

# **TULSA METROPOLITAN AREA PLANNING COMMISSION**

## **Minutes of Meeting No. 2399**

Wednesday, January 5, 2005, 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>
Carnes	Bayles	Alberty	Boulden, Legal
Dick	Coutant	Chronister	
Harmon	Hill	Huntsinger	
Horner	Jackson	Matthews	
Midget	Ledford		
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, December, 30, 2005 at 1:55 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Westervelt, called the meeting to order at 1:30 p.m.

### **REPORTS:**

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

Mr. Westervelt asked staff if they had received the data needed for the Board of Adjustment recommendations that are scheduled to be made in two weeks. In response, Mr. Alberty stated that the only thing he can think of is that the Planning Commission requested that Councilor Mautino provide a disc that has not been provided. However, he and Dane took a tour of East Tulsa with Councilor Mautino and he took us to a number of different sites that he was concerned about.

Mr. Westervelt asked that at the end of this meeting, if staff has not received everything that they need, they would prepare a letter for his signature and he would be glad to send that letter to Council requesting that information that is lacking.

#### **Director's Report:**

Mr. Alberty reported on the TMAPC receipts for the month of November 2004. He indicated that this is the first month since fiscal year of 2004 and 2005 that the receipts of have exceeded last year's receipts. The City receipts are above

and the County receipts are approximately \$500.00 less for the same period of 2003. For the fiscal year to date the receipts are still under last year's total receipts by approximately \$23,000.00.

Mr. Alberty reported on the upcoming applications for the City Council agenda for January 6, 2005.

**TMAPC COMMENTS:**

Mr. Westervelt stated that the TMAPC members are thinking about Mrs. Alberty and hope that her recovery from her car accident is hasty and quick. In response, Mr. Alberty thanked Mr. Westervelt.

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**SUBDIVISIONS:**

**LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:**

**L-19759 – Jeff Levinson** (8329) (PD 4) (CD 3)

Southeast corner of East 101st Street and Delaware

**L-19772 – Harden & Associates** (9408) (PD 17) (CD 6)

1245 South 119<sup>th</sup> East Avenue

**L-19775 – Myra Doll** (9136) (PD 23) (County)

5360 South 86<sup>th</sup> West Avenue

**STAFF RECOMMENDATION:**

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

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

**TMAPC Action; 6 members present:**

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

\* \* \* \* \*

**FINAL PLAT:**

**South Tulsa Medical Properties Addition – (8419)**

(PD 18) (CD 8)

10020 East 91<sup>st</sup> Street

**STAFF RECOMMENDATION:**

This plat consists of one lot in one block on 4.54 acres.

All release letters have been received and staff recommends **APPROVAL** of the final plat for South Tulsa Medical Properties Addition.

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

**TMAPC Action; 6 members present:**

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the final plat for South Tulsa Medical Properties Addition.

\* \* \* \* \*

**Guierwood Office Park (formerly known as F&M Bank) –**  
(8308)

(PD 18) (CD 2)

Southwest corner of East 71<sup>st</sup> Street South and South Harvard Avenue

**STAFF RECOMMENDATION:**

This plat consists of one lot in one block on 3.39 acres.

All release letters have been received and staff recommends **APPROVAL** of the final plat for Guierwood Office Park.

**TMAPC COMMENTS:**

Mr. Westervelt stated that the Planning Commission received a letter from John Denny and will be made part of the record (Exhibit A-1).

**Applicant's Comments:**

**Roy D. Johnsen**, 201 West 5<sup>th</sup>, Suite 501, Tulsa, Oklahoma 74103, stated that he appears on behalf of the F&M Bank and Trust Company who is the owner of the subject property. He informed the Planning Commission that the plat, as submitted, meets the requirements of the Subdivision Regulations as staff has reported. All of the release letters have been received and under the normal and

customary practices these plats at this point are routinely approved as being in compliance with the adopted Subdivision Regulations, which is the case today.

Mr. Johnsen stated that Mr. Denny filed a letter in regard to the covenants (Exhibit A-1). He commented that it takes a few minutes to discuss the process. When a PUD is approved, the applicant is required to plat and in the PUD section of the Zoning Code there is provision that is part of the deed of dedication to write covenants that are enforceable by the City of Tulsa that implement the concepts and development standards of the approved PUD. He indicated that he drafted the covenants, as well as the regular standard deed of dedication and submitted it to the Legal Department for their review along with the minutes of the Planning Commission hearing. There was discussion on a few minor items and those were corrected. He commented that Mr. Denny has suggested in his letter (Exhibit A-1) that somehow this PUD is being amended. In this regard, interpreting permitted uses, he should remember that staff does not purport to be lawyers when they write the recommendations. Staff tries to express what they think the recommendation is, and during the platting process lawyers implement those things with appropriate legal language that is acceptable for recording in the County Clerk's office. There was a typographical error in the Planning Commission minutes of August 27, 2003. Mr. Johnsen read the typographical error and explained that drive-in banking facilities are not permitted by right within the OL district, and therefore, the staff language states something that can't happen. In the office use unit there are a number of uses permitted (Mr. Johnsen cited the uses). Staff was stating the drive-in banking facility and office uses as permitted in the OL district, but excluding the list that they believed would not be appropriate neighbors. He believes that there were two words omitted from the staff recommendation "and uses as permitted by right within an OL district". Otherwise the staff recommendation is nonsensical. If the staff recommendation started off with drive-in banking facilities as being permitted, then there wouldn't be any other wording needed. All of this other language shows the clear intent that there could be drive-in banking facilities, which is not permitted by right in OL, but can be permitted in a PUD and the uses permitted by right in the OL district, except the list of excluded uses that staff believes would not be good neighbors.

Mr. Johnsen demonstrated the language he wrote for the deed-of-dedication, which is pending: "...The use of Lot 1, Block 1, shall be limited to drive-in banking facilities and uses permitted by right within an OL district, provided, however, (list excluding uses staff has listed in staff recommendation) are prohibited." He commented that he believes this is the same language; however, there is ambiguity in the staff recommendation. Mr. Johnsen stated that he believes Mr. Denny's letter is incorrect because the City Council and the Planning Commission knew that they were approving a drive-in bank and two small office buildings. It was demonstrated on the site plan and it was discussed throughout the minutes. This is a scrivener's error and now it leaves the whole provision ambiguous and when this is present it must be interpreted, which means

that one has to try to make all of the provisions have meaning. Mr. Johnsen read the staff recommendation from page 3 of the August 27, 2003 minutes, which lists office and bank uses. Staff simply left out two words, "and uses", in a portion of their staff recommendation. He commented that the objection that Mr. Denny is making is poorly founded. Mr. Johnsen demonstrated the site plan, which was in front of the Planning Commission and City Council depicting two office buildings and a drive-in bank and nowhere can anyone conclude that anybody thought there would be three banks, which is what one would have to say if they accepted Mr. Denny's interpretation.

Mr. Johnsen stated that what is more important is what the Planning Commission intended to approve and what the City Council intended to improve. If there is ambiguous language in any legal document, one will have to start off with what was the intent of the parties. The intent was to approve two offices. He reiterated that he is not changing the PUD because it was approved fully for two office buildings and a bank. The only thing being done is modifying and clarifying ambiguous language that leads a nonsensical circle that wouldn't allow anyone to do anything.

