

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2286

Wednesday, September 19, 2001, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Harmon	Bayles	Bruce	Romig, Legal
Hill	Carnes	Dunlap	
Jackson	Horner	Huntsinger	
Ledford	Selph	Matthews	
Midget			
Pace			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, September 18, 2001 at 9:45 a.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 Jackson called the meeting to order at 1:34 p.m.

Minutes:

Approval of the minutes of August 22, 2001, Meeting No. 2284

On **MOTION** of **HARMON** the TMAPC voted 6-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph, Westervelt "absent") to **APPROVE** the minutes of the meeting of August 22, 2001, Meeting No. 2284.

Minutes:

Approval of the minutes of September 5, 2001 Meeting No. 2285

On **MOTION** of **HARMON** the TMAPC voted 5-0-1 (Harmon, Hill, Jackson, Midget, Pace "aye"; no "nays"; Ledford "abstaining"; Bayles, Carnes, Horner, Selph, Westervelt "absent") to **APPROVE** the minutes of the meeting of September 5, 2001 Meeting No. 2285.

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REPORTS:

Director's Report:

Mr. Dunlap reported that there are several items on the City Council agenda for September 20, 2001.

Mr. Westervelt in at 1:38 p.m.

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SUBDIVISIONS

LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

L-19276 – Robert Elliott (194) (PD-17) (CD-6)

South of southwest corner Admiral and 193rd East Avenue

Staff Recommendation:

Mr. Bruce stated that this lot-split is in order and staff recommends **APPROVAL**.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **7-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to **RATIFY** this lot-split given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

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FINAL PLAT:

Olympia Medical Park (282) (PD-8) (CD-2)

Location: Northeast corner of west 71st Street South and US Highway 75

Staff Recommendation:

The ownership will be platted in phases. The lot currently being platted will be the site of the Tulsa Spine Hospital.

Release letters are in order. Staff recommends **APPROVAL**, subject to receipt of owners' papers.

Note: The engineer has indicated that the applicant is requesting a waiver of the requirement for sidewalk along the east side of South Olympia Avenue based on his perception that there will be little if any need. The Subdivision Regulations require that sidewalks be located on both sides of collector streets.

After review, staff is of the opinion that sidewalks are appropriate in the area and recommends that the request for waiver be **DENIED**.

Applicant's Comments:

Roger Taylor, 20 West 2nd, Sand Springs, Oklahoma 74063, stated that this application is targeted for medical facilities. There are clusters of different types of medical facilities on the site and his position is that the traffic going into the facility will be going into a particular satellite business within the property and using the internal sidewalks. He explained that there would be no call for pedestrian traffic from one satellite area to the other. He commented that for this reason, he would like to request a waiver of the sidewalk requirement.

Mr. Taylor indicated that the nearest sidewalk to the subject property is the sidewalk on the bridge crossing Arkansas River, which is approximately one mile away.

TMAPC Comments:

Ms. Pace stated that this is a large parcel and it would be unfair to not require the sidewalks when anticipating future growth. In response, Mr. Taylor stated that there are vacant areas in the subject property with sizeable detention facilities, which are separated by different satellite areas by 600 or 700 feet. Mr. Taylor explained that the satellite facilities would have their own internal sidewalks and he does not see the use being warranted to have sidewalks linking each of the satellite areas.

Ms. Pace asked Mr. Taylor if he feels that he shouldn't contribute to the ongoing infrastructure in that quadrant of the City. In response, Mr. Taylor stated that he certainly intends to contribute to the infrastructure, but doesn't think the character of this PUD would be utilizing the sidewalk system that is required.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **WESTERVELT**, the TMAPC voted **7-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to **APPROVE** the final plat for Olympia Medical Park and **DENY** a waiver of the Subdivision Regulations as recommended by staff.

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PRELIMINARY PLAT:

Metro Park East

Northeast corner of West 71st Street South and US Highway 75

Staff Recommendation:

GENERAL:

The site is located at the northeast corner of East 61st Street South and 129th East Avenue. The site is the southern portion of the Ford Glass Plant Addition and runs for a length of approximately 2600 feet along 61st Street.

Easements to the Visteon Corporation are indicated in the central and eastern portion of the plat.

STREETS:

The eastern three lots will be accessed from 61st Street; the western lot will be accessed off of 129th East Avenue and 61st Street. The plat will not create any new streets.

Street dedications are indicated per the Ford Glass Plant Plat with 50' along both 129th and 61st.

SEWER:

Atlas sheet 382 indicates an eight-inch line present to the east.

WATER:

Sheet 382 indicates a 12" line present along the east side of 129th East Avenue.

STORM DRAIN:

Underground storm drain is shown in the western portion of the site and along the south boundary. Tulsa regulatory floodplain and overland drainage easement are shown in the southeast corner of the site.

UTILITIES

The plat indicates perimeter easements.

Staff provides the following information from TAC.

STREETS:

Traffic: The limits of no access should be noted in the covenants as "enforceable by the City". The access points should be reduced from 60' to 40'. Access to Lots 2 and 3 should be shared.

Streets: No comment.

SEWER:

An extension with easement will be required.

WATER:

An extension with easement will be required.

STORM DRAIN:

Onsite detention will be required, maintained by lot owners. The floodplain should be plotted using the 100 year flood elevation. The area of flooding should be put in a reserve; standard reserve language should be included in the covenants. The drainageway should be placed in a separate easement. Underground storm sewer should be in easement.

FIRE:

No comment.

UTILITIES:

Cox: Requested a five-foot and five-foot easement along the Lots 3 and 4 property line. Issues surrounding a rail crossing should be explored.

Staff recommends APPROVAL of the preliminary plat subject to the following:

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. Limits of no access should be addressed in the covenants as "enforceable by the City".
2. **ACCESS POINTS SHOULD BE REDUCED TO 40' IN WIDTH**

A shared access should be placed between Lots 2 and 3.

The floodplain area should be mapped with a reserve area laid over it and extending 15' on either side of the floodplain. Drainageways and underground systems should be placed in easements.

A five-foot and five-foot utility easement should be placed at the line between Lots 3 and 4.

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 topo 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 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.)
15. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
16. The key or location map shall be complete.
17. 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.)

18. 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.)
19. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
20. If the owner is a Limited Liability Corporation (L.L.C.), a letter from an attorney stating that the L.L.C. is properly organized to do business in Oklahoma is required.
21. All other Subdivision Regulations shall be met prior to release of final plat.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **WESTERVELT**, the TMAPC voted **7-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to recommend **APPROVAL** of the preliminary plat for Metro Park East subject to the special conditions and standard conditions as recommended by staff.

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COVENANTS FILED BY SEPARATE INSTRUMENT:

Z-6726 (PUD-623) (494)

(PD-17) (CD-6)

Southeast corner of East 5th Street and South 129th East Avenue

Staff Recommendation:

In January of 2000, the Planning Commission approved a plat waiver for the above-noted parcel. One of the conditions of the waiver was that the applicant file covenants by separate instrument that delineated the standards of the PUD.

The purpose of this request is to gain the Planning Commission's approval of the covenants to be filed by separate instrument as submitted.

