

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2398

Wednesday, December 15, 2004, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, December 10, 2004 at 2:20 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Westervelt called the meeting to order at 1:35 p.m.

Minutes:

Approval of the minutes of November 17, 2004, Meeting No. 2396

On **MOTION** of **CARNES** the TMAPC voted 6-0-0 (Bayles, Carnes, Harmon, Hill, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Coutant, Horner, Jackson, Ledford, Miller "absent") to **APPROVE** the minutes of the meeting of November 17, 2004, Meeting No. 2396.

Minutes:

Approval of the minutes of December 1, 2004, Meeting No. 2397

On **MOTION** of **HILL** the TMAPC voted 6-0-0 (Bayles, Carnes, Harmon, Hill, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Coutant, Horner, Jackson, Ledford, Miller "absent") to **APPROVE** the minutes of the meeting of December 1, 2004, Meeting No. 2397.

REPORTS:

Director's Report:

Mr. Alberty reported on the Planning Commission items that were on the City Council agenda last week and upcoming items for Thursday, December 16, 2004.

PUBLIC HEARING TO RECEIVE COMMENTS

Public hearing to receive comments concerning amending the Zoning Code for the City of Tulsa, Oklahoma to allow an appeal from a City Board of Adjustment decision to the City Council prior to an appeal to the District Court.

TMAPC COMMENTS:

Mr. Westervelt stated that this request has been initiated by the City Council and the Planning Commission will take comments from anyone who has information. Legal and staff do not have anything prepared today. He indicated that there are several people wishing to speak on this item. He indicated that each speaker will have five minutes to express his/her opinion, unless he/she is donated time from another speaker. He requested that each speaker be as specific as possible about their experience with the Board and give as much information as possible for staff and Legal to begin to put together a report that the Planning Commission hopes will be ready by January 19, 2005.

Mr. Westervelt recognized that there is one City Councilor in attendance. He stated that the Planning Commission usually allows the City Councilors to speak first due to their schedules. In response, Councilor Mautino stated that he would prefer to speak last.

Mr. Westervelt explained that the yellow light would come on after four minutes and then the red light would come on at five minutes. He requested that each speaker give their name and address for the record.

INTERESTED PARTIES:

Wayne Bohannon, 10617 East 1st Street, Tulsa, Oklahoma 74128, President of Wagon Wheel Neighborhood Association, Inc., stated that he believes that Councilor Jim Mautino is exactly right. The public needs a reasonable way to appeal a decision by the Board of Adjustment (BOA) before going to District Court. He suggested that there be an appeal committee or protest committee with a protest fee of \$500.00, \$750.00 or \$1,000.00. A written protest must be filed with the appeals committee and would be required within a time limit to file the protest. If one loses the appeal then he/she loses the protest fee and if one wins the appeal, then the fees would be refunded. If one loses their appeal, then the next step would be District Court if the protestant chooses to take that step.

Mr. Bohannon stated that perhaps City Council could establish an appeals committee or a protest committee of some type. He reiterated that he is in favor of a step between the BOA decision and District Court.

Larry Wilson, 14110 East 19th Place, Tulsa, Oklahoma 74108, stated that he supports Councilor Mautino's request to change the process to allow an appeal to City Council from the Planning Commission's decisions. The business and development community has access to legal representation that is usually on retainer and therefore money may not be an impediment to an appeal to them. However, most homeowners do not have access to legal representation simply because of the money required for lawyers. To ensure justice for all citizens, an appeals process through our elected representatives is imperative to fairness and give balance to decisions that are made by BOA members who have no accountability because they are not elected. It is virtually impossible to overcome the entrenched bureaucracy the Planning Commission has become. The best example of this is the F&M Bank ruling over the objection of well over 50% of homeowners in the subject area. In our representative form of government, an automatic appeals process that is fair does not require lawyers.

TMAPC COMMENTS:

Mr. Westervelt asked Mr. Wilson if he had a specific BOA case other than the Planning Commission case that he cited. In response, Mr. Wilson stated that he has not experienced anything first-hand except through the concrete batch plant on 11th Street and the arguments we had on the PUD. Mr. Westervelt pointed out that, again, that was a Planning Commission case; however, the BOA did act on the APAC Concrete originally.

INTERESTED PARTIES:

Jim Stephens, 42 East 24th Street, Tulsa, Oklahoma 74114, stated that he has a couple of concerns about the appeals process. If it is another layer of approval, it would require a great deal of time in the process. Time may not mean much to some applicants, but some who are needing to get their projects moving and done on time in a reasonable amount of time may consider another location.

Mr. Stephens stated that the second concern he has is that if the appeal goes through the City Council, it could become a political football. There could be possibly sixty to ninety days added to the time. He asked if there is an appeal at the City Council, would it still go to the District Court or is that opportunity lost. He expressed concerns that the legislative process is becoming politicized. He suggested that the process not be changed, but perhaps the Zoning Code could be tweaked.

Mr. Westervelt announced that Jim Stephens sits on the City of Board of Adjustment and has been a member of the board for 1 ½ years.

David White, 5415 East 6th Street, Tulsa, Oklahoma 74112, stated that he is addressing the Planning Commission from two different perspectives. One perspective is as a member of the Board of Adjustment, on which he has been for the last ten years and Chairman for the last 7 ½ years. From this perspective, the proposed concept before the Planning Commission today would not make any difference in the operation in the way the BOA works. The concept that is being suggested is actually occurring after the fact. The BOA would have rendered its decision and this would be an appeals process. The BOA primarily works from Title 42, City of Tulsa Zoning Code, and that is enacted by the City Council. Whatever the Code states is what the BOA has to do and if the Code is changed accordingly, then the BOA would have to follow it.

Mr. White stated that the other perspective is from a private citizen who happens to have experience on the Board of Adjustment, primarily based on the 3,000 cases he has ruled on. He expressed his concerns because the BOA is a quasi-judicial body making judgment calls and rulings based upon fact and law only that appear before the BOA for zoning relief. If this went beyond the BOA and still stayed in the judiciary, because it would have to in theory, the City Council would be acting in its quasi-judicial capacity, which it does occasionally. The City Council is primarily a legislative body, but they do have quasi-judicial status on certain issues. If the City Councilors heard an appeal they would have to be acting strictly on law. He commented that he has heard many times the Councilors state that their primary consideration as councilors is to the constituents of the districts of which they reside, with the City of Tulsa being secondary. Based on this, the City Councilors' considerations for the appeal process would have to be primarily to those constituents and he questions whether or not the Councilors could deal strictly with the legal aspects without bringing the political aspects into it.

Mr. White stated that there one additional thing that concerns him regarding the decisions of the BOA. The BOA decisions are based upon the quality and quantity of the information received in the process of making those decisions. He indicated that the BOA urges any and all Councilors to testify before the BOA, particularly if the application is in his/her district. When they do testify before the BOA, the BOA members believe that they are receiving information that a citizen or a normal constituent would not be able to supply. If the BOA applications are allowed to be appealed directly to the City Council, then that particular Councilor would not be inclined to testify before the BOA members because if it were to be appealed that Councilor would have to recuse themselves from the appeal process.

Mr. Westervelt thanked Mr. White for his years of service on the City Board of Adjustment.

Greg Roberson, 9161 East 103rd Street South, Tulsa, Oklahoma 74133, stated that he works for a commercial development company called the Trammell/Crowe Company. He explained that his company has developed in Tulsa for approximately 25 years. He indicated that he does not have a case that has gone before the Board of Adjustment (BOA) and it is his job to stay away from the TMAPC, BOA and City Council. There are times that there are certain situations where one needs to present to these Boards. He explained that he worked with a colleague who was on the Board of Adjustment for several years and heard some of the decisions made. It appeared to him that the decisions were not predictable and there was some sense to the rules that are applied.

Mr. Roberson stated that by sending the appeals process to the political winds of the moment it will effectively eliminate developers who don't have a "slam-dunk" deal, where there is no uncertainty whatsoever, and it will lead others, as they are doing now, outside the city limits, which is something his company really doesn't want to do.

Al Nichols, 8525 East 16th Street, Tulsa, Oklahoma 74112, stated that if the BOA had been strictly going by the Zoning Code as Mr. White indicated the BOA members do, then there weren't be this conversation today. He commented that the problem has been that the BOA often makes up their own rules as they go and whenever a case comes before them, sometimes they do not follow the rules so there is no place else to go except to District Court. There were a couple of cases that Mr. White was involved in where the BOA approved a hardship on a development request and their hardship was that the lot is very big. There is nothing in the Zoning Code that says that a very big lot is a hardship. There was another case before the BOA in which the secretary asked for the hardship, which they never answered her request. The appeals process is necessary because the BOA doesn't always go by the rules. There have been a lot of caveats stated that the City Council would be overwhelmed if all of these decisions came before them, and that is not a valid argument. A large number of the BOA cases are not opposed by anyone. A large number of cases are decisions that were made properly and probably have no basis for appeal. His own estimation is that there wouldn't be that many cases going before the City Council and it is only fair that the citizens have a process to appeal to their elected officials. Mr. Nichols submitted his own proposed changes to the Charter in order to allow BOA appeals before the City Council or District Court (Exhibit A-1).

Mr. Westervelt asked Mr. Nichols if he was suggesting there should be three options to either go to the City Council or District Court for appeal, or appeal to both. In response, Mr. Nichols stated that there are two options, go to the City Council or District Court. Mr. Westervelt asked Mr. Nichols if he was suggesting that the City Council appeal could be skipped and go directly to District Court. In response, Mr. Nichols answered affirmatively.

Hank Brandt, 8937 East 15th Street, Tulsa, Oklahoma 74112, stated that he doesn't have case numbers, but he does have three examples of past BOA actions. He explained that he didn't keep case numbers because there was no reason to.

Mr. Westervelt asked Mr. Brandt to give the staff as much information as possible so that they can identify the property and board cases.

Mr. Brandt stated that one of the examples is where there was an auto repair business in the neighborhood. The Neighborhood Inspections are fairly busy and they can't come out and watch to see how many cars come in and how many cars go out. Neighborhood Inspections rely on neighbors to report violations. There was a neighbor taking pictures to show the violations and had a gun pointed at him. It took a long time to shut this business down, approximately four to five years. Again this was an approval by the BOA and there is no recourse because the neighborhoods do not have thousands of dollars to file cases.

Mr. Brandt cited another example with regard to an electric company where cars park in the yard in the neighborhood. Neighborhood Inspections has not been able to shut the business down. There is no recourse and the BOA approved it.

Mr. Brandt stated that there is another example of a situation approved two years ago. He personally was present at the hearing because of an over-sized building. The building was approved and after the meeting Candy Parnell (Neighborhood Inspections) stated that she couldn't say anything in the meeting, but we finally got him shut down from operating a business in another neighborhood, and so now he will be in your neighborhood and it will be the same fight again. There is an auto repair business in the building and the building is larger than the house. At night neighbors hear roar of tires squealing on pavement as they test their cars. Neighbors Inspections is not going to come out at midnight and take pictures of this situation and so it relies on the neighborhood to shut something like this down. This should have never been approved by the BOA.

Mr. Brandt reminded the Planning Commission that he doesn't keep case numbers. In response, Mr. Westervelt stated that he didn't expect people to have the case numbers for older cases, but if they have the addresses or area so that staff can look the properties up, it would be helpful.

Mr. Brandt stated that he would like to see some step taken to change this around. He explained that he doesn't have any problem with developers, but he does have problems with local individual neighborhood things that are approved but should not be. He indicated that in the past he has supplied information from the tax records regarding house dimensions when protesting a case and the BOA stated that they would go by the information supplied by the applicant's

attorney. In this case they approved a larger storage building on erroneous information.

Mr. Brandt concluded that all of the situations he has mentioned are in his neighborhood and if the neighborhood were to fight these it would cost close to \$40,000.00. He commented that he doesn't believe any neighborhood association has this type of money and very few homeowners living in homes valued in less than \$200,000.00 have that kind of money in the bank. The neighbors need a step to protest the BOA approvals. There are eight or nine cities that have a protest step in their City government before going to District Court and Tulsa should take that step.

Mr. Westervelt asked Mr. Brandt if he could recall case numbers, since they are in his particular neighborhood, and if he would please share that information with staff for their report. In response, Mr. Brandt stated that he doesn't have that information because it happened years ago.

Mr. Alberty asked Mr. Brandt to supply the approximate addresses in order to give staff somewhere to start. In response, Mr. Brandt stated that he could give the addresses.

