

# **TULSA METROPOLITAN AREA PLANNING COMMISSION**

## **Minutes of Meeting No. 2504**

Wednesday, February 6, 2008, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Ard	Cantees	Alberty	Boulden, Legal
Cantrell		Fernandez	
Carnes		Huntsinger	
Harmon		Parker	
Marshall		Sansone	
McArtor			
Midget			
Perry			
Shivel			
Sparks			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, January 31, 2008 at 1:00 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 Ard called the meeting to order at 1:40 p.m.

### **REPORTS:**

#### **Director's Report:**

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

Mr. Alberty reported that after the LEAN process there were some recommendations that staff shorten the processing time for zoning applications from the time they are applied and from the time the City Council receives the transmittal. In the past some of these applications would take 90 to 110 days due to established process in the past. The LEAN process recommended some short-cuts and the performance measurement for this fiscal year was to reduce this to fewer than 75 days and the results for this year were that the average was 56 days.

Mr. Ard congratulated the staff on their performance.

**Minutes:**

**Approval of the minutes of January 23, 2008 Meeting No. 2502**

On **MOTION** of **SPARKS**, the TMAPC voted 9-0-1 (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Midget, Perry, Sparks "aye"; no "nays"; Shivel "abstaining"; Cantees "absent") to **APPROVE** the minutes of the meeting of January 23, 2008, Meeting No. 2502.

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**CONSENT AGENDA**

All matters under "Consent" are considered by the Planning Commission to be routine and will be enacted by one motion. Any Planning Commission member may, however, remove an item by request.

2. **Westgate** – (1327) Final Plat (County)  
South of the southeast corner of East 83<sup>rd</sup> Street North and Yale  
(Whirlpool Drive)

**STAFF RECOMMENDATION:**

This plat consists of 27 lots in two blocks on 20.08 acres.

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

3. **L-20177** – Harden & Associates (9325)/Lot-Split (PD 18C) (CD 5)  
4422 South Mingo Road
4. **LC-76** – Triarch LLC (9306)/Lot Combination (PD 4) (CD 4)  
102 South Lewis
5. **LC-77** – Joel Lake (6407)/Lot Combination (County)  
19995 South Mingo
6. **PUD-670 – Joshua Livingston** (PD-6) (CD-9)  
3144 South Rockford Drive (Detail Site Plan for a single-family residence.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a single-family residence located in PUD-670; Lot 8, Block 1 - Villarese. The proposed use, Use Unit 6 – Single-Family Dwelling is in conformance with the PUD Development Standard.

The proposed site plan meets building, height and setback requirements, as well as minimum livability space/open space requirements.

Access to the site is provided from Rockford Drive, and a private access drive along the western boarder of the PUD. Parking requirements have been met per the Zoning Code and PUD development standards.

A front fence not to exceed a total height of six feet will be constructed according to PUD design standards as well as, the 5/22/03 TMAPC approved PUD "Fencing along Rockford Drive" plan. Any site screening provided along the west boundary of the lot will be limited to wood fencing per development standards.

All other applicable PUD conditions and conditions per the RS-3 district have been met. Therefore, staff recommends **APPROVAL** of the detail site plan for Lot 8, Block 1, -Villarese.

*(Note: Detail site plan approval does not constitute landscape and sign plan approval where applicable.)*

7. **PUD-586-A-5 – James Adair/St. Francis Hospital** (PD-18) (CD-8)

10505 East 91<sup>st</sup> Street South (Minor Amendment to increase overall allowable height for signs from 40 feet to 57.2 feet.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to PUD-586-A for the purpose of increasing the overall allowable height for a sign located in a freeway sign corridor from 40-feet, to 57-feet 2-inches to allow for construction of a clock tower with a sign affixed to the clock tower structure.

PUD development standards allow for the construction of one (1) sign along the site's Interstate 169 frontage not to exceed one foot of display surface area for each lineal foot of freeway frontage; a height limitation of 40-feet; and a separation distance of 300-feet from any other ground sign. The current proposal meets all required PUD standards with the exception of the structure's over all height.

The sign as proposed would be located at the southwest corner of the property, 50-feet from the 91<sup>st</sup> Street right-of-way along the I-169 freeway sign corridor. The sign itself would not exceed the 40-foot height limitation (see applicant's Exhibit A). However, being affixed to the side of the clock tower technically makes the entire clock tower structure a sign. The proposed finished height of the structure is 57-feet 2-inches, a difference of 17-feet 2-inches.

The sign itself does not exceed the allowable 40-foot height limit and the aesthetics of the clock tower structure appears to be non-obtrusive to the surrounding area. The structure will meet all applicable setback requirements

and would consequently not impair traffic. Therefore, staff recommends **APPROVAL** of minor amendment PUD 586-A-5.

*(NOTE: Approval of a minor amendment does not constitute detail plan approval)*

8. **PUD-440-3 – Renovations By Helms, Inc.** (PD-18b) (CD-7)

4904 East 103<sup>rd</sup> Street South (Minor Amendment to reduce the required side yard setback from 35 feet to 25.6 feet.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a minor amendment to PUD-440 for the purpose of reducing the required side yard setback along Yale Avenue from the required 35 feet from the property line to 25 feet six-inches to allow for the construction of an addition to a single-family residence.

Staff has reviewed the request and finds the addition of this proposed one-story, 144 (+/-) square foot room addition to be negligible. The proposed addition would not encroach into any utility easements, and would be screened from South Yale Avenue by an existing six-foot screening fence on top of a masonry stub wall.

A reduction of the side yard setback along Yale Avenue to 27 feet, for the corner identified as Lot 1, Block 1 – Wexford Addition and addressed 4905 East 103<sup>rd</sup> Street South was approved in 1998 as PUD-440-2.

The additional lot coverage of this proposed room addition conforms to the PUD livability space requirement and does not exceed the 35-foot height limitation. Therefore, staff recommends **APPROVAL** of minor amendment PUD-440-3.

9. **PUD-346-B – Deshazo, Tang & Associates** (PD-18) (CD-2)

8887 South Lewis Avenue (Detail Site Plan for a parking lot expansion within Development Area A to allow 17 additional parking spaces.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a parking lot expansion within Development Area A, of PUD-346-B, Lot 2, Block 1 – Burgundy Place, to allow for the addition of 17 parking spaces. The proposed use, Use Unit 10 - Off-Street Parking is in conformance with Development Standards of PUD-346-B.

The proposed site plan meets the applicable parking requirements of Section 1208 of the Zoning Code and exceeds the open space requirement per PUD development standards and the Zoning Code by 23%.

Staff finds the addition of 17 parking spaces to have little, to no negative impact on the over-all development goals of the PUD and therefore recommends **APPROVAL** of the detail site plan for PUD-346-B; Lot 2, Block 1 – Burgundy Place; Development Area A.

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

The Planning Commission considered the consent agenda.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Midget, Perry, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees "absent") to **APPROVE** the consent agenda Items

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**Mr. Ard announced that the following items have requested a continuance:**

12. **Z-7077 – James W. Lane, Jr.** **RS-3/HP to OL/HP**  
North of northwest corner of East 17<sup>th</sup> Street and South Lewis Avenue (Continued from 11/17/07) (PD-6) (CD-4) **(Applicant has filed a PUD application and has requested a continuance to hear this application with the PUD on March 5<sup>th</sup>.)**

**STAFF RECOMMENDATION:**

Mr. Alberty stated that the Lewis Study requires a PUD to be filed with a zoning change and the applicant has filed a PUD which will be heard on March 5, 2008. The applicant would like the zoning case to be heard on the same date.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Midget, Perry, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees "absent") to **CONTINUE** Z-7077 to March 5, 2008.

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## **PUBLIC HEARING**

### **11. PUD-411-E/Z-5842-SP-7 – Lou Reynolds**

(PD-26) (CD-8)

Northeast corner of South Memorial Drive and East 101<sup>st</sup> Street South (PUD Major Amendment and Corridor Plan to amend development standards to create a new Development Area 1A-1.) (Continued from 1/23/08)

#### **TMAPC COMMENTS:**

Mr. Ard stated that the interested parties have requested a continuance for this application.

Mr. Ard requested Mr. Talkington to come forward and explain to the Planning Commission his request for a continuance.

#### **Interested Parties Comments:**

**Brian Talkington** (Ridge Pointe HOA) 8814 East 96<sup>th</sup> Street, 74133; **Matt Hudspeth** (Ridge Pointe HOA), 9536 South 85<sup>th</sup> East Avenue, 74133, stated that the applicant requested a continuance from the January 23, 2008 meeting in order to meet with the homeowners and developer. There were no objections to the continuance because it was a good idea to work these matters out before the hearing. The owner of the subject property and the developer have been in written communication with the homeowners and there are several issues that haven't been resolved. Mr. Hudspeth stated that he is not requesting this continuance for any improper purpose or to delay or harass anyone. He indicated that discussions are still ongoing. Mr. Hudspeth requested a continuance to February 20, 2008. He explained that he works during the day and he has a family so he is trying to balance all of this and would like two weeks to try to meet and resolve these issues.

#### **TMAPC COMMENTS:**

Ms. Cantrell stated that it seems that this is very contentious and asked what could really be accomplished in the two weeks. In response, Mr. Hudspeth stated that there is an issue regarding ingress and egress that is planned for the north portion of the subject property, which is directly across from one of the main entrances and exits to the neighborhood. Mr. Hudspeth commented that his goal is to try to prevent traffic from the subject property going through the neighborhood from 84<sup>th</sup> East Avenue. He understands that the developer and the City of Tulsa are still discussing this issue. There are also some questions regarding the water runoff from Bixby, which have not been answered sufficiently. Mr. Hudspeth expressed concerns with traffic and safety. If the developer could supply satisfactory answers, that might help ease some of his worries, but they haven't been able to do this.

