

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2547

Wednesday, May 6, 2009, 1:30 p.m.

City Council Chambers

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

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, April 30, 2009 at 2:45 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

REPORTS:

Work session Report:

Ms. Cantrell reported that there will be a work session immediately following today's meeting.

Comprehensive Plan Report:

Mr. Warlick reported on the status of the PlaniTulsa and Comprehensive Plan.

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Minutes:

Approval of the minutes of April 1, 2009 Meeting No. 2544

On **MOTION** of **CARNES**, the TMAPC voted 8-0-0 (Cantrell, Carnes, Leighty, Marshall, McArtor, Midget, Shivel, Walker “aye”; no “nays”; none “abstaining”; Keith, Wright “absent”) to **APPROVE** the minutes of the meeting of April 1, 2009, Meeting No. 2544.

Minutes:

Approval of the minutes of April 15, 2009 Meeting No. 2545

On **MOTION** of **CARNES**, the TMAPC voted 7-0-1 (Cantrell, Carnes, Leighty, Marshall, Midget, Shivel, Walker “aye”; no “nays”; McArtor “abstaining”; Keith, Wright “absent”) to **APPROVE** the minutes of the meeting of April 15, 2009, Meeting No. 2545.

Minutes:

Approval of the minutes of April 22, 2009 Meeting No. 2546

On **MOTION** of **CARNES**, the TMAPC voted 7-0-1 (Cantrell, Carnes, Leighty, Marshall, Midget, Shivel, Walker “aye”; no “nays”; McArtor “abstaining”; Keith, Wright “absent”) to **APPROVE** the minutes of the meeting of April 22, 2009, Meeting No. 2546.

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

Director’s Report:

Ms. Matthews reported on the BOCC and City Council agendas and TMAPC activity. Ms. Matthews informed the Planning Commission that PUD-769, Holland Lakes Office Complex has withdrawn their PUD application, but they still have the underlying OL zoning.

Ms. Matthews reported on the February and March TMAPC receipts.

Ms. Cantrell indicated that Item 22, PUD-761 has requested a continuance.

- 22. **PUD-761 – Ron Cardwell, PE/CVS Pharmacy, Inc.** (PD-6) (CD-9)
Southeast corner South Harvard Avenue and 41st Street South (Detail Site Plan for a 13,062 square foot CVS Pharmacy.

Staff Recommendation:

Ms. Matthews explained that the applicant has requested a continuance to meet with the neighborhood association.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Leighty, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Keith, Wright "absent") to **CONTINUE** the detail site plan for PUD-761 to May 20, 2009.

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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. **LS-20291** – Smalygo Properties (6214)/Lot-Split (County)
Northwest corner of 176th Street North and North 113th Avenue
- 3. **LS-20294** – Smalygo Properties/Lot-Split (County)
Northwest corner of 176th Street North and North 113th Avenue
- 4. **LS-20295** – Smalygo Properties/Lot-Split (County)
Northwest corner of 176th Street North and North 113th Avenue
- 5. **LS-20296** – Smalygo Properties/Lot-Split (County)
Northwest corner of 176th Street North and North 113th Avenue
- 6. **LS-20297** – Kelly & Michael Daugherty (9329)/Lot-Split (PD 6) (CD 9)
South of East 45th Street and West of South Gary Avenue, 4547 South Florence Avenue

