

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2461

Wednesday, October 18, 2006, 1:30 p.m.

Francis Campbell City Council Room
Plaza Level, Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, October 16, 2006 at 4:35 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Bernard called the meeting to order at 1:33 p.m.

Mr. Bernard read the opening statement and rules of conduct for the TMAPC meeting.

Mr. Carnes out at 1:34 p.m.

Minutes:

Approval of the minutes of August 16, 2006 Meeting No. 2455

On **MOTION** of **ARD**, the TMAPC voted 9-0-0 (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the minutes of the meeting of August 16, 2006, Meeting No. 2455.

Approval of the minutes of August 23, 2006 Meeting No. 2456

On **MOTION** of **ARD**, the TMAPC voted 9-0-0 (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the minutes of the meeting of August 23, 2006, Meeting No. 2456.

County Commissioner Collins in at 1:36 p.m.

Mr. Bernard announced that the following have requested a continuance:
Item 10, Z-7038, Gregory S. Helms, located north of the northeast corner of East 15th Street and South Troost Avenue has been withdrawn.

Item 15, Z-7043, Amos Baker, located west of northwest corner of East 61st and South 89th East Avenue has requested a continuance to November 15, 2006.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **ARD**, TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes "absent") to **CONTINUE** Z-7043 to November 15, 2006.

REPORTS:

Chairman's Report:

Mr. Bernard reported on a meeting with staff regarding training and the budget for training. It was confirmed that the budget for training is \$6,000.00 per year. The Planning Commission has designated Ms. Bayles as the educational moderator. Mr. Bernard requested the Planning Commissioners put in writing to Ms. Bayles their choices for various materials for training.

Mr. Bernard reported that he discussed with staff about specific training for the Planning Commission members. This training would be at the office of INCOG to learn the exact process. Mr. Bernard asked Mr. Alberty to address this issue.

Mr. Alberty stated that there have been several discussions about staff providing hands-on training for the Planning Commissioners. The training could be tied to a worksession and other possibilities would be the second Wednesday of the month, which is not a regular scheduled meeting. This could be a Wednesday afternoon training session and it would be primarily staff-initiated, with staff who

are familiar with it going through the processes. Another option is to have training on a Saturday morning. This needs to be accomplished on a quarterly basis to become a routine, especially since there are so many new Planning Commissioners. In the past the turnover wasn't as great as it is at this particular point and there would be institutional knowledge being carried over. In the past years we have had a larger training budget and at least two Planning Commissioners were encouraged to attend the National APA Conference. With the limitation of the budget and with the opportunity for the staff to provide some training, he would leave it up to the Planning Commission to decide how and when they would like the training.

Mr. Bernard stated that the Planning Commission will discuss this at a later date to determine what would be best.

County Commissioner Collins in at 1:36 p.m.

Director's Report:

Mr. Alberty reported on the TMAPC receipts for the month of September 2006. The receipts for the month of September show a 14% increase for the City and County applications. There is a 12% increase from last year. The largest increase this year has been in the County receipts at 20% and the City has increased about 4%.

Mr. Alberty reported on the BOCC and City Council agendas.

BRIEFING ON THE CHANNELS PROJECT:

Briefing on the Channels project by Tulsa Stakeholders, Inc.

Rich Brierre, Deputy Director, INCOG, 201 West 5th Street, Suite 600, 74103, stated that earlier this year the Planning Commission passed a resolution recognizing the Arkansas River Corridor Master Plan as an element of the Comprehensive Plan. This resolution was subsequently approved unanimously by the Tulsa City Council and by the Board of County Commissioners. The plan was designed to focus attention on the Arkansas River Corridor to stimulate thought for private investment to create opportunities along the corridor. This plan stretches from the Keystone Dam to the Wagoner County Line, which is some 42 miles of river front.

Mr. Brierre stated that the Tulsa Stakeholders, Inc. (TSI) has developed an ambitious plan that has been called "The Channels" and the purpose today is to provide a briefing for the Planning Commission regarding a proposed channels

project. This is not a public hearing and there is the potential that in the weeks and months ahead, the Planning Commission will be asked to either amend the Comprehensive Plan to specifically recognize the Channels or to determine that it is consistent with the Comprehensive Plan.

Mr. Brierre introduced Chris Lambert with the Tulsa Stakeholders, Inc. (TSI). He indicated that Tom Cooper will also be available to answer any questions from the Planning Commission. This is not a scheduled public hearing and prior to any action by the Planning Commission there would be a formal public hearing.

Meeting delayed due to the fire alarm at 1:44 p.m.

Meeting reconvened at 1:55 p.m.

Mr. Brierre reintroduced Ms. Chris Lambert.

Ms. Chris Lambert, Tulsa Stakeholders, Inc., P. O. Box 50039, Tulsa, Oklahoma 74150, gave examples of other projects in the Tulsa area created by early visionaries, Spavinaw Water System, financed by the largest per capita bond issue in U.S. history, and Tulsa International Airport (TIA). Early investments in infrastructure ensured Tulsa's growth for several decades; however, since that time few projects have been undertaken on the visionary scale of these early leaders and Tulsa's growth has stagnated. A decline in Tulsa's core population has declined over the past thirty years. A strong urban core is missing to anchor all the surrounding communities. Even with the passage of Vision 2025, it is recognized that it will take more to resurrect the core area of Tulsa, especially relating to the Arkansas River.

Ms. Lambert listed each of the consultants and highlighted well-known projects on which they worked. Consultants' collaborations designed a 40-acre island between 11th and 23rd Streets with parks lining the shores including fountains and art work; an open-air market place that includes uniquely Tulsa shops, restaurants and artisans shaded by an iconic canopy; a mix of residential options that can accommodate 3,000 people; an 18-foot dam under the 23rd Street bridge creating a 12-mile public lake navigable to Sand Springs and a ferry boat for transportation; an urban lake that creates a 24-mile economic corridor to rejuvenate the entire Tulsa region with water taxis; a lake for sailboats, rowers and the marina; a public gathering place on the river, an almost five-acre green on the east bank from 15th Street to Denver Avenue where festivals can be held; a place for recreation at a public beach and pool; fountains and water playgrounds that cool The Channels in the summer and transform to ice skating rinks in the winter; public paths at the water's edge; a central marketplace on the island; and public displays of art in the river and throughout The Channels. The Channels will demonstrate principles of sustainability. It will include wetlands to help clean river water, rainwater harvesting and stormwater remediation. Tulsa will become a leader in the development, integration, use and storage of

renewable energy. Hydro, solar, wind and bio-diesel power, combined with strategic shading and other techniques will help enforce Tulsa's leadership in the new energy revolution. The project will create more energy than it consumes and because of these sustainable principles it is expected to generate excess dollars to return to the community.

A public investment of \$600 million is being sought to fund the project's public spaces. TSI has committed to raise \$100 million in private donations. Through the sale of renewable energy planned for the project an additional \$88 million can be financed for a total of \$788 million.

Ms. Lambert introduced Mr. Tom Cooper.

Tom Cooper, William K. Warren Foundation, PO Box 470372, Tulsa, Oklahoma 74147, thanked the Planning Commission for their service. Mr. Cooper addressed the scope of the project consultants were asked to address during the development process. He reported on team selection and explained reasons for that selection.

Mr. Cooper stated that they will maintain a net zero change to the flood-carrying capacity of the river. The net channel width will remain the same or slightly wider than it exists today. There will be a dam that will meter out the flow of the water and lay down to get out of the way of any flood waters so that the channel's flood-carrying capacity remains the same.

Ms. Cantrell asked if it is correct that the river would be raised 18 feet. In response, Mr. Cooper stated that over the current Zink Dam water level, that would be approximately correct. Ms. Cantrell asked if that would affect the Avery Memorial Bridge. In response, Mr. Cooper answered negatively.

Ms. Cantrell asked Mr. Cooper how he came up with the number of 3,000 residents because it seems like a small piece of land for that many people. In response, Mr. Cooper stated 1.8 million square feet of residential land has been proposed, which is about 3,000 people.

Ms. Cantrell asked if parking will be accommodated for 3,000 people. In response, Mr. Cooper stated that what has been programmed are to suburban parking codes. The parking should be less and the point is to budget and program for the difficult scenario, the most expensive scenario, and then if the community wants to pare that back under different zoning or for some other reason, then that is a discussion to have within the community.

Ms. Cantrell asked if it was looked at regarding people needing to get off of the island quickly, if there are enough access points and roads. In response, Mr. Cooper stated that it is something that has been considered. The roads going to the island are four-lane bridges and there is room for pedestrians and bicycles as

well, segregated from cars. The connecting islands have two-lane bridges in between. Planners looked at the peak usages off and on the islands on those bridges and there is an excess of capacity during peak periods. The Channels would be one of the highest points in the subject area, as it relates to the banks, and he would envision it potentially being a place for people to go to in difficult situations rather than fleeing from the islands.

Mr. Ard asked Mr. Cooper what he perceives as the timing and how the Planning Commission might be involved regarding public hearings. In response, Mr. Cooper stated that he has requested of the County Commission that TSI be allowed to go through an INCOG plan review process. There are a lot of questions about the technical issues and TSI wanted to get out all the information they had to the people who could possibly add to make the project better. The formal hearings are over and TSI is now in the process of responding to a significant number of questions. The timing of bringing this to the people is, at this point, up to the County Commission. TSI is envisioning a County-wide funding package that would help pay for this. TSI envisions a two-year permitting process. The actual construction of the islands and the infrastructure, public spaces, park, canopy and the dam could be approximately two years. Possibly four to five years would be required to complete and be ready for developers.

Lou Reynolds stated that the river is presently zoned AG and the islands can be constructed under the present zoning. The improvements would come later, and exactly how the islands would need to be zoned in order to have them would be left to a future date when more details are known. Mr. Reynolds commented that there may be some new zoning districts created in order to develop the islands, but that could be accommodated at a later time.

Mr. Ard asked Mr. Reynolds who owned the river. In response, Mr. Reynolds stated that most of the land in the proposal is owned by the City of Tulsa. The party who owns the bank also owns to the center of the river. The Arkansas River has been determined by the United States Supreme Court to be a non-navigable stream all the way to the confluence with the Grand River.

Ms. Bayles stated that the article that was in this morning's paper stated that the plan would require using some land on the west bank. She asked Mr. Cooper if he would consider what has been reported to be accurate. In response, Mr. Cooper stated that he has been in meetings all morning and was unable to read this morning's article and couldn't comment on the accuracy. Mr. Cooper did comment that TSI will maintain the width of the floodway and maintain the flood-carrying capacity. It will be an interim process to figure out how much area on the west bank would be vacant. The width has to stay the same in order to maintain the flood-carrying capacity of the river.