Mr. McArtor asked Mr. Hudspeth if the applicant is opposed to a continuance. In response, Mr. Hudspeth stated that he didn't know, but that he has advised the applicant that he would seek a continuance.

Mr. Hudspeth stated that Mr. Mickey Webb, City Manager of Bixby, is present to speak about this issue.

Mr. Webb stated that the City has separate interests from this group that is opposed to the development. His only interest is the hydraulic situation.

Mr. Ard asked Mr. Webb to give his name and address.

**Mickey Webb**, City Manager of Bixby, no address given, stated that the fact is that he would recommend that the engineers on the subject project get with his engineers because he has already been authorized to take any and all actions necessary to ensure that the drainage system is compatible with Bixby's and meets all City of Tulsa regulations. On a preliminary basis, he realizes that this is a zoning case; it is a long ways from being acceptable. He believes a delay would be to the City's benefit to allow the developers to get with the Bixby engineers and work this out without having to go to court.

**TMAPC COMMENTS:**

Mr. Ard stated that the issues Mr. Webb is concerned with are engineering items that would be worked out through the course of the process in normal discourse. In response, Mr. Webb stated that he realizes that, but whether this is continued or not, he would recommend that staff of the developer contact Bixby's engineers so that he doesn't have to take legal action and to avoid it. Mr. Ard stated that he would be surprised if this didn't happen because it is part of the normal process. Mr. Webb stated that they haven't done this to date. Mr. Ard stated that he knows that Tulsa Stormwater Management would probably mandate this as well. Mr. Webb stated that the information that his engineers have received raises a lot of questions and he has been authorized by the City Council to take whatever legal action necessary. If this isn't resolved, then Bixby will be looking at an injunction.

**Applicant's Comments:**

**Lou Reynolds**, 2727 East 21st Street, 74114, stated that the stormwater issue will be taken care of as part of the platting process and it is a non-issue. Stormwater has to be dealt with because it is the law and it will be taken care of as it is always done. This is not an issue and it is not a concern of the neighborhood at all.

Mr. Reynolds stated that in regards to the continuance, he requested a one week continuance at the January 23<sup>rd</sup> meeting, but the neighborhood requested a two-week continuance at that time. The neighborhood has had their continuance. He explained that he agreed to a two-week continuance to give the neighborhood

the time they wanted. He further explained that the Planning Commission asked if he objected to a two-week continuance and he indicated that he did. His objection to a two-week continuance at that time was because of a deadline that was coming up and difficult to meet. It is very critical that his client doesn't overrun this deadline, but he did go along with the two weeks to help. There really can be no purpose of this additional two-week continuance except to delay the developer. Mr. Reynolds stated that he has kept the Planning Commission updated on the status of the negotiations and his client can't be anywhere close to any of those things. Everything that can be done has been done. His client can't take public streets and make them private in another neighborhood and his client can't buy park equipment for a park and these kinds of things that we have been asked that are not related to this project. Mr. Reynolds indicated that his client will not get any further with the negotiations and a decision needs to be made on these issues so that his client can move forward. Mr. Reynolds concluded that he objects to the continuance.

**TMAPC COMMENTS:**

Mr. Marshall asked for a legal opinion regarding the continuance request. Mr. Marshall stated that usually it is whoever asks for it and then if someone on the opposite side ask for one then it is granted as well. Mr. Marshall further stated that Mr. Reynolds is stating that he didn't ask for the continuance and that the neighbors have already asked for their continuance and he objects to it.

In response to Mr. Marshall, Mr. Reynolds explained that on January 23<sup>rd</sup>, he requested a one-week continuance and the interested parties trumped his one-week continuance with a two-week continuance.

Mr. Boulden stated that he is not sure what legal opinion Mr. Marshall needs on this because there is no legal issue here.

Mr. McArtor stated that it doesn't sound like Mr. Reynolds is interested in any more negotiations. In response, Mr. Reynolds answered affirmatively.

Commissioner Perry stated that, admittedly, he is in a different situation, being brand new to the Planning Commission. He explained that he is in the process of going through a learning curve regarding procedures, the Zoning Codes and a lot of information. Admittedly, his perspective is different and he feels that he has a need to study the application more and he would move to continue this application for two weeks.

Mr. Carnes seconded the motion for a two-week continuance.

Ms. Cantrell asked if Councilor Christiansen would like to speak about the continuance.



Mr. McArtor asked Mr. Reynolds about the deadline he had mentioned earlier and what would be the impact if this was continued. In response, Mr. Reynolds stated that he has a store development meeting and he has to have a prepared product to discuss and present to the end-user in early March. He needs to have this project prepared and ready to go by this time. Mr. Reynolds explained that this was mentioned two weeks ago and this is what he is up against. This is necessary so that his client can forecast and budget their construction obligations for the upcoming fiscal year.

Mr. McArtor asked Mr. Reynolds if the interested parties were granted a continuance and this Planning Commission were to approve the application within two weeks (not saying that it would be approved), could the applicant still be ready for the deadline. In response, Mr. Reynolds stated that it would depend on what happens after the Planning Commission's approval.

Mr. Harmon stated that there are a lot of people present and he feels that they should be heard today rather than arbitrarily granting a continuance. He explained that he wouldn't be opposed to the continuance if it would produce any results, but after listening to Mr. Reynolds, he isn't sure anything would be produced, but he would like to hear from the other interested parties who have signed up today before voting on a continuance.

Mr. Ard stated that he agrees with Mr. Harmon's statement and in the last meeting, it was agreed that Mr. Talkington would represent the neighborhood in those matters. It was agreed with the majority of the crowd present at that time.

Unidentified speaker approached the podium and asked for a show of hands of agreement for the two-week notice. (Applause.)

Mr. Ard stated that it appears that the interested parties are in agreement with the two-week continuance.

Mr. Ard asked Councilor Christiansen if he had anything to add.

Councilor Christiansen stated that he is in favor of the continuance. He believes that there is some hope that the two sides will get together. Councilor Christiansen indicated that he attended several meetings between the two sides and he is in favor of the continuance. This issue will highly impact a larger number of people.

Ms. Cantrell asked Councilor Christiansen if he sees some progress. In response, Councilor Christiansen stated that there has been some very good communication from one side to the other. He believes that there are some issues that are obviously still issues. He commented that a lady from Target traveled from Minnesota to Tulsa for one of the meetings. It has been a positive thing as far as he can tell.

Mr. Reynolds stated that the lady from Minnesota has come to Tulsa today for this meeting and at the last meeting she attended with the neighbors was shouted down and did not want to be heard from. It is sad because it wasn't the rank-and-file kind of meeting; it was leaders and she was treated poorly and rudely. He explained that the Target representative can't keep coming down and the dialogue is at a standstill and it is time to take this forward and vote on it.

Mr. Marshall asked Mr. Reynolds if Target was the only tenant or if there would be other tenants. In response, Mr. Reynolds stated that there will be other tenants and he has diagrams, etc. of the construction plans.

Mr. Hudspeth approached the podium to address Mr. Reynolds' statements.

Mr. Ard stated that the Planning Commission is handling the continuance issue right now.

Mr. Hudspeth stated that Mr. Reynolds presented a mischaracterization of what happened at the meeting with the lady from Target and Mr. Reynolds was not present at that meeting.

Mr. Ard stated that the Planning Commission is in review of the continuance issue. Mr. Ard further stated that he understands Commissioner Perry's position on this issue. However, he would be of the opinion to hear this application today because there has been a two-week period of time; there has been dialogue and several meetings. It appears that the applicant feels that they have made their best and final offer. Mr. Ard explained that he understands the position of the neighbors wanting to try to work something out, but he believes it is time to hear this application.

Ms. Cantrell stated that initially she was in favor of hearing this application today, but there seems to be some things that maybe the City can bring in regarding the streets. If Councilor Christiansen sees that there is some progress, than she is inclined to defer to him.

Mr. Midget stated that he doesn't have a problem with continuing this case, but he is concerned whether or not anything substantive will come from the continuance because of the information he has received from the neighborhood. He doesn't know what all the developers can do in regard to this particular project.

Mr. Carnes stated that he doesn't think the continuation will help, but historically the Planning Commission has always granted the applicant one continuance and the interested parties' one continuance. The applicant asked for the continuation last time and the neighbors are asking this time. This will be playing fair on both sides of the street.

Mr. Harmon stated that he can appreciate the concerns of Commissioner Perry and Councilor Christiansen, but he agrees with the Chairman that it is time to hear this and go through it. He doesn't believe things will be significantly different two weeks from now.

Mr. Marshall stated that the Planning Commission has received a lot of information from the neighborhood today and he hasn't had time to review it. He indicated that he would be in favor of a continuance.

Mr. McArtor stated that from what he has heard today he doesn't think two weeks will make much difference, but he has seen situations where he didn't think cases would be mediated and they were. "Hope" is the byword and everyone would like to see the two sides work things out cooperatively. Two weeks would probably not be a bad idea with "hope" being the byword.

Mr. Sparks stated that he would like to know what the neighborhood's objection goals are for the two weeks. In other words, what is planned for these two weeks. In response, Mr. Hudspeth stated that the developer has been working with the neighbors and they have made some changes in the plan. Mr. Hudspeth outlined changes that have already been made and issues that are still not resolved.

Mr. Reynolds suggested that the Planning Commission hear the case and if they still believe there should be a continuance for two more weeks, then so be it. He believes that the Planning Commission should hear this case and arguments because he believes what his clients have done is very spectacular, much more extraordinary than is typically seen around here. He believes that his client is being stalled.