7. **LC-164** – Kelly & Michael Daugherty (9329)/Lot (PD 6) (CD 9)
Combination
South of East 45th Street and West of South Gary Avenue, 4547 South
Florence Avenue
8. **LS-20298** – Winston Tallent (9130)/Lot-Split (County)
South of West 46th Street and North of West Coyote Trail, 4824 South
165th West Avenue
9. **LC-163** – Gary R. Gray (9302)/Lot Combination (PD 5) (CD 3)
North of 8th Street and West of South 73rd Avenue, 7124 East 7th Street
10. **LC-165** – Jeff Johnson (9213)/Lot Combination (PD 6) (PD 9)
North of East 31st Street and West of South Detroit Avenue, 3039 South
Cincinnati Avenue
11. **LC-166** – Kevin Vanover (9432)/Lot Combination (PD 18C) (CD 6)
West of South 116th Avenue and North of East 60th Place, 11349 East
60th Place South
12. **LC-167** – Group M. Investment, Inc. (9307)/Lot (PD 4) (CD 4)
Combination
South of East 11th Street East of South Xanthus Avenue, 2002 East 11th
Street South
13. **LC-168** – Dennis Daniel (9213)/Lot Combination (PD 6) (CD 9)
West of South Peoria Avenue and South of East 26th Street, 1225 Hazel
Boulevard
14. **LC-68** – William H. Haynes (9319)/Lot-Combination (PD 6) (CD 9)
(Rescind)
3631 South Utica Avenue and 3623 South Utica
15. **Wal-Mart Supercenter #1597-03** – (8326)/Change of (PD 26) (CD 8)
Access
Northwest corner of East 111th Street South and South Memorial Drive

STAFF RECOMMENDATION:

This application is made to allow a change of access along East 111th Street South. The proposal is to add a 40-foot access and a 50-foot access on East 111th Street South.

Previously approved PUD 578-A (Planned Unit Development 578 A) requirements included ODOT (Oklahoma Department of Transportation) approval of access points to this site.

The final plat for this site was approved in October of 2005 with conditions and a waiver because all of the right-of-way for the project was not available at that time. A 17-foot strip of property ownership inside of the right-of-way was not available to the project at that time. Conditions of approval included that two additional access points along 111th Street be provided when the off-site strip is available, provided that the center access is adjusted slightly to the west to align with the center of the existing Lowe's driveway. Paul Zachary of the Public Works Department has confirmed that the appropriate right-of-way has been dedicated. Sidewalks are required to be built when the right-of-way is available.

Staff recommends approval of the change of access. The Traffic Engineer has reviewed and approved the request. ODOT staff agrees with the accesses. Staff recommends **APPROVAL** of the change of access as submitted.

16. **Home Depot at 91 Delaware Center - (8317)/Change (PD 18B) (CD 2)**
of Access

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

STAFF RECOMMENDATION:

This application is made to allow a change of access to shift access along South Delaware Avenue. The property is zoned IL (industrial light).

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

18. **Z-4948-SP-2a – William D. LaFortune** (PD-8) (CD-2)

Southeast of the southeast corner of West 81st Street and South Union Avenue along U.S. Highway 75 (Corridor Minor Amendment to add digital technology to a previously approved and existing outdoor advertising sign.)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to add digital technology to a previously approved and existing outdoor advertising (OA) sign just south of the south bound on-ramp to U.S. Hwy. 75 from W. 81st Street (see case map aerial photograph). The existing use, outdoor advertising within Use Unit 21, is a permitted use within this Corridor District.

Section 1221, G-14 of the Zoning Code states that the addition of digital technology to an exiting and previously approved outdoor advertising sign "shall

be considered a change in use"; thereby triggering the Corridor District minor amendment requirement.

On April 28, 2009 the Board of Adjustment (BOA) in case #20902 re-verified the 1,200 spacing requirement for the proposed addition of digital technology as required by Section 1221, G-9 of the Code.