Staff has reviewed the submittal and recommends **APPROVAL**.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **WESTERVELT**, TMAPC voted **7-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to **APPROVE** the covenants filed by separate instrument for Z-6726 as recommended by staff.

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CONTINUED ZONING PUBLIC HEARING

APPLICATION NO.: Z-6833

IL TO CS

Applicant: Thomas Vogt

(PD-18-C) (CD-5)

Location: 7901 East 41st Street South

Staff Recommendation:

RELEVANT ZONING HISTORY:

BOA-17538 October 1996: The Board of Adjustment denied a variance of the required 300' separation from another adult entertainment establishment and a variance of the required 1,000' separation from another sexually oriented business in order to operate a bar and adult entertainment establishment on property located north of the northeast corner of East 41st Street and South Memorial Drive and abutting the subject tract on the east. The proposed facility would have utilized the former Jade East Restaurant.

Z-6491 July 1995: All concurred in approval of a request to rezone a 150' x 250' tract located on the northwest corner of East 33rd Street and South Memorial Drive from IL to CS for retail use. The tract is located north of the subject property and north of the Broken Arrow Expressway.

BOA-16076 August 1992: The Board of Adjustment approved a special exception to permit Use Unit 14, Shopping Goods and Services in an IL-zoned district, and a special exception to permit Use Unit 12a, Sexually Oriented Business, in an IL-zoned district, with specific conditions, to open and operate an adult book store on that portion of the subject tract that is in the southeast corner.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately four acres in size and is located west of the northwest corner of East 41st Street South and South Memorial Drive. The property is flat; non-wooded; contains an adult entertainment establishment; and is zoned IL.

STREETS:

Exist Access	MSHP DESIGN	Exist. No. Lanes
East 41 st Street South	100'	4 lanes
South Memorial Drive	120'	4 lanes

The Major Street Plan designates East 41st Street South as a secondary arterial street and South Memorial Drive as a primary arterial street. The City of Tulsa Traffic Counts 1998 – 1999 indicates 22,600 trips per day on East 41st Street South at South Memorial Drive.

UTILITIES: Water and sewer are available to the subject property.

SURROUNDING AREA: The subject tract is abutted on the north by industrial and commercial uses, zoned IL; to the east by one restaurant zoned IL and one restaurant zoned CS; to the west by a warehouse that has been approved by the Board of Adjustment for church use; and to the south by a strip shopping center, zoned IL.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Special District 1 – Industrial Area.

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

STAFF RECOMMENDATION:

Any zoning classification **may be found** in accordance with the special district designation, provided the uses permitted by the zoning classification are consistent with the land use and other existing physical facts in the area, and supported by the policies of the District Comprehensive Plan.

Based on the existing Industrial Special District designation and industrial uses in the area, staff cannot support the requested CS zoning and therefore recommends **DENIAL** of CS zoning for Z-6833.

TMAPC Comments:

TMAPC received two letters of opposition regarding the CS zoning for Z-6833 (Exhibit B-1).

Applicant's Comments:

Thomas Vogt, 15 East 5th Street, Suite 3800, Tulsa, Oklahoma 74103, representing the property owner, Andrew J. Broughton, stated that his client has owns the subject property since 1981 and he has continuously operated his business as a night club or dance hall. He indicated that the subject property has been operating with the same use since 1962.

Mr. Vogt stated that the subject property is a commercial type of use and it is not permitted as a matter of right in an industrial area. He explained that his client would like to conform the zoning to the use. He stated that after 40 years the subject property should be zoned to reflect what it is being used for.

Mr. Vogt cited the different uses and zonings along Memorial Drive. He indicated that the special district begins at 51st Street and runs north. The special district includes Fontana Shopping Center and it is zoned CS, not industrial. The Fontana Shopping Center sets a precedent to allow commercial zoning within the special district. He stated that within the industrial district there is a very large Wal-Mart less than a quarter of a mile from 41st and Memorial Drive.

Mr. Vogt stated that on the corner of 41st and Memorial Drive there is some CS zoning (Burger King Restaurant), which is adjacent to the subject property. Mr. Vogt cited the adjacent uses and zonings to the subject property. He stated that the pattern of retail and commercial uses are all along Memorial Drive and many are within the industrial district. Given the proximity of the subject property to the intersection of 41st and Memorial Drive it would be appropriate that commercial zoning be granted.

Mr. Vogt explained that the subject property did receive a special exception and a variance in 1974 to allow the ballroom. Mr. Vogt submitted Board of Adjustment minutes from 1974 (Exhibit B-2). He explained that his client has a number of licenses he has to obtain and each time he has to prove he has a variance and special exception.

Mr. Vogt stated that there are several protestants in attendance and he believes that there is some concern that the subject property could be used for a sexually oriented business. He explained that there is a church next door to the subject property and therefore there can't be a sexually oriented business located on the subject property. There is also an existing sexually oriented business on a portion of the subject tract that would prevent another sexually oriented business from going into the subject property. He indicated that in 1996 the Board of Adjustment denied a variance to allow another adult entertainment establishment east of the subject property. The concerns of the interested parties are not valid because it is not an issue. The zoning request is not for a sexually oriented business.

Mr. Vogt commented that the variance and special exception language is broad enough that his client could have a sexually oriented business if the church and Priscilla's were gone. Mr. Vogt stated that his client has a variance and special exception to operate any commercial use that was approved in 1974, which was Use Unit 12. He reiterated that his client is not requesting zoning to allow sexually oriented businesses, but to rezone to reflect the use that has been present for 40 years.

TMAPC Comments:

Mr. Westervelt stated that Mr. Vogt is a Contract and Title Lawyer and this is a lot of work to go through to keep from having to read a semi-faded piece of microfiche that gives his client permission to operate. Mr. Westervelt asked Mr. Vogt if there is some other motivation beyond this sort of paperwork clarification.

In response, Mr. Vogt stated that according to his client, he deals with a number of different agencies and he has to prove his special exception and variance each time. If his client were to ever misplace the documents it would be detrimental to his business.

Applicant's Comments:

Jack Broughton, 7901 East 41st, Tulsa, Oklahoma, 74135, stated that the whole situation came about because of the church situation next door. He explained that if his permits or his variance were to lapse, with a church next door he couldn't reopen. If the doors should shut due to permitting problems, then the church has precedence over his business. He explained that without the correct zoning, the church next door could preclude him from operating if his license or permits lapsed. Mr. Broughton commented that he has never had any problems with his permits and licenses over the past twenty years.

TMAPC Comments:

Mr. Westervelt asked staff if there is a timeframe on the Board of Adjustment action or is it an open-ended action. In response, Mr. Romig stated that it is an open-ended action and there is no risk of it lapsing or expiring. Mr. Broughton stated that if he made a mistake and forgot to renew a license or permit, he would have to close down. Mr. Broughton commented that he believes that if he is late one day renewing his license or permit than he cannot serve beer until the license is given, which could be 45 days until the license is renewed. Mr. Broughton explained that he doesn't know this for a fact, because he has never lapsed or been late renewing his license or permits. Mr. Midget stated that he doesn't understand what the permits and licensing have to do with the zoning and preventing him from continuing his business. Mr. Midget commented that the zoning doesn't change because the applicant forgot to renew his beer license. In response, Mr. Broughton stated that the reason he wants the correct zoning is so that if he should make a mistake, which causes him to shut his doors until they are renewed, then he can reopen regardless of the church having priority. Mr. Broughton stated that the use of the subject property is not going to change. Mr. Broughton explained that he leased his office to Priscilla's, which has a sexually oriented business permit. Mr. Broughton commented that he leased the property to a sexually oriented business in order to have an umbrella up and down Memorial and 41st Street. Mr. Broughton explained that with the umbrella, it would prevent additional sexually oriented businesses and there are fifteen years left on the lease. Mr. Broughton further explained that Priscilla's couldn't use their sexually oriented business permit to the fullest extent because it would break his lease.

