

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2424

Wednesday, September 21, 2005, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Bernard	Ard	Alberty	Boulden, Legal
Cantees	Bayles	Chronister	
Carnes	Horner	Fernandez	
Dick		Huntsinger	
Harmon		Matthews	
Hill			
Jackson			
Midget			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, September 16, 2005 at 2:55 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, Vice Chair Hill called the meeting to order at 1:30 p.m.

REPORTS:

Chairman's Report:

Ms. Hill reported that there are some housekeeping items to take care of first.

Horizon West – (8211)

(PD-8) (CD-2)

North of the northeast corner of West 81st Street South and Union Avenue
(request to continue to October 19, 2005 for further TAC review)

STAFF RECOMMENDATION:

Mr. Alberty stated that staff is requesting this item be continued to October 19, 2005 in order to have further TAC review.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Bernard, Cantees, Carnes, Dick, Hill, Jackson "aye"; no "nays"; none "abstaining"; Ard, Bayles, Harmon, Horner, Midget "absent") to **CONTINUE** the preliminary plat for Horizon West to October 19, 2005.

MINOR SUBDIVISION PLATS:

Beta Business Park – (9402) (PD-17) (CD-6)

Northeast corner of East 166th Street and Admiral Boulevard (**request to continue to October 19, 2005 for further TAC review as a Preliminary Plat**)

STAFF RECOMMENDATION:

Mr. Alberty stated that staff is requesting a continuance to October 19, 2005 for further TAC review.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Bernard, Cantees, Carnes, Dick, Hill, Jackson "aye"; no "nays"; none "abstaining"; Ard, Bayles, Harmon, Horner, Midget "absent") to **CONTINUE** the minor subdivision plat for Beta Business Park to October 19, 2005.

Application No.: Z-7001

RS-3 TO OL

Applicant: Charles Norman

(PD-18) (CD-8)

Location: South of southwest corner of East 71st Street and South Yale

RELATED ITEM:

Application No.: PUD-136-A

RS-3 to OL/PUD

Applicant: Charles Norman

(PD-18) (CD-8)

Location: South of southwest corner of East 71st Street and South Yale

Applicant's Comments:

Charles Norman, 401 South Boston, Suite 2900, Tulsa, OK 74103-4065, representing the applicant, stated that there has not been by either the applicant or concerned citizens a timely request for a continuance. However, he is in the process of ongoing discussion with the neighborhood group to the west of the subject property and he has agreed to jointly request a continuance for two weeks. He indicated that he has tried to put out information through the Planning Commission staff, applicant and interested parties that this would probably occur.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Bernard, Cantees, Carnes, Dick, Hill, Jackson "aye"; no "nays"; none "abstaining"; Ard, Bayles, Harmon, Horner, Midget "absent") to **CONTINUE** Z-7001 and PUD-136-A to October 5, 2005.

Application No.: PUD-681-5

MINOR AMENDMENT

Applicant: Tanner Consulting, LLC

(PD-26) (CD-8)

Location: South of southeast corner East 11th Street South and South Louisville Avenue

Applicant has withdrawn this application.

Director's Report:

Mr. Alberty reported that there are no TMAPC items on the City Council agenda this week

Mr. Alberty reported that the TMAPC receipts for the month of August 2005 are available. He commented that the trend is still the same, which is downward.

* * * * *

Mr. Midget in at 1:35 p.m.

SUBDIVISIONS:

LOT-SPLITS FOR WAIVER OF SUBDIVISION REGULATIONS:

L-19882 – Tulsa Engineering & Planning (8315) (PD 18) (CD 8)
8536 South Norwood Avenue

STAFF RECOMMENDATION:

Although Lots 5-9 have street frontage on East 85th Court and/or East 86th Street, the steepness makes it virtually impossible to access these properties. The developer has constructed a private drive that cuts through the lots north of the property line. The proposal is to split Tract A off Tract B and tie it to Tract C, which would give the owners of Tract C access to the private drive that cuts through Lots 6-10, Block 1, Sheridan Oaks Estates.

Both resulting tracts would meet the RS-1 bulk and area and street frontage requirements; however, Tract C would have more than three side lot lines. The applicant is requesting a waiver of the Subdivision Regulations that no tracts have more than three side lot lines.

The Technical Advisory Committee had no concerns regarding this lot-split. Staff believes this lot-split would not have an adverse affect on the surrounding properties and recommends **APPROVAL** of the waiver of Subdivision Regulations and of the lot-split, with the condition that Tract A be tied to Tract C.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted 7-0-0 (Bernard, Cantees, Carnes, Dick, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bayles, Harmon, Horner "absent") to **APPROVE** the waiver of Subdivision Regulations and the lot-split, subject to Tract A being tied to Tract C per staff recommendation.

PRELIMINARY PLAT:

Riverview Park Estates – (8329)

(PD-26) (CD-8)

South of the southeast corner of East 101st Street South and Delaware Avenue

STAFF RECOMMENDATION:

This plat consists of 129 lots, six blocks, four reserves, on 38 acres.

