

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2529

Wednesday, October 15, 2008, 1:30 p.m.

Francis Campbell City Council Room
Plaza Level, Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, October 9, 2008 at 2:13 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, 1st Vice Chair Cantrell called the meeting to order at 1:35 p.m.

REPORTS:

Comprehensive Plan Report:

Ms. Cantrell reported that the next Planitulsa workshop will be held October 28, 2008. She encouraged everyone to take part.

Director's Report:

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

Mr. Alberty reported that October 31st will be the last day that this auditorium will be available for TMAPC meetings. The TMAPC will probably eventually move into the council room at One Technology Center; however, it will not be ready for the November 5th meeting. The November 5th meeting will have a schedule change and be held at Aaronson Auditorium, which is in the basement of the Central Library. The venue is large enough to accommodate the TMAPC meetings.

Minutes:

Approval of the minutes of September 17, 2008 Meeting No. 2526

On **MOTION** of **MCARTOR**, the TMAPC voted 5-0-1 (Cantrell, Marshall, McArtor, Walker, Wright "aye"; no "nays"; Smaligo "abstaining"; Ard, Carnes, Midget, Shivel, Sparks "absent") to **APPROVE** the minutes of the meeting of September 17, 2008, Meeting No. 2526.

Minutes:

Approval of the minutes of September 24, 2008 Meeting No. 2527

On **MOTION** of **MARSHALL**, the TMAPC voted 5-0-1 (Cantrell, Marshall, McArtor, Walker, Wright "aye"; no "nays"; Smaligo "abstaining"; Ard, Carnes, Midget, Shivel, Sparks "absent") to **APPROVE** the minutes of the meeting of September 24, 2008, Meeting No. 2527.

Minutes:

Approval of the minutes of October 1, 2008 Meeting No. 2528

On **MOTION** of **WRIGHT**, the TMAPC voted 4-0-2 (Cantrell, Marshall, Walker, Wright "aye"; no "nays"; McArtor, Smaligo "abstaining"; Ard, Carnes, Midget, Shivel, Sparks "absent") to **APPROVE** the minutes of the meeting of October 1, 2008, Meeting No. 2528.

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

CONSENT AGENDA

TMAPC COMMENTS:

Ms. Cantrell stated that Items 5 and 8 should be stricken from the consent agenda.

- 5. **LC-127** – Tanner Consulting, LLC (8309)/Lot- (PD-18B) (CD-8)
Combination
East of South Yale on East 74th Street

Stricken.

8. LC-129 – Keller Williams (6213)/Lot-Combination (County)
12803 North Memorial Drive, North of East 126th Street North and East
of North Memorial Drive

Stricken.

Ms. Cantrell stated that Items 2, 7 will be removed from the consent agenda due to interested parties wishing to speak on these two items.

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.

3. **LS-20257** – Julie Luna, Keller Williams (2336)/Lot-Split (County)
North of East 126th Street North and East of North Memorial Drive,
12803 North Memorial Drive
4. **LS-20258** – Bart James (8201)/Lot-Split (PD-18A) (CD-2)
West of South Peoria Avenue and North of East 63rd Street,
6. **LC-129** - Julie Luna, Keller Williams (2336)/Lot-Combination (County)
North of East 126th Street North and East of North Memorial Drive,
12803 North Memorial Drive
9. **Gilcrease Hills Financial Center** – Change of Access (PD-10) (CD-1)
Southwest corner of West Edison Road and North 25th West Avenue

STAFF RECOMMENDATION:

This application is made to allow a change of access to add access along West Easton Court. The property is zoned OL.

The Traffic Engineer has reviewed and approved the request. Staff recommends **APPROVAL** of the change of access as submitted.

10. **Home Depot at 91 Delaware Center – Change of Access** (PD-18B) (CD-2)

Northwest corner of East 91st Street South and South Delaware Avenue

STAFF RECOMMENDATION:

This application is made to allow change of access to add access along South Delaware Avenue and change access on East 91st Street South. The property is zoned IL.

The Traffic Engineer has reviewed and approved the request. Staff recommends **APPROVAL** of the change of access as submitted.

11. **PUD-136-A-2 – Tanner Consulting/Delise Tomlinson** (PD-18b) (CD-8)

South of the southwest corner of East 71st Street South and South Yale Avenue (Minor Amendment to combine Lots 5 & 6, Block 1, to create Tract A of Development Area 1.) (Related to Item 7.)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to combine Lots 5 and 6, Block 1 – Silver Ridge, effectively creating Tract A of Development Area 1 within PUD-136-A (see Exhibits A, A-1 and B). There are no changes to existing PUD development standards being requested. Associated lot-combination application LC-127 is also on the October 15, 2008 agenda of the TMAPC.

Since there are no proposed changes to the existing development standards of PUD-136-A, staff recommends **APPROVAL** of minor amendment PUD-136-A-2 creating Tract A of Development Area 1 – Lots 5 and 6, Block 1 – Silver Ridge.

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

12. **Z-7008-SP-1i – Sack and Associates/Mark Capron** (PD-8) (CD-2)

Southwest corner of West 71st Street South and South Olympia Avenue (Corridor Plan Minor Amendment to allow east-facing wall signs on Lots 15, 17 and 17, Block 2 only.)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to allow east-facing wall signs on Lots 15, 16 and 17, Block 2 only, of Tulsa Hills. The current sign standards for

Development Areas B, E, and G read, "No wall signs shall be permitted on the east facing walls of a building" (see Exhibit A).

It is staff's opinion that this standard was included in the approval of the Corridor Development Plan for Development Areas B, E, and G in an effort to help minimize the over-all impact of the development on the single-family residential district "Stone Brooke Glenn", immediately adjacent to Tulsa Hills to the southeast, as well as, the three residentially-zoned properties immediately adjacent to Lot 19, Block 2 at the northeastern corner of the development along West 71st Street (adjacent to the area identified as "1" – Development Area B of attached Exhibit A).

Staff contends that consideration was never given to allowing east-facing wall signs on Lots 15, 16 and 17, as the east-facing walls of buildings constructed on these lots will not be visible from the residential lots abutting the northeast corner of the development as shown on Exhibits B and C and confirmed through site visit by staff. Lots 15, 16 and 17 are also completely obscured from Stone Brooke Glenn by the "anchor" tenants identified on Exhibit A as 6, 7, 8 and 9 of Block 2. This was also confirmed through site visit.

Given the aforementioned, staff recommends **APPROVAL** of corridor plan minor amendment Z-7008-SP-1i, allowing east-facing wall signs on Lots 15, 16 and 17, Block 2 *only* of Tulsa Hills.

Note: Approval of a minor amendment does not constitute detail sign plan approval.

13. **PUD-760 – Joel Slaughter**

(PD-6) (CD-4)

Northwest corner of East 15th Street and South Troost Avenue (Detail Site Plan for construction of a 9,150 SF mixed use building.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for construction of a 9,150 square foot (SF) mixed use building. The proposed uses, Use Unit 12 – Easting Establishments, Other than Drive-ins (4,875 SF) and Use Units 13 and 14 (4,275 SF) are permitted uses within PUD-760.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Parking has been provided per the Zoning Code, and a six-foot masonry screening wall will be constructed along the north and west boundary lines per PUD development standards. Trash receptacles will also be screened from view by the erection of a six-foot enclosure and will be similar in appearance to that of the principal building per PUD standards. Landscaping is provided per the landscape chapter of the Zoning Code and adopted PUD development standards. All sight lighting will be

limited to 15-feet in height and will be directed down and away from adjoining properties per application of the Kennebunkport Formula.

Therefore, staff recommends **APPROVAL** of the detail site plan for PUD-760.

(Note: Detail site plan approval does not constitute landscape and sign plan approval.)

14. **PUD-275-5 – Sack & Associates** (PD-18) (CD-8)

Approximately 425 feet west of the southwest corner of East 91st Street South and South Yale Avenue (Minor Amendment to modify the landscape requirement along 91st Street right-of-way and to modify the screening requirement along the west boundary of the PUD.)

STAFF RECOMMENDATION:

The applicant is requesting two minor amendments to PUD-275.

The first request is to modify the landscape requirement along the 91st Street right-of-way (ROW). The landscape requirement states:

“(Within Development Area A) An area on the west 100 feet adjacent to the 91st Street ROW ranging in depth from 25 feet to 50 feet (in depth). This area will be maintained in order to preserve some of the existing trees and natural terrain to provide a landscape buffer to the north. This area will connect to open space in the adjacent residential area”.

The above requirement is graphically represented on Exhibit A. The applicant states and site visit by staff verifies that the natural landscaped area that the above standard was designed to protect, was severely damaged by the ice storms of last winter and was removed from the site.

While this natural area along 91st Street will be reduced in size along the street right-of-way, the overall square footage of the in-kind replacement will increase the density of the landscaped area along the street right-of-way (from 3,700 SF to 4,125 SF – see exhibits B and C). The minimum five-foot width of landscaping required by the Zoning Code will also be maintained for the remainder of the length of all street right-of-way within the project limits preserving the intent that a buffer be provided to the north by the use of landscaping. Staff can support this request.

The applicant is also requesting a modification of the screening requirement along the west boundary only of the PUD. The requirement is for a six-foot screening fence along the west boundary of the PUD. In order to adequately provide drainage for the subject tract and not adversely affect the single-family development to the west the applicant is requesting that the screening be

allowed to vary off the western boundary back into the subject tract of this application to allow for proposed open drainage channel improvements. Specifically, the screening will "jog" off the western boundary 286' from the northern boundary of the PUD a distance of 55-feet to the east, and travel 135 feet southwest back to the western boundary line (please refer to Exhibit D). In exchange the applicant is offering an eight-foot solid masonry wall to be constructed versus a six-foot wood screening fence along the entirety of the western boundary of the PUD.

Staff supports both these requests and recommends **APPROVAL** of minor amendment PUD-275-5.

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

15. **PUD-636 – Architects Collective** (PD-8) (CD-2)

Northwest corner of West 81st Street South and U.S. Highway 75 (Detail Site Plan for a 304 unit apartment complex and accessory club house.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for a 304 unit apartment complex and accessory club house. The proposed use, Use Unit 8 – Multifamily and Similar Uses is a permitted use within PUD-636.

The submitted site plan meets all applicable open space, livability space, land coverage, units per acre, building height and setback limitations. Parking has been provided per the Zoning Code. All sight lighting, including building mounted will be limited to a maximum of 18 feet in height and will be directed down and away from adjoining properties per application of the Kennebunkport Formula. Trash enclosures are provided per adopted development standards.

Therefore, staff recommends **APPROVAL** of the detail site plan for PUD-636.

(Note: Detail site plan approval does not constitute gated entry, perimeter wall, landscape and sign plan approval.)

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **6-0-0** (Cantrell, Marshall, McArtor, Smaligo, Walker, Wright "aye"; no "nays"; none "abstaining"; Ard, Carnes, Midget, Shivel, Sparks "absent") to **APPROVE** the consent agenda Items 3, 4, 6, 9 through 15 per staff recommendation.

