

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2793

Wednesday, May 1, 2019 1:30 p.m.

City Council Chamber

One Technology Center – 175 E. 2nd Street, 2nd Floor

Members Present	Members Absent	Staff Present	Others Present
Covey	Shivel	Foster	Jordan, COT
Doctor	Walker	Hoyt	Silman, COT
Fothergill		Jones	VanValkenburgh, Legal
McArtor		Miller	
Millikin		Sawyer	
Ray		Wilkerson	
Reeds		Wing	
Ritchey			
Van Cleave			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, April 25, 2019 at 2:12 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 stated that a new Secretary would need to be elected and asked that it be placed on the May 15, 2019 agenda.

Director's Report:

Ms. Miller reported on City Council and Board of County Commission actions taken and other special projects. Ms. Miller stated a Tulsa Planning Office work plan will be presented to the Mayor and City Council next week. Ms. Miller stated some of those things will be presented to TMAPC at a work session on June 5, 2019. Ms. Miller stated this is Ms. Millikin's last meeting and she would like to thank her for her service on TMAPC. Ms. Miller introduced Katie Wing who is an Assistant Planner in the Tulsa Planning Office. Ms. Wing will be helping with

TMAPC meetings. Ms. Miller Introduced Robi Jones who is the County BOA Planner. Ms. Miller stated Robi is also working on the County Comprehensive Plan.

Mr. Covey stated he would also like to thank Ms. Millikin for her service on the Planning Commission.

Ms. Millikin stated it's been a wonderful experience to serve with on the Planning Commission and time well spent. She stated she is grateful for all the other Commissioners and she has learned a lot. Ms. Millikin stated she is also grateful for the Tulsa Planning staff and encouraged them to keep up the good work and she would be watching from the sideline.

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1. Minutes:

Approval of the minutes of April 3, 2019 Meeting No. 2791

On **MOTION** of **REEDS**, the TMAPC voted 8-0-1 (Covey, Doctor, Fothergill, McArtor, Millikin, Ray, Reeds, Van Cleave, "aye"; no "nays"; Ritchey, "abstaining"; Shivel, Walker, "absent") to **APPROVE** the minutes of the meeting of April 3, 2019, Meeting No. 2791.

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.

Item 2 was moved from the Consent Agenda to Public Hearing.

Ms. Millikin read the opening statement and rules of conduct for the TMAPC meeting.

PUBLIC HEARINGS:

- 2. PUD-810-2 Glenn Hall (CD 4) Location: Northeast corner of East 12th Street and South Lewis Avenue requesting a **PUD Minor Amendment** to revise signage standards.**

STAFF RECOMMENDATION:

SECTION I: PUD-810-2 Minor Amendment

STAFF RECOMMENDATION

Amendment Request: Revise the development standards to allow a neon projecting wall sign and increase the allowable display surface area.

Currently, the development standards prohibit projecting signs and limits individual signs to 12 sf in display surface area. The applicant is proposing to add one projecting sign with an area greater than the 12 sf currently allowed. Based on the design presented, the sign will be below 30 sf in area, which would be well within the allowable area of the underlying zoning, CH. This site is also located within Route 66 overlay, which encourages the use of neon signs, with increased area allowances.

The revised sign standards would now include the provision that one projecting sign may be allowed, not to exceed 30 sf in display surface area.

Staff Comment: *This request can be considered a Minor Amendment as outlined by Section 30.010.1.2.c(12) of the City of Tulsa Zoning Code.*

“Modifications to approved signage, provided the size, location, number and character (type) of signs is not substantially altered.”

Staff has reviewed the request and determined:

- 1) The requested amendment does not represent a significant departure from the approved development standards in the PUD.
- 2) All remaining development standards defined in PUD-810 and subsequent amendments shall remain in effect.

With considerations listed above, staff recommends **approval** of the minor amendment request to revise signage standards to allow a neon projecting sign and increase the allowable display surface area.

Applicant’s Comments:

The Applicant stated this application is truly a neighborhood brewery and he noticed that people are not aware that a brewery existing at the location at 11th and Lewis so he is here to ask for a neon sign to increase awareness. The applicant stated the sign is a 12-foot blade sign that will go directly in the center of the building. The applicant stated the Route 66 Commission has a neon sign grant and the applicant is taking advantage of that process.

Mr. Covey asked if the sign was original neon or the alternative neon?

The applicant stated original neon.

