

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2342

Wednesday, April 23, 2003, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Carnes	Bayles	Dunlap	Romig, Legal
Coutant	Collins	Fernandez	
Horner	Harmon	Huntsinger	
Jackson	Hill	Stump	
Ledford			
Midget			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, April 21, 2003 at 2:03 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 Jackson called the meeting to order at 1:32 p.m.

Minutes:

Approval of the minutes of April 2, 2003, Meeting No. 2340

On **MOTION** of **CARNES** the TMAPC voted 7-0-0 (Carnes, Coutant, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill "absent") to **APPROVE** the minutes of the meeting of April 2, 2003, Meeting No. 2340.

SUBDIVISIONS:

PLAT WAIVER:

Z-6878 - (1683) (PD 18) (CD 8)
East 88th Street, West of South Yale Avenue

STAFF RECOMMENDATION:

The platting requirement was triggered by a rezoning from RS-3 and OL to OL. Staff provides the following information from TAC at their April 3, 2003 meeting:

ZONING:

TMAPC Staff: The property was recently rezoned to OL (office light).

STREETS:

Limits-of-No-Access is needed along Yale Avenue. Property is not adequately defined. There may be right-turn access, but check with Mr. SomdeCerff in Traffic Engineering.

Applicant: The property to the north has a plat waiver and the property is defined to the south.

SEWER:

Public Works, Waste Water: Sewer is located to the south.

WATER:

Public Works, Water: Water is accessed across Yale.

STORM DRAIN:

Public Works, Stormwater: On-site detention will be required. Floodplain needs to be defined.

FIRE:

Fire: No Comment.

UTILITIES:

Franchise Utilities: No Comment.

Staff recommends **DENIAL** of the plat waiver requested. The use proposed is a medical office building and the property has not been previously platted. If the Planning Commission believes that a plat waiver is warranted for this site, staff recommends that the Limits-of-No-Access, and on-site detention be provided per Public Works approval.

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

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

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

- | | | |
|----|---|---|
| 4. | Is right-of-way dedication required to comply with Major Street and Highway Plan? | X |
| 5. | Would restrictive covenants be required to be filed by separate instrument if the plat were waived? | X |
| 6. | Infrastructure requirements: | |
| | a) Water | |
| | i. Is a main line water extension required? | X |
| | ii. Is an internal system or fire line required? | X |
| | iii. Are additional easements required? | X |
| | b) Sanitary Sewer | |
| | i. Is a main line extension required? | X |
| | ii. Is an internal system required? | X |
| | iii. Are additional easements required? | X |
| | c) Storm Sewer | |
| | i. Is a P.F.P.I. required? | X |
| | ii. Is an Overland Drainage Easement required? | X |
| | iii. Is on-site detention required? | X |
| | iv. Are additional easements required? | X |
| 7. | Floodplain | |
| | a) Does the property contain a City of Tulsa (Regulatory) Floodplain? | X |
| | b) Does the property contain a F.E.M.A. (Federal) Floodplain? | X |

8. Change of Access
 - a) Are revisions to existing access locations necessary? X*
9. Is the property in a P.U.D.? X
 - a) If yes, was plat recorded for the original P.U.D.
10. Is this a Major Amendment to a P.U.D.? X
 - a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?

* Limits-of-No-Access is required on Yale.

Applicant's Comments:

Roy D. Johnsen, 201 West 5th, Suite 501, Tulsa, Oklahoma 74103, representing Paul Wilson, 21st Properties, stated that at the last meeting, he believed the Planning Commission voted unanimously to grant the plat waiver, but Mr. Stump requested to know if limits-of-no-access should be imposed on the west boundary, which abuts Winston (interior minor street). The property to the immediate north was rezoned in 1999 and it was granted a plat waiver. No access limitations were imposed on the west boundary of the property immediately to the north. Currently there is an office building located on the north property with access to Yale and Winston. He explained that his application fundamentally came on the basis that the Planning Commission had already spoken to these issues and approved the plat waiver to the north of the subject property. He believes that is why the Planning Commission was favorably disposed toward the plat waiver.

Mr. Johnsen stated that he read the Subdivision Regulations to prove that the Planning Commission had the authority to impose limits of no access on arterial streets. He indicated that Mr. Romig, Legal, doesn't agree with this and he is the attorney for the City of Tulsa. He commented that Mr. Romig indicated that the Planning Commission has the ability to impose limits of no access on Winston, but it isn't required. TAC did not recommend limits of no access at their meeting; however, staff did recommend limits of no access.

