

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
**Minutes of Meeting No. 2585**

Wednesday, September 7, 2010, 1:30 p.m.

City Council Chamber

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	McArtor	Alberty	Boulden, Legal
Carnes		Bates	Steele, Sr. Eng.
Dix		Fernandez	
Edwards		Huntsinger	
Leighty		Matthews	
Liotta		Sansone	
Midget			
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Wednesday, September 1, 2010 at 3:12 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 4:00 p.m.

**REPORTS:**

**Director's Report:**

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

Mr. Alberty reported that the TMAPC receipts for the month of July 2010 are substantially down.

Mr. Alberty reminded the Planning Commission that they will be meeting next Wednesday, September 15, 2010, which is a quick turnaround. There will not be a training session, but there will be a work session with Form Based Codes and the Tulsa Preservation Commission-recommended changes to the Zoning Code.

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**Minutes:**

**Approval of the minutes of August 18, 2010 Meeting No. 2584**

On **MOTION** of **LEIGHTY**, the TMAPC voted 7-0-0 (Cantrell, Dix, Edwards, Leighty, Liotta, Shivel, Walker “aye”; no “nays”; none “abstaining”; Carnes, McArtor, Midget, Wright “absent”) to **APPROVE** the minutes of the meeting of August 18, 2010, Meeting No. 2584.

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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. **LC-274**– Sisemore Weisz & Associates, Inc. (9317) Lot-Combination (CD-9)  
West of the Southwest corner of East 21<sup>st</sup> Street South and South Harvard Avenue (related to Items 3 & 4)
3. **LS-20393**– Sisemore Weisz & Associates, Inc. (9317) Lot-Split (CD-9)  
West of the Southwest corner of East 21<sup>st</sup> Street South and South Harvard Avenue (related to Items 2 & 4)
4. **LC-275**– Sisemore Weisz & Associates, Inc. (9317) Lot-Combination (CD-9)  
Southwest corner of East 21<sup>st</sup> Street South and South Harvard Avenue (related to Items 2 & 3)
5. **LC-276**– Sisemore Weisz & Associates, Inc. (9324) Lot-Combination (CD-5)  
Northeast corner of East 41<sup>st</sup> Street South and South Memorial Drive
6. **LS-20394**– White Surveying Company (0235) Lot-Split (CD-1)  
North of the Northeast corner of West Latimer Street and North Cheyenne Street (Related to Items 7 & 8)
7. **LC-277**– White Surveying Company (0235) Lot-Combination (CD-1)  
North of the Northeast corner of West Latimer Street and North Cheyenne Street (related to Items 6 & 8)

Consent agenda (cont'd)

8. **LC-278**– White Surveying Company (0235) Lot-Combination (CD-1)  
North of the Northeast corner of West Latimer Street and North Cheyenne Street (Related to Items 6 & 7)
9. **LC-279**– Dale Chronister (9204) Lot-Combination (CD-1)  
Northeast corner of West 7<sup>th</sup> Street South and South 46<sup>th</sup> West Avenue
10. **LS-20395**– Dean Solberg (8321) Lot-Split (CD-8)  
South of East 91<sup>st</sup> Street South and South Toledo Avenue
11. **Stone Lake – Phase 1 (formerly known as Solow Ranch – Phase 1) - Final Plat – (2334)** (County)  
East of Southeast Corner of North Yale Avenue and East 136<sup>th</sup> Street North

**STAFF RECOMMENDATION:**

This plat consists of 23 lots in six blocks on 22.70 acres.

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

13. **PUD-268-B – Todd Werndli/Oklahoma Heart** RM-1/PUD (CD-8)  
South of the southwest corner of 91<sup>st</sup> Street South and South Mingo Road (Detail Site Plan for a 7,376 square foot addition to an existing medical office.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 7,376 square foot (SF) addition to an existing medical office. The proposed use, Use Unit 11 – Offices, Studios, and Support Services, is a permitted use in PUD-268-B.

The submitted site plan for the building addition meets all applicable building floor area, open space, building height and setback limitations. Existing access to the site is provided from Mingo Road and 93<sup>rd</sup> Street South and will not be changed. Parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping is provided per PUD requirements and the landscape chapter of the Zoning Code. There is no new lighting proposed at this time.

Staff recommends **APPROVAL** of the detail site plan for Area A of PUD-268-B.

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

Consent agenda (Cont'd)

14. **PUD-684-A-1 – Roy D. Johnsen/Riverbend Self-Storage** CS/RM-1/PUD

West of the southwest corner of 81<sup>st</sup> Street South and Riverside Drive (Minor Amendment to reduce the required parking from 63 spaces to 59 spaces.) (CD-2)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to reduce the required parking on this lot from 63 spaces to 59 spaces based on the current tenant mix.

On August 10, 2010 the City of Tulsa Board of Adjustment (BOA) in case #21125 granted a parking variance reducing the required parking on the lot to 59 spaces (see attached BOA meeting minutes and case photographs) citing there not being more than one or two peak times that the BOA believes the 59 parking spaces would be inadequate. Section 1107, H-6 of the Code requires that minor changes in parking capacity be implemented in the PUD through the minor amendment process.

Staff recommends **APPROVAL** of minor amendment PUD-684-A-1.

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

15. **PUD-489-11 – Kristopher Koepsel/71 Mingo Center** CS/CO/PUD

Northeast corner of 71<sup>st</sup> Street South and South Mingo Road (Minor Amendment to transfer excess floor area from one lot to another.) (CD-7)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to transfer excess floor area from one lot to another. Specifically, the applicant seeks to transfer 2,876 square feet (SF) of existing floor area from Lot 3 and 5,324 square feet (SF) of existing floor area from Lot 3A to Lot 6 to allow for the expansion of the building on Lot 6 (see Exhibits A and B and case photographs). There is no request to increase the permitted floor area allowed by the PUD.

Floor area in PUD-489 is currently allocated as follows:

Lot	Floor Area Allocation
1	47,147
2	34,000
3	112,676
3A	9,324
4	11,000
5	7,000
6	187,731
6A	3,769
<b>TOTAL</b>	<b>422,647</b>

In transferring 8,200 SF of floor area from Lot 3 (2,876 SF) and Lot 3A (5,324 SF) to Lot 6, the existing 422,647 SF of floor area allowed in PUD-489 would be allocated as follows:

Lot	Floor Area Allocation
1	47,147
2	34,000
<b>3</b>	<b>109,800</b>
<b>3A</b>	<b>4,000</b>
4	11,000
5	7,000
<b>6</b>	<b>195,931</b>
6A	3,769
<b>TOTAL</b>	<b>422,647</b>

The underlying corridor zoning (CO) and CS zoning within PUD-489 would allow over 1,000,000 SF in commercial floor area. Since there is no request to increase the permitted floor area staff recommends **APPROVAL** of minor amendment PUD-489-11.

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

16. **PUD-411-D-2 – John Trinder/Bill Knight Ford** **CO/PUD**  
Southeast corner of Memorial Drive and the Creek Turnpike (Minor Amendment to permit a temporary trailer on an automotive dealership lot for a period of one year.) **(CD-8)**

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to permit a temporary trailer on an automobile dealership lot for a period of one year. The trailer would serve as a temporary office for Bill Knight Ford's Fleet Sales Division (please refer to attached Exhibits and case photographs).

The trailer will not occupy any required parking, will need to meet the minimum setback requirements of the PUD and would be temporary. The trailer would be permitted from September 7, 2010 to September 7, 2011. Additional time would require further review by the TMAPC in the form of a minor amendment application.

Since the request is temporary in nature and the trailer will not occupy any required parking staff can support the request.

Staff recommends **APPROVAL** of minor amendment PUD-411-D-2 allowing a temporary trailer for a period of one year dating from 9/7/10 to 9/7/11.

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

18. **PUD-370-B – Duvall Architects** **CS/OL/RM-1/RS-2/PUD**  
South of the southwest corner of 101<sup>st</sup> Street South and (CD-8)  
South Memorial Drive (Detail Site Plan for a 4,940  
square foot office building.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 4,940 square foot (SF) office building. The proposed use, Use Unit 11 – Office, Studios and Support Services is a permitted use in PUD-370-B.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site is provided from one point along 106<sup>th</sup> Street South. Parking will be provided per the applicable Use Unit of the Zoning Code and parking area dimensioning meets the requirements of Chapter 13 of the Code. Landscaping is provided per the PUD and the landscape chapters of the Zoning Code. All sight lighting including building mounted is limited to 15' in height. A trash enclosure is being provided as required by the PUD. Sidewalks will be provided along 106<sup>th</sup> Street as required by Subdivision Regulations.

Staff recommends **APPROVAL** of the detail site plan for Lot 20, Block 1 – Avalon Park on Memorial.

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

Ms. Cantrell stated that Items 12 and 17 will be removed from the consent agenda.

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

**TMAPC Action; 11 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **7-0-0** (Cantrell, Dix, Edwards, Leighty, Liotta, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, McArtor, Midget, Wright "absent") to **APPROVE** the consent agenda Items 2 through 11, 13, 14, 15, 16 and 18 per staff recommendation.

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

Mr. Midget in at 4:07 p.m.

Mr. Carnes in at 4:08 p.m.

**12. PUD-595-B-3/Z-5970-SP-5c – Brian Ward/Aloft Hotel CO/PUD**

North of the northwest corner of 71<sup>st</sup> Street South and US 169 (CD-7)  
(Minor Amendment to allow two roof signs, increase the permitted display surface area from 1 square foot per lineal foot of building wall to 2 square foot and to increase the permitted display surface area for a canopy sign from 1 square foot per lineal foot of building wall to 6.52 square foot.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to allow two roof signs, increase the permitted display surface area (DSA) for wall signs on the east elevation only from one (1) square foot (SF) per lineal foot of building wall (LFBW) to two (2) SF/LFBW, and an increase in the permitted display surface area for a canopy sign from 1 SF/LFBW to 6.52 SF/LFBW. These signs have been installed.

On August 10, 2010 the City of Tulsa Board of Adjustment (BOA) in case #21104 granted variances for the aforementioned citing the location of the hotel and the perceived difficulty travelers may have finding the hotel. Section 1107, H-12 of the code requires changes to approved signage in a PUD must be reviewed by the TMAPC through the minor amendment process.

In keeping with the spirit of results of the BOA case, staff can support this request. However, it is staff's contention that the canopy sign is unnecessary, since the sign is barely visible from US 169 or anywhere outside the PUD.

In considering the request for an increase in the DSA for the canopy sign, the TMAPC may wish to consider the context of the signs on the east elevation. When looking at the canopy sign alone the request is for a 5.52 SF increase in DSA/LFBW. However, looking at the entire 240 lineal feet of the east elevation and considering the canopy sign as a part of the entire east elevation, the increase would be from 1 SF/LFBW to 2.67 SF/LFBW.

Considering this, staff recommends **APPROVAL** of minor amendment PUD-595-B-3/Z5970-SP-5c.

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

**TMAPC COMMENTS:**

Mr. Leighty asked staff how the applicant received a permit for the existing signage before being approved. In response, Mr. Sansone stated that the BOA approved the variances and he assumed then the applicant went to the permit center and received their permits, but he can't speak for that, since TMAPC staff doesn't issue the permits. Mr. Sansone stated that he can't speak to how the existing signage was installed and how the permits were issued. Mr. Leighty expressed concerns by setting a precedent and making it possible for someone else doing the same thing.

Ms. Cantrell asked if the BOA found a hardship for the canopy sign that is being requested today. In response, Mr. Sansone stated that he believes the canopy signage was tied to the location of the site. If one is not from Tulsa and not familiar with the area, it would be difficult to find the hotel and once the vacant lot adjacent to the hotel is developed, the canopy sign will not be visible from the highway.

**Applicant's Comments:**

**Brian Ward**, 9520 East 55<sup>th</sup> Place, 74145, stated that he doesn't actually have a permit at this point, but did get approval from Yuen Ho to move forward with the project based on approval today. Mr. Ward indicated that he has been granted a special approval process to proceed and install signs.

**TMAPC COMMENTS:**

Mr. Leighty asked Mr. Ward if technically he is supposed to have the permits before constructing the signage. In response, Mr. Ward stated that technically that is true.



There were no interested parties wishing to speak.

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Midget, Shivel, Walker, "aye"; no "nays"; none "abstaining"; McArtor, Wright "absent") to **APPROVE** the minor amendment for PUD-595-B-3/Z-5970-SP-5c per staff recommendation.

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Mr. Walker recused himself from PUD-511-2 and left the room at 4:18 p.m.

Ms. Wright in at 4:19 p.m.

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|-----|--|---------------|
| 17. | <b><u>PUD-511-2 – Tulsa Engineering &amp; Planning/Tim Terral/Helmrich Estates</u></b>   | <b>RE/PUD</b> |
|     | East of the northeast corner of 31 <sup>st</sup> Street South and South Peoria (Minor Amendment to increase the driveway coverage of the required front yard from 17% to 25%.) | (CD-9)        |

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the driveway coverage of the required front yard from 17% to 25%.

The Required Front Yard is defined in the Zoning Code as the area located between the street right-of-way (ROW) line and the front setback/building line.

This lot is 2.8514 acres/124,207 square feet (SF) with an open space requirement of 20,000 SF. The underlying zoning of the PUD is RE, which requires 12,000 SF of open space. Review of the concept plan indicates there will be in excess of 20,000 SF of open space on this lot.

Considering the size of the area defined as the required front yard on this lot and the fact that the entire area is behind a gated masonry wall, staff contends an 8% increase in the coverage of the required front yard will have little to no impact.

Staff recommends **APPROVAL** of minor amendment PUD-511-2.

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

**TMAPC COMMENTS:**

Ms. Cantrell stated that she has spoken with staff and Mr. Boulden regarding this issue and she understands that PUD Chapter 1106 of the Zoning Code doesn't give the Planning Commission the authority to do this without a variance from the Board of Adjustment. Mr. Sansone stated that staff and the TMAPC have been put in a predicament due to the Board of Adjustment determining that they didn't have the authority to grant blanket variances and advising the applicant to file a PUD through the Planning Commission. Ms. Cantrell asked Mr. Boulden his opinion. Mr. Boulden stated in this particular application with one lot involved that the rationale of the BOA doesn't necessarily apply. It doesn't hurt anything to grant this, but he believes it would still require BOA approval. Ms. Cantrell asked Mr. Boulden if the subject application would still need a variance. Mr. Boulden stated that it would still need a variance. Mr. Midget asked Mr. Boulden if the Planning Commission should refer this to the BOA for a variance and should they have to come back to the Planning Commission after receiving their variance. Mr. Sansone stated that if the Planning Commission is inclined to refer the applicant to the BOA and inclined to approve the minor amendment, they could maybe condition the approval of the minor amendment that the applicant gets the BOA approval so that the applicant wouldn't have to return to the Planning Commission and save him some time. Ms. Cantrell stated that she is uncomfortable with doing that because as a Planning Commissioner, she believes that their obligation is to apply the law as it is here before them today. If they get a variance, then they get a variance, but the Planning Commission has no authority to do that in her opinion. Ms. Cantrell indicated that she would have no problem with continuing the application until he can apply for his variance and once the variance is granted, he can return to the Planning Commission for the minor amendment. Mr. Midget stated that his only concern is that the applicant is present and if it doesn't preclude the Planning Commission from approving the minor amendment with the condition of the BOA granting a variance, he would be in favor of trying to accommodate the applicant.

