

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2299

Wednesday, February 6, 2002, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Harmon	Bayles	Beach	Romig, Legal
Hill	Carnes	Bruce	
Jackson	Dick	Dunlap	
Ledford	Horner	Huntsinger	
Midget		Matthews	
Pace		Stump	
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, February 4, 2002 at 9:00 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, Chair Harmon called the meeting to order at 1:30 p.m.

### Minutes:

#### **Approval of the minutes of January 16, 2002, Meeting No. 2297**

On **MOTION** of **JACKSON**, the TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to **APPROVE** the minutes of the meeting of January 16, 2002, Meeting No. 2297.

### Minutes:

#### **Approval of the minutes of January 23, 2002, Meeting No. 2298**

On **MOTION** of **JACKSON**, the TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to **APPROVE** the minutes of the meeting of January 23, 2002, Meeting No. 2298.

### REPORTS:

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

Mr. Harmon deferred to Mr. Westervelt.

Mr. Westervelt stated that he would like to have Brandon Jackson serve as 1<sup>st</sup> Vice Chair for 2002 and change himself to 2<sup>nd</sup> Vice Chair in order to continue to build leadership and experience. He requested Mr. Jackson to submit a letter to the Chair regarding this issue.

Mr. Harmon stated that this is an excellent idea to have the continuity of leadership and have new people in line for office.

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**Director's Report:**

Mr. Stump reported that there are several items on the City Council agenda for Thursday, February 07, 2002. He indicated that he would be attending the City Council meeting.

Mr. Stump further reported that the consultant who has been working on a program to computerize TMAPC's application process has sent the latest corrections and upgrades. He indicated that the upgrades would be installed and tested this week.

Mr. Stump stated that if the computerization upgrades work, then there would be more information available on the TMAPC website and the ability to tract the applications easier.

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**SUBDIVISIONS:**

**Partial Release of Previous Lot-Split and Lot-Split Waiver of Subdivision Regulations:**

**L-19297 - G. C. Broach**

(PD-18) (CD-2)

**Location:** 3001 East 73<sup>rd</sup> Street

**Staff Recommendation:**

In 1976, a lot-split was approved splitting a triangle off Lot 4 (Tract C) and tying it to Lot 3. Since that time, the owner of Lot 3 built a fence; however, the fence was not built on the property line. The owner of Lot 4 has applied to split the lots so that the fence is located on the property line.

Tract A would be split off Tract C and tied to Lot 4. Tract B would be split off the current Lot 4 and tied to the remainder of Tract C that is currently tied to Lot 3.

A partial release of the 1976 lot-split (L-13720) is required for Tract A with the condition that Tract A be tied to Lot 4. A waiver of the Subdivision Regulations is required because both resulting tracts would have more than three side lot lines.

The Technical Advisory Committee had no questions or concerns regarding this lot-split. Staff believes this lot-split would not have an adverse effect on the surrounding properties and would therefore recommend **APPROVAL** of the release to Tract A from Lot 3 with the condition that it be tied to Lot 4, waiver of Subdivision Regulations, and of the lot-split.

**Applicant was not present.**

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

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to **APPROVE** the partial release of previous lot-split and lot-split for waiver of Subdivision Regulations as recommended by staff.

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**Reconsideration of Waiver of Subdivision Regulations:**

**L-19313 – Linda Crockett**

(PD-21) (County)

**Location:** 4705 East 171<sup>st</sup> Street

**Staff Recommendation:**

The applicant applied to split five acres into two tracts for the purpose of adding a second dwelling. The property is located on East 171<sup>st</sup> Street, a primary arterial, and on Yale Avenue, a secondary arterial. Tulsa County Engineering requested the full right-of-way be given on both streets.

To obtain a lot-split, Tract A required a variance of the average lot width (from 200' to 165'); and Tract B required a variance of the lot area (from two acres to 1.47 acres) and a variance of the land area (from 2.2 acres to 1.95 acres) if the required right-of-way dedication is required. The applicant requested a waiver of the Subdivision Regulations requiring the additional right-of-way along East 171<sup>st</sup> Street and along Yale Avenue, from the existing 24.75' statutory easement.

On November 14, 2001, the Planning Commission approved the lot-split application subject to the County Board of Adjustment granting the appropriate variances, and denied the waiver of the Subdivision Regulations.

On November 20, 2001, the County Board of Adjustment approved the appropriate variances subject to the required right-of-way being given to Tulsa County.

The applicant later realized that the existing dwelling is partially located within the required right-of-way and asked the County Board of Adjustment to reconsider their application for two dwellings on one lot of record. The County Board of Adjustment refused to reconsider the request on January 15, 2002.

Therefore, the applicant is asking the Planning Commission to reconsider the amount of right-of-way to be dedicated. In order to exclude the existing structure, The Tulsa County Engineer's office has agreed to accept: 40' along Yale Avenue and 35' for the east 250' and 60' for the balance of the property along 171<sup>st</sup> Street South.

Given the County Board of Adjustment's action, and Tulsa County Engineer's office accepting less right-of-way, staff would recommend **APPROVAL** of the waiver of Subdivision Regulations for the required right-of-way of 40' along Yale Avenue and 35' for the east 250' and 60' for the balance of the property along 171<sup>st</sup> Street South.

**Applicant's Comments:**

**Stephen Oakley**, 222 West 8<sup>th</sup> Street, Tulsa, Oklahoma 74119, stated that he is representing the applicant. He indicated his agreement with the staff recommendation.

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

**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, Dick, Horner "absent") to **APPROVE** the waiver of Subdivision Regulations for the required right-of-way of 40' along Yale Avenue and 35' for the east 250' and 60' for the balance of the property along 171<sup>st</sup> Street South as recommended by staff.

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**Lot-Split for Discussion:**

**L-19349 – James G. Davidson**

(PD-14) (County)

**Location:** 420' north of northeast corner of 126<sup>th</sup> Street North and Mingo

**Staff Recommendation:**

A lot-split application has been filed to split Tract E from Tract H. Both resulting tracts meet the AG Bulk and Area requirements. However, staff believes any further subdividing of this property should be done through the platting process.

Mr. Williams had divided a 7½-acre tract out of his property, which did not require a lot-split. He then applied for and received lot-split approval to split that 7½-acre tract into three parcels (Tracts A - C).

Upon further research, it was noted that Mr. Williams had also divided a 5.04-acre tract of this same property, and then received lot-split approval to create two parcels (Tracts A-1 and B-1).

Mr. Williams desired to apply for another lot-split to create Tracts E – G, but was informed that he would be required to plat his property. Mr. Williams has split off Tract D without obtaining the required lot-split approval, and staff views this transaction as being null and void.

By the survey done on this property, it is staff's opinion that this is a "wildcat subdivision" which defeats the principles of good planning and orderly development. Further, this lot-split would violate State statutes and is beyond staff's authority to review and approve such request. Our position is based on the attached copies of 19 O.S. §863.9 and §863.10.

Therefore staff recommends **DENIAL** of this lot-split application.

**The applicant was not present.**

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

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to **DENY** the lot-split request for L-19349 as recommended by staff.

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**Lot-Splits for Ratification of Prior Approval:**

<b><u>L-19323 – Robert E. Parker (1693)</u></b> 4590 East 29 <sup>th</sup> Street	(PD-4) (CD-4)
<b><u>L-19329 – Sack &amp; Associates (3294)</u></b> East 61 <sup>st</sup> Street and 118 <sup>th</sup> East Avenue	(PD-18) (CD-5)
<b><u>L-19331 – Sack &amp; Associates (2383)</u></b> Southwest corner of East 91 <sup>st</sup> Street & 78 <sup>th</sup> East Avenue	(PD-18) (CD-8)
<b><u>L-19332 – Praise Center Church Inc. (1482)</u></b> Northeast corner West 91 <sup>st</sup> Street & Union	(PD-8) (CD-2)
<b><u>L-19333 – Tanner Consulting, LLC (3383)</u></b> South of East 111 <sup>th</sup> Street & Louisville	(PD-26) (CD-8)
<b><u>L-19334 – Robert C. Hicks (3124)</u></b> 10022 East 135 <sup>th</sup> Street North	(PD-14) (County)
<b><u>L-19335 – James Michie (3591)</u></b> 9710 West 59 <sup>th</sup> Street	(PD-23) (County)
<b><u>L-19338 – Sack &amp; Associates (684)</u></b> 11201 East 71 <sup>st</sup> Street	(PD-18) (CD-8)
<b><u>L-19339 – City of Tulsa (1683)</u></b> 9014 South Yale	(PD-18) (CD-8)
<b><u>L-19340 – Alan T. Cook (3214)</u></b> 11840 East 69 <sup>th</sup> Street North	(PD-15) (County)
<b><u>L-19341 – Kyle Smalygo (2323)</u></b> 7211 East 146 <sup>th</sup> Street North	(PD-14) (County)
<b><u>L-19342 – White Surveying (1203)</u></b> 9602 East Mohawk Boulevard	(PD-16) (CD-6)
<b><u>L-19343 – Roy Johnsen (2293)</u></b> North of northeast corner East 33 <sup>rd</sup> Street & Yale	(PD-4) (CD-7)
<b><u>L-19344 – Connie Hallsted (2692)</u></b> 3114 West 51 <sup>st</sup> Street	(PD-9) (CD-2)
<b><u>L-19345 – Michael R. Parrish (1283)</u></b> South of southeast corner East 71 <sup>st</sup> Street & 85 <sup>th</sup> East Avenue	(PD-18) (CD-8)

L-19346 – Jeffrey G. Levinson (1993)

(PD-6) (CD-9)

1509 East 35<sup>th</sup> Street

L-19350 – Robert E. Mahoney (1294)

(PD-17) (CD-6)

17712 East 15<sup>th</sup> Street

L-19351 – Sherita Shatwell (2013)

(PD-15) (County)

9018 North Harvard

**Staff Recommendation:**

Mr. Beach stated that all of these lot-splits are 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, Dick, Horner "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

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**PRELIMINARY PLAT:**

Hunters Hollow – PUD-527 – (3483)

(PD-26) (CD-8)

**Location:** North and east of the northeast corner of 121<sup>st</sup> and South Yale

**Staff Recommendation:**

This plat consists of 40 lots in three blocks on 9.93 acres. It will be developed with single-family residential uses under the PUD.