Since the outdoor advertising sign is a previously approved use and the existing sign appears to have met all applicable permitting and construction requirements, combined with the operator of the sign being required to abide by Sections 802, B-3 and 1221, F and G of the Code, staff recommends **APPROVAL** of the minor amendment Z-4849-SP-2a allowing the addition of digital technology to the existing outdoor advertising sign on the property described by:

A part of the SW/4 of the NW/4 of Section 14, T18N, R12E, Tulsa County, State of Oklahoma, being described by metes and bounds as follows, to-wit: BEGINNING at a point 50.00 feet East of the southwest corner of the SW/4 of the NW/4 of said Section 14, said point being on the East right-of-way line of South Union Avenue; thence due North, parallel to and 50.00 feet perpendicularly distant East of the West line of Section 14, and on the East line of South Union Avenue, a distance of 770.92 feet; thence S. 89°53'29" E., parallel to the North line of the SW/4 of the NW/4 of Section 14, a distance of 570.00 feet; thence due north, parallel to the West line of Section 14, a distance 555.00 feet to a point, said point being on the North line of the SW/4 of the NW/4 of Section 14, and 620.00 feet East of the Northwest corner of the SW/4 of the NW/4 of Section 14; thence S. 89°53'29" E., along the North line of the SW/4 of the NW/4 of Section 14, a distance of 404.70 feet to a point, said point being on the West right-of-way line of U.S. Highway No. 75 (Okmulgee Expressway); thence S. 07°02'19" W., a distance of 0.00 feet; thence along a curve to the right, having a central angle of 2°14'32" and a radius of 34,227.50 feet, a distance of 1339.45 feet to a point on the South line of the NW/4 of Section 14; thence N. 89°52'23" W., along the South line of the NW/4 of Section 14, a distance of 784.60 feet to the POINT OF BEGINNING.

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

19. **PUD-363-3 – Deborah Ann Hampton**

(PD-16) (CD-3)

One-Quarter mile north of the northeast corner of Yale Avenue and 38th Street North (Minor Amendment to allow a 2,400 square foot detached accessory structure on a five-acre tract of land and a temporary waiver of the requirement of Section 1303-D, all weather surfaced parking.)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to allow a 2,400 square foot detached accessory structure on a five acre tract of land and a temporary waiver of the requirement of Section 1303-D, requiring that the maneuvering area leading to required off-street parking spaces be surfaced with a dust-free-all weather surface. The applicant is moving an existing house and detached structure from their current location into the Tulsa Metro Region.

PUD-363 is a 25-acre tract of land located ¼ mile north of the northeast corner of Yale Avenue and 36th Street North (see attached case aerial photograph). Zoned RMH and RS-3, the PUD was approved in 1984 for 114 manufactured homes. Subsequently the subdivision never came to fruition and remains undeveloped today with the exception of the five-acre subject tract, a 2.5 acre tract immediately east and another 2.5-acre tract on the southeast corner of Park Road and 39th Street North. All three properties front the City owned and unimproved 39th Street North the surroundings of which are very rural in nature, while being within the city limits of Tulsa (please refer to case aerial photo and supporting photo-documentation).

The applicant is requesting an increase in permitted floor area for a detached accessory structure, to allow a 2,400 square foot garage and shop. The approval of PUD-363 did not specifically address the allowable size of detached accessory structures. Therefore the applicable limits for accessory structures would default to the underlying zoning of the property. Since the underlying zoning of subject tract is RMH, according to Section 403, B-1c of the Code, the maximum size for a detached accessory structure on this property would be 100 square feet. It is staff's interpretation that this limitation is intended to limit the size of detached accessory structures in mobile home parks, and not on five-acre (5) rurally located tracts. Staff can therefore support this request given the over-all size of the applicant's property.

The applicant is also requesting that the requirement of Section 1303-D of the Code be temporarily waived until such a time that the PUD develops. The applicant's two (2) required off-street parking spaces will be a dust-free all-weather surface enclosed within the garage/shop. The applicant is seeking to temporarily waive of the requirement that the maneuver area/driveway leading to the shop be paved. Referring to the attached photographs of the driveways in the immediate vicinity of the subject tract, gravel drives are the norm and not the

exception in this neighborhood. Since automobiles on the property will ultimately be parked on a concrete surface in combination with the rural nature of the neighborhood making houses far from one-another compared to an urban setting, staff can support this request.

