

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2524

Wednesday, August 27, 2008, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Ard	Midget	Alberty	Boulden, Legal
Cantrell	Miller	Feddis	
Carnes	Sparks	Fernandez	
Marshall		Huntsinger	
McArtor		Matthews	
Shivel		Sansone	
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, August 21, 2008 at 12:58 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

### **REPORTS:**

#### **Worksession Report:**

Mr. Ard reported that there will be a worksession immediately following today's meeting.

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

Mr. Alberty reported on the BOCC and City Council agendas.

#### **Comprehensive Plan Report:**

Ms. Cantrell reminded the Planning Commissioners of the dates for future workshops in September. To find out more about these dates and workshops please visit [www.planitulsa.org](http://www.planitulsa.org).

Mr. Ard encouraged everyone to take part in the update of the Comprehensive Plan.

\*\*\*\*\*

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

\*\*\*\*\*

Mr. Ard announced that the following items have been withdrawn from the agenda:

- 11. **LS-20235** – James Coulson (1223)/Lot-Split (County)  
 West of North Cincinnati Avenue and North of East 91<sup>st</sup> Street North,  
 9254 North Cincinnati Avenue

**STAFF RECOMMENDATION:**

Applicant has withdrawn this application.

\*\*\*\*\*

- 12. **Z-5903-SP-1d – Sisemore Weisz & Associates** (PD-18c) (CD-8)  
 6413 South Mingo Road (Corridor Plan Minor Amendment) (Staff  
 requests a continuance to 9/3/08.)

**STAFF RECOMMENDATION:**

Applicant has withdrawn this application.

\*\*\*\*\*

**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.

- 1. **LC-116** – Tulsa Habitat For Humanity (9233)/Lot- (PD 8) (CD 2)  
 Combination  
 South of West 55<sup>th</sup> Street and East South 38<sup>th</sup> Avenue, 3724 West 55<sup>th</sup>  
 Street South
- 2. **LC-117** – Tulsa Habitat For Humanity (9233)/Lot- (PD 8) (CD 2)  
 Combination  
 North of West 55<sup>th</sup> Place and East of South 38<sup>th</sup> Avenue, 3721 West 55<sup>th</sup>  
 Place South

3. **LS-20244** – Sollco, LLC (8406)/Lot-Split (PD 18) (CD 8)  
Northeast corner of South Mingo Road and East 71<sup>st</sup> Street, 71 Mingo Center
4. **LS-20245** – Sollco, LLC (8406)/Lot-Split (PD 18) (CD 8)  
Northeast corner of South Mingo Road and East 71<sup>st</sup> Street, 71 Mingo Center
7. **PUD-550-3 – Whistler Sign Company, LLC** (PD-5) (CD-5)  
Southeast corner of 21<sup>st</sup> Street South and South 91<sup>st</sup> East Avenue  
(Minor Amendment to add an LED message center to an existing and previously approved outdoor advertising billboard sign.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to add an LED message center to an existing and previously approved Outdoor Advertising/Billboard (OA) sign.

Approval of the detail site plan for the existing sign was granted by the TMAPC in January 2008 (see attached Exhibit A). The applicant now proposes to add an LED message center in the same location as previously approved. The overall height of the sign and display surface area will also remain the same (see Exhibit B). In addition to the general PUD and Zoning Code requirements for outdoor advertising signs the sign must also adhere to the additional requirements of Section 1221-G of the Zoning Code attached herein as Exhibit C, as well as, have spacing re-verified by the City of Tulsa Board of Adjustment (BOA).

Therefore staff recommends **APPROVAL** of minor amendment PUD-550-3 subject to proof that the spacing re-verification by the BOA be submitted to the City of Tulsa Zoning Official prior to the release of any construction permits.

*Note: Approval of a minor amendment does not constitute detail site, landscape or sign plan approval.*

8. **PUD-481-11 – Brandon Moydell** (PD-18c) (CD-7)  
Northwest corner of 71<sup>st</sup> Street South and U.S. 169 (Minor Amendment to increase the permitted height of a ground sign from 4.6 feet to 20 feet for the construction of a ground sign at the southwest corner of the subject property.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the permitted height of a ground sign from 4'6" to 20' for the construction of a ground sign at the southwest corner of the property.

In December 1993, the TMAPC approved minor amendment PUD-481-4 permitting two ground signs: one at the northeast corner of the site along U.S. 169 with 96 square feet of display surface area (dsa) at 20 feet tall and another at the southwest corner of the site, 4'6" tall with 27 square feet (SF) dsa.

