

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2575

Tuesday, April 6, 2010, 4:00 p.m.

City Council Chambers

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

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Cantrell	Wright	Alberty	Boulden, Legal
Carnes		Bates	Steele, Sr. Eng.
Dix		Fernandez	
Leighty		Huntsinger	
Liotta		Matthews	
Marshall		Sansone	
McArtor			
Midget			
Shivel			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, April 1, 2010 at 4:04 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:**

#### **Chairman's Report:**

Ms. Cantrell reported that next week the Planning Commission will be having another meeting for the Comprehensive Plan. This is a special meeting to allow the Planning Commissioners to begin reviewing maps and other remaining issues and will not be a public hearing. The meeting will be held April 14, 2010 on the 4<sup>th</sup> floor, City Council meeting room, at 1:30 p.m.

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

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

Mr. Alberty reported that staff has been working on the Comprehensive Plan maps and will continue until completed.

**Minutes:**

**Approval of the minutes of March 2, 2010 Meeting No. 2573**

On **MOTION** of **LEIGHTY**, the TMAPC voted 8-0-1 (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Midget, Walker, "aye"; no "nays"; Shivel "abstaining"; McArtor, Wright "absent") to **APPROVE** the minutes of the meeting of April 2, 2010, Meeting No. 2573.

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Ms. Cantrell announced Item 5, 6 and 10 will be pulled from the consent agenda.

**CONSENT AGENDA**

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

2. **LC-235** – Sheridan Properties (9323) (PD18) (CD5)  
South of the Southwest corner of South 79<sup>th</sup> East Avenue and East 33<sup>rd</sup> Street South, 3418 S. 79<sup>th</sup> E. Ave.
3. **LS-20365** – Sack and Associates (9419) (PD17) (CD5)  
North of the Northeast corner of East 41<sup>st</sup> Street South and 102<sup>nd</sup> East Avenue
4. **Oklahoma Central Credit Union at South Tulsa** – (PD 18) (CD 8)  
(3814) Final Plat  
East of the Southeast Corner of South Sheridan Road and East 81<sup>st</sup> Street South

**STAFF RECOMMENDATION:**

This plat consists of one lot in one block on 2.75 acres.

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

7. **PUD-281-11 – A Max Sign Co./Union Public Schools** (PD-18c) (CD-7)

West of the southwest corner of 61<sup>st</sup> Street South and South Mingo Road (Minor Amendment to permit a sign to identify a soccer field complex.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to permit a sign to identify a soccer field complex.

PUD-281 allows each development area one sign per the sign standards established in the residential chapter of the code with the sign placed at the entry to each private street for that development area. Since this development area fronts the public street 61<sup>st</sup> Street South and has no access from a private street, the PUD technically does not permit a sign. Therefore, people traveling from other parts of the city for an event at the soccer complex have no way of identifying where the complex is.

The request is to allow one sign for this development area identical to what is permitted in the other development areas within the PUD. Based on the street frontage of the development area a 132 square foot sign at 20' in height would be permitted. The applicant is proposing a non-illuminated, 64 SF sign at 12' in height.

Staff contends allowing the additional sign will not substantially alter the size, location, number and character of the permitted signs for the PUD. Staff recommends **APPROVAL** of minor amendment PUD-281-11 permitting one sign for Development Area G per the residential chapter of the code.

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

8. **PUD-530-2 – Gary G. Larsen/YWCA** (PD-6) (CD-4)

North of the northwest corner of 21<sup>st</sup> Street South and South Lewis Avenue (Minor Amendment to allow a non-illuminated wall sign on the south-facing wall to be located within 100 feet of the west property line.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to allow a non-illuminated wall sign on the south facing wall to be located within 100' of the west property line.

The existing PUD sign standard for wall signs in PUD-530 reads:

"All wall signs shall be on the south and east facing walls of buildings, but in no case less than 100' from the west boundary line".

Upon review of the record from the PUD public hearing, there was one protestant who spoke at the hearing. That individual did not entirely oppose the project; spoke about traffic and requested that no parking be allowed adjacent to the house addressed as 2232 East 19<sup>th</sup> Place (indicated by the grey square on Exhibit A). There was no discussion of signs.

Staff contends that the intent of the 100' separation from the property line to the west was to protect neighbors to the west from the potential brightness of illuminated signs. The proposal here is to install a 16 square foot, non-illuminated wall sign approximately 65' from the west lot line (see Exhibits A and B).

Since the sign will not be illuminated staff recommends **APPROVAL** of minor amendment PUD-530-2 allowing one non-illuminated wall sign no greater than 16 SF in size to be located above the south entrance of the building.

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

9. **PUD-254-2 – James Adair/Explorer** (PD-18) (CD-7)

Northeast of the northeast corner of 71<sup>st</sup> Street South and South Yale Avenue (Minor Amendment to increase the number of signs permitted for a high-rise office building in an OM district to allow for the addition of two wall signs.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the number of signs permitted for a high-rise office building in an OM district to allow for the addition of two wall signs (please refer to attached exhibits).

Currently, the PUD allows signs per OM district which allows one sign per lot not to exceed 2/10 of a square foot of display area per lineal foot of street frontage. The Code limits the number of signs and display surface area in the office district in an attempt to limit sign intensity since it is common for office districts to act as transitional buffers between low and high intensity districts. This office district/PUD does not serve this purpose.

On March 3, 2010 the City of Tulsa Board of Adjustment (BOA) in case #21032 approved a variance from Section 602, B-4 and Section 602, B-4c increasing the

number of signs permitted on the lot to three signs and increasing the over-all display surface area for the two wall signs from 150 SF maximum to 152.879 SF per sign. The BOA cited the unusual shape of the building and the need for the customer base to be able to identify the location of the building in granting the variance.

Staff is in agreement with the BOA findings and contends approval of this minor amendment will not substantially alter the character of the PUD. Therefore, staff recommends **APPROVAL** of minor amendment PUD-254-2 allowing two 152.879 SF wall signs.

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

11. **PUD-628-8/Z-6467-SP-4f – Oakwood** (PD-18) (CD-8)  
**Graphics/Hope Restorative & Cosmetic Dentistry**

South of the southeast corner of 91<sup>st</sup> Street South and Mingo Road  
(Minor Amendment to allow a wall sign on an east-facing wall directly facing U.S. Highway 169.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to allow a wall sign on an east-facing wall which directly faces US Highway 169.

In 2006 the TMAPC approved minor amendment PUD-628-6 allowing the existing ground sign on the lot with the condition that wall signs would be limited to 72 square feet in display area and be placed only on the west-facing wall of the building that faces Mingo Road. Staff stated that allowing any more signage would be out of character with the surrounding area.

Please refer to the attached case map/aerial photograph. Staff concurs that allowing any more signage than is currently allowed on the north or west side of this building would be out of character with surrounding properties. However, staff also contends that allowing a wall sign on the east-facing wall of this structure would not substantially alter the character or intent of the PUD since the sign would only be visible from Highway 169/Creek Turnpike. Should this PUD fully develop, the subject building will be the only one that fronts Mingo Road with a rear building wall that is also visible from US 169/Creek Turnpike.

Therefore, staff recommends **APPROVAL** of minor amendment PUD-628-8 allowing one non-illuminated wall sign on the east facing building wall per existing sign standards.

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

12. **PUD-575-B – Sack & Associates/Autumn Leaves** (PD-18) (CD-7)

Northeast corner of 79<sup>th</sup> Street South and South Mingo Road (Detail Site Plan for a 26,198 square foot assisted living facility.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 26,198 square foot (SF) assisted living facility. The proposed use, Use Unit 8 – Multi-family and Similar Uses, is a permitted use in PUD-575-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 Mingo Road and 79<sup>th</sup> Street South. 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. When proposed, sight lighting, including building mounted, will be limited to 25 feet in height and will be directed down and away from the adjoining residentially used property to the north. A trash enclosure has been provided as required by the PUD. Sidewalks will be provided along Mingo Road and 79<sup>th</sup> Street South as required by PUD Development Standards and Subdivision Regulations.

Staff recommends **APPROVAL** of the detail site plan for Lot 1, Block 1 – 7900 Mingo.

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

13. **PUD-773 – Tanner Consulting/NGP Business Park** (PD-26) (CD-8)

North of the northwest corner of 101<sup>st</sup> Street South and South Memorial Drive (Detail Site Plan for the infrastructure development only for the NPG Business Complex, there are no buildings being proposed at this time.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for the infrastructure development only for the NPG Business Complex located north of the northwest corner of 101<sup>st</sup> Street South and South Memorial Drive. There are no buildings being proposed at this time.

The submitted site plan meets all applicable open space and parking setback requirements. Access to the site is provided from three points along Memorial

Drive. Landscaping along the west boundary is being provided per PUD requirements. Landscaping for the remaining lots will be completed as each lot develops. All sight lighting, including building mounted, is limited to 14-feet in height and will be directed down and away from adjoining residential properties. There are no lights permitted or proposed in the western 30' of the PUD as required. Sidewalks have been constructed along Memorial Drive.

