

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2392

Wednesday, October 6, 2004, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Bayles	Harmon	Alberty	Romig, Legal
Carnes	Jackson	Brierre	
Coutant	Miller	Chronister	
Hill		Fernandez	
Horner		Huntsinger	
Ledford		Lasker	
Midget		Pinc	
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, October 1, 2004 at 2:08 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, 1st Vice Chair Hill called the meeting to order at 1:30 p.m.

Minutes:

Approval of the minutes of September 1, 2004, Meeting No. 2389

On **MOTION** of **HORNER** the TMAPC voted 6-0-0 (Carnes, Coutant, Hill, Horner, Ledford, Midget "aye"; no "nays"; none "abstaining"; Bayles, Harmon, Jackson, Miller, Westervelt "absent") to **APPROVE** the minutes of the meeting of September 1, 2004, Meeting No. 2389.

Ms. Bayles in at 1:41 p.m.

Minutes:

Approval of the minutes of September 15, 2004, Meeting No. 2390

On **MOTION** of **HORNER** the TMAPC voted 6-0-1 (Carnes, Coutant, Hill, Horner, Ledford, Midget "aye"; no "nays"; Bayles "abstaining"; Harmon, Jackson, Miller, Westervelt "absent") to **APPROVE** the minutes of the meeting of September 15, 2004, Meeting No. 2390.

Minutes:

Approval of the minutes of September 22, 2004, Meeting No. 2391

On **MOTION** of **HORNER** the TMAPC voted 6-0-1 (Carnes, Coutant, Hill, Horner, Ledford, Midget "aye"; no "nays"; Bayles "abstaining"; Harmon, Jackson, Miller, Westervelt "absent") to **APPROVE** the minutes of the meeting of September 22, 2004, Meeting No. 2391.

Mr. Westervelt in at 1:42 p.m.

REPORTS:

Chairman's Report:

Ms. Hill reported that there are some housekeeping items: PUD-431-B-2, Minor Amendment has been withdrawn by the applicant and Z-6958; staff has requested a continuance for a new notice.

Application No.: Z-6958

OL/RS-3 to CS

Applicant: Tim Terral

(PD-17) (CD-6)

Location: North of northwest corner of East 11th Street and South 123rd East Avenue

STAFF RECOMMENDATION:

Staff is requesting a continuance to October 20, 2004 for a new notice.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **WESTERVELT**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Harmon, Jackson, Miller "absent") to **CONTINUE** Z-6958 to October 20, 2004.

Director's Report:

Mr. Alberty reported on the City Council action on applications from the September 23, 2004 meeting. He further reported on new applications for the October 7, 2004 meeting.

Mr. Westervelt reported that he did talk with Brandon Jackson today. He has developed a bacterial infection and they are working to get this under control in order to perform another surgery. He suggested that the TMAPC members call him and give him encouragement.

SUBDIVISIONS:

LOT-SPLIT FOR DISCUSSION:

L-19741 – Charles Norman (9213)

(PD-7) (CD-9)

232 East Hazel Boulevard

STAFF RECOMMENDATION:

In 1929 Joel Wolfe acquired Lot 6, Block 14, Sunset Terrace. Also in 1929 he purchased the west 35 feet of Lot 5, Block 14, Sunset Terrace; and then in 1931 he acquired an additional 15 feet of Lot 5 for a total of the west 50 feet of Lot 15. These two properties have been conveyed a number of times over the years.

On April 13, 2000, Karen Roach acquired Lot 6, Block 14, Sunset Terrace and the west 50 feet of Lot 5, Block 14, Sunset Terrace. On May 3, 2001 a building permit was issued for a residence on the west 50 feet of Lot 5. The issuance of a building permit was based on Section 1404.A (nonconforming lots) of the Tulsa Zoning Code. This has been the practice since July 1, 1970. However, the building permit expired.

In 2003, Karen Roach, owner of Lot 6 and the west 50 feet of Lot 5, entered into a contract, sold Lot 6, and retained the west 50 feet of Lot 5. A lot-split was not obtained at that time. Subsequently, a building permit for the west 50 feet of Lot 5 was requested and issued by the City of Tulsa.

Debra Butler appealed the zoning clearance issuance to the City Board of Adjustment, which denied the appeal. The BOA decision was based upon the determination that Lot 5 was a legal, nonconforming lot of record. She then appealed to District Court. In May 2004, the District Court ruled that Lot 6 and the west 50 feet of Lot 5 had merged for zoning purposes by virtue of the series of conveyances. However, the Court ruled that the conveyance of Lot 6 was not subject to lot-split approval because it remains as originally platted and is not considered to be a substandard lot under the current zoning ordinances.

The only conclusion the staff can come to is that since the court ruled that Lot 6 did not require a lot-split, then neither does the west 50 feet of Lot 5, since it has been filed of record since 1931. The fact that the west 50 feet of Lot 5 does not meet the current RS-2 lot width of 75 feet is covered by Section 1404.A. In

staff's opinion, it is contrary to logic to determine the lots are merged in the first instance but only one of the parcels requires a lot-split.

The staff is also unaware of any law that would cause the lots to be merged. The authority to develop ordinances and regulations is derived from Title 19, Sections 863.9 and 863.10, Oklahoma Statutes.

The staff recommendation rendered on September 15, 2004 is hereby amended and clarified. Staff's previous recommendation was an attempt to respond to the District Court decision, and after further consideration, that was incorrect. It is the staff's conclusion that the TMAPC has neither authority nor jurisdiction to consider this lot-split. It is staff's opinion that the west 50 feet of Lot 5, Block 14, Sunset Terrace is a legal nonconforming lot that does not require lot-split approval.

TMAPC COMMENTS:

Mr. Romig stated that he would like to state that he and Mr. Alberty came up with their opinions on the legalities and jurisdiction separately and did not coordinate this decision.

Mr. Romig stated that the judge states in her ruling that 863.10 of Title 19, which is the lot-split statute and the only one he knows of that grants the Planning Commission authority to consider lot-splits, is not applicable to this situation since Lot 6 is a full lot and the splitting of those two lots did not require approval under that. By this ruling, the judge has basically stated that the lot-split statute is inapplicable and therefore the effect is that the Planning Commission doesn't have jurisdiction (because 863.10 of Title 19 is the only authority given to the Planning Commission for lot-splits). If Mr. Norman, Mr. Jorgensen or Ms. Carson can cite a different statute or ordinance that would allow the Planning Commission to grant a lot-split, in this case, a limited lot-split, then the authority could be reconsidered. As long as Section 863.10 is not applicable, he doesn't know of any other authority the Planning Commission has to hear the lot-split. He recommended that the lot-split be denied for lack of legal authority.

Mr. Westervelt asked Mr. Romig if he is suggesting that the Planning Commission should deny the lot-split or not hear the case in which the TMAPC has no authority. In response, Mr. Romig stated either way is the same effect.

Mr. Carnes stated that in the past, when Legal informs the Planning Commission that they do not have authority, it is simply not heard. In response, Mr. Westervelt stated that the Planning Commission has been consistent with following the legal advice they are given.

Mr. Westervelt asked Mr. Romig if he believed the Planning Commission should hear from any of the counsel who could show if there is any authority for the

Planning Commission to hear this application. In response, Mr. Romig stated that he felt it would be entirely appropriate.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, submitted the court's order and map of the neighborhood (Exhibit A-1), which he believes is being interpreted erroneously by staff and Mr. Romig. Mr. Norman cited the difference in the lot sizes in the RS-3 and RS-2 districts of the subject neighborhood. He indicated that it is important to know this information when considering the significance of Section 1404.a. of the Zoning Code, which deals specifically with nonconforming lots or parcels of land that were of record prior to the effective date of The Tulsa Zoning Code in June of 1970.

Mr. Norman stated that he will not spend any time on Section 1404 except to note that it was the section presented to the court and provides that, as matter of right, in his opinion, the owner of the property of the west 50 feet of Lot 5 was entitled to a building permit for the purposes of a single-family home so long as the plan for the home conforms to the required side yards, front yards and rear yards, plus 50% livability space requirement in the RS-2 district. There has been no question that the site plan submitted to the building inspector conformed to all of the requirements of Section 1404.a.

Mr. Norman cited the court's references to the subject property and their establishment. He further cited from the court document where the court refers to a doctrine of merger as applicable to this matter by virtue of some findings of fact that the two parcels of land were in common ownership and that the parties over the years had intended to use them as a single parcel, and that by operation of law a single parcel emerges for zoning purposes only. As a matter of law, the conveyance of Lot 6 to the Cox family was not subject to lot-split approval and the court found Lot 6 to not be a substandard residential lot under the current Zoning Ordinances. Where the court deviated from his opinion and the City's was by stating "...however, not entitled to the substandard parcels of Lot 5 may not be entitled to the issuance of a building permit for purposes of a development without lot-split approval by Planning Commission. Once these lots were merged they could not, thereafter, divided into separate lots without complying with the subdivision process." He indicated that the court has ruled and made the following statement "...the doctrine of merger prohibits this substandard lot now separated from the conforming lot from consideration under grandfather exception clause for current or future or residential development." Mr. Norman explained that this statement is that the conveyance of Lot 6; and presumably, the future conveyance of the west 50 feet of Lot 5, do not require lot-split approval, but the court went beyond anything referenced in the Zoning Code of Tulsa and stated "...however, for zoning purposes only, the owner of the west 50 feet of Lot 5 cannot have a residential building permit without lot-split approval from the Tulsa Metropolitan Area Planning Commission."

