

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2779

Wednesday, October 3, 2018 2018, 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	Millikin	Chapman	Jordan, COT
Dix		Foster	Silman, COT
Doctor		Hoyt	VanValkenburgh, Legal
Fothergill		Miller	Warrick, COT
Fretz		Sawyer	
Krug		Wilkerson	
Reeds			
Ritchey			
Shivel			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, September 27, 2018 at 4:00 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:

Director's Report:

Ms. Miller reported on the City Council and Board of County Commission actions taken and other Special Projects. Ms. Miller stated there would be a work session before the October 17, 2018 TMAPC Meeting.

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1. **Minutes:**

Approval of the minutes of September 19, 2018 Meeting No. 2778

On **MOTION** of **DIX**, the TMAPC voted 8-0-2 (Covey, Doctor, Krug, Reeds, Ritchey, Shivel, Walker, “aye”; no “nays”; Dix, Fretz, “abstaining”; Millikin, “absent”) to **APPROVE** the minutes of the meeting of September 19, 2018, Meeting No. 2778.

Chairman Covey stated item 4 had a speaker and will be moved to the Public Hearing from the Consent Agenda. He also stated item 6 was been withdrawn.

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.

2. **Dowell Research Center** (CD 6) Change of Access, Location: East of the northeast corner of East 51st Street South and South 129th East Avenue
3. **South Yale Park** (CD 8) Change of Access, Location: Southwest corner of East 111th Street South and South Yale Avenue

Item 4 was moved to Public Hearing

5. **Z-6503-SP-2c Nathalie Cornett** (CD 7) Location: East of the southeast corner of East 91st Street South and South Mingo Road and requesting a **Corridor Minor Amendment** to digitize an outdoor advertising sign

STAFF RECOMMENDATION:

SECTION I: Z-6503-SP-2c Minor Amendment

STAFF RECOMMENDATION

Amendment Request: Modify the Corridor Plan to digitize a previously allowed, outdoor advertising sign.

The current Corridor Development standards for this site permit an outdoor advertising sign, but do not explicitly permit a digitized sign. The applicant proposes to add the stipulation that the, currently permitted, outdoor advertising sign be allowed to be digitized. The sign would be required to comply with all

applicable restrictions from the City of Tulsa Zoning Code, regarding signs of this type.

Staff Comment: This request can be considered a Minor Amendment as outlined by Section 25.040D.3.b(5) of the Corridor District Provisions of the City of Tulsa Zoning Code.

“Minor amendments to an approved corridor development plan may be authorized by the Planning Commission, which may direct the processing of an amended development plan and subdivision plat, incorporating such changes, so long as substantial compliance is maintained with the approved development plan. “

Staff has reviewed the request and determined:

- 1) The requested amendment does not represent a significant departure from the approved development standards in the Corridor Development Plan.
- 2) All remaining development standards defined in Z-6503-SP-2 and subsequent minor amendments shall remain in effect.

With considerations listed above, staff recommends **approval** of the minor amendment request to digitize the previously allowed outdoor advertising sign.

Legal Description of Z-6503-SP-2c:

10210 E 91st St S
Lot 2, Block 1 Crossroads Village

Item 6 was withdrawn

- 6. **Z-6538-SP-2a Matt King** (CD 8) Location: South of the southeast corner of East 91st Street South and South Mingo Road and requesting a **Corridor Minor Amendment** to add Personal Improvement facility to permitted uses

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- 7. **PUD-648-A-7 Lou Reynolds** (CD 2) Location: North of the Northeast corner of West 71st Street South and South Olympia Avenue requesting a **PUD Minor Amendment** to increase permitted floor area

STAFF RECOMMENDATION:

SECTION I: PUD-648-A-7 Minor Amendment

STAFF RECOMMENDATION

Amendment Request: Revise the PUD Development Standards to increase permitted floor area from 133,733 sf to 135,000 sf.

The applicant proposes to increase the allowable floor area from 133,733 sf to 135,000 sf in order to account for a discrepancy between what is allowed in the PUD development standards and what actually exists, on the site.

Staff Comment: *This request can be considered a Minor Amendment as outlined by Section 30.010.1.2.c(9) of the City of Tulsa Zoning Code.*

“Changes in structure heights, building setbacks, yards, open spaces, building coverage and lot widths or frontages, provided the approved PUD development plan, the approved standards and the character of the development are 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-648-A and subsequent amendments shall remain in effect.

With considerations listed above, staff recommends **approval** of the minor amendment request to increase permitted floor area.

TMAPC Action; 10 members present:

On **MOTION** of **DIX**, TMAPC voted **10-0-0** (Covey, Dix, Doctor, Fothergill, Fretz, Krug, Reeds, Ritchey, Shivel, Walker, “aye”; no “nays”; none “abstaining”; Millikin, “absent”) to **APPROVE** Items 2,3,5 and 7 per staff recommendation.

Legal Description of PUD-648-A-7:

Lot 3, Block 2 Olympia Medical Park

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

PUBLIC HEARINGS:

Item 4 was moved from Consent Agenda

4. **PUD-809-3 Barnard Trace, LLC** (CD 4) Location: Southwest corner of East 17th Street and South Lewis Avenue requesting a **PUD Minor Amendment** to include cap and trim fencing as permitted fencing type

STAFF RECOMMENDATION:

SECTION I: PUD-809-3 Minor Amendment

STAFF RECOMMENDATION

Amendment Request: Revise the PUD Development Standards to include cap and trim fencing as a permitted fencing type.

The applicant proposes to include privacy cap and trim wood fencing as an allowable fence type. The PUD is located within a Historic Preservation District and will be subject to the reviews and restrictions of that district, in addition to and regardless of PUD allowances.

Staff Comment: *This request can be considered a Minor Amendment as outlined by Section 30.010.1.2.c(9) of the City of Tulsa Zoning Code.*

“Changes in structure heights, building setbacks, yards, open spaces, building coverage and lot widths or frontages, provided the approved PUD development plan, the approved standards and the character of the development are 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-809 and subsequent amendments shall remain in effect.

With considerations listed above, staff recommends **approval** of the minor amendment request to include cap and trim fencing as a permitted fencing type.

TMAPC COMMENTS:

Mr. Covey asked staff if any decisions made here would affect the Historic Preservation Commission requirements.

Staff answered “no”, this would still need to be approved by the Historic Preservation Commission.

Mr. Reeds asked staff if the Historic Preservation Commission was consulted about this application.

Staff stated they were informed and staff had not received anything back from them.

Mr. Dix asked staff what kind of fence the adjoining neighbors had.

Staff answered he was not sure about the neighboring fences.

Mr. Reeds stated when this was approved by the Preservation Commission it was an open iron fence.

Applicant’s Comments:

Phil Marshall 4319 South Quincy Place, Tulsa, OK 74105

Mr. Marshall stated Barnard Trace is asking for a minor amendment to install a cap and trim wood privacy fence at the side of subject property. He stated this does not affect the iron fence around the perimeter. Mr. Marshall stated there are many wooden fences in the Yorktown Historic District.

Mr. Walker asked the applicant to confirm the perimeter would not be touched and this would only apply to the individual lots.

The applicant stated “yes”, that is correct. The applicant stated the lot is a long narrow lot and it has a lot of side courtyards that face other houses and the homeowners are requesting that they would like a little more privacy.

Mr. Reeds asked the applicant when the overlay rules were developed was it discussed as only the open iron fence.

The applicant stated it was discussed only on the perimeter.

Mr. Reeds asked if that included the rear fence.

Applicant stated he doesn’t consider the rear apart of the perimeter.

Mr. Reeds asked if the applicant considers what can be seen from the street the perimeter.

Applicant stated “yes”, what he had envisioned is that it would be the side of the house from the front elevation to the back elevation. Applicant stated if the

residents wanted to go to the alley with their fence it would be required to be open iron fence.

Mr. Dix asked how many units were built on the property.

Applicant answered "5".

INTERESTED PARTIES:

Dana Jones 2312 East 17th Street, Tulsa, OK 74104

Ms. Jones stated she is the first resident of Barnard Trace. Ms. Jones stated when she purchased her home she understood that only the open iron fence was allowed, and she was fine with that. Ms. Jones stated she doesn't oppose a privacy fence between the homes on the side yard but do oppose a privacy fence all the way to the alley because it blocks the vision of drivers looking for cars backing out of driveways or children playing in the driveway.

Alex Burton 2143 East 17th Place, Tulsa, OK 74104

Mr. Burton stated he shares a perimeter wall with Barnard Trace and he is here to express concerns with this application as it is proposed. Mr. Burton stated he spoke with Jay Hoyt at INCOG and he told Mr. Burton that as the application is written currently it allows the perimeter fence to become a cap and trim fence. Mr. Burton stated this would alter the neighborhood and he disagreed with the applicant that there are a lot of wooden fences in the neighborhood that are visible from the road. Mr. Burton stated if that fence was altered it would put a lot of his yard in the shade. Mr. Burton stated some of the neighbors in the area oppose this applicant but were okay with the cap and trim fence within the development but not anything visible from the road or the perimeter.

Applicant's Rebuttal:

Applicant stated there are no plans to replace the perimeter fence it will remain the iron fence. He stated the wooden fence would be from the end of the house in the front to the end of the house in the back and anything past that would be an iron fence. Applicant stated the homeowner would have to go to two architectural committees before gaining approval for the wood fence.

Mr. Dix asked applicant if the front elevation from the house to the street could have a wood fence.

Mr. Marshall stated they could put in a wood fence but would have to go through the City of Tulsa because anything in the front yard must go through the City of Tulsa for approval and to the architectural committee.

Ms. VanValkenburgh asked applicant if a wood fence would be allowed in a side yard that was also a street yard such as Lewis Avenue.

Mr. Marshall stated the committee would not approve that.

Ms. VanValkenburgh if that was a part of the PUD or is the applicant just leaving that to the discretion of the resident.

Mr. Marshall stated he is leaving that and it is not addressed but could be in a motion.