Staff recommends **APPROVAL** of minor amendment PUD-363-3 allowing a 2,400 SF detached accessory structure and temporarily waiving the requirement of Section 1303-D of the Code only until such time as the PUD develops.

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

20. **PUD-522 – Douglas Huber** (PD-18) (CD-8)
South of the southwest corner of 81st Street and Mingo Road (Detail Site Plan for an 8,716 square foot medical office building.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for an 8,716 square foot (SF) medical office building. The proposed use, Use Unit 11 – Office, Studios and Support Services is a permitted use within PUD-522.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site is provided from South Mingo Road and parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping is provided per the landscape chapter of the Zoning Code and adopted PUD development standards. All site lighting is limited to 12-feet in height and is directed down and away from adjoining properties. A trash enclosure has been provided as required. A sidewalk will be provided along Mingo Road as required by PUD Development Standards and Subdivision regulations.

Staff recommends **APPROVAL** of the detail site plan for the medical office building located on Lot 2, Block 1 – Tract B – Meadowbrook Center.

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

21. **Z-7008-SP-1 – Jeff Brocco/Tulsa Hills** (PD-8) (CD-2)

South of the southeast corner of West 71st Street and South Olympia Avenue (Corridor District Site Plan for an ATM facility to be located on Lot 12, Block 1, Development Area B of Tulsa Hills.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for an ATM facility to be located on Lot 12, Block 1, Development Area B of Tulsa Hills (see Exhibit A). The proposed use, Financial Institution within Use Unit 11.– Offices, Studios and Support Services including Drive-through Banking Facilities is a permissible use within Development Area B of Tulsa Hills.

The submitted site plan meets all applicable building height, setback, and open space requirements. There is no building floor area so there are no parking requirements. Site lighting meets applicable height requirements and is directed down and away from adjoining lots. The landscape plan for the development was approved in May 2007.

Since all Corridor Plan requirements are being met, staff recommends **APPROVAL** of the detail site plan for the drive-through banking facility for Lot 12, Block 2 – Tulsa Hills.

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

Ms. Cantrell stated that she would like to pull Item No. 17 from the consent agenda.

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Leighty, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Keith, Wright "absent") to **APPROVE** the consent agenda Items 2 through 21 per staff recommendation.

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CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA

17. **Harvard Square South** – (9328)/Final Plat (PD 6) (CD 5)
Southeast corner of East 41st Street and South Harvard Avenue

STAFF RECOMMENDATION:

This plat consists of four lots in one block on 6.8 acres.

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

Mrs. Fernandez stated that this item was pulled due to some last minutes changes. She explained that the changes do not reflect what was in the original PUD and should be in another part of the covenants and that Legal approves of the placement of the change in the covenants. Staff can recommend approval for the changes, subject to the further restriction not appearing as a possible enforcement as part of the PUD because it is not (Exhibit A-1).

TMAPC Comments:

Ms. Cantrell stated that the additional restriction would have to be handled privately.

Applicant's Comments:

Lou Reynolds, 2727 East 21st Street, Suite 200, 74114, stated that he is in agreement with staff's recommendation. He explained that he plans to make another section in the plat, which would make the City of Tulsa the beneficiary of the new restriction.

Interested Parties' Comments:

Steve Novick, 1717 South Cheyenne Avenue, 74103, stated that he realizes everyone is in agreement with the restriction and he understands that it was not in the PUD when it was approved by the City Council. He asked if this is the reason why the new restriction can't be included in the deed of dedication to the PUD.

Mr. Boulden answered affirmatively. Mr. Boulden explained that this is an additional restriction outside of the PUD process and there is going to be some other section and it will be a private covenant between the City of Tulsa and the developer in addition to the PUD standards. It will be equally enforceable under the covenants, but in a different provision.

TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Carnes, Leighty, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Keith, Wright "absent") to **APPROVE** the final plat for Harvard Square South per staff recommendation, subject to Legal approving the language of the covenants.