Mr. Norman stated that a building permit was issued in 2001 for the same house on the same west 50 feet of Lot 5 that expired because the property owners did not commence construction within the time that was allowed in the Code. When the property owners applied for a new permit they had a contract to sell Lot 6 where the house is located and there has never been a house on the west 50 feet of Lot 5. The court finally ruled a new doctrine and a new theory of law in Tulsa, Oklahoma that there is somehow a common-law doctrine of a merger for zoning purposes only has occurred. He stated that the Planning Commission's approval is not needed to convey Lot 6, and obviously if Lot 6 is sold without a lawful approval of the west 50 feet of Lot 5, then it must be a lawful lot, but for zoning purposes it has to come back to the Planning Commission. The only body that has any jurisdiction over lot-splits is the Planning Commission.

Mr. Norman indicated that he filed for a stay of the final order in order to apply for a lot-split, which the court indicates is necessary. On two occasions the court has stated that the Planning Commission has jurisdiction to grant a lot-split because the judge indicates it is required in order to comply with her order, and allows the applicant time to come before the Planning Commission.

Mr. Norman stated that staff indicated previously that this application deserved prior approval because there is no question that it complies with all of the requirements of the Zoning Ordinance. He indicated that he personally suggested that it would be inappropriate and requested that it be set for some type of hearing to allow all of the parties an opportunity to address the Planning Commission. Mr. Norman referred to the letters from Mr. Romig dated September 30, 2004 and October 1, 2004, pages 2.5 and 2.9 of the October 6, 2004 agenda. He commented that if the Planning Commission accepts the recommendation of Mr. Romig, he will have to appear before the judge and explain that the Planning Commission doesn't have jurisdiction to do what the order states is necessary to do in order for this lot to be considered for a residential building permit. This would put Mr. Pat Boulden in an uncomfortable position by having to tell the judge that he wasn't able to do what was in the order. This particular ruling creates some administrative problems for the City because under the ruling, the court said that if one is in common ownership of adjacent parcels of land and it was intended to be used as a single parcel, then this doctrine of merger applies. That would require a zoning clearance officer to try to determine by a title search whether at any time in the past, since 1970, these substandard parcels of land have been in common ownership. If so, then how would they determine that the intent of the owners of the substandard parcels is to use them as a single parcel, which is not part of the Zoning Code. Staff and Mr. Romig have consistently stated that this is a matter of law that the applicant is entitled to a building permit and the judge didn't agree.

Mr. Norman stated that he does not consider that the court has mandated, or has ordered the Planning Commission to approve or disapprove the lot-split. The court is simply stating that there can be no permit without approval. There are

three choices: approve, disapprove or deny, because Mr. Romig has determined that there is no jurisdiction. Mr. Norman expressed concerns regarding Legal having to appear before the judge and state that the Planning Commission doesn't have jurisdiction.

Mr. Norman asked Mr. Romig and Mr. Alberty if they would have any objections to taking action on the merits.

TMAPC COMMENTS:

Mr. Westervelt stated that after the Planning Commission's decision, the next step would be before the appellate court. In response, Mr. Norman stated that if the Planning Commission approved the lot-split, then the opposition would appeal from that approval. Both sides would probably request that the new appeal would be joined with the first appeal before Judge Fransein. If the Planning Commission denies this on the merits, then he would go before the judge and appeal the denial back to the court to be considered as a package. Whatever the final order is would be taken to the appellate courts with all of the questions before it at the same time. If the Planning Commission denies this for lack of jurisdiction, then it leaves the whole question in limbo. Mr. Norman stated that this is the only case since 1970 in which a building permit has been denied on the basis of an oral opinion by Mr. Romig and then issued on the basis of his written opinion. Mr. Norman further stated that as a matter of equity and practical interpretation, the Planning Commission should be as consistent with respect to this application as in all other lot-splits.

Mr. Norman asked Mr. Alberty and Mr. Romig to state their objections on the record in order to reflect that they are opposed to the principal of what the court order stated had to be done.

Ms. Coutant asked if a stay of the order has been granted, and if the order is stayed, then the judge's order will not be followed. In response, Mr. Norman stated that if the judge had entered her final order, then the appeal time of 30 days would have started and he wouldn't have time to come the Planning Commission. The judge stayed the final order to allow time for presentation of this application, and at some point the judge will file a final order and the 30-day period will start.

In response to Mr. Norman, Mr. Romig stated that he agrees with most of what he has presented, but he does not agree with the judge's order and it is a great issue for appeal. The problem is that administrative bodies in Oklahoma only have that authority which is given to them by statute or by ordinance. A judge can't expand that authority without violating the separation of powers doctrine. In this particular case a new doctrine, that has never been adopted in Oklahoma, has been put forth and then a process has to be followed to give relief from that, but the process is not in the statutes. This would amount to the court expanding the Planning Commission's powers. The judge stated that Statute 863.10 does

not apply to this situation, but directs the TMAPC to grant a lot-split somehow, for which the TMAPC has no authority. To this extent, the Planning Commission does not have the authority to act in this regard.

In response to Mr. Westervelt, Mr. Romig stated that the judge's order is for this one case only, but if the appellate court upholds this ruling, it could set a precedent. Mr. Romig indicated that he has spoken with Mr. Boulden on this issue on a daily basis. He further indicated that he has offered to go before Judge Fransein to discuss this ruling. Mr. Romig concluded that he does not believe the Planning Commission has the authority to grant relief in this particular case.

Mr. Alberty stated that he wrongly interpreted the judge's order by interpreting it that the judge was ordering the Planning Commission to approve a lot-split. Upon further consideration, he realizes that it was not the order. The problem then comes into a matter of process, and his conclusion was not based upon a legal opinion, but rather on a rationale of the process. He indicated that he had to look at it from a standpoint that if an owner came in with two separately-described properties, which in this instance are Lot 6 and the west 50 feet of Lot 5, as two separately-titled properties with deeds. In this instance, if an applicant came in to apply for a lot-split simply because he has owned both parcels, then he would be informed that it is not required. Even if the lots have been under the same ownership, there are separate legal descriptions and both are recognized as separate properties. His conclusion is that the lot-split is not needed. This is not in attempt to be in contempt of a court order. He explained that he sought independent legal opinion and they agreed with this instance. Mr. Alberty stated that he is looking at this from a process standpoint.

Mr. Midget asked staff and Mr. Romig if the applicant could simply apply for a building permit. In response, Mr. Romig answered affirmatively.

Mr. Carnes stated that he does not believe that the Planning Commission should act on this application.

Mr. Norman stated that under the court's order he is not allowed to apply for a building permit. In response, Mr. Romig stated that this order only applies with the subject case. If another applicant came in with another situation tomorrow, the Planning Commission would follow the process they have followed for years.

Mr. Norman suggested that, as matter of good government and honesty, the City would want to advise the properties owners with similar fact situations. There is a case on appeal where a local court has ruled that these properties are merged for zoning purposes and he does not know what to tell the Planning Commission to do, but he doesn't think it would be appropriate for the City of Tulsa to conceal the fact from the next person who comes along.

Mr. Norman stated that he understands that Mr. Romig is advising the Planning Commission to take a defiant position to the court and state that the order is so irreconcilable with good logic that there is no way to grant a lot-split. He reiterated that he is asking the Planning Commission to make a decision on the merits. He commented that whoever is displeased by the decision could appeal on the merits or City Legal could explain that the lot-split was granted, but it is invalid because of lack of jurisdiction. At that time a court could decide rather than an Assistant City Attorney who is disagreeing with another Assistant City Attorney who was handling the court case.

Mr. Westervelt asked Mr. Norman what his decision would be if the Planning Commission chooses to not hear the case today. In response, Mr. Norman stated that he is asking a decision be made by motion. In response, Mr. Westervelt asked Mr. Norman what his decision would be if the Planning Commission chose not to hear this case. In response, Mr. Norman stated that he would have to advise the court of that decision and explain to the judge that the Planning Commission wouldn't comply with her order. In response, Mr. Westervelt asked Mr. Norman what his next step would be if the judge didn't give him any assistance. In response, Mr. Norman stated that the next step would be to the court of appeals.

Mr. Westervelt stated that if the Planning Commission did hear the case today and ruled in favor of the lot-split, then most likely the interested parties would appeal as well. In response, Mr. Norman stated that if the Planning Commission acted on the merits, then the appeal by himself or the interested parties would be presented to court as meritoriously not by authority or jurisdiction. Mr. Norman indicated that the least costly way is to approve or disapprove according to the merits and not take the easy way out by not hearing the case. In response, Mr. Westervelt stated that the easy way is not necessarily the unlawful way. In response, Mr. Norman stated that he does not know what is lawful about this matter because this is such an unusual order of the court.

Mr. Midget stated that he wouldn't have any problem denying this application based on the fact that the Planning Commission doesn't have jurisdiction to hear it.

Mr. Romig stated that it would be legitimate to deny this application due to the fact that the Planning Commission has no jurisdiction. He further stated that the facts on this case have been well developed and there is nothing factually or legally that could not go up on appeal at this point and time under the order that Judge Fransein issued.

Mr. Midget stated that in order to not prolong this discussion he would move to deny the lot-split based upon the fact that the Planning Commission has no jurisdiction to hear this case. He explained that this would give some official action and move this case along.

