

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2790

Wednesday, March 20, 1:30 p.m.

City Council Chamber

One Technology Center – 175 E. 2<sup>nd</sup> Street, 2<sup>nd</sup> Floor

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Adams	Millikin	Chapman	Blank, Legal
Covey		Foster	Jordan, COT
Doctor		Hoyt	Silman, COT
McArtor		Miller	VanValkenburgh, Legal
Ray		Sawyer	
Reeds		Wilkerson	
Ritchey			
Shivel			
Van Cleave			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, March 14, 2019 at 3:35 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 Covey called the meeting to order at 1:30 p.m.

### **REPORTS:**

**Chairman's Report:** Mr. Covey would like to welcome new Planning Commissioner, Rodney Ray.

### **Work Session Report:**

A work session will be held on April 3rd at 11:00am to discuss: Tulsa Hills/West Highland Small Area Plan clean-up and implementation; Landscape Ordinance update; Tulsa County Comp Plan update; and Destination District Program

**Director's Report:**

Ms. Miller reported on the City Council and Board of County Commission agenda and actions taken. Ms. Miller stated there will be an open house at the Central Center to present the Landscape Ordinance Draft on March 21, 2019 from 4:00pm to 6pm.

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**1. Minutes:**

**Approval of the minutes of February 20, 2019 Meeting No. 2788**

On **MOTION** of **WALKER**, the TMAPC voted 10-0-0 (Adams, Covey, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, "aye"; no "nays"; none "abstaining"; Millikin, "absent") to **APPROVE** the minutes of the meeting of February 20, 2019 Meeting No. 2788.

**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.

NONE

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Mr. Shivel read the opening statement and rules of conduct for the TMAPC meeting.

**PUBLIC HEARINGS:**

Mr. Covey stated the continuances would be addressed first.

- 5. MPD-2 Nathan Cross** (CD 1) Location: West and north of the northwest corner of West Edison Street and North 41<sup>st</sup> West Avenue requesting a Master Plan Development for private street mixed-use community (Continued from February 20, 2019 and March 6, 2019)

**TMAPC Action; 10 members present:**

On **MOTION** of **WALKER**, TMAPC voted **10-0-0** (Adams, Covey, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, “aye”; no “nays”; none “abstaining”; Millikin, “absent”) to **CONTINUE** MPD-2 to April 17, 2019.

9. **Z-7475 Sheena Grewal** (CD 7) Location: South of the southeast corner of East 61<sup>st</sup> Street South and South 75<sup>th</sup> East Avenue requesting rezoning from **RS-3 to OL** (Related to PUD-187-A) (**Applicant requests a continuance to April 17, 2019**)

**TMAPC Action; 10 members present:**

On **MOTION** of **WALKER**, TMAPC voted **10-0-0** (Adams, Covey, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, “aye”; no “nays”; none “abstaining”; Millikin, “absent”) to **CONTINUE** Z-7475 rezoning to April 17, 2019.

10. **PUD-187-A Sheena Grewal** (CD 7) Location: South of the southeast corner of East 61<sup>st</sup> Street South and South 75<sup>th</sup> East Avenue requesting a **PUD Major Amendment** to allow office use (Related to Z-7475) (**Applicant requests a continuance to April 17, 2019**)

**TMAPC Action; 10 members present:**

On **MOTION** of **WALKER**, TMAPC voted **10-0-0** (Adams, Covey, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, “aye”; no “nays”; none “abstaining”; Millikin, “absent”) to **CONTINUE** PUD Major Amendment PUD-187-A to April 17, 2019.

\* \* \* \* \*

Staff presented Items 2 and 3 were together.

2. **Ernest Childers VA Clinic** (CD 7) Preliminary Plat and request for Modification of the Subdivision & Development Regulations to remove requirements for performance guarantees, Location: Northeast corner of East 91<sup>st</sup> Street South and South Mingo Road (Related to Accelerated Release of Building Permit) (Continued from February 6, 2019, February 20, 2019 and March 6, 2019)

**STAFF RECOMMENDATION:**

Northeast corner of East 91<sup>st</sup> Street South and South Mingo Road

This plat consists of 1 lot, 1 block on 21.64 ± acres.

The Technical Advisory Committee (TAC) met on January 17, 2019 and provided the following conditions:

1. **Zoning:** The property is zoned CO (Corridor District). A corridor development plan (CO-8) was presented to TMAPC on February 20, 2019. TMAPC voted 8-0-0 to recommend approval of the development plan to City Council. The proposed lot would

conform to the requirements of the development plan. CO-8 must be in effect prior to approval of the final plat.

2. **Addressing:** City of Tulsa addresses and street names must be assigned and affixed to the face of the final plat along with address disclaimer.
3. **Transportation & Traffic:** Label all adjacent right-of-way with recording information and appropriate dimensions. If right-of-way is to be dedicated by this plat, indicate "by plat". 50 foot dedication required for both arterial streets. Sidewalks are required to be installed on South Mingo Road and East 81<sup>st</sup> Street South. Access limitations are currently shown offsite. Provide recording information for LNA or revise dimensions to reflect lot being platted. Language for sidewalks and LNA required in deed of dedication.
4. **Sewer:** A public sanitary sewer extension is required to support the proposed lot. Infrastructure Development Plans (IDP) must be submitted and approved prior to approval of the final plat. Easements required by Development Services must be affixed to the face of the plat.
5. **Water:** Water mainline extensions are required to serve the subject lot. Infrastructure Development Plans (IDP) must be submitted and approved prior to approval of the final plat. Easements required by Development Services must be affixed to the face of the plat.
6. **Engineering Graphics:** Submit a subdivision control data sheet with final plat. Add all platted boundaries to the location map and label all other property unplatted. Under the basis of bearing heading include the coordinate system used and provide a bearing angle associated with this plat. Graphically show all pins found or set that are associated with this plat. Add general location to plat title. Label Point of Beginning (POB). Provide surveyor CA information and renewal date. Add signature block for official signature.
7. **Stormwater, Drainage, & Floodplain:** City regulatory floodplain exists on the subject lot and is required to be delineated on the final plat. All floodplain areas are required to be contained within an overland drainage easement. Infrastructure Development Plans (IDP) are required for drainage and stormwater plans. Onsite detention pond, outflow pipe, and any storm sewer which conveys offsite storm water discharges are required to be placed in proper easements.
8. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** All utilities indicated to serve the site must provide a release prior to final plat approval. Provide a Certificate of Records Search from the Oklahoma Corporation Commission to verify no oil & gas activity on the site.

#### **Modification to the Subdivision & Development Regulations:**

The applicant has requested a modification to Section 10-110.6-C of the *Subdivision and Development Regulations* which would require the developer to submit a financial guarantee to the City of Tulsa for outstanding infrastructure improvements required for the project. Due to the funding sources for this project being provided by public entities, additional guarantees would not be able to be obtained and would prevent the issuance of building permits if required. Staff supports the request for modification.

Staff recommends **APPROVAL** of the preliminary subdivision plat and the modification to the Subdivision & Development Regulations subject to the conditions provided by TAC and all other requirements of the Subdivision and Development Regulations.

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

**TMAPC COMMENTS:**

Mr. Shivel stated as a veteran he is delighted with Ernest Childers success in Tulsa because it is a truly needed service.

**TMAPC Action; 10 members present:**

On **MOTION** of **WALKER**, TMAPC voted **10-0-0** (Adams, Covey, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, “aye”; no “nays”; none “abstaining”; Millikin, “absent”) to **APPROVE** Ernest Childers VA Clinic Preliminary Subdivision Plat and modification to the Subdivision & Development Regulations per staff recommendation.