Clayda Stead, 8935 East 15th Street, Tulsa, Oklahoma 74112, stated that Mr. Brandt is her neighbor and he has enumerated a few of the problems. She explained that her neighborhood has one-acre tracts and unfortunately new owners of these properties move their businesses in, too. The BOA has been consistent by stating that one can't deny a current owner the right to build a building for himself that may later be used for another purpose. This type of ruling is what has put her neighborhood in a bind. What has caused problems is approving oversized structures that should never be built in a residential area.

Ms. Stead stated that she has an additional concern regarding the City Council hearing protests. She explained that when the Council was formed, it was estimated that the Councilors would spend approximately 20 hours a month on council business, which is laughable today. She commented that the Councilors are close to full-time employees today. We are looking at possibly 75 to 80 cases per year that will come before the Council, which is based on the 300 the BOA now listens to. The Council is part-time and if they have to spend 60 hours a week, then the City would be looking at full-time employees, full-time salaries and full-time staff. The City is having budget problems and it is difficult to hire police officers and she is concerned about the Council becoming full-time. She commented that she doesn't have a problem with the City Council critiquing the BOA, but she doesn't want a full-time Council. She indicated that she doesn't know the answer to this situation.

Mr. Westervelt asked Ms. Stead if she was in support of some type of change at the BOA. In response, Ms. Stead stated that she is in support of a change in the BOA and she believes that the Mayor is doing that right now.

Mr. Westervelt asked Ms. Stead if she was in support of a change in personnel at the BOA or in support of a change of the process to the Council. In response, Ms. Stead stated that she doesn't have any problem with the review, but she does have a problem with the extra expense that may be inherent with the review. Ms. Stead concluded that she does believe that it needs to be looked at. In response, Mr. Westervelt stated that he believes she will get a chance to do that.

Ron Looney, 7721 South Harvard Place, Tulsa, Oklahoma 74136, stated that he has been in Tulsa all of his life and he is currently in the real estate development business. He indicated that he has developed over two million square feet of office, warehouse and commercial space in the City of Tulsa. He commented that he has used the BOA on occasion, but not often. He explained that he sat on the Tulsa County Board of Adjustment (CBOA) for over ten years; however, he is no longer a member. He has been on the TMUA Board for four years and with the Tulsa Community College Board of Regents for 20 years. The City of Tulsa, over these years, has been a progressive City and promoted economic development. It allows people to come in from out of town or from within and develop properties and go to the BOA when they have hardship cases where the property might be requiring a variance in order to do whatever they need to do on the property. The BOA has done a good job over the years. If another layer is added to the appeal process for those who might want to appeal before District Court, that will greatly slow down the progress of economic development in the City. This is partly because we have a City Council that prefers to get beyond where they belong. City Council members have stymied economic development. They have caused hardship and abuse to the appointees and they have done a number of things that go well beyond their office. If the City Council had the opportunity to hear appeals he believes that they would do great harm to companies and people who needed relief through the BOA. He concluded that to allow the City Council to step in and be in the appeals process would do great harm to our City and to the viability of the City working with developers and people who need relief.

Janice Nicklas, 122 East 25th, Tulsa, Oklahoma 74114; President of the Maple Ridge Association, stated that the Maple Ridge Association Board voted unanimously to support the proposal to amend the Zoning Code to allow an appeal from a Board of Adjustment decision to the City Council prior to an appeal to the District Court. Ms. Nicklas stated that she feels that it is important for cases that have high public interests. There might be some kind of measure established for what is a high public interest. For example a process could be directed that required one hundred signatures for a BOA appeal to go to the City Council from residents and neighborhoods that are directly impacted by a BOA

decision. She concluded that in her neighborhood, from past personal experience, the hardship District Court places is on neighborhoods, when in most cases the neighbors or neighborhood associations are just trying to preserve the quality of life in that area of our City.

Mr. Westervelt asked Ms. Nicklas if she was suggesting that there be some threshold made for a higher public issue. In response, Ms. Nicklas stated that there should be some criteria.

Ms. Hill asked Ms. Nicklas if the proposal for a petition be in the district where the BOA situation is located or City-wide. In response, Ms. Nicklas stated that it was an idea that she had. If one couldn't go full forward with the proposal, then possibly some criteria could be established in cases that have high public interest.

Ms. Bayles asked Ms. Nicklas how many homes are in the Maple Ridge neighborhood. In response, Ms. Nicklas stated that there 1800 homes. Ms. Bayles asked for the number that voted unanimously in support of the BOA proposal. In response, Ms. Nicklas stated that there is a 26-member Board, which held a special meeting to consider this issue and there were 16 Board members present and others emailed their support.

Herb Beattie, 3474 South Zunis Avenue, Tulsa, Oklahoma 74103, Vice President of the Brookside Association, stated that many of the members have a lot of concerns. As Vice President he has been asked to look into the whole land use management in the City's system. It is clear to him as a citizen that there are problems with the land use system and changes need to be made. One of the fundamental problems is figuring out the difference between a zoning change, which comes to the TMAPC and can be appealed to the City Council, and a BOA action. Mr. Beattie cited a BOA case that was recently in the paper where a large store was changed to industrial use. He expressed concerns that this was a large issue and he thought the BOA was supposed to deal with small issues.

Mr. Alberty asked Mr. Beattie if he could characterize what he is saying is that the BOA has broad powers for granting exceptions for land use. In response, Mr. Beattie stated that is perhaps the case. Mr. Beattie further stated that the BOA is making some big decisions. Mr. Beattie expressed frustration regarding the difference between TMAPC and BOA.

Ms. Bayles asked Mr. Beattie if it were critical to have meetings with both parties before the issues are brought to the TMAPC. In response, Mr. Beattie stated that when Brookside was ready to adopt design guidelines and a master plan, it was critical to have meetings before the issues were brought before the TMAPC. Mr. Beattie commented that the end product that was approved by the TMAPC and City Council was a good plan.

Ms. Bayles asked Mr. Beattie if dialogue already being established is helpful in terms of what he has seen in his neighborhood as far as BOA is concerned. In response, Mr. Beattie answered affirmatively.

Mona Miller, 7211 South Gary Place, Tulsa, Oklahoma 74136, stated that she is in support of Councilor Mautino's recommendation because of a recent experience that she has had. She commented that since the recent experience she has formed a group called Homeowners for Fair Zoning. There are approximately 500 people on her email list and another 200 people with phone numbers.

Ms. Miller stated that when a situation comes up, she can certainly attest to the fact that it is a lot of inconvenience and money. She indicated that she spent \$60,000.00 to go to District Court, on a case which will ultimately go to the Supreme Court. She stated that not everything is on the up and up and above the board and the neighbors didn't know that the different committees were addressed long before the neighbors had notice. The signs should be placed where people can see them and things handled with an above-board manner. Then the homeowners would be willing to go on down the road. The neighbors do not want to lock horns with any of the developers, but it does put a bad light on things and is a disadvantage to the homeowners when things are done long before the homeowner has a chance to respond to it. Consequently, the neighbors did get busy and supported the City Council that they wanted in office, which the neighbors felt would be more than a special interest group.

Ms. Miller addressed Ms. Bayles by stating that having conversations on both sides is extremely important, but she didn't have that opportunity.

Mr. Westervelt asked Ms. Miller what BOA case she is referencing that created her experience. In response, Ms. Miller stated her experience was with the TMAPC.

Mr. Westervelt asked Ms. Miller if she was referencing that there was some illegal and improper behavior. In response, Ms. Miller stated that she would say for sure some was improper. As a matter of fact, the way, Mr. Westervelt responded to some of the neighborhood people when they were speaking, she believes, was extremely improper and she let the Mayor know about it, as well as others.

Mr. Westervelt asked Ms. Miller to not make this personal and try to stay focused on the BOA. In response, Ms. Miller thanked Mr. Westervelt.

John Bumgarner, 2145 East 27th Street, Tulsa, Oklahoma 74114, stated that he would like to enthusiastically endorse Mr. David White's comments. He believes that his comments are on target. He further stated that Mr. Ron Looney's comments were exactly on target as well. He commented that if politics are

injected into the appeal process, then that will be disruptive and will prolong the development process in Tulsa, Oklahoma. Everyone is a tax payer and everyone is concerned with property value and trying to make this a better City. Regarding the protestants and homeowners present who think they have been abused, he would urge the staff to do their homework and look at the exact situations brought forth and see if any economic harm could be documented. He commented that he suspects that there would not be much found.

Steve Ganzkow, 1347 East 27th Street, Tulsa, Oklahoma 74114, stated that he has a question more than a comment. He indicated that he is in the development business and has never had to have a BOA appeal. He commented that he would not be opposed to an appeal process, but he is concerned about how it would be structured, if the process is changed to two options, option one appealing to the City Council or option two appealing before the District Court. He questions if one goes to the City Council for an appeal first and then to District Court, does District Court look at the case from the same legal standpoint or are they materially different. This should be known before changing the appeal process.

Mr. Westervelt stated that this question has come up and Legal is studying to see if the appeal process before the District Court is changed if the appeal goes before the City Council first.

Mr. Romig stated that with some of the ideas he has heard today he will have to go back and look at these suggestions. The bottom line is that legally things will be changed if this process is adopted.

Mr. Ganzkow asked Mr. Romig if it would be a material change. In response, Mr. Romig stated that it would depend on who is looking at the change, but it could be a material change.

Ms. Coutant asked if she understood correctly that, if this new process is adopted, that the BOA decision would have to be appealed before the City Council and then to the District Court.

Mr. Romig stated that there has been several plans proposed and he doesn't believe there is one process on the table at this point.

Ms. Coutant clarified that if a BOA decision is taken directly to District Court, it would be a trial de novo (a brand new trial) and they are not looking at the record of what happened at the BOA. It is her understanding if the appeal comes out of the City Council and then to the District Court, then the Court would be looking at the record made at the City Council meeting. There would be a substantial change of what is happening in District Court.

In response to Ms. Coutant's clarification, Mr. Ganzkow stated that he understands the same change as Ms. Coutant.

Paul (Chip) Atkins, IV, 1638 East 17th Place, Tulsa, Oklahoma 74120, President of Swan Lake Neighborhood Association, stated that his Board will not take action on this issue until they are able to learn more information.

Mr. Atkins stated that BOA hears the appeals of the Tulsa Preservation Commission (TPC) that would be a double appeal that the TPC would hear before going to the District Court. He asked if there will be two appeal processes before going to District Court.

Mr. Atkins stated that the only way to get accountability is to make them elected officials. San Francisco, New York City, and Sun Valley, Idaho have elected BOA officials. Mr. Atkins further stated that if the TMAPC were elected officials, he could guarantee that three-quarters of the present members would not be on the TMAPC today for various reasons.

Mr. Atkins concluded that he is in support of some type of appeal without compensation or money coming out of an association. He explained that his association has 300 households and that would be a lot of money having to come out of each household for an appeal before the District Court.

Mr. Westervelt stated that the appeal process from the TPC is something that has not been addressed and this question will be helpful.

Mr. Westervelt stated that he does believe that it is inappropriate behavior to suggest that people that do serve on the TMAPC are not accountable. He has known many of the members for many years and this type of comment doesn't do any good when one goes in that area. Mr. Westervelt thanked Mr. Atkins for the comment regarding the appeal process for TPC.

Mike Craddock, 3153 East 44th Street, Tulsa, Oklahoma 74105, stated that he is not in favor of the change. He commented that he is here today as a citizen and a former Neighborhood Association President of Lewis Crest Neighborhood Association. He stated that there is no need for another layer of bureaucracy. Some of the arguments from the proponents go in his favor in not allowing the proposed process because the bureaucracy does not help the process of making Tulsa a better place to live. This would be adding too much personal opinion by taking this to the City Council level. The current process is very good and he would not want to see it changed. Mr. Craddock concluded that it appears some of the comments he is hearing today are violations of existing zoning laws. Those need to be taken care of at the levels that they should be and not brought in as an argument to do away or change the existing law.

Patrick Boulden, 200 Civic Center, Tulsa, Oklahoma 74103, stated that he is the Legal Advisor for the Board of Adjustment. He explained that he added his name to the list of speakers in order to dispel any misstatements that might need to be dispelled. He stated that if by adding the City Council to the appeal process is to avoid court or the expenses of court that is a fallacy that should not be accepted. Ms. Miller spoke before, although it was a case that came from the City Council on a rezoning, that her case did not involve a trial de novo, but was simply decided on motions and on the record that was before the Council and the TMAPC, which costs her or her group a great deal of money. An appeal from the City Council, although of a slightly different nature, would be just as expensive if that is what they want to pay for. The nature of an appeal from the City Council on a BOA decision to the District Court would be just as expensive as Mona Miller and her group experience. If the goal is to reduce cost and to avoid District Court, it will not happen.

