# TULSA METROPOLITAN AREA PLANNING COMMISSION

**Minutes of Meeting No. 2345**

Wednesday, May 28, 2003, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

| Members Present | Members Absent | Staff Present | Others Present |
|---|---|---|---|
| Bayles | Carnes | Dunlap | Romig, Legal |
| Collins | Horner | Huntsinger | |
| Coutant | Ledford | Matthews | |
| Harmon | Westervelt | Stump | |
| Hill | | | |
| Jackson | | | |
| Midget | | | |

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Tuesday, May 27, 2003 at 10:15 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, 1st Vice Chairman, Harmon called the meeting to order at 1:50 p.m.

## REPORTS:

**Worksession Report:**

Mr. Harmon reported that there would be a worksession immediately following today's meeting in Room 1102, City Hall.

**Director's Report:**

Mr. Stump reported that there are seven zoning items on the City Council agenda for May 29, 2003.

## CONTINUED ZONING PUBLIC HEARING:

**TMAPC COMMENTS:**
Mr. Harmon stated that there has been a request for a continuance regarding PUD-650-1 by Councilor Sullivan to June 18, 2003.

**Application No.: PUD-650-1** **MINOR AMENDMENT**

**Applicant:** Charles Norman (PD-18) (CD-7)

**Location:** South side of East Skelly Drive, north of East 46th Street

**Interested Parties:**
**Katerina Amesquita**, Assistant for Councilor Sullivan, City Council, stated that she would like to read a letter from Councilor Sullivan, District 7 (Exhibit A-5).

**TMAPC COMMENTS:**
Mr. Harmon asked Ms. Amesquita if the primary concern is traffic circulation. In response, Ms. Amesquita answered affirmatively.

**Applicant's Comments:**
**Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that he cannot agree to the second request for a continuance from Councilor Sullivan. To discuss whether there should be a continuance usually is lengthy and he suggested that the Planning Commission hear the application and then decide whether to continue this application. This is the second continuance requested that is out of compliance with the policy of the Planning Commission. Last week one was received prior to the meeting for one week and he agreed to that continuance. He explained that he has discussed this issue with Councilor Sullivan and they have disagreements. This is the second time the Regents Preparatory School has asked representatives of the neighborhood associations to appear and state their opinions of the basic issues. The neighborhood association is present today and he requests that they be heard.

Mr. Norman explained that the decision on this matter is important because Regents School has not completed its fund raising that is necessary to acquire the subject property. There are encountering foundations that are asking if the subject property is approved for school use. The school is also requesting a continuance from Hillcrest in order to have more time to raise funds. It is necessary for Hillcrest to find out if the school would be approved and under what conditions. All of these reasons are why he is unable to accept the second untimely request from Councilor Sullivan for a continuance of the subject application.

**TMAPC COMMENTS:**

Ms. Coutant asked if the interested parties were allowed to speak today and the application were still continued, his client would be able to continue fund raising, and in light of that fact, Councilor Sullivan is stating that he would appeal the decision within ten days. In response, Mr. Norman stated that Councilor Sullivan's threat is unprecedented, and whether he appeals or not might be affected by the attitude of the neighborhood associations that appear today to state that they are in support of this application.

Mr. Harmon asked Mr. Romig if there is anything unusual about the request from Councilor Sullivan or anything inappropriate about his request. In response, Mr. Romig stated that the request from Councilor Sullivan is not unusual.

Mr. Norman stated that he has taken the time, since the first continuance was granted, to visit with the Traffic Engineer and he is ready to respond to any concerns that the Planning Commission might have regarding traffic in the neighborhood.

Mr. Harmon asked Mr. Norman if he believed that a continued dialogue with Councilor Sullivan would not be beneficial. In response, Mr. Norman stated they would not be after his conversations with Councilor Sullivan to date. Mr. Norman explained that Councilor Sullivan has asked for money in an amount that is totally out of the question for traffic improvements. Mr. Norman commented that after his discussion with Councilor Sullivan, he felt that they are not speaking in the same level or area. Mr. Norman stated that Councilor Sullivan requested the continuance last week in order to be present today and now he has some sort of conflict. Mr. Norman further stated that the Traffic Engineer could have been present if his assistance was needed and if Councilor Sullivan had requested it. Mr. Norman indicated that he believes the second continuance request is intended for reasons that are inappropriate and out of compliance with the Planning Commission policy.

In response to Mr. Midget, Mr. Stump stated that this is a minor amendment and would not go before the City Council unless it is appealed, which Councilor Sullivan has indicated that he would do if it is approved. Mr. Stump further stated that if Councilor Sullivan does appeal this application, then there would be a significant delay of this application going onto the City Council and he is not sure any time would be saved by hearing this matter today or granting the continuance and enabling the applicant and Councilor Sullivan to work out an agreement.

**Interested Parties:**

**Joann Banfield**, 5506 D. East 46th Plaza Hill Town Homes, Tulsa, Oklahoma 74135, stated that she understands that there would be security gates on the Skelly Bypass and the 46th Street entrances. This would help eliminate the traffic

cutting through the neighborhoods. If this is a school, the traffic would be a specific times and would not be a constant steady flow of traffic.

Mr. Harmon asked Ms. Banfield if she was opposed to a continuance. In response, Ms. Banfield stated that she is opposed to any type of continuance.

**Donna Fitzpatrick**, 5514 East 46th Street, Tulsa, Oklahoma 74135, stated that she has nothing to add to what Ms. Banfield stated. She is opposed to a continuance and would like to see the application settled today.

