

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2542

Wednesday, March 18, 2009, 1:30 p.m.

City Council Chambers

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

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Cantrell	Marshall	Alberty	Boulden, Legal
Carnes	Sparks	Fernandez	Steele, Sr. Eng.
Keith		Huntsinger	Warlick, Plan. Dept.
Leighty		Matthews	
McArtor		Sansone	
Midget			
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, March 13, 2009 at 9:20 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

### REPORTS:

#### Comprehensive Plan Report:

**Theron Warlick**, Planner for the City of Tulsa, reported on the progress of Planitulsa and their development scenarios.

#### Director's Report:

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

Mr. Alberty reported that the Mayor's Task Force will be meeting to discuss communications and education next Friday on March 27<sup>th</sup> and have asked TMAPC staff to give a presentation on notices and processes.

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**Minutes:**

**Approval of the minutes of February 18, 2009 Meeting No. 2539**

On **MOTION** of **CARNES**, the TMAPC voted 9-0-0 (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Marshall, Sparks "absent") to **APPROVE** the minutes of the meeting of February 18, 2009, Meeting No. 2539.

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**Minutes:**

**Approval of the minutes of February 25, 2009 Meeting No. 2540**

On **MOTION** of **CARNES**, the TMAPC voted 9-0-0 (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Marshall, Sparks "absent") to **APPROVE** the minutes of the meeting of February 25, 2009, Meeting No. 2540.

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

Ms. Cantrell stated that Item 4 has interested parties wishing to speak and will be removed from the consent agenda.

**CONSENT AGENDA**

All matters under "Consent" are considered by the Planning Commission to be routine and will be enacted by one motion. Any Planning Commission member may, however, remove an item by request.

- 2. **Shwiyat Estates** – (8419) Reinstatement of Plat (PD 5) (CD 5)  
North of 21<sup>st</sup> Street South, West of South Memorial Drive
- 3. **PUD-625 – Douglas Huber** (PD-18) (CD-8)  
South side of 81<sup>st</sup> Street, approximately ¼ mile east of Mingo Road  
(Detail Site Plan and landscape plan for a 14,835 square foot office building.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site and landscape plan for a 14,835 square foot office building. The proposed use, Use Unit 11 – Office, Studios, and Support Services is a permitted use within PUD-625.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Parking has been provided per the applicable Use Unit within the Zoning Code. Landscaping is provided per the landscape chapter of the Zoning Code and adopted PUD development standards. On the north side of this lot is a 50-foot green belt, which is within the dedicated ROW for the future widening of 81<sup>st</sup> Street. The existing 50-foot area is providing a green buffer between this parcel and the paved surface of 81<sup>st</sup> Street (see attached case map aerial photograph and Exhibit A). Landscaping will be provided in this area along 81<sup>st</sup> Street for this proposal. It is anticipated that at the time of the expansion of 81<sup>st</sup> Street, a five-foot landscaping strip and sidewalks will be addressed for the entire development area/PUD along 81<sup>st</sup> Street. Site lighting has been provided and will be limited to 12' in total height. All lighting will be directed down and away from adjoining properties so as to not create a nuisance to any abutting residential properties and has been verified by application of the Kennebunkport Formula. A trash enclosure has been provided per adopted PUD development standards.

Staff recommends **APPROVAL** of the detail site plan for Lot 1, Block 1 – College Center at Meadowbrook, Development Area “1”, PUD-625.

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

5. **PUD-312-A-10 – Pamela Deatherage, McFarland** (PD-18) (CD-6)

Northwest of the northwest corner of 51<sup>st</sup> Street and Garnett Road (Minor Amendment to divide an existing development area into two new development areas, reallocating the existing floor area and reestablishing existing development standards.) (Related to 6.)

**STAFF RECOMMENDATION:**

PUD-312-A-10 is a minor amendment request to divide an existing development area into two new development areas, reallocate the existing floor area between the two new development areas and re-establish existing development standards. With this application there is no request to increase permitted floor area, change existing permitted uses or amend development standards in any way.

Approval of minor amendment PUD-312-A-5 in August 2004 established the existing Development Area B-1-C and carried over all the original development standards as established by PUD-312-A to Development Area B-1-C. As stated above, PUD-312-A-10 will create two new development areas (B-1-C-1 and B-1-C-2) as depicted on Exhibit A and establish development standards for each Development Area. The minor amendment will allow for the expansion of the Tulsa Bone and Joint campus facilities, the detail site plan for which is concurrently on the 3/18/09 agenda of the TMAPC and is attached herein as Exhibit B for reference.

Since there are no requested changes in permitted floor area, changes in permitted uses or modifications to any development standards of for development area B-1-C of PUD-312-A staff recommends **APPROVAL** of minor amendment PUD-312-A-10 for the property described in Exhibit C, subject to the following development standards:

**Development Area B-1-C-1:**

**Permitted Uses:** Use Unit 11 – Offices Studios and Support Services; 12 – Eating Establishments, other than Dive-ins; 13 – Convenience Goods and Services; 14 – Shopping Goods and Services; 17 (Vehicle Repair and Service Only); 19 – Hotel, Motel and Recreation; Use Unit 21 – Business Signs and Outdoor Advertising (including outdoor advertising); and 22 – Scientific Research and Development.

**Maximum Permitted Floor Area:**

Use Units 12, 13, 14, 16, and 17:	46,120 so
Use Units 11, 19, and 22:	72,000 SF

**Off-street Parking:**

As required by the applicable Use Unit within the Tulsa Zoning Code.

**Maximum Building Height:**

None.

**Minimum Building Setbacks:**

From the centerline of 109 <sup>th</sup> east Ave.:	55'
From the west property line:	10'
From all other PUD area boundaries:	10'

**Minimum Landscaped Open Space:**

As required by Section 1104-E and Chapter 10 of the Tulsa Zoning Code.

**Signs:**

Per Section 1103-B-2 of the Tulsa Zoning Code.

**Development Area B-1-C-2:**

**Permitted Uses:** Use Unit 11 – Offices Studios and Support Services; 12 – Eating Establishments, other than Dive-ins; 13 – Convenience Goods and Services; 14 – Shopping Goods and Services; 17 (Vehicle Repair and Service Only); 19 – Hotel, Motel and Recreation; Use Unit 21 – Business Signs and Outdoor Advertising (including outdoor advertising); and 22 – Scientific Research and Development.