**TMAPC Action; 10 members present:**

On **MOTION** of **PERRY**, TMAPC voted **6-4-0** (Cantrell, Carnes, Marshall, McArtor, Perry, Shivel "aye"; Ard, Harmon, Midget, Sparks "nays"; none "abstaining"; Cantees "absent") to **CONTINUE** PUD-411-E/Z-5842-SP-7 to February 20, 2008.

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

13. **Z-7086 – LOI Thivan & UT Van Le**

**OM/CS to CS**

Southwest corner of East 21<sup>st</sup> Street and South 109<sup>th</sup> East Avenue (Related to Item 14.) (PD-17) (CD-5)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11817, dated June 26, 1970, established OM zoning for the subject property. The PUD overlay and CS underlying zoning were established by Ordinance number 20675, dated September 17, 2003.

**PROPOSED ZONING:** CS (\*if approved, this application will necessitate abandonment of the overlaying PUD)

**PROPOSED USE:** Retail services

**RELEVANT ZONING HISTORY:**

**Z-6903 September 2003:** All concurred in approval of a request for rezoning a .39± acre tract of land from OM to CS/PUD for computer store and repair with internet coffee shop on property located southwest corner East 21<sup>st</sup> Street South and South 109<sup>th</sup> East Avenue.

**PUD-689 September 2003:** All concurred in approval of a request for rezoning a 1.15± acre tract of land for computer store and repair with internet coffee shop on property located southwest corner East 21<sup>st</sup> Street South and South 109<sup>th</sup> East Avenue.

**BOA-17575 November 1996:** The Board of Adjustment approved a request for a special exception to allow a mini-storage facility on the tract abutting the subject tract on the west, subject to approval of a site plan by the Board prior to issuance of a building permit.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 4.13± acres in size and is located southwest corner of East 21<sup>st</sup> Street and South 109<sup>th</sup> East Avenue. The property appears to be vacant with some residential and is zoned OM/CS/PUD-689.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 21 <sup>st</sup> Street South	Primary arterial	120'	4+ turn lanes
South 109 <sup>th</sup> East Avenue	N/A	N/A	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east across South 109<sup>th</sup> East Avenue by commercial and mixed uses, zoned CS; on the north by single-family residential uses, zoned RS-3; on the south largely by single-family residential uses, zoned RS-3, and some multifamily mixed uses, zoned RM-1; and on the west by single-family residential uses, zoned RS-3.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 17 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates the OM-zoned portion of this area as being Medium Intensity-Office land use and the CS-zoned portion as being Medium Intensity-No Specific land use. According to the Zoning Matrix, the requested CS zoning **is** in accord with the area designated by the Plan as Medium Intensity-No Specific land use and **is not** in accord with the area designated by the Plan as Medium Intensity-Office land use.

**STAFF RECOMMENDATION:**

Based on the District Plan and the majority of surrounding uses, staff cannot support the requested CS zoning. The location, moreover, does not meet the Development Guidelines requirements for a medium intensity node, which requires location at the corner of an arterial/arterial intersection. Therefore, staff recommends **DENIAL** of CS zoning for the portion currently zoned OM on Z-7086.

**Applicant's Comments:**

**Kamlesh Aggarwal**, Sooner Reality Properties, 2709 South 27<sup>th</sup> Street, Muskogee, 74401, representing the buyers, stated that her client would like to have an oriental market on the subject property, which would not be a heavy commercial use or heavy traffic. She requested that the Planning Commission approve her request.

**TMAPC COMMENTS:**

Mr. Ard explained that if the Planning Commission approved the subject property to a straight CS zoning it would allow uses that may not be compatible with the surrounding residential areas that abut the subject property. Staff believes that this is too intensive use for the subject property adjacent to the single-family residential areas and apartments. Mr. Ard explained to Ms. Aggarwal that the Planning Commission only recommends to the City Council and the final decision would be theirs. Each Planning Commissioner has a vote and opinion, but he simply wanted to explain to her why the staff recommended denial of the CS for the portion currently zoned OM.

Ms. Cantrell asked if the applicant could file a PUD and achieve their goals. In response, Mr. Alberty stated that whatever intensity would be permitted with that existing commercial could be spread through a PUD and that was done with the

PUD the applicant is requesting to be abandoned (PUD-689-A). A PUD probably wouldn't allow as much floor area that she is requesting and there may be a need to expand it. That would be one way to solve the problem rather than asking for straight zoning, which would allow commercial zoning to empty out onto a residential street on the south. A PUD would be necessary with conditions to even consider allow commercial zoning to expand into the subject area.

After a lengthy discussion it was determined that the applicant would need to continue her zoning case and file an accompanying PUD. At the same time the existing PUD-689-A could be abandoned. Ms. Aggarwal indicated that she would be in agreement to continue her applications and file a PUD for the entire subject property to allow the CS to expand and achieve her client's goals.

**Interested Parties Comments:**

**David Zietlow**, 2206 South 108<sup>th</sup> East Avenue, 74129, stated that he would prefer that the subject property remain as it is because it is a wooded lot that his property faces. He expressed concerns that commercial development on the subject property would devalue his property.

**TMAPC COMMENTS:**

Mr. Perry asked Mr. Zietlow if he ever anticipated that at some point the subject property would be developed in possibly a commercial area. In response, Mr. Zietlow stated that he knew it could be possible, but hoped that it would never happen.

Mr. Shivel suggested that Mr. Zietlow meet with the applicant's representative and see what the proposal is. In response, Mr. Zietlow stated that he has talked with them on the phone and has talked with Ms. Aggarwal today prior to the meeting.

Mr. Harmon informed Mr. Zietlow that a PUD would give him protections and it is a very positive thing that the owner is willing to file a PUD.

**TMAPC Action; 10 members present:**

On **MOTION** of **HARMON**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Midget, Perry, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees "absent") to **CONTINUE** Z-7086 to April 2, 2008 in order to file a PUD to cover the entire area of the subject property.

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14. **PUD-689-A – LOI Thivan & UT Van Le**

(PD-17) (CD-5)

Southwest corner of East 21<sup>st</sup> Street and South 109<sup>th</sup> East Avenue  
(Major Amendment to abandon PUD-689 and remove the OM zoning  
portion from the site and extend the underlying CS zoning to the  
remainder of the tract.) (Related to Item 13.)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 20675 dated September 17, 2003,  
and 11817 dated June 26, 1970, established zoning for the subject property.

**PROPOSED ZONING:** CS/PUD-689-A      **PROPOSED USE:** Retail services

**RELEVANT ZONING HISTORY:**

**Z-6903 September 2003:** All concurred in approval of a request for rezoning a  
.39+ acre tract of land from OM to CS/PUD for computer store and repair with  
internet coffee shop on property located southwest corner East 21<sup>st</sup> Street South  
and South 109<sup>th</sup> East Avenue.

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**BOA-17575 November 1996:** The Board of Adjustment approved a request for  
a special exception to allow a mini-storage facility on the tract abutting the  
subject tract on the west, subject to approval of a site plan by the Board prior to  
issuance of a building permit.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 4.13+ acres in size and  
is located southwest corner of East 21<sup>st</sup> Street and South 109<sup>th</sup> East Avenue.  
The property appears to be vacant with some residential and is zoned  
OM/CS/PUD-689.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 21 <sup>st</sup> Street South	Primary Arterial	120'	4
South 109 <sup>th</sup> East Avenue	Residential Collector	60'	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by Garnett Acres Addition, zoned CS; on the north by 21<sup>st</sup> Street and Magic Circle Addition, zoned RS-3; on the south by Magic Circle Second Addition, zoned RS-3/RM-1; and on the west by Mesa Park, zoned RS-3.

**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 being medium intensity. According to the Zoning Matrix, the underlying OM/CS zoning is in accord with the Plan. Also, the applicant has requested to rezone the subject property to CS under rezoning application Z-7086 which is also on the February 6, 2008 agenda. The requested CS zoning is also in accord with the Plan.

**STAFF RECOMMENDATION:**

This property is currently zoned OM/CS/PUD-689 and is located on the south side of 21<sup>st</sup> Street South on the west side of 109<sup>th</sup> East Avenue. The applicant is requesting abandonment of PUD-689 and has a pending rezoning application, Z-7086 requesting removal of the OM portion of the site and extending the underlying CS zoning to the remainder of the tract.

According to the Zoning Code upon abandonment of the PUD and approval by the City Council, the zoning of the tract reverts back to the underlying zoning. Staff finds that the OM zoning on the west and south of this parcel provides an adequate buffer for the residential areas located south and west of this site.

Upon abandonment of the PUD and approval by the City Council, the City Council upon an applicant's request may amend the underlying zoning of the tract. Should the rezoning request for the tract be approved the new CS zoned lot would also be buffered from the residential lots immediately to the south and west by intermediary OM zoned tracts.

Based on the aforementioned, staff recommends **APPROVAL** of major amendment PUD-689-A, permitting the abandonment of PUD-689 subject to conditions recommended by the Technical Advisory Committee during the PUD abandonment process which are approved by TMAPC.

TAC comments from 1/17/08:

**General:** No comments.

**Water:** No comments.

**Fire:** No comments.

**Stormwater:** Will there be a new PUD for this site?

**Wastewater:** No comments.

**Transportation:** No comments.

**Traffic:** No comments.

**GIS:** No comments.

**Street Addressing:** No comments.



**County Engineer:** No comments.

After a lengthy discussion it was determined that PUD-689-A should be continued to April 2, 2008.

