

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2390

Wednesday, September 15, 2004, 1:30 p.m.

Francis Campbell City Council Room
Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Carnes	Bayles	Alberty	Romig, Legal
Harmon	Coutant	Chronister	
Hill	Miller	Fernandez	
Horner		Huntsinger	
Jackson		Matthews	
Ledford			
Midget			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, September 10, 2004 at 3:20 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, 1st Vice Chair, Jackson called the meeting to order at 1:30 p.m.

Minutes:

Approval of the minutes of August 18, 2004, Meeting No. 2387

On **MOTION** of **HARMON** the TMAPC voted 8-0-0 (Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Miller "absent") to **APPROVE** the minutes of the meeting of August 18, 2004, Meeting No. 2390.

REPORTS:

Director's Report:

Mr. Alberty reported City Council action on last week's meeting and upcoming items to be heard by the City Council on September 16, 2004.

SUBDIVISIONS:

LOT-SPLIT FOR DISCUSSION:

L-19741 – Charles Norman (9213)

(PD-7) (CD-9)

232 East Hazel Boulevard

TMAPC COMMENTS:

Mr. Harmon announced that he has had ex parte communication and advance documents; however, it will not prejudice his decision and he will be taking part in the process.

STAFF COMMENTS:

Ms. Chronister stated that normally the lot-split applications that come before the Planning Commission involve for a waiver of the Subdivision Regulations. The subject application does not seek a waiver of the Subdivision Regulations; however, because of the nature and public interest, the applicant requested that this application be on the agenda for discussion.

STAFF RECOMMENDATION:

In 1929 Joel Wolfe acquired Lot 6, Block 14, Sunset Terrace. Also in 1929, he purchased the west 35 feet of Lot 5, Block 14, Sunset Terrace; and then in 1931, he acquired an additional 15 feet of Lot 5 for a total of the west 50 feet of Lot 15. These two properties have been conveyed a number of times over the years.

On April 13, 2000, Karen Roach acquired Lot 6, Block 14, Sunset Terrace and the west 50 feet of Lot 5, Block 14, Sunset Terrace. On May 3, 2001 a building permit was issued for a residence on the west 50 feet of Lot 5. However, the building permit expired.

In 2003 Karen Roach, owner of Lot 6 and the west 50 feet of Lot 5, entered into a contract and sold Lot 6, and retained the west 50 feet of Lot 5. A lot-split was not obtained at that time. Subsequently, a building permit for the west 50 feet of Lot 5 was requested and issued by the City of Tulsa.

Debra Butler appealed the zoning clearance issuance to the City Board of Adjustment, which denied the appeal. The BOA decision was based upon the determination that Lot 5 was a legal nonconforming lot of record. She then

appealed to District Court. In May 2004, the District Court ruled that Lot 6 and the west 50 feet of Lot 5 had merged for zoning purposes by virtue of the series of conveyances. However, the Court ruled that the conveyance of Lot 6 was not subject to lot-split approval because it remains as originally platted and is not considered to be a substandard lot under the current zoning ordinances.

The District Court did, however, determine that because the west 50 feet of Lot 5 is a substandard lot under the current zoning ordinances, it is not entitled to a zoning clearance permit without lot-split approval.

The District Court ruled that the conveyance of Lot 6 did not require lot-split approval, but that, for zoning purposes, the partial Lot 5 would require lot-split approval before a building permit could be issued for a single-family residence. Staff recommends **APPROVAL** of the lot-split, recognizing the west 50 feet of Lot 5 as an individual lot of record.

Ms. Chronister reminded the Planning Commission that there has been a request for a continuance from two interested parties.