**Maximum Permitted Floor Area:**

Use Units 12, 13, 14, 16, and 17:	46,120 SF
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Use Units 11, 19, and 22:

274,821 SF

**Off-street Parking:**

As required by the applicable Use Unit within the Tulsa Zoning Code.

**Maximum Building Height:**

None.

**Minimum Building Setbacks:**

From the centerline of 109 <sup>th</sup> East Ave.:	55'
From the west property line:	10'
From all other PUD area boundaries:	10'

**Minimum Landscaped Open Space:**

As required by Section 1104-E and Chapter 10 of the Tulsa Zoning Code.

**Signs:**

Per Section 1103-B-2 of the Tulsa Zoning Code.

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

6. **PUD-312-A – Pamela Deatherage, McFarland** (PD-18) (CD-6)

Northwest of the northwest corner of 51<sup>st</sup> Street and Garnett Road  
(Detail Site Plan for construction of a 46,500 SF medical office building.)  
(Related to 5.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for construction of a 46,500 square foot (SF) medical office-building. The proposed use, Use Unit 11 – Offices, Studios and Support Services is a permitted use by PUD-312-A.

The submitted site plan meets all applicable building floor area, open space, and setback limitations as established by PUD-312-A as amended, and concurrent minor amendment application PUD-312-A-10 also on the 3/18/09 agenda of the TMAPC. Parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping is provided per the landscape chapter of the Zoning Code. All sight lighting is limited to a maximum of 32' in total height and will be directed down and away from adjoining properties. A trash enclosure has been provided as required by the PUD.

Staff recommends **APPROVAL** of the detail site plan for the 46,500 SF medical office-building in PUD-312-A subject to the parallel approval of minor amendment PUD-312-A-10.

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

**TMAPC COMMENTS:**

Ms. Cantrell stated that Item 4 has an interested party signed up and this item will be removed from the consent agenda.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Marshall, Sparks "absent") to **APPROVE** the consent agenda Items 2, 3, 5 and 6 per staff recommendation.

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**CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA**

4. **PUD-764-1 – Bill Lewis** (PD-18) (CD-7)

South of the southwest corner of Vandalia Avenue and Yale Avenue (Minor Amendment to waive the five-foot landscape buffer along the western and northern portion of the site which was inadvertently made a part of the approval of PUD-764.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to waive the five-foot landscape buffer along the western and northern portion of the site which was inadvertently made part of the approval of PUD-764.

The landscape requirement for PUD-764 currently reads:

The street yard along Vandalia Avenue shall be landscaped according to the landscape chapter of the Zoning Code with the exception of access points from Vandalia Avenue. A six-foot wrought iron fence will be erected along the southern boundary of the PUD. In addition to the six-foot wrought iron fence along the southern boundary, a minimum five-foot landscape buffer will be installed inside the fence, with excessive, mature landscaping at the time of planting to ensure that the fence may not be seen through. ~~The five-foot landscape buffer shall be extended around the perimeter of the site.~~

Section 1002, A-3 of the Zoning Code reads, "...within the lot, off-street parking areas shall be separated from an abutting residential district or residential development area in a PUD, by a landscaped area which is not less than five feet in width".

Referring to the attached case report zoning map and aerial photographs, as well as Exhibit A, the western boundary of PUD-764 is directly adjacent to a CH zoned district which is the site of a mini-storage complex. By Code, when a straight CG zone abuts a CH-zoned district, there is no perimeter landscape requirement along the common boundary line.

Referring again to the aforementioned exhibits, the north boundary of PUD-764 will be in the middle of what will be a mutual access easement for a commonly shared parking lot with the future development on the CH zoned property immediately to the north. This is also a CG/PUD district abutting directly to a CH zoned district.

Therefore, staff recommends **APPROVAL** of minor amendment PUD-764-1 on the property described in Exhibit B, amending the landscape and screening requirement for PUD-764 to read:

“The street yard along Vandalia Avenue shall be landscaped according to the landscape chapter of the Zoning Code with the exception of access points from Vandalia Avenue. A six-foot wrought-iron fence will be erected along the southern boundary of the PUD. In addition to the six-foot wrought iron fence along the southern boundary, a minimum five-foot landscape buffer will be installed inside the fence, with excessive, mature landscaping at the time of planting to ensure that the fence may not be seen through. A minimum five-foot landscape buffer shall be extended along the south and eastern boundary of the site except at access points along Vandalia Ave”.

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

**TMAPC COMMENTS:**

Ms. Cantrell stated that she has no problem with eliminating the northern border, but she remembers that there was a lot of concern about the western border. She requested that some trees be required to add more buffering between the proposed building and the mini-storage. Mr. Sansone stated that the five-foot landscape buffer will not change the setback on the proposed building and it will not change the visibility of the building. The Planning Commission can require that the buffer remain along the western border. The mini-storage facility will provide more buffer than a five-foot wide strip of grass. Ms. Cantrell asked if the five-foot buffer would be needed to grow some trees. Mr. Sansone stated that there is no tree requirement along the western boundary line and they are only required to have a strip of grass. The applicant is required to plant trees on the street side landscaping and in the parking areas in an island for interior lots. The trees required for the parking areas can be planted anywhere behind the building setback line from the street side. There is a portion of the boundary that will be heavily landscaped so that one can't see through the wrought-iron fence. Ms.

Cantrell stated that Mr. Sansone answered her question and she didn't realize that the parking lot would be located there and there will be trees in the parking lot. Mr. Sansone stated that part of this PUD included a request by Traffic Engineering to study the feasibility for closing 53<sup>rd</sup> Street. Mr. Brown, Traffic Engineering, stated that as long as another access point was provided to allow for emergency access, then there would be no problem with closing a portion of 53<sup>rd</sup> Street.

Ms. Wright stated that when the Planning Commission first discussed this PUD there were a lot of homeowners represented. She asked if they have been notified that they are planning to change what was agreed upon at that time. Mr. Sansone stated that the notification that went out for the PUD is the same as the notification that will go out for a minor amendment (whoever was notified for the PUD was also notified for the minor amendment).

Ms. Wright stated that she doesn't recall that it was inadvertently placed in there and she believes that it was an agreement to try and soften the burden that this neighborhood is going to have by having a hotel crammed into a neighborhood. There was a lot discussion on this subject. In response, Mr. Sansone stated that he actually wrote that requirement in himself and that is why it was inadvertently added. Mr. Sansone explained that it was never a proposal of the developer and staff inadvertently added that language to the PUD.

