

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
**Minutes of Meeting No. 2431**

Wednesday, December 7, 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	Cantees	Alberty	Boulden, Legal
Bayles	Dick	Bass	
Bernard		Chronister	
Carnes		Fernandez	
Harmon		Huntsinger	
Hill			
Horner			
Jackson			
Midget			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, December 2, 2005 at 4:50 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.

**ITEMS TO BE CONTINUED:**

Ms. Bayles reported that there has been a request for a continuance for Item No. 5, Trinity Creek II to December 21<sup>st</sup> or January 4<sup>th</sup>.

**Mr. Midget in at 1:34 p.m.**

Barry, 1913 Tacoma, Suite C, 74127, requested that the preliminary plat be continued to December 21<sup>st</sup> and if it is determined that there are changes needed, then continued to January 4, 2006.

Ms. Bayles agreed with the interested party and requested a motion.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **CONTINUE** the preliminary plat for Trinity Creek II to December 21, 2005.

Mr. Reynolds informed the Chair that he has conferred with Mr. Norman on Items 14 and 15 and the applicant has no objection to continuing these items to December 21, 2005.

Ms. Bayles asked Mr. Tom Quinn, 7419 South Jackson, 74132, if he had any objections to the continuance. He indicated he had no objections.

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **CONTINUE** Z-7008 and Z-7008-SP-1 to December 21, 2005.

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Mr. Reynolds stated that he also represents the applicant on Item No. 19 and he wasn't aware that anyone had requested a continuance. He has no objection to a continuance to get with the interested party if needed.

Ms. Bayles stated that today the Planning Commission received a request from Councilor Roscoe Turner to continue this item in order to allow all parties involved to prepare.

Mr. Reynolds stated that he would request that the Planning Commission honor his request.

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **CONTINUE** PUD-723 to December 21, 2005.

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**REPORTS:**

**Chairman's Report:**

Ms. Bayles reported on the TMAPC training that was held in November. She thanked the Planning Commissioners for attending.

**Worksession Report:**

Ms. Bayles reported that the worksession report from last month was to address the Lewis Avenue Corridor Study, which will return to the Planning Commission in January. In December the worksession will be addressing the River Corridor Development.

**Director's Report:**

Mr. Alberty reported on the TMAPC November receipts and at this point the receipts are ahead of 2004.

Mr. Alberty reported that there are no agenda items with regards to zoning on either City Council agendas or Board of County Commissioners agendas.

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**SUBDIVISIONS:**

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

**L-19794 – Sack and Associates** (9201) (PD 1) (CD 4)

3 South Cincinnati Avenue

**L-19894 – Melissa Tice** (2432) (County)

12614 North 129<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

These lot-splits are all in order and staff recommends **APPROVAL**.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES** the TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

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**LOT COMBINATION FOR RATIFICATION OF PRIOR APPROVAL:**

**L-10 – Twyla Miller** (0432) (PD 5) (CD 6)

52 North 120<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

This application is in order and staff recommends **APPROVAL**.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES** the TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **RATIFY** these lot-combinations given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

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**FINAL PLAT:**

**Holy Apostles Church – (7224)**

(County)

15700 South Peoria

**STAFF RECOMMENDATION:**

This plat consists of one lot in one block on 7.98 acres.

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

**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, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **APPROVE** the final plat for Holy Apostles Church per staff recommendation.

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**Estancia – (8407)**

(PD 18) (CD 7)

South of the southeast corner of East 71<sup>st</sup> Street and Mingo Road

**STAFF RECOMMENDATION:**

The plat consists of one lot in one block on 14.31 acres.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted 8-0-1 (Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; Ard "abstaining"; Cantees, Dick "absent") to **APPROVE** the final plat for Estancia per staff recommendation.

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**Kingsbury III – (8323)**

(PD 18) (CD 8)

7150 East 93<sup>rd</sup> Street South

**STAFF RECOMMENDATION:**

This plat consists of seven lots, one block, on 3.29 acres.

The following issues were discussed November 17, 2005 at the Technical Advisory Committee (TAC) meeting:

- 1. Zoning:** The property is zoned RS-3-PUD166-11/PUD 405 K-4. There is an unusual access per PUD 155-11 and 405-K. Show access through Ashton Hollow on plat. There is to be a private road in front of each lot and this will connect with the private portion of South 73<sup>rd</sup> East Avenue as Reserve A in Ashton Hollow (Lot 1, Block 1) connecting to public portion of South 73<sup>rd</sup> East Avenue. The original PUD was approved in 1975 and amended many times. A sketch plat was reviewed for Kingsbury III in February of 2005 and there were several concerns including overlap into the Southern Lakes addition and the legal description. The underlying zoning is RS-3 and except for a 20 foot front building line these standards and the original PUD standards apply. Show square footages for each lot. Will it be gated? *The applicant responded that no gates are planned at the present time.* If Reserve A is for drainage and open space then there needs to be a Reserve B shown as Lot 1, Block 1, for access through Ashton Hollow. Maintenance for both need to be defined and per the Homeowners' Association.
- 2. Streets:** Language needs to be included explaining sidewalks will be constructed on all streets and who will construct them, or a waiver of Subdivision Regulations will be required. Label 93<sup>rd</sup> Street as "Reserve B" and include "Reserve B" in the title of Section # 1 in the Covenants. Correct the typo of a dimension near the northwest corner. No objection to a waiver of the intersection radius. Include language to provide for all proposed design standards for the private street in addition to street width (i.e., pavement thickness, curb and gutter, inspection and etc.). Design for a minimum radius at the north end of the cul-de-sac. An engineering evaluation of the sight distance at the entry shall be submitted with the PFPI.

The length of "C1" should be shown to two decimal places.

3. **Sewer:** The east boundary of the PSO easement across Lot 1 needs to be defined. Also, add the west boundary of the existing 24.75' utility easement crossing Lot 1 of Ashton Hollow.
4. **Water:** Show a utility easement in the private street right-of-way for the water main line. Show easements on the offsite portion of the proposed water line. Add language for water main line in a utility easement along East 93<sup>rd</sup> Street South. Lot 7 is outside fire hydrant coverage of 400 feet. Adjust fire hydrant location. Use Tee, not tapping sleeve. Add an ARV near Station 1+00. Water main line must be ductile iron pipe at the street crossing.
5. **Storm Drainage:** The City of Tulsa Regulatory Floodplains must be shown by plotting the 100 year water surface elevation (WSE) from the profiles on the ground survey information. The Reserve must include all of the floodplain plus an additional 20 feet on both sides of the floodplain. Include sections on surface water, overland drainage easement and water, sewer service and stormwater.
6. **Utilities: ONG, Cable:** Add gas service to standard covenant language. PSO needs an underground circuit to street light. Take out 2A in covenants.
7. **Other: Fire:** Any future gate will require Traffic Engineering and Fire Marshal approval. Fix the bearing and distance at the north end of the west line on the face of the plat. Make a page 2 for the covenants and use larger text.

The plat was continued from the December 7, 2005 TMAPC meeting so that staff could review a request for a waiver of part of the sidewalk requirements. Staff can recommend approval of the request to require sidewalks only on the north side of the street with the requirement that there be a partial sidewalk required on the south side of the street including curb cut ramp on that side that would provide connection to the existing trail around the north end of the Heather Ridge Detention Pond. The sidewalk must be constructed to connect to the trail with a minimum width of ten feet. Future sidewalks might be needed if Kingsbury ever had a secured gated entry on the private street, but no gates are planned at this time. The staff recommends **APPROVAL** of the preliminary subdivision plat subject to the special and standard conditions below.

**Waivers of Subdivision Regulations:**

1. Waiver of intersection radii is needed and recommended for approval per Traffic Engineering.
2. Waiver of sidewalks on south side of street in the addition is requested.

**Special Conditions:**

1. The concerns of the Public Works and Development department staff must be taken care of to their satisfaction. Any sidewalk waiver granted should meet conditions recommended in staff report and meet with the Public Works and Development staff approval.

**Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.

10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.

23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

**Applicant's Comments:**

**Jeffrey Levinson**, 9308 South Toledo Avenue, Tulsa, Oklahoma 74136, stated that he is in agreement with the staff recommendation with one exception. All of the homes will be on the northern section and he would like to request a waiver for the sidewalk along the south by the jogging trail. The jogging trail is used by the residents in the nearby areas. The sidewalk would interfere with the trail and there is no reason for the sidewalk because there would not be any homes along the southern area by the detention pond. He requested a waiver for the sidewalk along the southern border.

Mr. Alberty stated that the Subdivision Regulations require sidewalks on both sides of the street and there would be no lots on the south side so there is no need for the sidewalk.

Ms. Bayles asked if there would be any reason for a sidewalk to access the trails. In response, Mr. Levinson stated that he would defer this to Mr. Lewis.

Mr. Bill Lewis, 5879 South Garnett, Tulsa, Oklahoma 74107, stated that the jogging trail is fairly close to the south boundary of the street and the street is only 12 feet north of the south boundary. Access to the trail and parking area is off of the street to the east when Kingsbury II was developed.

**TMAPC COMMENTS:**

Mrs. Fernandez stated that she was informed about this issue ten minutes before the meeting. She indicated that she wouldn't feel comfortable recommending approval of this waiver without having the INCOG Trail's Planner, staff and someone from Traffic Engineering and Transportation Development Services looking at it. This is the typical review that is done for a waiver request and Subdivision Regulations require a waiver request be submitted in writing before the meeting. The sidewalks were discussed at the TAC meeting and she honestly could not recommend approval of this at this time.

Ms. Bayles asked Mrs. Fernandez if a continuance to December 21<sup>st</sup> would give her adequate time for review. In response, Mrs. Fernandez answered affirmatively.

Mr. Midget stated that it seems simple enough to him to grant the waiver since the sidewalks will be installed adjacent to the houses.

Mr. Ard stated that he agrees with Mr. Midget, but he has a different issue. Mr. Ard asked staff if the applicant would gain access from the roadway to the east where it jogs over. Mr. Ard further asked if this was a consideration at TAC since it is a narrow access. In response, Mrs. Fernandez stated that it was discussed and the access itself was unusual; however, everyone was fine with the 30-foot access. Mr. Ard asked if Mr. French could add something to this issue.

**Darryl French**, Traffic Engineering, 200 Civic Center, stated that this is actually a private street and it is standard to have a 26-foot curb and guttered width within a 30-foot right-of-way. There is more private street right-of-way to the west and they will take advantage of that angle to get through the bottle-neck.

Mr. Harmon stated that he can understand that what has been proposed with the sidewalk issue seems acceptable and reasonable, but it is important to him to be sure that if sidewalks are needed or access to trails are needed that they are incorporated into this. He would prefer a continuance and allow staff an opportunity to look at this. It sounds simple on the surface but sometimes those things come back to bite you.

Mr. Bernard concurred with Mr. Harmon.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **8-1-0** (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson "aye"; Midget "nay"; none "abstaining"; Cantees, Dick "absent") to **CONTINUE** the preliminary plat for Kingsbury III to December 21, 2005.

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**Oak Ridge Park – (9425)**

(PD 17) (CD 6)

East of the southeast corner of East 41<sup>st</sup> Street South and 177<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

This plat consists of 139 lots, seven blocks, on 39.8 acres.

