

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2471

Wednesday, February 21, 2007, 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>
Ard	Bayles	Alberty	Boulden, Legal
Cantees	Miller	Chronister	
Cantrell		Fernandez	
Carnes		Huntsinger	
Collins		Matthews	
Harmon			
Midget			
Shivel			
Wofford			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, February 16, 2007 at 3:50 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 Ard called the meeting to order at 1:30 p.m.

### **REPORTS:**

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

Mr. Ard reported that Stephanie Cantees has agreed to be the Planning Commission's liaison to the City Council. Michelle Cantrell will be a member of the Steering Committee for the Comprehensive Plan.

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

Mr. Alberty reported on the City Council Committee agenda. He indicated that all of the Zoning Code amendments that were presented as List "B" will be stricken and not acted on by the City Council. As a result of that it will also be his recommendation that the List "C", which is scheduled for public hearing next Wednesday, be withdrawn. The City Council has determined that they are not going to consider any Zoning Code amendments until the completion and update of the Comprehensive Plan. This will put any Zoning Code amendments on hold for a period of approximately three to five years.

Mr. Alberty reported on the TMAPC receipts. The City receipts are up slightly and the County receipts are down slightly. Overall totals for the first seven months of this fiscal year were down slightly.

Mr. Alberty reported that there are no zoning cases on the City Council agenda tomorrow evening; however, there is an item on the agenda that could be of interest to the Planning Commission. Mr. Alberty read the last item from the City Council agenda.

**TMAPC COMMENTS:**

Mr. Ard stated that he understands that the City Council didn't take any action on the Zoning Code amendments, but he can assume, based on the comments, that the City Council will not bring these amendments forward anytime in the near future for further consideration. In response, Mr. Alberty indicated that this is his understanding as well. He believes that with the comments that were made at City Council, this will conclude the two-year work on the Zoning Code amendments.

Mr. Ard asked if the City Council approved the "A" list. In response, Mr. Alberty stated that they did approve the "A" list, which was basically housekeeping amendments. The "A" list is pending an ordinance preparation by the Legal Department and he assumes that since they were approved with a unanimous vote that it would be forwarded. Mr. Alberty stated that the City Council could refuse to vote on the ordinance when it is before them. He reminded the Planning Commission that the housekeeping amendments were to change the term "City Commission" to "City Council", etc.

Mr. Ard stated that notice has already been made of a public hearing relating to "C" list for next week. He asked whether the "C" list should be considered or stricken from the agenda. In response, Mr. Alberty stated that the "C" list was continued until 2/28/07 and it will appear on the agenda, but he recommends that this be withdrawn from the agenda based on the action the City Council took yesterday.

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**Minutes:**

**Approval of the minutes of February 7, 2007 Meeting No. 2470**

On **MOTION** of **HARMON**, the TMAPC voted 8-0-0 (Ard, Cantees, Cantrell, Carnes, Harmon, Midget, Shivel, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Miller "absent") to **APPROVE** the minutes of the meeting of February 7, 2007, Meeting No. 2470.

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Mr. Ard stated that there is a request for a continuance for Item 7a, Manmade Hazard Mitigation Plan for the City of Tulsa to March 28, 2007.

Ms. Matthews stated that Public Works would like to brief this plan with the City Council before this goes to the public. They have requested a continuance to March 28, 2007. Staff is in agreement with this request.

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Ard, Cantees, Cantrell, Carnes, Harmon, Midget, Shivel, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Miller "absent") to **CONTINUE** the consideration of amending the Comprehensive Plan for the Tulsa Metropolitan Area, adopting the Manmade Hazard Mitigation Plan for the City of Tulsa – Non Secure Report and Resolution 2471:881 to March 28, 2007.

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**CONSENT AGENDA:**

All matters under "Consent" are considered by the Planning Commission to be routine and will be enacted by one motion. Any Planning Commission member may, however, remove an item by request.