Staff recommends **APPROVAL** of the detail site plan for infrastructure development of PUD-773.

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

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Wright "absent") to **APPROVE** the consent agenda Items 2 through 4, 7 through 9 and 11 through 13 per staff recommendation.

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**Mr. McArtor in at 4:07 p.m.**

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

5. **Z-7008-SP-1m – Chris Evertz/Tulsa Hills, LLC** (PD-8) (CD-2)

West of the southwest corner of West 71<sup>st</sup> Street South and US Highway 75 (Corridor Minor Amendment to reallocate permitted floor area on Lots 14, 17 and 19, Development Area B, Block 2, Tulsa Hills.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to the Tulsa Hills Corridor District Site Plan for the purpose of reallocating permitted floor area on Lots 14, 17, and 19, Development Area B, of Block 2 – Tulsa Hills.

There is no increase or change in overall floor area being requested.

Per minor amendment Z-7008-SP-1f, the current floor area allocation for Lots 14, 17 and 19, Block 2 is as follows:

Lot	Lot Size	Floor Area per Minor Amendment Z-7008-SP-1f	Floor-to-Area-Ratio (FAR)
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<b>14</b>	38,810 SF	4,000 SF	.10
<b>17</b>	54,577 SF*	15,000 SF	.27
<b>19</b>	56,633 SF	5,073 SF	.08
<b>Total</b>	150,020 SF	24,073 SF	.15

*\*On 5/7/08 the TMAPC approved a lot split (LS 20210) involving Lot 16 which removed 7,670 from Lot 16 with the intent of adding the square footage to Lot 17. While the Lot split was approved, and a concurrent minor amendment application filed reallocating floor area to the "new Lot 17" the lot combination adding the 7,670 SF to Lot 17 was never filed. The extra square footage from Lot 16 is not needed for the purposes of this amendment.*

Minor amendment Z-7008-SP-1m proposes the following reallocation of floor area:

<b>Lot</b>	<b>Lot Size</b>	<b>Proposed Floor Area</b>	<b>Floor-to-Area-Ratio (FAR)</b>
<b>14</b>	38,810 SF	5,000 SF	.12
<b>17</b>	54,577 SF*	7,000 SF	.11
<b>19</b>	56,633 SF	12,073 SF	.21
<b>Total</b>	150,020 SF	24,073 SF	.15

Since there is no request to increase the overall floor area for Development Area B and the FAR for each lot remains below the approved .25 FAR for each lot, staff can support this request.

Therefore, staff recommends **APPROVAL** of minor amendment Z-7008-SP-1m.

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

**TMAPC COMMENTS:**

In response to Ms. Cantrell, Mr. Sansone stated that the applicant needs to file a lot-combination to add to Lot 17 in the near future.

**Interested Parties Comments:**

**Robert Skeith**, 1515 South Utica, Suite 250, 74114, representing Sharp Mortgage Company, stated that his client owns the three lots to the west of Lot 19. Mr. Skeith expressed concerns for flooding and mud collecting in the garage of the homes immediately adjacent to Lot 19.

**TMAPC COMMENTS:**

Ms. Cantrell stated that the Planning Commission doesn't deal with drainage issues. The City of Tulsa and TAC address these issues and today the reallocation of floor area is the only issue before the Planning Commission. Ms. Cantrell recommended that Mr. Skeith speak with Mr. Sansone and Mr. Steele regarding this issue.

**Applicant's Comments:**

**Chris Evertz**, 4403 East 35<sup>th</sup> Street, stated that he represents the owner of Tulsa Hills.

Ms. Cantrell encouraged Mr. Evertz to meet with Mr. Skeith and address the water issue to see if it can be worked out. In response, Mr. Evertz indicated that he would meet with Mr. Skeith.

**TMAPC Action; 10 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Wright "absent") to **APPROVE** the corridor minor amendment for Z-7008-SP-1m per staff recommendation.

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6. **PUD-370-B-3 – A Max Sign Co./The Market at Avalon** (PD-26) (CD-8)

Southeast corner of 106<sup>th</sup> Street South and South Memorial Drive (Minor Amendment to permit an LED/electronic message center to be added to a tenant ID sign along Memorial Drive.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to permit an LED/electronic message center to be added to a tenant ID sign along Memorial Drive.

PUD-370-B currently allows signs per the PUD chapter of the Code (Section 1103, B-2a and b) which allows LED/electronic message centers. However, adopted PUD development standards for PUD-370-B have a limitation excluding, "flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement". With reference to the attached zoning maps and aerial photographs there are no residentially zoned properties in the immediate vicinity of the subject property. Review of the minutes from when the PUD was approved there was no discussion about the permitted signage or limiting message centers, bet it electronic or otherwise.

Staff contends that allowing an LED message center as permitted by right in the PUD chapter of the code along a major arterial street will not substantially alter the size, location, number and character of the signs allowed for the PUD.

Therefore, staff recommends **APPROVAL** of minor amendment PUD-370-B-3.

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

**INTERESTED PARTIES COMMENTS:**

**TONY SOLOW**, 10400 South Memorial Drive, 74133, expressed concerns with the sign glaring into his home. Mr. Solow indicated that without notice to him, the screening fence adjacent to his property was waived during a minor amendment and now trash comes into his pasture. Mr. Solow requested a ten-foot screening fence be installed along the property line between his property and the subject property.

**TMAPC COMMENTS:**

After discussion between staff, Mr. Solow, and the Planning Commission, the Planning Commission decided to continue this case and requested the following information: If the adjacent property is in the same ownership, if the screening fence was deleted and how, and if there was a notice given when the fence was deleted. Ms. Cantrell was uncomfortable with taking action on this case since there were some questions about the fence, notice and the applicant was not present.

**TMAPC Action; 10 members present:**

On **MOTION** of **CANTRELL**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker, "aye"; no "nays"; none "abstaining", Wright "absent") to **CONTINUE** the minor amendment for PUD-370-B-3 to April 21, 2010 at 1:30 p.m.

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10. **PUD-578-A-6 – Tanner Consulting, LLC** (PD-26) (CD-8)

North of the northwest corner of 111<sup>th</sup> Street South and South Memorial Drive, Lot 1, Block 1 – Braum’s at Southern Crossing (Minor Amendment to increase the height of a sign from 25 feet to 30 feet for this lot only.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the height of a sign from 25’ to 30’ for this lot only.

PUD-578-A allows one ground sign for each lot fronting Memorial Drive with a maximum display area of 160 square feet (SF) at 25’ in height. The underlying zoning on the lot is CS.

The applicant is asking for the same height restrictions as imposed by the underlying CS zoning, which allows the height of a sign to increase up to 40’ so long as the sign setback increases one foot for every foot over 25’ in height. The applicant proposes to limit the height to 30’.

Please refer to Exhibit A. The applicant is seeking the relief because there is a 17.5' utility easement adjacent to a 24' mutual access easement on the lot, requiring the sign to be setback 50' from the Memorial Drive right-of-way (ROW) line.

Staff believes the 5' request will not substantially alter the size, location, number and character of the signs allowed within the PUD.

Therefore, staff recommends **APPROVAL** of minor amendment PUD-578-A-6 allowing a 30' tall sign setback 50' from the Memorial Drive ROW.

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

**Applicant's Comments:**

**Ricky Jones**, Tanner Consulting, 5523 South Lewis Avenue, 74105, representing Braum's stated that he hopes that this application will not be necessary. He is currently waiting for the City of Tulsa to approve his licensing agreement to have the sign next to the street. The other signs along Lewis have their signs in the easements.

Mr. Jones explained that if for some reason he is unable to obtain a license agreement, he is requesting that the sign be allowed at the new location behind the easement and allow it to be 30 feet in height for visibility.

**TMAPC COMMENTS:**

In response to Mr. Leighty, Mr. Jones stated that if he has to install the sign behind the easement and mutual access easement, it will not be out of the line of sight and the extra five feet will give the needed visibility for north- and south-bound traffic. Mr. Jones stated that if it is allowed to be in the approved location and he receives a license agreement, then it wouldn't be necessary to be 30 feet in height and he would leave it at 25 feet in height because there is no line of sight block. Mr. Leighty stated that he is having a hard time understanding how the existing signage that is closer to the street would block the view. Mr. Jones explained that when you move the sign closer to the building, then there are landscaping issues, tree issues and other things that are blocking sign because it is sitting back farther.

Mr. Midget asked Mr. Jones if he is able to obtain the license agreement he wouldn't need the sign to be higher, but, in the event he doesn't get the license agreement, he would like to be able to have the signage higher. In response, Mr. Jones agreed with Mr. Midget's statement and stated that he hopes that he doesn't need this application and that the license agreement works out. Mr. Jones indicated that if he does get the license agreement the sign would be kept at the original height (25 feet) and the original location that it was originally approved for prior to the license agreement requirement.