Mr. Johnsen explained the way the ordinance is written, office zoning shall be required to screen along the boundary that is in common with the adjoining residential properties. If the definition is read "adjoining or abutting", it means that the property is not separated by an arterial street. The interpretation has been that there must be a screening fence along Winston. The Board of Adjustment ruled that the screening fence shall be continuously along the line,

with no access points. If this is still the interpretation, then it is largely unknown or ignored and hasn't been enforced on the property immediately north of the subject property. In the past it was interpreted that if a screening wall was required, then it must be provided, but points of access maintained to abutting streets, unless otherwise restricted.

Mr. Johnsen stated that if the Planning Commission accepted Mr. Stump's premise, then it is a zoning restriction and it may be modified by the BOA. He is requesting the Planning Commission to let the BOA determine the appropriateness of permitting a modification under the screening requirement. This is the process that should be followed. Subdivision Regulations, relative to the plat waiver under Mr. Romig's interpretation, give the Planning Commission the authority to impose limits-of-no-access if it is necessary.

Mr. Johnsen described the surrounding properties as to whether they would be impacted by allowing access onto Winston. He indicated that there were several properties with no objection to the subject property having access onto Winston. If the access onto Winston is limited, it would greatly impact the office use because Yale is divided with a median and it would be impossible to make a left-turn exiting or entering the property. Vehicles wanting to turn left will look for a street to turn around and it would more than likely be a residential street to the north. He suggested that in the past 30 years, the Planning Commission's policy has been to not impose limits of no access on minor streets, with the exception of PUDs.

Mr. Johnsen stated that this proposal is presented out of practicality and the precedent has already been set.

TMAPC COMMENTS:

Mr. Westervelt asked Mr. Johnsen if he had a chance to receive feedback from the residents who live to the rear of the subject property. In response, Mr. Johnsen stated that 21st Properties contacted the owners of the three lots on the west side of Winston. Mr. Johnsen further stated that Winston dead-ends to the north and there would be no reason to go north. Mr. Johnsen indicated that his client was able to contact two of the three neighbors and they did not have a problem with the proposal.

Mr. Stump stated that the lot to the north is in violation of the Zoning Code, and violations of the Zoning Code should be not used as precedent for other violations of the Zoning Code. From Mr. Johnsen's presentation, his client would like to illegally access Winston Avenue and that is why he doesn't want limits of no access. The Zoning Code does not permit access to Winston, and the BOA has interpreted the Zoning Code requirement the same. The BOA made the interpretation that if there was access to an arterial street, then the minor residential street could not be used for access for a non-residential development. The screening fence has to go over the entirety of the west boundary of the

subject lot, as well as the west boundary of the lot to the north. Mr. Stump reiterated that the lot to the north is currently in violation. Staff believes that having limits of no access on the west boundary would put this owner or future owners on notice that Winston cannot be used for access. The same procedure is done with building setback lines on plats. There is nothing in the Subdivision Regulations that requires a particular building setback line. It is a zoning requirement and this informs potential lot purchasers of some of the zoning requirements. TMAPC is required to have the new subdivisions comply with the zoning requirements. This would bring the issue of access to the front and there are two routes the applicant could use. If sometime in the future, the applicant obtained a variance from the BOA to allow access to Winston, then a change of access could be processed. The other option is to table this issue and let the applicant apply to the BOA for a variance of access onto Winston, and if they are successful, then the TMAPC wouldn't require the limits of no access. In both cases, the subdivision plat meets the zoning requirements. To say the zoning requirements are not going to be reflected on the plat, because they like to violate the Zoning Code and have access to Winston, is not good policy.

Mr. Johnsen stated that 21st Properties does not intend to violate the zoning ordinance. He indicated that he would go before the BOA to request a variance. This is not the issue before the Planning Commission today because that would be a zoning issue. He commented that side yards and rear yard setbacks are not shown on the plat, but they are in the Zoning Ordinance, and there are a lot of requirements in the Zoning Ordinance that aren't shown on the plat. Mr. Johnsen stated that he takes objection to Mr. Stump's characterization that 21st Properties wants to violate the Zoning Ordinance, because it is not their intent. He further stated that he does not believe the limits of no access should be on the plat because for years it was not. He commented that this issue has never come up in the past, but Mr. Stump raised it and it is a requirement he wants to impose that is a departure from past practice.