**Applicant's Comments:**

**Bill Lewis**, Lewis Engineering, 6420 South 221<sup>st</sup> East Avenue, Broken Arrow, Oklahoma 74014, stated that he is in agreement with the staff recommendation. He explained that if he landscaped the area on the west side the building, which has an eave height of ten or twelve feet, most trees planted in a small area will not get to that height and will not serve a purpose and the mini-storage is providing more of a buffer.

**TMAPC COMMENTS:**

Ms. Cantrell stated that she understands Mr. Lewis's comments about the northern border and what he is saying about the trees. However, it would be helpful if there were just a couple of trees in that area. Mr. Lewis stated that there will be trees in the separate islands with the parking lot in the subject area. He explained that there will not be much of a tree-root system to plant large trees.

**Interested Parties Comments:**

**Jeff Hamra**, 4512A East 51<sup>st</sup>, 74135, stated that he is the property owner/manager of the mini-storage adjacent to the subject property. He explained that he has been located on his property for more than 35 years. Previously on the subject property were tennis courts and between the courts and his property there was grass and other type of landscaping. This allowed a buffer zone for water to percolate and drain. When the subject property was



purchased and asphalted it caused runoff water to come into his property. He feels if the landscaping is in place, it would help to keep the water off of his property. Mr. Hamra stated that he would like to see landscaping to prevent water coming onto his property.

**TMAPC COMMENTS:**

Mr. Hamra explained to Mr. McArtor that since the asphalt has been removed, he doesn't have any water problems on his property. The natural design of the subject property drains toward his property and he would like to prevent that from happening.

**Applicant's Rebuttal:**

Mr. Lewis stated that the west side will be curbed and a storm sewer added that will take the water to the north into the box at the northwest corner of the subject site.

**TMAPC COMMENTS:**

Mr. McArtor recognized Mr. Hamra.

Mr. McArtor asked Mr. Hamra if Mr. Lewis's comments regarding the stormwater satisfy his concerns. In response, Mr. Hamra answered affirmatively. Mr. Hamra indicated that he would like to meet with Mr. Lewis regarding the design for the runoff.

Ms. Cantrell stated that she doesn't have a problem with removing the five-foot landscaping of grass, but she was concerned about keeping trees. Since that is not really dictated as it is she is fine with the staff recommendation. She would like Mr. Lewis to take into account of how some trees right up against the border would offer some protection to the neighborhoods.

Mr. Carnes moved to approve the staff recommendation.

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-1-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, "aye"; Wright "nay"; none "abstaining"; Marshall, Sparks "absent") to **APPROVE** the minor amendment for PUD-764-1 per staff recommendation. (Language with a strike-through has been deleted and language with an underline has been added.)

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Ms. Cantrell indicated that there have a couple of requests for continuances:

- 11. **Heritage Landing –** (0329) Authorization for Accelerated (PD 3) (CD 3)  
Release of Building Permit

West of the Southwest corner of Apache and North Harvard Avenue  
(Continuance requested to the 4/1/09 agenda for further review of  
floodplain on site.) (Related to Item 10.)

**STAFF RECOMMENDATION:**

The applicant has requested a continuance to April 1, 2009 for further review of  
floodplain on site.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Leighty,  
McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining";  
Marshall, Sparks "absent") to **CONTINUE** the authorization for accelerated  
release of building permit to April 1, 2009.

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- 12. **Z-7124 – DeShazo, Tang & Associates** **RS-3/RM-2 to CS**

Southwest corner of East 15<sup>th</sup> Street and South (PD-4) (CD-4)  
Indianapolis Avenue (west 36 feet of Lots 18, 19 and 20.)  
(Related to Item 13.) (Continued from 1/21/09) (Applicant  
is requesting a continuance to April 1, 2009 in order to  
submit a PUD.)

- 13. **Z-7125 – DeShazo, Tang & Associates** **RS-3 to RM-2**

South of southwest corner of East 15<sup>th</sup> Street and South (PD-4) (CD-4)  
Indianapolis Avenue (Related to Item 12.) (Continued  
from 1/21/09) (Applicant is requesting a continuance to  
April 1, 2009 in order to submit a PUD.)

**STAFF RECOMMENDATION:**

The applicant has requested a continuance for Items 12 and 13 to June 3, 2009  
in order to submit a PUD.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Marshall, Sparks "absent") to **CONTINUE** Z-7124 and Z-7125 to June 3, 2009.

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**\*16. PUD-769 – Hunter Construction MGT, Inc.**

**OL to OL/PUD**

East of the northeast corner of East 81<sup>st</sup> Street and South Yale Avenue (PUD to divide the subject property into four or five pad sites for Use Unit 11 – Office, Studio and Support Services only.) (Continued from March 4, 2009.) (PD-18) (CD-8)

Ms. Cantrell stated that she received a letter from the neighborhood association requesting a continuance for Item 16. She explained that there are several people signed up for Item 16. The reason that the Planning Commission asked for a continuance last time was to allow the Planning Commissioners to get more information. It was not intended to continue the public hearing or to seek out more information in general. The Planning Commission is always happy to grant continuances for neighborhood groups or developers prior to the public hearing. She is uncomfortable with this request because the Planning Commission is not soliciting more information.

Ms. Wright stated that she understood if there was any new information the Planning Commission would hear it.

Ms. Cantrell reiterated that if Planning Commissioners wish to call on individuals, that would be their prerogative. It was not her understanding that the Planning Commission would rehash the whole application again.

Ms. Wright stated that is why there is new information that could be discussed. She believes that there is new information in reference to the letter by Mr. Tims. The Planning Commission might want to inquire if the neighborhood has been able to find out anything more about these issues.

Mr. Leighty stated that he doesn't personally think that those are zoning matters. This is a Public Works issue and really doesn't have anything to do with the zoning part of this application. He recognizes their concerns, but it really wouldn't change the decision that the Planning Commission is scheduled to make today.

Ms. Cantrell stated that several people signed up and she will let them come up and speak to the need for a continuance. The Planning Commission has all of the information that is required and the continuance was not intended to reopen the public hearing.

**Interested Parties Comments:**

**John Thompson**, 8016 South Darlington, 74136, stated that the neighborhood association has sought additional information from the State Department of Environmental Quality. He indicated that he has been in some preliminary conversations with civil engineers. The neighborhood has met with the developers and has had some good dialogue. The neighborhood has submitted an alternate site plan for their consideration that would answer all of our concerns without costing them anything in terms of square footage, parking and construction costs. He was informed by the developer that they need time to get this proposal to their civil engineer for their evaluation. Mr. Thompson indicated that the applicant is in agreement with the continuance.

