

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2443

Wednesday, April 19, 2006, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Ard	Carnes	Alberty	Boulden, Legal
Bayles		Chronister	
Bernard		Fernandez	
Cantees		Huntsinger	
Collins		Matthews	
Harmon			
Hill			
Jackson			
Midget			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, April 13, 2006 at 3:58 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

Mr. Bernard read the opening statement and procedures.

Minutes:

Approval of the minutes of March 22, 2006 Meeting No. 2241

On **MOTION** of **HILL**, the TMAPC voted 6-0-0 (Ard, Bernard, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Collins, Midget "absent") to **APPROVE** the minutes of the meeting of March 22, 2006, Meeting No. 2241.

REPORTS:

Director's Report:

Mr. Alberty reported that there are a couple of dates in June that he would like to discuss. The Planning Commission had discussed holding a night meeting in order to take input on the proposed Zoning Code changes and June 13, 2006, 6:00 p.m. to 8:00 p.m., has been scheduled for this meeting. This is a Tuesday evening in the second week when the TMAPC doesn't meet. He would like to

have confirmation from the Planning Commission that this date and time is a time they would like to meet. The Francis Campbell City Council Room has been reserved for this meeting. There would be some type of notice given to the neighborhood, posted on the INCOG website and also notices sent to County Commissioners and City Councilors. The public hearing was continued to June 28, 2006 and this would give staff the opportunity to respond to the input that is given on June 13th. There have been some changes made based on the comments that were submitted at the last public hearing in April and there will be a revised set of proposals.

Mr. Bernard requested staff to email the Planning Commissioners to remind them to check their calendars and get information back to Barbara Huntsinger.

Mr. Alberty reported that the second date he would like to discuss is June 28, 2006 for a worksession luncheon between 11:00 a.m. and 1:00 p.m. The consulting firm that did the Economic Development Plan for the City of Tulsa will be making a presentation to the Planning Commission and the Boards of Adjustment.

Mr. Alberty reported on the BOCC and City Council agendas. Mr. Alberty supplied a copy of the report regarding pipeline safety.

Mr. Alberty reported on the March TMAPC receipts. He indicated that the receipts are up over the same time last year.

Mr. Bernard stated that there are several items for which continuances are requested.

Items: 14, 15, and 18.

Application No.: PUD-723

MAJOR AMENDMENT

Applicant: R.L. Reynolds

(PD-2) (CD-3)

Location: 2111 East Pine Street North

STAFF RECOMMENDATION:

Staff has requested a continuance for this item because it is still in the courts.

INTERESTED PARTIES:

Patti McGill, 1517 North Wheeling Avenue, 74110, United Neighbors of Springdale, stated that she received a letter that this had been pulled from the

agenda and late yesterday evening she was notified by Urban Development that it had been postponed and she was wondering why.

Ms. Matthews stated that this case is in court.

Mr. Boulden stated that there was a trial last Wednesday and Thursday on whether or not the use of the lots, as they currently exist, are lawfully nonconforming or whether or not they may continue as Gotcha Tires. The judge has advised that he will issue a ruling on this May 1, 2006. This will let the owner and the neighborhood know where they stand before the Planning Commission considers this application.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted **6-0-0** (Ard, Bernard, Cantees, Harmon, Hill, Jackson "aye"; no "nay"; none "abstaining"; Bayles, Carnes, Collins, Midget "absent") to **CONTINUE** the major amendment for PUD-723 to May 3, 2006.

Application No.: PUD-725

RE to RE/PUD

Applicant: J. R. Donelson/Advent Dev. Co.

(County)

Location: East of the northeast corner East 181st Street and South 145th East Avenue

STAFF RECOMMENDATION:

The applicant has requested a continuance to May 17, 2006.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted **6-0-0** (Ard, Bernard, Cantees, Harmon, Hill, Jackson "aye"; no "nay"; none "abstaining"; Bayles, Carnes, Collins, Midget "absent") to **CONTINUE** PUD-725 to May 17, 2006.

Application No.: Z-7022/PUD-729

RS-3 to OL/PUD

Applicant: Jeffrey Levinson/Brookside 33, LLC

(PD-6) (CD-9)

Location: 1127, 1133 & 1135 East 33rd Place

STAFF RECOMMENDATION:

The applicant is requesting a continuance to April 26, 2006.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted **6-0-0** (Ard, Bernard, Cantees, Harmon, Hill, Jackson "aye"; no "nay"; none "abstaining"; Bayles, Carnes, Collins, Midget "absent") to **CONTINUE** Z-7022/PUD-729 to April 26, 2006.

SUBDIVISIONS:

LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

L-19920 – Stephen Schuller (1406) (County)

10724 East 126th Street North

L-19927 – Bart James (8407) (PD 18) (CD 8)

10112 East 79th Street South

L-19946 – Fred Boss (9209) (PD 10) (CD 1)

4520 West 8th Street

L-19947 – Sisemore Weisz & Associates (8407) (PD 18) (CD 8)

Northwest of East 80th Street & 101st East Avenue

L-19949 – Mike Marrara (8407) (PD 18) (CD 8)

West of southwest corner East 79th Street & 102nd East Avenue

L-19951 – KMO Development Group (9419) (PD 17) (CD 5)

10201 East 41st Street South

L-19953 – Glenda Henderson (9402) (PD 17) (CD 6)

Southwest corner of East 4th Place & 162nd East Avenue

L-19954 – McGee Enterprises (0320)

(PD 2) (CD 3)

2601 East 32nd Street North

L-19956 – John Wimpy (9226)

(PD 8) (CD 2)

1544 West 44th Street

STAFF RECOMMENDATION:

All of these lot-splits are in order and staff recommends **APPROVAL**.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HILL** the TMAPC voted **6-0-0** (Ard, Bernard, Cantees, Harmon, Hill, Jackson, "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Collins, Midget "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

LOT-COMBINATIONS FOR RATIFICATION OF PRIOR APPROVAL:

LC-16 – Leo Croley (9010)

(County)

1372 South 220th West Avenue

STAFF RECOMMENDATION:

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

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON** the TMAPC voted **6-0-0** (Ard, Bernard, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Collins, Midget "absent") to **RATIFY** these lot-combinations given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

LOT-COMBINATION:

LC-17 – McDonald's USA, LLC (9309)

(PD 4) (CD 4)

Southeast corner of East 13th Street and Harvard

STAFF RECOMMENDATION:

In June 2005, the Lot Combination process was implemented to allow property owners to voluntarily combine adjoining lots into one combined lot.

Subdivision Regulations, 6.6 LOT-COMBINATIONS, The owner of two or more adjoining lots or parcels of land may apply to the Planning Commission to voluntarily combine such lots or parcels into a single parcel of land for the purpose of complying with the bulk and area requirements of the applicable Zoning Code and Subdivision Regulations of the Tulsa Metropolitan Area.

It is staff's opinion that the process was created to allow two to three lots to be tied together, mainly for residential purposes. However, since its inception, staff has received a number of requests to tie many lots together for churches and corporations. Staff believes that requests to combine several tracts of land together should be platted through the minor subdivision platting process or subdivision process. The lot combinations should not be used as a vehicle to circumvent the normal subdivision process.

Staff recommends **DENIAL** of the lot combination requested because of the number of lots involved. The Planning Commission may want to create a policy on this issue for future lot combination requests. The *Subdivision Regulations* will be updated accordingly.

TMAPC COMMENTS:

Mr. Ard asked staff if there have been several churches and businesses that have had lot-combinations approved, and if so, why is this one different. In response, Ms. Chronister stated that when this was first implemented there were a few applications in and they were reviewed; however, staff didn't want to process them but did so not realizing how many would be submitted. Staff has discussed this issue and believes that the proper process is to go through the minor subdivision plat or through the platting process.

Mr. Ard asked if this would be a policy change from here forward. In response, Mr. Alberty stated that when the Subdivision Regulations were updated to allow lot-combinations, staff envisioned the possibility of using a lot-combination in lieu of a lot-tie. Many times the Board of Adjustment, in the past, would approve off-street parking on another lot other than the principal use lot with the requirement of a tie agreement. Staff didn't envision that this would be used to combine a number of lots in order to avoid a two-step process. In the past, this type of

application would require two actions: 1) action through the BOA for a special exception to allow required use to be on a lot other than the principal lot where the building is located and it would also require a tie-agreement and possibly a subdivision plat. Perhaps the Planning Commission should take a look at this and rather than adopting a policy, determine to see these on a case-by-case basis. This particular application did go through Public Works to see if there was anything that they felt could be gained through the replatting process. He believes that the result was that Public Works saw no reason for it to be replatted. The other option would be to do a minor subdivision plat and the intent would be to dissolve all of the individual lot lines. In cases where there are land uses at issue, and even though the zoning for the proposed use is there, to tie the required parking would require a separate action. This is one way to accomplish that task and it would be an abbreviated format, which would be considered friendly to development.

Mr. Jackson asked what is currently located on the subject property. In response, Mr. Alberty stated that it is the former drive-in banking facility for F&M Bank. Mr. Alberty further stated that the drive-in banking is on the CH portion and off-street parking for the bank and customers on the OL portion.

Mr. Jackson asked if McDonald's plans to place the restaurant on the CH portion and the parking on the OL portion. In response, Mr. Alberty answered affirmatively. Mr. Alberty indicated that there would be no access onto 13th Street through the OL or to Indianapolis.

Mr. Jackson asked staff if they would prefer that the applicant do a resubdivision of the six lots to create a new lot. In response, Mr. Alberty stated that he believes that staff, at this time, is really tossing it back to the Planning Commission to see how they would react to an application for a lot-combination. The option would be a minor subdivision plat and it would tie all of the lots together.

Mr. Jackson asked how much time it would take to file a minor subdivision. In response, Mr. Alberty stated that it would take approximately less than three months.

Mr. Harmon stated that this application doesn't seem inappropriate to allow the lot-combinations that have been requested. He stated that he would prefer to not have a new policy and prefers to look at these on a case-by-case basis. If the underlying zoning accommodates the user's needs, then he would like to see this individually and not set a policy. This proposal fits and if Public Works has said that there is nothing to gain by platting, then he doesn't see any reason to go that direction.

Mr. Alberty stated that there may be some interested parties wishing to speak, although it is not an advertised hearing.

Applicant's Comments:

Charles Norman, 401 South Boston, Suite 2900, Tulsa, OK 74103-4065, representing McDonald's and the property owner, stated that there is a considerable history with this sort of problem and it goes back to quite a few years to a process that was apparently informal because it is difficult and impossible to find any of the authorization. This process used to be called reversed lot-splits and they were accepted by the Planning Commission to take more than one parcel of land, combine them with a provision that the owner could not sell or mortgage those separate parcels apart from one another, and recently those have been called tie agreements, which are not considered lot-combinations when they are done voluntarily. Over a period of years he has had occasion (eight to ten times) to be required to go to the Board of Adjustment for a special exception to permit off-street parking on a lot different from the lot where the building is located that creates the requirement for off-street parking. The Board of Adjustment, without exception in his personal experience, has routinely approved those applications requiring a tie agreement. These would be treated as a single-lot for purposes of zoning.

