extension of the cul-de-sac would exceed the maximum length of a cul-de-sac and it would require a waiver. If the Planning Commission desires to have this done, the application would have to be continued one week in order to allow staff to analyze what exactly needs to be waived.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted 9-0-0 (Bayles, Carnes, Coutant, Harmon, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Dick, Hill "absent") to **CONTINUE** the preliminary plat for Waynesfield to September 25, 2002 at 1:30 p.m.

PUBLIC HEARING ON ZONING CODE TEXT AMENDMENTS:

The proposed amendments to the City of Tulsa Zoning Code text relating to establishing a spacing requirement between sexually-oriented businesses and uses frequented by persons under 18 years of age.

Staff Recommendation:

WORDS DELETED ARE SHOWN AS STRIKEOUT; WORDS ADDED OR SUBSTITUTED ARE UNDERLINED.

THIS DRAFT DOCUMENT IS ONLY FOR REVIEW AND POSSIBLE CONSIDERATION.

CITY OF TULSA ZONING CODE

SECTION 705. LOCATION OF SEXUALLY-ORIENTED BUSINESSES

B. Prohibition

No person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses as defined in Section 705.A, in an area zoned other than CS, CG, CH, and/or CBD. In addition, no person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses, as defined in Section 705.A, within:

1. **1,000 feet from any other sexually-oriented business.** The 1,000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted, to the nearest point of the wall of the portion of the building in which another sexually-oriented business is conducted.
2. **500 feet from a church.** Church as used herein shall mean all contiguous property owned or leased by a church upon which is located the principal church building or structure, irrespective of any interior lot lines. The 500 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point of the church. Provided, however, for a church use located in a building principally used for commercial or office purposes (as in a shopping center), the 500 feet shall be measured to the nearest building wall of the portion of the building used for church purposes.
3. **500 feet from a school** of the type which offers a compulsory education curriculum. School as used herein shall mean all contiguous property owned or leased by a school upon which is located the principal school building(s) irrespective of any interior lot lines. The 500 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point of the school.

4. **500 feet from a public park or private park.** The 500 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point on the property of the park.
5. **500 feet from areas zoned residential.** The 500 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted, to the nearest point on a Residential Zoning District boundary line (not including residentially-zoned expressway right-of-way).
6. **500 feet from Use Unit 2 and 5 Uses primarily caring for or frequented by persons under 18 years of age.** These uses include, but are not limited to, children's preschools, children's nurseries, children's day camps, juvenile delinquency centers, children's campgrounds, children's group homes, children's day care centers, libraries, museums, planetariums, and aquariums. The 500 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point on the property containing the use primarily caring for or are frequented by persons under 18 years of age.

Provided further that the Board of Adjustment may permit by Special Exception sexually-oriented businesses, as defined in Section 705.A in an IL, IM or IH District, subject to the distance limitations set forth herein.

The establishment of a sexually-oriented business shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area, or the conversion of an existing business location to any of the uses described in Section 705.A.

Mr. Stump stated that the underlined portion is proposed to be added to the Tulsa Zoning Code. He explained that this is primarily to provide the same type of spacing between sexually-oriented businesses and various uses as now exist for residentially-zoned properties, public and private parks, schools and churches, etc.

Mr. Stump stated the City thought the Code covered this issue by most of the existing spacing requirements, but some of these activities (frequented by children or care for children) still do occur in the commercially-zoned area; although the predominance is in the residential and office districts, and sexually-oriented businesses are only allowed in commercially-zoned areas. Staff thought

it would be a good idea to add this spacing to make sure that the City has the type of protection that everyone expected to be in the Code.

TMAPC Comments:

Mr. Harmon asked how the notice of public hearing is sent out to the public. In response, Mr. Stump stated that the notice is published in the newspaper.

There were no interested parties wishing to speak.

TMAPC Comments:

Mr. Westervelt stated that there should be some changes regarding the measurement of spacing. He recommended that the spacing be measured from parking lot to parking lot. He explained that a church or daycare parking lot is adjacent to a sexually-oriented business, that may meet the spacing requirements from a corner of the building to the parking lot on the next property. However, it would still present a potential problem within a few feet of each other. He requested that there be additional separation and would like to see the language worded so that it is from property line to property line instead of building corner. He suggested that there be another worksession in order to work on the language.

Mr. Harmon questioned whether the measurement of property line to property line would be accurate.

Mr. Westervelt stated that there could be an adolescent within a couple of feet of a parking place where there could be a sexual predator. He commented that he is not trying to legislate morality, but there is the potential to have two uses that shouldn't be against each other. He stated that he would like to see more separation to the point at which Legal counsel states that the separation is not so extreme that it violates any businesses rights, but separates a potential problem land use relationship.

Mr. Jackere stated that in the past the City has tried to be consistent in where the measuring points begin with for sexually-oriented business. He doesn't necessarily share Mr. Westervelt's concerns, but if he would like more separation he would suggest keeping the measurement standard the same, but increasing the distance. Nothing states that the City has to be consistent, but consistency facilitates interpretation and enforcement. He pointed out that all of the other six items that are being protected are measured from the building wall of the sexually-oriented business.

Mr. Westervelt asked Mr. Jackere if he would be able to draft something that would make all of Section 705 consistent from property line to property line or if it would be difficult to do legally. In response, Mr. Jackere stated that he didn't know if it would be difficult to draft new language.

Mr. Carnes asked Mr. Westervelt how many times this situation would actually arise if the Planning Commission left the Code as it is today. In response, Mr. Westervelt stated that he is not willing to take a chance that this scenario would happen one time. Mr. Westervelt further stated that he takes these kinds of issues very seriously, and this is one land issue that has more than a Code violation as part of it. Mr. Westervelt commented that this deserves some attention and the change is something that is needed. If it requires another worksession, and then he is agreeable to continuing this issue one week.

Mr. Midget suggested that the measurement standard stay as it is currently and extend the required distance.

Mr. Stump stated that this would need to be readvertised and should be stricken from the agenda.

Mr. Harmon announced that this item has been stricken and would be readvertised.

CONTINUED ZONING PUBLIC HEARING:

PUD-668

RS-2/IM/IL/OL to RS-2/IM/IL/OL/PUD

Applicant: Roy D. Johnsen (PD-17) (CD-6)

Location: West of the northwest corner of East 11th Street and South 138th East Avenue

Staff Recommendation:

APAC – Oklahoma, Inc. (“APAC”), operates a concrete ready-mix plant on a 20-acre tract located on the north side of East 11th Street South between 129th East Avenue and 145th East Avenue. The concrete plant commenced operations in 1969 under previous owners and has been operated continuously to the current date. Over time, the previous owners extended operations outside the boundaries of the industrially-zoned part of the property and other various violations of the Tulsa Zoning Code occurred. APAC purchased the property in July of 1999.

The development concept is graphically depicted within Exhibit ‘A’ Concept Illustration. The applicant states that the purpose of this PUD is to comprehensively review and plan the entirety of the 20-acre tract with the objectives of:

1. Establishing appropriate development standards for the existing concrete ready-mix facility including screening walls, landscaping and operational limitations intended to promote compatibility with affected neighborhoods;
2. Permitting the continued operation of an existing industry and providing an opportunity for a safer and more efficient plant operation with authorization for extension of ancillary uses northwardly into the residentially-zoned portion of the site actually used by the previous owners;
3. Promoting the continued achievement of stormwater management improvements by identification, protection and dedication of floodplain areas;
4. Establish meaningful open spaces that provide a buffer from proximate neighborhoods and which provide the opportunity for public recreational use.

It should be noted that an interlocutory order has been issued by the District Court, which sets forth the actions necessary to achieve compliance with the Tulsa Zoning Code without additional zoning approvals, and that the ready-mix plant can be operated within the presently-zoned portions of the site. APAC is proceeding to implement the remedial actions necessary to achieve compliance.

The site comprises 20 acres (gross), has 660 feet of frontage on East 11th Street and extends north from East 11th Street a distance of 1320 feet. The Major Street and Highway Plan designates East 11th Street as a secondary arterial, planned for a minimum right-of-way of 100 feet with five traffic lanes. Widening of the arterial street has not been scheduled or funded.

The site is presently zoned IM Industrial Moderate (the southwest 2.19 acres zoned U-4B in 1957, which was the pre-1970 zoning code equivalent of IM), IL Industrial Light (.53 acres-zoned in 1974 as a 70-foot strip adjoining the north boundary of the IM, which also received BOA approval for Use Unit 26 uses, BOA-18742), OL Office Low Intensity (2.71 acres-zoned in 1974 adjoining the east boundary of the IM and IL), and the balance zoned RS-2 Single-Family Residential (14.57 acres-zoned residentially pre-1970). A concrete ready-mix plant is a use permitted by right in an IM district and may be permitted by special exception in an IL district. No change in the underlying general zoning districts is required for the proposed PUD.

The PUD designates six development areas (depicted within Exhibit 'B' Development Areas) and proposes permitted uses as follows:

1. Development Area A (1.8 acres net) is the area currently zoned IM in which the actual ready-mix concrete plant is presently located and in which the ready-mix concrete plant would be required to be located in any subsequent alteration and would be limited to the plant and uses customarily accessory thereto;
2. Development Area B (1.10 acres net) is the area in which the administrative offices are presently located and would be limited to office use and accessory parking;
3. Development Area C (2.69 acres net) is substantially the area which over time has been utilized (both legally in the IL portion and illegally in the RS-2 portion) for uses ancillary to the batch plant and is proposed for only ancillary uses including aggregate supply, truck wash-out and truck and equipment parking.
4. Development Area D (1.45 acres net) is a floodplain area proposed to remain in APAC's ownership and to be maintained as an open space buffer.
5. Development Area E (7.21 acres net) is a floodplain area proposed for dedication to the City of Tulsa to be utilized for floodplain management and open space.
6. Development Area F (4.92 acres net) is an area north of the floodplain proposed for dedication to the City of Tulsa to be utilized for open space.

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-668, 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-668 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

Gross Land Area:	2.19 acres
Net Land Area:	1.81 acres

Permitted Uses:

The permitted uses shall be limited to a concrete ready-mix plant and uses customarily incidental thereto.

Maximum Building Floor Area Ratio: .15

Maximum Building or Structure Height:

Plant including materials hoppers 70 FT

Other Buildings

One story not to exceed 28 FT.

Minimum Building or Structure Setbacks:

From centerline of East 11th Street

Existing buildings and structures 75 FT

New screening walls 35.00 FT*

Other new buildings and structures 100.00 FT

From west, north and east boundaries 0 FT

Parking Ratio:

As provided within the applicable use unit of the Tulsa Zoning Code.

Minimum Landscaped Area: None.

*Subject to a variance of Section 215 and 1104.D. being granted by the Board of Adjustment.

DEVELOPMENT AREA B

Gross Land Area: 1.40 acres

Net Land Area: 1.10 acres

Permitted Uses:

The permitted uses shall be limited to offices and off-street parking, excluding non-passenger vehicles.

Maximum Building Floor Area Ratio: .15

Maximum Building Height:

One story not to exceed 28 FT.

Minimum Building Setbacks:

From centerline of East 11th Street

Existing buildings and structures 80 FT

New screening walls 35.00 FT*

Other new buildings and structures 100.00 FT

From west and north boundaries 0 FT

From east boundary 150.00 FT

Parking Ratio:

As provided within the applicable use unit of the Tulsa Zoning Code.

Minimum Landscaped Area:

30% of net lot area.

Remedial Work:

The existing parking area shall be reconstructed in accordance with the provisions of the Tulsa Zoning Code including landscaping.

*Subject to a variance of Section 215 and 1104.D. being granted by the Board of Adjustment.

DEVELOPMENT AREA C

Net Land Area: 2.69 acres

Permitted Uses:

The permitted uses shall be limited to truck wash-out, truck rinse off, aggregate and sand storage, truck and equipment parking (excluding inoperative vehicles and equipment) sewage lagoon, stormwater pond, which receives no waters regulated by DEQ, quality control building and parts building.

Maximum Building Floor Area Ratio: 1000 SF

Maximum Building Height:

One story not to exceed 28 FT.

Minimum Building Setbacks:

From west boundary 100 FT

From south and east boundaries 0 FT

From north boundary

Buildings shall be located within the south 70 feet of the development area.

Parking Ratio:

As provided within the applicable use unit of the Tulsa Zoning Code.

Minimum Landscaped Area: None.

DEVELOPMENT AREA D

Net Land Area: 1.45 acres

Permitted Uses:

The permitted uses shall be limited to floodplain management and open space.

Remedial Work:

The existing pond located within Area D shall be removed and the area restored to 1977 contours.

DEVELOPMENT AREA E**

Net Land Area: 7.36 acres

Permitted Uses:

The permitted uses shall be limited to floodplain management and open space and recreational use.

DEVELOPMENT AREA F**

Net Land Area:

4.92 acres

Permitted Uses:

The permitted uses shall be limited to stormwater management and open space and recreational use.

**If Areas E and F remain in private ownership they shall be maintained privately, substantially in a natural condition, as a buffer of the concrete plant operations.

3. Landscaping and Screening Walls:

Landscaping and screening within the PUD shall be designed to achieve a more attractive streetscape and appropriate buffering from residential areas. The landscaped open space areas (which may include native vegetation) shall comprise more than 65% of the net area of the PUD. Landscaping within Development Area A and Development Area B shall be in substantial accordance with the concepts depicted within Exhibit 'C-1' Landscape Concept if permitted by the City. Pre-cast masonry walls, not less than eight feet in height, shall be constructed along the 11th Street frontage of Development Area A and shall extend north along the east boundary of Development Area A, and north along the west boundary of Development Area A substantially as depicted within Exhibit 'C-1' Landscape Concept. Access points to East 11th Street shall be gated by sight-proof solid wood gates affixed to metal framing. Concrete block walls, not less than eight feet in height and having an exterior-finished surface, shall be constructed and/or maintained along the west boundary of Development Area A and Development Area C and along the east boundary of Development Area C substantially as depicted within Exhibit 'A' Concept Illustration. All screening walls and landscaped areas proposed within the planned right-of-way of 11th Street shall be subject to approval of the City and variances being granted by the Board of Adjustment. If such approvals and variances are not granted or walls and landscaping is not erected, no residentially-zoned property within the PUD may be used for non-residential uses.

4. **Operational Limitations:**

A. Truck wash-out and truck rinse off:

The truck wash-out and truck rinse-off shall be limited to a self-contained total retention system incorporating a reclaimer process and shall have a DEQ regulated industrial wastewater discharge.

B. Dust Collector:

A filtered centrifugal dust collector system shall be installed and maintained at the truck loading port.

5. **Signage:**

Signage shall be limited to one sign affixed to the south-screening wall and one sign affixed to the south wall of the office building. Neither sign shall exceed a display surface area of 64 square feet.

6. No zoning clearance permit shall be issued for a use within the PUD until a detail site plan for the lot containing the use, 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.
7. 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.
8. 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.
9. 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.