Mr. Midget stated that his concern is the impact that the requested zoning could cause. If the Caravan were to close, he would still have a distance problem from the church with a CS zoning. Mr. Broughton stated that this is his point. Mr. Midget explained that if the Caravan Ballroom closed tomorrow and he was granted a CS zoning, he still would have a distance problem with the church

being across the street. Mr. Midget asked Mr. Broughton if he had any plans in the future to redevelop the subject property into a strip mall or expanding the current use. Mr. Broughton stated he has none whatsoever. Mr. Broughton further stated that the subject property has been a dance hall for 40 years and would continue to be a dance hall for another 40 years. Mr. Broughton reiterated that he has no intention of creating anything other than the existing development. Mr. Broughton agreed that there is a distance problem because of the church and Priscilla's; however, if it were zoned correctly, by right he could open back up as a dance hall. Mr. Broughton stated that if the subject property were zoned CS he would still have to apply for the sexually oriented business, so just because it is zoned CS doesn't give him the right to have a 12a use.

Mr. Westervelt asked Mr. Broughton if the Planning Commission denied his application today, what he would do differently. In response, Mr. Broughton stated that he would continue to operate the existing dance hall.

Mr. Westervelt asked Mr. Romig if he could clarify the conversation between the applicant and his attorney. In response, Mr. Romig stated that it doesn't really matter what the zoning is, because the spacing requirement would still have to be met. Mr. Romig explained that regardless of the zoning, with the church and the Priscilla's being adjacent, there would still be spacing problems if the existing business changed. Mr. Romig stated that if the subject property were zoned CS, there are numerous other uses allowed by right, whereas under the present IL zoning, these uses would require a special exception. Mr. Romig commented that this would be the biggest change regarding the zoning request.

Ms. Pace asked Mr. Romig since Priscilla's is leased from the applicant, and he referred to it as formerly being his office, there is any chance he could combine the two buildings and have a larger sexually oriented business if the church moves out. In response, Mr. Romig stated that he believes that the difference in the buildings, the ownerships and types of business, he doesn't see that as a possibility.

Interested Parties Comments:

Brad Beasley, 100 West 5th, Suite 800, Tulsa, Oklahoma 74103, representing Mrs. Lois Thomas-Dupree, Jim Thomas, JMT Investment Company and Thomas Cadillac, stated that his clients are in opposition to the requested change in zoning. He commented that Mr. Vogt described all of the commercial uses along Memorial; however, the subject property does not front on Memorial. He indicated that the subject property fronts on 41st Street and South 79th East Avenue.

Mr. Beasley stated that times and circumstances could change and there are no guarantees or assurance that the current sexually oriented business located on the applicant's property would be there in two years and the same with the church.

Mr. Beasley stated that he doesn't understand why the applicant needs the zoning change because he is currently in compliance with Zoning Code by obtaining a variance and special exception from the Board of Adjustment. If the subject property is zoned CS, then there are more uses that are allowed as a matter of right.

Jan Magee, City Council Office, representing Councilor Sam Roop, read a statement opposing the zoning change from Councilor Roop (Exhibit B-1).

E.J. Buchanan, Jr., 2252 East 7th Street, Tulsa, Oklahoma 74107, stated that his family owns property to the north of the subject property. He expressed concerns regarding taking someone's word that the use would never change over the years. The subject use has existed under the current zoning for over 40 years and he does not see any reason to change the zoning. Mr. Buchanan stated that he is strongly against the requested zoning change and is speaking for his tenants as well.

Robert Hart, 9218 East 37th Street, Tulsa, Oklahoma 74145, representing Fulton Neighborhood Association, stated that there are numerous neighbors present today who are against this request. He explained that the Fulton Neighborhood is located at 31st Street and 41st Street and Mingo and Memorial.

Mr. Hart stated he is not sure why the applicant wants to rezone the subject property, since it is currently allowed to operate under the existing zoning. There would be opportunities for changes in the uses if the CS zoning were granted that would greatly impact the neighborhood. Mr. Hart concluded that the Fulton Neighborhood opposes the CS zoning for the subject property.

TMAPC Comments:

Mr. Westervelt asked Mr. Hart how close the nearest residence is to the subject property. In response, Mr. Hart stated he didn't know the footage, but the neighborhood is located on the north side of the Broken Arrow Expressway.

Interested Parties Comments:

Nancy Mackey, 4818 South Zunis Avenue, Tulsa, Oklahoma 74145, stated that she is co-owner of the one of the properties located along Memorial. Ms. Mackey cited the various properties of which she is co-owner.

Ms. Mackey stated that she leases a piece of property that currently back up to the subject property and experiences many problems with the clientele from the Caravan Ballroom. She described the problems and behavior of the clientele from the Caravan (trash, defecating, broken beer bottles, etc.).

Julian Coddling, 701 Northwest 5th, Oklahoma City, Oklahoma 73102, co-owner of El Dorado Motors, stated that he owns property on Memorial and 79th East Avenue. He commented that he strongly opposes any sexually oriented

business and the rezoning of the subject property. These types of businesses bring a poor clientele to the neighborhood. He commented that currently the Caravan Ballroom is allowed to operate and there is no compelling reason to change the current zoning.

Applicant's Rebuttal:

Tom Vogt stated that the fear of a sexually oriented business is not valid. If there is a fear of a sexually oriented business with CS zoning then no one would want CS zoning anywhere because it allows a Use Unit 12.a. The arguments made today would apply to any CS zoning.

Mr. Vogt stated that if his client had requested a CS zoning for a drugstore there would not have been a problem. There is nothing wrong with the subject property being zoned CS. Memorial is full of CS-zoned land, commercial and retail uses. He recognized that the subject property does not front Memorial because there is a strip of CS-zoned property between the subject property and Memorial. He commented that the subject property is a prime corner for CS zoning.

Mr. Vogt pointed out that the Fulton Neighborhood has CS zoning next to their neighborhood and across the street. He cited the various retail uses in the subject area. He reiterated that this application is not about a sexually oriented business. He stated that the only reason for the request is to make it easier for his client to renew his licenses and permits without having to prove he has a variance and special exception. Mr. Vogt concluded by requesting the Planning Commission to consider the land issue and not the current use.

TMAPC Comments:

Mr. Harmon stated that he doesn't see any valid reason for the zoning change.

Mr. Westervelt stated that he is ambivalent about the application and doesn't think everyone has been forthcoming with the reasons for opposing and the request for the zoning change.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, the TMAPC voted **6-1-0** (Harmon, Hill, Ledford, Midget, Pace, Westervelt "aye"; Jackson "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to recommend **DENIAL** of CS zoning for Z-6833 as recommended by staff.