**INTERESTED PARTIES COMMENTS:**

Lynn Fogle, 611 South Elm Place, 74012, representing the Burger King Restaurant, stated that she is opposed to the signage being five feet higher if is moved behind the easement. The additional height is for marketing purposes only and she feels that all of the signs should be consistent in height in the subject area. She indicated that she is not opposed to the signage in the easement at 25 feet in height.

**TMAPC COMMENTS:**

Mr. Dix stated that it is not unreasonable at all to request for a height variance when moved back away from the street. Mr. Dix indicated that he would be supporting this request.

Mr. Carnes stated that he goes back to 1985 when signs became extremely important due to signs being on trailers in front of strip centers. Signs would get raised higher and higher to have better visibility from the next person. Everyone will want their sign five feet higher than the person next to them or behind them.

Ms. Cantrell stated that she agrees with Mr. Carnes. She understands that going up five feet is a marketing tool, but he also doesn't get to put his sign in the same place as everyone else and he is at a detriment. It would be a compensation for him to allow him to go a little bit higher if he is farther from the road.

Mr. Boulden stated that the approval could be conditioned on it being located as represented on the site plan. Mr. Boulden clarified that only at this location would the sign be allowed to be five feet higher.

**TMAPC Action; 10 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Wright "absent") to **APPROVE** the minor amendment for PUD-578-A-6 per staff recommendation.

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

Mr. Midget out at 5:00 p.m.

**PUBLIC HEARING**

14. PUD-586-A-10 – Warren Professional Bldg. Corp./Saint Francis South (PD-18) (CD-8)

Northeast corner of 91<sup>st</sup> Street South and U.S. Highway 169, 10501 East 91<sup>st</sup> Street South (Minor Amendment to allow the phasing of sidewalk construction along the east and south sides of a mutual access easement/private roadway until such time as that area is developed.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to allow the phasing of sidewalk construction along the east and south sides of a mutual access easement/private roadway until such a time as that area is developed (please refer to attached Exhibits A and B for detailed location). The installation of the sidewalks in the area requested would be enforced by the TMAPC at detail site plan review at the time the lot develops.

St. Francis Hospital, the newly-constructed medical office building, and parking garage are located on the west and north sides of the mutual access easement/private drive in Development Area A-1 (see Exhibit A). The phasing of the sidewalk construction is sought for Development Area C, a lot in which there is no proposed development at this time (Please refer to attached Exhibit A and additional exhibits). As a result, there is no development for a sidewalk in Development Area C to serve at this time. Sidewalks are being provided as required along the entirety of the west and north side of the roadway.

Staff recommends **APPROVAL** of minor amendment PUD-586-A-10.

*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; 9 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Midget, Wright "absent") to **APPROVE** the minor amendment for PUD-586-10 per staff recommendation.

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15. Z-7152 – Roy D. Johnsen/101<sup>st</sup> & Yale

**RS-4/PUD to OL/PUD**

**Properties, LLC**

East of southeast corner of East 101<sup>st</sup> Street and South Yale Avenue (Related to Item 16.) (PD-26) (CD-8)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 22102 dated August 3, 2009, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**PUD-516-B August 2009:** All concurred in approval of a proposed Major Amendment to PUD on a 1.73± acre tract of land to include Children's Nursery only within Use Unit 5 and to amend development standards to accommodate new use, on property located east of southeast corner of East 101<sup>st</sup> Street and South Yale Avenue and the subject property.

**Z-6844/PUD-658 March 2002:** All concurred in approval of a request for rezoning on a 2.5± acre tract of land from AG to OL/CS and a proposed Planned Unit Development for a mixed use development on property located on the northwest corner of East 101<sup>st</sup> Street South and South Yale Avenue.

**PUD-516-A June 1999:** All concurred in approval of a proposed Major Amendment to PUD on a .81± acre tract of land to reallocate floor area and add Development areas for mixed use development on property located south of southeast corner of East 101<sup>st</sup> Street South and South Yale Avenue and a part of subject property

**Z-6572/PUD-552 December 1996:** All concurred in approval of a request to rezone a 2.5 acre tract from AG to RD/PUD and a proposed Planned Unit Development for a residential elderly housing facility, on property located on the southeast corner of South Yale Avenue and East 102<sup>nd</sup> Street and south the subject tract.

**PUD-538-A November 1996:** All concurred in approval of a proposed Major Amendment to PUD-538 to add a dry cleaner and laundry business on property located in the northeast corner of East 101<sup>st</sup> Street and South Yale.

**Z-6498/PUD-538 September 1995:** All concurred in approval of a request to rezone a 5± acre tract from RM-2 to RM-2/CS/PUD and a proposed Planned Unit Development. They approved CS zoning for all except the west 150' and the south 150' of the tract which was designated for OL zoning, on property located on the northeast corner of E. 101<sup>st</sup> Street S. and S. Yale Avenue and across E. 101<sup>st</sup> Street from the subject tract.

**Z-6451/PUD-516 July 1994:** A request to rezone a 10± acre tract of land from AG to CS and RS-4 for office and multifamily development. Staff and TMAPC could not support CS zoning and uses because of the school which is located across S. Yale from the property. It was recommended for the request to be amended and re-advertised for OL zoning to a depth of 150' fronting Yale and E. 101<sup>st</sup> Street, with CS adjacent to the OL zoning on a tract approximately 300' x 150' and RS-4 on the balance of the tract. City Council concurred in approval of the amended request as recommended by TMAPC on the subject property.

**BOA-15228 September 1989:** The Board of Adjustment approved a Special Exception to permit a public school in an RM-2, RM-0, RS-3 and RS-2 zoned district on property located on the southwest corner of E. 101<sup>st</sup> Street South and South Yale Avenue and west of the subject tract.

**Z-6202/PUD-440 August 1988:** All concurred in approval of a request to rezone a 10± acre tract from AG to RS-2/PUD and a proposed Planned Unit Development located south and east of the southeast corner of East 101<sup>st</sup> Street and South Yale Avenue and southeast of the subject tract.

**BOA-11843 March 18, 1982:** The Board of Adjustment approved a Special Exception for community, cultural, and educational uses (church and private school) in an AG district, subject to the following conditions: That the total student population of the school not exceed 800; that the proposed buildings be complete with brick exterior in a Williamsburgh architecture style before occupied; that a subdivision plat be filed, subject to a letter being written by the Staff to the Hydrology Department expressing the Board's concern with the drainage in the subject area; that no traditional sanctuary be permitted on the subject property without a public hearing as per plot plan submitted; that a monument-type business sign be permitted with shrubbery lights not to exceed 32 square feet; that all the buildings have windows and shutters in accordance with the Williamsburgh style; and subject to the applicant returning to the Board with detailed plans concerning the proposed gymnasium before a building permit is issued for the facility, on property located east of the southeast corner of East 101<sup>st</sup> Street and South Yale Avenue.

**BOA-11508 June 11, 1981:** The Board of Adjustment approved a Special Exception to permit a church, church school, and related activities, per plans submitted with the condition that plans for any future structures on the property be submitted to the Board for approval, on property located east of the southeast corner of East 101<sup>st</sup> Street and South Yale Avenue and abutting east of subject property.



**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 22102 dated August 3, 2009, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**PUD-516-B August 2009:** All concurred in approval of a proposed major amendment to PUD-516 on a 1.73± acre tract of land to include Children's Nursery only within Use Unit 5 and to amend development standards to accommodate the new use, on property located east of southeast corner of East 101<sup>st</sup> Street and South Yale Avenue and the subject property.

**Z-6844/PUD-658 March 2002:** All concurred in approval of a request for rezoning on a 2.5± acre tract of land from AG to OL/CS and a proposed Planned Unit Development for a mixed use development on property located on the northwest corner of East 101<sup>st</sup> Street South and South Yale Avenue.

**PUD-516-A June 1999:** All concurred in approval of a proposed major amendment to PUD-516 on a .81± acre tract of land to reallocate floor area and add development areas for mixed use development on property located south of southeast corner of East 101<sup>st</sup> Street South and South Yale Avenue and a part of subject property

**Z-6572/PUD-552 December 1996:** All concurred in approval of a request to rezone a 2.5 acre tract from AG to RD/PUD and a proposed Planned Unit Development for a residential elderly housing facility, on property located on the southeast corner of South Yale Avenue and East 102<sup>nd</sup> Street located south of the subject tract.

**PUD-538-A November 1996:** All concurred in approval of a proposed major amendment to PUD-538 to add a dry cleaner and laundry business on property located at the northeast corner of East 101<sup>st</sup> Street and South Yale.