Mr. Westervelt asked Mr. Stump how long it would take to process a change of access. In response, Mr. Stump stated that it would take approximately three weeks.

Mr. Johnsen stated that having limits of no access on a plat is a relinquishment of the developer's right of access to an abutting street. When property is platted, it is subject to regulations that require a relinquishment of that right and that is what is being requested today. He commented that possibly he could convince the Traffic Engineer that the only reason this was imposed is because of this one interpretation that is not followed in every place in the City of Tulsa. Mr. Johnsen reiterated that this is a plat waiver before the Planning Commission today.

Mr. Stump stated that this could be debated all day. He further stated that it is not the case that this issue has not been enforced. Perhaps a few have put in driveways where they weren't supposed to. Recently this same issue came up

on a credit union site in north Tulsa and it was required to give limits of no access on the residential street because the Zoning Ordinance did not permit anything except a screening fence along the entire frontage of the western boundary of the site. It allayed fears and in this application it would be office next to residential. Previously the subject property was used for residential and the access to Winston was appropriate. However, now non-residential use is proposed and it would no longer be appropriate to have access to Winston, which is what the Zoning Code states. There are probably businesses that have violated the Code and have access, but that doesn't mean it cannot be enforced after it has been violated. If this is a little-known requirement, then it is important to include limits of no access on the plat in order to put everyone on notice that there is such a limitation.

Mr. Johnsen reiterated that his client does not intend to violate the zoning ordinance and he resents the implication.

Mr. Westervelt stated that it is very hard to not recognize that when there is an existing violation north of the subject property, then it would not be appropriate to be overly critical of staff for trying to avoid having the same circumstance occur that is currently happening today on the property adjacent to the north.

Mr. Johnsen stated that he understands that it is staff's responsibility to recommend this and he is not mad at staff except when he suggests that his client would like to violate the ordinance, which is not accurate. He further stated that he understands that staff members usually have a very conservative bias and they should. He concluded that if this is a zoning issue, then the modification is properly before the BOA, and if it is not granted, then he would build the fence.

Mr. Westervelt stated that he doesn't believe Mr. Stump was questioning Mr. Wilson's integrity or desire to violate the Zoning Code. He believes Mr. Stump is questioning the emotional nature of the applicant's plea over this issue because it is puzzling.

Mr. Carnes asked Mr. Johnsen if he would like a continuance until after the BOA hearing. In response, Mr. Johnsen stated he would have to discuss this with his client.

Mr. Ledford asked Mr. Stump if he had seen the latest Yale design from 81st to 91st. In response, Mr. Stump answered negatively. Mr. Ledford stated that it would be helpful if the Planning Commission could review the design on Yale for the six lanes. Mr. Ledford commented that he understands that there was a presentation to a homeowners group and there must be some type of draft of the design.

In response to Mr. Ledford, Mr. Stump stated that the raised medians on Yale may be a hardship that the applicant could take to the BOA and justify access to

a residential street. This request should be made before platting and this has been done out of order.

Mr. Johnsen requested that the Planning Commission approve the plat waiver without limits-of-no-access on Winston, subject to BOA modifications of the screening requirement. If the BOA does not approve the modification, then the plat waiver is ineffective and a permit would not be issued.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, TMAPC voted 7-0-0 (Carnes, Coutant, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill "absent") to **APPROVE** the plat waiver for Z-6878 with limits-of-no-access unless varied by the Board of Adjustment.

Mr. Johnsen asked the Planning Commission if it would be fair for him to advise the BOA that the Planning Commission didn't say it should or should not be modified. In response, Mr. Midget answered affirmatively.

* * * * *

Mr. Horner out at 1:55 p.m.

ZONING PUBLIC HEARING

Application No.: PUD-432-D-5

MINOR AMENDMENT

Applicant: Charles Norman

(PD-4) (CD-4)

Location: East side of South Utica Avenue, between East 11th Street and East 13th Street

STAFF RECOMMENDATION:

Hillcrest Health Park on the east side of South Utica Avenue between East 11th Street and East 13th Street has been developed under PUD-432. A major amendment, PUD-432-D approved in 1995, allowed Hillcrest Medical Center to combine former Development Area B, E and F and additional property which had been acquired into a new Development Area B, which includes all of the property east of the existing William H. Bell Medical Park (Development Area A) to South Wheeling Avenue and between East 12th Street and East 13th Street.