The following were discussed **September 20, 2001** at the Technical Advisory Committee (TAC) meeting:

**1. Zoning:**

*Staff:* The PUD was approved in February 1995. A major amendment was approved early in 2001 and a second major amendment in August 2001. The last amendment abandoned the first amendment, leaving the original PUD standards in control with RS-2 bulk and area requirements.

A recent minor amendment was approved modifying the bulk and area requirements to allow smaller lots than the RS-2 minimums. The plat submitted is in accordance with the current standards.

**2. Streets/access:**

*Staff:* Private streets are proposed in 30' right-of-way, called "Reserve A". The Yale access is 80' wide, presumably to accommodate an entry gate feature. The 121<sup>st</sup> Street access is 48' wide and quickly narrows to 30 feet. Forty on-street parking spaces are required. These parking spaces should be part of Reserve "A" and shown on the plat.

*Public Works Traffic & Transportation:* Full right-of-way needs to be dedicated on Yale and 121<sup>st</sup> Street and include proper dedication language in covenants.

*Applicant:* No objections stated.

**3. Sewer:**

*Staff:* No additional information.

*Public Works Waste Water:* Sewer main must be extended.

*Applicant:* No objections stated.

**4. Water:**

*Staff:* No additional information.

*Public Works Water:* Water mains must be extended; Provide restricted water line easement on site.

*Applicant:* No objections stated.

**5. Storm Drainage:**

*Staff:* No additional information.



*Public Works Stormwater:* PFPI will be required to collect off-site stormwater and carry it to the structure on Yale; No additional stormwater will be allowed to go to 121<sup>st</sup> Street; Plot 100-year floodplain using the 100-year WSE and put in a reserve plus 15' maintenance easement around perimeter;

*Applicant:* No objections stated.

**6. Utilities:**

*Staff:* No additional information.

*Franchise Utilities:* Bixby Telephone wants five-foot utility easements at Block 3, Lots 15 & 16; ONG wants utility easements at Block 3, Lots 18, 19, & 20.

*Applicant:* No objections stated.

**7. Other:**

*Staff:* Reserves should not share a common name except where they are contiguous.

*Applicant:* No objections stated.

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

**Waivers of Subdivision Regulations:**

1. None requested.

**Special Conditions:**

1. Modify Reserve "A" to include required on-street parking spaces.
2. Dedicate right-of-way as required by the Major Street and Highway Plan and indicate dedication on plat.
3. Extend sewer and water mains and provide easements as required by Public Works.
4. Show 100-year floodplain elevation with 15' maintenance easement and place all in a dedicated reserve.
5. Provide utility easements for utility providers satisfactory to serve the property.

### **Standard Conditions:**

1. All conditions of PUD-527 shall be met prior to release of final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to Section 1100-1107 of the Zoning Code in the covenants.
2. 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.
3. 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.)
4. 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).
5. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
6. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
7. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
8. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
9. Street names shall be approved by the Public Works Department and shown on plat.
10. All curve data, including corner radii, shall be shown on final plat as applicable.
11. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
12. All adjacent streets, intersections and/or widths thereof shall be shown on plat.

13. 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.)
14. 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.
15. The method of sewage disposal and plans therefore shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
16. 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.)
17. The method of water supply and plans therefore shall be approved by the City/County Health Department.
18. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
19. The key or location map shall be complete.
20. 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.)
21. 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.)
22. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
23. All other Subdivision Regulations shall be met prior to release of final plat.

**The applicant was not present.**

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

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to **APPROVE** the preliminary plat for Hunters Hollow, subject to special conditions and standard conditions as recommended by staff.

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**CHANGE OF ACCESS ON RECORDED PLAT:**

**Lot 1, Block 1, Braum's Second Addition (2803)**

**Location:** 2215 North Harvard Avenue

**Staff Recommendation:**

This application is made to accommodate the location of the drive for a new Family Dollar Store. The Traffic Engineer has reviewed and approved the request. Staff recommends **APPROVAL** of the change of access.

**Applicant was not present.**

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

**TMAPC Action; 7 members present:**

On **MOTION** of **HILL**, TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to **APPROVE** the change of access on recorded plat for Lot 1, Block 1, Braum's Second Addition as recommended by staff.

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**Lots 1, 2 & 3, Block 1, Harrison Addition – (194)**

**Location:** 28 North 193<sup>rd</sup> East Avenue

**Staff Recommendation:**

This application is made to accommodate the location of two new drives on 193<sup>rd</sup> East Avenue and two on East Admiral Place for the relocation of a QuikTrip Store. The Traffic Engineer has reviewed and approved the request. Staff recommends **APPROVAL** of the change of access.

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to **APPROVE** the change of access for Lots 1, 2 & 3, Block 1, Harrison Addition as recommended by staff.

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**FINAL PLAT:**

**Airport Storage** – (2603)

(PD-16) (CD-3)

**Location:** East of the northeast corner of North Sheridan Road and Virgin Street

**Staff Recommendation:**

The site is bounded by Virgin Street on the south and commercial and industrial uses on the east and west. The use will be mini-storage.

Release letters are in order. Staff recommends **APPROVAL**.

**Applicant was not present.**

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

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to **APPROVE** the final plat for Airport Storage as recommended by staff.

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**ZONING PUBLIC HEARING**

**APPLICATION NO.:** Z-6849

**OL to RS-1**

**Applicant:** Ben Catterlin

(PD-5) (CD-3)

**Location:** North of the northwest corner of East 11<sup>th</sup> Street and South 87<sup>th</sup> East Avenue

## **Staff Recommendation:**

## **RELEVANT ZONING HISTORY:**

**BOA-18348 March 1999:** The Board of Adjustment approved a request to allow RV sales in a CS-zoned district and a variance to allow open-air storage and display of merchandise with 300' of an R-zoned district on property located on the northeast corner of East 11<sup>th</sup> Street South and South 83<sup>rd</sup> East Avenue, west of the subject property.

**Z-6626 May 1998:** A request to rezone a 125' x 138' tract located on the southeast corner of East 11<sup>th</sup> Street and South 83<sup>rd</sup> East Avenue from RS-1 to CG was recommended by staff and TMAPC for denial of CG; all concurred in approval of CS zoning on the tract.

**Z-6173 September 1987:** All concurred in denial of CS zoning for a proposed medical office on the subject tract and in the alternative approval of OL zoning was granted.

## **AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 130' x 152.3' in size and is located north of the northwest corner East 11<sup>th</sup> Street and South 87<sup>th</sup> East Avenue. The property is sloping, non-wooded, contains a single-family dwelling, and is zoned OL.

## **STREETS:**

<b>Exist. Access</b>	<b>MSHP Desig.</b>	<b>MSHP ROW</b>	<b>Exist. No. Lanes</b>
East 11 <sup>th</sup> Street South	100'	100'	2 lanes
South 87 <sup>th</sup> East Avenue	50'	50'	2 lanes

The City of Tulsa Traffic Counts 1998 – 1999 indicates 22,000 trips per day on East 11<sup>th</sup> Street between South Memorial Drive and South Mingo Road.

**UTILITIES:** Water and sewer are available.

**SURROUNDING AREA:** The property is abutted on the north by single-family residential uses, zoned RS-1; on the south by a vacant lot, zoned OL; on the west by a clinic, zoned CS; and on the east by a single-family residential unit, zoned RS-1. Farther south across East 11<sup>th</sup> Street is a CG-zoned strip containing vacant land, a tire lot and office/industrial uses.

## **RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 5 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Medium Intensity – Residential.

According to the Zoning Matrix the requested RS-1 zoning is in accordance with the Plan Map.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan, adjacent uses and zoning and the existing use of the subject property, staff can support the requested zoning and recommends **APPROVAL** of RS-1 zoning for Z-6849.

**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 **HILL**, TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to recommend **APPROVAL** of the RS-1 zoning for Z-6849 as recommended by staff.