Ms. Bayles read from the paper article published in the morning Tulsa World newspaper regarding the west bank, relocating the amphitheater and the need

for acquisition of private land. Ms. Bayles asked if the Planning Commission would be looking at potential land acquisition of the privately-owned development, as well as including perhaps the trails, concrete plant, apartments, etc. In response, Mr. Cooper stated that TSI will definitely need to acquire property in order to achieve this plan. There should be plenty of land on the west bank to retain River Parks, if that is where River Parks decides to stay focused. TSI is creating an incredible venue for festivals a lot more than a few times a year. The total acreage available for festivals is going to be greatly expanded. TSI looks forward to working with the River Parks on specific festivals to figure out how to best orient them in this exciting venue. TSI is eager to improve and expand the River Parks as River Parks wants to expand their venues as well.

Ms. Bayles stated that AIA had a presentation yesterday and architects are well regarded as being both complimentary and hyper-critical of their colleagues and projects. This is one where, she believes, P.J. Lassek (Tulsa World) reported "...Mr. Tom says that the Channels are a microcosm of an idea and if you can implement it, grasp it for Tulsa, you will be the world." Ms. Bayles stated that she went into the presentation not expecting to like it and not expecting to see "Mr. Tom's" point of view, but fortunately for us, he presented a variety of projects that he has been associated with. Ms. Bayles commented that the way they have been both designed, developed and implemented left her being enthusiastic about the project and anxious to learn more. There were questions from the audience that were not answered, but she would expect that they would be among those that will be answered. Ms. Bayles concluded that this is an idea, but it is an enthusiastic idea and it is being approached in terms of bold vision and she is truly supportive of what she hopes will be Tulsa's future.

Mr. Cooper thanked the Planning Commission for the time.

Mr. Bernard thanked Mr. Cooper and Ms. Lambert for their time as well.

Mr. Cooper stated that the model of the Channels can be viewed at the 3410 South Peoria address on the west side. The business of S.R. Hughes has allowed TSI to display their model in a place that the public can easily see it in a very visible and public place.

Mr. Bernard stated that it has been brought to his attention that Item 4, plat waiver for PUD-93, has requested a continuance to October 25, 2006.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **ARD**, TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes "absent") to **CONTINUE** the plat waiver for PUD-93 to October 25, 2006.

SUBDIVISIONS:

LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

L-19988 – Sack & Associates (8310) (PD 18) (CD 8)
Northeast corner of East 81st Street and Yale Avenue

L-20010 – Sack & Associates (8419) (PD 18) (CD 8)
9914 South Garnett Road

L-20022 – Jimmy Jeremiah (7225) (County)
17012 South Peoria

L-20023 – Janet Payne (2318) (County)
1574 East 166th Street North

STAFF RECOMMENDATION:

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

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

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

FINAL PLAT:

Trinity Restoration – (8324)

(PD 26) (CD 8)

South side of Creek Expressway, East of Memorial Drive
(Related to, but not dependent on Item 16.)

STAFF RECOMMENDATION:

This plat consists of one lot in one block on 2.5 acres.

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

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **HARMON**, TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes "absent") to **APPROVE** the final plat for Trinity Restoration per staff recommendation.

PRELIMINARY PLAT:

Tulsa Technology Center – Lemley Campus – (9323)

(PD 17) (CD 5)

3420 South Memorial Drive (**continuance requested to November 6, 2006 to facilitate further TAC review**)

STAFF RECOMMENDATION:

Mrs. Fernandez stated that this is a request for a continuance until November 6, 2006, for further Technical Advisory Committee review.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Collins Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes "absent") to **CONTINUE** the preliminary plat for Tulsa Technology Center to November 6, 2006.

Recording Secretary brought to staff's attention that November 6, 2006 is an incorrect date and the correct date would be November 1, 2006.

Mr. Bernard requested an amended motion.

TMAPC Action; 10 members present:

On **AMENDED MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes "absent") to **CONTINUE** the preliminary plat for Tulsa Technology Center to November 1, 2006.

CHANGE OF ACCESS ON RECORDED PLAT:

Lot 2, Block 1, Meadowbrook Center- (8313) (PD 18c) (CD 8)
South of East 81st Street South, West of South Mingo Road

STAFF RECOMMENDATION:

This application is made to allow a change of access along 81st Street. The property is zoned CS under PUD-522.

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

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **HARMON**, TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes "absent") to **APPROVE** the change of access for Lot 2, Block 1, Meadowbrook Center per staff recommendation.

Z-6999 September 2005: All concurred in approval of a request to rezone a 90+ acre tract located west of the southwest corner of East 41st Street and 193rd East Avenue from RS-3, AG, OL and CS to RS-4 for single-family development.

Z-6972/PUD-712 February 2005: All concurred in approval a request to rezone approximately eight acres in a wrap-around configuration located north and west of the northwest corner of East 51st Street and South 193rd East Avenue from RM-0 to OL. Approval was also granted for a PUD on the entire northwest corner of this intersection to allow retail development with a proposed mini-storage facility around the commercial corner.

Z-6970 February 2005: All concurred in approval of a request to rezone a ten-acre tract located south of the southwest corner of East 49th Street and South 177th East Avenue and south of the subject property, from AG to RS-3.

PUD-711 February 2005: Approval was granted for a gated single-family development for 38 lots. The property is located west of the northwest corner of East 51st Street and South 177th East Avenue.

Z-6945 August 2004: Approval was granted for RS-3 zoning from AG on a 126.5-acre tract located north and east of the northeast corner of East 51st Street and South 177th East Avenue.

Z-6913 October 2003: A request to rezone 11.6 acres, located west of the northwest corner of East 51st Street and South Lynn Lane (South 177th East Avenue) from AG to RS-4. Staff recommended denial on the grounds there were no other zoning and development patterns in the area with RS-4 zoning. Staff recommended the applicant re-submit the application along with a Planned Unit Development.

Z-6911 September 2003: Approval was granted to rezone 160 acres located east of the northeast corner of East 51st Street South and South 161 East Avenue from AG to RS-3 for single-family development.

Z-6834 October 2001: The TMAPC and City Council approved a request to rezone property south of the subject property from AG to RS-3.

Z-6816 June 2001: All concurred in approval of a request to rezone an eleven-acre tract located north and east of the northeast corner of East 41st Street and South 177th East Avenue from RM-0 and RS-3 to AG and RS-3 for residential and agricultural uses.

Z-6500 September 1995: The TMAPC and City Council approved rezoning from AG to RS-4 on a property north of East 51st Street between Lynn Lane (South 177th East Avenue) and South 193rd East Avenue.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 13.6± acres in size and is located at the northeast corner of South 177th East Avenue and East 61st Street. The property appears to be partially wooded, vacant and is zoned CS/RS-3/AG.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South 177 th East Avenue	Secondary arterial	100'	2
East 41 st Street	Secondary arterial	100'	2

UTILITIES: A water main extension is required. Sanitary sewer service is not available to this area. A dry sanitary sewer system must be constructed to connect to the City of Tulsa Main when it becomes available. In addition, all septic system lateral fields must be in an easement.

SURROUNDING AREA: The subject tract is abutted on the east by vacant property zoned AG; on the south by vacant property zoned CS/ RM-0; on the southwest by agriculture uses zoned AG; on the west by vacant property zoned AG; and on the north by agriculture uses zoned AG.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 17 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as five acres of Medium Intensity – No Specific land use and the remainder as Low Intensity – No Specific land use, with Development Sensitive areas along Crooked Creek. The development at the intensity proposed is **in accord** with the Comprehensive Plan.

STAFF RECOMMENDATION:

The applicant is proposing to develop 13.6 acres at the northeast corner of South 177th East Avenue and East 41st Street South for retail shops and restaurants. Underlying zoning includes CS at the five-acre node, RS-3 immediately east of the node and AG immediately north of the commercial node. The property is currently vacant with predominately agriculture uses surrounding and in the vicinity. Although the section across South 177th, bounded by East 31st Street South, South 161st East Avenue and East 41st Street South, is designated by District 17 of the Comprehensive Plan as Special District Industrial, no development has yet taken place; therefore, the subject property will be the first to develop in the area.

Per District 17 of the Comprehensive Plan, the areas immediately adjacent to the north and east of the subject property are expected to develop as residential. The

proposed commercial development extends 250 to 300 feet beyond the commercial node. Therefore, because of the depth of development proposed and because it will abut future residential development, staff has modified the applicant's request regarding setbacks and landscape buffers to provide appropriate separation and buffering from future residential development. However, proposed commercial floor area is less than what is possible per underlying CS zoning and as applied to the overall 13.6 acres is under 20 percent.

Because of the lower intensity proposed and with provision of appropriate screening and buffer areas, staff finds PUD-733 to be (a) consistent with the Comprehensive Plan; (b) in harmony with existing and expected development of surrounding areas; (c) a unified treatment of the development possibilities of the project site; and (d) consistent with the stated purposes and standards of the PUD Chapter. Therefore, staff recommends **APPROVAL** of PUD-733 as modified by staff and subject to the following conditions:

1. The Outline Development Plan shall be made a condition of approval unless modified herein.
2. Development Standards:

Land Area: 13.6 AC

Permitted Uses:

Those uses as permitted in Use Unit 11, Offices, Studios and Support Services; Use Unit 12, Eating Establishments Other Than Drive-Ins; Use Unit 13, Convenience Goods and Services; and Use Unit 14, Shopping Goods and Services.

Maximum Permitted Floor Area: 90,300 S.F.

Minimum Lot Frontage: 100 FT

Minimum Lot Area: 0.50 AC

Minimum Building Setbacks:

From the right-of-way line of 41 st Street:	50 FT
From the right-of-way line of South 177 th E. Ave.:	50 FT
From the north boundary:	100 FT
From the East boundary:	100 FT

Maximum Permitted Building Height: 35 FT*

*Architectural features may exceed permitted height subject to detail site plan approval.

Required Landscape Buffer and Screening:

There shall be a minimum 75-foot wide landscape buffer along the north and east boundaries of the PUD and along the east 208.66 feet of the south boundary. A minimum six-foot high masonry screening wall shall be erected and maintained along the north and east boundaries of the PUD and along the east 208.66 feet of the south boundary.

Detention:

The east 208.66 feet of the north 254.40 feet shall be reserved for detention and landscaped open space.

Minimum Landscaped Open Space:

A minimum of 15% of the net lot area shall be improved as internal landscaped open space in accord with the provisions of the Landscape Chapter of the Tulsa Zoning Code.

Off-Street Parking:

As required for the applicable use(s) by the Tulsa Zoning Code.