**Applicant's Comments:**

**Brett Biery**, 11720 South Vandalia, 74137, stated that two weeks ago he was before the Planning Commission and had the PUD presented by staff with a recommendation for approval. All of the building sizes and the drainage issues, screening fences, etc., were all discussed. The Holland Lakes homeowners expressed their concerns and made them clear. The Planning Commission motioned and voted to continue this application for two weeks for the information to be better presented to the Planning Commission and allow site analysis or survey of the subject property and Holland Lakes.

Mr. Biery requested a show of hands of how many Planning Commissioners visited the site and it appeared to be 50% of the Planning Commission.

Mr. Biery stated that he was requested to prepare a three-dimensional representation of this project and he did submit that document along with a site-line drawing, and a perspective line drawing of the eastern building proposed for the offices. He reiterated that he has met with the homeowners as Mr. Thompson stated. He feels that he has done everything that he was asked to do in the two-week timeline.

Mr. Biery stated that he is concerned with the request for a continuance at such short notice. He explained that he gave notice to the Holland Lakes homeowners ten weeks prior to the public hearing. He sent them a letter and a document with exhibits of the proposal. Mr. Biery indicated that he met with the neighbors one week prior to the first hearing and has met with them several times since the continuance. He is concerned that every time he comes up before the Planning Commission, some new information may be presented and he doesn't know when that will end. Currently, the reason for another continuance is for spring break and their need to hire a civil engineer to review the drainage and erosion plan for the proposal, which is already a part of the PUD exhibits. There are seven arrows showing direction of the drainage on the subject property and that is all there is to review at this point and time. If it would please the Planning Commission to continue the application, he would be in favor of that. He has

discussed this with the trustee of the Trust selling the subject property and they have approved to extend the timeline on the contract. Mr. Biery requested that the continuance be no longer than one week.

**TMAPC COMMENTS:**

Ms. Cantrell thanked Mr. Biery for working with the neighborhood.

Ms. Cantrell stated that she would be okay with a one week continuance, but she will not consider delaying it any longer than that.

**TMAPC Action; 9 members present:**

On **MOTION** of **WRIGHT**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Marshall, Sparks "absent") to **CONTINUE** PUD-769 to March 25, 2009.

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**PUBLIC HEARING**

7. **Tom's Kids** – (8333) Preliminary Plat (PD 26) (CD 8)  
Southwest corner of 116<sup>th</sup> alignment and South Yale Avenue  
(Continued from 3/4/09)

**STAFF RECOMMENDATION:**

This plat consists of two lots, one block, on 40 acres.

The following issues were discussed February 19, 2009 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned PUD-399 with RS-1 underlying zoning. All PUD standards must be followed and shown in the covenants.
2. **Streets:** Include standard sidewalk language. Show sidewalk along Yale.
3. **Sewer:** Additional easement may be necessary along the east boundary of the plat. The proposed eight-inch line along the south boundary of the plat is okay in order to provide service for both proposed lots. However, Engineering Wastewater Design has determined that section of "dry" 12-inch diameter sanitary sewer pipe must be installed along the east boundary of the plat. This is required in order to provide for future connection to a sanitary sewer main that will serve the basin to the northeast of your project. Contact Matt Vaughan (596-9564) or Gary McColpin (596-9573) for details concerning this requirement.

4. **Water:** The south ten feet of the north 27.5-foot utility easement on Lots 1 and 2 should be labeled as a ten-foot restrictive waterline easement. All waterline easements not adjacent to other utility easements will need to be 20 feet in size. Add language to the covenants for the restrictive waterline easement. A water mainline extension will be needed to serve each lot.
5. **Storm Drainage:** The northwest corner has a drainage way conveying public drainage across Lot 1. This drainage way must be placed in an overland drainage easement for the conveyance of runoff from 100 year (1% probability rainfall event). Lot 2 may have to provide onsite detention and overland drainage easements when it is developed, but they may be added by separate instrument. Section IA: Remove the word "General" from the title. Section IC3: After the words "ordinary maintenance of public", please change the sentence to say, "water mains, sanitary sewers, and storm sewers". Section IF3: Beginning in the third line from the bottom, please remove the non-standard language, which says "or single trunk trees having a caliper of not less than two and one-half (2 1/2) inches". Please show the planned paving within the mutual access easement. There are two locations where the overland drainage easements cross the conceptually paved roadway. Are these low water crossings or will there be roadway culverts to convey the public drainage under the roadway? Conceptual locations and square footage of buildings, parking lots, and their appurtenances should be shown.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
7. **Other: Fire:** An additional hydrant may be needed. The standard Fire Department comments concerning fire apparatus roads, cul-de-sacs, radius turns, and hydrant spacing and requirements apply.

**GIS:** Fix the inconsistencies between the metes and bounds legal description and what is shown on the face of the plat. Label the point of beginning (POB). The adjacent subdivision, north of this site, should be labeled as "Country", not "County", Squire Estates. Please label the point of beginning and remove the contours from the face of plat. Please provide a basis of bearing, identification of monuments, square footage of each lot and its address. Title the preliminary plat.

Staff recommends **APPROVAL** of the Preliminary Subdivision plat subject to the TAC comments and the special and standard conditions below.

**Waivers of Subdivision Regulations:**

1. None requested.

**Special Conditions:**

1. The concerns of the Public Works Department staff must be taken care of to their satisfaction.

**Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.

12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.



The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Marshall, Sparks "absent") to **APPROVE** the preliminary plat for Tom's Kids subject to special conditions and standard conditions per staff recommendation.

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8. **BOA – 20874** - (0226) Plat Waiver (PD 2) (CD 1)  
North of the northeast corner of North Boston Place and East Queen Street (continued from 3/4/09)

**STAFF RECOMMENDATION:**

The platting requirement is being triggered by a Board of Adjustment case to allow a day care center in an RS-3 zone.

***Staff provides the following information from TAC at their February 19, 2009 meeting:***

**ZONING:**

TMAPC Staff: The property has been previously platted.

**STREETS:**

No comment.

**SEWER:**

No comment.

**WATER:**

No comment.

**STORM DRAIN:**

No comment.

**FIRE:**

No comment.

**UTILITIES:**

No comment.

