

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2409

Wednesday, April 20, 2005, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Ard	Dick	Alberty	Boulden
Bayles, Chair		Butler	
Carnes, 2 <sup>nd</sup> VC		Chronister	
Harmon, Secretary		Fernandez	
Hill, 1 <sup>st</sup> VC		Matthews	
Horner			
Jackson			
Ledford			
Midget			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, April 15, 2005 at 2:10 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 Bayles called the meeting to order at 1:30 p.m.

Ms. Bayles stated that, today, the Planning Commission is welcoming Phyllis Butler, who will our recording secretary. Barbara Huntsinger has had a death in the family, and as such, we are going to ask for a little extra consideration by our members in order to make sure the votes and the voices are recorded appropriately for Ms. Butler's information.

### Minutes:

#### **Approval of the minutes of March 2, 2005, Meeting No. 2405**

On **MOTION** of HILL the TMAPC voted 7-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, , "aye"; no "nays"; none "abstaining"; Ard, Dick, Midget "absent") to **APPROVE** the minutes of the meeting of March 2, 2005, Meeting No. 2405.

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**REPORTS:**

**Director's Report:**

Mr. Alberty reported that there are no zoning cases on the City Council agenda set for this Thursday; however, there are a couple of plats.

Mr. Alberty reported that the City Council is expected to approve by consensus a request that the TMAPC review, hold public hearings and provide the Council with a recommendation regarding amending the City Zoning Ordinance to allow prior nonconforming uses and special exceptions if discontinued to resume only when the use or special exception has been discontinued for at/or fewer than 90 days. Mr. Alberty suggested that this be included with the other zoning amendments that staff expects to be working on soon.

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**Ms. Bayles stated that there are several items that require attention before moving on to Subdivisions:**

Preliminary plats, Items 5 (Tulsa Hmong Alliance Church of the Christian and Missionary Alliance and 6 (Stone Creek Farms VI) have been stricken from the agenda.

Item 11, PUD-533-A- Roy Johnsen, Major Amendment, Northwest corner of East 27<sup>th</sup> Street and I-44 has requested a continuance to April 27, 2005.

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

**TMAPC Action; 7 members present:**

On **MOTION** of **HARMON**, TMAPC voted 7-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford "aye"; no "nays"; none "abstaining"; Ard, Dick, Midget "absent") to **CONTINUE** the major amendment for PUD-533-A to April 27, 2005.

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**Mr. Ard in 1:36 p.m.**

**SUBDIVISIONS:**

**LOT-SPLIT TO RESCIND TIE AGREEMENT:**

**L-19810 – Breisch & Associates** (8314)

(PD 18) (CD 8)

8217 South 76<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

On March 7, 2002, L-19203 was approved to split an unplatted tract into two parcels with the requirement that Tract A be tied to Lot 10, Block 1, Southfield Estates Second Addition. The tie agreement was required because Tract A did not have access to the sanitary sewer service. The owner is now extending the sanitary sewer main line and is requesting to rescind the tie agreement from L-19203 to allow him to split Tract A. L-19810 is requesting to split 3' (Tract B) off Tract A and tie it to Lot 10, Block 1, Southfield Estates Second. The proposed tracts meet the RS-3 bulk and area requirements.

Staff believes this lot-split would not have an adverse effect on the surrounding properties and recommends **RESCINDING** the tie language of L-19203 and recommends **APPROVAL** of the current lot-split request, L-19810, subject to Tract B being tied to Lot 10, Block 1, Southfield Estates Second.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford "aye"; no "nays"; none "abstaining"; Dick, Midget "absent") to **RESCIND** the tie language of L-19203 and **APPROVE** the current lot-split request, L-19810, subject to Tract B being tied to Lot 10, Block 1, Southfield Estates Second per staff recommendation.

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**LOT-SPLITS FOR RATIFICATION OF PRIOR APPROVAL:**

**L-19808 – Sack & Associates** (2418)

(County)

15635 North 102<sup>nd</sup> East Avenue

**L-19811 – Sack & Associates** (9307)

(PD 6) (CD 4)

1401 South Rockford

L-19812 – James Baker (1313) (County)  
8797 East 106<sup>th</sup> Street North

L-19815 – Jennifer Fate (2336) (County)  
12819 North Memorial

L-19821 – Tulsa Development Authority (0236) (PD 2) (CD 1)  
1009 North Kenosha

**STAFF RECOMMENDATION:**

These lot-splits are all in order and staff recommends **APPROVAL**.