Mr. Doctor stated this applicant is his friendly neighborhood brewer. Mr. Doctor stated he would like to thank the applicant for helping the City to adjust their process and for doing things the correct way.

The applicant stated staff has been great throughout the process.

Mr. Fothergill stated the building is great and adding the neon sign will just make it better.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **REEDS**, TMAPC voted **9-0-0** (Covey, Doctor, Fothergill, McArtor, Millikin, Ray, Reeds, Ritchey, Van Cleave, “aye”; no “nays”; none “abstaining”; Shivel, Walker, “absent”) to **APPROVE** PUD-810-2 Minor Amendment per staff recommendation.

Legal Description of PUD-810-2:

1147 South Lewis Avenue

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- 3. **MPD-2 Nathan Cross** (CD 1) Location: West and north of the northwest corner of West Edison Street and North 41st West Avenue requesting a **Master Plan Development** for private street mixed-use community (Continued from February 20, 2019, March 6, 2019, March 20, 2019 and April 17, 2019) (**Applicant requests a continuance to May 15, 2019**)

TMAPC Action; 9 members present:

On **MOTION** of **MILLIKIN**, TMAPC voted **9-0-0** (Covey, Doctor, Fothergill, McArtor, Millikin, Ray, Reeds, Ritchey, Van Cleave, “aye”; no “nays”; none “abstaining”; Shivel, Walker, “absent”) to **CONTINUE** MPD-2 to May 15, 2019.

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- 4. **MR-7** (CD 4) Modification of the Subdivision & Development Regulations to remove sidewalk requirement for a new single-family residence, Location: West of South Gary Drive at East 27th Place South

STAFF RECOMMENDATION:

MR-7 – 2736 S. Gary Dr. - (CD 4)
West of South Gary Drive at East 27th Street South

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.

As alternative solutions for sidewalks are explored, staff will begin evaluating each request for modification based on a set of criteria. Any future program would utilize similar criteria when making eligibility determinations for alternatives. Examples of criteria include the following:

1. Proximity to major pedestrian destinations such as parks, schools, public amenities, and retail areas.
2. Presence of existing pedestrian infrastructure within a walkable area of the subject property
3. Funded capital improvement projects that will impact property under application
4. Proximity and ability to connect to collector or arterial streets
5. Topographical or environmental challenges that make sidewalk installation impossible or impractical

Based on the selected criteria, staff finds the following facts to be **favorable** to the modification request:

1. The subject property is located on a dead-end spur of South Gary Drive that would not connect to other pedestrian infrastructure.
2. There are no sidewalks in the neighborhood or on the east/west portion of East 27th Street that connects the neighborhood to adjacent commercial properties.
3. There are no major public amenities served by South Gary Drive

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 her agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC COMMENTS:

Mr. McArtor stated the subject property and neighborhood doesn't have any sidewalks and is not connected to a feeder street that has sidewalks. Mr. McArtor

asked if that meant we were just not going to have any sidewalks in areas like the subject property because there are a lot of areas that were not built sidewalk friendly.

Staff stated the intent is not to send a message that there is never going to be sidewalks in those places but in the context of requiring an individual owner to construct a sidewalk when there is such a lack of need. At the moment without any sort of long-term plan to later fill the rest of the neighborhood in with sidewalks leads to allowing the waiver to move forward. Staff stated the City as a whole wants more walkability and sidewalks and will look at ways to implement sidewalks throughout the City. Staff stated when infill lots come up like the subject property and there is no compelling reason to make them build a sidewalk that is where staff would recommend approval of the waiver.

Mr. McArtor stated staff's logic is good but the reality is bad. Mr. McArtor stated he thought years ago there was a fee in lieu of deal.

Staff stated there is currently fee in lieu of on sidewalks for arterial streets and parkways. Staff stated it is calculated at the cost of the sidewalk to the City of Tulsa to install that sidewalk. Staff stated this program has only been used in a few circumstances. Staff stated the City of Tulsa has a sidewalk issue that goes back years and years and the solution for this is not building sidewalks piece by piece throughout the city. Staff stated there has to be a comprehensive solution at some point and staff is continuing to look forward to that point.

Ms. Millikin stated she has a concern that the waivers could be applied in an uneven manner. Ms. Millikin stated at a previous meeting there was a request for a sidewalk waiver in West Tulsa. She stated when looking at the criteria list in the staff report Ms. Millikin believes that application would have met at least 3 of the 5 criteria and yet with the \$100,000 increase that would have been added to the project because of the terrain the Planning Commission voted to deny the sidewalk waiver. Ms. Millikin stated she is in favor of having the criteria but is concerned that they will not be applied evenly.