The following issues were discussed August 18, 2005 and September 1, 2005 at the Technical Advisory Committee (TAC) meetings:

- 1. Zoning:** The property is zoned PUD-714 (RS-3). Show proposed location of gates in subdivision. Show easement for entry sign. PUD-714 development standards must be met. Changes as requested have been shown on revised plat. Show easement for sign if not in Reserve Area. Show phases of development. *Applicant stated that the fence and wall easement will house the future sign.*
- 2. Streets:** Recommend property lines show 30-foot radius at entrance to Reserve "A" from South Delaware. Label centerline of the parkway alignment to show that the full 75-foot of dedication from the centerline will be achieved. Sidewalks are required along the parkway and all residential streets per Subdivision Regulations; provisions for sidewalk construction should be explicit either on the face of plat or in the covenants. Show limits of no access on Delaware. Label arterial right-of-way as "Dedicated by this Plat." Adjust the geometrics at 103rd Street and Evanston Court to create an intersection at or near 90 degrees. The west right-of-way line of Florence Avenue south of 102nd Place may require modification to provide an adequate transition from 60 feet to 30 feet. Label all "Reserve A" as "Private Street" areas. Delete the label "Harvard Avenue" east of the east property line. Show section line dedication. Include language for creation of the Homeowners Association with maintenance of private streets, gates, common areas, etc. Include adequate language in Section I.G. to address the private access to and from the unplatted tract north of Block 5 via Reserve A. Design both gate entries for adequate delivery truck turn-around and visitor parking. Street layout may change due to floodplain and stormwater concerns. Planned phases of development need to be shown. Show paving line on conceptual plans. Adjust the geometrics at 103rd Street and Evanston Court to create an intersection at or near 90 degrees. The west right-of-way line of Florence Avenue south of 102nd Place may require modification to provide an adequate transition from 60 feet to 30 feet. Include language for creation of homeowners' association with maintenance of private streets, gates, common areas, etc. Include adequate language in Section I.G. to address the private access to and from the unplatted tract

north of Block 5 via Reserve A. Design both gate entries for adequate delivery truck turn-around and visitor parking. Sidewalks are required along the parkway and all residential streets per Subdivision Regulations; provisions for sidewalk construction should be explicit either on the face of plat or in the covenants.

3. **Sewer:** In Lot 1, Block 5, add a minimum ten-foot utility easement for the sanitary sewer adjacent to the ten-foot restricted waterline easement along the west property line. At least ten feet is required to maintain the required ten-foot separation from the waterline. The conceptual plan does not provide service to Lot 1, Block 4. Include service to this lot in your SSID submittal. The run between Lots 14 and 15, Block 4 and Lots 32 and 33, Block 5 is not drawn with a straight line. If there is a shift between the manholes, then additional manholes will be required. All manholes located in the floodplain must have the rims one foot above the 100-year water surface elevation, or use sealed lids. Include the floodplain elevation on SSID submittal. No comment.
4. **Water:** Add water main line sizes.
5. **Storm Drainage:** The Vensel Creek FEMA and City of Tulsa Regulatory Floodplains must be plotted, using the 100 year water surface elevation and labeled on the plat. The limits of these floodplains, plus an additional, adjacent 20 feet, should be placed in a Reserve Area. Residential lots and utility easements should not be placed in these Reserve Areas. Section I.K. should be titled "Overland Drainage Easement for Floodplain Reserve Area E". Standard language for floodplain conveyance through a residential subdivision should be used. Section I.K.1 refers to a drainage easement which has not been shown on the plat, and contains non-standard language on lines 6 through 9, which must be removed. Remove the single trunk tree language from the 5th line of Section I.K.3. Section I.K.4 should state that the Reserve Area will be maintained by the Homeowners Association, and prorated language must be added for maintenance costs and liens on the individual lots within the subdivision. FEMA floodplains cannot be changed without CLOMAR approval. There is no concept shown on this plan, which would remove large portions of this proposed plat from the floodplain. The conceptual plans do not address how to handle the floodplain. There are large concerns about the stormwater drainage for this project. (The fact that a citizen had been to the INCOG offices to express concern about drainage on his nearby property was stated.) Both existing and proposed floodplains for both FEMA and City of Tulsa regulatory must be shown on the face of preliminary plat. Compensatory storage for the fill being placed in the floodplains must be addressed. Compensatory storage language may be required. Revised covenants need to be submitted.
6. **Utilities: PSO, Cable:** Okay.

7. **Other: Fire:** Show existing easements adjacent to this subdivision. Recommend reverting to Sketch plat due to extensive encroachment into FEMA and Tulsa Regulatory floodplain. River Parks' staff and INCOG Transportation Planning requests pedestrian access to park. Fire "Okay" per Development Services. (Revised plat and conceptual plan were received, showing changes in response to previous comments. Additional comments are included, but all previous comments remain.)

The Technical Advisory Committee recommended that the subdivision be continued from the August 18, 2005 meeting to the next TAC meeting so that the many concerns expressed could be addressed by the consulting engineer, rather than having the plat revert to a Sketch Plat. Staff recommends **APPROVAL** of the Preliminary Subdivision plat subject to the special and standard conditions below.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

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

Standard Conditions:

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.

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

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

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted 7-0-0 (Bernard, Cantees, Carnes, Dick, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bayles, Harmon, Horner "absent") to **APPROVE** the preliminary plat for Riverview Park Estates, subject to the special conditions and standard conditions per staff recommendation.

Peoria Family Dollar – (0318)

(PD-25) (CD-1)

4501 North Peoria (South of the Southeast Corner of East 46th Street North and Peoria)

STAFF RECOMMENDATION:

This plat consists of one lot, one block, on .689 acres.

The following issues were discussed September 1, 2005 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned CS. A variance was granted to lot frontage requirement.
2. **Streets:** No objection subject to a minor revision of the dedication to read "...street right-of-way" rather than "street".
3. **Sewer:** No comment.
4. **Water:** No comment.
5. **Storm Drainage:** No comment.
6. **Utilities: ONG, Cable:** No comment.
7. **Other: Fire:** No comment.

Staff recommends **APPROVAL** of the Minor Subdivision plat because all the release letters have been received subject to the special and standard conditions below.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

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

Standard Conditions:

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).

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

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

TMAPC COMMENTS:

Mr. Midget asked if the Planning Commission would see this plat again. In response, Mrs. Fernandez answered negatively. Mr. Midget expressed concerns with the landscaping for the subject property. Mrs. Fernandez stated that the applicant would have to meet the CS zoning landscaping requirements.