**Z-6498/PUD-538 September 1995:** All concurred in approval of a request to rezone a 5± acre tract from RM-2 to RM-2/CS/PUD and a proposed Planned Unit Development. They approved CS zoning for all except the west 150' and the south 150' of the tract which was designated for OL zoning, on property located on the northeast corner of E. 101<sup>st</sup> Street S. and S. Yale Avenue located across E. 101<sup>st</sup> Street from the subject tract.

**Z-6451/PUD-516 July 1994:** A request to rezone a 10± acre tract of land from AG to CS and RS-4 for office and multifamily development. Staff and TMAPC could not support CS zoning and associated uses because of the school which is located across S. Yale from the property. It was recommended for the request to be amended and re-advertised for OL zoning to a depth of 150' fronting Yale and E. 101<sup>st</sup> Street, with CS adjacent to the OL zoning on a tract approximately 300' x 150' and RS-4 on the balance of the tract. City Council concurred in approval of the amended request as recommended by TMAPC on the subject property.

**BOA-15228 September 1989:** The Board of Adjustment approved a Special Exception to permit a public school in an RM-2, RM-0, RS-3 and RS-2 zoned district on property located on the southwest corner of E. 101<sup>st</sup> Street South and South Yale Avenue located west of the subject tract.

**Z-6202/PUD-440 August 1988:** All concurred in approval of a request to rezone a 10± acre tract from AG to RS-2/PUD and a proposed Planned Unit Development located south and east of the southeast corner of East 101<sup>st</sup> Street and South Yale Avenue located southeast of the subject tract.

**BOA-11843 March 18, 1982:** The Board of Adjustment approved a Special Exception for community, cultural, and educational uses (church and private school) in an AG district, subject to the following conditions: That the total student population of the school not exceed 800; that the proposed buildings be complete with brick exterior in a Williamsburgh architecture style before being occupied; that a subdivision plat be filed, subject to a letter being written by the Staff to the Hydrology Department expressing the Board's concern with the drainage in the subject area; that no traditional sanctuary be permitted on the subject property without a public hearing as per plot plan submitted; that a monument-type business sign be permitted with shrubbery lights not to exceed 32 square feet; that all the buildings have windows and shutters in accordance with the Williamsburgh style; and subject to the applicant returning to the Board with detailed plans concerning the proposed gymnasium before a building permit is issued for the facility, on property located east of the southeast corner of East 101<sup>st</sup> Street and South Yale Avenue.

**BOA-11508 June 11, 1981:** The Board of Adjustment approved a Special Exception to permit a church, church school, and related activities, per plans submitted with the condition that plans for any future structures on the property be submitted to the Board for approval, on property located east of the southeast corner of East 101<sup>st</sup> Street and South Yale Avenue and abutting east of subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 1.732-164± acres in size and is located east of southeast corner of East 101<sup>st</sup> Street S. and South Yale Avenue. The property is vacant and is zoned RS-4/PUD.

**STREETS:**

<b><u>Exist. Access</u></b>	<b><u>MSHP Design</u></b>	<b><u>MSHP R/W</u></b>	<b><u>Exist. # Lanes</u></b>
East 101 <sup>st</sup> Street South	Secondary Arterial	100'	3

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

**SURROUNDING AREA:** The subject tract is abutted on the east by Life Christian Center, zoned AG; on the north by 101<sup>st</sup> Street and then Winbury Center and Winbury Place, zoned CS/RM-O/PUD-538; on the south by 101 Yale Village, zoned RS-4/PUD-516; and on the west by 101 Yale Village, zoned OL/CS/PUD-516-A.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 26 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being in a Special District. According to the Zoning Matrix, the requested OL zoning **may be found** in accord with the Plan because of the location within the Special District.

**STAFF RECOMMENDATION:**

PUD-516-C is a flat, 1.73 acre (75,358 square foot) lot located east of the southeast corner of 101<sup>st</sup> Street South and South Yale Avenue. The subject tract is abutted on the east by AG zoned property used as a school; on the north by 101<sup>st</sup> Street and then CS/RM-O/PUD-538 and PUD-538-A zoned property, having been developed commercially, and single-family residential; on the south by RS-4/PUD-516 zoned property developed as residential single-family; and on the west by 101 Yale Village, zoned OL/CS/PUD-516-A developed as office uses. Across Yale Avenue to the west is a City of Jenks Independent School.

The Property is platted as a part of Lot 17 and all of Lot 19 - Block 1, 101 Yale Village. The Property is zoned OL/CS/RS-4/PUD 516-B and will be re-platted as two (2) lots.

As part of PUD-516, Lot 19 was approved for office and retail uses and Development Area I was approved for office uses. Major amendment PUD 516-A established Development Area I for supplemental parking for Lot 19, which was planned for medical office uses. PUD-516-A also restricted permitted uses on Lot 19 and Development Area I to off-street parking and offices. Lot 19 and Development Area I were established as an independent development area with a total floor area allocation of 17,192 sq. ft.

Approved on July 16, 2009, major amendment PUD-516-B added Children's Nursery only within Use Unit 5 as a permitted use to Lot 19/Development Area 1 and increased the permitted floor area to accommodate the location of the Nursery (establishing floor area allocation of 13,000 square feet (SF) for office and 6,500 SF for the nursery) The amendment also reduced the minimum building setback from the south boundary of the Property from 50' to 20', and reduced the width of the Mutual Access Easement along the east boundary of the Property from 30' to 20'. As a result of change in market conditions the Children's Nursery is no longer planned for location within the Property.

Major amendment PUD-516-C seeks a return of the property to office uses exclusively. In order to establish the requisite floor area, an application for rezoning has been filed concurrently seeking to extend the underlying OL zoning to 7,020 SF of the Property. PUD-516-C also seeks to:

1. Delete the Children's Nursery use as a permitted use within the Property;
2. Amend the allocated floor area from 13,000 SF for office and 6,500 SF for children's nursery and allow 20,000 SF of office floor area making the established FAR for the Property .26 (see attached Floor Area Analysis). An increase to 20,000 SF over the 17,192 SF of office floor area allocated by PUD-516-A represents a 2,808 sf/14% increase.
3. Divide the existing development area which is currently designated as "Lot 19 and Development Area I" into two development areas, hereafter designated as Development Areas A and B. The Property will be platted as two (2) lots.
4. Reposition the Mutual Access Easement that is depicted along the east boundary of Lot 19 in the Plat of 101 Yale Village in order that more efficient use of the Property may be made by locating a row of parking along the east boundary of Lot 19 (see attached Exhibit A).

Staff has reviewed the development proposal and conducted site visits (see attached case report photographs). Staff contends that limiting the new development areas to office uses simply continues the development trend of PUD-516-A, and should be less intrusive on the surrounding neighborhoods than uses which were permitted by PUD-516-B. In addition, with the limit placed on permitted floor area, structure height in Area B and additional buffering mechanisms proposed below staff 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-516-C 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-516-C subject to the following conditions as amended the TMAPC (items with strikethrough have been removed, underlined items added in):

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

*\* The Development Standards herein are intended to implement the changes set forth in the Development Concept and restate the development standards previously established that remain applicable.*

**DEVELOPMENT AREA A**

**Net Land Area:** 0.512 .511 acres 22,307 22,253 SF

**Permitted Uses:**

Uses permitted by right within Use Unit 10 - Off-Street Parking Areas and Use Unit 11 - Offices, Studios and Support Services; and uses customarily accessory to permitted principal uses.

**Maximum Building Floor Area:**

Office 7,265 7,100 SF

**Minimum Building Setbacks:**

From centerline of 101<sup>st</sup> St.: 100 ft.  
 From south boundary of development area: 20 ft.  
 From other boundaries of development area: 0 ft.

**Maximum Building Height:**

Office: 2 stories\*, not to exceed 30 ft.

*\*No windows shall be permitted in the second story of the southern facing building wall*

**Off-street Parking:** As required by the applicable use unit of the Tulsa Zoning Code. Appropriate cross-parking and mutual access to be established upon parcelization and detail site plan review.

**Minimum Landscaped Open Space:** 15% of net lot area

**DEVELOPMENT AREA B:**

**Net Land Area:** 1.220 1.221 acres 53,133 53,189 SF

**Permitted Uses:**

Uses permitted by right within: Use Unit 10, Off-Street Parking Areas; and Use Unit 11, Offices, Studios and Support Services; and uses customarily accessory to permitted principal uses.

**Maximum Building Floor Area:**

Office: 42,735 12,900 SF

**Minimum Building Setbacks:**

From centerline of 101 <sup>st</sup> St.	100 ft.
From east boundary of development area	20 ft.
From south boundary of development area	20 ft.
From other boundaries of development area	0 ft.

**Maximum Building Height:**

Office: 1 story, not to exceed 30 ft.

**Off-street Parking:** As required by the applicable use unit; appropriate cross-parking and mutual access to be established upon parcelization and detail site plan review.