\* \* \* \* \*

- 3. **Ernest Childers VA Clinic** (CD 7) Authorization for Accelerated Release of Building Permit, Location: Northeast corner of East 91<sup>st</sup> Street South and South Mingo Road (Related to Preliminary Plat) (Continued from February 6, 2019, February 20, 2019 and March 6, 2019)

**STAFF RECOMMENDATION:**

Northeast corner of East 91<sup>st</sup> Street South and South Mingo Road

The applicant has requested that the Planning Commission authorize the City of Tulsa to issue building permits prior to the filing of a final plat. A preliminary plat for the project is on for TMAPC approval concurrent with this request.

The federal Department of Veterans Affairs has entered into an agreement to develop a new 140,000 square foot facility to replace the existing Ernest Childers VA clinic and to consolidate additional veteran’s services in the Tulsa area.

The Technical Advisory Committee met on January 17, 2019 and no objections were raised to the authorization of an accelerated release of a building permit. Major infrastructure extensions are still required to be completed in order to serve the subject site and will need to be approved prior to the filling of a final plat.

If approved, this authorization only removes the requirement that the final plat be filed prior to building permits being issued. All other codes and requirements of the City of Tulsa remain in place.

Staff recommends **approval** of the accelerated release of a building permit with the following condition of the *Subdivision and Development Regulations*:

1. If an accelerated release is approved, no final inspection of buildings or structures may occur, no certificate of occupancy may be issued, no public potable water service may be provided, and no building may be occupied until a final plat for the subject property has been approved and recorded.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **WALKER**, TMAPC voted **10-0-0** (Adams, Covey, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, "aye"; no "nays"; none "abstaining"; Millikin, "absent") to **APPROVE** Ernest Childers VA Clinic Accelerated Release of a Building Permit per staff recommendation.

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4. **MR-5** (CD 9) Modification to the Subdivision & Development Regulations to remove the sidewalk requirement for a single-family residence, Location: Northwest corner of East 37<sup>th</sup> Place South and South Rockford Avenue

**STAFF RECOMMENDATION:**

Northwest corner of East 37<sup>th</sup> Place South and South Rockford Avenue – South half of Lot 6, Block 3 – Leoki Place

The applicant has requested that the Planning Commission remove the requirement that the property owner construct a sidewalk as part of the construction of a new home. The newly adopted Subdivision and Development Regulations require sidewalks to be constructed on any new development requiring both new construction building permits and a certificate of occupancy.

The property under application is located within a neighborhood where there are currently no sidewalks. The newly constructed home would be the only property in the immediate area with a sidewalk and the sidewalk would not provide the connectivity that is the intended goal of the Subdivision and Development Regulations.

It is anticipated that the City of Tulsa will begin collecting fees-in-lieu for sidewalks in the near future to address situations where the immediate installation of sidewalks is not practical. Currently, the program for collection and allocation of those fees has not been implemented and a modification approval by TMAPC is the only relief from the sidewalk requirement.

Staff recommends **approval** of the modification of the Subdivision and Development Regulations to remove the requirement for sidewalk construction on this property.

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

**Applicant's Comments:**

**TMAPC COMMENTS:**

Mr. Ritchey stated he is concerned because there have been several properties in the Mixed Use, BRT area that have been approved for modification to remove the sidewalk and he wants these areas to be walkable, and bikeable and drivable. Mr. Ritchey stated we have to start somewhere and he knows it's a sidewalk to no where right now but where do we want to start requiring sidewalks.

Mr. Covey asked Mr. Ritchey if it was 37<sup>th</sup> Place he was concerned about.

Mr. Ritchey stated; "yes".

Mr. Reeds stated he understands where Mr. Ritchie is coming from but given the fact that the City is putting in the overlay for the BRT he believes the City needs to build the sidewalk.

Mr. McArtor stated he thinks that is a wonderful idea but the City is not the applicant. Mr. McArtor stated when the new regulations were adopted in May it stated all new residential developments were to have sidewalks. Mr. McArtor stated there were no exceptions to these regulations and this is required to have a more walkable City. Mr. McArtor agrees with Mr. Ritchey that you have to start somewhere. Mr. McArtor stated it doesn't make sense policy wise to vote in a regulation and then in the very area where the regulation was intended to grant an exception. Mr. McArtor stated that sends the wrong message.

Staff stated previously before the new Subdivision regulations applicants were only subjected to the requirement to build a sidewalk regardless if you were subject to a plat. Staff stated a lot of property in the City of Tulsa already had vested zoning in commercial and residential so the sidewalk requirements were not being implemented because they did not have to go through a platting process. Staff stated as the Subdivision Regulations were updated staff wanted to address that issue and especially on the major new developments there were vested zoning that the applicant would be required to install sidewalks if they did not exist already or rehab existing sidewalks if they needed to be brought up to code. Staff stated another impact of this was the adoption of the sidewalk requirement on all properties in the City of Tulsa. Staff stated that led to a discussion about when those will be required and that went back to when there is new construction. Staff stated if there is a need for a building permit or a brand-new occupancy permit a sidewalk requirement should be triggered at that location. Staff stated there has been a lot of discussion about how to achieve the intent which is to connect the City with sidewalks and make it more walkable while not creating a need in places where the City is not planning to connect the sidewalks. Staff stated if the City started requiring individual sidewalks in

neighborhoods we would end up with segments around town and the City as a whole does not have a process of how to fill in the gaps. Staff stated the thought was maybe have a fee in lieu. Staff stated the City would then come back later and install a sidewalk in a meaningful way, but that is conceptual at this time. Staff stated the current strategy is to relieve these individual lots until a more comprehensive program.

Mr. Covey asked when a program might be in place to allow the fee in lieu.

Staff stated its in the beginning stage and he would like to be hopeful that a proposal would be possible in the next few months. Staff does think it will take some time.

Mr. Covey asked if staff thought it would be one year, 3-5 years.

Staff stated one year is fair.

Mr. Walker asked staff if TMAPC decides to deny this application what will the applicant be required to do.

Staff stated the applicant would be required to build sidewalks on Rockford and 37<sup>th</sup> Place.

Mr. Doctor stated the City wants to have a more comprehensive intentional approach and the fee in lieu of is a system that was never developed for the City and that is the right vehicle to allow the City to waive single lots that it does not make sense to install a sidewalk. The City can then take the in lieu of funds and build out connectivity in a more strategic way. Mr. Doctor stated his perspective as a Commissioner this is a less than ideal but the best approach currently. Mr. Doctor stated the key question is this particular property in a strategic location where we will want to build sidewalks once the fee in lieu of is in place. Mr. Doctor stated this particular application is right on the threshold for him and he agrees with Mr. Ritchey that this is an area where the BRT line is going to be and Mr. Doctor supports sidewalks in this area.

Mr. Reeds stated the City is coming up with a new budget for the year and he saw in the paper there was a large amount for roads and improving roads and he understands the need for infrastructure but why not include sidewalks.

Mr. Doctor stated he believes that is the Improve our Tulsa draft. Mr. Doctor stated there is 5 million dollars currently included to implement the GO Plan which can include sidewalks. Mr. Doctor stated the road improvements will include sidewalks because the City will hold itself to the same standard.

Mr. Reeds stated "good".