**Legal Description for Z-6849:**

The North 130' of Lot 2, Block 13, Clarland Acres Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, and located on the northwest corner of East 11<sup>th</sup> Street and South 87<sup>th</sup> East Avenue (934 South 87<sup>th</sup> East Avenue), Tulsa, Oklahoma, **From OL (Office Low Intensity District) To RS-1 (Residential Single-family Low Density District).**

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**APPLICATION NO.: PUD-600-C**

**MAJOR AMENDMENT**

**Applicant:** Jeffrey G. Levinson

**(PD-18) (CD-8)**

**Location:** West of southwest corner of East 91<sup>st</sup> Street and South Yale

**Staff Recommendation:**

**RELEVANT ZONING HISTORY:**

**PUD-600-B January 2001:** All concurred in approval of a major amendment to the PUD to allow the construction of an 80-foot wooden monopole cellular transmission tower within the PUD. The location of the tower was approved for an area north of the subject tract and approximately 105' west of South Toledo Court on the west boundary of Lot 4, Block 4, Ashton Creek Office Park.

**PUD-600-A August 2000:** All concurred in approval of a major amendment to PUD-600 to allow a barber and beauty shop on a lot within Development Area A.

**Z-6670/PUD-600 December 1998:** A request to rezone a 34-acre tract that included the subject tract from AG to 13.5 acre of OL and 20.5 acres of RS-3 for offices and residential townhouse development. All concurred in approval of the rezoning request as submitted subject to standards and conditions of the PUD.

**BOA-17217 November 1995:** The Board of Adjustment approved a special exception to permit the expansion of an existing cemetery in an AG district per plan submitted and on property abutting the subject PUD tract on the west.

**Z-6367 September 1992:** A request to rezone a 2.8-acre tract located east of the southeast corner of East 91<sup>st</sup> Street and South Harvard and west of the subject tract from AG to OL for a funeral home. All concurred in approval of OL zoning.

**PUD-275 January 1982:** All concurred in approval of a request to rezone a sixty-acre tract located on the southwest corner of East 91<sup>st</sup> Street South and South Yale and abutting the PUD-600 tract on the east, from CS, RM-2 and RM-0 to RS-3 for residential development.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 22.5 acres in size and is located west of the southwest corner of East 91<sup>st</sup> Street South and South Yale Avenue. The property is sloping, partially wooded, vacant and zoned RS-3/PUD.

**STREETS:**

Exist Access	MSHP Design.	MSHP ROW	Exist. No. Lanes
East 91 <sup>st</sup> Street South	100'	100'	2 lanes

The City of Tulsa Traffic Counts 1998 – 1999 indicates 19,400 trips per day on East 91<sup>st</sup> Street at the intersection of East 91<sup>st</sup> Street and South Yale Avenue.

**UTILITIES:** Water and sewer are available.

**SURROUNDING AREA:** The subject tract is abutted on the north by vacant land, zoned AG; and farther north on the north side of East 91<sup>st</sup> Street are single-family homes, zoned RS-2. To the west is a cemetery, zoned AG; to the south is the Creek Turnpike, zoned AG and to the east are apartments, zoned RS-3/RM-0/PUS-275.

**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 Low Intensity – No Specific Land Use. According to the Zoning Matrix, the requested RS-3/AG/PUD designations **are** in accord with the Plan.



**Staff Recommendation:**

Development Area B of PUD-600 consists of approximately 20.50 acres located south of the southwest corner of East 91<sup>st</sup> Street and South Toledo. Development Area B has been approved for a maximum of 123 townhouse dwelling units as included within Use Unit 7a. Private streets have been approved for Development Area B with a minimum of two access points to 91<sup>st</sup> Street South.

One of the access points to 91<sup>st</sup> Street was to be provided by a private street extending from the street system in the northwest corner of Area B to 91<sup>st</sup> Street South. After the approval of PUD-600, numerous human remains were discovered buried on the tract that this roadway was to pass over.

This major amendment proposes to delete the tract that the unmarked graves have been discovered on from Development Area B and to add approximately 5.7 acres that has been purchased from the Oklahoma Turnpike Authority. The tract that is proposed to be added is contiguous to the south boundary of Development Area B and is also adjacent to the Creek Turnpike. It is proposed that there be only one access point to the Development Area. It is also proposed that permitted uses be changed from a maximum of 123 townhouses dwelling units as included within Use Unit 7a to maximum of 89 single-family dwelling units as included within Use Unit 6. Development standards would be established for the single-family uses.

Because of the existing conditions and the reduction in the maximum number of dwelling units staff supports the request for one access point.

Staff finds the uses and intensities of development proposed and as modified by staff to be in harmony with the spirit and intent of the Code. Based on the following conditions, staff finds PUD-600-C as modified by staff, to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-600-C subject to the following conditions:

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.
2. Development Standards:

**Land Area (Gross):**

22.05 acres ±

**Permitted Uses:**

Those uses included within Use Unit 6, Single-Family Residential.

<b>Maximum Number of Dwelling Units:</b>	89
<b>Minimum Lot Width:</b>	50 FT
<b>Minimum Lot Area:</b>	5,500 SF
<b>Minimum Land Area per Dwelling Unit:</b>	6,250 SF
<b>Minimum Livability Space per Dwelling Unit:</b>	4,000 SF

**Minimum Depth of Required Yards:**

From Private Street right-of-way

Residence	15 FT
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Garage	20 FT
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From External Boundaries of the Development Area	15 FT
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From Internal Side-Lot-Lines	4 FT
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From Internal Rear-Lot-Lines	15 FT
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**Other Bulk and Area Requirements:**

As provided within an RS-3 district.

**Access:**

Access to the Development Area shall be from South Toledo Avenue to 91<sup>st</sup> Street South.

**Off-Street Parking:**

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

### **On-Street Parking:**

A minimum of 78 on-street parking spaces shall be provided. On-street parking areas must receive approval from Traffic Engineering.

3. There shall be no development in the regulated floodplain.
4. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
5. A homeowners association shall be created and vested with sufficient authority and financial resources to properly maintain all private streets and common areas, including any stormwater detention areas, security gates, guard houses or other commonly owned structures within the PUD.
6. All private roadways shall be a minimum of 24' in width, measured back-to-back of mountable curbs and shall have a minimum right-of-way of 30'. All curbs, gutters, base and paving materials used shall be of a quality and thickness, which meets the City of Tulsa standards for a minor residential public street. The maximum vertical grade of private streets shall be 10 percent.
7. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets or if the City will not inspect, then a registered professional engineer shall certify that the streets have been built to City standards.
8. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
9. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process, which are approved by TMAPC.
10. Entry gates or guardhouses, if proposed, must receive detail site plan approval from TMAPC, traffic engineering and Tulsa Fire Department, prior to issuance of a building permit.
11. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

**TMAPC Comments:**

Mr. Midget asked staff if the proposal is changing from two access points down to one access point. In response, Mr. Dunlap stated that there could only be one access point because a road cannot be built over the graves. Mr. Stump explained that special design considerations was given to the one remaining access point and was reviewed by the Fire Department and others. The one access point would be wider to hopefully preclude any problems.

Mr. Westervelt asked what would happen with the unmarked graves that were found.

**Applicant's Comments:**

**Jeffery Levinson**, 35 East 18<sup>th</sup>, Tulsa, Oklahoma 74119, stated that his client did not know when he purchased the property that there were unmarked graves. Now there are no plans to disturb those graves and no plans to develop that area. He explained that the property would be mowed when needed and taken care of.

Mr. Levinson stated that a few marked graves were found and they are approximately 90 years old. There is no way of exactly dating the unmarked graves without excavating, but it is possible that the gravesite may be near the turn of the century.

Ms. Hill asked if there would be a fence around the gravesite. In response, Mr. Levinson stated that currently there are no plans to erect any more monuments, but it will be set off from the proposed development.

**Interested Parties Comments:**

**Tom Kirby**, 8818 South Quebec, Tulsa Oklahoma 74137, representing the Thousand Oaks Homeowners Association, stated that his home is directly north of the proposed site. He expressed concerns regarding traffic and the impact it would have on the subject area. He stated that the Homeowners Association opposes the major amendment and the proposed residential development.

Mr. Kirby stated that it is important for the TMAPC, INCOG staff and City Council to be aware that when approving proposed residential developments they have effects on other neighborhoods within the area. This proposed residential development would have an effect upon his housing addition, as well as the additions to the north.

Mr. Kirby stated that 91<sup>st</sup> Street is a two-lane road and is one of the smaller two-lane roads in Tulsa County. The 91<sup>st</sup> and Yale intersection is a site of substantial new commercial development with more to come. The proposed residential development and the new commercial development would only exacerbate the

traffic during the rush hour traffic. He indicated that traffic cuts through his addition in order to get out of the traffic backup.

Mr. Kirby stated that the TMAPC, staff and City Councilors need to stop looking at the proposed residential and commercial developments through blinders, which are provided by the developers and INCOG staff. He requested that the Planning Commission to impose a condition that would delay this application until 91<sup>st</sup> Street is widened.

**TMAPC Comments:**

Mr. Harmon informed Mr. Kirby that the Planning Commission is only considering the major amendment, which reduces the number of dwellings and is already approved for 123 townhouses. He explained that the PUD has already been approved and the applicant could go ahead with the original approval. Mr. Kirby stated that he understands that the major amendment is to reduce the number of dwelling units and he doesn't think that the applicant can go through with the original approval. Mr. Kirby further stated that he is now taking his opportunity to oppose this application and wishes he had done it earlier. Mr. Kirby commented that this is not a major amendment because the applicant is redesigning the whole area for this subdivision.