**Minimum Landscaped Open Space:** 15% of net lot area

**OTHER DEVELOPMENT STANDARDS - DEVELOPMENT AREAS A AND B**

**Mutual Access and Cross Parking**

The uses within Development Areas A and B shall be mutually accessible to each other, and cross parking shall be permitted between the parcels pursuant to a mutual access easement and cross parking agreement to be established by recorded document at the time of detail site plan review. Each of the parcels shall also be accessible to Lots 16 and 18, and the balance of Lot 17, 101 Yale Village.

**Parking Screening and Setback**

Parking adjacent to arterial streets shall be set back at least ten feet from the street right-of-way and shall be screened from view from the street by landscaping or berming to a minimum height of three feet. Parking adjacent to the east boundary of Lot 19 shall be set back at least five feet from that boundary.

**Landscaping and Screening along abutting Residential Lots**

A five-foot landscaped buffer strip and a six-foot or higher screening fence shall be provided along any boundary adjoining a residential lot except where mutual access is permitted.

### **Street Yard Landscaping**

Per TAC recommendation below and due to the presence of the pipeline easement along 101<sup>st</sup> Street South, street yard landscaping only shall be limited to grass and shrubs. Required street yard trees will be relocated to the interior of the Property where practical and verified at detail site plan review.

### **Architectural Requirements**

All buildings shall have pitched roofs and an architectural style that will be compatible with the surrounding residential structures. Elevation drawings of buildings shall be submitted with the detail site plans. Variations in rooflines, brick or stone facades, and buildings with offset rather than straight exterior walls are encouraged.

### **Signs**

Wall signs shall be permitted within Development Areas A and B, provided that wall signs shall not exceed one square foot per linear foot of building wall to which affixed and no wall signs shall be permitted on walls facing the residential lots within 101 Yale Village.

Within Development Area B, one ground sign shall be permitted along east 101<sup>st</sup> Street South which may identify the uses in Development Area A and/or Development Area B. The ground sign shall not exceed a display surface area of 100 SF nor eight feet in height. No sign permits shall be issued for erection of a sign within a development area until a Detail Sign Plan for that lot has been submitted to the TMAPC and approved as being compliance with the development standards.

### **Sidewalks**

Sidewalks shall be constructed and/or maintained where existing along 101<sup>st</sup> Street South in accord with Tulsa Subdivision regulations

### **Lighting**

All parking lot lighting shall be shielded and directed downward and away from adjacent residential areas so that the light producing element or reflector are not visible to a person standing in an adjacent residential area. Compliance with these standards shall be verified by application of the Kennebunkport Formula or submittal of a photometric plan at detail site plan review. No parking lot light standard shall exceed 15 feet in height.

**Trash, Mechanical and Equipment Areas**

All trash, mechanical and equipment areas shall be screened from public view by persons standing at ground level. Within Development Area A, bulk trash containers shall be set back a minimum of 50 feet from residential lots.

**Outside Storage**

There shall be no outside storage or recyclable material, trash or similar material outside a screened receptacle, nor shall trucks, truck-trailers or containers be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers or outside containers shall not be used for storage.

**Parcelization**

Division of lots may occur by approved lot-split application and subject to the further approval of a minor amendment by the Tulsa Metropolitan Area Planning Commission of proposed floor area allocations and confirmation of the existence of any necessary cross parking and mutual access easements.

**Transfer of Allocated Floor Area**

Allocated floor area may be transferred to another lot or lots by written instrument executed by the owner of the lot from which the floor area is to be allocated provided however the allocation shall not exceed 10% of the initial allocation to the lot to which the transfer of floor area is to be made.

**Site Plan Review**

The development areas may be developed in phases, and no building permit shall be issued until a detailed site plan (including landscaping) of the proposed improvements has been submitted to the Tulsa Metropolitan Area Planning Commission and approved as being in compliance with the development standards. No certificate of occupancy shall issue for a building until the landscaping of the applicable phase of development has been installed in accordance with a landscaping plan and phasing schedule submitted to and approved by the Tulsa Metropolitan Area Planning Commission.

**Platting Requirement**

The development areas may be developed in phases and no building permit shall be issued until the development phase for which a permit is sought has been included within a subdivision plat submitted to and approved by the Tulsa Metropolitan Area Planning Commission and the Council of the City of Tulsa, and duly filed of record. The required subdivision plat shall include covenants of record implementing the development standards of the approved

Planned Unit Development, and the City of Tulsa shall be a beneficiary thereof.

3. A detail landscape plan for each development area which conforms to the requirements of Chapter 10 of the City of Tulsa Zoning Code 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 fences will be installed by a specific date 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.
4. 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.
5. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
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. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review.

**TAC Comments:**

**General:** No Comments.

**Water:** If Lot 17 is split; both tracts must have access to the water main line. Note there is a 20' R/W/E 10' west of the east boundary line of Lot 19. The 8" waterline in that easement will need to be upgraded to ductile iron if paving is put over it.

**Fire:** No objection to the amended use of site. Plat needs to reflect the 20' mutual access easement serving the property to the South.

**Stormwater:** No Comments.

**Wastewater:** No Comments.

**Transportation:** Show location of new MAE. Old MAE should be vacated.

**INCOG Transportation:**

- **MSHP:** 101<sup>st</sup> Street is a designated secondary arterial
- **LRTP:** 101<sup>st</sup> Street South, between Yale Avenue and Sheridan Road, planned 4 lanes. Per TMAPC subdivision regulations, sidewalks should be constructed if non-existing or maintained if existing.
- **TMP:** No comments.
- **Transit:** No service provided in this area.

**Traffic:** No Comments.

**GIS:** No Comments.

**Street Addressing:** No Comments.

**Explorer Pipeline:** No trees in pipeline easement; landscaped area should be kept to grass and/or shrubs. Agreement needed between property owner and Explorer Pipeline.

Ms. Cantrell stated that there is no wishing to speak on this item.

Mr. Midget in at 5:15 p.m.

**Applicant's Comments:**

**Roy D. Johnsen**, Williams Center Tower One, One West 3rd Street, Suite 1010, 74103, stated that his client did make contact with the single-family house residents to the south and discussed this with the homeowners association, who are not objecting to the change. Regrettable the market conditions and the economics prevented the original plan from working. His client has an opportunity to develop the subject site for office use only and there is a pending contract.

Mr. Johnsen stated that the requested OL zoning is to get to 20,000 SF in total, which represents increases this by 14%. The whole tract will result in a floor area ratio of .26 and in a typical OL district, one is permitted a floor area of .3 and can be taken to .4 FAR. The subject proposal is very conservative and there will be ample landscaping, parking and office use. Mr. Johnsen indicated that the neighborhood issues have been dealt with and this will be a very nice office park, which is consistent with what has developed to the west.

**TMAPC COMMENTS:**

Mr. Dix stated that he would prefer to see the mutual access left where it was and request a waiver for the parking. A 20-foot drive aisle is too tight. Mr. Johnsen stated that the Zoning Code requires the parking and it is generally needed in office districts. Ms. Cantrell informed Mr. Dix that the Planning Commission can't grant a parking waivers and Mr. Johnsen would have to go before the Board of Adjustment for a reduction in parking spaces.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Wright "absent") to recommend **APPROVAL** of the OL/PUD zoning for Z-7152 per staff recommendation.

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Wright "absent") to recommend **APPROVAL** of the major amendment for PUD-516-C per staff recommendation.

**Legal Description for Z-7152:**

The east 23.40ft of the west 437.40ft of the north 300ft of the northwest quarter of the northwest quarter of the northwest quarter (NW/4 NW/4 NW/4) of Section 27, Township 18 North, Range 13 East, of the Indian Meridian, City of Tulsa, Tulsa County, State of Oklahoma, according to the U.S. government survey thereof. Said tract containing 7,020 sq. ft. / 0.161 acres, more or less.

**Legal Description for PUD-516-C:**

Lot 19, Block 1, 101 Yale Village, a subdivision in the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat (No. 5055) thereof. AND A tract of land which is part of Lot 17, Block 1, 101 Yale Village, a subdivision in the City of Tulsa, Tulsa County, State of Oklahoma according to the recorded plat (No. 5055) thereof, being more particularly described as follows, to-wit: Commencing at a point on the easterly right-of-way line of South Yale Avenue, said point also being the northwest corner of said Lot 17, Block 1; thence due east along the northerly line of said Lot 17, Block 1 for 26.30 feet; thence continuing along said northerly line north 62° 34'42" east for 260.27 feet to the point of beginning of said tract of land; thence continuing north 62°34'42" east along said northerly line for 71.00 feet; thence south 29°09'40" east along the easterly line of said Lot 17, Block 1 for 201.09 feet; thence due west along the southerly line of said Lot 17, Block 1 for 54.07 feet; thence continuing along said southerly line south 60°00'00" west for 21.17 feet; thence north 30°00'00" west for 177.23 feet to the point of beginning.

