

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2359

Wednesday, October 15, 2003, 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>
Carnes	Bayles	Alberty	Romig, Legal
Collins	Harmon	Chronister	
Coutant	Hill	Dunlap	
Horner		Fernandez	
Jackson		Huntsinger	
Ledford			
Midget			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, October 10, 2003 at 1:30 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 Jackson called the meeting to order at 1:30 p.m.

### Minutes:

#### **Approval of the minutes of September 3, 2003, Meeting No. 2355**

On **MOTION** of **HORNER** the TMAPC voted 7-0-0 (Carnes, Coutant, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill "absent") to **APPROVE** the minutes of the meeting of September 3, 2003, Meeting No. 2355.

### **REPORTS:**

#### **Chairman's Report:**

Mr. Jackson announced that Wayne Alberty will be the new Manager for Land Development Services.

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

Mr. Dunlap stated that there is a zoning case on the City Council agenda for October 16, 2003. He indicated that he would be attending the City Council meeting.

**SUBDIVISIONS:**

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

**L-19596 – John Tracy** (9314) (PD 5) (CD 5)  
7932 East 27<sup>th</sup> Place

**STAFF RECOMMENDATION:**

The house on Tract 2 was built within one-foot of the side property line. The owner applied for a variance of the five-foot side yard requirement through the Board of Adjustment, but it was denied. He has applied to split off a small portion of Tract 1 to be tied to Tract 2 in order to meet the RS-3 bulk and area requirements. However, the proposed configuration results in both tracts having more than three side lot-lines. A waiver of the Subdivision Regulations is being requested for the number of side lot-lines.

The Technical Advisory Committee had no concerns regarding this lot-split. Staff believes this lot-split would not have an adverse effect on the surrounding properties and recommends **APPROVAL** of the waiver of Subdivision Regulations and of the lot-split.

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES** TMAPC voted 7-0-0 (Carnes, Coutant, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill "absent") to **APPROVE** the waiver of Subdivision Regulations and of the lot-split for L-19596 per staff recommendation.

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

**L-19587 – Sack & Associates** (9319) (PD 6) (CD 9)  
3246 South Zunis

**L-19592 – Roy Johnsen** (8303) (PD 18) (CD 7)  
East of northeast corner of East 71<sup>st</sup> Street and Granite

**L-19595 – Peggy Ann Keith** (2432) (PD 14) (CD 0)

13106 North 129<sup>th</sup> East Avenue

L-19599 – Augustus Oliver, Jr. (9234)

(PD 8) (CD 2)

1815 West 57<sup>th</sup> Place South

L-19600 – Ramsey Surveying Service (7422)

(PD 20) (County)

15307 East 157<sup>th</sup> Street

L-19603 – Tulsa Development Authority (0225)

(PD 11) (CD 1)

211 East Seminole Place

**STAFF RECOMMENDATION:**

Staff recommends approval of all of these lot-splits.

**TMAPC Action; 7 members present:**

On **MOTION** of **HORNER**, the TMAPC voted **7-0-0** (Carnes, Coutant, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations per staff recommendation.

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**FINAL PLAT:**

Glendale Acres- AG-R (2672)

(PD 21) (County)

North of West 171<sup>st</sup> Street South, West of South Elwood Avenue

**STAFF RECOMMENDATION:**

This plat consists of 24 lots in four blocks on 40 acres.

All release letters have been received for this final plat. Staff recommends **APPROVAL** of the final plat with the condition that the oil well certificate be received from the Corporation Commission.

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **HORNER**, TMAPC voted 7-0-0 (Carnes, Coutant, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill "absent") to **APPROVE** the final plat for Glendale Acres, subject to the oil well certificate be received from the Corporation Commission per staff recommendation.

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**Cornerstone Baptist Church – RE,AG (2823)** (PD 15) (County)

North of East 76<sup>th</sup> Street North and west of North Yale Avenue

**STAFF RECOMMENDATION:**

This plat consists of two lots in one block on 30 acres.

All release letters have been received for this final plat. Staff recommends **APPROVAL** of the final plat.

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **HORNER** TMAPC voted 7-0-0 (Carnes, Coutant, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill "absent") to **APPROVE** the final plat for Cornerstone Baptist Church per staff recommendation.

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**PRELIMINARY PLAT:**

**South Ranch Addition – (3173)** (PD 21) (County)

East of South Lewis, North of 181<sup>st</sup> Street

**STAFF RECOMMENDATION:**

This plat consists of 19 lots, two blocks, on 176 acres.

The following issues were discussed October 2, 2003 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned AG in Tulsa County. Any private streets or gates will require a PUD. The consulting engineer for the project stated that there would be no private streets or gates. Waivers to block length will be required. Waiver to cul-de-sac length should be shown. Floodplain must be shown and the overland drainage easement tied down. The section line road must be shown on the plat face clearly and should be mentioned in the covenants. The maintenance for the horse trail must be defined in the covenants as being the responsibility of the homeowners association. A second access is desired.
2. **Streets:** Street names must be obtained from E911 for the County. The section line road may be located farther west and an amendment to the street plan is warranted. The applicant and the County Engineer should work on alternatives. Topography may be a factor. A waiver of the eight feet extra right-of-way for a turn-lane near an intersection will be needed. A waiver of the corner radius is needed.
3. **Sewer:** Septic is proposed.
4. **Water:** Okmulgee Rural Water District 6 will serve the addition.
5. **Storm Drainage:** Show Duck Creek. The County Engineer will review drainage plans.
6. **Utilities:** **East Central Electric** needs additional easements. **ONG** needs standard language in the covenants.
7. **Other:** Jim Coffey, Bixby City Planner, stated that there would need to be a looped six-inch water line with fire hydrants every 600 feet. Bixby Fire Department comments are attached. A second access is desired.

Staff needs to resolve several issues with the plat, especially the section-line roadway and access issues, before the preliminary plat can be recommended for approval. Staff will further research these issues before the TMAPC meeting.

#### **Waivers of Subdivision Regulations:**

1. Waivers for eight feet of right-of-way dedication, corner radius and section line roadway variation from the Major Street and Highway Plan are necessary.