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ZONING PUBLIC HEARING

APPLICATION NO.: Z-6835

AG/RS-3 TO CS

Applicant: John Moody

(PD-15) (CD-1)

Location: South of southeast corner of East 46th Street North and North Peoria

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-6743 February 2000: All concurred in approval of a request to rezone a four-acre strip located east of the southeast corner of East 46th Street North and North Peoria Avenue from RS-3 to CS.

Z-6575 February 1997: All concurred in approval to rezone .4-acre tract located south of the southeast corner of East 46th Street North and North Peoria Avenue from OL to CS.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 6.6 acres in size and is located south of the southeast corner of East 46th Street North and North Peoria Avenue. The property is flat; non-wooded; contains stacks of used tires (a nonconforming use); and is zoned AG, RS-3, and CS.

STREETS:

Exist Access	MSHP DESIGN	Exist. No. Lanes
East 46 th Street North	100'	2 lanes
North Peoria Avenue	100'	2 lanes

The Major Street Plan designates East 46th Street North and North Peoria Avenue as secondary arterial streets. The City of Tulsa Traffic Counts 2000 indicates 14,200 trips per day on North Peoria Avenue at the intersection of East 46th Street North.

UTILITIES: Water and sewer are available from the north.

SURROUNDING AREA: The subject tract is abutted on the north by a new Walgreen's store, zoned CS; to the south and east by largely vacant, heavily-wooded and sloping land associated with Flat Rock Creek and Flat Rock Creek Park, zoned AG and RS-3; and to the west by a nail salon, barber shop and related uses in a strip center, zoned CS.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 25 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Medium Intensity-No Specific Land Use, Low Intensity-Residential Land Use and Special District 1-Development Incentive Area. Plan text policies call for Development Incentive Areas to be developed as

well planned and well-designed growth districts and suggest several means of minimizing adverse impacts on adjacent areas. The text also recommends that CS zoning is appropriate in the Development Incentive Area.

According to the Zoning Matrix the requested CS zoning **is** in accordance with the Medium Intensity-No Specific Land Use designation, **is not** in accordance with the Low Intensity-Residential Land Use designation, and **may be found** in accordance with the Special District designation on the Plan Map.

STAFF RECOMMENDATION:

Based on existing trends in the area and adjacent land uses, staff can support the requested CS zoning and therefore recommends **APPROVAL** of CS zoning for Z-6835.

If the TMAPC is inclined to recommend approval of this rezoning, staff should be directed to prepare appropriate plan amendments.

TMAPC Comments:

Mr. Midget asked the applicant if the tire recycling business would disappear. In response, Mr. Moody stated that his client wants to phase out the tire recycling business and have a mini-storage facility. Mr. Midget stated that he hopes that the proposal does not resemble what currently exists. Mr. Moody indicated that his client would probably not be the developer due to his health.

The applicant indicated his agreement with staff's recommendation.

Interested Parties Comments:

J. D. Bussman, 4340 North Trenton, Tulsa, Oklahoma 74106, stated that he owns the AG-zoned property next to the subject property. He asked if the storage of old automobiles would be allowed. Mr. Midget stated that if the applicant has automobiles stored on the subject property, then it is a Zoning Code violation and Neighborhood Inspections should be notified.

Mr. Bussman stated that he is not against mini-storage, but he would like to see the cars go away.

TMAPC Action; 7 members present:

On **MOTION** of **WESTERVELT**, the TMAPC voted **7-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to recommend **APPROVAL** of CS zoning for Z-6835 as recommended by staff.

Legal Description for Z-6835:

The South 200.00' of the North 450.00' of the East 190.00' of the West 240.00' of Government Lot 1, Section 18, T-20-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, and the North

615.26' of the following described tract of land, the South 1,036.50' of the West 219.45' of the East 249.45' of the West 14.86 acres of Government Lot 1 of Section 18, T-20-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, and the South 117.50' of the East 190.00' of the West 240.00' of the West 14.86 acre of Government Lot 1 of Section 18, T-20-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, and the South 1,036.50' of the West 219.45' of the East 249.45' of the West 14.86 acres of Government Lot 1, Section 18, T-20-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. government survey thereof, less and except the North 615.26' thereof, and located south of the southeast corner of East 46th Street North and North Peoria Avenue, Tulsa, Oklahoma, **From AG and RS-3 (Agriculture District and Residential Single-family High Density District) To CS (Commercial Shopping Center District).**

* * * * *

APPLICATION NO.: CZ-291

Applicant: William B. Jones

Location: 4909 West 51st Street

RS TO IL

(PD-9) (County)

Staff Recommendation:

RELEVANT ZONING HISTORY:

CZ-240 February 1998: All concurred in approval of a request to rezone a one-acre lot, located west of the southwest corner of West 50th Street South and South 49th West Avenue from IL to RS for residential use.

CBOA-1117 November 1992: The Board of Adjustment approved a special exception to allow a manufactured home in an RS-zoned district for three years and subject to the manufactured home being removed when the single-family dwelling construction is completed. The property is located west of the southwest corner of West 50th Street and South 49th West Avenue.

CBOA-0632 January 1986: The Board of Adjustment approved a variance of the required 75' setback from an R-zoned district to allow for a building in an IL-zoned district. The property is located west of the northwest corner of West 51st Street and South 49th West Avenue.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 9.8 acres in size and is located west of the northwest corner of West 51st Street and South 49th West Avenue. The property is sloping, partially wooded, vacant and zoned RS.

STREETS:

Exist Access	MSHP R/W	Exist. No. Lanes
Gilcrease Expressway	Varies	4 lanes
West 51 st Street South	100'	2 lanes
South 49 th West Avenue	100'	2 lanes

The Major Street and Highway Plan designates the Gilcrease Expressway as a freeway and West 51st Street South and South 49th West Avenue as secondary arterial streets.

UTILITIES: Water and sewer would be available by an extension from the northeast.

SURROUNDING AREA: The subject tract is abutted on the north by vacant land, zoned RS; to the east by a single-family dwelling and a non-conforming manufactured home (see reference to CBOA-1117, above) zoned RS and truck storage facilities, zoned IL; to the south by the Gilcrease Expressway right-of-way, zoned CG and beyond the expressway are industrial uses, zoned IM; to the west by the Gilcrease Expressway, zoned CG, beyond the expressway to the west are scattered single-family dwellings, zoned RS.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 9 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Special District 6. Plan policies recognize the general industrial character of this Special District, and recommend it be developed with industrial uses that do not have adverse external impacts such as smoke, noise or fumes. Light to medium manufacturing uses are suggested (item 3.6.4).

According to the Zoning Matrix the requested IL and CG zoning **may be found** in accordance with the Plan Map by virtue of the parcel's location within a special district.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, the existing industrial uses and development in the area, staff recommends **APPROVAL** of IL zoning for CZ-291.

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 **HARMON**, the TMAPC voted **7-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to recommend **APPROVAL** of IL zoning for CZ-291 as recommended by staff.