The applicant stated he believes in the sidewalk regulation in brand new green field neighborhoods, but to spot place a sidewalk in one section is not tying anything together. The applicant stated if this was 36<sup>th</sup> Street then he could see a sidewalk but not at this location and he thinks it would be a total injustice to the homeowner because this lot is in the City Regulatory Floodplain and the homeowner had to spend more money because of that. The applicant stated there is the new driveway regulation also and that cost the



homeowner more money. The applicant stated this application is in the middle of an existing neighborhood and unless the City comes in and rehabs the street to add sidewalks he doesn't think this homeowner should have to install the sidewalk.

Mr. Covey asked staff if there had been any other sidewalk waivers in this area.

Staff answered "yes", there was one on St. Louis Avenue and another one in this same neighborhood as this application.

Mr. Covey asked if staff would be recommending approval for any other sidewalk waivers in this area.

Staff stated the application would need to be reviewed to see what was next was and what the nearest sidewalk connect that existed.

**TMAPC Action; 10 members present:**

On **MOTION** of **WALKER**, the TMAPC voted **7-3-0** (Adams, Covey, Ray, Reeds, Shivel, Van Cleave, Walker, "aye"; Doctor, McArtor Ritchey, "nays"; none "abstaining"; Millikin, "absent") to **APPROVE** MR-5 Modification of the Subdivision and Development Regulations to remove sidewalk requirement per staff recommendation.

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- 6. **Z-7472 Larry Holmes** (CD 2) Location: North and west of the northwest corner of West 37<sup>th</sup> Place South and South Union Place requesting rezoning from **RS-3/CH to CH**

**STAFF RECOMMENDATION:**

**SECTION I: Z-7472**

**DEVELOPMENT CONCEPT:**

No changes are anticipated at this time. CH zoning will help establish the Main Street Corridor along this side of Southwest Blvd.

**DETAILED STAFF RECOMMENDATION:**

Z-7472 requesting CH zoning is consistent with the Tulsa Comprehensive Plan, and

Uses allowed in a CH district are non-injurious to the surrounding property and

Uses allowed in a CH district are consistent with the expected development of the area, therefore

Staff recommends Approval of Z-7472 to rezone property from RS-3,CH/ to CH.

## **SECTION II: Supporting Documentation**

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

*Staff Summary: The requested zoning is consistent with the land use vision as a Main street area. CH zoning removes building setback requirements and supports density that would be necessary for main street designations.*

### **Land Use Vision:**

*Land Use Plan map designation: Main Street*

Main Streets are Tulsa's classic linear centers. They are comprised of residential, commercial, and entertainment uses along a transit-rich street usually two to four lanes wide and includes much lower intensity residential neighborhoods situated behind. Main Streets are pedestrian-oriented places with generous sidewalks, storefronts on the ground floor of buildings, and street trees and other amenities. Visitors from outside the surrounding neighborhoods can travel to Main Streets by bike, transit, or car. Parking is provided on street, small private off street lots, or in shared lots or structures.

*Areas of Stability and Growth designation: Area of Growth*

The purpose of Areas of Growth is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Areas of Growth are found throughout Tulsa. These areas have many different characteristics but some of the more common traits are close proximity to or abutting an arterial street, major employment and industrial areas, or areas of the city with an abundance of vacant land. Also, several of the Areas of Growth are in or near downtown. Areas of Growth provide Tulsa with the opportunity to focus growth in a way that benefits the City as a whole. Development in these areas will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile."

### **Transportation Vision:**

*Major Street and Highway Plan: Secondary Arterial with Multi Modal Corridor designation.*

Multi-modal streets emphasize plenty of travel choices such as pedestrian, bicycle and transit use. Multimodal streets are located in high intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity. These streets are attractive for pedestrians and bicyclists because of landscaped medians and tree lawns. Multi-modal streets can have on-street parking and wide sidewalks depending on the type and intensity of adjacent commercial land uses. Transit dedicated lanes, bicycle lanes, landscaping and sidewalk width are higher priorities than the number of travel lanes on this type of street. To complete the street, frontages are required that address the street and provide comfortable and safe refuge for pedestrians while accommodating vehicles with efficient circulation and consolidated-shared parking.

Streets on the Transportation Vision that indicate a transit improvement should use the multi-modal street cross sections and priority elements during roadway planning and design.

*Trail System Master Plan Considerations:*

Small Area Plan: Southwest Tulsa Neighborhood Plan effective 2009.

The Southwest Tulsa Neighborhood plan is consistent with the Main Street Designation that is part of the Tulsa Comprehensive Plan.

Special District Considerations:

This site is part of the Route 66 Overlay that supports historic style signage for new development.

Historic Preservation Overlay:

DESCRIPTION OF EXISTING CONDITIONS:

*Staff Summary: The site is currently occupied with three different building types.*



Environmental Considerations: None

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
Southwest Boulevard	Secondary Arterial with multi modal corridor	100 feet	5 lanes, two each direction with a center turn lane

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

<b>Location</b>	<b>Existing Zoning</b>	<b>Existing Land Use Designation</b>	<b>Area of Stability or Growth</b>	<b>Existing Use</b>
North	RS-3 (Expressway Right of way)	Expressway ROW	Growth	I-244
East		Main Street	Growth	Warehouse
South	RS-3 across	Existing	Growth	Single Family

	Southwest Blvd.	Neighborhood		Residential
West	CH	Main Street	Growth	Single Family Residential

**SECTION III: Relevant Zoning History**

**ZONING ORDINANCE:** Ordinance number 11822 dated June 26, 1970 established zoning for the subject property.

**Subject Property:** *No relevant history*

**Surrounding Property:**

**BOA-20353 October 2006:** The Board of Adjustment **approved** a *Variance* of the rear yard requirement in an RS-2 district from 25' to 19.1' to permit a covered porch addition, on property located West of the Southwest corner of West 37<sup>th</sup> Place South & South Union Place.

**BOA-20259 May 2006:** The Board of Adjustment **approved** a *Special Exception* to permit a single- family dwelling in a CH district, per two plan sheets submitted on property located North and East of the Northeast corner of South Xenophon Avenue West & Southwest Boulevard/Old Sapulpa Linkage.

**Z-6540 July 1996:** All concurred in **approval** of a request for *rezoning* a 1.62+ acre tract of land from CG to CH on property located North of Southwest Boulevard/Old Sapulpa Linkage & South Yukon Avenue West.

**BOA-13337 October 1984:** The Board of Adjustment **approved** a *Use Variance* to allow 4 mobile homes on 4 separate lots in a CH district, subject to Health Dept. approval and a Building permit, located at the Northwest corner of Southwest Boulevard and Xenophon Avenue.

**Z-4878 July 1976:** All concurred in **approval** of a request for *rezoning* a tract of land from RS-3 to RM-0 on property located South and West of the Southwest corner of West 36<sup>th</sup> Place South & South Union Place.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **WALKER**, TMAPC voted **10-0-0** (Adams, Covey, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, "aye"; no "nays"; none "abstaining"; Millikin,

“absent”) to recommend **APPROVAL** of the CH zoning for Z-7472 per staff recommendation.

**Legal Description of Z-7472:**

LT 4 LESS BEG 9.08W NEC TH W50.92 TO NWC S TO PT ON WL NE POB & LESS S10 THEREOF BLK 10; LT 5 LESS BEG NWC TH S77.37 NE TO EL N TO NEC W60 POB & LESS BEG SWC LT 5 TH NE22 NW43.7 S TO POB & PRT LT 13 BEG NEC TH W20 SE52 N47.3 POB & LESS S10 THEREOF BLK 10; PRT LTS 6 & 7 BEG 77.37S NEC LT 6 TH SW122.45 WLY19.40 SE TO SEC LT 7 TH E100 N172.63 POB BLK 10; PRT LTS 7 & 8 BLK 10 BEG SECR LT 7 TH W147.48 NELY161.17 TO PT TH SELY TO POB, INTERURBAN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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- 7. **PUD-578-B Tom Vogt** (CD 8) Location: North of the northwest corner of East 111<sup>th</sup> Street South and South Memorial Drive and requesting a **PUD Major Amendment** to allow vehicle sales and service

**STAFF RECOMMENDATION:**

**SECTION I: PUD-578-B**

**DEVELOPMENT CONCEPT:** The applicant proposed to add Commercial/Vehicle Sales and Service/Personal Vehicle Repair in order to permit a Meineke Service Center to the allowable uses for the PUD so that it may be located within the existing shopping center on the subject lot.