10. Any new lighting used to illuminate the subject tract shall be so arranged as to shield and direct the light away from adjacent properties abutting the PUD. Shielding of such light shall be designed so as to prevent the light-producing element or reflector of the light fixture from being visible to a person standing in adjacent properties or street right-of-way.
11. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
12. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
13. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process, which are approved by TMAPC.
14. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.
15. All access must be approved by the Tulsa Fire Department and Traffic Engineering.
16. There shall be no development in the regulatory floodplain.

Applicant's Comments:

Roy D. Johnsen, 210 West 5th Street, Suite 501, Tulsa, Oklahoma 74103, representing APAC Oklahoma, Inc., and cited a summary of the history for the subject property. Mr. Johnsen cited the history of the original owner and its expansions up to the present owner. He indicated that the subject business has been in operation legally for over 30 years and the previous owner obtained rezoning for expansion. Mr. Johnsen pointed out that when the subject property was rezoned to IM in the 1950's, it wasn't subject to platting. When the IL and OL were rezoned in the 1970's, the rezoned districts were subject to platting and it is unclear why this wasn't enforced, because the City building permits issued. When APAC purchased the subject property, a complaint was filed that there were zoning violations and indeed there were. The predecessors had expanded outside of the IM and the IL and into the RS-2 area. This had been occurring over fifteen years and it is unclear when it all took place.

Mr. Johnsen stated that after the notice of violations was served on APAC, a series of applications followed seeking determinations and interpretations of the ordinance. Certain special exceptions and variances were granted and some were denied. To summarize, the subject property ended up in District Court, Judge Wiseman and the court entered an order to obtain permits for a number of activities, plat the property that had been zoned in 1974 and permit the existing screening wall. APAC was also working to find a proper solution to some DEQ issues regarding a truck wash-out. A truck wash-out is when a truck returns from a job with excess concrete in the hopper and it has to be washed out. When APAC purchased the property the wash-out area was inadequate and over time there had been overflows into a pond and the creek, which was of considerable concern to the neighborhood and to APAC. Mr. Johnsen indicated that APAC spent a lot of time and money to design a system to take care of this important issue. There is currently a DEQ permit for onsite retention of the truck wash-out so that it would never get into the creek. This new system also has a reclaimer aspect unlike anywhere else in the City of Tulsa. He explained that sand and gravel are extracted and what is left is settled, scooped out and taken to a landfill. APAC removed all of the old slurry collected over the past 30 years and hauled it off (300 plus truck loads). The DEQ concern was an essential issue and APAC now has a DEQ permit for the location of the wash-out area in the IL-zoned property.

Mr. Johnsen explained that another issue was the parking lot, which was graveled. APAC agreed to resurface the parking lot, landscape it and have the appropriate drainage. APAC couldn't accomplish the platting issues until the drainage issues were addressed. APAC submitted a plat for the OL and IL areas, which was released by the Planning Commission, approved by the City Council and recorded. This was required before obtaining the permits to do the other remedial work. During the process Mr. Westervelt and Councilor Art Justis thought the subject property needed an overall approach. APAC decided that a PUD would be filed and that has been done. He indicated that there was a series of meetings with Mr. Westervelt, Councilor Justis, Public Works, and the Planning Commission staff. He summarized that APAC could become in compliance with all required permits in hand, with the present zoning or proceed under today's PUD and make the situation better for the neighborhood with a more efficient and safe operation of the facility. Mr. Johnsen stated that APAC could operate legally today without the PUD, but the PUD would allow APAC to improve the situation, be a better neighbor and operate more appropriately.

Mr. Johnsen cited land use facts and stated that there are ten acres immediately to the south of the subject property that are owned by APAC. He stated that this is important to remember because it provides a buffer. He cited the zoning and uses along 11th Street and the surrounding areas. Mr. Johnsen submitted a packet with exhibits (Exhibit A-2). He pointed out that the subject property is buffered by a heavily-wooded area on the north and east. The subject area is not densely developed in the subject vicinity. He pointed out that the subdivision

(Golden Acres) is to the immediate east of APAC. The APAC east boundary is Cooley Creek and the nearest house to the east on the north side (nearest property line) is approximately 450 feet away. From that house, looking west, one would see trees and through the trees is a parking lot, office and the batch plant.

Mr. Johnsen indicated that he met with Mrs. Brown from the Golden Acres subdivision and the distance to her home is more than 1,000 feet. Again, there are trees between the activity of the ready-mix plant and her property. He stated that he also met with Mr. Melton, who lives on the south side of 11th Street, and the distance to his property is approximately 350 feet. Mr. Johnsen concluded that these are the nearest homes to the APAC property that are zoned residentially, although there is a rental property to the west that is zoned office and commercial. Mr. Johnsen submitted photographs (Exhibit A-3) and pointed out the boundaries of the subject property and the existing natural buffers.

Mr. Johnsen stated that APAC agreed to redo the parking lot and meet the Landscaping Chapter of the Zoning Code. He indicated that this would be one of the early things that would happen. He explained that the parking lot would become smaller than it is presently, which would have less impervious area. His client is not planning to expand the office as they once thought they would in order to improve the parking according to the agreement.

Mr. Johnsen submitted a conceptual site plan (Exhibit A-2). He explained that the floodplain is significant on the subject property. Development Area A is the IM zoned area. It wouldn't have been necessary to include this property in the PUD because the use is legal, but the idea was to do an overall review and plan for the subject property. There was considerable input from the technical staff and the neighborhood residents. Development Area C was intended for the reclaimer and the truck wash-out. The balance was to be used for maneuvering and parking of trucks, the more ancillary and passive uses of the operation. The lagoon is legal and there is one pond, which APAC has to return it to the 1977 circumstances. Development Area B is where the office is located. Development Area D is floodplain area and retained as open space in the ownership of APAC, which would provide a buffer. Development Area E is also floodplain, but Development Area F is not floodplain (it is located to the north of the floodplain). It is proposed that APAC would offer Development Areas E and F to the City of Tulsa by dedication. There are some floodplain problems that APAC has been advised of and it is a rare opportunity for the City to secure the floodplain, which would offer a number of options available to the City. The proviso would be that these two areas would be used for park purposes and stormwater management and not used for development purposes.

Mr. Johnsen indicated that a professional developed some concepts for the landscaping. There would be an additional ten feet of right-of-way on 11th Street, the chain-linked fence would be removed and at the 35-foot line, a pre-cast

masonry wall built along the front of Development Area A, except at the two points of access, extending the wall along the east boundary of Development Area A from 11th Street and tying at the office building. The same would be true on the west boundary, with an eight-foot high pre-cast masonry wall from the access point on 11th Street extending north. There would be landscaping in front of the wall along 11th Street, which would improve the streetscape. The parking area would be totally redone and landscaped in accordance to the Code. The gate would be made of wood and on rollers so that it could slide across and close the property at night, but during the day it would be out of sight. The walls would help prevent dust and noise going into the surrounding areas. On the west side the screening wall would be pre-cast up to the aggregate hoppers and then it would be concrete blocks. The streetscape and neighbor view would be all screened. There would be a wall from the office building to the shop, and from the shop to the floodplain line, which would be eight-foot in height from concrete blocks. Because of the floodplain area and the riprap area (for stormwater runoff) the wall has to be broken into sections. He believes that all of the walls will be effective on dust and noise. He commented that behind all of this there would also be a reclaimer.

Mr. Johnsen stated that there is a perception that the plant is being expanded and he is not sure how that began. Development Area A is presently being properly used; the IL portion of Development Area C is presently property used; the lagoon is legally and properly used in the residential part of Development Area C; in the south extension between Development Areas B, D and C there is another pond and it is legal presently. What is really happening, in terms of expansion, is geographic. Development Areas A, B, C and D form an ownership and operating unit of 7.04 acres. Development Area E is 7.02 acres and Development Area F is 4.09 acres, which is 12 acres total that would be dedicated to the City. Development Area C, of the area that is presently being used and has been for more than 15 years, would encompass 1.42 acres, which would be an extension northwardly from the IL line approximately 240 feet. This would be less than has been used historically on the subject property. The green area in Development Area E had been used in the past and would not be used under this proposal. The total expansion would be a 25% increase geographically, but it is not totally fair to call it an increase because the use has been there for over 30 years and the owners are now trying to come into compliance and have it approved as part of the PUD. Mr. Johnsen explained how zoning lines are usually determined. He stated that he proposes that the IL line be taken to the floodplain line.

Mr. Johnsen stated that he met with very nice people from Golden Acres and one gentleman from across the street. They had the perception that production would be expanded. The real measure of production is how many cubic yards of concrete would be produced and transported. APAC keeps very good records and the six year average is 120,745 cubic yards of concrete. He explained that he deleted 2002 because it is going to be lower than usually and would make the

average a little misleading. The number of trucks that are assigned to the subject property is currently 18 but may be as many as 22. The plant is a single-load facility, which means only one truck can be loaded at a time. Mr. Johnsen submitted a supplemental development standard (Exhibit A-1). He proposed, as a supplemental development standard, that the annual production of the facility shall be limited to 120,000 cubic yards of concrete.

Mr. Harmon informed Mr. Johnsen that he has exceeded 30 minutes and requested that he wrap up his presentation.

Mr. Johnsen stated that the second supplemental development standard would be that the facility shall be limited to one single-load concrete ready-mix plant; and the third is that not more than 22 concrete ready-mix trucks shall be assigned to the facility. If the PUD is approved the plant would not become larger and the supplemental development standards are submitted to assure that it wouldn't become larger.

Mr. Johnsen concluded that APAC will be in compliance with the zoning, and if the PUD were not approved, then APAC would take the necessary steps to operate in the present existing zoning. It would be a difficult operation because it is too tight and they are concerned about safety, but it can be done under the court's interlocutory order because APAC has the permits to do so. The PUD would be much improved, and it would benefit the neighborhood and the City with the open space dedication and its permits APAC to do a better job of their internal operations.

TMAPC Comments:

Mr. Westervelt announced that he has had some ex parte communication and he will be voting today on this application. Mr. Westervelt asked Mr. Johnsen about a dust abatement program that is very expensive and has been implemented. In response, Mr. Johnsen stated that APAC installed a dust collector, which is already in place. It is located where the ingredients for concrete go into the truck. This area is now shrouded with a dust collector that is a vacuum-based system. The reclaimer is also believed to help with dust because the tracking will be greatly improved.

Mr. Westervelt asked Mr. Johnsen if the Planning Commission were to deny the use to slide to the north if he would be able to reorient the reclaimer and continue to operate the plant. He asked if there is anything that would be granted in this PUD that would put him into compliance where he is otherwise not in compliance. In response, Mr. Johnsen stated that he doesn't believe so. He explained that he has a design and a permit where the reclaimer facility is located in the IL district. Mr. Johnsen commented that the only real thing that the PUD would permit is to put the reclaimer on a north/south axis and have greater maneuvering room and greater areas to park the trucks in the evening.

Mr. Harmon asked Mr. Johnsen how extensive the contact with DEQ has been. In response, Mr. Johnsen stated that it has been very extensive. Mr. Harmon asked if the reclaimer wasn't working and APAC went ahead and washed their trucks out and dumped it into the riprap ditch, how soon DEQ reacts. Mr. Johnsen stated that there is a very diligent neighborhood and it would be reported. Mr. Harmon asked if DEQ would shut it down if this happened. In response, Mr. Johnsen stated that he believes that DEQ would shut it down if this happened. Mr. Johnsen explained that DEQ does periodic inspections without being announced and respond to complaints. Mr. Johnsen stated that APAC is a national company and takes this very seriously. APAC has gone a long way to come up with a system. The facility will have a reclaimer and dust collector that none of the other operations in Tulsa have.

Mr. Ledford asked Mr. Johnsen how far north the trucks park along the west boundary. In response, Mr. Johnsen stated that he is not sure, but he believes they are currently staying within the IL south. Mr. Johnsen explained that APAC has been trying to do what they could to minimize any violations until the issues are resolved. Historically, the trucks did park all the way to the floodplain and sometimes within it.

TMAPC Comments:

Mr. Harmon announced that there are many interested parties who have signed up to speak on this issue. He stated that in order to give each person a sufficient time there would be a limit of 2.5 minutes. The Chairman has the prerogative to waive this requirement for the first speaker, Senator Kevin Easley.

Interested Parties Comments:

Senator Kevin Easley, stated that he would like to thank the Planning Commission for their time on this issue. He indicated that he has been asked by numerous neighbors to represent them today and referred to his letter he mailed earlier in opposition. He requested the Planning Commission to seriously consider the quality-of-life issues. He indicated that he met with the DEQ regarding this particular area and there are still some very real issues. He deferred his time to the experts that are present to speak on these issues. He thanked Mr. Harmon for allowing him to speak first.

TMAPC Comments:

Mr. Westervelt asked Senator Easley if he had a chance or made any effort to contact the Democratic Councilor from this district, Councilor Justis. Mr. Westervelt asked Senator Easley if he has had any discussion with Councilor Justis in the last several weeks or months. In response, Senator Easley stated that he has not contacted Councilor Justis in the last several weeks, but he has spoken with Councilor Justis on this issue numerous times, and he has some concerns as well. Senator Easley stated that he doesn't know if Councilor Justis has taken a position for or against. Senator Easley stated that previously, at the

meeting at East Central High School, Council Justis had some very real concerns.

Mr. Westervelt asked Senator Easley if he has contacted Councilor Justis since this PUD has been submitted. In response, Senator Easley answered negatively.

Mr. Westervelt asked Senator Easley if he were in the Planning Commission's place and found that APAC is in complete compliance he would vote for a plant that remains as it is today or approve the PUD as presented. In response, Senator Easley stated that he hopes this isn't the only two options. Senator Easley stated that he does think it would be good to give some extra time because he is confident he could get DEQ to come to a meeting to express their concerns that they have related to the batch plant. Senator Easley stated that things could be improved, but long-term, he has to go back to some previous testimony regarding whether the batch plant should have ever been located there. Why should the Comprehensive Plan be changed, in fact when the batch plant was put in it was outside of the Comprehensive Plan. These are issues that really matter to the neighbors in the subject area.

Mr. Westervelt asked Senator Easley if he would prefer the batch plant to look as it does today or prefer it to look the way it is proposed in the PUD. In response, Senator Easley stated that he would prefer it to stay like it is right now.

Mr. Harmon called Mr. Ed McGee.

Mr. Westervelt asked if the legal counsel representing the neighborhood should speak first.

Mr. Harmon stated that as a matter of protocol the people that have signed up have a right to speak.

Mr. Westervelt asked for a point of order for either Mr. Jackere or Mr. Stump and stated that he was told prior to the meeting that Stephen Gray was representing a large block of homeowners and he asked if he should receive the amount of time Mr. Johnsen would have been allowed and then the TMAPC could hear from the interested parties in addition. Mr. Westervelt stated that he doesn't want to violate the Planning Commission's procedures.

Mr. Harmon stated that he has not been informed of anything to that nature.

Mr. Stump stated that the Planning Commission at their discretion could certainly allow a representative of multiple individuals more time than an individual and that has been the practice in the past. He further stated that he doesn't know if the Planning Commission has had a process of giving that person priority to speak first.

Mr. Westervelt stated that it was Mr. Gray who asked for a continuance on behalf of the neighborhood group and he finds it a little bit irregular that the Planning Commission wouldn't hear from Mr. Gray as the advocate for the interested parties and then listen to other interested parties.