The Hillcrest Health Park Development Concept approved in 1995 included parking structures along the East 13th Street and East 12th Street frontages of Development Area B and a major medical building near the center of Development Area B with a maximum building height of 75 feet. The proposed

parking structure was permitted with a setback of 55 feet from the centerline of East 13th Street and a maximum building height of ten feet above the grade of the existing surface parking area. The proposed 75-foot high medical building was required to be a minimum of 190 feet from the centerline of East 13th Street.

Minor Amendment, PUD-432-D-4, was approved in October 2002 as follows:

Parking structures as permitted were deleted within the southerly 190 feet in Development Area B.

The maximum height for buildings within Development Area B was amended as follows:

Maximum building height:

At 155 feet from the centerline of East 13th Street 45 FT

At 190 feet or further from the centerline of East 13th Street 75 FT

The minimum building setbacks for buildings within Development Area B were amended with respect to East 13th Street to increase the building setback from 58 feet to 155 feet from the centerline of East 13th Street.

The development concept for Development Area B now contemplates one additional medical building near the center of Development Area B and a two-level parking structure along East 12th Street as shown on the Development Area B detail site plan, Exhibit 1, attached hereto.

In order to permit the changes in the development plan for Development Area B, Hillcrest Medical Center requests approval of minor amendments to the development standards for Development Area B of PUD-432-D as follows:

To amend the minimum building setbacks for buildings within Development Area B from the centerline of South Wheeling Avenue from 50 feet to 35 feet for the north 260 feet of the development area boundary along South Wheeling Avenue.

To amend the minimum building setbacks for buildings within Development Area B from East 12th Street to be a minimum of ten feet from the existing south right-of-way line of East 12th Street.

To amend the landscape details within Development Area B for East 13th Street area, Exhibit D to PUD-432-D as shown on the detail landscape plan for Development Area B attached hereto as Exhibit 2. (The changes in Exhibit D do not change the concept for the East 13th Street frontage but are required to reflect the entrance and internal circulation of the permanent surface parking area adjacent to East 13th Street.)

To amend the landscape details of the East 12th Street area and along the northern Wheeling Avenue frontage and northwest side of Development Area B from Exhibit E of PUD-432-D to reflect the detail landscape plan for Development Area B attached as Exhibits 2 and 3.

To amend the second sentence of the lights section development standards of Development Area B to read as follows:

Parking structure check parapets above the adjacent street grade level shall be designed to shield automobile headlights from exterior view. (Parapets are not required for safety purposes for parking structure decks at street grade levels.)

All other development standards for Development Area B as amended will remain in full force and effect.

Staff finds that the request does not substantially alter the approved PUD standards or the character of the development. Therefore, staff recommends **APPROVAL** of the request with the following modification to minimum building setbacks from 12th Street right-of-way ten feet plus two feet for every foot of building height over 25 feet.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, cited the history of approvals and amendments for the subject property.

Mr. Norman acknowledged Mr. Don Barnum (representing the neighborhood association) and stated that he would like to speak to the Planning Commission.

Interested Parties:

Don Barnum, 1910 East 13th Street, Tulsa, Oklahoma 74104, representing Terrace Drive Association, stated that he appreciates Mr. Norman's efforts to communicate with the neighborhood regarding the proposals.

Mr. Barnum stated that the following concerns were expressed by the neighbors: The City promised to keep 13th, Xanthus and Xanthus Place clean during construction; concerned about the landscaping and signage; the landscaping is necessary to soften the residential side.

Betsy Whitaker, 1820 East 13th Street, Tulsa, Oklahoma 74104, expressed concerns regarding traffic and parking on the residential streets during the development. She indicated that vehicles are speeding down 13th Street and there should be some type of traffic calming device.

TMAPC COMMENTS:

Mr. Jackson asked staff if Ms. Whitaker could contact the City to request a four-way stop sign. In response, Mr. Stump stated that Ms. Whitaker could contact Mark Brown, Traffic Operations. Mr. Stump explained that 13th Street was built to be a straight collector street and a four-way stop would be unusual on a collector, but Traffic Engineering may feel it is necessary for safety reasons.

