

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
**Minutes of Meeting No. 2365**

Wednesday, January 7, 2004, 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	Ledford	Alberty	Boulden, Legal
Carnes	Midget	Chronister	
Coutant		Fernandez	
Harmon		Huntsinger	
Hill		Matthews	
Horner			
Jackson			
Miller			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, Wednesday, 31, 2003 at 9:55 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Jackson called the meeting to order at 1:35 p.m.

**Minutes:**

**Approval of the minutes of November 19, 2003, Meeting No. 2362**

On **MOTION** of **HARMON**, the TMAPC voted 7-0-1 (Carnes, Coutant, Harmon, Hill, Horner, Jackson, Westervelt "aye"; no "nays"; Bayles "abstaining"; Ledford, Midget, Miller "absent") to **APPROVE** the minutes of the meeting of November 19, 2003, Meeting No. 2362.

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## SUBDIVISIONS:

### LOT-SPLITS FOR WAIVER OF SUBDIVISION REGULATIONS:

L-19632 – Darrell Jones (9205)

(PD 23) (County)

6418 West Edison

### STAFF RECOMMENDATION:

Ms. Chronister explained that this application had been continued in order to obtain a survey. The State survey has been completed and both parties are in agreement.

The applicant desires to split a parcel (Tract 2) from Tract 1 to be tied to Tract 3 to correct an encroachment over the common property line. Because proposed Tract 3 will not meet the RS-zoning requirements, a variance of the required rear yard and a variance to allow a detached accessory building in the required front yard was considered and approved by the County Board of Adjustment on Tuesday, December 16, 2003.

Both resulting tracts will have more than three side lot-lines, thus the applicant is requesting a waiver of the *Subdivision Regulations* that no tract have more than three side lot-lines.

Both tracts are located on 65<sup>th</sup> West Avenue, which is currently 30' wide and would require 30' right-of-way be given to Tulsa County. The *Major Street and Highway Plan (MSHP)* reflects Edison as a secondary arterial along the section line (Tulsa/Osage County line), which would require 50' of right-of-way be given to Tulsa County on the north side of both tracts. However, Tulsa County Engineering has stated that because of the current route of Edison, turning south and connecting with Cameron to follow the Old North Road, and due to the terrain, it is very unlikely that Edison would ever be built along the section line in this area. Therefore, a waiver of the *Subdivision Regulations* to provide the 50' right-of-way from the section line is requested.

If the necessary variances are approved by the Board of Adjustment, staff believes this lot-split would not have an adverse effect on the surrounding properties and recommends **APPROVAL** of the waiver of *Subdivision Regulations* for the number of side lot lines and for the 50' right-of-way from the section line (Tulsa/Osage County line), subject to the necessary variances being approved by the County Board of Adjustment and subject to the 30' right-of-way from the center of the road be given to Tulsa County along 65<sup>th</sup> West Avenue.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Horner, Jackson, Westervelt "aye"; no "nays"; none "abstaining"; Ledford, Miller, Midget "absent") to **APPROVE** the lot-split for waiver of Subdivision Regulations for the number of side lot-lines and for the 50' right-of-way from the section line (Tulsa/Osage County line), subject to the necessary variances being approved by the County Board of Adjustment and subject to the 30' right-of-way from the center of the road being given to Tulsa County along 65<sup>th</sup> West Avenue, per staff recommendation.

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**FINAL PLAT:**

**The Village on Utica – (1993)**

(PD-6) (CD-9)

West of the Southwest corner of East 31<sup>st</sup> and South Utica Avenue

**STAFF RECOMMENDATION:**

This plat consists of seven lots in one block on 1.7 acres.

All release letters have been received and staff recommends **APPROVAL**.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Horner, Jackson, Westervelt "aye"; no "nays"; none "abstaining"; Ledford, Miller, Midget "absent") to **APPROVE** the final plat for The Village on Utica per staff recommendation.

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Commissioner Randi Miller in at 1:40 p.m.

**REINSTATEMENT OF PRELIMINARY PLAT:**

**Northwest Passage** – PUD-624 (2202) (PD-11) (CD-1)

North of Apache, between Gilcrease Drive and Osage Drive

**STAFF RECOMMENDATION:**

This plat consists of 150 lots on 57.5 acres. The preliminary plat was approved by TMAPC on November 20, 2002. Staff can recommend approval of the reinstatement of this plat. If there are any substantial changes planned, then the plat will be returned to the Technical Advisory Committee for further review.

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 **HARMON**, TMAPC voted 9-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Horner, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Ledford, Midget "absent") to **APPROVE** the reinstatement of preliminary plat for Northwest Passage per staff recommendation.

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**PLAT WAIVER:**

**CBOA-2068** (1331) (PD-24) (County)

6645 North Peoria

**STAFF RECOMMENDATION:**

The platting requirement was triggered by rezoning.

*Staff provides the following information from TAC at their December 18, 2003 meeting:*

**ZONING:**

TMAPC staff: The plat waiver is for property that was rezoned to CS on an existing lot under CZ-331. The Board of Adjustment also approved a variance to allow 120 feet of lot frontage (150 feet is required) for the lot.

**STREETS:**

The County Engineer was concerned about ODOT possibly needing more right-of-way along North Peoria. He would defer to the State on this issue.

**SEWER:**

No objection to the plat waiver. Sewer is available to the property and its neighbors, so no main extension is needed nor any additional easements.

**WATER:**

Turley water service.

**STORM DRAIN:**

No comment.

**FIRE:**

N/A

**UTILITIES:**

N/A

Staff can recommend **APPROVAL** of the plat waiver requested if ODOT does not require additional right-of-way. Staff is awaiting a response from ODOT at this time.

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

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

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

	YES	NO
4. Is right-of-way dedication required to comply with Major Street and Highway Plan?	X*	
5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived?		X
6. Infrastructure requirements:		
a) Water		
i. Is a main line water extension required?		X
ii. Is an internal system or fire line required?		X

- iii. Are additional easements required? X
  - b) Sanitary Sewer
    - i. Is a main line extension required? X
    - ii. Is an internal system required? X
    - iii. Are additional easements required? X
  - c) Storm Sewer
    - i. Is a P.F.P.I. required? X
    - ii. Is an overland drainage easement required? X
    - iii. Is on-site detention required? X
    - iv. Are additional easements required? X
- 7. Floodplain
  - a) Does the property contain a City of Tulsa (Regulatory) Floodplain? X
  - b) Does the property contain a F.E.M.A. (Federal) Floodplain? X
- 8. Change of Access
  - a) Are revisions to existing access locations necessary? X
- 9. Is the property in a P.U.D.? X
  - a) If yes, was plat recorded for the original P.U.D.
- 10. Is this a Major Amendment to a P.U.D.? X
  - a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?
- 11. Are mutual access easements needed to assure adequate access to the site? X
- 12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? X

\* Possible ODOT right-of-way requirement.

**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 (Bayles, Carnes, Coutant, Hill, Harmon, Horner, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Ledford, Midget "absent") to **APPROVE** the plat waiver for CBOA-26088 per staff recommendation.

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**CHANGE OF ACCESS ON RECORDED PLAT:**

**Chimney Hills South, Lot 24, Block 40 (1483)**

(PD-18) (CD-8)

North of 91<sup>st</sup> Street, west of South 77<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

This application is made to allow a change of access along East 91<sup>st</sup> Street South. The property is zoned under PUD 215 (RS-3).