Mr. Fothergill stated off Lewis on the north side of Barnard Trace in the alleyway if an owner on both sides wanted to put a wooden fence there this would create a blind spot. Mr. Fothergill asked if that would be allowed?

Applicant stated if the courtyard was on that side the owner may want to put a fence up there but that is common area and bushes would be put up to hide that fence.

Mr. Covey asked Mr. Reeds if there is a hearing when someone gets approval from the Preservation Committee.

Mr. Reeds answered "no", the owner brings in their idea and if it's a good idea it is approved to go to full commission.

Mr. Covey asked Mr. Reeds if there was then a Public Forum where neighbors could come and speak.

Mr. Reeds stated "yes".

Mr. Covey asked if Mr. Reeds if he was confident that the rules and procedures that are in place by the Preservation Committee would address the concerns that have been discussed at this meeting.

Mr. Reeds stated "yes".

TMAPC Action; 10 members present:

On **MOTION** of **REEDS**, TMAPC voted **9-1-0** (Covey, Dix, Doctor, Fothergill, Fretz, Krug, Reeds, Shivel, Walker, "aye"; Ritchey, "nays"; none "abstaining"; Millikin, "absent") to **APPROVE** the PUD-809-3 Minor Amendment excluding Lewis Avenue per staff recommendation.

Legal Description of PUD-809-3:

Lots 1-12, Block 1 and Lots 1-6, Block 2, Barnard Trace

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Mr. Walker left room 1:58 p.m.

Mr. Walker returned at 2:03 p.m.

8. **CZ-476 Jared Cottle** (County) Location: South of the southeast corner of East 131st Street South and South Mingo Road requesting rezoning from **AG to RS** (Related to Windrush II Preliminary Plat)

STAFF RECOMMENDATION:

SECTION I: CZ-476

DEVELOPMENT CONCEPT: Rezone from AG to RS to permit a small, single-family subdivision on the subject lot.

DETAILED STAFF RECOMMENDATION:

CZ-476 is non-injurious to the existing proximate properties and;

CZ-476 is consistent with the anticipated future development pattern of the surrounding property therefore;

Staff recommends Approval of CZ-476 to rezone property from AG to RS.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: This area is outside of the City of Tulsa Comprehensive Plan area. The City of Bixby Comprehensive Plan 2001-2020 designates the site as a combination of Low Intensity and Development Sensitive.

Land Use Vision:

Land Use Plan map designation: N/A

Areas of Stability and Growth designation: N/A

Transportation Vision:

Major Street and Highway Plan: S Mingo Rd is designated as a Secondary Arterial

Trail System Master Plan Considerations: None

Small Area Plan: N/A

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: *Site is currently vacant.*

Environmental Considerations: The site contains both 100 year and 500 year Tulsa County Flood Plain. The applicant will need to work with Tulsa County to mitigate the impacts of development here.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
S Mingo Rd	Secondary Arterial	100 feet	2

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	AG	N/A	N/A	Vacant
South	AG	N/A	N/A	Vacant
East	AG	N/A	N/A	Vacant
West	RS-3 (Bixby)	N/A	N/A	Vacant

SECTION III: Relevant Zoning History

ZONING ORDINANCE: Resolution number 98254 dated September 15, 1980, established zoning for the subject property.

Subject Property: No relevant history

Surrounding Property:

CZ-457 June 2017: All concurred in **approval** of a request for *rezoning* an 8.6± acre tract of land from AG to CG to allow a mini-storage unit, on property located south of the southeast corner of East 131st street South and South Mingo Road.

CBOA-2366 April 20, 2010: The Board of Adjustment **approved** a *Use Variance* to permit and existing landscape business in an AG district, and a *Variance* of the paving material to permit gravel, per plan submitted, understanding that the landscape business is located in a flood plain, on property located south of the southeast corner of East 131st street South and South Mingo Road.

CBOA-1486 February 20, 1997: The Board of Adjustment **approved** a *Special Exception* to exceed the height limit of 60 ft. for a PCS telephone antenna supporting tower to allow 100 ft. subject to the tower location being setback 110% from the road, on property located south of the southeast corner of East 131st street South and South Mingo Road.

CZ-178 January 1990: All concurred in **approval** of a request for *rezoning* an 8± acre tract of land from AG to FD (Floodway), on property located east of the southeast corner of E. 131st St. and S. Mingo Rd.

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 **DIX**, TMAPC voted **10-0-0** (Covey, Dix, Doctor, Fothergill, Fretz, Krug, Reeds, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Millikin, "absent") to **APPROVE** CZ-476 rezoning from AG to RS per staff recommendation.

Legal Description of CZ-476:

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF THE NORTHWEST QUARTER (S/2, NW/4) OF SECTION SEVEN (7), TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT;

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 7; THENCE N01°09'04"W ALONG THE WEST LINE OF SAID SECTION 7 A DISTANCE OF 130.11 FEET TO THE POINT OF BEGINNING; THENCE N88°50'50"E A DISTANCE OF 212.38 FEET TO A POINT ON THE EXISTING PROPERTY LINE FOR THE CITY OF BIXBY (DOCK. NO. 2011016116) THENCE N05°03'53"W ALONG THE PROPERTY LINE FOR THE CITY OF BIXBY A DISTANCE OF 287.76 FEET; THENCE

N15°59'12"W ALONG THE PROPERTY LINE FOR THE CITY OF BIXBY A DISTANCE OF 331.14 FEET; THENCE S87°15'19"W ALONG THE PROPERTY LINE FOR THE CITY OF BIXBY A DISTANCE OF 107.99 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 7; THENCE S01°09'04"E ALONG THE WEST LINE OF SAID SECTION 7 A DISTANCE OF 604.92 FEET TO THE POINT OF BEGINNING. THIS TRACT CONTAINS 2.436 ACRES MORE OR LESS.

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9. **Windrush II** (County) Preliminary Plat, Location: South of the southeast corner of East 131st Street South and South Mingo Road (Related to CZ-476)

STAFF RECOMMENDATION:

Windrush II - (County)

South of the southeast corner of East 131st Street South and South Mingo Road

This plat consists of 5 lots, 1 block on 2.436 ± acres.

The Technical Advisory Committee (TAC) met on September 6, 2018 and provided the following conditions:

1. **Zoning:** The property is currently zoned AG (Agriculture). An application is pending for RS (Residential Single-Family). The rezoning is required to be approved and effective prior to approval of a final plat. Lots proposed conform to the requirements of the RS district.
2. **Addressing:** INCOG will provide final addresses for lots. Address for each lot must be shown graphically on the face of the final plat.
3. **Transportation & Traffic:** Provide access through Reserve Area B to the proposed school site to the northeast. Legal survey closure form must be provided with final plat.
4. **Sewer:** Sewer services to be provided by the City of Bixby. City of Bixby approval of all sewer line extensions and proposed utility easements/ right-of-way prior to approval of the final plat.
5. **Water:** Water services to be provided by the City of Bixby. City of Bixby approval of all water line extensions and proposed utility easements/ right-of-way prior to approval of the final plat.
6. **Engineering Graphics:** Remove contours from final plat submittal. Provide address disclaimer on the face of the plat. Only show platted boundaries in the location map and label all other property as unplatted. Provide complete contact information for surveyor and engineer. Adjust line weights to distinguish between plat boundary and lot boundaries. Provide a bearing angle associated with this plat under Basis of Bearing. Include signature

block for TMAPC/INCOG and County Engineer. State date of preparation of the plat. Graphically show all pins found/set on the face of the plat.

7. **Stormwater, Drainage, & Floodplain:** Drainage plans must be approved by Tulsa County. Tulsa County release is required prior to final plat approval.
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.

Staff recommends **APPROVAL** of the preliminary subdivision plat subject to the conditions provided by TAC and the requirements of the Subdivisions Regulations.

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 **DIX**, TMAPC voted **10-0-0** (Covey, Dix, Doctor, Fothergill, Fretz, Krug, Reeds, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Millikin, "absent") to **APPROVE** the Preliminary Plat Windrush II per staff recommendation.

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Items 10 and 11 were presented together

10. **CZ-477 Nathan Cross** (County) Location: North of the northwest corner of West 201st Street South and Highway 75 requesting rezoning from **AG to CH** (Related to PUD-849)

STAFF RECOMMENDATION:

SECTION I: CZ-477

DEVELOPMENT CONCEPT: The applicant is requesting to rezone from AG to CH with a PUD overlay in order to permit a warehousing use for steel storage. The property owner is currently utilizing the site for this purpose and proposes to bring the site into conformance with the County requirements. No other uses are proposed for this site. No manufacturing, fabrication, repair, customization or direct sales are proposed.

DETAILED STAFF RECOMMENDATION:

CH zoning with a PUD overlay, is consistent with the anticipated future development pattern of the surrounding property and;

The requested PUD conforms to the PUD standards identified in the Tulsa County Zoning Code therefore;

Staff recommends Approval of CZ-477 to rezone property from AG to CH.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: This area is outside of the City of Tulsa Comprehensive Plan area, however it is called out as Highway 75 Corridor by the City of Glenpool Comprehensive Plan.

Land Use Vision:

Land Use Plan map designation: N/A

Areas of Stability and Growth designation: N/A

Transportation Vision:

Major Street and Highway Plan: Hwy 75 is designated as a Freeway.

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 currently being utilized for storage of steel materials awaiting transport to other locations.

Environmental Considerations: The site contains portions of 100 year and 500 year Tulsa County Floodplain, as well as a small portion of Floodway. The applicant will need to work with Tulsa County in order to mitigate any impacts this development may have.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
Hwy 75	Freeway	Per ODOT	4

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	AG	N/A	N/A	Vacant
South	AG	N/A	N/A	Vacant
East	AG/CG	N/A	N/A	Vacant
West	AG	N/A	N/A	AG/Single-Family

SECTION III: Relevant Zoning History

ZONING ORDINANCE: Resolution number 98254 dated September 15, 1980, established zoning for the subject property.