**Applicant's Comments:**

**Tim Terral**, Tulsa Engineering and Planning, 6737 South 85<sup>th</sup> East Avenue, 74133, stated that he has another case on this agenda that deals with the same issue and it was recommended directly by the BOA stating that he would have to go through a PUD because they are not approving blanket variances anymore, which they had done in the past. He called INCOG to see what the proper course of action would be for this and this was the recommended way to go, a PUD.

**TMAPC COMMENTS:**

Mr. Midget asked Mr. Terral if there are any time constraints that would prevent him from coming back to the Planning Commission after the BOA approves the variance. In response, Mr. Terral stated that there is nothing to prevent him from coming back to the Planning Commission other than time. Mr. Terral stated that if he needs to get a variance because that is what the Planning Commission

determines, then that is what he will attempt to do. Ms. Cantrell stated that she didn't want to put it all on herself and would like Legal to at least make sure that it is the Legal position that a variance is needed. Mr. Boulden stated that a variance is needed. Ms. Cantrell stated that the Zoning Code should probably be looked at to prevent this from happening again. Mr. Terral agreed and agreed to a continuance if necessary.

In response to Mr. Dix, Mr. Terral stated that he doesn't know his client's timeframe on building the subject home.

Mr. Dix stated that he appreciates the Chair's desire to adhere to the letter of the law, but he also would like to allow the developer to move on and he would like to make a motion that the Planning Commission approve this minor amendment based on the contingency that they do get a BOA approval. Mr. Midget seconded.

Ms. Cantrell stated that she would be opposing that motion, but it is nothing against the merits of the application.

Mr. Edwards asked Mr. Boulden if the Planning Commission approves this application as presented with the contingency, it would set a precedent. In response, Mr. Boulden stated that he doesn't believe it would. There are some who would argue that it is a precedent that the Planning Commission is exercising some authority that they do not have. Either way, it requires a BOA approval of a variance and ultimately it will be the Board of Adjustment's decision. He doesn't see anything wrong with the Planning Commission approving the minor amendment with the contingency that the applicant obtain a BOA approval of the variance.

Mr. Leighty stated that he would be voting with the chair to deny the minor amendment. He further stated that he knows the subject area and doesn't have any problems with the application whatsoever and he doesn't think it would be a bad thing. The house will not be seen from the street and to have an arbitrary yard there wouldn't make any difference. He wants to do things right and he thinks the Chair is right to question this. If there is a need to make some changes in the Code, then let's make them.

Mr. Dix stated that his desire to help things along is based on dirt work being done when it can be done rather than when the ground is frozen.

Ms. Cantrell stated that she doesn't know if approving the PUD today with the contingency would necessarily speed it up if he has to wait two months for the BOA approval. The real holdup is the BOA.

**TMAPC Action; 9 members present:**

On **MOTION** of **DIX**, TMAPC voted **6-3-0** (Carnes, Dix, Edwards, Liotta, Midget, Shivel, "aye"; Cantrell, Leighty, Wright "nays"; none "abstaining"; McArtor, Walker "absent") to **APPROVE** the minor amendment for PUD-511-2 per staff recommendation, subject to the approval of a variance from the Board of Adjustment.

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Mr. Walker in at 4:35 p.m.

**COMPREHENSIVE PLAN PUBLIC HEARING**

**Public Hearing to consider adopting the Downtown Area Master Plan Map and Text, a part of the Comprehensive Plan for the Tulsa Metropolitan Area. (Resolution No. 2585:901)**

**STAFF RECOMMENDATION:**

**RESOLUTION  
TULSA METROPOLITAN AREA PLANNING COMMISSION**

**Resolution No. 2585:901**

**A RESOLUTION OF THE TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC), PURSUANT TO TITLE 19 OKLAHOMA STATUTES, SECTION 863.7; ADOPTING AN AMENDMENT TO THE "COMPREHENSIVE PLAN OF THE TULSA METROPOLITAN AREA", ORIGINALLY ADOPTED ON JUNE 29, 1960 AND AS SUBSEQUENTLY AMENDED; AMENDING THE COMPREHENSIVE PLAN FOR THE DOWNTOWN AREA (CENTRAL BUSINESS DISTRICT) WITHIN THE INCORPORATED CITY LIMITS OF THE CITY OF TULSA IN THE STATE OF OKLAHOMA; ADOPTING THE DOWNTOWN MASTER PLAN AS PART OF THE COMPREHENSIVE PLAN OF THE TULSA METROPOLITAN AREA.**

WHEREAS, the Tulsa Metropolitan Area Planning Commission ("Planning Commission") is required to prepare, adopt and amend, as needed, a master plan, also known as a comprehensive plan, for the Tulsa metropolitan area, in accord with Title 19 Oklahoma Statutes, Section 863.7; and

WHEREAS, the purpose of such a comprehensive plan is to bring about coordinated physical development of an area in accord with present and future needs and is developed so as to conserve the natural resources of an area, to

insure the efficient expenditure of public funds, and to promote the health, safety, convenience, prosperity and general welfare of the people of the area; and

WHEREAS, pursuant to Title 10 Oklahoma Statutes, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29<sup>th</sup> day of June 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area, which was subsequently approved by the Mayor and Board of Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law; and

WHEREAS, a public hearing was held on the 7<sup>th</sup> day of September 2010 and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19 Oklahoma Statutes, Section 863.7, to adopt The Downtown Master Plan as part of the Tulsa Comprehensive Plan for the Tulsa Metropolitan Area, as contained in the attached plan maps and text.

NOW THEREFORE, BE IT RESOLVED, by the Tulsa Metropolitan Area Planning Commission:

Section 1. That the Comprehensive Plan of the Tulsa Metropolitan Area, as originally adopted by the Tulsa Metropolitan Area Planning Commission on June 29, 1960 and as amended from time to time, shall be and is hereby amended, regarding portions of the City of Tulsa situated within the downtown area, commonly referred to as the "Central Business District", to adopt and include "The Downtown Master Plan" map and text, as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

Section 2. That a true and correct copy of the "Downtown Master Plan" map and text identified in the foregoing Section One is attached to this Resolution and incorporated by reference as if fully written herein.

Section 3. That upon adoption by the Tulsa Metropolitan Area Planning Commission, this Resolution shall be transmitted and submitted to the City Council of the City of Tulsa for its consideration, action and requested approval within forty-five (45) days of its submission.

Section 4. That upon approval by the Tulsa City Council, or should the City Council fail to act upon this amendment to the Comprehensive Plan within forty-five (45) days of its submission, it shall be approved with the status of an official plan and immediately have full force and effect as to the downtown Tulsa area.

ADOPTED on this 7<sup>th</sup> day of September 2010 by a majority of the full membership of the Tulsa Metropolitan Area Planning Commission, including its ex officio members.

**Applicant's Comments:**

**Jack Crowley**, Consultant for the Downtown Plan, 210 Denmark Hall, Athens, GA 30602, stated that he lived here while doing the consultant work for one and half years at the Center Plaza Apartments. There were meetings with over 150 groups and he talked with at least 2,500 people by the end of January 2009. The plan needs to be adopted quickly because it is already being implemented.

Dr. Crowley stated that this plan is unique because there was a "cookbook" developed during the process. It is not part of the plan that is being asked to be adopted, but it is part of the plan that explains what the plan might look like to a developer who is interested. Too often a plan is developed that is too general in order to not offend anyone and not specific enough to do anything about it and then the plans get put on a shelf and nothing ever happens. The "cookbook" idea is to take a particular element of the plan and do something with it; this is what it might look like, but not what it has to look like. Dr. Crowley indicated that he coordinated with the PLANiTULSA plan.

**TMAPC COMMENTS:**

Ms. Cantrell stated that Tulsa could use more bicycle racks and she doesn't see anything in reference to that issue. Dr. Crowley stated that this plan didn't get to that level. Ms. Cantrell stated that bike racks are an important component because if there is nowhere to park the bike, one doesn't want to ride it.

Mr. Leighty asked Dr. Crowley to recognize the people who put up the money to pay for all of this. Dr. Crowley stated that the Lobeck Taylor Foundation covered the expenses of his living in Tulsa for one year and half and the Kaiser Family Foundation paid the University of Georgia to borrow him. Mr. Leighty stated that they deserve our thanks.

Ms. Cantrell stated that there are no interested parties wishing to speak.

Mr. Leighty stated that, quite honestly, he was surprised that no one has signed up to speak. He is in 100 percent support of this plan and his hat is off to Jack Crowley for doing a masterful job. Mr. Leighty further stated that downtown Tulsa really is the heartbeat of the region and it is so important that it is maintained and improved in the revitalization of downtown to bring it to its full potential. He was hoping that there would be more input from the community and he thinks it speaks to the level of indifference that is out there. It is disappointing in some regards, but he doesn't want to hold it up and he would like to make a motion to approve the plan as presented.

Mr. Midget stated that he would second Mr. Leighty's motion. Mr. Midget further stated that he doesn't see it as indifference because there was a lot of public input and participation in this plan. The group went all over the City talking about this and some of the elements of the plan are already being implemented. He

thinks this is a testament to Dr. Crowley's ability to pull the types of coalitions together and bring this level of planning to Tulsa without a lot of opposition and discord.

Dr. Crowley stated that he would guarantee that he has spoken to more people for a plan of this size than any other plan that he is aware of in this country.

Ms. Cantrell stated that the motion should be to adopt the resolution.

**TMAPC Action; 10 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **ADOPT** the Downtown Area Master Plan Map and Text, a part of the Comprehensive Plan for the Tulsa Metropolitan Area and Resolution No. 2585:901 as presented.

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

Mr. Midget out at 4:45 p.m.

**PUBLIC HEARING**

20. Stavros Corner – (8406) Preliminary Plat (CD-7)  
South of the southeast corner of East 62<sup>nd</sup> Street South and South Mingo

**STAFF RECOMMENDATION:**

This plat consists of one lot, one block, on 1.62 acres.

The following issues were discussed August 5, 2010, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned CO (corridor) SP1/Z-6254-SP-2. Approved standards need to be shown in covenants.
2. **Streets:** Access on Mingo is limited to 36 feet maximum. On Mingo and 63<sup>rd</sup> Street show right-of-way and reference plat number or book and page number. Section 1. A should read "Public and Utility Easements." Drive way width is not shown for any access. Driveway widths must be 24-36 feet. Driveways on 63<sup>rd</sup> Street must be at least 100 feet apart, measured from tangent to tangent.

3. **Sewer:** No comment.
4. **Water:** Show the existing 48-inch water main line along South Mingo Road.
5. **Storm Drainage:** An overland drainage easement will be required for all off-site flow coming onto the site from the east property line to the inlet that intercepts the Fully-Urbanized, 100 Year rainfall event. The entire storm drainage system down stream of that inlet, and the west inlet separated from this system, but connecting to the existing public storm drainage system, are public. Therefore, all storm sewer pipes in this system must be reinforced concrete pipes (cmp cannot be used in the City of Tulsa). All portions of the storm sewer system located outside of the 17.5-foot utility easement must be placed in a storm sewer easement, with a minimum width of 15 feet centered on the pipe. Section 1.C.2: revise to say "Within the utility easement and storm sewer easement areas..." Please add standard language for roof drainage, to insure that it is piped to the adjacent public storm sewer system. Show and label all easements by type and width. Driveway culverts (minimum 18 inch RCP) are required to convey the Fully-Urbanized, 100 Year rainfall event under the entrances. The westernmost catch basin does not have an outflow pipe shown. An outflow pipe will be required to connect this inlet to the public storm sewer system and this inlet and pipe will both be public and located in a utility easement or a storm sewer easement. The public drainage system must be designed to collect and convey the Fully-Urbanized, 100 Year Rainfall event.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** AT&T needs language about easements (PB2) clarified with standard language on maintenance and repair responsibilities.
7. **Other: Fire:** No comment.

**GIS:** Provide CA number and renewal date for the engineer. For the basis of bearing, state the bearing in degree, minutes and seconds, along with the description of it. Add a written scale under the location map. Tie the plat from a Section corner using bearings and distances from a labeled point of commencement to a labeled point of beginning and add to the legend (pob and poc). "Date of preparation" is the preferred label for date identification on the face of plat. Submit subdivision control data sheet. Add "less and except" for ten feet of additional right-of-way dedication to legal description.

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 Work Department and Development Services 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.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **APPROVE** the minor preliminary plat for Stavros Corner, subject to special conditions and standard conditions per staff recommendation.

\*\*\*\*\*

21. **Dirty Butter – Heritage Hills Extension** – (0225) Preliminary Plat (CD-1)

Northwest corner of Virgin and Hartford (**Staff requests a continuance to 9/15/2010 for further review of floodplain issues.**)

**STAFF RECOMMENDATION:**

Staff is requesting a continuance to September 15, 2010 for further review of the floodplain issues.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **WRIGHT**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **CONTINUE** the preliminary plat for Dirty Butter – Heritage Hills Extension to September 15, 2010 per staff recommendation.

\*\*\*\*\*

22. **Tuscany Hills at Nickel Creek** – (8211) Preliminary Plat (CD-2)

North of West 81<sup>st</sup> Street South and East of South Union Avenue

**STAFF RECOMMENDATION:**

Mrs. Fernandez stated that there have been several emails received today about the uses on the subject property, but she would like to remind the Planning Commission that the issue before them today is the preliminary plat, which is a subdivision issue. The uses have been approved.

This plat consists of one lot, one block, on 17.50 acres.

The following issues were discussed August 19, 2010, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned PUD 636 B/CO Z-5457-SP-2/Z-4825-SP-1. Density must be in conformance with PUD standards. Covenants need to refer to CO (corridor) and PUD standards and requirements. A plan showing Development Areas involved in the project and a gate plan are needed. Attached is a letter from the City of Jenks concerning drainage for the project. Attached are comments from the airport staff.
2. **Streets:** Label Union Avenue (public street), show Limits of No Access on Union Avenue. Call out right-of-way of 78<sup>th</sup> Street and label as public street. Include emergency access easement, shown on the conceptual plan, in the plat. Section 1.H Sidewalks should read "...arterial and collector streets..." since developer has to construct sidewalk along 78<sup>th</sup> Street as well. Add a section on Limits of No Access in the covenants. Provide language in the covenant for emergency access easement.
3. **Sewer:** Add the width of the easement that was added for the sanitary sewer main extension located within Development Area B, and describe its use. If the above easement is to be a sanitary sewer easement, then you must include restrictions for its use in the covenants. Sanitary sewer mains constructed under all paved driving surfaces must use ductile iron pipe.
4. **Water:** At station 4 + 36.93 the proposed 12-inch line must tie into the existing 16-inch to create a dual feed system.
5. **Storm Drainage:** The area platted for a stormwater detention facility is a stormwater detention easement only. However, the perimeter utility easement should be shown along the east and southwest boundaries of this area. The proposed Hager Creek Regulatory Floodplain must be shown. The area, where the entire 100-year runoff of the upstream Hager Creek Watershed is conveyed in pipe, should be placed in a storm sewer easement. The floodplain channel, downstream of the storm sewer easement and upstream of the detention easement, should be placed in an Overland Drainage Easement. Label darker shaded area on conceptual plan. The pipe conveying the upstream floodplain drainage should not be discharging into an area inlet.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.