Staff recommends approval of the change of access. The Traffic Engineer has reviewed and approved the request. Staff recommends **APPROVAL** of the change of access as submitted.

**The 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 (Bayles, Carnes, Coutant, Hill, Harmon, Horner, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Ledford, Midget "absent") to **APPROVE** the change of access for Chimney Hills South, Lot 24, Block 40, per staff recommendation.

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**AMENDMENTS TO COMPREHENSIVE PLAN PUBLIC HEARING**

**District 18 Plan Map and Text, a part of the Comprehensive Plan for the Tulsa Metropolitan Area**

**STAFF RECOMMENDATION:**

Ms. Matthews stated that these are amendments that have been proposed to the District 18 Plan to safeguard other similar intersections. She explained that Mr. Johnsen prepared this amendment. Staff has reviewed it and finds it in accord

with the Comprehensive Plan and a good precedent to use for other corners in which similar cases may arise similar to the 71<sup>st</sup> and Harvard intersection.

**RESOLUTION NO.: 2365:858**

**A RESOLUTION AMENDING  
THE DISTRICT 18 PLAN MAP AND TEXT,  
A PART OF THE COMPREHENSIVE PLAN  
FOR THE TULSA METROPOLITAN AREA**

**WHEREAS**, Pursuant to Title 19, OSA, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29<sup>th</sup> day of June, 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area, which Plan was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law; and

**WHEREAS**, the TMAPC is required to prepare, adopt and amend, as needed, in whole or in part, an official Master Plan to guide the physical development of the Tulsa Metropolitan Area; and

**WHEREAS**, on the 27<sup>th</sup> day of August, 1975, the TMAPC, by Resolution No. 1078:403, did adopt the District 18 Plan Map and Text as a part of the Comprehensive Plan of the Tulsa Metropolitan Area, which was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma; and

**WHEREAS**, a Public Hearing was held on the 7<sup>th</sup> day of January 2004, and after due study and deliberation, the TMAPC deems it advisable and in keeping with the purpose of the TMAPC, as set forth in Title 19, OSA, Section 863.7, to modify the adopted District 18 Plan Map to designate an area comprising 3.39 acres located at the southwest corner of East 71<sup>st</sup> Street South and South Harvard Avenue as a Low Intensity-No Specific Land Use, as set forth within the Zoning Matrix heretofore adopted as a part of the District 18 Plan, consistent with the recommendation of the TMAPC and the action of the Council of the City of Tulsa in approving rezoning application Z-6902 and the accompanying planned unit development application PUD-687; and to amend the District 18 Plan text to include therein a section to be designated and titled as 3.4 The intersection of East 71<sup>st</sup> Street South and South Harvard Avenue to particularly set forth the development policies of the TMAPC and the Council of the City of Tulsa pertaining to the intersection of East 71<sup>st</sup> Street South and South Harvard Avenue to read as follows:

### **3.4 The Intersection of East 71<sup>st</sup> Street South and South Harvard Avenue**

It is the determination of the TMAPC and the Council of the City of Tulsa, that the southwest corner of the intersection of East 71<sup>st</sup> Street South and South Harvard Avenue is significantly distinguishable from the northwest, northeast and southeast corners of the intersection and it is the development policy of the TMAPC and the Council of the City of Tulsa that the northwest, northeast and southeast corners of the intersection shall be limited to use for low intensity residential purposes and the approval of PUD-687 permitting low intensity office use of the southwest corner of the intersection shall not be considered precedent for nonresidential use of the other corners of the intersection or other intersections in the City. It is noted that the PUD-687 was approved subject to exceptionally restrictive development standards, included but not limited to a one story building limitation, a maximum floor area ratio of .18, a minimum landscaped area of 42% of the net lot area, building elevations review and a masonry screening wall. It is further noted, that the other corners are distinguishable from the southwest corner of the intersection based on but not limited to the following significant facts:

1. The northwest, northeast and southeast corners of the intersection are developed as residential subdivisions, with the exception that the City has acquired two residential lots at the northeast corner as a part of the right-of-way acquisition and widening of 71<sup>st</sup> Street.
2. The City has made substantial investment in the construction of significant sound and screening walls at the northwest, northeast and southeast corners to buffer existing residential development from 71<sup>st</sup> Street, which is a primary arterial and Harvard Avenue, which is a secondary arterial and the intersection presently has an average daily traffic count of 46,000 vehicles per day.
3. The City, as the owner of the sound and screening walls and two now vacant lots at the northeast corner of the intersection, is not required to remove any of the sound and screening walls or to permit redevelopment of the two lots located at the northeast corner and immediately adjacent to 71<sup>st</sup> Street and it is policy of the City, herein expressly set forth, that the sound and screening walls shall remain in

place and the two lots at the northeast corner shall remain as open space.

**NOW, THEREFORE, BE IT RESOLVED** by the TMAPC, that the amendments to the District 18 Plan Map and Text, as above set out, be and are hereby adopted as part of the District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area.

**DATED** this \_\_\_\_ day of \_\_\_\_\_, 2004.

**INTERESTED PARTIES:**

**Mona Miller**, 7211 South Gary Place, Tulsa, Oklahoma 74136, Director of Homeowners for Fair Zoning, stated that she presently has 87 different homeowner associations throughout the City of Tulsa that have contacted her wanting to be a part of it. She indicated that she is speaking for all 87 homeowner associations.

Ms. Miller expressed her gratitude that INCOG is taking a closer look at zoning situations that interrupt and interfere with neighborhoods. However, citizens have the right to protest and that is the right she is most interested in protecting. She indicated that she felt the TMAPC did not respectfully listen to the interested parties during the 71<sup>st</sup> Street and Harvard application. She stated that when residents ask the TMAPC or the City Legal Department, they should be given a truthful answer that they can count on.

Ms. Miller stated that this resolution is viewed by the homeowners as "our pillow being fluffed; however, none are sleepy". This is a patch, a goodwill gesture, and possibly a move in the right direction; however, it is certainly does not provide the protection that the homeowner needs. Once the members are off of the TMAPC and once this administration moves down the road, as experienced in the past, who is going to uphold the decision made today. She concluded that the homeowners view this as a band-aid where surgery is probably needed.

**TMAPC COMMENTS:**

Mr. Harmon stated that the resolution seems appropriate in light what has been reviewed previously and the extensive work that has been done in the subject area. He recognized that the neighbors have some concerns regarding what would happen on the other three corners in the future and that is something that cannot be controlled or protected. This is appropriate at this point and time.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted 9-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Horner, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Ledford, Midget "absent") to recommend **APPROVAL** the District 18 Plan Map and Text, a part of the Comprehensive Plan for the Tulsa Metropolitan Area as submitted, Resolution No. 2365:858.

## ZONING PUBLIC HEARING

**Application No.:** PUD-695

**RM-2 to PUD**

**Applicant:** Jerry Ledford, Jr.

(PD-6) (CD-9)

**Location:** South of southeast corner East 37<sup>th</sup> Street and South Riverside Drive

### STAFF RECOMMENDATION:

The PUD proposes a condominium development on approximately 0.57 acres located on the east side of South Riverside Drive, between East 37<sup>th</sup> Street and East 38<sup>th</sup> Street. A maximum of eleven dwelling units are proposed.

The subject tract is zoned RM-1. The tract is abutted on the north by El Char Condos zoned RM-2.; on the south by Tower Court Town home subdivision zoned RT; and on the east by single-family homes zoned RS-3. To the west of the tract across Riverside Drive is River Parks.