Subject Property:

CBOA-1745 July, 2018: The case was *withdrawn* by the applicant. The applicant was requesting a Use Variance to allow a Warehousing (Use Unit 23) in the AG district (Section 310, Table 1) on property located on the northwest corner of West 201st Street South and Highway 75; the subject property.

CBOA-1745 June 20, 2000: The Board of Adjustment **denied** a *variance* to allow a trucking establishment in an AG district on property located on the northwest corner of West 201st Street South and Highway 75; the subject property.

Surrounding Property:

CZ-454 May 2017: All concurred in **approval** of a request for *rezoning* a 36± acre tract of land from AG to CH on property located on the southwest corner of West 191st Street South & Highway 75.

TMAPC Action; 10 members present:

On **MOTION** of **DIX**, TMAPC voted **8-2-0** (Covey, Dix, Doctor, Fothergill, Fretz, Reeds, Shivel, Walker, “aye”; Krug, Ritchey, “nays”; none “abstaining”; Millikin, “absent”) to **DENY** CZ-477 rezoning from AG to CH.

Legal Description of CZ-477:

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 10, T-16-N, R-12-E, TULSA COUNTY, STATE OF OKLAHOMA. SAID TRACT OF LAND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER; THENCE N89°31'55"W ALONG THE SOUTH LINE OF SAID SECTION 10, FOR A DISTANCE OF 100.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF HIGHWAY 75; THENCE FOLLOWING THE WESTERLY RIGHT-OF-WAY LINE N00°23'45"W, FOR A DISTANCE OF 663.47 FEET TO THE POINT OF BEGINNING; THENCE S86°56'01"W, FOR A DISTANCE OF 667.57 FEET; THENCE N13°44'16"W, FOR A DISTANCE OF 907.03 FEET; THENCE N79°45'39"E, FOR A DISTANCE OF 889.24 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF HIGHWAY 75; THENCE FOLLOWING THE WESTERLY RIGHT-OF-WAY LINE S00°23'45"E, FOR A DISTANCE OF 459.12 FEET; THENCE S13°38'25"W, FOR A DISTANCE OF 41.23 FEET; THENCE S00°23'45"E, FOR A DISTANCE OF 210.00 FEET; THENCE S11°42'21"E, FOR A DISTANCE OF 50.99 FEET; THENCE S00°23'45"E, FOR A DISTANCE OF 244.34 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 734,554 SQUARE FEET, OR 16.86 ACRES, MORE OR LESS

11. **PUD-849 Nathan Cross** (County) Location: North of the northwest corner of West 201st Street South and Highway 75 requesting rezoning to PUD to permit warehousing for steel storage (Related to CZ-477)

STAFF RECOMMENDATION:

SECTION I: PUD-849

DEVELOPMENT CONCEPT: The applicant is requesting to rezone from AG to CH with a PUD overlay in order to permit a warehousing use for steel storage. The property owner is currently utilizing the site for this purpose and proposes to bring the site into conformance with the County requirements. No other uses are proposed for this site. No manufacturing, fabrication, repair, customization or direct sales are proposed.

DETAILED STAFF RECOMMENDATION:

Uses as defined in PUD-849 are non-injurious to the existing proximate properties and;

PUD-849 is consistent with the anticipated future development pattern of the surrounding property and;

PUD-849 conforms to the PUD standards identified in the Tulsa County Zoning Code therefore;

Staff recommends Approval of PUD-849 to rezone property from AG to CH, PUD-849.

PUD-849 DEVELOPMENT STANDARDS:

Permitted Use: Use Unit 23 –
Warehousing No other uses
allowed

Minimum Lot Width: N/A

Minimum Lot Area: N/A

Minimum Land Area: N/A

Maximum Structure Height: N/A

Setbacks:

From Highway 75: No closer than existing fencing. Any new exterior fencing on the property will be constructed no closer to the western edge of Highway 75 than fencing currently in place.

Signage/Screening/Lighting/Pavement:

Signs: No pole signage shall be allowed. Any monument signage shall be confined to area twenty (20) feet from the north edge of the curb cut into the Subject Property and twenty (20) feet from the south edge of the curb cut into the Subject Property and shall be no taller than 6 feet.

Screening: Screening vegetation at least seven (7) feet in height shall be placed along the eastern edge of the property. Existing vegetation may be used to accomplish this requirement. The Property Owners shall have the right to maintain/trim vegetation in order to maintain safe sight lines for ingress and egress from the Subject Property.

Lighting: No pole lighting shall be allowed on the interior of the Subject Property. Pole lighting may be maintained to provide safety/security lighting at the curb cut onto the Subject Property off of Highway 75.

Paving: All drive isles on the property shall be paved with including additional curb cuts made into the property over which there is vehicular traffic.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: This area is outside of the City of Tulsa Comprehensive Plan area, however it is called out as Highway 75 Corridor by the City of Glenpool Comprehensive Plan.

Land Use Vision:

Land Use Plan map designation: N/A

Areas of Stability and Growth designation: N/A

Transportation Vision:

Major Street and Highway Plan: Hwy 75 is designated as a Freeway.

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 currently being utilized for storage of steel materials awaiting transport to other locations.

Environmental Considerations: The site contains portions of 100 year and 500 year Tulsa County Floodplain, as well as a small portion of Floodway. The applicant will need to work with Tulsa County in order to mitigate any impacts this development may have.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
Hwy 75	Freeway	Per ODOT	4

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	AG	N/A	N/A	Vacant
South	AG	N/A	N/A	Vacant
East	AG/CG	N/A	N/A	Vacant
West	AG	N/A	N/A	AG/Single-Family

SECTION III: Relevant Zoning History

ZONING ORDINANCE: Resolution number 98254 dated September 15, 1980, established zoning for the subject property.

Subject Property:

CBOA-1745 July, 2018: The case was **withdrawn** by the applicant. The applicant was requesting a Use Variance to allow a Warehousing (Use Unit 23) in the AG district (Section 310, Table 1) on property located on the northwest corner of West 201st Street South and Highway 75; the subject property.

CBOA-1745 June 20, 2000: The Board of Adjustment **denied** a *variance* to allow a trucking establishment in an AG district on property located on the northwest corner of West 201st Street South and Highway 75; the subject property.

Surrounding Property:

CZ-454 May 2017: All concurred in **approval** of a request for *rezoning* a 36± acre tract of land from AG to CH on property located on the southwest corner of West 191st Street South & Highway 75.

Applicant's Comments:

Nathan Cross 2 West 2nd Street, STE 700, Tulsa, OK 74103

Mr. Cross stated he represents the owner of the property. Mr. Cross stated his client has been for several years using the property for a storage facility to store steel. Mr. Cross stated there are no structures on the property and this action is to improve the impact on the surrounding area. Mr. Cross stated Highway 75 in this area has been a commercial corridor for several years, he stated if you go north from 201st Street there are multiple examples of commercial zoning including industrial. Mr. Cross stated there is even IL zoning to the north on the same side of the highway. Mr. Cross stated his client has been using this property since the early 2000's for this use and has received violations from Tulsa County. Mr. Cross stated he was hired about 2 years ago to help rectify these issues and get the property into compliance. Mr. Cross stated his client tried to get annexed into Glenpool and for whatever reason Glenpool did not want to include this property. Mr. Cross stated this property is inside Glenpool's fence line and it is his belief that Glenpool's Comprehensive Plan is what is expected in the subject property between now and 2030. Mr. Cross stated the Comprehensive Plan for Glenpool designates the area as an area for commercial activity. Mr. Cross stated the only access to the subject property is from Highway 75. Mr. Cross stated the subject property is well within the area designated as a highway corridor. Mr. Cross stated he talked to INCOG and tried to decide what could be done to relieve concerns from neighbors. He stated he was aware of the number of complaints because of zoning violations but was not aware of specifics other than commercial activity and semi traffic. Mr. Cross stated he sat down with INCOG and initially wanted to do a use variance because from INCOG's perspective that was the least impactful way to address this issue. Mr. Cross stated this meant it only allowed for one use and doesn't extend to further uses. It was decided to pull that action and comeback with a rezoning and limit the use to the one use before the Planning Commission today. Mr. Cross stated his client's property is surround on 3 sides by client's own property. This property is 663 feet from the corner and there is a stand of trees between the subject property and the road. Mr. Cross stated the idea of picking the design standards in the PUD were to contain this use to the area behind the trees to lessen the impact on the neighborhood. Mr. Cross stated because of the rezoning his client was aware that the subject property would need to be platted and as part of that platting process his client will have to pave this area and improve the entrance. Mr. Cross stated this use if very consistent with the uses up and down Highway 75 in this area.

Mr. Reeds asked Mr. Cross if he was going to include any planting or fencing requirement within the PUD.

Mr. Cross stated there is vegetation across the frontage on Highway 75 and have agreed to keep or put vegetation along the frontage.

Mr. Shivel stated the staff report shows that in June 2000 the Board of Adjustment denied a variance to allow a business such as this one, at what point did your client start using the subject property for this use after the denial.

Mr. Cross stated the subject property has been used in some version of this use since the denial. Mr. Cross stated his client has made two applications for a variance and was in discussions with Glenpool for several years about his property being annexed into Glenpool. But the City Council voted no for the annexation.

Mr. Covey asked Mr. Cross how long his client has owned the subject property.

Mr. Cross stated since 1993.

Mr. Covey asked how long he has been using the subject property as it is currently used or a trucking operation.

Mr. Cross stated since the early 2000's.

Mr. Covey asked Mr. Cross who his client had received violations from.

Mr. Cross answered, "Tulsa County Code Enforcement".

Mr. Covey asked if there were any violations from Glenpool.

Mr. Cross stated "no" because he is not in City of Glenpool.

Mr. Covey asked Mr. Cross what uses would be allowed, as Mr. Cross understood it, along the Glenpool Highway 75 corridor area.