TMAPC COMMENTS:

Mr. Jackson asked Mr. Norman what his position is regarding the continuance requests. In response, Mr. Norman stated that he had conversation with Barbara Carson, attorney representing interested parties. The application was filed on August 27th, 2004 and on that same day he hand-delivered a copy to Mr. Jorgensen. The request for a continuance was filed last Thursday for a three-week continuance in order to prepare for this hearing, which they had been notified of two weeks prior the request. Mr. Norman indicated to the interested party's counsel that he would agree to a one-week continuance, but would object to a three-week continuance. Since this time, Mr. Jorgensen submitted a response to the request for a lot-split. He suggested that the representing attorneys could give their views of why they would need a three-week continuance on a matter that has been under discussion for over one year.

INTERESTED PARTIES:

Barbara Carson, 1939 South Florence Avenue, Tulsa, Oklahoma 74114, stated that she is requesting a continuance along with David Jorgensen. She explained that she did not receive the lot-split application on the day it was filed, nor was she noticed by the letter that Mr. Norman mailed.

Ms. Carson stated that she was informed about the lot-split application the following week and she has spoken with Janet Chronister and Mike Romig. She indicated that she spoke with them face-to-face regarding a continuance to October 6th, 2004. She stated that she was assured that an October 6th date was not far-fetched and that was the date Ms. Chronister wanted in the first place. She commented that there are no rules or regulations that she has to actually file something with someone. She stated that she was informed that she only had to

contact someone about her requests. After speaking with Mr. Romig and Janet Chronister, she put her request in writing and last Friday she received an email that stated the subject application would continue along on the September 15th date and didn't mention anything about her request for a continuance. She indicated that she was informed by Mike Romig that he wouldn't be giving a recommendation until this week. She stated that she needs time to prepare for a fair hearing. There are issues that need to be presented properly in order to determine the issues and submit evidence.

Mr. Jackson asked Ms. Carson if she has started preparing for the hearing. In response, Ms. Carson stated that she has already started preparing. Mr. Jackson asked Ms. Carson if she needed three more weeks after today's hearing. In response, Ms. Carson stated that Mr. Jorgensen is not available next Wednesday and Mr. Norman is not available the following week and that is why she requested October 6th.

Mr. Midget stated that the TMAPC would not meet on the 5th Wednesday of this month; therefore, October 6th would be two weeks for the TMAPC.

Mr. Alberty stated that if the parties can't be in agreement for next Wednesday, then the next logical meeting that is scheduled would be October 6th.

Mr. Jackson asked Ms. Carson if she is representing Mr. Jorgensen. In response, Ms. Carson stated that she represents Mr. and Mrs. John Cox and Mr. Jorgensen represents the Butlers and the homeowners association. She indicated that they would both be working together on this case. She explained that Mr. Jorgensen is the lead attorney on this case.

Mr. Alberty stated that this is a highly unusual situation from the beginning. He explained that this is on the agenda, but not as a public hearing advertised application. It has been placed on the agenda for discussion purposes only at the request of the applicant. The only reason why it is appearing on the agenda is based on a District Court decision, which is highly unusual and is not based on Oklahoma Law. The decision effectively merged these properties. From a land use planning situation these have always been individual lots, one of which the west 50 feet, has been undeveloped, but entirely appropriate for development, as a building permit as was issued in 2000. Due to the lawsuits and appeals, the whole issue has become convoluted. The only thing that staff can do is to present it as a lot-split to try to satisfy the action by the Court. It is not a public hearing item, but a discussion item. This is a not a court of law to make presentation and prepare arguments. Staff believes that, no matter the outcome, this application would be appealed. Staff's attempt was to place this on the agenda to recognize the fact that historically, these lots have always been issued permits. They are nonconforming lots and the Zoning Code has a section on this, which permits it. Unfortunately there are people in the neighborhood who do

not agree with it, but it is a fact. Mr. Alberty concluded that he felt he needed to explain this in order to help simplify why this application is on the agenda.

Mr. Romig stated that he did meet with Ms. Carson last week and Mr. Alberty is correct, this application is on the agenda as a remand from a District Court Judge. The Judge's order is very confusing, to say the least and contradictory to say the best. If he were called on to advise the Planning Commission today on what the order says, he is not sure he would give Ms. Carson and her clients a fair opportunity to address the issues that he has. He does not have enough time between now and the next scheduled meeting to meet with Ms. Carson again and have a fair recommendation. He indicated that he would need more than one week extension.