Mr. Alberty informed the Planning Commission that the subject property would be subject to the landscape ordinance by the City whether the Planning Commission or staff would see it again or not.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted 7-0-0 (Bernard, Cantees, Carnes, Dick, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bayles, Harmon, Horner "absent") to **APPROVE** the minor subdivision plat for Peoria Family Dollar, subject to special conditions and standard conditions per staff recommendation.

RECONSIDERATION OF FINAL PLAT APPROVAL:

Wal-Mart SuperCenter #1597-03 – (8326)

(PD-26) (CD-8)

West of northwest corner of East 111th Street and Memorial Drive

STAFF RECOMMENDATION:

Mrs. Fernandez stated that staff has brought this to the Planning Commission's attention. She explained that the Planning Commission would have to make a motion to reconsider this item. She stated that the Planning Commission approved the final plat for the subject property at the September 7th meeting. After the meeting it became clear to staff that all of the facts for the final plat were not before the Planning Commission and there appears to be a problem with the right-of-way dedication along 111th. Staff had received a release letter from the Public Works Department and that release letter was rescinded the following day of the final plat approval. Typically, staff would not question the release, but practice has it that right-of-way would be dedicated through the Major Street and Highway Plan as required and that is a part of the Comprehensive Plan (per the Subdivision Regulations this is a requirement).

Mrs. Fernandez stated that staff suggests two steps: 1) a motion to reconsider the item before further discussion ensues; 2) then a positive motion to rescind the motion for approval of the plat, based on the fact that not all of the pertinent information was available at the time.

Mr. Alberty confirmed that the Planning Commission would have to make a motion to reconsider before discussion ensues.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Bernard, Cantees, Carnes, Dick, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bayles, Harmon, Horner "absent") to **RECONSIDER** the approval of the final plat for Wal-Mart SuperCenter.

Applicant's Comments:

Charles Norman, 401 South Boston, Suite 2900, Tulsa, OK 74103-4065, stated that he attempted to give a summary two weeks ago that created this issue and it has expanded beyond what he thought was necessary to describe at that point.

Mr. Carnes asked Mr. Norman if he agreed with the staff recommendation. In response, Mr. Norman stated that the staff is requesting his client to dedicate property that he does not own, which can't be done. He commented that he doesn't have any objections to the Planning Commission reconsidering the approval.

Mr. Bernard requested that Mr. Norman walk the Planning Commission through this issue again.

Mr. Norman stated that he doesn't agree that the law requires any property owner to dedicate right-of-way that they do not own.

Mr. Norman stated that the plat had a major amendment with some additional zoning in 2001. The Planning Commission approved a PUD that would permit the development of a Wal-Mart SuperCenter. The property was conveyed to Wal-Mart in early 2002. In June of 2005, the Planning Commission approved a series of minor amendments to the PUD to permit some changes in the design and to reflect the dedication of Wal-Mart and two other property owners of land for a regional detention center at the northwest corner of the subject property. The development of the regional detention center and the documents required to do this took some time and Wal-Mart dedicated by separate instrument a maintenance access easement over the west part of the Wal-Mart tract to the City of Tulsa. The Planning Commission has previously approved a detail site and landscape plan for the subject property.

Mr. Norman explained that he represented Wal-Mart in the PUD amendment in 2001 and Conner and Winters represented Wal-Mart in the acquisition of the property. He explained that there have been two different engineering firms handling this subject property. He learned about this particular issue in early July of 2005, after the detail site and landscaped plans were approved. This issue was brought up by the City Engineer, John Mueller, during the final review of the plat and it was discovered that there is a gap of 17 feet in width and 819 feet long from east to west along north boundary of 111th Street.

Inaudible.

Mr. Boulden stated that a developer can't dedicate land that they do not own. The question is, did the Planning Commission know that the strip of land was not dedicated by this plat and if knowing that, would the Planning Commission have approved the final plat.

Mr. Alberty stated that staff is **not** requiring the applicant to dedicate property that he doesn't own. The reason staff has brought his issue back to the Planning Commission is because staff didn't understand the issues and if staff didn't understand it then, certainly the Planning Commission didn't understand their action. All of this has transpired after the fact. The original PUD document that was shown to staff and the Planning Commission was represented that Wal-Mart owned the property to the centerline. The preliminary plat represented that Wal-Mart owned the subject property to the centerline. Only after the preliminary plat had been filed and under process did Mr. Norman and his engineers discover the discrepancy and they have been trying to deal with it. Upon learning the fact that they could not purchase this 17 feet, they have wanted to proceed with the approval of the plat. Staff's position is that it requires a waiver of the Major Street and Highway Plan. When one comes in with a development, the requirements

for that development are that one dedicates land that they own to comply with the Major Street and Highway Plan. This issue never arose because staff didn't realize that the applicant didn't own the 17 feet. Staff is raising the question that it should go back to TAC and they need to understand it fully. Several of the TAC representatives didn't understand this issue. Staff is not trying to make Wal-Mart dedicate land that they do not own, but staff would like to clear the record and make sure everyone understands this issue and it is truly a unique situation.

Mr. Norman requested that he be allowed to continue with his presentation. He commented that it seems that there is almost an inference that someone has acted in bad faith or has attempted to circumvent the normal procedure, which is not the case at all.