**TMAPC Action; 10 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Midget, Perry, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees "absent") to **CONTINUE** PUD-689-A to April 2, 2008.

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15. **Z-7087 – City of Tulsa-Tulsa Airport Improvements Trust** **RS-3 to IM**

Land surrounding Tulsa International Airport (PD-16) (CD-3)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11910, dated June 26, 1970 established zoning for the subject property.

**PROPOSED ZONING:** IM

**PROPOSED USE:** Airport related, car rental, airplane repair, etc.

**RELEVANT ZONING HISTORY:**

**BOA-18560 November 9, 1999:** The Board of Adjustment approved a Special Exception to allow an airport and airport accessory uses on property located south of the Gilcrease Expressway and most of the subject property.

**Z-6618 February 1998:** All concurred in approval of a request for rezoning a 1.35+ acre tract of land from RS-3 to IM on property located southeast corner of North 69<sup>th</sup> East Avenue and East Virgin Street and abutting west of a portion of subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 148+ acres in size and is located surrounding the Tulsa International Airport. The property appears to be -- and is zoned RS-3.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
Gilcrease Expressway	Expressway	varies	varies

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

**SURROUNDING AREA:** The subject tract is almost entirely surrounded by airport and related uses, with various Industrial and Commercial zoning designations.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 16 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates the southern part of this area as being Low Intensity-No Specific land use and the northern part as being in Special District 1 – Airport and Related Uses. According to the Zoning Matrix, the requested IM zoning **may be found** in accord with the Plan designation of Special District designation and **is not** in accord with the Low Intensity-No Specific land use designation.

**STAFF RECOMMENDATION:**

The airport has been acquiring adjacent properties for many years for its own uses, for noise abatement purposes and to protect its perimeters. Staff can support the requested IM zoning and therefore recommends **APPROVAL** of IM zoning for Z-7087.

Staff further notes that if the TMAPC is inclined to approve the above zoning, they should direct staff to prepare amendments to the District 16 Plan map to enlarge Special District 1.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Midget, Perry, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, "absent") to recommend **APPROVAL** of the IM zoning for Z-7087 per staff recommendation and direct staff to prepare an amendment to the District 16 Plan map.

**Legal Description for Z-7087:**

All of Lots 1, 2, 3, and 24, Block 3, all of Blocks 4, and 5, and Lots 1, and Lot 24, Block 6, all of Blocks 8,11, 12, 13, 14, 15, 16, 17, and Lots 1-8, Lots 17-24, Block 18, All of Blocks 19, 20, 21, and Lots 1-6, Block 22, Mohawk Ridge Addition **And** PRT OF W/2 NW SEC 26 20 13 TR IN CTY MORE FULLY DESC IN BOOK 3911 PAGE 606 & BOOK 3864 PAGE 411 OFFICE OF T COUNTY CLERK SEC 26 20 13 **And** BEG 2177.97S & 362.16NE NWC TH NE930.98 SE326.70 NW988.80 NE277.96 POB SEC 26 20 13 6.61ACS **And** N140' of the W300' LT 3 Aerial Heights **And** Lots 1 Thru 12 SUB Lots 3 & 4 & S25' of Vacated ZION ST Adjoining on the North, and N90 S115 W300 LT 3 & E30 &

S25 LT 3 & E25 VAC 73 AVE ADJ ON West, Aerials Heights Sub of part of Lots 3 & 4 Aerial Heights **And** Lots 13-20, a re-sub of Lot 8 Aerial Heights and the West 118' of the south 401.57' of Lot 9 Aerial Heights also know as part of tracts C and D, Aerial Heights Sub 8-9, **And** LTS 1 THRU 24 SUB LTS 1 & 2 & VAC 73 AVE & S25 VAC YOUNG PL ADJ ON N & W., AERIAL HGTS SUB L1-2 **And** BLK 3 & 6 THRU 9 & VAC XYLER ST & WOODROW ST & VIRGIN PL & 73 AVE & 73 PL & 73 CT & 75 AVE ADJ THERETO LESS PRT FOR HWY **And** LTS 9 THRU 21 BLK 11, Douglas Park **And** W1/2 NE SE N RY LESS E 30 RD & LESS 3.16AC & NW SE N RY LESS 2.28AC LESS 5.52AC TO CTY SEC 26 20 13 **And** BEG PT 25E & 40.5N OF SWC SW NE TH N. 274.5' E150' S274.5' W150 POB SEC 26 20 13 **And** N. 704.96' OF W175 NW SE LESS W25 & LESS N40 THEREOF SEC 26 20 13 **And** BEG 25E & 765.1S NWC SE TH ELY ON NL OF RY 150.76N44 W150 S56 POB SEC 26 20 13 **And** All of Vacated Block 2 Aerial Heights Third Addition **And** All of Vacated Block 1 and 4, Aerial Heights Second Addition, less that part that is already zoned IL **From RS-3 (Residential Single-family District) To IM (Industrial Moderate District).**

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16. **PUD-619-C – Charles E. Norman**

(PD-26) (CD-8)

North of northwest corner South Memorial Drive and East 111<sup>th</sup> Street (Major Amendment for a health club/spa with an enclosed swimming pool, an outdoor swimming pool and several minor amendments regarding height, setbacks, landscaping, signs, etc.)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 21432 dated December, 2006, established zoning for the subject property.

**PROPOSED ZONING:** RS-3/AG/CS/PUD-619

**PROPOSED USE:** Commercial

**RELEVANT ZONING HISTORY:**

**PUD-619-B December 2006:** All concurred in approval of a proposed Major Amendment to PUD-619 on a 34.3± acre tract of land to add property to the existing PUD for commercial use, on property located north of northwest corner of South Memorial Drive and East 111<sup>th</sup> Street South.

**PUD-619-A November 2006:** All concurred in approval for a proposed Major Amendment to PUD-619, with modifications to the staff recommendation, for commercial and hotel uses on a 29.34± acre tract located on the west side of South Memorial Drive at East 106<sup>th</sup> Street and the subject property.

**Z-7032 November 2006:** All concurred in approval of a request to rezone a 7.46± acre tract, of the subject property, from RS-3/OL to CS, for commercial and hotel use.

**Z-6952/PUD-707 October 2004:** All concurred in approving a request to rezone a 37.25± acre tract from AG to RS-3/RD/OL and a Planned Unit Development overlay for a mixed use development with office park, single-family residential and duplex uses per staff recommendation.

**Z-6922/PUD-370-B February 2004:** All concurred in approving a request to rezone a 9.87± acre tract from RM-1/RS-2/PUD to CS/OL/RM-1/RS-2/PUD and a Major Amendment to PUD with modifications made by the TMAPC pertaining to an 8 foot privacy fence on western boundary, restricting windows on the 2<sup>nd</sup> story of west walls and office buildings being residential in character.

**PUD-570-A April 2001:** All concurred in approval of a Major Amendment to a PUD on a .74± acre tract to add Use Unit 18 to permitted uses, and change the parking setback from west boundary on property located north of the northwest corner of East 111<sup>th</sup> Street and South Memorial.

**Z-6795/PUD-578-A January 2001:** All concurred in approval of a request to rezone 4.5 acres of the existing PUD-578 from RS-3, RM-1 and OL to CS and a Major Amendment to the PUD to consolidate the original development areas A and B, to delete the previously approved residential uses, and to establish new standards for commercial uses. The property is located in the northwest corner of East 111<sup>th</sup> Street South and South Memorial Drive.

**Z-6722/PUD-619 December 2000:** A request to rezone a 34± acre tract from AG to CS/OL/RS-3 with a Planned Unit Development overlay zoning for a commercial, office and residential development. The TMAPC recommended approval per staff recommendation and the City Council concurred in approval subject to modifications of the development standards.

**PUD-578 February 1998:** A request for a Planned Unit Development on a 35.7± acre tract, located at the northwest corner of E. 111<sup>th</sup> Street S. and S. Memorial Drive and abutting the subject tract on the south, to allow for a commercial and mixed dwelling type residential development was approved, subject to conditions.

**Z-6604/PUD-570 February 1998:** All concurred in approval of a request to rezone a 2.7± acre tract located north of the northwest corner of E. 111<sup>th</sup> Street S. and S. Memorial and south of the subject tract from OL to CS with a PUD for a four lot commercial development.

**PUD-370-A July 1997:** All concurred in approval of a major amendment to allow a telecommunication tower on the property abutting the subject tract on the north and to the west of the existing church that is located on the property.

**PUD-378-A January 1997:** A request for a major amendment to change the permitted uses in development areas, in PUD-378 originally approved for an office and commercial development, from greenbelt and offices uses to a single-family gated, residential development. The property is located on the southwest corner of East 101<sup>st</sup> Street South and South Memorial Drive.

**PUD-485-A February 1995:** All concurred in approval of a major amendment to PUD-485 to increase the permitted floor area to approximately 30% from 30,000 square feet to 38,859 square feet to accommodate a basketball and batting area and a mezzanine. The property is abutting the subject tract on the southeast east.

**Z-6350/PUD-485 March 1992.** All concurred in approval of a request to rezone a 2.5 acre tract located abutting the subject property on the southeast east, from AG to CS to permit an indoor and outdoor athletic training center.

**BOA-14410 April 1987:** The Board of Adjustment approved, per conditions, a special exception to permit a golf driving range and related activities, in an AG zoned district on the subject tract.