Mr. Norman stated that he has served on two committees to review the Subdivision Regulations, in 1901-1902 and 1904-1905. In 1901-1902 he suggested that a voluntary lot-combination be available to make this process more efficient and to avoid the cost and time of going to the Board of Adjustment. This was not accomplished in the Subdivision Regulations that were revised in 1902, but it was a part of the work program of Jay Stump and he believes Wayne Alberty. Mr. Norman listed the various people who served on the 1904-1905 Subdivision Regulations committee for revising the Subdivision Regulations. The lot-combination was brought up again and it was included in the 1905 revisions. This procedure was intended to permit the combination of lots, whether residential or commercial, for the purpose of treating them as one lot for the purposes of the Zoning Code. Mr. Norman used the TeKei's restaurant as an example of being required to have a tie agreement for the required parking. This is the only issue and the only purpose for having included that in the current version of the Subdivision Regulations. As far as the number of lots involved, the language in the Subdivision Regulations included in the staff report is absolutely clear (two or more) and there is no limitation under the number of lots and there has never been under the tie agreement process. There was never any discussion of limiting the lot-combinations to residential or to only two or three lots as the staff contends in the recommendation for denial. The issue with respect to the requirement for replatting existing property is a completely separate issue and is not involved in this process. The applicant is only required to replat the property if there has been a change in the zoning on the request of a private party or if the Board of Adjustment has approved a special exception in Use Units 2, 5, 8, etc. None of this applies to the current application. Regardless of the issue of voluntary lot-combination, there is not and will not be any requirement for replatting. This is a totally a mixture of staff's opinion on two

separate issues. He indicated that he had discussed this with Mr. Boulden and he believes that Mr. Boulden agrees. Mr. Norman cited the history of the zoning and uses for the subject property. He said the subject property doesn't trigger any replat requirement and Mr. Alberty stated that there appears to be no technical requirement by Engineering or Public Works and no purpose would be served by replatting.

Mr. Norman explained that all of the issues came about when McDonald's made an application through the Zoning Clearance Officer for a zoning clearance permit for a restaurant. The only use of the OL zoning is parking, which is permitted as a matter of right in the OL zoning district. The restaurant will be located entirely within the CH zoning district. There is a requirement for landscaping and screening, and two driveways onto Indianapolis will have to be closed. The only exit to 13th Street that will be permitted is within the CH portion of the zoning, which is permitted as a matter of right. This is an example of where all other requirements of the Zoning Code will be satisfied because they are applicable now through the current Code. He stated that often there are applications, even within platted lots, within multiple zoning districts applicable to the same lot and the Zoning Clearance Officer enforces those provisions and does not permit any use within the OL portion of the subject property that would not be permitted under the OL zoning district and will not permit any access or other issues that do not comply with the OL use provisions.

Mr. Norman concluded that in his opinion, the lot-combination deserves and is qualified for a mandatory approval and the staff has no discretion to simply say that it was intended for only two or three lots and not two or more. This does not have anything to do with triggering a requirement for a replat. Somehow the staff report is attempting to jump from one process over to another.

TMAPC COMMENTS:

Mr. Harmon asked Mr. Norman if F & M Bank developed the subject property without combining the lots. In response, Mr. Norman stated that he doesn't know an exact answer to this question, but he assumes that F & M Bank followed the requirements under the Zoning Code and evidently prior to 1970, that wasn't a requirement.

Mr. Norman submitted photographs of the existing facility on the subject property (Exhibit A-4).

Mr. Collins in at 2:02 p.m.

Mr. Boulden stated that he agrees with Mr. Norman that there is nothing in the Zoning Code, for this action, that would trigger the replatting requirement. Considering how this lot-combination has been utilized, the Code or Subdivision Regulations may need to be amended to provide for this in the future. There is nothing in the Subdivision Regulations that indicates that lot-combinations were

intended for residential lots only, and perhaps that is something that should be revisited. Mr. Boulden read Subdivision Regulations 6.6.

Mr. Jackson asked if the structure would consider tying the lots together. In response, Mr. Alberty stated that this has been done in the past. Mr. Alberty further stated that the Permitting Office has considered that in effect a tie agreement and the setbacks don't have to be dealt with on each individual lot. In this case, as long as the building is within the CH, there are no other requirements other than tying the lots together for parking.

Mr. Norman stated that the structure for the restaurant and the restaurant use will have to be within the CH zoning district. It could only encroach into the OL if there was a PUD.

INTERESTED PARTIES:

Seth Ahrens, 1328 South Indianapolis Avenue, 74112, Lot 19, stated that he fears that this will become a single lot and will have the same zoning on the entire property. If the entire property is allowed to be CH, then the applicant wouldn't have any restrictions as far as not putting entrances on Indianapolis. He expressed concerns with traffic on Indianapolis if this is allowed. He explained that it is difficult to turn left off of 13th and onto Harvard; therefore, the cars would come back through the neighborhood.

Mr. Jackson stated that the OL portion will remain OL and the CH will remain CH. There is no application before the Planning Commission to change the zoning. There will be no egress onto Indianapolis from the parking lot. There will be screening required between the OL portion and the adjacent properties that are residential.

Mr. Alberty explained the screening requirements and explained that the only way the requirement could be removed would be to go before the Board of Adjustment requesting a waiver. As of today, the developer has stated that he doesn't intend to change that. If there was an application made there would be a notice mailed out.

Mr. Ard stated that if the lots are tied together it doesn't mean that the entirety of the parcel is granted the rights of a CH parcel. The parcel that is OL has to stay OL and the parcel that is CH will remain CH. The uses allowed on this site will remain in place unless the BOA allows a variance or the Planning Commission allows a zoning change and there are no applications for this.

Mr. Ahrens stated that it sounds to him like the Planning Commission is about to make this a single piece of property.

Mr. Bernard stated that the zoning remains as it is today. When you are standing on a square foot of land, that zoning remains the same whether it is tied together with other land or not.

Kris Eenhuis, 3321 East 13th Street, 74112, stated that she would be directly impacted from the corner of the OL-zoned area. The neighborhood is concerned about the traffic that will be brought into the neighborhood. She explained that she lives on 13th Street and when she leaves the neighborhood it is difficult to turn left onto Harvard. She expressed fears that the McDonald's patrons will exit onto 13th Street and pass through the neighborhood to reach 15th Street in order to reach the expressway, which is how she gets to work now. She explained that this is her biggest concern with this type of facility.

Ms. Eenhuis asked if the lots were not allowed to be combined it would prevent them from getting a building permit. If they are not able to get a building permit unless they have a lot-combination, then the neighborhood would like more time to get a lawyer to represent them.

Mr. Jackson stated that there will be limits of no access.

Ms. Eenhuis stated that she has seen the drawings and she realizes what is proposed for the access. She can see where people leaving McDonald's will exit the one exit that will be onto 13th Street from the CH-zoned property and going into the neighborhood to reach 15th Street and the Broken Arrow Expressway. She indicated that she knows this because it is how she goes to work. She commented that the neighborhood is currently quiet and peaceful.

Mr. Jackson reminded Ms. Eenhuis that a Sonic could build a store on the CH portion of the subject property today and not need the lot-combination.

Ms. Eenhuis stated that the neighborhood understood that this type of application would never be an option and that it would be a retail space like across the street.

Mr. Jackson stated that the applicant will screen Indianapolis and there will not be any access to Indianapolis. However, they will have an access onto 13th Street from the CH portion because they would need access to their property and circulation. In the past the Planning Commission has required left-hand turns only and no right-hand turns.

Ms. Eenhuis asked if the applicant would be able to obtain a building permit if the lot-combination were to be denied. She asked what the reason for the application would be if they were able to get the permit without it. In response, Mr. Jackson stated that it may be a title requirement from the lending institution.

Mr. Alberty stated that the applicant would either need the lot-combination or go through the BOA. The lot-combination is a new process that has been implemented and if it were approved then the applicant wouldn't have to go to the BOA.

Mr. Jackson stated that the applicant could file a PUD and encompass all of the property. Then the restaurant operation could be all the way to the back of the property under a PUD. Today the neighborhood has the protection of OL.

Ms. Eenhuis stated that she would like to drag this out as long as possible to prevent the applicant from building.

Ms. Eenhuis asked Mr. Jackson if he is saying that she should be happy with the fact that it is OL-zoned and not go through another rezoning.

Mr. Ard stated that the neighborhood could probably drag this out and fight it; however, the applicant is within his right to use the subject properties in this fashion.

Ms. Eenhuis stated that she doesn't want to make this complicated, but she would like for it to have the use it was supposedly planned to be, which was office and parking with 8:00 a.m. to 5:00 p.m. rather than a 24-hour facility.

Mr. Ard stated that he understands the concerns of the neighborhood. However, what the applicant is asking to do is within the rights of the use that is defined by the Zoning Code. This lot-combination is usually a typical standardized part of the process and it is not a change of use or zoning of what is allowed. In response, Ms. Eenhuis stated that she understands Mr. Ard's comments.

Mr. Ard stated that there might be cut-through traffic, but on the positive side, Indianapolis will be closed off from any traffic that goes through.

Ms. Eenhuis stated that she has lived in her home for seven years and when the drive-in bank facility was opened it was very quiet. There wasn't much traffic going through the neighborhood even when Indianapolis was opened. Obviously, with Indianapolis being closed there will be less traffic.

Mr. Jackson asked Ms. Eenhuis if her concerns were with cut-through traffic into the neighborhood and hours of operation. Ms. Eenhuis stated that there are other concerns, such as the smells of a restaurant, trash, noise from the drive-through and lights from the cars shining into the homes. Ms. Eenhuis further stated that she is not saying that they shouldn't be able to build there, because she is in this profession as well, but she wanted to know if there is anyway that they can't get a permit without having this lot-combination. Ms. Eenhuis commented that if the Planning Commission is saying that the applicant can go

through and change it to something else and have something ten times worse, she can't imagine what it would be.

Mr. Harmon stated that the Planning Commission could force them to do a replat or a PUD, but ultimately it wouldn't protect the neighborhood a bit more than this does. There is only one access on 13th Street. In a PUD they would be allowed an access onto 13th Street. It might be a left-turn only as the other Planning Commissioners have suggested. However, with the back portion being OL and blocked completely from the neighborhood and only one access onto 13th Street, he doesn't believe a PUD or a resubdivision would give the neighborhood any more protection.

Ms. Eenhuis stated that she was glad to see that there would be screening required and the two entrances onto Indianapolis would be blocked off.

Mr. Jackson stated that the Zoning Code determines the screening and it is not the applicant's decision.

Councilor Maria Barnes, 1319 South Terrace Drive, 74104, stated that there is a much different impact on a neighborhood to have a drive-through bank from a McDonald's. Councilor Barnes requested the Planning Commissioners to agree with her statement. There is a much different impact to a neighborhood with a 24-hour/seven day a week McDonald's rather than the F & M Bank with 9:00 a.m. to 6:00 p.m. hours. Councilor Barnes again asked the Planning Commissioners to agree with her statement. Councilor Barnes stated that she wanted to make sure that the Planning Commissioners understood, because they are making the neighbors feel like this is not as bad as it is. It may not be bad, but it is a difference from a bank to have McDonalds.

Councilor Barnes stated that she had hoped that Mr. Norman would have met with this neighborhood before today to explain it. There was no notice given and this is new to the neighbors. This lot-combination process bothers her because if the neighbors had some knowledge of the drive-through, access and screening, they may not be feeling as fearful of this McDonald's coming in. She requested that Mr. Norman meet with the neighborhood and let them know what is going in and what is happening. Councilor Barnes stated that there should have been some notices given to this neighborhood. She requested that it be put off to the BOA and a few more weeks wouldn't be a bad thing.

TMAPC COMMENTS:

Mr. Bernard stated that he doesn't believe anyone was trying to minimize the impact in reference to McDonald's versus the bank. He believes that they were stating that based on what McDonald's is trying to do, there are multiple ways for them to get there. However, when it is all said and done, we will probably be where we are right now. In response, Councilor Barnes agreed.

Mr. Bernard stated that he doesn't know if Mr. Norman or McDonalds is open to meeting with the residents, but he doesn't believe anyone was trying to minimize the impact that a 24-hour operation would have. Councilor Barnes stated that she got the impression that the applicant and the Planning Commission were trying to minimize the impact. Councilor Barnes further stated that she has done this many times and most of the Planning Commissioners know her. She believes that the Planning Commission should be understanding of where the neighborhood is coming from because they just see McDonald's, which is a big difference from having a drive-through banking facility.

Mr. Jackson stated that Mr. Norman has always been amenable to having discussions with the citizens involved, and when he does his rebuttal, the Planning Commission will ask him if he will facilitate a meeting with the neighbors.

Councilor Barnes stated that the neighborhood should always be a part of whatever plan that is in the area, even if it is not a zoning change.