Mr. Midget asked Mr. Kirby where he lived in relationship to the subject property. In response, Mr. Kirby stated that he lives on Quebec in the Thousand Oaks Addition. Mr. Kirby stated that Toledo is the only access proposed for the new development and it crosses 91<sup>st</sup> and goes directly into the Thousand Oaks Addition.

Mr. Midget asked Mr. Kirby if he was requesting the Planning Commission to delay development to the south of his addition until 91<sup>st</sup> Street is improved, regardless of what development is coming through. In response, Mr. Kirby stated that he is requesting that the Planning Commission delay the approval of this major amendment until 91<sup>st</sup> Street is improved.

Mr. Midget informed Mr. Kirby that the applicant still has the right to build 123 units and the Planning Commission couldn't stop him. In response, Mr. Kirby stated that he doesn't think the applicant can do that because of the land with the unmarked graves. In response, Mr. Midget stated that there would be some townhouses allowed, maybe not 123, but there would be some. Mr. Kirby stated that perhaps it would be fewer than 89 homes.

Mr. Westervelt asked Mr. Kirby when his subdivision was completed. In response, Mr. Kirby stated that it was completed approximately in 1983. Mr. Westervelt asked Mr. Kirby what the status of 91<sup>st</sup> Street was at that time. In response, Mr. Kirby stated that it was a two-lane road as it has been for multiple years.

**Applicant's Rebuttal:**

Mr. Levinson stated that he did talk with Mike Patton, President of Thousand Oaks Homeowners Association, which was a very cordial exchange of ideas. He commented that when he explained the proposal to Mr. Patton there were no objections. He explained that the proposal would actually reduce the number of units from 123 to 89.

Mr. Levinson stated that when he originally proposed the PUD, the neighbors had a different attitude because the property was unimproved. Now his client has put a lot of time and money into the subject property to improve the stormwater drainage and cleaning the property. The surrounding neighborhoods, including Ashton Woods, supported this application very strongly because something needed to be done with the subject property. He commented that his client has spent the money to improve the subject property and now the neighborhood has changed their minds and don't want it. He reminded the Planning Commission that the residents immediately east of the subject property was in support of the original application, which proposed 123 units instead of 89.

**TMAPC Comments:**

Mr. Harmon stated that it would be nice to have more than one point of access, but this is a reduced number of dwellings from the original PUD. He commented that he is in favor of staff's recommendation.

Mr. Ledford stated that the Planning Commission needs to remember that Quebec is considered a residential collector street with a 60' right-of-way and 36' wide paving. It should be the half-mile collector and it is indicated on all of the information provided that it is wider.

Mr. Westervelt stated that 91<sup>st</sup> Street was a two-lane road when the adjacent subdivision was built and this proposal is reducing the density in number of units, which should be an asset and not a detriment.

**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, Dick, Horner "absent") to recommend **APPROVAL** of the major amendment for PUD-600-C, subject to the conditions as recommended by staff.

**Legal Description for PUD-600-C:**

A TRACT of land situated in the ne/4 of section 21, t-18-n, r-13-e of the IBM, Tulsa county, state of Oklahoma, said tract of land being described as follows: Commencing at THE northeast CORNER of the ne/4 OF section 21, thence s 88°47'29" w AND ALONG THE north LINE OF SAID ne/4 a distance of 1322.82', thence s 01°03'20" e and along the east line of ash ton creek office park an addition to the city of Tulsa, Tulsa county, Oklahoma (plat number 5524) a distance of 1320.01' to the point of beginning, said point being the southeast

corner of Ashton creek office park, thence continuing s 01°03'20" e a distance of 665.22', thence s 88°55'45" w a distance of 1322.20', thence n 01°04'24" w a distance of 262.05', thence n 88°47'28" e a distance of 200.01', thence n 43°47'23" e a distance of 75.00', thence n 88°47'48" e a distance of 100.00', thence n 18°12'09" e a distance of 106.03', thence n 43°53'39" e a distance of 137.38', thence n 01°04'24" w a distance of 150.00', thence n 88°47'30" e a distance of 837.41' to the point of beginning; **AND** three tracts of land being part of Section 21, T-18-N, R-13-E, Tulsa County, Oklahoma, more particularly described as follows: Beginning at the Northwest Corner of the S/2, SW/4, NE/4, thence East along the North line of the S/2, SW/4, NE/4, a distance of 1,321.97' to a point on the East line of the S/2, SW/4, NE/4; thence South along the East line of the S/2, SW/4, NE/4, a distance of 190' feet to a point on the present North Right of Way line of the Creek Turnpike; thence Southwest along the Creek Turnpike a distance of 335'; thence Northwest a distance of 210'; thence Southwest a distance of 150'; thence continuing Southwest a distance of 455'; thence Southwest a distance of 187' to a point on the West line of the S/2, SW/4, NE/4; thence Northwest along the West line of the S/2, SW/4, NE/4, a distance of 240' to the Point of Beginning, **AND** The West 25' of the NW/4, NE/4, Section 21, T-18-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, **AND** a tract of land situated in the NW/4, SW/4, NE/4 of Section 21, T-18-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, beginning at the Northwest corner of the NW/4, SW/4, NE/4; thence N 88°47'30" E and along the North line of the NW/4, SW/4, NE/4 a distance of 485.00'; thence S 01°04'24" E a distance of 150.00'; thence S 43°53'39" W a distance of 137.38'; thence S 18°12'09" W a distance of 106.03'; thence S 88°47'48" W a distance of 100.00'; thence S 43°47'23" W a distance of 75.00'; thence S 88°47'28" W a distance of 200.01' to a point on the West line of the NE/4 of said Section; thence N 01°04'24" W and along the West line of the NE/4 a distance of 400.00' to the Point of Beginning, and located west of the southwest corner of East 91<sup>st</sup> Street and South Yale Avenue, Tulsa, Oklahoma, From RS-3/AG/PUD-600-B (Residential Single-family High Density District/Agricultural District/Planned Unit Development [PUD-600-B]) To RS-3/AG/PUD-600-C (Residential Single-family High Density District/Agriculture District/Planned Unit Development [PUD-600-C]).

**TMAPC Comments:**

Mr. Westervelt stated that he missed abstaining from Item Number 8, Lots 1, 2 & 3, Block1, Harrison Addition, change of access. He requested that he be indicated that he had abstained.

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**APPLICATION NO.: CZ-297**

**AG to IL**

**Applicant:** Jack L. Hubbard

(PD-15) (County)

**Location:** Southwest corner of East 76<sup>th</sup> Street North and North Whirlpool Drive

**Staff Recommendation:**

**RELEVANT ZONING HISTORY:**

**CZ-277 January 2001:** All concurred in approval of a request to rezone a five-acre tract located on the northwest corner of East 66<sup>th</sup> Street and North Whirlpool Drive from AG to IM. No resolution was published by the County and the tract remains AG-zoned.

**CZ-269 September 2000:** All concurred in approval of a request to rezone a 17-acre tract located west of the northwest corner of East 66<sup>th</sup> Street North and North Whirlpool Drive and fronting East 66<sup>th</sup> Street and U. S. Highway 75 North from AG to IM for a proposed office and warehouse.

**CZ-217 October 1994:** All concurred in approval of a request to rezone a 988-acre tract located on the east side of North Yale Avenue between East 61<sup>st</sup> Street North and East 76<sup>th</sup> Street North and east of the subject tract, from IL to IM, less a 200' strip along East 76<sup>th</sup> Street, a 150' strip along North Yale Avenue, and eight acres of Amoco property, all of which remained IL zoning.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 14 acres in size and is located at the southwest corner of East 76<sup>th</sup> Street North and North Whirlpool Drive. The property is sloping, partially wooded, vacant and zoned AG.

**STREETS:**

<b>Exist Access</b>	<b>MSHP Design.</b>	<b>MSHP ROW</b>	<b>Exist. # Lanes</b>
East 76 <sup>th</sup> Street North	100'	100'	2 lanes
North Whirlpool Drive	100'	100'	2 lanes

**UTILITIES:** Municipal water is available to the site but sewer would be by septic or lagoon systems.

**SURROUNDING AREA:** The subject tract is abutted on the north by vacant property, zoned AG; on the east by the Whirlpool industrial plant, zoned IM; on the west by a single-family residence, zoned AG, and farther west and south by the Cherokee Expressway (U.S. 75), zoned AG; and on the south by vacant land and a cell tower, zoned AG.



**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 15 Plan, a part of the North Tulsa Comprehensive Plan, designates the subject tract as Industrial. The requested IL zoning is in accord with that plan.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan, existing development and trends in the area, staff recommends **APPROVAL** of IL zoning for CZ-297.

**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 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to recommend **APPROVAL** of the IL zoning for CZ-297 as recommended by staff.