Pedestrian Circulation:

- (a) Sidewalks shall be provided along South 177th East Avenue and East 41st Street South.
- (b) Pedestrian walkway(s) connecting the sidewalks along South 177th East Avenue and East 41st Street South to building entrances shall be provided.
- (c) Pedestrian access-ways through parking lots to the buildings shall be separated by no more than 400 feet; provided that parking lots of 100 spaces or less shall be reviewed on a case-by-case basis for appropriateness of providing pedestrian access-ways.
- (d) Pedestrian walkways shall be clearly distinguished from traffic circulation, particularly where vehicular and pedestrian routes intersect.
- (e) Sidewalks or walkways which cross vehicular aisles or driveways shall be distinguished as follows: by a continuous raised crossing, by using contrasting paving material and/ or by using high contrast striping.

Lighting:

No light standard or building-mounted light shall exceed 25 feet in height. All lights standards shall be hooded and directed downward. Shielding of outdoor lighting shall be designed so as to prevent the light producing element or reflector of the light fixture from being visible to a person standing at ground level in nearby residential areas. Compliance with these standards shall be

verified by application of the Kennebunkport Formula. Consideration of topography must be included in the calculations.

Signs:

- a. A maximum of three ground signs, each not to exceed 25 feet in height and 160 square feet of display surface area, shall be permitted per arterial street frontage; provided that no ground sign shall be permitted within 200 feet of the north boundary or within 200 feet of the east boundary of the PUD.
- b. One tenant ground sign not to exceed 25 feet in height and 220 square feet of display surface area shall be permitted within west 200 feet of the south 200 feet of the PUD.
- c. Wall signs shall be permitted not to exceed an aggregate display surface area of two square feet per each lineal foot of building wall to which the sign or signs are affixed.

Trash Mechanical and Equipment Areas:

All trash, mechanical and equipment areas shall be screened from public view by persons standing at ground level and no bulk trash containers shall be accessed directly from a public street. Bulk trash containers shall be set back a minimum 75 feet from the north and east boundaries of the PUD.

3. No zoning clearance permit shall be issued for a lot within the PUD until a detail site plan for the lot, which includes all buildings, parking, screening fences and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
4. A detail landscape plan for each lot shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences have been installed in accordance with the approved landscape plan for the lot, prior to occupancy or at the soonest appropriate planting time. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
5. No sign permits shall be issued for erection of a sign on a lot within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
6. 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.

7. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
8. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
9. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

TAC Comments from 10/5/06:

General: No comments.

Water: Water main extension required. (changes per 10/5/06 TAC)

Fire: Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) 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:

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 (183 m).

Stormwater: The City of Tulsa Regulatory Floodplain passes through the property. The 100-year fully urbanized flows need to be conveyed through the property and placed in an easement.

Wastewater: Sanitary sewer service is not available to this area. A dry sanitary sewer system must be constructed to connect to the City of Tulsa Main when it becomes available. In addition, all septic system lateral fields must be in an easement.

Transportation: Right-of-way dedication on the arterials will be required. Conceptual shows a curb line 25 ft radius of return at intersection of the arterials; minimum of 30 ft will be required.

Traffic: The additional eight-foot of R/W must extend a min. of 388 ft east of the centerline of Lynn Lane Rd. per Subdivision Regulations.

GIS: No comments.

County Engineer: No comments.

MSHP: S. 177th E. Ave, between 31st St. S. and 41st St. S., designated as secondary arterial. Recommend the construction of sidewalks per the Subdivision Regulations along 177th and 41st. East 41st St. S., between S. 177th E. Ave and S. 193rd E. Ave, designated as secondary arterial.

LRTP: S. 177th E. Ave, between 31st St. S. and 41st St. S., existing 2 lanes. East 41st St. S., between S. 177th E. Ave and S. 193rd E. Ave, existing 2 lanes.

TMP: No existing trail planned for vicinity.

Transit: No existing or future plans for this location.

Applicant not present.

INTERESTED PARTIES:

Larry Johnson, 2535 East 21st Street, 74114, stated that he has owned his property for over 50 years and never until recently in May has there ever been any flooding on his property. Mr. Johnson submitted a map (Exhibit A-1) indicating Lynn Lane borders the subject property on the west side and it is a floodplain. He commented that the flooding was four feet high and trespassed onto his property. There is the intent to load the subject property with concrete parking for commercial and residential uses. He doesn't believe this proposal addresses the treatment of those three creeks that are in the 100-year floodplain and traverse over to his property to the east. He expressed concern over the past flooding from the south, and now the potential flooding by loading up this area on the proposed property that has three floodplain tributaries that move over toward his property. Mr. Johnson indicated that the last time he talked with an engineer; he was concerned that the subject property wouldn't be able to handle any commercial development.

TMAPC COMMENTS:

Mr. Jackson asked staff to explain the stormwater management system and how it works. In response, Mr. Alberty stated that from a practical standpoint, the rule of thumb is that whatever development occurs on the subject property is not permitted to increase the outflow from the current historical flow. This would require engineering data to support that position and it would have to be approved by the City of Tulsa Engineering Division that monitors stormwater and stormwater development, etc. Mr. Alberty indicated that the engineer for the development just walked in and perhaps he can best address this issue.

Mr. Jackson had staff display the conceptual drainage plan that the engineer has provided the Planning Commission.

Mr. Johnson stated that the National Flood Insurance Program requires that there be no construction that elevates the base flood elevation. Mr. Johnson commented that this needs to be addressed as well. Controlling flooding in the subject area has been a miserable failure. Glen Eagles development and now the south development have elevated the property to the south, which deluged his property with a four-foot flood.

Mr. Jackson explained that the drainage plan indicates that there will be a detention facility and it will have to be engineered to accept and retain the water that they produce. Mr. Jackson encouraged Mr. Johnson to speak with the

engineer of the proposed project. Mr. Jackson reminded Mr. Johnson that the Planning Commission doesn't address stormwater issues. He explained that the Stormwater Management Division of Public Works Department will actually look at the hydrology studies.

Tony Mills, 1800 East 41st Street, 74135, expressed concerns that the property owner would be able to sell beer on the commercially-zoned property. He explained that there is a church within 500 feet of the corner of the subject property and in the past there was action to stop the sale of beer. The original plan of the property owner was to have outdoor concerts, sell alcohol and have horse races. He fears that this application may not be what it seems to be.

Mr. Jackson asked Mr. Alberty to read the allowable uses in Use Units 11, 12, 13 and 14 so that the interested parties have a clear understanding of what the document proposes to have constructed in the subject area.

Mr. Alberty stated that the project size is 13.6 acres, which the PUD allows the property owner to take the commercial intensity, square footage wise and the uses in the CS district, and spread them to an area that is not zoned commercial. The PUD has taken the five acres of commercial and with this specific plan has spread the development outside of that. Mr. Alberty read the Use Units allowed within the PUD. What the Planning Commission is considering today is for retail commercial-type shops and offices.

Mr. Mills stated that he understands the proposal, but he doesn't feel this is what is really going to happen. He believes that the applicant may try to build a smaller building and open a restaurant with alcohol sales.

Mr. Alberty stated that there are setbacks that are specifically spelled out within the Zoning Code. Those would have to be met regardless of where they put the restaurant with the intent to sell alcohol. It wouldn't permit them to vary or avoid those setback requirements. Adult entertainment type uses require a 300-foot setback and the sexually-oriented business requires 1,000-foot setback from residential properties, churches, schools and parks. These setbacks have to be met.

Ms. Bayles asked Mr. Mills if he is simply opposed to any adult entertainment related activities on this PUD. In response, Mr. Mill answered affirmatively.

Mr. Alberty stated that adult entertainment-related activities are not being requested in this application. Any Use Unit 12a uses would be excluded and it wouldn't matter with regards to the setback. The only thing that would be permitted is alcohol sales in restaurants, but it would have to meet the 300-foot setback.

Mr. Mills asked if the applicant would be able to get a special event permit to allow outdoor concert or sell alcohol for a one-day event. In response, Mr. Albery stated that this is not one of the permitted uses and there is nothing that would prohibit the applicant from coming back in and asking for that provision. Once there is an approved PUD, then one is restricted to those uses that are permitted by right and are specifically spelled out in the approval. What Mr. Mills has outlined and expressed concerns for are not permitted.

David Ballew, 3811 South 177th East Avenue, 74134, stated that the residents around the subject area are a little suspicious regarding any proposed zoning changes because of the way this has progressed. There have been two or three rezoning requests before the Planning Commission and two have been turned down. Now the applicant has found a way through this PUD to at least get the commercial piece expanded another 8.6 acres past the commercial piece. There is a two-stall horse racing track at the end of the subject property. They are not conducting races at this time, but that was the original intention. By their own admission, the property owner wanted to have horse races, outdoor concerts and serve alcohol outside. This was denied. Mr. Ballew asked if today's application would give the property owner any more latitude to get around the rules and serve alcohol past the 300-foot or 500-foot setback. He further asked if PUDs expire within 12 months if they are not acted on.

Mr. Albery stated that today's request is for approval of a PUD and if the Planning Commission is inclined to approve this PUD, then it will have to go before the City Council for final approval. Once it is approved it restricts the PUD to what it has asked for. Those uses that the interested parties are fearful of were not included as permitted uses. The PUD protects the interested parties from the suspicions of what might be happening. The PUD would not include any of the proposed uses that may have been proposed in the past.

Mr. Ballew expressed concerns about the sewer system. He stated that it appears that this application is simply to rezone the property to make it worth more if it were to be sold.

Mr. Bernard stated that as part of the recommendation from staff the wastewater is discussed. A dry sanitary sewer system must be constructed to connect to the City of Tulsa main when it becomes available. In addition all septic system lateral fields must be in an easement.

Mr. Bernard explained how a PUD restricts the uses. He further explained that if the property owner requests an amendment to the PUD he would have to make a new application and notice would be given to property owners within a 300-foot radius before a public hearing could be held.

Mr. Ballew asked if it would hurt to spell it out in the PUD that no alcohol can be sold or allowed until the subject property is platted. In response, Mr. Jackson

stated that it is indirectly implied. Mr. Jackson explained that the property owner will have to apply for a permit and then the PUD will be reviewed to make sure that the zoning and the building permit coincide.

Mr. Ballew stated there is not public notice required for platting, if he understands correctly. Mr. Alberty stated that there is a notice given to the adjoining property owners. Mr. Ballew stated that there would be no notification to those present today because they do not adjoin the subject property.

Mr. Alberty stated that staff could add the interested parties to the list of notification as a courtesy. If the interested parties wish to be notified, then it would be made part of the record and noted in the PUD file.