Mr. Harmon asked Mr. Boulden if he is stating that an appeal before the City Council would be as expensive as an appeal before the District Court. In response, Mr. Boulden stated that the appeal from the City Council on a BOA decision to the District Court is going to be just as expensive as the zoning case Ms. Miller was referring to.

Mr. Westervelt stated that Mr. Boulden was drawing the connection that if one can appeal a BOA decision or appeal a TMAPC decision to District Court, putting an extra step in between and then having to go through the appeal process after the Council has ruled will not be any less expensive.

Mr. Harmon stated that he understands what Mr. Boulden is stating, but that would be in a scenario where they both went to the District Court. He further stated that if the appeal went to the City Council and it was resolved at that level then the expense wouldn't be that great. In response, Mr. Boulden agreed with Mr. Harmon; however, it can't be stopped at the City Council level, one cannot prevent access to the Courts.

John Denny, 3130 East 70th Street, Tulsa, Oklahoma 74136, stated that he is an attorney; however, he is not representing anyone today. He addressed Mr. Boulden's statement that an appeal to the City Council could not avoid an appeal to the District Court. That is probably true insofar as it goes; however, what he believes parties would be dealing with at the Council level (quasi-judicial decision) would be made by the Council on the appeal. The question is whether or not a trial de novo (a new trial with no deference being given to the Council's decision) would be what the District Court would be doing or whether it would be doing what is done in a zoning appeal case, where TMAPC renders a decision then it goes to the City Council and then to District Court where there is great difference is given to the decision that is made by the Council there. If it is the District Court, he doesn't believe Tulsa is bound by State Law because the City of Tulsa is a Charter City, which specifies broad powers under its Zoning Code,

the City is able to establish the levels of appeal from our City Council and what difference that should be given to it. At the District Court level the City is not looking a trial de novo, but looking at a review of the record that was made in the Council and it would be essentially and could be specify that the City Attorney's office would be defending the decision that was taken in the Council. Whether it is the developer or the homeowner who prevails at the Council level, when it goes to District Court there would be a free defense of that decision for whoever prevailed at the Council level. This is greatly different from what we have right now where whoever prevails before the BOA can be appealed directly to the District Court and then whoever happens to have the most money is able to more effectively defend that decision or their position at the District Court level. There is a trump card of attorney's fees that is often played. There are three terms that he believes describes the present system of BOA appointments and appeals: "Politics", "discretion" and "attorney's fees". When he utilizes someone's name or position in his comments he is not meaning to be critical of them, but to describe the situation as he believes it exists. There is currently a Mayor who is a former zoning attorney and he is able to make the nominations for appointments to various boards and commissions, in particular the BOA and TMAPC. If the Mayor makes appointments, which tend to be biased in one direction and if confirmed by the Council, that Board is going to tend to go in one direction or the other. At the present time he believes that there is a citizen opinion that these decisions have gone in favor of developers and there is a great deal of discretion vested in the BOA under our current system, that the discretionary decisions being made are therefore much more like political decisions. If politics are going to be involved with the decisions, then he wishes to have a more balanced political situation, which is with these decisions being appealable to the City Council where at least those representatives will have been elected rather than appointed by one side or the other.

Mr. Westervelt asked Mr. Denny if the system changed to where there is no trial de novo and an applicant knew that a case they are bringing before a board was likely to get appealed to the City Council, wouldn't the homeowners group or an individual who didn't like a particular application, it could be reversed, wouldn't they be required to get a lawyer involved earlier on in the case in order to make a good record before they get as far as the City Council in order to ensure themselves that they have a good record when they get to District Court. It would appear that might actually backfire and someone might actually be forced to engage an attorney earlier in the process if one was concerned about a applicant taking this to the Council after BOA was denied and then onto District Court.

Mr. Denny stated that he made a distinction between trial de novo and going on the record as it had been made in the City Council. There is a big distinction there. The trial de novo means that the Court need give no consideration to what has been done at the lower level. Far be it for him to say that either side wouldn't have an advantage if they could hire a knowledgeable lawyer to assist them in

the matter; however, the comparative informality of the proceedings before the BOA or the City Council does allow for lay persons to be able to present their points of view and that is not the case in District Court with a full trial de novo. He believes that this could radically reduce the costs for homeowners associations in that it would not be that difficult to establish an organization of homeowners to advise people of how to go through the process if they decide to present it on their own. Typically the homeowners do not have the money and they do not have the incentive that the developer does to put the money into the project to defend it.

Mr. Westervelt asked Mr. Denny if he doesn't believe that it would cause the homeowners to have to front-end load their process just as an applicant would. In response, Mr. Denny stated that certainly having an attorney would be desirable, but he believes the current process whereby they are guaranteed that an attorney has to be hired for a full trial de novo in District Court is a much more expensive process.

Carol Barrow, 8924 East Marshall Street, Tulsa, Oklahoma, 74115, representing the Layman Van Acres Neighborhood Association in East Tulsa near the airport, stated that the BOA decision that affected her neighborhood started 35 years ago. In June 1968, an application was made by Spartan School of Aeronautics to use the land at the corner of Pine and 89th East Avenue. The public hearing was held June 24, 1968. On July 2, 1968 the BOA granted the permit to Spartan. She explained that the reason there is a problem with this is because the neighbors found out nothing about this until after the fact. In September 1968, there was an appeal filed for the decision to allow Spartan to build next to the neighborhood. There are 535 homes in this neighborhood and the property to the west is airport-owned or City-owned. The neighbors organized themselves and sent letters to the Governor and Gene Howard (Senator at that time). She commented that after this case the former Senator Gene Howard sponsored a bill requiring that homeowners within a 300-foot radius of the property under application be notified of the public hearing. She indicated that the BOA upheld the permit and allowed Spartan School of Aeronautics to build. She stated that Spartan and her neighborhood drew up a covenant.

Ms. Barrow stated that in 2002 she noticed surveyors on the Spartan property (an additional 20 acres that Spartan is allowed to use). She discovered that Spartan was getting ready to build dorms. She stated that there would be approximately 300 male students in the dorms. The neighborhood tried to find out what they could do to prevent the dorms from being built, and due to the 1968 decision, Spartan didn't have to do anything but obtain a building permit. She feels that this is unfair because it had been 35 years. The first phase has been built and they are ready to build the second phase. When both phases are completed there will be over 600 students living there and most of them are male students. These students will be driving cars on a two-lane road.

Mr. Westervelt stated that he recalls that the 2002 case regarding the dormitories actually came to the TMAPC for approval and was not simply based on a 1968 BOA decision. In response, Ms. Barrow stated that she was informed that the dorms didn't require any action and that they simply had to apply for a permit.

Mr. Westervelt requested staff to look into this case and report on it January 19th.

Ms. Bayles asked Ms. Barrow if anyone from the neighborhood association spoke with Spartan when they saw the surveyors. In response, Ms. Barrow stated that someone did and were informed by the owners of Spartan that they were not building it, but it was being built by a third party. Ms. Barrow further stated that Spartan is a school and the neighbors are sitting there like an island up against them and there doesn't seem to be any recourse.

Councilor Mautino, 14628 East 12th Street, Tulsa, Oklahoma 74108, stated that before becoming a Councilor he was a neighborhood activist and he represented the neighborhoods. After becoming a Councilor he wanted to defend all of the business communities and the residents and everyone whom lives in his district. He believes now that everyone can see that he has done the TMAPC a big favor by bringing this up. This is the procedure with the Council and they do have to present it to the Planning Commission so that there can be public hearings and now the TMAPC has heard from everyone. The Planning Commission can see the kind of decisions that the City Council would have to make and the Council would like its input on this issue.

Councilor Mautino stated that the reason he did this is not just because of the neighborhoods and the costs. He was very familiar with the procedures and the things that have happened. Mr. Boulden was involved in some of them. There is a certain amount of unfairness or a hardship on anyone who is turned down by the BOA. This could be either the applicant or the people/interested parties. He commented that he knew in some cases that some of the applicants were turned down and their appeal to the court was lengthy. Some of the cases were two or more years. Mr. Boulden and he were involved in one on a car lot thing that revolved. Both sides spent a lot of money (the neighborhood associations and even the applicants). He has, after becoming a Councilor, looked at both sides and wondered why our residents are upset and have so little confidence in our Boards and City government. His decision was to put it on and let it come before the Planning Commission for a public hearing.

Councilor Mautino commented that he did some research. That is what he did when he was a neighborhood activist and that is what he is now doing as a Councilor. He indicated that he has researched the City of Minneapolis and the reason he chose Minneapolis, before he retired he did a lot of traveling and Minneapolis is a very nice City, well organized, and they do have a process that allows the BOA decisions to go before the City Council. He commented that he has heard that allowing appeals to go to the City Council just adds a layer of

bureaucracy and that may be possible or true for some people, but the Council does diligently try to process whatever comes before them just like the Planning Commission does. The City Council tries to make decisions as fairly as possible.

Councilor Mautino stated that he believes that the process in some cases would have gone much faster if they had come to the City Council, because the Council's decisions are made much quicker than sometimes going to Court.

Councilor Mautino stated that Minneapolis also does something different with their Planning Commission. He commented that he has gone before the Builders Association and listened to them and have been in their meetings. They complain about the length of time it takes to process or get things built. A manufacturing person in his district had to wait six months for a permit.

Mr. Westervelt asked Councilor Mautino which manufacturing company took six months to get their permit. In response, Councilor Mautino stated that it was Precise Machine.

Mr. Mautino stated that these are the things he heard at the Builder's Association and he would like to speed up the process for the Builder's Association or other applicants.

Mr. Westervelt asked Councilor Mautino to stay focused on the BOA. In response, Councilor Mautino stated that this ties in with the BOA. He commented that if the Planning Commission would research Minneapolis it brings the BOA and changes in the Planning Commission the way that they handle those. He believes that the BOA needs to make their decisions on a little wider scope like he reads about Minneapolis and the Planning Commission has a wider scope of what they look at. He stated that he hopes that with today's information, from both sides, the Planning Commission will render a good suggestion for the City Council that they can work with. Councilor Mautino concluded that he is anxiously awaiting the Planning Commission's decision.

Mr. Westervelt stated that if all goes well the Planning Commission hopes to have something ready by January 19, 2005. He mentioned to Councilor Mautino that he noticed that there was a slide show being presented to the Council with regard to the things that motivated Councilor Mautino to bring this case before the Board. He asked Councilor Mautino if he has had an opportunity to share this with staff in order for them to understand some of the bases that he is using. Councilor Mautino stated that he has not submitted the slide show to the staff, but he thinks it has been a very intense week. He commented that he did take a Planning Commission staff person to look at the area and he would be willing to do this with anyone who would like to go. He put the slide show together as a presentation that gives a look at the area.

Mr. Westervelt stated that staff would benefit greatly from seeing the slide show, and asked if there is a problem with giving this to staff. In response, Councilor Mautino stated that it wouldn't be a problem. Mr. Westervelt reminded Councilor Mautino that he is trying to fast-track this to the 19th and to not have this information would put staff in a difficult situation. In response, Councilor Mautino stated that it is public knowledge and everyone has the ability to get it from TGOV, Channel 24. In response, Mr. Westervelt stated that it would be nice for staff to have this information and if Councilor Mautino could make that available in some easy way. In response, Councilor Mautino answered affirmatively.

Mr. Carnes stated that what he is hearing today is the same thing that the Planning Commission constantly hears. Mr. Carnes stated that he believes the current process is good; however, Code Enforcement doesn't follow through. Because of this, the Planning Commission and the BOA takes the heat. The City Council has to help the Planning Commission and the BOA separate Code Enforcement from the decisions.

Councilor Mautino stated that there are financial problems in the City of Tulsa and everyone is aware of that. Code Enforcement/Neighborhood Inspections is about 2,000 to 2,200 cases behind. They are understaffed and they are doing the very best they can, just as every department is doing the best they can under these trying times. He heard from the Builder's Association and the homeowners and he sees what is happening to his area. Hopefully, this will get things moving in the right direction and this may give some direction. There are changes that are needed and he understands that changes are hard, but they do need to be made in the way that we do business today. Whether the changes are with the BOA, the Planning Commission or Neighborhood Inspections, the City can't keep doing the same things that have been happening. The City of Tulsa is losing population and its tax base. The property values are going down and this gives us a smaller G.O. bond pool. This is the first step and he has others that he would be glad to sit down and discuss. The process for the developers takes too much time and energy for the neighborhoods.