Staff stated that is a valid concern and there is an important distinction to note between this application and the West Tulsa application. Staff stated the West Tulsa project was a new single-family subdivision development that when the sidewalk is built will connect to shopping areas and create a full sidewalk network versus an existing neighborhood where there are no other sidewalks.

Ms. Millikin asked staff what the overall goal of the sidewalk requirement was.

Staff stated connectability to have a walkable and more accessible City for anyone who needs to walk or is in a wheelchair and other things. Staff stated the intent of the City is more sidewalks but the intent of the waiver is to make sure

when the regulation is applied its in a practical way and that the City has a strategy for later.

Ms. Millikin asked staff so wouldn't we want to do it on a piece by piece basis in an existing established neighborhood because eventually all pieces would be built.

Staff stated there are places it makes sense, such as where there is potential for other projects to fill those gaps and areas where there is existing infrastructure that leads to the ability to start those networks and get the connections. Staff said the ones that are being looked at for waivers are internal to a neighborhood and would be one of the last ones to connect to the network if sidewalks started making their way into the neighborhood.

Ms. Millikin would like the criteria objectively applied.

Mr. Reeds asked if there were foundations like Walk America were the City could apply for grants that could be offered to neighborhoods.

Staff stated there are programs and there are people within the City diligently working to try and find ways to fill in the sidewalk requests that there have received. Staff stated the sidewalk requirement was a way to support the Cities efforts to build sidewalks.

Mr. Fothergill asked Mr. Doctor what the policy is for the City of Tulsa when there are infrastructure projects.

Mr. Doctor stated the ultimate goal is the fee in lieu program that allows the revenue that would have been spent on a single sidewalk in front of a single house to be used in a more strategic way such as to build out a connection point. Mr. Doctor stated this has been discussed for a few months now but there are a few roadblocks. Mr. Doctor stated the group will meet again in a few weeks to try and come up with a solution to those roadblocks.

Mr. Fothergill asked if the City policy now is if an arterial street rehab is to put in sidewalks but non-arterial there are no sidewalks.

Mr. Doctor stated he thinks they do sidewalks on one side of the road currently but with the new Subdivision Regulations there will be sidewalks on both sides of the road. Mr. Doctor stated the City will hold themselves to the same standards for arterial and non-arterial streets.

Mr. Ray asked staff to explain the comment, it was never the intent for the sidewalk program to fill in these types of streets because that statement doesn't seem consistent with what the Zoning Code states.

Staff stated it was never the intent for this particular regulation to solve the lack of sidewalks in the City in the existing neighborhoods and areas. Staff stated it was established to make sure all new development is served by the essential infrastructure which includes sidewalks.

Mr. Ray stated he understands what staff says the intent is but he has been involved in this singular issue since 1976 and in no case has he been able to discover a City that was able to overcome its problems by ignoring it in a piece meal approach. Mr. Ray stated he understands staff is caught in the middle and he agrees with the finding of the staff that a sidewalk in this location doesn't make sense but he has only been on the Planning Commission a few months and this is the 5th one he has seen. Mr. Ray stated he agrees with some of the other Commissioners that say if the time to enforce this ordinance isn't now then when should we enforce it. Mr. Ray stated he thinks he will start voting no on the sidewalk modifications because if we wait on the City's new construction to fill them all in that will be 100 years down the road.

Mr. McArtor stated looking at the regulation 5-070.1 states "Sidewalks must be installed on both sides of all arterial streets and on both sides of all collector streets and residential (local) streets with curb and gutter. Decision-making bodies are authorized to require the installation of sidewalks in other locations..." then in the next paragraph 5-070.2 it states, "Decision-making bodies are authorized to waive the requirement for sidewalk installation ...when they determine that the general modification approval criteria are met and that topography, natural resource constraints or other factors that are unique to the subject property make sidewalk installation impractical." Mr. McArtor asked what the general modification approval criteria was?

Staff stated they are listed in the Subdivision Regulations and are set up to encompass any request for modification in the Subdivision Regulations. Staff stated there are the general steps that need to be proven to grant a modification.

Mr. McArtor asked staff if they are satisfied that the current application fulfills these general steps.

Staff stated "yes".