Mr. Cross stated the Glenpool Comprehensive Plan specifically refers to Glenpool and says a portion of U.S. Highway 75 Beeline/Okmulgee Expressway within Glenpool should be improved and upgraded to Interstate Highway standards and development along this corridor should be Highway Commercial, Tourist, Office, Industrial and high profile, medical or institutional uses.

Mr. Covey asked if Glenpool has expressed what they believe the applicant should be zoned in this area.

Mr. Cross answered' "no they have not".

Mr. Fothergill asked the applicant if there are plans regarding retention since the staff report shows this area is in the floodplain.

Mr. Cross stated they are aware of the issue and as a part of getting the plat approved this issue will be dealt with.

Mr. Covey asked Mr. Cross when the zoning violations were issued.

Mr. Cross stated throughout the years.

Mr. Covey asked if Mr. Cross has followed up on the zoning violations.

Mr. Cross stated “no”, there has been attempts to rectify the situation that have put his client in the current situation. Mr. Cross stated one of the delays was the discussion with Glenpool about annexation.

Mr. Dix stated the earliest violation was in August 2000.

INTERESTED PARTIES:

Jill Stitt 2130 West 201st Street, Mounds, OK 74047

Ms. Stitt stated her home is directly across from the subject property. Ms. Stitt stated she purchased her house in October of 2016 and remodeled for about a year. Ms. Stitt stated she was driving down the highway saw what appeared to be supplies for a bridge remodel that was already in progress. Ms. Stitt stated after visiting with a neighbor she realized the steel was not for the bridge it was the steel stored on her neighbor’s property. Ms. Stitt stated she shared this information with her husband and it became noticeable that there was a real problem. Ms. Stitt stated when you are on Highway 75 you see a beautiful rural area with bales of hay and horses. There are commercial businesses at 161st and 151st but this is gravel, wire fence and big piles of junk. Ms. Stitt stated when she looks out her window there are big semi-trucks in and out of the property all day. Ms. Stitt stated other than the noise and the trucks her number one complaint is that the subject property is a big eyesore. Ms. Stitt stated since starting this debate with the neighbor he has cleaned it up a little but it’s still an eye sore. Ms. Stitt stated the applicant has been told all these years to stop this use on the property and now Mr. Cross wants to tell this Commission that he is going to beautify the property. Ms. Stitt stated if the applicant was going to beautify she thinks he would have already done it in the past 20 years. Ms. Stitt asked her husband how the applicant can get away with ignoring the violations all these years. Ms. Stitt stated her husband told her the applicant just pays a fine of 100 dollars a day and that is just the cost of doing business. Ms. Stitt stated in her opinion if he hasn’t cleaned and beautified it in 20 years it’s not going to happen.

Keith Stitt 2130 West 201st Street, Mounds, OK 74047

Mr. Stitt stated he was aware of the activity around his house at the time of closing but thought it was the bridge construction or another construction project going on that requires all the supplies that are next to his house. Mr. Stitt drove all the way to Okmulgee looking for a project and didn’t see one. Mr. Stitt then spoke with the neighbors and realized this was an ongoing violation since 2000. Mr. Stitt stated he has sunk a million dollars into his house and he is living across from a gravel yard. Mr. Stitt stated the first cease and desist letter was sent in 2000 another in October of 2000 both of which were ignored. Mr. Stitt stated and

from what he has been told by neighbors in 2015 the applicant tried to get his property annexed by Glenpool and has denied. In February 2018 a cease and desist letter was sent to applicant and the applicant seems to thumb his nose at the system. Mr. Stitt stated he met with County Commissioner Peters because his only remedy was to sue the County to enforce the violation. Mr. Stitt stated there is IL zoned property 3 miles north of the subject property and the applicant should buy some land already zoned for the applicants intended purpose. Mr. Stitt stated if a vehicle is going south on Highway 75 there is a rise in the road, if a tractor trailer loaded with steel pulls out it takes some time for it to get up to speed and if you look away for a second and look up you assume the trucks are going 60 or 70 miles per hour and that's not the case, you could plow into the back of one. Mr. Stitt stated this same thing happened on I-35 just a year ago with a family on Jenks and it was tragic. Mr. Stitt stated if you two miles south past 211th Street in Okmulgee County it is a modge podge of zoning. Mr. Stitt stated he was reading from the code, the AG district is to encourage and protect agricultural land until an orderly transition into urban development may be accomplished and to discourage wasteful scattering of development in rural areas. Mr. Stitt stated the applicant is asking for Use unit 23 in the PUD and in the code, this is warehousing, wholesaling and trucking often located adjacent to the Central Business District, Industrial Parks and Port areas, none of those 3 things exist within 3 miles of this property.

Mr. Walker asked if Mr. Henshaw was the operator of the subject property.

Mr. Stitt answered that was his understanding.

Mr. Walker asked if it was Mr. Stitt's understanding that the applicant has been non-compliant for years and pays a 100 dollar a day fine.

Mr. Stitt stated "no" the County Commissioner Ron Peters suggested that fine. But that has not been implemented.

Karen McLaughlin 2222 West 201st Street, Mounds, OK 74047

Ms. McLaughlin stated she lives next to the Stitt's. Ms. McLaughlin stated she has lived in this area since 1998 and has called Tulsa County Code Enforcement several times about the subject property. Ms. McLaughlin stated their response is that they will go check on property and nothing is ever done. Ms. McLaughlin stated this will decrease the property values in the area and it's dangerous to enter Highway 75.

Tracy Hawthorne 2416 West 201st Street, Mounds, OK 74047

Ms. Hawthorne stated she and her husband have lived at this address since 2015. Ms. Hawthorne stated when you turn on that street there are 3 houses that have nice beautiful 10-20 acre lots and she is the last one before a larger gap. Ms. Hawthorne stated when she sits on her front porch and drinks a cup of coffee in the morning she can here the neighbor's cows and her mules are grazing

peacefully in the pasture but unfortunately directly across from her is the subject lot and forklifts are beeping and picking up loads of steel. Ms. Hawthorne stated there are piles of railroad ties to stack the steel on and sometimes there are flatbed semi-trailers stacked 3 high with multiple stacks of them. Ms. Hawthorne stated she would like to ask Planning Commission to stop him from turning her beautiful corner of Tulsa County into an industrial wasteland. Ms. Hawthorne stated you may think I am overstating the situation but if others see Mr. Crenshaw can ignore the zoning laws for 20 years then why can't others do the same. Why should we pay attention to any of Tulsa Counties laws because they aren't going to do anything anyway? Ms. Hawthorne stated the subject property is not only an eye sore, but it creates safety concerns because there are not any turn lanes into that piece of property nor is there a place to slow down. Trucks are just stopping to turn in and out of the property. Ms. Hawthorne stated all the neighbors would like to say that an industrial warehouse is not compatible with an AG residential neighborhood. Ms. Hawthorne would ask that Commissioners deny this zoning change.

Applicant's Rebuttal:

Mr. Cross stated he would like to clarify to Mr. Stitt that the applicant is only asking to rezone the area defined on the case map and not the entire area. Mr. Cross stated the trees along the south boundary shield the subject property and Mr. Cross could not see and activity from the road Monday morning when he was there. Mr. Cross stated he took a picture of a semi that passed him that same morning. He stated there is semi traffic going up and down this road and going in and out of Highway 75 and his has nothing to do with his client. Mr. Cross stated going south on Highway 75 after 131st street there are no deceleration lanes so no one else has direct ingress and egress off the highway. Mr. Cross stated with regards to the visual impact the purpose of leaving the trees is to soften the impact on 201st Street. Mr. Cross stated as he stated earlier his client is 660 feet from the road and not close to being against the residential area.

Mr. Reeds asked Mr. Cross how often the applicants trucks enter and exit the property.

Mr. Cross stated his client operates most days 4 to 5 hours a day and he believe 4 or 5 trucks per day and some days he doesn't operate. There are no lights, so he operates mainly in the morning.

Mr. Reeds asked if Mr. Cross was required to send notice to the neighbors for this application.

Mr. Cross stated because of the distance from the neighbors, the statutory notice was sent and then Mr. Shank who is Mr. Stitt's attorney inquired about the notice and Mr. Cross stated he sent Mr. Shank all the paperwork even though they are not in the statutory notice area.

Mr. Reeds asked why the applicant would not put up a screen or buffer around the entire site.

Mr. Cross stated his client didn't know if that was the issue. Mr. Cross stated his client is open to doing that if needed.

Mr. Reeds asked if the applicant would be open to have an entrance and an exit from the subject property.

Mr. Cross stated to the extent that ODOT would allow.

Mr. Walker asked Mr. Cross if the zoning code violations that date back 18 years are resolved.

Mr. Cross stated it was a combination of not understanding what was going on and the applicant hired a couple of different attorneys to help facilitate. MR. Cross stated this was the attempt to get into compliance.

Mr. Dix stated the violation read, stop and remove all business activities immediately. Mr. Dix asked Mr. Cross what his client didn't understand.

Mr. Cross stated maybe understand is not the correct word. The last violation his client received was during the time Mr. Cross was his attorney and Mr. Cross stated he contacted Tulsa County inspections and explained his client was filing for rezoning and had a meeting with the new County Inspector and Commissioner Peters to discuss the plan and rezoning.

Mr. Dix stated he didn't understand why the applicant continues to violate the law for 20 years and now the Planning Commission is asked to approve a rezoning of CH which I haven't seen this staff approve in some time. Mr. Dix stated this is spot zoning. Mr. Dix stated he has no idea how the Planning Commission is suppose to approve an industrial use as part of a PUD. Dr. Dix stated this is the biggest slight of hand he has seen in a while.

Mr. Cross stated the CH zoning allows what the applicant is trying to do the PUD just restricts it to just the one use.

Mr. Dix stated he isn't supporting CH at all.

Mr. Cross stated the purposed use is allowed in CH by right.

Mr. Dix asked staff what about CH allows an industrial use.

Staff stated use unit 23 is allowed by right, which includes warehousing.

