

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2176

Wednesday, September 23, 1998, 1:30 p.m.  
City Council Room, Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Boyle	Carnes	Beach	Romig, Legal
Harmon	Selph	Dunlap	Counsel
Horner	Westervelt	Huntsinger	
Jackson		Stump	
Ledford			
Midget			
Pace			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, September 21, 1998 at 10:45 a.m., posted in the Office of the City Clerk at 10:37 a.m., as well as in the office of the County Clerk at 10:36 a.m.

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

### Minutes:

#### **Approval of the minutes of September 9, 1998, Meeting No. 2174:**

On **MOTION** of **HORNER** the TMAPC voted **6-0-1** (Boyle, Harmon, Horner, Jackson, Midget, Pace, "aye"; no "nays"; Ledford "abstaining"; Carnes, Selph, Westervelt "absent") to **APPROVE** the minutes of the meeting of September 9, 1998 Meeting No. 2174.

### REPORTS:

#### Chairman's Report:

Mr. Boyle reported that he received a letter from Councilor Doverspike, Chairman of the City Council, requesting that the recommendations on political sign issue be returned to the Council no later than December 15, 1998. He stated that Councilor Doverspike requested that the City Sign Advisory Committee be notified of the public hearings.

Mr. Boyle stated that the next work session for the political signs will be October 7, 1998 at 11:30 a.m., Room 1103.

**Director's Report:**

Mr. Stump stated that there will be one zoning item on the City Council agenda. Mr. Stump informed the Planning Commission that during the City Council meeting, one of the Councilors will be requesting that the Council send a PUD back to the Planning Commission because the applicant has altered his request. He reminded the Planning Commission that the PUD in question was sent to the Council without a recommendation due to a tie vote.

Mr. Boyle stated that Mr. Harmon will be representing the Planning Commission at the City Council meeting.

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**Subdivisions:**

**LOT-SPLITS FOR WAIVER OF SUBDIVISION REGULATIONS:**

**L-18630 – Minnie Sturdy (503)**  
2703 East 61<sup>st</sup> Street North

(PD-24) (County)

**Staff Comments:**

Mr. Stump informed the Planning Commission that he received a letter from an attorney representing one of the interested parties stating how far the existing street is from the existing house (west side). He stated that the new distance (4') will change some of the request.

**Staff Recommendation:**

This property was sold at a public auction as two lots to two separate individuals without any approval of the new lots the sale created. There is currently an old house on the southern tract and a mobile home on the northern tract. Three waivers of the Subdivision Regulations are needed before this application can be approved.

1. Waiver of the three-side lot-line limitation – because of the configuration of the north tract, it contains four side-lot lines.
2. Waiver of the Right-of-Way Dedication to Tulsa County – Tulsa County Engineer is willing to accept only a 5' ROW on the west side of this property rather than the standard 25' due to the location of the dwellings. Staff has not been given dimensions of the existing buildings or precise locations on the lot; therefore, we cannot determine how much right-of-way could be dedicated without affecting the existing house.
3. Waiver of the Septic Requirements – the south tract has failed the percolation test due to the size of the lot. Because there is an existing dwelling and septic system on this lot, the Department of Environmental Quality (DEQ) would concur with TMAPC's action should they decide to waive the septic requirement on the

south tract. The northern tract contains a mobile home with its own separate septic system and the lot is of sufficient size for that system.

Staff would note that it appears that water is currently supplied to the mobile home on the north tract from the house on the south tract. Lot-split approval should be contingent upon proof that the north tract has installed water service from the main water supply on Birmingham Place.

Staff would recommend approval of the side lot-line limitation waiver; recommend approval of the 5' ROW dedication as suggested by Tulsa County Engineers; and would defer to DEQ regarding the septic requirement waiver.

**Further Staff Comments:**

Mr. Stump stated that staff is concerned about property being sold at auctions and then coming to the Planning Commission requesting forgiveness. He expressed concerns of the subject lot-split setting a bad precedent.

**TMAPC Comments:**

Mr. Boyle asked staff how many feet will be dedicated of the required right-of-way. In response, Mr. Stump stated that the normal dedication of the required right-of-way is 25' on the property owner's side. Mr. Stump commented that originally the property owner was dedicating 5', which would make a 30' right-of-way. However, after receiving a letter from the attorney, it has been decided that the owner can only dedicate 4'. Mr. Stump explained that if the owner dedicated 5', he would be dedicating the land that is under the house. Mr. Stump commented that he is not sure that the one would want to put a right-of-way up against a building wall.

Mr. Ledford asked about the water service that was mentioned in the recommendation. In response, Mr. Stump stated that he was informed that water service is available through the half-street, but they may have to relocate the actual service line for the northern mobile home. He explained that there is a water line to tap into along the street.

Mr. Boyle asked staff if the lack of additional right-of-way changes their recommendation for approval. In response, Mr. Stump stated that the subject application has been very difficult and staff is concerned about setting a bad precedent.

**Applicant's Presentation:**

**Julia Neftzger**, P.O. Box 368, Pryor, Oklahoma, 74362, stated that the original owner of the subject property is incapacitated and the guardian was selling the property. She explained that they sold the land at a public auction. The property was divided in order to bring more money. She explained that the subject property was divided at the auction and contracts were signed.