PUBLIC HEARING

23. **Fleming Addition 2nd** (3204) Sidewalk Waiver Request (PD 16) (CD 6)
South of East Pine Street and West of North 129th Avenue, 12716 East Pine

STAFF RECOMMENDATION:

Precise Machining and Manufacturing is requesting a sidewalk waiver for their Fleming 2nd Addition Minor Subdivision plat that was approved by TMAPC on January 17, 2009 and was filed of record on February 13, 2009.

The request is to waive the sidewalk requirement and to waive the fee-in-lieu of option for the Fleming 2nd Addition.

Planning staff and Development Services staff has reviewed the request and recommends **DENIAL** of the sidewalk waiver. Staff has not identified a reason to waive the fee for the sidewalk for this project, nor to waive a sidewalk requirement for the site.

TMAPC Comments:

Ms. Cantrell asked staff if they would be in agreement of fee-in-lieu of sidewalks if the applicant agreed. In response, Mrs. Fernandez answered affirmatively.

Mr. McArtor asked staff why sidewalks are needed at the subject property. In response, Mrs. Fernandez stated that it is in accordance with the policies and for future pedestrian traffic. The subject road will be widened at some point and there are industrial workers in the subject area and it can be done. If the applicant wishes to not install sidewalks at this time, there is a fee-in-lieu-of that could be allowed. The subject business is expanding and will have more employees and there will be a need in the future for this type of asset for pedestrians. If a car were to break down in the subject area, there are no sidewalks on which to walk.

Mr. McArtor commented that it doesn't look like a place where people would be walking around. Mr. McArtor stated that the letter from Precise Machining is disturbing.

Mr. Boulden stated that there is no liability created by requiring the applicant to install the sidewalk because someone might veer off of the street and hit them. He personally thought that was ridiculous and Legal has no concerns about requiring the sidewalk.

Applicant's Comments:

Jeff Greer, 12716 East Pine, 74116, part owner of Precise Machining and Manufacturing, stated that he has some real concerns about the sidewalk being required due to safety issues. Pine Street is an extremely busy road with other

industrial uses in the subject area. Cherokee Casino is close by and at lunch time, it is a very busy time. The road is narrow with no shoulders and no curbing to prevent anyone from veering off the road. Two times in the last 12 months there have been people losing control of their cars and veering off of the road into the fence where it is proposed that he install a sidewalk.

Mr. Greer stated that he doesn't support installing the sidewalk or paying a fee-in-lieu of the sidewalk. He believes that a sidewalk is inappropriate to build at this time.

TMAPC Comments:

Ms. Cantrell asked Mr. Greer if he is stating that he doesn't think people should walk around the subject area. In response, Mr. Greer answered affirmatively.

Ms. Cantrell asked how people who do not have a car are supposed to get from one place to another. In response, Mr. Greer stated that people don't ride the bus and get dropped off on Pine Street. Ms. Cantrell stated that they could in the future if they are not today. In response, Mr. Greer stated that if they do in the future, then the structure of the road would have to be done and that hasn't been done yet. They recently repaved the road and kept it narrow. No one should be walking up and down Pine Street.

Ms. Cantrell asked whether, if people choose to walk, because that is their right, doesn't he believe it would be safer to have a sidewalk than to have them walk in the ditch? In response, Mr. Greer stated that he doesn't know. Putting a sidewalk in may encourage people to walk in a hazardous situation and he doesn't believe that would be wise.

Mr. Carnes stated that he read the letter, but the sidewalk rule is there and he doesn't think there is any way that the Planning Commission can waive it because it would be violating their own rules. Mr. Carnes stated that he has to go with the staff recommendation.

Mr. Greer stated that the frustrating thing about this whole process is that he met with staff, Jack Page, and others as well, and most agree that no one should be walking around Pine Street because it does represent a hazard. There appears to be nobody in authority to put any sense or any judgment into a rule that was created a couple of years ago. Mr. Greer suggested that the question should be whether a sidewalk should be built and is it appropriate for the subject area. There is no "body" or real entity in this process to which one can go and ask for consideration or judgment because the rule was set two years ago.

