

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2335

Wednesday, February 19, 2003, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Bayles		Dunlap	Romig, Legal
Carnes		Fernandez	
Collins		Huntsinger	
Coutant		Matthews	
Harmon		Stump	
Hill			
Horner			
Jackson			
Ledford			
Midget			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, February 17, 2003 at 3:30 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 Jackson called the meeting to order at 1:30 p.m.

### **Minutes:**

#### **Approval of the minutes of February 5, 2003, Meeting No. 2334**

On **MOTION** of **HORNER** the TMAPC voted 7-0-1 (Carnes, Collins, Harmon, Hill, Horner, Jackson, Ledford "aye"; no "nays"; Coutant "abstaining"; Bayles, Midget, Westervelt "absent") to **APPROVE** the minutes of the meeting of October 23, 2002, Meeting No. 2325.

### **REPORTS:**

#### **Chairman's Report:**

Mr. Jackson stated that there are several housekeeping issues to take care before starting the agenda.

PUD-566, plat waiver, has been withdrawn by the applicant. CZ-302, authorization for an accelerated release of a building permit has been stricken from the agenda. PUD-676 has been withdrawn by the applicant.

Mr. Jackson asked if there were any interested parties present for Roscom Range Estates sketch plat. **There were no interested parties wishing to speak.** Mr. Jackson explained that this sketch plat would not be on today's agenda.

**Director's Report:**

Mr. Stump reported that there are no items on the City Council agenda for Thursday, February 20, 2002.

Mr. Stump stated that the January TMAPC receipts are 35% higher than the average for January 2002.

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**Mr. Westervelt in at 1:35 p.m.**

Mr. Jackson stated that applicant for PUD-333-A has requested a continuance.

**Application No.: PUD-333-A**

**MAJOR AMENDMENT**

**Applicant:** Darin Akerman

(PD-18) (CD-9)

**Location:** South of southeast corner of East 56<sup>th</sup> Street and South Lewis Avenue

**Staff Recommendation:**

Mr. Dunlap stated that there have been several meetings since the last Planning Commission meeting. There has been a lot of progress, but the applicant has requested a continuance to February 26, 2003.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **HORNER**, TMAPC voted 9-0-0 (Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Midget "absent") to **CONTINUE** the major amendment for PUD-333-A to February 26, 2003 at 1:30 p.m.

\* \* \* \* \*

**SUBDIVISIONS:**

**FINAL PLAT:**

**8100 Center on Garnett Addition – PUD-666 (784) (PD-18) (CD-8)**

**Location:** Northwest corner of 81<sup>st</sup> and Garnett

**Staff Recommendation:**

This plat consists of one lot in one block on 1.4 acres. The property will be used for commercial uses.

There will be one additional change to the plat regarding mutual access easements. 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; 9 members present:**

On **MOTION** of **HORNER**, TMAPC voted 9-0-0 (Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Midget "absent") to **APPROVE** the final plat for 8100 Center on Garnett Addition as recommended by staff.

\* \* \* \* \*

**PRELIMINARY PLAT:**

**Glendale Acres – AG-R (2672) (PD 21) (County)**

**Location:** North of West 171<sup>st</sup> Street South, west of South Elwood Avenue

**Staff Recommendation:**

Mrs. Fernandez stated that staff recommends that this application be continued to March 5, 2003 Planning Commission meeting. Everyone is in agreement with a continuance of this item.

**Applicant was not present.**

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted 9-0-0 (Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Midget "absent") to **CONTINUE** the preliminary plat for Glendale Acres to March 5, 2003, at 1:30 p.m.

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**Mr. Midget in at 1:40 p.m.**

**Dorothy McIntosh Estates – AG-R (2623)** (PD 14) (County)

**Location:** South of State Highway 20, East of Sheridan Road

**Staff Recommendation:**

This plat consists of 14 lots, three blocks, on 20 acres.

The following issues were discussed February 6, 2003 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned AG-R in Tulsa County. An accelerated release of building permits is requested with this preliminary plat for the Housing Authority of the Cherokee Nation. Proper right-of-way needs to be dedicated for Sheridan Road.
2. **Streets:** Cul-de-sac design must extend the cul-de-sac to the property line and allow for future extension of the street to surrounding properties. Utility easements must be placed outside the right-of-way. Setbacks on the face of the plat must be corrected. Delete references to a "defeasible" cul-de-sac.
3. **Sewer:** Individual aerobic systems are planned.
4. **Water:** Washington County Rural Water District # 3 will serve the subdivision.
5. **Storm Drainage:** N/A
6. **Utilities:** Standard language must be used in the covenants.
7. **Other:** N/A

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

**Waivers of Subdivision Regulations:**

1. A waiver to the cul-de-sac length is necessary. A waiver of the Major Street and Highway Plan is necessary.

**Special Conditions:**

1. The concerns of the County Engineer must be taken care of to his 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 therefor 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 therefor 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.

**TMAPC Comments:**

Mr. Harmon asked how long the cul-de-sac would be from the entrance off Sheridan to the end. In response, Mrs. Fernandez stated that the cul-de-sac to the south is 70 feet longer than the maximum 500 feet, and the cul-de-sac to the north is 120 feet longer than the maximum 500 feet. Mr. Harmon asked Mrs. Fernandez if TAC was concerned about safety issues. Mrs. Fernandez stated that the TAC members didn't have any concerns and staff doesn't have a problem with the cul-de-sacs.

Mr. Carnes stated that it appears that there 1387 feet going into the project and then there are cul-de-sacs on the left and right. Mr. Carnes asked if this would have been approved as easily if it had been in the City of Tulsa. In response, Mrs. Fernandez stated that this proposal is unusual, but she can't answer that question. The City has more staff at the TAC meeting than the County, and the City Traffic Engineer always discusses the County plats with the County Engineer at the TAC meetings. Because of the amount of property that is proposed to be platted, which is for a special housing development for the Housing Authority of the Cherokee Nation, this seems to be the only way to deal with this property at this time. The street into the addition is extremely long and it will function as a collector.