7. **Other: Fire:** No comment.

**GIS:** Submit subdivision control data form.

**Airport:** See attached comment.

**Development Services General Comments:** The message sent out by Robert Bell outlining the City of Jenks' concerns about runoff from this project and other development in the Hagar Creek drainage basin has been reviewed by City of Tulsa staff. Staff does not agree with the content of that message and will respond by separate correspondence.

Please remove Lot 2, Block 1 from the face of the plat. Right-of-way for the public collector street must be dedicated to the City of Tulsa and referenced by book and page number. Please note that the final plat will not be approved until the collector street is constructed to 81<sup>st</sup> Street. Label the point of commencement and remove the reference to lot addresses from the face of plat. Assure that all lettering is complete and readable. In I.6 there will be no prorata share of the cost of maintenance. Assure labels are readable.

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 and Development Services 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.

**TMAPC COMMENTS:**

Ms. Cantrell asked Mrs. Fernandez to explain what the new law is regarding the airport. Mrs. Fernandez stated that whenever there is a structure that is in the flight path or the clear zone of an airport, it will require an FAA study, but this new law doesn't take effect until October 1, 2010. She believes that the applicant has missed this due to timing, but she believes they have already done a study. Mr. Dix stated that the way he read it, the applicant already owns all of the property they need in the glide path study and so this new law doesn't apply to them. Mrs. Fernandez stated that she believes that the applicant may have an aviation easement needed. Mrs. Fernandez stated that the applicant's building permit or occupancy permit would be held if they do not meet all the requirements.

**Applicant's Comments:**

**Jeffrey Tuttle**, 9714 East 55<sup>th</sup> Place, 74146, Civil Engineer for the applicant, stated that he is in complete agreement with the staff recommendation.

### **INTERESTED PARTIES COMMENTS:**

**Kay Price**, 5815 South 31<sup>st</sup> West Avenue, 74107, stated that she is the president of the W.O.R.T.H. homeowners association and that she has 150 signatures on a petition. Ms. Price further stated that it is in her opinion that this board (the TMAPC) acted arbitrarily and capriciously in rezoning this entire area to corridor in 2005 from West 61<sup>st</sup> to 91<sup>st</sup>. She knows of at least one person who was not properly notified and her contention is that there should have been a small area plan done when Tulsa Hills broke ground. Ms. Price expressed concerns with additional apartments being built in the subject area and cited that there would be over 1,000 apartments in the subject area.

Ms. Price stated that her neighborhood association has been meeting and working on an area plan for the subject corridor and will eventually come back to the City Council to overturn the corridor zoning. Ms. Price concluded that it is not appropriate to put this type of density up against residential and agricultural.

### **TMAPC COMMENTS:**

Ms. Cantrell stated that she appreciates that Ms. Price doesn't want apartments in the subject area, but today the Planning Commission is not deciding zoning. The only issue the Planning Commission can address today is whether this plat is consistent with the zoning that is in place there today. Everything seems to indicate that it is consistent with the existing zoning. The Planning Commission doesn't have the authority to revisit a zoning decision. Today's decision has nothing to do with whether the Planning Commission believes it is appropriate zoning or not. Today's decision has to do with giving the rights of the current property owner and whether this plat is consistent.

Ms. Wright stated that she believes that everyone agreed that sooner or later a small area plan should be done for the entire corridor area. Ms. Price stated that it was not agreed upon at TMAPC, but it was at the City Council. Ms. Price further stated that right now the City is not in a position to fund an official City-sanctioned small area plan so a coalition has been formed and the residents are doing it themselves with direction from Theron Warlick at the Department of City Development. Ms. Wright stated that currently the Zoning Code is not in compliance with the new Comprehensive Plan, with which she suspects there will be challenges. Ms. Wright stated that she will not be supporting this subdivision because it does not comply with the new Comprehensive Plan and she has issues with that and the Planning Commission is not trying to go towards the new vision. Ms. Price requested that the plat be denied because it is simply not good planning to do this type of density.

Mr. Edwards out at 5:05 p.m.

Ms. Price asked if they have an issue with the noticing when the corridor zoning was requested, what happens to this preliminary plat if it is approved and can it be reversed. Ms. Wright asked when the corridor was rezoned. In response,



Ms. Price stated that it happened in 2005. Mr. Boulden stated that it is of no consequence right now, because the time for appeal of the zoning decision is long past.

**Applicant's Rebuttal:**

Mr. Tuttle stated that he has sympathy for Ms. Price, but zoning on the subject property was done in 2000. He did the engineering on the Nickel Creek that was built a couple of years ago and it is extremely underneath the zoning density that was granted ten years ago. He is not going to use anywhere near the densities that exist. Mr. Tuttle stated that Mr. Case feels differently from Ms. Price's article about apartments and he feels that the market is very strong. His client is not building the apartments to antagonize the surrounding properties. The Nickel Creek project is gorgeous and there is not a speck of dirt anywhere around it. Mr. Case doesn't own the property down to 81<sup>st</sup> Street and he wouldn't be able to agree that it would go commercial. The zoning has been in place for the ten years and he is presenting a plat that he believes conforms to the zoning and the requirements of the City.

**TMAPC COMMENTS:**

Mr. Walker asked Mr. Tuttle if the first phase of the apartments is full. In response, Mr. Tuttle stated that the first phase is 100 percent full with a waiting list. Mr. Waterson is present and he owns the property north of the subject property and he plans to develop it in large single-family lots to his understanding.

Mr. Dix stated that he believes it would be arbitrary and capricious to not approve this application if it meets the requirements. Mr. Dix indicated that he is in support of this application.

**TMAPC Action; 8 members present:**

On **MOTION** of **DIX**, TMAPC voted **7-1-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Shivel, Walker "aye"; Wright "nay"; none "abstaining"; Edwards, McArtor, Midget "absent") to **APPROVE** the preliminary plat for Tuscany Hills at Nickel Creek per staff recommendation, subject to special conditions and standard conditions.

\* \* \* \* \*

23. **BOA- 21128** – (0327) Plat Waiver  
6304 East Apache Street North

(CD-3)

**STAFF RECOMMENDATION:**

The platting requirement is being triggered by a Special Exception for an accessory building for a fiber optic cable communication use.

**Staff provides the following information from TAC at their August 19, 2010 meeting:**

**ZONING:**

TMAPC Staff: This is a portion of a leased area for a building for fiber optic cable.

**STREETS:**

Apache is a secondary arterial; what other accesses are present on that lot? Depending on number of other accesses, any new access may or may not be granted. Drive cannot be gravel; it must be asphalt or concrete.

**SEWER:**

No comment.

**WATER:**

No comment.

**FIRE:**

No comment.

**UTILITIES:**

No comment.

Staff recommends **APPROVAL** of the plat waiver for this small triangular shaped parcel. The use is similar to the cell tower communication buildings that are routinely approved by the planning commission.

***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

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Edwards, McArtor, Midget "absent") to **APPROVE** the plat waiver for BOA-21128 per staff recommendation.

\* \* \* \* \*

24. **Z-7155** – (0327) Plat Waiver (CD-3)  
1917 and 1919 North Fulton Avenue

**STAFF RECOMMENDATION:**

**Z-7155 – 1917 and 1919 North Fulton Avenue (0327) (PD 16) (CD 3)**

The platting requirement is being triggered by a rezoning from CS (commercial) to R4 (single family residential).

**Staff provides the following information from TAC at their August 19, 2010 meeting:**

**ZONING:**

TMAPC Staff: The property has been previously platted.

**STREETS:**

No comment.

**SEWER:**

No comment.

**WATER:**

No comment.

**FIRE:**

No comment.

**UTILITIES:**

No comment.

Staff recommends **APPROVAL** of the plat waiver.

**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

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Edwards, McArtor, Midget "absent") to **APPROVE** the plat waiver for Z-7155 per staff recommendation.

\* \* \* \* \*

Mr. Edwards in at 5:10 p.m.

26. **PUD-779 – Tulsa Engineering and Planning/Tim Terral/Oxford Court** RS-3 to RS-3/PUD

South of southwest corner of East 41<sup>st</sup> Street and South 177<sup>th</sup> East Avenue (PUD to reflect what the applicant describes as market demand for three car garages and associated extra wide driveway to accommodate the garage.) (Related to Item 25.) (CD-6)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 21482 dated March 6, 2007, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**Z-7075 December 2007:** All concurred in approval of a request for rezoning a 122± acre tract of land from AG to RS-3/RS-4 for single-family residential on property located west of the southwest of East 41<sup>st</sup> Street and South 117<sup>th</sup> East Avenue.

**Z-7048 March 2007:** All concurred in approval of a request for rezoning a 46.7± acre tract of land from AG to RS-4 for single-family development on property located south of southwest corner of East 41<sup>st</sup> Street South and South 177<sup>th</sup> East Avenue and the subject property.

**PUD-733 October 2006:** All concurred in approval of a request for a PUD for commercial development at the northeast corner of South 177<sup>th</sup> East Avenue and East 41<sup>st</sup> Street South, with underlying zoning of CS, RS-3 and AG. This case is to be heard by the City Council on December 19, 2006.

**Z-7028 August 2006:** All concurred in approval of a request to rezone a 10+ acre tract from AG to RS-3 on property located south of southwest corner of East 41<sup>st</sup> Street and South 177<sup>th</sup> East Avenue.

**Z-7006 January 2006:** All concurred in approval of a request to rezone an 80+ acre tract from RS-3 to RS-4 for residential purposes located south of the southeast corner of East 41<sup>st</sup> Street South and South 177<sup>th</sup> East Avenue.

**Z-6970 February 2005:** All concurred in approval of a request to rezone a 10+ acre tract from AG to RS-3, located south of the southwest corner of East 49<sup>th</sup> Street and South 177<sup>th</sup> East Avenue.

**PUD-711 February 2005:** Approval was granted for a gated single-family development for 38 lots. The property is located west of the northwest corner of East 51<sup>st</sup> Street and South 177<sup>th</sup> East Avenue.

**Z-6945 August 2004:** All concurred in approval of a request to rezone a on a 126.5+ acre tract from AG to RS-3, on property located north and east of the northeast corner of East 51<sup>st</sup> Street and South 177<sup>th</sup> East Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 56.69+ acres in size and is located south of southwest corner of East 41<sup>st</sup> Street and South 177<sup>th</sup> East Avenue. The property is partially developed and is zoned RS-3.

**TRANSPORTATION VISION:**

The Transportation chapter of the recently adopted and updated City of Tulsa Comprehensive Plan identifies 41<sup>st</sup> Street, west of 177<sup>th</sup> East Avenue as a future Multi-Modal Corridor. Multi-Modal Corridors are identified on page 15 of the Transportation chapter as “emphasizing plenty of travel choices such as pedestrian, bicycle and transit use. Multimodal streets are located in high intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity”. This may indicate that the requested downzone of the subject property may not provide the density needed to justify this type of transportation corridor.

177<sup>th</sup> East Avenue is not identified in the Plan. 177<sup>th</sup> East Avenue is identified as a secondary arterial by the Major Street and Highway Plan which remains effective under the Tulsa Comprehensive Plan.

**STREETS:**

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South 177 <sup>th</sup> East Avenue	Secondary Arterial	100'	2

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

**SURROUNDING AREA:** Please refer to the attached “surrounding area” exhibit. The subject tract is abutted on the east by vacant land with 40 acres of CS/RM-0/RS-3 zoning and 80 acres of RS-4 zoning; on the north by a 15 acre tract with a single home, zoned AG; on the south by Oxford Park a single family subdivision, zoned RS-3; and on the west by a 122 acre lot with one single-family home, zoned RS-3 and RS-4.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The recently adopted and updated City of Tulsa Comprehensive Plan identifies this area as an Area of Stability and an Existing Neighborhood. Staff finds that the existing, platted RS-3 zoning is in accord with development objectives as outlined in the Plan.

**STAFF RECOMMENDATION:**

Proposed PUD-779 is an existing, platted RS-3 zoned subdivision located south of the southwest corner of East 41<sup>st</sup> Street South and South 177<sup>th</sup> East Avenue (see attached Plat #6201). The site is relatively flat and clear and has existing homes and homes currently under construction.

The purpose of PUD-779 is to reflect what the applicant describes as market demand for three car garages and associated extra wide driveway to accommodate the garage. In an RS-3 zoned district driveways are limited to covering 34% of the required front yard per §1303-D of the Zoning Code. With the smaller sized lots located in the RS-3 district a three car driveway inevitably exceeds the 34% limitation (see attached photographs).

On June 22, 2010 in case #21102 the applicant sought relief from the 34% limit in the form of a “blanket” variance from the Board of Adjustment (BOA). In 2005 (case #20016), 2007(case #20458) and twice in 2008 (cases #20888 and #20890) the BOA granted blanket variances from the 34% limit in RS-3 zoned subdivisions. In the June 2010 case the BOA determined that the Board does not have the authority to grant “blanket” variances and that relief from the requirement needed to be granted on a case by case basis. The applicant withdrew the BOA application and was encouraged to submit a PUD application.

Staff has conducted site visits and can support the application since all other requirements of the RS-3 district will continue to be met. Most importantly, each lot will still need to meet the 4,000 square foot (SF) livability/open space requirement. There is no other relief being sought from any other requirement of the RS-3 district or subdivision regulations. Additionally, the applicant proposes to limit the width of any driveway to 28’.



Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-779 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-779 subject to the following conditions:

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

2. Development Standards:

**Land Area:** 56.69 acres

**Maximum Number of Dwelling Units:** 177

**Minimum Livability Space:** 4,000 SF

**DRIVEWAYS:**

Driveways may exceed the requirements of §1303-D of the code, which limits the coverage of the required front yard by a driveway to 34% in the RS-3 district. Driveways may not exceed 28' in width.

**SIGNS:**

New signs shall be installed in accordance with §402, B-4 of the City of Tulsa Zoning Code. Existing entry signage shall not exceed 32 square feet in size.

**All Other Development Standards:** Per the RS-3 District

3. No building permit shall be issued until the platting requirements of Section 1107-F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
4. For the purpose of the PUD detail site plan review requirements, the approved final plat shall constitute the required detail site plan. Any future perimeter walls or entry features must receive a Detail Site Plan approval from the TMAPC.

5. No sign permits shall be issued for erection of a sign within the PUD after 9/7/10 until a detail sign plan has been submitted to the TMAPC and approved as being in compliance with the applicable development standards.
6. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
7. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
8. Entry gates or guardhouses, if proposed after 9/7/10, must receive detail site plan approval from TMAPC, Traffic Engineering and Tulsa Fire Department, prior to issuance of a building permit for the gates or guardhouses.
9. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

**TAC COMMENTS:**

**General:** No comments.

**Water:** No comments.

**Fire:** No comments.

**Stormwater:** No comments.

**Wastewater:** No comments.

**Transportation:** No comments.

**INCOG Transportation:**

- **MSHP:** S. 177<sup>th</sup> East Ave is a designated secondary arterial.
- **LRTP:** E. 41<sup>st</sup> St. S., between S. 161<sup>st</sup> E. Ave and S. 177<sup>th</sup> E. Ave, planned 4 lanes. S. 177<sup>th</sup> E. Ave, between 41<sup>st</sup> St. S. and 51<sup>st</sup> St. S. existing 2 lanes.
- **TMP:** S. 177<sup>th</sup> East Avenue is a planned on-street bikeway.
- **Transit:** No current or future plans for this location.