Mr. Westervelt asked Councilor Mautino if he would be able to meet with Mr. Alberty and let him see the slide show. In response, Councilor Mautino stated that he would do so this afternoon.

Mr. Harmon asked Councilor Mautino if he thought the present City Council could hear a case from the BOA and effectively render a decision without it becoming bogged down in the political process. In response, Councilor Mautino stated that he believes that if it comes down to the City Council, the Council tries to get a public hearing going, just like they do at the BOA and sometimes the City Council has a broader scope to look at. The TMAPC may make decisions on a broader scope than what the BOA does. He indicated that this is why he read about Minneapolis and their BOA decisions being appealed to the City Council and then of course they can go to District Court, just like the decisions the Planning

Commission make to the City Council and then the Council hears the case and then the appellant or the applicant can go to Court.

Mr. Westervelt asked Councilor Mautino what would happen if later there would be a different Council in office and it is absolutely adamant about job growth and moving forward and the citizens find themselves in the process that the developers are going to the Council and they are getting their appeals heard right a way, would there still be a benefit in that because the citizens could then go to District Court, but they will not have any financial advantage in doing so. What happens to the process at this point is that the citizens come back and say that the process is broken. In response, Councilor Mautino stated that when he became Councilor he was told that Councilors are temporary and every two years the people can vote you out if they do not like what is going on. That is one way of leveling out what happens in a City Council. Just like the Planning Commission appointments, which are appointed by the Mayor and approved by the Council. Councilor Mautino asked Mr. Westervelt what he is asking.

Mr. Westervelt stated that he simply was asking what if the Council changes. In response, Councilor Mautino stated that he can't deal with "what ifs". Councilor Mautino stated that the process would put you in Court, if the parties do not like what the Council does then go to Court. This is an interim step that could save time for everyone.

Mr. Westervelt stated that he would like to thank Councilor Mautino for his time and staff looks forward to seeing the slide show that he presented to the Council.

Mr. Westervelt stated that if there are no additional speakers then the Planning Commission will close the public hearing and open the Planning Commission's open hearing with the regular zoning work.

Mr. Westervelt called for a five minute break at 3:05 p.m.

Ms. Hill called the meeting back in session at 3:15 p.m.

Mr. Westervelt out at 3:17 p.m.

Ms. Hill stated that there are two items that will be taken out of order.

PRELIMINARY PLAT:

Union Elementary # 12 – (9428)

(PD-17) (CD-6)

North of East 51st Street and west of 145th East Avenue
(continuance requested to 1/19/05)

TMAPC COMMENTS:

Ms. Hill indicated that there has been a request for a continuance to January 19, 2005.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted 6-0-0 (Bayles, Carnes Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Jackson, Horner, Ledford, Miller, Westervelt "absent") to **CONTINUE** the preliminary plat for Union Elementary #12 to January 19, 2005.

* * * * *

Ms. Hill stated that the following item will be heard out of order due to the applicant needing to catch an airplane.

Application No.: PUD-699

DETAIL SITE PLAN

Applicant: Robert Ready

(PD-11) (CD-1)

Location: 1143 North 24th West Avenue

STAFF RECOMMENDATION:

The applicant is proposing a new eighty-unit multifamily elderly housing development comprising twenty residential buildings and a community center. The proposed use, Use Unit # 8, Multi-Family Dwelling and Similar Uses, is in conformance with Development Standards.

The proposed development meets land area, livability space and building setback requirements and complies with maximum number of dwelling units permitted. Proposed lighting and parking comply with Development Standards and the Zoning Code. Four bulk trash containers are planned and screening will be provided as required. No guard houses or security gates are proposed. Sidewalks are required, but not designated, along North 24th West Avenue.

Proposed landscaped area is in compliance with Development Standards and the Zoning Code. However, landscaping of the North 24th West Avenue street yard per the landscape plan is currently short of required trees (15). Adequate trees are provided in parking areas.

The applicant is requesting a waiver of screening requirements per the attached letter. Development Standards permit such a waiver "subject to substantially dense landscaping materials maintained and reflected on (the) detail site plan." Per the site and landscape plans, existing dense vegetation will remain on the site's southeast boundary. However, all the existing forestation along a substantial portion of the east boundary and along the west portion of the south boundaries abutting single-family residential is to be removed and replaced with Prairie Grass Seeding and 23 new trees (mix of Shumard Oaks and Oklahoma Redbuds). It is highly unlikely that the new trees and meadow grasses will provide the screening anticipated by the existing heavy forestation.

Staff recommends **DENIAL** of the requested waiver of the screening requirement, and **APPROVAL** of PUD-699 detail site plan contingent upon (1) provision of screening as required along the east and south boundaries of the PUD where dense forestation is to be removed; (2) provision of adequate trees in the North 24th West Avenue street yard as required by the Zoning Code; (3) provision of sidewalks along North 24th West Avenue as required by Subdivision Regulations; and notation with dimensions of the Mutual Access Easement on both the site and landscape plans.

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

TMAPC COMMENTS:

Mr. Harmon asked staff if the natural screening would stay in place. In response, Ms. Matthews stated that the natural screening would not stay in place. She indicated that the applicant is proposing to take everything except a couple of trees in the southeast. In response, Mr. Harmon stated that if the applicant is removing the natural screening then some artificial screening should be in place. In response, Ms. Matthews stated that the applicant is proposing to replant, but staff has some concerns with the proposed planting and whether it would provide the same type and amount of screening that is currently in place.

Applicant's Comments:

Darin Akerman, 6111 East 32nd Place, Tulsa, Oklahoma 74135, representing Gilcrease Hills Partnership L.P., and Mr. Bob Ready, stated that overall he is in agreement with staff's recommendation on this application. However, with regard to the screening, there was supposed to be substantial landscaping in the development area surrounding the developed portion of the subject property. The developed portion of the property is quad-plex units around the internal ring-road and adjacent to the east and south is substantially natural landscaping on the site. For the most part, the natural landscaping will remain; however, from the bottom of the ring-road southward there are some detention sites and there was some grading that falls eastward. The areas in question are both on the east property line and the southerly property line of the site.

Mr. Akerman submitted a project plan view (Exhibit B-1). He explained that there would be a 25-foot differential between the adjacent residential properties up to an elevated area where the units will be constructed. The project plan view indicates that a person standing in the adjacent neighborhood would be seeing the retaining wall, which is the inside portion of the fence. There is no benefit or value in installing a screening fence due to the distance and topography. The buildings are set back substantially, and due to the terrain and setbacks, the screening fence would serve as no benefit. Rather than constructing a six-foot screening fence with no benefit, he would request that the Planning Commission waive that particular requirement that was in the original PUD.

TMAPC COMMENTS:

Mr. Harmon asked Mr. Akerman what prompted him to propose removing the vegetation that is currently there and creating a need for a fence. In response, Mr. Ackerman stated that the majority of the natural vegetation on the site would be retained again basically from the southern third or more of the site. On the east side of the subject property there is substantial landscape and grade. In order for the hydrology to work on the site, there would be a stormwater facility required in the northeast portion of the subject property. There was retaining walls could be considered, with keeping a limited degree of landscaping, but with the height of those walls it would cost in the $\frac{3}{4}$ million dollar range in order to construct those walls. He proposes to have a bermed area with new trees planted (Red Buds and Oak) in a linear fashion between the residential properties and the detention ponds, which have a better benefit than a six-foot screening wall on a common property line.

Mr. Harmon asked Mr. Akerman if he would be uprooting mature trees and replacing them with young trees. In response, Mr. Akerman stated that he would be on the east side.

STAFF COMMENTS:

Ms. Matthews stated that based on what was initially presented and what the Planning Commission is hearing today, she believes that this is a substantial enough change that this might require a major amendment to the PUD. This presentation doesn't go along with what was discussed during the PUD hearing.

Mr. Akerman stated that he is following the guidelines of the PUD with regard to the greenbelt area and the Development Area B. The screening fence issue could possibly be a separate matter.

Ms. Bayles asked Ms. Matthews to repeat her statement. In response, Ms. Matthews stated that she believes that this is a substantial enough change from what was presented when the PUD was approved and what the Planning Commission discussed, that it may merit a major amendment.

Mr. Akerman read the meeting minutes from the original PUD approval. He commented that there isn't anything stated in the minutes regarding the trees.

Mr. Midget asked staff how they are determining that this is a substantial change. In response, Ms. Matthews stated that the discussion during the original PUD was that all of the forest would be kept in place and Mr. Akerman is proposing to clear it and replant with younger trees.

Mr. Romig agreed with the continuance due to giving adequate noticing.

INTERESTED PARTIES:

Larry Duke, 1919 West Seminole, Tulsa, Oklahoma 74127, representing the Gilcrease Hills Homeowners' Association, stated that he is concerned with the stormwater drainage immediately south of the project.

Ms. Hill informed Mr. Duke that the Planning Commission doesn't deal directly with stormwater issues, but the City of Tulsa does have a very good stormwater management department in place. She suggested that Mr. Duke talk with staff and Stormwater Management. She encouraged Mr. Duke to discuss his concerns with the developer as well. In response, Mr. Duke stated that he is currently working with the developer and he has no problems with the continuance or the project.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Miller, Westervelt "absent") to **CONTINUE** the detail site plan for PUD-699 to January 19, 2005.

SUBDIVISIONS:

LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

L-19769 – Marion Qualls (1305) (PD-12) (County)

2801 East 116th Street North

L-19770 – Jeff Levinson (9329) (PD-6) (CD-9)

2705 East 45th Place

STAFF RECOMMENDATION:

All of these lot-splits are in order and staff can recommend **APPROVAL**.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, the TMAPC voted **6-0-0** (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

FINAL PLAT:

Twilight Hills – (9024) (PD-23) (County)

West of 177th West Avenue, North of 41st Street

STAFF RECOMMENDATION:

This plat consists of nine lots in two blocks on 42.6 acres.

All release letters have been received for this final plat and staff recommends **APPROVAL** of the final plat for Twilight Hills Estates Addition.

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 **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the final plat for Twilight Hills per staff recommendation.

Lucky's Estates – (9402) (PD-17) (CD-6)

17301 East Admiral Place

STAFF RECOMMENDATION:

This plat consists of one lot in one block on 10.3 acres.

All release letters have been received for this final plat and staff recommends **APPROVAL** of the final plat for Lucky's Estates.

The applicant indicated his agreement with staff's recommendation.

INTERESTED PARTIES:

Councilor Mautino stated that he has an interest to find out what this is. He explained that he tried to reach the applicant several times and was unable to do so.

Mrs. Fernandez stated that she is not certain of the use that is planned. She indicated that the property is zoned IL and they have been working on this plat for some time in order to replat and make certain that the subdivision is appropriate.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the final plat for Lucky's Estates per staff recommendation.

Stonebrooke – (1182)

(PD-8) (CD-2)

Northwest corner of 81st Street and South Elwood

STAFF RECOMMENDATION:

Mrs. Fernandez stated that this plat consists of 80 lots in six blocks on 38.8 acres in this first phase. (The whole addition plans 250 lots in 13 blocks on 109 acres.) She indicated that the Airport Authority was invited to comment on this particular plat. Before the meeting the Airport Authority requested that the face of the plat have language indicating that there is an airport in the area and there will be noise. The Airport Authority indicated that they would be happy to release this particular final subdivision plat with the language added.

Staff can recommend **APPROVAL** because all of the release letters have been submitted, with the condition that the Airport Authority approve the language that is to be on the face of the plat. There is no need for an avigation easement for this particular subdivision.

TMAPC COMMENTS:

Ms. Hill asked how far the airport is from the subject area. In response, Mrs. Fernandez stated that it is $\frac{3}{4}$ of mile from the airport.

Applicant's Comments:

Jerry Ledford, Jr., Tulsa Engineering and Planning, 6737 South 85th East Avenue, Tulsa, Oklahoma 74133, stated that there was discussion during the

preliminary plat regarding the language. There is not a current sound contour map and technically an avigation easement is not required. He indicated that he has agreed to place language on the face of the plat. The language that is being reviewed by the Airport Authority at this times states: "...due to the proximity of Richard L. Jones, Jr. Airport to the subject property there will be aircraft noise intrusion".

Ms. Bayles stated that given the size of the airport and its growth patterns it seemed unusual that there is no sound contour. In response, Mr. Ledford stated that the subject area is in proximity to a runway that is called the "windward runway," which is not used a great deal.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the final plat for Stonebrooke per staff recommendation, subject to the Airport Authority approving the language on the face of the plat regarding aircraft noise intrusion.