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

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

**TMAPC Comments:**

Mr. Westervelt asked if this is a temporary access until the two adjacent lots are development, or a single long cul-de-sac all the way back. Mr. Stump stated that the long access abuts the large tracts on the north and south and they would have access onto this street if it develops. Mr. Westervelt stated that the long entrance is not necessarily a long cul-de-sac that runs from Sheridan all the way back to the other two cul-de-sacs, but rather an access being constructed that would also serve the two adjacent tracts next door.

**TMAPC Action; 10 members present:**

On **MOTION** of **LEDFOORD**, the TMAPC voted **10-0-0** (Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles "absent") to recommend **APPROVAL** of the preliminary plat for Dorothy McIntosh Estates, subject to a waiver of the Subdivision Regulations for the cul-de-sac length and subject to the special conditions and standard conditions as recommended by staff.

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**Mr. Ledford announced that he would be abstaining from the following item.**

**Stonebrooke – RS-3 (1182) (PD 8) (CD 2)**

**Location:** Northwest corner of 81<sup>st</sup> and South Elwood

**Staff Recommendation:**

This plat consists of 250 lots, 13 blocks, on 109 acres.

The following issues were discussed February 6, 2003 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned RS-3. There had been considerable discussion about drainage and traffic during the rezoning of the property. Also, the Airport Authority had expressed concern about the proximity of the new subdivision to airport facilities and clear zones. The reserve areas need to be clarified on the plat and in the covenants.
2. **Streets:** The collector street system shows a future east/west collector with a stub street to the north. The north/south roadway should be against the property line. Two more physical breaks are needed near Indian Street and 77<sup>th</sup> Street. The 60-foot collector placement needs review. The covenants need standard language concerning rights-of-way. Clarify legal description. Islands need to be dimensioned.
3. **Sewer:** More easements will be required. Sewer will need to be extended to the addition.
4. **Water:** A twelve-inch water line will need to be built along 81<sup>st</sup> Street with no ties or taps to the 16-inch line.
5. **Storm Drainage:** Reserves and easements need to be further clarified/defined. Street names need to be checked. The floodplain needs to be defined correctly. Use standard language in the covenants. Show compensatory storage easements. (Some existing nearby ponds will be platted with future development and a PUD.)
6. **Utilities:** Use standard language in covenants. Valor needs additional easements.

- 7. Other:** Airport Director Brent Kitchen expressed concern about new single-family homes near the airport. They have 130 lawsuits concerning noise intrusion. He handed out a map showing the development in line with the runway. There will be loud noise and single-event noise. The airport is one of the busiest in the country. The Spartan Flight Training School is very active. OSU programs are also housed there. The City and Trust for the Airport want notice to be put on the face of the plat that there will be aircraft noise intrusion. Although the contour maps do not require it, an avigation easement is requested. Also requested was a construction standard for the new houses to mitigate smoke, lights or noise from the airport. Airspace clearance permits will likely be needed. There will be a lot of overflight.

Mr. Cliff McGee, Jones-Riverside Airport Association, stated that more than 500 aircraft were housed at the airport and the airport expected to allow more and larger aircraft in the future. They are trying to avoid future litigation.

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. The concerns of the Public Works Department staff 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 therefor 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 therefor 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.

**TMAPC Comments:**

Mr. Harmon asked if an avigation easement automatically gives airspace clearance permits or is that a separate issue. In response, Mr. Romig stated that he has been meeting with the Airport Authority Engineer on this project and staff. Mr. Romig explained that he would like to make the preliminary plat approval conditioned upon the airport issues being resolved rather than making it a strict requirement. Mr. Romig stated that there would be no permits required for flyovers.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HORNER**, the TMAPC voted **9-0-1** (Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Midget, Westervelt "aye"; no "nays"; Ledford "abstaining"; Bayles "absent") to recommend **APPROVAL** of the preliminary plat for Stonebrooke subject to special conditions and standard conditions as recommended by staff.

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## ZONING PUBLIC HEARING

Ms. Bayles in at 1:55 p.m.

Application No.: PUD-485-A-2

MINOR AMENDMENT

Applicant: Roger Gladden

(PD-26) (CD-8)

Location: 10808 South Memorial Drive

### Staff Recommendation:

The applicant is requesting a minor amendment to allow church uses within PUD-485-A.

PUD-485 was approved by the City of Tulsa in 1992. The PUD consists of approximately five acres located at approximately 10808 South Memorial Drive. The following uses were permitted:

Use Units 13, Convenience Goods & Services; and 14, Shopping Goods and Services; Use Unit 19, Hotel, Motel and Reservation Facilities, except excluding hotel, motel and rifle or pistol ranges; and Use Unit 20, Commercial Recreation: Intensive uses, including only tennis and volleyball courts, baseball and softball fields and other outdoor recreation fields or courts.

The major amendment PUD-485-A didn't change the permitted uses.

The applicant is proposing to add church use as included within Use Unit 5 as a permitted use. As can be seen from the case map, the underlying zoning of the subject tract is AG and CS. Based on the information that the applicant has provided (see enclosed site plan) the proposed church use would be on the AG portion of the tract. Section 1107.H.15, pg. 11-12 of the Zoning Code states the following:

Changes in an approved use to another use may be permitted (by minor amendment), provided the underlying zoning on the particular site within the PUD would otherwise permit such use by right and the proposed use will not result in any increase of incompatibility with the present and future use of the proximate properties.

The proposed use would not be allowed in AG-zoned district by right and therefore could not be permitted as a minor amendment. Therefore, staff recommends **DENIAL** of the request.

**TMAPC Comments:**

Mr. Harmon asked if the church use be allowed if the subject property's zoning were changed. In response, Mr. Stump stated that the subject property is located in an area where it could handle traffic, and if the applicant applied for a major amendment to have the church use in the AG-zoned area or the CS-zoned area, then it would be considered. Mr. Stump further stated that there is also the thought that perhaps the prime retail areas should be reserved for retail uses that would enhance the tax base, but that hasn't been a policy in the past. It may be one that should be considered due to the state of the economy.