Ms. Neftzger stated that the sale on the south tract has closed, but the north tract has never been able to close because of the lot-split problems. She explained that she

became involved with this case approximately three weeks ago. She stated that she met with Mr. Stump at INCOG in order to determine the waivers needed from the Planning Commission.

Ms. Neftzger stated that she understands that this is not the correct procedure regarding splitting the land and requesting waivers. She requested that due to the unusual circumstances and there being no way to undo the sale of the property, that the Planning Commission grant the waivers.

**TMAPC Comments:**

Mr. Boyle asked Ms. Neftzger if she is aware of how the lot-split issue began. In response, Ms. Neftzger stated that she has only been involved with this issue for the past three weeks. Her understanding is that the guardian auctioned off the land and tried to generate as much money as possible for the estate. The guardian felt that the property would generate more money if it were split.

Mr. Boyle stated that he is concerned that there will be no additional right-of-way dedication. Mr. Boyle asked Ms. Neftzger if she had a solution for this issue. In response, Ms. Neftzger stated that she could not solve this issue. She explained that the dwelling already exists and has been in the same location for several years. She further explained that there has not been any new development since the auction.

**Interested Parties:**

**Bob Wright**, 2611 East 41<sup>st</sup> Street North, Tulsa, Oklahoma 74110, stated he is the owner of the north tract. He explained that he is not able to close on his portion of the land because of the lot-split issues.

Mr. Wright stated that he was not informed that he would need the waivers in order to purchase and close on the subject property.

**TMAPC Comments:**

Mr. Boyle stated that the Planning Commission cannot help Mr. Wright with whatever might have gone wrong at the auction. He explained that the Planning Commission has to consider what is on the land and what the rules and regulations require.

**Interested Parties:**

**Steve Bassett**, 2703 East 61<sup>st</sup> Street, Tulsa, Oklahoma 74130, stated he was at the auction and purchased the south tract. He commented that he would like to buy the north tract and then the waivers would not be necessary. In response, Mr. Wright stated he is not interested in selling.

**TMAPC Comments:**

Mr. Ledford stated that the waiver of the three sides is not a big problem; however, the waiver of the right-of-way dedication is a problem. The owner could dedicate the right-of-way with a license agreement over the area where the house is located. The waiver of the septic requirements is a serious problem. More than anything, the subject

property is a serious matter. He explained that he receives on an average of one phone call a week from people who own large tracts of ground and wanting to subdivide it by evading the subdivision requirements. He stated that there will be a serious precedent set here if the Planning Commission approves this lot-split, and because it was purchased at an auction is no reason to throw away all guidelines. He concluded that there is an attorney in Tulsa who owns 80 acres inside the city limits and he is getting ready to split the acreage up the same as the subject property. He commented that he has had two conversations with the attorney regarding these issues. If the Planning Commission does not abide by TMAPC's legal guidelines, then there will be a precedent set and there will be more cases like this come before the TMAPC.

Mr. Bassett stated that the in regard to the right-of-way dedication, the road is a dead-end road and will probably never be a through-street.

Mr. Harmon asked Ms. Neftzger if she represented the guardian who sold the subject property. In response, Ms. Neftzger stated she represents the realty company that auctioned off the subject property. Ms. Neftzger indicated that the attorney representing the guardian has retired.

Mr. Harmon stated that it appears that the attorney representing the guardian at the time of the sale should have found the title problems before the auction. In response, Ms. Neftzger stated she could not comment because she was not the attorney representing the guardian.

Mr. Ledford stated that when someone sells a tract of ground and it does not meet all of the lot-split requirements, if the Planning Commission does not act upon the request within five years, then it perfects itself. He indicated that the lot-split becomes a legal lot-split after five years. He stated that the problem with this is that the next time there is a larger tract before the TMAPC and it has been conducted the same way, the subject property would create a precedent. Mr. Ledford commented that if the TMAPC had to vote on this case today or in the future, he would vote negatively.

**TMAPC Action; 7 members present:**

On **MOTION** of **LEDFORD** the TMAPC voted **7-0-0** (Boyle, Harmon, Horner, Jackson, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Carnes, Selph, Westervelt "absent") to **DENY** the Lot-split for waiver of subdivision regulations on L-18630.

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**FINAL PLAT:**

**Brenmar Estates (1783)**  
Northeast corner East 91<sup>st</sup> Street and South Lewis Avenue

(PD-18) (CD-2)

**Staff Recommendation:**

Mr. Beach stated that everything is in order for this final plat and staff recommends approval subject to final legal comments being incorporated into the plat.

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET** the TMAPC voted **7-0-0** (Boyle, Harmon, Horner, Jackson, Ledford, Midget, Pace “aye”; no “nays”; none “abstaining”; Carnes, Selph, Westervelt “absent”) to **APPROVE** the Final Plat of Brenmar Estates, subject to legal comments being incorporated into the plat as recommended by staff.

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**CHANGE OF ACCESS ON RECORDED PLAT:**

**Lot 5, Block 1, Amended Plat of Abdo Commercial Heights**

2425 East 71<sup>st</sup> Street

**Staff Recommendation:**

Mr. Beach stated that this change of access has been reviewed by the traffic engineer and has been signed off. He further stated that staff recommends approval.