Mr. Norman demonstrated the survey that was prepared by the seller of the subject property. There is a reference on the survey: "...to propose right-of-way by separate instrument", which identifies the 17 feet in question. This never occurred and the legal description is very complicated. He indicated that the centerline of 111th is in the Bixby city limits. The City of Bixby attempted to acquire this particular 17 feet and couldn't reach an agreement with the property owner and so they bought 8.5 feet to create 33 feet of right-of-way from the centerline. The gap was not known by Mr. Norman or Hollis Allen (engineer) until it was brought to their attention this year. The preliminary plat has been based on the legal description that was in the deed to Wal-Mart. The preliminary plat indicates two access points which are in question along 111th Street in the location of the 17-foot gap. The first thing he did, through Conner & Winters, was to contact the seller to obtain the 17 feet for access and offer to pay the same amount as previously paid for property at the original closing, which is \$3.00 per square foot. The owner's attorney came back on July 25, 2005 and stated that they would sell the 17 feet (13,932 SF) for two million four sixty-eight thousand dollars six hundred ninety eight dollars and thirty-four cents, which amounts to \$177.00 per square foot, or 59 times the original purchase price. Wal-Mart will not pay that amount for the 17 feet. The seller stated that he believes the two access points to the subject property are worth the asking price. He had meetings with Harold Tohlen and John Mueller regarding working around this particular issue. Wal-Mart hired Mr. Jon Eshelman to do an internal site analysis and he believes that the store will work without the two west access points. Wal-Mart decided to move ahead without the 17 feet and two access points. After several meetings the plat was revised to allow a mutual access point for the detention facility and access the 111th Street legally. The waterline has been proposed to cross the subject property where there is legal access and around the property to where the waterline can loop back into the City waterline at Raven's Crossing. It was after reaching this agreement that Harold Tohlen gave his release letter and it was placed on the agenda. Mr. Norman concluded that this project has been delayed since early July 2005. He believes that he has satisfied all of the requirements of the City of Tulsa and this issue doesn't impact any other private utility. The two access points along 111th have been removed

from the plat and have established limits of no access across the 819 feet. He doesn't have a basic objection of going back to TAC and he is filing an amended detail site plan and landscape plan to show that the two driveways have been removed. He stated that he has been trying to comply with the regulatory procedures and every requirement of the City of Tulsa Public Works Department, etc. There was a mistake made and he is not pointing fingers at anyone. His client has acted in good faith with the Planning Commission and the staff trying to resolve it once it came to their attention.

Mr. Norman stated that the Planning Commission would have to send him back to TAC because Harold Tohlen has rescinded his release letter due to this confusion.

TMAPC COMMENTS:

Mr. Jackson asked Mr. Norman if he is comfortable with the access points that are available today. In response, Mr. Norman answered affirmatively. Mr. Jackson asked Mr. Norman if he worked with Public Works in order to have the waterline loop over to Raven's Crossing. Mr. Norman answered affirmatively. Mr. Jackson asked Mr. Norman if this proposal has been sent to Mr. French. In response, Mr. Norman stated that it is in his hands, but he has not been able to talk to him at this point. Mr. Jackson stated that TAC has already approved 99 percent of the subject project and he asked why there is a need to go back to TAC. Mr. Norman stated that there is a need to go back to TAC to make certain that everybody understood that those access points were not available and review the available access points and internal circulation. Mr. Norman further stated that a revised and amended detail site plan would be submitted indicating the deletion of those driveways and a revised and amended landscape plan would be submitted to show sod or whatever is required for the landscaping.

Mr. Bernard asked if the only changes were the driveways and circulation, would it be possible to approve this as long as TAC approves it in order to save the applicant some time.

Mr. Alberty stated that the Planning Commission has already approved the final plat technically. The reason for coming back to the Planning Commission is because of the new information regarding the 17 feet, which staff didn't believe had been explained. Mr. Alberty commented that he doesn't believe that TAC realized that this plat was not dedicating the right-of-way on 111th Street. Staff is stating that this is the reason for taking this plat back to TAC, besides the access points and circulation.

In response to Mr. Bernard, Mr. Alberty stated that he believes the Planning Commission has already approved the final plat and they do not need further action on the approval. If the Planning Commission doesn't want to send the final plat back to TAC, then they should let it stand. However, the thing that is different is that normally staff doesn't bring a final plat to the Planning

Commission until all of the release letters have been received. Staff thought they had all the release letters; however, Public Works has pulled their letter and regardless of what the Planning Commission does, it is not released until Public Works reissues that letter. Mr. Alberty commented that he will not sign the plat until he has all of the release letters in the file.

Mr. Midget stated that he is hearing staff state that this plat needs to go back to TAC regardless. He commented that he is in agreement with doing whatever is possible to expedite this project. It is unfortunate that the applicant has found himself in this position.

Mr. Norman stated that even if the Planning Commission releases the final plat to the City Council, he would still have to go back to TAC. Possibly the Planning Commission could approve the final plat subject to approval by TAC and any requirements by Public Works Department and recommend that City Council not approve it until that has been satisfied. He thought this may save him three weeks. He commented that would be an unprecedented action by the Planning Commission. He stated that he doesn't disagree with Mr. Alberty's and Mrs. Fernandez's statements about the confusion because it has been a confusing period for Hollis Allen and himself, as well as for Wal-Mart.

Ms. Hill requested that Mr. French come to the lectern.

Mr. Carnes asked Mr. French if the Planning Commission reapproved this final plat subject to TAC approval what his opinion would be on that. In response, Mr. French stated that it more of a procedural issue, which he has never been involved when the Planning Commission acts prior to TAC recommendation. TAC is a recommending body and he would feel more comfortable that TAC give the Planning Commission a specific recommendation. He indicated that Mr. Hardt would request that there be a continuance because there are both right-of-way and traffic impact issues that need to be resolved. There have been meetings prior to this meeting and additional discussions are needed with the developer to resolve this. Mr. French commented that today Mr. Norman brought up another right-of-way document when he said that there is the eight-foot dedication that the City of Bixby is involved with and that is new information that doesn't appear on any of the information from the consulting engineer.