**DETAILED STAFF RECOMMENDATION:**

**Staff recommends Approval of PUD-578-B to rezone property from PUD-578-A to PUD-578-B.**

**PUD-578-B DEVELOPMENT STANDARDS:**

**Permitted Uses:** **Commercial Vehicle Sales and Service / Personal Vehicle Repair**

**All other standards and uses adopted in PUD-578-A and subsequent amendments shall remain in effect.**

**SECTION II: Supporting Documentation**

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

*Staff Summary: The subject site is located within the Regional Center designation of the City of Tulsa Zoning Code.*

## Land Use Vision:

### *Land Use Plan map designation: Regional Center*

Regional Centers are mid-rise mixed-use areas for large-scale employment, retail, and civic or educational uses. These areas attract workers and visitors from around the region and are key transit hubs; station areas can include housing, retail, entertainment, and other amenities. Automobile parking is provided on-street and in shared lots. Most Regional Centers include a parking management district.

### *Areas of Stability and Growth designation: Area of Growth*

The purpose of Areas of Growth is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Areas of Growth are found throughout Tulsa. These areas have many different characteristics but some of the more common traits are near or abutting an arterial street, major employment and industrial areas, or areas of the city with an abundance of vacant land. Also, several of the Areas of Growth are in or near downtown. Areas of Growth provide Tulsa with the opportunity to focus growth in a way that benefits the City. Development in these areas will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile.

## Transportation Vision:

*Major Street and Highway Plan:* S Memorial Drive is designated as a Primary Arterial

*Trail System Master Plan Considerations:* None

Small Area Plan: None

Special District Considerations: None

Historic Preservation Overlay: None

## DESCRIPTION OF EXISTING CONDITIONS:

*Staff Summary: The site is an existing, fully developed shopping center with various uses located within.*

Environmental Considerations: None

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
S Memorial Drive	Primary Arterial	120 Feet	6

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

<b>Location</b>	<b>Existing Zoning</b>	<b>Existing Land Use Designation</b>	<b>Area of Stability or Growth</b>	<b>Existing Use</b>
North	PUD-619-C	Regional Center	Growth	Shopping Center
South	PUD-578-A	Regional Center	Growth	Shopping Center
East	PUD-570/PUD-570-A	Regional Center	Growth	Shopping Center
West	PUD-578-A	Regional Center	Growth	Shopping Center

### **SECTION III: Relevant Zoning History**

**History: PUD-578-B**

**ZONING ORDINANCE:** Ordinance number 20003 dated January 11, 2001 established zoning for the subject property.

***Subject Property:***

**BOA-20830 January 2009:** The Board of Adjustment **accepted** an applicant's *verification of spacing* between a liquor store and blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops and another liquor store, on property located North and West of the Northwest corner of East 111<sup>th</sup> Street South & South Memorial Drive.

**Z-6795/PUD-578-A January 2001:** All concurred in **approval** of a proposed *Planned Unit Development* on a 4.5± acre tract of land; and all concurred in **approval** of a request for *rezoning* from RS-3, OL, RM-1 to CS on property located at the Northwest corner of East 111<sup>th</sup> Street South & South Memorial Drive. (Z-6795



Ordinance number 20003 dated January 11, 2001 amended ordinance number 19195 – incorrectly as it should have amended 19237)

**PUD-578 March 1998:** All concurred in **approval** of a proposed *Planned Unit Development* on a 35.71± acre tract of land for on property located at the Northwest corner of East 111<sup>th</sup> Street South and South Memorial Drive. (Ordinance number 19237 dated March 19, 1998 amended ordinance 19195 dated February 5, 1998 for the subject property.)

***Surrounding Property:***

**BOA-17978 March 1998:** The Board of Adjustment **approved** a *variance* of allowable size to permit an accessory building from 750’ to 912’ for new garage, on property located at East 111<sup>th</sup> Street South and South Memorial Drive.

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

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

**Applicant’s Comments:**

The applicant stated under today’s Zoning Code the use requested is allowed by right in CS zoning however back when the PUD was approved in 2005 the use was not allowed in CS zoning by right.

Mr. Covey asked the applicant if the strip center the proposed development was located in was going to have any changes.

The applicant stated “no”. He stated the changes will be internally and there will be a 6000-sf vacant space to buffer the proposed development from the Dollar Tree next door. The applicant stated there is about 55,000 sf allocated under the PUD and only 48,000 sf will be used.

**TMAPC Action; 10 members present:**

On **MOTION** of **WALKER**, TMAPC voted **10-0-0** (Adams, Covey, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, “aye”; no “nays”; none “abstaining”; Millikin, “absent”) to recommend **APPROVAL** of the PUD Major Amendment PUD-578-B per staff recommendation.

**Legal Description of PUD-578-B:**

LT 2 BLK 1, WAL-MART SUPERCENTER #1597-03, City of Tulsa, Tulsa County, State of Oklahoma

\* \* \* \* \*

8. **Z-7474 Greg Weisz** (CD 3) Location: Southeast corner of East Archer Street and North Gillette Avenue requesting rezoning from **RM-1 to RM-2**

**STAFF RECOMMENDATION:**

**SECTION I: Z-7474**

**DEVELOPMENT CONCEPT:**

3 story multi-family development with approximately 52 dwelling units is proposed for the block between N. Gillette and North Lewis. This property is currently zoned RM-1. The density requested requires RM-2 Zoning.

**DETAILED STAFF RECOMMENDATION:**

Z-7474 requesting RM-2 zoning is consistent with the Tulsa Comprehensive Plan, and

Uses and densities allowed in a RM-2 district are non-injurious to the surrounding property and

Uses allowed in a RM-2 district are consistent with the expected development of the area, therefore

Staff recommends Approval of Z-7474 to rezone property from RM-1 to RM-2.

**SECTION II: Supporting Documentation**

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

*Staff Summary: The site is part of a Neighborhood Center land use designation. Multi Family development is consistent with that land use designation.*

**Land Use Vision:**

*Land Use Plan map designation:* Neighborhood Center

Neighborhood Centers are small-scale, one to three story mixed-use areas intended to serve nearby neighborhoods with retail, dining, and services. They can include apartments, condominiums, and townhouses, with small lot single family homes at the edges. These are pedestrian-oriented places served by transit, and visitors who drive can park once and walk to number of destinations.

*Areas of Stability and Growth designation:* Area of Growth

The purpose of Areas of Growth is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Areas of Growth are found throughout Tulsa. These areas have many different characteristics but some of the more common traits are close proximity to or abutting an arterial street, major employment and industrial areas, or areas of the city with an abundance of vacant land. Also, several of the Areas of Growth are in or near downtown. Areas of Growth provide Tulsa with the opportunity to focus growth in a way that benefits the City as a whole. Development in these areas will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile.”