Mr. Dunlap cited the commercial properties in the subject area and indicated that the subject area has been approved for commercial uses through the PUD process.

Mr. Carnes asked staff if the recommendation for denial is because this application should be a major amendment. In response, Mr. Stump answered affirmatively.

Ms. Coutant asked staff if the applicant could amend this request to a major amendment in order to prevent refileing. In response, Mr. Stump stated that the applicant would have to file a major amendment and if the Planning Commission chooses, the application fees from the minor amendment could be applied to the cost of the major amendment, which is greater. Mr. Dunlap further stated that the applicant discussed this application with several staff members and he was advised of the requirements for a major amendments and minor amendments. He indicated that the applicant was aware of the requirements.

Mr. Stump stated that if the Planning Commission were inclined to apply the minor amendment fees to the major amendment, then the motion should indicate it.

Mr. Westervelt stated that occasionally there are residents who are concerned about church use being in close proximity to parking facilities. He further stated that occasionally the Planning Commission hears from commercial users that are concerned about the effect of the church zoning suddenly being within a measured distance of two large commercial PUDs. Mr. Westervelt asked staff to explain what impact the proposed church would have on existing zoning and how it may affect those in a negative way, if any. In response, Mr. Stump stated that the uses that are already approved in this PUD would not be affected, but the potential commercial areas as they develop to the north or south would be restricted in the sale of alcoholic beverages within a certain distance from a church or a sexually oriented business that has a spacing requirement from a church.

Mr. Romig stated that to the north there is a golf driving range and another church is located to north of the driving range.

**Applicant's Comments:**

**Chase Bayles**, 101 West 81<sup>st</sup> Street, Tulsa, Oklahoma 74132, stated that an athletic complex currently exists on the commercial site of the five acres and the church would lease space from the athletic complex. He explained that he is requesting permission to allow the church to hold services inside the athletic facility. The facility is for profit and would continue to be for profit and pay \$30,000 dollars in taxes. The church is leasing only and not purchasing the subject property. He explained that the church would like to park two trailers directly behind the building, which would allow temporary space during construction of the third gym and more construction inside to accommodate several new athletic activities. The athletic complex was failing and has now been brought to a new structure because people have been involved with the facility. There are 307 parking spaces, which exceeds the requirements for the facility or church use. The only easement that goes with the AG side is approximately 3.5' to six feet. The temporary trailers would only be present for approximately six months.

Mr. Bayles stated that the facility is not being changed for church use and the facility's use would not be changed, but rather church use would be added.

**TMAPC Comments:**

Mr. Carnes stated that staff is indicating that this application should be a major amendment and he agrees with staff. Mr. Carnes asked the applicant if he would like to come back with a major amendment. In response, Mr. Bayles stated that he would do whatever he has to do in order to get this request through. Mr. Bayles commented that he is following staff's recommendation on this minor amendment. He indicated that if staff had recommended a major amendment, then he would have done so.

Mr. Dunlap stated that Mr. Bayles is not the gentlemen that sat in his office and discussed this application. Mr. Dunlap indicated that the gentlemen who made the application was advised to apply for a major amendment. He explained that he informed the original applicant that if he did not apply for a major amendment, then he would need to submit details of the subject building and what parts of the building would be used for church activities. The applicant provided a site plan that indicated proposed uses inside the AG tract and he was advised that it would require a major amendment.

Mr. Stump stated that the zoning ordinance is technical in this area. If a use is allowed by right by the underlying zoning, but not by the PUD, the use can be added by minor amendment if it is approved. However, in this case, church use is allowed by right in the CS district but not in the AG district. If all of the church uses were in the CS portion of the tract, then it could be amended by minor amendment. The CS district runs approximately through the middle of the subject building and through over half of the parking. Since staff does not have

assurances that the portion being used for church use is located in the east-half of the building, then it becomes a technical situation and requires a major amendment for use in the AG district.

Mr. Jackson asked Mr. Bayles asked the applicant if he would like to apply his fees toward filing a major amendment. In response, Mr. Bayles stated that if the minor amendment fails then he would like to apply the fees toward the major amendment.

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

**TMAPC Action; 11 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 11-0-0 (Bayles, Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; none "absent") to **DENY** the minor amendment for PUD-485-A-2 and allow fees to be transferred to a major amendment application if the applicant requests.

\* \* \* \* \*

**Mr. Midget out at 2:03 p.m.**

**Application No.: Z-6881**

**OL TO CG**

**Applicant:** Charles Norman

(PD-4) (CD-4)

**Location:** North of northwest corner of East 11<sup>th</sup> Street and South Delaware

**Staff Recommendation:**

**RELEVANT ZONING HISTORY:**

**BOA-18873 October 2000:** The Board of Adjustment approved a special exception to allow Use Unit 5, a furniture repair and maintenance shop in an RM-2-zoned district for Tulsa University. The property is located on the northeast corner of East 10<sup>th</sup> Street and South Delaware Avenue.

**BOA-18471 July 1999:** The Board of Adjustment approved a special exception to permit Community Services and Similar Uses, Use Unit 5, to allow for the tennis center, student athletic and recreation field and multiple variances were granted for structure setback; floor area of tennis center; off-street parking and loading requirements; landscape requirements; and signage for the facility. The property is located north of the subject property, north of 10<sup>th</sup> Street between South Columbia Avenue and South Delaware Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is flat, non-wooded, and presently used for parking, truck loading, and access from South Delaware Avenue to the Bama Company facility. The property is zoned OL.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 11 <sup>th</sup> Street South	Urban Arterial	80'	4
South Delaware Avenue	Urban Arterial	80'	2

**UTILITIES:** The subject tract has municipal water and sewer.

**SURROUNDING AREA:** The property is abutted on the north by the University of Tulsa, zoned RM-2; to the east and west by numerous commercial properties, zoned CH; and to the south by Bama Pie, zoned CG, and across 11<sup>th</sup> Street by Wilson Middle School, zoned RS-3.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 4 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as part of Consideration Area C – Medium Intensity, No Specific Land Use. The Plan text calls for continued development/redevelopment of commercial and office uses here, screening where uses fronting 11<sup>th</sup> Street extend north to 10<sup>th</sup> Street, and minimizing the number of additional curb cuts onto 11<sup>th</sup> Street.