#### **Special Conditions:**

1. The concerns of the County Engineer must be taken care of to his satisfaction.

### **Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)

13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

**TMAPC COMMENTS:**

Mr. Carnes asked staff how they could recommend approval for one entry on such a large tract of land. In response, Mrs. Fernandez stated that the tract is

large; however, the Fire Chief of Bixby and the County Engineer have had a site visit and do not see where another access point could be utilized, especially to 181<sup>st</sup> Street. The creek and the topography would prevent another access and in this circumstance one access point would be sufficient. In response, Mr. Carnes stated that he has never seen one access point be approved since he has been on the Planning Commission.

Mr. Westervelt asked staff what the issue was in making a standard dedication as expected. In response, Mrs. Fernandez stated that the County Engineer felt this would be acceptable. The County accepts easements rather than dedications, while the City prefers dedications of rights-of-way.

**Applicant's Comments:**

**Steve Murphy**, 11727 South Hudson Place, Bixby, Oklahoma 74008, stated that he is in agreement with the staff recommendation. He explained that there is a hillside in the southwest corner of the subject tract. The grade is sharp going up the hill, and then falls into a swale, then back up again, which is why it is too dangerous to create an access point. If there was access, it would turn out into a valley where the vision is poor and this is also the reason for the request of 50 feet to the west. By moving this to the west it makes it possible, if the road is ever brought through, it could actually connect. Moving it to the west it would line up with 181<sup>st</sup> Street where it turns south. Due to the correction section, if the road were brought through on the statutory right-of-way, then it would come down through the dry streambeds and would hit a place on 181<sup>st</sup> Street where it is impossible to align it.

**Mr. Collins in at 1:45 p.m.**

**TMAPC COMMENTS:**

Mr. Westervelt asked Mr. Murphy about the ranch road. In response, Mr. Murphy stated that the road on the aerial is actually on the hill and the topography is challenging. The exit is 15 feet above the roadbed and then immediately falls down into the swale and then out of the swale, which makes the view impossible. An entrance was originally designed for this point, but it was determined that it wouldn't work. The entrance was moved away to a safer point.

Mr. Murphy explained that this project is designed for ranch-type scenarios with large tracts and a bridle trail all around the perimeter of the subject property. It would be impossible to exit and enter safely with a horse-trailer at the point in question. The plat was reworked due to the danger of the topography.

Mr. Midget asked how close to the entrance would the houses be located. In response, Mr. Murphy stated that the lots are ten acres and he expects purchasers to move their homes back into the land to stay away from 181<sup>st</sup> Street as much as possible.

Mr. Westervelt asked if there is a way to have a small corridor between Lots 6 and 7 in order to have an emergency access in the future. In response, Mrs. Fernandez stated that this option was discussed and the Assistant County Engineer wrestled with where the emergency access would be located. In the end, the engineer determined that today's proposal would be the safest and best design. Mrs. Fernandez informed the Planning Commission that the restrictive covenants restrict any further lot-splits, which means that the lots will all be ten acres.

**INTERESTED PARTIES:**

**Ted Hill**, 2828 East 175<sup>th</sup>, Bixby, Oklahoma 74047, stated that he adjoins the northeast corner of the subject property. He further stated that he is not opposed to the development, but he is concerned about the rural water problems and hopes that it is addressed during the development. He explained that he is aware that the water issue is the Rural Water District's jurisdiction, but he wanted it on the record that there had been problems and they need to be addressed.

Mr. Hill stated that he wanted to make sure that this is a new-home development and not mobile homes being brought in. He requested information about the plans for development.

**TMAPC COMMENTS:**

Mr. Jackson encouraged Mr. Hill to meet with the developer regarding the plans for development. In response, Mr. Hill stated that he wanted to make sure that there would be enough water pressure.

Mr. Midget stated that under normal circumstances he would deny this request, but under the special conditions, these are ten-acre lots and it is not as dense as one would normally be concerned with. The Planning Commission's role is to look at the special situations such as this and try to be flexible when necessary. He indicated that he could support this application.

**TMAPC Action; 8 members present:**

On **MOTION** of **MIDGET** TMAPC voted 8-0-0 (Carnes, Collins, Coutant, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Harmon, Hill "absent") to **APPROVE** the preliminary plat for South Ranch, subject to the special conditions and standard conditions per staff recommendation.

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**CHANGE OF ACCESS ON RECORDED PLAT:**

**Forty-First Place, Lots 2 and 3, Block 1** (2193)

(PD-6) (CD-4)

East of the Northeast corner of 41<sup>st</sup> Street and Harvard Avenue

**STAFF RECOMMENDATION:**

This application is made to allow a change of access along East 41<sup>st</sup> Street. The property is zoned PUD 592-C.

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

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **MIDGET** TMAPC voted 8-0-0 (Carnes, Collins, Coutant, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Harmon, Hill "absent") to **APPROVE** the change of access for Forty-First Place, Lots 2 and 3, Block 1 as submitted per staff recommendation.

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**CONTINUED ZONING PUBLIC HEARING:**

**Application No.:** Z-6911

**AG TO RS-3**

**Applicant:** Neal Horton

(PD-17) (CD-6)

**Location:** Northeast corner of East 51<sup>st</sup> Street and South 161<sup>st</sup> East Avenue

**STAFF RECOMMENDATION:**

**Z-6834 OCTOBER 2001:** The TMAPC and City Council approved rezoning from AG to RS-3 on an 80-acre site west of South 177<sup>th</sup> East Avenue and north of South 51<sup>st</sup> Street, east of the subject property.

**Z-6816 JUNE 2001:** All concurred in approval of a request to rezone 11 acres located on the northeast corner of East 41<sup>st</sup> Street South and South 177<sup>th</sup> East Avenue from RM-0 and RS-3 to AG and RS-3.

**Z-6500 SEPTEMBER 1995:** A request to rezone a 107-acre tract located west of the northwest corner of East 51<sup>st</sup> Street South and South 193<sup>rd</sup> East Avenue and southeast of the subject property from AG to RS-4. All concurred in approving RS-4 zoning.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is sloping, partially wooded, vacant, and zoned AG.