Mr. Jackson stated that the Planning Commission has been trying to get the developers to move in that direction over the last few months to minimize the unforeseen hostilities that are real or may not be real.

INTERESTED PARTIES CONT.:

Kenneth Anderson, 1311 South Indianapolis, 74112, which is straight across the street from the proposed McDonald's, stated that Harvard is all commercial and is half a block deep. There is nothing that goes back to the back half of the commercial lots. Mr. Anderson cited the history of the subject property.

Mr. Anderson expressed concerns with the traffic, noise, trash and headlights shining into homes. He stated that the screening wall will create a blind spot. He further expressed concerns that this would set a precedent. Mr. Anderson submitted photographs (Exhibit A-4).

Applicant's Rebuttal:

Mr. Norman stated that he would like to leave a copy of the ordinance number and letter from permitting (Exhibit A-3). The lighting has to meet the Kennebunkport Formula and the landscape plans have requirements that will be satisfied. The only concern that has been expressed is about something that has been in operation as a parking lot for 35 to 40 years. Now there is a change of use in the CH portion along Harvard and use the same area (OL) for parking. Mr. Norman submitted a site plan (Exhibit A-1). Mr. Norman indicated the driveways that will have to be closed and the located the access points that would be allowed within the CH zoned portion. He stated that all of the restaurant and the drive-around pickup window are within the CH district boundary. Nothing is being proposed that is not a matter of right. This is a mechanical procedure that is permitted under the regulations and this is merely a

way of accomplishing something. If this went to the BOA, as in the past, the board uniformly required a tie agreement, which has the same language as a lot-combination. This is an administrative procedure, which notice and public hearings haven't been required. Councilor Barnes is correct that typically he would have made some effort to have contacted the neighbors and met with them and he is willing to do so, although his position will continue to be that his applicant has a right under the law and under the Zoning Code to do this. He indicated that he can discuss with the neighbors and make sure that they understand that the screening fence will have a mitered corner to deal with site lines.

Ms. Bayles in at 2:41 p.m.

Mr. Norman stated that there wouldn't be a fence along 13th Street. Mr. Norman indicated where the screening fence and landscaping would be located. He commented that a third of the businesses along Harvard are food service facilities and those are uses permitted as a matter of right.

Mr. Bernard asked Mr. Norman if he was willing to meet with the residents to try and ease some of their concerns of this issue. In response, Mr. Norman stated that he is willing to meet with the neighborhood. He indicated that if the Planning Commission takes action on the subject application today, he would still meet with the neighbors, or if the Planning Commission chooses to continue this for one week, he will meet with the neighbors.

Mr. Harmon asked Mr. Norman if the proposed facility will be a 24-hour facility. In response, Mr. Norman stated that he believes that it is, but he is not certain. He reminded the Planning Commission that there are no regulations in the Zoning Code or otherwise that limit hours of operation, unless it is within a PUD where some of those have been negotiated.

Mr. Harmon suggested that this be continued for one week to give Mr. Norman an opportunity to visit with the neighbors.

Mr. Norman agreed and apologized for the time this application has taken. He reminded the Planning Commission that this is a mechanical procedure and his intention was to avoid expenses by having to go to the BOA and having to do a tie agreement.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, TMAPC voted **7-0-1** (Ard, Bernard, Cantees, Collins Harmon, Hill, Jackson "aye"; no "nay"; Bayles "abstaining"; Carnes, Midget "absent") to **CONTINUE** LC-17 to April 26, 2006.

PLAT WAIVERS:

CBOA 2205 – (1416)

(County)

13412 East 106th Street North

STAFF RECOMMENDATION:

The property in question is zoned AG and a special exception for a temporary fireworks stand will be considered at the 4/18/06 Board of Adjustment meeting.

In keeping with TMAPC's policy on plat waivers for these types of temporary uses, staff can recommend approval of the plat waiver with the approval of the use by the Board of Adjustment.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Ard, Bayles, Bernard, Cantees, Collins, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Midget "absent") to **APPROVE** the plat waiver for CBOA-2205 per staff recommendation.

* * * * *

Mr. Bernard announced that the Planning Commission has made a request that Traffic Engineering be available for comments on LC-17 at the next hearing on May 3, 2006.

Z-7012 – (9302)

(PD 5) (CD 3)

South of southwest corner of East Admiral Place and South 66th East Avenue

STAFF RECOMMENDATION:

The platting requirement was triggered by a rezoning to CS and PK.

Staff provides the following information from TAC at their March 15, and April 6, 2006 meeting:

ZONING:

TMAPC staff: The plat waiver is for property zoned CS and PK.

STREETS:

Recommend dedicating a 30-foot intersection radius at 66th East Avenue. Subdivision Regulations require sidewalks.

SEWER:

The existing sanitary sewer line must be relocated and the existing line filled or removed before a building permit can be issued. The relocated sewer line must be in an easement with a minimum width of 15 feet.

WATER:

No comments.

STORM DRAIN:

Site requires a PFPI, detention and additional easements.

FIRE:

No comments.

UTILITIES:

No comments.

The property that was rezoned is a part of the overall planned new auto parts store development. Staff cannot recommend the plat waiver because of the necessary detention easements, PFPI, sewer relocation and radius dedication for the entirety of the project.

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

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

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

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

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

Applicant's Comments:

Roy D. Johnsen, 201 West 5th, Suite 501, Tulsa, Oklahoma 74103, representing GVR Properties, stated that a part of the property in question is being rezoned and it triggers the platting requirement. There are two 50' x 120' lots and these properties were zoned residentially. The north property has been rezoned CS and the south property has been rezoned PK. Along Admiral Place the property is zoned CH and was platted in the 1930s. The historic depths are not deep enough for new development and in the infill situations become very difficult. His site plan that he submitted for his plat waiver included the three lots along Admiral Place, which had been zoned CH for many years, plus the two lots that were being rezoned and triggered the platting requirement. There is no requirement to plat the lots that front Admiral Place. If the ordinance is followed literally he would have to plat the two lots that recently were rezoned in order to get a building permit. He requested the Planning Commission to consider if anything is really accomplished by requiring that. He stated that there is actually a 50-foot right-of-way along Admiral Place to centerline that meets the Major Street Plan, but that is not the situation on 11th Street. The requirement that staff is mandating is located on the property that was outside the required platting area. In this process a sewer does have to be relocated, which is not uncommon

in an infill development. The subject property is for an auto parts store with normal hours of operation for a retail facility. He indicated that he will have to meet the landscape requirements, screening and lighting requirements of the City of Tulsa for this redevelopment. The paperwork for relocating the sewer is the same as if it were platted. He stated that he will have to file a new easement, which is a separate document and the City has a very good system of keeping track of these. He will have to file a survey for the subject property as well. Nothing will be achieved by platting the two rezoned lots and there is no requirement for replatting the entire properties. Mr. Johnsen concluded and asked that there be a granting of the plat waiver and he will follow the requirements that the City of Tulsa requires to proceed with development.

TMAPC COMMENTS:

Mr. Harmon asked Mr. Johnsen if the sewer, detention, etc. present any problems for his client. In response, Mr. Johnsen stated that it wouldn't cause any problems and his client is aware that he has to meet those requirements.

Mr. Jackson asked staff if the separate instrument filings cause any problems since these have to be done in order to obtain a permit whether he plats or not.

Mr. Alberty stated that the question is what is before the Planning Commission today. It is to determine whether or not it is appropriate to waive a plat. The questions on the second part of the questionnaire indicate that it wouldn't be waived. However, in this case it could be done by separate instrument. Whether or not the TAC would view this as being sufficient, he couldn't answer that question. This has already gone through TAC and they reacted to it. If the Planning Commission feels that this is not sufficient, then staff could take it back before the TAC and see if waiving the plat in lieu of getting these instruments would be sufficient or not.

Mr. Jackson stated that he doesn't see anything that would be gained in requiring the platting for the two properties that were rezoned. He would be in favor of approving the plat waiver.

Mr. Harmon stated that he can appreciate Mr. Alberty's statements regarding the form indicating that a waiver shouldn't be granted. However, in this case there are two lots being added to an already existing development and he feels that this is one that could be reasonably be waived.

Mr. Bernard requested Mr. Johnsen to show the photographs of the surrounding properties (Exhibit B-1).

TMAPC Action; 8 members present:

On **MOTION** of **BAYLES**, TMAPC voted 8-0-0 (Ard, Bayles, Bernard, Cantees, Collins, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Midget "absent") to **APPROVE** the plat waiver for Z-7012.

Commissioner Collins out at 2:59 p.m.

Mr. Albery announced that Mr. Norman has requested that the Planning Commission might consider a two-week continuance for LC-17 due to the fact that the McDonald's representative will not be able to attend the meeting in one week. Mr. Norman has agreed to notify all of the interested parties who have left the meeting.

Mr. Harmon withdrew his motion for LC-17, Item 4 of this agenda.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, TMAPC voted **7-0-0** (Ard, Bayles, Bernard, Cantees, Harmon, Hill, Jackson "aye"; no "nay"; none "abstaining"; Carnes, Collins, Midget "absent") to **CONTINUE** the lot-combination for LC-17 to May 3, 2006.

Z-6956 – (8306)

(PD 18) (CD 2)

2101 East 71st Street South

STAFF RECOMMENDATION:

The platting requirement was triggered by a rezoning to CS.

Staff provides the following information from TAC at their April 6, 2006 meeting:

ZONING:

TMAPC staff: The plat waiver is for property zoned CS.

STREETS:

No comments.

SEWER:

No comments.

WATER:

No comments.

STORM DRAIN:

No comments.

FIRE:

No comments.

UTILITIES:

No comments.

Staff can recommend **APPROVAL** of the plat waiver requested because of the existing plat for the site.

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

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

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

	YES	NO
4. Is right-of-way dedication required to comply with Major Street and Highway Plan?		X
5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived?		X
6. Infrastructure requirements:		
a) Water		
i. Is a main line water extension required?		X
ii. Is an internal system or fire line required?		X
iii. Are additional easements required?		X
b) Sanitary Sewer		
i. Is a main line extension required?		X
ii. Is an internal system required?		X
iii. Are additional easements required?		X
c) Storm Sewer		
i. Is a P.F.P.I. required?		X
ii. Is an Overland Drainage Easement required?		X
iii. Is on site detention required?		X
iv. Are additional easements required?		X
7. Floodplain		
a) Does the property contain a City of Tulsa (Regulatory) Floodplain?		X
b) Does the property contain a F.E.M.A. (Federal) Floodplain?		X
8. Change of Access		
a) Are revisions to existing access locations necessary?		X
9. Is the property in a P.U.D.?		X
a) If yes, was plat recorded for the original P.U.D.		

- 10. Is this a Major Amendment to a P.U.D.? X
a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?
- 11. Are mutual access easements needed to assure adequate access to the site? X
- 12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? X

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, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to **APPROVE** the plat waiver for Z-6956 per staff recommendation.

CZ-374 – (2432)

(County)

West of the southwest corner of East 136th Street North and 119th Avenue

STAFF RECOMMENDATION:

The platting requirement was triggered by a rezoning to CS.

Staff provides the following information from TAC at their April 6, 2006 meeting:

ZONING:

TMAPC staff: The plat waiver is for property zoned CS in the County.

STREETS:

The 136th Street North shown is a primary arterial street on the Major Street and Highway Plan; documentation for right-of-way and access limits need to be shown. The Assistant County Engineer checked on the plat filing and right-of-way and is satisfied with the dedications.

SEWER:

No comment.

WATER:

No comment.

STORM DRAIN:

No comment.

FIRE:

No comment.

UTILITIES:

No comment.

Staff can recommend **APPROVAL** of the plat waiver requested because of the existing plat for the site.