Please refer to Exhibit A which is a photo of the existing sign on the northeast corner of the site, along U.S. 169. This sign is 20 feet tall with a dsa of 47.86 SF. It is the applicant's intention to replicate this sign on the southwest corner of the lot along 71<sup>st</sup> Street.

Current PUD development standards allow the northeast sign to be 96 square feet in dsa and the other to be 27 square feet dsa for a total, in the aggregate, of 123 square feet dsa. The applicant's proposal is to keep the dsa for both signs, in the aggregate, to 96 square feet or less. The southwest sign is approximately 280' from the centerline of 71<sup>st</sup> Street South making a 4'6" sign difficult to see from 71<sup>st</sup> Street. Straight CS zoning would permit one sign for each arterial street frontage at a maximum height of 25' tall. CS zoning also permits signs to be up to 40' high, so long as the setback for the sign is increased one foot for every foot over 25-feet tall. Given the proximity of the lot immediately adjacent to an elevated section of U.S. 169, staff finds a height increase could be warranted.

Since the sign, which is permitted at the southwest corner of the site, is approximately 280' from 71<sup>st</sup> Street South (a primary arterial street), adjacent to U.S. 169, and the dsa for both signs will remain less than what is permitted for the northeast sign, staff recommends **APPROVAL** of minor amendment PUD-481-11 allowing the ground sign at the southwest corner of the lot to be 20-foot tall and allowing a dsa for both ground signs on the lot in the aggregate not to exceed 96 square feet of dsa.

Note: Approval of a minor amendment does not constitute detail site, landscape or sign plan approval.

**TMAPC COMMENTS:**

Mr. Ard requested that Items 5, 6 and 9 be removed from the consent agenda.

**The Planning Commission considered the consent agenda.**

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Ard, Cantrell, Carnes, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Midget, Miller, Sparks "absent") to **APPROVE** the consent agenda Items 1 through 4 and Items 7 and 8 per staff recommendation.

\*\*\*\*\*

## CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA

5. **South Town Market** – (8324) Final Plat (PD 26) (CD 8)  
Northeast corner of East 101<sup>st</sup> Street South and Memorial Drive

### **STAFF RECOMMENDATION:**

This plat consists of seven lots in one block on 21 acres.

All release letters have been received and staff recommends **APPROVAL**.

### **Interested Parties Comments:**

**Brian Talkington**, 8814 East 96<sup>th</sup> Street, 74133, representing the residents of Ridge Pointe HOA, stated that he is concerned about the total square footage that has been approved due to an advertising sign by the developer claiming to build 275,000 SF of retail center. He reminded the Planning Commission that the City Council approved the subject property for 259,410 SF.

### **TMAPC COMMENTS:**

Mr. Alberty stated that regardless of what the sign states it is approved for 259,410 SF and that is all that can be permitted by the City of Tulsa. The permit has to comply with the detail site plan that has already been approved. The site plan was only approved for 259,410 SF.

Mr. Talkington requested that the sign be changed immediately. He expressed concerns with the developer following he approval without being inspected.

Mr. Alberty assured Mr. Talkington that the City will inspect it and under a PUD it is inspected. The permit can't be issued for a total square footage of more than 259,410 SF. The plat has a covenant under their deed of dedications for the maximum number of square feet. Possibly whoever painted the sign or whoever instructed the person to paint the sign had the wrong information.

Mr. Ard stated that he doesn't believe the Planning Commission has any way to force the owner to change the sign. The sign has no merit, as far as reality of what can be developed.

Mr. Ard asked Mr. Steele (in the gallery) if Public Works is able to do anything about the sign. Mr. Steele inaudible.

### **Interested Parties Comments:**

**Joseph Wallis**, 8618 East 100<sup>th</sup> Place, 74133, questioned the process and whether a stormwater plan has been approved. He indicated that he emailed INCOG and Public Works questioning if plans had been submitted. Mr. Wallis submitted several documents from Subdivision Regulations and emails (Exhibit A-1) regarding a final construction plan being submitted prior to or simultaneously

with a final plat application. Mr. Wallis stated that there is an exception that, with the concurrence of an appropriate City Department, the final construction plan can be deferred and he believes that this is typically done. He assumes that the Planning Commission can approve the final plat and delay the final construction plan requirement. He questioned if all of the PUD release letters have been signed because there was some additional language that was added at the last minute pertaining to the northeast entrance. He asked if the PUD release letters are a part of the final plat and if it is then the Planning Commission couldn't actually make the exception to delay the final construction plans and not be able to approve this final plat today.