\*\*\*\*\*

17. **PUD-777 – Continental 214 Fund, LLC/American SW Prop. Inc.** RM-1/OL to RM-1/OL/PUD

East of northeast corner of East 51<sup>st</sup> Street and South 129<sup>th</sup> East Avenue (PUD proposing multifamily development with 96 apartments on a six-acre tract of land.) (PD-17) (CD-6)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 20944 dated September 30, 2004, and 21819 dated June 5, 2008, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**Z-7088 June 2008:** All concurred in approval of a request for rezoning a 35.11± acre tract of land from RS-3 to RM-1 for multifamily use, on property located west of northwest corner of East 51<sup>st</sup> Street and South 145<sup>th</sup> East Avenue including a part of the subject property.

**BOA-19943-A April 10, 2007:** The Board of Adjustment APPROVED the *Modification of a previous approval and plan* to permit the addition of an early childhood and preschool education facility to the existing elementary school campus, subject to applicant's Exhibit C, amended site plan, on property located northwest of the northwest corner of East 51<sup>st</sup> Street and South 145<sup>th</sup> East Avenue located north of subject property.

**BOA-19943 November 23, 2004:** The Board of Adjustment APPROVED a *Special Exception* to permit a public elementary school in an OL district, noting this is on the W/2 N/2 of the SE/4 Section 28 19 14, with conditions: that all construction traffic on this phase of construction enter along the northern boundary of the E/2 of the N/2, with a permanent access point to the east to 145<sup>th</sup> West Avenue be in place when the school opens; no lighted playing fields; all parking lot lights and other lighting be diffused away from the neighborhood, per site plan, on property located northwest of the northwest corner of East 51<sup>st</sup> Street and South 145<sup>th</sup> East Avenue and north of subject property.

**Z-6952 September 2004:** All concurred in approval of a request for rezoning a 28.9± acre tract of land from AG to OL on property located east of the northeast corner of East 51<sup>st</sup> Street South and South 129<sup>th</sup> East Avenue including a part of subject property.

**PUD-669 February 2003:** All concurred in approval of a proposed Planned Unit Development on an 11.19± acre tract of land for a 180-unit multifamily development on property located west of the northwest corner of East 51<sup>st</sup> Street South and South 145<sup>th</sup> East Avenue.

**Z-6781 October 2000:** All concurred in approval of a request for rezoning a 160± acre tract of land from AG to OL for QuikTrip Corporate Campus on the west half and office use on the remainder on property located north and east of the northeast corner of East 51<sup>st</sup> Street South and South 129<sup>th</sup> East Avenue.

**PUD-635 October 2000:** All concurred in approval of a proposed Planned Unit Development on an 80± acre tract of land from AG to OL/PUD for the QuikTrip Corporate Campus as their headquarters on property located north of the northeast corner of East 51<sup>st</sup> Street South and South 129<sup>th</sup> East Avenue.

**PUD-221-F May 1999:** All concurred in approval of a proposed major amendment to PUD-221, on a 38± acre tract of land for office use with the west 7.6 acres to be developed for church use and the remaining 12.6 acres to be developed for a private school, subject to modification of development standards located east of the southeast corner of East 41<sup>st</sup> Street South and South 129<sup>th</sup> East Avenue.

**PUD-221-D May 1990:** All concurred in approval of a request for a major amendment to PUD-221 to allow a children's day care center on a tract located on the southeast corner of East 43<sup>rd</sup> Place South and South 129<sup>th</sup> East Avenue.

**PUD-221-A December 1981:** All concurred in approval of a major amendment to convert the commercial portion of the CS floor area to multifamily uses on a tract located on the southeast corner of East 41<sup>st</sup> Street South and South 129<sup>th</sup> East Avenue.

**PUD-221 October 1979:** All concurred in approval, subject to conditions, to develop a 160-acre tract located at the southeast corner of East 41<sup>st</sup> Street and South 129<sup>th</sup> East Avenue for a mixed use development.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 6± acres in size and is located east of northeast corner of East 51<sup>st</sup> Street and South 129<sup>th</sup> East Avenue. The property is vacant and is zoned RM-1/OL.

**STREETS:**

<b><u>Exist. Access</u></b>	<b><u>MSHP Design</u></b>	<b><u>MSHP R/W</u></b>	<b><u>Exist. # Lanes</u></b>
East 51 <sup>st</sup> Street South*	Secondary Arterial	100'	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by unplatted property, zoned RM-1; on the north by unplatted property, zoned OL and RM-1; on the south by 51<sup>st</sup> Street and then unplatted property, zoned AG; and on the west by unplatted property, zoned OL.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 17 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being a low-intensity, linear development area. According to the Zoning Matrix, the existing RM and OL zoning **may be found** to be in accord with the Plan so long as a development proposal is accompanied by a PUD proposal.

**STAFF RECOMMENDATION:**

PUD-777 is a relatively flat; 6 acre/261,360 square foot (SF) tract located on the north side of 51<sup>st</sup> Street South approximately ¾ of a mile east of U.S. Highway 51/The Broken Arrow Expressway (see Exhibits E and F). The site is undeveloped with wooded areas on the eastern boundary in close proximity to a Tulsa Regulatory Floodplain (see Exhibit A and D). The site is bound on the east by Tulsa Regulatory Floodplain, on the south by East 51<sup>st</sup> Street South, and on the west/ north by residual vacant land zoned OL and RM-1. There are no single family residential properties immediately adjacent to the site.

The multifamily development will be accessed by a publicly-dedicated collector street branching north from East 51<sup>st</sup> Street (see Exhibit A). One entry point will be provided for a clubhouse and another will provide access to the apartments. The entire six-acre tract will be platted as a one lot, one block subdivision.

If completed, the six-acre site will yield ninety-six (96) market-rate apartments, provided through a mix of studio, one, two, and three bedroom units ranging in size from 535 SF to 1,360 SF. Buildings will be limited to 35' in height. Underlying zoning on the site would permit for 152 units at 1,700 SF of land area per dwelling unit (LA/DU). As proposed, the 96 units will have 2,700+ SF of LA/DU. In addition to excess open space/livability space and passive recreational opportunities such as hiking, site amenities include a clubhouse, pool area, and dog park.

Staff has conducted several site visits, driven this area extensively, and thoroughly reviewed the development proposal (see also attached case photographs). Research by the applicant indicates almost 3,500 employers and over 45,000 jobs located within 3 miles of the site. Please refer to Exhibits E, H, and I. Considering the existing development trends in the surrounding area, proximity to freeway access, the presence of substantial employment centers within proximity to the site (including but not limited to QuikTrip, Met Life, Tulsa Health Department, HSBC, State Farm Insurance and the new St. John's Hospital campus) staff supports this proposal. Staff contends this site is well suited for this type of development and will provide a well-suited housing option for the area.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-777 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-777 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\*:

**LAND AREA:** 261,359 sf/6.00 Acres

**PERMITTED USES:**

Those uses permitted as a matter of right in the RM-1 zoning district, including but not limited to multifamily dwellings, clubhouse, pool, landscaped features and uses customarily accessory to the principal permitted uses.

<b>MAXIMUM NUMBER OF DWELLING UNITS:</b>	96
<b>MINIMUM LAND AREA/DU:</b>	2,700 SF
<b>LIVABILITY SPACE/DU:</b>	600 SF
<b>MAXIMUM BUILDING HEIGHT:</b>	35'
<b>OFF STREET PARKING:</b>	

Per applicable Use Unit with a minimum of one stall per 500 square feet of clubhouse area.

**SETBACKS:**

<b>From abutting street right-of way (ROW):</b>	25'
<b>Side yard:</b>	10'
<b>Rear yard:</b>	20'

**LIGHTING:**

All site lighting, including building mounted, shall be designed to direct light down and away from adjoining properties. No light standard, including building mounted shall exceed 25 feet in height. Lighting shall be so designed that the light producing elements and the polished light reflecting elements of exterior lighting fixtures shall not be visible to a person standing within an adjacent property. Compliance will be by

submittal of a photometric plan and manufacturer's cut-sheets and will be verified at detail site plan review.

**SIGNS:**

One identification sign will be constructed adjacent East 51<sup>st</sup> Street South. The display surface area shall not exceed eighty (80) square feet, and will not be greater than twenty (20) feet in height. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.

**LANDSCAPING AND SCREENING:**

Landscaping shall be per Chapter 10 of the Tulsa Zoning Code. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.

**ACCESS AND CIRCULATION:**

The multifamily apartment development will be accessed by a proposed 60' street/public right-of-way adjacent on the west side of the development. The street will stem north from the existing East 51<sup>st</sup> Street South. A 5' sidewalk will be provided along the entirety of the easterly portion of the newly constructed right-of-way. An existing storm water culvert and concrete drainage channel to the east of the new right-of-way prohibit the construction of a sidewalk along the site's very limited 51<sup>st</sup> Street frontage. Internal private drives will serve both the clubhouse and the individual residences.