Mr. French stated that this a complicated plat because the actual roadway right-of-way is in the County's jurisdiction. The City of Bixby is south of the 100-foot arterial right-of-way and the City of Tulsa has jurisdiction on the development north of the north property line of the 100-foot right-of-way. The County has the 100-foot of the arterial project that they would be responsible for. There should be joint discussions regarding this project. TAC needs time to have further discussion and review those specific right-of-way and traffic impact statements.

Mr. French stated that TAC is guided by the PUD and if there is a change in the site plan, then that is more of planning function. He is of the opinion that since he just received the traffic impact statement from their consultant yesterday, he would like to request time to review the study in order to form an opinion if and when the Planning Commission considers an amendment to the PUD. TAC is relying on the original detail site plan that indicated six access points for Wal-Mart SuperCenter.

Mr. Jackson asked Mr. Eshelman if he has had time to read the traffic report. In response, Mr. French stated that he received it yesterday and has only had time to glance through it. He commented that he is not prepared to give a recommendation at this time.

Mr. Midget stated that he would like to keep the process moving and he didn't hear Mr. French state that he would be opposed to a conditional approval.

Commissioner Dick stated that it seems that there are several issues, one being factual and the other being a precedent issue. Whatever action is taken today could well set a precedent for events similar to this in the future and he believes that the Planning Commission should proceed very carefully. He suggested that the Planning Commission rescind the approval and send it back to TAC for review, then bring it back to the Planning Commission with a recommendation. This is the safest course of action and it is not bureaucracy getting in the way here, but a mistake or misunderstanding. He believes that the Planning Commission should consider the action as precedent-setting that could bind future Planning Commissions.

More discussion ensued regarding whether this would be precedent-setting or a conditional approval of the final plat. (Tape inaudible.)

Mr. Carnes stated that he believes that new information has been submitted and this should go back to TAC.

Mr. Bernard stated that it seems that the Planning Commission is still in favor of approving the final plat. It may have been intentional or a misunderstanding regarding the 17 feet, but he is concerned that the Planning Commission doesn't get themselves in a position that this gets held up at a certain point and it could happen on a regular basis going on down the road. He would like this to go forward and stated that it should be approved and the City of Tulsa would like to have the SuperCenter on this particular location. Unless there is a significant reason why TAC wouldn't approve this or there are traffic issues that they are concerned about, he isn't sure the Planning Commission is actually setting a precedent by not doing this or setting a precedent by doing it because of what has happened with the 17 feet. The 17 feet has held this project up and he doesn't want another significant project like this coming down the road that another 17 feet holds it up. He is sure that with this event happening, every

attorney in town will have their flag up in the air wanting to see which way the wind is blowing. In his opinion, the Planning Commission needs to take a stand that this issue, whether accidental or intentional, is not going to be a situation that is going to hold up a project like this.

Mr. Carnes reminded Mr. Bernard that another item has been brought up today that Traffic Engineering wasn't aware of. He commented that he doesn't want to slow anything up either, but this has too many problems and should be sent back to TAC.

Mr. Bernard stated that he would vote for the motion as long as the rest of his statements are on record. The fact that the Planning Commission noted that there is a significant issue present that the Planning Commission doesn't want to see in the future. If someone tries to intentionally do this in the future, then the Planning Commission will work with whomever they have to in order to make sure it doesn't.

Mr. Midget stated that he would be voting against the motion because he believes that it could move forward now.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, TMAPC voted **4-3-0** (Bernard, Carnes, Dick, Hill "aye"; Cantees, Jackson, Midget "nays"; none "abstaining"; Ard, Bayles, Harmon, Horner "absent") to **RESCIND** the final plat approval for Wal-Mart SuperCenter #1597-03 and send back to TAC for further review.

Mr. Alberty stated that 99.9 percent of the transactions are gross land sales. This project was not a gross land sale, but a net land sale, whereby the original owner kept back 17 feet, which wasn't caught until after the fact.

* * * * *

COMPREHENSIVE PLAN

Urban Renewal Plan Amendment for Kendall-Whittier to find in accord with the Comprehensive Plan.

STAFF RECOMMENDATION:

The recently-submitted proposed amendments to the Urban Renewal Plan for the Kendall-Whittier area involve the acquisition of replacement parkland for the land soon to be used for the construction of the Educare Center in the park adjacent to the new Kendall-Whittier School. The adopted Kendall-Whittier Neighborhood Master Plan calls for that area from the existing school-park site west to Lewis to just east of the Peoples Bank site to be redeveloped as park land, and this proposal is in accord with the Comprehensive Plan and recommends that the TMAPC do likewise.

and connects with Skelly Drive at the commercial property's southwest corner. Per City Council approval of PUD 650, East 46th Street terminates from the west in a cul-de-sac just west of South Fulton Avenue. The east half of East 46th Street can be accessed from the north by South Hudson Place and from the south by Fulton Avenue.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
Skelly Drive	Freeway	Varies	4 lanes
East 46 th Street South	N/A	60'	2 lanes

UTILITIES: N/A

SURROUNDING AREA: The Midtown Village Shopping Center, PUD 650; and two churches and two office buildings front the west half of East 46th Street South. The Midtown Village Shopping Center, residential condominiums and the Islamic Society of Tulsa front the east half of East 46th Street South.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

N/A

STAFF RECOMMENDATION: Access between the east and west halves of East 46th Street South, between South Darlington Avenue and South Fulton Avenue, is achieved by using East 47th Place three blocks to the south. Offices at the southwest corner of East 46th Street South and South Fulton Avenue can be accessed from the west from Skelly Drive, Darlington and East 46th Street South; and from the east from South Hudson Avenue, East 46th Street South, and South Fulton Avenue. At this time, staff finds no compelling reason to reopen East 46th Street South and, therefore, recommends **DENIAL** of **PUD 650-A**.