Mr. Dix asked staff if there was a building on this property.

Staff answered “no”.

Mr. Dix stated, “then it isn’t warehousing”.

Staff stated according to the Tulsa County Inspector it is. Steel storage is considered warehousing.

Mr. Walker stated he thinks Mr. Dix’s point is that CH is not being reduced in the area but being introduced to the area.

Mr. Cross stated normally a PUD is used to allow more uses than allowed on a property and with this PUD the applicant is reducing the uses.

Mr. Dix stated if this is allowed, spot zoning, a mile and a half from the subject property Planning Commission would have trouble denying an industrial use for an adjacent property if someone so inclined. Mr. Dix stated he has no intention of supporting this application.

Mr. Reeds stated with the applicant read the Glenpool Comprehensive Plan to Planning Commission it did not mention warehousing for the Highway Corridor.

Mr. Dix stated if Mr. Cross’s client had made any attempt to be a good neighbor and comply with the violations that were presented to him and improve the area by building a building he might have a little more sympathy. Mr. Dix would encourage our Zoning Inspectors to pursue the applicant to no end.

Mr. Ritchey asked staff what is allowed in CG and CS?

Staff answered in CS general light commercial uses such as office, studios and eating establishments, in CG such as restaurants, hotels, motels, light manufacturing. Staff stated the proposed use would be allowed in CG with a special exception.

Mr. Covey asked staff what the thinking behind the decision to recommend approval for this application.

Staff answered the use limited with the PUD overlay would limit the property to the use that is currently proposed, and that use would be contained within the applicant’s property and the trees provide a buffer from the other properties.

Mr. Covey asked Mr. Fothergill how it got to the point of multiple violations being ignored by Tulsa County Zoning Enforcement.

Mr. Fothergill stated he wouldn’t answer that but Teresa Tosh with code enforcement is in the room.

Ms. Tosh stated she is the new Director at Tulsa County Inspections she recently took over for Terry West. Ms. Tosh said she looked through the file for this application and saw the multiple zoning violations that had been issued to the applicant.

Mr. Covey stated at a work session City Zoning Inspectors discussed how there was a violation issued maybe twice and then a suit is filed against the property owner.

Ms. Tosh stated the County doesn't have the benefit of those provisions. Ms. Tosh stated her office is currently working with the District Attorneys to establish a process of writing citations and other recourse of enforcement.

Mr. Covey asked Ms. Tosh if she was saying there was no enforcement mechanism currently.

Ms. Tosh stated County enforcement continues to hang cease and desist orders. Ms. Tosh she hung one on this property a few months ago that Planning Commission does not have. Ms. Tosh stated they are working on a solution to this issue currently.

Mr. Covey asked when Ms. Tosh says this is being corrected does that mean the County will enact an ordinance.

Ms. Tosh answered "no" but they would have the ability to charge a 100 dollar a day fine, this is in the current Zoning Code and the problem is it was invoked when the Zoning Code was put in place but there was no follow up. Ms. Tosh stated this would give enforcement inspectors the ability to write a 100 dollar a day citation.

Mr. Covey asked Ms. Tosh, what would you tell the neighbors in this area.

Ms. Tosh answered we are currently working with the DA Nolan Fields to create the process.

Mr. Dix asked Ms. Tosh if the neighbors only recourse was to rely on Planning Commission or sue the County.

Mr. Reeds asked Ms. Tosh if most people listen to Code Enforcement when they are given a violation and correct the deficiency.

Ms. Tosh stated about 95 percent work with Code Enforcement to correct the problem.

Mr. Ritchey stated he has been on both sides of this issue. Mr. Ritchey stated time is not really a relevant factor. Saying this person has been a bad person for 20 years and now he is going to be a good person, what do we care he is trying to be a good person now and zone his property correctly and we are going to tell him no you can't do the right thing. Mr. Ritchey stated one month ago Planning Commission had an application before them that had 800,000-dollar eyesores at 15th and Troost when an applicant wasn't following the rules and most of the Planning Commission by the vote said, we don't care if your following the rules we are going to let you do your thing and keep going. Mr. Ritchey feels like the Planning Commission is being relatively contradictory to allow the housing development to break the rules and not hold it against them but then tell the applicant he hasn't been following the rules and we aren't even going to allow you to follow the rules. Mr. Ritchey stated he disagrees with Mr. Dix's spot zoning assessment he is directly across from commercially zoned areas and less than a mile or so from other CH zoned areas. Mr. Richey stated he is on the fence but wanted to say there are differing perspectives and he respects other opinions as well.

Mr. Fretz stated he would be voting against this application, he didn't know if this would accomplish anything because the last 20 years the applicant has done whatever they wanted but Mr. Fretz stated he would try and have faith in the County to come up with a program to enforce the Zoning Code laws.

Mr. Covey stated he certainly understands were Mr. Dix is coming from when he talked about the prior actions of the applicant for the past 20 years, but he also understands Mr. Ritchey's statements because there is a Glenpool Master Plan, and this is in a Commercial Corridor. Mr. Covey stated if he heard staff correctly the applicant could have this zoned CG and seek a special exception. Mr. Covey stated he struggles with what will this area become in the next 30 years, is it likely to stay the same or will it change and go with CH zoning or CS zoning.

Mr. Reeds stated there was something similar in Berryhill, were an applicant had received violations and continued to operate, TMAPC denied his zoning change request.

TMAPC Action; 10 members present:

On **MOTION** of **DIX**, TMAPC voted **8-2-0** (Covey, Dix, Doctor, Fothergill, Fretz, Reeds, Shivel, Walker, "aye"; Krug, Ritchey, "nays"; none "abstaining"; Millikin, "absent") to **DENY** PUD-849 rezoning.

Legal Description of PUD-849:

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 10, T-16-N, R-12-E, TULSA COUNTY, STATE OF OKLAHOMA. SAID TRACT OF LAND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER; THENCE N89°31'55"W ALONG THE SOUTH LINE OF SAID SECTION 10, FOR A DISTANCE OF 100.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF HIGHWAY 75; THENCE FOLLOWING THE WESTERLY RIGHT-OF-WAY LINE N00°23'45"W, FOR A DISTANCE OF 663.47 FEET TO THE POINT OF BEGINNING; THENCE S86°56'01"W, FOR A DISTANCE OF 667.57 FEET; THENCE N13°44'16"W, FOR A DISTANCE OF 907.03 FEET; THENCE N79°45'39"E, FOR A DISTANCE OF 889.24 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF HIGHWAY 75; THENCE FOLLOWING THE WESTERLY RIGHT-OF-WAY LINE S00°23'45"E, FOR A DISTANCE OF 459.12 FEET; THENCE S13°38'25"W, FOR A DISTANCE OF 41.23 FEET; THENCE S00°23'45"E, FOR A DISTANCE OF 210.00 FEET; THENCE S11°42'21"E, FOR A DISTANCE OF 50.99 FEET; THENCE S00°23'45"E, FOR A DISTANCE OF 244.34 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 734,554 SQUARE FEET, OR 16.86 ACRES, MORE OR LESS

12. **Z-7456 Nicole Watts** (CD 4) Location: Northwest corner of East 2nd Street South and South Lewis Avenue requesting rezoning from **CS to MX1-U-U**

STAFF RECOMMENDATION:

SECTION I: Z-7456

DEVELOPMENT CONCEPT: Construct a new mixed-use building on an empty lot. The building is planned to be similar in style to the concept attached and similar to buildings constructed with original development pattern in the area.

DETAILED STAFF RECOMMENDATION:

MX1-U-U is consistent with the Neighborhood Center vision of the Tulsa comprehensive plan and,

Z-7456 requesting MX1-U-U is consistent with the uses and building forms recommended in the Kendall Whitter Sector Plan and,

Uses as permitted by right in an MX1-U-U district are considered non-injurious to the proximate properties therefore,

Staff recommends Approval of Z-7456 to rezone property from CS/ to MX1-U-U.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The proposed zoning and building are consistent with the Neighborhood Center land use vision of the Tulsa Comprehensive Plan and is consistent with the expected development pattern identified in the Kendall Whittier Sector Plan

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.

The Neighborhood Center vision identified in the sector plan suggest that along Lewis Avenue between Archer Street and 3rd Street, the uses should focus on retail, restaurants, or services on the ground floor, with office or residential uses on upper floors. Development should reflect the historic character of the Square, with transparent ground floor facades, quality materials, and attractive architectural elements.

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 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 Urban Arterial

Main Streets are Tulsa's classic linear centers. The Main Street designation in the sector plan is applied to Admiral Boulevard west of Lewis Avenue. This area should host traditional commercial uses as well as mixed-use with residential or office uses on upper floors. While this area lacks the prominence of the heart of Whittier Square, development on Admiral Boulevard should reflect the walkable character and attractive building design desired along Lewis Avenue.

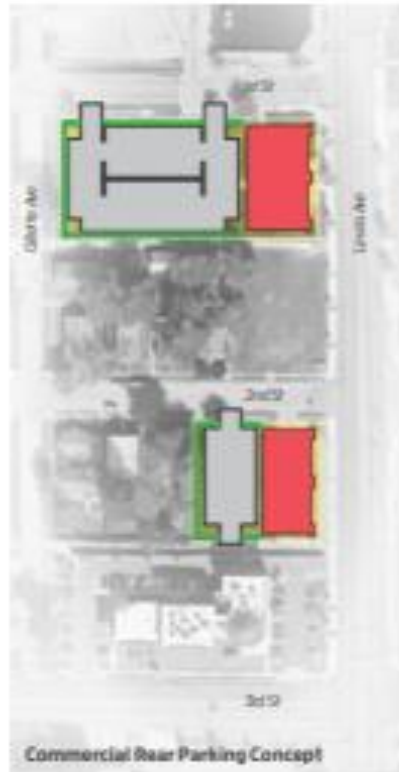
Trail System Master Plan Considerations: None

Small Area Plan: Kendall Whitter Sector Plan (effective November 2016)

Sector Plan Vision statement recommends:

- Strive to strengthen Whitter Square through historic preservation, responsible infill development, a mix of vibrant activities and enhanced multimodal access from within the neighborhood and throughout the city
- Grow as a diverse, mixed-income community that values the ability of all residents to support the neighborhood through volunteerism, commerce and other means.
- Provide a variety of housing for new residents who wish to move into the neighborhood, or long time residents who wish to stay
- Thrive as a place where people can enjoy quality lifelong education from early childhood to primary and secondary schools, top-notch universities, vocational training
- Be a vibrant center for creativity, innovation and culture in terms of the arts, entertainment, and entrepreneurship

Special District Considerations: None except those considerations outlined in the Kendall Whitter Small sector plan. See example below:



5.5 Redevelop vacant or dilapidated residential lots adjacent to development on Lewis Avenue to create mixed-use lots to accommodate larger projects and commercial parking.