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA

2. **LS-20249 – Coleman Robinson (8305)/Lot-Split** (PD-18-B) (CD-2)
Northeast corner of South Delaware Place and East 71st Street, 7007
South Delaware Place East

STAFF RECOMMENDATION:

Ms. Feddis stated that this lot-split meets all of the zoning requirements.

The interested party chose not to speak on this item.

TMAPC Action; 6 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **6-0-0** (Cantrell, Marshall, McArtor, Smaligo, Walker, Wright "aye"; no "nays"; none "abstaining"; Ard, Carnes, Midget, Shivel, Sparks "absent") to **APPROVE** the lot-split for LS-20249 per staff recommendation.

7. **LC-127 – Tanner Consulting, LLC (8309)/Lot-Combination** (PD-18) (CD-8)
South of the southwest corner of East 71st Street South and South Yale Avenue (Related to Item 11.)

TMAPC COMMENTS:

Ms. Feddis stated that this lot-combination meets all of the zoning requirements. This lot-combination has a PUD-136-A-2 attached to it. This lot-combination did meet prior approval, but she understands that there are some issues with drainage.

Interested Parties Comments:

Mike Wedel, 7423 South Urbana, 74136, described his drainage concerns and submitted photographs (Exhibit A-1). He explained that the drainage has been affecting his property for many months. Mr. Wedel explained that he is a photographer and uses his property for settings, which has been destroyed due to the drainage. He indicated that his studio building has been affected by the drainage as well. Mr. Wedel had movies showing the water draining from the adjacent land onto his land.

TMAPC COMMENTS:

Ms. Cantrell stated that she understands Mr. Wedel's concerns because the pictures show that there is a problem. However, what is before the Planning Commission today is to combine two lots that meet all of the Zoning Code requirements and the Planning Commission never has denied this when there is no legal basis to deny it.

Mr. Wedel stated that by allowing the applicant to combine his lots he will be able to build a larger building and create more damage with the drainage. He doesn't believe that anything should be approved until the drainage problems are addressed first.

Mr. Harold Tohlen, City of Tulsa Development Services, stated that there are two issues that need to be addressed. The first one is the lot-combination and the amount of runoff that would be created by the lot-combination. In reality there is a requirement of so much landscape area per lot and when lots are combined. They are still the same percentages (double the size of the lot, then one doubles the size of the landscape requirements) and there should not be any additional increase in the impervious area generated by the lot-combination. The runoff should be the same as it is today with the separate lots. The second issue is related to the drainage concerns, which have been addressed by the City and the City is aware of the problems. He has talked with the Engineer for the project and there is one area that is causing the runoff to not go into the detention facility that it should. The engineer has agreed to take care of the problem as he completes the landscaping and the project. The wall and drainage will be addressed when this project is being completed. All dead trees and foliage that is a required by the PUD will have to be replaced before getting approval.

Mr. McArtor recognized Mr. Wedel.

Mr. Wedel asked why these issues can't be taken care of before there is any more progress. He indicated that the water is destroying his property and he doesn't understand why the trees can't be planted now.

Mr. Alberty stated that typically when a permit is issued, then the schedule for inspections would follow that. Mr. Alberty commented that he is not trying to diminish what is happening on the subject property today, but what is before the Planning Commission today is to simply combine two lots. The Planning Commission has already approved Item 11 and it is related to the subject lot-combination. This does not increase or change the development standards. This would allow a single building with all of the development standards that would be consistent with what would was approved. Basically, there are no changes in the dynamics of the development and the standards are appropriately considered and approved. There is a problem with drainage and he can assure that it will be dealt with, but it may not be at the speed that this gentleman would like to see it. It will eventually be dealt with or the applicant wouldn't get an occupancy permit. This doesn't guarantee that they will get a building permit, but

gives them the right to request and pursue a building permit. At any point if Development Services sees that things aren't satisfactory they could withhold the permit. Until these things are correct there will not be any occupancy of the buildings.

Mr. Wedel stated that this is not a problem that has been going on for a few weeks. This problem has been an ongoing problem.

Mr. Alberty stated that he can appreciate Mr. Wedel's concerns and now the issue has been brought to the City of Tulsa's attention and it will be dealt with.

Ms. Cantrell stated that she understands Mr. Wedel's frustration and his position that the applicant hasn't done a good job in the past and now he should be held up on the lot-combination. The Planning Commission doesn't generally do this and have to look at each case to see if it is an appropriate use of the land. It is up to the City to enforce the standards.

Mr. Wedel asked Ms. Cantrell if she is saying that the City is responsible for all of the damage. In response, Ms. Cantrell stated that she is not saying that. She stated that Mr. Wedel should be contacting the City to report the issues. The Planning Commission is looking at the land use and does not punish the developers for doing certain things. In response, Mr. Wedel stated that the developer told him he should hold the City accountable. Mr. Wedel explained that he just wants the problem corrected.

Mr. Marshall asked Mr. Wedel who told him to hold the City accountable. In response, Mr. Wedel stated that it was Mr. Davies's brother. Mr. Marshall asked Mr. Jones to come forward.

Applicant's Comments:

Ricky Jones, Tanner Consulting, LLC, 5323 South Lewis Avenue, 74105, stated that he is aware that there are drainage problems and they have been ongoing. He indicated that he is working to rectify those problems and has discussed this with Harold Tohlen. He believes there is a solution for the water problem. The problem may not be solved as quickly as Mr. Wedel would like. He realizes that he is bound by certain PUD conditions and he knows that he has to replace the dead foliage that is tied to the occupancy permit. Mr. Jones stated that these things will be done in order to receive their permits. The drainage issue is a separate issue than what is before the Planning Commission today, which is the lot-combination. Mr. Jones stated that he doesn't know what the developer's brother may have said regarding holding the City responsible for the drainage issues. Mr. Jones further stated that he doesn't believe that the City is responsible for this and he believes that the responsibility falls back on the developer.

TMAPC COMMENTS

In response to Ms. Wright, Mr. Jones stated that he was first aware of the drainage problem about 20 minutes ago. He believes that Mr. Tohlen emailed Dan Tanner about the issue a couple of months ago and his company has been working to alleviate the problem. He stated that he has talked to Mr. Tohlen and they believe they have a plan that will stop the water from jumping the curb.

Ms. Wright asked Mr. Jones why the engineering plans were not followed. In response, Mr. Jones stated that the engineering plans were followed and they have been approved by the City of Tulsa. However, since the plans were filed, his company has recognized that there are other issues that have come up and he will work to modify the plans to try to keep all of the water in the parking lot and into the inlet. Currently, the issues are caused by the water coming down the hill and jumping the curb, then into the interested parties land. He is considering building a small berm behind the parking lot to stop the water from jumping the curb and then getting into the inlet to drain to a detention pond. Mr. Jones reiterated that he does have approved engineering plans and it was constructed according to those approved engineering plans. If more is needed, then it will be looked at to try to resolve the problem.

Ms. Wright asked Mr. Boulden if the water issue is the City's responsibility since they approved the engineering plans. In response, Mr. Boulden stated that the short answer is no. He further stated that he would be foolish to offer any kind of opinion on that without any kind of evidence before him. He does not see this as a City problem and it is a developer problem. He appreciates Mr. Jones clarifying the accusation that somebody else may have made.

Mr. Jones stated that he can't speak to what someone else's brother may have said or didn't say. Mr. Jones further stated that in his opinion, and he is not an attorney, he doesn't believe the City is responsible for fixing the problem. Just because the plans are approved doesn't relieve the engineer from the responsibility of making sure that those plans work. He commented that if the plans need to be modified then it will be done.

Mr. Boulden stated that the City relies on professional engineers to certify plans that are presented and that they will perform as presented. Whether they are executed properly is a question or a design problem as well. It is not generally a City problem.

Mr. McArtor stated that he believes that this line of questioning has gone afield, but he is interested in Mr. Alberty's analogy of instead of two units with 5,000 SF a piece there would be one unit with 10,000 SF on one lot and the assumption is that that one 10,000 SF building will not create any more runoff than the two 5,000 SF buildings. This seems a little counterintuitive to him, but he will take staff's word for it. Mr. McArtor stated that those pictures and video were pretty bad and there has been a lot of destruction to the interested party's property and

it is actionable. He probably has money damages and someone will probably be buying a law suit soon. Most lawyers would sue everyone and let all of the defendants work it out.

Ms. Wright asked if it is possible to reopen the consent agenda to look at the PUD that is related to this item.

Mr. Boulden stated that it has been approved, but the Planning Commission can always reconsider it if necessary and it would require a motion.

Mr. McArtor asked what difference the PUD would make with regard to the lot-combination. Are there some standards in the PUD minor amendment that would influence this gentlemen's concern at all?

Mr. Alberty stated that the only reason to reconsider it would be because someone who voted in the affirmative and has changed their mind. The amendment is a minor amendment to allow the lot-combination and not change the development standards.

Mr. Shivel in at 1:59 p.m.

Ms. Cantrell stated that she feels for Mr. Wedel, but she is not comfortable punishing a developer. The Planning Commission looks at the land and has never denied a lot-combination when there is no legal basis to deny it. People have a right to combine their lots.

TMAPC Action; 7 members present:

On **MOTION** of **MARSHALL**, TMAPC voted **5-1-1** (Cantrell, Marshall, McArtor, Smaligo, Walker "aye"; Wright "nays"; Shivel "abstaining"; Ard, Carnes, Midget, Sparks "absent") to **APPROVE** the lot-combination for LC-127 per staff recommendation.

PUBLIC HEARING

17. Z-7106 – Lou Reynolds

RM-2/OL to CS

Southeast corner of East 41st and South Harvard Avenue (PD-6) (CD-9)
(Continued from 8/20/08, 9/24/08 and 10/01/08) (Related to Item 18.)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11823 dated June 26, 1970, established zoning for the subject property.

PROPOSED ZONING: CS

PROPOSED USE: Neighborhood shopping center

RELEVANT ZONING HISTORY:

Z-6906 December 2003: A request for rezoning a 1.49+ acre tract of land from RM-2 to CS/PUD to permit a Wal-Mart Neighborhood Market was recommended for approval by Staff based on the existing adjacent uses and trends in the area, provided that the TMAPC recommends approval of the accompanying PUD on property located on the southeast corner of East 41st Street South and South Harvard Avenue and the subject property. The TMAPC recommended for approval of the CS zoning and the City Council denied the application.

PUD-690 December 2003: A proposed Planned Unit Development on a 5.67+ acre tract of land (related to rezoning case Z-6906) to permit a Wal-Mart Neighborhood Market was recommended for approval by Staff and TMAPC per Staff recommendation with modifications; on property located on the southeast corner of East 41st Street South and South Harvard Avenue and the subject property. The City Council denied the application.

PUD-592-C June 2003: All concurred in approval of a request for a Major Amendment on a 3.08+ acre tract of land to remove some existing structures within Development area C and to amend some permitted uses in Development area B on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

BOA-20338 September 26, 2006: The Board of Adjustment approved a Special Exception to permit a beauty shop (Use Unit 13) in an OL district with condition to limit to one salon per this development, with no time limitation on property located on south of the southwest corner of East 41st Street South and South Harvard Avenue.