The following issues were discussed November 17, 2005 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned RS-3. Lot square footages need to be shown. Is Reserve A going to be used for open space/park as discussed in the Predevelopment meeting? If so it needs to be described and maintained. Maintenance responsibility for reserves needs to be clear and approved per City legal.
2. **Streets:** Cul-de-sac at west end of East 43<sup>rd</sup> Street South may need minor revision to meet Subdivision Regulations requirements for length and turn around radius. Language needs to be included explaining sidewalks will be constructed on all streets and who will construct them. Per the Subdivision Regulations, please change the arterial intersection radii from 25 feet to 30 feet. Change the access limit to read "75-foot access with median". In the Deed of Dedication please make "right-of-way" plural and delete..."as Oak Ridge Park" for clarity.
3. **Sewer:** The sanitary sewer along the south boundary must be a 12 inch line designed to carry the flow from the drainage area to the west of this property. On sanitary lines that dead end in residential blocks where the total distance of the pipe exceeds 500 feet the end manhole must be placed in the right-of-way for maintenance access. The development will be assessed Broken Arrow system development fees of \$700.00 per acre; Excess capacity fees to Trinity Creek of \$640.00 per acre; and Lift Station relief fees of \$150.00 per acre. If the owners have not already participated in the lift station construction costs, then a per acre fee will be charged for that as well.
4. **Water:** Four inch water main lines are not allowed to be laid in the cul-de-sac along East 43<sup>rd</sup> Street South. On block 4, lot 15, move fire hydrant in between lots 15 and 14.
5. **Storm Drainage:** Detention easements are not allowed to be also designated as utility easements.
6. **Utilities: ONG, Cable, PSO:** Layout needed for designers. Additional easements may be needed.
7. **Other: Fire:** Cul-de-sacs over 250 feet shall have a turn-around radius of 40 feet of paving and a radius of 52 feet of right-of-way at the property line. Finish location map.

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 Public Works Department staff must be taken care of to their satisfaction.

**Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.

12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
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; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 9-0-0 (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **APPROVE** the preliminary plat for Oak Ridge Park, subject to special conditions and standard conditions per staff recommendation.

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**MINOR SUBDIVISION PLAT:**

**Kingdom Corner** – (0319)

(PD 2) (CD 3)

Northwest corner of Apache Street and North Lewis Avenue

**STAFF RECOMMENDATION:**

This plat consists of three lots, one block, on 6.3 acres.

The following issues were discussed November 17, 2005 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned CS/OL. The plat was submitted as a minor subdivision plat but is recommended as a preliminary plat.
2. **Streets:** Sidewalks are required on arterials. Language needs to be included that states sidewalks will be constructed on the arterial streets, and stating who will be responsible for their construction. Preliminary plat approval is recommended. Label both right-of-way areas as "right-of-way dedicated by this plat". Use dimension lines for Limits of No Access restrictions for clarity, and the sum of the LNA's and Access Limits shall equal the total perimeter dimension. Change all access points to the maximum of 40 feet. Label the "ingress/egress" for L-1 as easement. Include the proper prefix for both arterials. Correct the name of the side street to East 27<sup>th</sup> Street north. The diagonal lot line 39.80 feet needs a bearing. In the covenants in the dedication to the public please change the term from "roadway easement" to "street rights-of-way". Include language imposing access limits and their enforcement.

3. **Sewer:** Use standard language for easements. The covenants do not address the back-to-back ten-foot easements located between the lots. Add language for "paving, landscaping and improvements within easements" to covenants.
4. **Water:** Show easements and street rights of way for water main lines. Use standard language for easements for streets and utilities. Use standard language for water services. Water services can be obtained from an existing 12-inch water line on the east side of Lewis Avenue for each lot. The six-inch water main with a fire hydrant on it cannot dead end at its location and may be required to be looped.
5. **Storm Drainage:** No comment.
6. **Utilities: ONG, Cable:** Additional easements may be needed.
7. **Other: Fire:** Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

Staff recommends **APPROVAL** of a preliminary plat, and not the minor subdivision plat submitted, subject to the special and standard conditions below.

**Waivers of Subdivision Regulations:**

1. None requested.

**Special Conditions:**

1. The concerns of the Public Works Department staff must be taken care of to their satisfaction.

**Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)

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

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

**TMAPC COMMENTS:**

Mr. Midget asked if this would be an extension of the current use.

**Alvin Penn**, P.O. Box 657, Bristow, Oklahoma 74010, stated that this will be used for the same purpose. This will be divided into three lots. One lot is an existing lot and then one lot to the south of the existing lot, which will leave one lot for future use. He commented that the fire hydrant issue has been worked out with the Fire Marshal. There will be a sprinkler contract instead of the fire hydrant.

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 9-0-0 (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **APPROVE** the minor subdivision plat for Kingdom Corner, subject to special conditions and standard conditions per staff recommendation.

\*\*\*\*\*

**CHANGE OF ACCESS ON RECORDED PLAT:**

**Lot 2, Block 1, 21<sup>st</sup> and I-44 Center - (9313)** (PD 5) (CD 5)  
East of Memorial, South of 21<sup>st</sup> Street

**STAFF RECOMMENDATION:**

This application is made to allow a change of access along 21<sup>st</sup> Street. The property is zoned CS and IL under PUD-550.

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

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted 9-0-0 (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **APPROVE** the change of access on recorded plat for Lot 2, Block 1, 21<sup>st</sup> and I-44 Center per staff recommendation.

\*\*\*\*\*

**PLAT WAIVERS:**

**Z-7007 - (9336)** (PD 18) (CD 5)  
5129-39 South 95<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

The platting requirement is triggered by a requested rezoning to IL.

Staff provides the following information from TAC at their November 17, 2005 meeting:

**ZONING:**

TMAPC Staff: The plat waiver is for property requesting rezoning to IL to expand an existing use.

**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 the property was previously platted and staff has no objection to the waiver.

***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  |

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

	YES	NO
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.		X
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.?		X
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 was not present.**

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

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 9-0-0 (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to **APPROVE** the plat waiver for Z-7007 per staff recommendation.

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## ZONING PUBLIC HEARING

Application No.: CZ-369

RE to OM

Applicant: John W. Moody

County

Location: North of the northwest corner East 96<sup>th</sup> Street North and North 136<sup>th</sup> East Avenue

### STAFF RECOMMENDATION:

Mr. Alberty stated that Mr. Moody had informed the Planning Commission that he would be filing these two applications and he has additional zoning cases that are pending at the Board of County Commissioners that are in the same vicinity.

**CZ-363 through CZ-367 October 2005:** Rezoning applications were filed on property that adjoined the subject property or were within a ¼ mile of the subject tract. The applicants in all cases were requesting a zoning change from AG, RE or RS to OM zoning. Staff and TMAPC concurred in denial of all applications based on the fact the locations neither met the Development Guidelines for medium intensity use and the requested zonings were not in accord with the Owasso Land Use Plan.

**CZ-280 March 2001:** Approval was granted to rezone a five-acre tract located on the southeast corner of East 96<sup>th</sup> Street and North 136<sup>th</sup> East Avenue from AG to RS.

**CZ-122 December 1984:** All concurred in approval of a request to rezone a five-acre tract located on the southeast corner East 96<sup>th</sup> Street North and North 129<sup>th</sup> East Avenue from AG to CS.

### AREA DESCRIPTION:

**SITE ANALYSIS:** The subject property is approximately 6.8 acres in size and is located north of the northwest corner of East 96<sup>th</sup> Street North and North 136<sup>th</sup> East Avenue, Owasso, Oklahoma. The property consists of three large residential lots. The property is flat, non-wooded, contains a single-family dwelling on each lot and is zoned RE.

### STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
North 136 <sup>th</sup> East Avenue	Residential	50'	2 lanes
East 96 <sup>th</sup> Street North	Secondary arterial	100'	2 lanes

**UTILITIES:** The subject property is served by municipal water. Public sewer would require a connection from the west.

**SURROUNDING AREA:** The property is abutted on the north by vacant land, zoned OM; to the east are single-family dwellings, zoned RE; to the west is a church, zoned RS-2; and to the south are single-family homes, zoned AG.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The subject property is within the Owasso 2010 Land Use Master Plan and is designated as Rural – Residential/Agriculture. The requested OM zoning **is not** in accord with the Owasso Land Use Plan.

**STAFF RECOMMENDATION:**

Several rezoning applications that were similar to this were heard on October 19, 2005 by the TMAPC (as noted above) and all were recommended for denial. Staff could not support those requested rezonings as being incompatible with surrounding zoning patterns and development trends and not being in accord with the Owasso Land Use Master Plan. Neither can staff support this request, for the same reasons, and therefore recommends **DENIAL** of OM zoning for CZ-369.

**RELATED CASE:**

**Application No.:** CZ-370

**RE to OM**

**Applicant:** John W. Moody

**County**

**Location:** North of the northeast corner East 96<sup>th</sup> Street North and North 136<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

**CZ-363 through CZ-367 October 2005:** Rezoning applications were filed on property that adjoined the subject property or were within a ¼ mile of the subject tract. The applicants in all cases were requesting a zoning change from AG, RE or RS to OM zoning. Staff and TMAPC concurred in denial of all applications based on the fact the locations neither met the Development Guidelines for medium intensity use and the requested zonings were not in accord with the Owasso Land Use Plan.

**CZ-280 March 2001:** Approval was granted to rezone a five-acre tract located on the south east corner of East 96<sup>th</sup> Street and North 136<sup>th</sup> East Avenue from AG to RS.

**CZ-122 December 1984:** All concurred in approval of a request to rezone a five-acre tract located on the southeast corner East 96<sup>th</sup> Street North and North 129<sup>th</sup> East Avenue from AG to CS.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 6.8 acres in size and is located north of the northeast corner of East 96<sup>th</sup> Street North and North 136<sup>th</sup> East Avenue, Owasso, Oklahoma. The property consists of three large residential lots. The property is flat, non-wooded, contains a single-family dwelling on each lot and is zoned RE.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
North 136 <sup>th</sup> East Avenue	Residential	50'	2 lanes
East 96 <sup>th</sup> Street North	Secondary arterial	100'	2 lanes

**UTILITIES:** The subject property is served by municipal water. Public sewer would require a connection from the west.

**SURROUNDING AREA:** The property is abutted on the north by vacant land, zoned OM; to the east are single-family dwellings, zoned RE; to the west is a church, zoned RS-2; and to the south are single-family homes, zoned AG.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The subject property is within the Owasso 2010 Land Use Master Plan and is designated as Rural – Residential/Agriculture. The requested OM zoning **is not** in accord with the Owasso Land Use Plan.

**STAFF RECOMMENDATION:**

Staff cannot support this requested rezoning, based on the Owasso Land Use Plan, existing zoning and development in the area. Comments from CZ-369 apply here as well. Staff recommends **DENIAL** of OM zoning for CZ-370.

**TMAPC COMMENTS:**

Ms. Bayles stated that there are 13 individuals who have signed up to speak as interested parties. She requested staff to read the opening statement regarding the rules for speaking and time limits. Mr. Alberty read the full opening statement including instructions on speaking before the Planning Commission.

**Applicant's Comments:**

**John W. Moody**, 1800 South Baltimore, Suite 900, Tulsa, Oklahoma 74119, stated that there are three property owners who were given the incentive to file this zoning application after learning that the other property owners in the area

had filed a zoning application for OM zoning and after the City of Owasso rezoned the property to the north of these properties to CG.

Mr. Moody stated that he pointed out where the CG property is located. Mr. Moody submitted a map that he had corrected to read CG zoning rather than the OM zoning as indicated on the INCOG case map (Exhibit A-3). Mr. Moody stated that he does understand that there is a 100-foot OM zoning on the south boundary, but it is basically zoned CG. When this was approved by Owasso it was not designated for CG in the Master Plan, but in May they amended their Master Plan. The subject properties are 330 feet of frontage (each) on North 136<sup>th</sup> Street and 300 feet in depth. Mr. Moody submitted an aerial photograph (Exhibit A-2) and pointed out the commercial zoning on the aerial map and the location of the Baptist Church property, which is zoned RS. He indicated that the church is a heavy intense use and referred to the church as a "mega" church. The Baptist Church is adjacent to Mr. Moody's client's property. Mr. Moody cited the various activities that the church has throughout the week, which he commented disturbs the neighbors.