TMAPC COMMENTS:

Mr. Jackson stated that several interested parties have signed up to speak on the lot-split application. Staff has advised the Planning Commission that this is for discussion purposes only; therefore, the Planning Commission will go into review and determine if the hearing will be held today or continued.

Mr. Jackson asked the interested parties if they would, by a show of hands indicate whether they would have a problem with a continuance. There was no opposition to a continuance.

Ms. Hill recognized Ms. Carson.

Ms. Carson stated that she understands that the application is for discussion only by Mr. Norman. She takes issue with that opinion and that is why this application has to be continued. She further stated that she takes issue with the way the application process was done in the first place and the way people understand the order that came down from the court. This is not necessarily for discussion purposes. Everything about the subject issue is a circular argument. She commented that it should not be only for discussion, but for actual purposes.

Mr. Norman stated that Ms. Carson has gone far beyond the issue of a continuance. He believes that it would be appropriate for the Planning Commission to hear the language of the court order, which he believes brings this application to the Planning Commission appropriately. Mr. Norman read the court order. Mr. Norman concluded that although the interested parties are attempting to misconstrue the meaning of the court's order, the plain language is that the applicant is required to come back to the Planning Commission for a lot-split approval.

Mr. Westervelt stated that since Mr. Romig indicated that he needed time to prepare in order to communicate properly, then a continuance would be appropriate.

Mr. Harmon stated that he would support that position.

Mr. Carnes stated that he would like the record to show that the Planning Commission has historically allowed either party one continuance.

TMAPC Action; 8 members present:

On **MOTION** of **WESTERVELT**, TMAPC voted 8-0-0 (Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Miller "absent") to **CONTINUE** L-19741 to October 6, 2004 at 1:30 p.m.

* * * * *

PRELIMINARY PLAT:

Belmont – PUD 706 (8328)

(PD-26) (CD-8)

East 109th Street and South Louisville

STAFF RECOMMENDATION:

This plat consists of 15 lots, one block on 18.5 acres.

The following issues were discussed September 2, 2004 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned AG with RS-1 and PUD-706 pending. The PUD will not be heard by City Council for several weeks so the applicants are proceeding at their own risk. The cul-de-sac exceeds the 500-foot maximum length per the Subdivision Regulations.
2. **Streets:** Show full width of South Louisville with all right-of-way and easement documentations, both sides of centerline. The legal description implies that the 30-foot strip along the west side, which is part of "the north half of the southeast quarter..." is included in the property. That strip should be identified on the face of plat as dedicated right-of-way, or the legal description should be changed to exclude it. Subdivision Regulations provide that cul-de-sacs shall not exceed 500 feet in length; proposed is 1165 feet; will support waiver of subdivision regulations in PUD and/or plat approval. Legal description is questionable. First sentence in Section IA does not match face of plat with respect to street right-of-way being dedicated. Include language in last paragraph of Section IF "...the private streets...do not meet...standards as to width and length of right-of-way..." Section IF1C shall read "Gutters, Sub grade, Base, and Paving Materials". Include language to include private access for the out parcel as a use of Reserve A. Include the "perimeter wall" in the list of common areas to be

maintained by the home owners association in both Section II B 11 (PUD) and Section III A (private HOA). In Section III H identify the easement as a "fence" easement and correct the boundary description.