Mr. Harmon stated that as the chair it is his prerogative to grant additional time, which he would be glad to do. However, he does not want to usurp any of the other persons' time because each one will be given time to speak.

Interested Parties Comments:

Steve Gray, representing a variety of members of the Homeowners Association, 4530 South Sheridan, Suite 205, Tulsa, Oklahoma 74145, stated that he does have some clients who wish to talk and they have retained some experts. Mr. Gray stated that this is not a matter of expanding its use, but a matter that it is better to beg forgiveness than to ask permission in the first place. Mr. Gray submitted a transcript of Mr. Gardner's testimony during the Polumbus case (Exhibit A-4). He cited the testimony of Mr. Gardner for the Polumbus case regarding the IL district and the Comprehensive Plan.

Mr. Gray stated that Mr. Johnsen and his client did meet with the homeowners in the subject area and he appreciates the two-week continuance that was granted in order to discuss the proposed PUD. He commented that his clients did not feel that the PUD truly addressed their concerns about noise, ambient air quality, quality of life, and degradation of the neighborhoods by an expansion of an industrial use. If the PUD were granted it would violate the Comprehensive Plan as it exists today. The Comprehensive Plan calls for a low-intensity use and there is not way that a medium intensity use for an open-air industrial plant could be considered a low intensity use. He stated that there would be testimony from interested parties regarding the dust problems. Mr. Gray submitted photographs (Exhibit A-3) dated August 27, 2002, which show what the dust level is in the subject area. The truck is twelve to fifteen feet high and the noise that is coming from the truck is from the smoke stack, which is well above eight feet tall.

Mr. Gray stated that the people in the subject area do not want to see an expansion of this use because of the noise and dust. They do not believe that an eight-foot wall will eliminate the noise or dust issues. The trees do not stop the noise. Most of the trees are deciduous and will lose their leaves in the fall. It would be better if the entire facility were enclosed in a plant rather than being an open-air batch plant, which allows the dust and noise to go elsewhere.

Mr. Gray commented that one of the issues that his clients are most concerned about is setting a precedent that allows the City ordinances and laws to be broken whether one is in good faith compliance or not and all one has to do is file a Board of Adjustment action. If the BOA turns one down, then he or she devises a creative zoning land use plan called a PUD. He understands that

PUDs are usually utilized in some sort of residential type of development, not necessarily an industrial development, and not one that is going to expand a medium industrial use into a low intensity single-family residential area.

Mr. Gray stated that none of his clients were invited to the meetings for input and he doesn't know what neighbors Mr. Johnsen was referring to. The immediate neighbors were not contacted.

Mr. Gray stated that Mr. Johnsen mentioned that his client is now in compliance with the interlocutory order. He indicated the boundary line of the OL district and said that if the applicant is in compliance with the order, the subject photograph shows batch trucks in the RS-2 district. This only reinforces the concerns of his clients and it doesn't matter how much concrete is mixed over the year, the dust and noise will still be a factor. Mr. Gray asked how the City would measure the 20,000 cubic yards of concrete per year and would the City have the time to insure itself that only 22 trucks are operating within the subject area per day. His clients fear that this facility will continue to grow.

TMAPC Comments:

Mr. Jackson asked Mr. Gray if the batch plant does indeed operate from 4:00 a.m. to 10:30 p.m. each night. Mr. Jackson commented that he rarely sees a ready-mix truck traveling on the road after dark. In response, Mr. Gray stated that he would have to defer to the homeowners who have told him that the trucks are starting at 4:00 a.m. and 5:00 a.m. Mr. Jackson asked about the statement of 10:30 p.m. In response, Mr. Gray stated he would have to defer to the homeowners on this because it is the feedback he has gotten. Mr. Jackson stated that he does know that the trucks do start before 6:00 a.m. and it is very rare that they work on Saturdays. Mr. Gray stated that the homeowners have stated that they have heard the trucks on Saturdays.

Mr. Carnes stated that a PUD is before the Planning Commission today and testimony has shown that the batch plant has been in operation since 1969. It has been proven that a batch plant in the subject area was probably not appropriate, but it is there. If the Planning Commission feels that this PUD would help make things better for the neighborhood, he asked Mr. Gray where he gets the impression that it would be considered expanding. In response, Mr. Gray stated that he feels it would be an expansion because the applicant would be allowed to use the area limited by the Comprehensive Plan for low intensity and spread the intensity of the use north. Mr. Gray stated that the batch plant would be expanding the use in areas they legally do not have the right to use.

Mr. Westervelt read Mr. Gardner's testimony and asked Mr. Gray if Mr. Gardner is stating that the IL zoning was allowed before a Comprehensive Plan was implemented, and that later there was a Comprehensive Plan adopted that was not followed. In response, Mr. Gray stated that he didn't supply the full context of the transcript and the previous pages Mr. Gardner referred to a Comprehensive

Plan that was adopted in the 60's or 70's that was not followed and then a subsequent Comprehensive Plan that was adopted later that they did try to put teeth into and follow. Mr. Gray commented that this is how he understands the facts regarding the Comprehensive Plan.

Mr. Westervelt asked Mr. Gray that if the Planning Commission is informed that the applicant has obtained all of the necessary permits to be in compliance and were there prior to the Comprehensive Plan being adopted, under what legal grounds the Planning Commission would have to tell APAC that they no longer have the right to operate on the subject property. In response, Mr. Gray stated that he is not asking for them to be told that they do not have the right to operate, but requesting that they are not allowed to expand through this PUD application. Mr. Gray commented that he understands that the batch plant is not going to go away, but his objection is to the expansion of the zoning district under the PUD beyond the IL zoning obtained in 1974.

Mr. Westervelt asked Mr. Gray if the reclaimer was reoriented to stay within the original IL zoning, his clients would have a problem with this application. Mr. Gray asked if there would be concrete batch trucks parked in the RS-2 district. Mr. Gray stated that the trucks are being turned around in the RS-2 district and it creates noise and would be considered part of the industrial use and that is what his clients object to.

Interested Parties Comments:

Ed McGee, Planning Consultant from Oklahoma City, no address given, stated that his credentials include a Masters in Regional and City planning from the University of Oklahoma earned in 1976, and has worked in the land use field since 1974. He indicated that he held a variety of positions, including Associate Senior Principal Planner for the City of Oklahoma City, Director of Research and Economic Development. He stated that this proposal is in direct conflict with the Tulsa Comprehensive Plan and the zoning matrix for District 16 clearly indicates that IM and IL zoning are not appropriate in the portion of the subject parcel that is designated medium intensity linear development. In addition, IM, IL, and OL zoning are not appropriate in the remaining portion of the subject property that is designated low intensity development. This proposal is in direct conflict with the purposes of the Tulsa Zoning Code, Chapter 11. Mr. McGee read Chapter 11 from the Zoning Code, which he stated that the subject PUD does not meet. He stated that there is no creative land use design involved and it is an attempt to circumvent the spirit and purpose of the Comprehensive Plan and the Tulsa Zoning Code and to approve an existing illegal land use by creative interpretation of the law. Using a planning tool, the PUD, to design away illegal land uses flies in the face of good planning. Rezoning property to absolve illegal land use expansion has never been appropriate, suitable or consistent with Comprehensive Planning. Using a PUD application to spread industrial uses throughout an area that is covered by a proposed PUD development that includes a non-industrial zoning, such as residential zoning, is simply a

maneuver to keep from having to rezone the area to industrial uses. The size of the parcel does not matter and the next proposal that could be seen, if this PUD is approved, could be a 100-acre tract with 99 acres of residential zoning and one acre of industrial zoning and a request to spread industrial uses over the entire 100 acres by receiving the PUD district designation. The PUD mechanism is a good land-planning tool and was not intended as a means to circumvent rezoning processes. The Tulsa Comprehensive Plan does not envision this area as an industrial site and nothing has changed and there have not been any revisions to the Comprehensive Plan. Mr. McGee concluded that because of the above stated reasons, it is his professional opinion that the requested PUD is not in the best interest of the City of Tulsa and should be denied.

TMAPC Comments:

Mr. Midget commented that Mr. McGee is an expert witness. He asked Mr. McGee what he would propose should be developed on the subject property owned by APAC, just the area where they are requesting to expand. In response, Mr. McGee stated that, given the history of the subject site, there have been mixed uses on it for 30 years. The land that is platted around the subject property is dominated by residential uses. Buffering this existing site from those residential uses is absolutely mandatory if there is anything done at all. There are trees along the creek to the east and as the attorney pointed out, there are trees throughout the area, but they are deciduous trees that will lose their leaves after the first hard freeze. He recommended that nothing be done and the PUD be denied. If the PUD is approved, then the TMAPC is using a planned unit district mechanism to override what essentially would be an illegal land use (the RS-3 area). The applicant could continue within the designated zoning districts that are on the map. The PUD doesn't really do anything except to allow the applicant rezoning from residential to industrial, but it is clothed in the identification of a PUD.

Interested Parties Comments:

Jim Mautino, 14678 East 19th Street, Tulsa, Oklahoma 74108, asked all of the interested parties to stand up.

The following interested party waived her time to speak:

Susan Prosser, 788 South 138th East Avenue, Tulsa, Oklahoma 74108;

Interested Parties Comments:

Bill Melton, 1116 South 138th East Avenue, Tulsa, Oklahoma 74108, thanked the Planning Commission for allowing him to speak and Rainbow Concrete for allowing him to tour their facilities. He commented that he believes if the PUD is allowed, then the facility would be able to move backwards and increase more storage in front to increase their cubic yards per year. APAC has facilities in Collinsville and Bixby and he asked what would stop them from bringing trucks in and using this facility.

TMAPC Comments:

Mr. Jackson asked Mr. Melton if he lived relatively close to the facility. In response, Mr. Melton stated that he is south of 11th Street to the east. Mr. Jackson asked Mr. Melton if the dust bothers him. In response, Mr. Melton commented that he recently bought a new pickup and when he leaves the windows down, the dashboard will start to get dust. Mr. Melton stated that concrete dust is very fine and a little amount will go everywhere. Mr. Melton indicated that he awakens for work around 4:30 a.m. to 5:00 a.m. and he hears trucks at 4:30 a.m., but at 10:30 p.m. he is asleep. Mr. Jackson asked Mr. Melton if the trucks awaken him. In response, Mr. Melton stated that he doesn't hear the trucks at 10:30 p.m. Mr. Melton commented that two houses were purchased by the City in order to remove them and improve the Cooley Creek bridge. He further commented that the City planted some trees, but they are still small trees.

Mr. Midget asked Mr. Melton if he was aware that Mr. Johnsen was going to propose that they limit the batch plant to 22 trucks. In response, Mr. Melton stated that he was not aware of the proposal. Mr. Midget asked Mr. Melton if the proposal answers his questions about the expansion. In response, Mr. Melton stated that if the applicant keeps the 22 trucks onsite, then he can live with that, but he asked what is to stop them from bringing vehicles in from other facilities. Mr. Melton asked if the applicant would be allowed to go up to 22,000 cubic yards a year, which they have a permit for. In response, Mr. Midget stated that he understood that the applicant agreed to restrict it to the current level. Mr. Melton questioned if this was in writing and how it would be enforced. Mr. Midget stated that it is in writing and Neighborhood Inspections would keep the applicant from violating this PUD.

Mr. Westervelt asked Mr. Melton whether, if the Planning Commission could find a way to identify the trucks and make the records available for the City of Tulsa, that would go in anyway to ease his fears about capacity changes. In response, Mr. Melton stated it would if they stay in the area they are currently in today and not go past the IL zoning. Mr. Westervelt asked Mr. Melton if the PUD were to be approved, trucks were identified, and records are available to the City, that would be a satisfactory way of regulating. In response, Mr. Melton stated that the safety issue was never brought up and basically they wanted to scoot to the back for safety reasons. Mr. Melton further stated that he would have to give it more consideration before answering this question.

Interested Parties Comments:

Don Wilson, 402 East 4th Street, Claremore, Oklahoma 74017, stated that he is a real estate appraiser and a real estate appraiser instructor. He commented that he has been appraising for about 33 years, a teacher for 25 years, and licensed by the State of Oklahoma as a General Certified Appraiser for eleven years. He indicated that he was asked by people in the neighborhood to address the question of whether or not the expansion of this industrial use would impact

on values. Obviously it would impact the home values. It is a textbook definition of economic or external obsolescence (something that is off of the property that you are valuing and that affects its value). This is based on everything that has already been said about, noise, dust, unsightliness and safety issues. Mr. Wilson concluded that, in his opinion, if the subject facility were allowed to expand from 2.5 acres to seven acres and do as much or more business than could have been done on the 2.5 acres, then it would impact the neighborhoods. He stated that unsightly dust is going to emanate from different areas on the property and it is going to generally go in a "V" direction.

TMAPC Comments:

Mr. Jackson asked Mr. Wilson if he is familiar with all parts of Tulsa. In response, Mr. Wilson stated that he owned Oklahoma Appraisal Company, 46th and Sheridan, several years. Mr. Jackson asked Mr. Wilson if he is familiar with the Mid-Continent batch plant on 71st Street, east of Garnett. In response, Mr. Wilson asked how familiar does he need to be. Mr. Jackson stated that it is located adjacent to Union West, Union Station and Lancaster Park. Mr. Jackson commented that these are some of the largest residential areas that are active in the Tulsa Metropolitan Area and the Union School District. Mr. Jackson stated that the batch plant has been located there for several years and the real estate values in the surrounding area continue to increase, which would indicate that the batch plant hasn't done anything to slow down the increases. In response, Mr. Wilson asked if there are any developments going on close to the batch plant. In response, Mr. Jackson stated that the Glade Crossing abuts the batch plant and Union West adjoins it going the other direction. On Highway 51 and Midway Road, Mid-Continent has a batch plant and there is a new development next to it (Oak Grove Village). There are batch plants next to residential zoning areas everywhere. Mr. Wilson stated that those questions arise anytime something is introduced to a neighborhood that less than attractive. Mr. Wilson further stated that those houses still sell and obviously he can't answer how much quicker they would have sold or how much more they would have brought if the batch plant not been in place. Mr. Wilson commented that he believes that numerous studies have been done (gas lines, power lines, salvage yards or batch plants) that indicated that a location next to one is not as attractive as those farther away.

Mr. Midget stated that he understands that Mr. Wilson is an expert witness and asked him if his answer would be the same if the expansion area were dedicated to landscaping and open space as opposed to increasing the intensity of use. In response, Mr. Wilson stated that if the activity were maintained on 2.5 acres and five acres of landscaping, then obviously it would not impact the values of the homes.

Mr. Westervelt asked Mr. Wilson if the batch plant remained as it is today (without screening and landscaping) he would find it more or less favorable to have those things brought by this PUD (screening, gates, open space, dust

collector, reclaimer, etc.). Mr. Wilson stated that if he were asked this question anywhere, he would say that obviously that any of these changes made would be an improvement if they didn't allow the activity to expand.

Mr. Westervelt asked Mr. Wilson if there were an eight-foot pre-cast concrete panel in place, he would find that truck parking behind this would have a detrimental impact on the property values. In response, Mr. Wilson stated that it wouldn't until the trucks are started.