3. No Zoning Clearance Permit shall be issued within the PUD until a Detail Site Plan, which includes all buildings, parking, lighting, 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 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 (where applicable), have been installed 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 within the PUD until a Detail Sign Plan has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
6. 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 the property have been installed in accordance with the approved plans prior to issuance of any Occupancy Permit.
7. All public roadways, including all curbs, gutters, base and paving materials shall be of a quality and thickness which meets City of Tulsa standards for a residential public street. The maximum vertical grade of streets shall be 10 percent. The City shall inspect all streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets and the developer shall pay all inspection fees required by the City. If the City will not inspect, then a registered professional engineer shall certify that the streets have been built to City standards.
8. Entry gates or guardhouses, if proposed, 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 guard houses.
9. No building permit shall be issued until the 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.
10. 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 and shipping containers shall not be used for storage in the PUD.
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 and/or the subdivision platting process.

**TAC Comments:**

**General:** Request that the floodplain adjacent to the property be included in the plat as a reserve area.

**Water:** A looped water main extension line; centered inside of a 20' restrictive waterline easement will be required.

**Fire:** Property shall be served with fire hydrant protection per Sections 508.5 and Appendix B & C of the International Fire Code. The drive shall meet the fire apparatus access requirements of Section 503 and Appendix D of the International Fire Code. Section D105 shall be complied with if the buildings exceed 30' in height.

**Stormwater:** Needs to show Existing City of Tulsa Regulatory Floodplain, and explain how it is being changed to this proposed floodplain. Compensatory storage is required for all fill placed in the floodplain and must be placed in an easement. A detention determination is required in order to authorize fee-in-lieu of detention. Runoff from the development must be collected and piped to the invert of the creek.

**Wastewater:** A sanitary sewer mainline extension must be constructed to provide sewer service to all proposed lots within the PUD area.

**Transportation:** In the access and circulation section include sidewalk requirement and note that the public road will be added by separate instrument. On the site plan note that road will be by separate instrument.

**INCOG Transportation:**

- **MSHP:** E. 51<sup>st</sup> Street is a designated secondary arterial. According to the Major Street & Highway Plan, a residential collector is planned to connect to the Quail Ridge subdivision in the future. 60' of ROW should be dedicated for this purpose.
- \* **L RTP:** 51<sup>st</sup> St S., between 129<sup>th</sup> E. Ave and 145<sup>th</sup> E. Ave, planned 4 lanes. Per TMAPC subdivision regulations, sidewalks should be constructed if non-existing or maintained if existing.
- **TMP:** No comments.
- **Transit:** No comments.

**Traffic:** No Comments.

**GIS:** No Comments.

**Street Addressing:** No Comments.

**TMAPC COMMENTS:**

Mr. Sansone explained Special District designations and the added protections it allows.

Ms. Cantrell clarified that OL zoned property would require a special exception to allow apartments.

Mr. Midget expressed concerns with the proliferation of apartments in the subject area. In response, Mr. Sansone pointed out the large area that is currently zoned RM-1, which indicates apartment development.

**Applicant's Comments:**

**Sara Johnson**, representing Continental 214 Fund, LLC, W134N8675 Executive Parkway, Menomonee Falls, Wisconsin, 53051, stated that her company is a

national real estate development company and started in 1979. The company currently has approximately 4200 apartment units that the company owns and operates. Continental maintains and owns all of the apartment properties and do not sell them off.

Ms. Johnson stated that her company is proposing 96 market rate units with a mix of studio, one, two and three bedroom apartments. This is different from most apartment communities because they are all direct-access apartments. There are no shared corridors with entry points. Each resident has his/her own front door entry into their own apartments and they are not condominiums as sometimes they are mistaken for. Detached garages are offered, club house, a pool area and a dog park. To the west of the subject site there is a 60-foot right-of-way that will be public per the request of the City staff for future planning purposes.

Ms. Johnson stated that she did work with the adjacent landowners and received some written sign-offs that were included with the PUD submittal package. There were a few calls from the residential neighborhood called Quail Ridge and she believes they are present tonight. In attempt to minimize the impacts to the residents to the north, developers will keep the buildings apart so that the parking will be internal.

Ms. Johnson indicated that the marketing team chose this site due to the subject area having a one percent household growth rate, which is uncommon right now with the current economy. From 2002 to the present, the household size did increase. They have convenient access to the highway and local employment centers. There are municipal utilities in the area and will not have to do an expansion to get the utilities to the subject site. The underlying zoning does allow for apartments with more units than her company is proposing. The subject area is called a "town center" and is a mixed-use district, which does allow apartments in that concept.

#### **TMAPC COMMENTS:**

Mr. Walker asked Ms. Johnson if she had any other projects in Tulsa. In response, Ms. Johnson answered negatively. Mr. Walker asked Ms. Johnson if the selection of this site is to target the employers in the subject area. Ms. Johnson stated that there is a long list of criteria that is used to determine where a proposed project will be located. Some of the criteria are proximity to hospitals, quality local schools and employment. Mr. Walker stated that it looks like a nice site.

#### **INTERESTED PARTIES COMMENTS:**

**Darrel May**, 4507 South 132<sup>nd</sup> East Place, 74134, Quail Ridge Addition, stated that he is opposed to the PUD. Mr. May expressed concerns that apartments bring problems to the subject area and he is concerned for his safety. He also expressed concerns about additional traffic on the two-lane road and possibly

traffic going through the neighborhood to avoid the traffic on the two-lane road. Mr. May expressed his concerns regarding the TAC comments about a future street going into the residential neighborhood (according to the Major Street & Highway Plan, a residential collector is planned to connect to the Quail Ridge subdivision in the future). Mr. May concluded that he is also concerned about the subject area becoming proliferated with apartments.

**Councilor James Mautino**, District 6, One Technology Center, 175 East 2<sup>nd</sup> Street, 74103, stated that he has concerns about the proposed project. He commented that the proposed development will help Broken Arrow out more than the City of Tulsa and cause a financial hardship on the citizens to put in streets.

Mr. Mautino spoke about the floodplain at length and submitted several maps (Exhibit A-1). Mr. Mautino commented on the placement of the subject proposal on the subject property in regards to the floodplain.

#### **TMAPC COMMENTS:**

Mr. Leighty stated that he is having a hard time understanding Councilor Mautino's objection. He asked Councilor Mautino if it is the density and if it is, would he like to see no multifamily in that immediate area. In response, Mr. Mautino stated that the subject area has floodplain all through it and he does object to density. Density would cause the school to have to expand and the citizens living in the subject area would have to pass more bond issues and raise taxes to put another street in. Broken Arrow built 61<sup>st</sup> Street to U.S. 169 in four years and he doesn't know what is wrong with the City of Tulsa, but he can guarantee that 51<sup>st</sup> Street will not be widened in the next ten years.

Mr. Walker stated that he knows Councilor Mautino would like to see single-family on the subject property and he would, too. Mr. Mautino stated that he would like to see more retirement centers for middle-class people. Mr. Walker stated that both are unlikely in this environment. Mr. Walker asked Mr. Mautino it wouldn't be wise to accept this infill instead of it going to Broken Arrow and keeping it in the City of Tulsa. In response, Mr. Mautino stated what it is doing is putting a lot of people here. Where is the CS development and where will the money be coming from to improve the streets? The current residents already shop in Broken Arrow because it is closer. Where is the retail? Broken Arrow already has a drug store and a Sonic restaurant. When one develops and puts housing in the subject area before the infrastructure, that would be putting the cart before the horse.

#### **INTERESTED PARTIES COMMENTS:**

**Lori Lewis**, 4512 South 132<sup>nd</sup> East Avenue, 74134, stated that she has done some research and found that the occupancy for the existing apartments in the subject area is 75% and typically one likes to see 90%. More apartments in the area will cause negative occupancy to the existing apartments. Residents were told that the subject property would be residential and she feels that she has

been abandoned and sold out. The residents have been given a school and undesirable traffic in their neighborhood. There is a crime element associated with apartments and there is no need for additional apartments. The Fire Department and Police Department are not able to handle additional responsibilities. Broken Arrow is adding more apartments and there is nothing the City of Tulsa can do about that. The original owners, the Mayo family, intended the property to be within a quality development to go along with the continuity of Tulsa being one of the most beautiful cities in America. The neighborhood would like to see a road going straight to the school and would prefer the subject property be changed back to residential.

**TMAPC COMMENTS:**

Mr. Shivel stated that Councilor Mautino and Ms. Lewis have made comments about the floodplain and there being 400 units, but in reality the other units have not been constructed for whatever reasons. He understands that there is a potential for two to four hundred units that could be built, but in reality there is a specific piece of property under application and there is a portion that is in the flood area. He doesn't see that the subject proposal is in the literal floodplain. In response, Ms. Lewis stated that she has many neighbors who have french-drains to prevent water from running through their yards.