**TMAPC COMMENTS:**

Mr. Ard stated that Mr. Wallis's questions are outside of the technical expertise of the Planning Commission, but he can have the applicant come forward and try to answer these questions.

Mr. Carnes explained to Mr. Wallis that the developer can't get a building permit to start construction until every question has been signed off on.

Mr. Ard asked Mr. Alberty to add to Mr. Carnes's comments as to what hurdles have to be jumped for a final plat. Mr. Ard stated that Mr. Wallis brings some good points to bear. He further stated that, as far as staff knows, their office has received all the appropriate release letters and appropriate department approvals, those particular items that would allow staff to move this into a category of it being an appropriate final plat for the Planning Commission to consider and approve. In response, Mr. Alberty cited the platting process and conditions that have to be met with a preliminary plat approval and then the final plat approval. Mr. Alberty concluded that once staff receives the letters of release from the various departments and utilities, then the final plat is placed on the agenda for approval of a final plat. It doesn't mean that everything has been absolutely completed and complied with, but it means that assurances have been given. He explained that there are many levels of checks and balances before the release letters are disbursed. He further explained that after approval of the final plat it takes approximately two weeks before the plat can be filed of record.

Mr. Wallis stated that it is his understanding that the Planning Commission would have to approve this today with an exception because as far as he knows there are not final construction plans.

Mr. Ard asked Mr. Boulden if he had an opinion relating to Mr. Wallis's comments. In response, Mr. Boulden stated that he has never been a party to or known where this exception has been asked to be applied. It would be an event that would be out of his general knowledge. To his knowledge, this exception has never been applied for or utilized by the Planning Commission.

Mr. Ard asked Mr. Boulden if he thinks it would be necessary for the Planning Commission to approve the final plat with a condition. In response, Mr. Boulden stated that he doesn't believe it is necessary to explicitly stated in the motion, but certainly the Planning Commission should be aware whether or not final construction plans have been submitted so it is done with that knowledge and then it is implicit in the approval that the exception is being applied.

Mr. Wallis stated that his literal interpretation is that this would require an exception made but there are no final construction plans.

**Applicant's Rebuttal:**

**Ted Sack**, 111 South Elgin, 74120, stated that the square footage is within the covenants stating that the actual square footage allowed per the PUD is 259,410 SF. He apologized for the sign and Mr. Reynolds was made aware of the sign prior to today's meeting. He has requested that the sign be corrected.

**TMAPC COMMENTS:**

Mr. Ard asked Mr. Sack if the Certificate of Occupancy is contingent upon the inspection of the building and making sure it meets the approved PUD. In response, Mr. Sack stated that the detail site plan will not allow the developer to go beyond the 259,410 SF. There are several checks and balances throughout the process.

Mr. Sack stated that in the platting and the final plans, probably nine times out of ten, the subdivision plats and the final plat are approved prior to the final design of the subdivision plans (water, sewer, storm sewer, drainage, etc.). The project is far enough along with the plans that each of the individual departments is satisfied to a point that they are willing to release the plat (easements, covenants, etc. are in place). This plat is no different and the project is no different from nine out of ten that are before the Planning Commission. All plats have to go through water main extension contract, sanitary sewer improvement district, stormwater and detention and all the drainage will be done through a PFPI and all is subject to approval of Development Services at the City of Tulsa. What is before the Planning Commission today is a subdivision plat and it still has approximately two more weeks before it can be filed of record. He explained that the developer is trying to proceed with the closing on the subject project, which has been delayed numerous times.

In response to Mr. Marshall, Mr. Sack listed all of the permits and inspections that take place through the development process. Mr. Sack explained the separate permits that are necessary to develop property.

Mr. Boulden stated that he believes that this is a point well taken regarding the language in the Subdivision Regulations about restrictive covenants on the plat. He asked Mr. Sack if the language is in the restrictive covenant that refers to final approval of improvement plans before a building permit is issued. In response,

Mr. Sack stated that he doesn't know. He would have to go back through it and look. Mr. Sack handed Mr. Boulden the proposed final plat language for his review.

Mr. Boulden informed the Chairman that it would take a few minutes for him to review the language. Mr. Ard determined that the Planning Commission would move to the next case and come back to the final plat.