- a. **L-20033 – Judy Schumacher** (1316)/**Lot-Split** (County)  
4224 East 106<sup>th</sup> Street North
- b. **L-20059 – White Surveying** (0330)/**Lot-Split** (PD 2) (CD 3)  
1625 East Apache
- c. **L-20066 – David Wallace** (9229)/**Lot-Split** (County)  
South of southwest corner West 41<sup>st</sup> Street South and  
61<sup>st</sup> West Avenue
- d. **L-20069 – Steve Bengé** (7408)/**Lot-Split** (County)  
Southeast corner East 131<sup>st</sup> Street South and 121<sup>st</sup>  
East Avenue
- e. **LC-41 – Judith Finn** (8216)/**Lot Combination** (PD 18) (CD 8)  
8751 South Toledo Avenue
- g. **PUD-718-1 – Brad Lewis/1324 LLC/Minor** (PD-6) (CD-9)  
**Amendment**  
1320 East 35<sup>th</sup> Place (Minor Amendment to clarify  
development standards for permitted residential  
density.)

**TMAPC COMMENTS:**

The Planning Commission considered the consent agenda. PUD-306, detail site plan was removed from the consent agenda. Staff recommended this case be continued to February 28, 2007 due to some new information and research needed.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **8-0-0** (Ard, Cantees, Cantrell, Carnes, Harmon, Midget, Shivel, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Miller "absent") to **APPROVE** the consent agenda Items 6 a, b, c, d, e and g per staff recommendation, Item 6.f. (PUD-306 detail site plan) was removed from the consent agenda.

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**CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:**

**PUD-306 – John W. Moody/Detail Site Plan** (PD-26) (CD-2)

East of the northeast corner of 101<sup>st</sup> Street South and South Delaware  
(Detail site plan for an outdoor advertising sign.)

**STAFF RECOMMENDATION:**

Mr. Alberty explained that there is a potential conflict with this case regarding the definition of a ground sign and an outdoor advertising sign. He recommended that this case be continued to February 28, 2007.

**Applicant's Comments:**

**John W. Moody**, 1800 South Baltimore, Suite 900, Tulsa, Oklahoma 74119, stated that he believes this can be handled today. Mr. Moody cited the history of the subject property. Mr. Moody read the minutes from a previous case regarding the signage for the subject property. Mr. Moody read definitions for business signs, outdoor advertising signs and ground signs from the Zoning Code. His position is that the outdoor advertising sign is a ground sign per the definition from the Zoning Code.

**TMAPC COMMENTS:**

Mr. Harmon asked Mr. Moody if he is requesting a billboard. In response, Mr. Moody stated that he is submitting a detail site plan for approval for an outdoor advertising sign, which is an approved use in the PUD. Mr. Harmon stated that this is requesting a billboard that advertises an off-site business. Mr. Moody concurred. Mr. Moody stated that the billboard is a ground sign, but staff states

that it is not a ground sign. Mr. Harmon stated that calling a billboard a ground sign is a stretch.

Mr. Harmon stated that a ground sign would be a business sign that advertises the business on the same tract of land. Billboard is something that goes much higher in the air and advertises an off-site business. In response, Mr. Moody stated that that is a distinction of a definition between a business sign and an outdoor advertising sign, but that does not mean that an outdoor advertising sign is not a ground sign.

Mr. Carnes asked Legal for an opinion. In response, Mr. Boulden stated that he is not prepared at this time to really counter or intelligently discuss the issues that Mr. Moody has raised. It would be prudent to continue this matter in order to review the issues.

After a lengthy discussion regarding the definitions it was determined that Legal needed time to review this item. Mr. Moody agreed to a continuance for one week.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **8-0-0** (Ard, Cantees, Cantrell, Carnes, Harmon, Midget, Shivel, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Miller "absent") to **CONTINUE** the detail site plan for PUD-306 to February 28, 2007.

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**COMPREHENSIVE PLAN PUBLIC HEARING**

**Consider amending the Tulsa Metropolitan Major Street and Highway Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area and Resolution 2471:882.**

**STAFF RECOMMENDATION:**

Staff of the Land Development Services and the Transportation Divisions, as well as the Transportation Policy and Technical Committees have reviewed the proposed amendments to the Tulsa Metropolitan Area Major Street and Highway Plan. These include the following:

1. Reclassification of West Apache Street between the Tisdale Expressway and the proposed Gilcrease Parkway from a Primary Arterial (120' ROW) to a Secondary Arterial (100' ROW);

2. Reclassification of East 3<sup>rd</sup> Street from South Detroit Avenue to U.S. 75 from a Commercial/Industrial/CBD Collector (80' ROW) to a Commercial/Industrial Street (60' ROW);
3. Reclassification of South Kenosha Avenue from East 2<sup>nd</sup> Street to East 8<sup>th</sup> Street from a Commercial/Industrial/CBD Collector (80' ROW) to a Commercial/Industrial Street (60' ROW);
4. Realignment of South 161<sup>st</sup> East Avenue from East 41<sup>st</sup> Street South to East 51<sup>st</sup> Street South.