MOTION of MIDGET to DENY the lot-split for L-19741, finding that the Planning Commission does not have jurisdiction.

Mr. Westervelt stated that he could agree with Mr. Midget. He further stated that the easiest solution to this issue would be to come to grips regarding what is going to be constructed.

Mr. Ledford stated that he doesn't understand Mr. Midget's motion. How can the Planning Commission deny the lot-split when the lot meets all of the requirements? He suggested that the Planning Commission deny taking action on this particular lot-split and not deny the lot-split because the lot-split meets all of the requirements of the City of Tulsa Zoning Code. He commented that the lot-split should be approved without the action of the Planning Commission because it meets all of the requirements of a nonconforming lot according to the Zoning Code.

Mr. Romig stated that the Planning Commission can deny the lot-split application and not necessarily deny the lot-split. The Planning Commission would be denying the application because there is no jurisdiction.

Ms. Coutant stated that if the Planning Commission did deny the lot-split, then jurisdiction would have been taken, but denying the application it would make sense.

Mr. Midget stated that he would amend his motion to reflect that he is moving to deny the lot-split application.

TMAPC Action; 8 members present:

On amended **MOTION of MIDGET**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Harmon, Jackson, Miller "absent") to **DENY** the application for L-19741 finding that the Planning Commission does not have jurisdiction.

LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

- L-19722 – Dean Solberg** (9224) (PD-6) (CD-9)
1025 East 33rd Place
- L-19723 – Tulsa Sod & Mulch, Inc.** (9431) (PD-17) (CD-6)
5630 South 107th East Avenue

L-19732 – Craig Rosencutter (8214) (PD-8) (CD-2)

8526 South Elwood

L-19733 – Connie Alldredge (9310) (PD-5) (CD-4)

1120 South Canton

L-19737 – Lacy Kestler (2326) (PD-14) (County)

13824 North 71st East Avenue

L-19738 – Kirby Hagemeister (1316) (PD-12) (County)

9717 North Harvard

L-19740 – Kathy O'Connell (9024) (PD-23) (County)

17701 West 41st Street

L-19743 – Kenneth Crase (1320) (PD-12) (County)

9388 North Delaware

STAFF RECOMMENDATION:

Ms. Chronister stated that these lot-splits are all in order and staff can recommend **APPROVAL** of these lot-splits.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, the TMAPC voted **8-0-0** (Bayles, Carnes, Coutant, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Harmon, Jackson, Miller "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

FINAL PLAT:

Paradise Corner – (7322) (PD-20) (County)

Northeast corner of South Yale Avenue and 161st Street South

STAFF RECOMMENDATION:

This plat consists of one lot in one block on 2.44 acres.

All release letters have been received and 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; 8 members present:

On **MOTION** of **HORNER**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Harmon, Jackson, Miller "absent") to **APPROVE** the final plat for Paradise Corner per staff recommendation.

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Avalon Park on Memorial Addition – (8326)

(PD-26) (CD-8)

10600 South Memorial

STAFF RECOMMENDATION:

This plat consists of 25 lots in one block on 9.02 acres.

All release letters have been received and staff recommends **APPROVAL** of the final plat.

TMAPC COMMENTS:

Mr. Westervelt asked staff if the crash gate issues have been resolved. In response, Mrs. Fernandez stated that there is a turnaround to the western part of the plat.

Mr. Westervelt stated that he recalls that there was some concern that this is a over-length cul-de-sac, but the property owner and residents to the rear did not want access, which the Planning Commission doesn't have a problem with, but did have concerns about the length of the cul-de-sac and possibly having some crash gates or some solution for emergency access.

Mrs. Fernandez stated that the Fire Marshal is satisfied with the way it is being presented to the Planning Commission today, which is a cul-de-sac without crash gates.

Mr. Alberty stated that he believes that the crash gate issue wouldn't be applied to the plat but would be applied to the site plan review. They have met all of the requirements of the platting process. Due to the fact that this is a PUD, this issue would be looked at during the detail plans.

Mr. Ledford asked Mr. Alberty which lot he would require in the detail site plan for access to the neighborhood for emergency purposes. In response, Mr. Alberty

stated it would be the first one to come in would have to satisfy this issue. In response, Mr. Ledford agreed.

TMAPC Action; 8 members present:

On **MOTION** of **WESTERVELT**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Harmon, Jackson, Miller "absent") to **APPROVE** the final plat for Avalon Park on Memorial Addition, subject to a detail site plan indicating an emergency access crash gate at the cul-de-sac at the time of the first site plan.

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PRELIMINARY PLAT:

South Tulsa Medical Properties – (8419)

(PD-18) (CD-8)

10020 East 91st Street

STAFF RECOMMENDATION:

This plat consists of one lot, one block, on 4.54 acres.

The following issues were discussed September 16, 2004 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned CO and all approved standards must be met.
2. **Streets:** Stub the mutual access easement to the Stringer property for future use. Dimension the proposed mutual access easement. Show the location of the right-of-way of the abutting street to the north. Align the proposed access with the abutting street and label the access "w/median". Include language for mutual access easement. Suggest striping the complex transition area. At northwest corner, development is being proposed for Stringer property; connecting mutual access easement alignment for that development and this development will require coordination. Show all right-of-way. Show striping on conceptual plan.
3. **Sewer:** Plans for the sanitary sewer mainline extension have been approved. Show lines clearly.
4. **Water:** In the legend add RWE (restrictive waterline easement). Label the 25 x 98 area in the southeast corner of the property. Define restricted waterline easement in Section 1A. The cell tower easement may be over the waterline. The cell tower structure needs to be located in relation to the waterline.

5. **Storm Drainage:** Show and label the limits of the "Little Haikey Creek City of Tulsa Regulatory Floodplain" and the limits of the "Little Haikey Creek FEMA Floodplain" on and/or adjacent to this site. The location of the limits must be determined by plotting the 100 Year WSE of Little Haikey Creek. Show all off-site easements required for the development of this site. Add a note stating: "detention for this platted area is being constructed off-site." Please remove the label "Stormwater Drainage Easement." Unless a storm sewer pipe is being placed in this easement, it should be labeled as an "Overland Drainage Easement" or as a "Stormwater Detention Easement". Label Lot 1, Block 1. If there are overland drainage easements on the plat, then the standard language shall be modified to state that the owner of Lot 1 is maintaining the off-site stormwater detention easement and overland drainage easements. The plan shows the drainage for initial development. The ultimate development for this site is different and will require less land area for overland drainage easements. The ultimate design should be constructed during this phase to minimize future drainage problems. (See comments from the PFPI review.)
6. **Utilities:** No comment.
7. **Other: Fire:** No comment. Prints need to be of better quality. Insert engineer's e-mail address and expiration date of CA number. Remove the word "general" from the title to Section 1A.

Staff recommends **APPROVAL** of the preliminary plat subject to the special and standard conditions below.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. The concerns of the Public Works Department staff must be taken care of to their satisfaction, including especially the waterline and cell tower location issue.

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.

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 **CARNES**, TMAPC voted 8-0-0 (Bayles, Carnes, Coutant, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Harmon, Jackson, Miller "absent") to **APPROVE** the preliminary plat for South Tulsa Medical Properties, subject to special conditions and standard conditions per staff recommendation.

Ms. Coutant out at 2:33 p.m.

South Tulsa Baptist Church Extended – (8327)

(PD-26) (CD-8)

South of the southwest corner of East 101st Street and Sheridan Road

STAFF RECOMMENDATION:

This plat consists of two lots, two blocks, two reserves on 8.68 acres.

The following issues were discussed September 16, 2004 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned under PUD 431 and a minor amendment is currently being processed to development standards.
2. **Streets:** Show utility easement book and page along 101st Street frontage. Provide mutual access easements for appropriate access through and among adjoining lots and plat to south. Provide mutual access language as appropriate. Label both 65-foot access points as "w/median". Provide for a 12.5-foot minimum access on the east side of Lot 1 to provide for the existing or required paving. May need a small triangle added to the mutual access easement at the south end of Lot 1 (paving encroachment?). Change dedication to read "street r/w". Add language for mutual access easement and provide for its maintenance.
3. **Sewer:** Where no utility easement exists on adjacent properties, add a 17.5-foot perimeter easement. Where easement does exist on adjacent properties, add an 11-foot easement. Also add a 17.5-foot easement along the east and north boundary of Reserve A (outside of the reserve). In the covenants, Section II, PUD restrictions, Sections 2.6 and 3.6 signage, refer to Tracts A and B for distance restrictions, but nothing is included to provide boundary information for those tracts. Clarify sign standards in the covenants. A sanitary sewer mainline extension is required to provide sewer service to Lot 1.
4. **Water:** No comment.

5. **Storm Drainage:** Add storm sewer easements for the following storm sewer pipes: The pipes conveying drainage from Lot 1, Block 1 to reserve A, the 36" RCP outlet pipe from Reserve B, that portion of the 42" RCP inflow pipe to Reserve B which is between the existing easement and Reserve B. There is an existing 17.5-foot storm sewer easement along the south side of the property. It is not acceptable to plat a 17.5-foot utility easement over this existing storm sewer easement, nor is it acceptable for Reserve B to encroach into the existing storm sewer easement. Add a note stating that the existing stormwater detention easement is being vacated and that the drainage which currently flows to it will be detained in the proposed stormwater detention facility in Reserve B. Add a stormwater detention easement label to Reserve B. Please add stormwater to the labels for existing detention easements in Reserve A. In the covenants add the standard storm sewer language to Section I.3 and revise the title to say "Water, storm sewer and sanitary sewer services". Please reorder the subsections of Section I so that the three subsections specific to drainage, existing 5, 7 and 9, follow each other consecutively. Please revise the title to Section I.9 to say "Stormwater Detention Easements – Reserves A and B".
6. **Utilities: ONG:** Standard Covenant language is needed.
7. **Other: Fire:** No comment.