**Applicant's Comments:**

**Ed Schermerhorn**, 2820 South Utica, 74104, stated that he and his partner, Jack Wright, own the subject property. Mr. Schermerhorn explained that the City staffs have visited the site and approved most of it, but there will have to be some work done on the floodplain. There is a lot of property in the subject area that will not be developed due to the topography and floodplain.

Mr. Schermerhorn stated that the area of town that Mr. Midget spoke about was developed 40 years ago. There aren't that many companies coming to Tulsa to build apartments these days and Continental Properties is a good company. Mr. Schermerhorn cited the new apartment developments that will be built in Broken Arrow in the subject area by some great builders. Density creates the tax base in order to widen the streets and since there is a school present eventually a fire station will come to the subject area. The streets will be widened at some point and the taxes will not come from property zoned for AG. He asked if the TMAPC really wants the applicant to go to Broken Arrow. Continental Properties did speak with neighbors and one can't satisfy everyone.

**TMAPC COMMENTS:**

In response to Mr. Leighty, Mr. Schermerhorn stated that he is one of the property owners of the subject property. He explained that eventually the hope is to have a big campus in the subject property and the property was never owned by the Mayo family. Mr. Leighty asked Mr. Schermerhorn what he thought the benefit to the subject area is and to the City of Tulsa to have this project. Mr. Schermerhorn stated that one has to have density or roof tops before commercial

moves in. There needs to be residential, apartments and mixed uses to bring commercial into the subject area.

**Applicant's Rebuttal:**

**Ms. Johnson** stated that the floodplain areas and detention seem to be the biggest concern. The floodplain fill caused a change in the original site plans. All necessary studies will be done to verify whether or not detention is required on the subject site. Regarding the mention of crime, her company has a program in place called safe check and verification is made that there is no criminal background in the applicants. The applicant has to have a good credit score and can never have been evicted or skipped on their rent. Employment and previous rental activity is verified. With regard to the school to the north, there are fewer than ten percent of school-aged children in the apartments. The road proposed to go directly to the school is not a part of the subject development. A large portion of the vacant property is in floodplain and it is highly unlikely it will be developed. The majority of the subject proposal will be within the RM-1 district and possibly some of the clubhouse will be located within the OL-zoned property. With regard to the materials, at the first meeting the base elevation was shown and the company does get project specific, since this is in a PUD because she hopes the residents take it as a benefit that the company will work with them on specific requirements. The original base elevation was a stepping stone to what the final product would be. There is a need for residents before the retailers will come into the subject area and she can't help believing that this project will bring retail to the subject area.

**TMAPC COMMENTS:**

Mr. Leighty stated that there was a comment made that there was a low occupancy rate on nearby apartments. In response, Ms. Johnson stated that her company does a thorough check on the competitors and all the information indicates that it is currently at 90%. Mr. Leighty asked Ms. Johnson if the occupancy rate was at 75% would it scare her off from the deal. In response, Ms. Johnson stated that the market fluctuates, but it is a strong market and the businesses are there for employment, so she doesn't believe that number would scare her company away from developing.

In response to Mr. Leighty, Ms. Johnson stated that with the adjacent zoning and the Comprehensive Plan calling for a town center, she believes the subject proposal will help spur potential some for the retail development that is wanted. If her company doesn't do the development on the subject site, someone else will or go to Broken Arrow and pull opportunities for retail to Broken Arrow as well.

Mr. Marshall asked Ms. Johnson if other sites were considered for the subject proposal. In response, Ms. Johnson stated that there were four or five sites before narrowing it down to the subject site. The subject site met the criteria the best and had the best demographics.

Ms. Cantrell asked Mr. Steele to come forward.

David Steele, Senior Engineer with the City of Tulsa, stated that he is a life-long Tulsan, and spent 36 years working with the Army Corp of Engineers building flood control projects for the City of Tulsa.

Mr. Marshall asked if there is any detention ponds planned for the subject area. In response, Mr. Steele stated that one of the plans did have a detention pond, but the detail plans have not been developed at this time. The City of Tulsa will review the detail site plans when they come in. The applicant will be required to do a detention and runoff analysis to determine the best solution to ensure that there is no increase of flooding downstream. As Ms. Johnson mentioned, they will either be required to fund and pay for detention onsite or pay a 20 cent per square foot of increased impervious area fee, which would be used for flood control projects in the subject basin to alleviate any increased flooding by the subject project. Mr. Marshall asked how this is determined. Mr. Steele stated that it is based on the current cost per watershed for flood control works. The detention facilities that are currently being constructed in the City of Tulsa are all being funded from this fee and the fee stays in each watershed. There are studies underway currently to increase that rate. It is more economical to build detention onsite if it is available and the mechanism to design and maintain it. Mr. Steel reiterated that he has looked over the site plan, but there are no details at this time because the hydraulic analysis will be done later when the applicant comes in with the infill structure development project for review by the City.

Mr. Dix stated that the applicant quoted "market rate", which is important and that they own their own facilities and are not coupon cutters. With the fact that Tanner Consulting is going to do the flood control studies, he feels very confident in their ability to address whatever flood issues might come up. Mr. Dix stated that he is very confident in the City of Tulsa's ability to make sure that Mr. Tanner does his job. He is fairly confident that there will not be a street on the QuikTrip side. Mr. Dix indicated he would be in full support of this application.

Mr. Midget stated that he believes this is a quality development and the density is not so overloaded to make it intolerable. He is concerned about the proliferation of apartments in one area. He is impressed that the developers will keep the ownership and manage the subject property. The applicant took time to look at the Comprehensive Plan and the process and he is impressed with the research that the developer did. Mr. Midget commented that as a Tulsan, he is not afraid to compete with Broken Arrow and welcomes the challenge.

Ms. Cantrell stated that this is a very close decision for her and she will not be able to support this application. This does look like a good development, but there are several things that give her pause. The primary concern is 51<sup>st</sup> Street and she doesn't think it is working well to move the rooftops in first and then widened the roads.

Mr. Leighty stated that he will support this application, but he is a little troubled by it. Councilor Mautino made some strong arguments, but basically he would go back to the goals of the new PLANiTULSA Plan that we are trying to get adopted and approved.

**TMAPC Action; 10 members present:**

On **MOTION** of **DIX**, TMAPC voted **9-1-0** (Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker, "aye"; Cantrell "nay"; none "abstaining"; Wright "absent") to recommend **APPROVAL** of PUD-777 per staff recommendation.

**Legal Description for PUD-777:**

A TRACT OF LAND THAT IS PART OF THE SOUTH HALF (S/2) OF SECTION 28, TOWNSHIP 19 NORTH, RANGE 14 EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE TO THE U.S. GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 28, THENCE NORTH 88°42'15" EAST ALONG THE SOUTHERLY LINE THE SOUTHWEST QUARTER OF SECTION 28 FOR A DISTANCE OF 2,507.11 FEET TO A POINT; THENCE NORTH 1°17'45" WEST FOR A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 1°17'45" WEST FOR A DISTANCE OF 635.16 FEET TO A POINT; THENCE NORTH 63°42'15" EAST FOR A DISTANCE OF 449.41 FEET TO A POINT; THENCE SOUTH 26°17'45" EAST FOR A DISTANCE OF 409.80 FEET TO A POINT; THENCE SOUTH 42°48'25" WEST FOR A DISTANCE OF 125.63 FEET TO A POINT; THENCE SOUTH 86°41'46" WEST FOR A DISTANCE OF 76.13 FEET TO A POINT; THENCE SOUTH 64°32'35" WEST FOR A DISTANCE OF 137.64 FEET TO A POINT; THENCE SOUTH 37°13'38" WEST FOR A DISTANCE OF 181.08 FEET TO A POINT; THENCE SOUTH 53°37'56" WEST FOR A DISTANCE OF 148.81 FEET TO A POINT; THENCE SOUTH 28°40'15" WEST FOR A DISTANCE OF 53.69 FEET TO A POINT; THENCE SOUTH 1°17'45" EAST FOR A DISTANCE OF 60.76 FEET TO A POINT OF CURVATURE; THENCE ALONG A 30.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 89°59'55", AN ARC DISTANCE OF 47.12 FEET, CHORD BEARING OF NORTH 46°17'43" WEST AND A CHORD LENGTH OF 42.43 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 261,359 SQUARE FEET OR 6.00 ACRES MORE OR LESS.

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**OTHER BUSINESS:**

**Commissioners' Comments**

None.

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There being no further business, the Chair declared the meeting adjourned at 6:31 p.m.

Date Approved:

5/4/10

Michelle Carter

Chairman

ATTEST:

John A. Walk

Secretary