TECHNICAL ADVISORY COMMITTEE COMMENTS:

General - Construction for reopening would require a PFPI with all associate costs being the responsibility of the applicant.

Water - No comment

Fire - No comment

Stormwater - No comment

Wastewater - No comment

Transportation - Transportation has no new data to support the reopening of East 46th Street.

Traffic - Traffic Engineering objects to the reopening of East 46th Street (*unless substantial groundswell from Neighborhood Association*).

GIS - No comment

County Engineer –No comment

TMAPC COMMENTS:

Ms. Hill asked Legal to give their opinion regarding this request.

Mr. Boulden stated that he can advise the Planning Commission that he has looked at the development standards that are in the plat that was dedicated. Although the term was used that 46th Street was closed, in the technical and legal sense that he is used to using it has not been closed and it was not intended to be closed, but is simply a reconfiguration of the traffic flow in the neighborhood. Any concerns that Legal had about 46th Street being closed are dispelled and he has no more concerns.

Applicant's Comments:

Steve Schuller, 100 West 5th Street, Suite 500, Tulsa, Oklahoma 74103, stated that he is representing Thousand Oaks Investment Corporation, owner of the office building at the southwest corner of Fulton Avenue and 46th Street on the south side of the PUD. Mr. Schuller reminded the Planning Commission that they recommended approval of the PUD without any recommendation for closure or reconfiguration of the 46th and Fulton intersection. When this PUD went before the City Council the reconfiguration or closure was negotiated between the City Councilors and the homeowners associations represented. The street or intersection was reconfigured with a cul-de-sac that permits only a right-turn northward from Fulton onto 46th Street and a left-turn westward from 46th onto Fulton. This is a major problem for his client on the southwest corner because it significantly impedes access to their two parking lots. It is difficult for his client's commercial traffic to find another way through the residential neighborhoods to access the rear parking lot.

Mr. Schuller stated that at the last meeting, the Planning Commission strongly urged his client to meet with the neighborhood associations and the City of Tulsa to see if there could be a compromise or other arrangement for this intersection. He indicated that he did meet with the representatives of the neighborhoods in the subject area, the condominium associations and representatives of the developer. The City's Traffic Engineering Department was unable to attend. However, there was a meeting to examine as many alternative proposals for the

subject intersection reconfiguration possible. There aren't very many that are reasonable or practical. He indicated that they honestly did work very hard to find a compromise, but unfortunately, they were unable to do so. Mr. Schuller stated that in his client's view, the best alternative is to reopen the 46th Street and Fulton intersection. There is an alternative that was discussed at great length, which is flipping the intersection or reversing it. The proposal would be to have the cul-de-sac on the east side of the Fulton intersection rather than the west side. This would allow the northbound traffic from Fulton to turn left onto 46th Street and the eastbound traffic on 46th to turn right onto Fulton. This directs the commercial traffic from his client's building back onto Skelly Drive frontage road rather than into the single-family residential neighborhoods. This proposal also directs the higher-density residential traffic from substantial multifamily residential neighborhoods directly to the south of the subject properties back to the Skelly Drive frontage road rather than the single-family residential area to the east. The homeowners associations from the single-family neighborhoods favored this approach, but the condominium and town home associations were opposed to it. They believe that their driveways would be used for cut-through traffic. He doesn't believe that is a viable option and would not occur except in very limited or restrictive instances because it looks like a dead-end.

Mr. Schuller stated that another option that was discussed was to add a right-turn lane in the intersection for eastbound 46th Street traffic to get on to Fulton with medians on Fulton to require the traffic to go south. He questioned if a median would fit on Fulton since it is a narrow street. His client would be required to give up some of his land in order to do this for additional right-of-way and in addition the back parking lot would probably become a turnaround area for cars wanting to proceed east on 46th Street. He is not sure this would be a satisfactory solution.

Mr. Schuller stated that there is one other alternative, but the City has rejected it each time he has suggested it. The proposal is to take the cul-de-sac on 46th Street and move it farther east. This would restrict the through traffic on 46th Street, which was the objective of the City Council and the objective of all of the neighborhood associations. Traffic could not proceed westward and traffic coming east on 46th could not proceed westward, but the town homes and condominiums would have a nice access onto 46th Street back to the Skelly Drive frontage road.

Mr. Schuller reiterated that reopening the street would be the best alternative for this intersection. He pointed out that he disagrees with the staff recommendation regarding the access to the subject property. Staff's recommendation for denial of any relief that he has requested is based on the fact that there is existing sufficient access to the office development through the surrounding residential streets. Mr. Schuller reminded the Planning Commission that there are traffic diverters that would prevent some of the circulation they have shown on their map. There are a lot of people walking in the residential area and there are no

sidewalks, and to suggest traffic be directed through the neighborhoods to access the parking lot is not safe. He commented that a resident from 46th Street, Mrs. Mannas, stated during the previous public hearing that the closing of 46th Street hasn't helped reduce the volume of traffic.

Mr. Schuller stated that one of the alternatives would be for his client to install a driveway to Fulton in the front parking lot. However, he doesn't believe that is a good alternative because it would create cut-through traffic. Flipping the intersection or cul-de-sac would have a better effect at stopping the through traffic. Mr. Schuller concluded that he wished he had been able to come up with a compromise, but unfortunately it wasn't possible.

TMAPC COMMENTS:

Mr. Jackson asked Mr. Schuller how much work has been done on the cul-de-sac. In response, Mr. Schuller stated that the City was doing some work on the intersection two weeks ago when he first brought this before the Planning Commission. He talked with the City in order to get the work stopped until this can be resolved. The street has been paved with asphalt on 46th Street and there are barricades up. The existing street has been cut out between the new cul-de-sac and the angle turn. There are no curbs in place at this time.

