

# METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2426

Wednesday, October 5, 2005, 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>
Ard	Dick	Alberty	Boulden, Legal
Bayles		Chronister	
Bernard		Fernandez	
Cantees		Huntsinger	
Carnes		Matthews	
Harmon			
Hill			
Horner			
Jackson			
Midget			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, October 3, 2005 at 2:30 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

### **Housekeeping items:**

Ms. Bayles reported that there are several housekeeping issues to address relative to the following agenda items:

#### **PRELIMINARY PLAT:**

**Horizon West -** (8211)

(PD 8) (CD 2)

North of the northeast corner of West 81<sup>st</sup> Street South and Union Avenue (**continued from 9/21/05 – withdrawn for revisions.**)

**Applicant withdrew this application for revisions.**

\*\*\*\*\*

Beta Business Park – (9402)

(PD 17) (CD 6)

Northeast corner of East 166<sup>th</sup> East Avenue and Admiral Place  
(continued from 9/21/05 – request continuance to 10/19/05 for  
further TAC review.)

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

**TMAPC Action; 8 members present:**

On **MOTION** of **HILL**, TMAPC voted **8-0-0** (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, "aye"; no "nays"; none "abstaining"; Dick, Jackson, Midget "absent") to **CONTINUE** the preliminary plat for Beta Business Park to October 19, 2005.

\* \* \* \* \*

**Mr. Jackson in at 1:32 p.m.**

**PLAT WAIVERS:**

Z-6993 – (9313)

(PD 5) (CD 5)

South of the southeast corner of East 27<sup>th</sup> Place and Memorial Drive  
(applicant requests continuance to 10/19/05.)

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, "aye"; no "nays"; none "abstaining"; Dick, Midget "absent") to **CONTINUE** the plat waiver for Z-6993 to October 19, 2005.

\* \* \* \* \*

**Mr. Midget in at 1:33 p.m.**

**Application No.:** CZ-361

**AG TO IL**

**Applicant:** Roy D. Johnsen

(County)

**Location:** West side of U.S. 169 North between 56<sup>th</sup> Street North and 66<sup>th</sup> Street North.

**STAFF RECOMMENDATION:**

Applicant has requested a continuance to October 19, 2005.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HILL**, TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **CONTINUE** zoning case CZ-361 to October 19, 2005.

\*\*\*\*\*

**Application No.:** Z-7001/PUD-136-A

**RS-3 to OL/PUD**

**Applicant:** Charles Norman

(PD-18) (CD-8)

**Location:** South of southwest corner of East 71<sup>st</sup> Street South and South Yale Avenue

**INTERESTED PARTIES:**

**Mr. Jon Brightmire**, 320 South Boston, Suite 500, Tulsa, Oklahoma 74103, stated that he would like to request a continuance to October 19, 2005.

**Applicant's Comments:**

**Charles Norman**, 401 South Boston, Suite 2900, Tulsa, OK 74103-4065, stated that Mr. Brightmire represents a group of concerned neighbors who are in the process of having productive discussions. He indicated that he would like to request a second continuance. He believes that it would be helpful to the Planning Commission and the process to have this continuance.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HILL**, TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **CONTINUE** Z-7001 and PUD-136-A to October 19, 2005.

\*\*\*\*\*

**REPORTS:**

**Chairman's Report & Worksession Report:**

Ms. Bayles reported that she has passed out some literature from the Tulsa Preservation Commission relative to last week's CORE presentation, as well as the Vision 2025 Downtown Improvements and Linkage Plan. This is for informational purposes only. She indicated that she has given Dane Matthews some information that will be in the Planning Commission's next packet relative to a 1976 Historic Preservation Conference in Seattle, Washington.

**Director's Report:**

Mr. Alberty stated that there is one zoning item on the City Council agenda Thursday evening. There are two final plats on the City Council agenda as well.

\*\*\*\*\*

Ms. Bayles stated that there are eight individuals who have signed up to speak on agenda item number 16. There will be three minutes given to each interested party wishing to speak, unless an individual donates his time to another speaker.

**SUBDIVISIONS:**

**LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:**

**L-19877 – Mike Marrara** (9323) (PD 18) (CD 5)

7025 East 41<sup>st</sup> Street

**L-19887 – Jeff Levinson** (8317) (PD 18) (CD 2)

3136 East 81<sup>st</sup> Street

**L-19889 – John Moody** (8214) (PD 8) (CD 2)

North of the northeast corner of West 91<sup>st</sup> Street and Union

**L-19890 – Ruth Hale** (1419) (County)

East of the northeast corner of East 92<sup>nd</sup> Street North and 97<sup>th</sup> East Avenue

L-19891 – Jeanie Tomberlin (8326)

(PD 26) (CD 8)

10523 South 77<sup>th</sup> East Avenue

L-19892 – Edith Houk (1225)

(County)

1101 East 76<sup>th</sup> Street North

L-19893 – Ryan Jones (7222)

(County)

2231 West 161<sup>st</sup> Street South

**STAFF RECOMMENDATION:**

Ms. Chronister stated that all these lot-splits are in order and staff recommends **APPROVAL**. She indicated that today she has been in contact with the homeowner association president of Bridle Trail Estates regarding L-19891. There is concern about the lot-split being approved because of the restrictive covenants that prohibit lot-splits. Ms. Chronister indicated that she explained to the association that the restrictive covenants are not under the jurisdiction of the Planning Commission and that their action of appeal is through District Court.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES** the TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

\*\*\*\*\*

**LOT-COMBINATIONS FOR RATIFICATION OF PRIOR APPROVAL:**

LC-7 – Roger Sanders (0327)

(PD 16) (CD 3)

2009 North Darlington Place

**STAFF RECOMMENDATION:**

This lot-combination is in order and staff recommends **APPROVAL**.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HILL** the TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **RATIFY** these lot-combinations given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

\*\*\*\*\*

**FINAL PLAT:**

**Oxford Park II-** (9426)

(PD 17) (CD 6)

East 47<sup>th</sup> Street South, west of Lynn Lane

**STAFF RECOMMENDATION:**

This plat consists of 70 lots in six blocks on 35.35 acres.

All release letters have been received and staff recommends **APPROVAL** of the final plat.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HILL**, TMAPC voted 10-0-0 (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the final plat for Oxford Park II per staff recommendation.

\*\*\*\*\*

**Stanford Court –** (9426)

(PD 17) (CD 6)

North of the northwest corner of East 51<sup>st</sup> Street and Lynn Lane

**STAFF RECOMMENDATION:**

This plat consists of 22 lots in three blocks on ten 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; 10 members present:**

On **MOTION** of **HILL**, TMAPC voted 10-0-0 (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the final plat of Stanford Court per staff recommendation.

\*\*\*\*\*

**PRELIMINARY PLAT:**

**Twilight Ridge** – (9024)

(County)

West of the northwest corner of West 35<sup>th</sup> Street and 177<sup>th</sup> West Avenue

**STAFF RECOMMENDATION:**

This plat consists of 20 lots, three blocks, on 23.29 acres.

The following issues were discussed September 15, 2005 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned AG-R.
2. **Streets:** Block 3 length exceeds 1,500-foot limit of Subdivision Regulations Section 4.4, with no indication of proposed intersecting streets at north and south ends. Dedication should read "streets" not the singular "street". Subdivision Regulations Section 4.3 requires sidewalks on both sides of residential streets. Discuss the need for a possible stub street to the west in this phase or the next. North/south street name and addresses to be determined by E911. At some point will probably need a stub street to the west. It could be done on this plat, or the next phase to the north. Will leave it up to developer to determine how it best fits his and his neighbors' plans. (County Engineer will discuss further with developer.)
3. **Sewer:** On-site proposed.
4. **Water:** Rural Water District # 1 will provide water.
5. **Storm Drainage:** Some elevation contour labels are incorrect. No provisions appear for managing stormwater to and from the developed lots. Existing pond appears to drain from east side through Lots 7, 8, and 9 of Block 3; Overland Drainage Easement will be required for that drainage. From Lots 3, 4, and 5 of Block 1, drainage may be adverse to Lot 4 of Twilight Hills Estates unless roof drainage is piped elsewhere; same applies

for Lots 1, 2, 3, 4 of Block 2 drainage onto Lot 5 of Twilight Hills Estates. Section 4 in Easements and Utilities, if the drainage easement is for detention, then standard language will be required. May need standard Overland Drainage Easement language and roof drainage language.

- 6. **Utilities: PSO, ONG, Cable:** Side lot easements and standard covenant language is needed. Country Cable serves the area.
- 7. **Other: Fire:** Fire service will need to release plat (City of Sand Springs/Keystone Fire Department). Turnarounds or cul-de-sacs shall be provided per Tulsa Metro Subdivision Regulations section 4.2.7. A temporary hammerhead may be required per State Fire Codes. The farthest distance from any portion of a building to a fire hydrant shall not exceed 600 feet (IFC 508).

Dimension the north lot line of Lot 6, Block 3. Bearings should run clockwise. Not able to read all dimensions. Use leaders on easements. Add dimension to west side of Lot 5 and 6, Block 3. Add the bearing for Linda Lane. Write the legal description running clockwise.

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

**Waivers of Subdivision Regulations:**

- 1. None requested.

**Special Conditions:**

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

**Standard Conditions:**

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

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

18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
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.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HILL**, TMAPC voted 10-0-0 (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the preliminary plat for Twilight Ridge, subject to special conditions and standard conditions and the concerns of the County Engineer being taken care of to his satisfaction per staff recommendation.

\*\*\*\*\*

**PLAT WAIVERS:**

**Z-6992** – (9224)

(PD 6) (CD 9)

3921 South Owasso

**STAFF RECOMMENDATION:**

The platting requirement was triggered by rezoning to PK.

**Staff provides the following information from TAC at their September 15, 2005 meeting:**

**ZONING:**

TMAPC Staff: The plat waiver is for property zoned PK. Access to the property was limited per the approval to Peoria only. Property needs to show Limits of No Access and tie lots together. (Applicant already received lot-combination approval.)

**STREETS:**

Limits of No Access agreement should be filed. No objection.

**SEWER:**

No comment.

**WATER:**

No comment.