**STREETS:**

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
East 51 <sup>st</sup> Street South	Secondary arterial	100'	2 lanes

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

**SURROUNDING AREA:** The property is abutted on the north by vacant land, zoned AG; to the east by vacant land, zoned AG and RS-3; to the west by a single-family development in the Broken Arrow city limits and to the south by a school, a church and a convent, also in the city limits of Broken Arrow.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 17 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as having a five-acre Medium Intensity-No Specific land use node at the intersection of East 51<sup>st</sup> Street and South 161<sup>st</sup> East Avenue and the remaining 155 acres as Low Intensity-No Specific land use. According to the Zoning Matrix, the requested RS-3 is in accord with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan and surrounding land uses and zoning, staff can support the requested rezoning and therefore recommends **APPROVAL** of RS-3 for Z-6911.

**RELATED ITEM:**

**Application No.:** Z-6913

**AG TO RS-4**

**Applicant:** Mark McKenzie

(PD-17) (CD-6)

**Location:** West of northwest corner of East 51<sup>st</sup> Street and South Lynn Lane

**STAFF RECOMMENDATION:**

**Z-6911 SEPTEMBER 2003:** A request to rezone a 104.4-acre tract abutting the subject property on the north and west extending to section line of which would be projected as South 161<sup>st</sup> East Avenue, from AG to RS-3 for residential development. TMAPC action is pending.

**Z-6834 OCTOBER 2001:** The TMAPC and City Council approved rezoning from AG to RS-3 on an 80-acre site west of South 177<sup>th</sup> East Avenue and north of South 51<sup>st</sup> Street, east of the subject property.

**Z-6816 JUNE 2001:** All concurred in approval of a request to rezone 11 acres located on the northeast corner of East 41<sup>st</sup> Street South and South 177<sup>th</sup> East Avenue from RM-0 and RS-3 to AG and RS-3.

**Z-6500 SEPTEMBER 1995:** A request to rezone a 107-acre tract located west of the northwest corner of East 51<sup>st</sup> Street South and South 193<sup>rd</sup> East Avenue and southeast of the subject property from AG to RS-4. All concurred in approving RS-4 zoning.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is sloping, partially wooded, vacant, and zoned AG.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 51 <sup>st</sup> Street South	Secondary arterial	100'	2 lanes

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

**SURROUNDING AREA:** The property is abutted on the north, east and west by vacant land, zoned AG; to the south by a cellular tower and accessory equipment building and a Broken Arrow School, both within the Broken Arrow City limits.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 17 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Low Intensity-No Specific land use. According to the Zoning Matrix, the requested RS-4 is in accord with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

Based on existing zoning and development patterns in the area, staff cannot support the requested RS-4 zoning without an accompanying PUD. There are no existing RS-4 zoned properties in the immediate vicinity of the subject site.

Moreover, the RS-4 designations are typically reserved for infill types of development in older areas, rather than in newly-developing areas such as this.

Therefore, even though the Comprehensive Plan could support the requested rezoning at some point in time, staff cannot at present unless the application is accompanied by a PUD. Staff recommends **DENIAL** of RS-4 zoning for Z-6913 and **APPROVAL** of RS-3 in the alternative.

Mr. Dunlap stated that these two zoning items are related. The first case was filed for the RS-3 zoning to include this entire tract; however, the applicant had determined that he would like to request a portion of RS-4 zoning. The original application was continued in order to be heard with the RS-4 request. Staff does support the request for the RS-3 zoning, but does not support the request for RS-4 zoning on Z-6913 and would recommend approval of the RS-3 for Z-6911 and Z-6913.

**Applicant's Comments:**

**Steve Davis**, 2448 East 19<sup>th</sup> Street, Tulsa, Oklahoma 74104, stated that he believes this request meets the Comprehensive Plan and he understands the request for the PUD, but question its relevance. This is a straight zoning situation and the PUD is not necessary. He explained that after his pre-development meeting, he revised his plan in order to prevent having to request any variances. The subject property is divided by a floodplain and it makes more sense to have more density on this small portion. The RS-4 portion would be located immediately across from two schools in the Broken Arrow School district. The purpose is to provide relatively affordable lots for single parents that would allow having their kids in first grade through intermediate school. Market studies have shown that there is a lot of demand for that particular lot. He reiterated that he is not requesting any variances and it is an isolated tract. He indicated that there are other properties in the subject area that are RS-4.

**TMAPC COMMENTS:**

Mr. Jackson asked what the difference is in the numbers (sizes of lots) between the RS-3 and the RS-4. In response, Mark McKenzie, 4525 East 39<sup>th</sup> Street, Tulsa, Oklahoma 74135, stated that the average lot size in the RS-4 area is 55' x 115' and the RS-3 area the lots are 65' x 115'. There is a ten-foot frontage difference.

Mr. Jackson asked what the difference in the numbers of dwelling units would be between RS-3 and RS-4. In response, Mr. McKenzie stated that there would be a difference of four lots.

Mr. Jackson asked Mr. McKenzie what his objections are for not filing a PUD as requested by staff. In response, Mr. McKenzie stated that the time and costs issues are why he would prefer to not file a PUD. Mr. Davis explained that he is

trying to hit a certain market target on an isolated number of lots because of the topography.

Mr. Jackson asked staff if the entire tract was under a PUD and RS-3 zoning, the applicant could obtain the density he is requesting. In response, Mr. Dunlap stated that he would assume that the overall density would work for the applicant, with the overall RS-3 zoning with the ability to count half of the right-of-way and the various things that the PUD will allow. The width of lots and setbacks, etc. could be dealt with in the PUD process.

Mr. Jackson stated that with zoning predominately being AG in the corridor, and although the Comprehensive Plan states that RS-4 would be compatible, the development pattern does not support the RS-4 request at this time and staff would prefer to see RS-3 on the zoning pattern. Mr. Jackson asked Mr. McKenzie if it would be difficult for him to submit a PUD with RS-3 zoning and request some special exceptions. In response, Mr. McKenzie asked what the PUD accomplishes. In response, Mr. Jackson stated that a PUD gives staff the comfort of having RS-3 zoning as predominant zoning pattern and gives the developer the ability to have the RS-4 density on the bottom portion of the tract. In response, Mr. McKenzie stated that the PUD is more time and money and he is trying to hit a certain target market for more affordable lots.