**TMAPC Action; 7 members present:**

On **MOTION** of **HORNER** the TMAPC voted **7-0-0** (Boyle, Harmon, Horner, Jackson, Ledford, Midget, Pace “aye”; no “nays”; none “abstaining”; Carnes, Selph, Westervelt “absent”) to **APPROVE** the Change of Access on Recorded Plat for Lot 5, Block 1, Amended Plat of Abdo Commercial Heights as recommended by staff.

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**Zoning Public Hearings:**

**CZ-246 – Perry Cleveland**

11710 East 76<sup>th</sup> Street North

RE to CH

**Staff Recommendation:**

Relationship to the Comprehensive Plan:

The District 15 Plan, a part of the City of Owasso Comprehensive Plan, designates the subject tract as Low Intensity - Residential.

The requested CH zoning is not in accordance with the Plan.

Staff Comments:

**Site Analysis:** The subject property is approximately 2.14 acres in size and is located on the southeast corner of East 117<sup>th</sup> East Avenue and East 76<sup>th</sup> Street North. It is gently sloping, non-wooded, contains a single-family dwelling and accessory buildings, and is zoned RE in the County.

**Surrounding Area Analysis:** The subject tract is abutted on the south and east by single-family dwellings, zoned RE; to the north by a cemetery, zoned RS-3 and to the west by a private fraternal club, zoned CS.

**Zoning and BOA Historical Summary:** The most recent rezoning actions in this area rezoned two tracts that front the highway frontage road and lie south of the southeast corner of E. 76<sup>th</sup> Street North and U. S. Highway 169 from RE to IL. Both of these properties are south and west of the subject tract.

**Conclusion:** Based on the Comprehensive Plan and the existing uses, the commercial zoning would not be compatible. Therefore, staff recommends **DENIAL** of CH or any other commercial zoning for CZ-246.

**Applicant's Presentation:**

**Mr. Perry Cleveland**, 8349 North 119<sup>th</sup> East Avenue, Owasso, Oklahoma, 74055, stated he represents the owner of the subject property. He commented that he discussed this request with the City of Owasso and they indicated they had no problem with this request. He stated he discussed this request with the new City Planner of Owasso.

Mr. Cleveland stated that directly behind the subject property there is a sign shop that has been located there for several years and is used commercially. He commented that the sign shop may have been grandfathered in. The property to the west of the subject property is commercial.

Mr. Cleveland commented that the surrounding properties are on large lots and it appears that everyone in the subject area wants their property zoned commercially. He stated that eventually the area will be zoned commercially.

Mr. Cleveland stated that the owner of the subject property would like to locate a used car lot.

**TMAPC Comments:**

Mr. Boyle asked if the residentially-zoned properties that surround the subject property on three sides are developed residentially. In response, Mr. Cleveland stated that property directly behind the subject property has been used commercially for at least 20 years.

Mr. Boyle asked the applicant if the tracts across East 76<sup>th</sup> Street are developed residentially. In response, Mr. Cleveland stated that there is a cemetery straight across the street from the subject property. Mr. Cleveland indicated that from the north to the northeast, the tracts are residential. Mr. Cleveland commented that there will not be any residential development on 76<sup>th</sup> Street.

**Interested Parties:**

**Ronald Thompson**, 11710 East 76<sup>th</sup> Street North, Owasso, Oklahoma 74055, stated that he is the owner of the subject property. He explained that the surrounding property is used commercially. He indicated that his neighbors to the east have no objections with the subject property being commercially zoned.

**TMAPC Comments:**

Mr. Midget stated that he is concerned with proposed automobile uses. He explained that in the past, proposed automobile sales turned into a junkyard. He stated that there are a lot of new homes in the subject area and he would hate to see an automobile use turn into a junkyard. He explained that junkyards destroy property values and the quality of life in the area. Mr. Midget commented that he couldn't support this request.

Mr. Boyle stated that with commercial zoning directly across the street, commercial use directly next door to the south and a cemetery across the street, the physical reality is that this is probably compatible. He commented that the adjoining owners are not present to object and it appears they have no problems with this request.

Ms. Pace stated that she has concerns with the CH zoning being close to residential. She indicated that there are two CH parcels west on 76<sup>th</sup> Street, but if the CH zoning continues eastward, it will be across the street from a new subdivision. She suggested zoning the subject property with a lesser commercial zoning. She stated that there will be more protection given with a CS or CG zoning.

Mr. Dunlap stated that the property directly to the south has an appearance of a RE district. He indicated that there is a large building behind the dwelling, which is used for the sign company.

Mr. Midget stated that he would support a CS zoning in the subject area rather than a CH zoning. Mr. Midget commented that even though the applicant didn't ask for CS, it may be amendable to the CS zoning.

Mr. Stump stated that the CS zoning would not allow the auto sales by right, but the applicant can go before the Board of Adjustment for a special exception and the BOA could impose conditions.

**Applicant's Rebuttal:**

Mr. Cleveland stated that he discussed the CS zoning proposal with the owner of the property. He commented that the selling of cars is not a big issue but he would like to be able to sell cars on the subject property. He indicated that the subject property is

currently for sale and it has great potential value as commercial property. He stated that the applicant would be willing rezone with the CS zoning and go before the Board of Adjustment.

Mr. Cleveland indicated that initially his client was considering CS zoning, but because of the CH zoning that surrounds the subject property he decided to try for CH zoning.

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET** the TMAPC voted **7-0-0** (Boyle, Harmon, Horner, Jackson, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Carnes, Selph, Westervelt "absent") to recommend **DENIAL** of the CH zoning for CZ-246 and **APPROVE** CS zoning.