3. **Sewer:** Dimension the sanitary sewer easement in Lots 7 and 8. The easement in Lot 7 must be at least 15 feet wide. Designate the storm sewer in lot 5 and in Reserve B as sanitary sewer easement or utility easement. If houses are to be constructed using septic tanks, prior to the construction of the City's proposed 18-inch sanitary sewer main, then language must be added to the covenants requiring connection to the sanitary sewer line, when it becomes available. The proposed sanitary sewer line to serve lots in this subdivision needs to be located in the back of the proposed subdivision lots instead of the front. Coordinate with Matt Vaughn in wastewater design for the location of the City's proposed trunk line. The proposed sewer main for this project needs to be routed to that point for future connection.
4. **Water:** Add ten feet of right-of-way per this plat. Add the wording "water, sewer" after the stormwater runoff wording. Relocate the fire hydrant west of Reserve B to lot line between Lots 11 and 13.
5. **Storm Drainage:** The 15-foot easement along the eastern boundary of Reserve B should not be labeled as storm sewer. The Conceptual Plan indicates that the stormwater detention facility can be constructed outside of all other easements shown in Reserve B. Please show a stormwater detention easement in Reserve B that excludes all other easements from the area of the stormwater detention facility. City of Tulsa floodplain maps indicate that old Vensel Creek tributary J of City of Tulsa regulatory floodplain is located across the northeast corner of this property. Please show and label the floodplain. Drainage flows onto Lots 6 and 7 from the unplatted area that separates them. Overland drainage easements will be required to convey this drainage. The proposed 15-foot storm sewer easements between Lots 13 and 14 and Lots 10 and 11 may not be wide enough for the pipe size required to convey the off-site drainage that is being intercepted with inlets and convey in-pipe. The conceptual plan should state the size and type of pipe being placed in the proposed storm sewer easements.
6. **Utilities:** No comment.
7. **Other: Fire:** No comment. On the location map show additions nearby. Show acreages per lot. Show legal description for boundary description. Clarify location map properly. Show one acre out-parcel clearly. Show existing utility easements on adjacent platted lots to south, east, and northeast. In Section IC4 add the following language, "...but the owner shall pay for damage, or replacement, or relocation of landscaping, fencing, wall or other features owned by owner, which damage replacement, or relocation may be caused or necessitated by such installation, maintenance, removal

or replacement of any portion of underground water, sanitary sewer or storm sewer facilities”.

There was considerable discussion about the existing large wall on the property. The wall should be clearly identified in the proposed fence easement. Maintenance of the area outside the fence easement near the property lines must be clearly defined for maintenance by the homeowners' association.

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

Waivers of Subdivision Regulations:

1. A waiver to the oversize length of the cul-de-sac is needed.
2. A waiver for the sidewalks required on collector streets.

Special Conditions:

1. The concerns of the Public Works Department staff must be taken care of to their satisfaction.
2. ~~Sidewalks are required on collector streets per the Subdivision Regulations.~~

Standard Conditions:

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.

6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.

19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, explained that this is the Bartman property, which was sold at a bankruptcy auction and under the Homestead Laws of Oklahoma, the homeowner is allowed to have one acre as the homestead. The existing residence is circumscribed by the one acre that necessitates two lots to wrap around the one acre owned by the Bartmans. The ten-foot wall was approved by the Board of Adjustment several years ago for security purposes.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, TMAPC voted 8-0-0 (Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Miller "absent") to recommend **APPROVAL** the preliminary plat for Belmont subject to a waiver of Subdivision Regulations; subject to special conditions and standard conditions per staff recommendation. (Words deleted are shown as ~~strikeout~~; words added or substituted are underlined.)

CONTINUED ZONING PUBLIC HEARING:

Application No.: PUD-431-B-2

MINOR AMENDMENT

Applicant: Tim Terral

(PD-26) (CD-8)

Location: Southwest corner of East 101st Street and South Sheridan

Mr. Ledford announced that he would be abstaining from this item.

STAFF RECOMMENDATION:

Ms. Matthews stated that staff is requesting a continuance in order to give a proper notice. The earliest date that this could be heard would be October 6, 2004. Staff understands that the applicant and the neighborhood are still having discussions regarding this application.