**Legal Description for CZ-297:**

A parcel of land lying in the NE/4, NE/4 of Section 33, T-21-N, R-13-E of the IBM, according to the official U. S. Government survey, more particularly described as follows, to-wit: Beginning at a point in the East boundary of said NE/4, NE/4 a distance of 90.00' from the Northeast corner thereof; thence S 01°06'42" E along said East boundary a distance of 899.94'; thence S 88°42'15" W a distance of 660.24'; thence S 01°09'13" E a distance of 329.90'; thence S 88°42'39" W a distance of 399.45' to a point in the Easterly right-of-way line of U. S. Highway 57; thence N 06°47'48" E a distance of 0.00'; thence along the right-of-way on a curve to the left having a radius of 5,879.58' a distance of 331.88'; thence N 88°41'51" E a distance of 230.85'; thence N 01°09'18" W a distance of 330.00'; thence N 88°41'51" E a distance of 396.49'; thence N 01°06'42" W a distance of 569.87'; thence N 88°41'03" E a distance of 396.00' to the Point of Beginning, containing 14.05 acres more or less and located in the Southwest corner of East 76<sup>th</sup> Street North and North Whirlpool Drive, Tulsa, Oklahoma, State of Oklahoma, **From AG (Agriculture District) To IL (Industrial Light District).**

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**APPLICATION NO.: CZ-298**

**AG to IL**

**Applicant:** Jack L. Hubbard

(PD-15) (County)

**Location:** Northwest corner of East 66<sup>th</sup> Street and North Whirlpool Drive

## **Staff Recommendation:**

### **RELEVANT ZONING HISTORY:**

**CZ-277 January 2001:** All concurred in approval of a request to rezone the south five acres of the subject property located on the northwest corner of East 66<sup>th</sup> Street and North Whirlpool Drive, from AG to IM. No resolution was published and the tract remains AG-zoned.

**CZ-269 September 2000:** All concurred in approval of a request to rezone a 17-acre tract located west of the northwest corner of East 66<sup>th</sup> Street North and North Whirlpool Drive and fronting East 66<sup>th</sup> Street and U. S. Highway 75 North from AG to IM for a proposed office and warehouse.

**CZ-217 October 1994:** All concurred in approval of a request to rezone a 988-acre tract located on the east side of North Yale Avenue between East 61<sup>st</sup> Street North and East 76<sup>th</sup> Street North and east of the subject tract, from IL to IM, less a 200' strip along East 76<sup>th</sup> Street, a 150' strip along North Yale Avenue, and eight acres of Amoco property, all of which remained in IL zoning.

### **AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 14 acres in size and is located in the southwest corner of East 76<sup>th</sup> Street North and North Whirlpool Drive. The property is sloping, partially wooded, vacant and is zoned AG.

### **STREETS:**

<b>Exist Access</b>	<b>MSHP Design.</b>	<b>MSHP ROW</b>	<b>Exist. # Lanes</b>
East 66 <sup>th</sup> Street North	100'	100'	2 lanes
North Whirlpool Drive	100'	100'	2 lanes

**UTILITIES:** Municipal water is available to the site but sewer would be by septic or lagoon systems.

**SURROUNDING AREA:** The subject tract is abutted on the north by vacant property, zoned IM; to the east by vacant land and a warehouse, zoned IM; to the west by a cemetery, zoned AG; and on the south by industrial uses, zoned IM and IL.

### **RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 15 Plan, a part of the North Tulsa Comprehensive Plan, designates the subject tract as Industrial. The requested IL zoning is in accord with that plan.

### **STAFF RECOMMENDATION:**

Based on the Comprehensive Plan, existing development and trends in the area, staff recommends **APPROVAL** of IL zoning for CZ-298.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

**TMAPC Action; 7 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 7-0-0 (Harmon, Hill, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner "absent") to recommend **APPROVAL** of the IL zoning for CZ-298 as recommended by staff.

**Legal Description for CZ-298:**

A parcel of land lying in the SE/4 of Section 33, T-21-N, R-13-E, according to the official U. S. Government survey thereof, more particularly described as follows, to-wit: Beginning at a point in the East boundary of said SE/4 a distance of 60.00' from the Southeast corner thereof; thence S 88°47'30" W parallel to and 60.00' from the South boundary of said SE/4 a distance of 657.05'; thence N 01°09'18" W a distance of 1,259.60'; thence N 88°45'53" E a distance of 658.00' to a point in the East boundary of said SE/4; thence S 01°06'42" E along the East boundary a distance of 1,259.91' to the Point of Beginning, containing 19.01 acres more or less and located in the northwest corner of East 66<sup>th</sup> Street North and North Whirlpool Drive (North Yale Avenue) Tulsa, Oklahoma, **From AG (Agriculture District) To IL (Industrial Light District).**

Mr. Midget out at 2:12 p.m.

**APPLICATION NO.: Z-6850**

**IL to CBD**

**Applicant:** Jonathan Sutton

**(PD-1) (CD-4)**

**Location:** 121 North Denver Avenue

**Staff Recommendation:**

**RELEVANT ZONING HISTORY:**

**Z-6740 February 2000:** All concurred in approval of a request to rezone the 45' x 50' corner of the subject lot from IL to CBD for office use.

**Z-6607 October 1997:** All concurred in approval of a request to rezone six acres located between North Main Street and North Denver Avenue, East Archer Street and East Cameron Street and southwest of the subject property, from IL to CBD.

**Z-6570 December 1996:** Approval was granted to rezone the area between North Denver and the IDL and bounded on the south by West Archer Street from IM, IL, RS-3 and RM-2 to CBD for the development and construction of the Tulsa County Correctional Facility.

**PUD-532 May 1995:** A Planned Unit Development was approved for the development of a social service center for the Salvation Army. The property is located to the west and across Denver Avenue from the subject tract, on the northwest corner of North Denver Avenue and West Archer Street.

**Z-6284 April 1990:** A request to rezone a 2.4-acre tract located on the southeast corner of West Archer and North Nogales Avenue from RM-2 to CG. Approval was granted for CG zoning on the north 152' and the east 137' of the tract with the balance of the tract to remain RM-2.

**Z-6112 July 1986:** All concurred in approval of a request to rezone a 2.2-acre tract located on the southwest corner of North Denver Avenue and West Archer Street from IM to CBD.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 100' x 140' in size and fronts both on East Brady Street and North Denver Avenue. The property is flat, non-wooded, contains a manufactured office, and is zoned IL.

**STREETS:**

<b>Exist Access</b>	<b>MSHP Design.</b>	<b>MSHP ROW</b>	<b>Exist. # Lanes</b>
East Brady Street	80'	80'	4 lanes
North Denver Avenue	80'	80'	4 lanes

The City of Tulsa Traffic Counts 1998 – 1999 indicates 21,400 trips per day on North Denver Avenue within the CBD district.

**UTILITIES:** Water and sewer are available to the site.

**SURROUNDING AREA:** The subject tract is abutted on the north by a dairy processing company, zoned IL; to the northwest by the County Correctional facility, zoned CBD; to the west by the Salvation Army facility, zoned CBD/PUD-532; to the south and east by a parking lot, zoned IL and beyond the parking areas are commercial businesses, zoned CBD.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 1 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as being at the northwestern edge of the Arts and Entertainment District – Special District. (Note that technically all of District One is a Special District, and therefore CBD may be found to be in accordance with the Plan Map. However, provisions in the plan indicate that eventually all or most of the area encompassed in the Planned District is intended to be zoned CBD.)

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan, existing development and trends in this area, staff recommends **APPROVAL** of CBD zoning for Z-6850.

**TMAPC Comments:**

Ms. Pace asked Ms. Matthews if the mobile units are legal. In response, Ms. Matthews stated that the City doesn't zone on the basis of aesthetics. Ms. Matthews stated that they are skirted and some have a façade on them.

**Applicant's Comments:**

**Jonathan Sutton**, 4401 South Harvard, Tulsa, Oklahoma 74135, stated that he would be building a facility to replace the mobile office that is currently on the lot today. He commented that there is only one doublewide trailer on the lot in question that he is requesting to be rezoned. The mobile unit was temporary office building until Affordable Bail Bonds could find someone to assist them building the proposed building.

Mr. Sutton stated that the proposed building would be three stories with approximately 14,000 square feet.

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

**TMAPC Action; 6 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 6-0-0 (Harmon, Hill, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner, Midget "absent") to recommend **APPROVAL** of the CBD zoning for Z-6850 as recommended by staff.

**Legal Description for Z-6850:**

The East 45' of Lot 6 and the West 10' of vacated alley adjacent on the East, Block 38, Tulsa Original Town, and the East 50' of the West 95' of the North Half of Lot 6, and West 95' of South Half of Lot 6, Block 38, Tulsa Original Town, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, and located south and east of the southeast corner of East Brady Street and North Denver Avenue, Tulsa, Oklahoma, **From IL (Industrial Light District) To CBD (Central Business District).**

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**APPLICATION NO.: Z-6327-SP-1-a**

**MINOR AMENDMENT**

**Applicant: John W. Moody**

**CORRIDOR SITE PLAN**

**(PD-18) (CD-8)**

**Location: Northeast corner of East 81<sup>st</sup> Street and US Highway 169**

**Staff Recommendation:**

The applicant is requesting a minor amendment to a corridor site plan to allow a change in the signage permitted in the Corridor Site Plan. The request is for an amendment to approve the relocation of a pylon ground sign and an increase in height for the sign to 42 feet eight inches with a display surface area of 300 square feet. A new monument sign of five feet (high) by 20 feet (long) is requested near the northwest corner of East 81<sup>st</sup> Street and South 107<sup>th</sup> East Avenue.

The existing corridor district for this site allows one ground sign at the northwest corner of East 81<sup>st</sup> Street and South 107<sup>th</sup> East Avenue. The sign cannot exceed 25 feet in height or 300 square feet of display surface area.