Mr. Johnsen concluded that there is obviously an error in the staff recommendation and minutes. It is fully within the practice and procedures that the TMAPC follows that the covenants clarify these things and it is fairly what was approved, not a change in the PUD in any respect, but purely a covenant implementing what this Planning Commission approved, as did the City Council. Lastly, Mr. Denny suggested that the plat is premature because there is litigation pending. He is correct that there is litigation pending; however, this case came to the Planning Commission, staff recommended it, Planning Commission recommended it and it was approved by the City Council 5-4 with an ordinance adopted and the property became zoned at that moment. The protesting neighbors filed their lawsuit alleging that there was not a sufficient vote; however, the District Court disagreed and confirmed that the subject property had been zoned OL/PUD. There is now a present effective judicial determination that this property is properly zoned. Nothing has been done prematurely and there is nothing in the Subdivision Regulations that would suggest that his client is not entitled to have the plat reviewed and approved if it meets the appropriate regulations. There is a court decision confirming the zoning and there is no stay in place. An appeal has been filed and he is waiting to see what happens with that, but his client is entitled to proceed with such steps as this. His client is platting the subject property because it is a requirement of the approved PUD. This final plat should be approved because it is in accordance with the Subdivision Regulations and the allegations of Mr. Denny and his conclusions, in Mr. Johnsen's judgment, are entirely erroneous.

Mr. Johnsen stated that he did have a conversation with Stephen Schuller, who represents the Board of Guierwoods Homeowners Association, and on the plat as submitted there are setback lines from the arterial streets, the perimeter of the

project, drawn with language in the covenants that references that. On arterial setbacks it is done one of two ways and sometimes both, which is graphically or in words. In this particular case it is set out in words on the deed of dedication; however, Mr. Schuller and his clients felt that it would be clearer if the lines were drawn on the plat along with the words in the deed of dedication. Mr. Johnsen indicated that he is in agreement with this request. He stated that if the Planning Commission chooses to approve this final plat, then it should be noted that the setback lines on the west and south boundaries will be graphically depicted.

#### **INTERESTED PARTIES:**

**John Denny**, 3140 South Winston, Tulsa, Oklahoma 74135, representing Homeowners for Fair Zoning, Inc., stated that his client is one of the named plaintiffs in a lawsuit against F&M Bank and the City of Tulsa, with regard to the PUD and rezoning, which occurred at the southwest corner of 71<sup>st</sup> and Harvard. Members of his homeowners association do live within 300 feet of the subject property. Because there is litigation over the due process and underlying zoning in connection with the subject property as to whether it could be changed to OL, until the OL zoning becomes final with a final court decision to approve a plat that assumes that the OL zoning would be in effect seems premature. The City of Tulsa will be in a position to make a final decision at some point, but not now.

Mr. Denny stated that he would like to address the changes to the PUD that appear to be proposed in the restrictive covenants attached to the subject plat. He commented that he doesn't believe it is appropriate for him to talk about what either the TMAPC or the City Council intended at a given time. He would like to describe what he believes the process is and then through the wording that has been described by Mr. Johnsen and as is already present in his letter, what the actual language was for permitted uses for the subject property at the time the TMAPC approved it, which was approved and submitted to the City Council and approved by the City Council. Mr. Denny indicated that he has certified copies of the minutes of the October 30, 2003 Council hearing, which this PUD was adopted together with the materials that were submitted by the TMAPC to the Council in connection with the request for action ordinance form that is provided. Mr. Denny read the approval made by the City Council "...moved by Sullivan, seconded by Justis, to amend the motion to approve the rezoning application as recommended by TMAPC with added condition that any major or minor change to the PUD be considered a major amendment and is required to come before the City Council." Since TMAPC was approved by the City Council, the real issue today is what was TMAPC's recommendation. He commented that in his opinion, the recommendation is what was actually voted by TMAPC. TMAPC voted to approve its staff recommendation, which reads "...permitted uses drive-in banking facilities which are permitted by right within an OL district" and then it goes on to show excluded uses and no mention of office buildings. He admits that prior to the staff recommendation, there is a discussion about office buildings, but that is a preface to the actual recommendation. The formal staff recommendation does not say anything about the office buildings. He stated that

in the restrictive covenants that have been submitted to the TMAPC there is an attempt to change the PUD language in order to include the office buildings. Mr. Denny read the language included in the restrictive covenants that he believes changes the PUD "...the uses shall be limited to drive-in banking facilities and uses permitted by right within an OL district."

Mr. Denny stated that the issue is not really what the staff intended or what TMAPC intended, but the issue is what was voted on and approved by the TMAPC and submitted to the City Council for consideration and approval. He stated that the original staff recommendation did not provide for the these office buildings and the language should not be changed to allow for them through the restrictive covenants because this would constitute an amendment to the PUD, which should go back before the City Council as provided in the Council minutes.

**TMAPC COMMENTS:**

Mr. Boulden asked Mr. Denny if he agreed with Mr. Johnsen that no stay has been imposed by the Court pending the appeal. In response, Mr. Denny stated that he agrees that no stay has been imposed, but none is required. Mr. Denny further stated that he is requesting injunctive relief and certain declarations determining that the underlying zoning is improper.

Mr. Westervelt stated that he clearly remembers what he voted on during this subject PUD. He complimented Mr. Denny on his relentlessness and his effort to accomplish his client's wishes, but phrases "attempt to change the covenants" is a bit strong and this is a scrivener's error. He understands that there is no stay on the subject property and F & M Bank could build this tomorrow if they chose to. He has a problem with calling this premature with regard to holding today's decision.

**INTERESTED PARTIES:**

**Dr. Glen Visher**, 7149 South Indianapolis, Tulsa, Oklahoma 74136, stated that he crosses the intersection of 71<sup>st</sup> and Harvard every day and the traffic is increasing regularly. There have been numbers of accidents at that 71<sup>st</sup> and Harvard intersection. South Harvard is a two-lane street, and with increasing traffic it becomes more difficult to turn from Harvard into Guierwoods. A drive-in facility was not specifically allowed by OL procedure, but it was in the resolution that was passed by the TMAPC and then by the City Council. He believes that should go back to the City Council. He expressed concerns regarding that the parking spaces in the office and bank facility area would increase the traffic. There are 2.5 miles of residential properties from 81<sup>st</sup> to 56<sup>th</sup> Place on South Harvard and two miles from Lewis to Yale. This seems to be breaking every rule of governance of strip zoning or potential strip zoning into the subject area.

**TMAPC COMMENTS:**

Mr. Westervelt asked Dr. Visher if he realizes that today the Planning Commission is only considering the final plat because the zoning and the PUD

have already been approved and upheld by the District Court. In response, Dr. Visser stated that he understands that today's issue is the final plat, but now the Planning Commission is attempting to change what was approved by changing the language, which would mean it should have to go back through the whole procedure again. To go forward when there is an appellate process is also irresponsible.

**INTERESTED PARTIES:**

**Steve Schuller**, 100 West 5<sup>th</sup> Street, Suite 500, Tulsa, Oklahoma 74103, stated that Mr. Johnsen clearly stated his client's position regarding the building lines being added to the face of the plat. His client, Guierwoods Incorporated, appreciates Mr. Johnsen's client's willingness to accommodate this request. He concluded that he requests that the plat be approved as submitted with the condition of the building lines being added as agreed upon by Mr. Johnsen and his client.

**TMAPC COMMENTS:**

Mr. Westervelt asked Mr. Schuller if he had anything to add regarding the scrivener's error versus a new major amendment of the PUD. Mr. Westervelt asked Mr. Schuller if he was ever not aware that there were two office buildings in the site plan and the proposal. In response, Mr. Schuller stated that at all times, during the proceedings before the Planning Commission and City Council, his client was certainly aware that the developer contemplated two office buildings and a bank with a drive-in banking facility. Mr. Schuller further stated that he doesn't see that there has been any change from what was presented to the Planning Commission and the City Council.

Mr. Westervelt asked Mr. Schuller to state his client's name. In response, Mr. Schuller stated that his client's are Guierwoods Incorporated, which is the incorporated association of property owners in the Guierwoods condominium development immediately to the south of the subject property.