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-695 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-695 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:** 0.57 Acres

**Permitted Uses:**

Single-Family Attached, Townhouse Dwellings as included within Use Unit 7a.

**Maximum Number of Dwelling Units:** 11

**Maximum Building Height\*:**

Three stories not to exceed 35 FT

**Minimum Building Setbacks:**

From the north and south boundaries of the PUD 5 FT

From the east boundary of the PUD ~~20 FT~~

Ten feet from the existing property line or 20 feet from the Marilyn Court property

From Riverside Drive right-of-way 30 FT

**Minimum Parking Setback:**

From Riverside Drive right-of-way 5 FT

From the east boundary of the PUD 10 FT

From the north and south boundaries of the PUD 5 FT

\*Architectural elements on the western building may exceed maximum building height with detail site plan approval.

**Landscaping and Screening:**

A minimum of 35% of net land area shall be improved as internal landscaped open space in accord with the Landscape Chapter of the Tulsa Zoning Code. A landscaped area at least 10 feet in width shall be established and maintained along the east boundary of the PUD; at least 5 feet along the north and south boundaries; and at least 5 feet of street frontage landscaped along Riverside Drive, except at points of vehicular access. A six-foot high or higher screening wall or fence shall be erected and maintained along the east boundary of the PUD. Fences along the Riverside Drive frontage may exceed four feet in height with detail site plan approval.

**Other Bulk and Area Requirements:**

As established within a RM-1 district.

- 3. Private and public vehicular and pedestrian circulation shall be reviewed during detail site plan review. All access shall be approved by TMAPC, the Fire Department and Public Works.

4. No zoning clearance permit shall be issued for a lot within the PUD until a detail site plan for the lot, which includes all buildings, parking screening fences and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
5. 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.
6. 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.
7. 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. The developer shall pay all inspection fees required by the City.
8. 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.
9. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
10. Entry gates or guardhouses, if proposed, must receive detail site plan approval from TMAPC, Traffic Engineering and Tulsa Fire Department, prior to issuance of a building permit for the gates or guard houses.
11. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

**Development Services Comments for TAC Meeting December 4, 2003**

**Planned Unit Development for Review:**

**PUD 695, 37<sup>th</sup> and Riverside**

**Water**-Placement of a three-way fire hydrant for fire protection.

**Stormwater**- Previously met with Jerry Ledford, Jr., TEP, about drainage. Shallow floodplain on site. Must provide 100-Year system to river, must take offsite water. Provide revised regulatory floodplain map for site.

**Wastewater**-Sewer service is available.

**Transportation**-Need LNA, possible additional right-of-way.

**Traffic**-Plat-Primary arterial may require an additional ten-foot strip or waiver by TMAPC. Left-turn access via a future median opening may be feasible in the north half. The covenants-provide for adequate visitor parking.

**General**-Need utility information in PUD write-up.

### **TMAPC COMMENTS:**

Mr. Harmon asked how many condominiums could be on a half-acre tract. In response, Mr. Alberty stated that 14 would be allowed, but the applicant is proposing eleven.

### **Applicant's Comments:**

**Jerry Ledford, Jr.**, Tulsa Engineering and Planning, 6737 South 85<sup>th</sup> East Avenue, Tulsa, Oklahoma 74133, stated that he is very excited about this project. This would be an upscale condominium project on Riverside Drive. He indicated that he has met with the staff several times to develop a land plan that would take into consideration the residential to the east and the subject tract.

Mr. Ledford confirmed that he is in agreement with the staff recommendations except for one point. The first point he would like to clarify is that Riverside Drive is a special traffic-way in the subject area and it does not have a set right-of-way designation because it varies depending on what part of Riverside Drive it is. He explained that this is between two existing pieces, The El Char Condos and Tower Court to the east. The proposed right-of-way line aligns with the existing right-of-way and with the two projects on each side of the proposal. Traffic and Transportation has agreed that there is no requirement for additional right-of-way for the subject tract. The existing right-of-way is sufficient.

Mr. Ledford stated that the only issue he has with the staff recommendation is the building setback on the east. Mr. Ledford submitted a site plan (Exhibit A-1). The existing Marilyn Court Subdivision, which is on the east side and the proposal is west of this subdivision, has an unplatted strip of land that is ten feet in width. It belongs to the Marilyn Court owner prior to Marilyn Court being turned into a subdivision. There is a ten-foot vacant strip between the proposal and the Marilyn Court project. He requested a ten-foot building setback because it is not to the Marilyn Court project, but actually 20 feet to the residential subdivision. The unplatted vacant strip is zoned RM-1, as well as the proposal. He requested that the building setback remain ten feet, which would allow 20 feet of separation between the proposal and the existing residential. The driveways are placed where everything is accessed from the front in order to prevent drive aisle or parking on the east side of the subject property.

Mr. Ledford concluded that he is in agreement with staff's recommendation, with the request that the east building line be allowed at the ten-foot distance, which would actually be 20 feet of separation by including the ten feet of unplatted land.

**TMAPC COMMENTS:**

Mr. Harmon asked staff about the TAC comments and the possibility that more right-of-way may be needed. However, the applicant is stating that there would not be a requirement for additional right-of-way. In response, Mr. Alberty stated that, as the applicant stated, no one really knows what the right-of-way will be if it is ever changed. The right-of-way has been consistently waived in the past and there would be nothing unusual about waiving it or not requiring additional right-of-way at this time.

Mr. Ledford stated that the possibility of needing additional right-of-way is very important to him because of the small tract size. There is no set right-of-way along this part of Riverside Drive because it varies. He explained that the Traffic Engineer reviewed the subject site and the location of El Char and the existing development to the south and concluded that by taking more right-of-way from the proposal would not gain anything.

Mr. Westervelt asked Mr. Ledford if he was requesting the Planning Commission to state that they are not going to change any of the right-of-way and approve as it stands. In response, Mr. Ledford stated that he realizes that he will have to deal with this during the platting process. Mr. Ledford reiterated that this point there has not been a request for additional right-of-way.

**INTERESTED PARTIES:**

**Nancy Apgar**, 3914 South Norfolk, Tulsa, Oklahoma 74105, representing the Board of Brookside Neighborhood Association, stated that she is the past President and is currently the Zoning Officer of the association. She indicated that the neighborhood association is in favor of this application. This project is a very good infill project.

Ms. Apgar stated that Mr. Ledford showed her the plans prior to the meeting today and she wanted to make sure that the neighbors to the east are protected from lights, noise and garbage bins. She further stated that she wanted to make sure that there would be green space and buffering with a fence/wall with shrubbery. She requested that there be no left-hand turns out of the condominium and no curb cuts in the median on Riverside Drive. She explained that 36<sup>th</sup> Street is opened to Riverside and allows left-hand turns.

Ms. Apgar stated that she is very pleased with the proposal as it is shown on the plan and requested that the plan be approved with conditions.

**TMAPC COMMENTS:**

Mr. Westervelt stated that Ms. Apgar has always done a very good job of representing the Brookside Neighborhood for years. He reminded Ms. Apgar that the Planning Commission doesn't control the median openings along Riverside Drive, but it would be determined during the platting process. As a practical matter, with the opening at 36<sup>th</sup> Street, the chance of a median break that close to 36<sup>th</sup> Street is unlikely.

**INTERESTED PARTIES:**

**Rob Roberts**, 1341-B East 38<sup>th</sup> Place, Tulsa, Oklahoma 74105, president of the condominium association in the Riverside/Brookside area, stated that he is in favor of this project and believes that it brings value to the whole Riverside district. He indicated that he would like further projects like this to come along in due course. He stated that he has no objection to the plan and requests that it is approved.