BOA-20249 April 25, 2006: The Board of Adjustment approved a Special Exception to permit Christmas tree sales in CS, RM-2, RS-1 and OL districts; a Special Exception to permit alternative parking materials; a Variance of the 100 foot setback from the centerline of 41st Street for temporary buildings and outdoor sales; a Variance of the setback from an R district; and a Variance to allow building across lot line, finding by reason of extraordinary exceptional conditions or circumstances, subject to previous conditions as listed in the staff comments (1-10); in accordance with the site plan on file; and with permanent approval, on property located on the southeast corner of East 41st Street South and South Harvard Avenue and the subject property. This request has been made multiple times for this particular property.

Z-6818 June 2001: All concurred in approval of a request for rezoning a 1.34+ acre tract of land from RS-3 to OL within PUD-592 to permit funeral home with

office use on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

PUD-592-B June 2001: All concurred in approval of a request for a Major Amendment to PUD to permit a funeral home use (related to rezoning request Z-6818 for OL zoning, which was approved) on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

Z-6804/PUD-592-A March 2001: A request to rezone a 2.09-acre RS-3 portion of the PUD to OM and a proposed Major Amendment to the PUD to add funeral home use. Staff recommended approval subject to modifications of the proposed standards. TMAPC denied the request. The applicant withdrew the application prior to consideration by the City Council; on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

PUD-642 February 2001: All concurred in approval of a proposed Planned Unit Development on a 1.89± acre tract of land for office development on property located south of the southeast corner East 41st Street South and South Harvard Avenue and abutting south of subject property.

PUD-592 August 1998: All concurred in approval of a proposed Planned Unit Development to allow two existing developments to share parking through a cross-parking easement, subject to modifications and conditions. One parcel contained a church, day nursery, parsonage and residence; the other parcel contained a movie, video and stage production company; on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.84± acres in size and is located southeast corner of East 41st Street South and South Harvard Avenue. The property appears to be vacant and is zoned RM-2/OL.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Harvard Avenue	Secondary arterial	100'	4
East 41 st Street South	Secondary arterial	100'	4

UTILITIES: The subject tract has municipal water and sewer available.

SURROUNDING AREA: The subject tract is abutted on the east by a single-family residential use, zoned RS-1; on the north by commercial/office uses,

zoned CS and RS-3; on the south by vacant land/office uses, zoned OL; and on the west by commercial uses, zoned CS.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 6 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Medium Intensity-Residential land use. According to the Zoning Matrix, the requested CS zoning is **not** in accord with the Plan.

STAFF RECOMMENDATION:

This property was the subject of an earlier rezoning application several years ago, which also requested a commercial use and which was denied. Staff could and did support that application. Staff could also support this application, subject to the accompanying PUD or some variation thereof and subject to the southern OL-zoned portion (approximately 50' by 300') remaining in OL zoning but still remaining in the PUD. This allows the commercial portion to more generally line up with the existing CS zoning across Harvard. Therefore, staff recommends **APPROVAL** of CS zoning for a portion of the subject property, as noted above, and further if accompanied by an appropriate PUD.

TMAPC COMMENTS:

Ms. Cantrell asked if staff has a position on the letter from the neighborhood that they have reached an agreement and would not protest the extension of CS zoning in the OL district. In response, Ms. Matthews stated that staff would agree with this if the PUD is approved.

Mr. McArtor asked staff why they do not recommend approving the CS rezoning where into the OL district. In response, Ms. Matthews stated that the reason is that there would be CS in the PUD across the street from OL, which is less intense. If the recommended OL were to remain, it would line up more nearly with the existing zoning patterns, but staff could go along with the CS expansion if the PUD is approved as well.

RELATED ITEM:

18. **PUD-761 – Lou Reynolds** **RM-2/OL/CS/RS-1 to RS-1/OL/CS/PUD**
Southeast corner of East 41st and South Harvard Avenue (PD-6) (CD-9)
(PUD proposes (PUD for mixed-use development for
small businesses, restaurants, offices and retail shops.)
(Continued from 8/20/08, 9/24/08 and 10/01/08) (Related
to Item 17.)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11823 dated June 26, 1970, established zoning for the subject property.

PROPOSED ZONING: RS-1/OL/CS/PUD **PROPOSED USE:** Neighborhood shopping center

RELEVANT ZONING HISTORY:

Z-6906 December 2003: A request for rezoning a 1.49± acre tract of land from RM-2 to CS/PUD to permit a Wal-Mart Neighborhood Market was recommended for approval by Staff based on the existing adjacent uses and trends in the area, provided that the TMAPC recommends approval of the accompanying PUD on property located on the southeast corner of East 41st Street South and South Harvard Avenue and the subject property. The TMAPC recommended for approval of the CS zoning and the City Council denied the application.

PUD-690 December 2003: A proposed Planned Unit Development on a 5.67+ acre tract of land (related to rezoning case Z-6906) to permit a Wal-Mart Neighborhood Market was recommended for approval by Staff and TMAPC per Staff recommendation with modifications; on property located on the southeast corner of East 41st Street South and South Harvard Avenue and the subject property. The City Council denied the application.

PUD-592-C June 2003: All concurred in approval of a request for a Major Amendment on a 3.08± acre tract of land to remove some existing structures within Development area C and to amend some permitted uses in Development area B on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

BOA-20338 September 26, 2006: The Board of Adjustment approved a Special Exception to permit a beauty shop (Use Unit 13) in an OL district with condition to limit to one salon per this development, with no time limitation on property located on south of the southwest corner of East 41st Street South and South Harvard Avenue.

BOA-20249 April 25, 2006: The Board of Adjustment approved a Special Exception to permit Christmas tree sales in CS, RM-2, RS-1 and OL districts; a Special Exception to permit alternative parking materials; a Variance of the 100 foot setback from the centerline of 41st Street for temporary buildings and outdoor sales; a Variance of the setback from an R district; and a Variance to allow building across lot line, finding by reason of extraordinary exceptional conditions or circumstances, subject to previous conditions as listed in the staff comments (1-10); in accordance with the site plan on file; and with permanent approval, on property located on the southeast corner of East 41st Street South and South Harvard Avenue and the subject property. This request has been made multiple times for this particular property.

Z-6818 June 2001: All concurred in approval of a request for rezoning a 1.34± acre tract of land from RS-3 to OL within PUD-592 to permit funeral home with

office use on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

PUD-592-B June 2001: All concurred in approval of a request for a Major Amendment to PUD to permit a funeral home use (related to rezoning request Z-6818 for OL zoning, which was approved) on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

Z-6804/PUD-592-A March 2001: A request to rezone a 2.09-acre RS-3 portion of the PUD to OM and a proposed Major Amendment to the PUD to add funeral home use. Staff recommended approval subject to modifications of the proposed standards. TMAPC denied the request. The applicant withdrew the application prior to consideration by the City Council; on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

PUD-642 February 2001: All concurred in approval of a proposed Planned Unit Development on a 1.89± acre tract of land for office development on property located south of the southeast corner East 41st Street South and South Harvard Avenue and abutting south of subject property.

PUD-592 August 1998: All concurred in approval of a proposed Planned Unit Development to allow two existing developments to share parking through a cross-parking easement, subject to modifications and conditions. One parcel contained a church, day nursery, parsonage and residence; the other parcel contained a movie, video and stage production company; on property located north and east of the northeast corner of East 41st Street South and South Harvard Avenue and north of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.84± acres in size and is located southeast corner of East 41st Street South and South Harvard Avenue. The property appears to be vacant and is zoned RM-2/OL.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Harvard Avenue	Secondary Arterial	100'	4
East 41 st Street South	Secondary Arterial	100'	4

UTILITIES: The subject tract has municipal water and sewer available.

SURROUNDING AREA: The subject tract is abutted on the east by Villa Grove Heights No. 1, zoned RS-1; on the north by 41st Street and then "41st Place", zoned OL/CH/RS-3/PUD-592-C; on the south by Peachtree Square Replat L5-6,

Block 1 Villa Grove Heights No. 1, zoned OL/PUD-642; and on the west by Harvard Avenue and then Charles Teel Addition and Quadrangle Addition, zoned CS and OL respectively.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

This property was the subject of an earlier rezoning application several years ago, which also requested a commercial use and which was denied. Staff could and did support that application. Staff could also support this application, subject to the accompanying PUD or some variation thereof and subject to the southern OL-zoned portion (approximately 50' by 300') remaining in OL zoning but still remaining in the PUD. This allows the commercial portion to more generally line up with the existing CS zoning across Harvard. In case Z-7106, also appearing on the 8/20/08 agenda, staff has recommended "approval of CS zoning for a portion of the subject property, as noted above, and further if accompanied by an appropriate PUD".

STAFF RECOMMENDATION:

PUD-761 is a 360,000 square foot (SF) (8.26 acre) mixed-use development proposed for the southeast corner of Harvard Avenue and 41st Street South. The development would be re-platted as a four (4) lot one (1) block subdivision. The applicant's proposal includes commercial development for small businesses, restaurants, offices and retail shops.

There was a proposal in September 2003 which was narrowly recommended for approval by the TMAPC and unanimously denied by the Tulsa City Council in December 2003. This proposal was for a 41,000 SF WalMart Neighborhood Market with an accessory 300-foot gasoline kiosk and fueling facilities located on the immediate corner, or the "hard corner". The market itself was to be located (approximately) in the southeast corner of the parcel (see Exhibit A-1).

As a result of the contentiousness with which that application was met, this application has introduced several design elements in an attempt to alleviate impacts to the surrounding neighborhoods. It is staff's understanding that the applicant and nearby neighborhood associations negotiated many of the development standards herein and attached at the end of the agenda package. The applicant is proposing four small scale buildings the largest of which would be limited to 22,500, with a total maximum floor area requested of 60,000 square feet of commercial floor area. This should eliminate any interest from "big box" development. Permissible floor area will be discussed below.

The most intensive use of the lot would be a drug store proposed for the single lot located on the immediate corner for Harvard and 41st. The applicant also proposes to eliminate certain permissible uses such as gasoline service stations, thereby eliminating gas/convenience stores. There is also a limitation on hours of operation, excepting the drug store on the corner lot, further restricting the

number of potential owners and tenants within Harvard Square and attempting to form a compatible relationship with nearby neighborhoods.

The applicant is also proposing to restrict maximum building heights within the development area contrary to commercial zoning which has no height limitations. Within one hundred feet of the east boundary the applicant is proposing that a building may not exceed 17 feet in height. Within the remainder of Harvard Square a 23 feet height restriction would apply.

Another design element the applicant is proposing is a mandatory "prairie style" architectural theme known for its low lying roofs, broad eaves, and a focus on horizontal elements of the design as shown on applicant's Exhibit C – Architectural Theme. Design guidelines will limit permissible construction materials to include brick, cast and natural stone, stucco and horizontal bands of glass. These materials will be required on all sides of the various buildings in accord with Exhibit C. Also included are unoccupied tower elements at entries and corners of buildings and stainless steel track mounts for wall signage. The applicant's concept plan for Harvard Square is shown on Exhibit A. Exhibits B and B-1 are aerial photographs indicating area land uses and the Harvard Square site.