Mr. Covey asked if the character of the neighborhood would be included in the criteria for granting a sidewalk waiver. Mr. Covey stated Bolewood Acres do not have sidewalks and it is a gorgeous neighborhood. Mr. Covey stated he would hate to see sidewalks go into that subdivision.

Staff stated Bolewood is exempt because they do not have curb and gutter streets.

Mr. Covey stated in his subdivision in South Tulsa there are 1 acre plus lots with curd and guttering and the streets are 5-8 feet wider than standard streets and the residents love the wide streets. Mr. Covey stated the addition was built in 1978 and he would hate for someone to build in this neighborhood and be told they have to put a sidewalk to nowhere because it would be the only one in the neighborhood.

Staff stated in that situation some of the other criteria is going to be their favor because there are no others in the area. Staff stated when it comes to the planning recommendation the esthetic is going to fall as a low weighted criterion, secondary to pedestrian goals and priorities that the City has set in the Comprehensive Plan and staff looks to guide those decisions around the policies. Staff stated he would leave the esthetic question to Planning Commission.

Mr. Covey asked if neighbors are notified of the sidewalk waiver?

Staff answered, "yes", adjacent neighbors.

Mr. Covey stated the entire subdivision is relies on an adjacent neighbor to care.

Staff stated "yes", unless the notification requirement is altered and that could be something to consider.

Mr. Reeds stated because of the proximity to a retail area it seems that is reason enough to start putting in the sidewalks.

Staff stated he doesn't believe that any of the sidewalk modification requests will meet all the criteria on the list. Staff stated Gray Drive is a dead end and has no access to the retail area and that should be weighed versus saying it's a certain number of feet from Harvard Avenue.

Ms. Millikin stated she agrees with Mr. Reeds.

Applicant's Comments:

The applicant stated she is the builder and is trying to get this house built the correct way. The applicant stated she doesn't think putting in a sidewalk will look good if it's the only one on the street. The applicant stated she doesn't mind putting in sidewalks if it looks good and ties into others.

Mr. McArtor thanked the applicant for wanting to do things the correct way by applying for the modification. Mr. McArtor stated no one on Planning Commission is trying to put a personal hardship on the applicant. Mr. McArtor asked the applicant what she meant by esthetically the sidewalk would not look right.

The applicant answered there is not another sidewalk for blocks. This would be the only one and it will look out of place.

Mr. Covey stated he will be supporting staff recommendation because to him it is silly to require a sidewalk to nowhere. Mr. Covey stated he doesn't like where staff is at with the sidewalk waiver issue and he thinks Ms. Millikin is correct and that it is arbitrarily applied. Mr. Covey stated he would like the pay fee in lieu. Mr. Covey stated he thinks that is the proper way to go with the sidewalk waiver. Mr. Covey stated the City would collect those funds and use them to fill in an entire area and that would be the better way to address this issue.

Mr. Doctor stated he will be supporting staff recommendation to support the waiver. Mr. Doctor stated it is a fair point that there needs to be a clear way to address the waivers and the guidelines staff has developed is an attempt to try and create some clear guidelines. Mr. Doctor stated the City of Tulsa does not currently have the tools to allow the sidewalk construction to be strategic. Mr. Doctor stated is supporting staff because a sidewalk for this applicant does not help with connectivity at all. Mr. Doctor stated he doesn't want to penalize this developer or lead to an ineffective and functionally obsolescence section of a sidewalk because the fee in lieu of tool in not in place yet. Mr. Doctor stated he thinks the principles behind the Subdivision Regulations are great and when paired with the fee in lieu program that will allow the construction to be strategic.

Ms. Millikin stated she is voting against the waiver because as she stated before she has a concern that the waivers could be applied in an uneven manner. She stated when looking at the criteria list in the staff report Ms. Millikin believes that the West Tulsa application would have met at least 3 of the 5 criteria and yet with the \$100,000 increase that would have been added to the project the Planning Commission voted to deny the sidewalk wavier. Ms. Millikin stated she is in favor of having the criteria but is concerned that they will not be applied evenly.

Mr. Covey stated the basis for his decision is the West Tulsa case was on Union Avenue and there is a huge apartment complex next to the subject property that had not built their sidewalk but once it was complete the connectivity would be there to 81st West Avenue and that was on a major arterial street.