Transportation Vision:

*Major Street and Highway Plan:* Main Street

Main Streets are Tulsa’s classic linear centers. They are comprised of residential, commercial, and entertainment uses along a transit-rich street usually two to four lanes wide, and includes much lower intensity residential neighborhoods situated behind. Main Streets are pedestrian-oriented places with generous sidewalks, storefronts on the ground floor of buildings, and street trees and other amenities. Visitors from outside the surrounding neighborhoods can travel to Main Streets by bike, transit, or car. Parking is provided on street, small private off street lots, or in shared lots or structures.

*Trail System Master Plan Considerations:* None

Small Area Plan: Kendall-Whitter Sector Plan was effective 2016.

Special District Considerations: Route 66 overlay

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

*Staff Summary: The site is vacant and almost flat.*

Environmental Considerations: none that affect site development

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
North Lewis Avenue	Urban Arterial w/main street designation	70	4
East Archer Street	Residential Collector	60	2
North Gillette Ave	None	50	2

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

<b>Location</b>	<b>Existing Zoning</b>	<b>Existing Land Use Designation</b>	<b>Area of Stability or Growth</b>	<b>Existing Use</b>
North	RM-1	Neighborhood Center	Growth	Retail
East	CH	Neighborhood Center	Growth	Multi family / single family
South	RM-1	Neighborhood Center	Growth	Vacant
West	RS-4	Existing Neighborhood	Growth	Single Family

**SECTION III: Relevant Zoning History**

**History: Z-7474**

**ZONING ORDINANCE:** Ordinance number 11815 dated June 26, 1970 established zoning for the subject property.

***Subject Property:***

**BOA-19923 October 2004:** The Board of Adjustment **approved** a *special exception* to allow medical offices (Use Unit 11) in an RM-1 zoned district, on property located on the subject tract.

**BOA-16016 April 1992:** The Board of Adjustment **approved** a *special exception* to permit a public school in an R district, on property located on the subject tract.

***Surrounding Property:***

**BOA-22140 September 2016:** The Board of Adjustment **denied** a request for a *Variance* to permit a dynamic display sign within 200 feet of the R District, on property located at the Southeast corner of East Archer Street and North Lewis Place.

**BOA-17720 May 1997:** The Board of Adjustment **approved** a *variance* of the required 10' side yard setback to 9' on south side to move house on property located North of the Northeast corner of East Archer Street and North Gillette Avenue.

**BOA-15425 April 1990:** The Board of Adjustment **approved** a *variance* of the requirement that off-street parking spaces shall be located on the lot containing the use for which the required spaces are to be provided, on property located at the Northeast corner of I-244 and Lewis Avenue.

**BOA-14604 October 1987:** The Board of Adjustment **approved** a *variance* of the required screening requirements, except for the existing ingress/egress on the northeast corner only on property located at the Northeast corner of I-244 and Lewis Avenue.

**BOA-12559 May 1983:** The Board of Adjustment **approved** a *variance* to allow two dwellings on one lot of record **and** a *variance* of the setback to the north in order to line up with the existing structure, on property located South of the Southeast corner of East Archer Street & North Zunis Avenue.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **WALKER**, TMAPC voted **10-0-0** (Adams, Covey, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, "aye"; no "nays"; none "abstaining"; Millikin, "absent") to recommend **APPROVAL** of the RM-2 zoning for Z-7474 per staff recommendation.

**Legal Description of Z-7474:**

ALL LTS 1 THRU 20 & LT 31 LESS HWY BG SWC TH N18 SE109.26 W107.5 POB & ALL LTS 32 THRU 50 BLK 4, EASTLAND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

\*\*\*\*\*

Mr. Walker stepped out at 2:15PM and returned at 2:20PM.

11. **ZCA-13**, amendments to the Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances, to provide for principal and accessory short-term rental uses, to identify zoning districts in

which such uses are permitted, and to establish supplemental use regulations for such uses.

## **STAFF RECOMMENDATION:**

### **Item**

Consider amendments to the Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances, to provide for principal and accessory short-term rental uses, to identify zoning districts in which such uses are permitted, and to establish supplemental use regulations for such uses.

### **Background**

Over the past few years, the City of Tulsa has seen a significant increase in residential properties being rented on a short-term basis. Typically, the residence is marketed through an online platform, such as AirBnB or VRBO (Vacation Rental by Owner), and accommodates guests for periods of time less than 30 days.

The City of Tulsa Zoning Code currently classifies any property being rented for less than 30 days as “Lodging”. Within the “Lodging” use category there are a number of subcategories such as hotels, campgrounds, and bed and breakfasts. The current City interpretation is that all short-term rentals shall be classified as bed and breakfasts. Bed and breakfasts require special exception approval by the City Board of Adjustment (BOA) when they are situated in residentially zoned areas.

Short-term rentals come in a variety of forms that the current zoning code language does not address. The intent of this amendment would be to provide clarification as to how short-term rentals are classified and to apply additional regulations and requirements for property owners who wish to operate within residential areas. In the past couple of years, there have been multiple cases presented to the BOA for this use. Of those cases, 16 were approved, 6 were denied and 5 were withdrawn. Due to the controversial nature of some of these cases, Councilors Ben Kimbro (District 9) and Blake Ewing (District 4) organized and held Town Hall meetings on October 10, 2017 and October 11, 2017. Following the Town Hall meetings, staff at INCOG and across City departments started researching best practices and discussing technical details of a potential short term rental program for the City of Tulsa.

The Tulsa City Council officially initiated the process to amend the zoning ordinance on August 29, 2018. Since initiation, a working group comprised of representatives from the Tulsa Planning Office, City Legal, and the Mayor’s office was formed to discuss and draft a proposal. Additional meetings were held with representatives from Working in Neighborhoods (Inspections), Development Services (Permits), and Finance (Licensing). Councilor Kara Joy McKee (District 4) held a Town Hall meeting on January 12, 2019 at Central Center to solicit feedback and discuss the proposal.

A draft ordinance has been developed through meetings with the working group and refined following input from the public meetings and other stakeholders. The proposal would establish 2 types of short-term rentals:

1. Accessory Use Short-Term Rentals
2. Principal Use Short-Term Rentals

Short-term rentals would be classified as accessory when the principal use of the lot will remain a residence and the occupants of that residence would be renting their own home or part of their home to a single party of guests on a short-term basis. The current proposal would permit accessory use short-term rentals by right without a public hearing.

Short-term rentals would be classified as a principal use if the owner intends to list the property full-time as a short-term rental and has no intention of having actual residents living in the property. Under the current draft, a principal use short-term rental would still be required to obtain approval by the City of Tulsa Board of Adjustment. That process would include notification to neighbors within 300' of the proposal, a sign placed on the property in advance of the meeting, and a publication in the newspaper regarding the proposal.

Both classifications of the use would be required to obtain a license from the City of Tulsa in order to legally operate. The proposed license would be required to be renewed each year and hosts would be required to provide certain information to the City of Tulsa. The licensing process would determine whether the proposed short-term rental will be principal or accessory and will require a local contact for the property who can be contacted in case of violations.