Refer to Exhibit A-2 - the applicant's proposed zoning of the parcel, and Exhibit A-3 – the existing zoning. Staff supports the rezone of the existing medium intensity residential area (the RM-2 area on A-2) to the requested low intensity commercial (CS) zoning. However, the 50' by 400' (including the ROW) section of existing OL zoning requested for CS zoning on A-2, is identified by the District 6 Comprehensive Plan as a Lineal Development Area limited to lower-intensity office uses (see Exhibit A-4). Staff can not support the requested rezone of the OL portion of the proposed development area. This directly affects the allowable commercial floor area within the development area.

Consequently, without the rezone of the small OL portion of the site, the permissible commercial floor area as allowed by the underlying zoning district is 52,500 SF. Additionally, the underlying OL zoning will also permit 30,000 square feet of office floor area (for a total of 82,500 SF total), as well as, nine single-family dwellings. The applicant is limiting the total permissible floor area to 60,000 and using the PUD over-lay to further place limitations on development of the PUD.

In addition to the use restrictions, building height limitations, hours of operation limits and architectural design requirements, the applicant is proposing extensive landscaping and screening along the east and south PUD boundary lines. An eight-foot solid screening masonry type wall (as depicted in applicant's Exhibit D-1) will be constructed along the entirety of the east boundary and along the first 50-feet of the south boundary. A 35-foot landscape buffer with very specific planting requirements will be required in accordance with the attached Exhibit D-

2. Exhibit D-2 is not a conceptual plan and would be used in Detail Landscape Plan review.

With the denial of rezone of the small OL portion of the site combined with the PUD over-layer and the development restrictions outlined in the standards below, staff finds the proposed uses and intensities of development to be in harmony with the spirit and intent of the Code. Staff finds PUD-761 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code:

Therefore, staff recommends **APPROVAL** of PUD-761 subject to the following conditions as amended by the TMAPC (see Exhibit I and I-A) (items with strikethrough have been removed; with underline added in per Exhibit I-A. Exhibit I changes were added in prior to 10/15/08 hearing and are included herein):

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.
2. Development Standards:

LAND AREA

Gross:	8.2645 Acres	360,000 SF
Net Area:	6.8734 Acres	299,404 SF

PERMITTED USES

Uses permitted as a matter of right in Use Units 10, Off-Street Parking; 11, Office, Studios and Support Services; 12, Eating Establishments, Other Than Drive-Ins; 13, Convenience Goods and Services; 14, Shopping Goods and Services and uses customarily accessory to permitted principal uses.

The following uses shall be expressly forbidden:

Pawn Shops, Pay Day Loan Offices, Tobacco Stores; Tattoo Parlors, Body Piercing Parlors, Self-Serve Laundromats, Drive-through Restaurants, Apartments, Auto Alarms Installation, Auto Parts & Accessories, Auto Radio and Stereo Installation, Auto Window Tinting, Bail Bond Office, Bars, Building Materials, Dance Halls, Day Labor Hiring, Electrical Supply, Gasoline Service Station, Gunsmith, Locksmith, Massage Parlor, Multi-family Dwellings, Night Clubs, Oil & Lubrication Service, Pawn Shop, Plumbing Fixtures, Pool Halls, Secondhand Store, Shoe Repair, Taverns, Tune-Up Service, Video Rentals.

MAXIMUM BUILDING FLOOR AREA*: 60,000 SQUARE FEET TOTAL
52,500 SF commercial floor area
7,500 SF office floor area

**The maximum gross building floor area of a building on a lot or parcel within Harvard Square shall not exceed 22,500 square feet.*

MAXIMUM BUILDING HEIGHT:

Within 100 feet of east boundary:	17 FT
Unoccupied architectural features	23 FT*
Remainder of Harvard Square:	23 FT
Unoccupied Architectural Features	29 FT*

**Architectural elements shall be subject to Detailed Site Plan approval according to Exhibit C.*

OFF STREET PARKING:

As required by the applicable Use Unit of the Tulsa Zone Code.

MINIMUM BUILDING SETBACKS:

From the centerline of E. 41 st Street	125 FT*
From the centerline of S. Harvard Ave.	125 FT
From the east boundary	75 FT
From the south boundary	45 FT

Internal lot side yards to be established by Detailed Site Plan.

**For purposes of calculating the street yard for landscaping purposes, the building set-back on E. 41st Street and S. Harvard Avenue shall be considered to be 100 feet.*

SIGNS:

- a. One ground sign shall be permitted for each lot with frontage on S. Harvard Avenue or E. 41st Street each with a maximum of 60 square feet of display surface area and 6 feet in height. Except for the sign faces the monument sign will be architecturally similar to the "prairie" style theme for the prairie style architectural theme for Harvard Square, per the attached Exhibit H.
- b. One (1) monument sign at the southeast corner of South Harvard Avenue and East 41st Street identifying Harvard Square with a maximum height of six (6) feet and a maximum length of sixteen (16) feet. The monument sign will be architecturally similar to the "prairie" style architectural theme for Harvard Square, per the attached Exhibit H.

- c. Wall signs shall be permitted not to exceed 1.5 square feet of display surface area per lineal foot of building wall to which attached. The length of a wall sign shall not exceed 75% of the frontage of the building. Wall signs on east facing building walls shall not be permitted.
- d. Changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs, flashing signs, or signs with moving parts are prohibited.

LIGHTING:

Within the east 150 feet of Harvard Square, light standards shall not exceed 12 feet in height; within the remainder of Harvard Square, light standards shall not exceed 25 feet in height. All light standards including building mounted shall be hooded and directed downward and away from the boundaries of the Harvard Square. Shielding of outdoor lighting shall be designed so as to prevent the light producing element or reflector of the light fixture from being visible to a person standing at ground level in adjacent residential areas. Compliance with these standards shall be verified by application of the Kennebunkport Formula or other Illuminating Engineering Society of North America (IESNA) recommended practice which will verify compliance with the City of Tulsa Zoning Code lighting standards. Consideration of topography must be included in the calculations.

TRASH AND MECHANICAL EQUIPMENT AREAS:

All trash, mechanical and equipment areas (excluding utility service transformers, pedestals, or equipment provided by franchise utility providers), including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.

ADDITIONAL DEVELOPMENT STANDARDS:

1. The opening of any business within Harvard Square shall not occur before 7:00 a.m. and businesses shall close by 11:00 p.m. Excepting a pharmacy and related store at the corner of E. 41st Street and South Harvard Avenue (proposed Lot 1) shall not be subject to the limitations on hours of operation.
2. Except for Lot One (1), truck delivery hours will be restricted to 7:00 a.m. to 9:00 p.m. No idling of trucks or trash dumpster service shall be allowed between the hours of 9:00 p.m. and 7:00 a.m.
3. No access shall be permitted to or from Harvard Square to South Jamestown Ave.

4. The principal building materials used on the front of a building shall be used on all other sides of the building, although the design and details may vary.

LANDSCAPING AND SCREENING CONCEPT:

Landscape and screening concept will comply with the requirements of the Tulsa Zoning Code for street frontage and parking area landscaping and additionally establish a 35 feet wide landscape buffer separating the development area from the four existing residences on South Jamestown Avenue adjacent to the development area on the east. A 20-foot wide landscape buffer will be established on the south boundary of the PUD (see "south boundary landscaping below"). The fourth house from the southeast corner of E. 41st Street and S. Jamestown Avenue will be removed (see Exhibit B-1); the remainder of the lot will be offered for sale as a single family lot under the RS-1 zoning district standards.

An eight foot high pre-cast masonry screening wall will be constructed along the east boundary of Harvard Square. The screening wall will commence 50 feet south of the northeast corner of the property and continue west 50 feet along the south boundary of Harvard Square. The design of the wall will be as shown on Exhibit D-1, East Boundary Screening Wall.

The eight-foot high pre-cast masonry screening wall will be constructed in its entirety and simultaneously with the development of the first lot within the PUD

An effort will be made to protect and save the several large native trees in the 35-foot wide buffer area. The existing trees will be supplemented with a dense mix of flowering, deciduous and evergreen trees as specified on Exhibit D-2, East Boundary Landscape Details. The additional trees will be a minimum of 10, 14 and 15 feet tall at planting to create an immediate visual barrier over and above the eight foot high masonry screening wall.

SOUTH BOUNDARY LANDSCAPING:

The landscaping along the south boundary will be as set forth on the South Boundary Landscape Details Exhibit, a copy of which is attached hereto as Exhibit "D-3".

SOUTH BOUNDARY SCREENING FENCE.

A six-foot high pre-cast masonry screening fence will be constructed along the south boundary of Harvard Square beginning at the northwest corner of the Oak Plaza office building and continuing east along the south boundary of Harvard Square to where such six-foot high pre-cast masonry screening fence will connect to the eight-foot high pre-cast masonry screening fence. Such connection shall be approximately 50 feet west of

the southeast corner of Harvard Square. Other than being six feet in height, the design of the southerly boundary screening fence will be the same as the screening fence shown on Exhibit "D-1" of the original PUD text.

The six-foot high pre-cast masonry screening fence will be installed simultaneously with the development of the first lot within the PUD.

LANDSCAPED AREA:

A minimum of 18% of the total net land area of Harvard Square shall be improved as internal landscaped open space in accord with the provisions of the Landscape Chapter of the Tulsa Zoning Code. The minimum landscaped area of each lot shall be established at detail site plan review.

STREET YARD LANDSCAPING:

Where parking lots and drives are parallel to the street right-of-way, a minimum of three (3) shrubs for every ten (10) lineal feet of abutment to the right-of-way will be provided. The shrubs will be placed adjacent to and along the entire width of paving adjacent to the right-of-way and are in addition to the required number of trees required by Chapter 10 of the Zoning Code. The shrubs will be a minimum of five (5) gallons and twenty-four (24) inches tall at the time of planting.

PARKING LOT LANDSCAPING:

Any parking lot tree planted within five (5) feet of the internal boundary of a lot within PUD-761 shall be counted as one (1) tree for each such lot; provided that in no event shall the total number of parking lot trees within PUD-761 be less than forty-two (42) trees.

See the Parking Lot Landscape Illustration attached hereto as Exhibit D-3.

SOUTH AND EAST BOUNDARY LANDSCAPING:

Upon the first to develop of either Lot Three (3) or Lot Four (4), all of the landscaping along the south and east boundary of Harvard Square will be installed and irrigated.

BUILDING LANDSCAPING:

- i. Landscaping will be installed in the parking islands adjacent to the Lot One (1) building.
- ii. Landscaping will be installed along at least one-half (1/2) of the length of the front and side of the Lot Two (2), Lot Three (3) and Lot Four (4) buildings as follows:
 - Lot Two (2): All sides;
 - Lot Three (3): North and east side;
 - Lot Four (4): North and east side.