Immediately west of buildings fronting on Lewis Avenue between 3rd Street and Admiral Boulevard, there are several vacant lots that provide a buffer between commercial and residential uses. Some of these lots have been improved for parking to support businesses. The acquisition and development of these properties for additional parking that would support Whittier Square should be encouraged. Where this occurs, parking lots should be lined with decorative fencing and landscaping in order to maintain an attractive transition between the neighborhood and Whittier Square.

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

The site is currently an empty lot with residential properties west of the site.

Snippet on next page illustrates a street view from the SE corner of the lot looking northwest.



Environmental Considerations: None that would affect site development

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South Lewis Avenue	Urban Arterial	70 feet	4
East 2nd Street South	None	50 feet	2

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	CS	Neighborhood Center	Growth	Church
East	CS	Neighborhood Center	Growth	Medical office
South	CS	Neighborhood Center	Growth	Liquor Store
West	CS	Neighborhood Center	Growth	Single Family Residential

SECTION III: Relevant Zoning History

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

BOA-12964 January 12, 1984: The Board of Adjustment **approved** a *variance* of the setback from the centerline of South Lewis Avenue from 100ft. to 70 ft. to build an office in a CS district; per plot plan, on property located at the northwest corner of East 2nd Street and South Lewis Avenue.

BOA-13117 September 17, 1994: The Board of Adjustment **approved** a *variance* of the setback from the centerline of East 2nd Street from 50 feet to 34 feet in a CS zoned district, on property located on lots 11 and 12, Block 1, Wakefield Addition; the subject property.

BOA-10511 June 21, 1979: The Board of Adjustment **approved** a *special exception* to operate a car wash in a CS district subject to the following conditions: per plot plan submitted, subject to trash being picked up each day, with reminder signs to urge people to dry, polish, and vacuum their cars on the front of the lot, being placed on the back fence, and an attendant on duty from 10:00 a.m. to 5:00 p.m. each day, on property located at the northwest corner of East 2nd Street and South Lewis Avenue.

Surrounding Property:

BOA-20619 January 1, 2008: The Board of Adjustment **approved** a *variance* of the parking requirement for a church; and a *variance* of the building setback requirement from South Lewis Avenue, on property located at 102 South Lewis Avenue.

The applicant indicated her agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **DIX**, TMAPC voted **10-0-0** (Covey, Dix, Doctor, Fothergill, Fretz, Krug, Reeds, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Millikin, "absent") to **APPROVE** Z-7456 rezoning from CS to MX1-U-U per staff recommendation.

Legal Description of Z-7456:

Lot 11, Block 1, the N/2 of Lot 12 less the East 10' thereof Block 1, the S/2 Lot 12 less the East 10' therefore Block 1, Wakefield, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Mr. Walker left room at 3:24 and returned 3:27, he was not present for the vote on item 13.

13. **CPA-75**, consider adoption of the Walkability Analysis as an amendment to the Downtown Area Master Plan

STAFF RECOMMENDATION:

Item: Amendment to the Downtown Area Master Plan to include policy direction for providing appropriate pedestrian facilities in downtown Tulsa based on the Tulsa Oklahoma Downtown Walkability Analysis performed by Speck & Associates LLC with Nelson Nygaard Consulting Associates, Inc.

Background: This item was presented and discussed at a TMAPC work session on September 5, 2018. The concepts within the Walkability Analysis are grounded in policy established in the Downtown Area Master Plan. The geographic boundary for this Analysis is the inner dispersal loop (IDL) which creates a ring of interstate highways around downtown Tulsa. Support for this analysis came from individuals, authorities, boards and commissions of the City, corporate and philanthropic partners, downtown property owners and institutions. Spurred by Jeff Scott, a former chairman of the DCC, many stakeholders and citizens were engaged through outreach and presentations during the time the Analysis was being developed.

Downtown Area Master Plan: The Downtown Area Master Plan is an action plan focused on revitalization. The stated mission of this policy document addresses three major targets:

- Revitalize the downtown
- Connect it to the Tulsa River Parks system
- Initiate rail transit extending outward from the downtown to the beginnings of future corridors serving the city and the region.

The plan identifies the goal of creating an active and vital 24-hour neighborhood as a key opportunity. The primary focus of the plan states:

“The area’s most important to the revitalization of downtown are the initiatives to attract a population to activate it between the hours of 5:00 p.m. and 8:00 a.m. as well as weekends. A 24/7 downtown will also address the amenities to increase

convenience and quality of life. The principal foci include residences, entertainment, conventions and visitors. All area enhanced by connecting the downtown to its region by multiple modes of transportation.”

With this as a guide, the Analysis offers a means of creating an environment that promotes walking by addressing the key causes:

- A safe walk
- A useful walk
- A comfortable and interesting walk

It addresses the way people use our street network – in vehicles, on foot or on bicycles or other alternative modes of transportation. Allowing the public realm to offer shared space to accomplish many of the daily activities of city life means more “eyes on the street,” more efficient use of public resources and a better way to experience downtown from the vantage of a pedestrian instead of a car driver or passenger. The Analysis encourages the extension of indoor activities and uses into the public realm of the sidewalk and right of way. It also encourages the City to experiment and pilot changes such as removing signals in favor of stop signs, increasing availability of on-street parking, proper crosswalks and alleys and improving the public realm with lighting, landscaping, sidewalk cafes and street furnishings.

The document includes a traffic analysis methodology and technical appendices consisting of the traffic studies and engineering reviews used to formulate recommendations for changes it recommends.

Implementation: The Analysis will be implemented through capital projects directed by the City and in conjunction with the Downtown Coordinating Council (DCC). While the Analysis provides a fairly detailed review of street segments within the IDL, recommendations will require additional engineering and design in order to best address existing conditions, regulatory constraints, and adopted standards.

Recommendation: Adopt the Walkability Analysis as an amendment to the Downtown Area Master Plan.

TMAPC COMMENTS:

Mr. Walker asked staff if this item went to City Council.

Ms. Warrick stated, “yes” TMAPC adopts and City Council approves.

Mr. Reeds asked staff on page 208 and 209 that talks about the one-page Zoning Code Overlay it mentions 2 examples and one of them is the new parking garage on Main Street and 4th Street and the other example is Jackson Technical which is 4 blocks away. Mr. Reeds stated Mr. Speck slammed both projects as bad examples and yet one has been improved and with the Jackson Technical building Mr. Speck stated the building should be built to the street and this building is at the off ramp and the initial designs submitted were at the street. Mr. Reeds stated the owner invested 5 million dollars in downtown Tulsa and is being slammed for a beautiful building. Mr. Reeds stated this is not a good example and Mr. Reeds would like this removed from the document. Mr. Reeds stated he doesn't disagree with Mr. Speck's recommendations.

Ms. Warrick stated she will check to see if she can edit this document and those examples are legally properly permitted projects that met all standards that were in place when they went through the permitting process. Ms. Warrick stated they may not represent what Mr. Speck thinks is most appropriate walkability standard they met the requirements of the City at the time. Ms. Warrick thinks what Mr. Speck is trying to influence is other standards that need to be addressed. Ms. Warrick stated the City doesn't have the rules in place that would mandate the positioning of building that is recommended by Mr. Speck.

Mr. Reeds stated what he objects to is Mr. Speck choose as an example a brand-new building in downtown that is well accepted, and he was given the information on why it was setback and he still chose to include it in the document.

Ms. Warrick stated she didn't think it would be inappropriate for the Planning Commission to move this document forward with the exception of providing an alternative example.

Mr. Reeds made a motion to accept this document with the removal of the examples on pages 208-210 under the one-page Zoning Code Overlay from the Speck and Associates Walkability recommendations.

Ms. VanValkenburgh asked Ms. Warrick if this needed to be brought back to Planning Commission.

Ms. Warrick stated she could provide substitute pages for 208-210 even if it's just to remove the examples and leave the concepts.

Ms. VanValkenburgh asked Ms. Warrick if Planning Commission would need to look at this after the changes were made.

Ms. Warrick stated this was up to the Commissioners if they would like to see it back.

Ms. VanValkenburgh stated this isn't like a zoning case, TMAPC are the approvers of the Comprehensive Plan Amendments it is just accepted by the City Council, so it really needs to be as Planning Commission wants it here.

Ms. Warrick stated she will remove the specific examples and leave the concepts and bring the amended pages back to the Planning Commission.

Mr. Reeds withdrew his motion.

Mr. Walker left room at 3:25 prior to vote.

TMAPC Action; 10 members present:

On **MOTION** of **COVEY**, TMAPC voted **9-0-0** (Covey, Dix, Doctor, Fothergill, Fretz, Krug, Reeds, Ritchey, Shivel, "aye"; no "nays"; none "abstaining"; Millikin, Walker, "absent") to **CONTINUE** CPA-75 to October 17, 2018 per staff's request.

* * * * *

Mr. Walker returned at 3:27

Mr. Covey stated Ms. Millikin was unable to attend the meeting today and would like to request that item 14 be continued to November 7th, 2018 to allow her to be here. She is very interested in this topic. Mr. Covey asked Ms. Miller what her opinion is on this.