### **Staff Recommendation**

Approval of the proposed amendments to Tulsa Zoning Code as shown in Attachment I

## Attachment I

### Chapter 5 – Residential Districts

Section 5.020, Table 5-2: R District Use Regulations

USE CATEGORY	RE	RS-					RD	RT	RM-				RMH	Supplemental Regulations
Subcategory Specific use		1	2	3	4	5			0	1	2	3		
<b>COMMERCIAL</b>														
<b>Lodging</b>														
		<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">S</a>	<a href="#">Section 40.375</a>

### Chapter 10 – Mixed-use Districts

*Table 10 2: MX District Use Regulations*

USE CATEGORY				Supplemental Regulations
Subcategory Specific use	MX1	MX2	MX3	
<b>Lodging</b>				
Bed & breakfast	S	<del>S</del> <a href="#">P</a>	<del>S</del> <a href="#">P</a>	Section 40.060
<a href="#">Short-term rental</a>	<a href="#">S</a>	<a href="#">P</a>	<a href="#">P</a>	<a href="#">Section 40.375</a>
Hotel/motel	–	P	P	Section 40.170

### Chapter 15 – Office, Commercial, and Industrial Districts

Section 15.020, Table 15-2: O, C and I District Use Regulations, page 15-3

USE CATEGORY											Supplemental Regulations
Subcategory Specific use	OL	OM	OMH	OH	CS	CG	CH	CBD	IL	IM	



COMMERCIAL												
Lodging												
Bed & Breakfast	S	S	S	S	<del>S-P</del>	<del>S-P</del>	<del>S-P</del>	<del>S-P</del>	S	S	S	Section 40.060
<u>Short-Term Rental</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>Section 40.375</u>

## Chapter 25 – Special Districts

### Section 25.020, Table 25-1: AG District Use Regulations

USE CATEGORY		Supplemental Use Regulations
Subcategory	AG	
Specific use		
COMMERCIAL		
Lodging		
<u>Short-term Rental</u>	<u>S</u>	<u>Section 40.375</u>

## Chapter 35 – Building Types and Use Categories

### 35.050-G Lodging

Uses that provide temporary lodging for less than 30 days where rents are charged by the day or by the week. Lodging uses sometimes provide food or entertainment, primarily to registered guests. Examples of specific lodging use types include:

#### 1. Bed and Breakfast

~~A detached house~~ An establishment in which the owner/operator offers overnight accommodations ~~and meal service~~ to guests for compensation. A bed and breakfast may serve meals to guests and concurrently rent rooms to more than one party of guests. Subject to the supplemental use regulations, a bed and breakfast may be rented for on-site events.

#### 2. Hotel/Motel

An establishment, other than a bed and breakfast, short-term rental or rural retreat, in which temporary lodging is offered for compensation. A hotel/motel use may include an accessory bar.

#### 3. Recreational Vehicle Park/ Campground

An establishment that provides temporary overnight accommodations for camping in recreational vehicles or tents.

#### 4. Rural Retreat

An establishment that is part of a working farm or ranch that provides temporary overnight accommodations for individuals or groups engaged in supervised training or personal improvement activities. Examples include corporate retreat facilities, educational facilities and dude ranches or working farm learning centers.

#### 5. Short-Term Rental

A dwelling unit, or a portion thereof, in which temporary lodging is offered for compensation to one party of guests. For purposes of this section, “party of guests” shall mean an individual or group renting or seeking to rent the entirety of the short-term rental. Short-Term Rentals can be principal or accessory uses.

## Chapter 40 – Supplemental Use and Building Regulations

### 40.375 Short-Term Rental

The supplemental use regulations of this section apply to all principal use short-term rentals.

40.375-A When occupied by a party of guests, the short-term rental shall not be separately rented to any other individual or party of guests.

40.375-B A short-term rental must comply with all licensing requirements of the City of Tulsa and an approved license number must be included with any material advertising the short-term rental.

40.375-C Events are not permitted in conjunction with a short-term rental use. Examples of events include, but are not limited to, weddings, receptions, anniversaries, private parties, and business seminars.

40.375-D A register of short-term rental guests must be maintained and made available to city code enforcement upon request.

40.375-E External structural alterations or site improvements that change the residential character of the lot upon which a short-term rental is located are prohibited. Examples of such prohibited alterations include, but are not limited to, the construction of a parking lot, the addition of commercial-like exterior lighting, and signage.

40.375-F No recreational vehicle, bus, or trailer shall be parked on a residential street in conjunction with a short-term rental use. A recreational vehicle, bus or trailer may be parked on the property if not visible from the street.

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### 45.185 Short-Term Rental - Accessory

#### **45.185-A Description**

The rental of all or a portion of a dwelling unit, which is the primary residence of a household, to one party of guests for temporary lodging for a period of less than 30 consecutive days. For purposes of this section, “party of guests” shall mean an individual or group renting or seeking to rent the entirety of the short-term rental.

#### **45.185-B General**

The supplemental use regulations of this section apply to all accessory use short-term rentals.

1. When occupied by a party of guests, the short-term rental shall not be separately rented to any other individual or party of guests.
2. An accessory short-term rental must comply with all licensing requirements of the City of Tulsa and an approved license number must be included with any material advertising the short-term rental.
3. An accessory short-term rental may only be rented to one party of guests at any one time and may not exceed more than eight (8) individuals in the dwelling unit.
4. A register of short-term rental guests must be maintained and made available to city code enforcement upon request.
5. On-site events are not permitted in conjunction with an accessory short-term rental. Examples of on-site events include but are not limited to weddings, receptions, anniversaries, private parties, banquets, and business seminars.
6. External structural alterations or site improvements that change the residential character of the lot upon which an accessory short-term rental is located are prohibited. Examples of such prohibited alterations include the construction of a parking lot, the addition of commercial-like exterior lighting, and signage.
7. No recreational vehicle, bus, or trailer shall be parked on a residential street in conjunction with a short-term rental

use. A recreational vehicle, bus or trailer may be parked on the property if not visible from the street.

**Applicant's Comments:**

Mr. Richey asked staff if there would be the ability for larger Midtown homes that have a garage apartment have the ability to get two permits. Mr. Richey stated the document is pretty specific about what one party of guests mean but Mr. Richey uses air B&B all the time and it's not uncommon for him and another party to be sharing the same house.

Staff stated if it's someone's resident. It's still going to fall under the accessory provision that they are allowed to do. If it becomes a principal use it would be limited by the Board of Adjustment. Staff stated the resident lives in the house and rents out the garage apartment that would be an accessory use. Staff stated as far as renting both units at the same time. Staff's intent has been one unit on one lot at one time but judging from Mr. Richey's response this may need to be clarified in the document.

Mr. McArtor stated looking at the supplemental uses and building regulations it says, "External structural alterations or site improvements that change the residential character of the lot upon which an accessory short-term rental is located are prohibited. No recreational vehicle, bus, or trailer shall be parked on a residential street in conjunction with a short-term rental use". Does this apply to both accessory and principal?

Staff answered "yes", there should be no drastic changes to the structure and in no way be able to tell it's a short-term rental. It should still look like a house on a neighborhood street.

Mr. McArtor stated with those restrictions then why have the additional level of permission for the principal use at the Board of Adjustment.

Staff stated if you are a property manager or investor buying the property for the sole purpose of using it for short term rental you are altering the character of a neighborhood by removing residents for that dwelling and inserting customers or tourists and that could have an adverse impact on the neighborhood. Staff stated more so in a destination neighborhood such as Expo Square when there would be a high demand for short term rentals because of all the events that cycle through fairgrounds each week. Staff stated the neighbors at Mayo Meadow did not buy their houses thinking this would eventually be just a lodging area for Expo Square. They want to maintain their neighborhood. Staff stated it their intent that an additional threshold would prevent saturation in a particular area and also give neighbors a public hearing to voice their concerns.

Mr. McArtor asked staff how the Board of Adjustment proceeds when these applications come before them other than just arbitrary choice.