Interested Parties Comments:

John Shadley, 5111 South Kingston, Tulsa, Oklahoma 74135, stated that he is on the faculty of mechanical engineering at the University of Tulsa and his specialty is acoustics and noise control. He explained that the homeowners association has asked him to advise them on whether an eight-foot wall proposed for the east boundary and west boundary of the existing plant's area and the proposed expansion area would be sufficient to provide significant noise reduction. He stated that he has been to the site and studied the trucks and the various noise sources within the plant. In Development Area C (expansion area north of the plant) the proposal is to park trucks and to wash the trucks out and provide additional bin storage for aggregate and sand. An eight-foot wall in this region is not going to be adequate because in order for a noise wall to be effective in reducing noise, it has to break the line of sight between noise source and receiver by a significant amount. He explained that the trucks' principal noise source is the exhaust, which is at an elevation of ten feet. It is hard to see how an eight-foot wall would do anything to help the problem of noise coming from the exhaust of one of the trucks. Truck traffic is one of the things that bothers the neighbors the most and he can only assume that trucks would be moving in and out of this area on a fairly regular basis throughout the day. In addition, there is a proposal for some washing equipment for washing out the trucks, but he is not sure what they are proposing except possibly some high-pressure washing. He commented that there are several areas on the truck that are at elevations at excess of eight and ten feet that would need to be washed out and perhaps materials scraped and removed or shoots hammered for stubborn materials that are not coming out. Anything that is above eight feet is simply going to be carried to the neighbors without any attenuation.

Mr. Shadley stated that the plant area itself (Area A) has many noise sources that are above eight feet. Mr. Shadley listed the various machinery in Area A that could be potential noise sources. It would be hard for an eight-foot wall to reduce the noise for these various sources. It is alleged that trees provide significant noise attenuation, but this is really not valid. Trees provide minimal attenuation and then only in the summertime when there is foliage on the trees.

TMAPC Comments:

Mr. Jackson asked Mr. Shadley what the decibel levels are from the subject site. In response, Mr. Shadley stated that he didn't make any measurements while

visiting the site. He explained that he only went to observe the plant. Mr. Jackson asked what a diesel truck engine measures in decibels. In response, Mr. Shadley stated that it would be 67 decibels at 50 feet. Mr. Jackson asked how far the houses are located from the plant. In response, Mr. Shadley stated that he doesn't know the exact distance. Mr. Jackson asked if the house were 200 feet away what would it reduce the noise decibels to. In response, Mr. Shadley stated that it would reduce to 56 decibels. Mr. Jackson asked Mr. Shadley what is harmful to the human ear. In response, Mr. Shadley stated that these decibels would not in any way be harmful to the ear. The levels harmful to an ear are in the neighborhood of 85 decibels. Mr. Jackson asked Mr. Shadley what the airplanes register that fly over homes. In response, Mr. Shadley stated that some of them would be in excess of 57 decibels, but not all of them. Mr. Jackson asked what the common decibel level is in residential areas. In response, Mr. Shadley stated that decibel levels in the evening and nighttime are quite a bit lower than in the daytime. Mr. Jackson asked for the daytime levels. In response, Mr. Shadley stated that during the daytime; a residential area would probably average in the range of 42 decibels. Mr. Shadley commented that there wouldn't be a continuous 57-decibel sound, only when the trucks are accelerated.

Mr. Westervelt asked Mr. Shadley if there is an increment of 100 feet per decibel. In response, Mr. Shadley stated that the increment is six decibels per doubling of distance. Mr. Westervelt asked if the residents are 300 feet away from the 67-decibel source, what the decibel would be. In response, Mr. Shadley stated that it would be 50 to 42 decibels. Mr. Westervelt stated that once beyond 300 feet, the decibels reach the same as experienced in a neighborhood during the daytime. In response, Mr. Shadley stated that would probably be right. Mr. Shadley explained that he visited the site during the daytime and there was plenty of sound activity around and he wasn't surprised that the sounds from the plant didn't necessarily stick out above those, but he doesn't think this is the time of day the neighbors are concerned about.

Mr. Carnes stated that the Planning Commission is looking at this property and trying to incorporate it into a PUD. Mr. Carnes asked Mr. Shadley if the sound would be greater if the trucks were concentrated in one area, as they are today (IM area), instead of spreading them out. Mr. Carnes asked if the decibel levels would be lowered by spreading out the uses throughout the PUD. In response, Mr. Shadley stated that it wouldn't lower the decibel levels at all by spreading it out, and if the noise sources were moved closer to the neighborhood, it would make it louder.

Mr. Carnes asked Mr. Shadley how the sound from the plant compared to the noise level from the arterial streets in town. In response, Mr. Shadley stated that the decibel without walls along the arterial streets is approximately 67 or more and with the walls it is 60 or less.

Mr. Horner asked Mr. Shadley if the prevailing winds have any impact on the decibel levels. In response, Mr. Shadley stated that his estimates are without cross winds. Mr. Shadley further stated that the cross winds have very little effect on noise. Mr. Shadley explained that if the receiver is upwind from the source, then the wind can make a difference and reduce the sound. However, if it is the other way around the wind has very little effect.

Mr. Ledford stated that 11th Street is an arterial street and if he heard correctly, Mr. Shadley stated that the arterial streets have the same decibel level that is coming from one of the trucks within the concrete plant. In response, Mr. Shadley stated that he wasn't able to come up with an answer for that question from Mr. Horner. Mr. Shadley explained that the level depends on what type of traffic is traveling on it. Mr. Ledford stated that on an arterial street, surely there is some type of average decibel that could be compared to this proposal. Mr. Ledford commented that 11th Street is closer to some of the residential tracts toward the north boundary and to the street than the concrete plant. Mr. Ledford asked Mr. Shadley how 11th Street and the batch plant compared according to the decibel averages. Mr. Shadley stated that for trucks on 11th Street approaching a house at a distance of 300 feet, the levels would be the same as the levels from the batch plant at the same distance. Mr. Ledford stated that some of the homes along 11th Street are within 100 feet of the street. In response, Mr. Shadley stated that those homes would be experiencing 61 decibels. Mr. Ledford stated that a truck traveling 11th Street would be louder than a truck inside the plant area. In response, Mr. Shadley stated that the truck is louder to the house on the corner of 11th Street, but houses away from the corner would be a different story. Mr. Shadley commented that he didn't believe there could be a direct comparison between the neighborhoods by looking at a house on the corner.

Interested Parties Comments:

Larry Wilson, 14110 East 19th Place, Tulsa, Oklahoma 74108, stated that he lives behind the Target store near Eastland Mall and he does have some interest in this application because he drives on 11th Street. He commented that he believes he is hearing a lot of favoritism toward the applicant and almost no favoritism toward the interested parties who have to live in the subject area. He stated that he would like to ask the Planning Commission some questions regarding this matter.

Mr. Wilson asked why the Planning Commission would consider granting an addition to an admitted existing mistake, and furthermore, why this is application getting such a favorable response from the Planning Commission. Mr. Wilson cited similar services in neighborhoods that are noisy and compared them to the noise the adjacent neighbors are hearing at the batch plant. He stated that he lives 200 feet from where the garbage trucks pick up his trash, and he can hear them each time driving throughout the neighborhood. He commented that the

garbage trucks do wake him up. Mr. Wilson concluded by asking the Planning Commission for answers to his questions.

TMAPC Comments:

Mr. Carnes stated that he had the same questions regarding the batch plant as Mr. Wilson and he contended that the batch plant was present before Mr. Wilson lived in the subject area. He further stated that he volunteers his time to the Planning Commission. Under the PUD process it is possible to take something that is wrong and make it attractive to the neighborhood and make it good. He commented that he hasn't heard anything that would lead him to believe that the plant is expanding. The Planning Commission is trying to correct something that has been wrong in the neighborhood and to create something more pleasant to look at, not allow it to get any larger. Then it would be an asset to the neighborhood and the City of Tulsa. He concluded that he wouldn't be volunteering his time if he didn't think this is what he is trying to do.

Mr. Wilson stated that he has a response to Mr. Carnes. Mr. Wilson stated that he doesn't live in the neighborhood directly, but approximately one mile away from the batch plant. He commented that the batch plant does not affect him personally or directly; however, he does have to drive down 11th Street and drive over the concrete that is spilled out from time to time. For him personally, if the batch plant stayed within the particular confines that they are in today and not do anything else except installing landscaping and the walls, that would be a tremendous asset to the City of Tulsa and would help abate some of the problems the homeowners are concerned with. Mr. Wilson admitted that he doesn't understand the PUD and its meaning, but it looks like if the PUD is granted it gives the applicant a blanket opportunity to park more trucks. Mr. Wilson stated that he understands that the applicant is claiming he wouldn't do this and he may be telling the truth; however, historical evidence on any business would indicate that growth is the thing that they desire. He asked why, if the applicant were not going to expand the plant, he would be asking for this PUD. Businesses do not spend money just to beautify things; they spend money to grow. Mr. Wilson reiterated that he is hearing a lot of favoritism from the Planning Commission toward this PUD.

TMAPC Comments:

Mr. Jackson stated that, in reference to Mr. Wilson's comment that the Planning Commission is showing favoritism, it behooves the Planning Commission to hear both sides of the story, not just all of the negative or positive aspects. The Planning Commission asks questions because they want to know details and find out what is really going on. The Planning Commission is not showing favoritism; the applicant was allowed his presentation and now the interested parties are given an opportunity to speak. The Planning Commission asks questions because they want to know the answers. In response, Mr. Wilson stated that the only reason he is getting the impression that the Planning Commission is showing favoritism is by the tone and intensity of the questions. Mr. Wilson tried

to describe the intensity and the tone, but he couldn't come up with an example. Mr. Wilson accused the Planning Commission of appearing to lean toward the PUD and to prefer the interested parties to go away. In response, Mr. Jackson stated that this is not the case and the Planning Commission is here to listen to everyone's opinion. Mr. Jackson commented that he hears what Mr. Wilson is saying, but the Planning Commission is not leaning toward anything until hearing all of the input. Each Planning Commissioner makes his or her own decision and it is very democratic. Mr. Wilson stated that he appreciates Mr. Jackson's comments.

Mr. Westervelt informed Mr. Wilson that if they get an answer that is a little evasive, then the Planning Commission would ask it again. Mr. Westervelt stated that when Mr. Johnsen comes back for rebuttal, the Planning Commission may have some questions for him that may be tougher than anything they have asked the interested parties. In response, Mr. Wilson stated that he appreciates the comments and this has been a lesson on City operations for him. Mr. Wilson commented that this is the first meeting he has ever attended and he is getting to see first hand how this would impact the neighborhood and his neighborhood as well. Mr. Wilson stated that several years ago, someone wanted to build a heliport near his home and he was happy that it was not approved. Mr. Wilson expressed his gratitude that a tire store is now located on the corner and it is an appropriate use.

Mr. Jackson stated that Mr. Wilson asked why the company wouldn't expand and if one thinks about the operation itself, it is local but it is also regional. The company has batch plants in other areas of the City and a cement truck can't be driven from one end of town to the other because the temperature and the concrete is heating as it goes and it has to be at a constant temperature. Mr. Jackson stated that it takes about two hours for a cement truck to load, deliver, return and wash out. A truck could have approximately four trips a day or 20 trips a week. If you multiply the 20 trips by 22 trucks it would equal 440 trips per week and the average load is about seven. With the mixer the batch plant has, they could only produce approximately 118,000 yards of wet concrete per day, per week; therefore, this is no way for the company to expand.

Mr. Wilson stated that by granting the PUD, it would allow the applicant more space. Mr. Jackson stated that the plant is a single-batch operation and they couldn't get the permit to build another batch machine. Mr. Wilson asked what would keep the applicant from building the batch machine bigger, running 24 hours a day or keep them from doing anything. In response, Mr. Jackson stated that typically they would not run 24 hours a day because the construction industry wouldn't be able to pay the workers to run 24 hours a day. The construction industry tends to stay away from Saturdays and Sundays because of the costs and consumers wouldn't want to pay for it. Mr. Wilson stated that when U.S. 169 was built, it was a 24-hour operation. In response, Mr. Jackson

stated the 169 project was different because those jobs usually go to Mid-Continent, not APAC.

Mr. Ledford out at 3:55 p.m.

Interested Parties Comments:

Hilda Brown, 706 South 138th East Avenue, Tulsa, Oklahoma 74108, stated that she lives in Golden Acres and moved there in 1953. She expressed concerns regarding dust and noise from the batch plant. She commented that she doesn't live as close to the batch plant as her neighbors do, but she can still hear the noise and is bothered by the dust.

Mrs. Brown stated that the applicant did try to work with the community and she is thankful for it. She explained that the dust collector doesn't work and eight-foot fences will not help either. There is an existing eight-foot fence made of concrete blocks and the noise still comes through to the neighborhood. Mrs. Brown cited the history of the subject property.

Mrs. Brown stated that if the batch plant will not move, then it at least should be contained. She commented that the neighbors would love for APAC to move somewhere else. She indicated that the neighbors requested the applicant to close on Saturdays, but they wouldn't do this. She further indicated that the neighbors requested that the batch plant be opened only for eight hours a day, but they couldn't agree to that either.

Jonathan Prosser, 788 South 138th East Avenue, Tulsa, Oklahoma 74108, expressed concerns regarding the facility expanding its area and possible expanded use. He commented that he, too, would like the plant to move, but he understands that is not realistic. However, he would prefer the facility to be contained at its current level. He contended that the PUD would facilitate some expansion and more use would intensify the impact on the neighborhood. The PUD offers some esthetic improvement with the wall, but testimony stated that it would probably not provide an attenuation of noise. The decibel level discussion is irrelevant because the noise is there and he doesn't want it intensified.

Mr. Prosser stated that East Tulsa is looked at as a possible area for industrial development in the future and the subject batch plant is located ideally to contribute to that. The owners would be foolish not to intensify production where they could and where they are allowed to. Again, this is a neighborhood-zoned area and he believes it would be a mistake to encourage encroachment upon that zoning by the industrial zoning.

TMAPC Comments:

Mr. Harmon called Mr. Johnsen to the podium for a rebuttal with the following requests: 1) noise abatement and how an eight-foot wall was chosen; 2) the dust problem that seems to still be a problem; and 3) the concept of expanding or not expanding the business.

Applicant's Rebuttal:

Mr. Johnsen stated that the noise is a complicated issue and hard to identify. The real key is that one assumes production at a historical level of 120,000 cubic yards, which are the activity and the real measure of what is happening at the subject plant. This can be done in the existing zoning and the noise and dust will be there. It would be in the southwest part more, but there would still be the same generation of noise as there is today. He explained that what is actually heard at the plant is not the exhaust, but the engine of the trucks and the large fan that is beneath the engine, which is all below eight feet. He indicated that the nearest home is 450 feet to the east (north side of 11th Street) and on the south side he estimated the nearest home is 350 feet (Mr. Melton's home). He believes that if there is an existing situation and the landscaping and screening walls are added, plus knowing that the principal noise being heard is the engine noise, then the walls are very meaningful. He stated that the walls along arterial streets have proven that this is good noise abatement. He indicated that the existing wall has an effective height of over ten feet because it is on a berm; if it is only eight feet it meaningfully impacts on the noise.