Mr. Jackson asked staff what the approximate amount of time the PUD process takes. In response, Mr. Dunlap stated that the standard answer on any rezoning request is approximately 90 days, but that counts from the time of making the application until the time City Council actually publishes the ordinance. Mr. Dunlap reminded the Planning Commission that it would also depend on the cutoff dates and the time of submittal.

Mr. Davis stated that he would prefer to have RS-3 on the entire tract, then to file a PUD due to the time issue.

Mr. Dunlap stated that the next TMAPC cutoff date would be October 23, 2003 and the case would be heard on December 3, 2003.

**Cecil Cotner**, 1547 South Evanston, Tulsa, Oklahoma 74104, stated that one of the things that has impacted Mr. Davis's position is that he has been advised that he is unable to file his preliminary plat until City Council has had their first reading approving the zoning. With a PUD, this would preclude Mr. Davis from continuing his progress on the project and preliminary plat.

**INTERESTED PARTIES:**

**Terry Baxter**, 2534 East 19<sup>th</sup> Street, Tulsa, Oklahoma 74104, stated that he owns the two tracts abutting the east of the subject property. He is not concerned about the RS-3 zoning, but he does have concerns about the RS-4 zoning request. There is a floodplain on the subject property and a large amount

of the water runs into his property, and if there is a higher density development, he would be more concerned.

Mr. Jackson reminded Mr. Baxter that the Planning Commission does not regulate stormwater issues.

Mr. Baxter stated that he does support the RS-3 request.

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted 8-0-0 (Carnes, Collins, Coutant, Horner, Jackson, Ledford, Midget, Westervelt no "aye"; "nays"; none "abstaining"; Bayles, Harmon, Hill "absent") to recommend **APPROVAL** of the RS-3 zoning for Z-6911 per staff recommendation.

**TMAPC Action; 8 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 8-0-0 (Carnes, Collins, Coutant, Horner, Jackson, Ledford, Midget, Westervelt no "aye"; "nays"; none "abstaining"; Bayles, Harmon, Hill "absent") to recommend **DENIAL** of the RS-4 zoning for Z-6913.

**Legal Description for Z-6911:**

The southwest quarter of Section 26, T-19-N, R-14-E, of the IBM, Tulsa County, State of Oklahoma, and located east of the northeast corner of East 51<sup>st</sup> Street South and South 161<sup>st</sup> East Avenue, Tulsa, Oklahoma, **From AG (Agriculture District) to RS-3 (Residential Single-family High Density District).**

\* \* \* \* \*

Ms. Coutant out at 2:08 p.m.

**ZONING PUBLIC HEARING**

**Application No.: CZ-332**

**AG-R to AG**

**Applicant:** Dennis Bowers/Countryside  
Homeowner's Association

(PD-15) (County)

**Location:** North Memorial Drive and East 112<sup>th</sup> Street North

**STAFF RECOMMENDATION:**

**CZ-294 January 2002:** Upon the request from the homeowners within the Countryside Estate development, TMAPC requested the rezoning of the subject property from RE to AG-R. All concurred in the request.

**CZ-286 July 2001:** An application to rezone property located on the northeast corner of East 106<sup>th</sup> Street North and North Memorial Drive, south of the subject property from AG to RS was denied by TMAPC and RE zoning was recommended. The County Commission approved RE zoning upon appeal from the applicant.

**CZ-262 January 2001:** An application to rezone property located on East 106<sup>th</sup> Street North between North Memorial Drive and North Mingo Road from AG to RS was recommended for denial by TMAPC. The County Commission concurred in denial of RS and approved RE zoning.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 151 acres in size and is located on the east side of North Memorial Drive and on the north and south side of East 112<sup>th</sup> Street North. The property is sloping, partially wooded, the development contains large lots with single-family dwellings, grazing lands, farm buildings and is zoned AG-R.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
North Memorial Drive	Secondary arterial	100'	2 lanes
East 112 <sup>th</sup> Street North	Residential	50'	2 lanes

**UTILITIES:** Water to the site is served by the City of Owasso. Sewer is by septic systems or lagoons.

**SURROUNDING AREA:** The subject property is abutted on the north and west by large-lot, single-family residential homes and agriculture uses, zoned AG; to the south by vacant property zoned RE; to the east by vacant land, zoned AG and to the northeast by a residential development with single-family homes, zoned AG and is within the Owasso fence-line.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 15 Plan, a part of the Comprehensive Plan for the City of Owasso, designates the subject property as Rural Residential/Agriculture. According to the Plan Map and Land Use Descriptions in the Plan Text, the requested AG zoning is in accord with the Owasso 2010 Land Use Master Plan.

**STAFF RECOMMENDATION:**

It was staff's understanding, at the time this application was taken, that most or all of the property owners in the subject boundaries supported this rezoning. Staff has since been contacted by a number of the property owners whose names and signatures appear on the petition of support to indicate they have changed their minds. This is not a TMAPC-sponsored application, and if the

property owners do not in fact wish to have their properties rezoned, staff can see no benefit to the community in rezoning. Both the existing AG-R and the proposed AG are in accord with the Plan.

Absent of the support of all or most of the property owners, staff does not deem rezoning to AG to be in the public interest. According to the Zoning Code, one purpose of the AG district is to protect agricultural land until its transition to more urban types of development. This subdivision and others nearby appear to have begun that transition and rezoning to a lesser intensity at this point appears to be regression. Therefore, staff recommends **DENIAL** of AG zoning for CZ-332.

**Applicant's Comments:**

**Norman Trost**, 8615 East 112<sup>th</sup> Street North, Owasso, Oklahoma 74055, cited the history of the subject property and stated that the history is the core of the application. He indicated that the current development has restrictive covenants, which allowed for as many horses as the property owners would like and other livestock such as 4H projects and FFA projects. He commented that this would include hogs, sheep, and cattle. He fully understands that the Planning Commission is not part of nor a party to those covenants and normally it does not give weight to zoning matters. It is important to note that each of the homeowners in Countryside Estates is both legally and morally obligated to abide by the covenants mentioned. The covenants are conditional, which means that before purchasing the property, the purchaser has to agree to abide by the covenants. To him the moral obligation is higher than the legal obligation.