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

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

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

	YES	NO
4. Is right-of-way dedication required to comply with Major Street and Highway Plan?		X
5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived?		X
6. Infrastructure requirements:		
a) Water		
i. Is a main line water extension required?		X
ii. Is an internal system or fire line required?		X
iii. Are additional easements required?		X
b) Sanitary Sewer		
i. Is a main line extension required?		X
ii. Is an internal system required?		X
iii. Are additional easements required?		X
c) Storm Sewer		
i. Is a P.F.P.I. required?		X
ii. Is an Overland Drainage Easement required?		X
iii. Is on site detention required?		X
iv. Are additional easements required?		X

- 7. Floodplain
 - a) Does the property contain a City of Tulsa (Regulatory) Floodplain? X
 - b) Does the property contain a F.E.M.A. (Federal) Floodplain? X
- 8. Change of Access
 - a) Are revisions to existing access locations necessary? X
- 9. Is the property in a P.U.D.? X
 - a) If yes, was plat recorded for the original P.U.D.
- 10. Is this a Major Amendment to a P.U.D.? X
 - a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?
- 11. Are mutual access easements needed to assure adequate access to the site? X
- 12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? X

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, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to **APPROVE** the plat waiver for CZ-374 per staff recommendation.

FINAL PLAT:

Steeplechase Estates – (7236) (County)

Southeast corner of West 171st Street and Elwood Avenue

STAFF RECOMMENDATION:

This plat consists of 13 lots in two blocks on approximately 26 acres.

Staff recommends **APPROVAL** and all release letters have been received.

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, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to **APPROVE** the final plat for Steeplechase Estates per staff recommendation.

Stone Creek Farms Village – (9425)

(PD 17) (CD 6)

North of the northwest corner of East 51st Street and 193rd East Avenue

STAFF RECOMMENDATION:

This plat consists of 38 lots in three blocks on 8.9 acres.

Staff recommends **APPROVAL**.

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, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to **APPROVE** the final plat for Stone Creek Farms Village per staff recommendation.

PRELIMINARY PLAT:

Southern Woods Park III – (8316)

(PD 18) (CD 8)

West of the northwest corner of East 91st Street South and Yale Avenue

STAFF RECOMMENDATION:

This plat consists of ten lots, one block, on 4.8 acres.

The following issues were discussed April 6, 2006 at the Technical Advisory Committee (TAC) meeting:

- 1. Zoning:** The property is zoned under PUD-693. All PUD requirements must be met. Show Development Area. There is no access allowed on 89th Street except for an emergency crash gate. Make sure setbacks shown in Covenants match PUD requirements.

2. **Streets:** Discuss right-of-way dedication along the eastern 160 feet (+-) of East 89th Street South. Include "MA and PE" in the legend of abbreviations. The mutual access easements do not appear to align with or tie to adjacent mutual access easements on property to the east; ensure all abutting easements are properly shown with documentation. Mutual access easement language should include language that addresses maintenance. Subdivision Regulations require sidewalks on arterial and residential streets. Developer should coordinate 91st Street driveway access location and construction with City of Tulsa Engineering Services in light of City's current construction project at 91st and Yale. Change the 50-foot access to 40 feet to match the site plan.
3. **Sewer:** Locate the proposed sanitary sewer line within the 17.5-foot utility easements 12.5 feet from the property line. In the ten-foot utility easement along the east property line. We need more than three feet of clearance between the building line and the sanitary line.
4. **Water:** The six-inch proposed water main to serve Lot 3 cannot be a dead-end line; a looped water main will be required.
5. **Storm Drainage:** The closing ordinance numbers must be provided prior to filing plat. Check scale on stormwater easement.
6. **Utilities: PSO, ONG, Cable:** Okay.
7. **Other: Fire:** 508.5 Fire hydrant systems. Fire hydrant systems shall comply with Sections 508.5.1 Where required. 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. Exceptions: 1.) For Group R-3 and Group U occupancies, the distance requirement shall be 600 feet. 2.) For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.1.1 or 903.3.1.2, the distance requirement shall be 600 feet. Include surveyor's email address and basis of bearings. Put pointer arrows on the PSO note. Dimension the curves on the easements and add bearings and distances of easement boundaries where not parallel with adjacent defined lines.

Staff recommends **APPROVAL** of the Amended 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.

Mrs. Fernandez stated that there was a gentlemen present earlier with concerns about this plat. He lives north of the plat and he wanted to make sure that there was no access to the north of the plat. There is no permitted access except for an emergency crash gate for the Fire Department.

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

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-1 (Bayles, Bernard, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; Ard "abstaining"; Carnes, Collins, Midget "absent") to **APPROVE** the preliminary plat for Southern Woods Park III, subject to special conditions and standard conditions per staff recommendation.

MINOR SUBDIVISION PLATS:

Bella Gardens Wedding Chapel – (9411) (PD 17) (CD 6)

West of the northwest corner of East 21st Street and 177th East Avenue
(17207 East 21st Street)

STAFF RECOMMENDATION:

This plat consists of one lot, one block, on six acres.

The following issues were discussed April 6, 2006 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned AG. A court case determined the use and standards for the wedding chapel allowed on this site. This is submitted as a Minor Subdivision Plat.
2. **Streets:** The right-of-way dedication needs to be 60 feet for the primary arterial designation on the Major Street and Highway Plan. Correct the street name to East 21st Street South. Add dimension to south property line after right-of-way dedication since east and west property lines are not parallel. A waiver of City of Tulsa policy requiring sidewalks on aeriels was

requested and granted in March and April, respectively, 2005, prior to inclusion of the requirement in the revised subdivision regulations. The two west access points should be combined into one. Realign the 25-foot access easement such that it connects with the west driveway. Change the east access point from 40 feet to 30 feet to avoid conflicting with the proposed detention easement. Tie the existing gravel drive into the parking aisle. A median is planned for this primary arterial and one or both access points may be right in or right out, only.

3. **Sewer:** Place a 17.5-foot utility easement around the entire perimeter of the plat. Put the septic system lateral field in an easement. Define the restrictions for the septic system easement and include the statement that connection will be made to the public sanitary sewer system within 90 days of it becoming available.
4. **Water:** The waterline will have to be extended. Label the distance of the water from the 60-inch waterline. **EXTREME CAUTION MUST BE TAKEN**, when working around the 60-inch line Show size and material of waterline.
5. **Storm Drainage:** The 15-foot overland drainage easement requires either bearings and distances or leaders at each end of the label implying the lines are parallel.
6. **Utilities: PSO, ONG, Cable:** Okay.
7. **Other: Fire:** 508.5 Fire hydrant systems. Fire hydrant systems shall comply with Sections 508.5.1 through 508.5.6. 508.5.1 Where required. 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. Exceptions: 1.) For group E-3 and Group U occupancies, the distance requirement shall be 600 feet. 2.) For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet. Need an email address along with a CA number. Include basis of bearings. Remove "Special Exception and PFPI Notes" from face of plat.

Staff recommends **APPROVAL** of the minor 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.

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, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to **APPROVE** the preliminary plat for Bella Gardens Wedding Chapel, subject to special conditions and standard conditions per staff recommendation.

Mr. Harmon out at 3:07 p.m.

COMPREHENSIVE PLAN PUBLIC HEARING:

RESOLUTION NO.: 2443:876

**A RESOLUTION AMENDING
THE CITYWIDE MASTER DRAINAGE PLAN MAP AND TEXT,
A PART OF THE COMPREHENSIVE PLAN FOR THE
TULSA METROPOLITAN AREA**

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

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

WHEREAS, on the 10th day of July, 1991, this Commission, by Resolution No.1842:721, did adopt the Citywide Master Drainage Plan for the City of Tulsa, Map and Text as a part of the Comprehensive Plan for the Tulsa Metropolitan Area, which was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma; and

WHEREAS, a public hearing was held on the 19th day of April, 2006, and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.7, to modify its previously adopted Citywide Master Drainage Plan, City of Tulsa, Map and Text by approving the document as set forth and hereto attached (CD).

NOW, THEREFORE, BE IT RESOLVED by the TMAPC that the amendments to the Citywide Master Drainage Plan, City of Tulsa, Map, as set forth above, be and are hereby adopted as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

TMAPC COMMENTS:

Mr. Bernard reminded the Planning Commission that there was a worksession on February 22, 2006.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **JACKSON**, TMAPC voted **6-0-0** (Ard, Bayles, Bernard, Cantees, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Harmon, Midget "absent") to recommend **APPROVAL** of the amendment to the Citywide Master Drainage Plan by updating it as a part of the Comprehensive Plan for the Tulsa Metropolitan Area as recommended.

TMAPC Action; 6 members present:

On **MOTION** of **JACKSON**, TMAPC voted **6-0-0** (Ard, Bayles, Bernard, Cantees, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Harmon, Midget "absent") to recommend **APPROVAL** of Resolution No 2443:876 adopting the amendments for the Citywide Master Drainage Plan map and text, a part of the Comprehensive Plan for the Tulsa Metropolitan Area per staff recommendation.

ZONING PUBLIC HEARING

Application No.: Z-7021

RS-3 TO IL

Applicant: Hunter Construction Management/Brad McMains

(PD-18) (CD-6)

Location: 5705 South 107th East Avenue

STAFF RECOMMENDATION:

BOA-20118 September 2005: The Board of Adjustment approved a Special Exception to allow a public park on a 48± acre tract that is a detention pond, subject to Public Works and/or Parks Department submitting a site plan addressing parking facilities and/or fencing according to the wishes of the

neighborhood; per amended legal description and located northwest of the northwest corner of East 61st Street and South Garnett Road.

Z-6969 February 2005: All concurred in approval of a request to rezone a 1.9 ± acre tract from RS-3 to IL located at 5903 South 107th East Avenue and located south of subject property, for a water products company.

Z-6877-February 2003: Approval was granted for a request to rezone a 1.16-acre tract south of the subject property, from RS-3 to IL for a landscape service.

BOA-19162 August 2001: The Board of Adjustment approved a Variance of the required 75' setback from an RS district to 5' for new construction located at 5700 South 107th East Avenue, finding that the hardship is the RS district is Highway 169, and the area is transitioning to industrial and commercial uses, and residential is not consistent with the use at this time.

Z-6762-June 2000: All concurred in approval of a request to rezone a 1-acre lot located at 5629 South 107th East Avenue and north of the subject property, from RS-3 to IL for a warehouse.

BOA-10820-January 1999: The Board of Adjustments approved a Variance of the require 75' setback from an RS zoned district on the north, south, and east; a waiver of the screening requirements and a Variance of the all-weather surface for parking for a period of 2 years, located north of the northeast corner of East 61st Street and South 107th East Avenue.

Z-6662-December 1998: All concurred in approval of a request to rezone a 1.1-acre tract abutting the subject property on the south from RS-3 to IL.

Z-6609-December 1997: All concurred in approval of a request to rezone a 1-acre tract located north of the subject tract, from RS-3 to IL for light industry.

Z-6574-January 1997: All concurred in approval of a request to rezone a 161' x 251' tract located north of the subject property on the east side of 107th East Avenue from RS-3 to IL for a trucking establishment.

BOA-17563 - November 1996: The Board of Adjustment approved a request for a variance of the required 75' setback from an abutting R-zoned district and a special exception to waive the screening requirements from an abutting R-zoned district on property zoned IL and located south of the subject tract.

BOA-16067 - June 1992: The Board of Adjustment approved a request for a variance of the required setback from an R-zoned district from 75' to 30' to permit an industrial building on property located north of the northeast corner of East 61st Street South and South 107th East Avenue.

Z-6359-May 1992: All concurred in approval of a request to rezone a 2.5-acre tract from RS-3 to IL. The tract is located north of the northwest corner of East 61st Street South and South 107th East Avenue.

Z-6308-September 1991: All concurred in approval of a request to rezone a 1.28-acre tract located on the southwest corner of East 56th Street South and South 107th East Avenue from RS-3 to IL.

Z-6233-April 1989: A request was approved to rezone a 1.8-acre tract located on the west side of South 107th East Avenue and north and west of the subject tract from RS-3 to IL.