**Glen Jones**, 5502 East 46th Street, Unit D, Tulsa, Oklahoma 74135, stated that he is against another continuance and would like the subject application heard today.

Mr. Harmon requested a show of hands of the number of people present to speak for or against this item. He further requested a show of hands of how many interested parties were for a continuance or are opposed to a continuance. **Majority of hands indicated that the interested parties would like this item heard by the Planning Commission today.**

Mr. Midget suggested that the application be heard today. He stated that this project is a less intense use than when it was being considered for commercial use. The traffic would not be of great concern because of the timing issues and would not impact the neighborhood.

Mr. Harmon stated that he is concerned that he believes this is more than a minor amendment. He prefers everyone involved to work issues out before the Planning Commission makes a recommendation.

**TMAPC Action; 6 members present:**
On **MOTION** of **MIDGET**, TMAPC voted 5-1-0 (Bayles, Coutant, Collins, Hill, Midget "aye"; Harmon "nay"; none "abstaining"; Carnes, Horner, Jackson, Ledford, Westervelt "absent") to **DENY** the continuance for PUD-650-1.

**Application No.: PUD-650-1** **MINOR AMENDMENT**

**Applicant:** Charles Norman (PD-18) (CD-7)

**Location:** South side of East Skelly Drive, north of East 46th Street

**STAFF RECOMMENDATION:**

The Tulsa City Council on October 25, 2001 approved PUD-650 to permit the redevelopment of the former Children's Medical Center property adjacent to the Skelly Drive service road as a major commercial center.

To date the redevelopment of the property for commercial uses has not happened. The owner of the property has agreed, subject to certain contingencies, to sell the Children's Medical Center site and buildings to a private school offering a compulsory education curriculum for renovation of the existing buildings and future additional development for school purposes.

PUD-650 permits the uses allowed as a matter of right in the CS district and uses customarily accessory to permitted principal uses. Schools, under Section 1205 of the Tulsa Zoning Code, Use Unit 5, are permitted as a matter of right in the CS zoning district. Therefore, no change or additional permitted use is required for the use of the property for a private school. However, a number of the development standards, conditions and restrictions approved for the commercial uses permitted under PUD-650 are inapplicable or inappropriate for use of the property as a private school campus.

In order to permit the use of the property as a private school under Use Unit 5, Hillcrest Healthcare System requests approval as minor amendments to PUD-650 the following additional development standards for private school use:

## PRIVATE SCHOOL DEVELOPMENT STANDARDS

| | | |
|---|---|---|
| **Land Area** | 25.51 Net Acres | 1,111,511 SF |

**Permitted Uses:**

Private schools offering a compulsory education curriculum and uses customarily accessory thereto.

| | |
|---|---|
| **Maximum Building Floor Areas:** | 246,000 SF |

**Maximum Building Height:**

| | |
|---|---|
| East 300 feet | 45 FT |
| Remainder of the property | 60 FT |

**Minimum Off-Street Parking:**

As required by the Tulsa Zoning Code.

**Minimum Building Setbacks:**

| | |
|---|---|
| From the east property line | 100 FT |
| From the centerline of East 46th Street South (building height of 45 FT or less) | 90 FT |

| | |
|---|---|
| From the centerline of East 46th Street South (building height more than 45 FT | 130 FT |
| From the northwesterly property line (Skelly Drive Service Road) | 50 FT |

**Minimum Parking Area Setbacks:***

| | |
|---|---|
| From the east property line – new parking | 50 FT |
| From the south property line – new parking | 20 FT |
| Other property lines | 5 FT |

**Minimum Trash Container Setbacks:**

| | |
|---|---|
| From the east boundary | 200 FT |
| From the south boundary | 100 FT |

*Buses are prohibited from parking within the east 150 feet nor the south 60 feet of the PUD.

**Landscaped Area and Screening:**

1. A landscaped area of not less than 50 feet in width, except where existing parking areas encroach, shall be maintained along the east boundary of the property; the existing trees shall be preserved as much as possible. If trees die, they shall be replaced with trees at locations approved by the TMAPC.

2.. The existing six- to eight-foot high wooden screening fence along the east property line shall be repaired and maintained.

3. A minimum of 20% of the net land area shall be maintained as open space. Any additions to existing buildings, parking areas or facilities shall be improved in accord with the Landscape Chapter of the Tulsa Zoning Code as internal landscaped open space, which shall include at least five feet of street frontage landscaped area.

**Access Points onto Skelly Drive and East 46th Street South:**

Existing access points onto the Skelly Drive service road and East 46th Street South may be used for private school purposes. Additional access points shall be approved by Public Works and by the TMAPC.

**Signs:**

1. One ground sign shall be permitted for identification of the private school on the Skelly Drive service road with a maximum of 100 square feet of display surface area and 20 feet in height. It shall be at least 300 feet from the east boundary of the PUD.

2. Two additional monument-style ground signs shall be permitted along Skelly Drive at the principal entrances to the private school campus with a maximum height of four feet and a maximum display surface area of 32 square feet.

3. Wall signs shall be permitted along the building walls facing the Skelly Drive service road not to exceed one-half square foot of display surface area per lineal foot of building wall to which attached. The length of a wall sign shall not exceed 50% of length of the wall. No wall signs shall be permitted on east- or south-facing walls.