Staff recommends the approval of these proposed amendments, finding them to be in accord with existing and anticipated development and land use trends in adjacent and surrounding areas.

**A RESOLUTION AMENDING  
THE TULSA METROPOLITAN MAJOR STREET AND HIGHWAY PLAN,  
A PART OF THE COMPREHENSIVE PLAN  
FOR THE TULSA METROPOLITAN AREA**

**WHEREAS**, Pursuant to Title 19, OSA, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29th day of June 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area, which Plan was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law; and

**WHEREAS**, the TMAPC is required to prepare, adopt and amend, as needed, in whole or in part, an official Master Plan to guide the physical development of the Tulsa Metropolitan Area; and

**WHEREAS**, on the 28th day of February, 1968 this Commission, by Resolution No. 696:289, did adopt the Tulsa Metropolitan Major Street and Highway Plan as a part of the Comprehensive Plan of the Tulsa Metropolitan Area, which was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma; and

**WHEREAS**, a Public Hearing was held on the 21st day of February, 2007, and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.7, to modify its previously adopted Tulsa Metropolitan Major Street and Highway Plan according to the list attached as Exhibit A, made a part of this resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the TMAPC, that the amendments to the Tulsa Metropolitan Major Street and Highway Plan Map and Text, as above set out, be and are hereby adopted as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Ard, Cantees, Cantrell, Carnes, Harmon, Midget, Shivel, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Miller "absent") to recommend **APPROVAL** of the amendment for the Tulsa Metropolitan Major Street and Highway Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area and Resolution No. 2471:882 per staff recommendation.

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**PUBLIC HEARING**

**L-20026 – Steve Novick, attorney for Maurice Powell** (PD 4) (CD 4)  
(9307)

1506 East 15<sup>th</sup> Street South (**Applicant has withdrawn this application.**)

**STAFF RECOMMENDATION:**

The applicant withdrew his application.

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**L-20056 – Ronnie Smith (7426) – Lot-Split** (County)  
16123 East 167<sup>th</sup> Place South

**STAFF RECOMMENDATION:**

The applicant has applied to split a 3.2-acre tract into two parcels, to separate the dwellings from the business uses. The property is zoned AG, and the County Board of Adjustment will consider a number of variances to the AG Bulk and Area requirements on Tuesday, February 20, 2007.

The subject property is abutted by the old Hwy. 64 on the north, Highway 64 on the south, and by 161<sup>st</sup> East Avenue on the west. 161<sup>st</sup> East Avenue is designated as a secondary arterial on the *Major Street and Highway Plan*

(MSHP), requiring that 50' of right-of-way from the section line be given to Tulsa County.

The existing structure housing the business is located 22' from the section line (west boundary line), and the applicant intends to expand the business northward. Because of the placement of the existing structure, and the intentions to expand north, the applicant has requested a waiver of the *Subdivision Regulations* requiring that the right-of-way be given.

There is a 16.5' statutory easement along 161<sup>st</sup> East Avenue, and although the MSHP designates that section line as a secondary arterial, the Tulsa County Engineers' office has not opened the roadway.

The Technical Advisory Committee reviewed this request on February 1, 2007, and deferred to the County Engineer's comments. The County Engineer's office stated that they have no plans to open 161<sup>st</sup> East Avenue along this property due to the alignment of the old Highway 64 connecting to the new Highway 64 just west of the subject property, because of the floodplain to the north, Leonard Mountain to the south, and the location of Snake Creek, and they would support the waiving of the MSHP requirement.

Based on internal staff's review and discussions, and the County Engineer's comments, Staff recommends **APPROVAL** of the waiver of Subdivision Regulations for the full 50' along 161<sup>st</sup> East Avenue and of the lot-split, subject to the County Board of Adjustment approving the necessary variances of the AG Bulk and Area requirements.