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

**TMAPC Action; 8-0-0 members present:**

On **MOTION** of **HORNER** the TMAPC voted **8-0-0** (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford "aye"; no "nays"; none "abstaining"; Dick, Midget "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

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Mr. Midget in at 1:40 p.m.

**FINAL PLAT:**

The Cottages at Trinity Creek – (9426) (PD 17) (CD 6)  
North of East 51<sup>st</sup> Street, East of South 161<sup>st</sup> East Avenue  
(Related to Item 4a.)

**STAFF RECOMMENDATION:**

This plat consists of 36 lots in three blocks on 9.36 acres.

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

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **LEDFORD**, TMAPC voted 9-0-0 (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the final plat for The Cottages at Trinity Creek per staff recommendation.

**RELATED ITEM:**

**Application No.:** PUD-711

**DETAIL SITE PLAN**

**Applicant:** Chris May

(PD-17) (CD-6)

**Location:** East 51<sup>st</sup> Street, between 167<sup>th</sup> East Avenue and 168<sup>th</sup> East Avenue, north side

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for two gated entries, which are permitted by Development Standards upon coordination with and review of the Department of Public Works and the Fire Marshal. Accordingly, the plans have been approved by Traffic Engineering and the Fire Marshal.

Staff recommends **APPROVAL** of PUD-711 detail site plan as proposed.

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

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

**TMAPC Action; 9 members present:**

On **MOTION** of **HILL**, TMAPC voted 9-0-0 (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the detail site plan for PUD-711 per staff recommendation.

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**CONTINUED ZONING PUBLIC HEARING:**

Application No.: PUD-146-1

MINOR AMENDMENT

Applicant: Robert Ratliff

(PD-18) (CD-8)

Location: 3527 East 71<sup>st</sup> Place

**STAFF RECOMMENDATION:**

This proposal is to amend the required setback from East 71<sup>st</sup> Street from 35' to 32' for an existing dwelling. Staff has been advised by the president of the Pebblecreek Home Owners Association that this encroachment is into the designated common property held in ownership by all the development's homeowners, Lot 51 (see attached letter). The terms of the original PUD-146 and documents submitted at the time of approval indicate reference to a common open space. However, none of the documentation submitted by the applicant for PUD-146-1 indicates the issue as anything other than a rear yard building line encroachment.

Following the TMAPC March 16 meeting, the applicant was advised to obtain documentation indicating that his encroachment does not extend into the designated common area of the PUD. That documentation has been supplied and indicates that the encroachment does not extend into the common area. Therefore, staff finds the proposed PUD amendment minor in nature and recommends **APPROVAL** of PUD-146-1.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted 9-0-0 (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the minor amendment for PUD-146-1 per staff recommendation.

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**Application No.:** PUD-680-3

**MINOR AMENDMENT**

**Applicant:** Roy D. Johnsen

(PD-6) (CD-9)

**Location:** Southeast corner of East 22<sup>nd</sup> Street and South Utica Avenue

**STAFF RECOMMENDATION:**

This application seeks a minor amendment to change the development areas, reallocate the permitted floor areas and revise the setbacks at the Utica Place development. Under this proposal, Area A, Residential, will front South Utica and lie along the southern boundary of the property, adjacent to the Cascia Hall grounds. East of that is Area B, Office uses, which also abuts the school grounds. Area C, Parking Structure and Office/Residential Tower, lies north of Areas A and B and abuts East 22<sup>nd</sup> Place/Utica Square. Proposed development area standards are as stated below.

**Development Area Standards**

Utica Place is a proposed infill redevelopment of 4.352 acres designed to provide a mixed use development containing single-family detached dwellings, condominium dwellings and office space. Planned Unit Development No. 680 was affirmatively recommended by the Tulsa Metropolitan Area Planning Commission on May 7, 2003 and approved by the City Council on June 12, 2003.

The Cascia Hall Preparatory School ("Cascia Hall") campus abuts the south boundary of Utica Place. The Board of Adjustment, on June 22, 2004, in Case No. 19804, approved the application of Cascia Hall for certain variances and special exceptions to permit the development of a Field House in close proximity to the south boundary of Utica Place. The developers of Utica Place determined that the close proximity of the Field House would negatively impact at least four of the single-family dwellings proposed along the south boundary of Utica Place. In an effort to cooperate with Cascia Hall and work toward compatibility of these two very high quality developments, the developers of Utica Place sought and received the necessary approvals (Minor Amendment PUD No. 680-2 – TMAPC – 6.18.04 and Board of Adjustment Case No.19839 – 6.08.04) to permit low intensity office use of the area (.63 acres) at the southeast corner of Utica Place originally planned for four single-family residences.