**Traffic:** No comments.

**GIS:** No comments.

**Street Addressing:** No comments.

**TMAPC COMMENTS:**

Ms. Cantrell stated that she understands the Board of Adjustment's views about blanket variances, but she isn't sure that the BOA sent this back to the Planning Commission with the interpretation of the Zoning Code and saying that the

Planning Commission has the authority to do this type of request. She doesn't believe the Zoning Code gives the Planning Commission the authority to do this type of request. Ms. Cantrell asked Mr. Boulden if the Planning Commission had the authority to request the BOA for an interpretation of the Zoning Code to determine whether the Planning Commission has the authority. Mr. Boulden stated that he doesn't necessarily think the BOA directed the Planning Commission to consider this, but it was thought that the applicant could accomplish this request through a PUD.

Mr. Carnes stated that what is front of the Planning Commission right now is whether or not everyone agrees that a three-car garage would be appropriate for the subject area. If the Planning Commission agrees to it, then there is no reason to follow staff recommendation and approve it. If the Planning Commission disagrees that three-car garages are inappropriate for the subject area then it should be denied. Ms. Cantrell stated that it is more of the driveway and not the actual garage. Ms. Cantrell further stated that she believes that there are other areas where the Planning Commission should have more discretion in the PUD, but the way the PUD Chapter reads, there are limits to the TMAPC's authority. There is nothing in the PUD Chapter provisions about driveways that give the Planning Commission the authority to vary it. The Planning Commission has an obligation to follow the Zoning Code as it is written. Ms. Cantrell commented that she finds it problematic to disregard the intent of the Zoning Code simply because the Planning Commission believes that this is not a bad development. She further commented that she doesn't think it is a bad development and she doesn't have a problem with a three-car garage and wider driveways, but that would require revisiting the Zoning Code. Ms. Cantrell concluded that she doesn't like using PUDs to circumvent what the Zoning Code states.

In response to Ms. Wright, Mr. Sansone explained that in residential PUDs, in some of the cases, open area is taken on a lot-by-lot basis and put into reserve, and the PUD Chapter allows that. In a certain percentage of the time, residential PUDs are established for that very purpose in order to get more lots. Ms. Wright asked what the intention of the open area requirement is. Mr. Sansone stated that it has several functions: avoid certain densities that aren't wanted in certain Use districts, as the lot gets larger the open space requirement gets larger; it plays to runoff or percability, and serves as a way to keep residential subdivisions from being too dense and to aid in stormwater management. Ms. Wright asked Mr. Sansone if he is telling her that oftentimes open space is to receive water and what the TMAPC are being asked today is to layer it over with concrete. Mr. Sansone stated that he doesn't agree with that statement, because the applicant will still meet the requirements on each lot. Ms. Wright stated that she is wondering if this per-lot basis is just another way to increase the size of the building structure and then come back with variances on setbacks, etc., and doing away with open space overall. Mr. Sansone stated that he can't predict what the applicant's intention is, but he can say that if the variance were

approved for the coverage of the driveway and then the applicant came in and started relaxing open space requirements and setbacks, it would have to be looked at carefully. Staff doesn't myopically look at the minor amendment request, but looks at the requests that have been made in the past and weigh the merits of the current application in relation to what has been done in the past in the PUD. Mr. Sansone confirmed that not all lots would have to have three-car garages if this is approved, but the applicant would like to have the flexibility to do so if the homeowner requests a three-car garage.

Ms. Cantrell informed Mr. Terral that she would be more comfortable with having the BOA issue an opinion on whether the Planning Commission has this authority.

**Applicant's Comments:**

**Tim Terral**, Tulsa Engineering & Planning, 6737 South 85th East Avenue, 74133, stated that he understands what the Planning Commission is saying. In answer to Ms. Wright's comments regarding open space he demonstrated that the smallest lot has ten percent above what is required and the larger lots have over 50 percent of what is required.

Mr. Terral explained that there is a market demand for three-car garages and there are already many in the City. He can guarantee that they haven't all been before the BOA for the relief. There is no zoning district in the Zoning Code that allows a three-car garage. The Zoning Code needs some type of revision because this is what is being built. Three-car garages are popular and requested.

**TMAPC COMMENTS:**

Mr. Leighty stated that he will be consistent with his vote and oppose this, but we need to get to work immediately to amend the Zoning Code so this won't happen every time. People do want three-car garages and he has nothing against this application, but he hasn't heard anything from Mr. Boulden or anyone else that the Planning Commission has the authority to do this.

Mr. Boulden stated that it is one of the general powers of the Board of Adjustment to make an interpretation of the zoning map and text. He believes the Planning Commission can certainly request the BOA to make a determination regarding this issue.

Mr. Alberty stated that the reason why this requirement is in the Zoning Code is because people were paving their lots around the Fairgrounds area in order to rent out spaces for parking. It became such an issue that this was brought up and the Code was amended. If the Code were amended, there will still be that concern by Midtown. Mr. Alberty gave several suggestions of how the Code could be amended. Mr. Alberty agreed with Mr. Boulden that the Planning Commission does have the authority to approve this application.

Ms. Cantrell stated that she thought Mr. Boulden's position was that the Planning Commission doesn't have the authority to approve this application. Mr. Boulden stated that he did state that he doesn't believe the Planning Commission has the authority, but he understands the argument that the Planning Commission doesn't have the authority to do this on its own. The Chair's concern is with the provision in the Zoning Code, but his position is that the Planning Commission can approve this application if the Board of Adjustment approves a variance as well.

Ms. Cantrell asked Mr. Boulden if he is stating that the applicant would still have to go before the Board of Adjustment for a blanket variance. In response, Mr. Boulden stated that then it would be okay because it would be consistent with a legislative action of the council. Ms. Cantrell stated that she would like to add a sentence to Chapter 1106 that the Planning Commission has the authority to vary the percentages of the yard covered by the driveway.

Mr. Edwards stated that he agrees with staff that this isn't a bulk and area requirement, but this is not something that is going to significantly change what happens in the PUD. He sees no problem with approving it, subject to approval of the Board of Adjustment. The final approval is being put back on the BOA and all the Planning Commission would be doing is giving them the okay to do it. That is why the Planning Commission is here and the BOA interprets the Zoning Code, but so does the Planning Commission. This is something very minor and something that the Planning Commission can work with. They are not giving the final approval, but saying it is okay for the BOA to give the blanket variance if they wish to approve it.

Ms. Cantrell still believes that the cleaner way to do this is to amend the Zoning Code.

Mr. Carnes stated that there appears to be a problem with the Zoning Code and we are Planning Commissioners and the TMAPC can make decisions and that is what they are being asked to do.

Mr. Carnes moved to approve the minor amendment, subject to the BOA approval. Mr. Edwards seconded.

Ms. Cantrell stated that she would be voting against this because of the process.

Mr. Boulden stated that he agrees with the Chair and he doesn't believe that this many hoops should be jumped through to do this. The Zoning Code needs to be changed.

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-3-0** (Carnes, Dix, Edwards, Liotta, Shivel, Walker, "aye"; Cantrell, Leighty, Wright "nays"; none "abstaining"; McArtor, Midget "absent") to recommend **APPROVAL** of PUD-779 per staff recommendation, subject to approval of the BOA.

**Legal Description for PUD-779:**

Oxford Court, Blocks 1 through 8, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

**TMAPC COMMENTS:**

Ms. Cantrell stated that she would like for the BOA to interpret the Zoning Code and clarify whether they believe the Planning Commission has the authority to do this strictly through a PUD. If they find that the Planning Commission does have the authority, it would resolve this issue. Mr. Boulden stated that he thought it would be better to have this as a separate item on the agenda.

In response to Ms. Wright, Mr. Alberty stated that there is nothing in the Zoning Code that would specify the height of a garage or what is inside of it. The only thing that the Code does address is that an RV can't be parked in the grass and has to be on a solid surface. There is nothing wrong with an RV being parked on the driveway, but one can't hook it up and occupy it. Ms. Wright stated that she thought RVs had to be in the backyard. Ms. Cantrell stated that the RV issue is specifically addressed in the residential district. Mr. Dix stated that unless the door to the garage is over 12 feet tall an RV will not fit in it.

\* \* \* \* \*

Ms. Wright out at 5:47 p.m.

- 25. **PUD-779** – (9426) Plat Waiver (CD-6)  
 South of East 41<sup>st</sup> Street South and West of South 177<sup>th</sup>  
 East Avenue (Related to Item 26.)

**STAFF RECOMMENDATION:**

**PUD 779-** (9426) (PD 17) (CD 6)  
South of East 41<sup>st</sup> Street South and West of South 177<sup>th</sup> East Avenue

The platting requirement is being triggered by a new Planned Unit Development #779 as a result of a variance granted through the Board of Adjustment to allow a maximum driveway width of 28 feet in the existing platted Oxford Park addition.

Staff provides the following information from TAC at their August 19, 2010 meeting:

**ZONING:**

TMAPC Staff: The property has been platted previously (2008).

**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.

***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

\*PUD is pending. Covenants need to reflect PUD standards. This can be accomplished by separate instrument.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker, "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to **APPROVE** the plat waiver for PUD-779 per staff recommendation.

\*\*\*\*\*



Ms. Wright in at 5:50 p.m.

27. **Z-7158/PUD-737-A – Jim Litchfield/Stratford Ridge** **RS-3/PUD-737 to AG/PUD-737-A**  
Southeast corner of East 11<sup>th</sup> Street and South 161<sup>st</sup> East Avenue (Abandonment of PUD-737 and rezone to AG zoning.) (Continued from 7/21/10, 8/3/10 and 8/18/10) (CD-6)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 21564 dated June 29, 2007 and Ordinance number 21585 dated July 31, 2007, established zoning for the subject property.

***RELEVANT ZONING HISTORY:***

**PUD-737 July 2007:** A request was made for a proposed Planned Unit Development on a 140± acre tract of land for 600 residential dwellings and commercial use. Staff recommended approval of per conditions and TMAPC recommended approval of 543 residential dwellings with conditions. The City Council approved the PUD with condition of no more than 453 dwelling units, on property located on the Southeast corner of East 11<sup>th</sup> Street and South 161<sup>st</sup> East Avenue and a part of the subject property.

**Z-7045 June 2007:** A request was made to rezone a 140± acre tract from AG to 135 acres to RS-4 and 5 acres to CS for residential and commercial use. The applicant changed the request from RS-4 to RS-3. Staff recommended for 5 acres to CS and 100' buffer of OL and the remainder RS-3 if TMAPC approved PUD. The TMAPC recommended approval per staff recommendation except RS-2 instead of RS-3. The City Council approved 5 acres to CS and remainder to RS-3, on property located on the Southeast corner of East 11<sup>th</sup> Street and South 161<sup>st</sup> East Avenue and a part of the subject property.

**Z-6671 February 1999:** All concurred in approval of a rezoning of a tract of land from RS-3 to AG, lying one-half mile northeast of the subject site.

***AREA DESCRIPTION:***

**SITE ANALYSIS:** The subject property is approximately 91.98± acres in size and is located southeast corner of East 11<sup>th</sup> Street and South 161<sup>st</sup> East Avenue. The property appears to be vacant and is zoned RS-3.

**TRANSPORTATION VISION:**

The Transportation chapter of the recently adopted and updated Comprehensive Plan of the City of Tulsa identifies 11<sup>th</sup> Street along the project limits as a future Multi-Modal Corridor. Multi-Modal Corridors are identified on page 15 of the Transportation chapter as “emphasizing plenty of travel choices such as pedestrian, bicycle and transit use. Multimodal streets are located in high intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity”. This may indicate that the requested downzone of the subject property may not provide the density needed to justify this type of transportation corridor.

**STREETS:**

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 11 <sup>th</sup> Street	Secondary arterial	100'	2
South 161 <sup>st</sup> East Avenue	Secondary arterial	100'	2

**UTILITIES:** The subject tract has municipal water and sewer available. The City of Tulsa has recently extended utilities into this area in anticipation of the development of the existing zoning.

**SURROUNDING AREA:** See also the attached case map aerial photograph. The subject tract is abutted on the east by large-lot single-family residential uses and vacant land, zoned AG and RS-1; on the north by vacant land and large-lot single-family residential uses, zoned CS/OL/RS-3 and AG; on the south by vacant land, zoned RD and AG; and on the west by large-lot single-family residential uses, zoned RS-3. The northwest corner of 11<sup>th</sup> Street and 161<sup>st</sup> East Avenue

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The newly adopted Tulsa Comprehensive Plan identifies this area as an “Area of Change” and calls for this area to be a new neighborhood with a neighborhood center at the hard corner of the intersection, in which AG zoning would not be compatible. However, if the application is approved to remove the PUD overlay, the underlying CS zoning would remain at the corner. The new neighborhood designation includes single-family homes, townhouses, condominiums and low-rise apartments. The neighborhood center designation includes one-to-three story mixed-uses, retail, and multifamily residential, condominiums, townhouses and small lot single-family residential uses. (Tulsa Comprehensive Plan, July 2010, pages 31 and 33, Land Use).

**STAFF RECOMMENDATION FOR ZONING (Z-7158):**

Staff cannot support the requested AG zoning. This area is viewed as having potential for future and more dense development. Moreover, the City has recently invested significant funds (\$1 million) to increase utility service to the area for that reason, showing a commitment to the Tulsa Comprehensive Plan

goals of increased density for new development and more efficient land use. An AG use would be counter to that goal. Therefore, staff recommends **DENIAL** of abandonment of the PUD and **DENIAL** of returning of AG zoning on Z-7157.

**STAFF RECOMMENDATION FOR PUD:**

PUD-737 was approved in 2007 and is a planned residential development with a five-acre commercial node on the southeast corner of East 11<sup>th</sup> Street South and South 161<sup>st</sup> East Avenue (the area designated by the Tulsa Comprehensive Plan July 2010 as a neighborhood center). The tract has 2,310 feet of frontage along East 11<sup>th</sup> Street and 2,640 feet of frontage on 161<sup>st</sup> East Avenue. Corresponding RS-3 and CS zoning were approved in support of the proposed development (see accompanying zoning map). Referring to Exhibit A, the 32-acre (+/-) tract identified as Parcel 1 is not a subject of this application and would remain PUD-737 should the Planning Commission approve this amendment. Also, the CS-zoned tract at the hard corner would remain zoned CS without the PUD designation.

The remaining 91-acre site is characterized by wooded, rolling terrain with a ridgeline that runs north/south along the western half of the subject property and a smaller ridgeline situated in the north central portion of the site along East 11<sup>th</sup> Street South. There are three drainage-ways located on-site that were proposed for stormwater detention.

PUD 737-A permits a maximum of 108,900 square feet (SF) of commercial floor area and 543 single-family residential dwellings on 50' wide lots. The minimum lot size of 5,500 SF with a livability space requirement of 2,000 SF per lot.

The City has extended utility service to the area based on an urban density of development including construction of a sanitary sewer lift station and force main to serve the densely planned residential subdivision (see Exhibit A-1). Reverting to rural density zoning would not provide adequate density of development required to satisfy the investment by the City. See the TAC comments below and the attached letter dated August 30, 2010 from Charles Hardt, Director of Public Works opposing this request.