**TMAPC COMMENTS:**

Mr. Harmon asked staff what the likely use of the ten-foot unplatted land would be. In response, Mr. Alberty stated that this is uncommon, but not unusual because occasionally there are pieces of land that have been left over for some reason. In this case he believes the owner felt that she owned it, and upon further search of the abstract they discovered it did not belong to the subject property. Staff's concern was that the ten-foot strip is not tied down, and assuming it could be tied to the property to the east, then there would only be a ten-foot setback. He understands why the applicant has requested a ten-foot setback, because effectively should this project develop and should that remain in question, there would be a 20-foot setback. From a technical standpoint, since the ten feet hasn't been resolved, staff felt that the 20-foot setback should be required. Mr. Alberty indicated that he understood that the applicant may try to purchase the ten feet of unplatted property.

Mr. Harmon asked staff if they would still recommend 20 feet for the setback. In response, Mr. Alberty stated that he would still recommend 20 feet because there is no assurance of where the ten feet of unplatted property could go.

Mr. Jackson stated that there are utility easements, overhead power lines in place and if they added the ten feet to the subject property what difference would it make. There wouldn't be any buildings being built in the subject area. There is probably a 17.5-foot utility easement in the back for the overhead lines. In response, Mr. Alberty stated that this is not something that staff is going to oppose adamantly.

Mr. Horner recognized Mr. Ledford.

Mr. Ledford stated that if the Planning Commission wanted to make a condition that the 20-foot setback would be from the existing Marilyn Court subdivision line

(west line). If the ten feet of unplatted property is purchased for the subject site it would become part of the 20-foot setback. He clarified that it would either be ten feet from the existing PUD line or if the ten feet becomes part of the subject property then it would be 20 feet from the existing Marilyn Court subdivision.

Mr. Horner asked Mr. Ledford about the location for the trash dumpsters. In response, Mr. Ledford stated that Ms. Apgar asked if there would be any trash dumpsters on the backside of the units, and after reviewing the plans, she realized that there wouldn't be any traffic on the backside and the trash pickup would be in the front of the units.

**TMAPC Action; 9 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 9-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Horner, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Ledford, Midget "absent") to recommend **APPROVAL** of PUD-695, subject to the rear setback being ten feet from the existing property line or 20 feet from the Marilyn Court property line if something should change in the future, per staff recommendation. (Words deleted are shown as ~~strikeout~~; words added or substituted are underlined.)

**Legal Description for PUD-695:**

That part of the S/2, Lot 5, of Section 24, T-19-N, R-12-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, more particularly described as follows, to-wit: Commencing at the Northeast corner of the S/2 of Lot 5 of Section 24, T-19-N, R-12-E, Tulsa County, Oklahoma; thence West along the North line of said S/2 of said Lot 5, same also being the centerline of 37<sup>th</sup> Street, formerly 40<sup>th</sup> Place, a distance of 645'; thence South a distance of 145' for a point of beginning; thence West and parallel to the North line of said S/2 of Lot 5, a distance of 184.5' to a point, said point being on the East line of Riverside Drive; thence Southeasterly along the Easterly line of Riverside Drive a distance of 51.01' to a point; thence East and parallel to the North line of said S/2 Lot 5, a distance of 170.23' to a point; thence North a distance of 50' to the Point of Beginning, and all that part of the S/2, Lot 5, Section 24, T-19-N, R-12-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, described as follows, to-wit: Beginning at a point 645' West and 195' South of the Northeast corner of the S/2, Lot 5 of said Section; thence South 100'; thence West parallel to the North line of said Lot 5, a distance of 150.03' to the East line of Riverside Drive; thence Northwesterly along said East line of said Riverside Drive, a distance of 102.02'; thence East parallel to the North line of said Lot 5, a distance of 170.23' to the Point of Beginning and located south of the southeast corner of East 37<sup>th</sup> Street South and South Riverside Drive, Tulsa, Oklahoma, **From RM-1 (Residential Multifamily Low Density District) To RM-1/PUD (Residential Multifamily Low Density District/Planned Unit Development [PUD-695]).**

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**Application No.: CZ-333**

**AG to IL or CG**

**Applicant:** Charles Norman

(PD-12) (County)

**Location:** Southwest corner of East 116<sup>th</sup> Street North and Highway 75

**STAFF RECOMMENDATION:**

**CZ-328 and CZ-329 November 2003:** Requests were filed to rezone two separate five-acre tracts from AG to CS. One tract was located on the northeast corner of East 96<sup>th</sup> Street North and Highway 75 and the second tract was located on the northeast corner of 106<sup>th</sup> Street North and Highway 75. Both requests were withdrawn by the applicants upon determination that both properties had street frontage but did not have rights-of-way to access.

**CZ-325 August 2003:** A request to rezone a 2.5-acre tract located on the southeast corner of East 146<sup>th</sup> Street North and Highway 75 from AG to CS was denied. The site did not qualify as a Medium Intensity node under the terms of the Development Guidelines.

**CZ-324 August 2003:** A request to rezone a 342-acre tract located south and east of the southeast corner of East 146<sup>th</sup> Street North and Highway 75 for residential development was approved for RE zoning.

**CZ-264 May 2000:** A request to rezone a 3.4-acre tract located on the northwest corner of East 96<sup>th</sup> Street North and Highway 75 North from RS to CS was approved for CS zoning on the south 150' with the remainder remaining RS.

**CZ-173 June 1989:** A request to rezone a 12.6-acre tract located in the southeast corner of East 106<sup>th</sup> Street North and U. S. Highway 75 and extending south along the Highway 75 right-of-way for approximately 1,463 feet for automobile sales. All concurred in denial of CG zoning and CS zoning was approved in the alternative.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 21 acres in size and is located on the southwest corner of East 116<sup>th</sup> Street North and Highway 75. The property is gently sloping, non-wooded, contains a barn and is zoned AG.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
U.S. Highway 75	Freeway	Varies	4 lanes
East 116 <sup>th</sup> Street North	Secondary arterial	100'	2 lanes

**UTILITIES:** The subject tract is served with water from a rural water system and sewer would have to be serviced through a septic system or some alternative.

**SURROUNDING AREA:**

The subject property is abutted on the north by vacant property, zoned AG; to the south and west by single-family homes on large acreages and zoned AG; and to the east by the highway right-of-way, zoned AG.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The North Tulsa County Comprehensive Plan, a part of the Comprehensive Plan of the Tulsa Metropolitan Area, designates the property as Corridor Intensity-Agricultural. The requested IL or CG zoning **are not** in accord with the Comprehensive Plan Corridor Intensity-Agricultural designation.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan and surrounding low intensity uses, staff cannot support the requested IL or CG zoning and therefore recommends **DENIAL** of IL or CG for CZ-333.

**Applicant's Comments:**

**Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that this is located in an unusual configuration. There are very large power lines that are 60 to 70 feet in height, which is on the frontage of the expressway. He indicated that there is a drainage area that comes across the property to the north side of 116<sup>th</sup> Street, then westerly. He stated that there is an operating salvage yard across the street that seems to occupy the remainder of 20 acres or more. The property at the northeast corner of Yale and 116<sup>th</sup> Street has ten acres of commercial zoning.