Ms. Hill stated that she has driven by the subject cul-de-sac and there are paving and barricades, but no curbs.

Mr. Boulden stated that he contacted the Public Works Department and they issued a stop work order after the last Planning Commission meeting. That is in place today, but he doesn't know what will be in place after this meeting today.

Mr. Jackson asked Mr. Schuller if he met with Public Works. In response, Mr. Schuller stated that he was unable to meet with the Traffic Engineering Department between these two Planning Commission meetings.

Mr. Jackson asked Darryl French, Traffic Engineering, to come to the lectern.

Mr. Jackson asked Mr. French if he spoke with Mark Brown about any of the alternatives that Mr. Schuller and the neighbors discussed. In response, Mr. French stated that they have not had any discussion with the developers or representatives between the last two Planning Commission meetings. The drawing that Mr. Schuller had was a concept that was developed by Mark Brown and Mr. Schuller prior to the first Planning Commission meeting.

Mr. Jackson asked Mr. French if he thought the concept drawing Mr. Schuller submitted would be a good concept. In response, Mr. French stated that it is feasible. Other engineering improvements are needed, but someone would need to be identified to fund this alternate PFPI. Until it is specified who would fund and do this construction, then all of this would be a concept only. There has not

been an agreement with the HOA and this applicant and therefore there is nothing that Traffic Engineering can do.

Mr. Jackson asked Mr. French if he has physically seen the work that has already been done for the cul-de-sac. In response, Mr. French answered affirmatively. Mr. Jackson asked Mr. French how difficult it would be to put the street back as it was previously. Mr. French stated that it would be considerable and even more considerable to go to Mr. Schuller's concept. Mr. French reiterated that the pavement has been removed and the intent of the PUD was to build a cul-de-sac and the original developer provided engineering construction plans and provided temporary easement on their private property to provide for it. The cul-de-sac can't be relocate the cul-de-sac just anywhere and everywhere because there is no easement on this developer's private property and the plat has already been approved. There is not adequate right-of-way to relocate the cul-de-sac. Mr. French stated that the current developer is more than halfway through with his PFPI.

Mr. Bernard asked if there was ever any consideration to move the cul-de-sac farther east as presented by Mr. Schuller. In response, Mr. French stated that he wasn't at every one of the meetings that were prior to the PUD detail site plan. With the area being residential in nature and to have them on a long dead-end street wouldn't be a good idea.

Mr. Boulden stated that under the traffic circulation restrictions that were in the PUD, it did require that the developer deposit the money for this cul-de-sac with the City before it could proceed and he would assume that the money is somewhat expended.

Ms. Hill stated that there are several interested parties signed up wishing to speak and most of the interested parties were present during the first public hearing. She requested that the interested parties state their name and address for the record and to limit their comments to three to four minutes and try to give new information that hasn't been heard from the first public hearing.

Mr. Midget out at 2:59 p.m.

Commissioner Dick out at 3:00

Lost quorum at 3:00 p.m. (Chair halted the meeting)

Commissioner Dick in at 3:03 p.m. (Chair reconvened meeting)

INTERESTED PARTIES OPPOSED TO PUD-650-A:

Carolyn Chaffin, 5540 East 46th Street, 74135; **Gary Kruse**, 4501 South Kingston, 74135, submitted two letters (Exhibit B-1); **Ruthie Jones**, 4620 S. Granite, 74135; **Dee Blackwelder**, 4612 S. Granite, 74135.

Mr. Midget in at 3:04 p.m.

Commissioner Dick out at 3:04 p.m.

COMMENTS OF INTERESTED PARTIES IN OPPOSITION OF PUD-650-A:

The developer built a fence around the development as was required and he made arrangement for the fence for the turnaround, which is existing today; the developer should not be required to change the work he has accomplished; insist that PUD-650-A remain as discussed and approved by the neighbors and the City Council; not everyone will be happy with the closure and the traffic barriers; There has never been a unanimous decision regarding the 46th Street closure and the traffic barriers within the subject area; keep PUD-650-A as it was approved; Mr. Schuller insinuated that the meetings that have been held since 2001 have been done in secret and that is not true, this has been the most open zoning problem that could have gone on and if his client chose not to participate then it is their problem; there is no way to turn the cul-de-sac around and make it work; the cul-de-sac being moved east wouldn't work due to driveways from the residents and the Mosque along 46th Street.

INTERESTED PARTIES IN FAVOR OF PUD-650-A:

Michael McCollum, 5540 East 46th St, 74135; stated that he was never notified about the 46th Street closing and did not have a chance to voice his opinion or concerns. It doesn't matter whether the money has been spent or not because the configuration that is being built today harms his clients and the value of his business, which was done illegally. He indicated that he has no problem with closing 46th Street if it is closed correctly and doesn't harm his clients or his property value. Nothing has been solved with the barricade with regard to traffic cutting through the neighborhood. The barricade should be moved to the east or removed altogether.

Applicant's Rebuttal:

Mr. Schuller stated that he agrees with Mr. French that it would difficult to go backward with this issue. However, it is important to consider what is fair. Contrary to comments of the neighbors that his client chose not to participate, his client didn't know about the discussions and meetings that were going on. They were not in the newspapers and they were having meetings with each other and none of it was public. His client would have participated if he had known about the issue and meetings. He indicated that his client came to the City as soon as they found out about the detail site plan, which indicated that cul-de-sac.

Mr. Schuller reiterated the concept of flipping the intersection or moving the cul-de-sac farther east, which would create a dead-end street that would be no longer than what the City has already created by the present configuration of the intersection. Putting the cul-de-sac on the other side of Fulton makes a lot of sense if it is opposite of the main entrance to the Park Plaza Condominiums. There is a driveway to their back garages that could be extended into the cul-de-sac with a sign that identifies as a private drive.