* * * * *

Midtown Village – (previously known as Skelly Drive Center) (PD-18) (CD-7)
(9327)

East 46th Street and Skelly Drive

STAFF RECOMMENDATION:

Mrs. Fernandez stated that this plat consists of four lots in one block on 24 acres.

Mrs. Fernandez indicated that staff has been waiting for the release letters to be submitted in order to recommend approval. At this time she doesn't have the typical ownership papers in hand for this plat. She commented that Mr. Sack, consulting engineer, assures her that she will receive those, but she doesn't have them at this time. Typically the ownership papers would be in hand before staff would bring the final plat forward and recommend approval.

Mrs. Fernandez stated that the plat is in order except for the ownership papers, which would include the guarantee of the installation of improvements. She assured the Planning Commission that she would hold the plat until she receives the ownership papers and she understands that they will be forthcoming from Texas very shortly.

TMAPC COMMENTS:

Mr. Midget asked Legal if it would be appropriate for the Planning Commission to approve this final plat with the condition that staff holds it until the pending document is submitted. In response, Mr. Romig stated that it would be appropriate and has been done before.

Applicant's Comments:

Ted Sack, Sack & Associates, 111 South Elgin, Tulsa, Oklahoma 74120, stated that he is sorry that the owner's papers are not submitted. It is a misunderstanding with the developer. The papers should be in staff's hands prior to filing of the plat.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the final plat for Midtown Village per staff recommendation, subject to the final documents being submitted to staff.

Pleasant Oaks 3 – (9131)

(PD-18) (County)

North of 61st Street, between West 161st Street and 177th Street

STAFF RECOMMENDATION:

This plat consists of 19 lots in one block on 23.67 acres.

All release letters have been received and staff recommends **APPROVAL** of the final plat for Pleasant Oaks 3.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the final plat for Pleasant Oaks 3 per staff recommendation.

CHANGE OF ACCESS ON RECORDED PLAT:

Eastland Baptist Church – (949)

(PD-17) (CD-6)

North of East 21st Street, East of South 129th East Avenue

STAFF RECOMMENDATION:

This application is made to allow a change of access along 129th East Avenue. The proposal is to add a 30-foot limited access.

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

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC COMMENTS:

Ms. Hill stated that she lives near the church and it is an asset to the neighborhood.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the change of access on recorded plat for Eastland Baptist Church per staff recommendation.

ZONING PUBLIC HEARING

Application No.: Z-6966

AG to CO

Applicant: Charles Norman

(PD-8) (CD-2)

Location: Southeast corner of West 71st Street and Highway 75 South

STAFF RECOMMENDATION:

Z-6871 November 2002: All concurred in approval of a request to rezone a 141-acre tract located on the northwest corner of West 81st Street and South Elwood Avenue, from AG to RS-3 for residential development.

PUD-636/Z-5457-SP/Z-4825-SP October 2000: Approval was granted, subject to conditions of the PUD for a Planned Unit Development on a 108-acre tract located on the northwest corner of West 81st Street South and South Highway 75. The proposed uses include single-family and townhouse dwellings and commercial uses.

Z-6679 March 1999: All concurred in approval of a request to rezone a 9.8-acre tract located east of the northeast corner of West 81st Street and South Elwood Avenue from AG to IL for a proposed auto sales business.

Z-6589 May 1997: A request to rezone a 5.8-acre tract located on the southwest corner of West 71st Street and Highway 75 South from AG to CS was approved for CS zoning to a depth of 660' south with a denial of the rezoning on the balance.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 72.1 acres in size. It is located on the southeast corner of West 71st Street South and U.S. Highway 75 South. The property is sloping, wooded, vacant and zoned AG.

STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
West 71 st Street South	Primary arterial	120'	4 lanes
U.S. Highway 75	Freeway	varies	4 lanes

UTILITIES: Municipal water and sewer are available.

SURROUNDING AREA:

The subject property is abutted on the north by medical facilities, zoned CO/PUD-648; to the east by vacant property, zoned AG; to the west by Highway 75, zoned AG; and to the south by vacant property, zoned AG.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 8 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as a Medium Intensity-No Specific land use node at the intersection and Low Intensity-No Specific land use beyond that. Some Development Sensitive areas are so designated in conjunction with drainage areas. No Corridor designations exist on the subject property.

STAFF RECOMMENDATION:

Although the subject property is not within a designated Corridor, it is adjacent to Corridors on the north and west (across Highway 75). The location does not currently meet the definition of a Corridor as defined in the Metropolitan Development Guidelines, due to absence of an arterial nearer than South Elwood Avenue, but affords the same accessibility and visibility that the adjacent

Corridors offer. Moreover, the site is at the intersection of a primary arterial and an expressway, which is a logical location for higher intensity and density development. A Medium Intensity-No Specific land use node is designated there. Therefore, staff can support the requested zoning and recommends **APPROVAL** of CO zoning for Z-6966. Staff further recommends that the Development Guidelines be reviewed for possible amendments to the Corridor section and that the District 8 Plan map be amended to designate this property CO.

RELATED ITEM:

Application No.: Z-6967

AG to CO

Applicant: Charles Norman

(PD-8) (CD-2)

Location: Northeast corner of West 81st Street and Highway 75 South

STAFF RECOMMENDATION:

Z-6871 November 2002: All concurred in approval of a request to rezone a 141-acre tract abutting the subject property on the east and lying in the northwest corner of West 81st Street and South Elwood Avenue, from AG to RS-3 for residential development.

PUD-636/Z-5457-SP/Z-4825-SP October 2000: Approval was granted, subject to conditions of the PUD for a Planned Unit Development on a 108-acre tract located on the northwest corner of West 81st Street South and South Highway 75 and west of the subject tract. The proposed uses include single-family and townhouse dwellings and commercial uses.

Z-6679 March 1999: All concurred in approval of a request to rezone a 9.8-acre tract located east of the northeast corner of West 81st Street and South Elwood Avenue from AG to IL for a proposed auto sales business.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 62.1 acres in size. It is located on the northeast corner of West 81st Street South and U. S. Highway 75 South. The property is sloping, wooded, vacant and zoned AG.

STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
West 81 st Street South	Secondary arterial	100'	2 lanes
U.S. Highway 75	Freeway	varies	4 lanes

UTILITIES: Municipal water and sewer are available.

SURROUNDING AREA:

The subject property is abutted on the north by vacant land, zoned AG; to the east by vacant property, zoned RS-3; to the west by Highway 75, zoned AG; and to the south by vacant property, zoned CS and OL and beyond the CS and OL tract, the property has AG zoning.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 8 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as a Medium Intensity-No Specific land use node at the intersection and beyond that as Low Intensity-No Specific land use. No Corridor designation has been made east of Highway 75 in this area because the properties don't meet the Development Guidelines definition, which requires an arterial nearer than South Elwood.

STAFF RECOMMENDATION:

Although the subject property does not meet the current definition of a Corridor, it enjoys the same potential access and visibility as the adjacent and nearby designated Corridors. The proposed uses are compatible with the location and nearby existing and proposed land uses. Its location at the intersection of an arterial and an expressway make it ideal for higher intensity and density development. A Medium Intensity-No Specific land use node is designated at the intersection, which is of a secondary arterial and a freeway. Staff can therefore recommend **APPROVAL** of CO zoning for Z-6967, with the caveat that the Development Guidelines should be reviewed for amendment to the definition of Corridors. Furthermore, pending outcome of that review/amendment, staff should be directed to prepare amendments to the District 8 Plan map to designate the subject property as Corridor.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that he would like the Planning Commission to consider this application and Z-6967 as well. He indicated that the two properties are adjacent. He represents both properties and his comments will apply to both.

TMAPC COMMENTS:

Mr. Midget stated that the Planning Commission can consider them and discuss them together, but would have to vote on the two applications separately.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, presenting Z-6966 and Z-6967, stated that the subject properties have been assembled and represent an opportunity for a PUD over a multiyear period on substantial acreage on the west side of the Arkansas River. This has come about because of two major changes in the neighborhood in the last three years.

The first change was the installation of sanitary sewer service that is available to this area between 71st and 81st Street and there is a newly-completed sanitary sewer line that starts on the west side of the expressway and continues across the property that is under application, which connects with the sanitary sewer system. Water service has been available for a number of years with the construction of the additional water towers at 61st Street. The other important change is that the intersection at 81st Street and Highway 75 is now being converted to a four-way interchange.

Mr. Norman stated that his purpose of the application at this time is to satisfy a requirement typical in major commercial projects that some kind of zoning be approved prior to the closing of the sale of the property. The subject property will take a considerable period of time to do the detail planning, but he is seeking approval of a sufficient zoning classification to give some insurance to the purchasers that this Planning Commission and the City Council will consider favorably a multi-use project with heavy commercial concentration on 71st Street and a combination of different uses (offices, residential, and smaller commercial concentration at 81st Street).

Mr. Norman explained that he has applied for a combination of CS zoning at the nodes and corridor zoning on the remainder. On the north side and east side of 71st Street there has been corridor zoning approved, which presently has a medical clinic. There is a corridor collector street that has been constructed to a detention pond and the same concept will have to be continued through the subject property under the guidelines for corridor development from 71st Street to 81st Street.

Mr. Norman stated that corridor zoning, as recommended and in his opinion and staff's opinion, is justified under the Development Guidelines. The subject properties also qualify as nodes under the same guidelines. The intersection at 71st Street and the expressway would be classified as a Type-3 node at intersection of a primary arterial and an expressway and would qualify for 15 acres of CS zoning. The other intersection at 81st Street would qualify as a Type-2 node with ten acres of commercial zoning. The commercial zoning has been awarded on the west side of the expressway in the same area. The reason for applying with CS and Corridor was because under the corridor zoning district, there is no specific use permitted and no use is permitted as a matter of right until the applicant returns with a specific corridor development plan. His concern was to have some zoning at the corners that would in effect guarantee some commercial intensity that could be made a part of a corridor district site plan and combined PUD. He believes that staff is comfortable and has no objections. In fact, this represents a very significant opportunity for a major concentration of a commercial activity on the west side of the river, which hasn't existed in the past because of lack of sanitary sewer service. The assurance would be considerably more realistic if he had the combination of CS zoning and Corridor in order to allow his client to close on these subject properties with some assurances that

they could spread the commercial intensity permitted under the CS district through a combined PUD or corridor district site plan.

Mr. Norman stated that he is supportive of the staff recommendation, but it would be much more assuring to him and his client if he knew he had the node allocation of CS zoning at the two corners similar to what has been done at the west side of the intersection and a number of other locations to the north and south.

TMAPC COMMENTS:

Mr. Carnes asked staff if this was an unusual request. In response, Mr. Alberty stated that this is an unusual application. This is an amendment at the meeting, and to be honest, there had been numerous discussions with regards to how this would be approached. Staff's position has somewhat changed over the way it has been done in the past. It is his opinion that either property is zoned corridor for the entire piece of property and treated as a corridor district, or treated as a sub-district. If the client is requesting commercial zoning, then staff would withdraw their recommendation for approval for corridor at this time and treat it as a sub-district, which would allow him to do his commercial zoning at the intersection corners and deny the corridor. Staff sees this developing as in the corridor and there is opportunity to develop the entire property as commercial. Staff feels that it should be developed all as corridor, or if it is to be parceled, then it is treated as a sub-district the way the Comprehensive Plan calls for currently. Staff was willing to recognize that this probably should be a corridor, even though it is not recognized. If the position is that the client now needs the commercial zoning at the corners, then staff would favor the node concepts for 15 acres of commercial property at 71st Street and Highway 75 and ten acres on the 81st intersection and denial of the balance.

Mr. Norman stated that he is sorry for the misunderstanding because he is not intending to amend the application, but merely presenting the position upon which the application was originally filed. He would prefer the corridor that is recommended by the staff, but with some recognition by the Planning Commission and staff that this is considered appropriate for medium intensity development under appropriate corridor and PUD site plan. No specific use is permitted as a matter of right in the corridor district and his client wouldn't want to get purchase the subject property and have the Planning Commission or City Council to take the position that it should mostly be residential (for example).

Mr. Norman stated that the Comprehensive Plan was developed in the subject area 25 years ago prior to there being sanitary sewer and water service. Obviously the Comprehensive Plan needs to be reviewed and possibly amended, but the language is in the Development Guidelines that there are no uses in the corridor zoning district that are allowed as a matter of right. He is simply trying to make it plain to the staff and Planning Commission that the subject properties will come back with detail plans for a major development for those mixed uses. If it

were to be designated, which can only happen in an amendment to the Comprehensive Plan as a medium intensity corridor, that would be the reassurance that he is seeking for his client.