\*\*\*\*\*

6. **PUD-597-4 – Stava Building Corporation** (PD-18) (CD-8)

Northwest of the northwest corner of Mingo Road and US 169/Creek Turnpike (Minor Amendment to increase the permissible height for building mounted light standards from eight feet to 12.6 feet measured to the bottom of the light fixture.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the permissible height for building mounted light standards from eight feet to 12'6" measured to the bottom of the light fixture. The PUD as originally approved holds that, "All parking lot lighting shall be hooded and directed downward and away from adjacent residential areas. No light standard nor building-mounted light shall exceed eight feet in height and all such lights shall be set back at least 25 feet from a residential lot". The request herein is for permission to increase the height of the building mounted light standards on the north, west, and east elevations only. All other lighting requirements would remain effective.

Please refer to the attached Exhibits A and A-1. Exhibit A is a contour plot of the distance the building mounted lights will project light from the building wall toward the property lines. Exhibit A-1 represents these calculations as applied to this specific site plan as well as, the application of the Kennebunkport Formula as required by the PUD development standards. Mounted at 12'6" these wall packs will project light approximately 45 feet straight out, and approximately 48 feet to either side of the fixture.

Of greatest concern to staff is the protection of the single-family dwelling immediately adjacent to the north of this parcel. However, Kennebunkport calculations show that the light produced from these wall packs will travel approximately 48 feet from the building wall. The north-facing building wall is 69' from the property line. The wall packs also meet the minimum 25-foot setback requirement.

Therefore staff recommends **APPROVAL** of minor amendment PUD-597-4 permitting the wall pack lighting on the north, west and east elevations of Tract

1A, the western ½ of Lot 3, Block 1 – 9600 Mingo Office Park only with the following conditions: the light producing element of the wall packs shall be shielded and directed down and away from adjoining residential lots as to not create a nuisance, drop lenses will not be permitted and any reflected light at the north property line shall not exceed an illumination of .5-foot candles.

*Note: Approval of a minor amendment does not constitute detail site, landscape or sign plan approval.*

**TMAPC COMMENTS:**

Mr. Ard apologized to staff and said that after reviewing this case, more he no longer has any particular questions.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Ard, Cantrell, Carnes, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Midget, Miller, Sparks "absent") to **APPROVE** the minor amendment for PUD-597-4 permitting the wall pack lighting on the north, west and east elevations of Tract 1A, the western ½ of Lot 3, Block 1 – 9600 Mingo Office Park only with the following conditions: the light producing element of the wall packs shall be shielded and directed down and away from adjoining residential lots as to not create a nuisance, drop lenses will not be permitted and any reflected light at the north property line shall not exceed an illumination of .5-foot candles, per staff recommendation.

\*\*\*\*\*

9. **Z-6054-SP-6a – Keller Custom Signs** (PD-18c) (CD-8)

Southwest corner of 81<sup>st</sup> Street and South Garnett Road (Corridor Plan Minor Amendment to increase the permitted number of ground signs located on the lot from one to three, to allow for the addition of directional signs at each entrance, which exceed the three square feet display surface area as defined for a sign exception as directional sign under Section 225, B-3.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to a corridor district site plan and associated development standards to increase the permitted number of ground signs located on the lot from one to three, to allow for the addition of directional signs at each entrance which exceed the three (3) square feet in display surface area (dsa) as defined for a sign exception as a directional sign under Section 225, B-3.

This lot has frontage on both 81<sup>st</sup> Street and South Garnett Road, each classified as arterial streets by the Major Street and Highway Plan. Established development standards for this corridor district parcel allow one (1) ground sign on the lot with a maximum dsa of 250 square feet (SF). In addition, Section 225, B-3 of the Code allows directional signs not exceeding three square feet in display surface area to be exempt from the permitting and detail sign plan review processes. Staff believes that the development of 225, B-3 considered directional signs located on the interior of parking lots, and does not necessarily consider directional signs needed at higher traffic access points to lots with frontage along two major arterial streets. It is also staff's opinion that directional signs in the interior of parking lots should be limited to three (3) feet in dsa. However, staff feels there should also be a provision for larger directional signs needed at access points along major arterial streets that are easier for drivers to see as they maneuver off a major arterial street, and into a parking lot designed for drive-thru banking and similar automobile oriented facilities.