**Z-5973/PUD-370 September 1984:** A request was made to rezone 10 acres abutting the subject tract on the north from AG to RM-1/PUD for a church and multifamily uses. All concurred in approval of RM-1 zoning on the east 350' and RS-2 on the balance of the tract and the Planned Unit Development.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 36.7 ± acres in size and is located north of the north-west corner of Memorial Drive and East 111<sup>th</sup> Street South. The property appears to be mostly vacant and is zoned RS-3/CS/PUD-619.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South Memorial Drive	Primary Arterial	120'	4

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

**SURROUNDING AREA:** The subject tract is abutted on the east by Memorial Drive, S & L Acres and South Country Estates, both zoned CS; on the north by Avalon Park on Memorial PRT RSB Trinity Addition Amended, zoned RM-1/RS-2; on the south by Wal-Mart Super Center, zoned RS-3/RM-1/CS/PUD 578-A; and on the west by vacant land, zoned AG.

### **RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 26 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being low intensity with a special linear development area immediately adjacent to Memorial Drive. According to the Zoning Matrix, the existing AG and RS-3 zoning **is in accord** with the Plan. The Comprehensive Plan states that Linear Development Areas are areas within which "certain modifications of intensity and change in zoning may be permitted". The existing CS zoning immediately adjacent to Memorial Drive - a Linear Development Area - **has been found** to be in accord with the Plan.

### **STAFF RECOMMENDATION:**

The site comprises approximately 36.7± acres located on the west side of Memorial Drive, approximately 1,310 feet north of East 111<sup>th</sup> Street South. The original Memorial Commons Planned Unit Development, PUD-619-A, was approved by the Tulsa Metropolitan Area Planning Commission on August 2, 2006 and by City Council on October 12, 2006. The Champions Athletic Complex five acre tract was acquired, and by major amendment was added to Memorial Commons in approval of major amendment PUD-619-B. PUD-619-B was approved by the Tulsa Metropolitan Area Planning Commission on October 4, 2006 and by the Tulsa City Council on November 30, 2006.

As a result of the approval of PUD-619-B, the U.S. Army Corps of Engineers require mitigation along and near the Southwest corner of the PUD, to compensate for the loss of a wet area near the center of the Development Area.

The applicant is now proposing two major amendments the PUD to allow Use Unit 19 – Hotel, Motel and Recreation for a Health Club/Spa with an enclosed swimming pool and Use Unit 20 – Commercial Recreation: Intensive, to allow for an outdoor swimming pool only, to the uses permitted within Memorial Commons. These amendments would allow for a health club/fitness center which would anchor the development of the PUD.

In order to facilitate the development of the health club/fitness center, the applicant is also requesting minor amendments to the PUD which include the following:

1. An increase in the maximum building height for the parapet of the health club only from 35', to 42' and the permissible height of the skylight to 57';
2. Reduce the minimum building setbacks from the West boundary of the PUD from 105' to 100';
3. To amend the internal landscape open space requirement to permit within the south 440' of the west boundary, the location of the wet pond required by the U.S. Army Corps of Engineers and the reduction of the rows of loblolly pine trees to two rows with a third row of trees to be determined at

detail site plan review;

4. To permit business ground signs along the South Memorial Drive frontage per the attached Exhibit H. The signs shall be spaced no less than 100 feet apart and would allow a maximum display surface area of 80 square feet and allow a maximum height of each sign of 10 feet;
5. To switch previously approved multi-tenant identification sign and establish the larger sign with a maximum of 240 feet at the southern entrance along South Memorial Drive and the secondary center and tenant identification sign at the northern entrance from South Memorial Drive.
6. To add one monument sign at the internal entrance of the for the Health Club/Spa lot (being platted as Lot 1, Block 1, Memorial Commons) with a maximum height of eight feet, a maximum length of 14 feet, and a maximum display surface area of 40 feet not including the masonry structure on which the display surface area will be located;
7. To add one monument sign on the north side of the northern entrance on South Memorial Drive for the identification of the principal entrance to the Health Club and to the permitted hotel with a maximum height of 12 feet, a maximum length of 14 feet, and a maximum display surface area of 70 feet not including the masonry structure on which the display surface area will be located;
8. To permit light standards located in parking areas adjacent to the Health Club which are also within 200 feet of the West boundary to be 25 feet high, while keeping the light standard maximum height of 12 feet within the remainder of the West 200 feet of the PUD, and keeping the prohibition against any lights within the West 75 feet;
9. To reduce the bulk and trash containers set-back from the west boundary of the PUD from 120' to 105';
10. To permit within the Health Club lot a Temporary Sales Office for the Health Club containing not more than 2200 square feet which shall be removed immediately after the issuance of a Certificate of Occupancy for the Health Club;

The Proposed Final Plat reflecting the changes to the approved Preliminary Plat required by the Corps of Engineers, the addition of the Champions tract (PUD-619-B) and to accommodate the Health Club/Spa are shown on Exhibit I.

Staff finds the amended uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-619-C to be: (1)

consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-619-C subject to the following conditions as amended by staff:

1. The applicant's Concept Development Plan and Text be made a condition of approval, unless modified herein.
2. Development Standards:

**AREA:**

Net:	34.3 AC	1,494,108 SF
Gross:	36.7 AC	1,597,533 SF

**PERMITTED USES:**

Permitted uses shall include the uses permitted as a matter of right in the CS --Commercial Shopping Center District, Use Unit 19, Hotel, Motel and Recreation for a Health Club/Spa and an enclosed swimming pool use only; Use Unit 20 – Recreation: Intensive for an unenclosed swimming pool only; and uses customarily accessory to permitted uses but shall exclude Use Unit 12A.

**MAXIMUM PERMITTED FLOOR AREA:**

Commercial	333,433.65 SF
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**MAXIMUM BUILDING HEIGHT:**

Commercial Buildings	35 FT
Hotel—Motel	75 FT
Health Club/Spa	<del>35 FT</del>
Parapet	42 FT
Skylight	57 FT

**MINIMUM BUILDING SETBACKS:**

Commercial Buildings:	
From South Memorial Drive right-of-way	70 FT
From the west boundary	100 FT
From the north boundary	50 FT
From the south boundary	25 FT
Hotel—Motel:	
From South Memorial Drive right-of-way	350 FT
From the west boundary	600 FT
From the north boundary	50 FT



From the south boundary

25 FT

*Internal building setbacks shall be established by the detail site plan review.*

**OFF-STREET PARKING:**

Off-street parking as required by the applicable Use Units.

**MINIMUM INTERNAL LANDSCAPED OPEN SPACE:**

A minimum of 10% of the net land area shall be improved in accord with the Landscape Chapter of the Tulsa Zoning Code as internal landscaped open space, which shall include at least five feet of public street frontage landscaped area.

A landscaped open space not less than 75 feet in width shall be located along the west boundary of the planned unit development. A minimum of 57.5 feet of the 75 feet width shall be planted in trees as a buffer zone, on a spacing pattern as designated below. Approved trees shall be southern magnolia, loblolly pine, bald cypress and Canarti juniper. All trees shall be one gallon or greater size when planted. The entire buffer zone shall have irrigation provided and any trees dying shall be replaced in a timely manner and at the expense of the then-property owner(s) of any adjacent lots and reserve areas within PUD-619-C. Trees shall be planted in not less than three continuous north to south rows. The westerly-most row shall be of southern magnolias spaced not more than 12 feet on center in the north/south direction. The center row shall be of a mix of loblolly pine trees and bald cypress spaced not more than 12 feet on center in the north/south direction and offset north to south from the westerly-most row spacing. The easterly-most row shall be Canarti juniper spaced not more than six feet on center in the north/south direction. The distance between rows in an east-west direction shall be approximately 20 feet. Where location of the easterly-most row is restricted by the pond, the third row shall be of bald cypress planted along the east bank of said pond. of not more than 177 square feet per loblolly pine tree or southern magnolia tree (each tree 15 feet on center from the next) except within the South 440 feet of the West boundary where the wet pond required by the Corps of Engineers is located within which three rows trees shall be planted, two rows of loblolly pine trees shall be planted and one row which may require varying species to be determined at detail landscape plan review. Canarti Juniper trees shall be positioned between all loblollies or magnolias on a checkerboard pattern. All trees shall be one gallon size when planted. The entire buffer zone shall have irrigation provided and any trees dying shall be replaced in a timely manner and at the expense of the then-property owner(s).

For purposes of calculating the landscaping required under Section 1002 of the Tulsa Zoning Code, the South Memorial Drive street-yard shall be considered as 50 feet from the west right-of-way line.

**SCREENING:\***

~~An eight-foot solid masonry wall shall be erected along the west boundary of the PUD, the design of which shall be determined at detail site plan review.~~

A permanent, concrete, screening and security wall shall be constructed along the entire 1215 feet common property line between the Carlton property and Memorial Commons. All portions of said wall shall be maintained by the then owners of adjacent lots and reserve areas within Memorial Commons, and not be allowed to fall into disrepair or unsightliness. Fencing shall be Verti-Crete of Oklahoma precast concrete by Liberty Precast or equivalent. Fencing shall meet the following minimum standards:

- A. Footing design shall be site specific and adequate to meet all pertinent design standards or regulations incorporating reasonable safety factors, and
- B. Wall sections will have no gaps between the panel and ground, and
- C. Wall sections will have a minimum height from top to adjacent ground level of 7' 8", and
- D. All concrete will be minimum of 4000 psi compressive strength and contain not less than 7.5#/CY of Forta Ferro Fiber, and
- E. Wall sections will be painted by a manufacturer approved contractor using top-rated (per PDCA/MPI Architectural Painting Specifications Manual or equivalent) concrete paint in colors and design complementary to the adjacent buildings and the surrounding environment, and
- F. The wall shall be constructed to standards not less demanding than those specified in that certain engineering drawing by Otis C. Courtright denoted as Project Number 27320-8A.