Mr. Midget stated that he would find it very hard to believe that either the Planning Commission or the City Council would have purposefully voted for something to permit by right, when in fact it isn't really permitted by right and therefore it is easy to understand that this is a scrivener's error in the text. More importantly, when this project came to the Planning Commission, the office complex was depicted and it is not as if the Planning Commission was unaware that the office complexes were being contemplated. He doesn't have a problem with the final plat and he appreciates Mr. Johnsen or whoever found the error and corrected it before it got in the covenants because that would cause problems down the line.

Mr. Harmon stated that this plat is exactly as he remembers it from when he voted on it originally. He does not see any change and he regrets that there was a scrivener's error that created confusion. He concluded that today the Planning



Commission is voting on a final plat that is exactly what they have previously approved.

Mr. Boulden stated that he did an analysis independently of Mr. Johnsen's analysis. He further stated that he agrees with the description of the covenant language on the PUD restrictions. The way it was worded in the approval process clearly points out that there was a scrivener's error. At the same time, he reviewed the packet of information that the Planning Commission had and that was transmitted to the City Council and he found under staff recommendations it refers to office and bank uses in two places. He also found that in the minutes during Mr. Johnsen's discussion, he referred to office uses. He indicated that Kay Bridger-Riley, who represented homeowners in the area at the time, also made reference to office tenants having 24-hour access to the property. This Planning Commission approved staff's recommendation, and the City Council approved the TMAPC recommendation, and clearly part of the recommendation was that there would be office uses. He indicated that he looked electronically at the City Council minutes and there is a reference from Mr. Dunlap that the word "and" was left out in the recommendation that was transmitted and he tried to correct that at the committee meeting. It would be appropriate, if the Planning Commission is inclined to approve this final plat, to do so with the knowledge that it was a scrivener's error.

Mr. Horner stated that he has vivid memories of this application and he echoes the thoughts of his fellow Commissioners. There can be no dispute in his mind of what was said and refer to as several things. He indicated that he is in support of the final plat.

Mr. Carnes stated that the Planning Commission is here for a final plat and he would like to ask Mr. Boulden if the Planning Commission should hear this now or wait until the lawsuit is determined. In response, Mr. Boulden stated that in the absence of a stay, he believes that the Planning Commission could take action that is requested, which is approval of the plat. Mr. Boulden further stated that the Court did not order a stay and evidently the opposition didn't ask for a stay. Mr. Boulden explained that F&M Bank proceeds at their own risk should the decision be overturned on appeal, but there is no reason for holding the plat up.

**TMAPC Action; 6 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the final plat for Guierwood Office Park per staff recommendation, subject to the building lines being shown graphically on the plat.

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## PUBLIC HEARING ZONING CODE AMENDMENTS

Consider amending the Zoning Code to eliminate flashing and running light or twinkle-signs from the Use Unit 21, Business Signs and Outdoor Advertising.

### STAFF RECOMMENDATION:

#### Section 1800. Definitions

- ***Animated and Flashing Signs*** – Any sign, portion of a sign or permanent structure, either inside or outside a building, visible from a public right-of-way which uses movement, appears to flash, undulate, pulse, portray explosions, fireworks, contains blinking or chasing lights, appears to move toward or away from the viewer, appears to expand or contract, appears to bounce, rotate, spin, twist, scroll, travel or otherwise portrays movement or animations. This definition does not include wind-activated movement such as in flags, banners or pennants.
- ***Changeable Copy Signs*** – Any sign containing letters or numbers that can be changed *manually* at will to display different messages. A sign on which the message changes *electronically* shall be considered to be a *Reader Board* for purposes of this chapter.
- ***Reader Boards*** – Any sign with any copy, graphics, or display that changes by electronic or mechanical means, when the copy, graphics or display remains fixed, motionless and non-flashing for a period of thirty (30) seconds or more. Any *Reader Board* that changes the display more frequently than ever 30 seconds shall be considered an *Animated Sign*.
- Remove the definition “***Sign, Revolving or Rotating***: a sign or sign part which rotates or revolves.”

#### Section 1221.C. General Use Conditions for Business Signs

2. *Changeable Copy Signs* and *Reader Boards* shall be subject to the following limitations.
  - e. The electronically activated message section of a *ground sign* reader board shall be located on the lower one-third of the sign.
  - f. The electronically activated message section of the *ground sign* or *wall sign* reader board shall not exceed 30 percent of the *permitted* sign area.
  - g. The electronically activated message of a reader board shall not change more frequently than every thirty (30) seconds.
16. Unless otherwise specified by this chapter, all signs may be illuminated. However, all signs shall be designed, located, shielded and directed so as to

prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated roadways and surrounding property. In no instance shall a sign be permitted to exceed an illumination of 70-foot candles measured at a two-foot distance.

17. Animated signs are prohibited within all zoning districts.

Mr. Westervelt stated that there are several speakers signed up and he would ask that they limit their comments to four minutes each.

#### **INTERESTED PARTIES:**

**Linda Saferite**, 400 Civic Center, Tulsa, Oklahoma 74103, **James Adair**, representing the Tulsa Greater Sign Association, 7508 East 77<sup>th</sup>, Tulsa, Oklahoma 74133; **Bruce Anderson**, 9520 East 55<sup>th</sup> Place, Tulsa, Oklahoma 74145; **Pat Selser**, 7777 East 38<sup>th</sup> Street, Tulsa, Oklahoma 74145, representing Lamar Outdoor Advertising; **Ed Horkey**, 4137 East 53<sup>rd</sup> Place, Tulsa, Oklahoma 74135 (submitted photographs of existing signs (Exhibit B-1)); **Patric Johnstone**, 2511 East 25<sup>th</sup> Street, Tulsa, Oklahoma 74114 (submitted photographs and text Exhibit B-1); **James Thomas**, General Manager of Thomas Cadillac, 3539 S. Memorial, Tulsa, Oklahoma 74148; **Mike Morris**, (Chairman of Sign Advisory Board) 7777 East 38<sup>th</sup>, Tulsa, Oklahoma 74145; **John Scott**, Director of the PAC/CC, City of Tulsa; **Doug Gorman**, 9516 East Admiral Place, Tulsa, Oklahoma 74155.

#### **COMMENTS OF INTERESTED PARTIES:**

That the five libraries be able to continue to use their message boards to inform the public of their programs; allow the other 20 library locations to have the same type of signs; they are tastefully incorporated into the lighted library location sign; make an exception for small signs and libraries or government entities; we live in a visual world and the signs are a necessity; BOA adjustment approved the five signs that are currently existing at the City/County Libraries; the larger signs with flashing and moving signs much like a video are distractive, but the small signs are efficient to get messages across to the public; Mr. Adair cited the history of the Sign Code and his role in amending the Code in 1985 and 1999; enforcement of the Sign Code is lacking; the City of Tulsa needs Sign Inspectors; the sign companies will create around the Sign Code to please their clients and if this proposal is approved, it may cause more problems; most businesses in the City of Tulsa use their signage for advertising; electronic message center is cost effective against traditional advertising devices (newspaper, radio and TV ads); potential customers are concerned with the proposed amendments; there are regulations in place to control signage and there is no need to further regulate businesses; the government is using electronic message boards for Amber Alerts and information; signs are a regulated business and new technology does bring a need for new regulations, but the way the proposal is written, animation is totally eliminated; customers are looking for the most out of their dollar in advertising signage; staff has done a good amount of research and speakers present would like to help with the research and have a worksession; on-premise signs are very

affective and do not receive complaints regarding the signs; bright signs help light the highway; Sign Advisory Board did review the proposal, but haven't had time to fully understand what the interpretation or the intention of the changes are for; PAC marquee was formally excepted from the existing Zoning Codes in 1996; recently the PAC invested to update the existing sign to new technology; the PAC marquee is used to advertise only the events that are performing at the PAC and do not allow commercial advertising to appear on the sign; the new arena will need some type of independent standing electronic sign board/marquee; contemplate that there are some signs and types of uses that should be exempt from the proposed changes; find it incredible that the City would consider doing things that would hamstring small businesses and make it harder and more expensive for them to operate, which creates the jobs this town needs; business signs are the most cost effective way to advertise and reach the public.