According to the Zoning Matrix the requested CG **may be found** in accord with the Plan by virtue of its location within a Consideration Area.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan and recent development in the area, staff can support the requested CG zoning and recommends **APPROVAL** of CG zoning for Z-6881.

**Applicant’s Comments:**

**Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that he is in agreement with the staff recommendation and have filed a Board of Adjustment application to permit the use of the requested CG additional zoning for an expansion of the Bama plant and offices.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **WESTERVELT**, the TMAPC voted **10-0-0** (Bayles, Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Midget "absent") to recommend **APPROVAL** of CG zoning for Z-6881 as recommended by staff.

**Legal Description for Z-6881:**

A tract of land that is part of Lot 1, Block 1, Bama Pie Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, being more particularly described as follows, to-wit: the South 40' of the North 50' of the West 310.6' of the East 360.6' of said Lot 1; and a tract of land that is part of Lots 2 and 3, Block 13 of Highlands Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, being more particularly described as follows, to-wit: the South 40' of the North 50' of the East 40' of said Lot 2, and the South 40' of the North 50' of the West 50' of said Lot 3, and located north of the northwest corner of East 11<sup>th</sup> Street and South Delaware Avenue, Tulsa, Oklahoma, **From OL (Office Low Intensity District) To CG (Commercial General District).**

\* \* \* \* \*

**Application No.:** PUD-677

**RS-1 to PUD**

**Applicant:** Charles Norman

(PD-26) (CD-8)

**Location:** North side of East 121<sup>st</sup> Street, approximately three-eighths of a mile west of South Sheridan Road

**Staff Recommendation:**

The PUD proposes a maximum of 30 single-family dwellings on approximately 13 acres located on the north side of East 121<sup>st</sup> Street, approximately three-eighths of a mile west of South Sheridan Road. It is proposed that access to the PUD would be through private streets. Primary access would be from East 121<sup>st</sup> Street with provisions for an emergency access from the property immediately to the west.

The subject tract is zoned RS-1. The tract is abutted on the north, east and west by large AG-zoned tracts with single-family dwellings on them. To the south of the tract, across East 121<sup>st</sup> Street is vacant AG-zoned property.

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-677 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-677 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:	13.42 Acres	584,575 SF
Net:	12.97 Acres	564,973 SF

**Permitted Principal Uses:**

Those uses included within Use Unit 6, Single-Family Dwelling.

<b>Minimum Land Area Per Dwelling Unit:</b>	16,000 SF
<b>Maximum Number of Dwelling Units:</b>	30
<b>Minimum Lot Area:</b>	13,500 SF
<b>Maximum Building Height:</b>	35 FT
<b>Minimum Livability Space Per Dwelling Unit per Lot:</b>	7,000 SF

**Minimum Off-Street Parking:**

Two enclosed off-street parking spaces per dwelling unit and at least two additional off-street parking spaces per dwelling unit.

**Minimum Required Yards:**

From the perimeter of the PUD	25 FT
From private street right-of-way	
Front	30 FT
Side	

Residences	15 FT
Garages with side street entry	20 FT
Interior Side Yard	
One Side	5 FT
Other Side	10 FT
Interior Rear Yard	25 FT

**Signs**

One identification sign may be erected on the East 121<sup>st</sup> Street frontage. The sign shall not exceed 24 SF of display surface area or 20 FT in height.

**Other Bulk and Area Requirements:**

As established within the RS-1 district.

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 streets and common areas, including any stormwater detention areas, security gates, guard houses or other commonly owned structures within the PUD.
5. All private roadways shall have a minimum right-of-way of 30' and be a minimum of 26' in width for two-way roads and 18' for one-way loop roads, measured face-to-face of curb. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor residential public street. The maximum vertical grade of private streets shall be ten percent.
6. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets or if the City will not inspect, then a registered professional engineer shall certify that the streets have been built to City standards.

7. 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.
8. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
9. 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 guardhouses.
10. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

**Mr. Midget in at 2:15 p.m.**

**TMAPC Comments:**

Mr. Westervelt asked if the street that is stubbing out to the north would be gated. In response, Mr. Stump stated that the subject area has unique topographic considerations to the large fall line between 111<sup>th</sup> and 121<sup>st</sup> (north of subject site) and it would not be appropriate to extend roadways to the north. If this is a private street there wouldn't be any inner-connections with other subdivisions.

**Applicant's Comments:**

**Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, requested that the application be approved per staff recommendation. Mr. Norman stated that he submitted an aerial photograph to demonstrate the lack of any available access and the lack of probability that there would be any to the north. Mr. Norman cited the surrounding development, topography and access points.

**TMAPC Comments:**

Mr. Westervelt asked if the street that stubs to the west would be connected in the future. In response, Mr. Norman stated that when the property to the west is developed or redeveloped, there would be a possibility of connecting the stub street to the west.

Mr. Westervelt asked Mr. Norman why the short stub street isn't a cul-de-sac until the time the property to the west is developed. In response, Mr. Norman stated that the stub street is short and would only affect one home/lot regarding access. Mr. Norman stated that since the stub street is short, it would be easy to

see that it doesn't connect to another street. Mr. Westervelt stated that it is being called a stub street, but it will have a crash gate.

Mr. Stump stated that there have been controversies in the past where a private stub street might potentially go into a cul-de-sac on the west outside of the development and later it is opened. The problem is that the subdivision doesn't want the private street development to have access to their cul-de-sac. Generally, as short as this stub street is proposed, it is not a problem, but the problem is how it is tied into the next development.