Mr. Bernard requested the interested parties to give their names and addresses to Barbara Huntsinger and she will make sure that they are added to the notification list.

Ms. Bayles read the staff recommendation regarding the District 17 Plan on agenda page 9.5. Ms. Bayles asked Mr. Ballew if he was the immediate property owner to the north. In response, Mr. Ballew stated that he is not immediately north of the 13.6 acres. He explained that the subject property owner also owns the entire 40 acres, which would make him the property owner to the north. Mr. Ballew's property is next to that 40 acres.

Ms. Bayles stated that she has heard Mr. Ballew speak more toward the uses of the subject property rather than the buffering. Ms. Bayles asked Mr. Ballew if he thought the buffering is adequate. Mr. Ballew stated he would like it explained to him.

Mr. Midget out at 2:50 p.m.

Mr. Ard explained that the 75 feet is the landscape buffer and the building setback is actually 100 feet both north and east side.

Mr. Collins out at 2:53 p.m.

Mr. Bernard stated to make sure everyone is on the same page: 1) the PUD doesn't spell out any authorization of having a race track, 2) the PUD doesn't give authorization to allow adult entertainment or sexually oriented businesses, 3) the PUD does allow restaurant use and the restaurant would have the right to serve alcohol only within the boundaries of the setbacks.

Mr. Alberty stated that nothing can be developed on the subject property until a detail site plan has been submitted and the property has to be platted. There could be nothing temporary permitted on the subject property.

Mr. Ard suggested that the interested parties contact the applicant and let him know of their concerns and what the neighbors think. The neighbors will be the potential customers of the commercial corner.

Mr. Ballew stated that the most likely thing to happen to the surrounding neighbors is that someone will make them an offer for their property. In the meantime the neighbors are trying to maintain integrity. The neighbors do not want to be squeezed out by development up to their property lines.

Mr. Bernard stated that the Planning Commission is trying to maintain integrity as well and the PUD will help do this. Anything outside of the PUD will require the applicant to come back before the Planning Commission.

Mr. Johnson reminded the Planning Commission that he submitted a court order against Mr. Antonio from serving any alcohol on the CS area at a previous meeting.

Mr. Bernard stated that if there is a court order on the CS property, that would be beyond the Planning Commission's purview. Legal issues will be for the City and the Courts to deal with.

Mr. Alberty stated that this is a private agreement and the Planning Commission doesn't necessarily recognize private agreements and public conditions.

Applicant's Comments:

Malek Elkhoury, 1435 East 41st Street, 74105, stated that he is in agreement with staff's recommendation. He further stated that he would like the neighbors to know that if this PUD is approved, then during the platting he would be required to submit his plans to the City for the infrastructure, which includes drainage. A detention pond will be designed for current impervious areas.

Mr. Jackson recognized Mr. Mills.

Mr. Mills reiterated that there is not sewer in the subject area and he doesn't see why anyone would pass this until there is sewer available.

TMAPC Action; 8 members present:

On **MOTION** of **JACKSON**, TMAPC voted **7-0-1** (Ard, Bayles, Bernard, Cantrell, Harmon, Jackson, Wofford "aye"; no "nays"; Cantees "abstaining"; Carnes, Collins, Midget "absent") to recommend **APPROVAL** of PUD-733 per staff recommendation.

Legal Description for PUD-733:

A TRACT OF LAND THAT IS PART OF THE SW/4 SW/4 OF SECTION 24, T-19-N, R-14-E OF THE IBM, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION

24; THENCE NORTH 00°03'12" WEST, ALONG THE WESTERLY LINE OF SAID SECTION 24, A DISTANCE OF 721.40'; THENCE NORTH 89°59'58" EAST, A DISTANCE OF 959.26'; THENCE SOUTH 00°03'12" EAST, A DISTANCE OF 254.40'; THENCE SOUTH 89°59'58" WEST A DISTANCE OF 208.66'; THENCE SOUTH 00°03'12" EAST, A DISTANCE OF 467.00' TO A POINT ON THE SOUTHERLY LINE OF SAID SECTION 24; THENCE SOUTH 89°59'58" WEST ALONG SAID SOUTHERLY LINE, A DISTANCE OF 750.60' TO THE POINT OF BEGINNING From CS/RS-3/AG (Residential Single Family High Density District/Agriculture District) To CS/ RS-3/AG/PUD (Commercial Shopping Center District/ Residential Single Family High Density District/Agriculture District/Planned Unit Development [PUD-733]).

Application No.: PUD-431-A-9 MINOR AMENDMENT

Applicant: Jeffrey G. Levinson (PD-26) (CD-8)

Location: 101st Street, west of South Sheridan Road and east of South Kingston Avenue

Applicant's Comments:

John Moody, 1800 South Baltimore, Tulsa, OK, assisting Jeffrey Levinson, requested a continuance to October 25, 2006. He explained that he has recently submitted amendments to the application and he needs time to meet with staff tomorrow to go over the application.

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, Cantrell, Harmon, Jackson, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to **CONTINUE** the minor amendment for PUD-431-A-9 to October 25, 2006.

ZONING PUBLIC HEARING

Application No.: PUD-694-B

MAJOR AMENDMENT

Applicant: John W. Moody

(PD-8) (CD-2)

Location: North of the northwest corner of West 91st Street and 75 South

STAFF RECOMMENDATION:

PUD-694-A September 2005: A request for a major amendment to PUD on a 4.61± acre tract to allow a Use Unit 16 to permit a mini storage was approved.

Z-6916/PUD-694 December 2003: Approval was granted for rezoning request and a PUD on the subject property. CS zoning was approved the south 467' of the subject property and CO zoning was approved on the balance. PUD-694 was also approved subject to Use Unit 15 be removed as an allowable use.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 8.3± acres in size and is located north of northwest corner of West 91st and Highway 75 South. The property is gently sloping, non-wooded and vacant, and is zoned CS/CO/PUD.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
West 91 st Street	Secondary Arterial	100'	n/a
South Union Avenue	Secondary Arterial	100'	n/a

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

SURROUNDING AREA: The subject property is abutted on the north and south by vacant land zoned AG; to the east by U. S. Highway 75 South, zoned AG and to the west by single-family homes, zoned RS-3.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 8 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Corridor, Medium and Low Intensity. The proposed uses **may be found in accordance** with the Comprehensive Plan

STAFF RECOMMENDATION:

PUD 694 was originally approved February 6, 2004, with the following standards regarding ground signage:

Development Area A (southern tract zoned CS):

- One ground sign shall be permitted for each lot on the West 91st Street frontage with a maximum of 160 square feet of display surface area and 25 feet in height. There shall be a maximum of two ground signs permitted on the West 91st Street frontage.
- One center identification ground sign shall be permitted within 25 feet of the Okmulgee Beeline (U.S. Highway 75) right-of-way with a maximum of 200 square feet of display surface area and 25 feet in height.
- Outdoor advertising signs shall be permitted within 50 feet of the Okmulgee Beeline (U.S. Highway 75) right-of-way.

Development Area B (northern tract zoned CO/ Z-6916-SP-1):

- One ground sign shall be permitted for each lot along the South Union Avenue frontage which shall not exceed 48 square feet of display surface area and ten feet in height.
- One ground tenant identification sign for Development Area B shall be permitted within Development Area B within 25 feet of the Okmulgee Beeline (U.S. Highway 75) frontage which shall not exceed 160 square feet of display surface area and 25 feet in height.

Subsequently, PUD 694-A/ Z-6916-SP-2 was approved September 30, 2005 for the northern tract, **Development Area B** with the following standards regarding ground signage:

- One ground sign, not to exceed 20 feet in height and 32 square feet of display surface area or 2/10 of a square foot of display surface area per lineal foot of street frontage (whichever is greater) permitted along the Union frontage.
- One ground sign, maximum 220 square feet of surface area and 35 feet in height permitted along Highway 75 frontage, setback a minimum of 50 feet from the north boundary of the PUD and setback a minimum of 10 feet from the highway right-of-way.

The applicant is now proposing per **PUD-694-B/Z-6916-SP-3** to permit an outdoor advertising sign in Development Area B/ Z-6916-SP-3 and to reallocate signage between the two development areas. Per the proposed amendment the outdoor advertising sign would no longer be permitted in Development Area A,

but would now be permitted in Development Area B. Whereas previously Development Area A permitted two ground signs along West 91st Street and none along South Union Avenue, the applicant is proposing to place one of the 25-foot high, 160 square foot display surface area signs along the South Union Avenue frontage. Staff recommends that any signage along South Union Avenue be similar in height and display surface area to that which was previously approved per PUD 694-A.

Based on the following conditions, staff finds PUD 694-B/Z-6916-SP-3 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD and Corridor Chapters of the Zoning Code. Therefore, staff recommends **APPROVAL** of PUD-694-B/Z-6916-SP-3 (Development Area B) subject to the following conditions:

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.
2. The development standards and conditions of PUD 694 (Development Area A) and PUD-694-A/Z-6916-SP-2 (Development Area B) not amended by PUD-619-B/Z-69169-SP-3 shall remain in full force and effect.
3. Development Standards:

Development Area A:

Permitted Uses:

Those uses included within Use Unit #10, Off-Street Parking Areas; and Use Unit 11, Offices, Studios and Support Services; Use Unit 12, Entertainment Establishments and Eating Establishments other than drive-ins; Use Unit 13, Convenience Goods and Services; *Business Signs as permitted in Use Unit #21; Outdoor Advertising Signs shall not be permitted within Development Area A.*

Signage:

1. One ground sign shall be permitted on the West 91st Street frontage with a maximum of 160 square feet of display surface and 25 feet in height.
2. One ground sign, not to exceed 20 feet in height and 32 square feet of display surface area or 2/10 of a square foot of display surface area per lineal foot of street frontage (whichever is greater) shall be permitted along the Union Avenue frontage.

3. One center identification ground sign shall be permitted within 25 feet of the Okmulgee Beeline (U.S. Highway 75) right-of-way with a maximum of 200 square feet of display surface area and 25 feet in height.

Development Area B (Z-6916-SP-3):

Permitted Uses:

Use Units 11, Offices, Studios and Support Services; Use Unit #16, Mini-Storage; Use Unit 23, Warehousing and Wholesaling (permitted only if located in interior areas of site); and *Use Unit 21, Business Signs and Outdoor Advertising and uses customarily accessory to permitted principal uses.*

Signage:

1. One outdoor advertising sign shall be permitted within 50 feet of the Okmulgee Beeline (U.S. Highway 75) not to exceed a maximum display surface area of 672 square feet and not exceeding 50 feet in height and which shall be setback a minimum of 10 feet from the right-of-way of U.S. Highway 75.
2. One ground sign, not to exceed 20 feet in height and 32 square feet of display surface area or 2/10 of a square foot of display surface area per lineal foot of street frontage (whichever is greater) shall be permitted along the Union Avenue frontage.
3. One ground sign (in addition to the outdoor advertising sign) not to exceed 220 square feet of display surface area and 35 feet in height shall be permitted along the U.S. Highway 75 frontage and shall be setback a minimum of 50 feet from the north boundary of the PUD and a minimum of 10 feet from the highway right-of-way.