Z-6164 - August 1987: A request to rezone a 4.9-acre tract located south of the southwest corner of East 56th Street South and South 107th East Avenue, from RS-3 to IL for industrial use was approved.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately .93± acres in size and is located at 5705 South 107th East Avenue. The property is being used as a construction yard and is zoned RS-3.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South 107th East Avenue	Residential	50'	2 lanes

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

SURROUNDING AREA: The subject tract is abutted on the east by a large stormwater detention facility, zoned RS-3; on the north by industrial and mixed related uses, zoned IL; on the south by industrial and mixed related uses, zoned IL; and on the west by industrial and mixed related uses, zoned IL.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area Special District 1 – Industrial Area. Plan policies recommend this as a location for future industrial development within the planning district. The requested rezoning **may be found** in accord with the Comprehensive Plan by virtue of its location within a Special District.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan and surrounding land uses, staff can support the requested rezoning and recommends **APPROVAL** of IL zoning for Z-7021.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **BAYLES**, TMAPC voted **6-0-0** (Ard, Bayles, Bernard, Cantees, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Harmon, Midget "absent") to recommend **APPROVAL** of the IL zoning for Z-7021 per staff recommendation.

Legal Description for Z-7021:

Lot 9, Block 1, Golden Valley addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, **From RS-3 (Residential Single Family District) To IL (Industrial Light District).**

Mr. Harmon in at 3:10 p.m.

Application No.: Z-7020

AG to IL

Applicant: Robert Johnson

(PD-16) (CD-3)

Location: West of the southwest corner East 56th Street North and North 145th East Avenue

STAFF RECOMMENDATION:

Z-6270 January 1990: A request for rezoning two tracts from IH to AG/IL. Tract A is .94± acres in size and located ¼ mile south of the southwest corner of East 56th Street North and North 145th East Avenue. Tract B is 20± acres in size and located on the southeast corner of East 56th Street North and North 137th East Avenue. Staff recommended AG for either tracts or IL in the alternative. All concurred in the approval of rezoning a Tract A to IL and Tract B to AG.

Z-6837 October 2001: All concurred in approval of rezoning a 155± acre tract from AG to IM/IH, located on the southeast corner of E 46th Street North and North Garnett Road (Highway 169 North) and southeast of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 10± acres in size and is located west of the southwest corner East 56th Street North and North 145th Avenue East. The property is being used as a single-family residence and is zoned AG. The site is heavily wooded.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 56 th Street North	Secondary Arterial	100'	2 lanes

UTILITIES: The subject tract has no water and sewer.

SURROUNDING AREA: The subject tract is abutted on the east by a partially-burned stone barn, hay bales and vacant land zoned AG; on the north by vacant land, zoned AG; on the south by large-lot single-family residential uses and vacant land, zoned AG; and on the west by large-lot single-family residential uses, zoned AG.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 16 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area Special District 2 – Industrial Uses. Plan policies (Section 3.2) call for mixed industrial-type uses due to its location near transportation facilities and existing industrial and related uses. Because of its location within a Special District, the requested rezoning **may be found** in accord with the Comprehensive Plan.

STAFF RECOMMENDATION:

Staff has concerns about the conversion of this parcel into industrial uses. The existing mix of uses in the area raises questions of compatibility. East 56th Street North is a two-lane road with bar ditches. It and North 145th East Avenue bear a great deal of industrial traffic in the form of large trucks hauling materials to and from the quarries and concrete plants in the area. On the north side of East 56th Street are single-family homes, zoned RS in the County. The subject property has only minimal frontage on East 56th Street North, and will be completely surrounded by vacant, heavily wooded land and large-lot single-family residential properties. For these reasons, staff cannot support the requested rezoning and therefore recommends **DENIAL** of IL zoning for Z-7020.

Applicant's Comments:

Robert Johnson, 15807 East 78th Street North, Owasso, Oklahoma 74055, stated that he is the owner of the subject property and he would like to move his machine shop from Collinsville onto the subject property. He proposes to build a well-built 7,500 to 10,000 SF building with insulation to prevent the noise from escaping.

Mr. Johnson described the surrounding properties and uses, which includes rock quarries. He indicated that he doesn't plan to use the entire ten acres and he will have one building with 20 employees. He doesn't believe that this will impact the traffic. He explained that he doesn't receive many deliveries, but he does make deliveries out of his one truck.

TMAPC COMMENTS:

Mr. Jackson asked Mr. Johnson if his operation could withstand the blasting from the quarries. In response, Mr. Johnson stated that the blasting wouldn't bother his business.

INTERESTED PARTIES:

Barbara Morrison, 14343 East 56th Street North, Owasso, Oklahoma 74055, stated that she is directly across the street from the proposal. She explained that she has lived on her property for 36 years and has worked her lifetime to pay for her home and improve it for retirement. She enjoys being out in her yard and sitting on her patio, which concerns her that there will be more noise with the proposal. There is a lot of noise from the truck-traffic for the quarries, but after 6:00 p.m. the truck-traffic quits. The proposed zoning change would allow the large machine shop to be built directly across the street from her property. Ms. Morrison expressed concerns with the machine shop noise, and traffic with day and night shifts. All of the noise from the machine shop is carried by the south winds that blow in Oklahoma. This will disturb the quiet evenings outside and probably cause some sleep disturbances.

Ms. Morrison expressed concerns for the sewer and septic for a large building. Water runoff could be a problem if they use oil-base solutions to clean parts and cool their tools while cutting and drilling. She further expressed concerns with water pressure in the subject area if this large building is allowed to be built. She explained that water pressure problems already exist in the subject area. Ms. Morrison concluded and requested that the subject property remain AG.

Brenda Lowrance, 11242 North 123rd East Avenue, Collinsville, Oklahoma 74021, stated that she would like to speak about this project. She explained that she is a real estate broker and has worked this market place for over 30 years. She has watched the progress of development in the subject area. She believes that IL is the highest and best use of the subject property. There will be little noise from the building and it will be located 1,000 feet from the nearest residential home.

James Morrison, 14343 East 56th Street North, Owasso, Oklahoma 74055, stated that there are no natural gas lines and the applicant will have to purchase propane. There will have to be a lagoon for the sewage or a large septic system to handle all of the employees and the day to day business.

Mr. Morrison stated that the applicant has had some violations and complaints about noise at his existing machine shop. There are currently two trailer homes on the subject property. Mr. Morrison asked why the applicant couldn't move to an area already zoned IL and developed for machine shops. He expressed concerns about the drainage and the sewer system.

Applicant's Rebuttal:

Mr. Johnson stated that the will be three football field lengths from the Morrison home. The proposed building will be well-insulated and a better building than what he is currently using. He explained that the current building he is using in Collinsville has an adjacent resident who has been complaining about the noise. He stated that there are only three to four feet between his building and the adjacent resident. He commented that it is only 53 decimals between the buildings. He indicated that inside the building he averages 70 decimals and OSHA standards are that anything over 85 decimals requires earplugs. Mr. Johnson doesn't believe that there will be any more noise from his facility than the gravel trucks. He believes that the gravel trucks driving by will make more noise than his stationary facility. There is currently a machine shop that is located next door to the interested parties.

Mr. Johnson stated that his facility will not require a tremendous amount of water. He indicated that his machine shop requires coolant and a service picks up the coolant that is discarded. Regarding sewage, he will contact the proper authorities and have the proper septic tank. He doesn't understand why propane would be a problem for his facility. Mr. Johnson concluded that the reason he doesn't relocate somewhere else is due to the expense. He commented that if the Planning Commission would prefer that this application be on a smaller portion, then he could split it.

TMAPC COMMENTS:

Mr. Jackson asked what the Comprehensive Plan sees for the subject area. Ms. Matthews stated that the Comprehensive Plan calls for a special district, airport and related uses, which is in Planning District 16.

Mr. Jackson stated that this proposal has a panhandle versus street frontage. Ms. Matthews explained that the panhandle is needed in order to access the subject property. In response, Mr. Jackson agreed that the subject property is somewhat landlocked.

Mr. Jackson asked if Rogers County is expecting North 145th East Avenue to eventually be industrial.

In response to Mr. Jackson, Ms. Matthews stated that it is a question of timing. Perhaps this will transition into industrial uses in the future, but she doesn't see it happening right now. There are no utilities available and the fact that the subject property has to have a panhandle to reach the property tells her that the time is not right for it to be zoned industrially.

In response to Mr. Bernard, Ms. Matthews stated that the Comprehensive Plan sees the subject area as being a special district, airport and related uses; however, that is a long-term plan.

Mr. Jackson stated that he doesn't have a problem with the IL zoning, but the access is a problem with the 50-foot panhandle. If the subject property were fronting North 145th East Avenue he wouldn't have any problems with the rezoning. The panhandle will force everyone on the three corners to follow the same pattern.

Mr. Harmon stated that he agrees with Mr. Jackson's comments. Probably IL will at some point and time be appropriate, but this property is landlocked with no frontage on a major street or minor street. The timing is not right at present.

TMAPC Action; 7 members present:

On **MOTION** of **HILL**, TMAPC voted **7-0-0** (Ard, Bayles, Bernard, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to recommend **DENIAL** of the IL zoning for Z-7020 per staff recommendation.

Application No.: PUD-713-4 **MINOR AMENDMENT**

Applicant: Marc & Donna Bullock (PD-26) (CD-8)

Location: 5905 East 116th Place South

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment of the rear (west) setback requirement from 25 feet to 20 feet for the purpose of building a residence. The applicant notes their attempts to preserve mature trees and that there will be no adverse impact to adjacent property as reasons for the proposed amendment. The subject property is separated from the adjacent tract (to the rear) by an existing eight foot masonry wall at the property line and a 30 foot mutual access easement running along and outside the west boundary of PUD 713.

Although two detached accessory buildings are also proposed, these are not required to meet the rear setback. In addition, the site with its proposed encroachments and accessory buildings still complies with the Zoning Code regarding maximum rear yard coverage and permissible floor area for accessory buildings.

Staff finds the proposed amendment to be minor in nature and recommends **APPROVAL** of **PUD-713-4** as proposed.

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, Cantees, Harmon, Hill, Jackson "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to **APPROVE** the minor amendment for PUD-713-4 per staff recommendation.

Application No.: PUD-411-C-9 (Z-5842-SP-5b) MINOR AMENDMENT

Applicant: R. L. Reynolds (PD-26) (CD-8)

Location: 9700 Block of East 98th Street South

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to PUD 411-C for the purpose of splitting a 10.32 acre tract of land located in Development Area 4(A) and Development Area 5(A).

Tract A is located wholly within and comprises the northerly 2.51 acres of Development Area 4(A). Tract B is comprised of the southerly 2.62 acres of Development Area 4(A) and all of the 5.19 acres comprising Development Area 5(A). PUD 411-C/ Z-5842-SP-5 allocated 53,500 square feet of building floor area to Development Area 4(A) and 89,500 square feet of building floor area to Development Area 5(A). The applicant requests that such building floor area be allocated between Tract A and Tract B as follows:

Development Area 4(A)

	<u>Acreage</u>	<u>Building Floor Area</u>
4(A-1)*	2.51 AC	26,140 sq. ft.
4(A-2)**	2.62 AC	27,360 sq. ft.

Development Area 5(A)

5(A)***	<u>5.19</u>	<u>89,500 sq. ft.</u>
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TOTAL 10.32 143,000 sq. ft.

* Tract A

** Portion of Tract B in Development Area 4(A)

*** Portion of Tract B in Development Area 5(A)

The tract to be split as noted above is situated between Fred Jones Ford on the west, the Creek Turnpike on the north, Ridge Pointe (single-family residential) on the east, and East 98th Street South on the south. There is an existing six-foot high wood fence along the boundary in common with the single-family neighborhood, maintenance of which will be the developers' (of Tracts A and B) responsibility. Access to Tract A (development area 4(A-1)) will be by mutual access easement from East 98th Street South through the north part of Tract B (development Area 4(A-2)). East 98th Street South will be terminated in a cul-de-sac.