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

**TMAPC COMMENTS:**

Ms. Cantrell stated that she would support this application, but she wanted to make it clear that this is approved because there are no plans to open 161<sup>st</sup> East Avenue along the subject property, which makes this a special circumstance.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **8-0-0** (Ard, Cantees, Cantrell, Carnes, Harmon, Midget, Shivel, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Miller "absent") to **APPROVE** the waiver of Subdivision Regulations for the full 50' along 161<sup>st</sup> East Avenue and of the lot-split, subject to the County Board of Adjustment approving the necessary variances of the AG Bulk and Area requirements per staff recommendation.

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**Shipley Subdivision – (8305) - Preliminary Plat**

(PD-18) (CD-2)

6336 South Harvard

**STAFF RECOMMENDATION:**

This plat consists of five lots, one block, on 1.93 acres.

The following issues were discussed November 16, 2006 at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned RS-1 with PUD 735 pending (11/15/06). (The plat has been continued from 12/6/07, 1/3/07, 1/17/07, and 2/7/07 to allow for City Council to review and approve the PUD standards.) City Council approved PUD 735 on 2/1/07 per Planning Commission recommendation. The PUD approval includes Mr. Alberty's verbiage as follows: Mr. Alberty reiterated that the sidewalk requirement would remain in effect or a suitable arrangement made for a contribution to a sidewalk fund in the PUD. That doesn't address which way we are going at this point, but it keeps the options open. When the subdivision plat comes through, then there will have to be the same type of provision at that point. Mr. Alberty concluded that he doesn't want this PUD to be approved by waiving the sidewalk requirement. Sidewalk construction on Harvard Avenue will be waived in-lieu of comparable contribution of the costs of sidewalk construction to Public Works Sidewalk escrow account.
2. **Streets:** Revise the building line to 20 feet and show as a "slope easement" per PUD. Language will be required for the 20-foot slope easement from the east boundary line to the building line, and overlapping the utility easement, to ensure the ultimate 5 lane. Harvard can be constructed within the MSHP 50 foot west side right-of-way while allowing a structure to be built at the designated building line, that the slope within that easement be no steeper than 3:1 (horizontal/vertical). The removal and replacement of the existing security fence, or its relocation to the slope easement, which is in place by agreement with the Southern Hills Country Club to the north, will be the responsibility of the owner. The existing trees and security fence are allowed to remain in the Harvard right-of-way and will require a license agreement with the City of Tulsa. Subdivision Regulations require sidewalks. The City will accept a payment to the City for the cost of construction of a sidewalk on Harvard in lieu of the developer constructing a sidewalk at the time of constructing the subdivision's infrastructure. The cost will be calculated from the Engineering Services Permit worksheet. If sidewalks are not required on the private street, per PUD, then a waiver by the TMAPC will be required. Dimension the "Limits of Access" on Harvard per the PUD site plan. Include language for the maintenance and ownership

of the reserve and/or private street.

3. **Sewer:** In the easement area located east of Lot 5, you must define the easement boundaries. I cannot determine where the 15 foot sanitary/storm sewer easement ends and the 20-foot water/sewer easement begins. The same goes for the 15-foot restricted water easement and the 20-foot restricted water/sewer easement. Define what restrictions are placed on the various sanitary, storm sewer, and water easements. Describe Reserve Area "A" as well. The proposed off-site sewer line should have been included in the conceptual plan as well as on the on-site. Where are you going to tie in to the existing sewer?
4. **Water:** Clarify easements on the west end of roadway.
5. **Storm Drainage:** The off-site overland drainage, which flows onto the site from the south, must be conveyed in an overland drainage easement from the south boundary lines for the storm and sanitary sewer easements as they cross the restricted waterline easement. Fifteen feet is a minimum width for a public storm sewer easement. An easement with both sanitary sewer and storm sewer in it must, at a minimum, be placed in a 17.5-foot wide utility easement. Underground detention facilities must be placed in stormwater detention easements. The additional drainage from Reserve Area A is piped and discharged directly into Reserve Area B. Does Reserve Area B provide some stormwater detention for this additional drainage? Add language to explain the use and maintenance responsibility for each reserve area. Add standard language to explain the use and maintenance responsibility for each reserve area. Add standard language for underground stormwater detention facility maintenance, overland drainage easement, water mains, sanitary sewers and storm sewer services.
6. **Utilities: Telephone, PSO, ONG, Cable:** It was determined that a separate meeting would have to be held with the utilities to make sure of placement of lines and adequate easement location and size. (This meeting has been held and further coordination with the utilities is underway.)
7. **Other: Fire:** Fire Chief shall approve the installation of security gates across a fire apparatus access road. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times. **GIS:** Complete the location map. Add dimensions on inside of boundary between easements. Include the bearing with the basis of bearing. Place the PUD number under the Title. Correct the dimension of the north line of Reserve B or Reserve A easements, as shown, are unacceptable. Due to the short time span between the PUD approval (11/15/06) and the TAC review of this preliminary plat, it is therefore noted that all conditions of approval of the PUD shall apply and be incorporated in the plat, even though some of those conditions may not be explicitly