Mr. Moody stated that some of his clients appeared before the City of Owasso in protest and expressed their concerns about the amendment to the Master Plan and the approval of the CG and OM next to their homes. They were told not to worry about it. It is interesting that OM was considered an appropriate zoning pattern and OM and CG is on the map. It is disingenuous to suggest that there is some protection of residential in the Comprehensive Plan. He believes that the subject three properties should be zoned OM because they are not adjacent to residential. The subject properties are adjacent to heavy commercial and the OM is a strip that could be used for parking for the heavy commercial. There have been numerous rumors of what the subject property will be used for; however, there is no PUD on the CG property at this time and they could do whatever they would like. North 136<sup>th</sup> Avenue is not closed and it could be a convenient access for the CG property. Regardless of what the Master Plan states, his clients have been impacted and he believes that OM is the appropriate zoning classification based upon what the City of Owasso has done and used as the buffer for the CG property, which is OM zoning. Mr. Moody stated that he isn't trying to be personal and attack the Owasso staff or the Planning Commission staff. However, the reality is that when some bigger developers come in, then sometimes they swing a bigger stick and get things like this done. Sometime Comprehensive Plans need to be changed, but this is not in the City of Owasso and the Planning Commission is not bound by that plan; it is simply what Owasso is asking the Planning Commission to do. Owasso has a policy of not annexing properties over the objections of the property owner and this goes to the County and stays in the County.

Mr. Moody concluded that he believes that the physical facts are what they are and the zoning pattern is what it is. The Supreme Court has been very clear is that what one looks at is the physical facts, including the zoning pattern in the

area, when making the decisions. The physical facts are that there is a "mega-church" nonresidential use, commercial abutting the residential properties, and an appeal at the County Commission for OM zoning. He believes that his clients should be granted OM zoning, which is the same as every property owner that they abut.

**TMAPC COMMENTS:**

Mr. Ard asked Mr. Moody where in the process the two properties that are zoned RE are with regard to the zoning. In response, Mr. Moody stated that they have been appealed and had hoped that they would have been heard before now but the minutes are still being prepared and transmitted.

Mr. Ard asked if there is any access agreement into the CG property to the north. In response, Mr. Moody stated that North 136<sup>th</sup> East Avenue is a publicly dedicated road and they have the right to use it. There is no agreement with the property that has been zoned CG to access into his client's property.

Mr. Harmon stated that it seems a little unusual to him that the only access to an office tract would be through a residential area. This would be out of character for what the Planning Commission would usually look at. One would have to use a residential street to access the subject lots.

In response to Mr. Harmon, Mr. Moody stated that North 136<sup>th</sup> East Avenue is a 60-foot wide road. It is the width of a commercial collector and it is not unusual at all. Mr. Harmon asked Mr. Moody if it wouldn't be unusual to go through a neighborhood to access OM. Mr. Moody stated that all of the property owners in the subject area are in consent and agreement. There are many office parks in the City of Tulsa that use 60-foot wide public streets for their access off of the arterial streets. He disagrees with Mr. Harmon and doesn't believe it is unusual at all. Mr. Moody indicated that the lots along North 136<sup>th</sup> East Avenue are not platted lots, but the road is a dedicated to the public and anyone can use it. If all of the properties under application were rezoned to OM then it would be an office park. He commented that he thinks it is unusual and he would agree with the Planning Commission, if the subject properties are not zoned OM, because that would be exactly the situation that the Planning Commission would have created, because then, the Planning Commission would have condemned these properties to residential use with a street that will be used for commercial/office traffic.

Ms. Bayles asked Mr. Alberty to speak on the issue about the property to the north and whether it is zoned OM or OM/CG.

Mr. Alberty stated that the information Mr. Moody has given the Planning Commission is correct. The difference would be is that Mr. Moody's self-drawn map doesn't indicate the 100-foot strip of OM zoning along the north and east sides of the triangular piece that was zoned CG. The OM zoning was retained

and not rezoned. The CG was what was rezoned and INCOG's maps have not been updated. He doesn't know how recent it was that the CG was rezoned. INCOG's maps are computer generated and the updated ordinance is not reflected on the map. Representatives from Owasso are present and may be able to explain this as well.

Mr. Alberty stated that he would like to comment on Mr. Harmon's question. The access to the CG-zoned property is intended to be off of the frontage road. There is a frontage road (US 169) that connects 96<sup>th</sup> Street with 106<sup>th</sup> Street North. The intent with this rezoning application, in his opinion, would have the commercial access to access the CG parcel off of the US 169 frontage road, which is located and abuts the property on the west.

Mr. Carnes stated that this is a County issue and historically the Planning Commission has not gone against the City's recommendations which on file with regard to these fence-line cases.

**Ms. Bayles reminded the interested parties to state their name and address and that they will have two minutes to speak unless someone allocates their time.**

**INTERESTED PARTIES:**

**Kevin Coutant**, 320 South Boston, Suite 500, Tulsa, Oklahoma 74103, submitted a packet of materials (Exhibit A-5) and stated that page 16 of this packet has the official zoning map of the City of Owasso for the subject area. It is neither consistent with the map in the agenda packet nor with the representation as to zoning just presented by Mr. Moody. The property to the north is zoned OL, which is the 100-foot strip along the southerly and easterly boundaries of the large parcel and CS (not CG) as to the balance.

**TMAPC COMMENTS:**

Mr. Jackson asked Mr. Coutant if he is representing the homeowner's association or the City of Owasso. In response, Mr. Coutant stated that he is representing Frosty Turpen and Rick Roberts. Mr. Jackson asked Mr. Coutant if he is in opposition to or in agreement with the proposal. In response, Mr. Coutant stated that his clients oppose this proposal.

Mr. Coutant stated that the North 136<sup>th</sup> East Avenue is a residential road, which is an asphalt road with 50-foot of right-of-way. The subject property is not located on an arterial street and it sets back off an arterial on a residential road. The subject property doesn't have access directly as one would expect for office uses. There is RE zoning to the east and south of the subject property and across 96<sup>th</sup> Street North is additional residential development and some AG zoning.

Mr. Coutant stated that the primary issue is the Master Plan that has been mentioned. The proposal is not consistent with the Owasso Master Plan and it is not a "maybe found" nor in accordance with the Master Plan. He further stated that OL zoning would not be in accordance with the Master Plan, nor is residential multifamily in accord. Mr. Coutant described the surrounding properties and what is appropriate under the Master Plan. The requested OM zoning is not just one step up as contemplated by the Master Plan in intensities, but several steps up. This proposal doesn't comply with the Master Plan.

Mr. Coutant stated that one of the basic guidelines is to zone consistent with the 99% rule of the Comprehensive Plan/Master Plan that is in place. The Comprehensive Plan is something that everyone relies upon and it is good policy. The proposal looks and feels like strip zoning. This application is in the middle of the mile east and west and is not contemplated to be OM in the Plan. Once this is done it is stripping out the section and there is no stopping point. This is in the nature of spot zoning because it is in the middle of the section in a way that would violate the integrity of the residential zoning contemplated by the Master Plan. The pattern for development in the subject area has been set and it is residential. The application is on land that already has residences on it and this is a residential area. He requested that the Planning Commission consider all of this and reject this application.

**TMAPC COMMENTS:**

Mr. Ard stated that the Planning Commission has seen three different zoning maps and he is not sure which one is correct. Mr. Alberty stated that Eric Wiles would be the person to answer this question.

Mr. Ard asked Mr. Coutant if he would agree that the property to the north that was rezoned CS and OL didn't agree with the Master Plan either. In response, Mr. Coutant stated that the maps submitted today are the current reproduced maps and at the time of the rezoning, the Master Plan was amended to show that the commercial area does in fact cover all of the area with the CS zoning. Mr. Ard asked if the Master Plan was a moving target. In response, Mr. Coutant stated that in this case it did move.

Mr. Bernard stated that everything west of the proposal is nonresidential and if the Planning Commission were to grant what the applicant is requesting, everything from that line west would be nonresidential.

Mr. Coutant stated that the RS-2 is where the church is located and there is integrity to the underlying zoning. Mr. Bernard stated that in practicality there is no residential where the church is located. Mr. Coutant stated that church uses are located throughout our community in neighborhoods that are residentially zoned by special exception. Mr. Coutant encouraged, as the Planning Commission goes through the analysis, the only way consistent zoning decisions are made is if the underlying zoning is looked at. Otherwise there would be

islands of commercial and nonconforming uses in the middle of all of the neighborhoods where churches are located. Mr. Coutant stated that the property to the north was contemplated for CZ zoning and that is why there is CS to the north, then OL between the residential and the CS. This is consistent with good planning and the approach taken as a community for many years. There is always a transition and the City of Owasso provided for that transition from the CS (low intensity) to the OL in the immediate vicinity, the residential.

Mr. Ard asked Mr. Coutant if his clients would consider OL zoning rather than OM. In response, Mr. Coutant stated that this is an area that is designated under the Comprehensive Plan as residential. His clients are interested in seeing the integrity of that area of town remaining intact as residential.

Ms. Bayles requested Eric Wiles to come forward.

**INTERESTED PARTIES:**

**Eric Wiles**, Community Development Director for the City of Owasso, 9713 East 111<sup>th</sup> Street North, Owasso, Oklahoma 74055, stated that he would like to give a history of the 2015 Master Plan and the planning rationale used to determine what the appropriate land use should be on the properties that are covered by this application today.

Mr. Wiles described the 2015 Master Plan and explained the color codes on the map. In 2004, every property in town was considered and it was determined what the future land use of every property should be, based on two fundamental questions. The two things considered were, what is the highest and best use of the property and what is the predominant development pattern existing in the area. He explained that for the three subject properties under this application, it was determined that the highest and best use was determined to be residential. He further explained that 96<sup>th</sup> Street is an arterial road, but 2.5 miles to the east it ends and there is no destination along 96<sup>th</sup> Street. The main 96<sup>th</sup> Street corridor is between Garnett Road and 129<sup>th</sup> East Avenue. There is quite a difference between the traffic counts on the west side of 129<sup>th</sup> East Avenue and the east side of 129<sup>th</sup> East Avenue. It is more residential in flavor on the east side of 129<sup>th</sup> East Avenue. The development policy for the City of Owasso is that there is one major growth corridor on Highway 169 and this growth corridor is where the City is growing. The City has determined that it is reasonable to expect and desire commercial growth up and down the strip of Highway 169. The City has determined that off of the strip of commercial development, along the framework and skeleton of the arterial streets, nodal development is appropriate, which is similar to Tulsa's Development Guidelines. He compared this to 145<sup>th</sup> East Avenue, where there is a commercial node that is surrounded by transition that could be used for office or multifamily residential, and on the interior there are residential uses. Since the subject properties are not located on the commercial strip, the situation is quite different from the 35 acres to the north. These three properties are accessed off of 96<sup>th</sup> Street or the interior and therefore should be

governed under the nodal development principal. The City also looked at the existing development patterns and the subject three properties, as well as the properties across the street and all along the south, which have already developed for single-family use and the predominate development pattern is single-family. The City is attempting to buffer those existing single-family uses from the developing commercial uses with transitional uses, such as the church and the 100-foot strip of OL zoning to the north.