**Legal Description for CZ-246:**

N/2, W 333.74', NW/4, NE/4, NW/4 less W 40' and N 16.5' thereof for Road, Section 32, T-21-N, R-14-E, Tulsa County, State of Oklahoma.

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**CZ-247 – Betty Douthit**

Northwest corner East 116<sup>th</sup> Street North and North 129<sup>th</sup> East Avenue

**AG-R to CS**  
(PD-15) (County)

**Staff Recommendation:**

Relationship to the Comprehensive Plan:

The District 15 Plan, a part of the City of Owasso Comprehensive Plan, designates the subject tract as Low Intensity - Rural Residential.

The requested CS zoning is not in accordance with the Plan.

Staff Comments:

**Site Analysis:** The subject property is approximately 3.19 acres in size and is located on the northwest corner of East 116<sup>th</sup> Street North and North 129<sup>th</sup> East Avenue. It is flat, non-wooded, vacant, and is zoned AG-R in the County.

**Surrounding Area Analysis:** The subject tract is abutted on north, south and west by single-family dwellings, zoned AG-R and to the east by vacant land, zoned AG.

**Zoning and BOA Historical Summary:** The most recent rezoning action in this area was in 1985 when a 2.5 acre tract, located approximately one mile west of the subject tract, was approved for CG zoning for retail and restaurant use on the northeast corner of E. 116<sup>th</sup> Street N. and N. Garnett Road.

**Conclusion:** The Owasso Comprehensive Plan does not support CS zoning in this area. Therefore, based on the Comprehensive Plan, the surrounding zoning and development, staff recommends **DENIAL** of CS zoning for CZ-247.

**Applicant's Presentation:**

**Betty Douthit**, 11621 North 126<sup>th</sup> East Avenue, stated that the subject property abuts her property. Ms. Douthit commented on the surrounding properties and their current zoning. She stated that she understood that the surrounding properties were trying to rezone commercially; however, they have not started the process.

Ms. Douthit stated that the subject property is not in the nearby subdivision and is not governed by any covenants. She commented that her neighbor informed her that she needed to retain a lawyer in order to rezone her property. She explained that she did not expect any objections to her rezoning her property. She indicated that there are several neighbors in the subject area who use their property for commercial uses.

Ms. Douthit requested a continuance in order to do more research and retain an attorney.

**TMAPC Comments:**

Mr. Boyle asked Ms. Douthit if two weeks would be enough time to reorganize for the public hearing. In response, Ms. Douthit requested a thirty-day continuance.

Mr. Boyle asked the interested parties if a continuance of thirty days will be an inconvenience. Several interested parties indicated they objected to the continuance. Mr. Boyle asked the interested parties to explain why they oppose the continuance.

**Interested Parties:**

**Karl Hartzke**, 11728 North 129<sup>th</sup> East Avenue, Collinsville, Oklahoma 74021, stated that a continuance will not change his mind regarding the rezoning. He explained that there is a petition signed by the surrounding neighbors and they all object to the rezoning. He explained that it will be an inconvenience for his wife and him to take off work again when this is proposed to be heard.

**Lois Smith**, 11658 North 129<sup>th</sup> East Avenue, stated that she has the same objections as Mr. Hartzke. She explained that she has taken off work in order to be present today.

**Louis Henry**, 11625 North 129<sup>th</sup> East Avenue, Collinsville, Oklahoma, 74021, stated his property adjoins the subject property on the southeast corner. He stated that he objects to a continuance.

**TMAPC Comments:**

Mr. Midget recommended a continuance for one month to allow the interested parties to tape their objections today. He explained that the main objection for the continuance

from the interested parties was due to the fact that they would have to take off work again. With their objections on tape, their objections will be on record.

Ms. Pace asked Mr. Midget if he is proposing a postponement on the vote, but hear the interested parties objections today. In response, Mr. Midget stated that the interested parties are here and they have stated that it may be inconvenient to come back in thirty days. He explained that the interested parties' objections will be taped today and a part of the record.

**TMAPC Action; 10 members present:**

On **MOTION** of **MIDGET** the TMAPC voted **5-2-0** (Boyle, Horner, Jackson, Ledford, Midget, "aye"; Harmon, Pace "nays"; none "abstaining"; Carnes, Selph, Westervelt "absent") to recommend **CONTINUANCE** of CZ-247 to October 21, 1998 and hear objections of the interested parties today in order to have their objections on tape.

**TMAPC Comments:**

Mr. Boyle stated that the Planning Commission will continue a decision until October 21, 1998, but in the meantime will hear from any interested parties who would like to make their presentations today so that they will not be inconvenienced by coming back on the 21<sup>st</sup>. He further stated that if the interested parties prefer to wait until the October 21<sup>st</sup> meeting to stated their objections they may do so.

**Interested Parties:**

**Karl Hartzke**, 11728 North 129<sup>th</sup> East Avenue, Collinsville, Oklahoma, 74021, stated that the reason he is against the subject property being zoned commercially is fear of runoff water from the subject property if it is paved. He expressed concerns with his property flooding.

Mr. Hartzke expressed concerns with the commercial property diminishing the property value. He explained that the surrounding property is all zoned residentially and there is no reason to zone the subject property commercial.