ACCESS AND CIRCULATION:

Sidewalks will be constructed, or maintained if existing, along 41st Street and Harvard Avenue. Internally, mutual access and parking easements will provide, where appropriate, convenient parking for visitors to more than one store or restaurant within Harvard Square as shown on Exhibit E – Access and Circulation Plan.

Harvard Square will have a total of four (4) access points: two (2) on South Harvard Avenue and two (2) on East 41st Street South. See the Illustration attached hereto as Exhibit D.

No access shall be permitted to or from Harvard Square to South Jamestown Avenue on a permanent basis or during any construction within Harvard Square.

OUTSIDE STORAGE:

There shall be no outside storage of recyclable material, trash or similar material outside a screening receptacle, nor shall trucks or truck trailers be parked in Harvard Square except while they are being actively loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in Harvard Square.

MINOR AMENDMENTS:

In addition to the requirements outlined for minor amendments in section 1107-H of the Zoning Code, All amendments to PUD-761, whether major or minor, shall in addition to TMAPC approval also require City Council approval, except for the following amendments which shall continue to be treated as minor amendments under the zoning code and only require TMAPC approval:

- i. Limitation or elimination of previously approved uses provided the character of the development is not substantially altered.
- ii. Transfers of permitted floor area between lots; provided that no floor area of any lot shall exceed the Development Standard maximum of 22,500 square feet.
- iii. Changes in points of access provided the traffic design and capacity are not substantially altered; provided, further, that the total number of access points is not increased and approval of Tulsa Traffic Engineering and City of Tulsa Fire Marshall are received.
- iv. Changes in yards, open spaces, building coverage and lot widths or frontages, provided the approved Development Plan, the approved

PUD standards and the character of the development are not substantially altered, provided that no floor area in any lot shall exceed the Development Standard maximum of 22,500 square feet.

- v. Lot splits which modify the recorded plat and which have been reviewed and approved by the Technical Advisory Committee.
 - vi. Modification to approve screening and landscaping plans provided the modification is not a substantial deviation from the original approved plan; provided, further, that there is no reduction in the number of trees or overall landscaping.
 - vii. Any change in the Permitted Uses to allow no more than one (1) drive through restaurant in the PUD.
3. No building permit shall be issued until the platting requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
 4. No building permit shall be issued for any building or structure within the development until a detail site plan has been submitted to the Tulsa Metropolitan Area Planning Commission and approved as being in compliance with the approved development standards.
 5. No building permit shall be issued for any building or structure within the development until a detail landscape plan has been submitted to the Tulsa Metropolitan Area Planning Commission and approved as being in compliance with the approved development standards.
 6. No sign permits shall be issued for erection of a sign within the PUD until a detail sign plan has been submitted to the TMAPC and approved as being in compliance with the applicable development standards.
 7. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all stormwater drainage and/or proposed detention are in accordance with applicable City requirements prior to issuance of an occupancy permit.
 8. The City shall inspect all access points to certify that they meet City standards prior to any building permits being issued for the development. The developer shall pay all inspection fees required by the City.
 9. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.

10. Screening walls or fences, must receive detail site plan approval from TMAPC prior to issuance of a building permit for the aforementioned wall or fence.
11. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

TAC Comments:

General: No comments.

Water: No Comments.

Fire: Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

Exceptions:

1. For Group R-3 and Group U occupancies, the distance requirement shall be 600 feet (183 m).
2. For buildings equipped throughout with an approved automatic sprinkler system the distance requirement shall be 600 feet.

Provide additional hydrants to satisfy this requirement.

Stormwater: A Stormwater Detention Easement will be required. Drainage crossing lot lines will be Public Drainage, and it will be required to be conveyed in a 100-Year capacity Public Drainage System. Public overland drainage must be placed in an Overland Drainage Easement, and Public Storm Sewers must be in a Storm Sewer or Utility Easement with a minimum width of 15 feet.

Wastewater: Sanitary Sewer service must be provided for all proposed Lots within the development. In addition, service must be provided to adjacent existing properties as well.

Transportation:

Traffic: No Comments.

GIS: No Comments.

Street Addressing: No Comments.

County Engineer:

INCOG Transportation:

- MSHP: 41st St. S., between Harvard Avenue and Yale Avenue, is designated Secondary Arterial. Harvard Avenue, between 41st St. S. and 51st St. S., is designated Secondary Arterial.
- LRTP: 41st St. S., between Harvard Avenue and Yale Avenue, existing 4 lanes. Harvard Avenue, between 41st St. S. and 51st St. S., existing 4 lanes. Sidewalks should be constructed if non-existing or maintained if existing, per Subdivision Regulations.

- TMP: No comments
- Transit: Currently, Tulsa Transit operates services on this location. According to MTTA future plans this location will continue to be served by a transit route. Therefore, consideration for access to public transportation should be included in the development.

Mr. Midget in at 2:10 p.m.

TMAPC COMMENTS:

Ms. Cantrell stated that the Planning Commission received a letter today with a few additional changes to the PUD that the applicant and neighborhood have worked out. In response, Mr. Sansone stated that the new changes deal with landscaping and to extend the screening to the entirety of the south boundary and add similar landscaping that will be on the east boundary. Mr. Sansone further stated that staff is in agreement with the additional changes.

Ms. Cantrell questioned staff why the specific language with regard to sidewalks has been dropped from the staff recommendation. In response, Mr. Sansone stated that generally that language appears in development standards for PUDs that cover a much larger area. There is some general language in the subject PUD regarding access and circulation and is generally ironed out during detail site plan. Specific language has not been included in the subject PUD because staff doesn't know specifically where the buildings will be placed on the site with the exception of the one building on the hard corner. Pedestrian circulation and sidewalks will be dealt with during the detail site plan. Ms. Cantrell stated that she is comfortable that this will be dealt with during the detail site plan review.

Mr. McArtor asked staff if the rezoning is not consistent with the Comprehensive Plan because originally this was a residential area. In response, Ms. Matthews stated that it was considered more of a residential area when the Comprehensive Plan was written and the hard corner was the only medium intensity commercial use at all. This fits the five-acre node because it is a secondary/secondary intersection. There was some multifamily zoning, which dictated that it be somewhat medium intensity and there is an overlay on it. It is conducive to change since the plan has been developed. Ms. Matthews reiterated that a big part of staff's recommendation is based on the PUD being approved along with the rezoning. Mr. McArtor asked Ms. Matthews where staff would stand on the rezoning if the PUD was not approved. In response, Ms. Matthews stated that staff could still support the CS or the RM portion and would hold fast to the OL. Mr. McArtor stated that he is still confused by the recommendation regarding the OL district. In response, Ms. Matthews stated that staff would prefer the CS portion to line up with the CS across the street and hold the OL line.

Ms. Cantrell stated that since there is a PUD with the rezoning the applicant could have commercial in the OL district. In response, Ms. Matthews answered

affirmatively. There is only a portion of the proposal that is not in accord with the Comprehensive Plan. In response, Ms. Matthews answered affirmatively.

Applicant's Comments:

Lou Reynolds, 2727 East 21st Street, 74114, representing Mr. Bill Manley, submitted a package of exhibits (Exhibit B-4), and stated that this application started about 18 months ago with meetings between Charles Norman, Bill Manley and several of the neighborhood leaders and representatives. Mr. Reynolds recognized Mr. Norman's work on the proposal and stated that he had done a very thorough job in capturing the essence of what Harvard Square is about. Mr. Reynolds indicated that he has had several meetings with the neighbors and he has dialed it in a little more.

Mr. Reynolds presented the proposal of four lots with a drug store on the hard corner. He indicated that the drug store has signed a lease and it is the only business that will be open 24 hours. Mr. Reynolds described the site and the exhibits from his submittal (Exhibit B-4). Mr. Reynolds stated that he has received letters of support from adjacent properties (Exhibit B-1). He described surrounding properties and uses.

Mr. Reynolds stated that based on the surrounding uses he is proposing the maximum building floor area of 60,000 SF and that would be over 300,000 developable square feet, which is one-fifth of the land area. This is not a very dense development and it will have unusually low building heights. Monument-type signage will be allowed, but no pole signs will be allowed within the development. Mr. Reynolds cited the proposal as reflected in the staff recommendation. He explained how the neighborhood meetings negotiated the proposal before the Planning Commission today. Mr. Reynolds indicated that Exhibit D-2 of the exhibit package he submitted (Exhibit B-4) is the actual landscaping exhibit for the east boundary and this is not a conceptual plan. Exhibit D-3 is the detail for the south property line.

Mr. Reynolds stated that the office property owner recently learned about this case because the building was sold among some partners and the former partner received the notice letter. The new partners worked out a few changes with his client and that has been submitted today. He indicated that his client has agreed to install the perimeter landscaping with the first to developer of either Lot 4 or Lot 3. He stated that Mr. Novick, representing the adjacent business, has agreed with the changes.

Mr. Reynolds stated that he is in agreement with staff on everything except the additional strip of CS zoning that has been requested. The subject property is partially in the linear development area and the property to the west is, too. The properties are not linear and go back deeply and are developed very intensely with office use. The subject property is over 500 feet and that is not very linear. He doesn't intend for the subject property to be developed linearly. Instead of

asking for 30,000 SF of office space in the subject PUD, he would like to reduce the size and they settled on 60,000 SF. He needs the piece of 50 feet by 400 feet in order to capture 7,500 more feet of commercial floor area. The subject PUD has specific development standards and restrictions that are designed to ensure capability. To add more office space to the subject project wouldn't do anything for the neighborhood. There is no shortage of office space along Harvard and office is not what he discussed with the neighbors when planning this project. This is a unique opportunity where basically all of the neighbors have come together and stated that they would prefer this to be 60,000 square feet of commercial uses rather than 52,000 square feet of commercial and 7,500 square feet more of office. In this PUD, he can have a commercial use right across from the office district.

TMAPC COMMENTS:

In response to Mr. Marshall, Mr. Reynolds cited the square footage for each building as follows: building 1 22,500 SF, building 2 approximately 7,000 SF, building 3 approximately 12,000 SF, and building 4 will be the remainder of square footage allowed, (maximum allowed is 60,000 SF for entire development).

In response to Mr. Marshall, Mr. Reynolds stated that his client is currently working with a coffee and donut shop and they may need a drive-through facility. This will be brought back to the neighbors and if they are happy with it this can be achieved through a minor amendment. There is no lease at this time, but he is trying to work for what is fair for both sides. Mr. Reynolds reiterated that there are specific development standards with the architectural theme with limited hours of operation. The neighborhood's biggest concern is fast food facilities being allowed within the development.

In response to Mr. Boulden, Mr. Reynolds stated that the neighborhood requested that one of the access points onto Harvard be eliminated and his client agreed.

Mr. Reynolds stated that all of the stormwater is captured onsite and directed to a stormwater detention facility, which will be in the parking lot of Lot 3. There is a specialty food store considering Lot 3 and part of the issue is that they require most of their parking in front. His client has told the neighborhood that as development ebbs and flows there will be an attempt to move the building to the west if possible, but there is a constraint due to the detention facility. None of the stormwater will go to the south and east of the subject property.

In response to Ms. Cantrell, Mr. Reynolds stated that his client has specifically agreed to not have an access on South Jamestown. There will not be temporary access on South Jamestown during construction either.