Mr. Trost cited the procedures he believes happened to result in the current zoning of the Countryside Estates. He indicated that Countryside Estates was zoned RE without his knowledge. He stated that all of the points of opposition are covered in the restrictive covenants except for one, which is a fear that the value of the properties would go down if it is zoned AG, but he believes the properties would increase in value.

**TMAPC COMMENTS:**

Mr. Jackson asked Mr. Trost what the average lot size is in the subject subdivision. In response, Mr. Trost stated that it ranges from a minimum of five acres and up to a maximum of twelve acres. He indicated that he owns twelve acres and is the largest in the subject subdivision.

Mr. Westervelt asked Mr. Trost when he purchased his home in the subject subdivision. In response, Mr. Trost stated that he purchased his home in February 1981. He explained that when he looked for a place to live he told his realtor that he wanted ten or more acres in order to raise livestock for his children's 4H and FFA projects. He explained that he filed a lot-split to obtain seven acres from Lot 4 and combined with his five acres, which gave him the twelve acres. After reading the covenants he was assured he could have horses and 4H and FFA projects on his property.

Mr. Westervelt asked Mr. Trost if he or his realtor read the Zoning Code before purchasing the property. In response, Mr. Trost stated that he didn't read the Zoning Code. He explained that when he was looking at the property and preparing for his lot-split, he noticed animals everywhere and he was in the country, so it was unreasonable act to ask the realtor to go to the County and find out the zoning. He reiterated that the covenants already stated that he could have livestock.

**Applicant's Comments:**

**Dennis Bowers**, 11006 North 92<sup>nd</sup> East Avenue, Owasso, Oklahoma 74055, stated that he is the a resident of Lot 2, Block 5 of Countryside Estates and has been so since 1987. Mr. Bowers submitted the history of Countryside Estates (Exhibit B-2). He indicated that he purchased his home in order to have animals. He stated that he discussed the covenants with the original developer, Mr. Howell, to question him about having animals on his property. He commented that he was informed by Mr. Howell that animals were allowed and that Mr. Howell was unaware that the subdivision had been rezoned in 1980.

Mr. Bowers reiterated the history of the subdivision as Mr. Trost had cited earlier. Mr. Bowers stated that in 2001 the Countryside Estates requested TMAPC to sponsor their rezoning to AG. Mr. Bowers cited that the letters requesting the AG zoning in 2001 are no longer available at the INCOG offices. **(Staff investigated this claim and found the petitions and letters in the appropriate files.)** Mr. Bowers stated that INCOG could not account for what happened when it became AG-R when the residents had specifically requested AG zoning. Mr. Bowers stated that the staff recommendation for the rezoning case in 2001 was incorrect because not everyone agreed to AG-R, but rather believed it would be zoned AG. He further stated that there is no homeowner's association in Countryside Estates and no one has been given the privilege to convey the residents' wishes regarding zoning. If necessary, he would be able to bring many homeowners to the meeting to convey that they did not agree to AG-R zoning.

Mr. Bowers stated that on August 20, 2003, the County Zoning Inspector issued an official violation notice stating that raising livestock, Use Unit 3, Tulsa County Zoning Code, is in violation of AG-R zoning. September 4, 2003, 18 Countryside Estate property owners filed a paid application requesting rezoning to AG. He commented that some of the residents recanted on this application after receiving a letter that stated they could have animals in AG-R zoned property, which he believes is false. He stated that another letter informed the residents that if AG zoning was allowed, they wouldn't have the ability to stop mobile homes from moving in. However, AG-R does allow mobile homes and only allows limited control of livestock. Mr. Bowers stated that a staff member of INCOG encouraged the residents to initiate a petition stating that people had changed their minds about rezoning to AG. Residents were told that the purpose

of the petition was only to request a continuance of this matter, but the petition is worded to withdraw support for the matter.

Mr. Bowers stated that the staff recommendation for denial is based on unsubstantiated telephone calls. He suggested that there are only three people who actually changed their minds (18 originally requested the rezoning to AG). Mr. Bowers requested that the AG zoning be approved because of the original intent of the developer and to correct the misapplication of RE zoning when zoned by aerial photograph in 1980 and to reflect the actual historic and present use of the properties and finally, to correct the 2001 request for AG when 23 out of 24 residents agreed to AG. If the Planning Commission is unable to recommend approval of the application as submitted, then he would request that Lot 5, Block 2, and the property of Michael and Wendy Slaven, owners of Lot 6, Block 2, which is southwest of and the contiguous lot to Mr. Bowers' with AG-zoned land be zoned AG separate from the balance of the subdivision. If the Planning Commission is unable to approve this modified request, then he would request that this item be continued in order to allow the applicants to further substantiate and justify the basis for the request.

**TMAPC COMMENTS:**

Mr. Jackson asked staff what the percentage of the subdivision would be required to be in agreement for rezoning to occur. In response, Mr. Dunlap stated that he doesn't believe that there is a certain percentage. The Planning Commission has desired that as many as possible be in concurrence.

Mr. Midget stated that the Planning Commission has required in the past that a super-majority be in agreement (approximately 70% minimum).

Mr. Jackson asked how many violation letters have been issued. In response, Mr. Bowers stated that there has been one violation letter. Mr. Bowers further stated that the County Zoning Inspector only acts on complaints.

Mr. Westervelt asked Mr. Bowers if it is his belief that an INCOG staff member tried to derail his attempts to obtain the AG zoning. In response, Mr. Bowers stated that he doesn't have any idea why INCOG would call someone and suggest that a petition be passed around of people who have changed their minds, but he is not saying that INCOG frightened someone. Mr. Bowers stated that he did not intend to state that INCOG tried to frighten anyone.

Mr. Jackson asked Mr. Bowers how many of the 24 residents have livestock. In response, Mr. Bowers stated that at the present count there are eight residents with livestock and one person with a large horse barn and who wishes to have livestock. One or two residents have livestock purchased, but have not been delivered to their property yet.