Staff recommends **APPROVAL** of the plat waiver of the previously platted property.

**A YES answer to the following 3 questions would generally be FAVORABLE to a plat waiver:**

- |   | Yes | NO |
|---|-----|----|
| 1. Has Property previously been platted?  | X   |    |
| 2. Are there restrictive covenants contained in a previously filed plat?                      | X   |    |
| 3. Is property adequately described by surrounding platted properties or street right-of-way? | X   |    |

**A YES answer to the remaining questions would generally NOT be favorable to a plat waiver:**

- |  | YES | NO |
|--|-----|----|
| 4. Is right-of-way dedication required to comply with Major Street and Highway Plan?                   |     | X  |
| 5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived? |     | X  |
| 6. Infrastructure requirements:  |     |    |
| a) Water   |     |    |
| i. Is a main line water extension required?  |     | X  |
| ii. Is an internal system or fire line required?   |     | X  |
| iii. Are additional easements required?  |     | X  |
| b) Sanitary Sewer  |     |    |
| i. Is a main line extension required?  |     | X  |
| ii. Is an internal system required?  |     | X  |
| iii. Are additional easements required?  |     | X  |
| c) Storm Sewer   |     |    |
| i. Is a P.F.P.I. required?   |     | X  |
| ii. Is an Overland Drainage Easement required?   |     | X  |
| iii. Is on site detention required?  |     | X  |
| iv. Are additional easements required?   |     | X  |
| 7. Floodplain  |     |    |
| a) Does the property contain a City of Tulsa (Regulatory) Floodplain?                                  |     | X  |
| b) Does the property contain a F.E.M.A. (Federal) Floodplain?  |     | X  |
| 8. Change of Access  |     |    |
| a) Are revisions to existing access locations necessary?   |     | X  |
| 9. Is the property in a P.U.D.?  |     | X  |
| a) If yes, was plat recorded for the original P.U.D.   |     |    |
| 10. Is this a Major Amendment to a P.U.D.?   |     | X  |
| a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?         |     |    |

- 11. Are mutual access easements needed to assure adequate access to the site? X
- 12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? X

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Marshall, Sparks "absent") to **APPROVE** the plat waiver for BOA-20874 per staff recommendation.

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- 9. **CZ-398** – (0405) Plat Waiver (County)  
 Southeast corner of North 115<sup>th</sup> Avenue and East 66<sup>th</sup> Street North  
 (Applicant has withdrawn request.) (Related to Item 14.)

**STAFF RECOMMENDATION:**

**Withdrawn by applicant.**

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- 10. **Heritage Landing** – (0329) Preliminary Plat (PD 3) (CD 3)  
 West of the Southwest corner of Apache and North Harvard Avenue  
 (Related to Item 11.)

**STAFF RECOMMENDATION:**

This plat consists of one lot, one block, on 3.03 acres.

The following issues were discussed February 19, 2009 at the Technical Advisory Committee (TAC) meeting:

- 1. **Zoning:** The property is zoned RM-3. A Senior Living Center is planned for the site.

2. **Streets:** Plat number 1786 was vacated. Confirm that right-of-way dedicated by the plat was not vacated.
3. **Sewer:** Use the standard language in Section I C. There is also an existing sanitary sewer line along the north side of East Apache Street that would be available for a mainline extension, if you have adequate depth to serve your property.
4. **Water:** Add off-site restrictive waterline easement filed document number.
5. **Storm Drainage:** Flat Rock Creek of Tulsa Regulatory Floodplain covers two-thirds of the site. No construction or fill activities are allowed in the floodplain until the compensatory storage facility is completed. Show and label the compensatory storage easement on the face of the plat. Show the boundary line distances on all four sides of the stormwater detention easement. Show and label both the existing and the proposed Flat Rock Creek Regulatory Floodplain. Add a required minimum finished floor elevation to the face of plat. Please remove contours from the face of the plat. Add an overland drainage easement for the public drainage flowing onto the site from the southeast, or collect the drainage flowing onto the site at the property line, and pipe it across the property in a utility or a storm sewer easement; or do a combination thereof. Please use City of Tulsa standard language for Section I C & H. Add compensatory storage easement and overland drainage easement, City of Tulsa standard language, to Section I. Show and label the compensatory storage easement, both existing and proposed Flat Rock Creek City of Tulsa Regulatory Floodplain, and all overland drainage easements. All storm drainage systems that receive and convey offsite drainage across this site are public drainage systems, and must be placed in an easement.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
7. **Other: Fire:** Move the proposed fire hydrant to the north, in line with the center of the parking lot.

**GIS:** Fix the inconsistencies between the metes and bounds legal description and what is shown on the face of the plat. Please show a tie, on the face of the plat with monumentation, into the state plane coordinate system (NAD 83). Submit a subdivision control data form (Appendix D), last page of the subdivision regulations for the Tulsa Metropolitan area.

**Airport:** Structure height as described should not cause air space permits to be required. Please provide a graphic scale bar.

Staff recommends **APPROVAL** of the Preliminary Subdivision plat subject to the TAC comments and the special and standard conditions below.

**Waivers of Subdivision Regulations:**

1. None requested.

**Special Conditions:**

1. The concerns of the Public Works Department staff must be taken care of to their satisfaction.

**Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.

12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Marshall, Sparks "absent") to **APPROVE** the preliminary plat for Heritage Landing, subject to special conditions and standard conditions per staff recommendation.

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14. **CZ-398 – E. Robert Buss**

**AG to IL**

Southeast corner East 66<sup>th</sup> Street North and Highway 169 North (Related to Item 9.)

(County)

**STAFF RECOMMENDATION:**

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

**PROPOSED ZONING:** IL      **PROPOSED USE:** John Deere equipment sales (expansion of existing John Deere facility adjacent to it.)

**RELEVANT ZONING HISTORY:**

**CZ-361 January 2006:** All concurred in approval of a request for rezoning a 88.1± acre tract of land from AG to IL on property located west side of U.S. Highway 169 North between 56<sup>th</sup> Street North and 66<sup>th</sup> Street North.

**CZ-266 June 2000:** A request to rezone a 16± acre tract of land from RMH to IL located east of the southeast corner of East 66<sup>th</sup> Street North and U. S. Highway 169, all concurred in approval of the IL zoning on only that portion of the site outside of the regulatory floodway. The applicant has not provided a legal description of the property approved for IL zoning and no Resolution has been published.