Mr. Wiles explained the history of the subject application. He explained that the City of Owasso was approached to change the Master Plan for five acres on the south side of 96<sup>th</sup> Street last spring and the property owner requested that the City annex and change the Master Plan for that newly-annexed property. The Planning Commission approved the annexation, but declined to change the planned use of the property from residential to office because of the Master Plan. The applicant then withdrew the annexation request and joined twelve other properties in the recent October application to the TMAPC to change these properties from residential and agricultural zoning to office zoning. The TMAPC denied this request and those properties are under appeal. That brings us to the subject properties immediately north of the properties under appeal. This road is not complete all the way to the property line of the 35 acres; however, the right-of-way is present. The 35 acres to the north was originally planned for commercial use on the western side of the property and planned for residential use on the eastern side of the property. The owner of the 35 acres came to the City of Owasso last spring and requested that the City change the Master Plan to allow for the commercial development of the bulk of the 35 acres. The City of Owasso did change the Master Plan to allow for commercial development of the bulk of the 35 acres. The decision is reflected in the ultimate rezoning of the 35 acres, which came a month later. The bulk of the 35 acres is zoned for commercial use and there is a 100-foot buffer of office zoning along the eastern and southern boundaries of the 35 acres. Mr. Wiles explained that during the public hearing for the 35 acres and amending the Master Plan, there was a resident from 136<sup>th</sup> East Avenue present who protested the change in the Master Plan for the 35 acres to the north. At that hearing and as a result of that protest, the 100-foot buffer strip was created and it was determined and recorded that 100<sup>th</sup> Street North and 136<sup>th</sup> East Avenue would not be allowed to continue through this property for purposes of development. There is a recorded policy of not allowing those roads going through because it was going to be commercial development and not a residential development. The City of Owasso does not want people going through a residential street to access commercial property because it is not appropriate. However, the City of Owasso views the development of the 35 acres to the north as quite different in scale, scope and pattern, than the properties accessed off of 96<sup>th</sup> Street. The City of Owasso desires that the future use of these properties on 136<sup>th</sup> East Avenue be residential.

**TMAPC COMMENTS:**

Ms. Bayles asked Mr. Wiles when the Owasso 2015 Land Use Master Plan was adopted. In response, Mr. Wiles stated that it was adopted in 2004.

**INTERESTED PARTIES:**

**Brent Colgan**, 11807 East 80<sup>th</sup> Place North, Owasso, Oklahoma 74055, stated that he is a member of the Owasso City Council. He requested that the Planning Commission respect their 2015 Master Plan and retain the residential zoning. City of Owasso has experienced great growth and the City Council has tried to adopt a reasonable and responsible growth thought process. If these properties were to be rezoned, he doesn't feel that it would fit in any type of reasonable or responsible type of growth in that direction. When the rezoning was done on along Highway 169, it was considered reasonable for commercial use there, but the south side was not rezoned for commercial because it wouldn't have been reasonable or responsible to the land owners to the south of 96<sup>th</sup> Street. He requested that the Planning Commission would adhere to the City of Owasso's denial of this rezoning and to the Planning Commission's staff recommendation for denial.

Mr. Colgan stated that he understands that there is some concern with the church in the subject area. It is not a "mega" church by any purposes, but a standard-size church.

**TMAPC COMMENTS:**

Mr. Jackson asked Mr. Colgan what the City of Owasso is doing to encourage the applicants to annex into the City and to feed into the City's theory of what the growth pattern should be since they are not really a part of the City of Owasso. In response, Mr. Colgan stated that applicants usually come to the City of Owasso and request to be annexed in and then after the annexation, they request rezoning. In that same step, if they are granted the annexation but denied the rezoning, then they request to withdraw the annexation.

Mr. Jackson stated that if the City of Owasso has a non-aggressive annexation policy there is the possibility of having pockets of incompatible development in the County. In response, Mr. Colgan agreed with Mr. Jackson's statement and deferred this to Mr. Rodney Ray or the City of Owasso staff. Mr. Colgan stated that the City of Owasso will be looking at a more aggressive annexation policy.

**INTERESTED PARTIES:**

**Rodney Ray**, 8503 North 100<sup>th</sup> East Avenue, Owasso, Oklahoma 74055, stated that there are three things he would like the Planning Commission to consider. The first is the fact that the City of Owasso has an updated Comprehensive Master Plan Land Use Plan. It was updated in 2004 and it will be updated again in 2006. The City of Owasso has demonstrated their track record of recognizing their growth and the fact that the problems of the community can only be managed when there is a very good Comprehensive Plan in place. He also

pointed out that the plan was developed with significant public input. There was a citizens' committee developed and they heard issues relating to the growth and the discussions that took place were intense and passionate. The City of Owasso Planning Commission reviewed the committee findings over several months and then recommended that the plan be adopted. The City Council took an additional month and a half to review and adopt the plan.

Mr. Ray stated that the City of Owasso has a competent staff of people who have years of experience in developing and working on planning issues. Eric Wiles has a tremendous history and a demonstrated track of developing Comprehensive Land Use Plans in this area and in the Enid area as well. No city in the subject area has a bigger stake in planning for the quality of like issues than Owasso. It is not a greater stake, but it is as big as anyone's in this area.

Mr. Ray stated that people attended the public hearing and protested this original project (35-acres to the north), which seems to have become a point of contention. The City of Owasso amended the request the applicant wanted because there was a fierce and intense discussion regarding the rezoning of the 35 acres. The City of Owasso is concerned about the citizens' requests and that the City doesn't accommodate big developers at the expense of the citizens.

Mr. Ray stated that there are committed public policy bodies in Owasso who have worked hard on the Master Plan and have reviewed it in light of the issues that are before the Planning Commission today. The Plan was reviewed by the Citizens Committee, the Planning Commission, the City Council and it was adopted. It was reviewed once again when the 35 acres came to the City of Owasso and it was amended, which there is nothing wrong with that. There would be nothing wrong if the City of Owasso amended the Plan again for this request, but the City felt that through the entire process, this amendment is not right and not consistent with what the City wants to do. Mr. Ray concluded that he believes that the message that the Planning Commission would want to send, as a part of the public policy process in Tulsa to sister communities, is not one that we know better than you or should have done this, but one that states that the Tulsa Metropolitan Area Planning Commission respects the jurisdictional issues that Owasso has and respects the processes that Owasso goes through. He recognizes that plans will change and when the City has heard it and expects and hopes that the Tulsa Metropolitan Area Planning Commission would respect that the City of Owasso has reviewed those and denied them. Mr. Ray requested the Planning Commission to consider three things today as they review these applications: 1) respect the City of Owasso's process and policies; 2) honor the service of fellow Planning Commissioners in Owasso, City Council members and citizens by denying this application because it has come through the City of Owasso's process; 3) and finally ask why the Planning Commission would want to do anything other than that. What reason could there be to do anything other than respect the process that our local community has gone through?

Mr. Ray recognized that the City of Owasso may not have the right annexation policies, and recently it has been discussed with the City Council and the Planning Commission. Perhaps this policy should be changed. The current policy will only result in more of this type of issues and it can't be good for the Tulsa Metropolitan Area Planning Commission and it is certainly not good for Owasso. Mr. Ray requested the Planning Commission to deny this application.

**TMAPC COMMENTS:**

Ms. Bayles informed Mr. Ray that the Planning Commission does respect the City of Owasso's process and commend them for the process. The City of Tulsa is facing similar issues regarding updating the Comprehensive Plan.

**INTERESTED PARTIES:**

**Frosty Turpen**, 9510 North 134<sup>th</sup> East Avenue, Owasso, Oklahoma 74055, stated that he is very passionate about the subject area and he would like to see it continue to stay residential and let the growth continue to go up Highway 169 as planned. He further stated that he moved into the subject area to live and raise his family.

**Rick Roberts**, 13503 94<sup>th</sup> Street North, Owasso, Oklahoma 74055, stated that he became more aware of City of Owasso's Plan and reviewed it. He explained that he tried to purchase the property that is under application and he was refused because the owners want three times the amount of money for their property and believe OM is the way to get it. He believes that the City of Owasso has a great plan and that it should be followed.

**Dana and Donna Weida**, 9403 North 136<sup>th</sup> East Avenue, 74055, Mr. Weida stated that he previously opposed the OM rezoning on the cases that are being appealed. The reason for his opposition is because he believes it is a step-wise progression to converting the other properties to commercial or office uses. He stated that he is opposed to the development or the change of status of houses in issue.

Mr. Weida stated that he drove the north side of 136<sup>th</sup> Street and it is a pleasant lane with mature trees and large lots with residences on the lots. Some of the houses backup to the church; however, privacy fences and hedges could be added to help diminish the impact of the church on these properties. Mr. Weida submitted photographs of the surrounding properties (Exhibit A-1). He indicated that there is a parking lot that separates the main church building from the lots of question and a privacy fence or hedge row could help with the impact of the church activities.

Mr. Weida stated that he moved to Owasso a couple of months ago and he looked at the Master Plan for development. He found it to be an attractive community with a good plan for future development. He supports the Owasso

Master Plan and hopes that the Tulsa Metropolitan Area Planning Commission does the same.

Mrs. Weida stated that she would request that the Planning Commission respectfully consider the following: 1) is there a specific detailed and comprehensive plan for commercial use; 2) are there adequate drainage and traffic control plans in place; 3) have all perspective business owners and tenants involved in this proposed property development been revealed to this date; 4) would the businesses involved have a positive impact on the community or something that would appreciate all properties in the subject area and would the proposed change benefit all homeowners in the area and not just the homeowners in the rezoning process.

Mrs. Weida stated that the subject properties are lovely lots with a close proximity to the medical center that is being built and could potentially be prime residential areas as well as commercial areas.

**Kurt Ocobock**, 9621 North 136<sup>th</sup> East Avenue, Owasso, Oklahoma 74055, stated that he is petitioning for the rezoning. He is one of the eight property owners who reside on the street of the properties in question. He purchased his property ten years ago when there was no commercial property. In the past couple of years, the adjoining property was rezoned from AG to RS-2 and purchased by the Baptist Church. The church that was erected is not a small neighborhood church. He described the church as a “mega-mogul, thriving high-volume business”. Within the past six months another building has been added with future construction in the plans. On the back corner of the property is where the band practices and plays regularly, which is outside his neighbor’s back door. He described the various activities that are conducted within the church and outside in the parking lot that he considers a nuisance to the neighborhood.

Mr. Ocobock stated that next to the church property is 28 acres that was rezoned from AG to CS and has a pending contract for a possible 1.3 million square feet of shopping space. At the end of his street the property to the north was recently rezoned CS/OM with plans to connect these businesses to a planned widening of 96<sup>th</sup> Street to five lanes through his neighborhood. He was told that the street would be opened for access to the CS/OM property to the north. Mr. Ocobock cited the possibility of 34,000 people traveling his neighborhood street monthly, which he attributes to an article he read on the Owasso website telling people about their City and the close proximity to Tulsa and Bartlesville.

**TMAPC COMMENTS:**

Mr. Boulden asked Mr. Ocobock if the church was located on their property by special exception granted by the Board of Adjustment. In response, Mr. Ocobock stated that he doesn’t know because he was never notified when the land was rezoned.

Mr. Bernard asked Mr. Ocobock who informed him that his neighborhood road would be accessed by the CS property to the north. In response, Mr. Ocobock stated that when he attended a meeting with the developers and the landowner himself, he was told it would be opened for emergency use only. Mr. Ocobock asked if this is done what would stop traffic from using the access.