Staff does not object to the placement of a monument sign of five feet by 20 feet in place of the permitted ground sign. Outdoor signs have been approved in the area surrounding the expressway for up to 50 feet in height. The 42-foot eight-inch height of the proposed ground sign should be located a minimum of 200 feet south of the property line between the school to the north and the Academy Sports site.

Staff recommends **APPROVAL** of the new signs as proposed with the condition that the ground sign be located a minimum of 200 feet south of the property line between the school and the Academy Sports site.

**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 **HILL**, TMAPC voted 6-0-0 (Harmon, Hill, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner, Midget "absent") to **APPROVE** the minor amendment/corridor site plan for Z-6327-SP-1-a, subject to conditions as recommended by staff.

\* \* \* \* \*

**Mr. Midget in at 2:20 p.m.**

**APPLICATION NO.: PUD-599-A-2**

**MINOR AMENDMENT**

**Applicant:** John W. Moody

(PD-18) (CD-8)

**Location:** North and west of the northwest corner of East 62<sup>nd</sup> Street and 104<sup>th</sup> East Avenue

**Staff Recommendation:**

The applicant is requesting a minor amendment to allow changes to the development standards for PUD 599 A to facilitate the construction of a new 32,442 square foot Sleep Inn hotel.

Requested amendments include allowing an increase in building area in Development Area C to 32,442 square feet by transferring 622 square feet from Development Area A. A change in the setback along the west boundary from 50 feet to 38 feet is also requested. An increase in the number of hotel rooms from 61 to 65 is requested, as well as an increase in height from three stories to 50 feet to accommodate a tower. Wall signs are requested per the plans submitted by the applicant.

Staff can agree with the amendments as requested with the exception of the wall signs being approved per the submitted plan. Currently the approved PUD allows wall signs on the north and east facing walls of buildings, not to exceed 1 ½ square feet of display surface area for each lineal foot of building wall to which it is attached. Staff is of the opinion that wall signs can be allowed on the north, east and south facing walls at a maximum of 40 square feet for each wall sign. The wall signs should be located on the tower feature only. The development standards for Development Area C and Development Area A will be changed per the requested transfer. These changes must meet with the written agreement of the owners of Development Area A.

Staff can recommend **APPROVAL** of the amendments requested, with the condition that the sign standards for wall signs not exceed 40 square feet per sign with the only wall signs being permitted on the tower feature to face south, north, and east, and that the transfer of building area meet with the written agreement of the owners of Development Area A.

Mr. Dunlap stated that Mr. Moody has already submitted the required written agreement from the owners of Development Area A.

**TMAPC Comments:**

In response to Mr. Harmon, Mr. Stump stated that in this type of hotel there are ten feet per story and a high-pitched roof that added 20 feet. Mr. Stump explained that the applicant also proposed a tower, but there is an agreement that the tower wouldn't be any higher than the main portion of the motel's pitched roof. Mr. Moody agreed with Mr. Stump's statements except regarding the tower. Mr. Moody stated that the tower is higher than the pitch of the roof, but there is an agreement that the wall sign could not be higher than the roof on the tower. Mr. Stump agreed.

**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, Dick, Horner "absent") to **APPROVE** the minor amendment for PUD-599-A-2, subject to conditions as recommended by staff.

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**APPLICATION NO.: PUD-578-A-1**

**MINOR AMENDMENT**

**Applicant:** TMAPC

(PD-26) (CD-8)

**Location:** Northwest corner of East 111<sup>th</sup> Street and South Memorial

**Staff Recommendation:**

PUD-578-A was approved by the City Council in January 2002. Development standards were established, which included allocating maximum building floor area for three parcels. Through the platting process two of the three parcels had previously been allocated floor area. A parcel platted as Citizen's Bank at Southern Crossing was allocated 9,000 square feet of building floor area, a parcel platted as Braum's at Southern Crossing was allocated 7,500 square feet of floor area, and the remainder tract, which has now been divided into two tracts with different owners (without TMAPC approval) was allocated 293,500 square feet of building floor area.

The purpose of this minor amendment is to establish a maximum building floor area ratio for the existing two tracts in the unplatted area and subsequent tracts that are subdivided in this area. The area of the unplatted portion of the PUD, excluding planned and existing street rights-of-way, is 1,299,984.6 square feet. A total of 293,500 square feet of floor area is available. Staff recommends a maximum building floor area ratio of 0.225 for all existing or future lots or tracts in the unplatted area of the PUD.

**Interested Parties Comments:**

**Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, stated that his client is Heartland Ventures, developer of the proposed Burger King restaurant for the subject location. He explained that his client is really responsible for the initiation of this application. He stated that he has had a preliminary plat pending for several months (since last September) for the parcel immediately north of the corner parcel where Citizen's Bank is located. Although the previous two parcels have been platted, the floor area was allocated by the plat and the staff has asked that it not be done on a piece meal basis but to reach an agreement with the three remaining property owners. The three owners are Burger King (Heartland Ventures), Quapaw (Mr. Buford) and Wal-Mart Stores. He indicated that for the past three months, he has tried to reach an agreement with the Wal-Mart Stores representatives regarding the allocation and



due to many circumstances (which he doesn't understand) he has not been able to accomplish this.

Mr. Norman stated that his original request for 7,000 square feet of the remaining floor area within the PUD. On the proportionate basis that is recommended by staff, it would result in more than the 7,000 square feet. He indicated that he has been asked by his client to agree with the 7,000 square feet that is necessary for the allocation to the Heartland Ventures plat. He suggested leaving the allocation of the remainder floor area between Mr. Buford and Wal-Mart at a future date. Mr. Norman stated that he is not authorized to speak for Wal-Mart and he doesn't believe a representative is present today.

Mr. Norman stated that the floor area allocation could be resolved very easily by approving the 7,000 square feet requested. He explained that no harm could be done to any of the owners because the allocation to Heartland Ventures would be less than it would be entitled to under the recommendation of the staff.

**Staff Comments:**

Mr. Stump stated that if the Planning Commission prefers to allocate the 7,000 square feet to this new parcel, then staff would recommend that the defined parcel, which is the middle parcel, would get 7,000 square feet of building floor area, the remainder parcel would have a floor area ratio not to exceed .229.

**Roy Johnsen**, 201 West 5<sup>th</sup> Street, Suite 501, Tulsa, Oklahoma 74103, representing Quapaw Investments, L.L.C., stated that his client owns a five-acre tract at the north part of the subject property.

Mr. Johnsen asked Mr. Stump if in the floor area ratio he suggested, the balance of the original total square footage would be minus the Burger King 7,000 square feet. In response, Mr. Stump answered affirmatively. Mr. Johnsen stated that it would be acceptable to his client.

Mr. Johnsen stated that the Planning Commission's policy, in the past, regarding allocation of floor area when a development area is subdivided made by lot-split or subdivision plat, is to allocate by agreement. In regard with the Burger King plat there is an agreement and it is evidenced by recorded by a signed document (Exhibit A-1). He requested to allow Burger King to go forward with their plans and let Wal-Mart and Quapaw Investments work out their allocation at a future time.

**Mr. Midget out at 2:40 p.m.**

Mr. Johnsen stated that he believes the remainder of the building floor area should be determined between Wal-Mart and his client. He commented that he wouldn't object to a floor area ratio on an overall basis, but the allocation should be between the two remaining owners. He believes it would be something

different from staff's recommendation. He requested the Planning Commission to identify the amount of floor area that would belong to the two parcels in the aggregate and not establish a square footage because there is some negotiation that needs to be done between his client and Wal-Mart.

Mr. Harmon asked Mr. Johnsen if he would like the Planning Commission to subtract the floor area for the bank, Braum's, and Heartland, then whatever is left let, Quapaw and Wal-Mart negotiate the remainder however they choose.

Mr. Johnsen stated that there were 7,500 SF allocated to Braum's, 9,000 SF to Citizen's Bank and 7,000 SF to Burger King, which leaves 286,500 SF to negotiate between Wal-Mart and Quapaw.

Mr. Dunlap asked Mr. Johnsen asked if there would be a floor area ratio established for the remainder tracts. In response, Mr. Johnsen stated that the floor area ratio could be established, as long as it is done as the aggregate for those two tracts.

Mr. Stump stated that staff recommends denial of Mr. Johnsen's request. Mr. Stump explained that Mr. Johnsen's proposal still leaves unresolved what amount of building floor area the two owners actually have. Traditionally, the Planning Commission does not let developers split off tracts until the floor area is allocated to each one of the tracts in order to prevent this type of situation. The Wal-Mart and Quapaw split this tract off without any lot-split approval and it needs lot-split approval, as well as, the fact that the Burger King tract was sold without any lot-split approval and it needed a lot-split approval. The property owner circumvented the Subdivision Regulations and staff is saying that these issues need to be resolved because there is now three different owners on a larger overall tract that has floor area allocated and there is no indication in the PUD how much each owner are entitled to. Staff would like to resolve this issue in the fairest way possible. If everyone is in agreement that 7,000 SF is appropriate for the Burger King tract, then staff could agree, but the remainder floor allocation needs to be resolved in order to know how much floor area the two remaining property owners are entitled to. Mr. Stump stated that if a floor area ratio is adopted for each lot within the unallocated area, then the two owners would know how much building floor area they would be entitled to. If the two owners want to get together and trade floor area at a later date, then they can file for a minor amendment. Mr. Stump concluded that this issue is self-imposed problem because, normally, people abide by the Subdivision Regulations and do not divide property without approval.