**STORM DRAIN:**

No comment.

**FIRE:**

No comment.

**UTILITIES:**

No comment.

Staff can recommend **APPROVAL** of the plat waiver requested with the limits of no access agreement.

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

- |  | <b>Yes</b> | <b>NO</b> |
|--|------------|-----------|
| 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 right-of-way? 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

**Applicant's Comments:**

**Terry Lizar**, 1703 East Skelly Drive, Tulsa, Oklahoma 74105, stated that the Crafton & Tull Associates have revised the parking diagram, which doesn't require access to Owasso or to the parking lot to the south. The patrons can enter and exit off of Peoria.

Ms. Bayles asked Mr. Lizar if he was in agreement with the staff recommendation as stated. In response, Mr. Lizar answered affirmatively.

**TMAPC COMMENTS:**

Mr. Ard stated that the legal description and the site plan indicate an exit into the Westlake Hardware parking lot. Mr. Ard asked if this would be accessible. In response, Mr. Lizar stated that the access would not be available to the Westlake Hardware parking lot and the parking diagram has been revised. There will not be an access to the Westlake Hardware parking lot nor an access to Owasso.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HARMON**, TMAPC voted 10-0-0 (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the plat waiver for Z-6992 per staff recommendation.

\*\*\*\*\*

**Z-6925** – (9316)

(PD 4) (CD 4)

East of the southeast corner of East 27<sup>th</sup> Place and  
Harvard Avenue

**STAFF RECOMMENDATION:**

The platting requirement was triggered by a rezoning to OL.

**Staff provides the following information from TAC at their September 15, 2005 meeting:**

**ZONING:**

TMAPC Staff: The plat waiver is for property zoned OL.

**STREETS:**

No comment.

**SEWER:**

No comment.

**WATER:**

No comment.

**STORM DRAIN:**

No comment.

**FIRE:**

No comment.

**UTILITIES:**

No comment.

Staff can recommend **APPROVAL** of the plat waiver requested because of the previously platted property.

**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 right-of-way?	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

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HARMON**, TMAPC voted 10-0-0 (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the plat waiver for Z-6925 per staff recommendation.

\*\*\*\*\*

**Amendment of Deed of Dedication**

**Balmoral Plat**

(PD 18) (CD 9)

North of northwest corner of East 67<sup>th</sup> Street and South Birmingham

**STAFF RECOMMENDATION:**

Mrs. Fernandez stated that this amendment is a technicality and it enforces the conditions that were approved by the minor amendment to setbacks for this plat.

Staff has reviewed these amendments and recommends **APPROVAL**.

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

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

**TMAPC COMMENTS:**

Ms. Bayles asked Mr. Boulden if the amendments were all in accordance to his satisfaction on this item.

Mr. Boulden stated that he doesn't see any problems with these amendments.

**TMAPC Action; 10 members present:**

On **MOTION** of **HARMON**, TMAPC voted 10-0-0 (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the amendment of Deed of Dedication for Balmoral Plat as submitted per staff recommendation.

\* \* \* \* \*

**CONTINUED ZONING PUBLIC HEARING:**

**Application No.:** Z-6994

**OL TO CS**

**Applicant:** Riad Habib

(PD-18) (CD-7)

**Location:** West of northwest corner East 61<sup>st</sup> Street South and South Mingo Road

**STAFF RECOMMENDATION:**

**PUD-390-A January 2002:** Staff recommended denial on a request for a major amendment to PUD-390 to create two development areas in the PUD and allow a bank with drive-in facilities in Area A and office uses within Area B. Upon screening, landscape and traffic modifications as recommended by staff and TMAPC the amendment was approved.

**PUD-397-B August 2000:** A major amendment was requested for PUD-397 on property located on the southeast corner of East 61<sup>st</sup> Street and South 90<sup>th</sup> East Avenue across 61<sup>st</sup> Street from the subject tract. The amendment reallocated the Development Areas and permitted uses, allowing an existing banking facility on a portion of Development Area B further expanding that development area for additional office use. Development D-1 was approved for multifamily use with office use as an alternative. All concurred in approval of the major amendment subject to the conditions as recommended.

**Z-6672 February 1999:** Approval was granted on a request to rezone a lot located north of the northwest corner of East 61<sup>st</sup> Street and South Mingo Road from OM to IL.

**Z-6652 and Z-6653 September 1998:** A request to rezone two lots, located north of the northwest corner of East 61<sup>st</sup> Street and South Mingo Road from RS-3 to IL. Both applications were approved.

**Z-6646 August 1998:** All concurred in approval to rezone a lot located south of the southwest corner of East 58<sup>th</sup> Street and South Mingo Road from RS-3 to IL.

**Z-6600 October 1997:** All concurred in approval of a request to rezone a 1.8-acre tract located west of the northwest corner of East 61<sup>st</sup> Street South and South 92<sup>nd</sup> East Avenue from AG to OL for church use.

**PUD-397-A July 1997:** A request for a major amendment on 1.6 acres of the original PUD-397 and located on the southeast corner of East 61<sup>st</sup> Street South and South 90<sup>th</sup> East Avenue to permit a drive-in banking facility and an amendment to reallocate floor area. All concurred in approval subject to conditions.

**PUD-281 June 1982:** Approval was granted for a PUD on a 97-acre tract located south of East 61<sup>st</sup> Street and west of South Mingo Road from RM-1 and RS-3 to PUD for a residential development to include single-family, townhouses, condominiums and garden apartments. This property is located across East 61<sup>st</sup> Street from the subject tract.

**AREA DESCRIPTION:**

**SITE ANALYSIS:**

The subject property is approximately 1.6 acres in size, it is sloping, partially-wooded, vacant and is zoned OL.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 61st Street South	Secondary arterial	100'	4 lanes

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

**SURROUNDING AREA:** The property is adjacent to a single-family residence, zoned RS-3, on the west; vacant land and a veterinary clinic, zoned CS, on the east; vacant land and single-family residences, zoned RS-3, on the north; and vacant land, zoned PUD-281/RM-1, on the south.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 18 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area part of Special District 1 – Industrial. Plan policies call for adequate infrastructure to be provided and for future industrial development to be located here. According to the Zoning Matrix, the

requested CS zoning **may be found** in accord with the Plan, by virtue of its location within a special district.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan and surrounding uses, staff can support the requested rezoning and recommends **APPROVAL** of CS zoning on the east 276 feet and the balance of the tract to remain OL for Z-6994.

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

**INTERESTED PARTIES:**

**Donna Ford**, 9212 East 60<sup>th</sup> Street, Tulsa, Oklahoma 74145, stated that she is representing herself and ten other property owners who have signed a petition that she submitted at the June 15<sup>th</sup> hearing. She objects to the rezoning for several reasons. The subject property was rezoned from residential to office light and the original owner had requested commercial zoning but was denied. At the time the original owner lived at 9212 East 60<sup>th</sup> Street, which is Ms. Ford's home. Ms. Ford read the appendix from the zoning matrix and expressed that she doesn't believe that this applications meets the special circumstances and shouldn't be found in accordance. Ms. Ford submitted and read text from the District 18 Plan (Exhibit B-1) and maps with photographs (Exhibit B-2). Ms. Ford contends that the lot is development sensitive due to the creek and is designated as a restricted drainage easement covenant and also referred to as a perpetual easement. The plat language indicates that nothing can be built on the property without approval or the easement could be removed by resolution adopted by the Board of Commissioners. It is her understanding that to remove an easement, all of the owners within 300 feet are to be notified and she has not received a notice concerning this. Without removing the easement, building anything on the subject property, regardless of the zoning, would be in violation of the covenant. Ms. Ford stated that two issues are closely related, that the development sensitivity, as well as the drainageway easement factor, clearly indicate that the property should already be a PUD in order to be closely monitored and controlled by the Planning Commission.

Ms. Ford expressed concerns with losing the natural buffer if the subject property was allowed to be rezoned with CS. She further expressed concerns with drainage on her property. At the June 15<sup>th</sup> hearing, the Planning Commission strongly urged the applicant to utilize a PUD in this case and indicating that they would not approve straight zoning for any part of the property. Straight CS zoning would provide too much latitude and no control over the CS zoning uses. The east 276 feet of the subject property would abut residentially zoned property to its north and the northwest corner of the 276 feet would meet the corner of her property. This would allow CS uses too close to the residentially-zoned areas without a buffer. She is opposed to the type of building that could be built on the

subject property, which could lower her property value. Ms. Ford concluded by requesting the Planning Commission to deny this application.

**Applicant's Rebuttal:**

**Riad Habib**, 9223 East 59<sup>th</sup> Place, Tulsa, Oklahoma 74145, stated that Ms. Ford spoke about a lot of issues and one in particular, development sensitivity. He asked for more details regarding this issue. He commented that the subject area is developed except for the subject property. Mr. Habib submitted photographs (Exhibit B-2) of commercial properties in the subject area.

Mr. Habib stated that the drainage and easement that Ms. Ford was discussing is taken into consideration by commercial zoning. The actual drainage area is protected and he would not be building on it, so there should be no concern with regard to the drainage or interruption of the water flow in the subject area.

Mr. Habib stated that commercial zoning abuts residential property all over the City. Mr. Habib cited areas in town where CS is abutting residential. He plans to leave a large part of the subject property as being OL as a buffer to relieve the residents' concerns.

Mr. Habib stated that the staff has looked at the land and the Master Plan and concurred that this development should not interfere with the Master Plan and is in accordance with it.

**TMAPC COMMENTS:**

Mr. Harmon stated that this application is coming back to the Planning Commission virtually as it was the first time and the Planning Commission indicated that they would prefer the applicant look at filing a PUD.

Mr. Habib stated that he did look at filing a PUD and talked with people who are in the process of having a PUD filed. The feedback he received was that it is a long process for a small business. A PUD might work well for a bank that has a lot of architects and lawyers.

Mr. Harmon stated that PUDs are all over Tulsa and they are not unique. Mr. Habib stated that he understands this, but a PUD is constrictive for a small business and he would have to hire lawyers to take care of it. Mr. Harmon stated that the purpose of a PUD is to protect the abutting neighborhood.