Mr. Fothergill stated he agreed with Mr. Covey on the differential of those two applications and he will be voting to approve the waiver per staff recommendation. Mr. Fothergill stated the sidewalk waiver in West Tulsa a few weeks ago was different than this one because the applicant was agreeing to build 800 feet to the north but didn't want to build the 400 feet to the south because of topographical issues and cost. This applicant stated her reasons were not because of cost or topographical issue but because of esthetics. Mr. Fothergill stated it is the sidewalk to nowhere. Mr. Fothergill agrees that every new subdivision needs sidewalks and every time the City touches a street the

goal should be to install sidewalks but, in this case, he is supporting staff recommendation.

Mr. Reeds stated he lives close to this area and there are sidewalks on both sides of Harvard Avenue between 21st and 31st and 31st to 41st.

Mr. McArtor stated he doesn't agree with a sidewalk to nowhere it does lead somewhere. It leads to a policy where the City of Tulsa has to do something about putting sidewalks along infill areas. Mr. McArtor stated like Mr. Ray said we have to start somewhere. Mr. McArtor stated failure to put a sidewalk in is truly going nowhere. Mr. McArtor stated this is one of those decisions that he is sure of the principle but hates the outcome for the applicant. Mr. McArtor stated a body like the Planning Commission should send a message to the City of Tulsa because this issue is a hardship for some applicants. Mr. McArtor stated on one hand the City has made it clear they want sidewalks but on the other hand we take away what we said we wanted on the first hand.

The applicant stated she understands and she doesn't mind paying the fee in lieu.

Mr. Covey stated that program is not available yet. Mr. Covey stated if the vote doesn't go the applicant's way he would suggest getting in touch with the Homebuilders Association.

Mr. Doctor stated to Mr. McArtor that the urgency of the fee in lieu program is there on the City side. Mr. Doctor stated some of the issues being addressed are legal requirements of defining very specific geography where the fees can be spent. Mr. Doctor stated developing the map and outlining what those districts are and where the funds can be spent is taking some time. Mr. Doctor stated the next issue is determining what fee is appropriate for developers to pay because if we require them to pay exactly what it cost the City to build the sidewalk that is not an incentive to choose the fee in lieu of. Mr. Doctor stated the City wants to build out a larger more connected system as opposed to that particular sidewalk. Mr. Doctor stated this is an issue that was created because of the Subdivision Regulation Update. Mr. Doctor stated when the Subdivision Regulations were updated for the first time in 30 years and said that connectivity matters that triggered these unintended consequences for the smaller infill projects.

Mr. Reeds stated the applicant doesn't have to pour a white ugly concrete sidewalk it can be a series of pads.

Ms. VanValkenburgh stated the City has sidewalk standards. Ms. VanValkenburgh stated she doesn't the applicant to think that is allowed without checking with the City permit department.

TMAPC Action; 9 members present:

On **MOTION** of **DOCTOR**, the TMAPC voted **5-4-0** (Covey, Doctor, Fothergill, Ritchey, Van Cleave, “aye”; McArtor, Millikin, Ray, Reeds, “nays”; none “abstaining”; Shivel, Walker, “absent”) to **APPROVE** MR-7 Modification of the Subdivision and Development Regulations to remove sidewalk requirement per staff recommendation.

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5. **MR-8** (CD 9) Modification of the Subdivision & Development Regulations to remove sidewalk requirement for a new single-family residence, Location: Northeast corner of East 35th Place South and South Rockford Avenue

STAFF RECOMMENDATION:

MR-8 – 1501 E. 35th Pl. - (CD 9)

Northwest corner of East 35th Place and South Rockford Avenue

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.

As alternative solutions for sidewalks are explored, staff will begin evaluating each request for modification based on a set of criteria. Any future program would utilize similar criteria when making eligibility determinations for alternatives. Examples of criteria include the following:

1. Proximity to major pedestrian destinations such as parks, schools, public amenities, and retail areas.
2. Presence of existing pedestrian infrastructure within a walkable area of the subject property
3. Funded capital improvement projects that will impact property under application
4. Proximity and ability to connect to collector or arterial streets
5. Topographical or environmental challenges that make sidewalk installation impossible or impractical

Based on the selected criteria, staff finds the following facts to be **unfavorable** to the modification request:

1. The subject property is located one block from Elliot Elementary School, three blocks from Zink Park, and two blocks from South Peoria Avenue and the Brookside District

2. East 36th Street South, located one block south of the subject property, is a designated collector street with existing sidewalks
3. There are existing sidewalks at the northeast corner of East 35th Place and South Quincy Avenue, one block west of the subject property
4. South Peoria Avenue is the planned Bus Rapid Transit corridor
5. There is a high rate of infill homes being built in the area. Requiring sidewalks to be constructed will lead to a significant increase in pedestrian infrastructure if the rate is maintained.