The applicant is agreeing to keep the aggregate display surface area for the three signs under the 250 SF over-all dsa permitted for the one ground sign allowed on this lot.

Since the parcel is located at the intersection of two major arterial streets in combination with the aforementioned, staff recommends **APPROVAL** of minor amendment Z-6054-SP-6a, allowing two additional ground signs and limiting the over-all dsa for ground signs on Lot 1, Block 1 – Union Place to 250 SF in the aggregate.

*Note: Approval of a minor amendment does not constitute detail site, sign, or landscape plan approval*

**TMAPC COMMENTS:**

Mr. Ard asked about the verbiage in the staff recommendation for this application: "However, staff feels there should also be a provision for larger directional signs needed at access points along major arterial streets that are easier for drivers to see as they maneuver off a major arterial street, and into a parking lot designed for drive-through banking and similar automobile oriented facilities." Mr. Ard asked staff if this is something staff would like to see going forward, is it a provision that staff worked into this particular recommendation or does staff believe that there is need to change the Zoning Code to meet that need? In response to Mr. Ard, Mr. Sansone stated that it is simply an opinion and it is not an attempt to change the Zoning Code. Mr. Sansone apologized and stated that perhaps that sentence should not have been in the staff recommendation. Perhaps it should be addressed later when the Sign Code is being considered. Mr. Sansone expressed his opinion that directional signs at today's current requirement may not be large enough for drivers to see while pulling into the property.

Mr. Carnes stated that several years ago during the APA National Conference in Montreal, cities were advised to take a look at the City of Tulsa's directional signs for an example of how to handle them. Once someone pulls into a parking lot, he/she needs to be able to find out where they are going and staff championed in the Zoning Code by doing this.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Ard, Cantrell, Carnes, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Midget, Miller, Sparks "absent") to **APPROVE** the minor amendment Z-6054-SP-6a, allowing two additional ground signs and limiting the over-all dsa for ground signs on Lot 1, Block 1 – Union Place to 250 SF in the aggregate, per staff recommendation.

\*\*\*\*\*

**Continued Item 5:**

5. **South Town Market** – (8324) Final Plat (PD 26) (CD 8)  
Northeast corner of East 101<sup>st</sup> Street South and Memorial Drive

**STAFF RECOMMENDATION:**

This plat consists of seven lots in one block on 21 acres.

All release letters have been received and staff recommends **APPROVAL**.

**TMAPC COMMENTS:**

Mr. Ard asked Mr. Boulden if he had the chance to review the language. In response, Mr. Boulden stated that he doesn't see the language he was looking for in the covenants. He has been provided an appendix out of the Subdivision Regulations that is a separate document that can be filed to include covenants to cover this area. His recommendation would be to either waive the Subdivision Regulations as to this particular provision or require a separate covenant to be filed of record that would be in compliance with the regulation 2.6 of the Subdivision Regulations.

Mr. Ard asked if the Planning Commission has been missing the boat on final plats in the past or is this something that the Planning Commission should be made aware of as far as final plat consideration. In response, Mr. Boulden stated that he is not absolutely sure that the boat has been missed on this. He recalls that some plats to contain language that would cover this area; he simply doesn't see it in this one final plat. The Planning Commission not knowing the stage the construction plans are in just really has the plat to rely on. In response, Mr. Ard

stated that he didn't mean "miss the boat" and that was wrong terminology on his part.

Mr. Ard asked Mr. Boulden how the motion should be phrased for this particular case. In response, Mr. Boulden stated that he would ask if Mr. Reynolds has any suggestions and explains what the constraints would be for the project.

Mr. Boulden recognized Mr. Wallis.

Mr. Wallis, 8618 East 100<sup>th</sup> Place, 74133, stated that he wished he had looked at the Subdivision Regulations document long ago because these are the rules that have to be followed by developers. He requested that the Planning Commission make sure that this is applied consistently. He commented that he is not asking for unnecessary delays or putting this off, but he would like to see things come before the public done correctly and done the way the regulations state.

Mr. Ard stated that he believes that there are checks and balances in place so by end of the day things are done correctly and he doesn't have any doubt about that. The City and INCOG staff have changed procedures over the last year or two to make things more streamlined. It is policy and procedure to have assurances in place to assure that things will happen in a certain manner and format. He believes that within the bounds of correct development procedure, it comes before the Planning Commission several times and to the City of Tulsa several times and the TAC Committee. He wouldn't want to give anyone the perception that things are not being done appropriately and correctly. There are always better and more efficient ways to do things and he believes that it is great that there are checks like this in place.