Mr. Dunlap stated that at this time, staff is not considering the stub street or turnaround. Today's issue is to consider the concept and the concept has the primary access and a proposed stub street to the west. The staff is recommending approval of the concept with the primary access off of the arterial and the applicant is proposing to stub the street to the west.

Mr. Harmon stated that he has a problem with how this is proposed. If it is not a stub street then it makes the cul-de-sac too long.

Mr. Ledford stated that it needs to be a stub street and the biggest problem is where there is a public stub street and then a subdivision abuts it on one side with private streets. What causes the complication is when the stub street becomes gated and there is no access. The larger issues would be if the stub street is approved and whether it would be gated at 121<sup>st</sup> Street because then there wouldn't be two points of access.

Mr. Westervelt stated that he prefers two points of access and if there is a crash gate between them, then usually the Planning Commission requires a cul-de-sac in order to provide adequate turnaround.

Mr. Stump stated that the Planning Commission could make a PUD requirement that there be two points of access and that 121<sup>st</sup> Street can be gated, but the other point of access would have to be opened to the public on the adjacent property. It would probably give the subdivision all the privacy that they would need, because traffic would have to snake through another subdivision to get to the proposed subdivision. This would give staff the ability to require the next subdivision to the west to plat such that it does connect to the stub street to the west.

**Applicant's Rebuttal:**

Mr. Norman stated that the subject property received preliminary plat approval with a street stubbed to the north and approximately the proposed location to the west. Most of the subdivisions in the subject area are developed with some sort of regulated entrance and this application was changed with a slight configuration change to eliminate the stub street to the north, when it was discovered it wouldn't be practical to have it there. The west street was retained to provide for

the prospect of a second point of access, which occurs quite often when one is developing adjacent to undeveloped property. He commented that he is not trying to achieve any advantage in lots or density.

**TMAPC Comments:**

Mr. Westervelt asked Mr. Norman why he would have difficulty with some minor reconfiguration with the lot to allow a cul-de-sac on the east side of the crash gate. If it is ever connected it would still work, but should the decision to leave it crash-gated it would function as well.

Mr. Norman stated that the question is whether that kind of radius for a full cul-de-sac is needed when it is only one lot deep. The problem is in order to have a cul-de-sac on the west stub street area it would make a significant difference in the two lots and their configuration. A hammerhead or some sort of turnaround might be a solution, but the backing distance for a car that might make a wrong turn would only have a backing distance of 150 feet.

Mr. Ledford stated that he is more comfortable with the stub street and the ability for the neighborhoods to work together providing a second point of access for both parcels.

**TMAPC Action; 11 members present:**

On **MOTION** of **LEDFORD**, the TMAPC voted **9-2-0** (Bayles, Carnes, Collins, Coutant, Harmon, Horner, Jackson, Ledford, Midget "aye"; Hill, Westervelt "nays"; none "abstaining"; none "absent") to recommend **APPROVAL** of PUD-677, as recommended by staff with a stub street to the west and language in the PUD that would allow the neighborhoods to the west and the proposed to work out an agreement regarding second point of access.

Mr. Norman asked Mr. Westervelt if he had any other objections to the PUD other than the stub street. In response, Mr. Westervelt stated that the stub street is the only issue he has a problem with. Mr. Norman requested that the record reflect that the only issue was the design of the access point.

**Legal Description for PUD-677:**

The E/2, E/2, SW/4, SE/4 and the North 901.86' of the W/2, W/2, W/2, SE/4, SE/4 of Section 34, T-18-N, R-13- E, Tulsa County, State of Oklahoma, according to the U. S. survey thereof and located north and west of the northwest corner of East 121<sup>st</sup> Street South and South Sheridan Road, Tulsa, Oklahoma, **From RS-1 (Residential Single-family Low Density District) To RS-1/PUD-677 (Residential Single-Family Low Density District/Planned Unit Development PUD-[677]).**

\* \* \* \* \*

**Application No.: PUD-542-5**

**MINOR AMENDMENT**

**Applicant:** Douglas Walker

(PD-18) (CD-8)

**Location:** 8529 South Maplewood Avenue

**Staff Recommendation:**

The applicant is requesting a minor amendment to increase the maximum building height from 35 feet to 40 feet for a proposed single-family dwelling. The subject tract is located at 8529 South Maplewood Avenue and described as Lots 4 and 5, Block 1, Sheridan Oaks Estates.

Staff finds that the request is minor in nature and does not substantially alter the character of the development. Therefore, staff recommends **APPROVAL** of the request to increase the maximum building height from 35 feet to 40 feet per the attached site plan.

**TMAPC Comments:**

Mr. Ledford stated that the access to the home on the subject tract is not from the public street. Mr. Ledford asked if the applicant is providing a mutual access across the lots to the east to provide access to this lot.

**Applicant's Comments:**

**Doug Walker**, 5521 East 87<sup>th</sup> Street, Tulsa, Oklahoma 74136, stated that the developer provided a private driveway to the top of the subdivision where the existing house is located. Some of the lots were difficult to access from the public street. He explained that the private driveway provides access to several lots.

**TMAPC Comments:**

Mr. Ledford stated that he has a problem with private driveway access and possibly staff should review this in further depth.

Mr. Stump stated that he had the same questions as Commissioner Ledford. This is a very steep area and the developer is connecting to the public road to the north, which at the top of the hill and in a different subdivision. Mr. Stump recommended that the applicant submit a legal document indicating that there is guaranteed access to the public roadway.

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

**Interested Parties:**

**Don Miller**, 6636 East 54<sup>th</sup> Street, Tulsa, Oklahoma 74145, representing Hope Church, stated that the church is located north of the subject property. He asked if the request is for the building that is almost completed at this point, and if this would apply to the subject building or all buildings in the development.

Mr. Stump stated that the minor amendment is for the one building. In response, Mr. Miller stated he had no objection to the minor amendment for the subject building.