Mr. McArtor asked Mr. Reynolds why he needed the additional CS zoning since this is a PUD. In response, Mr. Reynolds stated that it is needed because his

client is trying to not have office space within the development. There is no need for more office space in the subject area. This is designed to be a neighborhood center. Office spaces open at 9:00 and close at 5:00, so the neighbors living in the subject area would generally not use it. The option for commercial space is much more beneficial for the neighbors and it is what the neighbors want.

Mr. Marshall asked if Mr. Manley is the only owner of the subject property. In response, Mr. Reynolds answered affirmatively.

Ms. Wright questioned Mr. Reynolds why some services are not allowed within the subject development since it is a neighborhood center. In response, Mr. Reynolds stated that the uses are limited according to what the neighbors requested.

Ms. Wright asked what kind of neighborhood center this would be. In response, Mr. Reynolds stated that it will be a neighborhood commercial center with a drug store and they expect to have some restaurants and other small businesses.

Ms. Wright continued to question the limitation of the services that the neighborhood and applicant had agreed upon. She commented that these limitations would eliminate a lot of neighborhood center uses. In response, Mr. Reynolds reiterated that the neighbors requested the limitations.

Interested Parties Comments:

Steve Novick, 1717 South Cheyenne Avenue, 74119 and 3843 South Florence Place, 74015, stated that he is representing Patrick Henry Homeowners Association, is Legal Council for Oak Plaza, LLC and representing himself as a homeowner in the subject area. Mr. Novick stated that there were many meetings with the applicant and the neighbors and they have negotiated the proposal that is before the Planning Commission today. Mr. Novick indicated his client's and his agreement with the proposal and the letters of agreements for Z-7106/PUD-761. He further indicated that he is in agreement with extending the CS zoning in the current OL area. His client to the south is supportive of the CS and PUD zoning. Mr. Novick asked that the staff recommendation incorporate the agreements between the applicant, neighbors and Oak Plaza LLC and if it is not in the staff recommendation that the letter of agreement dated October 1, 2008 prevail the staff recommendation.

Mr. Novick commended the process for the subject proposal and working with the neighbors and addressing their concerns prior to filing the PUD application. He indicated that there was a lot of compromises on both sides and believes this is the best process for new development.

Mr. Novick stated that the modifications to the development standards of the PUD that have been worked out between the neighborhoods and the property owner are truly an essential component to why he is coming before the Planning

Commission today and they have an agreement to support the subject project. He requested that the Planning Commission remember this if and when any amendments are filed for the subject property.

Mr. Novick stated that his client to the south requested that the screening fence be extended and that the landscaping along the 20-foot buffer strip along the south be increased with trees that would grow up above the fence. This was an eleventh-hour addition into the proposal and Mr. Reynolds and his client were very accommodating. He concluded that both entities that he represents are supportive of the rezoning of the 50-foot strip of OL zoning to CS zoning so that the project can have its full 60,000 SF of commercial space.

TMAPC COMMENTS:

Mr. Novick stated that the October 1st letter consists of those items that were amended from the original proposal and they would be in addition to the development standards in the original proposal. The hours of operation of 7:00 a.m. to 11:00 p.m. were proposed in the original proposal. The October 1st letter amendments to the standards amend standards that appear in the original proposal and to the extent that those standards are amended by the letter the amendments will govern and to the extent where there is no amendment reflected in the letter, the original proposal will govern. The October 1 letter supplements, but does not supplant, the original proposal.

In response to Mr. Boulden, Mr. Novick stated that if a restaurant or any other type of service wanted to open and close beyond the hours specified they would have to file a minor amendment. Mr. Novick further stated that the parties agreed that certain categories of minor amendments have to go before the City Council to receive approval.

In response to Ms. Wright, Mr. Novick stated that he was told that the property owner was angling for certain uses, but he did not have any leases at this time. He reiterated that the neighbors worked with the applicant to eliminate certain uses that they deemed not desirable. The focus has been on food, variety stores, certain selected retail and restaurant uses. Mr. Novick reiterated that the neighbors are all in support of the limitations and the subject proposal.

Ms. Wright asked if there was any discussion about the layout of the proposal. This looks like another box development. In response, Mr. Novick stated that the layout was discussed heatedly and requested that the stores fronting Harvard be closer to Harvard to do away with the urban shopping center effect of all the parking being in front. He indicated that he was told that it was difficult to make those kinds of commitments because the developer would have to negotiate leases and they have requirements, etc. The developer has made a promise to make every effort to move Lots 2 and 3 building sites closer to Harvard if possible when negotiating leases. Lot 1 already has a signed lease and the applicant was unable to make any adjustments of the location of the building site.

Mr. Novick reminded the Planning Commission that there is no place along Harvard where a development has all of their buildings close to the street and parking all in the back.

Interested Parties Comments:

Toni Graber, 4562 South Jamestown, 74135, stated that she is the vice president of the Patrick Henry Neighborhood Association. She requested the Planning Commission to approve the PUD. Ms. Graber expressed her appreciation for the property owner and Mr. Reynolds working with the neighborhood on this proposal. Ms. Graber submitted a poll taken in the neighborhood (Exhibit B-3). She cited how she advertised the meeting and canvassed the area door to door. The polls indicate an overwhelming support for the proposed development.

Ms. Graber requested the Planning Commission to approve the proposal with the concessions that the neighborhoods requested. As a neighborhood, everyone is tired of the eyesore that the 41st and Harvard area has become. The neighborhood would like something nice and upscale on the subject property and the developer has worked with the neighbors.

TMAPC COMMENTS:

Ms. Wright asked Ms. Gruber if she stated that she thought 41st and Harvard was an eyesore and asked if Mr. Manley owned that property. In response, Ms. Gruber answered affirmatively. Ms. Wright stated that if Mr. Manley owned the property, then he allowed it to become an eyesore and the neighbors are now assuming that when it is developed it will never be another eyesore. In response, Ms. Gruber stated that the neighbors are hoping that doesn't happen. Anything would be better than what is going on there right now. Today it is primarily used for a parking lot for used cars.

Ms. Wright stated that she actually drives up and down that area all of the time and is very familiar with it. It also happens to be high on the traffic counts, which is already in excess of what it is allowed to be on that roadway. Any development on the subject property will increase the congestion on Harvard. In response, Ms. Gruber stated that the neighbors understand that and it was discussed. The developer has agreed to only two access points onto Harvard, which will help some of the congestion. When the subject property is a Christmas tree lot, the impact on the subject area is huge and the neighbors are well aware that a new development could add to the subject area regarding traffic. Ms. Gruber stated that it is the 51st and Harvard area that backs up and becomes a problem, not 41st and Harvard.

Interested Parties Comments:

Sarah Kobos, 3709 East 43rd Street, 74135, stated that she didn't receive a survey and she believes that they were at the one public meeting when the survey form was distributed on Jamestown. She knows that the neighbors agree

that the subject corner is an eyesore and would love to see an upscale development. She stated that there is strong disagreement that this represents anything more than a standard-issue Topeka, Kansas commercial development and that is a problem. After countless meetings and hundreds of man-hours spent in the negotiation process, this is what we have come to. It isn't any different from the original proposal (Exhibit B-2). Ms. Kobos stated that the revised site plan has more trees, more shrubbery and crosswalks. The neighbors wanted this to be pedestrian-friendly and they put in the crosswalks. One of them takes pedestrians right across the drive-through. She indicated that she attended six meetings and saw some strong support for the top four priorities. Some felt that the development was too big and should have a larger buffer at the eastern boundary. Mr. Manley owns most of that property, but wouldn't agree to that. There was strong support for moving the three lots closer to Harvard to facilitate the pedestrian experience, eliminate the need for excessive signage and to get the loading dock from the proposed grocery store away from the neighborhood as much as possible. There was also a request to eliminate the easternmost curb-cut on 41st Street to alleviate the traffic problems that already exist at 41st and Jamestown and they agreed to eliminate an entrance on Harvard, but not the one on 41st Street, which would most affect her neighborhood. The fourth highest priority as she understood it was to drastically improve the landscaping, and she believes this is one case where the neighbor's got a win. Through all of the negotiations, the neighbors got the fluff and not the true content of what would have made this a true upscale development. It was suggested by the neighbors to shrink the footprint of the proposal and seek a variance to reduce the amount of parking. The applicant indicated that he wasn't interested in shrinking the footprint.

Ms. Kobos concluded that she has been attending the Planitulsa workshops and meetings. She stated that people don't want the Comprehensive Plan to be a joke as it currently is. She further stated that Tulsans are screaming for more beauty, more walkable, more transit-friendly options, more space for entrepreneurs and more local and unique shopping opportunities. What is being proposed is geared towards the most flexibility to bring in national chains when they are willing to sign 50-year leases and build whatever they want. She commented that the most things she is disappointed about is that Tulsans and neighbors are not getting to decide the look and feel of our city and are basically giving up that right to one landowner who has been land-banking for years. The landowner has let his properties decline and isn't willing to make requested changes because he might get a lease from a chain. Ms. Kobos stated that Tulsa doesn't have much to work with because they are behind the times. The neighborhood would support a true upscale development and she thinks the neighborhood is resigned to more of the same old mediocre, not visionary, style that we are getting here.

TMAPC COMMENTS:

In response to Ms. Cantrell, Ms. Kobos stated that this prairie style picture she is seeing today looks exactly like what she has seen in Bixby and Broken Arrow in modern commercial developments. It might even be stucco, which is not in keeping with the historic architecture of the subject area. The grocery store being pushed back 300 feet doesn't present walkability for anyone coming from the sidewalk. Hopefully, the updated Comprehensive Plan will change the Zoning Code to do more forward-thinking types of developments and more historic types of developments. This is going to be one of the last ones to be crammed in before those changes take place so the developers and the national chains can keep doing exactly what they have been doing and what they are comfortable with rather than what residents want.

Ms. Cantrell stated that walkability seems to be the main issue for Ms. Kobos. In response, Ms. Kobos stated that she doesn't see this proposal as being pedestrian-friendly. This development is the size of Ranch Acres at 31st and Harvard and it doesn't seem to have very many places for entrepreneurs to thrive, but is more geared toward national chains.

Ms. Wright stated that she was driving through the subject area and stopped to talk with several neighbors on both sides of Harvard. Ms. Kobos has expressed what they voiced to her. Ms. Wright further stated that she did not tell them her position on the Board and was actually looking for a friend who was lost. Ms. Wright indicated that what she kept hearing over and over again were the comments that Ms. Kobos has made. Even if they hadn't attended the Planitalsa sessions, they were aware of the concepts and were really dismayed, that in light of what we are trying to do in Tulsa, this proposal is the same old thing.

Ms. Kobos stated that the buildings that were built back in the 1950s and early 1960s are not that far off of the street. Some are ten or fifteen feet from the street. Despite the terrible signage and lack of landscaping along Harvard, there are still good bones to the street. This is just a throw away and let's be Bixby.