Mr. Norman explained that the subject application was filed with the only available legal description. He explained that he never intended to request that the entire 21 acres be rezoned. He requests that the northerly part of the subject property be rezoned to some appropriate classification in order for a future PUD might be prepared and presented that might and might not include the rest of the property. He formally amended the application to confine it to the northerly part of the 21 acres that fronts on 116<sup>th</sup> Street and sides to the expressway.

Mr. Norman stated that the staff recommendation mentions the 1980 to 2000 North Tulsa Comprehensive Plan and it does identify this area as agricultural nature, but the plan calls for a major amendment within ten years of 1980, and to his knowledge it never occurred. The plan has been subject to a number of exceptions and changes and from 146<sup>th</sup> Street North to South 86<sup>th</sup> Street North there is some kind of commercial or industrial zoning which has been approved at one or more corners of intersection of the Cherokee Expressway and those arterial streets. Mr. Norman cited the history of zoning in the subject area. Mr.

Norman read minutes from a previous case (1987) in the subject area. In the minutes it was recommended that the intersection be classified as a Type-3 node as an intersection of a primary arterial and the expressway. He suggested that in this particular instance, he would like the same type of logic applied that was applied in 1987. He requested that the subject property be classified as a Type-2 node as an intersection expressway and an arterial street, which would qualify for a maximum of ten acres of zoning. The salvage yard across the street is a non-conforming use and has been there many years. If it came in for rezoning, he is satisfied that it would qualify for that same type of use to the south line, which is 660 feet from the centerline of 116<sup>th</sup> Street.

Mr. Norman requested approval of the northerly 660 feet of the subject tract to an appropriate rezoning classification, which would line up with the south boundary of the salvage yard. He explained that he discussed this with staff and determined that IL would be more acceptable due to the surrounding properties zoned IL as well.

Ms. Matthews stated that staff did discuss this application with Mr. Norman this morning and she believes that after reading the North Tulsa County Plan and the Cherokee Industrial District Plan that the whole corridor is viewed as an industrial corridor. The IL zoning would be appropriate, subject to the approval being for the north 660 feet of the subject property, which would align with the salvage yard across the street.

**TMAPC COMMENTS:**

Mr. Westervelt asked staff if they were comfortable with the amended proposal. In response, Ms. Matthews stated that she is comfortable with the north 660 feet being rezoned IL.

Mr. Norman stated that the rezoning would result in a net of approximately four acres and would be more than enough density for future preparation of a PUD.

**INTERESTED PARTIES:**

**Bill Parker**, 4340 East 116<sup>th</sup> Street North, Sperry, Oklahoma 74073, stated that he owns the property adjoining to the south of the subject property. He expressed his opposition to the subject application. He explained that he has lived on the subject property approximately 35 years and he doesn't want to see commercial in the subject area.

Mr. Parker described the street layouts and the traffic dangers in the subject area. He stated that there have been 40 traffic deaths in the subject area and this proposal would cause more traffic and traffic hazards.

**TMAPC COMMENTS:**

Mr. Harmon asked how many acres would be rezoned if the north 660 feet were rezoned. In response, Ms. Matthews stated that it would be approximately four acres.

Mr. Harmon stated that there would be 17 acres of land between the application and Mr. Parker. In response, Ms. Matthews concurred.

Mr. Norman stated that he believes Mr. Parker's property line would be at least 700 feet from the south line of the requested zoning. He explained that if there is every anything permitted beyond that would have to be a PUD, which would have to come back to the Planning Commission with appropriate conditions and safeguards.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted 8-1-0 (Carnes, Coutant, Hill, Harmon, Horner, Jackson, Miller, Westervelt "aye"; Bayles "nays"; none "abstaining"; Ledford, Midget "absent") to recommend **APPROVAL** IL zoning for CZ-333 on the north 660 feet from centerline of 116<sup>th</sup> Street North and align with the south boundary of the salvage yard across the highway.

**Legal Description for CZ-333:**

A tract of land in the Northwest Quarter of the Northeast: Quarter of Section 9, Township 21 North, Range 13 East of the Indian Meridian, Tulsa County. State of Oklahoma; more particularly described as follows, to-wit: Commencing at the northwest corner of the Northeast Quarter of Section 9, Township 21 North, Range 13 East. Thence S01°24'11"E along the west line of said Northeast Quarter a distance of 773.40 feet. Thence S83° 50' 37"E a distance of 607.14 feet. Thence N06°09'23"E a distance of 194.31 feet to a point being 660 feet south of the north line of said Northeast Quarter and the Point of Beginning. Thence continuing N06°09'23"E a distance of 526.20 feet to U.S. Highway 75 right-of-way line. Thence S80°02'E along said right-of-way line a distance of 60.98 feet. Thence N88°39'23"E along right-of-way line a distance of 175 feet. Thence S46°21'E along said right-of-way line a distance of 101.6 feet. Thence S23°03'E along said right-of-way line a distance of 471.33 feet. Thence S88°39°23"W and parallel to said north line a distance of 549.65 feet to the point of beginning. **From AG (Agriculture District) To IL (Industrial Light District).**

\* \* \* \* \*

**Application No.: Z-6920**

**RM-1 to CH**

**Applicant:** Joe Bohannon

(PD-6) (CD-9)

**Location:** South and east of southeast corner of East 33<sup>rd</sup> Street and South Harvard Avenue

**STAFF RECOMMENDATION:**

**BOA-19624 July 2003:** The Board of Adjustment approved a request for a special exception to permit office use in an RM-1 zoned district, subject to conditions, on property located on the southeast corner of East 33<sup>rd</sup> Street and South Indianapolis Avenue.

**PUD-638 October 2000:** All concurred in approval of a request for a PUD on a 1.92 acre tract located on the southwest corner of East 32<sup>nd</sup> Place and South Jamestown Avenue from RM-1 and RM-2 to a Planned Unit Development for a proposed two-story medical office.

**BOA-18508 September 1999:** The Board of Adjustment approved a request for a variance of the setback from East 32<sup>nd</sup> Place from 50' to 35' for the construction of a new public library.

**Z-6681 April 1999:** A request to rezone a lot located east of the southeast corner of East 32<sup>nd</sup> Place and South Harvard Avenue from RM-1 to CS. TMAPC recommended denial of CS zoning and recommended approval of OL zoning in alternative. City Council concurred in approval of OL zoning.

**Z-6666 January 1999:** A request to rezone a 120' x 275' tract located on the southwest corner of East 33<sup>rd</sup> Street and South Jamestown Avenue from RM-1 and RS-3 to CG or CS. The property contained two residential dwellings and had been a children's day care facility. TMAPC recommended approval of CS zoning on the west 140' and denial of any rezoning on the east 135'. City Council concurred in denial of both CG and CS zonings.

**BOA-17502 September 1996:** The Board of Adjustment approved a special exception to allow a public library on property located east of the northeast corner of East 32<sup>nd</sup> Place and South Harvard and a variance of the required frontage on a non-arterial street from 50' to 22' to permit a lot split.

**Z-6509 December 1995:** All concurred in approval of a request to rezone a tract of land located on the southeast corner of East 35<sup>th</sup> Street and South Indianapolis Avenue from RS-3 to PK for church parking.