referenced in these comments for the preliminary plat. Accurately describe the location of the tract under ownership in the legal description and in the title.

Staff recommends **APPROVAL** of the Preliminary Subdivision plat subject to the TAC comments and the special and standard conditions below.

**Waivers of Subdivision Regulations:**

1. A sidewalk waiver is requested.

**Special Conditions:**

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

**Standard Conditions:**

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

9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.

22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

**TMAPC COMMENTS:**

Mr. Harmon asked if the waiver for the sidewalk is only along Harvard. In response, Mrs. Fernandez stated that as far as she knows that is the only sidewalk being waived.

Ms. Matthews stated that the issue along Harvard was the topography and the timing.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Ard, Cantees, Cantrell, Carnes, Harmon, Midget, Shivel, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Miller "absent") to recommend **APPROVAL** of the preliminary plat for Shipley Subdivision subject to special conditions and standard conditions per staff recommendation.

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**PUD-132-2 – Pat Fox/Minor Amendment**

(PD-6) (CD-9)

South of the southeast corner of 31<sup>st</sup> Street South and Columbia

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to PUD-132 for the purpose of increasing the permitted building height of the primary residence from 35 feet to 48 feet and increasing the permitted height of the accessory building from 18 feet to ~~26~~ 24 feet. The Architectural Committee for The Trees Homeowners Association has reviewed the building plans and has approved the proposed height(s) subject to TMAPC approval of a minor amendment.

The subject lot is located within a large-lot single-family residential neighborhood, with similar single-family residential adjacent to the east. The proposed increase in height is not a significant departure from existing surrounding residential

development. Therefore, staff recommends **APPROVAL** of PUD-132-2 as proposed.

**Applicant's Comments:**

**Roy D. Johnsen**, 201 West 5<sup>th</sup>, Suite 501, Tulsa, Oklahoma 74103, stated that he is representing Mr. and Mrs. Witt and Pat Fox is the architect on this project. Mr. Johnsen cited the background for the subject property, indicating it is presently zoned RS-1 with a PUD that was approved in 1970. In 1972 the original Zoning Code adopted in 1970 was still in effect. At that time height was measured from the highest top plate, which could be 26 feet. It didn't matter what the roof pitch was proposed to be or how high it extended. This was changed in 1980, but this development is still underway and it can be argued that it meets the standards of the 1972 ordinance that was in effect at the time the PUD was approved. Mr. Johnsen referenced a letter received from The Trees Homeowners Association, which is in agreement with this proposal. He indicated that the objecting party is to the east and not within The Trees HOA.

Mr. Johnsen explained that in a PUD it is not required to show any type of hardship and the Planning Commission has the authority to approve what they consider to be an appropriate height. He brought this application as a minor amendment, though as he has researched it, it may not be necessary but he would like a confirmation that this application meets the ordinance that was in effect at the time the PUD was approved.

Mr. Johnsen submitted an aerial photograph (Exhibit A-1). He pointed out the subject property and the objecting property. Mr. Johnsen described the pitch of the roof and the highest point of the roof and the property line, which is 87 feet (17/12 pitch). The adjacent neighbor's west side is all garage, with parking in front of it and a drive out to 31<sup>st</sup> Street. There are no windows or doors on the wall and it is well set back from the property line, which he believes it is approximately 60 feet. There are a substantial number of trees and landscaping that will screen the subject property.