Mr. Habib stated that by splitting the property and keeping the buffer in place it should protect the neighbors and it would not be abutting a residential property.

Mr. Harmon stated that Mingo Creek is a natural barrier, and to have CS zoning east of Mingo Creek is logical because that is what is there. West of Mingo Creek is residential property even though the subject property is zoned OL. In his opinion, CS would be intruding into areas that would be better served by OL

zoning. Mr. Habib stated that Mingo Creek is part of his property and it is given to the City for drainage and easement and will never be built on. Mr. Harmon agreed that Mingo Creek crosses the subject property, but could never be developed, which makes it a natural barrier between the CS zoning and residential zoning on the west and to the north to 58<sup>th</sup> Street. Mr. Habib stated that he doesn't understand the difference between which side of Mingo Creek the development would be on whether it could be CS or OL.

**Mr. Midget called for a point of order.**

Ms. Bayles asked Mr. Harmon if he had other questions for Mr. Habib before discussing this issue in review.

**TMAPC COMMENTS:**

Mr. Carnes stated that he believes there have been enough things along this street and this is a perfect example of why a PUD is definitely needed on either side of the street.

Mr. Midget stated that he remembers hearing this previously and the value of a PUD was discussed at that time. He indicated that he would be voting against this application and would have like to have seen it come back as a PUD. He understands the applicant's desire to move the process along and concerns about how time consuming this might be. The Planning Commission has a responsibility to look forward 30 years from now and without the proper safeguards that a PUD would provide for this neighborhood, it would be unfair to have this level of zoning on the subject property. The OL zoning was approved to soften the zoning and not be intrusive.

Ms. Bayles stated that she drove the neighborhood last evening and had some concerns with the houses located on 61<sup>st</sup> Street and 92<sup>nd</sup> East Avenue. The homes face one another at that intersection and it would be of consequence to her for any change in use at this point. She would be concerned about the long-term effect and the development patterns that would be occurring in the subject neighborhood. The discussion on this case started on June 9, 2005 and everyone who spoke at that time agreed that an accompanying PUD would be required before any change of use. As far as time being consumed, that has been done.

Mr. Jackson asked staff what type of time and money is involved in a PUD for a project like this. In response, Ms. Matthews stated that staff would look at 45 to 90 days, depending on how detailed the PUD is. Mr. Alberty stated that the cost would be difficult to predict because he is not sure how much engineering would have to be done. Mr. Alberty commented that the subject property is a part of the reserved area and would require some additional engineering to determine what is actually developable, if anything. Mr. Alberty stated that it would be close to \$10,000.00 dollars above the rezoning.

Mr. Harmon stated that this is a situation where a PUD would fit ideally. There may be a time-and-money element, but it fits and is appropriate. He commented that he could not support the rezoning requests without an accompanying PUD.

Ms. Hill agreed with Mr. Harmon and stated that the Planning Commission has to look forward into the future. She indicated that she could not support this without a PUD.

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Ard, Bayles Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to recommend **DENIAL** of CS zoning Z-6994 and directed staff that if the applicant would like to come back for the PUD then the funds spent on the rezoning would go toward the PUD.

\* \* \* \* \*

**ZONING PUBLIC HEARING**

**Application No.:** Z-6344-SP-9

**CORRIDOR SITE PLAN**

**Applicant:** Mike Miller

(PD-18) (CD-8)

**Location:** 6215 South 107<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a corridor site plan for an existing one-story, 7,310 square foot office/ warehouse building located on a 38,097.5 square foot site with access to and frontage on 107<sup>th</sup> East Avenue. Proposed use is for a church.

The property is presently zoned CO, Corridor District and is surrounded by CO zoning with warehouse office uses to the north and south and undeveloped property to the east. Multifamily is to the west across 107<sup>th</sup> East Avenue. The Comprehensive Plan designation of this property is Medium Intensity Corridor. The proposed use is in accordance with the Comprehensive Plan.

Parking requirements are calculated per sanctuary space; 1,500 square feet of the building is allocated for this purpose. Total parking required is 43 spaces. The applicant proposes adding an additional 20 parking spaces to the rear (southeast) of the building to meet this requirement. An additional two trees will be required in conjunction with this parking for compliance with the Landscape Chapter of the Zoning Code.

Based upon conformity of the use with existing zoning and with the Comprehensive Plan, staff recommends **APPROVAL** of Z-6344-SP-9 subject to the following conditions: (1) the addition of 20 parking spaces as proposed; and (2) addition of two trees in conformance with the Landscape Chapter of the Zoning Code.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HARMON**, TMAPC voted **10-0-0** (Ard, Bayles Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to recommend **APPROVAL** the corridor site plan for Z-6344-SP-9, subject to the following conditions: (1) the addition of 20 parking spaces as proposed; and (2) addition of two trees in conformance with the Landscape Chapter of the Zoning Code per staff recommendation.

\*\*\*\*\*

**Application No.: Z-7003/PUD-721**

**AG TO RS-3/OL/CS/PUD**

**Applicant:** Charles E. Norman

(PD-18 ) (CD-8)

**Location:** Northwest corner of East 91<sup>st</sup> Street and South Mingo Road

**STAFF RECOMMENDATION:**

**Z-6467/PUD-628 March 2000:** Approval was granted for a PUD to permit a medium density office park to include assisted living facility and elderly/retired housing on property located on the northeast corner of the Mingo Valley Expressway and South Mingo Road.

**Z-6676 January 1999:** A request to rezone a twenty acre tract located west of the northwest corner of East 91<sup>st</sup> Street and South Mingo Road from AG to OM to allow a church and church uses by right. TMAPC denied the requested OM and recommended approval of OL zoning on the south 620'. The applicant withdrew the application and opted to file for an amended site plan under the special exception granted by the Board of Adjustment.

**PUD-559-A May 1999:** Approval was granted for a major amendment to allow two outdoor advertising signs on property located east of the northeast corner of East 91<sup>st</sup> Street and South 101<sup>st</sup> East Avenue and within Development Area A of the original PUD-559 that was approved for South Crest Hospital facilities.

**PUD-559 May 1997:** All concurred in approval, subject to modifications, of a request for a PUD and a Corridor Site Plan for a tract containing approximately 111 acres and located north and east of the northeast corner of East 91<sup>st</sup> Street and South Mingo Road for a multi-use PUD for apartments, offices, colleges and universities.

**Z-6580/PUD-555 March 1997:** Approval was granted to rezone a 13 acre tract located west of the northwest corner of East 91<sup>st</sup> Street and South Mingo Road from AG to OL/PUD-555 for the missionary headquarters that would include a day care center and missionary living quarters.

**AREA DESCRIPTION:**

**SITE ANALYSIS:**

The forty-acre tract contains approximately five acres of FEMA-regulated floodplain at the southwest corner of the site. A natural drainage channel extends north from the floodplain. Approximately ten acres at the northwest corner of 91<sup>st</sup> Street South and South Mingo Road has been graded; the remaining area is densely wooded. The entire tract is zoned AG.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 91 <sup>st</sup> Street South	Secondary arterial	100'	4 lanes
South Mingo Road	Secondary arterial	100'	4 lanes

**UTILITIES:** A 12-inch waterline must be extended under South Mingo Road and then south across East 91<sup>st</sup> Street South, then connect to an existing 12-inch waterline to serve the subject tract. Sanitary sewer service is not presently available to the eastern side of the site. An existing eight-inch sanitary sewer line located on the eastern edge of Shadow Ridge will provide sanitary sewer service to abutting lots. Sanitary sewer service will be provided through extension of an existing 24-inch line located on the western edge of the Forest Park Church on East 91<sup>st</sup> Street to the northern boundary of the site adjacent to the proposed storm drainage channel. The proposed commercial, office and the eastern residential portions of the site will be served by additional sanitary sewer extensions.

**SURROUNDING AREA:** Abutting the subject tract on the north is vacant land zoned AG; abutting on the west is single-family residential zoned RS-3; to the south and southwest across East 91<sup>st</sup> Street South is single-family residential zoned RS-3, vacant land zoned OL and a combination of vacant land and church uses zoned AG; to the southeast on the southeast corner of East 91<sup>st</sup> Street

South and South Mingo Road is a single-family residence zoned CO; to the east across South Mingo Road is vacant land zoned CO.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 18 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area Medium Intensity at the node and Low Intensity for the remainder of the tract. The southwest portion of the site is Development Sensitive in conjunction with the floodplain. Proposed CS and OL zoning are in accordance with the Plan at the node and proposed RS-3 zoning is in accordance with the Plan outside of the node. Proposed OL zoning outside the node may be found to be in accordance with the Plan.

**STAFF RECOMMENDATION:**

This application is to support development which includes the straightening of the City of Tulsa regulatory floodplain to permit the establishment of a residential development area along the west boundary of the site adjacent to Shadow Ridge Park Four, a single-family subdivision.

The development contemplates four development areas as shown on Exhibit B, Development Area Map, of the applicant's PUD proposal. Development Area A is proposed for general retail commercial development and a hotel or motel. Proposed development for Area C is a single family or patio home subdivision under approved development standards.

Development Area D is proposed to remain as undeveloped open space restricted to use for stormwater management facilities, including stormwater detention areas and the remaining floodplain and floodway in the southwest corner of the property.

A companion application has been filed requesting the rezoning of approximately five acres at the northwest corner of East 91<sup>st</sup> Street and South Mingo Road to CS, 8.5 acres of OL-Office Light zoning along South Mingo Road, 4.96 acres of AG zoning at the site's southwest corner and RS-3 zoning for the remaining 21.52 acres.

Pending approval of the requested CS, OL and RS-3 zoning and based upon the proposed Development Standards as modified by staff, staff finds PUD 721 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 721 subject to the following conditions:



LANDSCAPED AREA:

A minimum of 10% of the net land area shall be improved as internal landscaped open space in accord with the provisions of the Landscape Chapter of the Tulsa Zoning Code.

LIGHTING:

A maximum height for exterior lighting standards and building mounted lights of 25 feet in height is permitted subject to qualification per application of the Kennebunkport Formula.

MECHANICAL AND EQUIPMENT AREAS:

All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.