Mr. Harmon asked Mr. Norman if the Planning Commission were to approve this application for medium intensity/corridor zoning and direct staff to amend the District 8 Plan, then it would accomplish what he is looking for. In response, Mr. Norman stated that technically there is no medium intensity/corridor zoning district.

Mr. Harmon stated that he supports this application because that area of town is ripe for development. He asked staff if the applications could be approved for corridor zoning with medium intensity uses.

Mr. Carnes stated that he believes that if the Planning Commission approved the staff recommendation it would accomplish what Mr. Norman is requesting.

Mr. Alberty stated that there are two ways that are being approached for developing the subject properties. Staff has recognized that based upon on the location, the proximity and the major arterial street, which is 71st Street, that this is property that should develop in a high intensity category. Zoning the entire property corridor and then going back and amending the Comprehensive Plan is another direction to go and what staff is recommending. Mr. Norman is suggesting that the Planning Commission approve the staff recommendation, but in addition, zone the corners commercial. Staff's position is that this is an either-or-situation. The process has been convoluted in the past by zoning something corridor and then zoning a portion of it commercial and then filing a PUD over the entire property.

Mr. Norman stated that he supposed the recommendation could be to recommend the staff prepare amendment to the Comprehensive Plan recognizing this as a medium intensity corridor. This is the designation that has been used in the Comprehensive Plan before and when this is accomplished will do what he is asking, but it would take some time and his client has to close on the subject properties soon.

Mr. Harmon asked staff if the Planning Commission were being asked to approve this with corridor zoning with the recommendation that the District 8 Plan be amended to a designated medium intensity. In response, Mr. Alberty stated that staff has recommended exactly that type of approval.

INTERESTED PARTIES:

Councilor Medlock, City of Tulsa City Council, stated that it is very difficult without knowing the specifics, but he would like to state that he is in support of the corridor concept. He believes that this is an area that is ripe for commercial development and the best thing for District 2 and the City of Tulsa. It would be a

shame to see this continue as a residential-type situation. The nodes fall within commercial-type development that he feels is necessary for the subject area and the development that has been rumored to move in fit that category (Lowe's, Best Buy, etc.).

TMAPC COMMENTS:

Ms. Bayles asked Councilor Medlock if this is the consensus of his constituents. In response, Councilor Medlock stated that he would have to hear the specifics, but he believes that there is a strong desire for grocery stores, shopping, etc.

Mr. Harmon asked Mr. Norman if he is suggesting medium intensity for the entire tract. In response, Mr. Norman stated that this is what he is requesting, subject to the submission of the required detail site plan and PUD that would lay out specific development areas for commercial development, office and anything else that is included along the collector.

Mr. Alberty stated that the medium intensity node is already on the Comprehensive Plan and the corridor designation is not on the plan. Staff is recommending corridor zoning on both projects and what Mr. Norman is asking is to give commercial zoning at the intersection corners and then corridor on the balance.

Mr. Norman stated that he is requesting that the Planning Commission ask staff to prepare an amendment to the Comprehensive Plan designating this as corridor-medium intensity.

Mr. Norman stated that he is accepting the staff recommendation and asking that the staff be directed to prepare an amendment identifying the property as corridor/medium intensity.

Mr. Midget reminded the Planning Commission that these are two separate applications and should be voted on separately.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to recommend **APPROVAL** of CO zoning for Z-6966 on the entire tract per staff recommendation and direct staff to prepare an amendment for the District 8 Plan for Corridor Zoning/Medium Intensity.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to recommend **APPROVAL** of CO zoning for Z-6967 on the entire tract per staff recommendation and direct staff to prepare an amendment for the District 8 Plan for Corridor Zoning/Medium Intensity.

Legal Description for Z-6966:

A tract of land lying in the E/2, NW/4, Section 11, T-18-N-N, R-12-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows: Commencing at the Northeast corner of the NW/4 of said Section 11; thence S 00°50'57" E a distance of 62.25' to the Point of Beginning; thence N 89°09'03" E a distance of 349.46' thence S 01°17'44" E on a line parallel to the East line of said NW/4 a distance of 1,263.00'; thence S 89°09'03" W a distance of 78.54'; thence S 01°17'44" E on a line parallel to the East line of said NW/4 a distance of 1,318.04'; thence S 89°03'20" W along the South line of said NW/4 a distance of 1,272.79'; thence N 01°09'27" W along the East right-of-way of State Highway 75 a distance of 518.07'; thence N 03°22'49" E along the East right-of-way of State Highway 75 a distance of 131.65'; thence N 05°43'20" W along the East right-of-way of State Highway 75 a distance of 131.65' thence N 01°10'16" W along the East right-of-way of State Highway 75 a distance of 459.32'; thence N 16°06'02" E along the East right-of-way of State Highway 75 a distance of 687.15'; thence N 01°53'14" W along the East right-of-way of State Highway 75 a distance of 590.60'; thence N 80°15'34" E a distance of 617.18'; thence N 89°08'18" E a distance of 189.21' to the Point of Beginning, containing 72.16 acres more or less, and located on the southeast corner of West 71st Street South and Highway 75 South, Tulsa, Oklahoma, **From AG (Agriculture District) To CS & CO (Commercial Shopping Center District and Corridor District).**

Legal Description for 6967:

A tract of land lying in the E/2, SW/4 of Section 11, T-18-N, R-12-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows: Beginning at the Southeast corner of said E/2, SW/4; thence S 88°56'30" W along the South line of said E/2, SW/4 a distance of 652.27'; thence N 01°02'11" W a distance of 24.75'; thence N 46°01'01" W a distance of 64.00'; thence S 88°57'49" W a distance a distance of 270.00'; thence N 10°11'00" W along the ROW of State Highway 75 a distance of 610.00'; thence Northerly on a curve to the left having a chord bearing of N 00°06'10" W and having a radius of 34,562.50' and an arc distance of 1,206.50'; thence N 10°52'00" W a distance of 76.90'; thence Northerly on a curve to the left having a chord bearing of N 02°24'02" E and having a radius of 34,540.50' and an arc distance of 693.80' to a point on the North line of said E/2, SW/4; thence N 89°03'20" E along the North line of said E/2, SW/4 a distance of 1,004.40'; thence S 01°17'44" E along the East line of said E/2, SW/4 a distance of 2,645.01' to the Point of Beginning, containing 62.14 acre more or less, and located on the northeast corner of West 81st Street South and Highway 75 South, Tulsa, Oklahoma, **From AG (Agriculture District) To CS & CO (Commercial Shopping Center District and Corridor District).**

Application No.: PUD-159-16

MINOR AMENDMENT

Applicant: Rhonda Carlos

(PD-8) (CD-2)

Location: 1922 West 62nd Street South

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to allow a beauty salon as a home occupation within an RS-3/PUD-zoned district (West Highlands IV). The original PUD was approved in June, 1974 and allowed single- and multifamily residential uses, a golf course and clubhouse, with associated off-street parking. Subsequent PUD amendments have involved setbacks, rear yards, accessory buildings, a day-care center and lot-splits. PUD-159-13 allowed a nail salon as a home occupation on Lot 2, Block 2, West Highlands III (3041 W. 69th Street), which was approved in June, 1989 with the conditions for home occupations in the Zoning Code and limiting hours of operation to 9:00 a.m. to 7:00 p.m., Monday through Friday and number of clients to no more than four per day. The current application proposes the same hours for Tuesday through Saturday, with a project clientele of from 15 to 30 per week (from three to six per day). Applicant states that the driveway will accommodate four cars.

Staff emphasizes that the Zoning Code requirements for home occupations will apply here, and with that caveat, can support the request and recommends minor amendment PUD-159-16 for **APPROVAL**.

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 **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the minor amendment for PUD-159-16, subject to conditions per staff recommendation.

Application No.: PUD-711

RS-3 to PUD

Applicant: Charles Norman

(PD-17) (CD-6)

Location: North side of East 51st Street and East of 161st East Avenue

STAFF RECOMMENDATION:

Z-6911 December 2003: Approval was granted to rezone a 160-acre tract that included the subject property from AG to RS-3 for residential development.

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

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

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

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is sloping, partially wooded, vacant, and zoned RS-3.

STREETS:

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

UTILITIES: The subject tract has municipal water and sewer.

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

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 17 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Low Intensity-No Specific land use.

STAFF RECOMMENDATION:

The proposal is for a single-family residential development with nine blocks and 157 lots under RS-3 development standards. The Cottages at Trinity Creek infrastructure, currently being developed, consists of several reserve areas for passive and active open space/recreation, pedestrian access and stormwater management. The Trinity Creek Homeowners Association is to be responsible for maintaining the recreation and stormwater facilities.

Three of the nine blocks are under contract by a single homebuilder to develop a gated single-family residential development under this PUD. Residents of this portion of the PUD are to have access to the recreational facilities in the balance of the PUD through pedestrian access easements. Streets in this portion of the PUD are to be private. Conversion of Blocks 1, 2 and 3 to a gated residential community requires vacation by instrument approved by the TMAPC and City Council of the plat of those three blocks and replatting of the same area with the same number of lots, except that Lots 1 and 2 of Block 3 may be combined to accommodate the gated entry.

Access to the Cottages at Trinity Creek will be from East 51st Street South to South 167th East Avenue through a gated entrance. A secondary emergency access will be from East 51st Street South to South 168th East Avenue.

Staff has reviewed the applicant's Development Concept and Development Standards submitted and finds the application in keeping with the purposes and intent of Chapter 11, Zoning Code, City of Tulsa. Therefore, staff recommends **APPROVAL** of PUD-711, subject to the following conditions.

1. That the applicant's text and plan be incorporated as conditions of approval, unless modified herein.
2. Development Standards

Net land area: 9.36 acres 407,567 SF

Permitted uses:

Those uses included as a matter of right in Use Unit 6, single-family dwellings, including a landscaped security entrance and customary accessory uses.

Minimum lot width: 60 FT

Maximum number of lots: 38

Minimum lot size: 6,900 SF

Maximum building height: 35 FT

Off-street parking:

Two enclosed off-street parking spaces per dwelling unit and at least two additional off-street parking spaces per dwelling unit.

Livability space per dwelling unit: 4,000 SF

Minimum yards:

Front	25 FT
Side	5 FT
Rear	20 FT

Private streets:

Minimum paving width: 26 FT

All base and paving materials shall be of a quality and thickness that meet the City of Tulsa standards for minor residential public streets.

Signs:

One entry identification sign shall be permitted with a maximum display surface area of 32 square feet.

3. Landscape and screening concept:

The existing plat of Trinity creek establishes, and the replat of Trinity Creek Blocks 1 -3 will maintain, a fencing and landscape easement along East 51st Street and the gated area island at the South 167th East Avenue entrance as shown on Exhibit A.

The East 51st Street screening fence, landscaping and landscape entrances to Trinity Creek and The Cottages at Trinity Creek will be designed to establish a common screening and landscaping theme.

The private streets within The Cottages at Trinity Creek will be constructed according to City of Tulsa standards to provide a comfortably wide access for residents, guests and services with some on-street parking.

The public street frontage landscaping, the area outside the East 51st Street screening fence, the entryway, the private streets and the required stormwater detention reserve area and drainage easements within Trinity Creek Blocks 4 through 9 will be maintained by the Trinity Creek Homeowners Association.

Environmental analysis:

The Cottages at Trinity Creek development is located on the north side of East 51st Street at the southeast corner of the Trinity Creek Plat, No. 5824. The site boundaries, topography, lots, utilities and drainage areas and easements are shown on the Trinity Creek plat.

Stormwater flow from The Cottages at Trinity Creek will be directly to the adjacent overland drainage easement within Reserve E of Trinity Creek plat.

The partial vacation of the Trinity Creek plat to convert Blocks 1 – 3 to a gated community and the replat of those blocks will not change the stormwater runoff or the drainage easements dedicated by the Trinity Creek plat.

Utility lines are presently being constructed within Blocks 1 – 3 of Trinity Creek and will be completed prior to the replat of the utility easements in the same location as they presently exist.

As determined in the platting of Trinity Creek, all utilities necessary to serve The Cottages at Trinity Creek are presently available and are being extended into The Cottages at Trinity Creek.

The public streets adjacent to lots within Blocks 1 – 3 and designated as East 50th Street, East 50th Place, South 167th East Avenue and South 168th East Avenue will be replatted as a reserve area for private streets at the same widths and dimensions as the existing public streets rights-of-way.