**BOA-13758 September 1985:** The Board of Adjustment approved a special exception to permit an existing day care center in an RS-3 zoned district, but denied a variance to expand the existing buildings of the day care center. The property is located on the southeast corner of East 33<sup>rd</sup> Street and South Indianapolis Avenue and north of the subject tract and is zoned RM-1 and RS-3.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is flat, non-wooded, contains a large commercial building used for office and warehouse and is zoned RM-1. The only access to the warehouse/office property itself is through an existing asphalt parking lot adjacent to it on the north and through a concrete parking lot curb-cut to part of the strip center businesses on the west off of Harvard.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South Harvard Avenue	Secondary arterial street	100'	4 lanes
South Indianapolis Avenue	N/A		2 lanes, dead-ending at the parking lot property, with on-street parking at the south end of the dead-end.

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

**SURROUNDING AREA:**

The property is abutted on the north by parking lots for the adjacent Harvard-frontage commercial/office uses to the west, zoned CH; to the east by two single-family dwellings, zoned RM-1; to the northeast by two apparent office uses (possibly converted from single-family residences), zoned RM-1; and to the south by a physicians' medical complex, zoned CH.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 6 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Medium Intensity – Commercial land use. According to the Zoning Matrix, the requested CH zoning is **not** in accord with the Plan.

**STAFF RECOMMENDATION:** The access issue is of major concern to staff. The only access points currently afforded to the property are through adjacent properties' parking lots. The TMAPC cannot condition rezoning approval on execution of a tie agreement or mutual access easement

without a PUD. Therefore, staff cannot support the requested rezoning and therefore recommends **DENIAL** of CH zoning for Z-6920.

If the TMAPC is inclined to recommend approval of CG zoning in the alternative, the applicant will have to seek Board of Adjustment approval for the existing use, and access conditions could be imposed by that action.

**Applicant's Comments:**

**Joe Bohannon**, 4157 South Harvard, Tulsa, Oklahoma 74135, representing the property owner, stated that a building permit was issued by the City of Tulsa in 1983 on the subject property. The zoning permit indicated that it was zoned for CH, which was a mistake. The north half of the subject property is zoned commercial and the south half is zoned RM-1. The building permit in 1983 indicated it was zoned CH and the building was built in 1983. He explained that his client purchased the property in 1995. Prior to the building permit in 1983, there was an existing structure that was utilized by an adjoining business as a warehouse. This metal warehouse has existed for 20 years and has a small office. He indicated that he is attempting to clean up the situation.

Mr. Bohannon stated that there is ingress/egress to the subject property off of Indianapolis. There are two residences east of the subject property, but he subject property and it uses have been established for 20 years. He explained that his client is trying to clean up the title.

**Mr. Horner out at 2:30 p.m.**

**TMAPC COMMENTS:**

Mr. Jackson asked Mr. Bohannon if his client would accept another type of zoning. Mr. Jackson explained that the Planning Commission usually does not approve CH zoning. In response, Mr. Bohannon stated that his client would accept a lower zoning as long as it doesn't disrupt the existing structure and uses. Mr. Bohannon explained that he understood that he should request CH zoning since the other half was currently zoned CH. There are no immediate plans for expansion or change; it is merely to clean up the title.

Ms. Matthews stated that the question is whether this is a warehouse or mini-storage or an office. If the applicant wants a warehouse, then he would need the CH zoning. If the subject building is not strictly a warehouse, the applicant may be able to use CG zoning.

Mr. Alberty stated that if the applicant owns the north lot, then that is how the mistake was likely made in 1983. CH zoning would be consistent with the surrounding property, but the problem with zoning other than CH is if the use changed in the future. If it is zoned CG, then the applicant would have to tie it with the north lot or it would create a non-conforming building. The building covers approximately 100% of the lot and CH is the only zoning category that

would allow that. CH is probably the direction to go to clean up what has happened in the past.

Mr. Westervelt asked staff if they are now comfortable with the CH zoning. In response, Mr. Alberty stated that by sending the applicant to the Board of Adjustment, then he would have the opportunity to tie the two pieces together. Mr. Alberty explained that with this situation, he understands why the applicant applied for CH zoning.

Mr. Westervelt stated that staff is not concerned about the CG use and it would give an opportunity to get the access issues controlled. In response, Mr. Alberty answered affirmatively.

**INTERESTED PARTIES:**

**Jerri Mirecki**, 5951 South Birmingham, Tulsa, Oklahoma 74105, stated that she owns the resident that is directly to the east of the subject property. She explained that she is not opposed to the rezoning, but she is concerned about the differences between CH and CG zoning. She stated that there have been rumors in the neighborhood and her renters are concerned because they heard that the owner would like to build a fence in the middle of the dead-end street, which would block the resident's access.

**TMAPC COMMENTS:**

Mr. Jackson asked staff to address the fence issue. In response, Mr. Alberty stated that the applicant owns the property to the centerline of what has been improved as a street. Technically the owner could do what Ms. Mirecki fears regarding a fence. He explained that the improved street is not dedicated. He further explained that there could be an easement of dedication filed of record that staff is not aware of that dedicated the improved street as a roadway purpose.

Ms. Mirecki stated that she wouldn't be opposed to this application if she was assured they would not build a fence and block off access to the residential homes.

**Applicant's Rebuttal:**

Mr. Bohannon stated that he is not aware of a fence being proposed by his client. He explained that he understood that there was a dedicated street through the entire area and then it was closed off. He reiterated that he is not aware of a fence being proposed and isn't sure what the purpose of the fence would be.

Mr. Westervelt asked Mr. Bohannon if he was awarded CG zoning and sent to the Board of Adjustment and the TMAPC strongly urging the BOA to add safeguards to protect the access for the residents he would oppose this. In response, Mr. Bohannon stated that he didn't see any problem with that proposal.

**TMAPC Action; 8 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Horner, Ledford, Midget "absent") to recommend **DENIAL** of CH zoning and recommend **APPROVAL** of CG zoning for Z-6920 in the alternative, subject to the applicant going to the Board of Adjustment and the Planning Commission urging the BOA to carefully understand the existing transportation issue to avoid creating any problem with regard to the adjacent residential structures.

**Legal Description for Z-6920:**

The South 75' of the East 165' of Lot 24, Albert Pike Subdivision, Tulsa County, State of Oklahoma, according to the recorded plat thereof, and located south and east of the southeast corner of East 33<sup>rd</sup> Street South and South Harvard Avenue, Tulsa, Oklahoma, **From RM-1 (Residential Multifamily Low Density District) To CG (Commercial General District).**

\* \* \* \* \*

**Application No.: Z-6921**

**IM to CBD**

**Applicant:** Charles Norman

(PD-1) (CD-4)

**Location:** West of southwest corner of East 3<sup>rd</sup> Street and South Lansing Avenue

**STAFF RECOMMENDATION:**

**Z-6890 May 2003:** All concurred in approval of a request to rezone a lot located on the northwest corner of East 3<sup>rd</sup> Street and South Lansing Avenue, north and direction across 3<sup>rd</sup> Street from the subject property from IM to CBD for industrial and residential use.

**Z-6779 August 2000:** A request to rezone an acre tract located south and west of the southwest corner of East Archer Street and South Elgin Avenue from IL to CBD. All concurred in approval of CBD zoning.

**Z-6754 April 2000:** All concurred in approval of a request to rezone a lot located on the southwest corner of East 7<sup>th</sup> Street and South Kenosha Avenue from IM to CBD for office use.

**Z-6695 June 1999:** Approval was granted for a request to rezone a lot located on the southwest corner of East 1<sup>st</sup> Street and South Detroit Avenue from IL to CBD.

**Z-6560 November 1996:** A request to rezone the lot located on the northwest corner of East 3<sup>rd</sup> Street and South Lansing Avenue and across 3<sup>rd</sup> Street from the subject property from IM to CBD was withdrawn by the application due to complications with a sales contract with the future developer.