#### **TMAPC COMMENTS:**

Mr. Westervelt reminded Mr. Adair that there is no amortization proposed, which means that any sign that is legally in place today would be grandfathered. Mr. Westervelt asked Mr. Adair if he didn't agree that the City of Tulsa should amend their code when technology changes because in 1999, the Committee didn't realize that with a Dell computer and some graphics anyone could put an entire fireworks show on a sign for little cost. In response, Mr. Adair stated that the proposal would take away some of the signage, because some of the older signs do not have the ability to regulate their cycles of 30 seconds. Mr. Adair further stated that Tulsa Public Schools is one that does not have the update technology and would have to quit using their signs. Mr. Adair commented that there is more technology today with computers, animations, etc. and he personally doesn't see these types of signs offensive, but they do need to be regulated. Mr. Adair stated that the sign companies would be glad to come to a worksession and bring documentation stating that there is no safety issue.

Mr. Westervelt informed Mr. Anderson that it is not the intent of the Planning Commission to stop all of the message signage, but there may be ways or exceptions that could be written into the Code. The Planning Commission is simply trying to address the issue that came to their attention regarding the proliferation of the very bright and active signage close to residential neighborhoods and arterial streets. In response, Mr. Anderson stated that he understands the Planning Commission's concerns and there are regulations already in force to address those problems.

Mr. Westervelt asked Mr. Selser if he was addressing outdoor advertising signs or on-premise. Mr. Westervelt reminded Mr. Selser that outdoor advertising signs cannot do flashing signs. In response, Mr. Selser stated that he can sell reader boards and marquee boards. In response, Mr. Westervelt stated that the Planning Commission is discussing on-premise signs.

Mr. Alberty stated that the Planning Commission and staff are discussing the general use conditions for business signs, which would be on-premise. One of the reasons this came to light is the fact that the flashing signs and animated signs are already prohibited on outdoor advertising. This is an attempt to make the business signs consistent with outdoor advertising. The only thing that is being proposed for new regulation is the business signs.

Mr. Selser stated that he is a member of the sign committee and he has the same thought that they have on the signs that small businesses use in their way to advertise effectively.

Mr. Westervelt reminded everyone in attendance that today is public hearing to gather information and input only. This item will probably go to a worksession after all the information is gathered.

Mr. Westervelt asked Mr. Scott if he had any idea how frequently the existing PAC marquee changes. In response, Mr. Scott stated that he would guess that it is somewhere between every ten and fifteen seconds. Mr. Scott offered to get this information to the Planning Commission. Mr. Westervelt asked Mr. Scott to supply that information to the Planning Commission. Mr. Scott stated that the existing marquee doesn't show videos and it is a monochrome sign without flashing colors.

Mr. Westervelt informed Mr. Gorman that the Planning Commission deals with this debate all of the time regarding costs. All of the buildings in Tulsa could be built out of metal and make it cheaper for industry and businesses to be here; however, the Planning Commission and the City do choose to regulate that some too. Mr. Westervelt reiterated that this is simply a public hearing to gather information.

Mr. Midget stated that this public hearing will help the Planning Commission have a better idea of what needs to be done addressing these issues. This is not an attempt to change anything today. The Planning Commission is trying to create a balance between the needs of the business community and the needs of the neighborhoods and traffic safety. Particularly, the neighborhoods that feel that they are a victim of the proliferation of business signs that infringe upon their well-being. Mr. Midget concluded that the Planning Commission would like to have something that everyone could live with.

Mr. Harmon stated that the Planning Commission is not trying to cause problems for businesses. The Planning Commission is looking for some way to control the signage so that it doesn't become invasive or cause a potentially dangerous situation. The Planning Commission would like to develop an umbrella that everyone could work with, but to have some sense and sensibility to it in the way it is used and where it is used.

Mr. Carnes stated that the comments he has heard today indicate that Code needs work. The existing signage, in many places, is a safety hazard and neighborhoods need to be protected, as well as motorist. This can be done and should be done on a level playing field.

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to send the proposal to amend the Zoning Code to eliminate flashing and running light or twinkle signs from Use Unit 21, Business Signs and Outdoor Advertising to a worksession to January 26, 2005.

\* \* \* \* \*

**Consider Amending the Zoning Code Regarding Modular Homes and Mobile Homes.**

**STAFF RECOMMENDATION:**

Mr. Alberty stated that this public hearing was heard some months in the past and went to the City Council. There was considerable discussion and during the City Council committee meeting it was sent back to the Planning Commission to consider amending the language to clarify the intent.

Mr. Alberty stated that staff has prepared a new proposal, which has been reviewed by City Legal and Mr. Jack Page, Development Services, and they agree that this proposal is the result that the City Council needed. If the Planning Commission agrees with this proposal it will be forwarded to the City Council.

**DEFINITIONS:**

1. Modular Home: A pre-built structure, transportable in one or more sections, which is designed to be attached and located on a permanent foundation, and complies with all City of Tulsa applicable building codes for site-built single-family dwellings, resulting in a single-family dwelling.
2. Amending the Zoning Code to remove all references to "manufactured home" and replacing it with "mobile home".

**TMAPC COMMENTS:**

Mr. Midget stated that there may be a problem with changing all references of manufactured homes to mobile homes (Exhibit C-1).

Mr. Carnes suggested that this item be continued to January 26, 2005 in order to allow Legal and staff to review the information Mr. Midget has presented.

Mr. Midget agreed with a continuance to January 26, 2005.

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **CONTINUE** the consideration amending the Zoning Code regarding modular homes and mobile homes to January 26, 2005.

\* \* \* \* \*

## **ZONING PUBLIC HEARING**

**Application No.: CZ-350**

**AG to CG**

**Applicant:** Vinola Garcia

(PD-21) (County)

**Location:** South of southwest corner of West 181<sup>st</sup> Street South and US Highway 75 South

### **STAFF RECOMMENDATION:**

**PUD-568 (Abandon) January 2000:** All concurred in approval to abandon PUD-568 subject to the removal of the existing use or by reducing the number of manufactured homes for sale based on the conditions imposed CBOA-1499 that permitted the sales of manufactured homes with a limit of units not to exceed 25. The property is located on the west side of Highway 75 South and south of West 206<sup>th</sup> Street South

**CZ-245 September 1998:** A request to rezone a sixteen-acre tract located west of the southwest corner West 181<sup>st</sup> Street South and U. S. Highway 75 South, from AG to IL to allow warehousing and packaging of agriculture products. The request was denied.

**PUD-568 October 1997:** An application for a Planned Unit Development for a ten-acre tract located on the west side of Highway 75 South and south of West 206<sup>th</sup> Street South, from CS to CS/PUD to allow manufactured homes sales, outdoor display and storage. TMAPC recommended approval for only the 2.5 acres fronting Highway 75 on the northeast corner of the tract be approved for the PUD and subject to conditions.

### **AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property contains approximately 2.45 acres. It is located south of the southwest corner of West 181<sup>st</sup> Street South and U. S.

Highway 75 South, Mounds, Oklahoma. The property is gently sloping, partially wooded, contains a pole barn and is zoned AG.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
U. S. Highway 75 South	Freeway/Highway	varies	4 lanes

**UTILITIES:** The City of Glenpool Public Works serves water within one half mile north of the subject property. Sewer would be by septic or lagoon systems.

**SURROUNDING AREA:**

The surrounding uses are agricultural with single-family homes, zoned AG.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 21 Plan, a part of the Comprehensive Plan for the City of Glenpool, designates the subject property as being Rural Residential - Agriculture.

According to the Zoning Matrix the requested CG **is not** in accord with the Land Use Intensity of the Plan.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan and surrounding land uses, staff cannot support the requested rezoning and therefore recommends **DENIAL** of CG zoning for CZ-350.