Applicant's Comments:

Mike Slatten, 5210 East 88th Place, Tulsa, Oklahoma 74137, representing the South Tulsa Baptist Church, stated that he has met with the homeowners and he understands the continuance.

Mr. Slatten stated that he may pull the design prior to the October 6th meeting if he is able to develop the design without the minor amendment.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, TMAPC voted 7-0-1 (Carnes, Harmon, Hill, Horner, Jackson, Midget, Westervelt "aye"; no "nays"; Ledford "abstaining"; Bayles, Coutant, Miller "absent") to **CONTINUE** the minor amendment for PUD-431-B-2 to October 6, 2004.

ZONING PUBLIC HEARING

Application No.: Z-6954

RS-3 TO IL

Applicant: D. Faith Orlowski

(PD-16) (CD-3)

Location: Northeast corner of 38th Street North and North College

STAFF RECOMMENDATION:

Z-6914 December 2003: All concurred in approval of a request to rezone a 7.3-acre tract that includes the TSPCA existing facility and the property across North

College Avenue from the offices, from RS-3 to IL. The property is located on the southwest and southeast corner of East Mohawk Boulevard and North College Avenue

BOA-18080 June 1998: The Board of Adjustment approved a special exception to permit an animal shelter (existing SPCA) and to build a veterinary clinic for the facility in an RS-3-zoned district on the western lots of the subject zoning application.

Z-6319 June 1991: A request for rezone the 3.9-acre tract adjoining the subject property on the east from RS-3 to CG or IL for commercial use. The request was denied.

Z-6293 September 1990: All concurred in approval of a request to rezone a 2.5-acre tract abutting the subject tract on the west and separating the subject property from Highway 75 right-of-way from RS-3 to IL.

Z-6289 August 1990: Approval of IL zoning was granted on a .86-acre tract adjoining the subject property on the northwest corner, from RS-3 to IL for a light manufacturing business.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.1 acres in size. It is located on the northeast corner of East 38th Street North and North College Avenue. The property is gently sloping, non-wooded, in agricultural use and is zoned RS-3.

STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
East 38 th Street North	Residential	50'	2 lanes
North College Avenue	Residential	50'	2 lanes

UTILITIES: The subject tract has municipal water and sewer.

SURROUNDING AREA:

The subject property is abutted on the north by vacant and agriculturally-used property (largely the existing TSPCA), zoned IL; to the south and east by large-lot single-family dwellings and agricultural uses, zoned RS-3; and to the west by the TSPCA offices and clinic, zoned IL.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 16 Plan, a part of the Comprehensive Plan for the City of Tulsa, designates the subject property as Medium Intensity – No Specific Land Use. According to the Zoning Matrix, IL zoning **may be found** to be in accord with the Comprehensive Plan.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan and adjacent land uses, staff can support the requested rezoning and recommends **APPROVAL** of IL zoning for Z-6954.

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 **WESTERVELT**, TMAPC voted 8-0-0 (Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Miller "absent") to recommend **APPROVAL** of IL zoning for Z-6954 per staff recommendation.

Legal Description for Z-6954:

Lot 8, Block 11, Lakeview Heights Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, and located on the northeast corner of East 38th Street North and North College Avenue, Tulsa, Oklahoma, **From RS-3 (Residential Single-family High Density District) To IL (Industrial Light District).**

Application No.: PUD-538-8

MINOR AMENDMENT

Applicant: Charles E. Norman

(PD-26) (CD-8)

Location: Northeast corner of East 101st Street and South Yale

STAFF RECOMMENDATION:

The proposed minor amendment is to increase the maximum floor area of restaurants, as previously approved in PUD-538, from 5,000 square feet to 6,500 square feet. The Bistro restaurant within Lot 1 (Development Area A in the original PUD) now contains 3,300 square feet and the owner desires to expand it to 5,010 square feet by conversion of existing adjacent space within the principal building. Development Area A (Lot 1) permitted uses were limited to Use Units 10, 11, some 12 and 13 with restrictions (off-street parking; offices, studios and support services; eating establishments other than drive-ins; and convenience goods and services). Total maximum building floor area allowed for PUD-538 is 45,000 square feet within Area A (Lot 1). The following Use Unit allocations were approved under PUD-538 for Area A:

Use Unit 11 -- 9,800 SF -- 33 parking spaces

Use Unit 12 -- 6,500 SF -- 65 parking spaces
Use Units 13 and 14 -- 25,800 SF -- 115 parking spaces
Use Unit 15 -- 2,900 SF -- 8 parking spaces

Total, all Use Units -- 45,000 SF -- 221 parking spaces (Area A/Lot 1)

Lot 1 has a total of 216 off-street parking spaces. Not all of the approved floor area has been used, thus reducing the required number of parking spaces for those uses. A survey of the tenants of the development indicates that only 44,165 square feet of the approved space for the development area has been used, which reduces the required parking by four spaces, from 221 to 217.

The Seville Professional Building lies in Lot 2 and is nearing completion, at which time there will be 93 off-street parking spaces within that lot. Existing uses within Lot 1 (including the expansion of the Bistro) will require 217 parking spaces and the Seville Professional Building will require a maximum of 78 spaces if all available space is in medical office use, for a two-lot total of 295 spaces. There are 297 spaces available within Lots 1 and 2. Driveways and parking areas within both lots are interconnected and the owners of each lot have agreed to mutual access and reciprocal parking agreements such that customers, clients and visitors may use off-street parking spaces in either lot.

The owner of Lot 1 requests approval of a minor amendment to increase the permitted floor area of restaurants within that lot to 6,500 square feet, subject to the execution and filing of record of a mutual access and reciprocal parking agreement between the owners of Lot 1 and Lot 2, Winbury Center.

Staff finds the request minor in nature and believes it will not substantially alter the character of the development, depending on location of the parking spaces on Lot 2. Staff recommends that the parking for the restaurants be directed to the south part of Lot 2, away from the residential area to the north. Therefore, and with this recommendation, staff recommends **APPROVAL** of PUD-538-8, minor amendment.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, representing the Shops at Seville, stated that this application involves the interior expansion of the Bistro Restaurant. He indicated that he is requesting to combine the parking with that of the medical building that is almost completed through mutual access covenants and parking agreements.

Ms. Matthews stated that staff received some correspondence from a neighbor who lives to the north of the subject property and a copy has been distributed to each Planning Commissioner. She indicated that the neighbor is objecting to the additional restaurant space because the restaurant uses some outdoor patio seating.

Mr. Norman stated that he went by the restaurant today to view the patio space in question. He explained that the patio space is located on the south wall and is enclosed by a wrought-iron fence. The Use Unit for restaurants permits outdoor seasonal dining up to 10% of the interior floor area without it being counted as a parking requirement. Mr. Norman concluded that the outdoor space doesn't appear to exceed what is permitted on a seasonal basis.

Mr. Norman stated that residents have said that outdoor music had been present at the Bistro and that is not correct. On three occasions this summer there was a family-type-band performing on Friday nights for family entertainment in the parking area. The music lasted from the hours of 7:00 p.m. to 9:00 p.m. The Bistro does not have any type of entertainment indoor or outdoor. Java Dave's does have music on Friday evenings, and as far as Mr. Norman is aware, none of these activities are prohibited by the PUD.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **MIDGET**, TMAPC voted 8-0-0 (Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Miller "absent") to **APPROVE** the minor amendment for PUD-538-8 per staff recommendation.

OTHER BUSINESS:

Application No.: PUD-600-A

REVISED DETAIL SITE PLAN

Applicant: Danny Mitchell

(PD-18-B) (CD-8)

Location: 9202 South Toledo Avenue

STAFF RECOMMENDATION:

The applicant is requesting approval of a revised detail site plan for a newly-constructed office building. The use, Use Unit 11, Office, Studios and Support Services, is in conformance with development standards.