The Tulsa Comprehensive Plan, adopted by the Tulsa Metropolitan Area Planning Commission and approved by Tulsa City Council in July, 2010 identifies this area as an "area of growth/change". The northwest section of the property is designated as a neighborhood center while the remainder of the property is targeted as a new neighborhood. Neighborhood centers are mixed use developments designed to serve surrounding neighborhoods. Rezoning the area back to a low density, agricultural district appears contrary to the goals and policies of the new comprehensive plan.

Given the significant capital investment made by the City of Tulsa in the area and designation of the area by the newly adopted comprehensive plan as a

neighborhood center and new neighborhood, staff recommends **DENIAL** of PUD-737-A.

**TAC Comments:**

**General:** As pointed out in the wastewater comments below, the City of Tulsa entered into a contract with the developer of the subject property. Until legal issues are resolved, Development Services opposes the approval of this application. A representative of Development Services will be present at TMAPC to provide additional information.

**Water:** The extension of a water main line to serve each lot will be required.

**Fire:** No comments.

**Stormwater:** No comments.

**Wastewater:** The City of Tulsa has constructed a Sanitary Sewer Lift Station to serve a planned residential subdivision on this 140 acre tract. It may be necessary to retain the present zoning in order to generate enough flow for the Lift Station to function properly. Contact Bob Shelton with the City of Tulsa Engineering Division (596-9572) for the City's position on the proposal. (See RFA Contract #25477)

**Transportation:** No comments.

**INCOG Transportation:**

- MSHP: E. 11<sup>th</sup> St. S. and S. 161<sup>st</sup> E. Ave, existing 2 lanes. 100' ROW should be maintained and sidewalks should be included along 11<sup>th</sup>, 161<sup>st</sup>, and on all internal streets per Subdivision Regulations.
- LRTP: E. 11<sup>th</sup> St. S., between S. 161<sup>st</sup> E. Ave and S. 177<sup>th</sup> E. Ave, existing 2 lanes. S. 161<sup>st</sup> E. Ave, between E. 11<sup>th</sup> St. S. and E. 21<sup>st</sup> St. S., existing 2 lanes. Sidewalks should be constructed if non-existing or maintained if existing.
- TMP: No Comment
- Transit: No current or future plans for this location.

**Traffic:** No comments.

**GIS:** No comments.

**Street Addressing:** No comments.

**Applicant's Comments:**

**Jay Litchfield**, 5513 A East 51<sup>st</sup> Street, 74135, stated that his client would like to rezone the subject property to its original zoning of AG. There are large agricultural tracts of land surrounding the subject area. The subject property is 140 acres and owned by Mr. Brashear. His client admits that Ramsey Shaw Developers began in the process of an agreement to apply for the sewage lift station, which was approved in 2006. The original PUD was applied for and approved in 2007. Shaw Ramsey's original plan was to purchase Phase I (43 acres) from Mr. Brashear and then purchase the remaining 97 acres later. The developer did purchase Phase I in 2007 and then planned to purchase the remaining 97 acres in the next two years, which never happened. The Stratford Ridge, Phase I were the only parcels purchased. The economic downturn of 2008, 2009 and 2010 caused the new-home market to go down. Mr. Litchfield

cited the number of homes and lots for sale in the City of Tulsa. He further cited that there have only been three properties of this size sold in Tulsa County since 2009 and they were in Bixby and Glenpool. Mr. Litchfield cited the surrounding properties that haven't sold or developed.

Mr. Litchfield stated that his client is not a party to the agreement for the lift station and his name doesn't appear on the agreement. He further stated that his client has no financial responsibility for that agreement. The City allowed the developer, Shaw Ramsey, to pay as each phase was developed and the total of the three phases would total to the amount of \$434,000.00. Public Works considers the price of the lift station to be 1.4 million dollars. There was no easement for the lift station allowed for Mr. Brashear's property. The only way his client would be able to develop that and use the lift station would be if Shaw Ramsey finished out their development process and then stubbed in to what they developed out.

Mr. Litchfield stated that he only ask for fairness. The times have changed and the market for housing has changed. Mr. Brashear is not a party to the contract for the lift station and it is not his financial responsibility. He asked why a man's ability to sell his property in the way he would like would be influenced because the City made a mistake.

**TMAPC COMMENTS:**

Mr. Walker asked how much property Shaw Ramsey owns. In response, Mr. Litchfield stated that they own 43 acres, which is called Stratford Ridge, Phase I. Mr. Walker asked if Shaw Ramsey Development talked the City into installing the lift station and do they have to perform within ten years. In response, Mr. Litchfield answered affirmatively. Mr. Walker stated that they have about six years left on the contract. Mr. Litchfield stated that the City could be made whole through Shaw Ramsey and it is not his client's responsibility.

Mr. Leighty asked Mr. Litchfield why he wanted to downzone to AG. In response, Mr. Litchfield stated that they wanted to sell larger than five-acre tracts for single-family homes. Mr. Litchfield stated that they originally planned on selling ten tracts, with one tract as large as 38 acres. Mr. Leighty asked if the current owner was a part of the PUD process. In response, Mr. Litchfield stated that his client was the owner at the time the PUD was applied for and their intentions were to sell the entire 140 acres to Shaw Ramsey, but they fell out due to the market.

In response to Ms. Wright, Mr. Litchfield stated that his client contacted the developer because he wanted to sell his 140 acres. The developer agreed to buy the property if he could get a lift station put in, buy the property in phases and get a PUD approved. They got the lift station put in, PUD approved and a sales contract to purchase the land in phases. The developer bought the first phase of 43 acres and did not buy anymore. Ms. Wright asked if the City built

the lift station by the promise of Shaw Ramsey Development. In response, Mr. Litchfield answered affirmatively.

In response to Mr. Dix, Mrs. Fernandez stated that there has been a preliminary plat filed for Stratford Ridge a few years ago. The preliminary plat was approved and has been dormant for several years and would require a new plat at this time. Mr. Dix asked if Shaw Ramsey closed on the property. Mr. Litchfield stated that Shaw Ramsey did close on Phase I in July 2007.

In response to Mr. Shivel, Mr. Litchfield stated that when the lift station was built the 43 acres were owned by Shaw Ramsey.

**INTERESTED PARTIES COMMENTS:**

**Ken Hill**, Assistant Public Works Director, City of Tulsa, representing Tulsa Municipal Utility Authority (TMUA) and the City of Tulsa, stated that in 2006 Mr. Brashear and Councilor Mautino had brought two previous developers to TMUA requesting to assist them in constructing the infrastructure to serve their projects. Shaw Ramsey was not the first developer that came forward with Mr. Brashear to try to get the infrastructure put in. The City looked at this as an economic development project and had participated in other projects similar to this. There was an economic evaluation study done for the lift station to serve the entire 140 acres and it would require a minimum of 475 lots to have a payback within a reasonable timeframe (seven to eight years). TMUA entered into an agreement with Shaw Ramsey Development and Mr. Brashear is not a party to the contract. The contract is with the City, TMUA and Shaw Ramsey Development; however, Mr. Brashear did bring forward two other developers. Mr. Hill cited two successful projects that were done as economic development projects. He agreed that it is a matter of timing. Mr. Hill stated that the lift station that was built to serve the 140 acres was at a cost of 1.4 million dollars, which is on the back of rate payers today. There is a ten-year timeframe and the City will be looking at Shaw Ramsey at that time, because obviously they are not in breach of their contract today.

Mr. Hill stated that Mr. Mulder represents the Mayor's Office and the Mayor's Office supports TMUA's position requesting denial of the rezoning of the subject property. The rezoning would inhibit the ability to recover the cost of the lift station.

**TMAPC COMMENTS:**

In response to Mr. Leighty, Mr. Hill stated that the cost of the lift station will be a legal question once the timeframe is up. At this point, there are six years remaining and the commitment toward the process of the agreement was to develop the subject property within ten years. Mr. Hill stated that TMUA has successes, which includes Tulsa Hills. Mr. Hill further stated that one of his points is that Mr. Brashear's efforts to sell the property had brought two previous developers before Shaw Ramsey to the table trying to get TMUA to build the lift

station. Mr. Brashear and Councilor Mautino were pushing for the lift station and in dire straits wanting to sell the property with a high density. Councilor Mautino wanted rooftops in the subject area for the schools in the vicinity. Councilor Mautino submitted a letter opposing the AG zoning.

Ms. Wright stated that the applicant could sit on the land and never develop it and there still wouldn't be any recovery. Mr. Hill stated that that is possible and the City doesn't really care who develops it, but by rezoning it would really inhibit TMUA's ability to recover its cost for the infrastructure. Ms. Wright asked if the City of Tulsa learned something about not banking on promises by a developer. In response, Mr. Hill stated that at the time there was a lot of discussion and debate at TMUA before it was conceded to.

Mr. Shivel stated that he remembers that this was a relatively contentious application when this came before the Planning Commission because of the density, etc. If a property is sold to someone, in this case Brashear to Shaw Ramsey, how is Brashear to continue to have liability or responsibility for any infrastructure improvements after the sale. Mr. Hill stated that TMUA is not questioning that Mr. Brashear has liability for the infrastructure; however, what he is asking for rezoning does because there was a promise made and Mr. Brashear was a part of that, and to all of sudden downzone prevents the TMUA from recovering the cost of the investment.

Mr. Walker asked Mr. Litchfield if he understands how the proposed redevelopment affects the TMUA's recapture. In response, Mr. Litchfield stated that he understands their point, but his client was completely blind-sided by this and didn't think it would come up. It was at the committee meetings when his client first learned about it and up to that point his client thought this would be a simple thing to do. The application was never done realizing that this would be a problem until it was raised at the committee meeting. Mr. Walker stated that it would be hard to approve this when the desire is to have 500 homes versus five, ten or eleven homes. Mr. Litchfield stated that Mr. Brashear was taking developers and realtors to the TMUA talking about selling the subject property and get the highest price for it. Now it is out of Mr. Brashear's control because the contract to sell the entire property to Shaw Ramsey has failed for the last two phases and now the City is saying that he can't sell his property in a way that they feel is fit because somebody else fell through on their end due to the economy and market.

Ms. Cantrell stated that she is surprised the Mr. Brashear feels he was blind-sided because he was aware of the lift station and the costs of the lift station. Mr. Litchfield questioned the amount of the lift station because of the conflicting costs in the Shaw Ramsey contract and the letter from TMUA. Ms. Cantrell stated that she remembers when this PUD came through and there was a lot of discussion about this lift station and the Planning Commission learned that the lift station has gone forward before the PUD. She further stated that she understood that

the lift station was necessary in order to achieve the development of the PUD and she finds it a bit inconceivable that Mr. Brashear would be caught off guard because it was a big investment of the City and she would have some concern about now downzoning the subject property. Mr. Litchfield stated that he meant that his client was blind-sided that there would be any kind of objection to this application. Mr. Litchfield stated that Mr. Brashear is a rancher and owns cattle and horses and he is not sophisticated enough to know anything about zoning regulations. There are no easements for Mr. Brashear's land to access the lift station. His client has been advised that he would have to go to Shaw Ramsey to work out easements to access the lift station. That would be difficult to achieve for his client because Shaw Ramsey didn't fulfill their contract with him.

**TMAPC COMMENTS:**

Ms. Wright stated that the situation with the lift station is probably beyond the Planning Commission's purview and it looks like there might be legal action warranted. Today the Planning Commission is being asked to downzone the subject property and is being met with opposition for numerous reasons. Ms. Wright asked if there is not some other creative way to get some development on the subject property. Mr. Litchfield stated that the original contract with the lift station states that the developer would have a completion of 75 homes in Phase I. Ms. Wright stated that Phase I isn't up for discussion because it is owned by somebody else. Mrs. Fernandez stated that the applicant can do lot-splits for over five acres up to four times only by State Statutes. Mrs. Fernandez stated that when combining lots and it becomes more than six lots, it usually comes before the Planning Commission because staff believes it is too much. Mr. Dix stated that there hasn't been a plat filed and there are no lots to combine. Mr. Litchfield stated that currently the subject property is in a PUD and there are regulations that have to be followed, such as house size, setbacks, ingress/egress, etc. This is agricultural land and the RS-3 will keep people from using it as agricultural. Ms. Wright stated that the applicant could come back with a different PUD and be more creative and inspired with mixed use. The City needs to recover the money and the applicant needs to bring something else to the Planning Commission that is more creative. Mr. Litchfield stated that he understands, but his client was trying to avoid being a developer and simply wants to sell the land. Ms. Wright stated that unfortunately the past decisions have been made and the underlying zoning and PUD are still valid.

**Applicant's Rebuttal:**

Mr. Litchfield stated that he believes it still goes back to the very simple situation that this process and timeline has put Mr. Brashear into a difficult spot that he didn't want to happen because he wanted to sell 140 acres. He now is unable to access the sewer lift station and there may not be a market due to the housing market being down. The fairness that he feels is that this is land that his client would like to sell and he would like to put it back to its original zoning without a PUD.



### **TMAPC COMMENTS:**

Mr. Dix asked if the applicant has buyers for 12 lots and if he splits it he will have to still file a plat. Mr. Litchfield stated that he has had this discussion with INCOG and he has been told that if he has a minimum of 30-foot frontage on a road and a minimum average width of 200 feet and all tracts are over five acres, then he can split it into any tract he wants to and as many acres as he would like to. Another person stated that one can only do four lot-splits. Mr. Dix stated that the experts are present today and they can answer that question. Mr. Litchfield stated that he had two different staff members at INCOG telling him two different things. Mr. Litchfield expressed frustration about being a novice and not knowing all of his options. Mr. Litchfield stated that he was very careful that he followed the rules and kept it above the five acres each, road frontage and the minimum average width of 200 feet.

Mr. Walker asked if a plat is required for over five acres. Mrs. Fernandez stated that the INCOG website has brochures on it that explains this with diagrams. Frequently asked questions about lot-splits are also on the website. There can be five acres or more (5.01) or bigger lots and up to four of them of the same owner of property that can be split as long as it has access to a public road and in the County and City those are different things. There has to be water and sewer available as well. Mrs. Fernandez stated that she is not sure if a staff person talked to Mr. Litchfield about the PUD requirements that are currently zoned on the subject property, but it sounded like it with the restrictions that the gentleman was talking about. The rule is over five acres and up to four lot-splits per owner. Brad Bates has access to the land records and he can track who owns the property and when the land changed hands. Mr. Dix stated that he understands that there will have to be a plat filed. Mr. Litchfield asked what the rule would be if it were zoned AG. In response, Mrs. Fernandez stated that the same rule applies if it is over five acres.

Mr. Leighty commended Mr. Litchfield for giving this his best shot. Mr. Leighty stated that he will be voting in denial of the application. He explained that it is difficult for him to oppose it since it is downzoning. Mr. Leighty commented that he doesn't believe it is an appropriate place for development right now and he doesn't believe it is consistent with the new Comprehensive Plan and he looks at it as "leap frog development". The City needs to recover the money and he will vote to deny the application. This PUD doesn't fit in with the growth strategies that are going forward.