Staff stated the Board of Adjustment has a code requirement that they use for all Special Exception's, not just short-term rentals, in which they use to decide if the application is injurious to the neighborhood. Staff stated a park has to go through a Special Exception to decide if it will have an adverse impact. Staff stated there are criteria within the Zoning Code and State Statutes that the Board of Adjustment uses to make the review of applications. Staff stated he would not deny there is a human element to making these decisions there are five Board Members just like there are eleven Planning Commissioners who weigh in and decide on whether it's appropriate or if the concerns of the neighbors are relevant. Staff stated that is the system we have for reviewing conditional type uses. Staff stated both types are subjected to a license from the City of Tulsa who will then decide if it is accessory or principal.

Mr. Reeds stated principal use in his opinion is close to what he defines as lodging. Mr. Reeds stated any hotels that fall under that use group are under the Building Department jurisdiction but the Health Department also. Mr. Reeds asked if declaring yourself as a principal use would trigger this involvement.

Staff stated there is nothing triggering the need to conform to other codes at the present time.

Mr. Doctor stated the Ordinance of The City of Tulsa defines a hotel as having 5 or more events and if a person gets above that threshold that is when it will trigger a public safety perspective.

Mr. Reeds asked if Staff was looking at staying under that 5, maybe 4?

Staff stated at the present the proposal is one unit rented to one party of guests.

Mr. Reeds asked if this was modeled after a certain City.

Staff stated there were a lot of Cities contacted but the issue is very novel and there were a variety of strategies but none of them had been implemented long enough to understand their effectiveness. Staff stated major tourist cities have taken a much stronger hold against short term rentals because of issues with neighborhoods. It is also hitting the housing market in some cities. Staff stated cities that are comparable to Tulsa such as Louisville, Kansas City or Omaha are taking very similar approaches by distinguishing between the two uses, principal or accessory. Staff stated in Oklahoma City they are issuing Special use Permits which would be comparable to the Special Exception through the Board of Adjustment.

Mr. Covey asked what was Tulsa's pier cities?

Mr. Doctor stated Louisville, Oklahoma City are a few of the pier cities but there are nominal shifts on which cities Tulsa is compared to depending on the topic. Mr. Doctor stated but Oklahoma City is on everyone one of the lists.

Mr. Covey asked staff what Louisville and Kansas City follow for Short Term Rentals.

Staff answered Louisville has a special use permit and is divided into uses similar to the proposed amendment. Staff stated the same is true for Kansas City who also requires the additional approval as well. Staff stated from a zoning perspective those distinctions have to be made because it is the difference between principal and accessory use that is already defined within the Zoning Code.

Mr. Covey asked staff what happens when someone does not comply.

Staff stated the same thing that happens when anything in the Zoning Code is violated. Staff stated you are objected to a zoning violation if you violate any of the requirements in the ordinance. Staff stated they worked with neighborhood enforcement to come up with mechanisms by which they can use to help enforce this amendment. Staff stated one would require the license number to be shown in any advertising.

Mr. Ritchey asked if Air B&B had been contacted to see if they were able to require a permit before posting on their website.

Staff stated they will outline requirements but won't remove the listings. Staff stated they won't help in any enforcement short of the City signing a contract and paying for that service.

**INTERESTED PARTIES:**

**Spencer Gainy** 2115 East 36<sup>th</sup> Street, Tulsa, OK 74105

Mr. Gainy stated he is with the Greater Tulsa Association of Realtors and he has some concerns about the Board of Adjustment process. Mr. Gainy stated he would like to support this proposal with an amendment that would take out the BOA process with a provision allowing short term rental by right within residential neighborhoods. Mr. Gainy stated he thinks the Board of Adjustment can be unpredictable and varies depending on who your neighbors are. Mr. Gainy stated he wanted to see a more standardized process that takes out the variable of the different neighbors the applicant may be surrounded by. Mr. Gainy stated with lack of enforcement the process invites short term rental operators to forego the BOA process as is happening currently in the City. Mr. Gainy stated he would also favor a licensing fee for primary use operators that would fund an enforcement officer specific to the needs of short-term rental. Mr. Gainy stated he favors a process to track these operators so that if there are people who are not on board with City requirements that poses a justifiable risk to the neighborhoods. Mr. Gainy stated GTAR also supports strong stable

neighborhoods which is why they believe City Hall should provide support in the form of dedicated code enforcement to short term rental market. Mr. Gainy stated by requiring a license the City can track operators for the purpose of taxation, neighborhood security, code enforcement and conflict resolution. Mr. Gainy stated is there a process such as an overlay that can address neighborhood concerns.

Mr. Covey asked Mr. Gainy how Realtors come into play with this proposal.

Mr. Gainy stated anytime property owner rights are being talked about the Realtor's would like to be apart of that conversation. Mr. Gainy stated some Realtors have had good experiences with responsible Air B&B members.

Mr. Reeds asked if the City had an agreement with Air B&B for taxes.

Mr. Doctor stated there is an agreement but its strictly voluntary and that is why the license is important. Mr. Doctor stated there are others that such as VBRO that there is no agreement with so in order to collect the lodging tax the license is important.

Mr. Reeds asked if there have been any taxes collected from Air B&B.

Mr. Doctor stated "yes", they have been remitting for the last year.

**Don Beach** 2651 East 21<sup>st</sup> Street Tulsa, OK 74114

Mr. Beach stated he is a broker with Keller Williams and has been in the Real Estate business for 24 years. Mr. Beach stated he is here to support GTAR position that the amendment should be passed but take out the BOA process and, in its place, add a dedicated City employee to monitor short term rental license processes. Mr. Beach stated that position could be paid for by fees of the licensing process.

Mr. Reeds stated he has stayed in a lot of Air B&B's and in terms of enforcement, he enforces it as a client. After the stay the host gets rated and if the host gets bad marks they are dropped from the website.

**Michael Jones** 5109 South Wheeling Avenue Tulsa, OK 74105

Mr. Jones stated he is an attorney and represent clients that have Air B&B's and other types of rental properties. Mr. Jones stated he understands there are neighborhoods who don't want rental properties in their neighborhood because it changes the dynamics of the neighborhood. Mr. Jones stated it would be nice to stay back in the 1950's but Tulsa is evolving and moving forward in order to meet the needs of the new society and short-term rental is the need of the new society. Mr. Jones stated he has stated in Air B&B in Rome that was next to the coliseum and there is no way a hotel could be that close. Mr. Jones stated the neighborhood around the fairgrounds wanting to be pristine, they don't have that ability now. Mr. Jones stated they are asking Planning Commission to get them a



right they don't have now. Mr. Jones stated he could rent property to a child molester and as long as it was the correct distance from a school and not have to notify the neighbors. Mr. Jones stated the short term actually causes the neighborhood value to go up for properties. They take better care of the short term rentals. Mr. Jones stated if Planning Commission is going to move forward with the proposal he would like to point out some flaws. Mr. Jones stated he agrees with Commissioner Ritchey in regard to what is written by staff, it appears they have gotten lazy by making the principal and the accessory use have the same definition of one party. Mr. Jones stated the empty nesters now have 2 or 3 empty rooms in their house that they rent. Mr. Jones stated one empty nester has a doctor in town and has been staying in the house for a year. They also have a nurse in the house that has been there for 8 months. Mr. Jones stated by the definition that the staff has recommended they would not be able to do that and get a license because those are two separate parties. Mr. Jones stated this needs to be changed so that owners can rent to multiple parties while living in the residence as opposed to a Bed and Breakfast which is only one party.

Mr. Doctor stated to Mr. Jones the examples he gave of the renters actually fall outside of the short-term rental provisions because they are there more than 30 days. They are a residential rental use and would not be subject to these requirements.