**CZ-234 May 1997:** All concurred in approval of a request to rezone a 5± acre tract of land from AG to IL located in the southwest corner of East 66<sup>th</sup> Street and North Mingo Valley Expressway.

**CZ-225 July 1996:** A request to rezone a 6± acre tract of land from AG to CS or IL fronting along the east side of U. S. Highway 169 North,. Staff recommended denial of CS or IL and recommended the tract remain AG and undeveloped due to the development sensitive nature of the property (flood prone). The applicant requested for IL zoning stating that it was consistent with the existing zoning and development. TMAPC and County Commission concurred in approval of IL zoning.

**CZ-224 April 1996:** A request to rezone a 21± acre tract of land from AG to CS or IL located on the southwest corner of East 66<sup>th</sup> Street North and North Mingo Valley Expressway, was recommended by staff for denial. TMAPC recommended approval of IL zoning of the north 550' approximately 330' from the eastern boundary, with the balance of the tract to remain AG.

**CZ-223 February 1996:** All concurred in approval of a request to rezone a 4± acre tract from AG to IM located north of the northwest corner of East 66<sup>th</sup> Street North and North Mingo Valley Expressway.

**CZ-182 April 1990:** A request to rezone two tracts, one located in the southeast corner of East 66<sup>th</sup> Street North and North Mingo Valley Expressway and the other tract located south of the southeast corner of East 66<sup>th</sup> Street North and North Mingo Valley Expressway. All concurred in approval of IL zoning for the northern lot and denial of the remainder.

**CZ-146 June 1986:** A request to rezone 3± acre tract of land abutting the subject tract to the east and southeast from RMH to CG. All concurred in recommending denial of CG and approval of IL for recreational vehicle sales.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately .57± acres in size and is located southeast corner of East 66<sup>th</sup> Street North and Highway 169 North/North 115<sup>th</sup> East Avenue. The property appears to be vacant and is zoned AG.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 66 <sup>th</sup> Street North	Secondary arterial	100'	2
North 115 <sup>th</sup> East Avenue/Highway 169 North	Highway/access road	Varies	4 for highway; 2 for North 115 <sup>th</sup> East Avenue

**UTILITIES:** The subject tract has water and no sewer available.

**SURROUNDING AREA:** The subject tract is abutted on the east by vacant land/large lot single-family residential, zoned IL; on the north by the Tulsa County



Sign Shop, zoned IL; on the south by a John Deere dealership, zoned IL; and on the west by North 115<sup>th</sup> East Avenue and US 169, zoned AG.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The North Tulsa County Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Development Sensitive Area 3. According to the Zoning Matrix, the requested IL zoning **may be found** in accord with the Plan. Plan provisions call for future development to be carefully planned to take the development sensitive nature of the site into consideration. Staff note: this is always a consideration during the platting and permitting phases.

**STAFF RECOMMENDATION:**

The proposal is to expand the existing John Deere facility onto this site. The location is good, due to proximity of the secondary arterial (East 66<sup>th</sup> Street North) and Highway 169, both of which will facilitate movement of farm and other heavy vehicles. Therefore, staff recommends **APPROVAL** of IL zoning for CZ-398.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **KEITH**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Marshall, Sparks "absent") to recommend **APPROVAL** of the IL zoning for CZ-398 per staff recommendation.

**Legal Description for CZ-398:**

A TRACT OF LAND LYING IN GOVERNMENT LOT FOUR (4), SECTION FIVE (5), TOWNSHIP TWENTY (20) NORTH, RANGE FOURTEEN (14) EAST OF THE I B & M, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 4; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 4 A DISTANCE OF 150 FEET; THENCE WEST AND PARALLEL WITH THE NORTH LINE OF SAID LOT 4 A DISTANCE OF 193.37 FEET TO THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 169; THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE TO A POINT 40 FEET SOUTH AND 151.6 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 4; THENCE NORTH AND PARALLEL WITH THE EAST LINE OF SAID LOT 4 A DISTANCE OF 40 FEET; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 4 A DISTANCE OF 151.6 FEET TO THE POINT OF BEGINNING, **From AG (Agriculture District) To IL (Industrial Light District).**

15. **Z-7127 – Brenda Gregg**

**AG to IL**

South of southeast corner East Pine Street and North  
Mingo Road

(PD-16) (CD-6)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11811, dated June 26, 1970,  
established zoning for the subject property.

**PROPOSED ZONING:** IL

**PROPOSED USE:** Light Manufacturing

**RELEVANT ZONING HISTORY:**

**Z-6998 September 2005:** All concurred in approval of a request for rezoning a 38.03+ acre tract of land from RM-2 to IL for light industrial park use, on property located south and west of southwest corner of East Pine Street North and Highway 169 North and east of subject property.

**Z-6946 July 2004:** All concurred in approval of a request for rezoning a 5+ acre tract of land from OL to IL for light manufacturing and warehouse use, on property located east of northeast corner of East Pine Street and North Mingo Road and northeast of subject property.

**BOA-18238 November 24, 1998:** The Board of Adjustment approved a Special Exception to permit a convenience store (QuikTrip) in an IL district, on property located at the northwest corner of East Pine Street and North Mingo Road.

**BOA-17428 July 9, 1996:** The Board of Adjustment approved a Special Exception to permit a church and church uses, per plan submitted; subject to the installation of a screening fence on all boundaries abutting R district, on property located south and west of southwest corner of East Pine Street and North Mingo Road.

**BOA-17307 February 27, 1996:** The Board of Adjustment approved a Special Exception to permit Use Unit 17 automotive repair shop in a CS district; per plan submitted; subject to no vehicles stored on the property for more than 30 days; no outside storage of parts or merchandise; and a six foot privacy fence, as depicted on the plot plan, on property located at the southwest corner of East Pine Street and North Mingo Road.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 5.89+ acres in size and is located south of southeast corner East Pine Street and North Mingo Road. The property appears to be in single-family residential use with out-buildings and is zoned AG. A large pond is on the west part of the property. The subject property does not currently have municipal sewer (it does have water), mains

have been extended nearby that any new development can be connected with if the developer so desires and if so required.

Although major stormwater management improvements in conjunction with Mingo Creek have been done just east of the subject property, approximately 80% of the site remains within the Regulatory and FEMA Zone-A floodplains.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
North Mingo Road	Secondary arterial	100'	4

**UTILITIES:** The subject tract has municipal water but no sewer available currently. A sewer main extension will be required to service any future development here.