***\*Note:** The applicant shall provide a certification from an engineer that the screening wall has been designed in accord with the specifications detailed in the letter of agreement dated 2/6/08 (Exhibit A-1)*

**ACCESS AND CIRCULATION:**

According to the Long-Range Transportation Plan, South Memorial Drive is scheduled to be widened to six lanes in 2008. Therefore, staff recommends that a Traffic Impact Study be performed by a Professional Consulting Engineer prior to the design stage (PFPI) in order to determine the best traffic control solutions. The Comprehensive Plan calls for an east-west collector street at approximately 106<sup>th</sup> Street South.

Mutual access shall be provided from the current Champions Athletic Complex to PUD-570-A (Sonic) via a mutual access easement as currently provided on the Champions Athletic Complex plat. Additional access easements to the south boundary in common with PUD-578-A (Wal-Mart) and also at the property's northeast corner (First Priority Bank) shall be provided. These mutual access easements shall be located so as to assure cross access would be possible if and when the adjacent property owners choose to open access on their properties.

**PEDESTRIAN CIRCULATION:**

- (a) Pedestrian circulation shall be provided by sidewalks along South Memorial Drive, on both sides of the major driveways and within the parking areas per letters c and d below.
- (b) Pedestrian access-ways through the parking lots to the buildings shall be separated by no more than 400 feet.
- (c) Pedestrian walkways shall be clearly distinguished from traffic circulation, particularly where vehicular and pedestrian routes intersect.
- (d) 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.
- (e) Pedestrian access shall be provided from sidewalks along South Memorial Drive to the entrances of buildings fronting South Memorial Drive.

**SIGNS:**

- 1) A maximum of four business ground signs permitted on the South Memorial Drive frontage, each not to exceed 80 square feet of display surface area and ten feet in height.
- 2) One center/tenant identification ground sign shall be permitted at the southern entrance on South Memorial Drive with a maximum of 240 square feet of display surface area and 25 feet in total height.
- 3) One center/tenant identification ground sign shall be permitted at the northern entrance on South Memorial drive with a maximum of 160 square feet of display surface area and 25 feet in height.
- 4) Wall signs shall be permitted not to exceed 2.0 square feet of display surface area per lineal foot of the building wall to which it is attached. The length of a tenant wall sign shall not exceed 75% of the frontage of the tenant space. No wall signs shall be permitted on the west-facing

walls of the building within 650 feet of the west boundary of the PUD.

- 5) Building directories and occupant identity signs may be attached to building walls as permitted under the Zoning Code. Tenant signs on westernmost building ~~facing walls~~ shall not exceed one-half of a square foot in display surface area per lineal foot of wall.
- 6) One monument sign shall be permitted at the principal entrance to the Health Club/Spa lot (Lot 1, Block 1, Memorial Commons) with a maximum height of eight feet, a maximum length of 14 feet, and a maximum display surface area of 40 feet not including the masonry structure on which the display surface area will be located.
- 7) One monument sign shall be permitted on the north side of the northern entrance on South Memorial Drive for the identification of the principal entrance to the Health Club/Spa and the permitted hotel with a maximum height of 12 feet, a maximum length of 14 feet, and a maximum display surface area of 70 feet not including the masonry structure on which the display surface area will be located\*.

*Actual location and spacing will be determined at detail sign plan review.*

#### **LIGHTING:**

Light standards within 200 feet of the west boundary shall not exceed 12 feet in height. Light standards within parking areas within the Health Club/Spa lot (Lot 1, Block 1, Memorial Commons) may be 25 feet high. Light standards within the remainder of the planned unit development shall not exceed 25 feet in height.

No outdoor lighting shall be permitted within the west 75 feet of the planned unit development.

All lights, including building mounted, shall be hooded and directed downward and away from the west and north boundaries of the PUD. 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 adjacent AG or RS zoned areas. Compliance with these standards shall be verified by application of the Kennebunkport Formula. Consideration of topography shall be included in the calculations.

No decorative lighting, including but not limited to "wall wash" lighting shall be permitted on any west-facing building wall located within the western 200 feet of the PUD.

No building-mounted lighting on the west walls of any building within the west 200 feet of the PUD shall be mounted higher than 25 feet above ground level.

All lighting standards adjacent to any unenclosed swimming pool area within the PUD shall be limited to 12 feet maximum height.

**EXTERIOR WALL MATERIALS:**

All exterior walls of buildings within 300 feet of the west boundary of the PUD shall be constructed of similar materials as the side and front walls of such buildings and shall be of a color complementary with the side and front walls. All items affixed thereto shall be painted to match the building (this may exclude those portions of utility-owned meters prohibited from painting by the utility company).

**TRASH, MECHANICAL AND EQUIPMENT AREAS:**

Bulk and trash containers shall be set back from the west boundary of the PUD a minimum distance of 105 feet and shall be screened from view from the west. All screening materials shall be similar to the building materials and of a complimentary color. All screens shall be maintained by the owners of Memorial Commons and not be allowed to fall into disrepair or unsightliness.

Notwithstanding the screening fence along the west boundary of the PUD, all trash, mechanical, electrical, HVAC and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by a person standing at ground level adjacent at the west boundary of, or the west 300 feet of the north boundary of the PUD. All screens other than the screening fence along the west boundary of the planned unit development shall be constructed of materials having an appearance similar to the buildings themselves and be of complementary color. All screens and fences shall be maintained by the owners of Memorial Commons and not be allowed to fall into disrepair or unsightliness.

**BUILDING REAR PARAPETS:**

All walls facing west and all walls facing north within 300 feet of the west boundary of the PUD shall be built with a four- to six-foot parapet to conceal roof-mounted vents and equipment. Building rear (or side where applicable) parapets shall be constructed at a height equal to the height of a front wall parapet plus the roof elevation drop across the building. For the purposes of the calculation of the required height of the parapet, the height of the front parapet shall be assumed to be two feet and the roof drop shall be assumed to be three percent from the front to the rear of the roof depth. For example, a building with depth of 75 feet with an assumed two-foot high front wall parapet and a roof drop of three percent would

require a rear parapet of 4.25 feet in height. Such building parapets shall be constructed on all buildings having their rear wall facing west or which are within 300 feet of the west boundary and facing north, provided, no such parapet shall be required to exceed six feet in height above the roof deck level immediately adjacent.

~~All walls facing west and all walls facing north within 300 feet of the west boundary of the planned unit development shall be built with a four to six-foot parapet to conceal roof-mounted vents and equipment from any persons standing at ground level. Such building parapets shall be constructed on all buildings having their rear wall facing west or which are within 300 feet of the west boundary and facing north, provided, no such parapet shall be required to exceed six feet in height above the roof deck level immediately adjacent.~~

**TEMPORARY SALES OFFICE FOR HEALTH CLUB/SPA:**

A Temporary Sales Office for the Health Club/Spa containing not more than 2200 square feet may be located on the lot (Lot 1, Block 1, Memorial Commons) to be occupied by the Health Club/Spa subject to Detail Site Plan approval. The Temporary Sales Office may not be occupied longer than 6 months prior to the opening of the main health club/spa facility and shall be removed immediately after the issuance of a Certificate of Occupancy for the Health Club/Spa.

**NOTICE:**

Any future applications for use by exception or rezoning within the PUD, including lot splits/lot combinations will require advanced notice to all property owners within 300 feet of the Memorial Commons exterior boundaries plus the owners of the 46 acre property located at 10400 South Memorial Drive currently owned by Mr. A.J. (Tony) Solow. Such notice shall be given by both the owners of Memorial Commons and the TMAPC staff.

3. Other conditions of PUD-619-A not amended by PUD-619-C including reference to the agreement between Mr. Charles Norman and Mr. Alan W. Carlton, dated July 26, 2006 and noted as Exhibit 'A' to PUD-619-A, shall remain in full force and effect.
4. 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 and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
5. A detail landscape plan for each development area shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the

zoning officer that all required landscaping and screening fences will be installed by a specific date in accordance with the approved landscape plan for the lot, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.

6. No sign permits shall be issued for erection of a sign on a lot within 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.
7. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
8. 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.
- ~~9. All private roadways and access drives shall have a minimum right of way of 30' and be a minimum of 26' in width for two way roads and 18' for one-way loop roads, measured face-to-face of curb. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor residential public street. The maximum vertical grade of private streets shall be ten percent.~~
- ~~10. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets. The developer shall pay all inspection fees required by the City.~~
11. 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.
12. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
13. Entry gates or guardhouses, if proposed, must receive detail site plan approval from TMAPC, Traffic Engineering and Tulsa Fire Department, prior to issuance of a building permit for the gates or guard houses.
14. 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.

15. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle. Receptacle screening shall be constructed of materials having an appearance similar to the buildings themselves and be of complementary color. Trucks or truck trailers not be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

**TAC Comments from 1/17/08:**

**General:** No comments.

**Water:** A water main extension line (looped) will be required.

**Fire:** Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400' (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:

1. For Group R-3 and Group U occupancies, the distance requirement shall be 600' (183 m).
2. For buildings equipped throughout with an approved automatic sprinkler system the distance requirement shall be 600'.

**Stormwater:** On Page 2, what is the purpose of the Corps of Engineers required Wet Pond? Is it for wetlands mitigation, or does it serve a stormwater detention purpose? Does it change the previously approved drainage patterns within this PUD area?

**Wastewater:** No objection to the PUD amendment. However, the proposed 17.5' perimeter easement adjacent to the proposed Wet Pond may be too small to accommodate both the proposed sanitary sewer and the proposed screening wall. It should be enlarged to a 20' Utility Easement to match the rest of the proposed perimeter easements for the development.