Mr. Johnsen stated that staff wants to resolve these issues and he understands their concerns. The concept has been in the past that there is a time allocated, either by minor amendment or by plat. He indicated that there is a final number that would now remain unallocated between Wal-Mart and the Quapaw tract. It is not proportionate and it was never intended to be. He believes that his client

has an agreement with Wal-Mart and there is a recorded document signed by Wal-Mart that addresses the subject property with an attached site plan. The site plan identifies the building within the parcel toward the north that would be the Quapaw puzzle and it shows 55,000 SF. He stated that his client has a deal with Wal-Mart and knows that there was a verbal agreement at the closing, but it doesn't meet the floor area ratio that the staff is suggesting and it leaves Wal-Mart far more than they would ever build. He indicated that he believes Wal-Mart would have 231,500 SF and the Quapaw tract would have 55,000 SF, evidenced by the site plan. He commented that staff is anxious to settle this issue now and he fears that it would result in a considerable injustice to his client and be contrary to the deal with Wal-Mart. Mr. Johnsen concluded that the Planning Commission could let Burger King have their 7,000 SF and let the two remaining property owners thrash out the balance at a later date.

Mr. Westervelt asked if 310,000 square feet was the original number for the subject property before it was divided. In response, Mr. Stump answered affirmatively. Mr. Westervelt asked why there is a problem with the balance staying on the unallocated tract since the arithmetic is known. Mr. Stump stated that there would be two owners with undetermined amounts of floor area, and when one owner wants to plat his/her property and claims his/her is entitled to a particular amount, staff would not be able to process the plat because staff wouldn't know how much the owner is truly entitled to. Mr. Stump explained that staff wouldn't know what proportionate share of the larger building floor area he/she would be entitled to. Mr. Stump stated that staff would like to resolve it now and so it would not cause development delays in the future. Mr. Westervelt questioned whether the Planning Commission should delay current development so that it wouldn't create delays in the future. In response, Mr. Stump stated that with the 7,000 SF for the Burger King tract, the Planning Commission could make a decision on the subject tract and make a decision on the remainder parcel as well. Mr. Stump further stated that if the Planning Commission is inclined to believe that Mr. Johnsen's client is entitled to 55,000 SF for his tract then allocate him the 55,000 SF and give the rest to Wal-Mart. Mr. Stump explained that staff would like this issue to get back to the precision that is required with PUD's, which is that each owner knows how much floor area he is entitled to.

Mr. Westervelt asked how the lot-splits are accomplished and this land exchange without a title attorney requiring a lot-split. In response, Mr. Johnsen stated that the Quapaw tract meets the five acres requirement and didn't require a lot-split approval. Mr. Johnsen further stated that the Wal-Mart tract is larger and didn't require it either. He commented that he is not sure how the Burger King tract was established, because it does not meet the five acres requirement. In response, Mr. Stump stated that he believes that the Quapaw tract is five acres or less and therefore needed a lot-split. Mr. Johnsen stated that his survey would show the Quapaw tract at five acres plus. Mr. Johnsen stated that he doesn't know how the Burger King tract was established unless a title company knew it would be platted and approved it that way. Mr. Johnsen commented that

he was not involved with the Burger King tract closing and doesn't know the answer. Mr. Johnsen informed the Planning Commission that there have been two tracts done this same way (Citizen's Bank and Braum's) and now Burger King would like to do the same with a recorded document. Mr. Johnsen stated that staff wants to resolve this issue now and he fails to see the urgency to allocate the remaining floor area. Mr. Johnsen commented that he is confident that his client would resolve this issue with Wal-Mart at the time they are ready to develop.

Mr. Harmon asked Mr. Johnsen how it would impact his client if the allocation were decided today. In response, Mr. Johnsen stated that staff's recommendation of 22.9 FAR to Quapaw would not equal 55,000 SF.

Mr. Dunlap stated that there are two things being discussed today. Staff is talking about allocating a floor area and assigning a floor area ratio.

Mr. Johnsen stated that it would not be fair to proceed with the allocation of the remainder property because Wal-Mart is not present.

Mr. Harmon asked staff what would happen if the remainder were left unallocated today and Wal-Mart comes in and requests 22.5 percent, would they be able to accomplish that. In response, Mr. Stump stated that staff would have to tell Wal-Mart they could not. Mr. Stump explained that staff would tell Wal-Mart that they would have to go and negotiate with Mr. Johnsen's client in order to decide what the floor area is. Mr. Johnsen stated that staff could tell Wal-Mart to file a minor amendment and hold a hearing to see where they are at that time. In response, Mr. Stump stated that Wal-Mart would still have a problem because they can't file a minor amendment, which would include Quapaw's property, because they wouldn't own the property. Mr. Stump explained that each owner could only file a minor amendment for the portion that they truly own and staff would be at the same point today. The issue of floor area has not been resolved. Mr. Stump stated that both property owners could claim they are entitled to floor area and it may or may not add up to the remaining square footage. Mr. Stump explained that staff is suggesting that if everyone agrees that the Burger King is entitled to 7,000 SF, then the best thing to do today is to distribute the rest of the square footage in proportion to the land area that the other two owners own, and if they would like to change that in the future, then they can negotiate among themselves. Mr. Stump further explained that this would prevent development from being held up.

Mr. Westervelt stated that the written agreement is relatively clear and is signed by Wal-Mart and Quapaw. In response, Mr. Stump stated that staff agrees with the Burger King tract and the agreement submitted. Mr. Stump explained that if the two owners can't agree today as to what the allocation is, then he would rather have the Planning Commission take the fairest allocation, which would be proportional to land area and allocate the floor area for the two owners. In

response, Mr. Johnsen stated that the fairest on its face is the site plan that shows 55,000 SF. Mr. Stump stated that staff has no objection to that if Mr. Johnsen's client decides that is what he would like to do. Mr. Johnsen stated that he would take the 55,000 SF then.

Mr. Johnsen stated that he believes that the process is better served if it were to be settled at a future date. If it can be done today, then it could be done again at a timely fashion.

Mr. Stump stated that there would be 286,500 SF of unallocated floor area for Wal-Mart and Quapaw to decide how to split it up.

Mr. Romig stated that it might be good to ask Mr. Norman about his experience in trying to achieve the allocations his client needed because he believes that is one of his frustrations.

Mr. Norman stated that he started this process last October and requested that the Planning Commission allow his client to proceed. Mr. Norman further stated that the motion is requesting to move for the approval of the allocation of 7,000 SF to the Heartland Ventures tract for purposes of platting. He commented that he was not involved at the closing and he believes that the title company that handled the closing failed to require lot-split approval. He further commented that there is no harm done because a building permit can't be issued until it is platted and nothing has happened to the detriment of the public.

Mr. Ledford stated that the Planning Commission either has problems now or in the future. If the Planning Commission makes a decision today regarding allocation, unless one tract is given the 55,000 SF, there would definitely be problems. He suggested that the remainder floor area be deferred to a later date.

**TMAPC Action; 6 members present:**

On **MOTION** of **LEDFOORD**, TMAPC voted 6-0-0 (Harmon, Hill, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner, Midget "absent") to **APPROVE** the minor amendment PUD-578-A-1 for 7,000 SF allocation of building floor area for the Burger King restaurant lot (Lot 1, Block 1, Heartland Venture II) and a combined building floor area allocation of 286,500 SF for the two remainder parcels which together contain 28.75 acres. (No separate building floor allocation was made to each of these remainder parcels).

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**OTHER BUSINESS:**

**APPLICATION NO.:** PUD-599-A

**DETAIL SITE PLAN**

**Applicant:** John W. Moody

(PD-18) (CD-8)

**Location:** West of the northwest corner of East 62<sup>nd</sup> Street and South 104<sup>th</sup> East Avenue

**Staff Recommendation:**

The applicant is requesting approval of a detail site plan for a new 32,442 square foot hotel. The proposed use is in conformance with the approved Planned Unit Development for the site.

The applicant is also requesting a Minor Amendment, PUD-599-A-2, which if approved, would permit the increased floor area, reduced setback from the west property line, increased number of hotel rooms and height of the tower as depicted on the submitted Site Plan.

As per request of TMAPC, the Landscape Plan was reviewed and is submitted along with the Detail Site Plan. Both plans are in conformance with the development standards for the PUD in which they are located. The Landscape Plan includes berming of 62<sup>nd</sup> Street R-O-W and the typical required 5' landscaped strip located within the lot and extending along the entirety of the abutting 62<sup>nd</sup> Street right-of-way (except at points of vehicular access). A 5' buffer/landscape strip and 6' cedar-screening fence extend along the west property line.

Staff recommends **APPROVAL** of the detail site plan and landscape plan as submitted.

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

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

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

**TMAPC Action; 6 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 6-0-0 (Harmon, Hill, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner, Midget "absent") to **APPROVE** the detail site plan for PUD-599-A as recommended by staff.

\* \* \* \* \*

**APPLICATION NO.: PUD-521**

**DETAIL SITE PLAN**

**Applicant:** Tom McCaleb

(PD-18) (CD-8)

**Location:** Southeast corner of East 71<sup>st</sup> Street and South 101<sup>st</sup> East Avenue

**Staff Recommendation:**

The applicant is requesting a detail site plan for a new 4,205 square foot Krispy Kreme retail donut store. The use proposed is in conformance with the approved Planned Unit Development for the site.