TAC Comments from 10/4/06:

General: No comments.

Water: Signs not allowed inside any water line easements.

Fire: No comments.

Stormwater: No comments.

Wastewater: Signs should not be allowed to encroach into easements.

Transportation: No comments.

Traffic: No comments.

GIS: No comments.

County Engineer: No comments.

MSHP: W. 91st St. and S. Union Ave. are designated as secondary arterials.

LRTP: Sidewalks should be constructed if non-existing or maintained if existing.

TMP: No comments.

Transit: No service provided or planned at this location.

RELATED ITEM:

Application No.: Z-6916-SP-3

CORRIDOR SITE PLAN

Applicant: John W. Moody

(PD-8) (CD-2)

Location: North of the northwest corner of West 91st Street and 75 South

STAFF RECOMMENDATION:

PUD-694-A August 2005: A request for a major amendment to PUD on a 4.61± acre tract to allow a Use Unit 16 to permit a mini storage was approved.

Z-6916/PUD-694 December 2003: Approval was granted for rezoning request and a PUD on the subject property. CS zoning was approved the south 467' of the subject property and CO zoning was approved on the balance. PUD-694 was also approved subject to Use Unit 15 be removed as an allowable use.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 8.3± acres in size and is located north of northwest corner of West 91st and Highway 75 South. The property is gently sloping, non-wooded and vacant, and is zoned CS/CO/PUD.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
West 91 st Street	Secondary Arterial	100'	n/a
South Union Avenue	Secondary Arterial	100'	n/a

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

SURROUNDING AREA: The subject property is abutted on the north and south by vacant land zoned AG; to the east by U. S. Highway 75 South, zoned AG and to the west by single-family homes, zoned RS-3.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 8 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Corridor, Medium and Low Intensity. The proposed uses **may be found in accordance** with the Comprehensive Plan

STAFF RECOMMENDATION:

PUD-694/Z-6916-SP-1 was originally approved February 6, 2004, with the following standards regarding ground signage:

Development Area A (southern tract zoned CS and **not** part of Z-6916-SP-1):

- One ground sign shall be permitted for each lot on the West 91st Street frontage with a maximum of 160 square feet of display surface area and 25 feet in height. There shall be a maximum of two ground signs permitted on the West 91st Street frontage.
- One center identification ground sign shall be permitted within 25 feet of the Okmulgee Beeline (U.S. Highway 75) right-of-way with a maximum of 200 square feet of display surface area and 25 feet in height.
- Outdoor advertising signs shall be permitted within 50 feet of the Okmulgee Beeline (U.S. Highway 75) right-of-way.

Development Area B (northern tract zoned CO/Z-6916-SP-1):

- One ground sign shall be permitted for each lot along the South Union Avenue frontage which shall not exceed 48 square feet of display surface area and ten feet in height.
- One ground tenant identification sign for Development Area B shall be permitted within Development Area B within 25 feet of the Okmulgee Beeline (U.S. Highway 75) frontage which shall not exceed 160 square feet of display surface area and 25 feet in height.

Subsequently, **PUD-694-A/Z-6916-SP-2** was approved September 30, 2005 for the northern tract, **Development Area B**, with the following standards regarding ground signage:

- One ground sign, not to exceed 20 feet in height and 32 square feet of display surface area or 2/10 of a square foot of display surface area per lineal foot of street frontage (whichever is greater) permitted along the Union frontage.
- One ground sign, maximum 220 square feet of surface area and 35 feet in height permitted along Highway 75 frontage, setback a minimum of 50 feet from the north boundary of the PUD and setback a minimum of ten feet from the highway right-of-way.

The applicant is now proposing per **PUD-694-B/Z-6916-SP-3** to permit an outdoor advertising sign in **Development Area B/Z-6916-SP-3** and to reallocate signage between the two development areas. Per the proposed amendment the outdoor advertising sign would no longer be permitted in Development Area A, but would now be permitted in Development Area B. Whereas previously Development Area A permitted two ground signs along West 91st Street and none along South Union Avenue, the applicant is proposing to place one of the 25-foot high, 160 square foot display surface area signs along the South Union

Avenue frontage. Staff recommends that any signage along South Union Avenue be similar in height and display surface area to that which was previously approved per PUD-694-A.

Based on the following conditions, staff finds PUD-694-B/Z-6916-SP-3 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD and Corridor Chapters of the Zoning Code. Therefore, staff recommends **APPROVAL** of **PUD-694-B/Z-6916-SP-3 (Development Area B)** subject to the following conditions:

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.
2. The development standards and conditions of PUD-694 (Development Area A) and **PUD-694-A/Z-6916-SP-2 (Development Area B)** not amended by **PUD-619-B/Z-69169-SP-3** shall remain in full force and effect.
3. Development Standards:

Development Area A (southern tract zoned CS and **not** part of Z-6916-SP-3):

Permitted Uses:

Those uses included within Use Unit #10, Off-Street Parking Areas; and Use Unit 11, Offices, Studios and Support Services; Use Unit 12, Entertainment Establishments and Eating Establishments other than drive-ins; Use Unit 13, Convenience Goods and Services; Business Signs as permitted in Use Unit #21; Outdoor Advertising Signs shall not be permitted within Development Area A.

Signage:

1. One ground sign shall be permitted on the West 91st Street frontage with a maximum of 160 square feet of display surface and 25 feet in height.
2. One ground sign, not to exceed 20 feet in height and 32 square feet of display surface area or 2/10 of a square foot of display surface area per lineal foot of street frontage (whichever is greater) shall be permitted along the Union Avenue frontage.
3. One center identification ground sign shall be permitted within 25 feet of the Okmulgee Beeline (U.S. Highway 75) right-of-way with a maximum of 200 square feet of display surface area and 25 feet in height.

Development Area B (Z-6916-SP-3):

Permitted Uses:

Use Units 11, Offices, Studios and Support Services; Use Unit #16, Mini-Storage; Use Unit 23, Warehousing and Wholesaling (permitted only if located in interior areas of site); and *Use Unit 21, Business Signs and Outdoor Advertising and uses customarily accessory to permitted principal uses.*

Signage:

1. One outdoor advertising sign shall be permitted within 50 feet of the Okmulgee Beeline (U.S. Highway 75) not to exceed a maximum display surface area of 672 square feet and not exceeding 50 feet in height and which shall be setback a minimum of 10 feet from the right-of-way of U.S. Highway 75.
2. One ground sign, not to exceed 20 feet in height and 32 square feet of display surface area or 2/10 of a square foot of display surface area per lineal foot of street frontage (whichever is greater) shall be permitted along the Union Avenue frontage.
3. One ground sign (in addition to the outdoor advertising sign) not to exceed 220 square feet of display surface area and 35 feet in height shall be permitted along the U.S. Highway 75 frontage and shall be setback a minimum of 50 feet from the north boundary of the PUD and a minimum of 10 feet from the highway right-of-way.

TAC Comments from 10/5/06:

General: No comments.

Water: Signs not allowed inside any water line easements.

Fire: No comments.

Stormwater: No comments.

Wastewater: Signs should not be allowed to encroach into easements.

Transportation: No comments.

Traffic: No comments.

GIS: No comments.

County Engineer: No comments.

MSHP: W. 91st St. and S. Union Ave. are designated as secondary arterials.

LRTP: Sidewalks should be constructed if non-existing or maintained if existing.

TMP: No comments.

Transit: No service provided or planned at this location.

Ms. Bayles out at 3:02

Applicant's Comments:

John Moody, 1800 South Baltimore, Tulsa, OK, stated that staff has recommended approval and the application is simply to relocate an outdoor advertising sign that had been previously approved on one of the development areas to the north in order to comply with the 1200-foot spacing requirements. His client is not increasing the total number of signs or the total display surface area for the entire PUD.

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, Cantrell, Harmon, Jackson, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Collins, Midget "absent") to recommend **APPROVAL** of the major amendment for PUD-694-B per staff recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Harmon, Jackson, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Collins, Midget "absent") to **APPROVE** the corridor site plan for Z-6916-SP-3 per staff recommendation.

Legal Description for PUD-694-B/Z-6916-SP-3:

Lots 1 and 2, Block 1, 75 South Mini Storage, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, **FROM CO/PUD (Corridor District/Planned Unit Development [PUD-694]) TO CO/PUD (Corridor District/Planned Unit Development [PUD-694-B]).**

Ms. Bayles in at 3:06 p.m.

Application No.: Z-6010-SP-3a

CORRIDOR PLAN/MINOR AMENDMENT

Applicant: Charles E. Norman

(PD-17) (CD-6)

Location: Northwest corner of State Farm Boulevard (East 48th Street) and South 129th East Avenue

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to corridor site plan Z-6010-SP-3 for the purpose of creating four lots from Lot 1, Block 2, Amberjack and allocating floor area for each lot (Tracts 1A through 1D). The corridor site plan currently

permits office uses only on Lot 1, Block 2, Amberjack. No change to the permitted uses is proposed per this amendment.

The Tulsa Metropolitan Area Planning Commission approved a project floor area ratio of .75 for Z-6010-SP-3. Lot 1, Block 2 has a gross area of 52.0918 acres and will permit a total of 1,701,839 square feet of building floor area.

The applicant requests approval of the following floor area allocations to Tract 1A, 1B, 1C and Tract 1D (subtracts of Lot 1, Block 2, Amberjack):

	<u>Gross Area</u>	<u>Floor Area Allocation</u>
Tract 1A	10.89334 acres	141,571 SF
Tract 1B	11.1137 acres	145,234 SF
Tract 1C	26.9341 acres	1,373,082 SF
Tract 1D	<u>3.2103</u> acres	<u>41,952</u> SF
TOTAL	52.0918 acres	1,701,839 SF

A deep, wide drainage ditch located within a 100-foot wide drainage easement runs parallel to East 48th Street. Substantial improvements (i.e. bridges) will have to be built to access the proposed lots from East 48th Street. In addition, sidewalks are required along the 48th Street right-of-way. The applicant and property owner understand and agree (per discussion at 10/05/06 TAC) that such improvements shall be provided. Sidewalks as required along 129th Street South are being constructed as part of the city's street widening project.