Ms. Miller stated staff would like these regulations to keep moving because there are no regulations currently. Ms. Miller stated she hoped the Commission would make a recommendation today.

Mr. Fothergill stated he was in the Planning Department yesterday and there were people trying to apply for licenses.

Mr. Covey stated while TMAPC try' to grant continuances to the applicant and to the protestants if Commissioner Doctor wanted a continuance every time he was not here the Commission would not hear a lot of cases. Mr. Covey stated unless anyone else feels strongly about this item Mr. Covey stated the Commission should go ahead and hear this item.

Mr. Dix left meeting at 3:55 p.m.

14. **ZCA-12**, amendments to the Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances, to provide for **medical marijuana** uses licensed by the Oklahoma State Department of Health, to establish specific uses, to identify the zoning districts in which such uses are permitted, to establish supplemental use regulations and parking requirements for such uses and to provide related definitions.

STAFF RECOMMENDATION:

Item: ZCA-12, amendments to the Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances, to provide for **medical marijuana** uses licensed by the Oklahoma State Department of Health, to establish specific uses, to identify the zoning districts in which such uses are permitted, to establish supplemental use regulations and parking requirements for such uses and to provide related definitions.

A. Background: On June 26, 2018 Oklahoma voters passed State Question 788 which established law by which medical marijuana use is permitted in Oklahoma. As a follow up to approval of State Question 788, the Oklahoma State Department of Health developed rules to further govern the various aspects of medical marijuana. A working group, comprised of representatives from the Mayor's office, City Council, Tulsa Police Department (TPD), City Legal and INCOG, was established to discuss appropriate zoning regulations for Tulsa regarding medical marijuana. The working group researched regulations from other jurisdictions, including in Oklahoma and in other states. Several members of the working group recently visited a variety of medical marijuana facilities in Phoenix and nearby communities and met with city officials from Phoenix and Mesa.

At the request of the City of Tulsa Administration, the Land Use Administrator has initiated proposed zoning code amendments which focus on:

- Establishing specific uses for Medical Marijuana Grower Operations, Medical Marijuana Processing Facilities and Medical Marijuana Dispensaries;
- Identifying the zoning districts in which such uses are permitted;
- Establishing supplemental use regulations and parking requirements for such uses; and
- Providing related definitions.

The attached draft ordinance reflects the recommendations of the working group based upon their research and discussions. The amendments proposed to the City of Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances, are in the **Attachment** shown in ~~strike through~~/underline. The proposed amendments are located Chapters 15, 20, 25, 35, 40 and 95 of the Zoning Code.

As a result of further discussions following the September 19 TMAPC meeting, the staff recommendation is amended to delete proposed regulations related to 1,000 ft spacing from R zoned lots or residential uses for Medical Marijuana Grower Operations and Medical Marijuana Processing Facilities.

Staff Recommends APPROVAL of proposed amendments to the City of Tulsa Zoning Code as shown in the Attachment as amended.

TMAPC COMMENTS:

Mr. Reeds asked staff if he owned land and applied to change it from whatever zoning it currently is to MX-2 or MX-3 could he then lease this land for a dispensary.

Staff stated “yes”.

INTERESTED PARTIES:

Virgil Richmond 6105 South Fir Court, Broken Arrow, OK 74012

Mr. Richmond stated he is a retired chemical engineer with 40 years’ experience in special chemical plants and refineries. Mr. Richmond stated he and his son have formed Redbud Elixirs and are proposing to enter the medical marijuana market as a processor. Mr. Richmond stated he will be using CO2 extraction and is here to ask the Commissioner to consider an inclusion of low impact industrial (IL) as a zoning exception for certain processing operations. Mr. Richmond stated processing refers to the different methods of extracting and concentrating the cannabinoids and terpenes from the marijuana plant. This concentration is utilized in medical marijuana products. Mr. Richmond stated this is the same process used to extract essential oils such as lavender. Mr. Richmond stated he wanted to speak about 4 separate methods of extraction, 2 of them could be classified as flammable solvent primary extractions. The first one is butane and is used by 15% of processors nationwide have used this process. Mr. Richmond stated it is inexpensive and produces a high-quality product. It does have the impact of being extremely flammable and there have been some high-profile explosions with this method. Mr. Richmond stated the second process uses ethanol, about 25% of processors use this method and it’s safer than butane but requires large volumes to store and process and it’s flammable. Mr. Richmond

stated the second category of processing is non-flammable solvent primary extraction methods. Mr. Richmond stated supercritical CO-2 which is the process he and his son want to utilize, 37% of processors nationwide use this method. It is non-flammable and CO-2 is what is used in fire extinguishers to put out fires. It utilizes small volume ASME certified pressure vessels to do the extractions and has essentially no off-site impact. Mr. Richmond stated the other nonflammable solvent is manual processing or using water. Mr. Richmond stated this is an inefficient method extraction with a low potency product. He stated some people consider this to be the natural form of extraction and has no off-site impact. Mr. Richmond stated after the extraction is completed the hydrocarbon process such as butane and alcohol have post extractions to remove the residual solvents and the undesirable oils that are carried over from the extraction. Mr. Richmond stated the supercritical CO-2 also have a requirement for post processing that requires a laboratory scale and ethanol wash and close circuit evaporation recovery system called winterization. This process is typically handled under a standard laboratory hood. Mr. Richmond stated all extraction processes are not the same and have varied potential concerns for safety and offsite impact. According to the 2018 Annual Business Fact Book half of the processing operation nationally utilize CO2 or solvent less extraction methods. Processors using those methods of extractions offer a safe work environment and as a part of normal operations generate noticeable off-site impacts in terms of noise, odors or vibrations. Mr. Richmond stated he would like Planning Commission to consider the inclusion of IL zoning when it comes to these types of processing.

Mr. Covey asked Mr. Richmond how much product he is looking to process in his business.

Mr. Richmond answered the type of equipment that he is proposing can handle up to 20 pounds of trim, which is a waste product off the marijuana plant, per day, with a 10 percent recovery of concentrate from that. Mr. Richmond stated that would be about 1 to 2 pounds of concentrate per day.

Mr. Covey asked if Mr. Richmond buys the product from the grower or is it still the growers product and you give it back to the grower to sell to the dispensary.

Mr. Richmond stated he buys it from the grower and process it and sell it to the dispensary. Mr. Richmond stated he can get it from the grower and process it and give it back to the grower.

Mr. Doctor stated the City has been working to educate themselves on the processing factor. He stated one of the things that City is struggling with while working on the draft is to know what kind of processing is being used and guarantee it will remain at that level and then write zoning laws that reflect those processing methods. Mr. Doctor stated it is his understanding the state license does not currently require that the applicant dictate which process the processor is using. Mr. Doctor asked Mr. Richmond if he had any suggestions on an

indicator that would be helpful that would signify to the City what process is being used and bind it to that level from an enforcement prospective.

Mr. Richmond stated the only thing that he could suggest is for applicant to specify if it's a flammable material being used for extraction.

Ronald Durbin 1602 South Main Street 74119

Mr. Durbin stated he agreed with Mr. Richmond as it relates to processing. Mr. Durbin stated Ms. Miller said it best when she said they were still trying to get their arms wrapped around this use. Mr. Durbin stated a lot of progress has been made. Mr. Durbin stated processing is one example of where there are issues. If you are going to classify it in the most appropriate way, it would be a combustible gas based solvent extraction versus everything else. Mr. Durbin stated what you are worried about in extraction is the combustible material and you would want that in an Industrial High zoning category. Mr. Durbin stated everyone else will be using solvents such as CO₂, water which is a solvent and all the things that you aren't worried about creating an off-gassing impact. That is an appropriate classification of these 2 systems but when you get to processing you would separate those but that is not in the current proposal. Mr. Durbin stated there is still issues in the zoning regulations as it relates to authority and he doesn't want to get into what Susan can and can't do but there is over reach here that isn't allowed under state law. Mr. Durbin stated there is still an issue with the definition of Marijuana and he pointed this out at a meeting and unfortunately INCOG stole the definition of Marijuana from the department of Health and the Department of Health did a terrible job of defining Marijuana. The definition here defines Marijuana as any strain of Cannabis. Mr. Durbin stated Cannabis Sativa is .3 percent or less THC and anything .3 percent or less is Industrial Hemp and falls under the Right to Farm Bill and falls under Federal Law as relates to Industrial Hemp. Mr. Durbin stated the way this is defined it is unintentionally incorporating all those things including Industrial Hemp. All the CBD stores that are currently out there that fall under this definition are going to be non-conforming because of where they are located. Mr. Durbin stated it is all those things that are unintentional, but they have not been corrected. Mr. Durbin stated it is too early to pass something that INCOG is still trying to get their arms around. Mr. Durbin stated there are additional requirements and restrictions related to an enclosed building for grow, The Department of Health which is charged with regulating this industry by State Question 788 and on the state level was told by the Attorney General that they were not allowed to tell growers that they could grow indoors only and if the state sanctioned body doesn't have the authority to regulate this kind of regulation here is inappropriate.

Mr. Durbin stated with the 1000-foot separation from dispensary you run into the same problem. There wasn't a road map for the people applying for dispensaries to show where all the other people have come from and there will be dispensaries within that 1000 feet. Mr. Durbin stated if you treat this as you treat other similar industries with the closest analogy being a pharmacy because it is

medical marijuana there are not those kinds of restrictions in zoning codes. Mr. Durbin stated the requirement for the air filtration system seem inappropriate for the zoning code, this is more appropriate for an ordinance related to nuisances or requirements in the building code for certain kinds of activities but not appropriate for zoning. Mr. Durbin stated the air filtration system is outside the facility and is required for Cannabis businesses but is not required for Oil refineries, garbage refineries or anything else that Mr. Durbin is able to find in the Zoning Code.

Mr. Reeds stated there are requirements for coffee manufacturers regarding air filtration in the zoning code.