Mr. Johnsen stated that the dust is improved, but there would be differences of opinion on this. He indicated that he was present when the hopper was loading a truck before the dust collector was added and there was a substantial cloud of cement dust at that point. The shroud has greatly reduced it, but it is not 100%. The other dust has accumulated in the yard and the truck tires pick it up. Part of this is due to the poor truck wash-out and it has been stocked piled there for years and recently removed; it leaches and dries out and the trucks pick it up. The cleaner the wash-out area, the more efficient the truck wash-out, which will go into the reclaimer as well and greatly reduce tracking by the trucks. His client has convinced him that the reclaimer will make a substantial improvement to dust, but it will not be perfect, and no one is suggesting that it will be. DEQ does regulate dust. They have inspected APAC frequently and it is in compliance with their requirements. The plant will be exceeding the requirements substantially once the reclaimer is installed. He indicated that he didn't believe there were any other plants in Tulsa that have a reclaimer. He stated that he toured some batch plants a few days ago and the subject batch plant is substantially better than the ones he toured, including the batch plant on 71st near the subdivisions Commissioner Jackson discussed.

Mr. Johnsen stated that this application could be called an expansion, and it is in the sense, but if this PUD were not approved there wouldn't be trucks parked behind the IL line. If the reclaimer has to be reoriented, it can be done and

comply with the interlocutory order. The proposed area for parking trucks is the same area that has been used for the more than 15 years that he is aware of, although, this doesn't count because it was an illegal use and shouldn't have been allowed. He understands that thinking, but it is still a practical matter that exists. It is not as if his client is extending operations over something the neighborhood has never experienced. The key to the expansion issue is the production and the six-year average was submitted; however, this year will be lower because of economic reasons. APAC does have more than one plant and recently opened up a new one in Bixby. Some of the work that was going to Bixby from the 11th Street plant will now come out of the new plant and that is why 120,000 cubic yards would work at the existing batch plant. The PUD is structured to utilize Area C, which would be 25% increase over what would be occupied or owned APAC and this is a better perspective.

Mr. Johnsen stated that he would like to touch briefly on the comments made by Mr. McGee, the planner from Oklahoma City. He commented that he is not sure how they treat PUDs in Oklahoma City. The Planning Commission is mindful that in the PUDs, at every commercially-zoned intersection, for example, PUDs are encouraged and the underlying zoning is permitted to be extended. Over time, in the PUD Chapter and practices, this tool has continued to be used to result in better development. The PUD, using existing zoning, is not a violation of the Plan to expand an operation, but the key is whether it can be done in a way that is reasonable with appropriate development conditions and standards. This is what is being presented to the Planning Commission today.

Mr. Johnsen stated that the basic issue is that the batch plant can operate within the IM and IL property and stay as it is, or the TMAPC can approve the PUD because it will result in a better operation with less impact on the neighborhood than it presently has.

TMAPC Comments:

Mr. Harmon asked Mr. Johnsen how the eight-foot height for the screening wall was chosen. In response, Mr. Johnsen stated that six feet is the minimum height and the Planning Commission has used eight feet as a standard in many instances where there were nearby residential properties. Mr. Harmon asked Mr. Johnsen if he would have a problem with a ten-foot screening wall if the Planning Commission thought it would better control the noise. In response, Mr. Johnsen asked for a moment to talk with his client.

Mr. Carnes informed Mr. Harmon that in the past the Planning Commission has felt that a ten-foot wall would be blown over in the Oklahoma winds. In response, Mr. Harmon stated that an eight-foot wall could be blown over, too. Mr. Harmon further stated that the ten-foot wall would be tilt-up slabs, not wooden fences.

Mr. Johnsen stated that his client believes that a ten-foot high screening wall would present some structural problems and it hasn't been very successful in

cases where it has been done. Mr. Johnsen explained that his client would have to lay more foundation for a ten-foot wall.

Mr. Harmon asked Mr. Johnsen why his applicant didn't run a water wagon a couple times a day to eliminate the dust in the parking areas. Mr. Harmon explained that a water wagon is used in construction to wet down the area to keep the dust down. In response, Mr. Johnsen stated that his client has a wet broom that does the same thing. Mr. Johnsen further stated that his client has been trying to increase the number of times the wet broom is used and he has made major progress trying to reduce the dust. Mr. Johnsen commented that he hasn't seen the big clouds of dust when he has visited the plant. Mr. Harmon stated that he is going by what the Planning Commission has been told. Mr. Harmon further stated that it would make sense that when the dust starts to be a problem to simply wet it down, which should be a relatively simple control for a parking lot. Mr. Johnsen stated that APAC is doing a wet sweep when the dust starts tracking and possibly should do it more often.

Mr. Harmon asked Mr. Johnsen if there was any number less than the permitted 200,000 cubic yards that APAC would be comfortable with in order to limit expansion. Mr. Johnsen reminded Mr. Harmon that he submitted, as a limitation, 120,000 cubic yards.

Mr. Harmon asked if there would be any truck parking beyond the IL district if this PUD were approved. In response, Mr. Johnsen stated that he is asking for truck parking to be allowed beyond the IL district.

Ms. Coutant asked Mr. Johnsen if trucks could be parked past the IL district and comply with the interlocutory order. In response, Mr. Johnsen stated that the order does not allow truck parking past the IL district. Mr. Johnsen explained that under the order, in the non-IL area APAC now has the permits to allow the lagoon and the pond and that is all that is allowed.

Ms. Coutant asked Mr. Johnsen if he would have fewer trucks per day if the PUD were not approved and he had to contain the trucks to the IL portion. In response, Mr. Johnsen stated that the same number of trucks would be parked there and have the same capacity. Ms. Coutant asked Mr. Johnsen how he could have the same number of trucks if he is not allowed to use the residentially-zoned property. In response, Mr. Johnsen stated that his applicant could run 22 trucks out of the plant without getting out of the IL, but it is a tight area and that is why there are safety issues. Mr. Johnsen explained that maneuvering would be tough, but it can be done and the trucks would be parked within the IL-zoned property at the end of the day. Mr. Johnsen further explained that during the daytime hours of operation, APAC is using the existing truck wash and it is in the RS. Under the order, his client has time to be in compliance and he now has the permits to do it. Mr. Johnsen reiterated that APAC can continue

under the existing zoning and reach the same production, but it is not as efficient and less safe because it would be a tight maneuvering range.

Mr. Westervelt asked Mr. Johnsen if he is willing to limit he capacity as submitted, 120,000 cubic yards, make the records available and be certified by an executive in the company. In response, Mr. Johnsen stated that with some business confidentiality, that could be provided with some type of protective understanding. He explained that his applicant is in a competitive business and some discretion would be needed.

Mr. Westervelt asked Mr. Johnsen if APAC would be able to stay behind the IL line with the reclaimer and 22 trucks if this PUD is not approved. In response, Mr. Johnsen answered affirmatively.

Mr. Westervelt asked Mr. Johnsen if he would be willing to extend the wall down the last 371 feet to the beginning of the floodplain. Mr. Westervelt stated that he recalls an agreement that there would be a wall from East 11th Street to the west boundary (289 feet), and then to the end of the IL district, and if the applicant was willing to extend the last 371 feet it may give more comfort to the neighborhood. In response, Mr. Johnsen answered affirmatively. Mr. Johnsen stated that his client would install the block walls with a surface (eight-foot tall). Mr. Westervelt asked Mr. Johnsen if he would stucco the walls. In response, Mr. Johnsen answered affirmatively.

Mr. Westervelt asked Mr. Johnsen if his client would agree to two conditions: 1) if the City of Tulsa does not accept the donation of land the applicant would maintain both development areas as floodplain and open space with no expansion; or 2) the applicant take care of the donated land for the first years in order to not create a disincentive to the City of Tulsa to accept the open space. The applicant would agree to remove debris, trash, brush-hog it and keep it in a natural state. In response, Mr. Johnsen agreed to the conditions.

Mr. Westervelt summarized that there would be walls on the west boundary, south boundary and two walls that would overlap on the east boundary and then the floodplain/open space that is 1300 lineal feet on the east boundary.

Ms. Bayles recognized Mr. Gray.

Mr. Gray stated that the eight-foot wall would not be sufficient. He explained that the Golden Acres neighborhood is substantially higher than the batch plant and the noise will still hit at window level or door level. He recognized that there is an existing use established, but whether it is called an ancillary use or not, it would be an expansion and he prefers that the mistake be kept to what is now zoned IL and IM. He commented that 11th Street has approximately 8,000 vehicles a day and it is not an heavily-traveled arterial street, but a substantial generator of noise have been the trucks from the batch plant. He questioned the City's ability

to verify certified financial records in which an employer states the number of cubic yards of cement that was produced. He asked how this could be objectively measured and he is afraid that someone's assurance would be nothing more than a paper tiger. He reiterated that his is concerned about the intensity of the use that would be spread out and there is a tremendous amount of dust that gets out into the neighborhood. He fears that if the PUD is approved it would allow other opportunities for further intensification. It is his opinion that if there is a reduction in the concrete batch plant his year, it is because the City has brought enforcement efforts and limited them to the IL and IM areas.

Mr. Gray reiterated that there was an illegal use on the subject property and the applicant was caught. The applicant tried to clean up his act by going for the Board of Adjustment action, which was denied. Then the applicant entered into the PUD process and this sends a message to any land owners and the citizens of Tulsa that if this PUD is granted, and if the applicant has enough money and is big enough, then they can have whatever they want, but if the citizen is a little person one can't.

Mr. Carnes reiterated that the PUD is not proposing an expansion of business. The batch plant has been operating on the subject property for years with zero control. Under the PUD there is now a law, a standard, of what the company has to operate under. Mr. Carnes stated that he would be voting for this PUD with the conditions that Mr. Westervelt suggested. He commented that he believes that the neighbors would have some control for the first time since the plant was established. He stated that he firmly believes that he would be helping the neighborhood by supporting the PUD and the standards that would be placed on the subject property and not helping APAC.

Ms. Coutant asked Mr. Gray if he would favor the applicant being limited to the IL if he believes that 22 trucks would be going in and out of the plant. In response, Mr. Gray stated that he doesn't know if there would be as much room for as many trucks to go out there every day. However, what he considers the ancillary use, which is expanding the industrial zoning into an RS-2 area, would allow an easier operation of more trucks than in the area they are in now.

Mr. Jackson stated that the only time that there would be 22 trucks in the RS-2 area is when it closes and when it opens. The trucks have to go in and out daily and won't be there. He explained that the 22 trucks would only be there at night and they have indicated that they can squeeze the 22 trucks into the IM and IL area if they have to. He commented that the PUD does not propose an expansion because it would still be 22 trucks parked on the property during the evening hours when the plant is closed regardless of the PUD being approved or remaining in the IM/IL areas. In response, Mr. Gray stated that he understands that they would also be washing the trucks out in Area C.

Mr. Westervelt stated that he has served as an expert witness with Mr. Gray as lead council for the Department of Transportation. There was something that Mr. Gray stated that disturbs the Planning Commission a little. He stated that Mr. Gray mentioned that the little guy was left behind and asked if he was suggesting that anyone on the Planning Commission is affected by the money of this business. In response, Mr. Gray stated that he was not suggesting that at all. Mr. Gray further stated that he serves on many volunteer boards and an administrative law judge for a couple of state agencies and he really respects the Planning Commission's work. He explained that what he meant by that statement is that there were expansions that were in the floodplain, which the City is very zealous about protecting, and expansions into a non-industrial area and the applicant was caught and he begged for forgiveness than to ask for permission.

Mr. Westervelt asked Mr. Gray if it was his understanding that anything in the proposed PUD that would allow APAC to operate where they could not otherwise be in compliance with the interlocutory order or whatever has been resolved with the City of Tulsa and Judge Wiseman's court. In response, Mr. Gray stated that he believes that if the proposed PUD is granted, then the order goes away.

Mr. Harmon recognized Mr. Johnsen for a brief rebuttal.

Mr. Johnsen stated that the Planning Commission's professional staff has made a very lengthy and detailed review of this PUD and recommended affirmatively. He indicated that he accepts the staff recommendation.

Mr. Westervelt stated that when the plat came forward, the Planning Commission suggested to APAC and Mr. Johnsen that they would like to see a voluntary PUD that would mitigate some of the concerns of the neighborhood, but did not intend to grant a PUD that simply would put APAC in compliance and end his legal matters. The applicant would have to come into compliance and it is his understanding that APAC has obtained all their permits. Mr. Westervelt requested Legal to inform him if he is mistaken.

Mr. Patrick Boulden, Legal Department, stated that he was advised on September 17th at approximately 11:30 a.m. that all of the City building permits have been issued. He commented that he doesn't have any personal knowledge of the DEQ permits, but his understanding is that these have been issued some time ago. The PUD action would not violate any of the permits or the interlocutory order.

Mr. Westervelt stated that what he has just heard from the Legal Department is that APAC is going to continue to operate and he doesn't know of any authority the Planning Commission has to make it go away. APAC has made a sincere effort to mitigate the impact on this neighborhood and on the City of Tulsa.

APAC could operate just as they exist today with none of the proposed improvements in the PUD.

MOTION of WESTERVELT to recommend **APPROVAL** of the PUD-668 subject to the following conditions: reclaimer, dust collection system, eight-foot tilt-up slab walls, enclosing entrance gates, additional landscaping, floodplain dedication, open space dedication with five years of maintenance by the applicant and left in its natural state, proper parking lot, irrigation of landscaping, additional eight-foot masonry wall along the entire boundary up to the edge of the floodplain on the west side, which would completely enclose the subject use behind eight-feet of concrete tilt-up walls in three directions except to the north where the floodplain is located; subject to staff's recommendation; subject to a limited capacity of 120,000 cubic yards of material; limited to 22 trucks on site; subject to the applicant keeping records that would available, with appropriate confidentiality, to any City Inspector after a three-business-day notice of request.

TMAPC Comments:

Mr. Harmon stated that if anyone could install a stem wall that would support a ten-foot wall, this company could and he would prefer a ten-foot wall.

Mr. Westervelt amended his motion to ten-foot walls.

Mr. Jackson seconded.

TMAPC Action; 8 members present:

On amended **MOTION of WESTERVELT**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Harmon, Horner, Jackson, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Dick, Hill, Ledford, "absent") to recommend **APPROVAL** of the PUD-668 subject to the following conditions: reclaimer, dust collection system, ten-foot in height tilt-up slab walls, enclosing entrance gates, additional landscaping, floodplain dedication, open space dedication with five years of maintenance by the applicant and left in its natural state, proper parking lot, irrigation of landscaping, additional eight-foot masonry wall along the entire boundary up to the edge of the floodplain on the west side, which would completely enclose the subject use behind ten-feet in height of concrete tilt-up walls in three directions except to the north where the floodplain is located; subject to staff's recommendation; subject to a limited capacity of 120,000 cubic yards of material; limited to 22 trucks on site; subject to the applicant keeping records that would available, with appropriate confidentiality, to any City inspector after a three business day notice of request.