Mr. Johnsen concluded that his point is that though the proposal is higher than the Code would provide if it weren't in a PUD, at the time it was approved, this would be in compliance with the existing ordinance at the time of approval. The physical facts are such that there is good separation from the objecting party's property and the closest area to the subject property is the garage and the driveways. Staff recommends approval and Mr. Johnsen read the letter from the HOA, which supports the proposal. Mr. Johnsen requested the Planning Commission to approve the minor amendment in accordance with the elevations that have been submitted with one change. There is a pool house and it is drawn at 26 feet in height. He believes that Mr. Fox had an initial discussion with the objecting party and agreed that this roof could be changed by two feet (24 feet).

### **TMAPC COMMENTS:**

Mr. Ard asked staff if the zoning changes in 1972 affect the PUD that was approved prior to that change. In response, Mr. Alberty stated that the applicant is correct that prior to 1984, the height of a structure was measured to the top plate and the top plate is where the plate where the roof rafters sit on. There was no attempt to restrict the height or the pitch of a roof. This was all changed in 1984. Staff doesn't go back and then modify all of the PUDs that were approved whenever the Zoning Code is changed. How it was approved is how it stands regarding approval. In regards to the height, it is probably not required to file a minor amendment.

Mr. Ard asked if the applicant should even be before the Planning Commission for a minor amendment since the previous Zoning Code prevails. In response, Mr. Alberty stated that he would interpret it that way.

Mr. Ard asked if the applicant is required to be here for the bath house. In response, Mr. Alberty answered affirmatively.

### **INTERESTED PARTIES:**

**Jon Brightmire**, 320 South Boston, Suite 500, Tulsa, Oklahoma 74103, stated that he is representing Rebecca Dorshorst whom lives next door to the east at 2712 East 31<sup>st</sup> Street. Mr. Brightmire stated that he disagrees and he believes that the 1984 zoning amendments are relevant and the standards within the PUD should comply with the present Zoning Code. He believes that both the house and the bath house require an amendment and it should be a major amendment due to the percentage of change, which in this case is over 37% of change in height for the house and over 33% of change in height for the bath house.

Mr. Brightmire stated that his client is the one most affected by this proposal. The accessory building will be three feet from the property line. His client's visibility will be impacted by the accessory building and the height of the house. While preparing the pad the applicant increased the grade of the property by approximately three feet. The reality is one foot in height for the main building and a 26- or 27-foot height under the amended plan for the accessory building. The proposal changes the character of the neighborhood. The accessory building will be at 24 feet in height and should be set back farther from the property line. Mr. Brightmire read the setback requirements from the Zoning Code for various zonings and heights. If this were not a PUD it would require a variance and the hardship would be self-imposed. This is simply an architectural design and there are hundreds to choose from that wouldn't require 48 feet in height for the house and 24 feet in height for the pool house. Mr. Brightmire concluded that this should be a major amendment and it is way too tall and not in keeping with the neighborhood. He requested that this application be scaled back or rejected.

**TMAPC COMMENTS:**

Mr. Wofford asked Mr. Brightmire if his client objects more strenuously to the pool house or to the roof of the home. In response, Mr. Brightmire stated that Ms. Dorshorst objects more strenuously to the pool house due to the location, but his client objects to both.

**Applicant's Rebuttal:**

Mr. Johnsen stated that the pool house is close to the property line, but it is only one corner that is three feet from the property line. The pool house is a fairly small structure. He agrees with Mr. Brightmire that part of the reason for the requirement is to have sufficient openness of the residential lots. The subject property is zoned RS-1 and the lot can be 13,500 SF with minimum setbacks. The Trees have much greater size of lot and there is substantial openness along the common boundary line. The pool house (one corner) is across from the garage with effective screening. There will be a wall built on the east boundary of the subject property. The pool house doesn't have any doors or windows on the backside. Hardships are not required within a PUD and it is true that a different style of architecture could be done, but one of the specific benefits of PUDs is to permit flexibility in the arrangement of buildings and the bulk and area of those buildings. He believes that this is a reasonable use of the subject property and compatible with the subject area.