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

TMAPC COMMENTS:

Mr. Reeds stated if there was ever a need for a sidewalk it is in this location. There are parents dropping kids off for school.

Mr. Covey stated there are sidewalks on 35th Street that stop and there are none on the south side of 35th and there are no sidewalks to the east of Rockford Avenue on 35th Street. Mr. Covey stated there are none on 35th Place or on Rockford Avenue.

Staff stated there are sidewalks on the corner of 35th Place and Quincy Avenue which is one block to the west and it extends across the lot and to the adjacent lot. Staff stated there are 3 vacant lots under construction near this lot.

Mr. Covey asked how many waiver requests there have been in this area.

Staff stated 2.

Applicant's Comments:

The applicant stated her client does not want to put the sidewalk in because it's a financial burden. The applicant stated this is a corner lot so it's a longer lot and the other homes on this street do not have sidewalks.

Mr. Ritchey stated he believes Tulsa is working its way to be a walkable City but he doesn't think the financial stress of these sidewalks should be put on single-family home owners. Mr. Ritchey asked Mr. Doctor why Planning Commission is not seeing more sidewalk waivers because there are hundreds of homes under construction in the City. Mr. Ritchey asked what triggers these applications.

Staff stated as a part of the Right-of-Way permit and final inspection of a home the inspector should be looking for a finished sidewalk. Staff stated when the Subdivision Regulations were adopted in May 2018 there were some break downs such as the builder didn't know it was a requirement until the City Inspector was standing in front of a completed home and driveway that can't be finalized because the sidewalk is not installed. Staff stated it is his understanding

that this has been addressed and that builders are now being told about the sidewalk with the original permit application. Staff stated it is notable that the applicant is doing this the right way but it is unfortunate that there are a lot of builders ignoring this regulation and that is something that should be taken seriously. Staff stated it is important to note that the fee in lieu will always have steps the applicant has to take to use that program. The first step will be that the applicant be approved to use that program. Staff stated that when Planning Commission decides on these applications they are saying they approve the applicant to use the fee in lieu program or denying their waiver.

Mr. Covey stated he doesn't know how to distinguish the previous case from this case. He stated he has been on the Planning Commission 10 years and never remembers getting this many residential waivers, they have all been on arterial streets. Mr. Covey stated he will be voting in favor of the waiver.

Ms. Millikin stated she agrees and that demonstrates how subjective the criteria is for the sidewalk waivers. Ms. Millikin stated she will be denying the request for a waiver.

Ms. Van Cleave stated she has reservations about the subjective application. Ms. Van Cleave stated she is a relatively new Commissioner and defers to the staff's findings on these applications. Ms. Van Cleave stated a waiver was just approved on 37th Place and she doesn't think willy nilly is a scientific term but she can't see denying this waiver if one has been approved so nearby. Ms. Van Cleave stated she is voting against the denial of the modification.

TMAPC Action; 9 members present:

On **MOTION** of **McARTOR**, the TMAPC voted **5-4-0** (Doctor, McArtor, Millikin, Ray, Reeds, "aye"; Covey, Fothergill, Ritchey, Van Cleave, "nays"; none "abstaining"; Shivel, Walker, "absent") to **DENY** MR-8 Modification of the Subdivision and Development Regulations to remove sidewalk requirement per staff recommendation.

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6. **ZCA-9**, amendments to the Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances, Chapter 65 Landscaping, Screening and Lighting, to retitle Chapter 65 as Landscaping and Screening, to establish new minimum requirements for landscaping and screening, to renumber Outdoor Lighting regulations, establishing it as a separate Chapter 67, and to add and revise related provisions in Chapter 5 Residential Districts, Chapter 10 Mixed-Use Districts, Chapter 15 Office, Commercial and Industrial Districts, Chapter 55 Parking and Chapter 85 Violations, Penalties and Enforcement.

Staff Comments:

Staff stated there were several things brought to staff's attention and it wasn't fair to the Planning Commission to make some of the changes being presented so staff is requesting a continuance to refine the text to be sure it is consistent with other departments of the City.