Ms. Whitaker stated that there is congestion on 13th Street because a substantial part of the parking lot has been closed at Hillcrest. There is an overflow area east of Wheeling but it is not able to accommodate the flow of traffic and the parking situation that is being created by having the entire parking lot closed.

Mr. Stump stated that if cars are parking on east of Wheeling, it would be in violation of the PUD conditions. The subject area was approved for parking, but it has never had a site plan approved and the landscaping that is required has not been installed. The hospital is entitled to use the lot if the required landscaping is installed and they have a site plan review.

Ms. Whitaker stated that the employees are parking on the overflow parking lot east of Wheeling. She explained that there is also valet parking for the cardiac center and they are lining the cars on both sides of 13th Street.

Mr. Stump stated that he doesn't know how to respond regarding the valet parking.

Applicant's Rebuttal:

Mr. Norman submitted the 1995 site plan in the area where Mr. Barnum discussed, east of Wheeling and Xanthus. He indicated that parking was approved, subject to strict landscaping and setback requirements. Since the approval, additional properties have been acquired and existing buildings removed. He explained that eventually his client would own the entire block except for an apartment building and a duplex. The long-range plan has always been to close Wheeling and there is nothing before the Planning Commission today on Area G, east of Wheeling. He indicated that Area G may come before the Planning Commission as additional parking on the east side of Xanthus,

which may require a major amendment due to the new property that has been acquired.

Mr. Norman explained that the intention is to move any access as far away from 13th Street as possible into the new site plan. Most of the traffic exiting the expressway uses Utica and then into the subject area. His client supports closing the off-ramp and forcing all of the expressway-traffic onto Utica and then into the campus. There are no objections to any type of calming device on 13th Street that is approved by the City. He explained that there is a valet parking service in place in order to get patients from the parking lot to the buildings, and if it is in violation to use the overflow parking, then he would ask for some temporary relief to use during the construction period.

Mr. Norman indicated that he is agreement with staff's recommendation.

TMAPC COMMENTS:

Mr. Westervelt asked Mr. Norman if Hillcrest would be willing to help pay for stop signs. In response, Mr. Norman stated that Hillcrest probably would help pay for the stop signs if they are approved by the City.

Mr. Jackson recognized Mr. Barnum.

Mr. Barnum stated that he would not be in favor having a stop sign installed on 13th Street.

TMAPC Action; 6 members present:

On **MOTION** of **WESTERVELT**, TMAPC voted 6-0-0 (Carnes, Coutant, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill, Horner "absent") to **APPROVE** the minor amendment for PUD-432-D-5 per staff recommendation.

RELATED ITEM:

Application No.: PUD-432-D

DETAIL SITE PLAN

Applicant: Charles Norman

(PD-4) (CD-4)

Location: East side of South Utica Avenue, between East 11th Street and East 13th Street.

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site and landscape plan for a five-story (including basement) office building and a two-level parking structure in Development Area 'B'. The uses are in conformance with Development Standards (as amended through previous minor amendments).

The detail site plan is in compliance with maximum permitted building floor area and building height. Building setbacks and street yard requirements are in compliance with Development Standards and the Zoning Code if the Minor Amendment, PUD-432-D-5, is approved by TMAPC. Proposed height of light fixtures is 12' as required by development standards; however, compliance with the Zoning Code regarding visibility of light elements cannot yet be determined due to insufficient information. Parking structure deck parapets above the adjacent street grade level are designed to shield automobile headlights from exterior view. The façade of the garage is compatible with the design of the medical buildings within Development Areas A and B as required by standards.

If Minor Amendment request PUD-432-D-5 is approved by TMAPC, the landscape plan will be in compliance with the Zoning Code regarding street yard and tree requirements. The landscape detail of the E. 13th Street S. street yard will also be in compliance if PUD-423-D-5 is approved, which requires that landscaping be in conformance with the concept provided in Exhibit '2' of PUD-432-D-5; and landscape detail of the E. 12th Street S. street yard will also be in compliance with amended Development Standards per Exhibits '2' and '3' of PUD-432-D-5 if PUD-432-D-5 is approved. Landscaping of surface parking areas is also in compliance with the Zoning Code. Evergreen shrubs of 24"-30" height planted on a 36" center are planned for purposes of providing a 42" height (at maturity) screening hedge for car headlights on the east, north and west sides of the parking garage.