Staff recommends **APPROVAL** of **PUD 411-C-9/ Z-5842-SP-5b** subject to the conditions of Development Area 4(A) as modified by staff:

1. Development Standards

Development Area 4(A-1)

Permitted Uses:

Automobile and light truck sales and service and uses customarily accessory thereto.*

*Uses permitted in Development Area 5-A may be added to Development Area 4-A by minor amendment with appropriate development standards.

Land Area (gross):	2.51 acres
Maximum Building Floor Area:	26,140 square feet
Maximum Building Height:	35 feet
Maximum Lot Coverage by Buildings:	30%
Minimum Building Setbacks:	
From south boundary	25 <u>10</u> feet
From west boundary	10 feet
From north boundary	35 feet
From east boundary	150 feet
Minimum Landscaped Open Space:	10% of net lot area

Landscaped Buffer:

A minimum 30-foot wide landscaped buffer shall will be maintained along the east boundary of Development Area 4(A-1). This area ~~should~~ may be considered for future neighborhood trail access to the Creek Turnpike Trail.

Screening Wall or Fence:

A minimum six-foot high screening wall shall be provided within the east 30 feet of Development Area 4(A-1)

Off-Street Parking:

As required by the Tulsa Zoning Code.

Signs:

1. One ground sign shall be permitted with a maximum of ~~80~~ 160 square feet of display surface area and 25 feet in height. It shall be set back a minimum of 250 feet from the east boundary of Development Area 4(A-1).
2. Wall signs shall be permitted not to exceed 1.5 square feet of display surface area per lineal foot of building wall to which attached. No wall signs shall be permitted on east-facing walls.
3. A monument sign shall be permitted at each non-arterial street entry with a maximum of 32 square feet of surface display area and four feet in height.

Lighting:

Light standards shall be limited to 12 feet in height in the east 100 feet of the development area; light standards in the remainder of Development Area 4(A-1), whether pole or building mounted, shall be limited to 25 feet in height.

Bulk Trash Containers:

Bulk trash containers shall not be permitted within the east 150 feet of Development Area 4(A-1).

General Restrictions and Design Controls for Automobile Sales and Service Areas:

1. Interior automobile service and work areas shall not be visible from the residential area to the east;
2. The use of temporary signs, banners and streamers shall be prohibited;
3. Automotive body work and painting shall be permitted only within a building and shall not be within 150 feet of the east development area boundary;
4. No trucks larger than one ton or equivalent shall be displayed or offered for sale.

Development Area 4(A-2)

Permitted Uses:

Automobile and light truck sales and service and uses customarily accessory thereto.*

*Uses allowed in Development Area 5-A may be added to Development Area 4-A by minor amendment with appropriate development standards.

Land Area (gross):	2.62 AC
Maximum Building Floor Area:	27,360 square feet
Minimum Lot Frontage:	30 feet
Maximum Building Height:	35 feet
Maximum Lot Coverage By Buildings:	30%
Minimum Building Setbacks:	
From south property line	25 <u>10</u> feet
From west boundary	10 feet
From north boundary	10 feet
From east boundary	150 feet
Minimum Landscaped Open Space:	10% of net lot area

Landscaped Buffer:

A minimum 30-foot wide landscaped buffer ~~shall~~ will be maintained along the east boundary of Development Area 4(A-2). This area ~~should~~ may be considered for future neighborhood trail access to the Creek Turnpike Trail.

Screening Wall or Fence:

A minimum six-foot high screening wall shall be provided within the east 30 feet of Development Area 4(A-2)

Off-Street Parking:

As required by the Tulsa Zoning Code.

Signs:

- ~~1. One ground sign shall be permitted with a maximum of 80 square feet of display surface area and 25 feet in height. It shall be set back a minimum of 250 feet from the east boundary of Development Area 4(A-2).~~
1. Wall signs shall be permitted not to exceed 1.5 square feet of display surface area per lineal foot of building wall to which attached. No wall signs shall be permitted on east facing walls.
2. A monument sign shall be permitted at each street entry with a maximum of 32 square feet of surface display area and four feet in height.

Lighting:

Light standards shall be limited to 12 feet in height in the east 100 feet of the development area; light standards in the remainder of Development Area 4(A-2), whether pole or building mounted, shall be limited to 25 feet in height.

Bulk Trash Containers:

Bulk trash containers shall not be permitted within the east 150 feet of Development Area 4(A-2).

General Restrictions and Design Controls for Automobile Sales and Service Areas:

1. Interior automobile service and work areas shall not be visible from the residential area to the east;
2. The use of temporary signs, banners and streamers shall be prohibited;
3. Automotive body work and painting shall be permitted only within a building and shall not be within 150 feet of the east development area boundary;
4. No trucks larger than one ton or equivalent shall be displayed or offered for sale.

Development Area 5(A)

No changes proposed to the development standards; however, A minimum 15-foot wide landscaped buffer shall will be maintained in Development Area 5 (A) ~~provision for neighborhood trail access to the Creek Turnpike Trail should be located within the 15-foot required landscape buffer, extending along the east boundary of Development Area 5(A) from East 98th Place South (along the~~

development area's south boundary) to and connecting with the landscape buffer in Development Areas 4(A-2 and 4(A-1). This area should may be considered for future neighborhood trail access to the Creek Turnpike Trail.

2. Access, ingress and egress to and from 4(A-1) shall be pursuant to a private mutual access easement from East 98th Street South, across 4(A-2), which easement shall not be amended or released without the prior written consent of the Tulsa Metropolitan Area Planning Commission; and provision of which shall be required for detail site plan approval.
3. Dedication of right-of-way for termination of East 98th Street South shall be required as a condition of detail site plan approval for development within 4(A-1) and/or 4(A-2). Improvements related to the termination of East 98th Street South shall be completed prior to issuance of a certificate of occupancy building permit for development within 4(A-1) and/or 4(A-2).
4. No zoning clearance permit shall be issued for a lot within Development Areas 4(A-1) or 4(A-2) until a detail site plan for the lot, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with PUD 411-C development standards as amended.
5. A detail landscape plan for each lot shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences have been installed in accordance with the approved landscape plan for the lot, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
6. No sign permits shall be issued for erection of a sign on a lot within Development Area 4(A-1) and/or Area 4(A-2) until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved development standards as amended.
7. Light fixtures shall be arranged so as to shield and direct the light away from adjacent residential areas. Shielding of such light shall be designed so as to prevent the light-producing elements or reflection of the light fixture from being visible in the adjacent residential area or residential streets rights-of-way. Compliance shall be in accord with the City of Tulsa Zoning Code and the application of the Kennebunkport formula, which must include in the calculation consideration of topography.

8. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.
9. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
10. No building permit shall be issued until the requirements of Section 1107.F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the [City/County] beneficiary to said covenants that relate to PUD conditions.
11. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
12. Approval of the minor amendment is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.
13. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle, nor shall trucks or truck trailers be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.
14. An external public address or pager/speaker system is prohibited.

Applicant's Comments:

Lou Reynolds, 2727 East 21st Street, Suite 200, 74114, stated that he is in agreement with staff's recommendation except for four points.

First Point: Development 4(A): automobile uses are by right and under the terms of PUD-411-C; Dev. 4(A) may be used for the uses permitted in Dev. 5(A) with a minor amendment pursuant to applicable development standards. (He believes this was omitted by accident.)

Second Point: Minimum setback in Tract 4(A-1), the northerly tract, was set 25 feet from the southerly boundary and it should have been ten feet. The setback on Tract 4(A-2), the southerly tract along its northerly boundary, is ten feet.

Third Point: Signage, Tract A, which is Tract 4(A) under the PUD, is allowed to have one ground sign. The 160-foot ground sign would be on Tract 1(A) and will not be set back more than 250 feet from the east.

Fourth Point: The trail: Mr. Reynolds stated that his client isn't in the position to consider the trail; however, it sounds like a good idea until it is thought through. This would open the property to access and exposes the property owners to liability and adds security issues. This requirement is not part of the Subdivision Regulations and it is an undue burden. If the City of Tulsa wants to consider this, then the City needs to buy the portion of the property that they want for the trail. There is no connection between the minor amendment and forcing a trail upon these property owners.

Mr. Reynolds concluded that it is not procedurally appropriate to impose a new standard on development that doesn't exist. An easement across people's property would create a problem with fencing in the subject property and how would the owner secure from accidents. Would there be double fences between the subject property and the neighborhood? He indicated that there is currently a six- to eight-foot concrete fence along the eastern boundary of the subject property.

TMAPC COMMENTS:

Mr. Bernard asked staff if they would like to address these comments. In response, Ms. Matthews stated that the Subdivision Regulations address the trails on 4.3, Item No. 3. Ms. Matthews read the Subdivision Regulations pertaining to trails.

Mr. Ard asked where the trail comes out of the neighborhood to the east. In response, Ms. Matthews stated that she doesn't have the trails map with her, but she could find out. Mr. Ard asked Mr. Reynolds if he knew where the access is. In response, Mr. Reynolds stated that there is none.

Ms. Matthews stated that staff is not stating that the applicant needs to build the trail tomorrow, but at some point there is hope to have the trail system extended throughout all of Tulsa County. If it has to be extended down the entire length of the wall, then so be it.

Ms. Matthews stated that the staff recommendation states "...shall be considered" with regard to the trails.

Mr. Harmon asked how the liability issue is determined when there is an easement across private property.

Mr. Boulden stated that there would be no more liability than dedication of any other right-of-way, whether it be a street or a sidewalk, which would become public access. He doesn't see any additional liability to the property owner.

Mr. Reynolds stated that there is more liability because the dedicated public street is owned by the City and the title is held, for the benefit of the public, by the City of Tulsa. The private property owner is not exposed to that; this would be an easement across the subject property and there would be a liability and security issue. His client would be greatly burdened by this requirement. This would be a "taking" of his client's property. His client is strongly opposed to this requirement. The neighborhood has been built and the trail has been built and there is nothing, to his knowledge, in any comprehensive trail plan to tie-in through the subject property. If at some future time the City would like to come in and acquire the right to cross the subject properties, then that would be fine, but his client shouldn't be burdened with that today.

Mr. Harmon asked Mr. Reynolds if his thoughts are that if the City would like a trail through there they should purchase the property. In response, Mr. Reynolds answered affirmatively.

Mr. Harmon asked staff how other areas in town have been handled regarding trails and easements. In response, Ms. Matthews stated that basically it has been voluntarily.

Mr. Harmon asked Mr. Reynolds why his client didn't just donate the land to the City. In response, Mr. Reynolds stated that this may come up later, but he has never been asked to do this and have been told that it would be taken from his client. Mr. Reynolds further stated that this puts someone in a defensive posture.

Mr. Midget in at 3:43 p.m.

Mr. Reynolds indicated that if the City of Tulsa would like to purchase the easement or right-of-way for the trail, his client would sell it to them. He commented that rarely does the trail go through commercial areas as the proposal suggests.

Mr. Jackson stated that in the past, the trails have been on old railroad easements and public parks, but this is actually going through a PUD with automotive related uses.

In response to Mr. Jackson, Ms. Matthews stated that the long-range plan for the trails system is to connect to all of the places that people might have the destination to go. Through an automobile dealership might seem incongruous, but people run for exercise and they do not run down to purchase a car.

Mr. Reynolds stated that this is his point. The neighborhood wasn't planned for the trail apparently and it has made an exaction on the commercial developer. This has a huge negative impact to have people walking through your business

property, running through it, riding bicycles and taking their children through the commercial development.

Mr. Harmon stated that the staff recommendation states "...should be considered" and not stating that it has to be done.

Mr. Reynolds stated that his point is that he is considering it now and he is not going to do it because of the reasons mentioned. Does "should be considered" mean that it will come up later and then his client has to do it because he should be considering it.

Mr. Harmon stated that in the future his client might be approached regarding easement for the trail.

Mr. Reynolds stated that the owners are not in the position to give away the property today.

Mr. Harmon asked if the wording was changed to "shall", would that be too strong. In response, Mr. Reynolds stated that he doesn't know what that means.