Detail site plan review:

Building permits for residences within Blocks 1 – 3, Trinity Creek, may be issued prior to the approval of The Cottages at Trinity Creek planned unit development and the replat of Blocks 1 – 3. However, with the exception of Lots 1 and 2 of Block 3, all other lot lines and easements will remain the same.

Design of the entry gate will be subject to detail review and is to be coordinated with the Department of Public Works and the Fire Marshal's office.

Schedule of development:

Development of Trinity Creek is underway. The installation of utilities, drainage facilities and construction of streets will continue throughout the review of The Cottages at Trinity Creek planned unit development.

If The Cottages at Trinity Creek planned unit development is approved, the replat of Blocks 1 – 3 will be filed immediately after the instrument vacating Blocks 1 – 3 is filed of record.

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, as noted above, shall meet City of Tulsa standards and private roadways replatted from previously-designated public streets shall have the same dimensions as the existing public streets rights-of-way.
6. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets. The developer shall pay all inspection fees required by the City.
7. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
8. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
9. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during the subdivision platting and replatting processes.

TAC Comments for December 15, 2004:

Water: Will require a minimum 10' utility easement for waterline.

Wastewater: No objection to the replat or changing lot lines. However, easements must be maintained to protect existing sewer lines. Also, privacy walls will not be allowed over existing sanitary sewer mains.

Traffic: The island may need redesign to accommodate the proposed gate design and one or both curb lines may need relocating by revising the existing PFPI.

Fire: Developer must coordinate with Fire Marshal during design of entrance gate and turnaround.

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 **CARNES**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to recommend **APPROVAL** of PUD-711, subject to conditions per staff recommendation.

Legal Description for PUD-711:

Blocks 1, 2, and 3, Trinity Creek Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, and located on the north side of East 51st Street, east of South 161st East Avenue, Tulsa, Oklahoma, **From: RS-3 (Residential Single-family High Density District) To: RS-3/PUD (Residential Single-family High Density District/Planned Unit Development [PUD-711]).**

Application No.: Z-6968

RS-3 to IL

Applicant: Abel Rubio

(PD-5) (CD-6)

Location: 10877 East Admiral Place

STAFF RECOMMENDATION:

Z-6648 August 1998: A request to rezone a 26-acre tract located on the northwest corner of East Admiral Place and Mingo Valley Expressway from CS to CG or CH to allow retail, office and warehouse uses on the existing retail center. Staff recommended denial of CH and recommended the applicant amend the request to CO or to submit a PUD with CG zoning. TMAPC recommended approval of CG zoning without a PUD after strong objection from the applicant. CG zoning was approved by City Council.

Z-6544 July 1996: Approval was granted to rezone a 1.5-acre tract located 660' west of the subject property from RMH to CS

Z-6437 April 1994: All concurred in approval of a request to rezone a nine-acre tract located on the northeast corner of East Admiral Place and South Mingo Road from CS to CG to allow a truck sales business.

Z-6386 February 1993: All concurred in approval of a request to rezone a 2.4-acre tract located west of the subject tract and on the northeast corner of East Admiral Place and North 106th East Avenue from CS and RS-3 to CS to expand a mobile home sales business.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 2.27 acres in size. It is located west of the northwest corner East Admiral Place and North Garnett Road. The property is sloping, partially wooded, contains a vacant residential dwelling and accessory buildings and is zoned RS-3.

STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
East Admiral Place	Secondary arterial	100'	4 lanes

UTILITIES: Municipal water and sewer are available.

SURROUNDING AREA:

The subject property is abutted on the north by vacant land (a former mobile home park/floodplain buyout area), zoned CS; to the east by commercial uses on the southern half, zoned CS and a large-lot single-family residential use, RS-3 on the northern half; to the west by commercial uses, zoned CS; and to the south by commercial uses (largely mobile home sales), zoned CS.

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 and Corridor. According to the Zoning Matrix, the requested IL zoning **may be found** in accord with the Plan.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, existing nearby uses and trends in the area, staff recommends **APPROVAL** of IL zoning for Z-6968.

The applicant indicated his agreement with staff's recommendation.

INTERESTED PARTIES:

Nancy Crayton, 245 South 120th East Avenue, Tulsa, Oklahoma 74128, stated that she lives east of the subject property and she is very concerned about the subject area in general. She knows what it is like to be next to industrial light and her home currently backs up to industrial light. There is a lot of this type of usage in the subject area and she believes that it is bringing it down. She commented that she has worked in construction and she knows that it is difficult to make the proposal a good esthetically correct piece of property.

Ms. Crayton stated that she wants good businesses in the subject area. She further stated that she is currently working with eight different neighborhood associations along with the Urban Development group in Tulsa to bring sanity to the zoning in the subject area. There are multi-uses in the subject area and there have been numerous exceptions that have been granted with restrictions; however, they make code enforcement nightmares. Neighborhood Inspections is unable to keep up with all of the restrictions that have been placed on the properties in the subject area. This may be another one of those situations where the neighborhood would have to constantly be calling out Neighborhood Inspections. Ms. Crayton cited the surrounding uses and expressed concerns regarding traffic and safety hazards.

Ms. Crayton commented that the applicant does not own the subject property at this time, but he would like to purchase it. There is IL zoning all up and down Admiral and she is curious why the applicant doesn't move into one of the properties already zoned for IL. She is concerned that her area will become blighted. She requested that the Planning Commission give her neighborhood and Urban Development time to work together to make it a better place to live.

TMAPC COMMENTS:

Ms. Bayles asked Ms. Crayton if she would be in favor of the subject property being zoned CS should it be requested. In response, Ms. Crayton stated that CS would be better than the IL zoning.

Wayne Bohannon, 10617 East First Street, Tulsa, Oklahoma 74128, President of Wagon Wheel Neighborhood Association, stated that there are 550 homes and approximately 30 businesses in his neighborhood. He indicated that the Wagon Wheel Addition is approximately 50 to 55 years old.

Mr. Bohannon expressed concerns that a construction company with their large trucks would be trying to enter a busy intersection or street and it would be a traffic hazard. If the equipment is stored on mud and so forth, then eventually there would be a mud hole. This would reduce the property values in his neighborhood if this is rezoned to IL.

Mr. Bohannon stated that there are several neighborhood associations that have joined together with Councilor Mautino and are trying to improve the neighborhoods and East Tulsa.

Mr. Bohannon commented that he has problems with storing construction equipment in a residential neighborhood. He indicated that the Board of Adjustment has ruled on many applications in the subject area and it has allowed many uses into the neighborhood that shouldn't be there. He stated that he is opposed to this application.

TMAPC COMMENTS:

Mr. Carnes stated that he doesn't consider the subject property in a neighborhood. He reminded Mr. Bohannon how Ditch Witch moved in the area with IL zoning. In response, Mr. Bohannon stated that he is very familiar with Ditch Witch, but next to Ditch Witch, there is a used car lot with cars stored all over the place. The intentions in the beginning are good, but then they are transferred to someone else (like a used car lot) and they become a junk yard.

Mr. Carnes stated that there is a garage next door to the subject property and a restaurant on the other side. This is not residential and will not become residential. In response, Mr. Bohannon stated that there are some residential houses on there and his problem is the repeated BOA decisions to allow more and more of this stuff in the neighborhood. In response, Mr. Carnes stated that he never mentioned Board of Adjustment, but suggested a PUD. In response, Mr. Bohannon stated that he understands what Mr. Carnes is saying, but he doesn't agree with him. Mr. Bohannon further stated that his neighborhood continually gets things like this dumped into East Tulsa and that is why they are present today.

Mr. Carnes stated that if the applicant came in with a PUD that would enhance a neighborhood it would work. The subject property will never be residential and probably will be used as industrial or commercial.

Mr. Bohannon stated that he is not opposed to development and development is needed, as well as the sales tax revenue for the City of Tulsa. He commented that he doesn't believe that the proposal is something anyone would want in their neighborhoods.

Ms. Bayles asked Mr. Bohannon if he would be opposed to the subject property being zoned CS. In response, Mr. Bohannon stated that it would depend on the type of business that was put in there. If it is convenient for a neighborhood he would say yes. However, if it is something detrimental to the neighborhood, such as a liquor store or something of that type, then he would be opposed to it.

Theresa Buchert, 542 South 127th East Avenue, Tulsa, Oklahoma 74128, stated that IL zoning in the subject area is akin to a youth of these days walking into a black-tie-and-tux dinner with a lot of adults sitting around. The subject site is not residential at this point and it does have commercial uses around it. The neighborhood does not need another M.J. Lee Company. She commented that the company has done a lot for Tulsa, but she is not happy with what they have done to their lot.

Ms. Buchert stated that Urban Development has finally agreed to come to East Tulsa and join with the South and East Alliance of Tulsa (eight different neighborhood associations), the schools, and the community service groups to help them with a master plan and guidelines.

Ms. Buchert commented that Neighborhood Inspections almost has her on lock-out regarding calling too often. She explained that she calls as an association president and as a president of the umbrella unit over the businesses and the neighborhood associations in the subject area. The phone is hot to Neighborhood Inspections and she emails frequently. She requested that the Planning Commission and staff talk with Urban Development, Pat Treadway, O.C. Walker, Steve Carr and Monty McElroy to see what envisioned for them. The newly remodeled school, Reed International, a pilot school for the Tulsa Public School System where families that do not speak English come, is located at the border of this project and area that the neighborhood is trying to clean up. Councilor Mautino has been working along Admiral to get some sewer lines in the subject area in order to have some good commercial, community oriented-type businesses in the area. Ms. Buchert cited the boundaries of the area that the neighborhood and Urban Development are working on as the following: From Pine to 61st Street, from Yale to 253rd Street East.

Councilor Mautino stated that when he took this office he made an effort to organize the neighborhoods. He indicated that he attends the meetings and Urban Development is looking at the subject area. Spot zoning in the subject area has demoralized the people living in the area. Now there is an opportunity to see things happen and the City needs sales tax. In the subject area there is a lot going for the City of Tulsa. One of the major things in favor of the subject area is I-44, which is a corridor and it needs to develop. Development has started at 193rd East Avenue with the Indian Casino and he would like to see that develop all along Admiral and make some changes. I have planned widening Admiral to accommodate this and the State will soon be coming in to widen that section of the road to ten lanes because they realize the traffic count. He would like to see commercial shopping and CS zoning.

Mr. Mautino stated that the Planning Commission mentioned the four-wheel drive business that is adjacent to the subject property and Neighborhood Inspections have been on site many times. Instead of being a business it turned into a

salvage yard and the neighbors have worked hard to clean it up. He commented that on the corner of Admiral and Garnett, which would be the southwest corner, originally it was set up as part of Wagon Wheel and there is a large area designed to be a town center-type corner. Through changing the zoning this became an industrial area. Mr. Mautino cited the past uses as being a grocery store and movie theater before becoming a salvage yard. He mentioned that this is the type of situation he wouldn't like to see repeated.

Mr. Carnes stated that other parts of town have had similar problems that have been worked on and through the PUD system it has worked. The PUD remains with the property and not the owner. He understands that the applicant didn't apply for a PUD, but the PUD system has worked in other parts of town and the neighbors of the subject area should give it some serious thought because it has worked. In response, Mr. Mautino stated that in some parts of town the PUD has worked. Mr. Mautino further stated that there really is no way to enforce the PUDs; however, in East Tulsa it has been traumatized with a lot of junk yard-mentality business owners.

Applicant's Rebuttal:

Abel Rubio, 12638 East 15th Street, Tulsa, Oklahoma 74128, stated that he doesn't plan to purchase this property for junk yard or anything like that. He explained that he would like to keep a low profile and make an office. He commented that he doesn't want to park his vehicles or trucks on the ground, but would follow the Code requirements.

TMAPC COMMENTS:

Mr. Harmon stated that after hearing the comments, he believes that IL would probably be too intense for the subject area. CS would be a logical rezoning because there is CS all around it.

Mr. Midget concurred with Mr. Harmon and stated that IL is too intense for the subject area.

Ms. Hill stated that she has great respect for staff and their work, but when she drives up and down Admiral she sees a lot of red. Especially when she sees dirt parking lots, which she understands that it is Neighborhood Inspections problem. She commented that she does not believe that IL zoning is appropriate for the subject area.

Ms. Bayles stated that IL zoning is too dense for the subject area.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to recommend **DENIAL** of the IL zoning for Z-6968.