SIGNS:

1. Ground signs shall be limited to one sign for each lot along East 91<sup>st</sup> Street and South Mingo Road with a maximum of 160 square feet of display surface area for each sign and 25 feet in height. Ground signs shall not exceed an aggregate display surface area of 400 square feet for each street, East 91<sup>st</sup> Street and South Mingo Road, frontage.
2. Wall signs shall be permitted not to exceed 2.0 square feet of display surface area per lineal foot of building wall to which attached. The length of a wall sign shall not exceed 75% of the frontage of the building.
3. One monument sign shall be permitted at the southeast corner of Development Area A with a maximum of 64 square feet of display surface area and 6 feet in height.
4. All ground signs shall maintain a minimum separation of 100 feet from any other ground sign.

**DEVELOPMENT AREA B**

NET LAND AREA: 11.44 Acres 498,398 SF

PERMITTED USES:

Uses permitted as a matter of right in use Unit 10, Off-Street Parking; Use Unit 11, Offices and Studios including Drive-thru Banking Facilities\*; Use

Unit 2, Nursing Homes; Use Unit 8, Elderly/ Retired Housing only; Use Unit 5, Children's Nursery, Church, Private Schools only; and uses customarily accessory to permitted uses.

\*Restricted to the South 300 feet of the east 660 feet Development Area B.

MAXIMUM BUILDING FLOOR AREA: 147,750 SF

ACCESS:

Access to each lot in Development Area B shall be restricted to East 90<sup>th</sup> Street and through mutual access easements as described in Concept Illustration Exhibit 'A'. However, access from South Mingo Road may be permitted if East 90<sup>th</sup> Street South is aligned further south than depicted in the Concept Illustration 'A'.

MAXIMUM BUILDING HEIGHT: 45 FT

BUILDING SETBACKS:

Minimum setback from centerline of South Mingo Road	100 FT
Minimum setback from west boundary of Area B	20 FT
Minimum setback from north boundary of Area B	10 FT*
Minimum setback from south boundary of Area B	10 FT

\*Plus two feet for each one foot of building height exceeding 15 feet.

INTERNAL SIDE LOT LINES:

To be established by Detail Site Plan approval.

OFF-STREET PARKING:

Off-street parking shall be provided per the applicable use unit of the Tulsa Zoning Code.

PEDESTRIAN CIRCULATION:

Designate pedestrian routes between developed sites and from parking areas to buildings. In addition, and to accommodate pedestrian circulation, sidewalks are required on both sides of East 90<sup>th</sup> Street South.

LANDSCAPED BUFFER:

A minimum 10 foot wide landscaped buffer is required along the west and north boundaries of Development Area B.



MAXIMUM NUMBER OF DWELLING UNITS:

Single-Family	30
Or	
Townhouse Development (patio homes)	50

MINIMUM BUILDING SETBACKS:

Single Family Dwellings:

As required in the RS-3 Zoning District

Townhouse Dwellings:

As required in the RT Zoning District

LIVABILITY SPACE:

Single Family Dwellings Per Unit:	4,000 SF
Townhouse Development:	1,200 SF

**DEVELOPMENT AREA D**

NET LAND AREA: 5.72 Acres 249.031 SF

PERMITTED USES:

Floodplains, stormwater conveyance and detention facilities, open space and uses customarily accessory to permitted uses, including continuation of the proposed Haikey Creek Tributary Trail per the Trails Master Plan.

3. No zoning clearance permit shall be issued for a lot within the PUD until a detail site plan for the lot, which includes all buildings, parking, screening fences and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
4. A detail landscape plan for each lot shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences have been installed in accordance with the approved landscape plan for the lot, prior to occupancy or at the soonest appropriate planting time. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.

5. No sign permits shall be issued for erection of a sign on a lot within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
6. Flashing signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
7. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.
8. Lighting used to illuminate the subject tract shall be so arranged as to shield and direct the light away from adjacent residential areas. Shielding of such light shall be designed so as to prevent the light-producing element or reflector of the light fixture from being visible to a person standing in the adjacent residential areas or street right-of-way. Compliance with these standards and with the City of Tulsa Zoning Code must be qualified per application of the Kennebunkport Formula. Calculations must include consideration of topography.
9. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required Stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
10. 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.
11. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
12. 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.
13. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle, nor shall trucks or truck trailers be parked in the PUD except while they are actively being loaded or

unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

**TAC Comments:**

**General** - No comment

**Water** – Water main extension will be required.

**Fire** – No comment

**Plat** - No comment

**Covenants** - No comment

**Conceptual** – Turnarounds or cul-de-sacs shall be provided per Tulsa Metropolitan Subdivision Regulations Section 4-7. The farthest distance from any portion of a building to a fire hydrant shall not exceed 400' for an unsprinkled building and 600' for a sprinkled building per IFC 508. Bridges and cul-de-sacs must meet City standards for public streets.

**Stormwater** – In the PUD development concept, the information provided in the second paragraph will be verified.

**Wastewater** – Sanitary sewer service must be provided to all lots.

**Transportation** – Exhibits 'A' through 'E' indicate the sidewalks do not extend along the full lengths of property along the arterials; Transportation supports sidewalk construction full length on both arterials; explicit language in the PUD for sidewalks is recommended.

**Traffic** – Redesign the 90<sup>th</sup> Street intersection to provide two approach lanes for at least 150 feet to provide adequate capacity due to the moderate office intensity.

**GIS** – No comment

**County Engineer** – No comment

**Trails** – Provide 15-foot-wide trail easement along creek bank within Development Area D.

**Applicant's Comments:**

**Charles Norman**, 401 South Boston, Suite 2900, Tulsa, OK 74103-4065, stated that he is in agreement with the staff recommendation.

Mr. Alberty reminded the Planning Commission that they have been handed an amended staff recommendation. Following a meeting with Mr. Norman, staff amended the recommendation to address some areas that Mr. Norman was concerned with.

Ms. Bayles requested that Mr. Alberty go over the changes in the staff recommendation.

Mr. Alberty read the changes in the staff recommendation to the Planning Commission and to interested parties.

Mr. Norman explained the access issues with 90<sup>th</sup> Street and possible future requests for access off of Mingo.

Mr. Alberty continued with the changes in the staff recommendation.

Mr. Harmon stated that he approves of the pedestrian circulation that has been included within the staff recommendation.

Mr. Carnes stated that he doesn't believe the Planning Commission should be designing this in a public hearing and that staff and the applicant should get together on this. In response, Mr. Norman stated that he is in agreement with the amended staff recommendation and has a copy of the changes. He understood that the Planning Commission requested an explanation of the changes from Mr. Alberty. Mr. Norman stated that there should be more presentation to show what he is trying to achieve and how the process operates.

Ms. Bayles stated that the interested parties haven't had the chance to see the changes and possible the Planning Commission may entertain a motion for a continuance so that the interested parties can review this and respond.

Mr. Norman stated that if that becomes an issue, it would be appropriate, but he would like an opportunity to discuss the overall project and some of the issues. Perhaps it would be appropriate to hear from the interested parties and their concerns.

Mr. Midget stated that he understands what Mr. Carnes was stating, but he thought it was a good gesture to hear what changes were made and thought it was orderly. If the residents haven't heard these changes, from the staff's point of view, then they would have that opportunity. This may take some time, but he thought the discussion was healthy. He did not see this as designing because the Planning Commission makes amendments all of the time. Mr. Midget concluded that Mr. Alberty was explaining the changes and had some order in it, and it looks a little messy if Mr. Norman started at this point. He would like to have Mr. Alberty finish his explanation and then allow additional discussion and interested parties.

Ms. Bayles agreed with Mr. Midget's comments. She requested that Mr. Alberty continue reading from page 16.10 relative to pedestrian circulation and then move forward.

Mr. Alberty continued his explanation of the changes within the staff recommendation.

**Applicant's Comments:**

**Charles Norman**, 401 South Boston, Suite 2900, Tulsa, OK 74103-4065, stated that this is a conceptual PUD and zoning application that is intended for the guidance of anyone who would purchase the subject property. The Reid family will not be the actual developers.

Mr. Norman stated that currently there is only one access point, which is to 91<sup>st</sup>. He assumed that the Planning Commission and the Subdivision Requirements would require that 90<sup>th</sup> Street be extended over to Mingo Avenue. The subject area is isolated by a natural floodplain and comes through the property which has been designated Development Area D. The corner of 91<sup>st</sup> and South Mingo is Development Area A and is intended to be the commercial area based upon five acres of CS zoning under the Development Guidelines. Across the street, all of the property is zoned in a corridor zoning district and SouthCrest Hospital is in the area. If his client used the normal RMO wrap-around the CS zoning and zoned the balance RS-3, then he could probably develop 180 multifamily units. In his judgment, the better development for the subject property this close to the hospital would be office use similar to the offices being developed south on Mingo to the Creek Turnpike and on the east side of Mingo where the golf driving range is located. He indicated that rather than having the traditional wrap-around RMO, his client has requested an equal amount of OL zoning to permit the development of an office park in Development Area B immediately north. Development Area C is the area being proposed for residential development, either single-family or patio homes on individual lots.

Mr. Norman stated that Development Area D will be required for detention of stormwater that originates from the subject project and there will be no uses allowed in Development Area D except for stormwater management facilities. Under the floodplain, part of the corner property is still mapped under a FEMA floodplain and the area has been filled, with the City's approval and permission, and the City of Tulsa has agreed to process the changes to the FEMA floodplain maps to eliminate the corner property in Development Area A out of the mapped floodplains. He is proposing to relocate the floodplain and straighten it as shown on the concept illustration. Starting from the west he would propose to pick up the water from the north and bring it straight down, through an approved design, with a street crossing over a bridge and create an area where 30 single-family lots or 50 patio homes would be located. There has been a strong market for patio homes on individually-owned lots.

Mr. Norman explained the various ideas with the concept plan and the uses that could be developed. He indicated that the change that were described by staff are issues that he felt should be discussed in public meetings with the Planning Commission. Mr. Norman explained that the changes regarding parking was that staff recommended it be located in the interior, which would preclude drive-in banking, drug store, convenience store, etc. With regard to the parking being in the interior, possibly in the future design and development standards may need to be adopted and be made applicable to everyone.