Staff recommends **APPROVAL** of the preliminary plat subject to the special and standard conditions below.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. The concerns of the Public Works Department staff must be taken care of to their satisfaction.

Standard Conditions:

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)

3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)

16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

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 6-0-1 (Bayles, Carnes, Hill, Horner, Midget, Westervelt "aye"; no "nays"; Ledford "abstaining"; Coutant, Harmon, Jackson, Miller "absent") to **APPROVE** the preliminary plat for South Tulsa Baptist Church Extended, subject to special conditions and standard conditions per staff recommendation.

* * * * *

MINOR SUBDIVISION PLAT:

Barnes Elementary – (1326)

(PD-15) (County)

West of the northwest corner of East 76th Street North and Memorial Drive
(Continuance requested to October 20, 2004 for further review)

STAFF RECOMMENDATION:

Ms. Fernandez stated that staff requests a continuance to October 20, 2004 in order to review this at TAC on October 7, 2004.

The applicant was not present.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **HORNER**, TMAPC voted 7-0-0 (Bayles, Carnes, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Harmon, Jackson, Coutant, Miller "absent") to **CONTINUE** the minor subdivision plat for Barnes Elementary to October 20, 2004.

PLAT WAIVER:

PUD 606 – (1082)

(PD-8) (CD-2)

South and west of southwest corner of West 71st Street and Union Avenue

STAFF RECOMMENDATION:

The platting requirement is triggered by the fact that the lot in question was not originally included in the plat for the Angel Wing subdivision.

Staff provides the following information from TAC at their September 16, 2004 meeting:

ZONING:

TMAPC Staff: The plat waiver is for property zoned PUD-606.

STREETS:

Two of the four sides of the perimeter are not clearly defined due to unplatted adjacent property.

SEWER:

A sanitary sewer mainline extension and associated easements would be required to develop this property. The plat for Angel Wing does not have a Lot 10.

WATER:

A water main extension is required.

STORM DRAIN:

No comment.

FIRE:

No comment.

UTILITIES:

No comment.

The applicant explained that the lot was not included in the original plat but was included under the original PUD and filed of record separate covenant restrictions.

Staff can recommend **APPROVAL** of the plat waiver requested because of the protections afforded by the previously dedicated plat covenants with the subject site included and the fact that the tract is zoned as a part of PUD 606.

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

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

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

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

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

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 **WESTERVELT**, TMAPC voted 6-0-1 (Bayles, Carnes, Hill, Horner, , Midget, Westervelt "aye"; no "nays"; Ledford "abstaining"; Coutant, Harmon, Jackson, Miller "absent") to **APPROVE** the plat waiver for PUD-606 per staff recommendation.

Ms. Coutant in at 2:44 p.m.

COMPREHENSIVE PLAN PUBLIC HEARING:

Consider adopting the Master Drainage Plan for Elm Creek as a part of the Comprehensive Plan for the Tulsa Metropolitan Area. Resolution No. 2392-866.

STAFF RECOMMENDATION:

Staff has reviewed the draft master drainage plans for Mooser and Elm Creeks and recommends their adoption as part of the Comprehensive Plan for the Tulsa Metropolitan Area. These plans provide important additional information to be considered in future development proposals for each area.

Staff further recommends that, following adoption of these plans, references to them be incorporated into the District Plans involved (Planning Districts 8 and 9 for Mooser Creek and Planning Districts 1 - 4 for Elm Creek). Staff will prepare these draft amendments for presentation as part of the annual Plan updates for the TMAPC. As the update for the Kendall-Whittier Neighborhood Master Plan is currently underway for Planning Districts 3 and 4, the Elm Creek Master Drainage Plan will be considered as part of that process and presented as part of the neighborhood plan update.

RESOLUTION NO.: 2392:866

**A RESOLUTION ADOPTING
THE ELM CREEK MASTER DRAINAGE PLAN AS
A PART OF THE COMPREHENSIVE PLAN
FOR THE TULSA METROPOLITAN AREA**

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

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

WHEREAS, a public hearing was held on the 6th day of October, 2004 and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.7, to adopt the Elm Creek Master Drainage Plan as a part of the Comprehensive Plan of the Tulsa Metropolitan Area.

NOW, THEREFORE, BE IT RESOLVED by the TMAPC, that the Master Drainage Plan for Elm Creek be hereby adopted as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

Applicant's Comments:

Ron Flanagan, 2745 East Skelly Drive, Tulsa, Oklahoma 74105-6209, stated that he is a planning consultant representing the City of Tulsa on this particular issue. Mr. Flanagan presented the Elm Creek Master Drainage Plan for the Elm Creek Basin. He cited the following boundaries: five square miles, which range from Independence Street on the north to 21st Street on the south, from Delaware Avenue on the east to the Arkansas River on the west.

Mr. Flanagan cited the various meetings held to work with the citizens, City of Tulsa and neighborhoods to develop a plan. Mr. Flanagan introduced Mr. Mark Swift.

Mr. Mark Swift, 6 East 5th Street, Tulsa, Oklahoma 74103, stated that in 1997, the City retained his firm to update the Master Drainage Plan. He explained that the existing Master Drainage Plan was not feasible and that is the reason the City of Tulsa needed to update it. Mr. Swift presented the Master Drainage Plan to the Planning Commission today. He indicated that it recommends voluntary acquisition of residential properties [111 residential properties] that would remain in the floodplain. He indicated that he worked very closely with the 6th Street Task Force, Kendall-Whittier Task Force and citizens of the community. There were two public meetings and they gathered positive feedback regarding the plan.

Mr. Flanagan introduced Mr. Theron Warlick of the City Public Works and Development Department.

Theron Warlick, the City Public Works and Development Department, City of Tulsa, stated that there are several citizen planners present who would like to speak today. He explained all the groups and City of Tulsa Departments who worked on the proposed plan. He explained that the subject plan is not just about flood control, but rather creating parks and creating sites for redevelopment. He reminded the Planning Commission that the proposal is conceptual at this point and it has to be flexible. He explained that the plan has to be approved in order to move forward and pursue money and funding for the proposed projects.

TMAPC COMMENTS:

Mr. Midget asked Mr. Warlick if the area on the east side, between 6th and 10th Streets on Lewis that is marked for acquisition are truly all voluntary. In response, Mr. Warlick stated that the subject area is the Kendall-Whittier portion of the plan and it is a voluntary acquisition in that area. There will be some residual flooding in the subject area and where it is recommended, they are recommending voluntary acquisition in that area, not mandatory. This is simply a recommendation to acquire those properties as property owners want to sell and as funds are available.

Mr. Midget asked if the homes would be required for redevelopment or for flood control. In response, Mr. Flanagan stated that this is an area that is behind a railroad track, which has an embankment that is eight feet high and is a natural pond area. There is no way to get the water out of the area without causing additional flooding downstream to the commercial properties. The residential area of discussion usually has three feet of water in some of the houses and there is no good structural solution to solve this problem. It would be more cost-effective to buy the houses and make it open space with a pocket park. This would be done on a voluntary basis because he would not want to condemn the properties.

Mr. Ledford stated that he has had some ex parte communication with the Indian Healthcare Center and they are in the process of acquiring additional property. According to the plan there is an encroachment, of this plan into their potential area for future development, which would defeat their purposes of acquiring the property. He wanted their concerns on the record and he opposes the taking of those properties in the Elm Creek Master Drainage Plan. In response, Mr. Flanagan stated that their concerns are well noted and he has taken that into account. Mr. Flanagan reminded the Planning Commission that the plans are conceptual and are simply showing that somewhere in the subject area, there is a need for 125 acre feet of storage and it should look something like this. Mr. Flanagan commented that he is all for the IHC expanding and they are a wonderful asset for redevelopment purposes. Mr. Flanagan indicated that he would plan around the IHC when that time comes.

Mr. Westervelt stated that there will be many projects that would be ahead of the curve. Mr. Westervelt asked Mr. Flanagan if the Planning Commission could see where these reservoirs are planned and where these takings are designated. In response, Mr. Flanagan stated that if this proposal is adopted, it would become an amendment to the Comprehensive Plan and it would be back before the Planning Commission on a regular basis when there is more detailed planning.

INTERESTED PARTIES IN AGREEMENT WITH THE PROPOSAL:

Jamie Jamieson, 706 South Owasso Avenue, Tulsa, Oklahoma 74120; **Ann Thrasher**, 824 South Trenton, Tulsa, Oklahoma 74120; **Dave Strader**, 535 South Quebec, Tulsa, Oklahoma 74112; **Cathy Ambler**, 1129 East 8th, Tulsa, Oklahoma 74120; **Leisa McNulty**, 3607 South Trenton, Tulsa, Oklahoma 74105; **M.J. Carter**, 1228 East 5th, Tulsa, Oklahoma 74120.

Ms. Coutant out at 2:55 p.m.