Mr. Shivel asked Ms. Kobos if the sidewalks around each of the lots are not considered walkable. He asked Ms. Kobos to define walkability. Ms. Kobos stated that walkability means that one wouldn't be run over by an SUV as one moves from the sidewalk to one's destination. Having a sidewalk around the building is fine, but she doesn't usually walk around the buildings for fun. When a building is separated from the street, as it will be in Lot 3, with three to four double-sided rows of parking, it doesn't meet the walkability standard. Ms. Kobos commented that she would do a video about this someday so that the Planning Commission can totally understand walkability. She said that one should be able to walk from his/her car to the store with a stroller and not be concerned about being run over by a vehicle.

Mr. Shivel stated that potentially the same issue could happen at Utica Square in terms that there is sidewalk surrounding the buildings and walkways, but one also has to be cognizant of the traffic patterns that are considerable through Utica Square. In response, Ms. Kobos stated that there is some of that at Utica Square, but it is more interesting because there are typically the large buildings that support numerous buildings, courtyard areas where there is no car access and there are very few places with enormous, large surface parking lots except in the back of the Utica Square. At the most, one would find one or two rows of diagonally parked cars between the street and the buildings. She commented that Utica Square is the best example of walkability in the City of Tulsa. It was the first suburban mall and she believes that the idea of Brookside is a better example where one can walk an entire block before having to cross the street.

Ms. Cantrell recognized Ms. Graber.

Ms. Graber stated that Ms. Kobos made the comment that she never received a poll. When this particular development was brought to the association's attention for the first time, there were new officers for a two-year term. Ms. Kobos and Penny Tipton brought the development to the new officers' attention at their first meeting. Ms. Graber indicated that at that time, they chose to have a meeting and Ms. Kobos knew about the meeting and chose not to come to the meeting. That is why she did not get a poll. At the next meeting of the officers, Ms. Kobos asked if anyone knew or take an accounting of the poll that was given out. She was given the same information that was submitted today. She knew about the poll, has seen the poll and she had a chance to show up at the original meeting to voice her opinion. Ms. Kobos has been a part of all of the negotiations. Ms. Kobos, the Claxtons and Penny Tipton have worked very hard to represent themselves in this whole process. There are a few people who have voiced their opinions as far as preferring something else and they had opportunities to come to the meetings. Ms. Graber indicated that meeting notices are sent by email to everyone signed up on the email list. The meetings are open and are not just for a few people for or against something. She stated that the Claxtons were at every meeting and she worked very hard to make sure everyone was included and voices were heard. Mr. Novick worked very hard to make sure that the people who had issues with this development were heard.

Applicant's Rebuttal:

Mr. Reynolds stated that Mr. Novick asked him to make a clarification and that is in the October 15th letter, paragraph three about limitations on outside storage, that is also a neighborhood requirement as well. He indicated that he is agreeable to this and it was overlooked the first time around.

Mr. Reynolds stated that he respectfully disagrees with Ms. Kobos because there is absolutely nothing in Bixby that looks anything like the subject proposal. Mr. Reynolds further stated that there will be a brick veneer façade with stainless steel sign tracking, architectural screening, slate roofs, etc. During the

interaction with the neighborhood, there was give-and-take in the process. The architect for the neighborhood didn't feel that the subject project was too big and tightening it down would damage the scale and hurt it. The issue of signage was to concede the pole signs to make it friendly. The landscaping has been greatly improved and there is not a center landscaped like this in town. He believes that the Planning Commission can see from the plans that there is not one for more walkability. Mr. Reynolds concluded that he disagrees with Ms. Kobos and he believes that this is a good project. That is why there is so much support within the neighborhood and it is why this room is not full like it was the last time.

Mr. Reynolds stated that there was a traffic study done for the Wal-Mart proposal and he doesn't expect to get the Wal-Mart type of traffic for the subject proposal. Harvard was to be found to be at Levels B, C and D and those are not failing scores for traffic, but are considered very acceptable.

TMAPC COMMENTS:

Ms. Wright stated that recently she was in the subject area and there was no public hearing sign on the subject property and she was wondering if the lack of neighborhood representation today might be because there was no public hearing sign out front of the location. In response, Ms. Cantrell reminded Ms. Wright that there was a public hearing sign on the subject property initially, but this case has been continued several times. Ms. Wright stated that she would like to get her point across that when a case is continued for public hearing that sign should be reissued. In response, Mr. Reynolds stated that the public hearing signs were posted correctly and it has been the custom for all time and has never been a problem and he doesn't believe it is a problem here. There was a lot of interaction with Mr. Novick and Ms. Graber to reach the neighbors and phone calls made regarding the previous hearings.

Mr. Shivel stated that the initial meetings held here and the initial discussions did have a higher content of neighborhood people, but his impression is that, as a result of the work that was done between the developer and the neighborhood, the contentious issues were reduced. This is indicated by the homeowners association coming forward that they agree. In response, Mr. Reynolds stated that there is some validity to Mr. Shivel's statements because there was one gentleman who didn't want the Wal-Mart, but after seeing the new proposal, he was supportive.

Ms. Cantrell stated that she doesn't have a problem with the commercial development, but she does believe that the placement of the lots is very arbitrary. It would be helpful to line them up some and she asked if that could be accomplished in order to allow customers to walk from one building to another. In response, Mr. Reynolds stated that his client has agreed with the neighbors that if that option becomes available on Lot 3, then he will attempt to do so. Mr. Reynolds further stated that he has heard from both sides on lining them all up or having them broken up. Some believe that having them broken up looks good.

Mr. Reynolds explained that he is currently in negotiations with a potential tenant and he believes the neighborhood will appreciate the possible tenant. Mr. Reynolds further explained that the point about having a walkway in front of a possible drive-through will be corrected and the details will be right once the detail site plan is developed.

Mr. Boulden asked Mr. Reynolds if there is parking all around Lot 4 and questioned where the service area would be located. In response, Mr. Reynolds stated that the concept plan was to show what the site would look like fully developed and the building on Lot 4 is speculative at this time.

Mr. Boulden asked if the landscaping plan is for no landscaping required on the east of Lot 4 or the south of Lot 3 until they are developed. In response, Mr. Reynolds stated that until either Lot 3 or 4 is developed, there will be exterior landscaping installed. The screening fence goes up with commencement of the first development. The perimeter landscaping will go up with either Lot 3 or 4 and at that time, they would have the ability to irrigate and take care of it.

Mr. McArtor asked Mr. Reynolds if he had time to compare the letter of agreement to the staff recommendation. Mr. McArtor stated that he wants to make sure that the Planning Commission knows what they are voting for. In response, Mr. Reynolds stated that he has compared the two and they are consistent.

Mr. McArtor stated that he likes the rezoning and PUD and the only distinction is whether the 15,000 SF is going to be rezoned. The applicant wants it to make sure that it will be commercial and there doesn't seem to be any objection to that. Mr. McArtor stated that he would support the rezoning including the 15,000 SF and he supports the PUD.

Mr. Marshall stated that he believes that the subject property is finally reaching its potential as highest and best use. Mr. Marshall explained that the applicant could be asking for another 30,000 SF in office space as he understands it and they are want to go retail and commercial. He believes that the applicant did a good job working with the neighbors to satisfy their issues. He concluded that he would support this proposal including the OL being rezoned to CS.

Mr. Walker stated that he would move to approve the rezoning of Z-7106.

Ms. Cantrell stated that she will be supporting this as well. Ms. Cantrell further stated that she has tremendous amount of respect for Ms. Kobos and she appreciates her push towards new urbanism. Ms. Cantrell commented that if she was designing the subject proposal she would do that. Ms. Cantrell stated that she believes that there will have to be a groundswell of people wanting this before it can be enforced and she is not seeing it in this particular neighborhood. Once we start saying that we are going to force developers to develop according

to a specific vision, it has to be very clear that that vision is shared. She is not seeing that vision being shared at this time. Ms. Cantrell stated that she would like to see the subject development as being pedestrian friendly as possible, but she is not seeing enough opposition to deny this because it doesn't look the way the neighborhood wants it to look. She appreciates the efforts of the developer to work this out with the neighbors and it may never be 100 percent of what the neighbors agree to, but she thinks this is what we need to try to encourage is at least the effort. Ms. Cantrell concluded that she will support this proposal and doesn't see any reason to not go forward and allow the additional CS zoning.

Mr. Shivel called for a vote.

Ms. Wright stated that to affirm Ms. Kobos's efforts, when she was driving through the town, a neighbor stated "Manley has more money than God, so he will get what he wants". As empathetic as she is with Tulsans who do want a greater vision, a future vision for this city to be more aesthetically pleasing, more walkable, and more palatable, she is dutifully afraid to say that she understands what this Board is going to vote and she will completely oppose this.

TMAPC Action; 8 members present:

On **MOTION** of **WALKER**, TMAPC voted **7-1-0** (Cantrell, Marshall, McArtor, Midget, Shivel, Smaligo, Walker "aye"; Wright "nay"; none "abstaining"; Ard, Carnes, Sparks "absent") to recommend **APPROVAL** of CS zoning for Z-7106 as applied for by the applicant.

TMAPC Action; 8 members present:

On **MOTION** of **MCARTOR**, and amended by **CANTRELL**, TMAPC voted **7-1-0** (Cantrell, Marshall, McArtor, Midget, Shivel, Smaligo, Walker "aye"; Wright "nay"; none "abstaining"; Ard, Carnes, Sparks "absent") to recommend **APPROVAL** of PUD-761 per staff recommendation, subject to letter received October 1, 2008 and October 15, 2008, subject to any discrepancies between the two letters and the staff recommendation the two letters will govern, subject to there being 60,000 SF of retail use. (Language with a strike-through has been deleted and language with an underline has been added.)