### **Ms. Wright out at 6:30 p.m.**

Ms. Cantrell concurred with Mr. Leighty. She can appreciate that this was somewhat of a "leap frog", but at the time there was a desperate desire to see some development out East. Councilor Mautino set the groundwork and Councilor Troyer and took the ball running. What was really desired for the subject area was rooftops and the topography in the subject area made it difficult

and the lift station was the solution. Perhaps it wasn't the best solution, but at the time it seemed like a good way to get some rooftops in the subject area. The market is down right now and she appreciates Mr. Brashear feeling that he shouldn't bear the brunt of that, but the current Comprehensive Plan looks to the concept that we be physically sustainable and that means that any development that occurs has to support and be supported by the infrastructure that has been brought out there. It may not happen right now, but if it is downzoned, it won't happen for a long time. If the property is rezoned to AG, then the chances of density going in there to support the infrastructure are pretty much nil for at least 20 years or so. Ms. Cantrell indicated that she would be opposed to the abandonment and the down zoning.

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to recommend **DENIAL** of the abandonment of PUD-737-A per staff recommendation.

**TMAPC Action; 8 members present:**

On **MOTION** of **CANTRELL**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to recommend **DENIAL** of the AG zoning for Z-7158 per staff recommendation.

\* \* \* \* \*

28. **Z-7157/PUD-778 – DeShazo, Tang & Assoc./Hendrix Properties** **AG to CS/PUD**  
Northwest corner East 101<sup>st</sup> Street and South Garnett Road (CD-8)  
(PUD proposes a two lot, one block subdivision. Lot 1 proposes personal office/warehouse building for applicant, Lot 2 proposes two sports activity buildings for a private volleyball club.) (Continued from 8/3/10)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11834 dated June 26, 1970, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**PUD-746 October 2007:** All concurred in approval of a proposed Planned Unit Development on a 5± acre tract of land for single-family residential on property located west of the northwest corner of East 101<sup>st</sup> Street and South Garnett Road.

**BOA-11534 August 6, 1981:** The Board of Adjustment approved a Special Exception to permit a church and school in an AG district (Grace Fellowship Church and School) per plot plan, subject to a subdivision plat, with the record to reflect that this is a private school and a facility of this size with school use and church use approval would not be required to be reviewed again by the Board if a facility such as a day-care center was added in the future, on property located at East 101<sup>st</sup> Street and South Garnett Road.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 5± acres in size and is located northwest corner East 101<sup>st</sup> Street and South Garnett Road. The property appears to be vacant and is zoned AG. Much of this property lies within a floodplain, an issue which will be addressed in the detail site plan, platting and other phases of plan development but which are not subject to TMAPC review during this phase.

**STREETS:**

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 101 <sup>st</sup> Street	Primary arterial	120'	2
South Garnett Road	Secondary arterial	100'	2

**TRANSPORTATION VISION:**

Garnett Road from 91<sup>st</sup> Street to 101<sup>st</sup> Street South and 101<sup>st</sup> Street South are not identified in the Transportation Vision of the newly updated and adopted Tulsa Comprehensive Plan. However and per TAC recommendation below, Tulsa County is planning improvements to the intersection of 101<sup>st</sup> & Garnett so the required rights of way will need to be provided. As a minimum, 101<sup>st</sup> requires 60' and Garnett requires 58' for the first 388' from the section line. Presently the 50' ROW along Garnett and 24.75' Statutory ROW on E 101 St. are still tied to the property. Rededication will be required during the platting process. Driveways should be located at least 150' from the tangent of the curve at the intersection of Garnett/101<sup>st</sup> St. Sidewalks must be 5' wide with sidewalk access provided at all driveway locations.

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

**SURROUNDING AREA:** The subject tract is abutted on the east by vacant land, zoned A-1 in Broken Arrow and owned by OTA; on the north by vacant and heavily wooded land, zoned AG and in private ownership; on the south by Cedar Ridge Golf and Country Club, zoned R-1 in Broken Arrow; and on the west by a large-lot single-family residential use and vacant land, zoned AG. See larger attached case map aerial photograph for clearer representation, as well as attached area photographs.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The recently updated and adopted Tulsa Comprehensive Plan designates this area as an "Area of Change".

The Plan also designates this area as a Neighborhood Center. According to Plan Policies (Land Use Chapter, page 31), Neighborhood Centers are:

"Small-scale, one to three story mixed-use areas intended to serve nearby neighborhoods with retail, dining, and services. They can include apartments, condominiums, and townhouses, with small lot single family homes at the edges. These are pedestrian-oriented places served by transit, and visitors who drive can park once and walk to number of destinations".

The Plan further states that centers should ideally support both daytime and evening activities to create an attractive and safe neighborhood destination. Staff contends that the proposed CS zoning would be **in accord** with the aforementioned designations.

**STAFF RECOMMENDATION FOR ZONING:**

The requested rezoning is in accord with the Comprehensive Plan. Therefore, staff recommends **APPROVAL** of CS zoning for Z-7157, provided that the TMAPC deems it appropriate to approve the accompanying PUD-778 or some variation thereof.

**STAFF RECOMMENDATION FOR PUD:**

PUD-778 is located at the northwest corner of 101<sup>st</sup> Street South and South Garnett Road. The tract is 3.83 net acres and 4.99 gross acres inclusive of both street rights-of-way (ROW). The tract is heavily wooded, undeveloped and zoned AG. A portion of the tract is located within a FEMA Floodplain (see attached Haikey Creek Floodplain Analysis). The property will be platted.

PUD-778 proposes a two lot, one block subdivision. Lot 1 is proposed to be used as a personal office/warehouse building for the applicant. Lot Two (2) is proposed for two sports activity buildings, specifically to be used as a private volleyball club. As required by the City of Tulsa, the two lots will have independent access points; however, there will be a gate between the two lots for overflow parking (see Exhibit A). Two-thirds of Lot 2 is located within the FEMA Floodplain.

While located in a floodplain the project has received clearance from City of Tulsa since the buildings on Lot 2 will be designed and constructed in a manner to create minimal impact on the floodplain and surrounding area. Please refer to the attached letter from the applicant dated August 20, 2010 and the attached building elevation exhibit and conceptual grading plan which includes compensatory storage calculations.

Staff has reviewed this proposal, conducted area visits and can support this application. Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-778 to be: (1) consistent with the vision, goals, and land use policy as outlined in the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas given the extent of floodplain in the area; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-778 subject to the following conditions:

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

**AREA:**

Net:	3.83 AC	166,678 SF
Lot 1:	1.14 AC	49,776 SF
Lot 2:	2.69 AC	116,902 SF
Gross:	4.99 AC	217,398 SF

**PERMITTED USES:**

The uses permitted as a matter of right in the CS - Commercial Shopping districts, excluding Use Unit 12a and Use Unit 16; and uses customarily accessory to permitted uses.

**MAXIMUM PERMITTED FLOOR AREA:**

Lot 1 - Commercial	20,000 SF (0.40 FAR)
Lot 2 - Commercial	50,000 SF (0.42 FAR)

**MINIMUM LOT FRONTAGE:**

Lot 1	45 FT
Lot 2	150 FT

**MINIMUM BUILDING SETBACKS:**

Lot 1:	
From S. Garnett Right of Way	50 FT
From the east property line	20 FT
From the north boundary	18 FT
From the west property line	40 FT

Lot 2:		
	From 101 <sup>St</sup> Street Right of Way	50 FT
	From S. Garnett Right of Way	50 FT
	From the north property line	20 FT
	From the west property line	0 FT

**OFF-STREET PARKING:**

Lot 1:  
 Office: Per use Unit 11 in the Zoning Code.  
 Warehouse: Per Use Unit 23 in the Zoning Code.

Lot 2:  
 Recreational facility: Per Use Unit 19 for Enclosed Commercial Recreation Establishments, NEC.

**LANDSCAPING AND SCREENING:**

A minimum of 15% of the net area of Lot 1 and 10% of the net area of Lot 2 shall be improved as internal landscaped open space in accord with the landscape requirements of Chapter 11 of the Tulsa Zoning Code. Landscaping shall include a minimum five foot landscaped buffer along the southern and eastern boundary in substantial conformance with the 'Landscape and Screening Details', Exhibit 'C'. Parking area and street side landscaped areas shall be in conformance with Chapter 10 of the Tulsa Zoning Code.

1 gallon loblolly pine trees shall be placed along the western boundary and the western two hundred and forty-nine feet (249') of the northern boundary spaced twenty feet (20') apart. All landscaped areas shall be native grass and ground cover.

A minimum six-foot (6') screening fence on concrete footings shall be required along the west boundary and the western two hundred and forty-nine (249') on the northern boundary of the planned unit development.

**SIGNS:**

Lot 1: Per Chapter 6 of the Tulsa Zoning Code.

Lot 2: One monument style sign per street frontage not to exceed eight-foot in height nor 64 square feet of display area. Wall signs may not exceed one square foot of display area per lineal foot of building wall to which the sign is attached.

**LIGHTING:**

All lights, including building mounted, shall be hooded and directed downward and away from the west and north boundaries of the planned unit development. Shielding of outdoor lighting shall be designed so as to prevent the light producing element or reflector of the light fixture from

being visible to a person standing at ground level in adjacent residential areas. Compliance with these standards shall be verified by submittal of a photometric plan. Consideration of topography must be included in the calculations.

### **ACCESS:**

Access to the property will be provided from 101<sup>st</sup> Street as shown on Exhibit 'D' – Access and Circulation.

Lot 1 will have a driveway off of 101<sup>st</sup> Street and a mutual access drive along the northern portion of Lot 2 to Garnett. Lot 2 has a proposed driveway off of 101<sup>st</sup> Street and South Garnett Rd. There will be a mutual access drive between Lots 1 and 2 off of 101<sup>st</sup> Street south of the Lot 1 gate to allow another access point for Lot 1 and an access gate between Lots 1 and 2 along the northern tract of the lots that will be opened to allow overflow parking for Lot 2 when needed.

No access to or from the undeveloped areas to the west or north is planned or proposed.

### **SIDEWALKS AND PEDESTRIAN CIRCULATION:**

Pedestrian circulation shall be provided by sidewalks along 101<sup>st</sup> Street and South Garnett as required by Subdivision Regulation. Internal pedestrian circulation shall be provided on both sides of the major driveways and within the parking areas as shown on Exhibit 'D'.

3. No zoning clearance permit shall be issued until a detail site plan for the lot, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
4. A detail landscape plan for each development area/lot shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening will be installed by a specific date in accordance with the approved landscape plan, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
5. No sign permits shall be issued for erection of a sign on a lot within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.

6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
7. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures or existing stormwater drainage structures and detention areas serving the development area have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
8. No building permit shall be issued until the platting requirements of Section 1107-F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
9. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
10. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.
11. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle. Receptacle screening shall be constructed of materials having an appearance similar to the buildings themselves and be of complementary color. Trucks or truck trailers may not be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

**TAC COMMENTS:**

**General:** No comments.

**Water:** No comments.

**Fire:** Provide emergency vehicle access easement between the two lots to allow fire apparatus right to enter both properties without turning around. The required turning radius of a fire apparatus access road shall be determined by the fire code official. Fire apparatus roads shall be designed with a minimum of 28 feet inside radius and a minimum of 48 feet' outside radius.

Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of



the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

**Exceptions:**

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

**Stormwater:** The FEMA Floodplain, as shown on the submitted Exhibit A, encompasses both buildings on Lot 2 and approximately half of the building on Lot 1. Will the building on Lot 1 also be constructed on stilts? There is a definite concern about access for emergency vehicles, to these buildings, during times of flooding.

**Wastewater:** Coordinate with Bob Shelton (596-9572) about the necessary contract between the City of Tulsa, and the City of Broken Arrow for your proposed sewer main extension from BA. A one time fee of \$25,000.00 will be required to finance the required flow meter which will measure the flow of sewer to Broken Arrow. Also, an Excess Capacity Fee of \$700.00/acre is required for the City of Broken Arrow. You will need to design your main extension with a manhole near the SE corner of the project, so additional sewer lines can extend to the North. Also, we will need a straight run manhole added on the run from Tulsa to B.A. for the flow meter to work properly.

**Transportation:** The County is planning improvements to the intersection of 101<sup>st</sup> & Garnett. Please coordinate with the county engineer to assure required rights of way are provided. As a minimum, 101<sup>st</sup> requires 60' and Garnett requires 58' for the first 388' from the section line. Presently the 50' ROW along Garnett and 24.75' Statutory ROW on E 101 St. are still tied to the property. Rededication required during Platting process. Driveways should be located at least 150' from the tangent of the curve at the intersection of Garnett/101<sup>st</sup> St. Sidewalks must be 5' wide with sidewalk access provided at all driveway locations.

**INCOG Transportation:**

- **MSHP:** East 101<sup>st</sup> Street is a designated primary arterial. S. Garnett Road is a designated secondary arterial
- **LRTP:** East 101<sup>st</sup> and S. Garnett Road planned four lanes. Sidewalks should be constructed if non-existing or maintained if existing, per Subdivision Regulations.
- **TMP:**
- **Transit:** No comments.

**Traffic:** No comments.

**GIS:** No comments.

**Street Addressing:** No comments.

**Applicant's Comments:**

**Nicole Watts**, DeShazo, Tang & Associates, 10830 East 45<sup>th</sup> Street, Suite 302, 74146, stated that this site is a difficult site and it doesn't go completely with the Comprehensive Plan, but she doesn't believe anything could be developed that the Comprehensive Plan calls out for.

**TMAPC COMMENTS:**

Mr. Walker asked if the stormwater runoff will be detained onsite. In response, Ms. Watts stated that there is an agreement with the City of Broken Arrow to take the water so they do not have to detain. The water will go under 101<sup>st</sup> to Haikey Creek. The parking lot will be grass-grate so that it will not be completely concrete pavement to reduce the runoff.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to recommend **APPROVAL** of the CS zoning for Z-7157 per staff recommendation.

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to recommend **APPROVAL** of PUD-778 per staff recommendation.

**Legal Description for Z-7157/PUD-778:**

THE SOUTH 356.52 FEET OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (E/2 SE/4 SE/4) OF SECTION NINETEEN (19), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THREOF, LESS AND EXCEPT THE WEST ONE HUNDRED (100) FEET OF THE SOUTH ONE HUNDRED SEVENTY FIVE (175) FEET THEREOF CONTAINING 217,398.31 SF (5.00 ACRES) MORE OR LESS.

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29. **PUD-628-B/Z-6467-SP-6 – Roy D. Johnsen/Care Animal Hospital**                      **CO/PUD-628 to CO/PUD-628B**

North of northeast corner of South Mingo Road and US 169 (Major Amendment to add a veterinarian clinic only as provided within Use Unit 14 – Shopping Goods and Services on Lot 2 only.) (CD-8)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 19802 dated March 30, 2000, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**Z-6910-AP-2 April 2006:** All concurred in approval of a proposed Corridor Site Plan on a 4.45+ acre tract of land for commercial and medical office use on property located east of southeast corner of East 91<sup>st</sup> Street South and South Mingo Road.

**Z-6910-SP-1 December 2003:** All concurred for approval of the proposed Corridor Site plan on a 4.5+ acre tract for a 4-story bank and office building located east of the southeast corner of East 91<sup>st</sup> Street and South Mingo Road.

**Z-6910 October 2003:** All concurred in rezoning a 4.5+ acre tract from AG to CO, for office and bank use, on property located east of the southeast corner of East 91<sup>st</sup> Street and South Mingo Road.

**PUD-268-C/Z-6863 August 2002:** All concurred in rezoning a 2.46+ acre tract from PUD/RS-3 to PUD/OL and a major amendment to PUD-268-A, per staff recommendation for a 3 building office park located on the south side of East 91<sup>st</sup> Street South approximately ¼ mile west of Mingo Road.