Application No.: Z-6969

RS-3 to IL

Applicant: R.L. Reynolds

(PD-18) (CD-6)

Location: 5903 South 107th East Avenue

STAFF RECOMMENDATION:

Z-6877 - February 2003: Approval was granted for a request to rezone a 1.16-acre tract north of the subject property, from RS-3 to IL for a landscape service.

Z-6762 - June 2000: All concurred in approval of a request to rezone a one-acre lot located at 5629 South 107th East Avenue and north of the subject property, from RS-3 to IL for a warehouse.

Z-6662 - December 1998: All concurred in approval of a request to rezone a 1.1-acre tract abutting the subject property on the north from RS-3 to IL.

Z-6609 - December 1997: All concurred in approval of a request to rezone a one-acre tract located south of the subject tract on the east side of South 107th East Avenue, from RS-3 to IL for light industry.

Z-6574 - January 1997: All concurred in approval of a request to rezone a 161' x 251' tract located north of the subject property on the east side of 107th East Avenue from RS-3 to IL for a trucking establishment.

BOA-17563 - November 1996: The Board of Adjustment approved a request for a variance of the required 75' setback from an abutting R-zoned district and a special exception to waive the screening requirements from an abutting R-zoned district on property zoned IL and located north of the subject tract on the east side of South 107th East Avenue.

BOA-16067 - June 1992: The Board of Adjustment approved a request for a variance of the required setback from an R-zoned district from 75' to 30' to permit an industrial building on property located north of the northeast corner of East 61st Street South and South 107th East Avenue.

Z-6359 - May 1992: All concurred in approval of a request to rezone a 2.5-acre tract from RS-3 to IL. The tract is located north of the northwest corner of East 61st Street South and South 107th East Avenue and across 107th East Avenue from the subject tract.

Z-6308 - September 1991: All concurred in approval of a request to rezone a 1.28-acre tract located on the southwest corner of East 56th Street South and South 107th East Avenue from RS-3 to IL.

Z-6233 - April 1989: A request was approved to rezone a 1.8-acre tract located on the west side of South 107th East Avenue and north of the subject tract from RS-3 to IL.

Z-6164 - August 1987: A request to rezone a 4.9-acre tract located south of the southwest corner of East 56th Street South and South 107th East Avenue, from RS-3 to IL for industrial use. All concurred in approval of IL zoning.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.9 acres in size. It is located north of the northwest corner of East 61st Street South and South 107th East Avenue. The property is flat, partially wooded, contains a vacant residential dwelling and accessory buildings and is zoned RS-3.

STREETS:

Exist. Access	MSHP Design.	MSHP R/W	Exist. # Lanes
South 107 th East Avenue	Residential	50'	2 lanes

UTILITIES: Municipal water and sewer are available.

SURROUNDING AREA:

The subject property is abutted on the north by a landscape business (see Z-6877, above), zoned IL; to the south by vacant single-family residential and apparently accessory uses, zoned IL; to the east by a stormwater detention area, zoned RS-3; and to the west by industrial and single-family residential uses, zoned IL.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as Special District 1 – Industrial Area. Plan policies (Section 3.1.1) encourage future industrial development to occur in this district and for transportation and utility infrastructure to be available to accommodate it. According to the Zoning Matrix, the requested IL zoning **may be found** in accord with the Plan, by virtue of its location within a Special District.

STAFF RECOMMENDATION:

This area has been in transition to industrial uses for many years and this case appears to be another part of that process. The remaining single-family residential properties appear to be in poor condition and some are for sale. The stormwater detention facility to the east was part of a major buyout program a few years ago, and this area has been left as an isolated enclave surrounded by the detention site on the east, East 61st Street on the south and the expressway on the west. It is unlikely and perhaps undesirable that the subject property would remain single-family residential in use. Therefore, based on the

Comprehensive Plan, existing nearby uses and trends in the area, staff recommends **APPROVAL** of IL zoning for Z-6969.

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 **CARNES**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to recommend **APPROVAL** of IL zoning for Z-6969 per staff recommendation.

Legal Description for Z-6969:

The North 264' of Lot 15 and Lot 16, Block 1, Golden Valley Subdivision, Tulsa County, State of Oklahoma, and located north of the northeast corner of East 61st Street South and South 107th East Avenue (5903 South 107th East Avenue), Tulsa, Oklahoma, **From RS-3 (Residential Single-family High Density District) To IL (Industrial Light District).**

Application No.: PUD-166-11

MINOR AMENDMENT

Applicant: Jeffrey Levinson

(PD-18) (CD-8)

Location: South of East 91st Street and East of South 71st East Avenue

STAFF RECOMMENDATION:

This application is linked with and dependent upon approval of PUD-405-K-4. It is a minor amendment to Kingsbury, PUD-166, to develop single-family residential uses at RS-3 density on 3.14 acres in Kingsbury III. This will yield seven lots and will be adjacent to Ashton Hollow, PUD-405. Currently vacant, the property was originally approved by the TMAPC in October 1975 to allow Use Unit 6 (single-family residential) uses, and all lots in the proposed minor amendment will be developed to RS-3 standards, except for a reduced building setback line in the front to 20'. These will be the same development standards as the nearby Kingsbury II development (note that PUD-166-10 in Kingsbury II was approved to allow a variance of the required front setback of 20' to 17.5' for one corner of an existing dwelling).

Access to the front of each lot is to be by a private road (East 93rd South), which will connect with a private portion (50') of South 73rd East Avenue, platted as part

of Ashton Hollow. Minor amendment 405-K-4, filed simultaneously with this PUD, will facilitate this. The private drive in Kingsbury III will be constructed according to City of Tulsa public street standards. All other bulk and area requirements are in accordance with the approved PUD.

Staff can support the proposed minor amendment PUD-166-11, provided that the proposed minor amendment PUD-405-K is also approved. Therefore, staff recommends **APPROVAL** of PUD-166-11.

RELATED ITEM:

Application No.: PUD-405-K-4

MINOR AMENDMENT

Applicant: Jeffrey Levinson

(PD-18) (CD-8)

Location: South of southwest corner of East 92nd Street South and South 73rd East Avenue

STAFF RECOMMENDATION:

This application proposes to amend the original PUD for Ashton Hollow to allow the use of Lot 1, Block 1 for vehicular and pedestrian access to an otherwise landlocked tract in Kingsbury III (PUD-166-11). Both Ashton Hollow and the proposed Kingsbury III feature private streets (constructed or to be constructed to City of Tulsa public street standards). The private streets in Ashton Hollow connect to the public street South 73rd East Avenue, which will provide access through Lot 1, Block 1 into Kingsbury III. Proposed related minor amendments to PUD-405-K describe this access change in the PUD text and on the plat.

Staff can support the proposed minor amendment, provided that the TMAPC also deems minor amendment PUD-166-11 also appropriate. Therefore, staff recommends **APPROVAL** of PUD-405-K-4.

TMAPC COMMENTS:

Mr. Harmon asked staff how the subject lot became landlocked.

Applicant's Comments:

Jeff Levinson, 35 East 18th, Tulsa, Oklahoma 74119, stated when PUD-405-K was developed there was an agreement with the landlocked tract to provide the access. Due to some wires being crossed during the platting it was omitted when Ashton Hollow was being platted. It was simply overlooked during the platting process.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the minor amendment for PUD-166-11 per staff recommendation.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the minor amendment for PUD-405-K-4 per staff recommendation.

Application No.: PUD-411-10

MINOR AMENDMENT

Applicant: Lori Worthington

(PD-26) (CD-8)

Location: 9809 South Memorial

STAFF RECOMMENDATION:

This application is to increase the allowed height of pole signs from 25' to 30'. Two previous or proposed minor amendments in this PUD addressed these issues, one in 1991, which proposed to exceed the area, height and number of signs and which was withdrawn; and one in 2002, which requested an increase in sign height on the Ford of Tulsa lot from 25' to 40', and which was denied. The current site is allowed two pole signs.

Staff can see no compelling reason to allow any higher signs in this area and therefore recommends **DENIAL** of PUD-411-10.

Applicant was not present.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

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

Ms. Hill stated that she just realized that there was an interested party on PUD-405-K-4.

TMAPC Action; 6 members present:

On **MOTION** of **COUTANT**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **RECONSIDER** the minor amendments for PUD-166-11 and PUD-405-K-4.

INTERESTED PARTIES:

Katrina Zuniga, 1324 S. Louisville, Tulsa, Oklahoma 74112, stated that she is building a house in Ashton Hallow and she wasn't aware that the subject lot would be used for access at the time she purchased her lot. She thought the subject property would remain a greenbelt and now it appears that it will create more traffic on her street if it is an access point.

TMAPC COMMENTS:

Mr. Midget asked Ms. Zuniga where her house would be located. In response, Ms. Zuniga stated that she is building on Lot 8, Block 1, west of 73rd East Avenue. She further stated that her home will back up to the detention pond and the subject lot is north of the detention site, which she believed would be a greenbelt view and is why she decided to build on Lot 8. She commented that there was no indication that the subject property would be an access and she assumed it would always be a greenbelt.

Mr. Harmon stated that the traffic coming from the north on South 73rd East Avenue or coming from the East on 93rd Place would not come to the interested party's property. In response, Ms. Zuniga stated that the traffic wouldn't come to her property.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the minor amendment for PUD-166-11 per staff recommendation.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the minor amendment for PUD-405-K-4 per staff recommendation.

Application No.: PUD-450-A-10

MINOR AMENDMENT

Applicant: R. Carl Hudgins

(PD-26) (CD-8)

Location: 6309 East 111th Place South

STAFF RECOMMENDATION:

This is another request in the Woodfield Village development to reduce the allowed setback (rear yard) of a residence from 20' to 17.5' in order to fit the design of a home on a lot. The most recent similar request was on November 3, continued from October 27, 2004, which the TMAPC approved after some discussion. A series of approved requests for setback reductions to this PUD began in June 2000, some (including the most recent two) over staff recommendations for denial.

It should be noted that, unlike the most recently approved request, this request does not appear to involve a garage setback (and hence not a reduction of driveway length). Therefore, staff can reluctantly support the proposed minor amendment and recommends **APPROVAL** of PUD-450-A-10. (Staff also queries why, when allowed property dimensions are well-known at the time of design, a residential unit cannot be designed to meet the adopted standards.)

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the minor amendment for PUD-450-A-10 per staff recommendation.

OTHER BUSINESS:

Application No.: PUD-579-A

DETAIL SITE PLAN

Applicant: DeShazo, Tang & Associates (PD-18) (CD-8)

Location: Southwest corner and South 101st East Avenue and East 80th Street South

STAFF RECOMMENDATION:

TMAPC reviewed and approved this site plan at its meeting, December 1, 2004, contingent upon deleting the proposed bulk trash container, which obstructed required parking. The applicant has since redesigned the parking to provide room for a trash dumpster. The PUD Development Standards require TMAPC approval of "the appropriate location of such containers" at detail site plan review.

Staff recommends **APPROVAL** of **PUD 579-A** detail site plan as modified.

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

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the detail site plan for PUD-579-A per staff recommendation.

Adoption of revised policy for transmitting PUD's to City Council.

STAFF RECOMMENDATION:

H.

7. TMAPC RECOMMENDATIONS TO CHANGE SUBMITTED PUD PLANS:

It shall be the policy of the Planning Commission in cases where the recommended PUD concept plan is changed from the applicant's submitted plan that a revised plan reflecting the Planning Commissions' recommendation be prepared and

submitted to the Planning Commission staff for transmittal to the City Council with the minutes of the meeting.

Mr. Alberty stated that this item was covered during the worksession and was requested by Councilor Neal and the Public Works Department. The Planning Commission was in agreement and this would allow us to amend our policy statement and it will later probably be a Zoning Code amendment.

There were no interested parties wishing to speak.

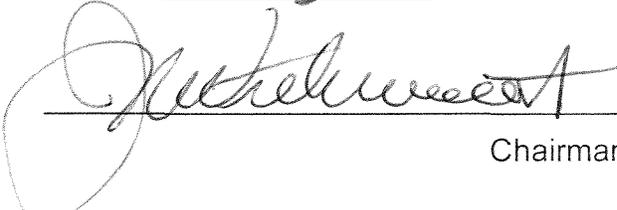
TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Bayles, Carnes, Coutant, Harmon, Hill, Midget "aye"; no "nays"; none "abstaining"; Horner, Jackson, Ledford, Miller, Westervelt "absent") to **APPROVE** the amendment to the Policy and Procedures and Code of Ethics.

There being no further business, the Chair declared the meeting adjourned at 5:00 p.m.

Date Approved:

11/19/05


Chairman

ATTEST: Shirley M. Bayles
Secretary