**Additional Development Requirements:**

A. The existing buildings, facilities and off-street parking areas as shown on an ALTA Land Survey of the property prepared by Sack and Associates dated March 27, 2003, a copy of which is attached hereto, may be used for private school purposes without detail site plan or landscape plan approval, provided no building permit shall be issued for any additions to the existing buildings, parking areas or facilities until a detail site plan and detail landscape plan shall have been approved by the TMAPC as being in conformance with PUD-650-1 development standards for private schools.

B. No zoning clearance permit shall be issued for the expansion of an additional building or for an additional building or parking area within the private school campus until a detail site plan has been submitted to the TMAPC and approved as being in compliance with the approved private school development standards.

C. A detail landscape plan shall be approved by the TMAPC prior to issuance of a building permit for any additional building or parking area within the property. 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, prior to issuance of an occupancy permit. All landscaping shall meet or exceed the requirements of the Landscape Chapter of the Zoning Code. 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.

D. No sign permits shall be issued for erection of a sign within the PUD until a detail sign plan has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.

E. The owner shall prevent construction traffic from using East 46th Street during the renovation of existing buildings and facilities and during the construction of any additional building, facility or parking area within the property.

F. 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.

G. Lighting used to illuminate the property shall be so arranged as to shield and direct the light away from adjacent residential areas. Shielding of such light shall be designed so as to prevent the light-producing element of the light fixture from being visible to a person standing in the adjacent residential areas or public street right-of-way. Light standards within 100 feet of the east boundary shall not exceed ten feet in height and shall not exceed 25 feet within the remainder of the property. All lights shall be hooded and directed downward and away from the boundaries of the property. Building-mounted lights shall not exceed 12 feet in height and shall be hooded and the light directed downward. No outdoor lighting shall be permitted within the east 45 feet of the property.

H. The Department of Public Works shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving the private school have been installed in accordance with the approved plans prior to issuance of an occupancy permit for any new construction.

I. 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 the restrictive covenants, the private school PUD conditions of approval, and make the City beneficiary to said covenants that relate to PUD conditions.

J. The replatting of the property shall not be required for the renovation and use of the buildings, parking areas and facilities existing on the property as of the date of the approval of the minor amendments for PUD-650. The property shall be replatted or a waiver of the replat requirement shall be approved by the TMAPC prior to the issuance of a building permit for the expansion of the existing buildings or for the construction of a new building.

All of the PUD requirements for the use and redevelopment of the property for commercial uses shall remain in full force and effect.

Staff finds the request will not result in any increase of incompatibility with the present and future use of the proximate properties. Therefore, staff recommends **APPROVAL** of the request.

**Applicant's Comments:**

**Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, representing Hillcrest Medical Center and Regents Preparatory School, stated that the school and Hillcrest are requesting the Planning Commission to approve the minor amendment to permit the operation of the school on the campus under the conditions as they exist today.

Mr. Norman cited the history of the subject property and past proposed projects, which failed to materialize due to economic conditions.

Mr. Norman stated that the school currently has two hundred students enrolled, but plans to have an enrollment of five hundred students in the future. The subject property is more than adequate to accommodate the school.

Mr. Norman stated that the school is requesting approval with the existing buildings and subject to the same types of setbacks that were applicable to the commercial use. The school would like to be permitted to use the existing driveways on 46th Street. The school has committed to erect barriers that would close these points of access in the evenings or anytime the school hours are over in order to prevent the continual problem of cut-through traffic from Skelly Drive into the neighborhood. The existing commercial PUD permits any use that is permitted as a matter of right within the CS zoning district. Private and public schools are permitted as a matter of right in the CS district and that is the major distinction between a major amendment and a minor amendment. The development standards that were contemplated for the large commercial shopping center were not applicable or appropriate for the kind of use that is contemplated for a private school. This is the reason for a minor amendment and staff agreed with the applicant to draft development standards for this specific use only. The standards requested for approval refer to the existing buildings being renovated without coming back for a detail site or landscape plan; however, any additional or future buildings would have to follow the same procedure that is part of the PUD. The height of the building would be maintained at the height of the existing buildings. A height limitation of 60 feet would permit a gymnasium in the future, subject to the approval detail site and landscape plans.

Mr. Norman stated that the Development Officer of the school, Noah Roberts, has met with a group of neighbors and the neighborhood association regarding this application. The neighbors are present today to speak in support of the subject application.

Mr. Norman stated that this item has been continued previously by Councilor Sullivan to address traffic concerns. As part of the negotiations, Hillcrest paid for the installation of the rubber lane barriers to prevent traffic from using Hudson Place and it has resulted in a significant drop in traffic on Hudson Place, but there are people within the neighborhood who feel inconvenienced by the barrier. There is strong sentiment to remove it. He indicated that he met with Mark Brown, Traffic Engineer, to discuss the school traffic and whether the school would create as much or more traffic than when the subject property was operated as Children's Medical Center. He further indicated that Mr. Brown felt that there would be less traffic and fewer times of activity, because only the morning delivery of the children to school could conflict with any type of typical early morning traffic peak. The pickup times are in the middle of the afternoon, during the off-peak periods. Children's Medical Center employed approximately 275 employees, 24 hours a day, seven days a week, and operated 70 to 75 beds and over 500 visits per day from therapists, practitioners, social workers, families and friends. He indicated that Mr. Brown is working with Councilor Sullivan regarding a traffic-calming policy.