Mr. Jones stated those rentals were commissioned through Air B&B which does the rental practices for longer than a one-month contract basis and they have been renewing on a regular basis. Mr. Jones agrees there should not be more than 4 parties because 5 parties would be a hotel and that would change the perspective of what needs to be done.

**Mitchell Blessing** 1433 South Frisco, Tulsa, OK

Mr. Blessing stated he is a landlord of about 35 tenants. Mr. Blessing stated he has both short term and long-term rentals and in his long-term rentals if there are issues he can't legally do anything about it but in the short-term rentals he has a national company that steps in and takes care of the problem. Mr. Blessing stated he cleans, paints and works in the yard more on the Air B&B properties because he is graded as a host and he also grades the clients and if there is a problem it gets dealt with the same day. Mr. Blessing stated he feels Uber and Lyft is a vital part of Tulsa growth and the Air B&B has brought a lot of people into the area that would not have stayed in a \$200 hotel and this is also a vital part of Tulsa's growth.

Mr. Ritchey asked why a host spends so much more time on the upkeep of an Air B&B than a long-term rental property.

Mr. Blessing stated its like the difference between walking into a national chain convenience store such as QuikTrip where the parking lot is clean, the lighting works well versus a convenience store about to go out of business, its dark, dirty and the products on the shelf are outdated. Mr. Blessing stated he is being

reviewed by the guests that stay in his short-term houses and if you rent to someone that stays 5 years the tenant is in charge of the yard work.

Mr. McArtor asked Mr. Blessing if he agreed with staff's recommendation that short-term rentals need to go to the Board of Adjustment.

Mr. Blessing stated he feels like he should be allowed to do with the property what he wants. Mr. Blessing stated that in the Board of Adjustment process if one neighbor complains he could be denied and another one on the next street over that doesn't have any neighbors complain can stay open and that is not fair. Mr. Blessings stated he is also against putting a sign in the front yard.

Mr. Covey left at 3:05 and turned the meeting over to Mr. Walker.

**Julie Couch** 2712 East 13<sup>th</sup> Street, Tulsa, OK 74104

Mr. Couch stated she is a Realtor with McGraw and she owns several short terms and long-term rentals. Ms. Couch stated she can't control her long-term rentals to some degree but she can the short-term rentals. Ms. Couch stated every single guest rates her on her house, communication, cleanliness and response rate. Ms. Couch stated if she doesn't keep a 4.8 or above they kick her off of the Air B&B website. Ms. Couch stated she would rather have an Air B&B as her neighbor than a long term rental.

**Anne Pollard** 622 North 41<sup>st</sup> West Avenue, Tulsa, OK 74103

Mr. Pollard stated one thing she thinks is important is that the short-term rentals are registered so that there is an avenue to collect taxes, enforcement of code and occupancy tax. Ms. Pollard stated she thinks allowing the Board of Adjustment to decide if a short-term rental is allowed is unfair and Ms. Pollard would like there to be a standardized way for that process. Ms. Pollard stated Air B&B properties are well kept, beautiful showcase properties.

Mr. Ritchey asked staff if the proposal could be modified.

Staff stated TMAPC makes a recommendation to Council and that could be with changes, continue the item and make changes and bring it back to Planning Commission or accept it as presented.

Mr. Ritchey stated he would like to change the language to say that the houses can be rented to multiple parties.

Mr. Reeds asked if the cap should be set at 4 so that it aligned with the hotel regulations.

Mr. Ritchey stated he would be happy with 3. Mr. Ritchey stated the City of Tulsa is being asked to create a very special use for a commercial purpose and these are residential homes.

Mr. Walker stated he thinks the number of parties needs to be defined, Mr. Walker asked staff if TMAPC could make a recommendation and pass it to City Council for them to decide.

Staff stated TMAPC could make a recommendation even if its not staffs and send it to City Council. Staff stated if it's the number of guests Planning Commission wanted to change staff would suggest staying within the parameters of the hotel ordinance.

Mr. Doctor stated if that is the recommendation he would suggest it be tied to the definition of a hotel in the City ordinance and not set a number of guests in case that changes. Mr. Doctor stated because if the definition changes the Zoning Code text would conflict with those changes.

Mr. Reeds stated he does not like the idea of going before the Board of Adjustment for anything because it brings in arbitrariness to the process. Mr. Reeds stated he would rather have staff decide.

Ms. Van Valkenburgh stated if Planning Commission is going to provide that something can only be permitted by Special Exception that is done by the Board of Adjustment.

Mr. Reeds stated whether it is a principal or accessory use he would be for eliminating the Board of Adjustment process.

Mr. Doctor stated he also has been wrestling with the thought of removing the Board of Adjustment requirement for short term rentals because the decisions that have been before them concerning short term rentals have been unpredictable from the home owner perspective. Mr. Doctor stated he also understands staff's thought about this being more like a commercial use and the desire to regulate at the Board of Adjustment. Mr. Doctor stated how do we provide more predictability for people if they are going to go through an extra step as a principal use.

Staff stated when it comes to the Board of Adjustment and their decision making there is not a lot staff can do to control, dictate or predict what might happen. Staff stated if it stays within the Boards purview the Special Exception is going to be that vetting, it will need to be defined and the Board will have to put it against their statutory required threshold for granting an exception. Staff stated to control it any other way it would have to be removed from their process.

Mr. Doctor stated he appreciates the proposal GTAR bought before the Planning Commission today but the dollar amount of that is set for the license and the use of those dollars can be set by the City Council.

Mr. McArtor stated he believes the Board of Adjustment should be removed from this short-term rental process.

Mr. Shivel stated there is so many views and aspects of this item he didn't know how Planning Commission was going to work through it and decide today. Mr. Shivel stated he would like to suggest continuing this to the next meeting.

Staff stated if there are any changes that needs to be made to the recommendation staff would suggest making the changes before sending to City Council so that is clear what the recommendation is. Staff stated if there is a continuance staff needs clear instructions of what needs to be changed and then it can be brought back at next hearing for Planning Commission's consideration.

Mr. Ritchey asked if he would be ok with asking for a show of hands of who would like to add the language that would be sent to City Council today.

Ms. Van Valkenburgh stated there shouldn't be a vote but a discussion of what Planning Commission wants to see staff bring back to the next meeting.

Mr. Doctor is the Planning Commission was comfortable with Staff amending the language before this item goes to City Council or does the Planning Commission want to see the language first.

Mr. Walker stated he is comfortable with staff making the changes.

Mr. Doctor made a motion to amend the Staff recommendation to tie the permitted number of parties to the hotel ordinance minus one and it was 2<sup>nd</sup> by Mr. Reeds but after discussion about the BOA changes needed to the recommendation the motion and 2<sup>nd</sup> was withdrawn and a new motion to continue was made.

**TMAPC Action; 9 members present:**

On **MOTION** of **DOCTOR**, TMAPC voted **9-0-0** (Adams, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, "aye"; no "nays"; none "abstaining"; Covey, Millikin, "absent") to **CONTINUE** ZCA-13 to April 3, 2019.

**OTHER BUSINESS**

**12. Commissioners' Comments**

\* \* \* \* \*

**ADJOURN**

**TMAPC Action; 9 members present:**

On **MOTION** of **REEDS**, TMAPC voted **9-0-0** (Adams, Doctor, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, Walker, “aye”; no “nays”; none “abstaining”; Covey, Millikin, “absent”) to **ADJOURN** TMAPC meeting 2790.

**ADJOURN**

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

Date Approved:

\_\_\_\_\_

\_\_\_\_\_

Chairman

ATTEST: \_\_\_\_\_

Secretary