Therefore, staff recommends **APPROVAL** of Z-6101-SP-3a subject to the above floor area allocations and subject to primary access to each lot being from East 48th Street South (a corridor collector) as required by the zoning code.

TAC Comments from 10/05/06:

General: No comments.

Water: No comments.

Fire: Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) 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: 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 (183 m). With the size of the lots additional hydrants will be required on some of the lots based on building locations.

Stormwater: No comments.

Wastewater: No comments.

Transportation: No comments.

Traffic: Recommend Mutual Access Easements to fully utilize the limited median openings on State Farm Rd. and construction of various eastbound turn bays via a PFPI.

GIS: No comments.

County Engineer: No comments.

MSHP: 129th is a designated primary arterial – sidewalks recommended on 129th and State Farm Blvd per subdivision regulations.

LRTP: 129th E. Ave, between 41st St. S. and 51st St. S., planned 4 lanes. Both 41st St. S. and 51st St. S., between Garnett Rd. and 129th E. Ave, planned 4 lanes.

TMP: No Comment

Transit: Currently, Tulsa Transit operates an existing route on 129th E. Ave, between 41st St. S. and 51st St. S. According to MTTA future plans, this location will not continue to be served by transit routes.

Applicant's Comments:

Charles E. Norman, 2900 Mid-Continent Tower, Tulsa, OK 74103, stated that he is in agreement with staff's recommendation. By making this minor amendment he is specifying the floor areas that are to be allocated by the amendment and it will become part of the record for each of the four parcels.

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, Cantrell, Harmon, Jackson, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to recommend **APPROVAL** of Z-6010-SP-3a subject to the submitted floor area allocations and subject to primary access to each lot being from East 48th Street South (a corridor collector) as required by the Zoning Code.

CONTINUED RECONSIDERATION OF Z-7020 PUBLIC HEARING:

Application No.: Z-7020

AG TO IL

Applicant: Robert Johnson

(PD-16) (CD-3)

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

STAFF RECOMMENDATION:

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 East 46th Street North and North Garnett Road (Highway 169 North) and southeast of subject property.

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.

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 municipal 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. The subject site lies in the middles of a section, rather than at a major intersection where it would be more compatible. East 56th Street North is a two-lane road with bar (borrow) 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 (through an access easement), 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.

Ms. Matthews stated that staff's recommendation remains to deny the IL zoning. She explained that this application was continued to clear up ownership questions.

TMAPC COMMENTS:

Mr. Bernard reminded Mr. Johnson that the Planning Commission has already heard the case and heard it again on October 4, 2006 when the ownership came into question, and the Planning Commission now has paperwork that clears that issue up. Mr. Bernard asked Mr. Johnson if he has any additional information beyond what has already been discussed. Mr. Johnson answered affirmatively. Mr. Bernard reminded Mr. Johnson to limit his comments to new information only.

Applicant's Comments:

Robert Johnson, 15807 East 78th Street North, Owasso, Oklahoma 74055, stated that there are two acres that are zoned IL in the subject area, which shows that property has been zoned IL in the subject area. He indicated that when the two acres was rezoned for IL the road was not opened until 1991 or 1992. He questioned how the two acres were zoned IL, before the road was opened. Previously the owner had a 12- to 15-foot driveway made of gravel to the road. The two acres appears to be spot zoning with a panhandle to access 145th Street. Mr. Johnson reminded the Planning Commission that the Comprehensive Plan does indicate the subject area for IL zoning and uses. He stated that he is asking for whatever needs to be done to achieve the IL zoning. If two acres is all that the Planning Commission will approve, he would be in agreement with two acres because he doesn't need the entire ten acres. Mr. Johnson indicated that he would install an adequate driveway to promote safety to his employees accessing 56th Street. He stated that his employees would be coming up 145th Street to 56th Street to access the subject property or using 66th to 145th and then traveling on 56th Street 2/10ths of mile to the driveway.

Mr. Johnson commented that if the Comprehensive Plan calls for IL, then why the Planning Commission isn't working towards allowing him to have this spot zoned IL. Why is the Planning Commission trying to deep-freeze him for future development? Why does he have to wait until the zoning INCOG wants to say it is time. All over the City there are places where the 150-foot frontage is not present. There wouldn't be a lot of people around him to complain and he would keep all of the trees that are presently in place. The noise and lighting will not affect the homes in the subject area. There is no activity from his machine shop

done outside. He is prepared to put in a legal driveway that would be asphalt with parking for his employees. What else can he do without the added time and expense of a PUD? Possibly at the very beginning he could have done a PUD, but at the point where he is right now he doesn't understand why he needs to spend the time and money for a PUD. Mr. Johnson indicated that other people in the subject area have put up buildings illegally and he is trying to follow the rules.

Mr. Johnson stated that the newest building that has been done in the past ten to fifteen years is a metal building in the neighbor's yard and two mobile homes moved into the area for living. There are horses grazing in the subject area. Rogers County has submitted a letter stating that they have no problem with the subject property being zoned IL. Mr. Johnson indicated that he has 25 employees that would be brought into the City of Tulsa. Mr. Johnson compared his proposal to The Channels for increasing tax revenue. He questioned if bringing 25 employees into the City of Tulsa wouldn't generate more tax dollars.

TMAPC COMMENTS:

Mr. Harmon asked Mr. Johnson if he would consider less than ten acres for the IL zoning. Mr. Johnson stated that he would consider two acres, which would be enough to have a building and a parking lot. Mr. Harmon asked Mr. Johnson if he would consider submitting a PUD for the two acres. Mr. Harmon stated that he understands that a PUD would take some time, but the subject property is entirely surrounded by AG. A PUD would give the Planning Commission more comfort than straight zoning. In response, Mr. Johnson stated that he understands that and maybe if we all had worked together and had some meetings before getting to this time, then things could have been worked out in advance. He reminded the Planning Commission that his application was taken in February and maybe he could have come to some terms back then. He is on a personal deadline now.

Mr. Harmon stated that the only thing that has come before the Planning Commission has been the rezoning for the ten acres, which was a problem. Now the applicant is offering an alternative for two acres and a two-acre PUD is considered less intrusive to the subject area. Right now it is difficult to determine how the subject area will develop. In response, Mr. Johnson stated that he understands the concerns. However, in order to get a permit to build a building he could have told them he wanted to throw up a barn. He commented that he could have already been moved in, but he didn't do that and tried to do it the right way.

Mr. Harmon stated that applying is the right direction and the Planning Commission would like this done the right way as well. The Planning Commission is not here to prevent investment and would like to assist people when possible, but he has a problem rezoning this to IL when it is surrounded by AG. If this property were fronting on 56th Street North he wouldn't have any

problems with it. When there is an isolated tract of land, then a PUD on two or 2.5 acres is a better way to plan this. There is some expense and time involved.

Mr. Johnson stated that he is under a timeframe and he doesn't know if he could get it done in enough time.

Mr. Alberty stated that a PUD usually takes approximately 90 days. He further stated that there is a fundamental issue beyond that. This property has no access to a public road. The applicant would have to acquire and obtain the right to a publicly dedicated right-of-way. At this point the applicant cannot meet the conditions for platting of this property until he does that. A 20-foot mutual access easement doesn't meet the requirements.

Mr. Johnson stated that he would get the 30 feet of land for the road. He commented that there are plenty of roads that are not as wide as that when going into certain places. He reiterated that he would require that he has a 30-foot road to come off of 56th Street.

Mr. Jackson asked staff if they were requesting a 30-foot right-of-way or a 50-foot right-of-way with a 26-foot paving section. In response, Mr. Alberty stated that it is for industrial and it would be for whatever the City of Tulsa requires. It could be as much as a 60-foot right-of-way. The applicant would have to have ownership or else someone to dedicate that property and build a City-standard street. There are also problems with regards to a sewer service and water service. The applicant has indicated that he has these two issues worked out, but there are no City services to the subject property.

Mr. Johnson stated that, in other words, the Planning Commission is land-locking him. In response, Mr. Jackson stated that the Planning Commission is not land-locking him, but informing him what it requires to rezone and apply a PUD to the subject property. It requires a City-standard road for industrial, which is a collector (60-foot) and it has to be built from 56th Street to the place of business. Staff is not saying that you will have to pave a 26-foot road, asphalt with borrow ditches. They are explaining that you will have to bring it up to the City standards. Borrow ditches are not allowed in the City of Tulsa on new construction.

In response, Mr. Johnson asked Mr. Jackson if he is trying to say that he should move his business to Rogers County. In response, Mr. Jackson stated that he is not telling him anything about location, but he is explaining the requirements. In response, Mr. Johnson stated that he is a small business guy trying to make it in a big-city world. All he needs is a little building and he will get the proper drive that is needed.

Mr. Harmon stated that if Mr. Johnson came back with a PUD and provisions for a dedicated public street, then he believes the Planning Commission could work that out.

Mr. Johnson asked why he should be required for another \$10,000.00 to \$20,000.00 investment when it is not really absolutely needed. There are places in the subject area where they have done this in the past. Mr. Harmon explained that there are standards and requirements that have to be met. What has happened in the past is a different scenario and the Planning Commission is looking at today's law.

Mr. Harmon reiterated that the applicant would have to have a dedicated public roadway before utilizing the IL zoning.

Ms. Bayles asked Mr. Johnson if he was made aware of the need to have a dedicated public roadway before or during any discussions with staff. In response, Mr. Johnson stated that he was not informed that it would have to be 50 feet. Mr. Johnson further stated that the only reason he was told that staff is recommending denial is because it is spot zoning with a panhandle, no City utilities and there is no 150 feet of frontage.

Mr. Harmon stated that staff is trying to explain to Mr. Johnson that if the Planning Commission did approve this for IL, he wouldn't be able to obtain a building permit until he had a public roadway into the property. If the subject property was zoned IL the applicant still wouldn't be able to utilize it.

Mr. Bernard asked Mr. Alberty if the applicant had another option that wouldn't adversely affect any other potential zoning issues in that area. It appears that the surrounding property due south of the subject property will be used industrially. Is there some way to do this legally and satisfy the City's requirements and with some type of control.

Mr. Alberty stated that there are two options: 1) acquire land that would give adequate frontage, 2) acquire enough land to dedicate a street and build it to City standards. Mr. Alberty commented that he doesn't believe the applicant is prepared to do either option. He mentioned the fact that he is land-locked, because he does have a piece of property that is land-locked and the difference is that he does have a 20-foot access easement that he can access the subject property, but when redeveloping from AG to IL, there are requirements that have to be met. The way the application is presented today does not meet those requirements. There is no other way to address the issue other than the fact that it is within an area that at some point and time will be industrial. There is a manner in which one transitions from AG to IL and it is not by waiving the requirements.