Legal Description for PUD-668:

The E/2, E/2, SE/4, SW/4, Section 4, T-19-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof; and the W/2, E/2, SE/4, SW/4 of Section 4, T-19-N, R-14-E of the IBM, Tulsa County, State of Oklahoma according to the U. S. Government survey thereof, and

located west of the northwest corner of East 11th Street South and South 138th East Avenue, Tulsa, Oklahoma, From: RS-2/OL/IL/IM (Residential Single-family Medium Density District/Office Low Intensity District/Industrial Light District/Industrial Moderate District) To: RS-2/OL/IL/IM/PUD (Residential Single-family Medium Density District/Office Low Intensity District/Industrial Light District/Industrial Moderate District/Planned Unit Development [PUD-668]).

Mr. Harmon called a recess at 4:48 p.m.

Mr. Harmon called the Planning Commission meeting back to order at 4:50 p.m.

PUD-670

RS-3 to RS-3/PUD

Applicant: Ricky Jones/Roy Johnsen (PD-6) (CD-9)

Location: Southwest corner of East 31st Street and South Rockford

Staff Recommendation:

The PUD proposes single-family residential uses on 2.0 net acres located at the southwest corner of South Rockford Avenue and 31st Street. The subject tract has approximately 201 feet of frontage on 31st Street and approximately 630 feet on Rockford Avenue.

The subject tract is zoned RS-3. The tract is abutted on the east by duplexes and single-family dwellings zoned RS-3. There are also single-family dwellings and duplexes zoned RS-3 to the east of the tract, across Rockford. To the south are single-family dwellings zoned RS-3. To the north of the subject tract, across 31st Street is a tract zoned RE/PUD-185 that has been approved for single-family dwellings.

The PUD proposes a maximum of nine lots with rear access to garages by private drives extending from 31st Street southwardly along the west boundary. The private drive would serve as the principal residential access and is proposed to be gated. Guest access would be provided from Rockford.

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-670 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-670 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:

Gross Land Area: 2.40 Acres

Permitted Principal Uses:

Detached single-family residences.

Maximum Number of Dwelling Units: ~~Nine~~ Eight

Minimum Lot Width: 50 FT

Minimum Lot Area: 7200 SF

Maximum Building Height: 35 FT

Minimum Required Yards:

From centerline of 31st Street ~~45~~ 50 FT

From centerline of Rockford:

Within 335 FT of the centerline of 31st Street South 50 FT

Greater than 335 FT from the centerline of 31st Street South ~~35~~ 40 FT*

From west boundary of PUD 20 FT

From garages with west-facing openings 25 FT

From north interior side lot line 10 FT

From south interior side lot line 0 FT

Other Bulk and Area Requirements:

As provided within an RS-3 district.

Off-Street Parking:

Within each lot, two spaces shall be provided with access from Rockford and two spaces shall be provided in an enclosed garage with access from a private drive along the west boundary. Additional visitor parking spaces shall be provided at the southern end of the PUD which are accessed from Rockford Drive.

Access and Circulation:

The principal resident access shall be provided by a private gated drive extending from 31st along the rear of the residences and accessing individual garages with a turnaround in the area shown as Lot 9 on the conceptual layout. Visitor access to each lot and to two parking spaces located within the lot will be derived from Rockford.

*Detail site plan review of each of the dwellings to be constructed on the lots within the south 263 feet shall be required to establish the sufficiency of the provided yards and setbacks.

Fire Protection:

Each residence shall contain a sprinkling system consistent with 13 R National Fire Protection Standards.

Screening Walls and Fences:

A masonry wall not less than seven feet in height shall be erected and maintained along the north boundary of the PUD (31st) excepting the point of gated access and within 40 feet of the centerline of Rockford Drive.

Screening and security fencing of the front yard areas along Rockford shall be limited to wrought iron fencing on a masonry base (masonry columns may be included) and not exceeding four feet in height.

Utilities:

All residences in the PUD shall be served by underground utilities.

Landscaped Areas:

The unpaved area within the Rockford Drive cul-de-sac shall be landscaped, irrigated, and maintained by the developers of the PUD and then ultimately maintained by PUD's homeowners association. A detail landscape plan for this area shall be approved and the landscaping and irrigation installed prior to issuance of building permits in the PUD.

Site Plan Review:

The approved final plat shall constitute the required detailed site plan for lots within 335 feet of the centerline of 31st Street South. Detail site plan review shall be required for lots greater than 335 feet from the centerline of 31st Street South. The screening wall along 31st, the private drive gating and entry features and the fencing along Rockford shall require submission and approval of a supplemental detailed plan (including landscaping).

3. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
4. A homeowners association shall be created and vested with sufficient authority and financial resources to properly maintain all private access drives and common areas, including any stormwater detention areas, security gates, guard houses, the landscaped area within the Rockford Drive cul-de-sac, or other commonly-owned structures within the PUD.
5. All private access drives shall have a minimum pavement width of 18'.
6. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
7. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process, which are approved by TMAPC.
8. Entry gates or guardhouses, if proposed, must receive detail site plan approval from TMAPC, traffic engineering and Tulsa Fire Department, prior to issuance of a building permit for the gates or guard houses.

9. 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.

Mr. Westervelt indicated that he has had ex parte communication with interested parties.

Ms. Bayles indicated that she has had ex parte communication with interested parties.

Mr. Carnes out at 4:55 p.m.

Applicant's Comments:

Roy D. Johnsen, 201 West 5th Street, Suite 501, Tulsa, Oklahoma 74103, stated that he is representing Mr. Rick Taylor, owner of the subject property. He reminded the Planning Commission that the subject property is zoned RS-3 and the preliminary observation is to what the underlying zoning permits by way of dwelling units. He indicated that the maximum that could theoretically be approved would be twelve units. He explained that he came up with this number by taking the gross area of the project, divided by the land area required of RS-3, which results in twelve units that would be possible in theory. As the Planning Commission knows, that is seldom achieved because of irregular tracts of land, platting, required frontages, access points, etc.

Mr. Johnsen stated that his client is proposing nine dwelling units on single-family lots and this is one of those infill projects where there are older properties that may have become somewhat rundown. There is a strong market demand for smaller lots, larger units are gated communities. He encourages that and it is the approach that the Planning Commission wants followed. There are no changes proposed in the underlying RS-3 zoning. If his client did a conventional subdivision without a zoning change or PUD and created lots along Rockford (630 feet), there could be seven homes easily.

Mr. Johnsen indicated that he met with the neighborhood and they are very well informed. During the meetings he believes that the concern was essentially addressed to Rockford, which forms the east boundary and loops around. Their concerns were that there would be additional traffic on Rockford and what the front of the dwelling units would like. The initial site plan (before the neighborhood meeting) showed all lots with access to Rockford, which had an extensive amount of driveway and garages in front, plus provisions for guest parking. It was pointed out to him that this was somewhat awkward by the interested parties and staff. He stated that he was asked to consider rear accesses for the dwelling units. His client had developed a project very similar to this zero lot-line concept where homes are built on the line with ten feet on the other that is opened and used as part of courtyard privacy, but the idea is to achieve a more useful amount of aggregate open space, particularly on the side.

This is relevant with a deep property like the subject property. His client considered the rear access, and two prominent architects advised him that a rear access was appropriate and desirable approach to the development of this project. Mr. Johnsen submitted a revised site plan (Exhibit B-2). Along the west boundary there would be a gated access for residents, which would take the residents to a garage behind their dwelling units. There are some advantages to this architecturally, because there wouldn't be a garage in front and it is much more attractive from the street view, which would be Rockford. He commented that he believes the neighborhood liked this concept. There is guest parking provided on the front, which would use Rockford, but it would have very limited use. The result is that there would be substantial reduction in potential traffic on Rockford.

Mr. Johnsen stated that there was another concern regarding screening and landscaping in the front. He commented that his client's projects are nicely landscaped and the courtyards are extraordinary. What he has chosen to do is wrought iron on a masonry base and staff is requiring that it not exceed four feet. The front fencing allows a guest to pull into a guest parking lot, the fence is secured but access can be derived by intercom, then have pedestrian access into the front yard that would be heavily landscaped.

Mr. Johnsen stated that the dedication on Rockford was done in the 1920's and it was platted. Rockford is a public street that is dedicated at 30 feet, as opposed to the standard 50 feet. There were some lot-splits on the east side and he believes that they required an additional five feet. Staff was adamant that this Planning Commission has strongly followed the policy on minor residential streets, when redeveloping, that the required right-of-way be secured and his client will dedicate an additional ten feet, which means on his client's half it would be 15 feet and ten feet equaling 25 feet. This would make it difficult on the south two lots to meet normal setbacks. He proposes that on the south two lots there be detailed site plan review of those two units. Normally, on single-family dwellings there is not a detail site plan review of the residences. He explained that he would be asking for a smaller setback, which is basically ten feet from the new right-of-way line. He stated that it would 35 feet from centerline, realizing that it would probably only be corners and parts of the building.

Mr. Johnsen stated that around the corner from the subject property there are three dwellings that are west of the southernmost lot within the subject property. Those lots are 50, 50 and 68 feet in width and two are currently constructed and the furthest west property is presently under construction. There is a right-of-way that goes east/west in front of the three lots and they are approximately 30 feet from centerline. His client is proposing that he may have some corners that would come within 25 feet of the centerline. He believes that he could accept a condition that the southernmost two homes have the same setback from Rockford as the aforementioned three lots from the east/west Street. There would be uniformity on the west side of Rockford.

TMAPC Comments:

Mr. Harmon asked Mr. Johnsen if he was presenting something different from the staff recommendation. In response, Mr. Johnsen answered negatively. Mr. Johnsen stated that he is willing to shorten his presentation and perhaps lengthen his rebuttal, but he is not through yet.

Mr. Johnsen stated that there are a variety of lot sizes and home sizes and to the west (north half of the subject property) there are duplexes on Quaker with a private drive; there are four duplexes on the properties immediately adjoining on the west. He commented that his lots far exceed the RS-3 requirements as to the individual lot size. Across Rockford there are larger homes on larger lots and then on 31st (east side of the street) there are two duplexes with access to Rockford and 31st Street. From the standpoint of what the character is of the area, then one would have to look at more than what is on the east side of Rockford.

Mr. Johnsen indicated that his client is proposing to build homes at \$600,000-plus for empty nesters. He commented that this proposal would not adversely impact the neighborhood.

Mr. Johnsen stated that one of the other issues was overhead power lines that presently exist on Rockford. He thought that after discussions with the interested parties, it was being resolved, but it didn't happen. One of the things his client is proposing is to make the overhead power lines underground, which would greatly improve the appearance along Rockford. This would take a considerable amount of money, but it helps both sides of the street.

Mr. Westervelt stated that he had ex parte communication and he believes that there was some sort of pledge to landscape the circular area at the end of Rockford. In response, Mr. Johnsen stated that the interested parties requested his client to do this, but that was when they thought there was going to be a resolution to the issues. The issues were never resolved and he would have to speak with his client to see if he is still willing to do so. Mr. Johnsen stated that it was discussed and his client did agree to it, but that was when they were trying to resolve issues with the neighborhood.

Mr. Harmon instructed the interested parties that there are 17 people signed up to address the Planning Commission on this item. Due to the lateness of the hour, each participant will be restricted to two minutes and each one should present new facts and not repeat what the previous speaker state.

Mr. Harmon called Stephanie Franklin to the podium on two occasions and each time someone else spoke in her place. Mr. Harmon stated that, personally, as the chair, he prefers that everyone speak for himself or herself, as it is difficult to

know who elected whom to speak for whom. He would rather each person speak for themselves and state to whom they are relinquishing their time.

Mr. Franklin stated that he has put a presentation together to keep things very succinct. He indicated that he would be doing a portion of the presentation and then there are a couple of others.

Mr. Harmon stated that Mr. Franklin would have to keep his presentation to two minutes and then give the others their time.

Mr. Franklin stated that his would be a little longer than two minutes and several of the 17 people that signed up had to leave so there would only be about nine people speaking. There are four people who would be participating in the slide show presentation.

Mr. Harmon indicated that Mr. Franklin should start his presentation and make it as rapidly as possible.

Interested Parties Opposing PUD-670:

David Porch, 3177 South Rockford, Tulsa, Oklahoma 74105, **Keith Franklin**, (presented a PowerPoint slide show regarding the character of the neighborhood, but did not submit a copy to the Planning Commission) 3135 South Rockford, Tulsa, Oklahoma 74105; **Wes Smith**, 3145 South Rockford, Tulsa, Oklahoma 74105; **Ed Seiders**, 3152 South Rockford Drive, Tulsa, Oklahoma 74105; **Stephanie Franklin**, 3135 South Rockford Place, Tulsa, Oklahoma 74105; **Debbie & Jered Toay**, 3155 S. Rockford Drive, Tulsa, Oklahoma 74105 (deferred his minutes to Mrs. Franklin); **Stella Seiders**, 3152 South Rockford Drive, Tulsa, Oklahoma 74105 (deferred her minutes to Mrs. Franklin); **Louis Manes**, Representing the southwest area Brookside Neighborhood Association, 4972 South Newport, Tulsa, Oklahoma 74105; **Bob Hill**, 3123 South Quaker Road, Tulsa, Oklahoma 74105; **Robert Pinney**, Representing the Brookside Neighborhood Association, Submitted a letter of protest from the Maple Ridge Association (Exhibit B-2), 1326 East 32nd Place, Tulsa, Oklahoma 74105; **Richard Warner**, 3168 South Rockford, Tulsa, Oklahoma 74105 (stated he is relinquishing his time to Mr. Franklin because he would like to speak again.); **Diane Smith**, 3145 South Rockford Drive, Tulsa, Oklahoma 74105.

Comments of Interested Parties Opposing PUD-670:

Stormwater runoff; changing the esthetics of the neighborhood; erosion problems; nine additional units may make the drainage substantially worse; unable to report Mr. Franklin's presentation due to his failure to present a copy to the Planning Commission as an exhibit; he expressed concerns that the gates are too close to the street and cars would be sticking out onto the street waiting for access; the streets are narrow; parking issues; Mr. Franklin and Mr. Smith cited the history and present housing in the subject area; the proposed driveways

would be taking away parking spaces for the neighborhood when they have events; the subject area has a real pleasant country feel and do not want nine houses packed into the subject property; expressed concerns about the trees being torn down; the developer is predicting that he would save eight trees, but there is no guarantee; fewer lots would save more trees; concerned about a retention line going through an existing sycamore tree on Mr. Seiders's property; interested parties requested a written agreement from the developer during and after the development is completed that the trees would be maintained; Mrs. Franklin stated that her presentation will be longer than 2 ½ minutes and requested that she be given more time from two other speakers; Mrs. Franklin cited the history of her home; aware that the neighborhood was zoned RS-3 before purchasing home and looked at the Zoning Code to see what would be allowed; Mrs. Franklin described the neighborhood as an 80 year old female person; believes that nine homes would negatively impact the neighborhood; concerns about the wildlife if the development is permitted; the neighborhood believes that there has been bad planning in the neighborhood and some developments should not have been allowed; the developer is pointing to bad planning decisions in the past as a justification to repeat them and overriding the current Zoning Code that was developed to prevent them in the first place; the developer's proposed lifestyle would not fit in with the existing lifestyle and would rather shoe horn in and negatively impact the existing lifestyle; the proposed PUD would not maintain the character and intensity of use in the subject area; the proposed PUD is not compatible and does not offer open space; there is an official wildlife habitat at Ms. Manes's property and she is concerned that if the mature trees are eliminated the air quality would diminish; Mr. Hill stated that he was not invited to the neighborhood meetings and would like to be more informed in the future; the Brookside Neighborhood Board of Directors has voted unanimously to support the neighborhood opposition to this PUD; average lot size is 24,000 SF on Rockford; children's safety issues; children play in the cul-de-sac and fear that the traffic would increase.