Mr. Schuller stated that the current configuration is poor planning. It was done at the eleventh hour with City Councilors and not with the Planning Commission. The Planning Commission has a chance to correct this and do a much better job to avoid directing office and commercial traffic into the residential neighborhoods. This could be done fairly now that everyone is in the process.

TMAPC COMMENTS:

Mr. Jackson explained that the PFPI has been started and most of it has done at this point. It is impossible to get a rebate from the contractors and suppliers. It would require more money to go back and fix what has been done. He asked Mr. Schuller if he had any idea who would fund the new PFPI. In response, Mr. Schuller stated that he doesn't know who would fund this PFPI and he has some ideas of who should fund it. He doesn't believe that his client should be the one to fund the PFPI since it was done without his knowledge or participation. He believes that it is unfair to suggest that his client didn't participate in the process that he knew nothing about and that his client would bear the cost of correcting this issue. There has been some paving done, but he doesn't believe that they are finished. If there is going to be change, now would be the time to do so because it wouldn't be redoing something that is already done.

Mr. Jackson asked Mr. Schuller if his client would be willing to participate in the shared costs if the cul-de-sac could be changed. In response, Mr. Schuller stated that would depend on what kind of participation is being requested of his client. Since his client has participated in trying to get this changed and done correctly, they might consider participating in the costs depending upon what that participation entails and what kind of cost is being talked about. He reminded the Planning Commission that on one of the proposals that has already been presented, his client would be requested to give up part of his land, so they are already being requested to participate in the cost. His client has a contracting company and may be able to participate in some of the work.

Mr. Jackson asked Mr. Schuller if his client has looked into the option of leaving the cul-de-sac as it was approved and opening up his client's parking lot to get vehicular circulation onto Fulton. Mr. Schuller stated that his client has considered this, but obviously the public has in some part taken care of this for him by utilizing the grassy area to drive over to get around the barricades. There are two problems with his client installing a driveway onto Fulton. One problem there would be a tremendous burden on their pavement because everyone would drive through to avoid the blockage of the intersection and it doesn't do anything for the single-family neighborhood to the east because everyone will be driving through there to avoid the barricade.

Mr. Jackson asked Mr. Schuller if he thought that 46th Street should be opened. In response, Mr. Schuller stated that this would be the best solution, which would allow the commercial traffic to flow where it is supposed to and not through the residential neighborhood. He commented that he would concede that the

homeowners associations oppose that and they would like to see some restriction on that kind of traffic and if that is going to be considered by the Planning Commission, then he would urge the Planning Commission to consider a different intersection configuration than what has been approved by the City Council.

Ms. Hill asked Mr. Schuller if the north parking lot is primarily used for the tenant's customers who come in and out or employee parking. In response, Mr. Schuller stated that he doesn't know if the lease controls the use of the parking lot. He believes that his clients have tried to encourage their tenants to have customer parking in the front and employee parking in the back. He doesn't know if this has been successful. He reminded the Planning Commission that the delivery trucks and commercial vehicles would have to use the back parking lot and they would have to go through the residential neighborhoods.

Ms. Hill stated that she wasn't really considering that this would be a provision that needs to be put on, but she was curious about the current use of the parking lot on the north side of the building.

Mr. Schuller stated that his client has indicated that the parking lot on the north side is used by tenants and customers.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted **5-1-0** (Bernard, Cantees, Carnes, Hill, Midget "aye"; Jackson "nay"; none "abstaining"; Ard, Bayles, Harmon, Horner, Dick "absent") to recommend **DENIAL** the major amendment for PUD-650-A.

* * * * *

ZONING PUBLIC HEARING

Application No.: PUD-489-9

MINOR AMENDMENT

Applicant: William B. Jones/Asbury United Methodist Church (PD-18) (CD-8)

Location: 6910 South 101st East Avenue

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to increase total allowable floor area for PUD 489 to accommodate the use of Lot 1, Block 1, as a youth center for Asbury United Methodist Church. The proposed use, UU#5, Community Services and Similar Uses, is in conformance with PUD 489 development standards and the underlying CO zoning.

The applicant proposes remodeling the existing Tulsa Ice Arena building to include a second floor, thereby increasing total square footage from 38,147 SF to 47,147 SF. Current parking on site, 206 spaces, will comply with zoning code requirements for the building's new use. As there will be very little change to the building's footprint and paving, the site can remain in compliance with minimum landscape area requirements.

There have been several minor amendments to PUD 489, beginning with a reallocation of floor area into six development areas. Subsequently, additional minor amendments were made to shift floor area among development areas; and later amendments added allowable floor area to the PUD, expanding it from an original 385,000 SF total allowable floor area to its current 403,700 SF. Section 1107.H.4 allows increases in permitted non-residential floor area; provided the increased floor area is permitted by the underlying zoning and the floor area of a development area is not increased more than 15%. The proposed increase in overall floor area to 422,647 SF, a 9.8% increase from the original allowable floor area, is within this limit; and the underlying CO zoning would also permit the increase. No changes to the development standards are proposed or recommended.

Based on underlying zoning, compliance with the PUD chapter of the Zoning Code, existing intensities in the area, as well as prior approved minor amendments, staff can support the requested minor amendment and recommends **APPROVAL** of PUD 489-9, subject to detail site plan approval and all other conditions of the PUD being met.

Note: Additional parking beyond what is provided on site will be required if the building (or portion thereof) is used as sanctuary space.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Bernard, Cantees, Carnes, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bayles, Dick, Harmon, Horner "absent") to **APPROVE** the minor amendment for PUD-489-9, subject to detail site plan approval and all other conditions of the PUD being met per staff recommendation.

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

Date Approved:

10/19/05

Mary E. Hill

1st Vice Chair Chairman

ATTEST:

[Signature]

Secretary