**Lois Smith**, 11658 North 129<sup>th</sup> East Avenue, Collinsville, Oklahoma, 74021, submitted a petition signed by surrounding neighbors of the subject property. She submitted and read a letter from Mike Fender, who owns the property adjoining the subject property.

Ms. Smith expressed concerns with water runoff, property value decreasing, traffic problems, and livestock's well-being. She explained that the intersection of 116<sup>th</sup> North and North 129<sup>th</sup> East Avenue is considered one of the most deadly intersections in Tulsa County. She stated that there have been fourteen deaths at the subject intersection. She commented that if the subject property is zoned commercially it will cause more traffic problems.

**Louis Henry**, 11625 North 129<sup>th</sup> East Avenue, Collinsville, Oklahoma, 74021, expressed concerns with the water runoff and traffic at the intersection of 116<sup>th</sup> Street North and 129<sup>th</sup> East Avenue.

Mr. Henry commented that he is not running a commercial vegetable stand on his property. He explained that he does have a garden for a hobby and sells vegetables from the garden.

Mr. Henry stated that there is an existing EPA problem due to the raw sewage that comes from the south and runs into the creek. He indicated that he would contact the EPA Department with these concerns.

Mr. Henry stated that if the subject property is paved, then he will lose the use of approximately a half-acre of his land because of flooding.

**Applicant's Rebuttal:**

Ms. Douthit indicated that she would wait until October 21, 1998 to present her case and address the objections from the interested parties.

**Legal Description for CZ-247:**

The E 880', S 290', SE/4, SE/4, less W 401' thereof, Section 5, T-21-N, R-14-E, Tulsa County, State of Oklahoma.

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**Mr. Midget out at 2:30 p.m.**

**Z-6657 – Daniel J. Eckenfels**

North of northwest corner East 51<sup>st</sup> Street and South 101<sup>st</sup> East Avenue

**RS-3 to IL**  
(PD-18) (CD-5)

**Staff Recommendation:**

Relationship to the Comprehensive Plan:

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:** The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Special District 1 – Industrial Area.

According to the Zoning Matrix, the requested IL zoning **may be found** in accordance with the Plan Map.

Staff Comments:

**Site Analysis:** The subject property is approximately 95' x 177' in size and is located north of the northwest corner of East 51<sup>st</sup> Street South and South 101<sup>st</sup> East Avenue. The property is flat, non-wooded, contains a non-conforming industrial/manufacturing company, and is zoned RS-3.

**Surrounding Area Analysis:** The subject tract is abutted on the north by a manufacturing company, zoned IL; to the west by vacant property, zoned IL; to the east is a vacant wholesale greenhouse/nursery facility, zoned IL; and to the south by vacant property, zoned IL.

**Zoning and BOA Historical Summary:** The most recent rezoning action in this area rezoned a small .37-acre tract located west of the subject tract, from RS-3 to IL for a dental office and the an application for IL zoning from RS-3 is pending City Council action on the property adjoining the subject tract on the south.

**Conclusion:** The Comprehensive Plan supports IL zoning in this area. Therefore, based on the Comprehensive Plan, the surrounding zoning and development, staff recommends **APPROVAL** of IL zoning for 6657.

**TMAPC Action; 6 members present:**

On **MOTION** of **HORNER** the TMAPC voted **6-0-0** (Boyle, Harmon, Horner, Jackson, Ledford, Pace, "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph, Westervelt "absent") to recommend **APPROVAL** of IL zoning for Z-6657 as recommended by staff.

**Legal Description for Z-6657:**

The North 95' of Lots 1 through 7, inclusive, Block 51, Alsuma Addition, an Addition to the City of Tulsa, Tulsa County, Oklahoma.

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**PUD-588-2 – Stephen Schuller**

(PD-4) (CD-4)

1659 East 11<sup>th</sup> Street  
(Minor Amendment)

**Staff Recommendation:**

The applicant is requesting Minor Amendment approval for a 30-foot reduction in the required 15-foot landscape strip width along the west 100 feet of the north side of the PUD to 70 feet (12 feet wide for 30 feet). The applicant is also requesting approval to reduce the minimum required parking and building lighting setback from 50 feet to 17.5 feet from the abutting RS District.

Staff has reviewed the Detail Site Plan and finds it can support both the reduction in the 15 foot landscape strip along East 10<sup>th</sup> Street and the lighting setback adjacent to a 50' x 140' "buffer" lot recently acquired by the applicant. Staff finds the single space

required for an air pump abutting the loading and dumpster access area will be screened by the required 4-foot masonry-screening wall. Staff is of the opinion that this is the best location for the air pump and compressor. The loading area will not be used continually and customers using the air pump have the option to pull through the loading area rather than backing out into the 10<sup>th</sup> Street access point.

The additional buffering provided by the lot along the north 140 feet of the eastern boundary of the PUD places all parking and building lighting 67.5 feet from the RS District to the east.

Staff, therefore, recommends **APPROVAL** of Minor Amendment PUD-588-2 modifying the lighting and landscaped/screening standards as follows:

**LANDSCAPING AND SCREENING:**

Minimum width of landscaped area along the <u>east 30 feet of the west 100 feet of the north</u> side of PUD	12 feet
Minimum width of landscaped area along the <u>west 70 feet</u> of the north side of the PUD	15 feet

All parking lot lighting shall be hooded and directed downward and away from adjacent residential areas. No light standard or building-mounted light shall exceed 25 feet in height and all such lights shall be setback at least 17.5 feet from an RS district abutting the PUD.