Ms. Matthews stated that "shall" is pretty much what it says "...shall be considered".

Mr. Reynolds stated that he is considering it right now, but does he have to keep considering it three months from now, one year from now? He has no objections to the City coming in and purchasing the trail if they would like. There is a cloud over his client's property and how he can develop it in this "...should be considered." He believes this is burdensome.

Ms. Bayles asked Mr. Reynolds if his client has any problem with the 30-foot buffer. In response, Mr. Reynolds stated that he doesn't have any problem with the required setback and landscaping. He explained that there is room available if the City wants to do it, but the burden should not be on his client to do it for them. The landscaping plan is leaving room and it would be available.

Mr. Jackson asked Mr. Reynolds if he is stating that he doesn't want to build the trail. In response, Mr. Reynolds answered affirmatively.

Mr. Reynolds stated that he would have no objection to there being a trail there if the City comes to him and acquires the property for trail purposes.

Ms. Matthews stated that the PUD language doesn't say that the applicant would build the trail and she believes that the City prefers to build the trail themselves to meet standards and liability issues.

Mr. Reynolds stated that in Development Area 5(A) it states "...should be located within" and doesn't say be considered. Again this is part of the ambiguity.

Mr. Jackson asked Mr. Reynolds if he would feel comfortable if the Planning Commission put him on notice right now that in the future the City may approach him and ask him about the access and starting a trail system. In response, Mr. Reynolds stated that he wouldn't have a problem with that.

Mr. Reynolds stated that there is a timing issue with regard to construction of the cul-de-sac. There is a requirement that the construction on the tract to the north will not be able to obtain a building permit until the cul-de-sac is in place. He requests to amend that to state "...the construction on the tract to the north will not receive a certificate of occupancy until the cul-de-sac is in place".

Mr. Jackson asked if he would be coming back for an accelerated building permit if the Planning Commission agrees to that.

Mr. Reynolds stated that the engineers say no.

Mr. Jackson asked staff if they have had a chance to review the modifications Mr. Reynolds has submitted. In response, Ms. Matthews stated that staff is in agreement with some of the language modifications, but there is a problem with the signage.

Ms. Matthews stated that the applicant is moving all of the signage into the first development area and if the Planning Commission approves what the applicant is requesting, then the Planning Commission can expect to see the owners of the next two pieces of property to come back and want their own signs.

Mr. Jackson asked Mr. Reynolds if his sign would be large enough to put everyone on the sign. In response, Mr. Reynolds stated that it is large enough and there is no dispute about the signs. Mr. Reynolds explained that the parties agreed to it when they agreed to sell their property. Mr. Reynolds stated that the property to the south will not come back and request another sign.

Mr. Jackson stated that Mr. Reynolds and his client are on notice to not come back with a request for additional signage.

INTERESTED PARTIES:

Matt Hudspeth, 9536 South 85th East Avenue, 74133, stated that he lives in Ridge Point II and abuts the eastern portion of subject tracts. He explained that he is not present today to protest anything. The discussion of the trail has sparked some interest among the residents of the neighborhood. The neighborhood does desire an access to the trails from the neighborhood. It is impractical to provide it through the eastern boundary because of the cement wall. However, along the wall (Tract B, East 98th Street) there could be a trail

from East 98th Street heading north and it could connect to the Creek Turnpike trail. The trail was completed last summer and is new to the neighborhood. Currently the only way to access the trail is to leave the neighborhood and access it along Memorial or Mingo, which is dangerous for pedestrian and bicycle traffic.

Mr. Hudspeth stated that he understands that the usage for the subject proposal is established; however, he would like to make sure that any deviation from has been established are not going to adversely affect his neighborhood. He wanted to make sure that the 30-foot landscaping buffer is still on the proposal. He understands that the proposed building will not have any openings facing the neighborhood and the lighting within 100 feet of the neighborhood has to be 12 feet or less. He asked what deviations Mr. Reynolds is asking for and if it will impact his neighborhood.

Mr. Bernard stated that there are no deviations from the staff recommendation except for signs and a setback on the south boundary. He further stated that the only real change is the issue regarding the trail, which he is opened to but he doesn't want to provide the trail. Mr. Bernard explained that the applicant is willing to provide the space as part of the 30-foot buffer and the City and the applicant will have to get together on this.

Mr. Hudspeth stated that 98th Street, where it dead-ends in the middle of the survey, which will become a cul-de-sac, has created some problems with people using it for parking.

Mr. Bernard asked Mr. French if he had any comments or information regarding the parking along East 98th Street. In response, Mr. French, representing the Technical Advisory Committee, stated that the history of this stub-street was discussed and now it has been determined to terminate the through-street since there is nowhere to take it and the decision was made to create a cul-de-sac. Once the cul-de-sac is in place, then the developers may proceed with their development.

Applicant's Rebuttal:

Mr. Reynolds stated that there are several places along the north boundary of the neighborhood that could create an access to the trails. In Tract 5(A) to the south of the ten-acre tract, the required PUD setback is 15 feet. If a trail were put here, there would be an eight-foot concrete fence on the east and his client would have to put in some kind of security fence (six-foot screening fence) and this would create a large covered alley, which is not safe. He commented that it is important and he doesn't have a problem with it being considered now. Mr. Reynolds reiterated his concerns with safety and security.

Mr. Ard said if Tract 4 (A-1) were developed separately from Tract 4 (A-2), there would have to be a mutual access easement. He asked if the access point has been determined.

Mr. Reynolds stated that it has been determined by the property owners and it is along the westerly boundary of Tract 4 (A-2).

INTERESTED PARTIES:

Carol Brown, 9730 South 85th East Avenue, 74133, stated that she is directly behind Tract B. She commented that she doesn't believe it would be reasonable or prudent at this point and time that there is any other place for the subject neighborhood to access the trail. The access point would be at the north end, which is on residential lots where there is little room between the houses. She stated that she could not see where there would be enough room for a path to go out to the new trail. She requested that the owners of the subject property and the City should meet and work out something for the trails. Ms. Brown concluded that perhaps, if the applicant wants to develop his commercial property abutting a residential area, he would concede to give some of that land to the City of Tulsa for mutual benefit of the City and the residents of Ridge Point.

Applicant's Rebuttal:

Mr. Reynolds stated that there is a difference between exacting the property from his client or purchasing or dedicating it to them. This is in the nature of an exaction and he wants to make sure it is considered that it won't be an exaction. He indicated that he has no problem with negotiating this with the City of Tulsa to acquire the property needed. He does have a problem with this being in an easement.

TMAPC COMMENTS:

Mr. Harmon asked Mr. Reynolds if he is stating that his clients would be amicable to negotiating. He realizes that this is an awkward area for the pedestrian trails and it doesn't quite fit the pattern. Mr. Harmon suggested the following language for the motion: "...if approached by the City, the owners would be amicable to negotiating with the City, if the City proceeds to develop pedestrian trails on the tracts under consideration."

Mr. Boulden stated that he isn't sure what that language would add to the recommendation, except that "... we will make nice in the future." He doesn't mean to make light of it, but he believes that having "should" in the staff recommendation is ambiguous and leaves everyone hanging and probably should be "shall" or not at all. To say that we are going to talk in the future and be friendly about it doesn't add much.

Mr. Reynolds stated that he is acceptable to the "should" language in addition with stating "should City acquire the property and build the trail". If the City wants to acquire this property they are able to do so. His client wouldn't object to that.

Mr. Boulden asked Mr. Reynolds why there is a security problem if it is part of this development and not when he is willing to let the City do it. Mr. Reynolds stated that his client wouldn't be liable for people who would get hurt on City property. Mr. Boulden stated that there is a real fundamental disagreement. Mr. Boulden further stated that he would advise the Planning Commission and staff that when these trails are dedicated, they should be dedicated to the public and virtually the same language used for public rights-of way and streets. The City and landowner are no more liable than if it were a street or alley. Mr. Boulden commented that the applicant has some concern about security and he believes that is something that the Planning Commission take into consideration of whether or not that is a liability that the property owner may be suffering. Mr. Boulden reminded the Planning Commission that there are trails running around the Maple Ridge area and all through town where it goes behind residential and commercial properties. Mr. Boulden stated that he doesn't believe any greater liability is created in this situation than in those. He doesn't believe that requiring a dedication of this trail behind the subject property is any more onerous on a property owner than if it were a street right-of-way. Mr. Boulden concluded that the issue is whether or not it is good planning or whether it is a reasonable need imposed by the development on the subject area for a trails system. Mr. Boulden stated that to put this off in the future for the City to have to pay for it when it is something that is planned.

Mr. Ard stated that the existing trails are on public rights-of-way and aren't privately-owned property that has an easement on top of it. In response, Mr. Boulden agreed.

Mr. Ard stated that the subject property was not predetermined by the City to be a River Park Trail. A public right-of-way that is under a public ownership is different from a private piece of land with an easement across it.

Mr. Boulden stated that most streets are dedicated right-of-way and that means that the property owners on either side own to the centerline. If the proposal was dedicated as pedestrian right-of-way, then the applicant would own the property underneath it, but it would be used as a public right-of-way. Mr. Reynolds stated that the City of Tulsa holds title to that property and trust for the public and the street. If the street is closed and vacated, then the property owner owns the land to the center of the street. Mr. Reynolds stated that the distinction of the trails throughout the City of Tulsa is that there are none running through active commercial property.

Mr. Harmon proposed the following language: "If approached by the City the owner shall be amicable to negotiating with and assisting the City if the City proceeds to acquire right-of-way to develop pedestrian trails on the tracts under consideration."

Mr. Alberty stated that this was a new subdivision requirement that was adopted June 15, 2005. It has not been tested and what staff is saying is: "...the Planning Commission may require". Regardless of what is done today, the subject property will have to be platted and this issue will come up again, regardless of what the PUD states. This could be a requirement in the subdivision plat. The subject property is not currently a part of the approved Trails Plan and that is the reason why this provision was placed in the Subdivision Regulations. There will be numerous areas where there is concentration of public who do not have access and that is the time that the City may require, and this is the provision that allows that, an easement. It would be no different from requiring utility easements. If it is required, then it would have to be waived by a decision of the Planning Commission.

Ms. Bayles stated that she has two concerns. The needs of the neighborhood association, who desire access to the trails, should be addressed. She encouraged the neighborhood to find out what funding is available and when to identify this on the list of projects. She stated that she is sensitive to the needs of the property owner, and the concerns of safety and security to the pedestrians using this trail are numerous. She proposes that the staff recommendation remain as it is written: a minimum 30-foot wide landscape buffer will be maintained along the easterly boundary of Development Area 4(A-1), plus the other areas mentioned and this area "may be" considered for future neighborhood trail access to the Creek Turnpike. With this language it allows both parties to work together along with the City of Tulsa.

Mr. Reynolds stated that this would be acceptable to the applicant, but he wanted to clarify that in Tract 5 (A) it is a 15-foot setback and in Tract 4 (A) it is a 30-foot setback and with the balance of his recommended changes.

Mr. Ard asked if what Ms. Bayles proposed is acceptable to the applicant. In response, Mr. Reynolds answered affirmatively.

Mr. Jackson clarified that the Planning Commission would use the text that Mr. Reynolds submitted along with the language that Ms. Bayles proposed.

TMAPC Action; 8 members present:

On **MOTION** of **JACKSON**, TMAPC voted **8-0-0** (Ard, Bayles, Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the minor amendment for PUD-411-C-9 per staff recommendation with the modifications proposed by the applicant by memo dated April 19, 2006 and modifications of the Planning Commission. (Language with a strike-through has been deleted and language with an underline has been added.)

Ms. Bayles out at 4:19 p.m.