In accordance with the plat's restrictive covenants which state, "The owner(s) of all lots in the subdivision shall provide a non-exclusive easement over and across their respective lots necessary to provide satisfactory mutual access to vehicular traffic and pedestrian ingress and egress to other lots in the subdivision and to generally insure satisfactory traffic flow through the subdivision. Such

easements shall be designated on the site plan submitted to the Architectural Committee, the TMAPC and the City of Tulsa for approval as required by this Deed of Dedication and the terms of PUD-600 as amended", a mutual access easement was designated on the lot's north boundary. Subsequently, a portion of this easement was used for parking and is now being altered to reflect the changes. Per a letter dated August 23, 2004, the adjacent property owner (Lot 6, Block 1) has agreed to the proposed changes to the access easement. The changes do not impede access to Lot 6 or Lot 7, Block 1. Proper filing of the amended mutual access easement per the attached site plan is required.

Other changes to the site plan include minor revisions to the elevations; however, the PUD standards do not prohibit these modifications.

Staff recommends **APPROVAL** of PUD-600-A, revised detail site plan as proposed on condition of the proper filing of the mutual access easement.

(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 **MIDGET**, TMAPC voted 8-0-0 (Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Miller "absent") to **APPROVE** the revised detail site plan, subject to the proper filing of the mutual access easement per staff recommendation.

DISCUSS AND REVIEW THE 2005 TMAPC MEETING DATES:

2005 SCHEDULE

Tulsa Metropolitan Area Planning Commission (TMAPC)

Regular meetings of the TMAPC are held on Wednesdays at 1:30 p.m. in the Francis F. Campbell City Council Room, Plaza Level, Tulsa Civic Center.

Regular worksessions of the TMAPC Committee are held on the third meeting of each month following regular TMAPC business in the Francis F. Campbell City Council Room, Plaza Level, Tulsa Civic Center.

JANUARY	FEBRUARY	MARCH
5 th	2 nd	2 nd
19 th	16 th	16 th
26 th (Worksession)	23 rd (Worksession)	23 rd (Worksession)
APRIL	MAY	JUNE
6 th	4 th	1 st
20 th	18 th	15 th
27 th (Worksession)	25 th (Worksession)	22 nd (Worksession)
JULY	AUGUST	SEPTEMBER
6 th	3 rd	7 th
20 th	17 th	21 st
27 th (Worksession)	24 th (Worksession)	28 th (Worksession)

OCTOBER

5th

19th

26th (Worksession)

NOVEMBER

2nd

16th (Worksession)

DECEMBER

7th

21st (Worksession)

Mr. Alberty stated that in the past the Planning Commission has concluded their meeting in the Francis Campbell City Council Meeting Room and moved to Room 1102 for worksessions. Periodically the Planning Commission is preempted by the Mayor and unable to use the scheduled meeting room. He asked if the Planning Commission would prefer to continue moving to Room 1102 for worksessions or to adjourn the Planning Commission meetings, clear the room out and then hold the worksessions in the same room (Francis Campbell City Council Meeting Room).

TMAPC COMMENTS:

Mr. Jackson asked if the worksessions would always be after the regularly-scheduled TMAPC meetings. In response, Mr. Alberty answered affirmatively.

Mr. Jackson indicated that having the worksessions in the Francis Campbell City Council Meeting Room would be a good idea.

Mr. Westervelt stated that either room is still considered an open meeting.

Ms. Hill stated that it would be easier for staff and the Planning Commissioners to not have to pick up everything and move to another room.

TMAPC Action; 8 members present:

On **MOTION** of **WESTERVELT**, TMAPC voted 8-0-0 (Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Miller "absent") to **ADOPT** the 2005 meeting schedule presented by staff.

There being no further business, the Chair declared the meeting adjourned at 2:14 p.m.

Date Approved:

October 6, 2004

Mary E. Hill

Chairman

ATTEST:

J.M. Taylor

Secretary