Legal Description for CZ-291:

A tract of land located in the SW/4 and the SE/4 of SE/4 of Section 29, T-19-N, R-12-E of the IBM, Tulsa County, Oklahoma; being more particularly described by metes and bounds as follows: Commencing at the Southeast corner of the SE/4, Section 29, T-19-N, R-12-E, of the IBM, thence S 89°11'07" W along the South line of said SE/4 a distance of 512.80'; thence N 00°48'38" W a distance of 65.32' to the Point of Beginning being on the east line of Lot 13, Block 2, Austin's Subdivision, an addition in Tulsa County, Oklahoma, said Point of Beginning also being on the Northeasterly roadway right-of-way for West 51st Street South and the Gilcrease Expressway; thence N 85°48'04" W along said right-of-way a distance of 224.83'; thence N 64°34'00" W along said right-of-way a distance of 294.12'; thence N 00°48'38" W along said right-of-way a distance of 60.45'; thence S 89°11'08" W along said right-of-way a distance of 122.60'; thence N 53°10'16" W along said right-of-way a distance of 287.47'; thence N 00°48'45" W along said right-of-way a distance of 21.79'; thence S 89°11'30" W along said right-of-way distance of 35.02'; thence N 56°19'20" W along said right-of-way a distance of 289.52'; thence N 89°10'47" E a distance of 298.67'; thence N 00°48'39" W a distance of 94.75' to a point being on the southerly line of a public road easement; thence S 88°53'29" E along said easement a distance of 748.42'; thence S 00°48'38" E along said easement a distance of 130.42' to a point being on south line of Block 1 of said Austin's subdivision; thence S 89°11'07" W along said south line of Block 1 a distance of 260.20'; thence S 00°48'38" E a distance of 50.00' to a point being on the north line of said Block 2; thence N 89°11'07" E along said north line of Block 2 a distance of 325.20' to the Northeast corner of Lot 4 of said Block 2; thence S 00°48'38" E along the east lines of Lots 4 and 13 of said Block 2 a distance of 460.74' to the Point Of Beginning, and containing 9.8115 acres, more or less, this tract of land contains all of Lots 4 and 5 of said Block 2 and that part of Lot 13 of said Block 2 that is north of said roadway right-of-way and located west of the northwest corner of West 51st Street South and South 49th West Avenue, Tulsa, Oklahoma, **From RS (Residential Single-family District) To IL (Industrial Light District).**

* * * * *

APPLICATION NO.: Z-6836

RM-1 TO OL

Applicant: Ealy C. Sherman

(PD-2) (CD-3)

Location: Southeast corner of East Archer and North Utica

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-6794 January 2001: All concurred in approval of a request to rezone a lot located on the northwest corner of East Admiral Place and North Trenton from RM-2 to CS for an existing restaurant.

Z-6745 February 2000: A request to rezone a 250' x 130' lot located on the southwest corner of East Admiral Place and North Utica Avenue from RM-2 to CH. Staff and TMAPC recommended denial of CH and recommended approval of CS zoning in order to provide additional land area for the expansion of a convenience store. City Council concurred in approval of CS zoning.

Z-6413 October 1993: All concurred in approval of a request for a blanket rezoning of the Barton Neighborhood. The area is located north of I-244 between North Utica Avenue and North Lewis Avenue and abutting the subject tract on the east, and was rezoned from RM-1 to RS-4.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 107' x 140' in size and is located on the southeast corner of East Archer Street and North Utica Avenue. The property is flat, non-wooded, vacant and zoned RM-1.

STREETS:

Exist Access	MSHP DESIGN	Exist. No. Lanes
East Archer Street	60'	2 lanes
North Utica Avenue	70' (80' at major intersection)	2 lanes

The Major Street Plan designates East Archer Street as a residential collector and North Utica Avenue as an urban arterial street.

UTILITIES: Water and sewer are available to the property.

SURROUNDING AREA: The subject tract is abutted on the north by single-family residences, zoned RM-2; on the south by a City fire station, zoned RM-1, and farther south by a few single-family residential units, a public park and the expressway, zoned RM-1 and RS-3; on the east by a single-family residential neighborhood, zoned RS-4; and on the west by a gate and fence manufacturer, zoned IM.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 2 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Low Intensity-Residential land use.

According to the Zoning Matrix the requested OL zoning **is not** in accordance with the Plan Map.

STAFF RECOMMENDATION:

Although the Comprehensive Plan does not support the requested rezoning, because of existing physical conditions, staff can support OL zoning on this property. The area surrounding it is very much mixed in use, and it is unrealistic to believe that the lot, which is adjacent to a fire station and across the street from an industrial area, will redevelop as single-family residential. Therefore, staff recommends **APPROVAL** of OL zoning for Z-6836.

If the TMAPC is inclined to recommend approval of this rezoning, staff should be directed to prepare appropriate plan amendments.

The applicant indicated his agreement with staff's recommendation.

Interested Parties Comments:

Michael Bailey, 103 North Victor Avenue, Tulsa, Oklahoma 74110, representing Kendall-Whittier Neighborhood Association, stated that he opposes this application. He indicated that this would be infringing into the residential area and the Kendall-Whittier Master Plan indicates that these lots are too shallow to be used for retail or office uses. Presently there is no OL and CS east of Utica and the neighborhood would like to continue this. He concluded that there are a lot of families in the subject area and the neighborhood is trying to rebuild.

Eleanore Bodenhamer, 120 North Birmingham Avenue, Tulsa, Oklahoma 74104, reminded the Planning Commission that Maria Barnes submitted a letter from the Kendall-Whittier Neighborhood Association (Exhibit C-1) opposing this application. The Master Plan recommends that there not be any business in the residential area because of the shallow lots.

Donna Griffin, 44 North Victor Avenue, Tulsa, Oklahoma 74150, stated that the neighborhood is changing and there are a lot new families in the subject area. She expressed concerns regarding traffic, parking for the clientele, children's safety, etc. Ms. Griffin concluded that she is opposed to this application.

Applicant's Rebuttal:

Evon Sherman, 2145 North Hartford Place, Tulsa, Oklahoma 74106, stated that she felt she was bringing something positive into the neighborhood. She proposed a beauty shop with adequate parking.

TMAPC Comments:

Ms. Pace asked the applicant why she didn't go to the Board of Adjustment and ask for a special exception. In response, Ms. Sherman stated that she was advised about the special exception option, but she is asking for a rezoning.

Mr. Midget stated that the lot is vacant and the applicant has to build, which would create a problem without the proper zoning. There is no home existing to request a special exception for a home occupation.

Ms. Sherman stated that the subject property has been vacant for over 40 years.

Mr. Harmon stated that the property has been vacant for over 40 years without being developed, the chances for it ever being used for residential are extremely remote. He commented that OL zoning is not too intrusive.

Mr. Pace stated that she drove the area yesterday and she knows the efforts of the subject neighborhood. Utica is a collector street and it is the dividing line from IM and RS. This appears to be spot zoning and she can't support this application.

Ms. Matthews clarified that Utica is an urban arterial street. Ms. Matthews stated that there are mixed uses along Utica.

Mr. Jackson stated that there are mixed uses in the subject area.