Mr. Norman stated that he asked Mr. Brown what the estimated cost for the traffic-calming devices and for residential street speed humps were and was told they cost approximately $2,000.00 each and for the wider streets it would be $2,500.00 each. He commented that Regents School is interested in participating in anything that would provide safe traffic conditions for the neighborhood, children and parents. He indicated that Councilor Sullivan believes the total program for the subject neighborhood would cost approximately $60,000.00, which would be approximately 20 speed humps throughout the neighborhood in addition to the stop signs. Mr. Norman stated that Regents was prepared to participate and Councilor Sullivan requested that the school contribute $50,000.00 toward the speed humps, with the statement that he was not opposed to the school but opposed to anything that didn't involve a solution for the traffic problems that he considers to exist. Mr. Norman explained that he felt some participation, on a voluntary basis, was probable, but that amount was totally disproportionate to any responsibility that the school would have for changing the traffic conditions. Mr. Norman stated that the school is requesting to utilize the existing driveways, which would not be permitted under the commercial use. He indicated that Mr. Brown has no concern with this type of traffic load. He stated that he did speak with the Board of the school and explained that it would be appropriate for a voluntary participation the part of the school and this program. He informed Councilor Sullivan that the school, as a voluntary contribution, would pay the costs, prior to the issuance of a Certificate of Occupancy, for four of the speed humps, not to exceed $12,500.00 in total, as a gesture of support for the neighborhood. Mr. Norman stated that Councilor Sullivan informed him that it would not be acceptable and he would request a continuance. Mr. Norman further stated that he is making this proposal to the Planning Commission for the school, and it is voluntary because he could not agree to this as a requirement.

Mr. Norman suggested that the voluntary payment toward four of the speed humps, not to exceed $12,500.00, could be stated in the PUD as a voluntary standard. The school would pay the costs for at least four of the speed humps at locations adjacent to or in the immediate vicinity of the school campus as determined by the Traffic Engineer at the cost of and not to exceed $12,500.00.

**TMAPC COMMENTS:**

Mr. Midget asked Mr. Norman if there would be a crash gate on 46th Street adjacent to the neighborhood. In response, Mr. Norman stated that there would be no gates and if the school project does not proceed then the same requirements that were approved by the Planning Commission and the City Council for any type of commercial development would still be followed.

Mr. Midget asked Mr. Norman if 46th Street would be closed when the school is not opened. In response, Mr. Norman stated that the access to 46th Street would be closed when the school is not opened. If this is not part of the staff recommendation, then he wouldn't be against it being added.

**Mr. Noah Roberts**, Director of Development for Regents Preparatory Schools, 1539 South Gillette, Tulsa, Oklahoma 74104, stated that the school has been conducting a fund raising campaign to purchase the Children's Medical Center and have had some success. There is a closing scheduled for the end of June. The school is concerned that they are not able to communicate with two foundations whether or not the subject property has been approved. He indicated that he and other personnel of Regents have met with the four surrounding neighborhood associations. He commented that each time he has met with the neighborhood associations; he received unanimous support of the plan.

Mr. Roberts submitted a letter in support from Tom Padalino, Thoreau Academy (exhibit A-4). Mr. Roberts stated that he has had several conversations with Councilor Sullivan and asked him several times to give the names of anyone who is against this proposal in order to invite them to a meeting and view their plans and discuss the issues. Mr. Roberts indicated that Councilor Sullivan's response is that he is that "one person who has a problem". Mr. Roberts asked Councilor Sullivan if he had talked with his constituents in the area, and as of today, the Councilor has not submitted any names of neighbors or constituents who have issues with this proposal. The school is troubled regarding the delays and he is confident that this proposal has unanimous support from the surrounding neighbors.

Mr. Harmon asked Mr. Roberts how many students he anticipated to be enrolled in the school. In response, Mr. Roberts stated that there are 165 students currently, and he expects 200 students next year. They project that ten years from now they will not exceed 500 to 600 students. He explained that he has offered the traffic counts for today and projected through ten years, and Councilor Sullivan has never asked to review them. Mr. Roberts submitted the traffic count (Exhibit A-3). In response to Mr. Roberts, Mr. Harmon stated that the enrollment is expected to grow substantially and they should understand how Councilor Sullivan could have some concern regarding the safety of students. Mr. Harmon further stated that this isn't about people going to Wal-Mart, but students coming to and leaving school. In response, Mr. Roberts stated that he does understand the concerns about safety for the students. Mr. Roberts explained that primarily Regents are considered a grammar school, K through 5$^{th}$ grade. He explained that the school adds one year, per year and the Board of Directors have committed to a K through 8$^{th}$ grade program and left the door open to have K through 12$^{th}$ grade. Mr. Roberts stated that even with these projections, the traffic would be only a few hundred cars, not thousands of cars. Mr. Roberts reiterated that the children's safety is paramount to educators and it is taken very seriously. In response, Mr. Harmon stated that traffic counts are deceiving most often. In response, Mr. Roberts stated that the traffic counts do indicate the time of day that the students would be dropped off and picked up, which have two separate times of pickup hours. Mr. Roberts further stated that

the traffic counts are also given for events at the school, which are eight events scheduled outside of regular school hours and two events during the school hours. Mr. Roberts commented that the traffic counts have been conducted for every isolated event that would produce traffic to the school campus and it is still far below from what the peak at Children's Medical Center was.

Mr. Harmon asked how many buses would arrive in the morning and leave in the afternoon. In response, Mr. Roberts stated that there are no school buses. Mr. Roberts explained that at this time there are no plans for school buses.