INTERESTED PARTIES:

Maria Barnes, President of the Kendall-Whittier Neighborhood Association, 2252 East 7th Street, Tulsa, Oklahoma 74104, stated that she is protesting the area for Kendall-Whittier. She explained that Ron Flanagan came to the neighborhood in

June 2004 to present this plan and she has never been able to sit in the meetings to look at options. Kendall-Whittier already has a Master Plan with a drainage plan, which would be located west of the railroad tracks. The new plan would take 111 houses out of Kendall-Whittier, which is not part of the original plan and she doesn't want this to happen. She indicated that she spoke with Councilor Baker in order to set up a meeting with Public Works and get some answers resolved and it hasn't happened.

Ms. Barnes suggested that they look at Kendall-Whittier separately and requested that this not move forward until there has been a meeting to discuss why the original master plan wouldn't work.

TMAPC COMMENTS:

Mr. Westervelt asked Ms. Barnes if she had any problem with the concept of the plan moving forward as long as the area is studied and the details associated with impoundment or voluntary buyouts are looked at by the Board and reviewed by the Neighborhood Association. In response, Ms. Barnes stated that she doesn't have any problem with the plans moving forward, but she requests that Kendall-Whittier be left alone until she is able to talk with someone who can explain and answer why the existing master plan should be changed.

In response to Mr. Westervelt, Ms. Barnes stated that she was not able to have any input on this proposal.

Ms. Barnes indicated that she is talking about the Hillcrest area, which is part of the Kendall-Whittier area.

Mr. Carnes out at 3:19 p.m.

Mr. Flanagan indicated that he is embarrassed that Ms. Barnes slipped through the cracks. He wasn't aware that there was a problem with any of the residents or neighborhood associations. He indicated that he met with the Kendall-Whittier Association and there was a public hearing with many people in attendance. He commented that there are open space plans for the acquisition and he has worked diligently with the Park Department and Public Works and Development Department. The areas that Ms. Barnes is concerned about are for voluntary acquisition and if they do not want to be acquired, there is nothing that the City would do to force them to change that. This flooding problem has been in existence for 50 years and there has not been a solution until now. He commented that he does not believe that one group should be able to torpedo the whole plan. Mr. Flanagan requested that the plan be approved as an amendment to the Comprehensive Plan and the TMAPC recommend its approval to the City Council.

TMAPC COMMENTS:

Mr. Westervelt stated that he has never seen Ms. Barnes fall through a crack and she is usually on point for most issues. He asked if there would be anything to gain by some conversations in depth with the Kendall-Whittier Association that may cause some minor modifications of the proposed plan. In response, Mr. Flanagan stated that he doesn't see any reason for further conversation. He explained that there are two solutions to the flooding problems that Ms. Barnes is concerned about. One is acquisition and the other is putting a storm sewer in place to move the water downstream and flooding other people. These alternatives have been reviewed, which was the original plan, and it hasn't worked. The original plan has stayed unfunded for the last 25 years because it doesn't work. There is tremendous widespread community support for the proposed plan that will work and will get funded. The plan that Ms. Barnes is recommending is due to be funded in 2050. He indicated that the proposed plan would receive some federal money [75%]. The flooding problem can't be passed down stream and the proposal is a good solution that will work. To come back at this late date and go back to something that has already been looked at for years and has been rejected is not in the cards. He requested the Planning Commission to approve the plan and he assured the Planning Commission that he would work out details with Ms. Barnes in the future.

Ms. Bayles asked Mr. Warlick why there was only one meeting in the Kendall-Whittier area to address this issue. In response, Mr. Warlick stated that he believes that there was more than one meeting. He indicated that Mr. Jim Coles and Mr. Flanagan met with Kendall-Whittier on several sessions. He reminded the Planning Commission that solutions are difficult in this part of the basin. There is no structural solution for this area. The only solution is to either leave the houses flooding or propose voluntary acquisitions. He indicated that Urban Development will continue to work with Kendall-Whittier to find better solutions.

Mr. Midget stated that he is glad to see the plan move forward and he is familiar with the work that has been done in the 6th Street area. He is supportive of the process. He asked if the proposal would be negatively impacted if Kendall-Whittier were completely removed from the plan. In response, Mr. Warlick stated that he understands that the proposal is a basin-wide solution and it needs to be comprehensive in its treatment.

Mr. Flanagan stated that he has met with the property owners who are designated for the voluntary buyout and every property owner that has contacted the City has agreed with the plan.

Mr. Flanagan stated that one percent of properties in the floodplain are called repetitive loss properties. These are properties that have flooded more than twice and have made claims against the federal insurance program. This one percent of properties is responsible for 40 percent of claims against the national flood insurance program. If one percent of the properties could be purchased,

then the flood damage would be reduced by 40 percent. The Bush Administration has recommended and Congress has a new law, The Stafford Act Amendments, which states that when the properties flood and if the Government makes an offer to the homeowner to solve their problems and they turn it down, and then they will no longer be allowed to buy flood insurance. There is an opportunity today to take care of this problem in advance. He reiterated that he has met with the property owners in the Kendall-Whittier area that Ms. Barnes has an issue with and they were in agreement with the plan.

Mr. Midget asked Mr. Flanagan to answer whether or not removing the Kendall-Whittier area would impact the proposal. In response, Mr. Flanagan stated that it would leave the residents to flood forever if they are taken out.

Mr. Swift stated that it would not negatively impact the proposal if the Kendall-Whittier area were left out. He further explained that if Kendall-Whittier were taken out of the proposal and left them under the existing Master Drainage Plan, which calls for a large storm sewer system that moves through the neighborhood and takes out 20 or 30 homes and causes additional flooding downstream. In that respect, it would negatively impact the proposal. He stated that they could not take Kendall-Whittier out of the proposal and leave them under the existing Master Drainage Plan.

Ms. Bayles recommended that Mr. Flanagan work with Ms. Barnes regarding the Elm Creek Basin. She stated that the same degree of dialogue that occurred with the 6th Street Task Force should be done with the Kendall-Whittier Neighborhood Association. This should be set into motion immediately, because she is not in favor of removing the Hillcrest and Kendall-Whittier from the proposal. The Kendall-Whittier area has had more than their fair share of homes removed over a period of 30 plus years and they deserve the chance, as does 6th Street, to return to a degree of revitalization and vitality that this mid-town neighborhood is moving toward.

Mr. Flanagan stated that Ms. Bayles's point is very well taken and he has been an advocate for having public meetings and hearings in this process. He reiterated that he is embarrassed that this is happening. He indicated that he agrees that the proposal should not move forward with regard to the Kendall-Whittier area, but the rest of the proposal from Utica onto the west does not have a problem and he would like it to be adopted in order to go forward with funding and bonding packages for the capital improvements. He suggested sending the balance of the proposal back to work out these issues with Ms. Barnes.

Mr. Midget stated that he doesn't want to miss an opportunity to get capital improvements in order to move forward. However, he is sensitive to the other issues that have been discussed in the Kendall-Whittier area. In response, Mr. Flanagan stated that he agrees with the Planning Commission on this issue.

Mr. Westervelt asked Ms. Barnes if she knows that she will be involved in the continuing process it would be important to have Kendall-Whittier deleted or be left as part of the plan while refining it. In response, Ms. Barnes stated that if Kendall-Whittier receives individual study and everyone's questions are answered with a plan that will keep the majority happy, she is in favor of the plan moving forward and working with Mr. Flanagan and his staff.

Mr. Westervelt asked Ms. Barnes if she would be comfortable with the Planning Commission approving the entire plan with the requirement that additional time be spent with Kendall-Whittier to get questions answered, refinements to the plan, etc. In response, Ms. Barnes stated that she would agree with the plan being approved as long as everyone works with the Kendall-Whittier area.

Mr. Westervelt stated that he owns property downstream. He asked Legal if this would cause any conflict for him to vote for this plan. In response, Mr. Romig stated that if this would affect him economically, then it would be a conflict.

Mr. Westervelt indicated that he would be abstaining from this vote.

Mr. Alberty explained that the approval of this plan is only the first step. It would then have to be adopted into each individual District Plan. Kendall-Whittier is not being committed until that portion of the plan is updated in their specific district. There area four districts that are involved in the adoption of this plan.

TMAPC Action; 6 members present:

On **MOTION** of **BAYLES**, TMAPC voted 5-0-1 (Bayles, Hill, Horner, Ledford, Midget "aye"; no "nays"; Westervelt "abstaining"; Carnes, Coutant, Harmon, Jackson, Miller "absent") to recommend **APPROVAL** the Master Drainage Plan for Elm Creek as a part of the Comprehensive Plan for the Tulsa Metropolitan Area and Resolution 2392:866, subject to a meeting with Ms. Barnes and the planners regarding the Kendall-Whittier area.

* * * * *

Consider adopting the Master Drainage Plan for Mooser Creek as a part of the Comprehensive Plan for the Tulsa Metropolitan Area. Resolution No. 2392:867.

STAFF RECOMMENDATION:

Staff has reviewed the draft master drainage plans for Mooser and Elm Creeks and recommends their adoption as part of the Comprehensive Plan for the Tulsa Metropolitan Area. These plans provide important additional information to be considered in future development proposals for each area.

Staff further recommends that, following adoption of these plans, references to them be incorporated into the District Plans involved (Planning Districts 8 and 9 for Mooser Creek and Planning Districts 1 - 4 for Elm Creek). Staff will prepare these draft amendments for presentation as part of the annual Plan updates for the TMAPC. As the update for the Kendall-Whittier Neighborhood Master Plan is currently underway for Planning Districts 3 and 4, the Elm Creek Master Drainage Plan will be considered as part of that process and presented as part of the neighborhood plan update.