**Transportation:** No comments.

**Traffic:** A Traffic Impact Study is recommended for the two major intersections and should include an evaluation of the need for an eastbound dual left turn at 109th Street. Both the north and south entries shall align with the existing median opening and the intersection details shall be approved by the Traffic Engineer due to the significant entryway widths. Recommend modifying both northbound turn bays on Memorial in order to increase their capacity. Mutual Access to the south has been met by the proposed access drive. Lots 1 & 2 shall be provided access via a Mutual Access Easement to Memorial. Relocate the east drive of Lot #5 within the approach to the proposed signalized intersection at least 100' west of Memorial to reduce congestion.

**GIS:** No comments.

**Street Addressing:** No comments.



**County Engineer:** No comments.

**Applicant's Comments:**

**Charles E. Norman**, 401 South Boston Avenue, Suite 2900, Tulsa, Oklahoma 74103; representing the Expert Companies, stated that the purpose of the two major amendments to the existing PUD is to accommodate the required pond and mitigation of a wet pond on the subject site and the second is to permit the exchange in the western boundary of a major commercial building with a building for a national fitness company called Lifetime Fitness.

Mr. Norman explained that the requirement of the Corps of Engineers regarding the wet pond mitigation requires a modification of his previously-approved agreement with Mr. Alan Carlton.

Mr. Norman described his requests for major and minor amendments. He expressed his appreciation for staff's recommendations and corrections. The formulae for the parapet heights were included in PUD-619-B and were inadvertently modified. Part of his agreement with Mr. Carlton was that the formula be included. Mr. Norman explained that he had a binding agreement with Mr. and Mrs. Carlton and Bridle Trails HOA; he felt that it was incumbent upon him to negotiate with Mr. Carlton again and to modify the letter agreement that he had in 2006. Mr. Norman stated that he finished his negotiations with Mr. Carlton this morning and he would like to submit this to the Planning Commission (Exhibit A-1). Mr. Norman further stated that he met with staff around 11:00 a.m. this morning and they had major concerns about amending at the last moment. Mr. Carlton explained the changes to the Bridle Trails HOA and he is confident that there are no other interested parties present. Mr. Norman read the letter and what minor amendments he has requested. He requested that the Planning Commission accept No. 3, Minimum Internal Landscaped Open Space because the old one will not work because of the existence of the pond; under No. 4, Lighting, he would request that the Planning Commission accept the last three additional paragraphs and accept No. 6, Landscape and screening concept from Exhibit A-1, dated 2/6/08. Mr. Norman indicated that there are certain agreements that will be included in the plat as a private agreement.

**Mr. Carnes out at 2:59 p.m.**

Mr. Norman stated that if there is any suggestion of a continuance, he would not be in favor of a continuance. He would appreciate if this could be sent to the City Council with everyone in agreement.

**TMAPC COMMENTS:**

Mr. Ard asked Mr. Norman if the first two paragraphs regarding lighting should be considered. In response, Mr. Norman answered negatively.

Mr. Ard asked Mr. Norman if Item No. 5 is included in the staff recommendation. In response, Mr. Norman answered negatively. Mr. Ard asked if No. 7 and 8 are included. In response, Mr. Norman answered negatively. Mr. Norman explained that staff has already made Item No. 7 with a substitution of language that Mr. Sansone read to the Planning Commission. Mr. Ard asked if No. 9, 10 and 11 were included as well. In response, Mr. Norman stated that No. 10 is a notice provision where he had agreed to give individual notice to Mr. Carlton, Mr. Solow and Bridle Trails Association for any applications, which is a private agreement and not necessary to be adopted as part of the PUD.

Mr. Ard asked staff if they have reviewed all of the three items that are to be included in the recommendation. In response, Mr. Alberty stated that staff had a meeting with Mr. Norman this morning and his time constraints were such that he wasn't able to get it to staff before then. Mr. Alberty explained the Planning Commission's policy about staff recommendations and changes. Staff was concerned about the private agreements and explained that staff has no problem with someone initiating and negotiating a private agreement. However, staff would resist incorporating the private agreements into their recommendation. Mr. Norman has presented that he is offering this to the Planning Commission and if the Planning Commission agrees, then it could be added to staff's conditions. The real concern from staff is that this would be setting a precedent for PUDs from this point on with this level of detail.

Mr. Ard asked if it creates any type of problem for the Planning Commission to include all the detail that Mr. Norman and Mr. Carlton has provided. Mr. Ard expressed concerns of creating a new standard of what has to be in a PUD. In response, Mr. Alberty stated that this is the reason he likes that this is not staff's recommendation, but what the applicant has offered to add to it. It could be considered a standard if staff makes it a part of their recommendation. The issue is that this level of detail has never been submitted with a PUD and one would have to be a structural engineer to figure all of these details out. He is not sure that the permit staff has the ability to examine this and make sure that it is in compliance.

Mr. Norman asked that the Planning Commission allow Mr. Carlton to speak.

**Interested Parties Comments:**

**Alan Carlton**, 10770 South 77<sup>th</sup> East Avenue, 74133, stated that he is west of the subject project. Mr. Carlton suggested that rather than what Mr. Norman has proposed, he would prefer the TMAPC to accept the letter in total as a part of the PUD. Certain of the elements that Mr. Norman are omitting because they are already in PUD-619-B or already in the staff recommendation, so it is not necessary to restate them. He believes that there are some concerns about setting precedent and he understands that concern, but in PUD-619-B there was a similar detail as to the landscaping and the parapet calculation was in PUD-619-B. He doesn't feel that the Planning Commission would be setting a

precedent. Mr. Carlton stated that he has negotiated in good faith and both parties have come together and agreed on these issues. Mr. Carlton further stated that either the agreement will be a part of the PUD or it will be attached to the land as covenants that run with the land. There is only one difference in this, which is his protection. If these agreements are part of the PUD, then the City of Tulsa would have a hammer to be sure that these things are conformed to and if they are not part of the PUD, then the entire conformance rests on him. He believes that these are honorable gentlemen, but he would ask not to be deprived of the fairness of City protection as any offset owner of a PUD he believes is entitled to. Mr. Carlton compared these agreements to the PUD-619-B agreements, which he believes was part of the PUD standards and conditions. Mr. Carlton concluded by requesting that the Planning Commission accept the entire agreement dated 2/6/08 and makes it a part of the PUD standards and conditions.

**TMAPC COMMENTS:**

Mr. Ard stated that he appreciates the fact that the two sides worked well together on this agreement and the development immediately to the south. In response, Mr. Carlton stated that he tries to be a reasonable neighbor, but he also tries to come up with enough specificity that if at the outset you defined what is going to be then down the road one is not fussing with the other.

Mr. Carlton asked the Planning Commission to trust him and Mr. Norman regarding their agreement and to include it as part of the PUD without a full review from staff. He indicated that if the Planning Commission chooses to continue this case, he would prefer that they do not continue it and allow him to sign these agreements as covenants that run with the land instead.

Ms. Cantrell stated that the noise and odors are not regulated by the Planning Commission nor can be enforced by the City of Tulsa. In response, Mr. Carlton stated that the noise and odors issues would rest basically on him to prove that they are not complying, and then the City only has to look at it and require that the agreement be honored. Ms. Cantrell stated that the Planning Commission and the City would have to have the authority to do this. She doesn't believe that they do. Mr. Carlton stated that he thought the Neighborhood Inspections office had to look at the conditions and standards in a PUD and find whether it complies or not. In response, Ms. Cantrell stated that what is put into the PUD has to be within the purview of what the Planning Commission has control over and odors is a nuisance issue. The Planning Commission doesn't regulate that; it only regulates land uses. Mr. Carlton reiterated that he believed these same agreements were in PUD-619-B and it was part of his agreement with Mr. Norman.

Mr. Carlton stated that this is a different noise standard, but the decibel level is the same and this one has more specificity and it basically saddles him with

providing the data to the City in a form that proves there is a problem. The odor language is identical to the PUD-619-B agreement.

Mr. Boulden stated that the Planning Commission has latitude of what to incorporate into the PUD, but noise and odors are covered with nuisance ordinances and nuisance statutes that could relate to this. To make this a part of the covenants would be enforceable through court. "Noise" and "odor" are vague and if any noise goes outside the premises, it would be a violation and the same with odor. He is not sure one could stop everything.

Ms. Cantrell asked if the Planning Commission has ever put odor and noise standards in a PUD. In response, Mr. Boulden stated that he not sure, but he would have to take Mr. Carlton at his word that it was included in previous PUDs but it is unusual.

Mr. Carlton stated that the specific decibel is provided within the agreement and it would be his responsibility to hire a specialist to prove that it is not in compliance and then provide this information to Neighborhood Inspections and then it would up to them whether to act on it.

Mr. Harmon stated that Tulsa has standards and if someone has a boom box outside one's house they can call and the police will come out and have them turn it down. This is not a part of the PUD because it's nuisance abatement. Mr. Harmon stated that he doesn't remember including noise and odor in a PUD, but that doesn't mean that it didn't happen. This is not one of the Planning Commission's usual standards.

Mr. Carlton stated that he realizes that this is not the usual avenue for noise and odor and if need be, he would pull it out and make it a covenant running with the land.

Mr. Harmon stated that there is nothing wrong with having a letter of agreement between the two parties, but it is not something the Planning Commission can enforce. The Planning Commission doesn't have the authority to regulate odors or noise that may be coming out of a building.

Mr. Carlton asked Mr. Harmon if the Planning Commission has the authority to protect offset owners of horribly noxious odors. In response, Mr. Harmon stated that they do not have the authority and this would be a nuisance abatement issue, a different law altogether.