**INTERESTED PARTIES:**

**Jana Falleur**, 11019 North 92<sup>nd</sup> East Avenue, Owasso, Oklahoma 74055, stated that she is protesting the zoning change to AG. There are currently six out of 24 homeowners who have large animals. Just because someone has a barn does not mean that they have animals, but perhaps they intend to have animals at a later date. She stated that she is aware that the Planning Commission doesn't enforce the covenants, but Mr. Trost stated a few things regarding the covenants. Every property owner is given a copy of the covenants and they are filed with the County Clerk. She indicated that Mr. Trost has violated two of the covenants by subdividing lots and neither Mr. Trost nor Mr. Bowers have children in high school or below, but they do have livestock. She explained that Mr. Trost currently has cows and the covenants specifically state horses only, which proves that the covenants do not prevent violations.

Ms. Falleur stated that looking at Section 301 and 302 of the Zoning Code, the closest description that fits the subdivision would be AG-R, which recognizes the need for rural residential acreage subdivision. The subdivision is not agricultural anymore and the Owasso City Planner has informed her that according to the Owasso Master Plan 2010, the subdivision is recommended to be AG-R.

Ms. Falleur stated that she believes the sole reason for Mr. Bowers's requesting the Code to be changed is because he is in violation. She indicated that he currently has at least 15 animals in his front yard (one acre) and he was turned in to the County Inspector. She stated that when she purchased her property, she reviewed the covenants and the zoning and felt that her investment would be protected. Downzoning to Agriculture would not be in the best interest of future or current homeowners.

**TMAPC COMMENTS:**

Mr. Westervelt asked Ms. Falleur if she knew the expiration date on the covenants. In response, Ms. Falleur stated that there is no expiration date, but it does state that the covenants would continue in ten-year increments until the homeowners decide to change them.

Mr. Westervelt asked Legal how covenants are handled today when there are no expiration dates. In response, Mr. Romig stated that he would have to look at the Statutes, but it is his understanding that they can expire even if it is stated on the covenants that they continue.

Mr. Romig stated that he reviewed the County Zoning Code regarding the agricultural residential uses. There is a matter before the County Board of Adjustment for an interpretation of the Code. It appears that the raising of animals, except wild and exotic animals, can be permitted by special exception.

**INTERESTED PARTIES:**

**Linda Segress**, 9034 East 112<sup>th</sup> Street North, Owasso, Oklahoma 74055, stated that INCOG staff never contacted her and suggested that she start a petition. She explained that she called INCOG and explained what was under application and that she was going to start a petition and staff advised her that it was a good idea.

Ms. Segress stated that her main reason for being present today is to request a continuance and that is what the homeowners were told who signed the petition and who no longer wish to have their names on the proposal, and people who didn't sign the proposal, but request that the zoning remain AG-R. She would like to wait for the clarification that was requested on AG versus AG-R zoning and the issue of livestock. She indicated that the covenants are going to be updated once the clarification is made regarding which animals would be reasonable in the AG-R zoning.

Ms. Segress stated that during the rezoning request two years ago, it was suggested by TMAPC members that the subdivision be rezoned AG-R rather than AG because there would be more protection. There were only three residents at the meeting and the other residents didn't seem to be concerned about the application because they didn't attend the meetings. She explained that the AG-R zoning had more protection.

**TMAPC COMMENTS:**

Mr. Westervelt stated that he remembers advising the homeowners to request AG-R rather than AG regarding code enforcement. When residents rely on their covenants, they have to file suit and address it as a civil matter, whereas if AG-R can be enforced by the County Inspector, it could deal with the issues. In response, Ms. Segress stated that she remembers this reasoning as well. Ms. Segress stated that she has the names and the plats of the people who have signed the petition. Mr. Jackson informed Ms. Segress to submit it to staff for public record.

**INTERESTED PARTIES:**

**Robin Wiser**, 11046 North 92<sup>nd</sup> East Avenue, Owasso, Oklahoma 74055, stated that she is in agreement with the continuance request. She further stated that she is confused about what AG and AG-R allow regarding animals. She explained that it would be best to wait until the clarification is available. She commented that from what she has heard, she feels they should remain AG-R.

**Ed Campbell**, 11231 North Memorial Drive, Owasso, Oklahoma 74055, stated that he was present at the previous meetings and was in agreement with the AG-R rezoning. He indicated that he was one of the supporters of the proposal, but he is waiving that because he feels that homeowners should be able to have horses but not commercial farming. He stated that he supports a continuance and feels that the subdivision should remain AG-R.

**Joe Falleur**, 11019 North 92<sup>nd</sup> East Avenue, Owasso, Oklahoma 74055, stated that most of the residents do not oppose to having horses or a cow, but the number of horses or cows is what residents are concerned about. The people who want AG do not want any limits on the number of the animals they can have. They do not want to go to the Board of Adjustment and be limited to the number. If the residents do not have to go before the Board of Adjustment, then there is no protection except to hire an attorney and go through the legal process. This was discussed during the fall of 2001 at length with staff and TMAPC. It was determined that in the best interest of everyone, as whole not just a few individuals, that it would be best to be zoned AG-R for some protection from the County and it would be easier to resolve issues rather than going to court.

Mr. Dunlap reminded the Planning Commission that each owner on the original application is an applicant.

**Applicant's Rebuttal:**

Mr. Bowers stated that he did not request this rezoning for AG in response to the violation that he was served. He explained that he has ten acres of AG land available to him, which is contiguous to his AG-R property. He would like to rezone his property to AG with his adjacent property, which is in accordance with the 2010 Plan and compatible with the RE zoning in place and all of the land surrounding that is zoned AG, except for the piece of property across the street from him, which is zoned AG-R. He explained that the number of livestock on the property and the ability to graze is self-limiting. A person can no economically over-graze his/her land.

Mr. Trost stated that he did not subdivide his property but he did obtain a County-approved lot-split. He explained that he cannot build houses on the back portion of his property per the covenants. He reiterated that he purchased the additional five acres in front where his house is located and he did not subdivide his lot. Mr. Trost gave an example of how to remedy problems by enforcing the covenants.