*(Note: Italicized/underlined text represents a change to the original PUD development standards)*

**AND**

**PUD-588 – Jason Potter/Stephen Schuller** (PD-4) (CD-4)  
1659 East 11<sup>th</sup> Street  
(Detail Site Plan)

**Staff Recommendation:**

The applicant is requesting Detail Site Plan approval for a 4,305 square foot convenience store and 6-pump fueling facility on a 1.39 acre (net) lot. The proposed building and fueling area will be developed west of an existing convenience store that will be demolished when the new facility is completed.

Staff has reviewed the site plan and finds conformance to bulk and area, setback, parking, access, circulation, screening and total landscaped area standards established by the original approval or modified by minor amendment. The detail plan, however, does not provide a full 15 feet of landscape strip along the west 100 feet along the north side of the PUD, nor provide a landscaped area immediately in front of the entryway facilitating a planting area for a required parking lot tree. The site plan also indicates

parking light lighting standards and building mounted lighting as close as 17.5 feet from the abutting RS District. The PUD requires all parking and building lighting shall be setback a minimum of 50 feet from the abutting RS District to the west.

Staff notes that the applicant has acquired a 50' x 140' lot to the northwest of the site that provides additional site buffering not envisioned during the original approval. Staff finds that the 30 foot reduction in the 15 foot required landscape strip and the 17.5 foot parking and building lighting setback north and west of the proposed building are a reasonable design feature which takes into account the additional buffering provided by the 50 foot lot. These modifications, including the elimination of a landscaped area in front of the entryway, would require TMAPC minor amendment and alternative landscape compliance approval. The applicant has submitted both requests as separate agenda items.

Staff, therefore, recommends **APPROVAL** of the Detail Site Plan as submitted subject to the following conditions:

1. Approval of a Minor Amendment reducing the width of a 30-foot portion of the required 15 foot landscaped strip abutting East 10<sup>th</sup> Street.
2. Approval of a Minor Amendment reducing the minimum 50 foot setback distance from the RS District to the west from 50 feet to 17.5 feet.
3. Approval of an Alternative Landscape Compliance eliminating a landscaped area and parking lot tree immediately in front of the entryway.

*NOTE: Detail Site Plan approval does not constitute Landscape or Sign Plan approval.*

**AND**

**AC-041 – Stephen Schuller**  
1659 East 11<sup>th</sup> Street  
(Alternative Compliance)

(PD-4) (CD-4)

**Staff Recommendation:**

The applicant is requesting Alternative Landscape Compliance approval to eliminate the required landscape area and one parking lot tree in front of the entryway for a convenience store.

Staff has reviewed the Detail Landscape Plan and finds conformance to the requirements of Chapter 10 except that four parking spaces immediately in front of the entry are not within 50 feet of a landscaped area containing a tree. Staff finds that the size and configuration of the lot and the building design make it difficult, if not impossible, to meet the 50-foot requirement of the Landscape Chapter for these four parking spaces.

Staff notes that the PUD standards require a minimum 10% total internal landscaped open space. The applicant is providing 15% internal landscaped area, 25% street yard landscaped areas (15% required) and two additional street yard trees.

Although the landscape plan does not meet the technical requirements of the Zoning Code, the increase in landscaped open space and additional street yard trees is equivalent to or better than the requirements of Chapter 10.

Staff, therefore, recommends **APPROVAL** of AC-041 as submitted.

**Applicant's Presentation:**

**Stephen Schuller**, 100 West 5<sup>th</sup> Street, Suite 500, Tulsa, Oklahoma, 74103, stated that he would like to clarify one issue that was not mentioned in the staff recommendation is that Quik Trip obtained the adjacent lot and the one next to it in order to reroute the alley northward. He explained that the alley has been shifted and any residential uses farther westward, and therefore moving the lighting should not be a problem.

**TMAPC Action; 6 members present:**

On **MOTION** of **HORNER** the TMAPC voted **6-0-0** (Boyle, Harmon, Horner, Jackson, Ledford, Pace, "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph, Westervelt "absent") to **APPROVE** the Minor Amendment, Detail Site Plan and the Alternative Compliance for PUD-588-2/PUD-599/AC-041, subject to conditions as recommended by staff.

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**PUD-557-1 – Wayne Alberty**

(PD-18) (CD-8)

Southeast corner East 93<sup>rd</sup> Street and South Memorial  
(Minor Amendment)

**Staff Recommendation:**

The applicant is requesting Minor Amendment approval to modify the required East 93<sup>rd</sup> Street 70-foot building setback at the northeast corner of the site from 70 feet to 62 feet to allow construction of a detached 22.5' x 30' auto wash facility. The approved site plan did not designate an attached portion of the parts/service building as a wash facility. This portion of the building, however, did conform to the required 70-foot minimum setback from East 93<sup>rd</sup> Street.

Staff has reviewed the request and finds the applicant has started construction and has represented to staff that the car wash facility currently proposed is a self-contained unit that was not anticipated during Detail Site Plan review in 1997.

Staff notes that the east-west orientation of the wash bay doors will abut a multifamily development area to the east with a 10-foot minimum building setback. Staff is of the opinion that the wash facility will be noisy, will generate spray and steam and will present an unappealing view from East 93<sup>rd</sup> Street. The Conceptual Site Plan indicated a wash facility south of the dealership and abutting the Mingo Valley Expressway.