The detail site plan submitted is in conformance with the development standards for the PUD in which it is located. Staff has been assured that the store will be retail in nature and has expressed the concern that there should be no wholesale bakery types of uses for the site. Traffic stacking of vehicles in this busy area has been reviewed with City Traffic Engineering staff, and although more traffic will result from the new store, it will be handled with an acceptable design.

Staff recommends **APPROVAL** of the detail 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; 6 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 6-0-0 (Harmon, Hill, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner, Midget "absent") to **APPROVE** the detail site plan for PUD-521 as recommended by staff.

\* \* \* \* \*

**APPLICATION NO.: PUD-623**

**DETAIL SITE PLAN**

**Applicant:** Paul Vakilzadeh

(PD-17) (CD-6)

**Location:** 507 South 129<sup>th</sup> East Avenue

**Staff Recommendation:**

The applicant is requesting a detail site plan to allow a garage door on the west side of a previously-approved site plan. The Planning Commission had approved the site plan on January 2, 2002 with the condition that no garage door be permitted.

The applicant now proposes an eight-foot by ten-foot garage door on the west side of the site. Concern has been expressed over why this large garage door would be necessary, and as to what types of uses are proposed for the site.

The applicant has stated that he is not sure at this time about what future uses will be, but that they could be something like an appliance store, pawn shop, or appliance repair use. These uses would be in conformance with the approved PUD uses permitted on the site.

Staff can recommend **APPROVAL** of the revised detail site plan as submitted. The applicant must comply with the provisions of the Planned Unit Development for uses approved, and no warehouse types of uses are permitted on site.

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

**Applicant's Comments:**

**Paul Vakilzadeh**, 15333 East 15<sup>th</sup> Street, Tulsa, Oklahoma 74108, stated that he is in agreement with the staff recommendation.

**TMAPC Comments:**

Ms. Hill asked Mr. Vakilzadeh if the garage door is on ground level. In response, Mr. Vakilzadeh stated that it would be ground level.

Ms. Hill asked Mr. Vakilzadeh why he needs the large garage door for a possible pawnshop, appliance repair or retail. In response, Mr. Vakilzadeh stated that if a washer or dryer needs to be dropped for repair it would be convenient to move the garage door rather than a small door.

Ms. Hill asked Mr. Vakilzadeh why he couldn't move appliances through a double door. In response, Mr. Vakilzadeh stated it could probably be done, but it would be inconvenient. Mr. Vakilzadeh stated that he is proposing an eight-foot wide garage door. Mr. Vakilzadeh commented that the Planning Commission didn't approve the garage door the last time because it was located on the north side of the building so he moved the location.

Ms. Hill stated that she is still curious why a garage door is necessary for the types of businesses the applicant has suggested may be in place. In response, Mr. Vakilzadeh said it is more convenient to move the appliances through a garage door instead of double doors. Ms. Hill asked Mr. Vakilzadeh why he needed an eight-foot garage door to move the appliances rather than double doors like most appliances stores have. Mr. Vakilzadeh stated that it is only for convenience and that there is no other reason.



Ms. Hill asked Mr. Vakilzadeh why he didn't have a loading dock in order to load and unload appliances. In response, Mr. Vakilzadeh stated that he never thought about that possibility. Mr. Vakilzadeh commented that a loading dock would cost a substantial amount of money and it is not feasible for him.

Mr. Westervelt asked staff if the garage door posed any challenges for Code Enforcement in the future. Mr. Westervelt reminded the applicant that the Planning Commission did approve his original site plan without a garage door. Mr. Westervelt stated that he doesn't believe the Planning Commission said they would approve a garage door in another location, but that the applicant would have to come back to the Planning Commission if he requested a garage door. It did not guarantee the applicant an approval. In response, Mr. Stump stated that the proposed garage door is taller than a residential garage door and it would accommodate a large truck that could be brought into the building and out of sight, which could make it difficult to know what is going on in the building.

Ms. Hill asked staff if it would make more sense to have a loading dock to unload appliances. In response, Mr. Stump stated that if the applicant installed a loading dock, he would have to have a ramp and he would lose a lot of floor area.

Mr. Stump stated that staff does have some apprehension because the applicant will not state what he is planning to use the property for, other than retail.

Ms. Pace asked what the subject property is zoned. In response, Mr. Stump stated that the subject property is zoned CG. Ms. Pace expressed concerns regarding what uses could possibly be allowed and rather it would be compatible with the subject area. Mr. Stump stated that the PUD did limit the uses significantly to those that were acceptable. Mr. Stump commented that he believes there is apprehension that a use, which is prohibited in the PUD, would be established and it would be difficult to enforce. Mr. Stump stated that the only uses allowed are Use Unit 11, Offices; Use Unit 13, Convenience Goods and Services; and Use Unit 14. Mr. Stump commented that the garage door does cause some questions, considering the low intensities that have been approved, as to why the applicant needs this type of loading area.

Mr. Vakilzadeh stated that there is no automotive-related business allowed on the subject property. Mr. Vakilzadeh stated that if the width or height is a problem he could make it shorter.

Mr. Westervelt informed the applicant that the garage door might lend itself to something occurring in the subject space that is not approved, such as a car quickly going into the garage door for repairs. In response, Mr. Vakilzadeh stated that there would be no automotive activity. In response, Mr. Westervelt stated that the applicant may not intend to have automotive repair or related activities, but he may have a tenant who tries to have automotive uses. Mr.

Westervelt explained that these types of problems have happened in the past and that is the reason for concerns regarding the garage door.

Mr. Harmon suggested a single garage door, possibly seven-foot wide and eight-foot high.

Ms. Hill stated that she associates garage doors with automobiles and trucks. She commented that she couldn't support this application.

Mr. Vakilzadeh stated that the subject area is too nice to have a mechanic shop.

Mr. Vakilzadeh stated that he could shorten the garage door to seven feet high. Mr. Harmon suggested a six-foot wide and seven-foot wide garage door. Mr. Jackson stated that an eight-foot wide and seven-foot high is a standard garage door.

Mr. Westervelt asked Mr. Vakilzadeh if double glass doors would open wide enough to take appliances in and out. In response, Mr. Vakilzadeh stated that it would be inconvenient. Mr. Vakilzadeh suggested lowering the garage door to prevent a car from coming in. Mr. Westervelt commented that when he asks the applicant about modifying the door, he agrees, but then gives some other reason why he needs the door and it makes one ask what the reason really is.

Mr. Harmon suggested that the garage door should be limited to six-foot wide and seven-foot high and the applicant would have to have a door made to fit it. In response, Mr. Vakilzadeh agreed.

Ms. Hill stated that she is still not comfortable with the garage door. In response, the applicant stated that he guarantees that there is no way there would be automotive activities. Ms. Hill asked Mr. Vakilzadeh if he would be opening the business for himself. Mr. Vakilzadeh answered negatively. Ms. Hill stated that at some point the applicant would have a tenant and the tenant may try to have automotive services and she is concerned with this possibility since the garage door would be in place if this application were approved. Mr. Vakilzadeh stated that he promises that there would not be any kind of mechanic or automotive industry on the subject property.

**TMAPC Action; 6 members present:**

On **MOTION** of **HILL**, TMAPC voted 6-0-0 (Harmon, Hill, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner, Midget "absent") to **APPROVE** the detail site plan for PUD-623, subject to the garage door being no more than six-feet wide and seven-feet high.

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Mr. Westervelt was informed that he made the motion regarding the change of access for Lots 1, 2 & 3, Block 1, Harrison Addition, which he later requested that he be recorded as abstaining.

**TMAPC Action; 6 members present:**

On **MOTION** of **WESTERVELT**, TMAPC voted 6-0-0 (Harmon, Hill, Jackson, Ledford, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Carnes, Dick, Horner, Midget "absent") to **RECONSIDER** the change of access on recorded plat for Lots 1, 2 & 3, Block 1, Harrison Addition.

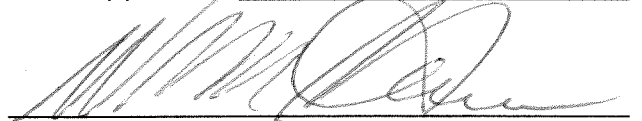
**TMAPC Action; 6 members present:**

On **MOTION** of **HILL**, TMAPC voted 5-0-1 (Harmon, Hill, Jackson, Ledford, Pace "aye"; no "nays"; Westervelt "abstaining"; Bayles, Carnes, Dick, Horner Midget "absent") to **APPROVE** the change of access on recorded plat for Lots 1, 2 & 3, Block 1, Harrison Addition.

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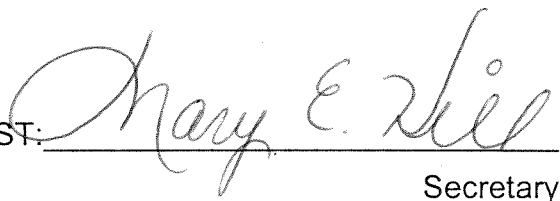
There being no further business, the Chairman declared the meeting adjourned at 3:10 p.m.

Date Approved: 2-20-02



Chairman

ATTEST:

  
Secretary