Legal Description for Z-7106:

A TRACT OF LAND THAT IS PART OF LOTS 1, 2 AND 3 OF BLOCK 1 OF "VILLA GROVE HEIGHTS NO. 1" AN ADDITION TO CITY OF TULSA, ACCORDING TO THE RECORDED PLAT THEREOF AND ALSO PART OF THE NW/4 OF THE NW/4 OF SECTION 28, T-19-N, R-13-E OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, OKLAHOMA, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: STARTING AT THE NORTHWEST CORNER OF SAID SECTION 28; THENCE S 89°54'00" E ALONG THE NORTHERLY LINE OF SECTION 28 FOR 200.00' TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND; THENCE CONTINUING S 89°54'00" E ALONG SAID NORTHERLY LINE FOR 100.00' TO

A POINT ON THE NORTHERLY EXTENSION OF THE EASTERLY LINE OF THE WESTERLY 250' OF LOTS 1, 2 AND 3; THENCE DUE SOUTH ALONG SAID EXTENSION AND SAID EASTERLY LINE FOR 400.00' TO A POINT THAT IS 50' SOUTHERLY OF THE NORTHERLY LINE OF LOT 3; THENCE N 89°54'00" W AND PARALLEL WITH SAID NORTHERLY LINE FOR 300.00' TO A POINT ON THE WESTERLY LINE OF SECTION 28; THENCE DUE NORTH ALONG SAID WESTERLY LINE FOR 200.00' TO A POINT ON THE WESTERLY EXTENSION OF THE SOUTHERLY LINE OF LOT 1; THENCE S 89°54'00" E ALONG SAID EXTENSION AND SOUTHERLY LINE FOR 200.00'; THENCE DUE NORTH AND PARALLEL WITH THE WESTERLY LINE OF SECTION 28 FOR 200.00' TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND. **From RM-2/OL (Residential Multi-family District/Office Low Intensity District) To CS (Commercial Shopping Center District).**

Legal Description for PUD-761:

A TRACT OF LAND THAT IS ALL OF LOTS 1, 2, 3, 4 AND THE WESTERLY 200' OF LOTS 23, 24, 25 AND 26 IN BLOCK 1 OF "VILLA GROVE HEIGHTS NO. 1", AN ADDITION TO THE CITY OF TULSA, ACCORDING TO THE RECORDED PLAT THEREOF AND ALSO PART OF THE NW/4 OF THE NW/4 OF SECTION 28, T-19-N, R-13-E OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, OKLAHOMA, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: "BEGINNING AT A POINT" THAT IS THE NORTHWEST CORNER OF SAID SECTION 28; THENCE S 89°54'00" E ALONG THE NORTHERLY LINE OF SECTION 28 FOR 600.00' TO A POINT OF THE NORTHERLY EXTENSION OF THE EASTERLY LINE OF THE WESTERLY 200' OF SAID LOTS 23, 24, 25 AND 26; THENCE DUE SOUTH ALONG SAID EXTENSION AND SAID EASTERLY LINE FOR 600.00' TO A POINT ON THE SOUTHERLY LINE OF LOT 23; THENCE N 89°54'00" W ALONG THE SOUTHERLY LINE OF LOT 23 AND LOT 4 AND THE WESTERLY EXTENSION THEREOF FOR 600.00' TO A POINT ON THE WESTERLY LINE OF SECTION 27; THENCE DUE NORTH ALONG SAID WESTERLY LINE FOR 600.00' TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND. THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 360,000 SQUARE FEET OR 8.2645 ACRES. THE BEARINGS USED IN THE ABOVE LEGAL DESCRIPTION ARE BASED ON THE WESTERLY LINE OF THE NW/4 OF SECTION 28, T-19-N, R-13-E HAVING AN ASSUMED NON-ASTRONOMICAL BEARING OF DUE NORTH. **From RM-2/OL/CS/RS-1 (Residential Multi-family District/Office Low Intensity District/Commercial Shopping Center District/Residential Single-Family District) To RS-1/OL/CS/PUD (Residential Single-Family District/Office Low Intensity District/Commercial Shopping Center District/Planned Unit Development [PUD-761]).**

Ms. Wright out at 3:55 p.m.

19. Z-7112 – Sisemore Weisz & Associates, Inc.

10733 East 61st Street South

RS-3 to IL

(PD-18c) (CD-5)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11875 dated June 26, 1970, established zoning for the subject property.

PROPOSED ZONING: IL

PROPOSED USE: Future Irrigation
System Supply Company

RELEVANT ZONING HISTORY:

Z-7021 June 2006: All concurred in approval of a request for rezoning a .93± acre tract of land from RS-3 to IL for enclosed equipment building on property located at 5703-5705 South 107th East Avenue.

BOA-20118 September 2005: The Board of Adjustment approved a Special Exception to allow a public park on a 48± acre tract that is a detention pond, subject to Public Works and/or Parks Department submitting a site plan addressing parking facilities and/or fencing according to the wishes of the neighborhood; per amended legal description and located northwest of the northwest corner of East 61st Street and South Garnett Road and abutting east of the subject property.

Z-6969 February 2005: All concurred in approval of a request to rezone a 1.9 ± acre tract from RS-3 to IL for a water products company, located at 5903 South 107th East Avenue and abutting north of subject property.

Z-6877 February 2003: All concurred in approval for a request to rezone a 1.16-acre tract from RS-3 to IL for a landscape service, located north of the subject property.

BOA-19162 August 2001: The Board of Adjustment approved a Variance of the required 75' setback from an RS district to 5' for new construction located at 5700 South 107th East Avenue, finding that the hardship is the RS district is Highway 169, and the area is transitioning to industrial and commercial uses, and residential is not consistent with the use at this time.

Z-6662 December 1998: All concurred in approval of a request to rezone a 1.1-acre tract abutting the subject property on the south from RS-3 to IL.

Z-5956-SP-2 June 1993: Staff recommended denial of a proposed Corridor Site Plan on a 9.5± acre tract of land for a convenience store at the northwest corner and a restaurant at the northeast corner with the remainder undeveloped on

property located east of the southeast corner of South 107th East Avenue and East 61st Street South and south of subject property. The TMAPC and City Council concurred in approval of the application.

Z-6344-SP-1 April 1992: Staff recommended denial of a proposed Corridor Site Plan on a 2.09± acre tract of land for a retail/wholesale sprinkler system business that includes a two-story, 2,625 square foot building on property located on the southeast corner of East 61st Street South and Highway 169 South, and south of subject property. The TMAPC and City Council concurred in approval of the application.

Z-5347 February 1980: All concurred in approval of a request for rezoning a tract of land from RS-3 to IL on property located and abutting the southwest of subject property.

Z-5302 April 1980: All concurred in approval of a request for rezoning a tract of land from RS-3 to IL on property located and abutting the subject property to the west.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately .438± acres in size and is located 10733 East 61st Street South. The property appears to be largely vacant/undeveloped (the applicant's representative indicates that the outbuildings are to be cleared) and is zoned RS-3. Although not apparent on the lots/blocks map, South 107th East Avenue has been dedicated and now abuts the subject property on the south on land that was previously dedicated to the State of Oklahoma.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South 107 th East Avenue	N/A	50'	2
East 61 st Street	Secondary arterial	100'	4

UTILITIES: The subject tract has municipal water and sewer available.

SURROUNDING AREA: The subject tract is abutted on the east by stormwater facilities, zoned RS-3; on the north by vacant land, zoned IL; on the south by vacant land (dedicated State right-of-way), zoned RS-3; and on the west by large-lot single-family residential/mixed uses and outbuildings, zoned IL.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18c Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being within Special District 1-Industrial Area. According to the Zoning Matrix, the requested IL zoning **may be**

found in accord with the Plan by virtue of its location within a Special District. Plan policies encourage location of future industrial uses within this area.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, existing land uses and trends in the area, staff can support the requested rezoning and recommends **APPROVAL** of IL zoning for Z-7112.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **7-0-0** (Cantrell, Marshall, McArtor, Midget, Shivel, Smaligo, Walker "aye"; no "nays"; none "abstaining"; Ard, Carnes, Sparks, Wright "absent") to recommend **APPROVAL** of IL zoning for Z-7112 per staff recommendation.

Legal Description for Z-7112:

The east 88' of the north 216.95' of the south 376.95' of Lot 15, Bock 1, Golden Valley Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof; **From RS-3 (Residential Single-family District) To IL (Industrial Light District).**

20. **Z-7113 – Wallace Engineering**

AG to IL

West of the southwest corner of East Admiral Place &
South 161st East Avenue

(PD-17) (CD-6)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11818 dated June 26, 1970, established zoning for the subject property.

PROPOSED ZONING: IL

PROPOSED USE: Undecided

RELEVANT ZONING HISTORY:

Z-6939 April 2004: All concurred in the approval of a request to rezone a 6 acre tract from RS-3 to IL for horse and cargo trailer sales and service located east of the northeast corner of East Admiral Place and South 145th East Avenue and northwest of subject property.

Z-6875/PUD-679 June 2003: All concurred in approval of a request for rezoning a 15 acre tract of land from AG/SR/CS/IL to IL/PUD for Auto Auction and storage,

located on the southwest corner of East Admiral Place and South 161st East Avenue and east of subject property.

Z-6823 July 2001: All concurred in approval of a request to rezone a 2.04-acre tract from RS-3 to IL for the continuation of a parking and storage area for an automobile auction, located on the north side of East Admiral Place and west of South 161st East Avenue.

PUD-560-1 July, 1997: All concurred in approval of a minor PUD amendment to reconfigure Development Areas 1-3 to create Development Area 5, with no additional building floor area, signage or other changes to the PUD standards. Development Area 4 is to remain a drainage way.

Z-6587/PUD-560 May, 1997: All concurred in approval of a request for rezoning a 12.5-acre tract of land from AG to IL/PUD-560 per staff recommendations and including a 100' drainage way in Development Area 4, located west of the southwest corner of East Admiral Place and South 161st East Avenue and abutting north of subject property.

Z-6585/PUD-556 February 1997: A request was made to rezone a 4.5-acre tract, from SR to CS or IL and a Planned Unit Development. Approval was granted for IL zoning to a depth of 350' fronting East Admiral Place with the balance of the tract to remain as SR zoning and approval of the proposed PUD, located on the south side of Admiral Place and west of 161st East Avenue, and abutting northeast of the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 30± acres in size and is located west of the southwest corner of East Admiral Place and South 161st East Avenue. The property appears to be vacant and is zoned AG.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East Admiral Place*	Secondary arterial	100'	4
South 156 th East Avenue	N/A	N/A	2

*This property does not have direct frontage on East Admiral Place, but the applicant's representative indicates the owner is also the owner of the property directly north, PUD-560, but does not wish to include this as part of the PUD.

UTILITIES: The subject tract has municipal water and sewer available.

SURROUNDING AREA: The subject tract is abutted on the east by vacant land, zoned PUD-679/SR; on the north by vacant land, zoned PUD-560/IL; on the south by vacant land and large-lot single-family residential uses, zoned AG; and

on the west by vacant land, zoned RMH and AG. Farther north across Admiral Place are a mixture of industrial and related uses, zoned IL.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 17 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Medium Intensity-Industrial land use-. According to the Zoning Matrix, the requested IL zoning is in accord with the Plan.

STAFF RECOMMENDATION:

A number of industrial uses currently exist in this area and the Plan clearly contemplates that the area will continue to develop industrially. Therefore, based on the Comprehensive Plan, existing nearby uses and trends in the area, staff recommends **APPROVAL** of IL zoning for Z-7113.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **7-0-0** (Cantrell, Marshall, McArtor, Midget, Shivel, Smaligo, Walker "aye"; no "nays"; none "abstaining"; Ard, Carnes, Sparks, Wright "absent") to recommend **APPROVAL** of IL zoning for Z-7113 per staff recommendation.

Legal Description for Z-7113:

The W/2 of the SW/4 of the NE/4 and the W/2 of the E/2 of the SW/4 of the NE/4 of Section 3, T-19-N, R-14-E, Tulsa County, State of Oklahoma; **From AG (Agriculture District) To IL (Industrial Light District).**

OTHER BUSINESS:

Commissioners' Comments

Ms. Cantrell reminded the Planning Commission that the National Trust Conference will be in Tulsa next week. She encouraged everyone to attend.

There being no further business, the Chair declared the meeting adjourned at 4:00 p.m.

Date Approved:

11/8/08
[Signature]
Chairman

ATTEST:

[Signature]

Secretary