**TMAPC Comments:**

Ms. Bayles requested the date for the similar amended building height for PUD-542-1. In response, Mr. Stump stated that the date for the previous minor amendment for PUD-542-1 was approved on May 20, 1998.

**TMAPC Action; 11 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 9-1-0 (Bayles, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; Carnes "nay"; none "abstaining"; none "absent") to **APPROVE** the minor amendment for PUD-542-5 per the attached site plan as recommended by staff.

\* \* \* \* \*

**Mr. Westervelt out at 2:35 p.m.**

**Application No.: PUD-244-4**

**MINOR AMENDMENT**

**Applicant:** David M. Dryer

(PD-18) (CD-7)

**Location:** 5110 South Yale Avenue

**Staff Recommendation:**

The applicant is requesting a minor amendment to increase the allowable signage within PUD-244. The PUD contains 3.29 acres (gross) located at the southwest corner of East 51<sup>st</sup> Street and South Yale Avenue. The City of Tulsa approved the PUD in 1980. The standards included a maximum building height of 75 feet. Commercial uses were permitted on the ground floor only and office uses were approved for the rest of the building. The following sign standards were approved:

Two ground signs, one each arterial street frontage, not to exceed four feet in height, nor 32 square feet of display surface area for each sign. These two signs shall identify the office complex only and no other free-standing pole signs, roof signs or exterior wall signs shall be permitted advertising commercial uses interior to the complex.

In 1994 the Planning Commission approved minor amendment PUD-244-2, which allowed a wall sign not to exceed 100 square feet in display surface area on the north-facing wall of the building.

In 2001, the Planning Commission approved a minor amendment PUD-244-3, which allowed a wall sign to exceed 170 square feet on the east-facing wall of the building.

The applicant states (see enclosed application) that he proposes to increase the maximum sign height from 48 inches to 90 inches and the display surface area from 32 square feet to 96 square feet. He also states that an existing sign is 76 inches tall with 64 square feet of display surface area.

The underlying zoning for the site is CS. There are CS uses and zoning abutting the subject tract on the west; to the north, across East 51<sup>st</sup> Street, and to the northeast. The tract is abutted on the south by multifamily uses zoned RM-1. There is a golf course to the east of the tract across Yale Avenue.

Based on the underlying zoning and the surrounding uses, staff can support the request for additional signage. Therefore, staff recommends **APPROVAL** of the request.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HARMON**, TMAPC voted 10-0-0 (Bayles, Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Westervelt "absent") to **APPROVE** the minor amendment for PUD-244-4 as recommended by staff.

\* \* \* \* \*

**Application No.: PUD-603-A-1**

**MINOR AMENDMENT**

**Applicant:** Roy D. Johnsen

(PD-26) (CD-8)

**Location:** Southwest corner of East 98<sup>th</sup> Street and South Memorial Drive

**Staff Recommendation:**

Pursuant to the provisions of the approved PUD-603-A, an automobile dealership may be approved within Development Area B by minor amendment. The applicant is proposing an automobile dealership as a permitted use within Development Area B and also proposing an adjustment of internal development area boundaries.

PUD-603 was approved by the City Council in 1999. Four development areas were approved (see enclosed development area map for PUD-603). Development Area A (2.66 acres), at the northeast corner of the tract was approved for commercial uses. Development Area B (1.26 acres), just to the south of Area A was approved for automotive-related uses. Development Area C (3.43 acres) at the northwest corner of the tract was approved for office uses. Development Area D (2.51 acres) was located to the south of Area B and was approved for an automobile dealership.

A major amendment (PUD-603-A) was approved by the City Council in 2000. Two development areas were created from the original four. Development Area A containing a net land area after platting of 4.72 acres, is located on the north portion of the tract and the following uses were permitted in Development Area A:

Uses permitted by right within a CS district, excluding Use Unit 12A, and automobile and light truck sales (new and used), service and repair (excluding paint and body work) and uses customarily accessory thereto. No outside repair or service of vehicles nor storage of vehicles under repair is permitted.

Development Area B, containing a net land area after platting of 5.02 acres, is located on the south portion of the development area. The following uses were permitted in Development Area B:

Use permitted by right within a CS district, excluding Use Unit 12 A, and the following uses may be allowed by minor amendment; drive-in restaurant, auto wash and lubrication service and automobile dealership which may include automobile and light truck sales (new and used), service and repair (excluding paint and body work) and uses customarily accessory thereto. No outside repair or service of vehicles nor storage of vehicles under repair is permitted.

The applicant is proposing an automobile dealership within Development Area B and also proposing an adjustment of internal development area boundaries between Development Area A and Development Area B.

The previously-adopted standards for PUD-603-A are enclosed and would remain applicable if not modified by this amendment. The proposed adjustment of internal development area boundaries does not substantially alter the allocation of land to particular uses and the relationship of uses within the project and the requested change in use is consistent with previous approvals. Therefore, staff recommends **APPROVAL** of the request subject to the following conditions:

**Net Land Area:**

New Development Area A	5.022 Acres
New Development Area B	4.726 Acres

1) Permitted uses within Development Area B:

Use permitted by right within a CS district, excluding Use Unit 12 A, and permitting automobile dealership which may include automobile and light truck sales (new and used), service and repair (excluding paint and body work) and uses customarily accessory thereto. No outside repair or service of vehicles nor storage of vehicles under repair is permitted. The following uses may be allowed by minor amendment; drive-in restaurant, auto wash and lubrication service.

- 2) Lighting used to illuminate the subject tract shall be so arranged as to shield and direct the light from adjacent residential areas. 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 residential areas or street right-of-way. No light standard nor building-mounted light shall exceed 25 feet in height, and within 150 feet of the west boundary of the PUD, no such lights shall exceed 12 feet in height. All such lights shall be set back at least 75 feet from a residential lot.
- 3) Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
- 4) No vehicular access doors are permitted on west-facing walls, which are within 250 feet of the west boundary of the PUD.
- 5) Staff would still recommend masonry screening walls on west boundary of PUD.