**SURROUNDING AREA:** The subject tract is abutted on the east by vacant/agricultural land, zoned AG and farther east by industrial type uses and the Mingo Creek drainage way; on the north by vacant land and single-family residential uses-, zoned AG; on the south by an automotive use, zoned IL; and on the west by North Mingo Road and Hwy. 169, zoned IL and AG. Directly west of Mingo Road and Hwy. 169 are single-family residential uses, zoned RS-3, an automotive parts store, zoned CS and a restaurant, also zoned CS. Much of the surrounding area is within the Regulatory and FEMA floodplain.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 16 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Development Sensitive-No Specific Intensity. According to the Zoning Matrix, the requested IL zoning **may be found** in accord with the Plan, provided that development takes into account the sensitive nature of the area. Staff notes that this area lies between two Special Districts: Special District 1-Airport Special District, and Special District 2, Industrial and Airport-Related Uses. This area has been in transition to industrial uses for many years, due to growth needs of the airport, incompatibility of adjacent older single-family land uses and improved transportation routes in the area.

**STAFF RECOMMENDATION:**

Based on this site's location within a floodplain, staff cannot support the requested rezoning at this time and therefore recommends **DENIAL** of IL zoning for Z-7127. Its location in the Regulatory and FEMA floodplains requires that any development or redevelopment here must meet all floodplain regulations, specifically:

- Finished floor must be elevated at least one foot above Base Flood Elevation;

- No fill in the floodplain without compensatory storage;
- No increase in runoff from the site onto adjacent properties;
- Detention or fees-in-lieu of detention.

Were it not for the location within the floodplain, this site would be ideal for light industrial development. As previously noted, the area appears to be in transition to industrial and related uses and industrial and commercial zoning are nearby. The site may be appropriate for industrial rezoning and use if at some point a developer is able to either remove the property from the floodplain zone or ameliorate the potential for future flooding.

**TMAPC COMMENTS:**

Ms. Cantrell asked what the difference between the City floodplain and the FEMA floodplain. Ms. Matthews suggested that Mr. David Steele explain the differences.

**David Steele**, City of Tulsa Senior Engineer, stated that the FEMA floodplain is established by FEMA and is based on one percent flood event on 640 acres water shed. Tulsa Regulatory is a little more stringent, which is one percent flood event that is on 40 acres. In this case they are one and the same and there is no difference. It is all FEMA-zoned AE.

Mr. Steele stated that the City enforces its regulatory floodplains with the same criteria as the FEMA floodplain. To make modifications to a FEMA floodplain requires a conditional letter of map revision (CLOMR), which goes to FEMA before any changes can take place. After this is done the letter of map revision (LOMR) has to be filed and will change the floodplain map to show that it is no longer in the floodplain. This is the main difference between operating in a Tulsa Regulatory floodplain versus FEMA.

Mr. Steele explained that the City of Tulsa can change its own regulatory floodplain maps, but only FEMA can change the FEMA maps. It takes more effort, time and money to change the FEMA maps.

Ms. Cantrell stated that as she read through the relevant zoning history, it seemed that nearby the subject property to the north and east was rezoned to IL and it appears to be in the floodplain. In response, Ms. Matthews stated that it is not in the floodplain. There is a tiny piece of it and the property owner was required to provide compensatory storage, which they met. Ms. Cantrell stated that she is speaking of Z-6946 located east of northeast corner of East Pine and North Mingo Road and northeast of subject property. Ms. Matthews stated that they would have had to comply with all of the regulations.

Mr. McArtor asked someone to clarify how a finished floor is determined. In response, Mr. Steele stated that the finished floor would be the first floor of the structure that is habitable, usable and is the point measured for all structures in

the floodplain. The first floor elevation should be one foot above the base flood elevations, which can be on piers. Fill would be part of the floodplain that would have held flood waters but is no longer able to do this, and could increase the flooding on a neighboring property. The regulations require that they provide compensatory storage (a place to move the water) and they usually have to excavate somewhere, remove that material out of the floodplain so that it minimizes or eliminates the increase in flood on neighboring properties. The existing pond does not enter into the compensatory storage because it is an existing condition. The subject property would be required to collect flood waters and take them to a public system and not onto their neighboring properties. When one increases the impervious area on a property (concrete parking, gravel parking or a building) it increases the amount of runoff, which has to be accommodated for. The property owner is either allowed to pay fees-in-lieu (the city charges 20 cents a square foot) to send the runoff into a public system, which is taken care of by the tax payers of the City of Tulsa or detain onsite.

Mr. McArtor asked why the natural pond couldn't be used to detain the water. In response, Mr. Steele stated that they could, but it would have to be built to hold more water than it is presently holding.

Mr. Boulden asked Mr. Steele if Development Services has taken a position on whether this rezoning should go forward based on the floodplain issues. In response, Mr. Steele stated that the Development Services and the City will not take a position on the rezoning. The City will inform the applicant what is required to develop the subject property in order to meet the floodplain requirements.

Ms. Cantrell reported that Ms. Gregg tried to contact her. Ms. Cantrell indicated that she did visit the site and view the property, but did not contact Ms. Gregg.

**Applicant's Comments:**

**Brenda Gregg**, 1339 North Mingo Road, 74116, stated that the portion of the subject property that is not in the floodplain is where the developer is going to build his building. On the five acres within the floodplain one can move dirt from one corner of the land to another area in order to make it higher to build on. She explained that the developer would submit elevation certificates and everything that FEMA requires.

Ms. Gregg stated that the pond is a natural detention and in 1976 when the City filled in a large area they created a ditch that ranges from 50 feet to 100 feet in width all the way to Mingo Creek. She commented that she has a built-in perfect drainage system for the development. When it rains it will drain to the pond and then the pond drains into the ditch, which was set up by the City of Tulsa. Ms. Gregg submitted photographs (Exhibit A-1) and an aerial of the subject property and surrounding properties (Exhibit A-2). Ms. Gregg described all of the surrounding properties to be IL-zoned. She commented that the highest and

best use for the subject property is industrial. Ms. Gregg believes that she is in compliance with the Comprehensive Plan.

**Craig Demuth**, P.O. Box 1240, Pawhuska, Oklahoma 74056, real estate agent representing the developer, stated that his client is already an existing business owner in Tulsa and he would like to improve his business with his own building for sheet metal work. His client employs about 20 people and expects to expand. His client will be talking to Mr. Steele and staff regarding the development and requirements.