Mr. Bernard asked Mr. Ocobock if anyone from the City of Owasso or the developer told him that the road would be opened. In response, Mr. Ocobock stated that both told him that the street would be opened.

**INTERESTED PARTIES:**

**Steve Johnson**, 9810 North 136<sup>th</sup> East Avenue, Owasso, Oklahoma 74055, stated that his property backs up to the Baptist Church. He has lived on his property for 33 years. He commented that the protesters have stated that he is not considering their rights and he could say the same about them. Since they moved in the traffic has increased, city noises, sirens, red noise, veiled views of the skyline, congested streets, lights that illuminate his backyard, enabling daytime activity, slackened water pressure, memories of our children removed, urban farming changed, etc. The arguments of the protesters are not necessarily a stand-alone argument. He understands that it is hard for the Planning Commission because they are being presented arguments. What has been removed from his enjoyment has no financial measure nor does it have a conciliatory remedy. He would disagree with the statement that there are still residences because as far as the residence and the property that he purchased, they no longer exist. He indicated that he thought the church would screen the backside of his property but it has never happened.

Mr. Johnson stated that the property usage around his is defined and it is not going to change. The adjoining zoning is no longer compatible with his neighborhood. Urban growth brings these kinds of pressures and he is not offended by this and he understands that when a community grows, this type of thing happens. He is not opposed to the process and he would like a reasonable hearing. The Master Plan is subject to change as has been demonstrated in the past. He believes that his request for rezoning is a helpful decision to the Owasso area around his residence. He believes that is compatible with the zoning around his residence.

**David Geer**, 9856 North 136<sup>th</sup> East Avenue, Owasso, Oklahoma 74055, stated that the back of his property abuts the church and the north side of his property abuts the 35 acres to the north that has been discussed. He indicated that he opposed the CS/OL zoning on the 35 acres to the north. He commented that there were several people present at the rezoning hearing for the property to the north in protest of the rezoning and it was rezoned regardless. Mr. Geer stated that he opposed the zoning on the north property and requested that it remain commercial and residential; however, the City of Owasso approved it for CS and an OL buffer.

Mr. Geer stated that there have been statements heading east 96<sup>th</sup> Street ends at 2.5 miles and it has been an argument of the opposition that there is not growth that way. However two miles to the west, 96<sup>th</sup> Street ends as well and he doesn't see that as an argument. There is more of 96<sup>th</sup> Street heading east than there is heading west.

Mr. Geer indicated that he moved into the area two years ago and he had some water runoff concerns and major noise concerns with the church. He discussed these concerns with the church and the City of Owasso. He indicated that he had a City Engineer come to his property. He commented that if this church were built today, they would have to install a fence between his property and the church property, but they couldn't require that now. The City Engineer stated that he could do a light study to determine how much light overflows onto the surrounding properties at night. He requested that study to be done and he hasn't heard anything from the City of Owasso regarding this, which was discussed two years ago.

**TMAPC COMMENTS:**

Mr. Midget asked Mr. Geer if there is a school at the church being discussed. In response, Mr. Geer stated that there is a daycare at the church. He further stated that it could be a school because there are kids there every day and there is a playground.

Mr. Midget asked Mr. Geer about the band that has been mentioned. In response, Mr. Geer stated that the band is not part of the daycare. It is the youth band for the church. There are children activities on a daily basis at the church.

**Applicant's Rebuttal:**

Mr. Moody stated that he would like to address the OM/CG matter first. explained that he started researching this proposal in August for his clients and he filed the original applications on September 9, 2005 and then the subsequent applications. He indicated that he discussed these proposals with the City Planner, Eric Wiles, and asked if there was the possibility to discuss PUDs, annexation or any changes. He was informed that the proposal wouldn't happen and to forget about coming to Owasso.

Mr. Moody stated that he went through the City of Owasso's files and obtained copies of zoning in the subject area and at that time there had been a zoning application (OZ-0502), which was on the 35 acres to the north. At the time he had the minutes of the approval of the Planning Commission and minutes of the approval of the City Council, but he doesn't believe an ordinance had been published at that time. Mr. Moody read the staff recommendation from the City of Owasso for the rezoning of the property to the north, which requested CG and OM zoning. He expressed his surprise that the zoning is CS and OL, which was

never a compromise given to his clients. He explained that his point in all of this is that he used the best information that was available at the time.

Mr. Moody stated that evidently there is OL zoning abutting his client's property and it might change some perception of the Planning Commission, but he has not had the opportunity to talk to his clients about this. There is a possibility with OL zoning that he could file a PUD with 40% FAR and it may be a way to go with this request. The OL zoning is obviously an acceptable zoning buffer by the City of Owasso for these properties. He commented that he is not trying to make this personal with the City of Owasso or the Tulsa Metropolitan Area Planning Commission and staff. This request is not about whether the Planning Commission is supporting the Owasso Planning Commission on that basis. He stated that he is representing clients who are property owners and are affected by decisions and had no recourse except to file this application. He believes that his clients are entitled to some reasonable relief. The church is located on residentially zoned property; however, it is not in residential use.

**TMAPC COMMENTS:**

Mr. Harmon asked Mr. Moody if he is considering withdrawing this and come back with OL and a PUD. In response, Mr. Moody stated that he is not considering this. He explained that when the property is advertised for OM, then the Planning Commission can downzone to OL.

Mr. Harmon stated that he was thinking that Mr. Moody was proposing a PUD with OL zoning. Mr. Moody stated that there is no PUD on the property to the north that is zoned CS/OL. He explained that he is limited to a 25% floor area, single-story on OL and if they would like to do something more than that, they would have to file a PUD. If the Planning Commission approved OL it wouldn't be acceptable unless there is a PUD filed later, which would probably occur when an actual developer comes forward. Mr. Moody requested that the Planning Commission put themselves in his client's shoes and realize that no one is going to purchase their properties for residential use or development. He commented that OL might be a good compromise if someone wanted to use it for a two-story office or something with more than 25% FAR, then they would have to file a PUD. If OL were to be approved today, then the most that would happen is something less than everything else around them, which is single-story with 25% FAR. He reminded the Planning Commission that the existing church is more than one story and more than 25% FAR.

Mr. Harmon requested Mr. Wiles to address the OL zoning that has been discussed.

**Eric Wiles**, 9713 East 111<sup>th</sup> North, Owasso, Oklahoma 74055, stated that in his opinion, the transition is already in place and the church is that transition. The residential use and the residential way 136<sup>th</sup> Street has developed so far is the

appropriate way that it has developed. He believes that it already is buffered from the more intense commercial uses to the west.

Mr. Harmon stated that there is OL zoning to the north and offices could be developed there. Mr. Wiles stated that in the 100-foot strip of OL zoning there could be offices developed and he believes that when this happens that will be an appropriate buffer from 136<sup>th</sup> Street to the commercial further north.

Mr. Harmon stated that the interested parties have described the church as more of a commercial use and it is not providing a buffer zone. Usually, a church is considered a separation and gives the opportunity to call it a buffer zone; however, the church has so many activities throughout the daytime and evening hours and it is not sufficiently acting as a buffer.

Mr. Wiles stated that it is a large church; however, the primary hours of operation are Wednesday evening, Sunday morning and evening. While observing the photographs earlier in this presentation it was evident that the parking spaces were empty and most of the time it doesn't have the intensity of traffic or noise or other things that a commercial/retail use would have. He believes that the church is an appropriate buffer.

Mr. Boulden asked if the church was located by special exception granted by the Board of Adjustment and if there were any restrictions on that grant.

Mr. Wiles stated that regarding restrictions he would have to look up the BOA case itself. The church was located by special exception by the Board of Adjustment.

Mr. Bernard asked Mr. Wiles if the City of Owasso's official position, at this point and time, that 136th Street will not go into the OL and CS zoned property. In response, Mr. Wiles answered affirmatively.

In response to Mr. Jackson, Mr. Wiles stated that the City of Owasso does not plan to cul-de-sac the street. It currently serves its function now and will continue to do so if it is not connected into the OL/CS property.

Mr. Carnes recommended following the staff recommendation for denial of CZ-369.

Mr. Harmon stated that he would support that motion, but he does feel that this is a borderline situation. He suggested that the Master Plan be reviewed again and to think about the annexation policy. The City of Owasso will continue to face tough questions like this until they have a broader plan that encompasses a lot of opportunity for growth.

Mr. Midget stated that he would support the motion for denial. He does believe that this particular application presents some problems because of the adjacent zoning to it. He sympathizes with the residents who live off of 136<sup>th</sup> Street because it creates a dilemma. He doesn't want to speculate that the way it seems right with regard to the planning direction and how the City of Owasso is developing, the applicant's can't sell their property. The church far exceeds what everyone thought it would be and the fact that 136<sup>th</sup> dead-ends near the OL/CS property and it doesn't appear to be a real desirable place. If the further institutional use, along East 96<sup>th</sup> Street, continues to grow it will make all of the properties that front that street difficult to do anything with. He concluded that he would support the motion for denial because of the current situation and zoning in the area. He doesn't see the problems expressed by the applicants at this time.

Ms. Bayles stated that she will be supporting the denial as well. Citizen engagement in these processes for Comprehensive Plan updates and review are important. She encouraged the neighborhood to communicate with the City of Owasso and vice versa.

Mr. Bernard stated that a few weeks ago when this was discussed for the south side, he was in full agreement that the south side of 96<sup>th</sup> Street should remain residential and what the applicants were requesting was not part of what would make sense. He will support the motion for denial, but there is a real problem with that block of land in his opinion. Somewhere down the road it should be restudied and looked at. These residents who live there will be at a disadvantage as Owasso grows if that block is not taken into consideration.

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to recommend **DENIAL** of the OM zoning for CZ-369 per staff recommendation.

**Ms. Bayles out at 3:35 p.m.**

**Applicant's Comments CZ-370:**

**John W. Moody**, 1800 South Baltimore, Suite 900, Tulsa, Oklahoma 74119, requested that all of his previous comments and exhibits be incorporated in the record in this case.

**INTERESTED PARTIES:**

**Kevin Coutant**, 320 South Boston, Suite 500, Tulsa, Oklahoma 74103, stated that he requests that the entire record of CZ-369 be duplicated to CZ-370.

Mr. Alberty suggested that unless there is someone who would like to add to the discussion staff would make the entire record of CZ-369 be a part of the record for CZ-370.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Cantees, Dick "absent") to recommend **DENIAL** of the OM zoning for CZ-370 per staff recommendation.

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**Ms. Bayles in at 3:40 p.m.**

**Application No.: CZ-371**

**AG to RMH**

**Applicant:** Charles Norman

County

**Location:** South side of Arkansas River, west of 145<sup>th</sup> West Avenue and north of 17<sup>th</sup> Street South

**STAFF RECOMMENDATION:**

**CBOA-1239 March 1994:** The County Board of Adjustment approved a variance of the required 30' frontage on a public road to 25' to construct a single-family home on property adjoining the subject property to the west.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately eleven acres in size and is located on the south side of the Arkansas River, west of 145<sup>th</sup> West Avenue and north of 17<sup>th</sup> Street South, Sand Springs, Oklahoma. The property is flat, non-wooded, zoned AG and RE and vacant. The elevation of the subject property at the highest point is approximately 650', which is also approximately that of the riverbank to the north. Its base flood elevation is 652'. Flooding to this and the surrounding residential properties in 1986 was reportedly caused by back-flooding from tributaries to the east after the release of water from Keystone Dam. The report from the County Inspector indicates that "[p]art of this property zoned AH could receive flood water 1' to 3' depth of ponding-water."