Staff recommends **APPROVAL** of PUD-432-D detail site and landscape plans on condition that a detail lighting plan verifying conformance with Zoning Code requirements for visibility of light-producing elements, particularly of those fixtures located on the south and east perimeters of Development Area 'B'.

(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 **CARNES**, TMAPC voted 6-0-0 (Carnes, Coutant, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill, Horner "absent") to **APPROVE** the detail site and landscape plans for PUD-432-D, subject to the condition that a detail lighting plan verifying conformance with Zoning Code requirements for visibility of light-producing elements, particularly of those fixtures located on the south and east perimeters of Development Area 'B', be submitted.

OTHER BUSINESS:

Application No.: PUD-670

DETAIL SITE PLAN

Applicant: Ricky Jones

(PD-6) (CD-9)

Location: Southwest corner of East 31st Street and South Rockford

STAFF RECOMMENDATION:

Development Standards for PUD-670 require that "The screening wall along 31st, the private drive gating and entry features and the fencing along Rockford shall require submission and approval of a supplemental detailed plan (including landscaping)". Submitted for review at this time are plans for the 31st Street screening wall, private drive gating and entry features. No landscaping plans related to the wall and gate/entry features have been submitted. Other than the aforementioned requirement for review of landscaping, neither the PUD development standards nor TMAPC action indicates specific landscape features and detail required. Most landscaping per the PUD concept plan is contained within 31st Street and South Rockford rights-of-way.

In compliance with development standards, the proposed screening wall is of masonry construction, is not less than seven feet in height and is to be constructed along the north boundary of the PUD (31st), excepting the point of gated access and within 40 feet of the centerline of Rockford Drive.

In addition to the above requirements, the entry gates must receive detail site plan approval from Traffic Engineering and the Tulsa Fire Department. Such approval has been received from Traffic Engineering, but has not yet been received from the Tulsa Fire Department.

Staff recommends **APPROVAL** of this portion of PUD-670 detail site plan on the condition that the gated entry be approved by the Tulsa Fire Department. Staff would also recommend that final Plat not be approved by TMAPC until a plan for the Rockford frontage fencing, visitor parking spaces and landscaping along both Rockford and 31st Street is approved by TMAPC as meeting the requirements of the PUD. Without such an approval of these plans, the TMAPC might be giving final plat approval to a subdivision which does not assure compliance with a PUD condition.

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

Applicant's Comments:

Ricky Jones, Tanner Consulting, 5323 South Lewis Avenue, Tulsa, Oklahoma 74105, stated that he has obtained Traffic Engineering approval and Fire Department approval.

Mr. Jones stated that at the last meeting for the detail site plan, it was suggested that it be tied to the release of the final plat. He indicated that he has submitted the draft final plat and are in the final stages of having the release letters trickle in. He stated that he did not want to have the approval of the detail wall plan hold up the filing of the final plat because it would hold up the filing the plat of record. He indicated that he has filed a PUD detail site plan review for the wall along Rockford and it will come before the Planning Commission. However, the final plat would probably come before the review and he would prefer that the two not be linked together. He requested that the staff recommendation be amended to delete the last requirement that the detail site plan be tied to the final plat.

Mr. Stump stated that the reason for requesting this be tied to the final plat is because there could be plat conditions that need to be stated on the plat relating to the subject wall. If the developer is responsible for building the wall per the plan that the Planning Commission approves, then it should be in the plat and if individual homeowners are required to build the wall in conformance with the plan approved, then it needs to be stated in the plat so that purchasers know their obligations. Therefore, staff wanted this issue settled before the plat was finalized.

Mr. Jones stated that the PUD requirements are reiterated in the subdivision plat and the detail site plan has the PUD conditions reiterated on the site plan as well. It also states that this is a typical site plan and it may shift because the location of the two guest access points would be located. He commented that he believes the requirement is covered and the final plat shouldn't be held up.

TMAPC COMMENTS:

Mr. Westervelt asked if there would be language that there would be detail site plan presented or had been presented. He asked if the language would be that strong. In response, Mr. Jones stated that he doesn't have a copy of the plat with him, but Mr. Johnsen prepared the covenants for it. The PUD conditions are stated in the plat and potential owners would know about the requirement for the screening fences.