RESOLUTION NO.: 2392:867

**A RESOLUTION ADOPTING
THE MOOSER CREEK MASTER DRAINAGE PLAN AS
A PART OF THE COMPREHENSIVE PLAN
FOR THE TULSA METROPOLITAN AREA**

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

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

WHEREAS, a public hearing was held on the 6th day of October, 2004 and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.7, to adopt the Mooser Creek Master Drainage Plan as a part of the Comprehensive Plan of the Tulsa Metropolitan Area.

NOW, THEREFORE, BE IT RESOLVED by the TMAPC, that the Master Drainage Plan for Mooser Creek be hereby adopted as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

Applicant's Comments:

Ron Flanagan, 2745 East Skelly Drive, Tulsa, Oklahoma 74105-6209, cited the boundaries of Mooser Creek. He commented that it is the last pristine stream in the City of Tulsa. The proposal seeks to keep the stream in its natural state. The recommendation is for floodplain preservation and a few instances where

flood proofing of buildings be done. Essentially it is an open space plan that designates trails throughout the floodplain and open space.

Mr. Flanagan stated that he has been working on this plan with the neighborhood associations in the subject area, as well as the Southwest Tulsa Chamber of Commerce and the National Park Service.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Bayles, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Coutant, Harmon, Jackson, Miller "absent") to recommend **APPROVAL** of the Master Drainage Plan for Mooser Creek as a part of the Comprehensive Plan for the Tulsa Metropolitan Area and Resolution No. 2392:867 per staff recommendation.

Consider adopting the Arkansas River Corridor Master Plan Phase I Vision Plan as an element of the Comprehensive Plan for the Tulsa Metropolitan Area and supporting the results and recommendations of the Arkansas River Corridor Master Plan Phase I Vision Plan as guidelines for development along the Arkansas River and Environs in the Tulsa Metropolitan Area. Resolution No. 2392:868.

STAFF RECOMMENDATION:

Staff has reviewed the Final Arkansas River Corridor Master Plan, Phase I Vision Plan and recommends its adoption as part of the Comprehensive Plan for the Tulsa Metropolitan Area. Additionally, upon this plan's adoption, staff should be directed to prepare draft amendments to the affected District Plans to incorporate findings of the Arkansas River Corridor Master Plan, Phase I Vision Plan. These can be presented as part of the annual District Plan Update process.

RESOLUTION NO.: 2392:868

A RESOLUTION ADOPTING THE ARKANSAS RIVER CORRIDOR MASTER PLAN PHASE I VISION PLAN AS AN ELEMENT OF THE COMPREHENSIVE PLAN AND SUPPORTING THE RESULTS AND RECOMMENDATIONS OF THE ARKANSAS RIVER CORRIDOR MASTER PLAN PHASE I VISION PLAN AS GUIDELINES FOR DEVELOPMENT ALONG THE ARKANSAS RIVER AND ENVIRONS IN THE TULSA METROPOLITAN AREA

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

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

WHEREAS, on the 25th day of September, 1974, this Commission, by Resolution No. 1035:388, did adopt the Metropolitan Development Guidelines and Zoning Matrix as a part of the Comprehensive Plan for the Tulsa Metropolitan Area; and

WHEREAS, An Arkansas River Corridor Master Plan Phase I Vision Plan for the Arkansas River Corridor from Keystone Dam to the Tulsa County/Wagoner County boundary has been developed with extensive public input and subsequently adopted by the INCOG Board of Directors; and

WHEREAS, a public hearing was held on the 6th day of October, 2004, and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.7, to express support for the results and recommendations of the Arkansas River Corridor Master Plan Phase I Vision Plan; and

WHEREAS, Implementation of the Arkansas River Corridor Master Plan Phase I Vision Plan is in keeping with the spirit and intent of the Comprehensive Plan and Development Guidelines and will further the orderly development of the Tulsa Metropolitan Area.

NOW, THEREFORE, BE IT RESOLVED by the Tulsa Metropolitan Area Planning Commission that the Arkansas River Corridor Master Plan Phase I Vision Plan is adopted as the conceptual development plan for the Arkansas River Corridor and shall be considered an element of the Comprehensive Plan; and ~~Development Guidelines for the Tulsa Metropolitan Area; and~~

FURTHER, BE IT RESOLVED by the TMAPC, that the results and recommendations of the Arkansas River Corridor Master Plan Phase I Vision Plan report, as attached and made a part hereof, be and are hereby adopted and supported. ~~for future development in the Arkansas River Corridor Study area, as a part of the Tulsa Metropolitan Area and shall be implemented to the maximum extent possible.~~

Applicant's Comments:

Jerry Lasker, Executive Director of INCOG, 201 West 5th, Suite 600, Tulsa, Oklahoma 74103, stated that this plan was started in November 2003 with a grant through the Oklahoma Water Resources Board. He explained that grant is called "The Planning Assistants to State Grant" where the Water Board submits half of the money and INCOG submits the other half. INCOG received a \$500,000.00 grant and INCOG's \$250,000.00 came from local governments along the river. The City of Tulsa, Sand Springs, Jenks, Bixby, Broken Arrow and Tulsa County all contributed, as well as donations from the private sector.

Mr. Lasker stated that INCOG hired the consulting firm of Carter and Burgess to develop the first phase of the vision plan. The Arkansas River Corridor Plan has two phases and the first phase is the vision plan. The vision plan was intended to define what the community wanted and what their needs were. The process involved going to every community along the river, holding open houses, and canvassing people and communities for their input. There was a survey for interested parties to state what they would like to see along the river. He indicated that there was a three-day design seminar to take all of the ideas and allow the public to come in and give their comments. He commented that this process allowed for a good consensus of what the vision for the Arkansas River should be.

Mr. Lasker presented a PowerPoint presentation indicating the proposed locations for various low-water dams, bridges and facilities along the river. He explained the process of funding and the second phase of the Vision Plan. He further explained that several proposals are long-vision plans. Mr. Lasker requested that the Planning Commission adopt the proposed Arkansas River Corridor Master Plan Phase I Vision Plan as a conceptual plan as part of the Comprehensive Plan to be used as a guide for future development. He indicated that there was a property on the corner of Southwest Boulevard and Riverside Drive where the owner wanted to develop a cold-storage unit, which would not be in keeping with the development of the subject area. Staff talked with the owner and he saw the possibilities of what he could do to be consistent with the plan and make his property more valuable. The owner sold his property to the City of Tulsa. The proposal is needed to be a part of the Comprehensive Plan to guide development.

TMAPC COMMENTS:

Ms. Hill stated that she attended the unveiling at the Aaronson Auditorium and she is extremely excited and very happy to see this plan. She further stated that she grew up in an area where the river flooded her home and she requested that an ongoing dialogue continue with the Army Corps of Engineers to protect and prevent another 1986 flooding.

In response to Ms. Hill, Mr. Lasker stated that staff is working with the Army Corps of Engineers and they are directing Phase II.

Ms. Bayles asked Mr. Lasker when he expected the hydraulics and hydrology report to be completed. In response, Mr. Lasker stated that it should be completed before the end of 2004.

Ms. Bayles asked Mr. Lasker if AEP/PSO is a partner in this redevelopment plan as presented in the Phase I concept. In response, Mr. Lasker answered affirmatively.

MOTION of BAYLES to recommend APPROVAL of the Arkansas River Corridor Master Plan Phase I Vision Plan as an element of the Comprehensive Plan for the Tulsa Metropolitan Area and supporting the results and recommendations of the Arkansas River Corridor Master Plan Phase I Vision Plan as guidelines for development along the Arkansas River and Environs in the Tulsa Metropolitan Area and Resolution No. 2392:868.

INTERESTED PARTIES:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that he has some concerns regarding the language of the resolution. He explained that over the years there have been problems where the Comprehensive Plan is adopted as a part of a development guideline. He indicated that he has no particular concern with the proposal as a conceptual plan, but he represents several major businesses and property owners along the river who have good, sound reasons for being close to the river. He commented that Mr. Lasker admitted that it would take many years to implement many of the projects. Therefore, to adopt this as a part of the development guidelines when it is only a conceptual plan without a timetable puts the staff in the position to state that the proposed use would be contrary to the Comprehensive Plan and recommend denial. Mr. Norman compared the possible problems with this plan to other plans adopted in the past that were not completed for 25 years. He stated that there cannot be an indirect condemnation by adopting a Comprehensive Plan.

Mr. Norman requested that the language in the resolution be changed.

Mr. Lasker stated that as a minimum there should be "...and shall be considered as an element of the Comprehensive Plan." He explained that he looks at the Comprehensive Plan and the Vision 2000 Plan which we are currently under, as basically a guideline for development and it doesn't have schedules for development as to when a certain area will be developed, but is a representation of future uses.

Mr. Norman stated that when the District Plans are amended would seem to be the time to become more specific and then have it as part of the Comprehensive Plan. He suggested that the District Plans could be amended when the funding is provided for the low-water dams. He explained that he would like to avoid

having to amend the Comprehensive Plan every time some action is taken that may be contrary to the vision.

Mr. Lasker stated that he doesn't want to get this hung up and then not be able to develop the low-water dam if the funding is available. He explained that the criteria for approving a project in the CIP is that it is consistent with the Comprehensive Plan.