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South 149 <sup>th</sup> West Avenue	Residential	50'	2 lanes

**UTILITIES:** The subject property is served by the City of Sand Springs for water and sewer.

**SURROUNDING AREA:**

The property is abutted on the north by the Arkansas River, zoned AG; to the west by vacant land, zoned AG; to the east and northeast by a mobile home park, zoned RMH; and to the south by single-family homes, zoned RE. According to staff in the County Engineer's office, both the existing mobile home development and the single-family residential development to the south have been flooded in previous high-water occurrences (the 1986 flood).

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The subject property is within the City of Sand Springs, Comprehensive Plan 1999 - 2004 and is designated by the Sand Springs Plan as Medium Intensity. The requested RMH **may be found** in accord with the Sand Springs Comprehensive Plan. The draft Arkansas River Corridor Master Plan, Phase II Final Plan maps and text show this property as Residential. This plan is scheduled to be publicly heard by the TMAPC in January, 2006. It is our understanding that development guidelines for the Corridor planning area will be proposed in a subsequent phase. The area is not within the 100-year floodplain and Tulsa County officials would not require elevation or other flood-related development measures prior to development in this area.

**STAFF RECOMMENDATION:**

Staff does not, as a rule, recommend rezoning that would place potential residents in harm's way. However, the adopted and yet-to-be-adopted plan maps both designate this area as appropriate for residential use, and similar uses exist on the property's east and south sides. Staff has been told that the 1986 flooding was caused by water that backed up from the Arkansas River into a tributary near the subject property, due to release of water from the Keystone Dam. The property is not within a regulatory floodway, according to the County Inspector. Although the official floodplain map maintained by Tulsa County does not show the subject property in the 100-year floodplain, contour maps maintained by INCOG reflect that the elevation of the subject tract ranges from a low of 647' to a high on the levy adjacent to the Arkansas River of 657'. The base flood elevation for the 100-year floodplain is 652' according to the FIRM maps prepared by FEMA.

Tulsa County has requested a re-evaluation of all floodplain mapping in the County by the Corps of Engineers. The revised maps are expected to be completed within six to eight months. Therefore, with this information, the staff

must recommend **DENIAL** of the requested RMH zoning for CZ-371 at this time. In the alternative, the TMAPC may wish to delay taking action on this item at this time and continue the request to allow time for the revised FIRM floodplain map to be completed.

Mr. Alberty stated that almost the entire subject property is below the 652' floodplain elevation and only the portion at the extreme north end, which is within the levee area, is above the floodplain elevation as maintained by the County Engineer. Staff recognizes that those are the official maps, but when these maps were prepared, they were interpolated from ten-foot contour maps and there are errors. Staff's information is that the elevation of the subject property is below the 652' up to an area of five feet and there are maps showing that the 1986 flood did cover the subject area and the surrounding area.

**TMAPC COMMENTS:**

Ms. Hill asked Mr. Alberty if he knew how deep the water was in the 1986 flood. In response, Mr. Alberty stated that there were varying depths and he isn't sure the exact depth in this area. He commented that it was at least six to seven feet under water.

**Applicant's Comments:**

**Charles Norman**, 401 South Boston, Suite 2900, Tulsa, OK 74103-4065, stated that he represents the property owner, C.H. Todd and his wife. He indicated that his clients have lived on the subject property for 38 years and have never experienced any flood water of any kind except in 1986 when the unreleased flow from Keystone Dam occurred. He indicated that the Tulsa County Engineer, Ray Jordan, informed him that in 1986 the release rate from Keystone Dam was 306,000 cubic feet per second. This was not a flood arising from a 100-year or greater rainfall in the Tulsa area, but a release of water resulting from floods and rainfall upstream. According to Mr. Jordan, it is his understanding that that particular release by the Corps of Engineers represented something between 300 year and 400 year runoff rate from the Arkansas River. That is far beyond what is defined as the 100-year rainfall standard and the runoff rate that results from that kind of a rainfall. It was a flood to the people living there, but it was not a flood caused by rainfall in the local drainage basin. It was far in excess of the standard that is now being applied by the staff in somehow relating an issue that ought to be considered when the property is platted rather than a use issue that is before this Planning Commission today. Mr. Norman commented that Mr. Alberty is attempting to substitute maps maintained by INCOG with those that are official maps that have been administered and adopted by the Tulsa County Board of Commissioners. He stated that there was seven feet of water in his client's home in 1986 and there was approximately the same amount of water in all of the residences north of the railroad tract and over to the Arkansas River, which was all backwater from below the dam. These conditions that have been a part of that have been administered by the County for the last 19 years. They have permitted additional mobile homes located on the property, that he will be

discussing later, and they have also permitted additional single-family homes to be constructed because that was such an unprecedented event that it is outside of all of the standards by which we are told we have to live. Mr. Norman reiterated that this is a platting issue and not a land use issue. He explained that these are issues that if the property is within a 100-year floodplain, measured by the standards that are applicable to all the other property in Tulsa County and the City of Tulsa, the Planning Commission wouldn't allow the plat to be approved for any part of the land that might be within the 100-year floodplain. He stated that the Planning Commission rezoned a piece of property at 91<sup>st</sup> and Mingo that has floodplain crossing it and that has been done on dozens of cases. He informed the Planning Commission that he will be bringing a piece of property before the Planning Commission located on 91<sup>st</sup> that has floodplain crossing it. It will be brought as a PUD, which has already been rezoned OL knowing that in the future when a plat comes in it will have to meet all of the standards for receiving and transporting the water, detaining if necessary and adjusting the floodplain within the platting process. This particular recommendation and these comments are totally out of context of anything he has ever experienced in all of the rezoning applications and PUDs that he has presented to the Planning Commission.

Mr. Norman stated that the subject property is separated by 300 feet from the backs of the single-family neighborhood to the south. There is one stub-street and an existing swale that is lower than the surrounding property. The 300 feet of separation from the neighborhood to the south (17<sup>th</sup> Street) is intended to allow a buffer to be developed that would allow for the swale and then a single road going back in with a cul-de-sac that could be used for other residential uses. Mr. Norman submitted photographs (Exhibit B-1). He described the neighborhood and surrounding areas. He stated that the letter from Mr. West that stated that there could be one to three feet of water is referring to the swale and Mr. Jordan stated that he would be resubmitting his evaluation. Mr. Norman indicated that there are three mobile home parks in the subject area, which all flooded and have been replaced since 1986.

Mr. Norman stated that this is an appropriate location for a mobile park of this type. It has been recognized by previous zoning applications. The access is from outside a single-family area and all of the subject area was shown in the flood map from 1986 and many of those homes have been constructed since that time because Tulsa County has allowed this to occur since it is not within the 100-year floodplain. The flooding occurred because of an unprecedented release from Keystone Dam. He indicated that Ms. Matthews of INCOG and himself visited with the County Administrator of the floodplains and she reported that there is no objection to construction in any of this area based on the adopted official maps of Tulsa County. The staff recommendation disturbs him because there is no mentioning of about the appropriateness of the land use, but it is all about the floodplain. These are issues that the Planning Commission tells people will be reviewed and studied at the platting process and the Planning Commission will administer the laws and regulations according at that time.

There has been a reference to the River Development Plan and he doesn't know the status of that. None of the long-range plans have ever been utilized to prevent a fair or reasonable use of property until such time as the property might be acquired or developed in accordance with the future plan. There is no comment from Sand Springs before the Planning Commission. It was submitted to the staff at Sand Springs and they chose to advise the Planning Commission that their Master Plan defines this area as being appropriate for medium intensity use, which would include this type of application. Mr. Norman concluded and stated that it is inappropriate for staff to recommend as it has done by stating "that they never recommend approval of something that would people in harm's way". This statement bothers him because harm's way resulted in this particular neighborhood from decisions made with respect to Keystone Dam and to the upstream conditions that is regulated and not from rainfall. If this is the case then the County has been putting people in harm's way since 1986 by allowing new houses to be constructed and the mobile homes to be replaced. This is not the way business has been done, the standards have been adopted, which is the 100-year rainfall event and that is all that should be applied and it will be applied by the Planning Commission, staff and engineers at the platting process. He requested the Planning Commission to focus on the appropriateness of extending that use separated from the neighborhood to the south and a separate access.

**TMAPC COMMENTS:**

Mr. Ard questioned Mr. Norman about the access that appears it would go into the neighborhood. In response, Mr. Norman stated that the only access presently to any of these mobile home parks is from 16<sup>th</sup> Street off of 145<sup>th</sup> Street. Mr. Ard stated that he would need some clarification from staff regarding the access.

Mr. Alberty stated that staff didn't realize that there would be access from the east. The designated street that abuts the subject property is the only access that staff believed to be available. However, if Mr. Norman states that the access is from 16<sup>th</sup> Street off of 145<sup>th</sup> Street then it is probably right. Mr. Norman stated that South 149<sup>th</sup> West Avenue doesn't abut the subject property that is before the Planning Commission for zoning. The only access to the existing mobile homes is from 16<sup>th</sup> Street. There is no intention, desire or reason to go through the neighborhood to access the subject property.

Mr. Ard asked if this application has been reviewed on how it would fit with the River Corridor Plan. In response, Mr. Alberty stated that staff has not reviewed it with the River Corridor Plan because the Plan has not been adopted at this time.

Mr. Norman stated that there is a reference to the River Corridor Plan Phase II in the staff recommendation, which indicates that it is recognized as residential use. Today's application is for residential use and is an expansion of existing mobile home parks. He indicated that his concept was that the swale (whatever its

boundaries are) would leave room for a single-family neighborhood being developed between the swale and the mobile home park.

Mr. Jackson asked Mr. Norman what is next to the swale. Mr. Norman stated that at the edge of the swale there are trees and then the property line of the homes is 300 feet from the swale.

Mr. Harmon asked if it would be an imposition to his client to wait six or eight months for the new floodplain maps. When there is a possibility that something might be reclassified as a flood zone then residents would have to purchase flood insurance, which is expensive. He would hate to approve this application and then in six months find that it is in a flood zone and people have already placed mobile homes in there.

Mr. Norman stated that if the Planning Commission believes it would be appropriate to delay or extend the time of the approval of the plat, then he could see that kind of position. The Planning Commission has never delayed making a land use decision based on the fact that part of the land is crossed by a floodplain. This property is not within the official flood maps. The Planning Commission has always stated that drainage issues would be addressed at platting. He doesn't believe that anyone should be allowed to develop within a floodplain zone; however, that is another issue and the only issue before the Planning Commission today is a land use issue.

Ms. Hill stated that she is well aware of flooding problems; having experienced the Arkansas River in her parents' home in 1957 and '59, then again in 1986 after the Corps of Engineers assured her parents that once the Keystone Dam was developed there would never be any flooding again. The fact is that it did happen and it is an issue that needs to be considered. This property is within a stone's throw of the river and it happened once and it shouldn't be allowed to happen again. It is a concern to her whether it is a stick-built home or manufactured housing.

Mr. Norman stated that it is important to him as well and he participated in the development of floodplain regulations. The City and County have adopted a 100-year floodplain as a standard and we advise people if they are within the 500-year floodplain. There has not been a policy adopted that prohibits development within the 500-year floodplain.

Ms. Hill stated that she doesn't want anyone to forget what did happen and what could happen again. We do not live in a perfect world and she realizes that not everything can be predicted. She wanted to bring this up because it is a great concern of hers for everyone along the river and she will continue to say this whether it is valid or not.

Mr. Norman stated that Mr. and Mrs. Todd still live in the subject area and the flood water was seven feet deep in their home in 1986.

Mr. Jackson asked staff to give some insight on the topic of what the standard operating procedure should be in relation to land use versus platting. Because Mr. Norman is talking about land uses and platting issues are being discussed.