Staff has also examined the reduction in the required 24-foot parking stall clearance to 22 feet for four spaces and found that, although these spaces are not required to meet overall site parking requirements, the turning radius for entering or exiting the proposed wash facility will be limited.

Staff, therefore, recommends **DENIAL** of the Minor Amendment reducing the East 93<sup>rd</sup> Street building setback from 70 feet to 62 feet to accommodate the northeast corner of a detached auto wash building.

**TMAPC Comments:**

Mr. Boyle asked staff why they are concerned with the building setback from East 93<sup>rd</sup> Street, which is a reduction of eight feet. In response, Mr. Stump stated that the major concern is that it would be preferred that the car wash be on the south side of the building, as shown in the conceptual plan, away from the street. He explained that the new proposal is not a very attractive appurtenance. Putting the car wash closer to the street than what was originally approved makes this an even larger problem. He stated that staff feels that the car wash is an unattractive facility that creates noise and a lot of activity. He commented that the car wash should not be closer to the street than the standards and staff prefers the car wash to be located where it was originally proposed, which is the south side of the buildings.

Mr. Boyle asked if the residential use across 93<sup>rd</sup> is already established. In response, Mr. Stump answered affirmatively.

**Applicant's Presentation:**

**Wayne Alberty**, 201 West 5<sup>th</sup> Street, Suite 570, Tulsa, Oklahoma 74103, stated he is representing Jackie Cooper Imports, which is under construction. He explained that he would like to make one clarification that the construction does not involve the car wash. He stated the building setback concerns the main building, which is 72,000 SF. He indicated that construction on the car wash has not started at this time.

Mr. Alberty stated that he was a little surprised to find out that the staff is recommending denial when the initial talks did not indicate objections. He commented that he is unprepared to react to a recommendation for denial.

Mr. Alberty stated that the car wash was approved initially with the detail site plan. He explained that the original concept submitted did show the car wash on the south side of the building. He stated that when the building was rotated 90°, the car wash moved to the new location. He indicated that the car wash was originally planned to be attached to the overall structure. He explained that the first five bays south of the car wash door

location will be where the cars are detailed and it will be a separate building. He stated that the building was moved five feet to the north, and because it is being removed from the attached building, it encroaches into the 70-foot setback. He commented that the 70-foot setback exceeds what the Code requires and so the car wash is still within the Code requirement for the setback.

Mr. Alberty indicated that there will not be a dryer on the car wash, but will be a robot-arm car wash. It is a policy of Jackie Cooper's to wash cars that are brought in for service. Service personnel will drive the cars through the car wash.

Mr. Alberty commented that even though the staff feels the turning radii are tight, the turn can still be made. He explained that the aisle width will be reduced to 22 feet only in the area where the car wash is located. He commented that the aisle width is still in excess of the design standards, which would allow a minimum of 20 feet. He stated that he thought the car wash issue was settled when the site plan was approved. He requested approval to move the car wash five feet away from the building.

**TMAPC Comments:**

Mr. Boyle stated that the approved site plan does not reflect the five-foot movement. In response, Mr. Alberty stated that the approved site plan does not indicate the five-foot movement. He explained that the approved site plan shows the car wash attached.

Mr. Boyle asked that applicant if it would be possible to move the car wash to the west to resolve the five-foot reduction issue. In response, Mr. Alberty stated it could not because of the service drive exit. All of the plumbing is stubbed out at the proposed location for the car wash. He explained that this is the reason why he requests the approval for the five-foot reduction.

Mr. Boyle asked the applicant why he couldn't attach the car wash to the building as proposed previously. In response, Mr. Alberty stated that if it is required, the car wash could be attached, but for ease of construction his client prefers to have the car wash at the new proposed location and detached. He explained that the car wash is built with different materials and there would be a few inches of separation that would require flashing if it were attached. He stated that the car wash couldn't be attached to the other structure due to the engineering of the steel.

Mr. Harmon stated that the applicant stubbing the plumbing in without having the proper clearance is not the Planning Commission's problem. In response, Mr. Alberty stated that the car wash was originally approved and all he is asking to do is to move what was originally attached to the building now five feet to the north. He explained that the plumbing was stubbed out because that is where it was going to be located.

Mr. Stump stated that the applicant states that the car wash was originally approved, but there was no car wash labeled on the site plan that was approved. He further stated that the approved site plan indicated an office/parts and service area as the only labeled use.

Mr. Boyle asked staff if the car wash's being labeled on the approved site plan would have made a difference regarding the five-foot reduction. In response, Mr. Stump stated that the staff would have compared the site plan with the conceptual plan and asked why it is being moved out where it is much more obvious. He explained that the road it will be fronting is also the access to some single-family subdivisions to the east, and they are the ones insisting on good-size setbacks for the buildings. He stated that the residents were concerned about the appearance along 73<sup>rd</sup> Street.

Mr. Boyle asked staff if the applicant had not moved the car wash five feet from the existing building, would he be in compliance with the setback and not need the minor amendment. In response, Mr. Stump answered affirmatively.