TMAPC Comments:

Mr. Harmon explained to Mr. Porch that the Planning Commission does not address drainage problems, nor regulate the drainage issues. He further explained that Public Works would be dealing with this issue and the applicant would have to comply with any requirements they require. In response, Mr. Porch stated that the stormwater drainage issue would tie in with the number of units that are allowed on the subject property.

Mr. Westervelt explained to Mr. Porch that Public Works would require that the increase impervious service does not increase the runoff and the applicant would be required to assure that doesn't happen. The Planning Commission can only deal with the land use, and the Planning Commission has great confidence that Public Works will deal with this issue. It would not affect the Planning Commission's decision because the Stormwater Management handles it. In response, Mr. Porch stated that the applicant is proposing underground retention

of water and he prefers to not be a test on this. Mr. Westervelt stated that this type of retention is used regularly.

Mr. Westervelt asked Mrs. Franklin to focus on issues that the Planning Commission can regulate and take into consideration. He asked her to speak about staff recommendations that she may have problems with. In response, Mrs. Franklin stated that she is almost finished.

Mr. Harmon requested Mrs. Franklin to summarize her presentation because she has already used her six minutes. In response, Mrs. Franklin stated that she is almost finished.

Mr. Westervelt asked Mr. Pinney why the Maple Ridge Association would be involved since they are located on the north side of 21st Street. In response, Mr. Pinney stated that the boundaries are from 31st Street to 15th Street. Mr. Westervelt stated that he lives in the Sunset Terrace Addition, which is not the Maple Ridge Association. Maple Ridge is north of 21st Street and they do not represent his neighborhood. Mr. Pinney stated that an addition called Maple Ridge is indeed north of 21st Street, but the boundaries for the Maple Ridge Neighborhood Association, which was established with the assistance from the City, would be 31st Street. Mr. Pinney explained that Mr. Westervelt may not be aware that he can join that association and his neighborhood is within their boundaries. Mr. Westervelt stated that it is not worth discussing further, but wanted to make note that his neighborhood is quite some distance from the subject area and he is having some trouble understanding the relevance of the letter from the Maple Ridge Neighborhood Association with regard to this application. In response, Mr. Pinney stated that the Maple Ridge Association is within ¼ mile of the subject area. Mr. Pinney further stated that the Brookside Association would have relevance since the subject area is part of Brookside. In response, Mr. Westervelt stated that he doesn't have a problem with Brookside's opinion.

Interested Parties in Support of PUD-670:

Steve Austin, 3161 South Rockford Drive, Tulsa, Oklahoma 74105; stated that he would like to disclose that he sold Joe Westervelt's first house when he moved to Tulsa. He indicated that he concurs with the staff recommendation and supports the project. He commented that he is not particularly concerned about stormwater because he is confident that Public Works and the process will alleviate any concerns in the neighborhood. The staff recommendation is appropriate and the variances that appear in the recommendation also appear in the subject neighborhood in some form or another. The project will be done very nicely and well. He indicated that he thought there was a deal with the neighborhood and issues had been resolved. He concluded that he believes the project should go as supported by the staff recommendation.

James Marr, 3223 East 67th, Tulsa, Oklahoma 74136, stated that he is the former owner of 1432 East 31st. He indicated that he is present today to talk in favor of this project. The people who opposed this project are the same people that opposed Mr. Charles Faudree's remodeling the duplexes by Crow Creek. It is a bad situation when neighbors can come in and kill an entire project that would upgrade the neighborhood. This project would increase the value of all the properties in the subject area.

Don Phillips, 3515 South Lewis, Tulsa, Oklahoma 74105, stated that he owns the property at 3113 South Quaker and believes this is a good development. He explained that his property is a townhouse that abuts the west line. He stated that he was involved in the three duplexes that were remodeled. The duplexes went from un-inhabitable to selling currently for \$200.00 per square foot. He indicated that the duplexes have zero lot lines. This development has been well planned and the rear entry garages are great with a contiguous front yard when looking down the street.

Staff Comments:

Mr. Dunlap stated that part of the staff recommendation is 50-foot lots, and he would like to point out that it is not in the packet. He wanted to make it clear that a minimum lot width of 50 feet is part of the staff recommendation.

Applicant's Rebuttal:

Mr. Johnsen stated that this is an infill project and they are more difficult because they are going into an area that is already developed and redeveloping part of it. One of the early comments made during the Infill Task Force was that people are resistant to change. Infill is the most difficult developments there is. It recognized that infill is a desirable thing to take older properties and put them to productive use. There is a substantial investment in infrastructure and an argument can be fairly made that it is really poor planning to underutilize properties. It has been proven that these infill projects raise values and do not depreciate them. The technique that his client wants to do is a PUD. If this property were developed without a PUD, there could be six lots and the applicant could file a plat and that is an option, but PUDs result in better development. Here there is a perfect example of some flexibility that PUDs were intended to provide, because of that depth of approximately 200-plus feet east and west over most of the subject property. The average land area per dwelling unit, which is what the Code establishes as the standard, is 11,625 feet. If there is a conventional RS-3 development the required minimum land area is 8400 feet with a minimum lot size of 6900 feet and it contemplates dedication of half of an adjoining street. That is 8400 feet compared to 11,625 feet. It is not a fair comment that the RS-3 protections are not being provided because the real standard is land area per dwelling unit.

Mr. Johnsen stated that the neighborhood originally had some principal issues and now it appears they do not want nine units. In an infill setting, more units are

wanted if it can be done in a compatible fashion. The biggest thing about this development is the rear entry garages with fronts having guest parking. This is far superior to conventional seven lots. The lot sizes exceed the RS-3 standards with 50-foot frontages.

Mr. Johnsen indicated that in RS-3 districts duplexes are permitted by special exception by the Board of Adjustment. The district itself recognizes that there may be heavier density and much heavier than he is proposing. There are duplexes west and east of the subject property and this proposal meets the RS-3 requirements, except for the 50-foot of frontage instead of the 60-foot frontage. The separation between buildings would be the same. This project will have minimal impact on Rockford and he has agreed to dedicate the 25 feet, unlike on the other side of the street.

Mr. Johnsen stated that drainage issues have been brought up. The City of Tulsa has a national award winning stormwater management program and he would be required to handle the storm drainage appropriately. This property will have to be platted and the drainage would be addressed at that time. As to inadequate turning and sight-line distances, those facts are supportable because he has talked with the Traffic Engineer and they were satisfied with how it can be done. He concluded that the point is whether proper infill would be encouraged and the basic standard measure of that is the underlying zoning, and he meets that underlying zoning as to density. There is an area with a mix of dwelling types, lot sizes and there is a great variety present in the subject area now. Around the corner from this project are two existing lots at 50-foot and one at 68-foot setbacks and he would be meeting the same setbacks from the street and meet it along the front. Staff recommendation addresses these issues and they are satisfied with the density. The underlying zoning permits the requested density and he does not believe that the purpose of infill is to knock off one unit because the neighbors across the street doesn't like the look of it. When this project is completed it will be a great asset to the neighborhood. His client has graciously agreed to put the utility lines underground because he thought an agreement had been reached. He thanked Mr. Austin for coming forward to support this project because he knows it is difficult to do that in front of his own neighbors. Mr. Austin heard all of the arguments and concluded it made sense. He explained that he is reluctant to landscape the island. His client would do the landscaping of the island if he were allowed the nine units.

TMAPC Comments:

Mr. Midget stated that he likes the project and he is an advocate of infill development. However, with infill, particularly in urban areas, there is usually an increase of density. In this particular instance this project is a little bit too dense. The house sizes are mammoth compared to the surroundings. Maybe if there were seven or eight units and spread it out, then it would be more compatible. Given the character and complexity of the neighborhood, the project as submitted is too dense. Infill should be compatible to the surrounding areas. He

concluded that he encourages infill development, but in all instances it should be compatible with the surrounding neighborhood and if this can be achieved he would be supportive of it.

Mr. Westervelt stated that he would like to make a motion and see if this can be moved along.

TMAPC Action; 7 members present:

On **MOTION** of **WESTERVELT**, the TMAPC voted **7-0-0** (Bayles, Coutant, Harmon, Horner, Jackson, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Dick, Hill, Ledford "absent") to recommend **APPROVAL** of PUD-670 subject to conditions recommended by staff with the following changes: maximum of eight residential lots with the southernmost triangular area (Lot 9 area) to be utilized for a turnaround at the end of the private driveway and additional parking which would be accessed from South Rockford; the required yard abutting Rockford on the two southernmost residential lots, (Lots 7 and 8) be a minimum of 15 feet rather than ten; all lots in the PUD shall be serviced by underground utilities; the existing Rockford cul-de-sac shall be landscaped, irrigated and maintained by the developer and then the PUD's homeowners association; and add an additional five feet to the required yard abutting East 31st Street.

Legal Description for PUD-670:

A TRACT OF LAND THAT IS ALL OF LOTS THREE (3) AND FOUR (4) AND PART OF LOT FIVE (5), BLOCK ONE (1), PEORIA ACRES ADDITION, A SUBDIVISION IN THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF (PLAT NO. 553), AND ALL OF LOT FOUR (4), BLOCK ONE (1), SUBDIVISION OF PEORIA ACRES ADDITION, A SUBDIVISION IN THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF (PLAT NO. 691), SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS THE NORTHEAST CORNER OF SAID LOT 5; THENCE NORTH 0°00'00" EAST FOR A DISTANCE OF 25.00 FEET TO A POINT ON THE NORTHERLY LINE OF SECTION NINETEEN (19), TOWNSHIP NINETEEN (19) NORTH, RANGE THIRTEEN (13) EAST, BEING THE CENTERLINE OF EAST 31ST STREET SOUTH; THENCE NORTH 90°00'00" EAST ALONG SAID NORTHERLY LINE AND SAID CENTERLINE FOR A DISTANCE OF 216.60 FEET TO A POINT, SAID POINT BEING THE CENTERLINE INTERSECTION OF EAST 31ST STREET SOUTH AND SOUTH ROCKFORD DRIVE; THENCE SOUTH 0°00'00" WEST ALONG THE CENTERLINE OF SOUTH ROCKFORD DRIVE, FOR A DISTANCE OF 205.01 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY AND SOUTHWESTERLY, CONTINUING ALONG SAID CENTERLINE, ALONG A 415.00 FOOT RADIUS CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 59°22'14", FOR AN ARC DISTANCE OF 430.03 FEET TO A POINT OF REVERSE CURVATURE; THENCE

SOUTHWESTERLY AND SOUTHERLY, CONTINUING ALONG SAID CENTERLINE, ALONG A 45.00 FOOT RADIUS CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 57°19'57", FOR AN ARC DISTANCE OF 45.03 FEET TO A POINT; THENCE NORTH 87°57'43" WEST FOR A DISTANCE OF 15.00 FEET TO A POINT, SAID POINT BEING THE SOUTHWEST CORNER OF SAID LOT 4, BLOCK 1, SUBDIVISION OF PEORIA ACRES ADDITION; THENCE NORTH 0°00'00" EAST ALONG THE WESTERLY LINE OF SAID LOT 4 AND THE EXTENSION THEREOF, FOR A DISTANCE OF 173.70 FEET TO A POINT; THENCE NORTH 90°00'00" EAST FOR A DISTANCE OF 24.00 FEET TO A POINT ON THE EASTERLY LINE OF LOT 5; THENCE NORTH 0°00'00" EAST, ALONG SAID EASTERLY LINE, FOR A DISTANCE OF 400.00 FEET TO THE POINT OF BEGINNING; SAID TRACT CONTAINING 104,632 SQUARE FEET, OR 2.402 ACRES, and located on the southwest corner of East 31st Street South and South Rockford Avenue, Tulsa, Oklahoma, From: RS-3 (Residential Single-family High Density District) To: RS-3/PUD (Residential Single-family High Density District/Planned Unit Development [PUD-670]).

ZONING PUBLIC HEARING

Z-6870/PUD-672

RS-3 to CS/PUD

Applicant: Charles E. Norman

(PD-5) (CD-4)

Location: Northwest corner of East 15th Street and South Yale

Staff Recommendation for Z-6870:

RELEVANT ZONING HISTORY:

Z-6857/PUD-665 July 2002: A request to rezone two residential lots located on the north side of East 15th Street between South Fulton Avenue and South Erie Avenue and east of the subject tract, from RS-3 to CH/PUD. Approval was granted for CS zoning with the PUD, with modification, for the development and construction of a home improvement store and mini-storage facility.

PUD-510 July 1994: All concurred in approval of a PUD for an area that included an existing church, single-family dwellings, a commercial building and church parking lots. The Planned Unit Development proposed the continued use of the commercial building; the single-family dwellings were proposed to house church staff, missionaries and church classes. The PUD also provided buffering, screening and landscaping for the surrounding residential homes.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.9 acres in size and is located on the northwest corner of East 15th Street South and South Yale Avenue. The property is sloping, non-wooded, contains a grocery store and accessory parking lot and is zoned RS-3 under District Court action to allow a grocery store in an R district.

STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
East 15 th Street South	Secondary arterial	100'	4 lanes
South Yale Avenue	Secondary arterial	100'	4 lanes

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

SURROUNDING AREA: The subject tract is abutted on the north and west by single-family dwellings, zoned RS-3; to the east by a tire store, zoned CS, and to the south by the Drillers baseball stadium in the County Fairgrounds property within Tulsa County jurisdiction, and zoned AG.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 4 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property as Medium Intensity-No Specific Land Use. According to the Zoning Matrix, the requested CS zoning is in accord with the Plan Map.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, existing land uses and zoning on the property and surrounding properties and trends in the area, staff can support rezoning a portion of the property CS and the remainder OL. The portion recommended for CS would be to the same depth as the CS zoning on the east side of Yale with a width of all but the west 25 feet of the PUD. Therefore staff recommends **APPROVAL** of CS zoning on the east 230 feet of the south 100 feet of Z-6870 and OL on the remainder provided that the TMAPC recommends approval for the requested provisions or some variation thereof of the PUD.

Staff Recommendation PUD-672:

The PUD proposes commercial uses on approximately three acres located on the north side of East 15th Street between South Yale Avenue and South Winston Avenue. The subject tract has approximately 321 feet of frontage on South Yale Avenue and on South Winston Avenue and 265 feet on East 15th Street.