Ms. Cantees asked Mr. Johnson where the property is located that has the IL designation and how close is it to the subject property. In response, Mr. Johnson stated that it is the piece of property in front of the subject property, and his driveway goes across it. In response to Mr. Harmon, Mr. Johnson stated that according to the tax records the property is designated as IL.

Mr. Bernard stated that he drove the subject area and found 56th Street to be narrow and having a one-lane bridge, whereas, 145th has trucks utilizing it at this point. He found 56th to be more residential and 145th more commercial. Mr. Johnson commented that 56th Street is just as wide as 145th Street.

Mr. Alberty stated that the applicant would have to plat the subject property and right now it is land-locked without a way to get to it. The applicant does have a 20-foot access easement, but that is not sufficient for industrial development.

Ms. Bayles asked if the circumstances were different in 1990 when a particular property in the subject area was rezoned to IL. In response, Mr. Alberty stated that if the applicant's property met those same conditions, then staff would be recommending approval. That property has frontage on 145th and what Mr. Johnson has said is that physically one can get to 145th, but the zoning of the property met the requirements because it does have frontage.

Mr. Johnson stated that the access road did not exist until 1991 or 1992 and he can prove it.

Mr. Alberty stated that it doesn't make any difference whether the access road was there or not, the property had access to a section line road and it met the conditions.

Ms. Cantrell stated that she doesn't have a problem with the zoning, but she understands the issues with frontage and access. Ms. Cantrell clarified that a PUD wouldn't solve the problems. In response, Mr. Alberty concurred.

Mr. Jackson asked Mr. French to come forward and explain to the applicant what the platting process involves at the Technical Advisory Committee (TAC).

Darryl French, Traffic Engineering, 200 Civic Center, 74103, stated that this is still a zoning matter and with ten acres of IL zoning, it could allow thousands and thousands of square feet of industrial building in a later date. That much IL zoning would require a street system that Mr. Alberty is trying to expaliam. If it was down to a small, modest building, then there are prerogatives that the Planning Commission could consider.

Mr. Alberty stated that the application could be reduced from ten acres to two acres.

Mr. French stated that a two-acre tract of land zoned IL would require minimum frontage on a public street. The future owner should be protected as well. Traffic Engineering and staff could meet to come up with some type of private driveway, but that would only be under a PUD.

Mr. Jackson asked Mr. Robert Johnson if Mr. Roy Johnsen is still representing him. In response, Mr. Robert Johnson answered negatively.

Mr. Jackson asked Mr. Roy Johnsen if he could give the applicant an estimate of what a PUD would cost and the kind of time he would be looking at. In response, Mr. Roy Johnsen stated that he doesn't think he could do that because different attorneys charge different amounts. There is a substantial expense and quite a few hours involved. Filing fees with the Planning Commission are approximately \$1,000.00 or more. Mr. Johnsen stated that he did assist Mr. Robert Johnson in getting a continuance to proceed with reconsideration. He is no longer representing Mr. Robert Johnson in this matter. However, the Planning Commission can zone the subject property without any access. The question would be what the owner could do with the land. He wouldn't be able to do much without going to the BOA to get a variance or filing a PUD. If he files a PUD, then the frontage requirement is a bulk and area requirement in the Zoning Code and the PUD allows one to modify those. This is done all of the time with private street subdivisions. If the Planning Commission likes the project and wanted to approve it, then the access situation could be handled by modifying the frontage requirement, but the applicant would have to do "X" (whatever the Planning Commission believes is appropriate for this development). All of this would have to be done before issuing a building permit.

Mr. Jackson stated that the staff and the Planning Commission are not comfortable with a ten-acre tract zoned IL. He suggested that Mr. Johnson request a continuance to look into reducing the request to two acres with a PUD or ask for a vote today on straight zoning.

Mr. Johnson stated that he doesn't understand if he goes with two acres and he acquires the land he needs for a private drive, why does it have to be 50 feet wide.

The Planning Commission once again clarified and reiterated the requirements and the reason for a PUD to Mr. Johnson.

Mr. Bernard asked if it is within the Planning Commission's purview that some of the staff fees be applied to the fees for the PUD. In response, Mr. Alberty stated that there are fees for PUDs and for zoning. The fees, Mr. Johnson paid for the zoning application, have already been spent and there is nothing left over and nothing to apply. The Planning Commission can waive the fees for the applicant.

Mr. Harmon asked what the amount would be that would be waived if the Planning Commission chose to do so. Mr. Harmon stated that the only reason he would consider waiving the filing fees is because he was not informed about having to furnish a public right-of-way until today. In response, Mr. Johnson concurred that he was never informed of the right-of-way needed.

Mr. Alberty stated that there is a private and a public option here for the road. The public dedication would require a minimum of 50 feet and we are not trying to solve his problems today. There are other ways to accomplish what he needs as Mr. Roy Johnsen explained. However, if one dedicates a street to serve ten acres, then it would be a minimum of 50 feet. Sometimes applications are filed and staff doesn't get opportunities to discuss with the individual exactly what it is he wants to do. Mr. Harmon stated that he understands that and he is not pointing fingers at anyone, but trying to find a way to work through it.

Mr. Johnson stated that when he filed for this application for the ten acres he was informed that he could file the application but it would probably not pass. He was encouraged to file a PUD with the zoning, but it would still be unlikely to pass.

Mr. Jackson stated that the applicant should hire a consultant or lawyer if he doesn't fully understand what is going on. Staff is not here to design one's project for him.

Mr. Johnson stated that the Planning Commission are public officials and should help the little guy and point him in the direction from the beginning; don't just tell him that it will probably not pass, but rather advise him to get legal counsel or a consultant.

Ms. Bayles stated that she believes what we have is a City that is trying its best to promote economic development and we do not have the opportunity to see economic development happen in a large corporate setting any longer. One statement was stated today "we are not trying to solve all of his problems here today" but the fact is that Mr. French has been here on occasion and this has been dealt with since spring. Mr. Johnson has waited month after month, granted legal advice would have benefited him, but certainly that is not an option available to everyone. In his defense, she would say that from the first meeting she had with Mr. Johnson in the Councilor's office that was a concern. There was literally no dialogue of any kind of discussion that was problem-solving where this was concerned. She regrets that to this fact and she believes at this point a PUD would impose some basic conditions that everyone would feel comfortable with and Mr. French has also raised the relevant issue about transition for not only today but in the future. She would like to think the Planning Commission would approve some sort of relief and remedy for Mr. Johnson so that what is designated in the Comprehensive Plan as IL could actually be facilitated as that. This is a unique quadrant separated by 56th Street North, 52nd Street North and 145th. This is an isolated quadrant that in the future should and

will be industrial. She believes that a PUD may be overkill on this, but she wouldn't speak for the rest of the Planning Commissioners. It is an alternative and a remedy that all of the other Planning Commissioners could live with. Ms. Bayles requested that the Planning Commission consider waiving the fees on this, because it has been six months down the road and it could have been discussed and considered far earlier than this public hearing or previous public hearing as well.

After a lengthy discussion it was determined that the fees to be waived would be the application fee only.

Mr. Johnson expressed concerns that he would be throwing his money away if he files a PUD.

Ms. Bayles gave Mr. Johnson an analogy with regard to the Gilcrease Museum application for a parking lot. It is not only for the applicant's purpose to develop the property and use it for today, but it will be for whatever happens on that property ten, 15, 20 or 50 years down the road. Typically the Planning Commission doesn't suggest or even vote to recommend waiver of application fees in the future as well. She believes that the Planning Commission is trying to help Mr. Johnson make this work; however, it can't be done at the expense of the Zoning Code and those who will use this property now and in the future.

Mr. Johnson stated that he would like to continue this application and try to get a PUD.

Mr. Bernard stated that he can't say exactly how the Planning Commission will vote for sure, but he hopes that Mr. Johnson has heard their intent that they do want to work through this with him.

Mr. Alberty stated that he doesn't want to mislead the applicant. Waiving the application fees is only a small percentage of what it is going to cost him to do a PUD.

Ms. Cantees stated that she would like it to be in the motion that the Planning Commission would consider addressing the fees at a later date.

TMAPC Action; 8 members present:

On **MOTION** of **JACKSON**, TMAPC voted **8-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins, Midget "absent") to **CONTINUE** Z-7020 to November 15, 2006 and the fee structure will be amended upon the receipt of a PUD.

OTHER BUSINESS:

Application No.: PUD-670

DETAIL SITE PLAN

Applicant: Roy Johnsen

(PD-6) (CD-9)

Location: 3138 South Rockford

STAFF RECOMMENDATION FOR PUD-670:

The applicant is requesting approval of a detail site plan for a new residence. The proposed use, Use Unit 6, Single-Family Dwelling, is in conformance with Development Standards of PUD-670.

The proposed residence complies with all building setback requirements and height restrictions. The proposed parking and walls are outside of the South Rockford right-of-way, although parking is designed such that two feet of the required eighteen-foot stall length is provided as overhang beyond the permanent wheel stop (curb) as permitted per Section 1303.A.3 of the zoning code. The proposed six-foot front screening fence is comprised of four feet of wrought iron on a two-foot masonry base as required per development standards as amended by City Council on November 21, 2002.

The site plan for the proposed residence complies with all development standards of PUD 670. However, because there has been a history of non-compliance with regard to encroachment of parking and front screening fences into the South Rockford right-of-way on the adjacent north two lots, staff is concerned that without verification through a survey, this site could likewise be built with portions of parking and the screening wall in the right-of-way.

Therefore, staff recommends **APPROVAL** of PUD-670 detail site plan for Lot 7, Block 1, Villarese, but strongly suggests that a survey be obtained for the site to assure that improvements are located and built on the site as proposed.

Mr. Harmon out at 3:56 p.m.

Ms. Bayles asked if it is the property owner that is at fault on the other two lots. In response, Ms. Matthews stated that she doesn't know who is at fault.

Applicant's Comments:

Roy D. Johnsen, 201 West 5th, Suite 501, Tulsa, Oklahoma 74103, representing Rick Taylor (owner/developer), stated the only item before the Planning Commission today is Lot 7. This was a PUD and it is creative infill development, which is very difficult to do. What has happened up to this point is that the first six lots are under development or have been developed. Lot 7 has difficult topography and the Planning Commission required on this one detail site plan approval. Usually that is not required on single-family dwellings in PUDs.