**Applicant's Comments:**

**Vinola Garcia**, 18340 South Highway 75, Mounds, Oklahoma 74047, stated that she is self-employed and has had her business for nine years. When she purchased the subject property and land she had planned to build a warehouse/office building on the land to run her business. She explained that the work is done in the field for various companies. The warehouse would be used to store materials and have an office area for the paperwork.

**TMAPC COMMENTS:**

Mr. Westervelt asked Ms. Garcia how she moves her materials from the subject property to the site where the work is to be done. In response, Ms. Garcia stated that usually she uses a 20-foot box van or diesel to haul scaffolding and various types of insulation. She explained that most of the jobs only require a pickup truck to transport the supplies.

Mr. Midget stated that he is not sure that this zoning would be appropriate for the subject area. It is not because of what the applicant plans to do, but if the applicant did sell the property, the zoning remains with it and anything could go in.



**TMAPC Action; 6 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to recommend **DENIAL** of the CG zoning for CZ-350 per staff recommendation.

**TMAPC COMMENTS:**

Mr. Westervelt explained to the applicant that the Planning Commission has upheld the staff recommendation to deny this rezoning on the subject property. He suggested that the applicant discuss this matter further with staff if she has any questions. He informed Ms. Garcia that this case is eligible for an appeal before the BOCC if she wishes.

\* \* \* \* \*

**Application No.: Z-6970**

**AG to RS-3**

**Applicant:** Darin Akerman

(PD-17) (CD-6)

**Location:** North of northwest corner of East 51<sup>st</sup> Street South and South Lynn Lane

**STAFF RECOMMENDATION:**

**Z-6913 October 2003:** A request to rezone an 11.6-acre tract located north and west of the northwest corner of East 51<sup>st</sup> Street and South 177<sup>th</sup> East Avenue from AG to RS-4. Staff and TMAPC recommended denial of RS-4 without a Planned Unit Development and recommended approval of RS-3 for single-family development.

**Z-6911 December 2003:** A request to rezone a 104.4-acre tract located west of the subject and north of East 51<sup>st</sup> Street South, from AG to RS-3 for single-family development. All concurred in approval of RS-3.

**Z-6834 OCTOBER 2001:** The TMAPC and City Council approved rezoning from AG to RS-3 on an 80-acre site located north of the northwest corner of East 51<sup>st</sup> Street and South 177<sup>th</sup> East Avenue from AG to RS-3.

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

**Z-6500 SEPTEMBER 1995:** A request to rezone a 107-acre tract located west of the northwest corner of East 51<sup>st</sup> Street South and South 193<sup>rd</sup> East Avenue

and southeast of the subject property from AG to RS-4. All concurred in approving RS-4 zoning.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property contains approximately ten acres. It is located north of the northwest corner of East 51<sup>st</sup> Street South and South Lynn Lane. The property is gently sloping, partially wooded, apparently vacant and zoned AG.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Lynn Lane (South 177 <sup>th</sup> East Avenue)	Secondary arterial	100'	2 lanes

**UTILITIES:** The subject tract has municipal water and sewer.

**SURROUNDING AREA:**

The subject property is abutted on the north by single-family dwellings, zoned RS-3; to the east and west by vacant land, zoned AG; and to the south by a single-family dwelling, zoned AG. Farther to the south across East 51<sup>st</sup> Street are a convent, zoned A-1 and a school, also zoned A-1 (in Broken Arrow).

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 17 Detail Plan designates the subject property Low Intensity-No Specific land use. According to the Zoning Matrix, the requested RS-3 zoning **is** in accord with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan and surrounding uses, staff can support the request and therefore recommends **APPROVAL** of Z-6970.

**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, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to recommend **APPROVAL** of the RS-3 zoning for Z-6970 per staff recommendation.

**Legal Description for Z-6970:**

A tract of land in the S/2, SE/4 of Section 26, T-19-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, more particularly described as follows: Beginning at the Northeast corner of the S/2, SE/4, of Section 26, thence South 416'; West 1,040'; thence North 416'; thence East 1,040' to the Point of Beginning, and located north of the northwest corner of East 51<sup>st</sup> Street South and South Lynn Lane, Tulsa, Oklahoma, **From AG (Agriculture District) To RS-3 (Residential Single-family High Density District).**

\* \* \* \* \*

**Application No.: Z-6971**

**RS-3 to OL**

**Applicant:** Stephen R. Young/Realty Improvement (PD-6) (CD-9)

**Location:** Northwest corner of East 49<sup>th</sup> Street South and South Peoria Avenue

**STAFF RECOMMENDATION:**

**Z-6752 March 2000:** Staff and TMAPC recommended approval of RM-2 zoning on a 1.33 acre tract located west of the northwest corner of East 48<sup>th</sup> Street and South Peoria Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 75.1' x 120.7' in size; it is located on the northwest corner of East 49<sup>th</sup> Street South and South Peoria Avenue. The property is flat, non-wooded, contains a vacant dwelling, and is zoned RS-3.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Peoria Avenue	Secondary arterial	100'	4 lanes
East 49 <sup>th</sup> Street South	Residential	50'	2 lanes

**UTILITIES:** The subject tract has municipal water and sewer.

**SURROUNDING AREA:**

The subject property is abutted on the north by Myers-Duren Harley Davidson shop, zoned CH; to the south by what appears to be an office, zoned OL; to the

west by single-family dwellings, zoned RS-3; and to the east across South Peoria Avenue by a bank and a fast-food shop, zoned CS.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 6 Plan and the Brookside Infill Neighborhood Detailed Implementation Plan, both parts of the Comprehensive Plan for the City of Tulsa, designates the subject property Medium Intensity-Residential land use and within the Southern Brookside Business Area (note that it is the only lot fronting East 49<sup>th</sup> Street on the north side that is within the Business Area) Special District. Due to its location within a Special District, this request **may be found** in accord with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

This property lies adjacent to and across the street from non-single-family residential uses and it is unlikely and perhaps undesirable that it be reused as single-family residential. The Brookside study envisions it as part of the business area special district. Therefore, staff can support the requested rezoning and recommends **APPROVAL** of OL zoning for Z-6971.

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

**INTERESTED PARTIES:**

**Herb Beattie**, Vice President of the Brookside Neighborhood Association, 3474 South Zunis Avenue, Tulsa, Oklahoma 74105, stated that the association would like to be informed about actions like this. He indicated that he has supplied the information to INCOG and still has not received any information. Hopefully this communication problem could be resolved.

Mr. Beattie stated that the association totally supports this application and it is in compliance with the Infill Study.

**TMAPC Action; 6 members present:**

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to recommend **APPROVAL** of the OL zoning for Z-6971 per staff recommendation.

**Legal Description for Z-6971:**

Lot 1, Block 14, Riverview Village Blocks 14 through 20 Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, and located on the northwest corner of East 49<sup>th</sup> Street South and South Peoria Avenue (1161 East 49<sup>th</sup> Street South), Tulsa, Oklahoma, **From RS-3 (Residential Single-family High Density District) To OL (Office Low Intensity District).**

\* \* \* \* \*

**Application No.:** Z-6972/PUD-712

**RM-0 to RS-3/OL/PUD**

**Applicant:** Roy D. Johnsen

(PD-17) (CD-6)

**Location:** Northwest corner of East 51<sup>st</sup> Street South and South 193<sup>rd</sup> East Avenue

**STAFF RECOMMENDATION FOR Z-6972:**

**September 21, 1995, Z-6500:** A proposal to rezone the property immediately north of the subject property was approved for rezoning from AG to RS-4.