The subject tract is zoned RS-3. Concurrently, an application has been filed to rezone the tract to CS (Z-6870). The tract is abutted on the north by residential uses zoned RS-3. There are residential uses to the west across South Winston

Avenue. Across South Yale Avenue to the east are office and commercial uses zoned OL and CS. To the south of the tract across East 15th Street are a baseball stadium and the fairgrounds.

In 1966, the District Court of Tulsa County entered an order enjoining the City of Tulsa from interfering with the use of the subject tract for commercial purposes. Specifically, the District Court found that the use of the property for a Safeway Store would not be detrimental to the neighborhood if developed in accord with a site plan approved by the court. Pursuant to the 1965 order, a Safeway Store was constructed and operated on the property.

In 1990, after public hearings held by the Tulsa Metropolitan Area Planning Commission and the Tulsa City Council, the City Council recommended, and the District Court ordered, that the 1965 court order be modified to permit the grocery store building, then being operated by Homeland Stores, to be remodeled and expanded to a floor area not exceeding 28,400 square feet.

The grocery store building was not expanded as permitted by the 1990 court order. The present owner of the property proposes to demolish the existing building and replace the grocery store with a drugstore and has elected to apply for rezoning of the property and the approval of a PUD to accomplish the planned redevelopment rather than applying again to the District Court.

Under the redevelopment concept as shown on the concept illustration, Exhibit A, the existing property grade would be maintained and the new store building with a maximum floor area of 20,000 square feet would be constructed with greater building setbacks from the north and west boundaries than the existing structure. Two existing driveways to South Yale Avenue and East 15th Street would be closed and more landscaping would be provided.

If Z-6870 is approved for CS zoning 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-672 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-672 subject to the following conditions:

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

Land Area:

Gross:	3.011 acres	131,169.59 SF
Net:	1.952 acres	85,021.11 SF

Permitted Uses:

Those uses permitted as a matter of right in Use Unit 11, Offices, Studios and Support Services; Use Unit 13, Convenience Goods and Services; and Retail Trade Establishments within Use Unit 14, except pawnshops are prohibited. Restaurants as included within Use Unit 12 may be permitted by minor amendment.

Maximum Building Floor Area: 20,000 SF

Maximum Building Height: 25 FT

Architectural elements at building entrance and business logos may exceed maximum building height with detailed site plan approval.

Off-Street Parking:

As required by the applicable Use Unit of the Tulsa Zoning Code.

Minimum Building Setbacks:

From the centerline of South Yale Avenue 150 FT

From the centerline of East 15th Street 185 FT

From the west boundary of the PUD 40 FT

From the north boundary of the PUD

Building wall 50 FT

Drive-In canopy 30 FT

Bulk Trash Container Setbacks:

From north boundary of PUD 125 FT

From west boundary of PUD 25 FT

Landscaping and Screening:

Landscaping and screening shall be in substantial compliance with the applicant's outline development plan and text. A minimum of ten percent of the net land area shall be improved as internal landscaped open space in accord with the provisions of the PUD Chapter and Landscape Chapter of the Tulsa Zoning Code.

Signs:

- 1) Ground signs shall be limited to one with a maximum of 160 square feet of display surface area and 25 feet in height setback at least 200 feet from any residential district.
- 2) Wall signs shall be permitted not to exceed 2.0 square feet of display surface area per lineal foot of building wall to which attached. No wall signs shall be permitted on west- or north-facing building walls.
3. 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.
4. 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.
5. 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.
6. 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.

7. Lighting used to illuminate the subject tract shall be so arranged as to shield and direct the light away from adjacent properties abutting the PUD. Shielding of such light shall be designed so as to prevent the light-producing element or reflector of the light fixture from being visible to a person standing in the adjacent properties or street right-of-way. No light standard nor building-mounted light shall exceed ~~ten~~ 20 feet in height within 150 feet of a residential district nor 20 feet in height in other areas of the PUD.
8. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
9. 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.
10. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process, which are approved by TMAPC.
11. 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.
12. 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.

Mr. Westervelt out at 6:15 p.m.

Applicant's Comments:

Charles E. Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74, stated that he is representing the applicant and he was involved in the two prior considerations for this corner. This proposal represents a significant reduction of the building floor area that has been previously recommended by the Planning Commission and approved by the City Council. He indicated that he is in support of the staff recommendation with two exceptions.

Mr. Norman submitted photographs (Exhibit C-1) and demonstrated the subject area and subject surrounding area. He explained the differences in the

elevations of the surrounding properties and the subject property. He stated that there is a proposed significant eleven-foot wide greenbelt area that would be constructed and a screening fence on top of it (north property boundary).

Mr. Norman stated that the proposal has been presented to the Planning Commission as a proposal for the development of a Walgreen's Drug Store and all of the plans were drawn with this in mind. However, the proposed permitted uses included restaurants in the event that this project might not be constructed. The use has been deleted by staff and he would like to ask that it be modified to permit the addition of restaurant use by a minor amendment to the PUD if at any time in the future this might be desirable. He doesn't anticipate this would be the case, but if so it would avoid going through the full procedure in order to accomplish this.

Mr. Norman submitted a site plan (Exhibit C-2) and stated that the second objection he has is to the staff recommendation to the requirement that within 150 feet of a residential area, the boundary to the north and west, there be no light standard in excess of ten feet in height. In 1966 and 1990, the court order already required that the lighting be downward and directed away from the properties to the west and north. Since that time a requirement that the light source be screened so that no one in the adjacent property can see the light source has been adopted. In this instance, there is a City streetlight where the light source is approximately 25 feet high. He requested that he be permitted to have light standards 25 feet in height, which would be lower than the existing lighting and lower than that in the commercial area to the southeast and all along South Yale, and certainly lower than the lights in Driller Stadium. These would be hooded in accord with the staff recommendation and he believes that this addition would be sufficient to protect any concern of lighting visibility from the two houses that are directly to the west.

Staff Recommendation:

Mr. Stump stated that the 150 feet limitation only applies to the areas on the residential side of the building and it would not apply to any of the parking areas Mr. Norman has shown because they are greater than 150 feet from the residential areas. Lighting should be kept low behind the building because it would be very close to residences, which are very close to the edge of the subject tract. In response, Mr. Norman stated that he is still objecting to requiring ten feet high lighting behind a 16-foot fence. He is proposing 25 feet in height and presently the lights are 32 feet in height. There is no reason to require the ten-foot height when the street lights, are unshielded, and all the lights in the subject area are higher. Mr. Norman concluded that this is the not the present condition. It was not the condition in 1990 and it isn't now.

Mr. Harmon stated that if the lights were hooded it would be reasonable to limit the lights to 20 feet in height anywhere on the lot. In response, Mr. Stump agreed it would be a reasonable compromise.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HORNER**, the TMAPC voted **6-0-0** (Bayles, Coutant, Harmon, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Dick, Hill, Ledford, Westervelt "absent") to recommend **APPROVAL** of CS zoning on the east 230 feet of the south 100 feet of Z-6870 and OL on the remainder and recommend **APPROVAL** of PUD-672 subject to the lights being hooded and maximum height of 20 feet on the entire lot; a minor amendment would be allowed for a sit-down restaurant and a drive-through shall not be allowed; and subject to conditions recommended by staff. (Language with a strike through has been deleted by the TMAPC and language with an underline has been added by the TMAPC.)

Applicant's Comments:

Mr. Norman stated that he appreciates the Planning Commission's patience after 6:30.

Legal Description for Z-6870:

A TRACT OF LAND DESCRIBED AS THE EAST 230 FEET OF THE SOUTH 100 FEET OF THE FOLLOWING DESCRIBED TRACT: LOTS FIVE (5), SIX (6), SEVEN (7), EIGHT (8), NINE (9), BLOCK TWO (2), LESS THE EASTERLY 15.00 FEET THEREOF, AND ALL OF LOTS TEN (10), ELEVEN (11), TWELVE (12), THIRTEEN (13), AND FOURTEEN (14), BLOCK TWO (2), ADAMSON HEIGHTS ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 1101. **From RS-3 (Residential Single-family High Density District) to CS/PUD (Commercial Shopping Center District).**

LOTS FIVE (5), SIX (6), SEVEN (7), EIGHT (8), NINE (9), BLOCK TWO (2), LESS THE EASTERLY 15.00 FEET THEREOF, AND ALL OF LOTS TEN (10), ELEVEN (11), TWELVE (12), THIRTEEN (13), AND FOURTEEN (14), BLOCK TWO (2), ADAMSON HEIGHTS ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 1101. LESS AND EXCEPT THE EAST 230 FEET OF THE SOUTH 100 FEET OF SAID TRACT. **From RS-3 (Residential Single-Family High Density District) to OL (Office Low Intensity District).**

Legal Description for PUD-672:

LOTS FIVE (5), SIX (6), SEVEN (7), EIGHT (8), NINE (9), BLOCK TWO (2), LESS THE EASTERLY 15.00 FEET THEREOF, AND ALL OF LOTS TEN (10), ELEVEN (11), TWELVE (12), THIRTEEN (13), AND FOURTEEN (14), BLOCK TWO (2), ADAMSON HEIGHTS ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 1101, **From RS-3 (Residential Single-Family High Density District) to OL/CS/PUD (Office Low Intensity District/Commercial Shopping Center District/Planned Unit Development [PUD-672]).**

PUD-460-5

MINOR AMENDMENT

Applicant: Harry Jacobs

(PD-18) (CD-8)

Location: 7907 South 90th East Avenue

Staff Recommendation:

The applicant is requesting a minor amendment to reduce the required rear yard from 20 feet to eleven feet for the construction of a new residence on Lot 2, Block 9, The Village of Highland Park Addition.

It is proposed that a corner of the dwelling would be permitted to extend into the required 20-foot rear yard. There is a six-foot high screening fence along the rear lot line, which is the east property line.

The lot is abutted on the east by Reserve N, which is approved for open space, landscaping and recreation. Staff finds the request to be minor in nature and the character of the development is not substantially altered. Therefore, staff recommends **APPROVAL** of the request per the submitted site plan.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted **6-0-0** (Bayles, Coutant, Harmon, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Dick, Hill, Ledford, Westervelt "absent") to **APPROVE** the minor amendment for PUD-460-5 as recommended by staff.

OTHER BUSINESS:

PUD-278

Detail Site Plan

Applicant: Charles Ford

(PD-18) (CD-9)

Located: 5522 South Lewis, Pecan Tree Office Park

Staff Recommendation:

The applicant is requesting approval of a detail site plan for an office building. The proposed use is in conformance with PUD-278 Development Standards.

The proposed building meets all setback requirements and height restrictions. The second story as planned is to be used for storage purposes (documentation attached) and is not considered to be habitable. Therefore, the second story floor space is not counted toward parking requirement calculations. Landscape requirements for street yard do not apply, and landscaping of net lot area has been met. No additional parking lot lighting or changes to the lighting are proposed.

Parking allocation in the development has been on a "first come, first serve" basis. Per a comprehensive parking plan approved July 11, 2001, there are a total of 119 spaces. Existing development has a parking requirement of 117 spaces. The proposed office will require a total of seven spaces. Per a visual inspection, there is enough area for the previously-approved 119 spaces. However, the site is not currently striped per plan. Through a combination of re-striping and paving of two small "green" areas, the applicant can provide the additional seven spaces (124 total) required. Per the plat's restrictive covenants, the re-striping and paving must be approved by the Pecan Tree Park Property Owners' Association.

Note: Upon completion of the proposed office building, there will be one remaining undeveloped lot (Lot 5). Future parking requirements will require significant removal of landscaping/ green area and possible encroachment into right-of-way.

Staff recommends **APPROVAL** of PUD-278 Detail Site Plan subject to the following conditions: 1) verification in writing that the proposed paving and re-striping of the parking lot has been approved by the Pecan Tree Park Property Owners' Association; and 2) that paving and re-striping be completed prior to occupancy.

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

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted **6-0-0** (Bayles, Coutant, Harmon, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Dick, Hill, Ledford, Westervelt "absent") to **APPROVE** the detail site plan for PUD-278, subject to: 1) verification in writing that the proposed paving and re-striping of the parking lot has been approved by the Pecan Tree Park Property Owners' Association; and 2) that paving and re-striping be completed prior to occupancy as recommended by staff.

* * * * *

AC-066 ALTERNATIVE LANDSCAPING COMPLIANCE

Applicant: Roberta Steinmetz (PD-18) (CD-5)

Located: 4247 South 76th East Avenue

Staff Recommendation:

The applicant is requesting approval of an Alternative Landscape Compliance plan for irrigation of landscaping associated with a storage facility located in an IL zoning district. Proposed method of irrigation includes two faucets with hose attachments, one in each landscaped area of the development in lieu of a sprinkler system. Because traffic in the driveway will include RVs and buses, the applicant is concerned that a sprinkler system, which would run under the drive, would break down. The proposed faucets with hose attachments would be within 100 feet of all landscaped areas.

Staff recommends **APPROVAL** of the plan as submitted.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted **6-0-0** (Bayles, Coutant, Harmon, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Dick, Hill, Ledford, Westervelt "absent") to **APPROVE** the alternative landscaping compliance for AC-066 as recommended by staff.

* * * * *

AC-067 ALTERNATIVE LANDSCAPING COMPLIANCE

Applicant: Charles E. Norman (PD-6) (CD-9)

Located: East of the southeast corner of East 21st Street and South Lewis

Staff Recommendation:

The applicant is requesting approval of an Alternative Landscape Compliance plan for a new parking area related to a building remodel for a new bank. Addition of the parking is not required by code, but is desired by the applicant to correspond to reorientation of the bank's main entrance to the north. The landscape plan is in compliance with street yard requirements (15% landscaping required, 19% proposed) and 28% of net lot area is landscaped. However, the plan does not provide a 5.0' wide landscape strip abutting the 21st Street right-of-way as required by Section 1002.A.2. Because most other sites in the vicinity are in compliance with the 5.0' requirement, absence of any landscaping adjacent to the new parking along 21st Street would not be an "equivalent or better" plan. However, considerable landscaping exists along the lot's 21st Street frontage to the east of the new parking area. In consideration of these two factors, an "equivalent" plan that provides less than the 5.0' required, yet provides some landscaping along the street frontage would be visually compatible with adjacent sites.

Staff recommends **APPROVAL** contingent upon submittal of a revised alternative landscape plan that provides at least a two-foot landscape strip along 21st Street right-of-way. The portion of the landscaped area that is to be used as "overhang" for parking spaces must remain grass only.

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** (Bayles, Coutant, Harmon, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Dick, Hill, Ledford, Westervelt "absent") to **APPROVE** the alternative landscape compliance for AC-067 as recommended by staff.

There being no further business, the Chairman declared the meeting adjourned at 6:30 p.m.

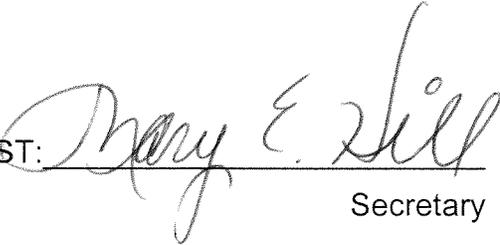
Date Approved:

10-16-02



Chairman

ATTEST:



Secretary