Mr. Alberty stated that staff's reason for recommending denial was due to the fact that it is increasing the density. The property is currently zoned RE, which is residential estate and would permit development. Staff's objection is going to an RMH that would increase density and based on the information at the INCOG office, which is more detailed than what the Corps of Engineers provided to the County, staff could not recommend a change in the zoning that would intensify and increase the density within that area.

Mr. Jackson stated that this is manufactured housing and there wouldn't be the hard pervious surface area as would be with a slab, patio and two-car driveways with a stick-built home. Mr. Jackson asked if these two scenarios had been looked at the same.

Mr. Alberty stated that the density is based on the number of units permitted per acre and not actually about coverage of land and pervious versus impervious coverage. Staff is looking from a density standpoint. Staff recommended denial because, based on INCOG's figures, almost 90% of the subject tract is below 652' and would flood if that occurrence happened.

Mr. Norman stated that he doesn't believe that any part of this land is zoned RE. He pointed out that it is zoned AG and the issue is the same, which is what would be an appropriate use for the subject property. He commented that he is disturbed by staff stating that their information is better than what is on the officially adopted maps and therefore substituting their judgment for what has been adopted by Tulsa County. There is no stability at all if staff begins do this because it is an engineering issue to be determined at the platting process.

**Ms. Hill out at 4:16 p.m.**

Mr. Ard stated that he understands Mr. Norman's issue with procedure, but on page 13.5 the Tulsa County Inspector states that part his property zoned AH could receive flood water in one to three feet of ponding. Mr. Norman stated that he was advised by Mr. Jordan that the report was going to be revised because the inspector was understood that part of the application was within the swale. The report by Terry West is in error and is supposed to be revised. County Inspector, Theresa Tosh, stated that it all appears to be out of the floodplain and Mr. Jordan agrees. Mr. Norman stated that again this is something that has to be proven to the Planning Commission as part of the plat.

Mr. Jackson stated that staff is concerned about the density and the applicant contends that the property is all zoned AG and that the RMH would be compatible with the existing conditions. Mr. Norman stated that density is controlled by detention requirements. When developing property it is assumed that 90% of it will become impervious and one is required to take it directly to the river, which is very close in this instance, or required to store it on site. These are stormwater management issues that will come in the future, but in terms of land use, where else is more appropriate for additional mobile home sites than adjacent to three that are existing, two of which were existing prior to the 1986 flood water discharge. All have been rebuilt and replaced with government approval, based on the available information, plus the fact that Mr. Todd has lived there 38 years and never had any problems with runoff water except in 1986.

Ms. Bayles recognized that there has been a protest notification submitted prior to today's meeting and twelve emails received as well.

**INTERESTED PARTIES:**

**Ted Scism**, 1715 South 148<sup>th</sup> West Avenue, Sand Springs, Oklahoma 74063, stated he submitted a protest package to the Planning Commission prior to today's meeting. Mr. Scism explained the exhibits and color codes to his protest package.

Ms. Bayles explained to Mr. Scism that staff has submitted his protest package and all of the emails that were sent in protest. She asked Mr. Scism if he is in agreement with the staff recommendation for denial.

Mr. Scism stated that he is not in favor of this application now and he will not be in favor of it in the future. He commented that Mr. Norman's photographs do not show what the protest package shows.

Mr. Jackson asked Mr. Scism why he doesn't want RMH zoning on the subject property other than the flooding issues. Do you just not want mobile homes next to you or that you don't want anyone next to you.

Mr. Scism stated that it is a safety issue due to the heavy traffic on 145<sup>th</sup> West Avenue. All of the traffic from the subdivisions and the mobile home parks is funneled onto 145<sup>th</sup> West Avenue. If there is another ten acres worth of mobile homes, which can be as close as 15 feet apart, into the subject area, then traffic will be a problem.

Mr. Jackson asked Mr. Scism what he would prefer to be developed on the subject land because it will not be vacant forever. In response, Mr. Scism stated that if the zoning isn't changed it will be vacant. Mr. Jackson informed Mr. Scism that that would be unfair to the property owner.

Mr. Scism stated that if the BFV is 652' and all of the homes in the residential area are required to have that. Now when one applies for a building permit, it has to be plus two (654'), which means that under the current criteria there is no way anything could be put there.

Mr. Jackson stated that he is simply looking at the land use and if the BFV is a 620' that would be their problem. What he would like to know is what is the reasoning and rationale for having it remain AG. Without any hard facts from the interested parties, it is leaving the Planning Commission in a quandary.

Ms. Bayles requested staff to explain what portion of the subject property is zoned AG and RE. In response, Mr. Alberty stated that the RE zoning was a mistake because it was the first mapping, which was determined in error or modified. The entire property under application is zoned AG.

Mr. Harmon asked what density manufactured housing could be on AG. In response, Mr. Alberty stated that AG requires two-acre lots and there would be one dwelling unit per two acres.

Mr. Scism stated that when the subject property is changed to RMH, then it will drop the property values of everything existing in the area. Tax revenues will go down and less money to the County. He doesn't have anything against mobile homes. He lived in one himself.

Mr. Harmon asked if there were any statistical proof that mobile home parks decrease property values. In response, Mr. Scism stated that he didn't bring it with him, but he would be glad to submit it.

Mr. Harmon stated that the pictures show a very nice mobile home park. Mr. Scism asked Mr. Harmon if he was looking at his pictures or Mr. Norman's pictures.

**INTERESTED PARTIES:**

**Greg Jennings**, 2260 South Troost, Tulsa, Oklahoma 74114, stated that he is going to talk about the flooding and he understands that Mr. Jackson is not interested in it but it has been brought up. The reality is that the land was seven feet under water and there is no doubt about it. He can't believe that the County actually allowed this mobile home to the east or the houses to the south to be rebuilt unless rebuilt at least one foot above the flood of 1987. He commented that Mr. Norman said the flood was caused by upstream water being released and that is like saying that New Orleans wasn't under water because of the hurricane but because the levees broke. The reality is that it was under water and he doesn't understand the concept of how it becomes good public policy to ignore common sense. It was under water and there is a possibility that it could be under water again. Why would a house or mobile home be allowed to be built in this area again?

Mr. Jennings stated that it doesn't only put people who would live there in harm's way, but it puts everyone in harm's way because tax payers have to pick up the tab for the flooding, temporary housing, etc., until they can be relocated.

Mr. Jennings stated that he doesn't believe that the Planning Commission has all of the information necessary to make a decision today. He believes it would be best to put this off until the proper information is available. He doesn't recall that the Arkansas River Plan is dotted with common goals in mobile home parks. It was never discussed in any of the meetings. The plan might as well be tossed out because people are going to develop it in a way that is contrary to the plan before the plan ever gets put into place. There is a major resource available and it has been under utilized. He requested that the Planning Commission deny this application and do something positive.

**Heather Patterson**, 14443 West 17<sup>th</sup>, Sand Springs, Oklahoma 74063, stated that she lives adjacent to Mr. Todd. She indicated that 145<sup>th</sup> is the major thoroughfare through the subject area. There is a need for speed humps along this street due to the volume of traffic and the vehicles that speed.

Ms. Patterson stated that no one has talked about the cell phone tower that was approved a month ago by the CBOA. Mr. Todd requested approval for a cell phone tower to be placed in the middle of the subject property. One of the reasons for the approval of the cell phone tower was for the fact that there was no one in the area and now they want to populate the area. This is irresponsible to populate this property after approving the cell tower.

Ms. Patterson stated that the Sand Springs Master Plan is not specific. It was done in large generalities because they were projecting what typically would be in the areas and was not approved for specific uses in specific areas.

Ms. Patterson stated that she lives on 145<sup>th</sup> and 17<sup>th</sup> and she has to purchase flood insurance. Her property is higher than the property under application. The subject property is zoned AG and a home could be built there and not cause the traffic problems nor be injurious to the property values of the surrounding homes. There are several issues that should be considered: traffic, the cell phone tower that will be placed on the subject property, flooding and the usage as whole is not well planned. She requested that this application be denied.

**Mr. Midget out at 4:45 p.m.**

**Whitney Watson**, 14600 West 16<sup>th</sup> Street, Lot 13, Sand Springs, Oklahoma 74063, River Oaks Mobile Home Park, stated that this application should be denied. There is no need for another mobile home park in the subject area. River Oaks Mobile Home Park has 76 slots and most are vacant. There are currently six homes that have been abandoned and there are 20 spaces

available for renting. When it rains there is pooling of water in the driveways and streets. There has been questionable activity in the mobile home parks and there are problems. She lives in the mobile home park and it backs up to the subject property. The spacing is not that far away and she is able to see into everyone's homes and their kids playing in the back yards.

Ms. Watson indicated that the County Sheriff has been called on several times a week due to questionable activity and speeding along 145<sup>th</sup>. She requested that the Planning Commission deny this application.

Ms. Watson stated that one or two homes would possibly work, but not another mobile home park.

**Applicant's Rebuttal:**

Mr. Norman stated that if this property was being requested to be rezoned to RS-3 or RE, then the stormwater issue wouldn't be a factor. He commented that seventeen homes have been built since the 1986 flood. These 17 homeowners didn't see the existing mobile home parks as devaluing their property. People returned to the neighborhood after the flood and rebuilt their homes and refurbished them. If this was a single-family subdivision being proposed it would have been recommended by staff for approval without any hesitancy and the stormwater issue would have been dealt with as it is always done at the platting process.

Mr. Norman reiterated that the only issue is the land use. He expressed his surprise that Ms. Watson would recommend denial of the mobile home park since she lives and manages a mobile home park. Perhaps her comments are anti-competitive, but he is not sure. There is no evidence that mobile home parks devalue property values. The best evidence that it hasn't happened is the fact that people have built homes in the subject area with the existing mobile home parks. The neighborhood is separated by 17<sup>th</sup> Street and they haven't been harmed by the fact that there are mobile home parks to the north. He requested that the Planning Commission look at this as a land use issue and ask if this not an appropriate place for expansion of pre-existing uses that have been there well before the 1986 flood. The latest addition represents the more typical and current development model. He does not see any reason why this could not be an appropriate location for a mobile home neighborhood separate and apart from the single-family area to the south. He requested that this application be approved subject to all of the conditions of platting that will occur and stormwater management issues.

**TMAPC COMMENTS:**

Mr. Jackson stated that he understands that this is typical land use and there hasn't been any platting done; however, what type of density does he believe he will have. Mr. Norman stated that he believes that it would be around 60 pads. Mr. Jackson asked Mr. Norman if he is targeting single-wide or double-wide

trailers. Mr. Norman stated that currently there is a mix in the existing mobile home parks. There will be concrete pads and paved areas for parking, but it is not a high-density market. Under the Code he believes he could achieve about six pads per acre. If the subject property were developed as single-family, it would be three homes per acre. Mr. Norman commented that there could possibly be 30 homes built on the subject property and they probably have more cars than mobile home dwellers have. He projected that there would be twice as many units if it were approved for mobile homes and half the amount of cars.

Mr. Harmon asked if one has to certify that a mobile home pad is out of the flood zone before a permit is issued. Mr. Norman stated that he doesn't know the answer to that question, but he would assume that is true.

Mr. Jackson stated that the permit office will ask about the finished floor and how high off of the ground. The first floor of a mobile home is  $\pm$  three feet above the finished grade.

Mr. Carnes stated that the finished floor is three feet above where the car is sitting. Mr. Carnes stated that there is no requirement to show that the mobile home pad is out of the flood zone, but the finished floor is going to be blocked up three feet above ground. The car could be flooded out and yet the level of the house could be above the floodplain.