Mr. Midget concurred with Mr. Harmon. He stated that OL is less intrusive to the neighborhood.

Mr. Westervelt stated that this is the second application that he is ambivalent on and he can't support OL zoning for the subject property, although he believes that the staff recommendation is appropriate and consistent.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, the TMAPC voted **4-3-0** (Harmon, Jackson, Ledford, Midget "aye"; Hill, Pace, Westervelt "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to recommend **APPROVAL** of OL zoning for Z-6836 as recommended by staff.

Legal Description for Z-6836:

Lots 21 and 22, Block 4, Barton Addition to the City of Tulsa, Tulsa County, State of Oklahoma, and located on the southeast corner of East Archer Street North and North Utica Avenue, Tulsa, Oklahoma, **From RM-1 (Residential Multifamily Low Density District) To OL (Office Low Intensity District).**

APPLICATION NO.: Z-6837

AG TO IM/IH

Applicant: Charles Norman

(PD-16) (CD-6)

Location: Southeast corner of East 46th Street North and Highway 169 North (Garnett)

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-4509 September 14, 1973: The City Commission approved IM zoning on a 20-acre tract immediately south of and abutting the subject site.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 155 acres in size and is located on the southeast corner of East 46th Street North and North Garnett Road. The property is flat, non-wooded, vacant and zoned AG.

STREETS:

Exist Access	MSHP DESIGN	Exist. No. Lanes
East 46 th Street North	120'	2 lanes
North Garnett Road	100'	2 lanes

The Major Street Plan designates East 46th Street North as a primary arterial street and North Garnett Road as a secondary arterial street. Highway 169 North lies on the west side of Garnett Road and is a freeway. The City of Tulsa Traffic Counts – 2000 indicate 16,500 trips per day on East 46th Street North between North Garnett Road and North 129th East Avenue.

UTILITIES: Water would be available from the north, but it would have to be extended under East 46th Street North. The nearest sewer is to the west of the Mingo Valley Expressway and would be very expensive to extend.

SURROUNDING AREA: The subject tract is abutted on the north by vacant land and the Oxley Stables, zoned AG, and a quarry site, zoned IH; to the east by vacant land, zoned IH, and farther east across North 129th East Avenue, a quarry site, zoned IH; to the south by an industrial use, zoned IM, and vacant land, zoned IH.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 16 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as in Special District 2. Plan policies indicate this special district "is a large site ...that has multiple potential for mixed land use in support of the primary emphasized land use, that of industrial development" (item 3.2). The plan recognizes the compatibility of most types of industrial uses with the nearby Tulsa International Airport. Part of the site lies within a designated 65 DNL noise contour; however, that contour was in conjunction with

the proposed third runway, which was never built and neither the runway nor the contour appear on the latest Airport Noise Study.

According to the Zoning Matrix the requested IM and IH zoning **may be found** in accordance with the Plan Map because of the site's location within a special district.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, existing land uses, zoning patterns in the area and trends, staff can support the requested rezoning and therefore recommends **APPROVAL** of IM and IH zoning for Z-6837.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that the property south of and adjacent to this was zoned in the IH category several years ago, but when the alignment for East 46th Street North, there is a small strip of land running north and south between the original zoning boundary and the south boundary right-of-way, which is the part he is requesting to be IH and the remainder of the subject property be IM. Mr. Norman cited the surrounding zoning and properties.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, the TMAPC voted **7-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to recommend **APPROVAL** the IM and IH zoning for Z-6837 as recommended by staff.

Legal Description for Z-6837:

Located in the southeast corner of East 46th Street North and North Garnett Road and described as follows: **Tract 1:** The NW/4 of Section 17, T-20-N, R-14-E of the IBM, Tulsa County Oklahoma, less conveyances of record for public rights of way; **From AG (Agriculture District) To IM (Industrial Moderate District)** and **Tract 2:** That portion of the northerly 400' of the NE/4 lying North of the tract zoned IH in Section 17, T-20-N, R-14- E of the IBM, Tulsa County, Oklahoma, less conveyances of record for public rights of way; **From AG (Agriculture District) To IH (Industrial Heavy District).**

* * * * *

APPLICATION NO.: Z-6838

RS-3 TO OL

Applicant: John T. Atwood

(PD-6) (CD-7)

Location: West of southwest corner of East 31st Street and South Pittsburg

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-6825 August 2001: All concurred in approval of a request to rezone a lot located south of the southwest corner of East 31st Street and South Louisville from RS-3 to PK.

PUD-638 September 2000: All concurred in approval of a request for a Planned Unit Development on a 1.9-acre tract located on the southwest corner of East 32nd Place and South Jamestown Avenue from RM-1 and RM-2 to RM-1/RM-2/PUD for the proposed development of a two-story medical office.

Z-6426 November 1993: A request to rezone a 86' x 139' lot, located on the east side of South Gary Place and south of East 31st Street from RS-1 to PK was submitted. The tract was used as a non-conforming parking lot and abutted by a medical office to the north, Walgreen's to the east and single-family dwellings on the south. All concurred in approval of PK zoning less the west 25'.

Z-6393 March 1993: All concurred in approval of a request to rezone a lot located east of the northeast corner East 31st Street South and South Louisville Avenue from RS-3 to OL for office use.

Z-6303 December 1990: All concurred in approval of a request to rezone a lot located approximately 150' east of the subject tract from RS-3 to OL.

Z-5895/PUD-345 January 1984: A request to rezone a 2.7-acre tract located west of the southwest corner of East 31st Street and South New Haven Avenue from RS-3 to PK and OL for the development of the Tulsa Teachers Credit Union. All concurred in approval of the request, which rezoned the western two lots to OL with the balance remaining RS-3.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 75' x 135' in size and is located west of the southwest corner of East 31st Street South and South Pittsburg Avenue. The property is sloping, non-wooded, contains a single-family dwelling and is zoned RS-3.

STREETS:

Exist Access	MSHP DESIGN	Exist. No. Lanes
East 31 st Street South	100'	4 lanes
South Pittsburg Avenue	N/A	2 lanes

The Major Street Plan designates East 31st Street South as a secondary arterial street and South Pittsburg Avenue is a residential street. The City of Tulsa Traffic Counts – 2000 indicate 29,900 trips per day on East 31st Street South between South Harvard Avenue and South Yale Avenue.

UTILITIES: Water and sewer are available to the subject tract.

SURROUNDING AREA: The subject tract is abutted on the north by Tulsa Public Schools Education Service Center, zoned RS-3; on the east and west by single-family dwellings that have previously been rezoned from RS-3 to OL, and to the south by single-family dwellings, zoned RS-3.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 6 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Low Intensity – Linear Development Area. Plan policies encourage use of the PUD to minimize impacts on adjacent low intensity residential uses and call for screening of parking areas from abutting residential uses (Section 3.6).

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

STAFF RECOMMENDATION:

The Comprehensive Plan encourages PUD development within the Linear Development Area, but previous OL zoning has occurred without a Planned Unit Development. Therefore, based on the existing uses and zoning in this area, staff recommends **APPROVAL** of OL zoning for Z-6838.

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 **HARMON**, the TMAPC voted **7-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to recommend **APPROVAL** OL zoning for Z-6838 as recommended by staff.