Mr. Midget asked Mr. Roberts if he had a problem with no access to 46th Street after school hours. In response, Mr. Roberts stated that he has no problem with that condition. Mr. Robert commented that the only problems that could be possible would be deliveries to the loading dock, and the only loading dock on the campus is off of 46th Street. Mr. Roberts explained that the school would work with the Planning Commission regarding the best time to use the loading docks. Mr. Roberts stated that the school has a very controlled pickup and drop-off process.

**Interested Parties in Support of PUD-650-1:**
**Gary Kruse**, President of Stevenson Homeowners Association, 4501 S. Kingston, Tulsa, Oklahoma 74135; **Ruth Jones**, 4620 South Granite, 74135; **Donna Fitzpatrick**, 5514 East 46th, 74135; **Glen Jones**, 5502-D East 46th, 74135.

**Mr. Jackson in at 2:40 p.m.**

**Comments of Interested Parties in Support of PUD-650-1:**
Prefer a school to move in rather than commercial uses; if the school doesn't purchase the property, the neighbors would prefer that the original restrictions of the approved PUD be enforced; the neighbors would like something to prevent cut-through traffic into their neighborhoods; support the gated driveways; would like to see the diverter continued on Hudson because it has cut down the neighborhood traffic; thankful that the school would want to move into the empty building and make the improvements necessary.

**Interested Parties Opposing PUD-650-1:**
**Katrina Mesquita**, representing Councilor Sullivan, stated that she has received two or three phone calls from interested parties concerned about the proposal and the traffic circulation.

**Applicant's Rebuttal:**
Mr. Norman stated that cut-through traffic can be addressed by the gates when the school is not in operation (at least 90% of the traffic). Part of the cut-through traffic could be attributed to the fact that the existing building is currently vacant. Several of the neighbors expressed to him that they enjoy walking onto the

campus with the dogs and he believes this has been permitted for many years. He commented that the does not know the policy of Regents regarding pedestrian traffic, but he would guess it would permitted just like in public school grounds.

Mr. Norman pointed out the differences between some of the problems that were voiced two years ago with the commercial PUD and the attitude that is expressed today by the neighbors who took time out to be present for a second time. He concluded that he would request that the staff recommendation be approved with the provision regarding the gates being installed to prevent vehicular traffic after school hours or when school events are not occurring.

Mr. Norman described the flood area and indicated that he would not oppose to the Planning Commission expressing a desire that the floodwater be diverted to the west. Mr. Norman concluded that he believes that the additional voluntary condition toward the speed humps is indicative of his client's good faith and willingness to work with the City and Councilor Sullivan in an effort to deal with the existing problems.

**TMAPC COMMENTS:**

Mr. Midget stated that the proposal is not a bad development. He compared the controversy regarding the commercial development and the concerns of the surrounding residents. The Planning Commission could impose a requirement for no access or limit the access to 46th Street, particularly after school hours. The other thing that would be helpful and Regents has offered to help with the costs of, are the traffic-calming devices. He commented that he realizes that the Planning Commission cannot force the applicant to pay for the traffic-calming devices; however, the Planning Commission can encourage the school to voluntarily participate with the limit of $12,500.00.

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 7-0-0 (Bayles, Coutant, Collins, Harmon, Hill, Jackson, Midget "aye"; "nay"; none "abstaining"; Carnes, Horner, Ledford, Westervelt "absent") to **APPROVE** the minor amendment for PUD-650-1, subject to the access to 46th Street be closed outside of any school events being held on the subject property, to encourage the school to voluntarily assist in any cost that would incur in the construction of any traffic-calming devices in the area, not to exceed $12,500.00 and subject to staff recommendation.

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**Mr. Harmon returned the Chair over to Mr. Jackson at 2:47 p.m.**

## ZONING MAP AMENDMENT PUBLIC HEARING

**Application No.: Z-6896** **RM-2 TO RS-3 TO RS-4**

**Applicant:** TMAPC/Swan Lake (PD-6) (CD-4)

**Location:** East 16th Street South to East 17th Place South, South Quaker to Quincy

**STAFF RECOMMENDATION:**

**PUD-561-A November 1997:** An application for a major amendment to PUD-561 to increase the area of the Planned Unit Development by adding an additional 50' lot. The major amendment was approved and the development standards and allowable four dwelling units were not changed. The property is located on the southeast corner of South Peoria Avenue and East 18th Street South.

**BOA-17770 July 1997:** The Board of Adjustment granted variances relating to reduced livability space, maximum front yard fence height and permitting a structure in the planned right-of-way. These variances were made conditions of approval by the Planning Commission and incorporated into the approved development standards of PUD-561. The property is located on the southeast corner of South Peoria Avenue and East 18th Street.

**PUD-561 June 1997:** A request to develop two existing RS-3 lots located at the southeast corner of South Peoria Avenue and East 18th Street with four single-family dwellings with access from a private courtyard off of 18th Street. All concurred in approval of the PUD subject to obtaining a variance to allow structures in the planned right-of-way and a variance of the required livability space.

**Z-6427 February 1994:** All concurred in approval of a requested HP overlay zoning designation for the area located between East 15th Street to East 21st Street; and from Peoria Avenue on the west to South Utica Avenue on the east. The property consisted of approximately 120 acres, which included the subject property, and consisted primarily of single-family dwellings with some scattered multifamily.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is gently sloping, partially wooded, contains mainly single-family homes and is zoned RM-2.