TMAPC COMMENTS:

Mr. Covey asked staff why residential is excluded from the Landscape Ordinance? Mr. Covey stated we are requiring Residential Districts to build sidewalks yet we are not going to require them to do landscaping.

Staff stated there were discussion about requiring landscape standards in single family residential subdivisions and entrances to subdivisions. Staff stated in the end the committee made the decision to not have residential landscape standards.

Mr. Covey asked if the approved tree list should be included in the Zoning Code.

Staff stated there needs to be flexibility to manage the list outside the Zoning Code in case one needs to be removed because of disease or other unforeseen issue.

Mr. Reeds stated he would like to see native plants and native trees used because they will always survive.

Mr. Covey stated in the Landscape Ordinance 65.090-E Certificate of Installation it states the owner of the property to do a written certification.

Staff stated that is carried over from the current code.

Mr. Covey stated he thought that was awkward because most everything else requires an Architect or Engineer to sign off on all these plans, but the owner of the property can sign a document saying they comply with all the rules. Mr. Covey stated in 65.100 the owner is excluded and an Architect or an Engineer is required for that portion. Mr. Covey stated to him it seems inconsistent.

Mr. Reeds stated the design that the owner signs should comply with Code that is designed by the Landscape Architect.

Mr. Covey asked why not make the professionals sign off on everything?

Mr. Reeds stated that is consistent with the American Disabilities Act.

Mr. Covey asked staff why it is not required for the City, County and State to plant trees or landscape when they touch a road. Mr. Covey stated if he reads

this plan correctly the goal is to beautify Tulsa and there is a lot of concrete poured by the City, County and State and they have no landscape requirements. Mr. Covey stated residential areas are excluded and that is maybe 70-80 % of the area, there are no requirements for municipalities or local governments regarding street landscaping. Mr. Covey stated it's a narrow area that the Landscape Ordinance would be applied. Mr. Covey stated he is not trying to convince anyone to do anything else he wanted to submit his comments since he was not going to be at the next meeting.

Staff thanked Mr. Covey for his thoughts and comments. Staff stated typically the Zoning Code is regulatory for public sector if it is outside the street right-of-way. Staff stated the public sector whether it's a school or City Hall has to meet all the same standards. Staff stated the street funding is different and there are policies in place through the Urban Forest Master Plan and the Major Street and Highway Plan that show street trees. and as those projects are funded and installed he can't answer why those trees are not installed. Staff stated the zoning standards are typically outside the public realm but this document for the first time includes using the right-of-way for their greenspace in certain incidence's.

Mr. Fothergill stated the County cuts down more trees in the right-of-way than the City ever plants. Mr. Fothergill stated the right-of-way is intended for utilities and sidewalks and the biggest degrader of sidewalks is trees and tree roots. Mr. Fothergill stated not planting the right-of-way is the best idea, but if anyone plants in the right-of-way they have to sign a release stating they will replace water lines or sewer lines if there are issues. Mr. Fothergill stated he supports beautifying Tulsa with trees there are some limitations that are understandable.

Mr. Reeds stated they are certain types of trees that can be planted within the right-of-way that won't grow tall and have narrow roots that grow straight down so they won't destroy the sidewalks.

Staff stated they have worked with utility companies to determine what type of trees need to be planted near powerlines. Staff stated there are some Cities that prohibit cutting down trees in the right-of-way because the overall goal is a greener streetscape.

TMAPC Action; 9 members present:

On **MOTION** of **REEDS**, TMAPC voted **9-0-0** (Covey, Doctor, Fothergill, McArtor, Millikin, Ray, Reeds, Ritchey, Van Cleave, "aye"; no "nays"; none "abstaining"; Shivel, Walker, "absent") to **CONTINUE** ZCA-9 to May 15, 2019.

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OTHER BUSINESS

7. Commissioners' Comments

Mr. Covey stated that it has been a pleasure serving with Ms. Millikin.

Ms. Millikin stated "thanks" she will miss everyone.

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ADJOURN

TMAPC Action; 9 members present:

On **MOTION** of **MILLIKIN**, TMAPC voted **9-0-0** (Covey, Doctor, Fothergill, McArtor, Millikin, Ray, Reeds, Ritchey, Van Cleave, "aye"; no "nays"; none "abstaining"; Shivel, Walker, "absent") to **ADJOURN** TMAPC meeting 2793.

ADJOURN

There being no further business, the Chair declared the meeting adjourned at 3:05p.m.

Date Approved:

Chairman

ATTEST: _____

Secretary