Mr. Norman explained that he was on vacation and didn't review the staff recommendation until Monday and then met with the staff on Tuesday to make the changes that are being discussed today. He commented that if the interested parties are not clear about the changes, then he would be willing to make it clear for their benefit.

**INTERESTED PARTIES:**

**Councilor Christiansen**, District 8, stated that he recently became involved in this case several days ago due to some constituents in Shadow Ridge Addition. He indicated that he has not made his mind up on this issue one way or the other.

Councilor Christiansen stated that he visited the site yesterday and he urged the Planning Commissioners to visit the site as well. He explained that there are narrow roads and none of the roads have sidewalks in Shadow Ridge Addition. He sees this as a potential problem in the future for cut-through traffic. There are 39 children in the subject area playing in the street since there are no sidewalks. He indicated that he would be in favor of walkable developments in the future.

Councilor Christiansen stated that he informed his constituents that the Planning Commission is reasonable and would listen.

**Bob McDaniel**, 9009 South 92<sup>nd</sup> Place, Tulsa, OK 74133, submitted photographs (Exhibit C-4) stated that he is not opposed to the development. He expressed concerns with cut-through traffic and safety for the 39 children who currently play in the subject area. He didn't believe anyone would ever be able to build on the subject property due to the floodplain. Mr. McDaniel concluded that trees would be destroyed during development and he would like to see the greenbelt remain.

**TMAPC COMMENTS:**

Ms. Bayles asked Mr. McDaniel if he was represented by a registered homeowner's association. In response, Mr. McDaniel answered affirmatively.

Ms. Bayles asked Mr. McDaniel, relative to the amendments that have been presented today, if he had an adequate chance to review them. She continued to state that the Planning Commission would like to make sure that the

neighborhoods' needs and concerns are addressed. Ms. Bayles commented that the five minutes to review the new proposal is not enough time for her and she is not comfortable with making a decision today. In response, Mr. McDaniel stated that he feels the same way.

**Charles Pizarra**, 9008 East 87<sup>th</sup> Street, 74133, president of the Shadow Ridge Homeowner's Association, stated that he doesn't feel that the association has been given sufficient time to review the amendments. He requested a continuance.

Ms. Bayles asked Mr. Pizarra if the association was in favor of the continuance as well. In response, Mr. Pizarra answered affirmatively.

**TMAPC COMMENTS:**

Mr. Jackson asked Mr. Alberty to explain the theory behind connectivity.

Mr. Alberty explained that the theory of arterial streets to disperse the traffic. He further explained that the street that was stubbed in the existing neighborhood mentioned by Mr. McDaniel is essential to be connected to Mingo. It is important that residents know that dead-end streets are not permanent and will continue when development permits.

Mr. Jackson stated that he wanted the interested parties to understand that because their children play in the street doesn't mean that the dead-end would never be connected. The City of Tulsa has policies regarding streets and their connection. Mr. Jackson asked Mr. French, Traffic Engineering, to explain the City's policies regarding connectivity.

**Darryl French**, Traffic Engineering, stated that this particular neighborhood to the west is one of the most isolated, which creates a burden on school transportation and emergency transportation. There are some physical boundaries with all of the creeks in the subject area. An ideal design there would be multiple access points in all four directions to reduce the total capacity on any one individual intersection. When there are limited access points, it puts high volume on the individual intersections, and access to Mingo and Memorial is needed.

Mr. Jackson asked Mr. French to explain what stub streets are typically designed for. In response, Mr. French stated that a stub street is designed to be continued on. If it were the intent of the Planning Commission to not have a street continue through into some other future development, then it would have a cul-de-sac with a turnaround.

Mr. Bernard asked if the primary objection to this whole project is the street or are there any other real concerns besides the connection of the streets. In response, Mr. Pizarra stated that the street is the primary objection and the

secondary objection would be the greenbelt and the effect on home values and environmental concerns. Mr. Pisarra further stated that he would urge the Planning Commission to come out and visit the neighborhood because one can't get a clear idea from looking at a rendering. Mr. Pisarra commented that the neighborhood was not designed for through traffic because the roads are too narrow. Mr. Pisarra stated that he feels that having one access point in and out of a neighborhood is a major selling point. He commented that research has indicated that the subject neighborhood is the safest neighborhood in Tulsa. He believes that the proposed development would jeopardize safety for the 35 children in the area.

Ms. Bayles stated that the intent was explained that when the street was designed as a stub street, it was to connect to the adjacent land at some future date. Ms. Bayles informed Mr. Pisarra that she did drive the subject neighborhood and noticed that the luxury of parking on both sides of the street is not possible. Ms. Bayles stated that the Planning Commission has not had the opportunity to give adequate time to the changes that have been proposed. Ms. Bayles asked Mr. Norman if he would have any objections to the request for a continuance for a two-week period.

Mr. Norman stated that he needs some direction from the Planning Commission on the concept because his plan was developed in anticipation of being required to connect. Mr. Norman explained his proposal further and explained that it is vital to know if the Planning Commission would require the street to connect or not to connect. He further explained that Area C does not have any changes to it except that the staff has required that the street be constructed before any development can occur. He stated that he doesn't have a problem with taking time to study the proposal, but if the Planning Commission is considering not connecting the street, he would need some time to redesign his project.

Mr. Midget stated that he doesn't want to have the mistaken notion that the Planning Commission is creating private communities by not connecting our neighborhoods. This is not a gated community and he doesn't want the Planning Commission, de facto, to end up creating a gated community by the designs of our streets. This would set a bad precedent when the Subdivision Regulations encourage connectivity. He would not want to create any false illusion that the Planning Commission would encourage streets to not connect.

Mr. Norman stated that the Planning Commission recently adopted in the Subdivision Regulations that a gated community cannot have more than 20 acres.

Ms. Bayles stated that she is concerned that there is a petition against the proposed amendments by Reid/Mingo Park. She doesn't believe that anyone is suggesting redesigning this project in terms of the connectivity of the street. The considerations of the neighbors in terms of what they are actually opposing may

need to be clarified and any discussion within this window of opportunity may be beneficial to both parties.

After a lengthy discussion it was determined to continue Z-7003/PUD-721 to October 19, 2005 in order to meet with the residents regarding the changes in the staff recommendation.

**TMAPC Action; 10 members present:**

On **MOTION** of **HILL**, TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **CONTINUE** Z-7003/PUD-721 to October 19, 2005.

Mr. Norman stated that he would be available to anyone wishing to discuss this application and he would suggest that the interested parties speak with the City of Tulsa Traffic Engineering Department.

\*\*\*\*\*

**Application No.:** Z-7004

**RS-2 TO CG OR CO**

**Applicant:** Chris Kannady

(PD-5) (CD-6)

**Location:** 706 South 129<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

**Z-6726/PUD-623 December 1999:** Approval was granted to rezone a 112' x 130' tract located on the southeast corner of East 5<sup>th</sup> Street South and South 129<sup>th</sup> East Avenue from RS-2 to CG with a Planned Unit Development for the proposed development for offices and commercial use.

**Z-6720/PUD-618 October 1999:** A request to rezone a 2.12-acre tract located south of the southwest corner of East Skelly Drive and South 129<sup>th</sup> East Avenue from CO to IL. TMAPC recommended approval of the requested IL and the PUD subject to conditions as recommended by staff.

**Z-6691/PUD-609 May 1999:** The City Council denied a request to rezone a 112' x 130' tract located on the southeast corner of East 5<sup>th</sup> Street South and South 129<sup>th</sup> East Avenue from RS-2 to CG for a mixed commercial development. (See Z-6726/PUD-623)

**Z-6485/PUD-537 July 1995:** A request to rezone seven lots located on the southeast corner of East 4<sup>th</sup> Street and South 129<sup>th</sup> East Avenue from OL and RS-2 to CG with a PUD for a proposed mini-storage facility on the tracts fronting

South 129<sup>th</sup> East Avenue with the remaining eastern lots for residential. All concurred in approval of CG/PUD subject to conditions.

**Z-6439/PUD-509 May 1994:** Approval was granted to rezone a 1.7-acre tract located south of the southeast corner of East 5<sup>th</sup> Street and South 129<sup>th</sup> East Avenue from RS-2 to CG and a PUD for a proposed retail, warehouse and office development.

**BOA-19854 July 2004:** A request to allow Use Unit 17 – automobile sales in a CS-zoned district on property located on the northwest corner of East 11<sup>th</sup> Street and South 129<sup>th</sup> East Avenue and south of the subject property.

**Z-6302 December 1990:** All concurred in approval of a request to rezone a tract located west of the northwest corner of East 11<sup>th</sup> Street and South 129<sup>th</sup> East Avenue from RS-2 to CG for general commercial use.

**AREA DESCRIPTION:**

**SITE ANALYSIS:**

The subject property contains approximately one acre. It is gently sloping, non-wooded and contains a single-family residence, and is zoned RS-2.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South 129 <sup>th</sup> East Avenue	Secondary arterial	100'	4 lanes

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

**SURROUNDING AREA:** The property is abutting single-family dwellings, zoned RS-2 on the north and west, zoned RS-2; on the south by mixed residential/industrial and commercial uses, zoned RS-2; farther south at the northeast corner of East 11<sup>th</sup> and South 129<sup>th</sup> East Avenue is an auto sales lot, zoned CS; and to the east across South 129<sup>th</sup> East Avenue is vacant land, zoned RS-2.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 17 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area Medium Intensity-Linear Development, and also within a designated Corridor District. According to the Zoning Matrix, the requested CG or CO both **may be found** in accord with the Plan.

**STAFF RECOMMENDATION:**

Based on surrounding land uses and zoning, staff cannot support either of the requested rezoning designations. As a single lot, rezoning to any category of

higher intensity/density than RS-2 would constitute spot zoning. Therefore, staff recommends **DENIAL** of either CG or CO for Z-7004.

If, however, the nonconforming nonresidential uses to the south were to be included in an application for rezoning, staff would consider recommending CO zoning for all properties.

**TMAPC COMMENTS:**

Ms. Hill stated that she has had ex parte communication regarding this application. Ms. Bayles stated the same.