**Applicant's Comments:**

**Roy D. Johnsen**, 201 West 5<sup>th</sup>, Suite 501, Tulsa, Oklahoma 74103, representing Bob Nelson Mazda, cited the history of the subject property regarding zoning and actions taken by TMAPC and City Council in 1999. He indicated that the zoning was approved contemplating the Audubon Park development and the frontage for commercial, which was zoned CO. This was an overall plan in conjunction with the owners of the property along Memorial and the developers of Audubon Park. Anyone checking the records would have known about the zoning because it is very clear.

Mr. Johnsen stated that with a CO zoning there is a requirement to have a detail site plan or combination PUD and detail site plan. This subsequently occurred on the north ten acres and it was approved for an auto dealership, retail and/or auto dealership on the south (if approved by minor amendment).

Mr. Johnsen explained that the five acres immediately to the south of the subject property was never under a PUD, but had been zoned CO. He reminded the Planning Commission that he made an application for his client for a Mazda dealership and staff imposed some of the same standards that had been imposed on the PUD to the north. When the application went before the City Council, the neighbors in Audubon Park developed a greater protest than was presented to the Planning Commission. The City Council overturned the Planning Commission recommendation of approval. He indicated that his client, Bob Nelson, tried to work with the Audubon Park neighbors. He stated that his client has the same posture regarding PUD-603-A-1.

Mr. Johnsen stated that during the City Council meeting, the neighborhoods insisted that they had been misled as to what the potential use of the five acres might be. The neighbors insisted they were told it would be low-intensity uses and had no idea that an automobile dealership might be approved. If this was the determining factor with the City Council, then this application is clearly distinguishable on that issue. It has already been approved for commercial use and if the record was checked at all, then it could not be concluded that the subject property was ever intended for anything other than commercial use, and more specifically an automobile dealership had been specifically approved on the north half. On an application preceding that an automobile dealership had been approved on the south 2.5 acres. Any kind of checking would have revealed that the subject tract was commercial and it might include automobile dealership.

Mr. Johnsen stated that the north half of the subject property has already been approved specifically for an automobile dealership and the south half was approved for retail as permitted by right in the CS portion. The PUD also provided certain other uses, including an automobile dealership with minor amendment approval. He cited the restrictions that were approved with the PUD.

Mr. Johnsen explained that he submitted the subject application to accept the conditions that have previously been established. He stated that the developer of Audubon Park took a very active role in the establishment of the development standards for the subject property. Mr. Johnsen cited the development standards.

Mr. Johnsen indicated that the standards recommended in the staff recommendation are acceptable to his client. However, staff did add a new standard regarding a masonry screening wall on the west boundary. His client is very desirous of making the subject application in everyone's view and he would

accept the requirement of the masonry screening wall on the property he is purchasing. Mr. Johnsen requested that it be modified as to the north property that his client is not purchasing and he doesn't have any authority over what screening wall should be on the property Mr. Norton is retaining. He suggested the screening wall be required along the west boundary for the Mazda dealership only.

Mr. Johnsen stated that this proposal would create 70 jobs and it is a prototype for Mazda and time is in the essence.

**Interested Parties Opposing PUD-603-A-1:**

**Jeannine Terry**, 9963 South 79<sup>th</sup> East Avenue, Tulsa, Oklahoma 74133 (submitted a petition Exhibit A-3); **John Mansfield**, 7928 East 99<sup>th</sup> Place, Tulsa, Oklahoma 74133; **Steve and Shannon Bengé**, 9945 South 79<sup>th</sup> East Avenue, Tulsa, Oklahoma 74133; **Nina Horn**, 9823 South 78<sup>th</sup> East Avenue, Tulsa, Oklahoma 74133.

**Interested Parties Concerns:**

The proposal should not be a minor amendment and it is not compatible with the surrounding area; traffic concerns; built home believing that there would be low-intensity uses near neighborhood; proposal should move across the street and stay away from the neighborhood; the subject site is the only automotive dealership that would back up to a residential neighborhood along Memorial; disagree with the interpretation of the Comprehensive Plan for District 26; homes would be devalued with a car dealership so close in proximity; it would be unethical to approve an automobile dealership located next to Audubon Park; interested parties cited the surrounding car dealerships and submitted an aerial photograph (Exhibit A-2) in order to demonstrate that the other car dealerships are not abutting residential subdivisions;

**TMAPC Comments:**

Mr. Westervelt asked Mr. Mansfield when his home was constructed. In response, Mr. Mansfield stated that his home was built in November of 1999. Mr. Westervelt pointed out that the automobile dealership use had already been approved in 1999. Mr. Westervelt asked Mr. Mansfield if he understands that the automobile dealership already approved for the subject site. Mr. Mansfield asked why there is a minor amendment needed if the use has already been approved.

Mr. Stump explained that the south 2.5 acres of the subject tract was approved for automobile dealership and the ordinance was published March 5, 1999. There was subsequent Major Amendment, which switched the south end use to the north end and was approved January 31, 2000. At the time Mr. Mansfield purchased his home and moved in, the automobile dealership was approved on the south 2.5 acres and retail on the remainder, and then uses were switched from south to north. The reason for today's minor amendment is because of the change in January 2000. There was an option that would allow an automobile

dealership through minor amendment and would allow the Planning Commission to see it one more time to determine if it is compatible.

Mr. Mansfield asked Mr. Westervelt if the information given by staff makes a difference. Mr. Mansfield stated that the information doesn't change his mind.

Mr. Westervelt asked Ms. Bengé when she purchased her home. In response, Ms. Bengé stated that her home was built in 2001. Mr. Westervelt asked Ms. Bengé how she would suggest the Planning Commission deal with the fact that the existing PUD suggests that a minor amendment is sufficient to allow an automobile dealership in the subject tract. In response, Ms. Bengé stated that she feels that this should not have ever been approved or Audubon Park should have never been approved. Mr. Westervelt asked Ms. Bengé how she would deal with the fact that the Planning Commission has to address the fact that these tracts were approved for automobile dealership and the subdivision was constructed and deal with the zoning laws that she is very well versed in. In response, Ms. Bengé stated that she feels the Planning Commission could deal with is that the applicant is asking for a minor amendment and this use is not a use by right. Ms. Bengé further stated that she believes the Planning Commission should deny this application based on the fact that it is not harmonious with the neighborhood. Ms. Bengé stated that there are regulatory problems with lights, signage and litter.