Mr. McArtor stated that he takes issue with Mr. Greer's statements. He informed Mr. Greer that he is at the "body" right now. Mr. McArtor further stated that from what he has reviewed, he has no problem with Mr. Greer's argument regarding waiving the sidewalk requirement. He doesn't believe a sidewalk should be built

here and no one should be walking up and down sidewalks along narrow roads in industrial areas. He believes few would be walking and it would be dangerous. However, the Planning Commission's policy is as a general rule to put sidewalks in all over the City of Tulsa. The reason for that rule is to encourage people to walk and to make it friendlier for everyone. If one doesn't want to build a sidewalk, then there is a fee-in-lieu of that sidewalk. Mr. McArtor concluded that he agrees that there shouldn't be a sidewalk, but he does believe that the applicant should pay the fee and be a good citizen.

Mr. Greer indicated that he understands the Planning Commission's authority on this matter. Mr. Greer stated that the fee that the City is requesting to be paid is three times the cost of the construction of a sidewalk. It is not about the amount or the money, but it is about the principle. If the Planning Commission requires a sidewalk be built, then he will build it; however, if someone gets hurt on that sidewalk then the Planning Commission will have to assume some responsibility for that.

Ms. Cantrell explained that the Planning Commission doesn't set the price for the fee-in-lieu of sidewalks. She believes that comes through Mr. Page's office. The Planning Commission can't adjust the price.

Mr. Leighty stated that the only thing more dangerous than having someone walk down a sidewalk on the subject property would be walking down there without a sidewalk. The Planning Commission has to be consistent about applying this rule. Mr. Leighty indicated that he will be supportive of the staff recommendation. The City of Tulsa has looked the other way when it comes to sidewalk construction in the past and that is why we are where we are today. The walkability of Tulsa is pitiful today and so it has to start someplace.

Mr. Greer stated that Jack Page came to his property and thought he could clear this through the Mayor's office, but that didn't happen.

Mr. Steele, Senior Engineer for the City of Tulsa, clarified how the price for the fee-in-lieu is determined. The price is for the City standards of five feet wide and four inches thick. This is bid on every year and it is opened to all approved contractors. The approved bid is how the fee-in-lieu is set for what the City would have to pay if they were to build the sidewalk. The fee is \$75.00 a square yard for a standard sidewalk.

Applicant's Rebuttal:

Mr. Greer stated that he can build the sidewalk at one-third the price the City would charge for the fee-in-lieu of sidewalk. Mr. Greer indicated the amount of property he owns in the subject area. He commented that he has a problem with the fact that every time he has a customer come to town now, he will have to explain to his customer why he has a sidewalk on the subject property and not

across the entire frontage of his property. His answer will be very simple: that that is what we do here in Tulsa until all properties have sidewalks.

TMAPC Comments:

Ms. Cantrell stated that she has no problem with the fee-in-lieu of sidewalks. There is a large amount of undeveloped property in the subject area and as it is developed, they will have to build sidewalks. This is a perfect area to start the precedent of putting in sidewalks. This is a significant area for industrial use and it will develop over time. The sidewalks would be nice for anyone who would like to walk in that area. She is not comfortable with approving both the sidewalk waiver and waiving the fee-in-lieu-of.

Mr. McArtor stated that he wouldn't be in agreement to waive both the sidewalk and the fee-in-lieu-of. He believes that sidewalks are great for residential subdivisions and commercial areas, but with industrial areas like this, he could think of a lot more reasons why there shouldn't be sidewalks; however, he should pay the fee.

TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Carnes, Leighty, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Keith, Wright "absent") to **DENY** the waiver of the sidewalk requirement or paying the fee-in-lieu of sidewalks per staff recommendation.