**Z-5802 May 1983:** A request to rezone 23 acres located on the northwest corner of East 51<sup>st</sup> Street and South 193<sup>rd</sup> East Avenue, which included the subject property, from AG to CS, RM-1 and RS-3 was approved for CS zoning on five acres at the intersection, RM-0 zoning on a 200' strip bordering the CS on the north and the west and the balance rezoned to RS-3.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 8.3 acres in size; it is located on the northwest corner of East 51<sup>st</sup> Street South and South 193<sup>rd</sup> East Avenue. The property is gently sloping, non-wooded, vacant, and zoned RM-0 and CS.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South 193 <sup>rd</sup> East Avenue	Primary arterial	120'	2 lanes
East 51 <sup>st</sup> Street South	Secondary arterial	100'	2 lanes

**UTILITIES:** The subject tract has municipal water and sewer.

**SURROUNDING AREA:**

The subject property is abutted on the north by vacant land, zoned RS-3; on the east by vacant land, zoned AG; on the west by single-family-residential uses, zoned RS-4; and on the south by a small commercial use and a single-family residence, zoned C-3 in Broken Arrow. To the southeast south of East 51<sup>st</sup> Street are vacant land and single-family residential uses, zoned AC-5 and AR-2, respectively, in Broken Arrow.

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

The District 17 Plan, a part of the Comprehensive Plan for the City of Tulsa, designates the subject property as Medium Intensity-No Specific land use at the intersection (for the CS and part of the RM-0 zoning), Low Intensity-No Specific land use for the RM-0 portion just west of the Medium Intensity-No Specific land use portion fronting on East 51<sup>st</sup> Street; and Low Intensity-Special District 1 for the RM-0 portion just north of the Medium Intensity-No Specific land use area fronting on South 193<sup>rd</sup> East Avenue.

Based on the Comprehensive Plan, existing land uses and trends in the area, staff can support the requested rezoning and recommends **APPROVAL** of Z-6972 OL/RS-3 zoning.

### **STAFF RECOMMENDATION FOR PUD-712:**

The subject application involves the south 13.26 acres of a larger tract (22.98 acres) owned by Stonecreek Partners L.L.C. The northern 9.74 acres is not included within PUD-712 and is proposed for conventional single-family residential development. As noted below, a portion of the property in PUD-712 contiguous to this northern portion is proposed for rezoning to RS-3 and is to be included as part of the single-family residential development on the north, all of which will then be RS-3 zoned if this application is approved.

This proposal is for Stonecreek Center featuring a retail center along the East 51<sup>st</sup> Street and South 193<sup>rd</sup> East Avenue frontages and a mini storage facility on the north and interior portion of the site. A landscaped area will be included along the west and north boundaries and the mini storage buildings will be designed with interior access and masonry walls serving as the screening walls to buffer the adjacent residential properties.

Although this intersection is of a secondary and a primary arterial and therefore qualifies as a Type 2 (ten-acre) Medium Intensity node, only five acres of CS zoning was requested and approved. The existing five acres of CS at a (n) FAR of .5 would allow 108,900 square feet of non-residential floor area. The proposed PUD-712 will contain 55,000 square feet of retail/office floor area and 105,000 square feet of mini storage floor area, a total of 160,000 square feet. The concurrently-filed rezoning application Z-6972, to rezone part of the RM-0 zoning to OL, will provide the underlying zoning needed to allow the proposed 160,000 square feet of retail/office and mini storage floor area. The north seven feet of the RM-0 area is proposed to be rezoned to RS-3 so that a proposed single-family residential development (adjacent to but not included in this PUD) will be zoned RS-3 in its entirety.

Based on the Comprehensive Plan, existing land uses and trends in the area, staff can support the requested rezoning and recommends **APPROVAL** of PUD-712/Z-6972, subject to the following conditions.

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

2. Development Standards – Development Area A (retail/office)

Gross land area:	7.40 acres
Net land area:	5.53 acres
Permitted uses:	Uses permitted by right within a CS district, but excluding adult entertainment establishments.
Maximum floor area:	55,000 square feet
Maximum building height:	2 stories
Minimum building setbacks:	
From c/l of 193 <sup>rd</sup> E. Ave.	110 feet
From c/l of East 51 <sup>st</sup> Street	100 feet
From westernmost boundary	11 feet
From northernmost boundary	11 feet
From other boundaries	0 feet
Parking ratio:	As provided within the applicable use unit
Minimum landscaped area:	16% of net lot area

Design requirements:

The westernmost wall of the southernmost retail/office building and the northernmost wall of the easternmost retail/office building shall have an exterior masonry finish and shall contain no windows or doors.

Lighting:

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential properties. Lighting shall be designed to prevent the light-producing elements and the polished light-reflecting elements of exterior lighting from being visible to a person standing within an adjacent residential area or street right-of-way. No light standard shall exceed 25 feet in height.

Signs:

Signs shall be limited to the following.

- (a) wall or canopy signs not exceeding 1.5 feet of display surface area per lineal foot of the main building wall to which affixed, provided, however, that the aggregate length of wall signs shall not exceed 75% of the wall or canopy to which affixed and no wall signs shall be affixed to the east and south building walls or canopies;
- (b) one ground sign at the intersection of 193<sup>rd</sup> East Avenue and 51<sup>st</sup> Street identifying the center and/or tenants therein, not exceeding 25 feet in height and 200 square feet of display surface area; and
- (c) one ground sign along 193<sup>rd</sup> identifying the mini storage use not exceeding 20 feet in height and 120 square feet of display surface area.

Development Standards – Area B (mini storage)

Gross area:	NA
Net area:	5.58 acres
Permitted uses:	Mini storage
Maximum floor area:	105,000 square feet
Maximum building height:	One story
Minimum building setbacks:	
From westernmost boundary	11 feet
From northernmost boundary	11 feet
From other boundaries	0 feet
Parking ratio:	As provided within the applicable use unit
Minimum landscaped area:	4.5% of net lot area. The required landscaping in Area A has been increased from 10% to 16% in order that combined landscaping within Area A and Area B



equals not less than 10%  
of the net area of the PUD.

Design requirements:

The west wall of the westernmost mini storage building and the west and north walls of the northernmost mini storage building shall have an exterior masonry finish and shall contain no windows or doors.

Open air storage:

Open air parking/storage of vehicles, including boats, trailers and recreational vehicles shall be limited to an interior location.

Lighting:

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential properties. Lighting shall be designed to prevent the light-producing elements and the polished light-reflecting elements of exterior lighting fixtures from being visible to a person standing within an adjacent residential area or street right-of-way. No light standard shall exceed 25 feet in height.

Signs:

Signs within the mini storage facility shall be limited to directional signs and the identification sign provided for within Development Area A.

3. Landscaping and Screening Fence

Landscaping and screening within the development shall comply with the requirements of the landscaping and planned unit development chapters of the Tulsa Zoning Code and have been designed to achieve appropriate buffering from adjoining properties. The landscaped area shall not be less than 10% of the combined net area of Development Area A and Development Area B. A screening wall not less than six feet in height shall be maintained along the west and north boundaries of the PUD, provided, however, that the masonry exterior walls of the mini storage buildings located along the perimeter shall serve as part of the required screening wall. A landscaped area not less than 11 feet in width shall be maintained along the west and north boundaries of the PUD.

4. Access and Circulation

Vehicular access will be derived from both 193<sup>rd</sup> East Avenue and 51<sup>st</sup> Street South as depicted on Exhibit A Conceptual Site Plan. Sidewalks will be installed along arterial street frontages.

5. Topography, Drainage and Utilities

Topography

The site generally slopes from east to west and north to south. A gas pipeline traverses the southeast corner of the site and will influence building locations. There are no significant treed areas nor regulatory floodplains.

Drainage

On-site stormwater detention, if required, will be provided in conformity with the City of Tulsa stormwater management standards.

Utilities

Utilities are at the site or will be extended to the site in accordance with the standards and specifications of the City of Tulsa.