Legal Description for Z-6838:

Lot 4, Block 1, Dartmoor Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, and located west of the southwest corner of East 31st Street South and Pittsburg Avenue, Tulsa, Oklahoma, **From RS-3 (Residential Single-family High Density District) To OL (Office Low Intensity District).**

APPLICATION NO.: Z-6839
Applicant: Ed Scholten
Location: 209 South Nogales

RM-2 TO CG
(PD-10) (CD-4)

Staff Recommendation:

RELEVANT ZONING HISTORY:

Z-6284 June 1990: A request to rezone a 2.4-acre tract, formerly the Irving Elementary School, located on the southeast corner of West Archer Street and South Nogales from RM-2 to CG. Staff recommended approval of CG on the north 152' of the east 137' only, with the balance remaining RM-2. TMAPC and City Council concurred in approval of CG zoning on the entire tract.

BOA-12631 June 1983: The Board of Adjustment approved a special exception to allow office use in an RM-2 district, variances of setbacks, and a waiver of screening for an office use on property located on the northeast corner of West Charles Page Boulevard and South Nogales Avenue.

BOA-12194 August 1982: The Board of Adjustment denied a request for a bail bonds office and accessory parking on the subject tract.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 100' x 122' in size and is located north of the northeast corner of Charles Page Boulevard and South Nogales Avenue. The property is sloping; non-wooded; contains a single-family dwelling and non-conforming lawn care business and is zoned RM-2.

STREETS:

Exist Access	MSHP DESIGN	Exist. No. Lanes
West Charles Page Boulevard.	70' (minimum 80' at the intersection)	4
South Nogales Avenue	60'	2

The Major Street Plan designates West Charles Page Boulevard as an urban arterial street and South Nogales Avenue is a residential collector street.

UTILITIES: Water and sewer are available to the subject tract.

SURROUNDING AREA: The subject tract is abutted on the north and east by I-244 right-of-way, zoned RS-3; to the south by a single-family dwelling and the Tulsa Metropolitan Ministry offices, zoned RM-2; and to the west by single-family dwellings, zoned RM-2.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 10 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Medium Intensity-Commercial land use.

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

STAFF RECOMMENDATION:

Based on the adjacent and surrounding land uses, the neighborhood association's expressed intent to seek rezoning to a single-family residential designation and trends in the area, staff cannot support the requested rezoning and therefore recommends **DENIAL** of CG zoning for Z-6839.

Applicant's Comments:

Ed Scholten, 209 South Nogales Avenue, Tulsa, Oklahoma 74124, stated that he has a lawn service that he has operated for 22 years and has lived in the existing home for 16 years. He commented that he has never received any complaints regarding his lawn service. He explained that after reading an article regarding parking on grass is a code violation, he then laid concrete to prevent from parking his trucks on grass. He indicated that he does not park his vehicles on the street and everything for the lawn service is parked on concrete behind the fence.

Mr. Scholten explained that if he were not approved for this zoning he would have to quit his business because he wouldn't have the funds to relocate and rent a building.

TMAPC Comments:

Mr. Midget asked Mr. Scholten if he is currently living at the subject property. In response, Mr. Scholten stated that he has lived there for 16 years.

Mr. Scholten submitted a petition and map indicating neighbors that are in favor of his request (Exhibit D-1). He requested that CG zoning be approved for the subject property. He commented that he has never caused his neighbors any problems and it shows by the number of people that signed the petition. Mr. Scholten submitted photographs of the subject property (Exhibit D-2).

Interested Parties Comments:

Rex Puckett, 215 South Nogales, Tulsa, Oklahoma 74124, stated that he lives one door south from the applicant. He indicated that he has lived in the subject area since 1987 and Mr. Scholten has been a remarkable neighbor. He stated that Mr. Scholten mows the lots behind their homes that back up to the expressway.

Mr. Puckett stated that their street is very wide and there are no parking problem, nor safety hazards. The applicant installed pavement to keep within the code, which he parks his equipment on.

TMAPC Comments:

Mr. Midget asked why the applicant is requesting a zoning change rather than a home occupation. In response, Mr. Dunlap stated that the landscape/lawn service is a Use Unit 15 and it is not allowed in the district the applicant lives. Mr. Dunlap explained that a Use Unit 15 would require a special exception in the CS district.

Mr. Midget asked if the applicant would be allowed to park his equipment at his home. In response, Mr. Dewayne Smith, Manager of Neighborhood Inspections, stated that the subject property is not zoned for a landscape business. Mr. Smith asked if there was a one-ton truck or larger parked on the subject property, as well as equipment besides lawnmowers. In response, Mr. Scholten answered affirmatively. Mr. Smith stated that this is clearly a business and the applicant is not correctly zoned for this type of business.

Interested Parties Comments:

Jean Layman, representing Noel Ramsey, 204 South Nogales, Tulsa, Oklahoma 74124, submitted photographs (Exhibit D-2). She stated that the subject property is an eyesore and there is nothing about it that beautifies the City of Tulsa. She explained that her father is ready to sell his property and this type of activity devalues her father's property.

Ms. Layman stated that there are large trucks and there is not ample parking to accommodate the trucks. She indicated that the applicant does park on the street early in the morning and late at night. The neighborhood is trying to improve and young families are returning to the area.

Ms. Layman stated that the subject property is not appropriate for the activity and the applicant should find a building to accommodate him. She explained that there are several lawnmowers, not push mowers, several trailers and heavy trucks parked in the subject area. She stated that the subject property resembles a trash-loading business.

TMAPC Comments:

Mr. Midget stated that the pictures Ms. Layman submitted fully explain the activity being conducted from the subject property.

Interested Parties Comments:

Wilma Frick, 705 South Olympia, Tulsa, Oklahoma 74124, reiterated that the subject property is an eyesore and decreases the value of surrounding properties. Ms. Frick stated that she is opposed to the rezoning request.

C. E. Hoyle, 1522 East 55th Street, Tulsa, Oklahoma 74105, representing Nogales Avenue Baptist Church, stated there are trucks along the street and causes traffic problems on Sunday's during church services. He indicated that he is opposed to the request.

Applicant's Rebuttal:

Mr. Scholten stated that he has never parked on the street. He commented that there is no way Ms. Layman's drive could be blocked because her driveway is off of 2nd Street. He stated that the homes in the subject area are not being devalued because of his business.

Mr. Scholten reiterated that several neighbors signed a petition in favor of this request. He indicated that the pastor of Nogales Baptist Church signed the petition in favor of the rezoning.

TMAPC Comments:

Ms. Pace stated that she viewed the area and it is obvious that the area is trying to improve for residential use. She commented that she couldn't support the rezoning requested. She explained that the subject property is too small for rezoning and the applicant wouldn't be able to meet all of the requirements regarding screening.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **6-1-0** (Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; Harmon "nay"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to recommend **DENIAL** of CG zoning for Z-6839 as recommended by staff.

* * * * *

APPLICATION NO.: PUD-206-13

Applicant: Hans Christiansen

Location: 9238 South Sheridan Road

MINOR AMENDMENT

(PD-18) (CD-8)

Staff Recommendation:

The applicant is requesting an amendment to allow a required screening fence to face the "good" side of the fence toward the applicant and allow the "bad" side of the fence to face the abutting residential subdivision to the south.