Mr. Johnsen stated that he is now learning that there is more to the story. Mr. Johnsen explained how Lots 5 and 6 were developed including the guest parking. He indicated that there was a problem with the measurements for the right-of-way because of the curve in the street and a reorientation of the drive from being on an angle to a perpendicular. The required walls and part of the parking area were closer to the street than was approved. These two lots are not before the Planning Commission today, but he knows that there will be discussion about this today from the interested parties. Candy Parnell has been on this case for a substantial amount of time and she is satisfied that the remedial steps that are being done on Lots 5 and 6 at this time will solve the problems. Ms. Parnell is satisfied that compliance will be made and Rick Taylor, whose has hired Mr. Puma to be his contractor on these houses, has been instructed to make that compliance with all requirements. The people at the City who are responsible for these duties have discharged them and are satisfied that it is being taken care of.

Mr. Johnsen stated that his client has platted the property and dedicated the right-of-way and fully intends to comply with all requirements. His client doesn't want to do a survey because it is extra expense and totally unnecessary, which is not generally required on any site plan review that he is familiar with. The process is that the applicant brings in the drawings that indicate the setbacks and then staff determines if the drawings meet the requirements and make a recommendation. Usually this is a routine approval. Code Enforcement is who determines whether or not the development is built in accordance with the submitted and approved plans. Mr. Johnsen requested the Planning Commission to look at what is on the agenda today, which is Lot 7, and it meets the requirements and should be approved. Code Enforcement should and is taking care of Lots 5 and 6.

TMAPC COMMENTS:

Mr. Jackson asked staff if the Planning Commission is looking at the detail site plan for Lot 7 today. In response, Mr. Alberty stated that Lot 7 is the only item before the Planning Commission today. Mr. Alberty further stated that he has been assured by Permitting that Lots 5 and 6 will not be granted occupancy permits until corrections are made. That is all the insurance that this Planning Commission and the neighbors need to have. Mistrust and lost creditability due to what has happened on Lots 5 and 6 have caused interest in Lot 7. Mr. Johnsen is right that Lots 5 and 6 should not impact the Planning Commission's action on Lot 7. One should not confuse approval authority with enforcement and permitting authority. Today the only thing before the Planning Commission is approval authority on Lot 7.

Mr. Jackson stated that when the Planning Commission is looking at Lot 7, then the only thing they should be looking for is the rearyard setback, zero lot line and sideyard setback, and frontyard setback. In response, Mr. Alberty concurred.

Mr. Jackson stated that he couldn't understand what the Planning Commission was looking for since it is not across the front building line.

INTERESTED PARTIES:

Steve Austin, 3161 South Rockford Drive, 74105, stated that Lot 7 has some Code Violations. Mr. Austin submitted photographs of the vacant Lot 7 (Exhibit B-1), which indicated that there is silt erosion and the red tag by the City was issued by Neighborhood Inspections for silt erosion. He indicated that he was the only neighbor who supported this development, but now he is at his wits end and requested a continuance.

TMAPC COMMENTS:

Mr. Jackson asked Mr. Austin why he would want the Planning Commission to continue this application because if the developer moves forward, it would remedy the silt erosion. Once the developer has his building permit, then there will be site investigations from the permitting office and they will check erosion control, etc. If there is a problem with tall grass, weeds and standing water, then the neighbors should call the Mayor's Action Line. The Planning Commission is not the weed police. In response, Mr. Austin stated that several people have called the Mayor's Action Line. He wanted to alert the Planning Commission to this situation. He suggested the continuance would allow the developer to improve the situation and have the red tags removed by the City and do what he is supposed to do. The property owner doesn't live in Oklahoma and he doesn't care nor listen to anyone. Mr. Jackson stated that Lot 7 stands on its own building permit and doesn't have anything to do with Lots 1 through 6. Mr. Austin stated that he understands what Mr. Jackson is saying, but he thought the continuance would get the developer's attention.

Mr. Bernard stated that if there are red tags on the subject property, then they can't move forward until the problems are addressed.

Phil Marshall, P. O. Box 52011, 74152, stated the Brookside Neighborhood Association agrees with the staff recommendation since problems have arisen in the past with non-compliance of rules established by PUD-670. He requested that a survey by a license survey company be conducted to show exactly where parking and screening fences are to be placed. Mr. Marshall concluded by requesting that the Planning Commission not approve this site plan and require the applicant to resubmit a site plan by a licensed survey company that indicates where everything is supposed to be placed.

TMAPC COMMENTS:

Mr. Wofford stated that it was his understanding that Lots 5 and 6 are being addressed by the City now. In response, Mr. Alberty answered affirmatively.

Mr. Wofford asked what the survey would show that isn't being addressed at the current time. In response, Mr. Alberty stated that he believes that Mr. Marshall is

stating that the site plan that is being submitted is not based upon a survey of the subject property. He believes that this is where the problems and the discrepancies have occurred. There is an original survey and the pins that were originally set are not able to be located. Perhaps a reasonable approach to this is to determine where everything is before developing Lot 7. This is what staff is suggesting as well, but he is not sure that can be made a requirement as staff, but the Planning Commission could make it a requirement.

In response to Mr. Wofford, Mr. Alberty stated that Mrs. Bengel, Permitting, will visit these sites with the Inspectors next week and physically measure the property themselves. The builder incurs a lot of responsibility to do what the drawings say they are. In the event there is a disagreement and someone presents evidence otherwise, then the only way to solve it is by the presentation of a survey.

Mr. Marshall stated that Mr. Johnsen is correct that this survey is usually not required. However, staff feels that it is so important that they have recommended it.

TMAPC COMMENTS:

Mr. Jackson asked Mr. Marshall if he is asking for the corners to be pinned or have the survey company plot the footprint on the site and stake in the field. In response, Mr. Marshall stated that the pins should be located and have a new site plan by a licensed surveying company and not the drawing that Mr. Johnsen submitted.

Ms. Bayles stated that she is hearing that Mr. Marshall is asking for the developer to ask for permission rather than forgiveness at the next opportunity for this lot to be developed. Ms. Bayles reminded the Planning Commission that she was serving on the Planning Commission when this PUD came through and she thought and felt that the neighborhood went the extra mile. There were some complaints and some concerns, which were addressed. The neighborhood more than met the developer halfway and in this instance the TMAPC should meet the neighborhood more than halfway by giving them the relief that they are asking for. She would support that a survey be obtained as a mandate under this present circumstance.

Ms. Cantees asked Ms. Bayles if she was suggesting a pin-and-stake survey. In response, Ms. Bayles answered affirmatively.

INTERESTED PARTIES:

Keith Franklin, 3135 South Rockford, 74105, stated that he does support staking Lot 7 and providing a detailed site plan. It is most critical to the neighborhood to tie down the parking and the wall so that Code Enforcement can say it is done correctly. The developer has deviated from the detailed site plan for Lots 5 and 6. Mr. Franklin submitted photographs (Exhibit B-1) and stated

that the parking is not built on the south side of the property at all. What has been built out there is in complete deviation from the site plan that was approved by the Planning Commission on June 5. The wall is 13 feet long and the one on the right hand side is 18 feet long. Obviously there has been some major problem with the builder/developer being able to build things according to the PUD. Mr. Franklin cited the issues with Lots 5 and 6 and the citations from the City. He pointed out that the wall on Lot 5 has been removed and is currently being remedied by Inspections.

Mr. Franklin stated that Mr. Puma (developer) has deviated from the plan that he is going to have to come back, according to staff, and submit a revised site plan application because what has been done is nowhere close to what was actually presented. In addition to the requirement for the survey on Lot 7, Mr. Franklin would like Mr. Puma to return with an as-built site plan for Lots 5 and 6 by a licensed surveyor so that staff can truly evaluate whether or not it meets the PUD requirements. Mr. Franklin requested that the development follow what has been approved.

TMAPC COMMENTS:

Mr. Jackson asked if Tanner Consulting worked on this PUD. In response, Mr. Johnsen answered affirmatively. Mr. Jackson stated that he is not interested today on what has happened with Lots 5 and 6. Lot 7 is the item before the Planning Commission today. The Planning Commission has never asked in the past for a licensed surveyor to do these things. In effort to make good faith between the homeowners and Rick Taylor, he asked how hard it would be to have Tanner to flag the corners and put the house on the detail site plan to define the walls so that everyone knows what is going on.

Applicant's Rebuttal:

Mr. Johnsen stated that the property is already platted and there has been a survey. Lot 7 is platted and dimensioned and when someone prepares a site plan, then they take the plat as their base. The building will be placed on that finite space that is recognized as recorded lot. The idea of requiring a surveyor to plot out the house is a little absurd. Architects did the site plan and staff reviewed it and found that as it was submitted it is compliance. That is what is before the Planning Commission today. Apparently on Lot 6 the site plan was approved and the developer built the wall in the wrong place. The process is working because there is an active neighborhood person who alerted the enforcement personnel and now he has to remedy the problem, which is being done. Mr. Johnsen commented that he doesn't believe the Planning Commission should be too worried about their process because it works quite well.

Mr. Johnsen stated that he takes offense to the slam on Rick Taylor because he has built a very fine project and he is in compliance with the PUD provisions until it came down to Lots 5 and 6. However, these issues are being remedied and what is now in front of the Planning Commission is Lot 7. If it meets the

requirements, then his client is entitled to an approval. To require a survey is unnecessary.

TMAPC COMMENTS:

Mr. Jackson stated that he understands Mr. Johnsen's comments. Mr. Jackson asked staff if the site plan meets the requirements of the PUD. In response, Ms. Matthews answered affirmatively.

Mr. Jackson stated that the subdivision is not that old and the only thing possibly missing is the north front pin. He asked Mr. Johnsen if it would be to the extreme to have the corners flagged and move forward with this process for Lot 7. In response, Mr. Johnsen requested that this not be made a requirement because he doesn't believe it is a necessary requirement and he agreed to recommend to his client that this be done. Mr. Johnsen stated that he doesn't think the developer will make the same mistake again.

After a lengthy discussion the Planning Commission recommended continuing PUD-670 detail site plan to October 25, 2006 in order to allow the applicant to flag the corners of Lot 7.

TMAPC Action; 7 members present:

On **MOTION** of **BAYLES**, TMAPC voted **7-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Jackson, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins, Harmon, Midget "absent") to **CONTINUE** the detail site plan for PUD-670 to October 25, 2006.

Commissioners' Comments:

Mr. Bernard stated that earlier there were some questions brought up about staff and questions about what they do and don't do. He has met with staff and there is a concern on their side, as well as the Planning Commission's, about making sure that the public does have the information that it needs in order to make decisions and file applications. We are working and striving to find better ways to communicate with the public and as it has been noted many times, staff is understaffed.

Mr. Ard stated that he would like to have a worksession relating to nominating committee. He believes the rules need to be defined and put into the procedures.

There being no further business, the Chair declared the meeting adjourned at 4:43 p.m.

Date Approved:

12/6/06


Chairman

ATTEST:



Secretary