**Applicant's Comments:**

**Chris Kannady**, 2216 South 120<sup>th</sup> East Avenue, Tulsa, Oklahoma 74125, stated that he purchased the subject property one year ago. He would like to locate his heating and air conditioning business on the subject property. He indicated that he went to the neighbors with his proposal, which is to office out of the existing home and no additional buildings to be built. Six of the neighbors signed letters stating that they had no objection to his proposal.

Mr. Kannady submitted photographs and described the surrounding properties and their uses (Exhibit D-1). Mr. Kannady stated that from 11<sup>th</sup> Street to Admiral there are 18 businesses, four empty lots and five residential homes on 129<sup>th</sup> East Avenue. He requested that the zoning be changed in order to allow his business to operate out of the existing home. There would not be any storage and the one vehicle would be parked inside a garage behind the house.

Mr. Kannady stated that he spoke with his City Councilor prior to filing the application and he advised him to file as CS and request a Use Unit 15. However, staff noticed something and advised him to file CG or CO. He would like to ask the Planning Commission to reconsider his initial filing of CS if the Planning Commission is with the agreement of the staff to deny the CG or CO.

Mr. Kannady stated that a study has been done by the City of Tulsa and there are 11,000 cars traveling 129<sup>th</sup> East Avenue each day. He doesn't believe anyone would purchase the subject property for residential living due to the traffic.

**TMAPC COMMENTS:**

Mr. Jackson asked Mr. Kannady if he was a heat and air service contractor. In response, Mr. Kannady stated that he installs and services heat and air.

Mr. Jackson asked staff if 129<sup>th</sup> is considered a primary arterial. In response, Ms. Matthews answered negatively. Mr. Jackson asked what the forecast for 129<sup>th</sup> to be widened to. In response, Ms. Matthews stated that 129<sup>th</sup> is designated in the Comprehensive Plan as a corridor, which means uses that require visibility and access from traffic. Mr. Jackson asked staff if the subject property were zoned

CS it would still be considered spot zoning. Ms. Matthews stated that it is clearly spot zoning.

Mr. Jackson asked staff if Mr. Kannady could go to the Board of Adjustment. In response, Ms. Matthews stated that the BOA could not help with the subject property zoned residential.

Ms. Matthews stated that she doesn't know how to help Mr. Kannady unless he wanted to file a PUD on one lot.

In response to Mr. Carnes, Ms. Matthews stated that the applicant can't ask for CS today because he is only advertised for CG or CO. Ms. Matthews further stated that if the Planning Commission does approve the CO, then he will have to file a corridor site plan.

Mr. Jackson stated that the setbacks are not going to make the requirements with the existing house. Mr. Jackson further stated that if the applicant ever wanted to expand he would have to seek relief in order to do so.

**INTERESTED PARTIES:**

**Theresa Buchert**, 542 South 127<sup>th</sup> East Avenue, Tulsa, Oklahoma 74128, stated that East Tulsa is changing and she is excited about the changes. She commented that Mr. Kannady has been upfront with all of the neighbors and business owners in the subject area. He is trying to do what is necessary to get this development rezoned. The subject property has been vacant for several years. Since Mr. Kannady purchased the property he has kept it mowed and maintained.

Ms. Buchert stated that there are only five homes along 129<sup>th</sup> in the subject area and the corridor is transitioning to commercial uses. She indicated that that neighborhood welcomes this change. She commented that Urban Development has been working with East Tulsa and recently completed the 21<sup>st</sup> and Garnett phase of the new Comprehensive Plan for East Tulsa. The 412 Corridor will be next, which include 129<sup>th</sup> East Avenue. However, Mr. Kannady is ready to utilize the subject property now and she supports this proposal.

Ms. Buchert stated that her father was grandfathered in at her current residential location for 47 years as a plumbing contractor and no one knew that the plumbing company existed. She knows that this can be done within the existing buildings in the subject area. She welcomes Mr. Kannady to the community.

**TMAPC COMMENTS:**

Mr. Bernard stated that if the Planning Commission were to approve this proposal it would put a greater burden on the applicant than he presently has. In response, Mr. Boulden stated that CO zoning would create a heavy burden on the applicant.

Mr. Alberty stated that he recommended Mr. Kannady file for CG or CO zoning because it would allow his use. The corridor zoning is consistent with what the Comprehensive Plan calls for. In the staff recommendation, staff is stating that even though this is spot zoning, it could be better considered if it would be combined with other properties. If the Planning Commission is inclined to look at the applicant's use, then the CS or the CG would not place any undue burden on the applicant other than the fact that he would be subject to a replat. If he develops the property other than the way it exists today, then he would have to comply with all of the setbacks, etc. The corridor zoning is a two-step process and to get a building permit he would have to file a detail site plan. This would be the more cumbersome process for him, but it would be consistent with the Comprehensive Plan calls for.

Mr. Alberty stated that if the applicant doesn't build anything, then the corridor would allow the use he is proposing by right. However, it also requires a site plan and he isn't sure which way to go on that. His existing buildings could continue without any compromise, but redevelopment would require a plan.

Mr. Jackson stated that the applicant needs to know that if he ever changed the characteristics of the subject property he may have to remove some structures in order to come in alignment with the statutes.

Mr. Harmon stated that doesn't believe spot zoning is good planning. However, there are times that spot zoning is justified and reasonable. He asked Ms. Buchert if the subject property was next door to her would she still support the spot zoning. In response, Ms. Buchert stated that she would because the property has been in disrepair in the past years and this proposal is a positive thing to happen. She believes that this would be the exception to the rule with regard to spot zoning.

Mr. Carnes asked why the applicant couldn't go to the Board of Adjustment and request permission for a home occupation. In response, Mr. Alberty stated that he doesn't believe this use would qualify for home occupation. Home occupation has six conditions, which one is that the applicant has to live on the subject property as a principal residence.

Mr. Midget asked staff if they are recommending CS, CG or CO. In response, Mr. Alberty stated that the CS was what he was advised to file for by his City Councilor. However, staff explained to him that the CS would not permit his use as a matter of right and he would have to go to the BOA.

Mr. Midget asked if the applicant decided to sell this property 27 years from now and it was rezoned CG, then automotive could go onto the property by right. This use can be detrimental to the subject area.

Ms. Buchert stated that the neighborhood realizes the repercussions of letting spot zoning taking place and have dealt with it before.

Ms. Bayles read an article regarding spot zoning. She commented that the subject property constitutes the spot zoning as presented today.

Mr. Carnes stated that CG zoning would create a problem in the future. He believes that CO zoning would be better than the CG.

Mr. Kannady stated that he doesn't want to be offensive to his neighbors and he believes CG is too lenient. His initial request was for CS and he knew it would be a two-step process for the CS zoning. He realizes that the subject property will have to be replatted and if he chooses to redevelop, he would have to go through the process.

Ms. Matthews stated it would be a two-step process whether he is given CS or CO zoning. Ms. Matthews stated that if the applicant doesn't make any improvements and leaves the property as it is, and then he can start operation as soon as the ordinance is published.

**TMAPC Action; 10 members present:**

On **MOTION** of **JACKSON**, TMAPC voted **10-0-0** (Ard, Bayles Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to recommend **APPROVAL** the CO zoning for Z-7004.

**Legal Description for Z-7004:**

The S/2, NE/4, NE/4, SE/4, SE/4 less the E 50' for Street, Section 5, T-19-N, R-14-E, Tulsa County, State of Oklahoma, and located at 706 South 129<sup>th</sup> East Avenue, Tulsa, Oklahoma, **From: RS-2 (Residential Single-family Medium Density District) To: CG or CO (Commercial General District or Corridor District).**

\*\*\*\*\*

Application No.: PUD-468-8

MINOR AMENDMENT

Applicant: Jeffery G. Levinson

(PD-18) (CD-7)

Location: 9607 East 71<sup>st</sup> Street South

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to reduce the minimum separation between ground signs from 100 feet to 68 feet for a business located on part of Lot 5, Sam's Center Addition to the City of Tulsa.

In a related case before the Board of Adjustment, BOA-20108, the Board approved a variance of Section 1103.B.2.b.3 , which specifically states 'Any ground sign shall maintain a minimum separation of 100 feet from any other ground sign.' The Board considered in its approval of the variance request the tract's 110 feet of frontage along East 71<sup>st</sup> Street South and two existing ground signs, one each for businesses to the west and east of the tract. The Board approved the variance per a site plan exhibit which placed the proposed ground sign away from the frontage thereby increasing the spacing between ground signs and maintaining desired visibility from East 71<sup>st</sup> Street South.

Based upon action of the Board of Adjustment, staff recommends **APPROVAL** of PUD-468-8, subject to detail sign plan approval and all other conditions of the PUD being met.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **HARMON**, TMAPC voted 10-0-0 (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the minor amendment for PUD-468-8, subject to detail sign plan approval and all other conditions of the PUD being met per staff recommendation.

\*\*\*\*\*

## **OTHER BUSINESS:**

Utica Place – Roy Johnsen

(PD-6) (CD-4)

**Location:** Southeast corner of 22<sup>nd</sup> Place and South Utica Avenue

Applicant is requesting supplemental authorization for accelerated release of a building permit.

### **STAFF COMMENTS:**

Mr. Alberty stated that this request was brought to the Planning Commission by the developer's attorney. The applicant would like to speak and then staff will have some comments.

### **TMAPC COMMENTS:**

Mr. Jackson asked staff what type of request this is. In response, Mr. Alberty stated that there is no process for this request, but the applicant has requested it.

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

**Ted Sack**, Sack & Associates, 111 South Elgin Avenue, Tulsa, Oklahoma 74120, stated that Mr. Johnsen is out of town and he was elected to speak to the Planning Commission today. He reminded the Planning Commission that in April 2005 the accelerated release of a building permit was approved for a foundation. The particular motion indicated that no vertical columns would be allowed. This request is for one lot of a multi-lot subdivision that is in a PUD. Today's request is for a four-story parking structure and a ten-story office building that is connected. At the time the foundation permit was received, he didn't know the exact type of construction that would take place. The contractor is present today if the Planning Commission has any detailed questions. He now knows that the vertical columns need to be constructed on top of the piers before any of the under-slab work can be done. The foundation permit cannot be done realistically without the vertical columns. He requested relief from that original motion that stated that no vertical columns would be allowed. Mr. Sack submitted photographs of the existing ground work (Exhibit E-1).