STREETS:

| Exist. Access | MSHP Design. | MSHP R/W | Exist. # Lanes |
|---|---|---|---|
| East 16th Street | Residential street | | 2 lanes |
| South Quaker Avenue | Residential street | | 2 lanes |

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

**SURROUNDING AREA:** The site is abutted on the north by the Cherry Street commercial area, church and school uses (Cherry Street Special District), zoned CH, CS, OL and RM-2; on the west by commercial and office uses, zoned CS and OL; on the east by largely single-family residential uses, zoned RS-3; and on the south by single-family residential and office uses, zoned RM-2 and RS-3.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:** The District 6 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates this area in various categories. Part of the area, between south of 15th Street to 17th Street, is Area D of the Cherry Street Special District (Low Intensity-Residential land use). The Plan policies call for the area to remain as largely single-family residential uses and recommend rezoning the portion zoned RM-2 to RS-3. South of that area, a small portion is designated Medium Intensity-Residential land use on the western half and Low Intensity-Residential land use on the eastern half.

According to the Zoning Matrix, the requested RS-3 or RS-4 zoning **is** in accord with the Plan.

**STAFF RECOMMENDATION:** Based on the Comprehensive Plan, existing development, trends in the area and wishes of the neighborhood, staff supports the rezoning request and recommends **APPROVAL** of RS-4 for Z-6896.

**Interested Parties In Support of Z-6896:**
**Jennifer Gemmell**, 1332 East 17th Place, Tulsa, Oklahoma 74120; **Nancy Davis**, 1624 South Quincy, Tulsa, Oklahoma 74120; **Eric Scholl**, 1424 East 17th Place, Tulsa, Oklahoma 74120; **Peter Doerr**, 1415 East 19th Street, Tulsa, Oklahoma 74120; **Pamela Beaver**, 1811 South Quincy, Tulsa, Oklahoma 74120; **Don Campion**, 1815 South Quincy, Tulsa, Oklahoma 74120; **Paul Atkins IV**, 1638 East 17th Place, Tulsa, Oklahoma 74120; **Darin Stockton**, 1716 South Quincy, Tulsa, Oklahoma 74120.

**Comments of the Interested Parties in Support of Z-6896:**
Keep the neighborhood a homeowners' neighborhood instead of multifamily district; keep the integrity of the neighborhood; this proposal has been a grass-root effort and neighbors doing the petition work and contacting residents.

Mr. Atkins stated that the two negative votes were from absentee land owners. There are two additional petitions that are in agreement with the rezoning. He explained that the new figures would be 69% in favor, 27% neutral, and 4% against the rezoning.

**TMAPC COMMENTS:**

Ms. Bayles asked Mr. Atkins if the green on the case map indicates the neighbors in agreement, but if there were no response, then they were also indicated as green. In response, Mr. Atkins stated that green is in support; blue is neutral and if there was no response, it is indicated as neutral. Mr. Atkins further stated that the only responses opposing the rezoning were Mr. Meeks and the property directly across from Mr. Meeks on 17th.

**Interested Party Opposed to Z-6896:**

**Michael E. Schmitz**, 1601 South Detroit, Tulsa, Oklahoma 74120, representing Arnold Schmidt, owner of 1730 South Quincy, stated that his client's property is listed as blue (neutral) and he would like it indicated as red (opposed).

Mr. Schmitz explained that his client purchased the property in 1998 with the intent of building apartments on RM-2 side. He indicated that there is a long history to this project and it has been in progress for approximately 14 months. He stated that his client is currently pursuing approval for his design. The current design was presented to TPC on March 25, 2003 and presented to the Neighborhood Association on April 15, 2003, then back to the subcommittee on May 8th, 2003. The subcommittee made a unanimous recommendation to the full TPC to grant a COA for the project. On May 8, 2003, TPC unanimously voted in favor of the project and a PUD application has been filed for July 2, 2003 before the Planning Commission. Mr. Schmitz submitted the plans for the PUD scheduled to be heard on July 2, 2003 (Exhibit B-2).

Mr. Schmitz stated that his client has spent a lot of time and money on the subject property. Mr. Schmitz read the first sentence of the appeal filed by Mr. Atkins.

**TMAPC COMMENTS:**

Ms. Bayles asked if the request to be exempted from the downzoning is proper. In response, Mr. Dunlap stated that it has been requested before and the Planning Commission has, in the past, has allowed certain properties be excluded from downzoning.

In response to Mr. Jackson, Ms. Matthews stated that if the Planning Commission would like to rezone the entire boundary that has been outlined, then the property would become a legal-nonconforming use and it would be limited to its uses. Ms. Matthews further stated that if the subject property is zoned RS-4, it would limit the ability to have multifamily uses. Ms. Matthews

explained that the City Board of Adjustment does not allow use variances and it would limit the property owner's options.

Ms. Matthews stated that in the past the Planning Commission has windowed out certain properties in a rezoning. She commented that typically the Planning Commission has windowed out properties that are contiguous. Ms. Matthews stated that she is not necessarily recommending that the Planning Commission window out the properties opposed, but it is an option. She explained that there are three properties opposed and they are fairly contiguous.

Mr. Harmon commented that by windowing out the three properties, he feels it would be bordering on spot zoning. He indicated that he would be opposed to the entire petition if all of the lots are not rezoned.

Mr. Schmitz demonstrated the subject area that would be windowed out of the rezoning and how they would relate to the surrounding area. He commented that his client would not be spot zoning, because it would remain what it is currently zoned.

Mr. Jackson asked Ms. Matthews if the staff recommends RS-4. In response, Ms. Matthews stated that staff is recommending RS-4 zoning for the entire site, including the two parcels discussed by Mr. Schmitz.