6. Site Plan Review

No building permit shall issue until a detailed site plan (including landscaping) of the proposed improvements has been submitted to the Tulsa Metropolitan Area Planning Commission and approved as being in compliance with the development concept and the development standards. No certificate of occupancy shall issue for a building until the landscaping has been installed in accordance with a landscaping plan and phasing schedule submitted to and approved by the Tulsa Metropolitan Area Planning Commission.

7. Platting Requirement

No building permit shall issue until the planned unit development site has been included within a subdivision plat submitted to and approved by the Tulsa Metropolitan Area Planning Commission and the Council of the City of Tulsa and duly filed of record. The required subdivision plat shall include covenants of record implementing the development standards of the approved planned unit development and the City of Tulsa shall be a beneficiary thereof.

8. Expected Date of Development

Development is expected to commence within six months and to be completed within 12 months thereafter.

9. Legal Descriptions

The legal descriptions of the proposed PUD and the proposed OL rezoning are attached as Exhibits E and F.

10. 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.

11. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.

12. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during the subdivision platting process.

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

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

**TMAPC Action; 6 members present:**

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to recommend **APPROVAL** of the RS-3/OL zoning for Z-6972 per staff recommendation and to recommend **APPROVAL** of the PUD for PUD-712, subject to conditions per staff recommendation.

**Legal Description for Z-6972/PUD-712:**

The South 760' of the East 758.95' of the SE/4, SE/4 of Section 25, T-19-N, R-14-E, Tulsa County, State of Oklahoma, less and except the South 467' of the East 467' of Section, T-19-N, R-14-E, Tulsa County, State of Oklahoma, being more particularly described as beginning at a point on the East line of said Section, 467' North of the Southeast corner, and thence North on said line a distance of 293' to a point 753' North of said corner; thence West along a line parallel to the South line of said Section 25 a distance of 758.95' to a point; thence South along a line parallel to the East line of said Section 25 a distance of 753' to a point on the South line of said Section 25; thence East along said South line a distance of 291.95'; thence North along a line parallel to the East line of said Section 25 a distance of 467' to a point; thence East along a line parallel to the South line of said Section a distance of 467' to the Point of Beginning, according to the U. S. Government survey thereof, **From:** RM-0 (Residential Multifamily Lowest Density District) **To:** OL (Office Low Intensity District)

and to consider the proposed zoning change on the following described property: a tract of land situated in the SE/4, SE/4 of Section 25, T-19-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows: the North 7' of the South 767' of the East 758.95' of the SE/4, SE/4, of Section 25, T-19-N, R-14-E, Tulsa county, State of Oklahoma according to the U. S. Government survey thereof; **From:** RM-0 (Residential Multifamily Lowest Density District) **To:** RS-3 (Residential Single-family High Density District)

and to consider the proposed Planned Unit Development (PUD-712) on the following described property: a tract of land situated in the SE/4, SE/4 of Section 25, T-19-N, R-14-E of the IBM, more particularly described as follows: the East 758.95' of the SE/4, SE/4 of Section 25, T-19-N, R-14-E, Tulsa County, State of Oklahoma, less and except the North 560' and less and except the West 561.05' of the SE/4, SE/4 of said Section, according to the U. S. Government survey thereof, and located on the northwest corner of East 51<sup>st</sup> Street South and South 193<sup>rd</sup> East Avenue, Tulsa Oklahoma, **From:** RM-0 & CS (Residential Multifamily Lowest Density District) **To:** OL/CS/PUD (Office Low Intensity District/Commercial Shopping Center District/Planned Unit Development [PUD-712]).

\* \* \* \* \*

**Application No.: PUD-600-C-1**

**MINOR AMENDMENT**

**Applicant:** Jeffrey Levinson

(PD-18) (CD-8)

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

**STAFF RECOMMENDATION:**

This application involves The Village at Ashton Creek, the original PUD for which was approved in 1999. The plat created 83 residential lots. This proposed minor amendment will address three changes: to facilitate the installation of a swimming pool and club, both of which are to be maintained and operated by a homeowners association established by the plat; clarify the allocation of livability space in Reserve Areas B and D; and provide for 85 lots, one of which is to be used by the pool and club.

The first and third proposals are straightforward: to install a pool and clubhouse and to create two additional lots, one of which will be the site of the pool and clubhouse. The second proposal bears more explanation.

The original PUD provides for a maximum of 89 residential lots, with a per-dwelling-unit livability space of 4,000 square feet. Two reserve areas, encompassing 6.38 acres (277,912.8 square feet), are designated as green belts on which no building may be erected, but which are accessible to all lots in the PUD. As such, their combined square footage applies to the required livability area mandated by the Zoning Code of 356,000 square feet, leaving a balance of 78,087.20 square feet of livability space required. This minor amendment provides for 1,000 square feet of livability space for each lot in the development, which, combined with the reserve area of 277,912.80 square feet, exceeds the required livability space of 356,000 square feet.

Based on these three proposals, the following amended development standards are proposed.

The PUD shall be amended as follows:

A. Swimming pool and club

1. The pool and club will be allowed on Lot 1, Block 1 of the addition, to be maintained and operated by the homeowners' association of The Village at Ashton Creek.
2. Maximum size of the club 1,500 square feet
3. Maximum size of the pool 800 square feet
4. Revise all development standards of the PUD necessary to permit use of Lot 1, Block 1 of the addition for the pool and club.

B. Livability space

1. Total livability space (existing) 356,000 square feet
2. Common area 277,912.80 square feet
3. Livability space per lot 1,000 square feet

C. Number of lots in the plat

1. The number is to be 85 lots (increased from 83, less than the 89 authorized by the PUD). One of said lots shall be used for the pool and club.

All other Development Standards of the PUD shall be unchanged.

Based on the above description, staff can support the requested minor amendment and recommends **APPROVAL** of PUD-600-C-1.

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

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

**TMAPC Action; 6 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the minor amendment for PUD-600-C-1 per staff recommendation.

\*\*\*\*\*

**Application No.: PUD-659-1**

**MINOR AMENDMENT**

**Applicant:** Craig Thurmond

(PD-6) (CD-9)

**Location:** West of southwest corner of East 31<sup>st</sup> Street South and South Utica Avenue

**STAFF RECOMMENDATION:**

This proposal is for a modification of the PUD text involving screening in the development, mainly on the west boundary. The original PUD called for maintaining the wrought iron section and erecting a wood screening fence a minimum of six feet in height and with masonry columns on the west boundary as well as the east and south boundaries. This proposal would retain the existing fence with columns on the west, retain the wrought iron portion as proposed, and include landscaping, to be approved by the TMAPC, also a part of the original PUD.

Staff can support the requested minor amendment and therefore recommends **APPROVAL** of PUD-659-1.

**RELATED ITEM:**

**Application No.: PUD-659**

**DETAIL SITE PLAN**

**Applicant:** Craig Thurmond

(PD-6) (CD-9)

**Location:** West of southwest corner of East 31<sup>st</sup> Street South and South Utica Avenue

**STAFF RECOMMENDATION:**

This application for approval of a detail site and landscape plan of proposed screening for a new residential subdivision is related to minor amendment request PUD 659-1. Contingent upon TMAPC approval of PUD 659-1, the proposed screening will be in substantial compliance with development standards.

Staff recommends **APPROVAL** of PUD 659 Detail Site Plan contingent upon TMAPC approval of minor amendment PUD 659-1.

*(Note: Detail site and landscape 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 **MIDGET**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the minor amendment for PUD-659-1 per staff recommendation.

**TMAPC Action; 6 members present:**

On **MOTION** of **HARMON**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the detail site plan for PUD-659 per staff recommendation.