Mr. Midget stated that he believes Mr. Norman stated that he could live with being an element of the Comprehensive Plan, but the most important thing was that the Planning Commission give special consideration to whether or not "...and development guidelines for the Metropolitan Area" would be included. Mr. Midget indicated that he could support the resolution with the modifications that Mr. Norman has proposed.

Mr. Lasker stated that it is semantics to him and he believes that if it is worth doing, it should be done.

Ms. Bayles stated that she would be willing to amend her motion to change the language.

TMAPC Action; 6 members present:

On amended **MOTION** of **BAYLES**, TMAPC voted 6-0-0 (Bayles, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Coutant, Harmon, Jackson, Miller "absent") to recommend **APPROVAL** of the Arkansas River Corridor Master Plan Phase I Vision Plan as an element of the Comprehensive Plan for the Tulsa Metropolitan Area and supporting the results and recommendations of the Arkansas River Corridor Master Plan Phase I Vision Plan and Resolution No. 2392:868, subject to the modifications of language per Planning Commission. (Words deleted are shown as ~~strikeout~~; words added or substituted are underlined.)

ZONING PUBLIC HEARING

Application No.: Z-6956

OM TO CS

Applicant: Edmond Richard

(PD-18-A) (CD-2)

Location: 2101 East 71st Street South

STAFF RECOMMENDATION:

PUD-307-B/PUD-287-B December 2003: Approval was granted for a major amendment to PUD-307 to add property to PUD-307 from PUD-287. This amendment established a new development area for the expansion of the retirement and health care center within PUD-307. The development standards of PUD-307 were modified for the new area but were unchanged for the existing PUD areas. The property is located north and east of the northeast corner of East 71st Street and South Utica Avenue.

PUD-307-A June 2001: A request for a major amendment to the PUD to add a museum, renovate and update the existing facilities and increase the floor areas and building height was approved. The PUD is located north and east of the northeast corner of East 71st Street and South Utica Avenue.

PUD-640 November 2000: Approval was granted to rezone a three-acre tract located north of Joe Creek and on the east side of South Yorktown Avenue, from RT to RT/PUD to allow 17 single-family homes.

Z-6019/PUD-385 December 1984: All concurred in approval of a request to rezone a 2.2-acre tract located on the northwest corner of East 71st Street and South Utica Avenue, from OM to CS/PUD. CS uses were approved for the tract with the exception of bars, taverns, nightclubs, uses that would have outdoor displays and any Use Unit 19.

Z-5788/PUD-307 December 1982: All concurred in approval of a request to rezone a twenty-acre tract located west of the subject property, on the north side of East 71st Street between South Utica Avenue and South Yorktown Avenue, from RS-3 to OM/PUD. The property contained an existing community recreational and cultural facility. The PUD allowed elderly housing and an extended care facility.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately one-half acre in size. It is located on the northeast corner of East 71st Street South and South Yorktown Avenue. The property is flat, lightly wooded, contains a paved parking lot, and is zoned OM.

STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
East 71 st Street	Primary arterial	120'	4 lanes
South Yorktown Avenue	N/A	70'	2 lanes

UTILITIES: Municipal water and sewer appear to be available.

SURROUNDING AREA: The subject site is abutted on the east by commercial and office uses, zoned CS; on the west by an office development and associated parking, zoned OM; on the north by parking, office and mini storage uses, zoned OM and CS; and on the south by an office complex/bank/hotel, zoned PUD-282.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as Medium Intensity Linear Development Area.

According to the Zoning Matrix the requested CS is in accord with the Plan.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan and surrounding land uses, staff can support the requested rezoning and therefore recommends **APPROVAL** of CS zoning for Z-6956.

The applicant indicated his agreement with staff's recommendation.

INTERESTED PARTIES:

Doug Jandebour, 10533 South 71st East Avenue, Tulsa, Oklahoma 74136, stated that he doesn't have any opposition to this application but would like some questions answered. He expressed concerns regarding drainage and if the building would be built over the easements. He explained that he owns the property east and to the north of the subject area.

TMAPC COMMENTS:

Ms. Hill asked Mr. Alberty to explain the process to Mr. Jandebour. In response, Mr. Alberty explained that the rezoning would mandate a consideration for a plat or replat and during that period of time, the Technical Advisory Committee would take a look at what is proposed and determine if the drainage system is adequate to entertain the proposed development. The entire property presently is a parking area and it is possible that there may be less coverage. After the zoning is approved, then the applicant would have to submit a detailed plan and at that time the City Technical Advisory Committee and Stormwater Management Division would analyze the existing development versus the proposed development. If there are any changes needed then it would be required by TAC and Stormwater Management.

Mr. Jandebour asked if there is anyway he could be notified about the review in order to know what their thinking and design would be. In response, Mr. Alberty stated that notices would be sent to the adjoining property owners.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Bayles, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Coutant, Harmon, Jackson, Miller "absent") to recommend **APPROVAL** the CS zoning for Z-6956 per staff recommendation.

Legal Description for Z-6956:

The South 309.94' of Lot 1, Block 2, Yorktown 71, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, less and except the following tract: beginning at the Southwest corner of said Lot 1, thence North along the West line of Lot 1 5.00'; thence Southeast 7.07' to a point on the South line of Lot 1; thence 5.00' to the point of beginning and located 2101 East 71st Street South, Tulsa, Oklahoma, **From OM (Office Medium Intensity District) To CS (Commercial Shipping Center District).**

Application No.: Z-6955/PUD-709

AG to RS-2/PUD

Applicant: Matt Baer

(PD-26) (CD-8)

Location: East of Delaware at 116th Street

STAFF RECOMMENDATION:

Z-6900/PUD-686 July 2003: Approval was granted for a zoning request and Planned Unit Development for an 81-acre tract abutting the subject tract on the southeast from AG to RS-2/PUD for a single-family development.

Z-6894/PUD-681 May 2003: A request to rezone a 15-acre tract located south and east of East 111th Street South and South Louisville Avenue from AG to RS-1/PUD for single-family residential use was recommended for approval by staff and TMAPC and approved by City Council.

Z-6867/PUD-667 October 2002: All concurred in approval, subject to conditions, of a request to rezone a 46-acre tract located south of the southwest corner of East 111th Street South and South Delaware Avenue from AG to RS-1 and PUD for residential development.

Z-6829/PUD-655 September 2001: A request to rezone the 46-acre tract located south and west of the southwest corner of East 111th Street South and South Louisville Avenue, from AG to RS-1 and RS-3. Staff and TMAPC recommended approval of the proposed RS-1 and RS-3 zoning for single-family development with private gated entry and private streets. City Council concurred

in RS-1 and RS-3 zoning as submitted with the PUD-655. The applicant withdrew the application and no ordinance was published.

Z-6595 July 1997: All concurred in approval of a request to rezone a five-acre tract located west of the southwest corner of East 111th Street South and South Yale Avenue, from AG to RS-2.

Z-6537/PUD-547 July 1996: Approval was granted for a request to rezone a ten-acre tract located south and west of East 111th Street south and west of South Yale Avenue from AG to RE and PUD-547 for a five-lot single-family development.

Z-6534 May 1996: A request to rezone a 20-acre tract located north of the northwest corner of East 121st Street and South Yale from AG to RS-2. All concurred in denial of RS-2 and approved RS-1 zoning.

Z-6369 October 1992: A request to rezone a 30-acre tract located south of the southwest corner of East 111th Street South and South Yale from AG to RS-2 was recommended for denial by staff. City Council approved RS-1 zoning for the tract.

AREA DESCRIPTION:

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

STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
East 116 th Street South	Residential	50'	2 lanes

UTILITIES: The subject tract has municipal water and sewer.

SURROUNDING AREA:

There is a single-family subdivision currently under construction and zoned RS-2/PUD-686 (Wind River) to the southeast; to the north is vacant land, zoned AG; to the northeast and northwest are parcels zoned RS-1, with a Planned Unit Development for each tract, for single-family residential development; and to the west is one dwelling on a large AG parcel.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 26 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area in part as Low Intensity-No Specific land use and in part as Special District 1 – Steep Slopes and Erodible Soils. The requested RS-2/PUD is in accord with the Low Intensity-No Specific land use

designation and **may be found** in accord with the Special District 1 designation by virtue of its location within a special district.

PUD-709: East of Delaware at 116th Street

STAFF RECOMMENDATION:

This proposal is for Sequoyah Hill, north of a residential development (Wind River) now under construction. This development is conceptually the second phase of the Wind River project, and is linked to it through the circulation system. The access for Sequoyah Hill is proposed to be through a private, gated entry within the Wind River development. A private curvilinear stub street is proposed to be provided to the undeveloped properties to the southwest and east to serve future development. The proposed RS-2/PUD zoning either is or may be found to be in accord with the District Plan. Surrounding uses and densities are compatible with the proposal. Staff can support the requested rezoning and recommends **APPROVAL** of RS-2/PUD for Z-6955/PUD-709.

Staff finds the uses and intensities of development as proposed and as modified by staff to be in harmony with the spirit and intent of the Code. Based on the following conditions, staff finds PUD-709/Z-6955 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-709/Z-6955 subject to the following conditions:

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein. Notably, primary access to the development must be independent of and apart from the adjacent private gated roadway, not as proposed.
2. Development Standards:

Land Area (Gross):

9.99 acres

Permitted Uses:

Uses permitted as a matter of right in Use Unit 6 of the City of Tulsa Zoning Code, along with customary and accessory uses, including but not limited to landscaped entrances and other uses which may be incidental thereto.