**TMAPC COMMENTS:**

Mr. McArtor asked where the proposed building would be built. In response, Mr. Demuth stated that it would be on the highest elevation of the subject property that is not in the floodplain. Mr. McArtor asked Mr. Demuth if his client understands that he will have to meet all of the FEMA requirements before he can proceed. In response, Mr. Demuth stated that his client has been informed that he will have to get with the engineers and obtain all of the permits.

**Councilor Troyer**, City Council District 6, stated that the developer is willing to meet all of the requirements in order to develop. He asked Mr. Steele if the all of the development and work done on Mingo Creek will not take the subject property out of the FEMA floodplain. In response, Mr. Steele answered negatively. Mr. Steele stated that the current floodplain is 612' and that is the current elevation for the floodplain.

**TMAPC COMMENTS:**

Ms. Wright asked if the subject land and the other land that is zoned AG is being used for agricultural purposes. In response, Mr. Troyer stated that he doesn't know that answer. Ms. Gregg stated that at this present moment the AG land is a hayfield, but it is up for sale with a sign, "build to suit".

Mr. McArtor asked Mr. Steele his opinion regarding the drainage ditch that Ms. Gregg described as a natural drainage ditch. Mr. Steele stated that the drainage ditch has been there for awhile and was present when the floodplain was developed. Regarding all of the development on Mingo Creek, the water reaches two feet deep on the subject property. The average on the subject property is about 610' and the elevations for 100-year floodplain is about 612' and it would be much higher if Mingo Creek had not been developed as it is today. The drainage ditch that Ms. Gregg is referring to has nothing to do with the floodplain at the subject site. Mr. McArtor stated that the buyer/developer will still have to deal with the drainage problem and not depend on the existing drainage ditch. In response, Mr. Steele stated that is right and they will need to do a hydrologic analysis of the whole site to make sure that they understand what their development will do and how to develop that is flood-free and to not impact the subject area. Mr. Steele indicated that the City of Tulsa would be happy to work with the developer on this process.

Mr. Leighty requested that Mr. Alberty explain the reasons behind the staff recommendation. If the buyer/developer is willing to get the building out of the floodplain, they why would the Planning Commission want to deny them? In response, Mr. Alberty stated that staff has taken a position that they do not want to send the wrong signal with regard to what's potentially developed. There are a lot of steps that have to be undertaken before the subject property can be rendered free for development. Staff's position has been that there haven't been any preliminary studies and there hasn't been anything done with regard to hydrological studies to determine if the subject property can be made flood-free. Due to the fact that the overwhelming percentage of the subject property is under a floodplain, staff would not feel comfortable recommending approval until at least there had been a preliminary study that says yes it is possible. The City may take a position that, regardless of what it is zoned, there will not be any permits issued on the subject property. There is a possibility the subject property wouldn't develop even though it is zoned industrially if the flood situation couldn't be resolved. Staff takes a very conservative position on this issue and will not recommend approval of anything that is over 80% in a FEMA floodplain.

Ms. Cantrell asked Mr. Alberty what he sees could be done with the subject property. In response, Mr. Alberty stated that staff would agree that as the Comprehensive Plan indicates that the subject area is development sensitive and it should be treated very respectfully. Mr. Alberty cited the many questions that have not been answered and staff doesn't feel comfortable recommending approval. All of the questions answered that if this property could come out of the floodplain, there would be no doubt about it that is shown to be industrial property.

Mr. Carnes stated that buyers/developers will not hire engineers to do preliminary studies if they do not have the zoning. They cannot use the land if they cannot satisfy all the requirements and they will not spend the money until they know they have the zoning. There is nothing to lose by granting the IL zoning because it meets the Comprehensive Plan, then the buyer/developer can spend the money and see if they can bring the property out of the floodplain. If they are unable to do so the Planning Commission hasn't hurt anyone.

Mr. Midget stated that he is in agreement with Mr. Carnes.

Mr. McArtor stated that he appreciates staff's conservative approach on this type of issue.

Ms. Wright asked Mr. Steele to explain the 404 permit that Mr. Alberty mentioned. In response, Mr. Steele stated that Section 404 is wetland permitting to the Corps of Engineers. It is required for properties of wetlands and must meet the Section 404 requirements, which means mitigation if one or many types of wetlands are being damaged. If there are wetlands on the subject property,

than they will have to seek concurrence with the Corps of Engineers to get a permit to develop the property. If it is determined that there are sensitive wetlands on the subject property, they will have to mitigate by either replicating wetlands somewhere else or avoiding the area that is considered a wetland.

Ms. Wright asked if it would be more advisable to seek the appropriate permits and exploratory actions before rezoning. In response, Mr. Steele stated that he could not speculate on that. Mr. Steele stated that as far as zoning is concerned, that is something that needs to be taken care of before the City gets involved. Mr. Steele stated that the applicant can call David Manning at the Corps of Engineers and they will come and look at the subject property. The City has already informed the applicant everything that the City knows at this time about the subject property and what is required. If they want further guidance, they are free to come to the office and talk more about it.

Ms. Wright asked how often FEMA evaluates the City of Tulsa. In response, Mr. Steele stated that FEMA comes to Tulsa every three years to complete an evaluation how the International Flood Insurance Program is being implemented. The last evaluation was in October 2008.

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-1-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker "aye"; Wright "nay"; none "abstaining"; Marshall, Sparks "absent") to recommend **APPROVAL** of the IL zoning for Z-7127.

**Legal Description for Z-7127:**

Beginning at a point in the west boundary line of Section 31, T-20-N, R-14-E, said point being 567.96' north of the southwest corner of the NW ¼, NW ¼, thence east a distance of 658', thence north a distance of 390', thence west a distance of 658', thence south a distance of 390' to the point of beginning, the parcel containing 5.89 acres more or less; **From AG (Agriculture District) To IL (Industrial Light District).**

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**OTHER BUSINESS:**

**Commissioners' Comments**

Mr. Shivel stated that he appreciates Mr. Carnes length of time that he has been on the Planning Commission and the eloquence that he brings to synthesizing the view.

Mr. Leighty stated that he would like to second what Mr. McArtor stated about the staff recommendation. He would rather it err on the side of caution. Mr. Leighty further stated that he hopes this doesn't discourage staff from calling the same shot next time around.



There being no further business, the Chair declared the meeting adjourned at 2:45 p.m.

Date Approved: 4-15-09

Michelle Cantrell

Chairman

ATTEST: Joshua G. Walker  
Secretary