24. **Z-7131 – Lou Reynolds**

AG/RM-1 to CS

West of southwest corner of North Cincinnati and East
36th Street North

(PD-25) (CD-1)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11918 dated September 1, 1970, established zoning for the subject property.

PROPOSED ZONING: CS

PROPOSED USE: Commercial mixed use

RELEVANT ZONING HISTORY:

Z-7085 September 2008: All concurred in approval of a request for rezoning a 2.92+ acre tract of land from AG/OL to CS for commercial use and day care, on property located north of northeast corner north Cincinnati Avenue and East 31st Street North.

Z-7054 June 2007: All concurred in approval of a request for rezoning a 15.86+ acre tract of land from AG/OL to RM-1 for multifamily on property located north of the northeast corner of North Cincinnati Avenue and East 31st Street North and a part of the subject property.

BOA-18540 November 9, 1999: The Board of Adjustment approved a Special Exception to allow for one-bedroom duplexes as part of "Crestview II" development in an RS-3 and CS district per plan submitted on property located southeast of the southeast corner of East 36th Street North and North Cincinnati Avenue.

Z-6561 December 1996: All concurred in denial of a request for rezoning a 2.65+ acre tract of land from RS-3 to CG and approval of CS for commercial use, on property located west of northwest corner of West 36th Street North and North Cincinnati Avenue and north of subject property.

BOA-17507 October 8, 1996: The Board of Adjustment approved a Special Exception to allow a nursing home/Alzheimer clinic (Use Unit 2), per plan submitted; subject to a limitation of 26 beds, on property located west of the northwest corner of West 36th Street North and North Cincinnati Avenue.

Z-6553 September 1996: All concurred in approval of a request for rezoning a 12+ acre tract of land from RS-3 to RM-1 on property located south of the southeast corner of East 36th Street North and North Cincinnati and abutting north of subject property.

BOA-15443 June 1990: The Board of Adjustment approved a Special Exception and an amendment to an existing site plan to permit an addition to a state community health center in a CG/RS-3 district, on property located at 3606 North Cincinnati Avenue and north of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 10+ acres in size and is located west of the southwest corner of North Cincinnati and East 36th Street North. The property is vacant and is zoned AG/RM-1. None of the site lies within a floodplain,

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 36 th Street North	Secondary arterial	100'	4 (with turning lanes)
North Cincinnati Avenue	Secondary arterial	100'	4 (with turning lanes)

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

SURROUNDING AREA: The subject tract is abutted on the east by vacant and steeply sloping, heavily-wooded land, zoned CS (partially in a Flat Rock Creek tributary watershed); on the north by a clinic and related uses, zoned CG and CS, and vacant land zoned RS-3; on the south by vacant land and mixed uses (part of which land is the Northland stormwater storage facility), zoned RM-1 and AG; and on the west by an expressway, zoned AG.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 25 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Low Intensity-No Specific land use/Corridor. According to the Zoning Matrix, the requested CS zoning is **not** in accord with the Low Intensity designation of the Plan; however, under a Corridor designation, higher intensities such as CS **may be found in accord** with the Plan. Moreover, the location would fit the Development Guidelines criteria for a Type 1 Node (medium intensity at five acres per corner).

STAFF RECOMMENDATION:

Based on the Development Guidelines and the existing clinic development to the north, staff can recommend **APPROVAL** of the requested CS zoning.

There were no interested parties wishing to speak.

The applicant indicated his agreement with the staff recommendation.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Leighty, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Keith, Wright "absent") to recommend **APPROVAL** of the CS zoning for Z-7131 per staff recommendation.