In addition to the above-noted change to office use at the southeast corner of Utica Place, as final architectural plans were being developed for the office/residential tower and the nearby parking garage, it was determined that the office/residential tower and the parking garage should be constructed as one building and minor changes in setbacks occurred.

In order to more clearly recite the development standards of this very complex mixed use development, this minor amendment proposes the merger of the development areas previously established for the parking garage and office/residential tower and the establishment of a development area for the approved low-rise office use and the amendment of building setbacks. No change in the approved uses or intensity of uses is proposed.

The proposed development areas are graphically depicted within the attached "Development Area Exhibit" and are as follows:

Area A - Courtyard Villas

Area B - Office

Area C - Office/residential Tower and Parking Garage

The development standards as previously established remain applicable with the exception of setbacks of the parking garage and office/residential tower as follows:

Building Setbacks – Area C	As Approved	Proposed
<u>Office/residential Tower</u>		
From centerline of Utica**	472 feet	405 feet
From centerline of East 22 <sup>nd</sup> Place*	35 feet	35 feet
From east boundary of PUD	35 feet	35 feet
From Reserve A	0 feet	0 feet

\* measured from the north wall of the office/residential tower portion of the building.

\*\* measured from the west wall of the office/residential tower portion of the building.

	As Approved	Proposed
<u>Parking Structure</u>		
From centerline of 22 <sup>nd</sup> Place**	32 feet	32 feet
From centerline of Utica*	150 feet	165 feet
From east boundary of PUD	195 feet	NA
From Reserve A	0 feet	0 feet

\* measured from the north wall of the parking garage portion of the building.



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

**Applicant's Comments:**

**Roy D. Johnsen**, 201 West 5<sup>th</sup>, Suite 501, Tulsa, Oklahoma 74103, stated that originally the building was approved for nine stories at 160 feet in height. There is a mezzanine, and under the Zoning Code, it is considered a story, but under the Building Code it is not. The height of the building will remain the same (160 feet), but he is changing the original text from nine stories to ten stories. He suggested that the text change should be mentioned in the approval of the minor amendment.

Mr. Johnsen stated that there is one small correction on page 8.4 of the TMAPC agenda packet. He explained that the asterisks are reversed under the heading Office/Residential Tower.

Mr. Johnsen stated that regarding the staff recommendation on the site plan, he is in agreement with one modification that he discussed with staff. He indicated that he would like to add some language to the first condition in the approval "...TMAPC approval of the revised preliminary plat for One Utica Place prior to issuance of any permit other than foundation." The Planning Commission has previously approved the accelerated building permit for foundation only and this language would make it clearer that the preliminary plat has to be done and no other permits other than foundation can be issued until that is accomplished.

**TMAPC COMMENTS:**

Mr. Harmon asked staff if they are in agreement with Mr. Johnsen's wording. In response, Mr. Alberty stated that it doesn't cause any problems. He explained that the Planning Commission reinstated the previously-expired plat and the wording would be consistent with the Planning Commission's previous action.

**INTERESTED PARTIES:**

**Greg Jennings**, 2260 South Troost, Tulsa, Oklahoma 74114, stated that he spoke with Mr. Sack and there is an agreement, which he believes was in a BOA case, that some amount (16 or 12 feet) of the southern portion of the subject property would be landscaped. He wanted to make sure that this is in the record because this is an over 600-foot to eight-foot screening wall and if it were to remain a screening wall, it would look absolutely atrocious driving north on Utica. He realizes that in a PUD that it has to be a solid screening wall, but the preference would be not making it a solid screening wall and that it be broken up somehow with wrought iron fencing in between some of the stucco wall. To have a 630-foot solid wall that goes downhill because of the 21-foot drop from the west side to the east side it isn't going to look attractive. He hopes that the landscaping will cover it up and it will not be an issue. There is a security issue when building an eight-foot wall because one can't see through it.

Mr. Jennings stated that the other issue he has is that on the north side, there is a sidewalk that goes along 22<sup>nd</sup> Place, and currently, because it is in a PUD, there is not one required on the west side and it is not going to be required until someone develops it on the north or south. At some point and time, someone has to take the initiative to say that it needs to be done so that any future development will have to also have a sidewalk and not wait until future development is done. Walking along Utica as it is now is dangerous and he would assume with this being an office building and being mixed use that the applicant would want the ability for people to walk along Utica to get to this office building. Now is the time to have the sidewalks put in.