Mr. Sack stated that he believes there may have been some confusion when the accelerated release of a building permit was requested, due to the fact that he had to reinstate a preliminary plat and file a new preliminary plat. This has all been taken care of and the actual final plat has been submitted. Letters of release should be coming forth. Depending on how soon those letters of release could come in (probably one month or more), the final plat should be ready to be filed. He requested an interpretation of the way the foundation permit was approved. He indicated that there are 80 columns that are 2' x 3'.

**TMAPC COMMENTS:**

Ms. Bayles read the letter received from Mr. Johnsen. Ms. Bayles asked Mr. Alberty if he had any comments that are relative to this request.

Mr. Alberty stated that originally staff objected to this request because there is no such prescribed process. The process is that before an applicant is given a building permit in the City of Tulsa, there has to be a plat filed, especially in this instance when it was a PUD and new development. The Zoning Code states that there is a process that allows an applicant to request the accelerated release of a permit with Planning Commission approval. This is what the applicant did back in April and at that time there was confusion about the preliminary plat that had been allowed to expire in 2003, which the Planning Commission reinstated in 2005. The applicant had to have a preliminary plat approval to get an accelerated release. The Planning Commission reinstated the expired preliminary plat and approved the accelerated release, and at that time, the applicant also informed the Planning Commission that there is a new development plan and filed a new preliminary plat. The only problem that staff had was that this is not the process that has been adopted. The motion was very specific that it would be foundation only. "Foundation" is defined as subterranean. The Planning Commission was very clear and granted the developer relief, but not to include any vertical structures.

Mr. Boulden stated that there is some pending litigation on the subject property regarding a waiver of the Subdivision Regulations on the sidewalk on Utica. That appeal stays any action in furtherance of the denial of the waiver of the Subdivision Regulations. He doesn't see how this action furthers the denial of waiver.

Mr. Harmon stated that he understands that the Planning Commission couldn't deny the approval of this request due to the sidewalks. In response, Mr. Boulden answered affirmatively.

Ms. Bayles stated that her vote as a nay back in April was based on the fact that it was on principle relative to process.

Mr. Harmon stated that he remembers this application well and it was a tough situation back then and it seems to be handled in a "helter-skelter" manner. First they let the preliminary plat expire and ask it to be reinstated in order to get the accelerated permit and the Planning Commission bent over backwards to accommodate that. Now it is six months later and someone forgot that they need the final plat and they are coming back for relief again. It seems to be a poorly managed project to him and he is not sure how many times they will need relief like this if they are unable to keep it on track.

**Chris Bumgarner**, 2411 South Owasso Place, Tulsa, Oklahoma 74114, stated that he doesn't disagree with the Planning Commission that it appears this

project has been poorly managed. He is the developer of the project and he believes the Planning Commission will see more of this with infill projects that are large and complicated. There is nothing he can think of for not getting the plat started sooner and he has discussed this with Mr. Sack. The project is not poorly managed and it has actually picked up momentum in the last couple of months. He would like to keep this momentum going and he understands that he is proceeding at his own risk. This is Phase I and there are twelve lots total. He indicated that this is a complicated project and oftentimes these things don't happen until there is an anchor tenant. He apologized for the complications, but he is trying to do a nice project for the City of Tulsa and this part of town. He commented that he is looking to the Planning Commission for some partnership and help. He requested an accelerated release of a building permit to cover the shell permit, but he won't need it because in six months from now, he will have a plat and it will dissolve. However, it would prevent him from having to come back to go a little higher each time. If he is granted the permit to complete the shell, then the Planning Commission wouldn't see him again.

**TMAPC COMMENTS:**

Mr. Jackson stated that he doesn't have any problem with the columns. He looks at a foundation from being at ground level down. The vertical columns are part of the foundation until the first story, which is then above-ground.

Mr. Ard asked the applicant if the Planning Commission could expect to see him back if all that is granted is the accelerated permit to install the vertical columns. In response, Mr. Bumgarner stated that he believes that the Planning Commission will see him more than they want to. The final plat was filed last Tuesday. Mr. Ard reminded Mr. Bumgarner that he doesn't believe the Planning Commission can consider the shell permit since it isn't part of the request.

Mr. Jackson asked Mr. Bumgarner how many columns would need to be poured. In response, Mr. Bumgarner stated that it would be 89 columns. He explained that he has a 40-foot hole to get out of. In response, Mr. Jackson stated that it would take about six weeks to get out of the hole. Mr. Jackson stated that after the columns the next stage would be the lower deck that would have to be formed up and then poured in place, which is all part of the foundation. Mr. Jackson stated that this wouldn't be above ground.

Mr. Bernard asked Mr. Bumgarner how tall the columns would be. In response, Mr. Bumgarner stated that there are 89 columns that will be twelve feet in height and there is no way that he would be above grade on the west end.

Mr. Harmon stated that there is no procedure for this request, but asked if there is any rationale to granting a very limited authority to pour the columns and nothing else. In response, Mr. Alberty stated that he believes that the Planning Commission has the authority to do this because the relief that he is requesting has to come from the Planning Commission. If this is granted today it will set a

precedent and it may be a good precedent or not. This may be coming back to the Planning Commission again and the Planning Commission needs to realize that it must be the same circumstances because it is opening the door for this kind of request.

Mr. Bernard asked if the foundation was approved previously. In response, Mr. Alberty stated that it was approved for foundation only and Mr. Johnsen was asked twice if it would be for foundation only and he answered affirmatively.

Mr. Bernard asked what the Zoning Code states a foundation is and does it vary from what the applicant is requesting. In response, Mr. Alberty stated that it does vary from the Zoning Code. Foundation is not established or defined by the zoning, but defined by the construction industry. According to Mr. Page, a foundation is anything subterranean. Anything that would support a structure that is built below the ground is the foundation.

Mr. Jackson stated that the Planning Commission doesn't need to debate what is below ground or subterranean because everyone will have a different theory on that. He suggested that the Planning Commission approve a limited permit to allow the columns to be poured and if the applicant has to return three to four times, then let him do so.

Ms. Bayles read from previous minutes regarding reinstating a preliminary plat, knowing that a new preliminary plat is on its way. She stated that exactly what has happened was cautioned by staff when the Planning Commission decided to reinstate the preliminary plat knowing that a new preliminary plat was being filed. The motion was made and approved in April based on the City's interest being fully protected and that the developer proceeded at his own risk. She commented that she doesn't see anything that has changed.

Mr. Jackson asked if the final plat has been filed. Mr. Alberty stated that the final plat was filed last Tuesday. The applicant expects to have it on the agenda within four weeks.

**TMAPC Action; 10 members present:**

On **MOTION** of **HARMON**, TMAPC voted 10-0-0 (Ard, Bayles, Bernard, Cantees, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** a limited accelerated release of a building permit for the first floor columns only for Utica Place.

\*\*\*\*\*

**Mr. Carnes out at 4:18 p.m.**

**Application No.:** PUD-370-B

**RECONSIDER MOTION**

**Applicant:** John Moody

(PD-26) (CD-8)

**Location:** West side of Memorial, north of East 106<sup>th</sup> Street

**STAFF RECOMMENDATION:**

Applicant is requesting the Planning Commission to reconsider and remove a conditional approval of the previously approved site plan. Previously the Planning Commission approved the detail site plan with a condition that the applicant obtain a mutual access easement from the property owner to the west. The applicant has indicated that this is not possible and he would like the condition removed from the approval.

**TMAPC COMMENTS:**

Ms. Bayles read Mr. Moody's letter regarding the condition that was placed on the subject detail site plan. Ms. Bayles requested Mr. Alberty to comment on Mr. Moody's letter.

Mr. Alberty stated that the mutual access easement was not a condition of the PUD staff recommendation that was approved. When the plat came in for preliminary plat approval, the Planning Commission realized that this was an over-length cul-de-sac and they placed the condition that there be an access easement acquired. He believes that today the Planning Commission is being asked to amend or revoke that requirement. When the detail site plan came in Ms. Tomlinson noted that there was a requirement and until it had been satisfied she could not release any of the site plans.

**Applicant's Comments:**

**John W. Moody**, 1800 South Baltimore, Suite 900, Tulsa, Oklahoma 74119, stated that with all due respect Mr. Alberty is incorrect and he has the minutes because he figured this would come up. He further stated that this PUD was originally approved by the Planning Commission January 21, 2004. He indicated that at that hearing, he specifically pointed out that there would not be an access point to 106<sup>th</sup> Street. There were interested parties at the hearing from the adjacent residential subdivision and they stated that they did not want 106<sup>th</sup> Street to be connected to the proposal. In addition, the interested parties wanted an eight-foot high screening fence along the entire west boundary of the subject property. PUD-370-B-1 does not include the 50' x 130' tract in the northwest corner of the property so the case map is incorrect. The 50' x 130' tract is owned by Mr. Solow, which he held onto after selling the subject property. Mr. Solow doesn't want to grant a mutual access easement onto his tract of land because he is utilizing it for haying. Mr. Moody read the minutes from January 21, 2004. He commented that the motion in January required an eight-foot high privacy

fence on the western boundary and there cannot be an access easement where there is an eight-foot high privacy fence. Access was discussed and there was to be no access.