Maximum Number of Dwelling Units:	24
Minimum Lot Width:	90 feet*
Minimum Lot Area:	9,000 SF
Maximum Building Height:	35 feet
Minimum Livability Space per Dwelling Unit:	4,500 SF
Minimum Land Area per Dwelling Unit:	10,875 SF
Other Bulk and Area Requirements:	As provided within an RS-2 District

Off-Street Parking:

Two (2) enclosed off-street parking spaces per dwelling unit.

Minimum Yard Requirements:

Front property line abutting a street	30 feet
Side property line abutting a street	15 feet
Side property line not abutting a street	10 feet
From rear property line	25 feet

Private Streets:

Minimum right-of-way width of 30 feet with 26 feet of paving.**

Signs:

One entry identification sign shall be permitted with a maximum of 32 square feet of display surface area at each entrance of the development.

*Lot width on a cul-de-sac shall be measured at the building setback line.

**Shall be constructed to meet the standards of the City of Tulsa for minor residential public streets.

3. Landscaping and screening shall be in substantial compliance with the PUD-709 Landscape and Screening Concept Plan and the PUD text.
4. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
5. All private roadways shall have a minimum right-of-way of 30' and be a minimum of 26' in width for two-way roads and 18' for one-way loop roads, measured face-to-face of curb. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meet the City of Tulsa standards for a minor residential public street. The maximum vertical grade of private streets shall be ten percent.
6. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots access by those streets. The developer shall pay all inspection fees required by the City.
7. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
8. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by the TMAPC.
9. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during the subdivision platting process.

TAC Comments for October 6, 2004:

Water- Water main extension required.

Stormwater – Verify that the drainage structures in Wind River are designed to accommodate drainage from this development. What drainage system does the western half of this development drain to?

Wastewater – Must provide sanitary sewer service, through the SSID process, to all proposed lots.

Transportation – Access is proposed to be through Wind River private streets. However, Wind River covenants do not provide for use by other than Wind River lot owners, their guests and invitees. [Note: staff has been informed that these covenants have not yet been filed and will be amended to reflect the required access provisions.]

Traffic – An access agreement allowing access rights to the property owner to the east through the private street system is needed. Vacation of an existing unpaved roadway easement along the south property line is recommended.

Mr. Alberty stated that the applicant has been informed and is aware that the restrictive covenants of the Wind River development will have to be modified to accommodate the access that is proposed.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Bayles, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Coutant, Harmon, Jackson, Miller "absent") to recommend **APPROVAL** RS-2 zoning for Z-6955 per staff recommendation and recommend **APPROVAL** of PUD-709 subject to the conditions per staff recommendation.

Legal Description for Z-6955/PUD-709:

A TRACT OF LAND THAT IS THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SE/4 SE/4 NW/4) OF SECTION THIRTY-THREE (33), TOWNSHIP EIGHTEEN (18) NORTH, RANGE THIRTEEN (13) EAST, OF THE INDIAN MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID SE/4 SE/4 NW/4; THENCE SOUTH 89°58'32" WEST, ALONG THE SOUTHERLY LINE OF THE SE/4 SE/4 NW/4, FOR A DISTANCE OF 660.86 FEET TO A POINT, SAID POINT BEING THE SOUTHWEST CORNER OF THE SE/4 SE/4 NW/4; THENCE NORTH 0°05'45" EAST ALONG THE WESTERLY LINE OF THE SE/4 SE/4 NW/4, FOR A DISTANCE OF 658.95 FEET TO A POINT, SAID POINT BEING THE NORTHWEST CORNER OF THE SE/4 SE/4 NW/4; THENCE NORTH 89°59'39" EAST ALONG THE NORTHERLY LINE OF THE SE/4 SE/4 NW/4, FOR A DISTANCE OF 660.10 FEET TO A POINT, SAID POINT BEING THE NORTHEAST CORNER OF THE SE/4 SE/4 NW/4;

THENCE SOUTH 0°01'47" WEST ALONG THE EASTERLY LINE OF THE SE/4 SE/4 NW/4, FOR A DISTANCE OF 658.73 FEET TO THE POINT OF BEGINNING; and located east of South Delaware Avenue at 116th Street South, Tulsa Oklahoma, **From** AG (Agriculture District) **To** RS-2/PUD (Residential Single-family Medium Density District/Planned Unit Development [PUD-709]).

Application No.: Z-6957

RS-3 to CS

Applicant: Steve Self

(PD-5) (CD-5)

Location: South of southeast corner of East 12th Street and South Memorial

STAFF RECOMMENDATION:

BOA-18784 August 2000: The Board of Adjustment approved a variance to allow a gravel parking lot open on Thursdays through Saturdays as overflow parking for the adjoining bar. This approval was granted subject to one year and subject to a screening fence being erected on the south and east sides.

BOA-18681 March 2000: The Board of Adjustment approved a special exception to allow a Use Unit 12a, a bar only, on a property (located immediately south of the subject tract) abutting an R-zoned tract (the subject property).

Z-6626 May 1998: A request to rezone a lot located on the southeast corner of East 11th Street and South 83rd East Avenue from RS-1 to CG was filed. The CG zoning was denied and CS was approved for commercial uses.

BOA-17982 March 1998: The Board of Adjustment approved a special exception to allow an automobile sales business on the property abutting the subject tract on the south. A variance of the screening requirements on the north and east side and a variance to allow outdoor display of merchandise within 300' of an R-zoned district were approved.

Z-6379 December 1992: All concurred in approval of a request to rezone a 2.8-acre tract located south of the southeast corner of East 5th Street and South Memorial Drive and north of the subject tract from RS-1 to OL.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 158' x 277' in size. It is located north of the northeast corner of East 14th Street South and South Memorial Drive. The property is flat, partially wooded, contains a single-family dwelling, and is zoned RS-3.

STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
South Memorial Drive	Primary arterial	120'	4 lanes

UTILITIES: Municipal water and sewer appear to be available.

SURROUNDING AREA:

The area is one of mixed commercial/office and related uses that front onto Memorial Drive. This is the last remaining RS-zoned property on the east side along the Memorial frontage, with CS zoning to the north, south and directly west.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 5 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as Medium Intensity – No Specific Land Use.

According to the Zoning Matrix the requested CS is in accord with the Plan.

STAFF RECOMMENDATION:

Based on surrounding zoning and uses, the Comprehensive Plan and trends in the area, staff can support the requested rezoning and recommends **APPROVAL** of CS zoning for Z-6957.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Bayles, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Coutant, Harmon, Jackson, Miller "absent") to recommend **APPROVAL** of CS zoning for Z-6957 per staff recommendation.

Legal Description for Z-6957:

Lot 5, Block 3, Three Forest Acres Addition, an addition in the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, and located north of the northeast corner of East 14th Street South and South Memorial Drive (1253 South Memorial Drive), Tulsa, Oklahoma, **From RS-3 (Residential Single-family High Density District) To CS (Commercial Shipping Center District).**

Application No.: PUD-541-7

MINOR AMENDMENT

Applicant: Charles Norman

(PD-6) (CD-9)

Location: Southeast corner of East 43rd Court and South Peoria

STAFF RECOMMENDATION:

The applicant is requesting a PUD minor amendment approval to enclose the outdoor dining area of the former T2 restaurant for reuse by another restaurant, to reconfigure the signage allowance and to increase the refrigerated food storage capacity by locating refrigerated storage units on the east side in back of the building. Relocation of the storage reduces by two spaces the available number of parking spaces from 113 to 111 while enclosure of the former outdoor dining area increases the number of parking spaces required by four, for a total of 117 spaces. A variance was approved by the BOA on September 28 reducing the number of parking spaces from 117 to 111. Relocation of the trash dumpster will also be required.

The irregular shapes of the exterior walls on the proposed restaurant site (an angled entrance) also necessitate a reconfiguration of signage. Maximum permitted total wall signage under PUD-541 is 262 square feet of display surface area (two square feet of display surface area per lineal foot of building wall). An aggregate of all wall signage for the west wall and entry area, the walls for which signage is requested, would permit 186 square feet of total display surface area. Proposed wall signage is 41 square feet of actual sign and 23 square feet of star elements on the west wall (64 square feet total) and 76 square feet and two stars (91 square feet total) on the entry elevation (155 square feet total). A total display surface area of 76 square feet is permitted on the south wall; however, no signage has been requested for that wall. Staff recommends that total permitted display surface area be limited to 186 square feet for the entry and west wall, on the condition that wall signage allowed on the entry elevation be limited to 91 square feet.

The proposed amended site plan is identical to the detail site plan approved February 10, 1999 with the exception of the location of the refrigerated storage containers, the relocation of the trash dumpster and enclosure of the outdoor dining area.

Based on these standards, staff recommends **APPROVAL** of Minor Amendment PUD-541-7.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Bayles, Hill, Horner, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Coutant, Harmon, Jackson, Miller "absent") to **APPROVE** the minor amendment for PUD-541-7 per staff recommendation.

There being no further business, the Chair declared the meeting adjourned at 4:20 p.m.

Date Approved:

11/3/04

Mary E. Hill
2nd vice chair
acting chair
Chairman

ATTEST:

[Signature]

Asst. Secretary