**Z-6242 April 1989:** All concurred in approval of a request to rezone a tract located between Kenosha and Lansing Avenues on the south side of East 1<sup>st</sup> Street from IM to CBD.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is flat, non-wooded, contains a portion of a large commercial building, zoned IM.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 3 <sup>rd</sup> Street South	Industrial collector	60'	4 lanes

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

**SURROUNDING AREA:**

The property is abutted on the north, south and west by industrial buildings, zoned IM and to the east is the US Highway 75 freeway, zoned RS-3.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 1 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as being in the Downtown East Identity Area. Plan provisions call for office and service uses to locate or remain in this area and expand (Section 3.12.1). The District 1 Plan calls for increased residential/office/commercial mixed uses in the downtown area.

**STAFF RECOMMENDATION:**

The District One Plan envisions that all or most of the land within the Inner Dispersal Loop will eventually be rezoned to CBD. Therefore, staff can support the requested rezoning and recommends **APPROVAL** of CBD zoning for Z-6921.

**Applicant's Comments:**

**Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that he appeared before the Planning Commission last May on behalf of the same client requesting that the property directly across the street be rezoned from the IM district to the CBD. The reason for that application then and the same reason for the present application is that buyer of the property, Mr. Alexander, desired the use the lower portion of the existing building for commercial use and have residential uses in the second story. The Planning

Commission has approved the rezoning of the previous property and three of the seven apartments have been renovated and are occupied.

Mr. Norman stated that the subject property has a 38-foot wide building and 16-foot wide alley. He indicated that Mr. Alexander is purchasing this property and would like to have two residential units in the second level, which is not permitted in the IM district. He requested that the staff recommendation be approved.

**INTERESTED PARTIES:**

**W.C. Thompson**, 1006 South Braden, Tulsa, Oklahoma 74112, owner of 222 South Kenosha, Tulsa, Oklahoma 74120, anchors the area and is the only building that is well maintained, which provides adequate parking. The type of action that is being approved would be detrimental to the entire area. The subject area is currently zoned IM and his building is currently in the CBD area. He expressed problems with other businesses not providing for parking and their clients/employees park on the street. The streets should be used for moving commercial vehicles and truck-traffic and not have the streets cluttered with personal vehicles parked around the clock.

Mr. Thompson stated that the subject application would cause piece meal zoning and he would not object to the entire area being zoned CBD and everyone treated the same, but to isolate one small place and give it a special exception is wrong. The whole area is part of the future East Village and when East Village comes along, there will be high-class residential facilities included. He doesn't believe that the old run-downed buildings should be allowed for residential uses. It does not encourage the right type of inhabitants.

**TMAPC COMMENTS:**

Ms. Matthews asked Mr. Thompson to point out where his property is located on the map. In response, Mr. Thompson pointed out his property, which is zoned CBD.

**Tony Solow**, 10400 South Memorial, Tulsa, Oklahoma 74133, stated that he owns the property immediately across the street north and on the west side of the alley from the subject property. He indicated that he is in favor of the subject application. He commented that there are some property owners in the subject area who are opposed to the East Village concept. There are tenants and occupants in the subject area who have renovated their properties and this proposal would go along with the type of uses the Tulsa Development Authority is trying to encourage in area.

**Applicant's Rebuttal:**

Mr. Norman stated that Mr. Thompson suggested that all of the IM-zoned property might be rezoned at one time to CBD. He explained to Mr. Thompson that this would require the approval of all of the property owners to include their property in an application. It could be appropriate to consider some rezoning of

the entire area to permit this without having to go through a case-by-case change.

Mr. Norman stated that the infill study and the Zoning Code changes that have been made are to accomplish and encourage this type of upgrade. He doesn't believe any substandard housing units would be built. Young people are coming into the area and making substantial investments of their time and labor. He indicated that 3<sup>rd</sup> Street is an unusually wide street for the downtown area and there is potential here. He requested that the staff recommendation be approved.

**TMAPC Action; 8 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Horner, Ledford, Midget "absent") to recommend **APPROVAL** of CBD zoning for Z-6921 per staff recommendation.

**Legal Description for Z-6921:**

The East 16' of the West 94' of Lot 1, Block 12, Hodge Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, and the East 38' of the West 78' of Lot 1, Block 12, Hodge Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma and located at 816-818 East 3<sup>rd</sup> Street, Tulsa, Oklahoma, **From IM (Industrial Moderate District) To CBD (Central Business District).**

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**Application No.:** PUD-686-1

**MINOR AMENDMENT**

**Applicant:** Ricky Jones

(PD-26) (CD-8)

**Location:** West of northwest corner of East 121<sup>st</sup> Street and South Yale Avenue

**STAFF RECOMMENDATION:**

The applicant is proposing to revise the development area layout and one of the access standards for PUD-686.

PUD-686 was approved by the City Council in August, 2003. The PUD permits a maximum of 260 single-family dwelling units on approximately 81.5 acres located on the east side of South Delaware Avenue, north of East 121<sup>st</sup> Street. The PUD permits a combination of public and private streets.

Development Area modifications are proposed as follows:

	<u>Existing Land Area</u>	<u>Proposed Land Area</u>
Area "A"	22.008 acres	23.20 acres
Area "B"	11.663 acres	10.64 acres
Area "C"	14.22 acres	13.31 acres
Area "D"	22.19 acres	24.57 acres
Reserve "A"	6.056 acres	5.17 acres

PUD condition #17 states the following:

Each development area's private street system shall provide at least two points of access to a public street at the boundaries of the development area.

The applicant is proposing to eliminate the stub street to the east due to it connecting into a non-fully improved street with less than required right-of-way. It is also proposed that the street segment which connects from the collector street and stubs to the property to the north now be private and that the proposed public street on the north side of Reserve Area "A" now be private.

Staff finds that the proposed adjustment of internal development area boundaries does not substantially alter the allocation of land to a particular use or the relationship of uses within the projects. Staff also finds that the proposed modification of the internal circulation system does not substantially alter the design, configuration or location of the system. Therefore, staff recommends **APPROVAL** of the requested minor amendment subject to the condition that all other standards of PUD-686 as amended shall remain unchanged.

**The applicant was not present.**

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

**TMAPC Action; 8 members present:**

On **MOTION** of **HARMON** TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Horner, Ledford, Midget "absent") to **APPROVE** the minor amendment for PUD-686-1 per staff recommendation.

\* \* \* \* \*

**Application No.: PUD-587-8**

**MINOR AMENDMENT**

**Applicant:** Malek Elkhoury

(PD-18) (CD-8)

**Location:** South and west of southwest corner of East 81<sup>st</sup> Street and South Yale Avenue

**STAFF RECOMMENDATION:**

The applicant is proposing to increase the maximum building height on Tract 1a of Lot 2, Development Area A. The existing standard is two stories not to exceed 27 feet. The request is for three stories not to exceed 40 feet. A 14,735 SF bank is being proposed on the subject tract.

The subject tract is abutted on the west by a drainage facility; on the south by Tract 1b of Lot 2, which has been approved for office and commercial uses and to the south of that is a three story assisted living center; and on the east by an existing Walgreen's and a bank that is under construction. To the north of the tract across East 81<sup>st</sup> Street are existing commercial uses.

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 on Tract 1a of Lot 2, Development Area A to three stories not to exceed 40 feet.