Mr. Dunlap stated that a multifamily use would not be a special exception use in an RS-4 district.

Mr. Jackson asked if RT zoning would be compatible with RS-4 zoning. In response, Ms. Matthews stated that Mr. Schmitz could consider it, but that was never considered by staff and would be considered spot zoning. Mr. Jackson stated that he is uneasy about downzoning Mr. Schmidt's property, since he purchased it as RM-2 and anticipated developing it as multifamily.

Mr. Jackson recognized Mr. Atkins.

Mr. Atkins stated that Mr. Schmidt received a COA to build the apartments and it was idle for two years. The applicant has had an opportunity to build on the lot, which was acquired four years ago. The neighborhood did not appeal at that point and the neighborhood association brought it to the attention of the owner and TPC that the COA had run out.

Mr. Jackson asked Mr. Atkins if he thought Mr. Schmidt's proposal would have a negative affect on the neighborhood. In response, Mr. Atkins stated that it would bring down the economic value of the existing homes and he has proof of this from an appraiser.

Ms. Bayles asked Mr. Atkins if he agreed with staff's recommendation for RS-4. In response, Mr. Atkins answered affirmatively.

Ms. Hill made a motion to approve the rezoning to RS-4 for the entire area and Mr. Harmon seconded.

Mr. Midget stated that he strongly supports the downzoning, but he is concerned about the land owners who do not want to be downzoned. In the past the Planning Commission has carved those lots out and they remain as they are currently. He further stated that he would not support carving out the property across the street as being exempted from downzoning. Mr. Schmidt purchased the property under the current zoning and relied on the current zoning in order to develop as multifamily.

Mr. Jackson concurred with Mr. Midget.

Ms. Bayles agreed with Mr. Jackson. She explained that the Swan Lake area property values have withstood and she believes that is because it is recognized as one of the premiere mixed-use developments in the area. Swan Lake has more two- and three-story multifamily apartments and duplexes than any older residential area. Swan Lake is a destination-location and Cherry Street makes it that way. Swan Lake could use more traffic-calming devices, but it doesn't need more stop signs.

Mr. Harmon stated that the subject properties that wish to be excluded from the down zoning are not contiguous in the true sense because they are across the street from the other RM-2 zoned properties.

Mr. Midget stated that to carve out the properties that do not wish to be downzoned would not defeat the purpose of downzoning the remainder. This would eliminate multifamily lots in the area except on the two lots along Quincy.

Mr. Midget made a motion to amend Ms. Hill's motion.

Ms. Coutant stated that she could not support the amended motion because it would be spot zoning and would impact the entire area. Mr. Schmidt could build a house on the subject lot and would not lose his investment.

Mr. Midget stated that Mr. Schmidt purchased the property when it as an RM-2 zoning and he is relying on the fact that it would be RM-2.

**TMAPC Action; 7 members present:**
On **AMENDED MOTION** of **MIDGET**, TMAPC voted 4-3-0 (Bayles, Collins, Midget, Jackson "aye"; Coutant, Harmon, Hill "nay"; none "abstaining"; Carnes, Horner, Ledford, Westervelt "absent") to recommend **APPROVAL** of the RS-4 zoning for Z-6896, with the exception of the two lots located on 17th and Quincy.

**TMAPC Action; 7 members present:**
On **MOTION** of **MIDGET**, TMAPC voted 4-3-0 (Bayles, Collins, Midget, Jackson "aye"; Coutant, Harmon, Hill "nay"; none "abstaining"; Carnes, Horner, Ledford, Westervelt "absent") to recommend **APPROVAL** of the RS-4 zoning for Z-6896, with the exception of the two lots located on 17th and Quincy.

**Legal Description for Z-6896:**

Lots 1 through 8, Block 10, Orcutt Addition; Lots 13 through 16, Block 10, Orcutt Addition; the East Half of Lots 9 and 10, Block 10, Orcutt Addition; Lots 9 through 13, Block 11, Orcutt Addition; Lots 13 through 16, Block 22, Orcutt Addition; Lots 2 through 7, Block 23, Orcutt Addition; Lots 10 through 16, Block 23, Orcutt Addition; the East 100' of Lots 7 and 8, Block 24, Orcutt Addition; Lots 3 through 6, Block 24, Orcutt Addition; Lot 6, Block 1, Sanger-Douglas Resub of Block 25, Park Place Addition; and Lots 1 through 5, Block 2, Sanger-Douglas Resub Block 25, Park Place Addition, and located from East 16th Street South to East 17th Place South; from South Quaker Avenue to South Quincy Avenue, Tulsa, Oklahoma, **From RM-2/HP (Residential Multifamily Medium Density District/Historic Preservation District) To RS-4/HP(Residential Single-family Highest Density District/Historic Preservation District).**

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**Commissioner Collins out at 3:29 p.m.**

## ZONING TEXT AMENDMENT PUBLIC HEARING

**Proposed Amendments to Title 42, Tulsa Revised Ordinances (Tulsa Zoning Code Text).**

**STAFF RECOMMENDATION:**

Proposed amendments to the City of Tulsa Zoning Code text, in the following Chapters, 2, 4, 16 and 18 to allow certain types of carports in the front yard by special exception and establishing conditions and standards for placing such buildings in a front yard.