Mr. Harmon asked if the person who would be renting the lot would have any assurance that their pad is out of the flood zone. Mr. Carnes stated that he doesn't know the mobile home park requirements.

Mr. Harmon stated that Mr. Norman made the statement that if this were for a single-family subdivision there wouldn't be this discussion and he is right because the developer has to show where the flood zone is located before getting a permit. He is curious if this is the same with placing a mobile home on a pad.

Mr. Jackson stated that when the property goes through the platting process, it would show the 100-year floodplain, and then when the building permit is turned in to move the mobile home on, it is going to show that. There will also have to be a cross section of what the finished floor elevation is going to be, which will trigger to the lender if there is the need for flood insurance.

Mr. Norman stated that if it is found to be in a flood zone, the Planning Commission will require that portion to be in an overland drainage area or some other identification of it so that there won't be that opportunity unless it is approved by the Planning Commission as part of the platting process. These issues will be dealt with in the usual way.

Mr. Ard stated that he has several issues with this application. He understands Mr. Norman's position and it does sound like, procedurally, this would be handled down the road. He is trying to focus on the use of the subject property. He expressed concerns, which are related to the requested use and include traffic on 145<sup>th</sup>, already a heavily-traveled road. If 60 or 70 units were added to the subject area it would put a lot of traffic onto the two-lane road. He indicated that he drove the subject area today and there is a lot of traffic on the road moving faster than the speed limit.

Mr. Ard stated that he drove through the existing mobile home parks and he has been there before several times. By and large, he thought the conditions of the properties were average or better with skirting and good maintenance. There were sporadic mobile homes with junk in the yard or not as well maintained, but this can happen in single-family subdivisions as well.

Mr. Ard stated that he understands value because it is what he does for a living. He is not convinced that the single-family homes' values would be impacted any further than they already have been or haven't been by the existence of the mobile home parks that are there now. The only exception to that might be with increased traffic down 145<sup>th</sup>.

Mr. Ard stated that he agrees with Mr. Greg Jennings regarding the River Corridor Plan and how piecemeal development along the river doesn't necessarily go along with the plan. He indicated that he is in agreement with staff's recommendation for denial. Mr. Ard made a motion for denial and Mr. Harmon seconded the motion.

Mr. Harmon stated that the floodplain is important to him and possibly that is getting outside of the land use situation. This is one of those borderline things that could go anyway. He doesn't believe that another mobile home park would devalue the existing homes' value because he has never seen this happen. There are too many unanswered questions, and along with the traffic issues, he would support denial.

**TMAPC Action; 7 members present:**

On **MOTION** of **ARD**, TMAPC voted **7-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Horner Jackson "aye"; no "nays"; none "abstaining"; Cantees, Dick, Hill, Midget "absent") to recommend **DENIAL** of the RMH zoning for CZ-371 per staff recommendation.

\* \* \* \* \*

**Application No.:** Z-7009

**AG to CS/RM-0**

**Applicant:** R. L. Reynolds

(PD-17) (CD-6)

**Location:** Southeast corner of East 31<sup>st</sup> Street South and South 177<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

**Z-6834 October 4, 2001:** All concurred in approval of a request to rezone an eighty-acre tract located north of the northwest corner of East 51<sup>st</sup> Street and South 177<sup>th</sup> East Avenue from AG to RS-3.

**Z-6816 June 2001:** Approval was granted for a request to rezone an eleven-acre tract from RM-0 and RS-3 to AG on approximately seven acres and a three-acre parcel rezoned from RM-0 to RS-3. The property is located on the northeast corner of East 41<sup>st</sup> Street and South 177<sup>th</sup> East Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 21.81 acres in size and is located on the southeast corner of East 31<sup>st</sup> Street South and South 177<sup>th</sup> East Avenue, Tulsa, Oklahoma. The property is gently sloping, partially wooded, vacant and zoned AG.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 31 <sup>st</sup> Street South	Secondary arterial	100'	2 lanes
South 177 <sup>th</sup> East Avenue	Secondary arterial	100'	2 lanes

**UTILITIES:** Municipal water and sewer are available.

**SURROUNDING AREA:**

The property is abutted on the north by vacant property, zoned AG and CS; and to the south, east and west by vacant land, zoned AG. Northwest of the subject tract, at the northwest corner of South 177<sup>th</sup> and East 31<sup>st</sup> Street, is a vacant tract zoned CS.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 17 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates the node at the intersection as Medium Intensity – No Specific Land Use and the remainder of the tract is designated as Low Intensity – No Specific Land Use. According to the Zoning Matrix, the requested

CS **is** in accord for the five-acre node at the intersection and **is not** in accord with the area designated as Low Intensity – No Specific Land Use. The requested RM-0 **is** in accord with the Medium Intensity – No Specific Land Use and **may be found** to be in accord with the Low Intensity – No Specific Land Use designation.

**STAFF RECOMMENDATION:**

The requested CS zoning appears to lie within the Medium Intensity node and would reflect the similar zoning at the two northern corners of the intersection. The RM-0 portion would serve as a buffer for the adjacent AG-zoned areas to the east and south. Based on existing zoning, trends in the area and the Comprehensive Plan, staff can support the requested rezoning and therefore recommends **APPROVAL** of CS/RM-0 zoning for Z-7009.

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Horner Jackson "aye"; no "nays"; none "abstaining"; Cantees, Dick, Hill, Midget "absent") to recommend **APPROVAL** of the CS/RM-0 zoning for Z-7009 per staff recommendation.

**Legal Description for Z-7009:**

North 660 feet of the West 660 feet of the Northwest Quarter of Section 24, Township 19 North, Range 14 East of the Indian Base and Meridian, City of Tulsa, Tulsa County, State of Oklahoma, according to the U. S. survey thereof. **From: AG (Agriculture District) To CS (Commercial Shopping Center District) And COMMENCING** at the Northwest Corner of the Northwest Quarter of Section 24, Township 19 North, Range 14 East of the Indian Base and Meridian, City of Tulsa, Tulsa County, State of Oklahoma, according to the United States survey thereof, thence Easterly along the Northerly line of Section 24 a distance of 660 feet to the POINT OF BEGINNING, thence continuing Easterly along the Northerly line of Section 24 a distance of 300 feet; Thence Southerly and parallel to the Westerly line of Section 24 a distance of 960 feet; Thence Westerly and parallel to the Northerly line of Section 24 a distance of 520 feet; Thence Southerly and parallel to the Westerly line of Section 24 a distance of 30 feet; Thence Westerly and parallel to the Northerly line of Section 24 a distance of 440 feet to a point on the West line of Section 24; Thence Northerly along the Westerly line of Section 24 a distance of 330 feet; Thence Easterly and parallel to the Northerly line of Section 24 a distance of 660 feet; Thence Northerly and parallel to the Westerly line of Section 24 a distance of 660 feet to the POINT OF BEGINNING, and located on the southeast corner of East 31<sup>st</sup>

Street South and South 177<sup>th</sup> East Avenue, Tulsa, Oklahoma, **From AG (Agriculture District) To RM-0 (Residential Multifamily Lowest Density District).**

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**Application No.:** Z-7010

**PK to CH**

**Applicant:** Roy Johnsen

(PD-4) (CD-4)

**Location:** South of the southwest corner East 11<sup>th</sup> Street South and South Lewis Place (2233 East 11<sup>th</sup> Street South)

**STAFF RECOMMENDATION:**

**Z-6802 February 2001:** Approval was granted to rezone one lot located south of the southwest corner of East 11<sup>th</sup> Street South and South Lewis Place and included the subject parcel, from RS-3 to PK.

**Z-6698 August 1999:** All concurred in approval of a request to rezone a lot located south of the southwest corner of East 11<sup>th</sup> Street and South Atlanta Avenue from RS-3 to PK.

**BOA-18327 March 1999:** The Board of Adjustment approved a request for a special exception of the required 150' setback to 0' from an R-zoned district to allow an automobile painting business. The property is located on the southwest corner of East 11<sup>th</sup> Street and South Atlanta Avenue.

**BOA-18112 July 1998:** The Board of Adjustment approved a request for a variance to allow off-street parking on a lot other than the lot containing the principal use; a variance of the setback from the centerline of an abutting street for off-street parking; and a variance of the required landscaping for a parking lot. The property is located on the northwest corner of East 11<sup>th</sup> Street South and South Birmingham Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 50' x 70' in size. It is the west 70' of an originally platted residential lot. The property is flat, paved, vacant (a former parking lot) and zoned PK.

**STREETS:**

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
East 11 <sup>th</sup> Street South	Urban arterial	70'	4 lanes
South Lewis Avenue	Urban arterial	70'	4 lanes

**UTILITIES:** Municipal water and sewer are available.

**SURROUNDING AREA:**

The property is abutted on the north and west by a former car lot, zoned CH; to the south by a single-family residence, zoned RS-3 and to the east by a portion of the former car lot, zoned PK; farther to the east by automotive and related uses, zoned RS-3. Much of the property in the area has until recently been used for vehicle sales (used and new). The large dealership involved has relocated and left most of the properties vacant.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 4 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area Low Intensity – Residential. According to the Zoning Matrix, the requested CH zoning **is not** in accord with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

Even though the requested rezoning is not in accord with the Plan, automotive and related uses (Use Unit 17 uses) have been in the area for many years. The proposed reuse as an automotive parts store should make a positive contribution to this portion of the 11<sup>th</sup> Street corridor. Staff cannot, however, support rezoning to the CH designation. The proposed use is allowed by special exception in the CS category and by right in the CG category. Staff therefore recommends **DENIAL** of CH zoning for Z-7010 and **APPROVAL** of CS in the alternative.

Mr. Alberty stated that previously staff indicated that this use would require a special exception from the Board of Adjustment and that is in error; it is a Use Unit 14 use and CS zoning will accommodate that use.

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Ard, Bayles, Bernard, Carnes, Harmon, Horner Jackson "aye"; no "nays"; none "abstaining"; Cantees, Dick, Hill, Midget "absent") to recommend **DENIAL** of CH zoning for Z-7010 and **APPROVAL** of CS in the alternative per staff recommendation.

**Legal Description for Z-7010:**

The West 70' of Lot 3, Block 4, Boswell's Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, and located south and west of the southwest corner of East 11<sup>th</sup> Street South and South Lewis Place, Tulsa, Oklahoma, **From PK (Parking District) To: CS (Commercial Shopping Center District).**

\*\*\*\*\*

**Application No.: PUD-320-A-5**

**MINOR AMENDMENT**

**Applicant:** Jana McBride

(PD-18) (Cd-8)

**Location:** 8205 South Evanston Avenue

**STAFF RECOMMENDATION:**

The applicant is requesting a reduction in the rear building setback from 20 feet to 16 feet for a glass sunroom addition to the existing residential structure. The proposed addition will not encroach into any easements. Staff finds the request to be minor in nature and recommends **APPROVAL\*** of PUD-320-A-5 as proposed.

\*Approval does not relieve the applicant from compliance with the Litchfield Restrictive Covenants which limit construction materials and call for review of all construction by the Architectural Review Committee.

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **HARMON**, TMAPC voted 7-0-0 (Ard, Bayles, Bernard, Carnes, Harmon, Horner, Jackson "aye"; no "nays"; none "abstaining"; Cantees, Dick, Hill, Midget "absent") to **APPROVE** the minor amendment for PUD-320-A-5 per staff recommendation.

\*\*\*\*\*

There being no further business, the Chair declared the meeting adjourned at 5:05 p.m.

Date Approved:

1/25/06  


Chairman

ATTEST:



Secretary