Mr. Stump stated that the PUD was unusual and it required that design of the fencing in the front yards along Rockford be approved by the Planning Commission. Therefore, because this is unusual, if the developer is not going to build the wall and fence along Rockford, then the PUD condition needs to be clarified so that everyone purchasing a lot knows that the wall has to be built and it has to be in accordance with the Planning Commission-approved design. He explained that he could see where some owners would decide that they wouldn't need a wall or they do not like that material and build something different. It would be wise to resolve this issue and have in writing on the plat so everyone would know what they are buying.

Mr. Westervelt stated that he understands Mr. Stump's concern and he understands Mr. Johnsen's and Mr. Jones's desire not to start doing something like this by tying the plat. However, if this isn't dealt with now, then it would create problems later. The understanding was that the Planning Commission would see the wall in a unified treatment. Is there some other mechanism that could be done.

Roy D. Johnsen, 201 West 5th, Suite 501, Tulsa, Oklahoma 74103, stated that he believes Mr. Stump has changed the entire process and flip-flopped on process.

Mr. Westervelt stated that he understands Mr. Johnsen's passion on this issue; however, the Planning Commission does know what this deal was supposed to be and he doesn't believe it is improper for Mr. Stump to look for a way of perfecting of what needs to be done. This was a controversial application and a lot of extra time for people to be involved, including City Councilors. If this issue isn't dealt with now, it would be a problem later on and it isn't wrong for staff to look for a way to find a solution. He suggested looking for a solution instead of accusing Mr. Stump of misinterpreting the Code.

Mr. Johnsen stated that he is very much in favor of resolving the issues. Having a detail site plan review has never been a condition prior to filing of a plat. The plat is an engineering matter and the applicable conditions of the PUD are written in. He cited the specifics for the fence: masonry base, four feet of wrought iron, which would permit a six-foot wall along Rockford and at least 75% of the lineal length of the wall would be wrought iron and these would be included in the covenants so that purchasers and developers would know what the requirements are. A detail site plan of the wall would also have to be submitted, which has been filed by the applicant and will be before the Planning Commission in the future. He disagrees with the requirement that the covenants should state that either the developer build the fence or the lot owner build the fence. In most of the PUDs there may be certain things built by the builder and certain things built by the developer or homeowner, but it shouldn't be a condition of the PUD as long as the conditions are clear and the purchaser knows what they are. This could be easily handled by advising the zoning clearance officers that there is a requirement for the front screening fence. Mr. Johnsen stated that tying this to the final plat is not right. It burdens the process and is not necessary.

TMAPC COMMENTS:

Mr. Westervelt asked Mr. Johnsen if he would want to bring the PUD back and change the language in the PUD to ensure that the fence along Rockford happens. In response, Mr. Johnsen answered negatively.

Mr. Johnsen stated that unless the Planning Commission can show some demonstrable reason that it all has to be built right now or in a sequence, then there is nothing wrong in having requirements.

Mr. Westervelt stated that had he understood that the fence along Rockford would not be unified treatment and not built up front, he wouldn't have approved the application. The way the graphics were shown and the way this application was presented, although not intentionally deceptive, obviously didn't imply this at the time. It is very important that this be a unified wall. In response, Mr. Johnsen stated that the wall would be unified. In response, Mr. Westervelt asked Mr. Johnsen if he would get a pledge from the developer that the entire masonry wall would be constructed as it is presented. Mr. Westervelt asked Mr. Johnsen if he could make the statement that the developer would install the unified wall as the detail sign shows it. In response, Mr. Johnsen stated that he cannot make that statement if he is requesting that it be installed upfront or all at once. Mr. Johnsen stated that he can state that the fence would be uniform as the lots are developed. Mr. Westervelt asked if the fence would be developed by the same person and same design. In response, Mr. Johnsen answered affirmatively.

Mr. Carnes stated that usually the fence is built at one time during a PUD development. This is the first time he has ever heard of building a house and then building the fence. This is not what the Planning Commission approved.

Mr. Johnsen stated that there could be variation regarding the guest parking. In response, Mr. Carnes stated that the parking could be handled by a minor amendment. Mr. Johnsen stated that until the house plan is selected, the parking issue cannot be resolved.

Mr. Westervelt asked how the house plan would affect the front wall that runs along the edge of the property. In response, Mr. Johnsen stated that the gate detail may be a function of where the front door is located on the floor plan that is being constructed.