**PUD-628/Z-6467-SP-4 March 2000:** Approval was granted for a PUD/corridor site plan on a 15.8± acre tract located in the northeast corner of South Mingo Road and the Mingo Valley Expressway, for a proposed assisted living, elderly and retirement facility. Office uses were approved on the southern end of the tract that had originally been approved for a golf pro shop and teaching building.

**PUD-597/Z-6667 January 1999:** All concurred in approval of a request for rezoning and a planned unit development from AG to OL/PUD for an office park on a 6.1+ acre tract located on the northwest corner of South Mingo Road and Highway 169 per staff recommendation.

**BOA-18480 August 1999:** The Board of Adjustment denied a request for a variance of the required 1,200' spacing between outdoor advertising signs to 940' to relocate an existing outdoor billboard sign, on property located in the northeast corner of South Mingo Road and the Mingo Valley Expressway.

**PUD-268-B June 1997:** All concurred in approval of a request for a major amendment on a portion of the original PUD-221 to allow medical and general office use on that portion of the PUD previously approved for multifamily development and located south of the southwest corner of East 91<sup>st</sup> Street South and South Mingo Road.

**Z-6538/Z-6538-SP-1 July 1996:** All concurred in approval of a request to rezone a 3.4+acre tract located on the east side of Mingo Road and south of East 91<sup>st</sup> Street from AG to CO. Approval was also granted for a Corridor Site Plan for an inline hockey facility.

**Z-6503 October 1995:** All concurred to approve a request to rezone a 10+ acre from AG to CO, on property located south of the southwest corner of East 91<sup>st</sup> Street South and South Highway 169.

**Z-6467/Z-6467-SP-1 January 1995:** All concurred in approval of a request to rezone a 15+ tract of land from AG/CO to CO, on property located south of southeast corner of East 91<sup>st</sup> Street and South Mingo Road and a part of the subject property. Approval was also granted for a Detail Corridor Site Plan to allow a golf center with driving range, practice and instruction facilities.

**Z-6194 July 1988:** All concurred in approval of a request to rezone a 4+ acre tract from CS to CO, on property located east of the southeast corner of East 91<sup>st</sup> Street and South Mingo Road.

**PUD-268/Z-5618 October 1981:** Staff and TMAPC recommended denial of a request to rezone 15+ acres from RS-3 to RM-2 and recommended approval of RM-1/PUD on property located in the southwest corner of East 91<sup>st</sup> Street South and South Mingo Road.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 2.2+ acres in size and is located north of northeast corner of South Mingo Road and Creek Turnpike. The property appears to be vacant and is zoned CO/PUD-628.

**TRANSPORTATION VISION:**

The recently adopted and newly updated Comprehensive Plan for the City of Tulsa identifies 91<sup>st</sup> Street, just north of the subject tract as a "Bus-Rapid Transit" Route (BRT). The Plan describes a BRT as (refer to attached Larger version of Figure 1):

“BRT is a relatively new technology that combines some aspects of rail transit with the flexibility of buses. It can operate on exclusive transit ways, HOV lanes, expressways, or ordinary streets. As compared to typical diesel bus technology, a BRT system can potentially combine new technology (using propane or other alternative non-diesel fuel), priority for transit, leaner and quieter operation, rapid and convenient fare collection, and integration with land-use policy”.

**STREETS:**

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 93 <sup>rd</sup> Street South	Commercial Collector	60'	2
South Mingo Road	Secondary Arterial	100'	5

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

**SURROUNDING AREA:** Please refer to attached Exhibit C, surrounding area aerial photograph for larger representation of Figure 2.

The subject tract is abutted on the east by vacant, landlocked land zoned CO and owned by the City of Tulsa; on the north by a creek and then Mingo Medical Center, zoned CO; on the south by vacant Lot 3 within PUD-628, zoned CO; and on the west by medical offices also within PUD-628.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

In 1998 the TMAPC and the City Council found the requested Corridor zoning for this tract and the surrounding property to be in accord with the Comprehensive Plan.

The newly adopted and recently updated Comprehensive Plan for the City of Tulsa designates this area as an “Area of Change” and a “Regional Center”. Regional Centers are described on page 32 of the Land Use chapter of the Plan as, “mid-rise mixed-use areas for large scale employment, retail, and civic or educational uses. These areas attract workers and visitors from around the region and are key transit hubs; station areas can include housing, retail, entertainment, and other amenities”.

**STAFF RECOMMENDATION:**

PUD-628 is a 10.58 acre area located at the northeast corner of South Mingo Road and U.S. Highway 169. The tract has a gentle slope from west to east and has four office buildings constructed on the lots adjacent to Mingo Road. The subject of this major amendment is described as Lot 2, Block 1 – Cedar Ridge Park as seen on Exhibit A. The Lot contains 2.2 acres and is located approximately 245 feet east of Mingo at the northeasterly terminus of East 93<sup>rd</sup> Street South. There is no adjacent residentially zoned or used property.

The uses currently allowed within Cedar Ridge Park and are limited to uses permitted as a matter of right in Use Unit 10 - Off-Street Parking and Use Unit 11 – Offices, Studios and Support Services.

Major amendment PUD-628-B proposes to add Veterinarian Clinic only as provided within Use Unit 14 - Shopping Goods and Services as a permitted use on Lot 2 only within PUD-628. The proposed veterinarian clinic is depicted on the attached site plan (see Exhibit B). There would be no outdoor runs or kenneling of any kind outside the enclosed facility. No animals will be outside aside from accompanied walks as needed to “water”.

All existing development standards within PUD-628 would remain effective aside from the added permitted use on Lot 2.

Please refer to the attached case area photographs. The lot is situated at the end of a cul-de-sac and adjacent to a lot owned by the City of Tulsa that is landlocked and abuts US 169. This lot can not be developed. To the north is a creek and a strip of woods which is adjacent to the site for the Mingo Medical Center. Staff contends that given the location of the lot in proximity to the highway and other medical uses in the immediate area this is a good location for this service.

Staff finds the proposed additional use and intensity of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-628-B to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the existing site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-628-B subject to the following conditions:

1. The applicant's Concept Development Plan and Text be made a condition of approval, unless modified herein.
2. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
3. Development Standards:

All development standards of PUD-628 are outlined below and shall remain effective, excepting the modified permitted uses:

**Land Area:**

PUD-628 Net:	15.86 Acres	690,992 SF
Lot 2 Net:	2.2 Acres	95,832 SF

**Permitted Uses:**

Uses permitted in Use Unit 10, Off-street Parking and Use Unit 11, Offices and Studios, and uses customarily accessory to permitted principal uses, and outdoor advertising under Z-6467-SP-2b and Z-6467-SP-3.

Within Lots 2 and 3 as shown on the preliminary plat, Exhibit B, Use Unit 8, Assisted Living Facilities and Elderly/Retirement Housing only at a maximum density of 25 dwelling units per acre shall be permitted as an additional use.

Within Lot 2 - Veterinary Clinic only as provided for in Use Unit 14 – Shopping Goods and Services.

<b>Maximum Building Floor Area and Ratio:</b>	0.60
<b>Maximum Land Coverage by Buildings within a Lot:</b>	30%
<b>Maximum Building Height:</b>	60 FT
<b>Minimum Lot Frontage on South Mingo Road:</b>	150 FT
<b>Off-Street Parking:</b>	As required by the applicable Use Unit of the Tulsa Zoning Code.
<b>Minimum Building Setbacks:</b>	
From the centerline of South Mingo Road	100 FT
From the south boundary	20 FT
From the north boundary	20 FT
Internal lot side and rear yards to be established by detail site plan.	

**Minimum Landscaped Open Space:**

A minimum of 15% of the net land area shall be improved as internal landscaped open space in accord with the provisions of the Landscape Chapter of the Tulsa Zoning Code.

**Signs:**

- 1) One ground sign not exceeding 12 feet in height and 32 square feet in display surface area shall be permitted on each lot.
  - 2) Wall signs shall be permitted not to exceed 1.5 square feet of display surface area per lineal foot of building wall to which attached. The length of a wall sign shall not exceed 75% of the frontage of the building.
3. There shall be no development in the City of Tulsa's regulatory floodplain.
  4. The PUD shall establish an access system in which lots have access to a public street that has access to South Mingo Road or the lots are interconnected with each other and the public street through an internal mutual access system.
  5. No Zoning Clearance Permit shall be issued for a lot within the PUD until a Detail Site Plan for the lot, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
  6. A Detail Landscape Plan for each lot shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences have been installed in accordance with the approved Landscape Plan for the lot, prior to issuance of an Occupancy Permit. The landscaping materials required under the approved Plan shall be maintained and replaced as needed, as a continuing condition of the granting of an Occupancy Permit.
  7. No sign permits shall be issued for erection of a sign on a lot within the PUD until a Detail Sign Plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
  8. All trash, mechanical and equipment areas shall be screened from public view by persons standing at ground level.
  9. The Department Public Works or a Professional Engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an Occupancy Permit on that lot.



10. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
11. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process, which are approved by TMAPC.
12. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during Detail Site Plan review or the subdivision platting process.
13. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle, nor shall trucks or truck trailers be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers shall not be used for storage.

**TAC COMMENTS:**

**General:** Incomplete plans but no comments.

**Water:** No comments.

**Fire:** No comments.

**Stormwater:** No comments.

**Wastewater:** No comments.

**Transportation:** No comments.

**INCOG Transportation:**

- **MSHP:** No comments.
- **LRTP:** Creek Turnpike, between Memorial Drive and Mingo Rd., planned 6 lanes. Mingo Road, between 91<sup>st</sup> St. S. and 101<sup>st</sup> St. S., planned 4 lanes.
- **TMP:** Subject property is in proximity of proposed Haikey Creek Trail. Encourage a minimum setback of 35 feet from the creek bank.
- **Transit:** No comments.

**Traffic:** No comments.

**GIS:** No comments.

**Street Addressing:** No comments.

**County Engineer:** No Comments.

**Applicant's Comments:**

**Roy D. Johnsen**, Williams Center Tower One, One West 3rd Street, Suite 1010, 74103, representing Weister Smith, stated that this is an office development that was approved several years ago with parking and offices. He would like to amend the permitted uses to include veterinarian and clinic, but he is not seeking all of the uses that are permitted in Use Unit 14.

**TMAPC COMMENTS:**

Mr. Leighty stated that he noticed in the staff recommendation the following statement: There would be no outdoor runs or kenneling of any kind outside the enclosed facility. No animals will be outside, aside from accompanied walks as needed to "water". Mr. Leighty asked if that is typical of a veterinarian clinic to walk the dogs and take them outside. Mr. Johnsen stated that he discussed this with staff and Dr. Higgins is proposing an enclosed area that is fenced for dogs to go outside while cleaning the kennels and to make sure that the dogs are fully recovered after surgery. In the development standards as prescribed: "Veterinary Clinic only as provided for in Use Unit 14" and the language leading up to that is not a part of the development standards. What is being proposed today meets Use Unit 14 requirements. Mr. Leighty asked if the space proposed would be to have one dog outside at a time and not have it full of dogs. In response, Mr. Johnsen stated that there could two to three dogs there, but there would be someone with them and it wouldn't be the housing for the dog. Mr. Johnsen further stated that he doesn't view that as a dog-run where the dog can come and go in-and-out of the building as it pleases like a kennel.

Mr. Dix asked if this would be small-animal only. In response, Mr. Johnsen answered affirmatively.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to recommend **APPROVAL** of the major amendment for PUD-628-B/Z-6467-SP-6 per staff recommendation.

**Legal Description for PUD-628-B/Z-6467-SP-6:**

Lot 2, Block 1, Cedar Ridge Park, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

30. **PUD-728-A – Roy D. Johnsen/Tulsa Center for Adolescent Treatment** **RM-2/PK/PUD-728 to RM-2/PK/PUD-728-A**  
Southwest corner of East 12<sup>th</sup> Street and South Trenton Avenue (CD-4)  
(Major Amendment proposes the addition of hospital use within Use Unit 5 – Community Services and Similar Uses as a permitted use within Area One.)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 21293 dated May 15, 2006, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**PUD-772 October 2009:** All concurred in approval of a proposed Planned Unit Development on a 4.81± acre tract of land for a three-story, 129 unit elder/retirement housing, assisted living and memory care development, on property located between East 13<sup>th</sup> Street and East 13<sup>th</sup> Place and between South Trenton Avenue and South Utica Avenue.

**Z-7102 October 2008:** All concurred in approval of a request for rezoning a 2.7± acre tract of land from OL/RM-2 to OH for office use on property located southwest corner of the Broken Arrow Expressway and South Utica Avenue.

**PUD-728 May 2006:** All concurred in approval of a proposed Planned Unit Development on a 4.03± acre tract of land for office, hospital, residential treatment center and transitional living center and off-street parking uses, on property located east and west sides of South Trenton Avenue between East 12<sup>th</sup> Street and East 13<sup>th</sup> Street and a part of the subject property.

**BOA-20198 February 2006:** The Board of Adjustment denied multiple requests for Special Exceptions to permit off-street parking, residential treatment & transitional living center and to have those uses within ½ mile of other such facilities AND multiple requests for Variances of setbacks, screening, minimum lot size, of minimum frontage requirements all to permit the expansion of the existing facility. The Board denied these requests finding that this was not the correct venue and that a PUD should be required on subject property.

**Z-6935 April 2004:** All concurred in an approval for a request to rezone a 4.5± acre tract from RM-2/PK/OL/CH to OH for the eastern two-thirds (207') of the site and OMH on the western one-third (103') of the site on property located west of the southwest corner of East 11<sup>th</sup> Street and South Trenton.

**PUD-432-E October 2000:** A major amendment to PUD-432-D to add a tract of land formerly occupied by the day-old bakery store and to add to the existing PUD, Development Area D into Development Area C for additional retail floor area, allowing Convenience Goods and Services and Shopping Goods and Services to the PUD which would allow a new gift, newspaper stand, souvenir shop and thrift store. The property is located between South Utica Avenue and South Victor Avenue, East 11<sup>th</sup> Street and East 12<sup>th</sup> Street, the amendment was unanimously approved

**Z-6613 February 1998:** A request was filed to rezone a 4.4-acre tract located on the northeast corner of East 12<sup>th</sup> Street and South Trenton Avenue, zoned RM-2 and OL, and a smaller tract consisting of two small lots located south of the southeast corner of East 11<sup>th</sup> Street and South Utica Avenue and zoned CH. The larger tract is east, across South Trenton Avenue, from subject property. CH or OH zoning was requested for a proposed medical center; staff and TMAPC recommended OH zoning on both tracts and City Council concurred.

**BOA-17860 October 1997:** The Board of Adjustment approved a request for a special exception to permit a parking garage as an accessory use to a hospital and a variance of the building setback to permit a parking structure on the southwest corner of East 11<sup>th</sup> Street and South Utica Avenue.

**BOA-17654 March 1997:** The Board approved a *Special Exception* to permit property in an RM-2 district to be used for office purposes under the development standards and restrictions of the OL zoning district and in accord with the site plan approved by the Board; and approved a *Variance* to permit three of the required off-street parking spaces to be located on a lot other than the lot containing the principal use; per plan submitted; located at (lots 38-40, block 6 and lots 1-2, block 9 of Forest Park Addition) 1242 South Trenton Ave.