Ms. Pace stated that when the PUD was originally came to the TMAPC there were some concerns about having access to 93<sup>rd</sup> Street. Mr. Stump agreed. Mr. Stump stated that the residents would rather that there be no access off of 93<sup>rd</sup> Street. Ms. Pace asked staff what kind of screening was approved. In response, Mr. Stump stated that between the planned apartments and the car dealership was a six-foot screening fence. Mr. Stump stated that the six-foot screening fence will be along the east boundary.

Ms. Pace asked Mr. Alberty what is along 93<sup>rd</sup> Street. In response, Mr. Alberty stated that there is dense landscaping along 93<sup>rd</sup> from the car dealership's east boundary to the east access point. He explained that the landscaping was approved to put pines and evergreen trees along the east boundary instead of trees. Mr. Alberty stated that the landscape plan does not have to change.

Mr. Alberty stated that he recalls that the interested parties wanted dense landscaping instead of a screening fence.

Mr. Ledford asked staff if the Planning Commission could restrict that the car wash is not allowed having blowers in order to keep the noise level down. In response, Mr. Stump stated that the restriction would be reasonable since the car wash is getting closer to the residential areas. In response, Mr. Alberty stated he would have no problem with the restriction regarding blowers.

**TMAPC Action; 6 members present:**

On **MOTION** of **LEDFORD** the TMAPC voted **6-0-0** (Boyle, Harmon, Horner, Jackson, Ledford, Pace, "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph, Westervelt "absent") to **APPROVE** the Minor Amendment for PUD-557-1, subject to not allowing the car wash to have blowers, subject to the operating hours being from 8:00 a.m. to 5:00 p.m.

\* \* \* \* \*

**AC-042 – Ted Sack**

(PD-18) (CD-5)

Northeast corner East 61<sup>st</sup> Street and South 118<sup>th</sup> East Avenue  
(Alternative Compliance)

**Staff Recommendation:**

The applicant is requesting Alternative Landscape Compliance approval to allow 126 feet of two-foot wide landscape strip along an abutting street right-of-way. The request relates to Tracts A, B and C as indicated on the detail landscape plan submitted with the application.

The applicant has represented to staff that recently-constructed buildings on Tracts B and C were approved with a two-foot landscape strip. The applicant's Alternative Compliance request proposes a continuation of the two-foot strip for the proposed building on Tract A to maintain uniformity of the appearance of the South 118<sup>th</sup> East Avenue building setback and street yard landscaping. The applicant is proposing the provision of over 20% street yard landscaping throughout the development, including 18.5% street yard landscaped area for Tract A.

Staff has reviewed the request and notes that the warehouse/office uses proposed require rear truck access to loading areas for the two existing 20,000 square foot buildings and the proposed 16,000 SF building. Moving the proposed Tract A building eastward to create a five-foot landscape strip may restrict truck access. Uniformity of building setbacks and street yard appearance would also be affected. The East 61<sup>st</sup> Street South street yard, irrigation provided and the all of the parking areas conform to Chapter 10 requirements.

Staff finds that the request, while not meeting the strict requirements of the Code, is equal to those requirements in that street yard landscaped areas are greater than the required minimum. Staff is of the opinion that uniformity of street yard and building setback is a desirable objective. An error in the landscape design which was not modified during the building permit review process should not serve to be the primary justification to extend the undeveloped portion of the 118<sup>th</sup> East Avenue street yard that does not conform to Code.

Staff, however, thinks the additional street yard landscaping warrants consideration as the basis of approval. Staff, therefore, recommends **APPROVAL** of AC-042.

**Applicant's Presentation:**

**Ted Sack** stated that he is in agreement with staff's recommendation; however, he would like to correct the staff recommendation to include all three areas. He explained that he is requesting an alternative compliance for all three tracts. He stated that the tracts are currently under one ownership; however, if they were to ever be split, he would like to make sure that all three would meet the Zoning Code.

**TMAPC Comments:**

Mr. Ledford stated that to circumvent this problem, the next time the applicant should submit a dimensional control plan. He explained that if the applicant had a dimensional control plan with their landscaping plan, then one could see where the curb line was from the property line. He stated that this oversight would not have happened if the dimensional control plan had been submitted.

Mr. Stump stated that the staff never reviewed this landscaping plan because it went directly to building permitting.

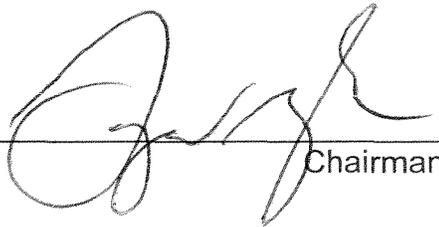
**TMAPC Action; 6 members present:**

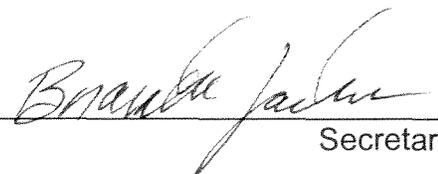
On **MOTION** of **LEDFORD** the TMAPC voted **6-0-0** (Boyle, Harmon, Horner, Jackson, Ledford, Pace "aye"; no "nays"; none "abstaining"; Carnes, Midget, Selph, Westervelt "absent") to **APPROVE** the Alternative Compliance for AC-042 as recommended by staff.

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There being no further business, the Chairman declared the meeting adjourned at 2:53 p.m.

Date approved: 10-7-98

  
\_\_\_\_\_  
Chairman

ATTEST:   
\_\_\_\_\_  
Secretary