Mr. Jackson asked Ms. Bengé if she felt any comfort with the masonry screening wall requirements, no outdoor paging system, and the 150-foot building setback. In response, Ms. Bengé stated that it would be 15 feet away which is not very far from her home. Ms. Bengé explained that Audubon Park has small lots with large homes on them and because of the yards, there are only a few feet from the back of the house to the fenceline.

**Mr. Midget out 3:15 p.m.**

**Applicant's Rebuttal:**

Mr. Johnsen clarified how the PUD exists as presently approved. Before the Audubon residents purchased their homes, the subject property was zoned CO. The property to the south was approved CO and the subject PUD (with an automobile dealership) was approved. This was all done in close conjunction with the developer for Audubon Park before it was ever platted and the subject property, which was under common ownership. The developer for the single-family use (Audubon Park) was aware of where the frontage was to be non-residential and all of the property was zoned at the same time, CO on the frontage (high intensity) and residential behind it.

Mr. Johnsen stated that the proposal presented today is presented to the Planning Commission exactly as it was planned. He commented that he is

completely puzzled how anyone would miss this if a reasonable check had been done. The zoning map clearly states CO and the PUD number.

**TMAPC Comments:**

After considerable discussion, Mr. Carnes stated that he looked at Mr. Bengé's picture regarding the existing car dealerships along Memorial and Mr. Johnsen countered that the other properties surrounding the existing car dealerships haven't developed at this time. Mr. Carnes suggested that Mr. Johnsen and the Audubon Park neighbors meet one additional time to work out the compatibility issues. In response, Mr. Johnsen agreed to another meeting if the Audubon Park residents were willing to meet and discuss the issues.

Mr. Jackson recognized Mr. Bengé.

Mr. Bengé stated that he would be in a favor of meeting with the applicant and Mr. Johnsen again to see if there is a solution.

Mr. Harmon encouraged both parties to hold a positive meeting and work out their issues.

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted 10-0-0 (Bayles, Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Midget "absent") to **CONTINUE** the minor amendment for PUD-603-A-1 to February 26, 2003 at 1:30 p.m.

\* \* \* \* \*

**OTHER BUSINESS:**

**Refund – James Adair/Claude Neon Federal Signs**

**Staff Recommendation:**

Staff recommends a refund of \$100.00 for detail sign plan review due to the subject property is not located within a PUD.

**TMAPC Action; 10 members present:**

On **MOTION** of **HARMON**, TMAPC voted 10-0-0 (Bayles, Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Midget "absent") to **APPROVE** the refund request for James Adair/Claude Neon Federal Signs in the amount of \$100.00.

\* \* \* \* \*

**Commissioner Collins out at 3:47 p.m.**

**Request for Reconsider Application:**

**Application No.: PUD-573-A**

**MAJOR AMENDMENT**

**Applicant:** Kevin Coutant

(PD-18) (CD-8)

**Location:** North of northwest corner of East 81<sup>st</sup> Street and South Yale

**Mr. Midget in at 3:48 p.m.**

**Ms. Coutant announced that she would be abstaining from PUD-573-A.**

**Staff Recommendation:**

Mr. Stump suggested that the Planning Commission listen to the applicant to find out why he feels the Planning Commission should reconsider his application. There would be a motion needed from a member who voted to deny the request in order to reconsider.

**Applicant's Comments:**

**Jon Brightmire**, 320 South Boston, Tulsa, Oklahoma 74103, representing U.S. Cellular, stated that he was before the Planning Commission two weeks ago to propose a 70-foot monopole cell tower. He explained that, based on the comments of the interested parties and the Planning Commission, he talked with the landowner and he would like to present a new site on the subject property that would locate the tower as far east as possible. He stated that there may be a possibility to have the equipment shelter inside the existing building or connect it to the building in order to keep it off of the property.

**TMAPC Comments:**

Mr. Westervelt asked Mr. Romig whether, if the Planning Commissioners do not wish to reconsider this application, the Planning Commission should not take action or make a motion to deny reconsideration.

Mr. Romig stated that if there isn't a motion then it dies for lack of a motion and has the same effect as a denial.

Mr. Westervelt stated that he feels that the denial for the cell tower was appropriate and reconsideration would create all sorts of political fallout based on the significant problems there. He further stated that he would make a motion to deny the request for reconsideration and it would still leave the applicant the opportunity to reapply if they would like and it would ensure that the neighborhood and interested parties would be notified.

Mr. Harmon concurred with Mr. Westervelt.

Mr. Ledford stated that he would support the denial primarily because the entrance to the subject facility is going to be lowered six feet and there is going to be a significant slope easement required on the subject property, which was discussed during the development of the subject property. At this time, without knowing where that slope easement is going to be located, the Planning Commission doesn't know how the new proposed location would fit with the slope easement.

**TMAPC Action; 10 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 9-0-1 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; Coutant "abstaining"; Collins "absent") to **DENY** the request for reconsideration of PUD-573-A.

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There being no further business, the Chair declared the meeting adjourned at 3:51 p.m.

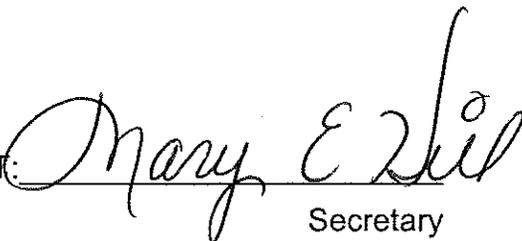
Date Approved:

3.19.03



Chairman

ATTEST:



Secretary