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

**Tulsa Zoning Code**

**Add a new Subsection 210.B.10 as follows:**

**SECTION 210. YARDS**

**B. Permitted Obstructions in Required Yards**

Obstructions are permitted in required yards as follows:

10. Carports may be permitted in required front yards by special exception. The carport may be a detached accessory building or an integral part of the principal building. Any carport which occupies a portion of the required front yard shall comply with the following restrictions:
    a. Shall not cover an area with dimensions greater than 20 feet in length by 20 feet in width.
    b. No portion of a carport structure shall be nearer to the side lot lines than the principal building on the lot, nor five feet, whichever is a greater distance from the side lot line.
    c. No portion of a carport structure shall extend more than 20 feet from the rear of the required front yard, nor more than 20 feet from the front of the existing principal building, whichever is less.
    d. No carport shall exceed eight feet in height at its perimeter, nor ten feet at the highest point of its interior ceiling. Carports which are not an integral part of the principal building shall not exceed ten feet in height at their highest horizontal point. All heights are measured from the average ground elevation at the perimeter of the carport.
    e. All sides of a carport that are within the required front yard shall be open and unobstructed except for support columns which in total shall not obstruct more than 15% of the area of any side.
    f. The entire area under the carport shall only be used to park operable licensed motor vehicles (i.e. cars, pickup trucks, vans, sport utility vehicles), which are customarily accessory to the dwelling. No other use of this area is permitted.
    g. Be granted a special exception by the Board of Adjustment as provided for in Chapter 16.

**Amend Section 402.B.1.b. to read as follows:**

## SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS

### B. Accessory Use Conditions

#### 1. General Conditions:

b. A detached accessory building or accessory building not erected as an integral part of the principal building shall not be located in the front yard, except detached accessory carports or accessory carports not erected as an integral part of the principal building which are granted a special exception by the Board of Adjustment. If the carport occupies a portion of the required front yard, it shall also comply with the requirements of Section 210.B.10.

**Add a new Subsection 1608.A.19.**

## SECTION 1608. SPECIAL EXCEPTION

### A. General

19. Within an R district, detached accessory carports or accessory carports not erected as an integral part of the principal building occupying the front yard or any type of carport occupying a portion of the required front yards, subject to the requirements of Section 210.B.10.

**Add a new definition to Chapter 18 as follows:**

## SECTION 1800. DEFINITIONS

**Carport:** Any parking space or spaces having roof but not enclosed by walls and accessory to a dwelling or dwellings. "Carport" shall not include any parking structure.

## ADDITIONAL FACTORS TO BE CONSIDERED BY THE BOARD OF ADJUSTMENT WHEN EVALUATING REQUESTS FOR SPECIAL EXCEPTIONS FOR CARPORTS IN REQUIRED FRONT YARDS

1. Existence, location and design of other carports in the immediate vicinity of the request.

2. Possible obstruction of vision by motorist on or entering the abutting street.

3. Visual impact of the proposed carport on the streetscape of the neighborhood.

4. Uniqueness of the request. (Will this set a precedent for carports throughout the neighborhood?)

5. Compatibility of the carport with the architectural style of the dwelling and the predominant architectural style of the neighborhood.

**TMAPC COMMENTS:**
Mr. Harmon asked if the checklist would be used or ignored. In response, Mr. Dunlap stated that if the Planning Commission would like the list of criteria as part of the ordinance it can be included or be part of the recommended procedure. In response, Mr. Harmon stated that he believes it would be best to have it in the ordinance instead of something they can elect to use or not to use.

**TMAPC Action; 9 members present:**
On **MOTION** of **HARMON**, TMAPC voted 9-0-0 (Carnes, Collins, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; "none"abstaining"; Bayles, Midget "absent") to recommend **APPROVAL** of the proposed amendments to Title 42, Tulsa Revised Ordinances (Tulsa Zoning Code Text), subject to including the five factors when considering and evaluating a request for a special exception to allow carports per staff recommendation.

**Interested Parties:**
**Lloyd Hobbs**, 5846 South Hudson Place, Tulsa, Oklahoma 74135, expressed concerns regarding the wording in the proposed amendments. He indicated that he is not opposed to the amendments, but feels that the language could be clearer.

Mr. Hobbs expressed concerns about inoperable vehicles being stored under carports or antique cars (with black tags) being stored under the carports. He indicated that he believes the TMAPC is trying to regulate whether the car has insurance or not and does not believe that they have the power to do so.

**TMAPC COMMENTS:**
Mr. Midget asked staff to explain operable vehicles. In response, Mr. Dunlap stated that there were several worksessions in order to arrive at the wording. Mr. Dunlap further stated that he does not believe that it was the intention to allow anything to be stored in carports, and if a show car was kept under the carport, then it would be considered storing and it would not be allowed.

Mr. Romig stated that if the car is not operable on the street then it is considered storing it. "Licensed" has traditionally meant that the vehicle could be operated on the street legally and black tags simply means that the owner is paying taxes and it can be on antique cars or junk cars. It doesn't matter. The sum of what is

said is about the temporary placing of a vehicle under a carport that can be legally operated on the street.

Mr. Harmon stated that he has found that in writing ordinances, the more lengthy they become the less the understood they are. If the Planning Commission tried to define every possible storage scenario, it would be difficult to write an ordinance for every situation. He commented that he would prefer that the language remain simplified.

**After hearing Mr. Hobbs's comments the Planning Commission determined that their motion would remain as approved.**

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There being no further business, the Chair declared the meeting adjourned at 3:40 p.m.

Date Approved:
6/24/03

Chairman

ATTEST: Mary E. Lee
Secretary