**TMAPC COMMENTS:**

Mr. Jackson asked Legal if it would be prudent to continue this item since there is a pending CBOA case to clarify the Zoning Code and limited livestock on AG-R property. In response, Mr. Romig stated that it would be the Planning Commission's preference.

Mr. Jackson asked Legal if the one lot owned by Mr. Bowers could be isolated for rezoning with this application. In response, Mr. Romig stated that since this was advertised to be zoned AG, the Planning Commission wouldn't be doing anything that was not advertised. Mr. Jackson responded by stating that he realizes that it would not be good planning to isolate Mr. Bowers's property and rezone it AG.

Mr. Ledford stated that he thought it would be best to continue this application until a decision by the County Board of Adjustment is received.

Mr. Westervelt agreed with the continuance. He stated that when the Planning Commission does a downzoning, it is usually to take a more permissive zoning down to a less permissive zoning. He further stated that although he agrees to second the motion for a continuance, it does not ensure that he would be inclined to vote supportively to downzone to AG.

**TMAPC Action; 7 members present:**

On **MOTION** of **LEDFORD**, TMAPC voted 7-0-0 (Carnes, Collins, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Ledford, Midget, Westervelt "absent") to **CONTINUE** CZ-332 to November 5, 2003 at 1:30 p.m.

**Mr. Jackson recognized Interested Party.**

The interested party stated that the original request for a continuance was for December 3, 2003 because she is not sure if the AG-R clarification would be decided that quickly.

Mr. Jackson stated that the County Board of Adjustment will clarify the AG-R issue next week.

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**Application No.: Z-6914**

**RS-3 to IL**

**Applicant:** D. Faith Orlowski

(PD-16) (CD-3)

**Location:** Southwest and southeast corner of Mohawk and North College Avenue

**STAFF RECOMMENDATION:**

**BOA-18080 June 1998:** The Board of Adjustment approved a special exception to permit an animal shelter (existing SPCA) and to build a veterinary clinic for the facility in an RS-3-zoned district on the western lots of the subject zoning application.

**Z-6319 June 1991:** A request for rezone the 3.9-acre tract adjoining the subject property on the east, from RS-3 to CG or IL for commercial use. The request was denied.

**Z-6293 September 1990:** All concurred in approval of a request to rezone a 2.5-acre tract abutting the subject tract on the west and separating the subject property from Highway 75 right-of-way from RS-3 to IL.

**Z-6289 August 1990:** Approval of IL zoning was granted on a .86-acre tract adjoining the subject property on the northwest corner, from RS-3 to IL for a light manufacturing business.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is gently sloping, partially wooded, and zoned RS-3. The TSPCA is located on the west side of North College Avenue and the property on the east side of the street is vacant.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East Mohawk Boulevard	Residential collector	60'	2 lanes
North College Avenue	Residential street	50'	2 lanes

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

**SURROUNDING AREA:** The property is abutted on the north by large-lot single-family dwellings, zoned RS-3; to the east by vacant property, zoned RS-3; to the west by a fixture company, zoned IL, and farther to the west by a highway, zoned RS-3; and to the south by large-lot single-family residential and agricultural uses, zoned RS-3.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 16 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Medium Intensity – No Specific Land Use. According to the Zoning Matrix, IL zoning **may be found** to be in accord with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan and adjacent land uses, staff can support the requested rezoning and therefore recommends **APPROVAL** of IL zoning for Z-6914.

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

**INTERESTED PARTIES:**

**John Turner**, 3052 East Mohawk, Tulsa, Oklahoma 74110, stated that he has a list of approximately eleven family units in the area who have concerns about more dogs being brought onto the property. He expressed concerns about the waste management and questioned if the applicant is on a septic system. He

questioned why the subject property is not under a PUD in order to limit the activity and protect the neighbors.

Mr. Turner indicated that his neighbor was concerned that one acre of his property is being rezoned by this application.

**TMAPC COMMENTS:**

Mr. Dunlap stated that with the rezoning it would require Board of Adjustment action and at that time the BOA could place further restrictions on the subject property.

Mr. Dunlap asked Mr. Turner if his neighbor's property (Mr. Pitt, 3816 North Gary) is included within the dashed line on the zoning case map. In response, Mr. Turner answered affirmatively.

Mr. Jackson requested staff to review the legal description and make sure that the property under application is only that owned by the applicant.

Mr. Midget stated that the subject property is on City sewer and not on a septic system.

In response to Mr. Turner, Mr. Jackson clarified that today the Planning Commission is only considering the rezoning. The applicant would have to go before the Board of Adjustment for uses and any limitations. Mr. Midget stated that the activities allowed on the subject property would be handled by the BOA and the community is allowed to attend that meeting and voice their concerns. Mr. Midget suggested that the residents meet with the applicant and discuss their concerns prior to the BOA meeting.

**Mr. Carnes out at 3:14 p.m.**

**INTERESTED PARTIES:**

**Albert Million**, 3820 North Gary Avenue, Tulsa, Oklahoma 74110, stated that he is concerned about the noise, smells and odor. He explained that the dogs bark all night and disturb his evenings. He indicated that there is a safety issue due to the dogs getting loose and chasing the neighbors. Mr. Million concluded by stating that the subject property is already being cleared and a portion of his property has been cleared too.

**Ira Powell**, 3048 East 38<sup>th</sup>, Tulsa, Oklahoma 74110, stated that he owns the adjacent property south of the SPCA. He indicated that he has been a neighbor to the SPCA since 1951 and he supports this request. He requested that the utility easements be maintained across the SPCA property along College Avenue for the purpose of bringing water and natural gas lines to his property for future development.

**Applicant's Rebuttal:**

**Ms. Orlowski**, SPCA, 2300 Williams Tower II, Tulsa, Oklahoma 74103, stated that the SPCA has been located on the subject property since the mid 1940's and they try to be good neighbors. Rescuing animals is what the land was donated for to the City of Tulsa and their goal is to make everyone in the area happy. She explained that it wouldn't help the SPCA's situation if the neighbors are upset. She expressed that the SPCA would be happy to oblige the neighbors as much as possible.