**TMAPC COMMENTS:**

In response to Mr. Carnes, Mr. Johnsen stated that the 1970 Code stated that accessory buildings would meet the bulk and area requirements of the principal structure and then over time this has been amended and it was determined that rear yard garages should be set back three feet.

Mr. Harmon stated that he would move to approve the minor amendment with the accessory building being limited to 24 feet in height.

Mr. Midget seconded.

Mr. Ard stated that he has a problem with the accessory building being over 18 feet in height and being within three feet of the property line.

Ms. Cantrell asked if the accessory building could be set back farther from the property line. Ms. Cantrell further asked Mr. Ard if he would be in agreement with the height if the building was set back farther. In response, Mr. Ard stated that he would be in agreement. Based on the design it would take a major reconfiguration, but he would be willing to vote for the minor amendment if it left the pool house at the 18-foot level.

Mr. Johnsen stated that he did ask Mr. Fox if the building could be at five feet from the property line. It would be possible, but it requires some constriction in the pool area. He doesn't particularly want to do this, but since the issue has

been raised it can be done. Any farther and it would substantially interfere with the workings of the pool and pool house. The eighteen feet in height limits for accessory buildings has been within the last ten years. This was established out of concern that garages were being built with apartments and used for home occupations or garage apartments. In this instance, there are no quarters in the pool house. There will not be any sleeping accommodations and it is not intended to be a second functioning dwelling.

Mr. Alberty stated that staff probably neglected to check the 1970 Zoning Code and if Mr. Johnsen is correct about the accessory building height, then it doesn't require a minor amendment. This is something that staff would have to go back and check because the 1970 standards would have to be applied to this application. It is very possible that today's application is a moot point.

Mr. Carnes requested Mr. Harmon to amend his motion to set back five feet at 24 feet in height.

Mr. Harmon agreed.

**TMAPC Action; 8 members present:**

On amended **MOTION** of **HARMON**, TMAPC voted **8-0-0** (Ard, Cantees, Cantrell, Carnes, Harmon, Midget, Shivel, Wofford "aye"; no "nays"; none "abstaining"; Bayles, Miller "absent") to **APPROVE** the minor amendment for PUD-132-2 to allow the permitted building height of the primary residence from 35 feet to 48 feet and increasing the permitted height of the accessory building from 18 feet to 24 feet with a five-foot setback from the property line as modified by the Planning Commission.

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**OTHER BUSINESS:**

**Commissioners' Comments:**

Mr. Ard stated that he appreciates that many of the Planning Commissioners have agreed to serve in different positions on different boards and committees. To that effect, he would like to remind everyone of the Planning Commission's guidelines as far as identifying themselves at different committee meetings or boards. The Rules and Regulations state: "...that Planning Commissioners who appear at City Council on Planning Commission matters as a Commissioner should do so as representative of the majority opinion. Also, nothing here would prevent a Planning Commissioner from appearing before the City Council as a private citizen." Mr. Ard concluded that these are two rules that the Planning Commissioners should go by anytime they are in front of the City Council or representing ourselves at any of the committees or commissions.

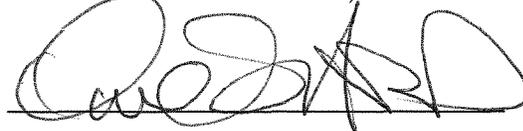
Mr. Ard stated that Ms. Cantees has volunteered to attend the City Council meetings. If the City Councilors have any questions about the Planning Commission's decisions or what their thoughts were relating to any particular issue that has been brought forward, then Ms. Cantees could answer those issues or answer any questions that would differ from what they would have for staff. He believes that this would be a good way to establish a better relationship with the City Council.

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There being no further business, the Chair declared the meeting adjourned at 2:50 p.m.

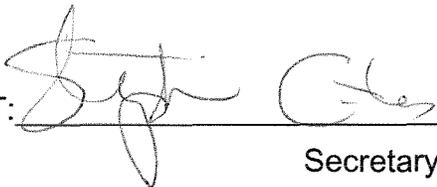
Date Approved:

3-7-07



Chairman

ATTEST:



Secretary