The applicant wants to be able to perform future required maintenance on the fence on the "good" side towards his property. The Zoning Code requires that screening fences "shall be constructed with all braces and supports on the interior, except when both sides are of the same design and appearance". The residential subdivision to the south has wooden screening fences in varying condition along the back yards, which face the subject site.

The fence proposed will be placed along the existing neighborhood fences. There is not a lot of space in the area where the new fence is proposed, but staff is of the opinion that the neighborhood should benefit from the new screening fence having the braces and supports facing the business. The new fence could be placed closer to the parking lot and then allow more room for future maintenance. Although still difficult to access, the fence would then screen the abutting neighborhood properly from the new commercial use.

Staff recommends **DENIAL** of the amendment as requested.

Applicant's Comments:

Hans Christiansen, 9748 East 55th Place, Tulsa, Oklahoma 74145, stated that he is a partner with Jenkins Properties, which is constructing the subject office building. He explained that the office is approximately 80% completed and he is in the process of trying to fence the subject property. He explained that the existing neighbors have good fences that face inward.

Mr. Christiansen stated that he is required to install an eight-foot screening fence and all of the neighbors have six-foot fences. The screening fence is to keep out noise, lights, etc. He explained that he does not have noise or lighting problems on the subject property.

Mr. Christiansen explained that if he were required to install an eight-foot screening fence with the "good" side facing the neighbors, there would be no way to service the fence. He stated that he couldn't install a screening fence one-foot from the neighbors' fences and service it. He explained that he is not attempting to tear down all of the existing fences in order to build the required screening fence because he has no right to do so.

Mr. Christiansen stated that he has to install his screening fence according to the plat submitted, but would like to install it in a manner where he can maintain the fence. He explained that he couldn't move the fence out to get more room between the fences because by law he has to have a certain amount of land area that can't be invaded. Mr. Christiansen reiterated that he is compelled by law to maintain the subject property forever.

Mr. Christiansen proposed that he be allowed to install his screening fence with the "good" side of the fence toward the development. He stated that he is approximately 85% completed with the development and there have been no complaints from the neighbors.

TMAPC Comments:

Mr. Midget asked Mr. Christiansen if the neighbors do not mind which side they are looking at. In response, Mr. Christiansen stated that the neighbors have a six-foot fence and some have new fences. Mr. Christiansen explained that the

only thing the neighbors would see on the screening fence would be the top two feet of the fence.

There were no interested parties wishing to speak.

Mr. Westervelt stated that he would prefer to see some communications with the neighbors and have one new eight-foot screening fence and remove the six-foot fences.

Mr. Midget stated that he could support the applicant's request because he understands the footage problem. If the neighbors are not protesting and they are only going to see the extra two feet in height he doesn't see a problem with the proposal. Mr. Westervelt stated that the elevation shows supports and bracing (galvanized post), which the neighbors would see.

MOTION of MIDGET to recommend APPROVAL of the minor amendment for PUD-206-13 as requested by the applicant.

Mr. Westervelt second.

DISCUSSION:

Ms. Pace stated that she is concerned about the galvanized post and the neighbors would view it.

Mr. Westervelt suggested that the final two feet not have any galvanized post showing.

Mr. Westervelt withdrew his second.

Mr. Midget withdrew his motion.

TMAPC Action; 7 members present:

On **MOTION of WESTERVELT**, the TMAPC voted **7-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph "absent") to **APPROVE** the minor amendment allowing the applicant to install the screening fence with the "good" side face toward the applicant, subject to the final two feet free span without any cross bracing or galvanized pipe visible to those with the six-foot fence.

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Mr. Westervelt out at 3:25 p.m.

OTHER BUSINESS:

APPLICATION NO.: PUD-287

Applicant: Alan Madewell

Location: 6800 South Utica

DETAIL SITE PLAN

(PD-18) (CD-9)

Staff Recommendation:

The applicant is requesting a detail site plan approval for a new office photography studio. There was a proposed detail site plan for this property that was denied on March 28, 2001, due to concerns about the use and the design of the proposed structure.

Staff has expressed concern about the original proposal for 1,400 square feet of "storage" space. The oversized door shown for the structure could allow trucks and heavy storage, especially if the business changed in the future.

The applicant now proposes a 2,800 square foot building with 1,400 square feet of office space and 1,400 square feet of office/studio (photography). These uses are in conformance with the allowable uses in the Planned Unit Development.

The applicant has added design features to the oversized doors to try to distinguish it from warehousing or storage facilities. The doors are to be used for specialized camera equipment used for commercials and advertising.

The site plan as submitted meets the requirements of the PUD in which it is located. Staff can recommend **APPROVAL** of the detail site plan as submitted with the condition that there be no change in the site plan or use for the site without TMAPC approval and that there be no vehicles permitted inside the structure. No storage of vehicles or heavy equipment is permitted on site.

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

There were no interested parties wishing to speak.

Applicant was not present.

TMAPC Action; 6 members present:

On **MOTION** of **HARMON**, TMAPC voted **6-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph, Westervelt "absent") to **APPROVE** the detail site plan for PUD-287 subject to conditions as recommended by staff.

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APPLICATION NO.: PUD-435-D
Applicant: Darin Akerman
Location: 6465 South Yale Avenue

DETAIL SITE PLAN
(PD-18) (CD-7)

Staff Recommendation:

The applicant is requesting a detail site plan approval for a new four-level parking garage to provide 944 parking spaces for the Warren Medical Center.

The parking garage is in conformance with the Planned Unit Development standards approved for the site. The parking garage proposed meets with the approved concept plan for the development.

Staff recommends **APPROVAL** of the site plan as submitted.

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

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 **HARMON**, TMAPC voted **6-0-0** (Harmon, Hill, Jackson, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Horner, Selph, Westervelt "absent") to **APPROVE** the detail site plan for PUD-435-D as recommended by staff.

* * * * *

Commissioners' Comments:

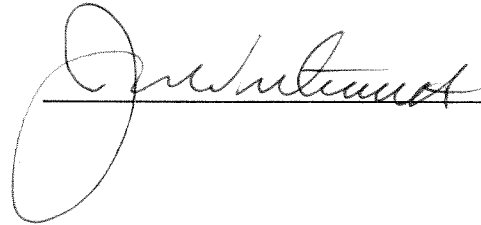
Mr. Ledford requested a worksession to discuss the Policies and Procedures regarding the language and procedures for timely continuances requested by the applicant. Mr. Ledford stated that there are other areas that need editing as well.

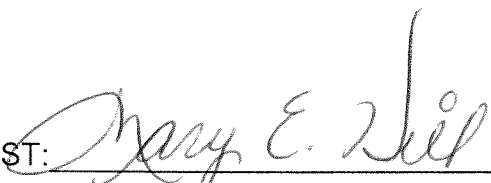
Ms. Hill stated that there is a worksession scheduled for September 26, 2001 with this issue on the worksession agenda.

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There being no further business, the Chairman declared the meeting adjourned at 3:30 p.m.

Date Approved: 16 - 3 - 01


Chairman

ATTEST: 
Secretary