**TMAPC Action; 6 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 6-0-0 (Collins, Horner, Jackson, Ledford, Midget, Westervelt no "aye"; "nays"; none "abstaining"; Bayles, Carnes, Coutant, Harmon, Hill "absent") to recommend **APPROVAL** of the IL zoning for Z-6914 per staff recommendation.

**Legal Description for Z-6914:**

Lots 1, 2, and 3, Block 10 and Lots 4, 5, 6, and 7, Block 11, Lake View Heights Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, and located on the southwest corner and the southeast corner of East Mohawk Boulevard and North College Avenue, Tulsa, Oklahoma, **From RS-3 (Residential Single-family High Density District) To IL (Industrial Light District).**

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**OTHER BUSINESS:**

<b>Application No.:</b> PUD-600-A	<b>DETAIL SITE PLAN</b>
<b>Applicant:</b> Randy Barker	(PD-18) (CD-8)
<b>Location:</b> East 91 <sup>st</sup> Street and South Toledo	

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a one-story office building. The proposed use, Use Unit 11, is in conformance with development standards.

The proposed office building complies with all development standards regarding maximum floor area and height permitted, building setbacks and minimum street yard requirements. Proposed parking meets minimum space and design requirements. No parking lot lighting is proposed. The bulk trash container will be screened as required.

Staff recommends **APPROVAL** of PUD-600-A detail site plan as proposed.

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

**Applicant was not present.**

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

**TMAPC Action; 6 members present:**

On **MOTION** of **HORNER** TMAPC voted 6-0-0 (Collins, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Coutant, Harmon, Hill "absent") to **APPROVE** the detail site plan for PUD-600-A per staff recommendation.

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**Application No.: PUD-592-C**

**DETAIL SITE PLAN**

**Applicant:** Ted Sack

(PD-6) (CD-7)

**Location:** 3353 East 41<sup>st</sup> Place

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a one-story bank with drive-in facilities. The proposed use, Use Unit 11, is in conformance with development standards.

This site plan is tied to a request for a change of access. Access points are provided on the site plan as requested through the change of access application.

The site plan for the proposed bank is in compliance with maximum building floor area, building and parking setbacks and street yard requirements. As required by development standards, the one-story building is of pitched-roof design and an architectural style compatible with residential structures. Although elevations of a trash enclosure were included with the site plan submittal, the site plan states that no bulk trash containers are proposed nor are any located on the site plan. The lighting plan is in compliance with PUD standards and the Zoning Code and there is an existing eight-foot screening fence on the north and east boundaries of the site as required by development standards.

As required, the site plan includes a fifteen-foot landscaped area along the east boundary and a minimum fifteen-foot landscaped area along 41<sup>st</sup> Street, two feet of which is proposed as "overhang" for adjacent parking. Development standards also require that a three-foot berm shall be located within the

landscaped area along 41<sup>st</sup> Street. The applicant is proposing that this berm be constructed at a 2/1 slope. Staff is recommending against a slope greater than 3/1 because of the difficulty in maintaining landscaping and difficulty in retaining the slope's stability and required height (due to erosion). Furthermore, a slope greater than 3/1 is not in compliance with City of Tulsa policy. To accomplish the required three-foot berm height within the limited space available, staff recommends combining the berm with a retaining wall that maintains a minimum two-foot clearance from the parking to accommodate overhang.

Development standards require that all landscaped areas shall be outside the planned right-of-way. The current landscape plan places several of the trees in the right-of-way. Furthermore, street yard calculations are incorrectly based upon a 50-foot setback rather than the 70-foot setback required by standards. Subsequently, a total of seventeen trees are required.

Staff recommends **APPROVAL** of PUD-592-C detail site plan contingent upon (1) TMAPC approval of the change of access; (2) provision of a berm with a slope no greater than ~~3/4~~ 2/1; and (3) an approved landscape plan in compliance with development standards and the zoning code.

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

**Applicant's Comments:**

**Ted Sack**, Sack and Associates, 111 South Elgin, Tulsa, Oklahoma 74120, stated that he agrees with the staff recommendation except for the landscape berm located in the front of the subject property. The PUD required a 15-foot landscape area with a three-foot berm; however, two feet of the 15 feet would be needed for the overhang of the car bumpers and therefore there is only 13 feet left to build the three-foot high berm. He indicated that this could be accomplished with a 2/1 slope and the owner is aware of this. He indicated that the proposed berm would be maintainable. Mr. Sack demonstrated a 2/1 slope.

**Inaudible.**

Mr. Ledford pointed out that the 2/1 slope would be privately maintained and if there are any problems the property owner would have to deal with it.

**TMAPC Action; 6 members present:**

On **MOTION** of **HORNER** TMAPC voted 6-0-0 (Collins, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Coutant, Harmon, Hill "absent") to **APPROVE** the detail site plan for PUD-592-C, subject to (1) TMAPC approval of the change of access; (2) provision of a berm with a slope no greater than 2/1; and (3) an approved landscape plan in compliance with development standards and the zoning code. (Words deleted are shown as strikeout; words added or substituted are underlined.)

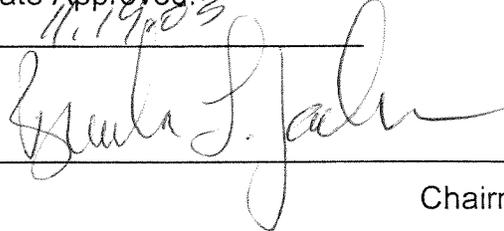
**Commissioners' Comments:**

Mr. Westervelt stated that INCOG and the Planning Commission is very fortunate to find Mr. Wayne Alberty to replace Mr. Jay Stump as Manager of Land Development Services.

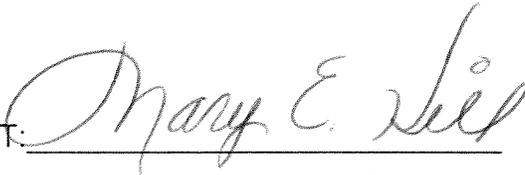
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There being no further business, the Chair declared the meeting adjourned at 3:20 p.m.

Date Approved:

11/19/03  
  
Chairman

ATTEST:



Secretary