Mr. Durbin stated it's not in the zoning code and thinks it should be pulled out of the zoning code the City should create an ordinance for these items.

Mr. Reed stated that currently in the zoning code we address things with lighting, so he has no problem addressing air filtration systems in the zoning code

Gabe Pazacios 80 East Archer, Tulsa, OK 74120

Mr. Pazacios stated he is an architect in Tulsa Oklahoma. He has been approached by several different clients to design dispensaries and cultivation spaces. He has recently traveled all over the United States touring dispensaries and stated it has been fascinating. One specific issue that Mr. Pazacios has on the proposed Zoning Code is the 1000-foot spacing requirement and he is glad Ms. Miller addressed this issue. Another issue is with the term standalone building, are we saying a true standalone building that sits alone by itself or are we saying separation walls. If Mr. Pazacios understood Ms. Miller correctly the main reason for this would be the smell. If we are mandating carbon filtration systems, then why are we saying we still need a standalone building. Secondly, in our moderate industrial areas that exist now produce smells, for example Mr. Pazacios stated he owns a construction company in the Pearl District and there is a carpenter right next door who is painting and staining several times throughout the week and all that smell comes through the walls. Mr. Pazacios stated on the other side of him is an auto mechanic who is constantly running cars and that smell is coming through the walls as well. Mr. Pazacios stated he is here today representing a couple of clients who are in a shared congruent environment. The warehouses are owned by his clients, but they have other spaces between them. Mr. Pazacios stated he wanted to put foam insulation around the shared walls to help with the air filtration system. If the whole reason behind the zoning was for the smell issue that can certainly be addressed architecturally, and those smells and things of that nature are already occurring within those industrial zoned spaces, so he doesn't perceive that to be an issue that needs to be left in this document.

Paul Bush 1533 South Owasso Ave., Tulsa, OK 74120

Mr. Bush thanked the Planning Commission for their time. Mr. Bush stated he was interested in the cannabis business as a grower and dispenser. Mr. Bush stated he had kept up with all the rules and regulations and has been to City Hall to try and apply for a permit and was turned away and told the city is refusing to accept applications for permits and move forward at this time. Mr. Bush stated the City does not have an official mandate of authority to do that. Mr. Bush wanted that known. Mr. Bush stated he likes the conversation that is occurring and thinks it is good for the City. Mr. Bush stated he thinks the 1000-foot spacing requirement for dispensaries from one another should not be included because he doesn't think that's fair competition and doesn't allow a free market system to take place. Mr. Bush stated the free market system over time should regulate itself because you will have some that stay in business and some that go out of business. Mr. Bush stated regarding security, Mr. Bush believes having them closer together will make it easier to secure them and requiring armed security or cash handling requirements may be more effective at creating better security for dispensaries rather than making them farther apart. Mr. Bush stated he does agree with freestanding buildings for growers because of the fire hazard associated with the wiring because very high voltage is required with these high intensity light systems that are in place so there is the potential for fire hazard.

Ms. Miller stated the reason for the freestanding building was not just the odor it was also for security purposes. Ms. Miller stated this was in an earlier draft of the document for dispensaries as well but that was removed. Ms. Miller feels like the one issue that INCOG can't get their arms around is the processing and the different levels of that. Ms. Miller stated there may be other levels of processing that need to be called out differently. Ms. Miller stated in the Zoning Code you can't get into chemicals because there is no way to enforce these requirements.

Mr. Fothergill stated he was thinking about the 1000 feet spacing requirement for dispensaries because it's a cash business, but there's not a spacing requirement between banks and they handle a lot more cash than dispensaries do. Mr. Fothergill asked Ms. Miller what the reasoning behind the spacing requirement was. Did the police in Phoenix suggest this?

Ms. Miller stated "yes", that was a big part of it but from Ms. Miller's perspective, this is a new use and it has a lot of things that are unique to businesses that other businesses don't necessarily have. Ms. Miller stated we don't fully understand what the impacts are. There are other uses in the code that have distances between each other because we don't want to have a concentration of those uses so there are few other general concepts that we are trying to achieve with that. Ms. Miller stated it's not all about the safety but that is something we heard a lot about.

Mr. Fothergill asked Ms. Miller what some of those other uses that have spacing requirements.

Ms. Miller answered liquor stores, bars, sexually oriented businesses.

Mr. Fothergill asked are we saying that medical marijuana is equivalent to that?

Ms. Miller answered “no”, it’s not that they’re bad, it’s that there are impacts that we want to mitigate somehow and not having them concentrated together helps us do that.

Mr. Fothergill asked what are those impacts?

Ms. Miller answered we don’t know what those might be. Ms. Miller stated from her perspective as a planner she knows the things that have been talked about such as security. Ms. Miller stated she lives in Brookside and she is not sure she would want five dispensaries within walking distance from her house and she thinks a lot of other citizens would feel the same way.

Mr. Fothergill stated he was not in Phoenix could Ms. Miller explain law enforcement’s rationale behind the 1-mile distance requirement

Mr. Doctor stated the reason the other types of business had spacing requirements in the Zoning Code were all based on unique reasons, so the reason we’re proposing a spacing requirement between dispensaries is almost exclusively tied between the public safety concern that was expressed in Phoenix and the Tulsa Police Departments concerns about it being exclusively a cash-based business industry. Mr. Doctor stated when we looked at that being a concern the police department raised we looked at other areas to decide what an appropriate spacing distance would be, and it varied somewhat but 1000 feet was a very consistent number that they saw from other cities in states where they had medical marijuana.

Ms. Miller stated someone called her this morning that had lived in California and had these types of businesses in California and has moved here and wanted to talk about the regulations. He said he understood the proposed spacing requirements here and in California they had spacing requirement of 1000 feet between dispensaries.

Mr. Fothergill stated what he was asking is if there was any empirical evidence that says that when you put dispensaries 500 feet away from each other the likelihood of them being robbed or having any kind of police incident is higher than if they were located thousand feet apart?

Ms. Miller stated “no”.

Mr. Doctor stated the closest we have to that point is what we had seen with other communities and what their experiences are, maybe not an empirical study

but looking at those best practices where they have adjusted to them are the best we can rely on.

Mr. Fothergill stated “sure” but are there any cities that don’t require a spacing in requirement.

Ms. Miller stated “sure”. Ms. Miller stated the state planning conference was this week and she went to a medical marijuana session and it was interesting that a lot of places in Oklahoma haven’t done anything at all.

Fothergill stated, including the County.

Ms. Miller stated that at least Tulsa County and some other areas have stated what categories they are appropriate for. Ms. Miller stated in Oklahoma people are just trying to understand it and a lot of places aren’t doing anything because quite frankly, they don’t know what to do. That is why we’ve done so much research to try to see what makes sense for Tulsa. Ms. Miller stated one thing in her opinion that makes us different is that Tulsa is the densest city in Oklahoma and we need to make sure we can mitigate any issues that we know about, or that we don’t know about because of this new business.

Mr. Reed’s asked if there’s 1000 feet from residential for growers and processors.

Ms. Miller stated we have deleted those requirements.

Mr. Reed stated with liquor stores is the distance requirement 300 feet from a church or school.

Ms. Miller stated liquor stores only have a separation from themselves, bail bondsman’s, pawn shops, etc., but not from residential.

Mr. Reed said selling over-the-counter liquor. There is a 300-foot requirement from residential and Mr. Reeds doesn’t understand why there isn’t a separation requirement between dispensaries and residential.

Ms. Miller stated that was in an earlier draft but removed because they felt it would be too restrictive in the linear commercial corridors.

Mr. Covey asked Mr. Fothergill if he was merely asking questions or advocating to remove the 1000 feet spacing requirement between dispensaries.

Mr. Fothergill answered he would just like there to be a rationale behind why we require the spacing requirement. Mr. Fothergill stated it’s not required of pharmacies and they are medical institutions. It’s not required of banks and they deal with strictly cash, then why is it required of dispensaries.

Mr. Covey stated, why do we restrict small box discount stores so that they can't be within a mile of each other in North Tulsa.

Fothergill stated the rationale behind that was because they wanted a full-service grocery store.

Mr. Doctor stated those are excellent questions and throughout the entire process the City wanted to regulate it as a pharmacy, but the key distinctions were there were schedule one drugs at pharmacies and those are regulated at the federal level in a way that marijuana is not and pharmacies lack age restrictions that regulate who can go inside. Those two components led to taking a little bit different tack. Mr. Doctor stated the public safety component, particularly for a solely cash business which a pharmacy is not and looking at what peer cities have done in that respect led to the 1000 feet. Mr. Doctor stated the cities that were looked at were Tucson who had a 2000-foot spacing requirement between dispensaries, Phoenix is a mile, Colorado Springs is 1000 feet, Denver is 1000 feet, Eugene, Oregon is 1000 feet and those are the states, at least from a state level policy that most closely mirrored Tulsa.

Mr. Fothergill stated that was the rationale he was looking for.

TMAPC Action; 9 members present:

On **MOTION** of **DOCTOR**, TMAPC voted **9-0-0** (Covey, Doctor, Fothergill, Fretz, Krug, Reeds, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Dix, Millikin, "absent") to recommend **ADOPTION** of ZCA-12 with amendments to the Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances, to provide for **medical marijuana** uses licensed by the Oklahoma State Department of Health, to establish specific uses, to identify the zoning districts in which such uses are permitted, to establish supplemental use regulations and parking requirements for such uses and to provide related definitions.

OTHER BUSINESS

15. Commissioners' Comments

* * * * *

ADJOURN

TMAPC Action; 9 members present:

On **MOTION** of **REEDS**, TMAPC voted **9-0-0** (Covey, Doctor, Fothergill Fretz, Krug, Reeds, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Dix, Millikin, "absent") to **ADJOURN** TMAPC meeting 2779.

ADJOURN

There being no further business, the Chair declared the meeting adjourned at 4:17 p.m.

Date Approved:

Chairman

ATTEST: _____

Secretary