Mr. Wallis stated that he didn't intend to make any insinuating comment today, but it feels like he was not made aware of these regulations until today. He reiterated that he wanted to make sure that the changes in the language regarding the gate have been signed off on and how does it factor in to all release letters and being able to approve this with the final construction exception.

In response to Mr. Ard, Mr. Alberty stated that he assumes that when Mr. Wallis referred to PUD release letters, he was referring to release letters from the various departments and Public Works, etc. Staff doesn't actually receive a PUD release letter. Under a PUD, a site plan is submitted and a site plan is approved. The site plan has been approved for the subject property and today it appears that a subdivision plat and PUD is getting mixed up and causing some level of confusion or overlapping language. The PUD has to be approved with a detail site plan, which is thoroughly checked. It is then sent to the permit center and a zoning official, as part of the permitting process, has to check to make sure the zoning is appropriate and in a PUD, he checks all the conditions and the site plan must correspond with the site plan that is submitted with a permit package.

There is a high degree of checks and balances to make sure that what was approved is what is being permitted for. The same degree of checks and balances are on the subdivision plat. Mr. Alberty stated that he can assure the Planning Commission that Public Works is not going to issue a letter of release until they have full assurance that what is required is in the process of being met and will be met. That is the reason for the letter of agreement that is also part of the Subdivision Regulations, which he believes in this case has been signed and agreed to. There are so many checks and balances it is almost bureaucratic at this point.

**Applicant's Comments:**

**Ted Sack**, 111 South Elgin, 74120, stated that he believes that Mr. Wallis is referring to the changes that were made by the City Council to the north entrance gate. It was a requirement that the entrance be approved by the Traffic Engineer and the Fire Marshal. The changes have been made to the plan and received the Traffic Engineer's signature and eventually received a signature from the Fire Marshal's office. The north entrance has been revised per the City Council changes and the detail site plan has been signed off by Traffic and a Fire Marshal representative.

Mr. Carnes stated that Mr. Wallis stated that he is not an attorney and nor is he an attorney, so therefore he would like to move that the final plat be approved per staff recommendation. He doesn't think the Planning Commission is supposed to be lawyers.

Seconded by McArtor.

Mr. Ard asked Mr. Boulden if the Planning Commission needs to add anything to the motion. In response, Mr. Boulden stated that it appears that the final construction plans have not been approved. Mr. Boulden asked Mr. Sack if he thought he could add that language that the Subdivision Regulations is referring to on the face of the plat. In response, Mr. Sack stated that he could put it on the face of the plat if desired by the Planning Commission. Mr. Sack stated that this has never been required with any other plat and nine times out of ten the final construction plans are not filed.

Mr. Boulden asked staff if they were okay with the language being put on the face of the plat. In response, Mrs. Fernandez indicated that staff would concur with the language being on the face of the plat.

Mr. Boulden stated that the motion would be one of two options: 1) waiver of the Subdivision Regulations; or 2) that the approval is on the condition of adding restrictive covenants referred to in Section 2.6 to the plat.

Mr. Carnes stated that he would rather see the Planning Commission waive the Subdivision Regulations than to open this can of worms that will keep coming

back in the future. Mr. Carnes stated that he would amend his motion to waive the Subdivision Regulations.

**TMAPC Action; 8 members present:**

On amended **MOTION** of **CARNES**, TMAPC voted **6-2-0** (Ard, Cantrell, Carnes, McArtor, Shivel, Walker, "aye"; Marshall, Wright "nays"; none "abstaining"; Midget, Miller, Sparks "absent") to **APPROVE** the final plat for South Town Market, subject to the waiver of the Subdivision Regulations, Section 2.6.4.

**[Note:** Mr. Ted Sack agreed to add the language referring to in Section 2.6 "...to provide a restrictive covenant on face of plat to delay the requirement for approval of final construction plans relating to proposed improvements as a condition of final approval and release of a subdivision plat, provided that the restrictive covenants shall include a specific provision for requiring that final improvement plans be approved by the appropriate regulatory authority prior to the issuance of a building permit, and shall designate the City or County (whichever is appropriate) as a beneficiary."]

\*\*\*\*\*

There being no further business, the Chair declared the meeting adjourned at 2:20 p.m.

Date Approved:

7/17/08  
  
Chairman

ATTEST:

Joshua A. Walker  
Secretary