Legal Description for Z-7131:

The Northeast Quarter of the Northeast Quarter of the Northeast Quarter (NE/4 NE/4 NE/4) and the West Half of the Northeast Quarter of the Northeast Quarter (W/2 NE/4 NE/4) and the North 495 feet of the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE/4 NE/4 NE/4) LESS Beginning at the Northeast Corner of the Northeast Quarter (NE/4); South 1153.05 feet; West 50 feet; North 217.5 feet; West 50 feet; North 400 feet; East 50 feet; North 460.55 feet; Northwesterly to a point 50 feet South and 200 feet West of the Northeast Corner; West 400 feet; North 50 feet; East 600 feet to the POINT OF BEGINNING; and LESS BEGINNING 50 feet West and 194 feet North of the Southeast Corner of the Northeast Quarter of the Northeast Quarter (NE/4 NE/4); West 135 feet; North 56 feet; East 135 feet; South 56 feet to the Point of Beginning in Section 23, Township 20 North, Range 12 East, I.B.&M., in Tulsa County, Oklahoma, according to the U.S. Government Survey thereof; **LESS AND EXCEPT** a strip, piece or parcel of land lying in the NE/4 NE/4 in Section 23, Township 20 North, Range 12 East, I.B.&M., in Tulsa County, Oklahoma,

said parcel being described by metes and bounds as follows: Commencing at the NE corner of said NE/4 NE/4; thence S88°42'35"W along the North line of said NE/4 NE/4 a distance of 1319.70 feet to the NW corner of said NE/4 NE/4; thence S01°07'40"E along the West line of said NE/4 NE/4 a distance of 33.00 feet to a point on the present right-of-way of 36th Street North being the Point of Beginning; thence N88°42'35"E along the said present right-of-way a distance of 719.79 feet; thence S01°17'25"E a distance of 17.00 feet; thence S74°40'51"W a distance of 206.26 feet; thence S88°42'35"W a distance of 419.88 feet; thence S01°07'40"E a distance of 100.00 feet; thence S46°07'40"E a distance of 133.52 feet; thence S68°46'54"E a distance of 277.29 feet to the beginning of a tangent curve to the right, said curve having a central angle of 15°49'10" and a radius of 956.28 feet, for an arc distance of 264.03 feet; thence N88°50'01"E a distance of 541.83 feet to a point on the present right-of-way of Cincinnati Avenue; thence S01°09'59"E along said Cincinnati Avenue present right-of-way a distance of 400.00 feet; thence N88°50'01"E along said Cincinnati Avenue present right-of-way a distance of 50.00 feet; thence S01°09'59"E along said Cincinnati Avenue present right-of-way a distance of 132.20 feet; thence S88°46'17"W a distance of 135.00 feet; thence S01°09'59"E a distance of 56.00 feet; thence N88°46'17"E 135.00 feet to a point being on said Cincinnati Avenue present right-of-way; thence S01°09'59"E along said Cincinnati Avenue present right-of-way a distance of 29.30 feet; thence S88°46'17"W a distance of 610.24 feet; thence S01°08'49"E a distance of 164.60 feet to a point on the South line of said NE/4 NE/4; thence S88°46'49"W a distance of 660.29 feet to the SW corner of said NE/4 NE/4; thence N01°07'40"W a distance of 1283.01 feet to the Point of Beginning, **and LESS AND EXCEPT** a strip of land 10.00 feet wide, being more particularly described by metes and bounds as follows, to-wit: Commencing at the Northeast corner of said Section 23; thence S88°42'35"W along the North line of said Section 23 a distance of 600 feet; thence S1°17'25"E a distance of 50 feet to a point on the Southerly right-of-way line of East 36th Street North said point being the Point of Beginning; thence N88°42'35"E along the said right-of-way line a distance of 400.00 feet; thence S81°49'07"E a distance of 60.76 feet; thence S88°42'35"W a distance of 499.97 feet; thence N74°40'51"E a distance of 41.25 feet to the Point of Beginning **From AG/RM-1 (Agriculture District/Residential Multifamily District) To CS (Commercial Shopping Center District).**

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There being no further business, the Chair declared the meeting adjourned at 2:08 p.m.

Date Approved: 5-20-09

Michelle Carberry
Chairman

ATTEST: James R. Wall
Secretary