Application No.: PUD-527-B-3

MINOR AMENDMENT

Applicant: Richard A. Ellison

(PD-26) (CD-8)

Location: 11814 South Allegheny Avenue

STAFF RECOMMENDATION:

The applicant is proposing a minor amendment to setback requirements for the purpose of constructing a residence. Development standards require a minimum setback of 18 feet from a private street right-of-way; the applicant is proposing a five foot setback. The private street right-of-way of East 118th Place South, also the entry to the subdivision and the side yard for Lot 1, is noted on the plat as Reserve 'A' and is eighty feet in width. Street paving is an average of 60 feet in width with landscaping and an entry wall along the north and south sides of East 118th Place South. The entry wall is approximately one foot south of the south lot line of Lot 1, Block 1. No garage access is proposed from East 118th Place South.

Because the existing landscaped area and masonry wall provide sufficient visual and actual separation from East 118th Place South; and, for purposes of continuity, a similar amendment is being requested for Lot 20 Block 3 on the south side of East 118th Place South; and, the proposed setback is in keeping with required internal side-lot setbacks, staff finds the proposed amendment to be minor in nature and recommends **APPROVAL** of **PUD-527-B-3** as proposed.

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 **JACKSON**, TMAPC voted 7-0-0 (Ard, Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Collins "absent") to **APPROVE** the minor amendment for PUD-527-B-3 per staff recommendation.

Application No.: PUD-527-B-4

MINOR AMENDMENT

Applicant: Richard A. Ellison

(PD-26) (CD-8)

Location: 11824 South Allegheny Avenue

STAFF RECOMMENDATION:

The applicant is proposing a minor amendment to setback requirements for the purpose of constructing a residence. Development standards require a minimum setback of 18 feet from a private street right-of-way; the applicant is proposing a five foot setback. The private street right-of-way of East 118th Place South, also the entry to the subdivision and the side yard for Lot 20, is noted on the plat as Reserve 'A' and is eighty feet in width. Street paving is an average of 60 feet in width with landscaping and an entry wall along the north and south sides of East 118th Place South. The entry wall is approximately one foot north of the north lot line of Lot 20, Block 3. No garage access is proposed from East 118th Place South.

Because the existing landscaped area and masonry wall provide sufficient visual and actual separation from East 118th Place South; and, for purposes of continuity, a similar amendment is being requested for Lot 1 Block 1 on the north side of East 118th Place South; and, the proposed setback is in keeping with required internal side-lot setbacks, staff finds the proposed amendment to be minor in nature and recommends **APPROVAL** of **PUD-527-B-4** as proposed.

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, Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Collins "absent") to **APPROVE** the minor amendment for PUD-527-B-4 per staff recommendation.

Ms. Bayles in at 4:22 p.m.

Application No.: PUD-523-4

MINOR AMENDMENT

Applicant: Four Seasons Sunrooms

(PD-18) (CD-8)

Location: 8518 East 83rd Street South

STAFF RECOMMENDATION:

The applicant is proposing a minor amendment to reduce the required rear yard from 20 feet to 14 feet for the purpose of adding a sunroom to the existing residential dwelling. The proposed encroachment does not conflict with any easements.

TMAPC has approved three previous minor amendments to PUD 523, all of which reduced the rear yard from 20 feet to 13 feet for residential construction.

Staff finds the proposed amendment to be minor in nature and recommends **APPROVAL** of **PUD-523** as proposed.

The applicant indicated his agreement with staff's recommendation.

INTERESTED PARTIES:

Jack Hubeli, 8514 East 83rd Street, 74133, stated that he is in opposition to this application. He expressed concerns with his view being blocked by the proposal and the covenants not being adhered to. He commented that when he purchased his home he bought into a neighborhood with covenants, as did his neighbor, and now they are being broken.

Mr. Hubeli read the covenants and restrictions for his neighborhood: "The rear yard shall not be less than 20 feet in depth and customary structures may be located in the required rear yard but no building shall be erected nearer than three feet from the lot line." Mr. Hubeli explains that if the addition is allowed then the rear yard will no longer be 20 feet in depth.

TMAPC COMMENTS:

Mr. Jackson asked Mr. Hubeli if he had a problem with a glass structure or a problem with it being 14 feet from the property line. In response, Mr. Hubeli stated that the glass structure will be out beyond the rear of their house and it will affect his view of his property.

Mr. Jackson asked Mr. Hubeli if he meant that the glass structure would affect his view from his property. In response, Mr. Hubeli stated that it would affect his view of Reserve A behind his property.

Mr. Jackson asked Mr. Hubeli if he felt that he should have a 180 degree view of everything. In response, Mr. Hubeli stated that he is not stating that, but he should be able to maintain the view that he bought into.

Mr. Jackson asked Mr. Hubeli what he would do if the neighbor installed an eight-foot fence. Mr. Hubeli stated that he would have to research his papers because he doesn't know if they would be allowed an eight-foot fence. Mr. Jackson explained that the neighbors could install an eight-foot fence.

Mr. Jackson asked Mr. Hubeli what would happen to his view if the neighbors chose to build an accessory building three feet from the lot line. In response, Mr. Hubeli stated that they wouldn't be able to do so. Mr. Jackson reminded Mr. Hubeli that he just read that they could from his covenants and restrictions. Mr. Jackson explained that he is simply giving some examples of ways that would block Mr. Hubeli's view by right.

Mr. Jackson asked Mr. Hubeli if he feels that his view should be his 60 feet of lot width and 30 feet on each side of his neighbor's lot. In response, Mr. Hubeli stated that he should be able to see what he bought into when he purchased his home.

Mr. Ard stated that he understands Mr. Hubeli's concerns, but the reality in this case his neighbor could put up an eight-foot fence and he doesn't see how their extension six feet over the setback line in any way deteriorates his property value. Mr. Ard further stated that it strikes him that by adding a sunroom and adding capital improvements to the property enhances their property value, which should have a positive impact on Mr. Hubeli's property. Mr. Hubeli stated that it wouldn't enhance his property to have a glass wall. Mr. Ard tried to explain to Mr. Hubeli that Mr. Jackson was pointing out that his view could be blocked by an eight-foot fence or an accessory building which would be allowed by right.

Applicant's Rebuttal:

Jan McBride, 7123 South 92nd. East Avenue, 74133, Four Season Sunrooms, stated that the applicant is installing a fully glass sunroom that is see-through. The addition has a glass roof, curved glass front, glass sides and it is all see-through. The proposed addition will be over 37 feet to the right of the Mr. Hubeli's property and within ten feet of the required side setback. The projection of the addition will encroach six feet into the required 20-foot setback.

TMAPC COMMENTS:

Mr. Jackson stated several scenarios where Mr. Hubeli's view could be blocked by fencing, trees or accessory buildings. The proposal is in the property owner's yard and not encroaching any of the neighbor's yards.

TMAPC Action; 8 members present:

On **MOTION** of **JACKSON**, TMAPC voted 8-0-0 (Ard, Bayles, Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the minor amendment for PUD-523-4 per staff recommendation.

* * * * *

Application No.: PUD-625-3/Z-6735-SP-1c

MINOR AMENDMENT

Applicant: Sack & Associates/Jim Beach

(PD-18) (CD-8)

Location: 8202 South 100th East Avenue

STAFF RECOMMENDATION:

The applicant is proposing a minor amendment of the sign standards for the purpose of placing a six and one-half foot high monument-style ground sign with 50 square feet of display surface area at the northeast corner of Lot 4. Lot 4 does not have frontage on a public street, but is accessed from East 81st Street South per a mutual access easement.

The Hilton Garden Inn currently has a ground sign with 99 square feet of display surface area and 25 feet in height on East 81st Street South in keeping with development standards as noted below. Underlying zoning is CO.

PUD-625 development standards permit the following for ground signs:

- One ground sign shall be permitted for each lot on the East 81st Street frontage with a maximum of 160 square feet of display surface area and 25 feet in height.
- One ground sign identifying hotel uses within Lots 3 and 4 shall be permitted at the principal entrance from East 81st Street South with a maximum of 180 square feet of display surface area and 35 feet in height.

Per Section 225.3 of the zoning code, signs which are not visible from a public street are not subject to the sign limitations of the district in which they are located or the sign limitations in Section 1221 of the code. The proposed sign, which will be internally lit, is set back more than 50 feet from the abutting Residential district as required per Section 1103.B.2.b.2.

Therefore, staff finds the amendment to be minor in nature and recommends **APPROVAL** of **PUD-625-3** as requested.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Ard, Bayles ,Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the minor amendment for PUD-625-3/Z-6735-SP-1c per staff recommendation.

OTHER BUSINESS:

Application No.: PUD-405-C/Z-5722-SP-5a **DETAIL SITE PLAN**

Applicant: Sisemore Weisz & Assoc. (PD-18) (CD-8)

Location: Northwest of the intersection of South Memorial Drive and East 93rd Street South

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for a new automobile dealership. The proposed use, Use Unit 17, Automobile and Light Truck Sales, is in conformance with Development Standards of PUD 405-C.

The site plan complies with maximum permitted land coverage, floor area, and building height and meets minimum building setbacks. Building exteriors will be of coated concrete panels and exterior insulated and finish system (E.I.F.S.) Proposed landscaped areas, landscaped streetyard and parking are in conformance with development standards and the zoning code. Per the lighting plan, pole and building mounted lighting will not produce glare onto adjacent properties.

Therefore, staff recommends **APPROVAL** of **PUD-405-C and Z-5722-SP-5a** as proposed.

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

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Ard, Bayles ,Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the detail site plan for PUD-405-C/Z-5722-SP-5a per staff recommendation.

Application No.: PUD-405-C/Z-5722-SP-5b

REVISED SITE PLAN

Applicant: Sisemore Weisz & Assoc.

(PD-18) (CD-8)

Location: Southwest of intersection of South Memorial Drive and East 92nd Street South

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for an extension of the proposed Alpha Dealership (PUD 405-C/ Z-5722-SP-5a). The site will be used for display of vehicles, only; and as a Use Unit 17, Automobile and Light Truck Sales, it is in conformance with Development Standards of PUD 405-C.

The site plan complies with permitted vehicle display areas and setbacks. Proposed landscaped areas and landscaped streetyard are in conformance with development standards and the zoning code. Per the lighting plan, pole mounted lighting will not produce glare onto adjacent properties.

Therefore, staff recommends **APPROVAL** of **PUD-405-C and Z-5722-SP-5b** as proposed.

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

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Ard, Bayles ,Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the detail site plan for PUD-405-C/Z-5722-SP-5b per staff recommendation.

Application No.: PUD-405-G/Z-5722-SP-8a

DETAIL SITE PLAN

Applicant: Sisemore Weisz & Assoc.

(PD-18) (CD-8)

Location: Southwest of intersection of South Memorial Drive and East 92nd Street South

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for a new automobile service facility. The proposed use, Use Unit 17, Automotive and Allied Activities, is in conformance with Development Standards of PUD-405-G.

The site plan complies with maximum permitted land coverage, floor area, and building height and meets minimum building setbacks. Building exteriors will be of coated concrete panels and exterior insulated and finish system (E.I.F.S.) Proposed landscaped areas, landscaped streetyard and parking are in conformance with development standards and the zoning code. Per the lighting plan, pole and building mounted lighting will not produce glare onto adjacent properties.

Therefore, staff recommends **APPROVAL** of **PUD 405-G and Z-5722-SP-8a** as proposed.

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

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Ard, Bayles, Bernard, Cantees, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the detail site plan for PUD-405-G/Z-5722-SP-8a per staff recommendation.

Commissioners' Comments:

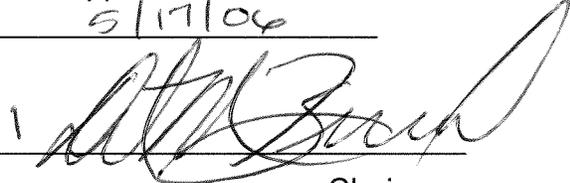
Ms. Bayles stated that she attended the first Third Penny Sales Tax Extension meetings and she encouraged the Planning Commission to do the same. Ms. Bayles cited the websites where the Planning Commission could review information regarding the proposal.

Ms. Hill stated that she would be attending the meeting in her area tonight.

There being no further business, the Chair declared the meeting adjourned at 4:39 p.m.

Date Approved:

5/17/06



Chairman

ATTEST:


Secretary