**PUD-432-D August 1995:** All concurred in approval of a major amendment to expand the existing PUD to the east allowing for additional medical office and hospital buildings. The property is located between Utica and Xanthus Avenues from East 11<sup>th</sup> Street to East 13<sup>th</sup> Street.

**BOA-16435 September 1993:** The Board approved a *Special Exception* to permit a transitional living center and a residential treatment center in an RM-2 zoned district; finding that there are numerous medical uses in the area; finding that the center has been at the current location for several years, and has proved to be compatible with the neighborhood; located on lots 27-32 on the subject property. (This permitted the existing facility on the subject property).

**BOA-16191 November 1992:** The Board approved a *Special Exception* to permit off-street parking in an RM-2 district; approved a *Variance* of the screening requirement and approved a *Variance* of the setback requirement from the centerline of East Trenton from 50 ft. to 35 ft.; subject to plans submitted; finding

the use appropriate and consistent with other uses in the area; and finding that the screening is not necessary as the property to the south has screening and a garage along that property line; located on lots 33, 34, and part of 35 on the same block containing the subject property, to permit the existing parking lot south of the facility.

**PUD-432-C January 1991:** All concurred in approval of a request for a major amendment to expand the boundaries of the original PUD-432 to the east; and to reallocate floor area within the PUD development areas.

**Z-6244 August 1989:** A request to rezone a 0.06-acre tract located on the east side of South Utica Avenue and South E.11<sup>th</sup> Street from CH to OH. All concurred in approval of OH on the north 288' and OMH on the balance.

**PUD-432-B May 1989:** All concurred in approval of a request for a major amendment to allow a second medical office building in a development area originally designated for parking, and to reduce the parking requirements.

**BOA-15098 April 1989:** The Board approved a *Variance* of the number of required off-street parking spaces from 38 to 10; subject to the execution of a tie contract tying the lot in question to either of two lots for additional required parking one located on the southwest corner of 12<sup>th</sup> and Trenton, and the other located on the southwest corner of 13<sup>th</sup> and Trenton (withholding occupancy until this transaction has been completed); at 1228 South Trenton Avenue (Lot 7, Blk 6, south of the subject property.)

**BOA-15062 February 1989:** The Board approved a *Special Exception* to allow for administrative office uses in an RM-2 zoned district; finding that there are mixed uses in the area; located on 1228 South Trenton Avenue, Lot 7, Block 6 abutting to the south of the subject property.

**Z-6213 January 1989:** All concurred in approval of a request to rezone a 0.4-acre tract located on the southeast corner of East 12<sup>th</sup> Street and South Utica Avenue from OL, RM-2 and PUD-432 to OMH/PUD-432-A.

**PUD-432 November 1987:** All concurred in approval to develop 4.5 acres located between South Utica Avenue and South Victor Avenue, from East 12<sup>th</sup> Street to East 13<sup>th</sup> Street for hospital and office uses.

**BOA-12551 April 1983:** The Board approved a *Special Exception* to allow off-street parking in an RM-2 district, subject to the applicant returning to the Board with a layout plan of the parking, landscaping and proposed lighting; located at 11<sup>th</sup> Street to 12<sup>th</sup> Street and Trenton Avenue to St. Louis Avenue.

**BOA-12021 June 1982:** The Board approved BOA-15062; on 2.16.89, a *Variance* of the setback of 25' from abutting R districts and of the floor area ratio of .5; and a *Variance* of the height restriction and the side yard requirement; and a *Variance* for off-site parking and loading berths, to be approved as requested, per plot plan, and as advertised, and only applying to the area shown on the plot plan, and that the lot in question on St. Louis Avenue marked as future parking lot would be presented to the Board at a later time before any action is taken on that lot; located at 1620 East 12<sup>th</sup> Street.

**BOA-6530 December 1969:** The Board approved a *Special Exception* to permit establishing off-street parking in conjunction with the Tulsa Psychiatric Foundation in a U-2B (restricted apartments) district; located on Lots 27 and 28 of the subject property.

**BOA-6202 March 1969:** The Board approved a *Special Exception* to permit establishing off-street parking for the Tulsa Psychiatric Foundation in a U-2B (restricted apartments) district, subject to the tract being hard-surfaced, and the residences removed, located on lots 29-32, block 6 of the subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 1.02+ acres in size and is located southwest corner of East 12<sup>th</sup> Street and South Trenton Avenue. The property is developed as an elderly/retirement housing, assisted living and memory care development and is zoned RM-2/PK/PUD-728.

**TRANSPORTATION VISION:**

The Transportation chapter of the recently adopted and updated City of Tulsa Comprehensive Plan does not identify either Trenton Avenue or 12<sup>th</sup> Street in the transportation vision. Trenton Avenue is identified as a Residential Street and 12<sup>th</sup> Street as a Residential Collector by the Major Street and Highway Plan which remains effective under the Tulsa Comprehensive plan.

Within the vicinity of PUD-728, 11<sup>th</sup> Street is identified as a "Multi-Modal Corridor". Peoria Avenue is identified as a "Frequent Bus" route and Lewis Avenue is identified a "Main Street". Utica Avenue is not identified in the Plan, and is classified as an Urban Arterial by the Major Street and Highway Plan.

Multi-Modal Corridor (pg. 15 of the Transportation Chapter of the Plan) is defined as emphasizing plenty of travel choices such as pedestrian, bicycle and transit use. Multimodal streets are located in high intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity.

Frequent Bus Routes (pg. 20 of the Transportation Chapter of the Plan) is defined as a new form of service operating in mixed traffic and has short stop spacing. Increased efficiency of this service comes from intelligent system operations. Priority and preemption is used at intersections and real-time information is given at stops through the utilization of GPS technology.

Main Streets (pg. 14 of the Transportation Chapter of the Plan) are defined as serving the highest intensity retail and mixed land uses in Tulsa’s areas such as downtown and in regional and neighborhood centers. Like multimodal streets, main streets are designed to promote walking, bicycling, and transit within an attractive landscaped corridor. Generally, main street activities are concentrated along a two to eight block area, but may extend further depending on the type of adjacent land uses and the area served. Much more about the intent and design of Main Streets can be found on page 14 of the Transportation Chapter of the Plan

**STREETS:**

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South Trenton Avenue	Residential	50'	2 lanes
East 12 <sup>th</sup> Street	Residential Collector	60'	2 lanes

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

**SURROUNDING AREA:** The subject tract (“Area 1” of PUD-728; see attached Exhibit A-1 and attached full sized version of Figure 1) is abutted on the east by Trenton Avenue and then a parking lot, as well as, “Area 2” of PUD-728, zoned RM-2 and RM-2/PUD respectfully; on the north by the Hillcrest Hospital/Oklahoma Heart Institute campus, zoned OMH/OH/CS; and on the south and west by Forest Park Addition Re-Amd., zoned RM-2.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

In 2006, the TMAPC and Tulsa City Council found the proposed use and intensity of the proposed uses to be in accord with the Comprehensive Plan. There was no zoning change required or requested.

The recently updated and adopted Comprehensive Plan for the City of Tulsa identifies this area as an “Area of Change” and a “Regional Center”. Regional Centers are identified on page 32 of the Land Use chapter of the plan as, “mid-rise mixed-use areas for large scale employment, retail, and civic or educational uses. These areas attract workers and visitors from around the region and are key transit hubs; station areas can include housing, retail, entertainment, and other amenities. Staff contends that that the addition of the hospital use is in accord with the Plan.

**STAFF RECOMMENDATION:**

PUD -728 is located west of the southwest corner of South Utica Avenue and East 12<sup>th</sup> Street South. The PUD is immediately adjacent, and to the south of Hillcrest Hospital and the Oklahoma Heart Institute. The property is a two-development area, PUD separated by Trenton Avenue (see Exhibit A-1). The subject of this application is "Area One" as identified on the attached Exhibit A-1.

The subject tract is owned by Tulsa Psychiatric Center. Parkside, Inc. operates the Center for Child and Adolescent Residential Treatment within the existing building located at the southwest corner of 12<sup>th</sup> Street and Trenton Avenue.

In 1993, the City of Tulsa Board of Adjustment (BOA) approved the use of the existing building at the southwest corner of 12<sup>th</sup> Street and Trenton for a transitional living center and residential treatment center. PUD-728 was then proposed to allow an expansion of the existing building to permit an increase of patient capacity from 16 beds to 40 beds. The property was platted (attached as Exhibit "A") and in 2007 completed construction of the expansion of the building from 7,250 square feet to 23,829 square feet in accordance with the Approved Site Plan (attached as Exhibit "B").

Major amendment PUD-728-A proposes the addition of hospital use within Use Unit 5 – Community Services and Similar Uses as a permitted use within "Area One" of PUD-728. Hospital based treatment is currently only provided in the Parkside building located immediately adjacent to the east of "Area Two" of PUD-728 (see building identified on Exhibit C). No new construction is required and the total number of beds at the facility will not be increased. To the public, no changes will be visible.

NOTE: Both development areas within PUD-728 allow those uses permitted by right in the OM district. The hospital use is a permitted use by right in the OM district. However, because there is no underlying OM zoning within the PUD, this major amendment is being brought for clarification.

Approval for hospital use will allow Parkside to provide hospital based treatment to children ages 6–12 in the same building rather than two separate buildings. Currently, children 6–9 cannot be treated in the existing hospital building due to space limitations. The availability of additional hospital area will provide a consistent treatment environment, one in which the youngest patients can remain throughout their treatment.

After conducting site visits and considering there will be no expansion of land area or existing buildings staff supports this application. Staff finds the proposed additional use and intensity of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-728-A to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development



possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-728-A subject to the following conditions:

1. The applicant's Concept Development Plan and Text be made a condition of approval, unless modified herein.
2. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
3. Development Standards:

All development standards of PUD-728 shall remain effective, excepting the modified uses as outlined below:

**PERMITTED USES**

DEVELOPMENT AREA ONE (Lot 1, Block 1, Parkside):

Principal uses permitted as a matter of right in the OM district, Use Unit 2, Residential Treatment Center and Transitional Living Center only, Use Unit 5, Hospital only (emphasis added), Use Unit 11, Off-Street Parking and uses customarily accessory to permitted uses”.

DEVELOPMENT AREA TWO (Lot 2, Block 1, Parkside):

Principal uses permitted as a matter of right in the OM district, Use Unit 2, Residential Treatment Center and Transitional Living Center only, Use Unit 11, Off-Street Parking and uses customarily accessory to permitted uses”.

**TAC COMMENTS:**

**General:** No comments.

**Water:** No comments.

**Fire:** No comments.

**Stormwater:** No comments.

**Wastewater:** No comments.

**Transportation:** No comments.

**INCOG Transportation:**

- **MSHP:** 12<sup>th</sup> St, 13<sup>th</sup> St, and Trenton St are neighborhood streets.
- **LRTP:** No comments.
- **TMP:** No comments.
- **Transit:** Currently, Tulsa Transit operates existing routes along Utica Ave and according to future plans will continue to service this location. Therefore, consideration for access to public transportation should be included in the development where applicable.

**Traffic:** No comments.

**GIS:** No comments.

**Street Addressing:** No comments.

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

**Applicant's Comments:**

**Roy D. Johnsen**, Williams Center Tower One, One West 3rd Street, Suite 1010, 74103, stated that Parkside has had a presence in this area for over 50 years. This is an existing building and the building will not change. There will be 40 beds and the only thing changing is the classification to include hospital use. He indicated that a postcard was sent to surrounding neighbors to advise them of what was happening today. A representative from Parkside attended a homeowner's association meeting and there are no objections that they know of.

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to recommend **APPROVAL** of the major amendment for PUD-728-A per staff recommendation.

**Legal Description for PUD-728-A:**

Lot 1, Block 1, Parkside, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

- 31. **PUD-759-3 – Tanner Consulting, LLC/Crestwood at the River, LLC** **RS-3/CS/PUD**  
 Northwest corner of 121<sup>st</sup> Street South and South Sheridan Road (Minor Amendment to reduce building setback, landscape buffer, establish building height limitations and limit the use of the westernmost 160' of Development Area B to office use.) **(CD-8)**

**STAFF RECOMMENDATION:**

Due to what is described as a change in market conditions, the applicant is requesting a minor amendment to PUD-759 for the following (please refer to Exhibit A – Original Concept Plan and Exhibit B proposed concept plan):

- Reduce the building setback from the west boundary line from 70' to 30';
- Reduce the 25' landscape buffer along the west boundary line to 5';
- Establish building height limitations and cap the height limit along the western boundary; and

- Limit the use of the western-most 160' of Development Area B to office use as provided for in Use Unit 11 and keep these structures residential in nature;

The 70' setback requirement from the western boundary and the 25' landscape buffer was established when the concept for the PUD was to build one building in the western half of the PUD with an estimated floor area of 13,000 – 20,000 SF and 35' in height (see Exhibit A). There is 35,000 SF permitted of commercial/retail and office floor area permitted in Area B. Staff contends that by building smaller-scale individual office buildings and limiting the building height along the west boundary as outlined below (see also Exhibit B), the reduction in setback and the landscape buffer will have less of an impact on surrounding properties and makes the Development Area more walkable. City of Tulsa stormwater regulations forbid a development from discharging more stormwater to adjacent properties than was discharged prior to development.

Building height for Development Area B is currently established at one-story, not to exceed 35' and within the eastern 300' of Development Area B, two-stories not to exceed 40'. The applicant proposes that building height be further restricted as follows:

- For the western most building(s), adjacent to the west boundary line of Area B, one-story not to exceed 30';
- For the east 300' of Area B, two-stories not to exceed 40'; and
- The remainder of the buildings limited to two-stories not to exceed 35' in height.

Staff contends by decreasing the setback along the west boundary to allow for the less intensive, lower profile offices, combined with the proposed height limitations the concept is better suited and more compatible with the surrounding properties and makes the new concept layout to be more pedestrian friendly.

Staff is recommending and the applicant has concurred to limit the use of the western-most 160' of the property to office use within Use Unit 11 and to require that buildings located in the west 160' be residential in nature with pitched roofs and style similar to the neighborhood. This would be verified by detail site plan review before the TMAPC.

Staff recommends **APPROVAL** of minor amendment PUD-759-3.

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

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to **APPROVE** the minor amendment for PUD-759-3 per staff recommendation.

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**Commissioners' Comments**

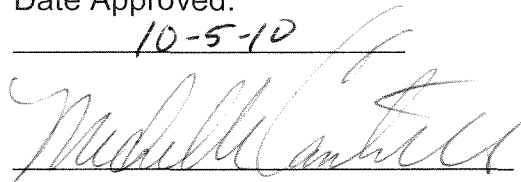
Mr. Liotta stated that he has a quick question for staff. He asked Ms. Huntsinger if there was one Commissioner whom voted against having evening meetings and debated against it. Ms. Huntsinger indicated that there was one Commissioner who voted against the evening meetings. Mr. Liotta stated that he just wanted to make sure that his memory was correct.

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There being no further business, the Chair declared the meeting adjourned at 7:00 p.m.

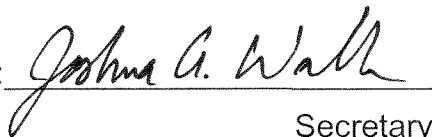
Date Approved:

10-5-10



Chairman

ATTEST:



Secretary