Mr. Alberty stated that previously the applicant had requested a three-story building, but the Planning Commission recommended denial. Upon reconsideration, staff has determined that the development is surrounded by commercial development and there are two projects to the east and one to the south that are three stories in height. Staff is now recommending approval of the applicant's request for a three-story bank building.

**Applicant was not present.**

**INTERESTED PARTIES:**

**A.C. Oliver**, 4753 South Union, Tulsa, Oklahoma 74107, stated that he is in the process of building his dream home a short distance to the south of the subject area. He explained that his property is located on top of the hill looking down on this project. He believes that this project would be detrimental to his enjoyment of his home.

Mr. Oliver stated that when the original PUD was approved it was approved for the senior housing facility, which was allowed to have more height with the agreement with that the subject tract would be reduced to 26-foot height. He explained that this was a trade-off, but now it is becoming the justification for allowing three stories. He indicated that there were other residents opposing this application, but they were unable to attend. Mr. Oliver requested that the Planning Commission deny this application.

**TMAPC COMMENTS:**

Mr. Jackson asked staff about the agreed height in the original PUD. In response, Mr. Alberty stated that the original approval was to limit the subject property to 27 feet. However, staff is questioning the validity of that requirement based on the fact that there are no other properties that back up to it. Walgreen's is immediately to the east and is a one-story building; however, the three-story height is on the southeast corner of the intersection (Vintage Apartments). Staff felt that due to the fact that most of the residential is at a higher elevation and he believes that their pad elevation is the same height as the top of the proposed building. Staff felt that the three-story height was not critical.

Mr. Jackson stated that noting Mr. Oliver's pad elevation is taller than the proposed building, what type of adverse effect it would have on him. In response, Mr. Oliver stated that he feels this is more encroaching on his view and would not be able to see his home and the roadway from the road. Mr. Oliver explained that he enjoys watching traffic.

Mr. Jackson stated that usually the Planning Commission sees this in reverse. In response, Mr. Oliver answered affirmatively.

Commissioner Miller asked Mr. Oliver to indicate where his home would be located on the map. In response, Mr. Oliver stated that it would be to the south of the pond (two or three lots south of Walden Pond Addition).

Ms. Hill asked Mr. Oliver how many feet away he was located from the subject property. In response, Mr. Oliver stated that it is 600 or 800 feet away.

Mr. Harmon stated that based on what the Planning Commission has heard today, he does not believe that the proposal would be a detriment to his home.

**TMAPC Action; 8 members present:**

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Horner, Ledford, Midget "absent") to recommend **APPROVAL** of the minor amendment for PUD-587-8 per staff recommendation.

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**OTHER BUSINESS:**

**Fourth Amendment to the Certificate of Dedication of 9100 Memorial, an addition to the City of Tulsa, Tulsa County, Oklahoma**

**STAFF RECOMMENDATION:**

Mr. Alberty stated that staff has reviewed this amendment and it is merely correcting language that is no longer appropriate.

**Applicant's Comments:**

**Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that this application is to incorporate into the restrictive covenants an amendment that was approved five years ago. He explained that this is technical, but is to merely clean up title issues.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Horner, Ledford, Midget "absent") to **APPROVE** the Fourth Amendment to the Certificate of Dedication of 9100 Memorial, an addition to the City of Tulsa, Tulsa County, Oklahoma as submitted.

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Application No.: PUD-312-A

DETAIL SITE PLAN

Applicant: Darin Akerman

(PD-18) (CD-5)

Location: 4802 South 109<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a two-story, 50,108-square foot medical office building. The proposed use, Use Unit 11, is in conformance with development standards.

The proposed building complies with all development standards regarding maximum floor area and height permitted, building setbacks and minimum landscaped area requirements. The proposed bulk trash container is screened as required by development standards.

The proposed parking lot lighting, noted on the lighting plan as "S2" and "S3", is in compliance with development standards and the zoning code. The lighting noted as "S4", roof-mounted flood-lights, may actually, by definition, be considered signs and, therefore, requires review through a sign application. Kennebunkport calculations for parking lot lighting designated as "S1" have not yet been submitted.

Staff recommends **APPROVAL** of PUD-312-A, Tulsa Bone & Joint, detail site plan contingent upon provision of Kennebunkport calculations for all parking lot lighting ("S1"). Approval does not include lighting noted as "S4" on the detail lighting plan.

*(Note: Detail site plan approval does not constitute landscape and sign plan approval.)*

Mr. Albery explained that staff does not feel comfortable with the "S4" proposal, which are flood lights that would be pointed upward. These are proposed to be located on the roof and staff does not feel comfortable with recommending approval for these lights.

**Applicant's Comments:**

**Darin Akerman**, 6111 East 32<sup>nd</sup> Place, Tulsa, Oklahoma 74135, stated that the "S4" lights are floodlights; however, they are not floodlights that would obstruct air communications or air flights. He indicated that he did receive a call from the Airport Engineering Department and explained that the lights would have a 75- to 175-watt bulb and would point to the back of an architectural parapet. These lights are for illumination purposes only. The lights would be at a 20-degree angle perpendicular to the plane of the roof. He indicated that there would only

be two lights located on the roof for this purpose. The other lights on the roof would be under the canopy of the building.

Mr. Alberty stated that, with these facts, it would change staff's recommendation. He explained that evidently there was a misunderstanding with Delise Tomlinson (who reviews the site plans) thinking that there was going to be a higher intensity in foot candles.

**TMAPC COMMENTS:**

Ms. Bayles asked Mr. Akerman if he is confirming that the roof-mounted floodlights "S4" are only 75- to 175-watt bulbs that would be directed at the parapet and not into the sky. In response, Mr. Akerman confirmed Ms. Bayles' statement and stated that there would be two locations on the roof close to the front of the building.

**TMAPC Action; 8 members present:**

On **MOTION** of **WESTERVELT** TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Horner, Ledford, Midget "absent") to **APPROVE** the detail site plan for PUD-312-A per staff recommendation, noting that the two lights known as "S4" will be 175 watts at a 20-degree angle and pointed at an architectural parapet wall, not illuminating the sky.

\* \* \* \* \*

**Application No.:** PUD-312-A

**DETAIL SITE PLAN**

**Applicant:** Darin Akerman

(PD-18) (CD-5)

**Location:** 10901 East 48<sup>th</sup> Street South

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a two-story, 53,300 square foot medical office building. The proposed use, Use Unit 11, is in conformance with development standards.

The proposed building complies with all development standards regarding maximum floor area and height permitted, building setbacks and minimum landscaped area requirements. The proposed bulk trash container and mechanical area is screened as required by development standards.

The proposed parking lot lighting is in compliance with the Tulsa Zoning Code.

Staff recommends **APPROVAL** of PUD-312-A, USO Venture detail site plan as proposed.

*(Note: Detail site plan approval does not constitute landscape and sign plan approval.)*

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

**TMAPC Action; 8 members present:**

On **MOTION** of **HARMON** TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Harmon, Jackson, Miller, Westervelt "aye"; no "nays"; none "abstaining"; Horner, Ledford, Midget "absent") to **APPROVE** the detail site plan for PUD-312-A per staff recommendation.

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**Commissioners' Comments:**

Mr. Jackson welcomed County Commissioner Randi Miller to the TMAPC.

Mr. Westervelt welcomed County Commissioner Randi Miller to the TMAPC.

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There being no further business, the Chair declared the meeting adjourned at 3:10 p.m.

Date Approved:

2/4/04

*Garth F. Johnson*

Chairman

ATTEST: *[Signature]*  
Asst. Secretary