Mr. Jones stated that the floor plan may necessitate the two guest parking spaces to flip to the north or to the south side. The wall will be unified and will be built with the same material. One of the reasons the fence cannot be built all at the same time is because it is a very tight site and the area is needed to get in and out of the sites for building and utilities. The wall would be constructed as each house is being constructed. The fence along 31st can be installed up front and will be, but the wall along Rockford cannot be done all at once.

Mr. Stump stated that he would suggest that the final plat have some wording in it that reflects that each homeowner must build the fence in conformance with the approved plans. In response, Mr. Westervelt stated that he just heard the fence would be built by one person in a unified way, but in a step by step basis. Mr. Westervelt asked if it would be stronger to say that the fence would be built by the developer in a unified manner according to the site plan in a step-by-step process.

Mr. Stump stated that he is not sure legally the Planning Commission can bind the developer in this regard. He further stated that the Planning Commission can bind the developer before giving final plat approval or as a condition as final plat approval.

Mr. Johnsen stated that once the lot is sold, the building permit has to be issued and it is supposed to be built in accordance with the PUD requirements. He commented that he doesn't mind strengthening the language in the deed of dedication if that be the question.

Mr. Ledford stated that he doesn't believe it would be the deed of dedication. Mr. Ledford further stated that he believes Mr. Johnsen could come up with some language that would satisfy that requirement. He suggested that Mr. Johnsen meet with Mr. Stump and come up with some language for the restrictive covenants to give the Planning Commission some security that the owner is aware that the fence has to be built by the individual owner in compliance to the approved or amended plan.

Mr. Johnsen stated that he has no problem with Mr. Ledford's suggestion.

Mr. Westervelt asked how the Planning Commission would be assured that the same materials are still available to finish the fence if housing goes into a slump. He commented that the Planning Commission knows what the deal was when it was approved and knew what all of the sensitivities were. The Planning Commission wants to make this happen the way it is supposed to and the Planning Commission can't afford to have these infill projects not turn out the way they are intended because it would create difficulty in doing this in the future if it is not done the way it was presented and approved.

Mr. Dunlap suggested the Planning Commission approve the screening wall along 31st Street, the private drive gating, and the entry features, then continue this discussion when the final plat comes in. Everyone knows the fence along Rockford has to be done and if the final plat comes in and the language is strong enough and the Planning Commission feels that it is covered, and then the final plat is approved. If it isn't covered, the Planning Commission can continue the final plat until after the site plan is approved.

Mr. Johnsen agreed to Mr. Dunlap's suggestion. He stated that no one is trying to depart from what has been approved. There were no elevations presented on the subject fence. He explained that there were specifications that were reached.

Mr. Johnsen stated that there are some areas for the process to be improved and one of the processes is to have a mechanism so that people issuing the permits are fully advised of the requirements. There is some public responsibility to have the requirements in front of them and to apply them.

Mr. Westervelt stated that he would never approve another single-family PUD without asking the question and making sure that there would be unified treatment.

Mr. Johnsen stated that the fence would be unified and it was never indicated that it wouldn't be unified. He further stated that Mr. Taylor is not departing from any of the standards that were approved.

Mr. Westervelt stated that the Planning Commission has not criticized Mr. Taylor, nor suggested that anyone wants to violate anything.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted 6-0-0 (Carnes, Coutant, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Collins, Harmon, Hill, Horner "absent") to **APPROVE** the detail site plan for PUD-670 for the 31st Street fence as presented: private gating and entry features, subject to Fire Marshall's letter.

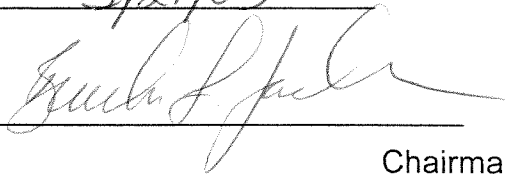
COMMISSIONERS' COMMENTS:

Mr. Ledford asked the Chair to direct staff to modify the plat waiver checklist to add the mutual access as a part of the checklist.

There being no further business, the Chair declared the meeting adjourned at 2:43 p.m.

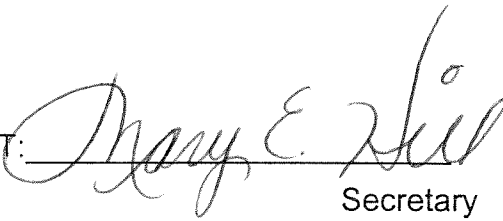
Date Approved:

5/21/03



Chairman

ATTEST:



Secretary