**Mr. Horner out at 4:21 p.m.**

Mr. Moody read the minutes from June 2, 2004, when the preliminary plat was submitted to the Planning Commission. He stated that Mr. Carnes and Mr. Ledford expressed concerns with the over-length cul-de-sac street. The Planning Commission approved the preliminary plat of the subdivision and on the same date there was a minor amendment for the PUD. On the minor amendment there was additional discussion regarding the cul-de-sac. The minor amendment had nothing to do with the cul-de-sac, but several Planning Commissioners requested that a section of the masonry wall be removed and a crash gate installed. He indicated that he agreed to that request. No mutual easement was discussed and everyone knew that he did not have access to it. The condition that was approved by the Planning Commission was in the minor amendment for a crash gate to be installed, which he agreed to. The PUD was approved by the Planning Commission and then in February by the City Council without a condition for a mutual access easement and without a crash gate. His client accepted the zoning under the conditions of his contract and purchased the property and then started the platting process. The applicant was relying on the approved PUD conditions and purchased the property and started spending money. Mr. Moody read minutes from the final plat, June 20, 2005. The Planning Commission approved the final plat with a condition imposed on the minor amendment to the PUD that a crash gate be installed. There was never a requirement for mutual access easement in the PUD, the minor amendment or the plat. He doesn't own the property and is unable to acquire the mutual access easement. When he submitted the detail site plan to INCOG there was a crash gate indicated and Ms. Tomlinson required a mutual access easement for the crash gate, which was July 20, 2005. Mr. Moody read the minutes from July 20, 2005. He indicated that the first time mutual access easement was mentioned was at the July 20<sup>th</sup> meeting.

Mr. Moody concluded that the mutual access easement was imposed a year after the preliminary plat had been approved and a year after his client had purchased the property, ten months after the final plat had been approved and recorded. Now staff is requesting a mutual access easement and he objects to this request.

**TMAPC COMMENTS:**

Mr. Harmon asked Mr. Moody if he is requesting that the Planning Commission simply remove the crash gate requirement. In response, Mr. Moody stated that he is requesting that the Planning Commission remove the requirement that he has to obtain a mutual access easement. It was never a condition of the original PUD and in July 20, 2005 he advised the Planning Commission that he would

attempt to obtain the mutual access easement from Mr. Solow, but if he can't force Mr. Solow to do so.

Mr. Jackson asked Mr. Moody if he had a detailed site plan of what he would like to do. In response, Mr. Moody answered affirmatively.

Mr. Ard asked Mr. Moody to finish his presentation because he wasn't on the Planning Commission in 2004. Mr. Moody read the final pages of the minutes in July 20, 2005. He reiterated that he is unable to obtain the mutual access easement on property that his client doesn't own and he would like this requirement removed. He indicated that his client will install a crash gate in case the property is ever sold or the easement is granted.

Mr. Ard questioned staff how the Planning Commission decided to add this requirement if it was never mentioned in the 2004 hearings.

Mr. Alberty stated that at the original hearing, the neighborhood appeared and didn't want access from the subject project to 106<sup>th</sup> Street. He believes that the PUD was approved without access; however, when the plat came through there were a couple of Planning Commissioners (who are no longer on the Commission) who realized that this was an over-length cul-de-sac and for safety purposes they indicated that a crash gate was necessary. That is exactly what was placed in at an earlier point before the PUD came back in for site plan approval. It was staff's interpretation that if there is a crash gate, it is totally meaningless unless one can access it. If the requirement is to have a crash gate, then certainly the intent is to be able to allow public emergency vehicles to access that and they would need an access easement. Staff interpreted that this is what is required to comply with the Planning Commission's recommendation for a crash gate. This is simply true and he believes that all that Mr. Moody has stated is entirely true. The applicant has tried to acquire the easement and is unable to do so and now it is back to the Planning Commission to see if the requirement can be removed.

Mr. Ard asked if a crash gate can be accomplished without a mutual easement. In response, Mr. Alberty stated that a crash gate can be installed, which the applicant agreed to install, and at some point in time there may be a public access that it can reach.

Mr. Jackson asked to see the detail site plan.

Mr. Harmon asked how long the cul-de-sac would be. In response, Mr. Moody stated that it would be 1200 feet long.

Mr. Harmon stated that we are discussing an office park and neighborhood and there is no requirement that he knows of to connect the two. If this was

neighborhood-to-neighborhood, then he would agree that there should be a through street.

Mr. Moody reiterated that the Fire Marshal has no problem with the cul-de-sac as it is designed. Mr. Moody recounted the meetings previously that led to the mutual access easement requirement and reminded the Planning Commission that all along he has explained that his client did not own the property and the owner wasn't agreeable to an easement.

**INTERESTED PARTIES:**

**Joyce Sanborn**, 7744 East 106<sup>th</sup> Street, Tulsa, Oklahoma 74133, stated that she is located on the second lot in on 106<sup>th</sup> Street. She explained that she is concerned about the masonry wall being changed to a privacy fence and crash gate due to noise. If the applicant is unable to obtain the access easement, then the gate is futile. There is an existing fence at the end of 106<sup>th</sup> Street and if the crash gate is required, then there would be two fences that would be affected. If the Fire Department is happy with the access then she doesn't see any reason for the crash gate. Ms. Sanborn concluded that Mr. Solow has indicated that he has no intention of ever selling the land.

**TMAPC COMMENTS:**

Ms. Bayles stated that Mr. Alberty gave the Planning Commission another option by seeking a second point of access. She requested Mr. Alberty to elaborate this option.

Mr. Alberty stated that if the Planning Commission is concerned about access, then they may want to consider a second point of access. He is not recommending this, but simply offering the Planning Commission an alternative. He believes what is before the Planning Commission now is a neighborhood that doesn't want access into their neighborhood off of this property. There was a requirement for a crash gate by the Planning Commission and that is something that Mr. Moody is asking the Planning Commission to reconsider that and remove. From what the neighborhood is stating, he believes that would please them, and Mr. Solow is not in a position to grant access easement, which makes the crash gate a moot point.

Ms. Sanborn stated that the neighborhood originally supported the PUD from January 2004. Since that time the cul-de-sac has gone in and it is within ten feet of the property line. In the act of construction, the roads have been damaged and have recently been repaired. At this point the neighbors can't anticipate the necessity of the emergency access when the Fire Department states it is not needed. The cul-de-sac is large enough to accommodate the emergency vehicles.

**TMAPC Action; 8 members present:**

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Ard, Bayles, Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Dick, Horner "absent") to **APPROVE** the deletion of the requirements for a mutual access easement and crash gate from PUD-370-B.

\*\*\*\*\*

**Application No.:** PUD-309-A

**DETAIL SITE PLAN**

**Applicant:** Robert Klemple

(PD-18) (CD-7)

**Location:** 6625 South Memorial

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a new retail building. The proposed use, Use Unit 14, Shopping Goods and Services, is in conformance with Development Standards.

The proposed building is in conformance with maximum permitted floor area and building height and meets minimum building setbacks and open space requirements. Proposed streetyard and parking lot landscaping are in compliance with development standards and the landscape chapter of the zoning code. The north, east and southeast perimeters of the site are screened with eight-foot graffiti-resistant coated masonry walls per the 'Landscape and Screening Concept' and as required by development standards. Proposed parking lot lighting is in compliance with development standards and the zoning code.

Access is in conformance with the 'Access and Circulation Concept Plan' as required by development standards. Parking is in compliance with the zoning code for the uses as noted on the site plan: Inside (General) Merchandise area, Tire and Lube Express, and Outside Garden Center. Future inclusion of a restaurant within the existing space may require additional parking spaces as restaurant uses have a higher parking ratio.

Development Standards require that 'All exterior walls of the Wal-Mart building shall be split faced masonry and shall be constructed of the same materials.' A combination of split faced masonry and exterior insulation and finish system is proposed. A minor amendment for this deviation may be required.

Therefore, Staff recommends **APPROVAL** of PUD-309-A detail site and landscape plan subject to approved building elevations and lighting plans.

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

**Applicant's Comments:**

**Charles Norman**, 401 South Boston, Suite 2900, Tulsa, OK 74103-4065, stated that this application is for the Wal-Mart Store at Woodland Hills. The last tenant has vacated the existing buildings and work is about to start on the new store.

Mr. Norman stated that the first issue he would like to discuss is that he presented to the Planning Commission a series of colored elevations and they have been resubmitted in color to show that the colors and the elevations are exactly the same as presented to the Planning Commission and the neighborhood. In the text of the PUD, which is his fault, he had a provision that became a part of the PUD "...all exterior walls of the Wal-Mart building shall be split-faced masonry and shall be constructed of the same materials." The purpose of this was to assure the Planning Commission and the neighbors that the appearance would be exactly the same and the materials all the way around. The elevations that were shown to the Planning Commission never indicated split-faced walls all the way up, but rather a combination of split-faced colored concrete masonry units and another plaster-like material above it. The design is exactly the same as was submitted to the Planning Commission, but Ms. Tomlinson caught that difference in the words. He requested that the Planning Commission to interpret this as it was intended that all of the exterior walls shall be of the same materials and is the case.

Mr. Norman stated that the second issue is that Ms. Tomlinson is the first person to raise the issue that additional parking may be required if there is a Subway or McDonald's counter. He explained that he discussed this with Mr. Alberty and Ms. Tomlinson and Mr. Alberty considers this to be an accessory use to the commercial use. These are not people coming to a restaurant, but rather to shop who happen to be there. He also discussed this with Mr. Kurt Ackermann and he indicated that he and Jay Stump had discussed this issue in the past. They determined that food courts in Malls are never considered to be restaurants and they are accessories. He indicated that other stores, such as Home Depot, have a sandwich shop and they were never considered a restaurant. He requested that the record acknowledge that it be considered as accessory use and not a separate facility.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Ard, Bayles, Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Dick Horner, "absent") to **APPROVE** the detail site plan and landscape plan for PUD-309-A, subject to approved building elevations and lighting plans per staff recommendation, with the clarification that all of the exterior walls shall be of the

same materials and is the case and that restaurants inside the Wal-Mart Store is considered accessory and not affecting the required parking.

\*\*\*\*\*

**Commissioners' Comments:**

Mr. Bayles stated that several years ago Mr. Ledford supplied her with a Planning and Development primer that he used in a seminar. She indicated that she is supplying this information to staff in order to have it copied and available to the Planning Commissioners because it is one of the best resources she has found on these parallel processes.

\*\*\*\*\*

There being no further business, the Chair declared the meeting adjourned at 4:46 p.m.

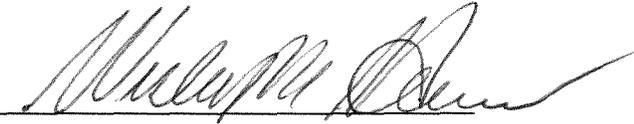
Date Approved:

11-2-05

Tracy M. Bayles

Chairman

ATTEST:



Secretary