**Applicant's Rebuttal:**

Mr. Norman stated that the noise and odor provisions part of a separate restrictive covenant agreement. Staff has already discussed this at great length with Mr. Carlton and was told that there are no ordinances regulating this or at least extending this authority to the planning process. Mr. Norman requested

that the Planning Commission approve the staff recommendation with the specific paragraphs that he specified during his presentation.

Mr. McArtor requested Mr. Norman to restate the three agreements that he would like included in the PUD standards and conditions. In response, Mr. Norman asked that the Planning Commission adopt as part of the PUD-619-C, Item No. 3, Minimum Internal Landscaped Open Space for the corner adjacent to the pond; No. 4, Lighting, the last three paragraphs only; and No. 6, Landscape and Screening Concept. The rest of the agreement dated 2/6/08 will be accommodated appropriately in a private restrictive covenant agreement.

Ms. Cantrell asked if No. 7 should be included. In response, Mr. Norman stated that staff has already done that and he appreciates it.

Mr. McArtor requested more information regarding No. 6. In response, Mr. Norman requested that No. 6 be followed as he has prepared it, including the deletion of staff's recommendation: "the design of which shall be determined at detail site plan review."

Mr. Ard asked Mr. Alberty if staff is in agreement with these three items being included as a part of the PUD plan or incorporated as part of the PUD. In response, Mr. Alberty stated that it is being offered by the applicant and he is suggesting that the Planning Commission could accept those and attach those to the staff recommendation. Mr. Alberty reiterated that he does not have staff available to evaluate the specific details that are being submitted. He is not sure that the Permit Center has staff to evaluate, especially inspectors when they are going out into the field and trying to ensure that something has been built according to that specificity. If it is in a PUD, then the City is assuming that obligation whether they have the ability or not to enforce these agreements.

Mr. Ard stated that the specific details are a concern of his as well. Mr. Ard read the specific screening requirements. Mr. Ard stated that if this is included within the PUD, then the Planning Commission is requiring that the City verify that these specific details were followed and that is how the walls were built. He suggested that the Planning Commission stick with the usual guidelines and that the screening wall be determined during the detail site plan review. Mr. Ard expressed concerns with the specific details.

Mr. Norman stated that he doesn't have any objections to requiring a certification that the screening wall has been designed in accord with the specifications submitted so that the staff doesn't have the responsibility for a detail review of wall sections, etc. He asked if the Planning Commission would like to make a condition subject to an engineer certifying that the screening wall has been designed in accord with the specifications. In response, Mr. Alberty stated that this is the only way that staff could evaluate it. Mr. Alberty stated that the applicant would have to provide a structural engineer's certification. Mr. Ard

asked if the language should be that "...at the cost of the applicant, an engineer will provide a certification to the Planning Commission that the screening wall has been designed in accord with the specifications that are a part of Section 6. Mr. Ard suggested that it be left alone and let Mr. Norman have a private agreement with the property owners. In response, Mr. Norman stated that Mr. Carlton has struggled with this and spent a lot of time on this issue. In response, Mr. Ard stated that he understands and would like Mr. Carlton to be protected.

Mr. Norman stated that he appears before the Planning Commission frequently and he too is concerned about setting a precedent as well. This is a result of extensive negotiations and it is being volunteered and not being recommended by the staff.

Mr. Midget asked Mr. Norman if he is recommending that the Planning Commission insert the phrase that an engineer provides to the Planning Commission certification that the screening wall is built according to the stated specifications. In response, Mr. Norman stated that he recommends that an engineer certify that the screening wall is designed to the specifications.

**Harold Tohlen**, City of Tulsa Development Services, Permitting Center, stated that he does have one concern regarding the screening wall. Any wall that is over four feet high must be designed by a licensed engineer. Asking that it come back to be certified by the Planning Commission is adding an additional step. If the Planning Commission wishes to require the certification of the design, he believes that is fine and it should come to the Permit Center for their review.

Mr. Sansone suggested that perhaps the language could read "...an eight-foot solid masonry wall shall be erected along the west boundary of the PUD, the design of which shall be determined at detail site plan review and certified by structural engineer that the design of the screening wall is in accord with the private agreement dated 2/6/08 between Mr. Carlton and Mr. Norman."

Mr. Alberty stated that in a straight zoning situation the Permit Center would deal directly with whatever the Codes were for that requirement. The difference is in a PUD is that our staff has to tell the Planning Commission that all of the conditions of the PUD have been met and that is the reason why, even if that requirement was in there, staff would have no way to say it conforms without a certificate from an engineer stating that the specifics have been met. Staff couldn't send something to the Permit Center and state that it has met all of the requirements because they wouldn't know that and it would defer staff's authority and responsibility to the Permit Center when they rely on us. This is the problem that we are getting into with this level of complicated details that is going beyond what is normally done in a land use decision. Staff simply states an eight-foot fence and sometimes it is specified exactly how it will be, but when one gets into the structural specifications of how it will be built is beyond what the Zoning Code ever intended and it is taking it to a level that PUDs shouldn't go.

Mr. McArtor asked staff if the certification would help staff. In response, Mr. Alberty stated that having a certification would be the only way he would be able to pass something off to the Permit Center and state that it meets the Planning Commission's requirements. Once the specifications are included, then staff has to tell the Planning Commission that what is submitted complies with its conditions.

Mr. Ard stated that the certification would have to go back to staff before going to the Permit Center. In response, Mr. Alberty answered affirmatively.

Mr. Norman stated that he is suggesting a prior certification be attached to the detailed screening fence plan. Mr. Norman read PUD standard number five, which he indicates already has the step to approve the screening wall with the certification and all other conditions. This would also protect staff that all the specifications have been met that both parties agreed to.

On **MOTION** of **HARMON** to recommend **APPROVAL** of the Major Amendment for PUD-619-C per staff recommendation and acknowledging and accepting the letter of agreement amendment as presented by Charles Norman with engineering or other certifications being provided by the developer as needed, required or requested to show compliance with the letter of agreement dated 2/6/08.

Mr. Alberty requested that Mr. Harmon specify the sections that the Planning Commission is accepting from Mr. Norman.

Mr. McArtor requested to amend Mr. Harmon's motion, Specifically Paragraphs Numbered 3, the last three paragraphs of Paragraph Numbered 4; and Paragraph Numbered 6 from letter agreed upon by Mr. Norman and Mr. Carlton dated 2/6/08.

Mr. Harmon agreed to the amendment.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON** as **AMENDED BY MCARTOR** TMAPC voted **9-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Midget, Perry, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes "absent") to recommend **APPROVAL** of the major amendment for PUD-619-C per staff recommendation and accepting specific paragraphs from the letter dated 2/6/08 and presented by Mr. Norman (Exhibit A-1), specifically paragraphs numbered three (3), the last three paragraphs of paragraph numbered four (4), and paragraph numbered six (6), subject to the applicant providing a certification from an engineer showing compliance with the letter of agreement dated 2/6/08 (Exhibit A-1) as modified by the Planning Commission. **(Language with a strike-through has been deleted and language with an underline has been added.)**

**Legal Description for PUD-619-C:**

The North 10 acres of the NE/4, SE/4, Section 26, T-18-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U.S. Government survey thereof, less and except the following two tracts: The first tract deeded for Highway described as follows, to-wit: Beginning at the Northeast corner of said NE/4, SE/4; thence South along the East line of said NE/4, SE/4 a distance of 330.00'; Thence West a distance of 105.00'; Thence N 01°00'31" W a distance of 292.49'; Thence N 4°35'05" W a distance of 37.17' to a point on the North line of said NE/4, SE/4; Thence East along said North line a distance of 107.32' to the Point of Beginning; The second tract consisting of Lot 1, Block 1 of First Priority Bank, Plat number 5511, as recorded with the Tulsa County Clerk, **AND** A tract of land located in the NE/4, SE/4 of Section 26, T-18-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, more particularly described as follows; Commencing at the intersection of the center line of Memorial Drive and 111<sup>th</sup> Street South, this also being the Southeast corner of said Section; Thence N 00°00'31" W 1655.09' along the existing centerline of Memorial Drive; thence S 88°47'01" W 115.00' to a point on the West right-of-way line of Memorial Drive (U.S. Highway 64) being the Point of Beginning; Thence S 88°47'01" W 650.15'; Thence S 01°00'31" E 335.00'; Thence S 88°47'01" W 296.65'; Thence N 62°37'55" W 67.58'; Thence N 90°00'00" W 10.99'; Thence N 00°00'00" E 126.15'; Thence N 90°00'00" W 131.86' to a point of curvature on a curve concave to the southeast; Thence along said curve with a radius of 57.00' a distance of 90.48' to a point of non-tangent line; Thence N 01°01'04" W a distance of 885.45'; Thence N 88°47'15" E 1215.02' to a point on the west right-of-way line of Memorial Drive; Thence S 01°00'31" E 307.73'; Thence S 04°42'07" W 100.50'; Thence S 01°00'31" E 247.37' to the Point of Beginning. **AND**, Lot 1, Block 1 Champion Athletic Complex, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, Plat No. 5101; **From AG/RS-3/OL/CS/PUD (Agriculture District/Residential Single-family District/Office Low Intensity District/ Commercial Shopping Center District/Planned Unit Development [PUD-619]) To AG/RS-3/OL/CS/PUD (Agriculture District/Residential Single-family District/Office Low Intensity District/ Commercial Shopping Center District/Planned Unit Development [PUD-619-C]).**

\* \* \* \* \*



There being no further business, the Chair declared the meeting adjourned at 3:40 p.m.

Date Approved:

2/20/08  
W. E. ZARD

Chairman

ATTEST: Michelle Cantrell  
Secretary