\* \* \* \* \*

**Application No.: PUD-686-3**

**MINOR AMENDMENT**

**Applicant:** Matt Baer

(PD-26) (CD-8)

**Location:** South of East 111<sup>th</sup> Street South and east of South Delaware Avenue

**STAFF RECOMMENDATION:**

This proposal is for three changes to PUD-686. The first is to increase allowable signage from 64 square feet to 144 square feet and to increase allowable sign height to no more than nine feet in all development areas. The second is to reduce the building setback from 20 feet to ten feet on the side yards for Lot 1, Block 9 and Lot 1, Block 10 in Development Area B. The third change is to reduce the required setback from 25 feet to 17.5 feet on Lot 1, Block 5; Lot 17, Block 11; Lot 10, Block 12; and Lot 1, Block 14, when the perimeter is used as a side yard. When the rear yard is abutting the perimeter of the PUD, it shall remain 25 feet in all development areas.

The requested 144 square feet is within the limits of the allowable signage of the underlying zoning and the nine-foot height limitation is within the requirements of the PUD development standards. The reduction in setbacks for perimeter side yards is consistent with other minor amendments in the area. Therefore, staff recommends **APPROVAL** of minor amendment PUD-686-3.

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

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

**TMAPC Action; 6 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the minor amendment for PUD-686-3 per staff recommendation.

\* \* \* \* \*

**Application No.: PUD-489-8**

**MINOR AMENDMENT**

**Applicant:** Darin Akerman

(PD-18 ) (CD-8)

**Location:** Northeast corner of East 71<sup>st</sup> Street South and South Mingo Road

**STAFF RECOMMENDATION:**

This application involves the 71 Mingo Center PUD and is for a minor amendment to allow lot-splits on Lots 3 and 6, Block 1 of that development. New outparcels (one on each lot) for restaurant use are to be located along the southern boundary of Lot 3 and the westerly boundary of Lot 6. The application is also for an amendment to support a 50' building line setback from Lot 3's western boundary with the southerly 191' of Lot 3 (southwest corner of Lot 3).

Under the original PUD-489, standards for Development Area A, approved in 1992, allowed principal and accessory uses permitted by right in CS zoning. This proposed minor amendment doesn't contemplate changing that. Subsequent minor amendments redefined the development areas, setbacks, building heights and landscape allocations; allowed occupancies prior to installation of landscaping; and increased the square footage in Lots 1 and 6. Minor amendment PUD-489-7 was approved in September 2003 to increase the allowable square footage in Development Areas A, B and C and lay the groundwork for creation of outparcels to be used by restaurants, as addressed here. It should be noted that PUD-489-1 approved maximum building height of 40' for Lots 1, 3 and 6 and provided that landscaped area be calculated by lot rather than net land area.



The following development standards are proposed for Lots 3 and 6 under PUD 489-8.

#### LOT 3 – (PROPOSED) TRACT “A” PUD DEVELOPMENT STANDARDS

Gross land area: 70,097 SF (1.609 A.)

Net land area: 60,547 SF (1.390 A.)

Permitted uses: Principal and accessory uses permitted under existing Tulsa Zoning Code as a matter of right in a CS shopping center district.

Landscaped area: Minimum of 10% of net lot area

Maximum allowable building floor area: 9,324 SF

Maximum building height: 40 FT

Minimum building setbacks:

From centerline of South Mingo Road 100 FT

From north, south and east property lines 0 FT

#### LOT 6 – (PROPOSED) TRACT “A” PUD DEVELOPMENT STANDARDS

Gross land area: 39,024 SF (0.896 A.)

Net land area: 30,024 SF (0.689 A.)

Principal and accessory uses permitted under existing Tulsa Zoning Code as a matter of right in a CS zoning district.

Landscaped area: Minimum of 10% of net lot area

Maximum allowable building floor area: 3,769 SF

Maximum building height: 40 FT

Minimum building setbacks:

From centerline of East 71<sup>st</sup> Street South 110 FT

From north, east and west property lines 0 FT

Based on the existing uses and intensities in the area, as well as prior approved minor amendments, staff can support the requested minor amendment and recommends **APPROVAL** of PUD-489-8, subject to detail site plan approval and all other conditions of the PUD being met.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

**TMAPC Action; 6 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the minor amendment for PUD-489-8, subject to detail site plan approval and all other conditions of the PUD being met pre staff recommendation.

\* \* \* \* \*

**OTHER BUSINESS:**

**Application No.: PUD-342-A**

**DETAIL SITE PLAN**

**Applicant:** Darin Frantz

(PD-18) (CD-7)

**Location:** 7222 South Mingo

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a new furniture store. The proposed use, Use Unit # 14, Shopping Goods and Services, conforms to development standards.

The proposed site complies with required setbacks, height restrictions and minimum street yard and landscape area requirements. Proposed parking meets minimum space and design standards. Screening is required on the site's west boundary, and the proposed dumpster must also be screened. Per the Lighting Plan, parking lot lighting will be building mounted at no more than 20 feet from ground level in conformance with development standards, and visibility of light producing elements and/or reflectors will be contained within site boundaries.

Staff recommends **APPROVAL** of **PUD 342-A Detail Site Plan** contingent upon inclusion of a screening fence on the west boundary and screening of the proposed dumpster.

*(Note: Detail site plan approval does not constitute landscape and 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 **MIDGET**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the detail site plan for PUD-342-A, subject to a screening fence on the west boundary and screening of the proposed dumpster per staff recommendation.

\* \* \* \* \*

**Application No.: PUD-468**

**DETAIL SITE PLAN**

**Applicant:** Khoury Engineering, Inc.

(PD-18 ) (CD-7)

**Location:** Northwest corner of 71<sup>st</sup> Street and South Mingo Road

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a new restaurant. The proposed use, Use Unit # 13, Convenience Goods & Services, conforms to development standards.

The proposed site complies with required setbacks, height restrictions and minimum street yard and landscape area requirements. Proposed parking and lighting are in compliance with Development Standards and the Zoning Code. Access to the site will be from an existing drive off of 71<sup>st</sup> Street South and a private drive connecting to the Sam's site on the north. The trash dumpster will be screened per Development Standards.

Staff recommends **APPROVAL** of PUD 468 detail site plan as proposed.

*(Note: Detail site plan approval does not constitute landscape and 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 **HORNER**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the detail site plan for PUD-468 per staff recommendation.

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**Request that the intersection of 5<sup>th</sup> and Main be officially designated in the District One Comprehensive Plan as "Bartlett Square".**

**STAFF RECOMMENDATION:**

Ms. Matthews stated that this is a request from the representatives of Downtown Tulsa Unlimited. She explained that there is no need for a public hearing, but it does require a scrivener's function to add it to the District One Plan. Ms. Matthews concluded that this would require direction from the Planning Commission to have staff prepare this document.

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

**TMAPC Action; 6 members present:**

On **MOTION** of **MIDGET**, TMAPC voted 6-0-0 (Carnes, Dick, Harmon, Horner, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Coutant, Hill, Jackson, Ledford "absent") to **APPROVE** the request that the intersection of 5<sup>th</sup> and Main be officially designated in the District One Comprehensive Plan as "Bartlett Square".

\*\*\*\*\*

**Commissioners' Comments:**

Mr. Westervelt welcomed County Commissioner Dick back to the TMAPC.

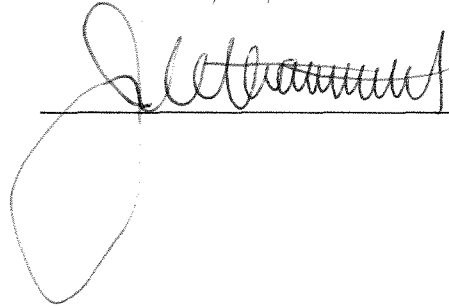
Mr. Midget and Mr. Westervelt recognized Mr. Kurt Ackermann, newest member of the Legal Department.

\*\*\*\*\*

There being no further business, the Chair declared the meeting adjourned at 3:35 p.m.

Date Approved:

2/23/05

A large, stylized handwritten signature in dark ink, appearing to read 'J. L. ...', is written over a horizontal line.

Chairman

ATTEST: Shirley M. Bayles  
Secretary