**TMAPC COMMENTS:**

Ms. Bayles opened the floor for a motion on 8a first and item 8 last. Mr. Johnsen brought to the Planning Commission's attention that they needed to reverse their actions because they placed the conditions on the wrong items.

Mr. Alberty stated that staff has the motions correct and understood which conditions belong to which item. The minor amendment is where the asterisks should be corrected, and technically, to make this correct, the item should be acted on first.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted 9-0-0 (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the minor amendment for PUD-680-3, noting that the height of the building will remain the same (160 feet), but change the original text from nine stories to ten stories, subject to moving the asterisks to the appropriate places per staff recommendation. (Language with a strike-through has been deleted and language with an underline has been added.)

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted 9-0-0 (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the detail site plan for PUD-680, subject to (1) TMAPC approval of the revised Preliminary Plat for One Utica Place prior to issuance of any permit other than foundation; (2) TMAPC approval of Minor Amendment PUD-680-3; (3) provision of adequate parking for each use; (4) provision (located and labeled on the site plan) of pedestrian access to the private drive, 'Reserve A' from East 22<sup>nd</sup> Place South; (5) Traffic Engineering and Fire Marshall approval of the proposed driveway arches at the building's east side; (6) use of appropriate height trees within East 22<sup>nd</sup> Place South streetyard; and (7) addition of trees on the east boundary in conformance with the PUD concept plan. (Language with a strike-through has been deleted and language with an underline has been added.)

## ZONING PUBLIC HEARING

Application No.: Z-6985

RS-3 to OL

Applicant: Scott Aycock

(PD-6) (CD-9)

Location: 1601 South Lewis

### STAFF RECOMMENDATION:

**Z-6934 February 2004:** An application to rezone a lot located on the southeast corner of East 17<sup>th</sup> Place and South Lewis from RS-3 to OL was withdrawn by the applicant prior to TMAPC hearing.

**Z-6698 August 1999:** All concurred in approval of a request to rezone a lot located south of the southwest corner of East 11<sup>th</sup> Street and South Atlanta Avenue from RS-3 to PK.

**BOA-18327 March 1999:** The Board of Adjustment approved a request for a special exception of the required 150' setback to 0' from an R zoned district to allow an automobile painting business. The property is located on the southwest corner of East 11<sup>th</sup> Street and South Atlanta Avenue.

**Z-6642 June 1998:** An application was filed to rezone an RS-3 zoned lot located on the northwest corner of East 21<sup>st</sup> Street and South Florence Place to OL for office use. The application was denied.

**Z-6635 May 1998:** All concurred in approval of a request to rezone an area that included several residential and office zoned lots lying on the south side of the Broken Arrow Expressway, east of South Lewis Avenue to South Atlanta Avenue on the east from RS-3 and OL to CS for a large chain grocery store.

**PUD-484 March 1992:** Approval was granted for a Planned Unit Development on a tract that included five platted lots and a combination of CH, OL and RS-3 zoning. The PUD proposed a single commercial building fronting East 11<sup>th</sup> Street with a large landscaped open space which would buffer the residential lots to the south and parking between the proposed building and East 11<sup>th</sup> Street. The tract is located on the southeast corner of East 11<sup>th</sup> Street and South Delaware Place.

**Z-6236 March 1989:** A request to rezone a .2-acre tract located on the northeast corner of South Delaware and 12<sup>th</sup> Street from RS-3 to PK was approved.

### AREA DESCRIPTION:

**SITE ANALYSIS:** The subject property is approximately 145' x 55' in size, flat, non-wooded, contains what appears to be a single-family dwelling and is zoned RS-3.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 16 <sup>th</sup> Street	Residential	50'	2 lanes
South Lewis Avenue	Urban arterial	80'	4 lanes

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

**SURROUNDING AREA:**

The property is abutted on the north by a Sonic Drive-In, zoned CH; on the south by three residential uses (two single-family and one duplex, the property adjacent to the subject lot apparently vacant, zoned RS-3, and at least one of the duplex units also vacant); farther south by a rather densely-developed townhouse use, zoned RT; on the east by what appear to be single-family residential uses, zoned RS-3; and on the west by office and what appear to be single-family residential uses (some of which are vacant), zoned RS-3/HP in the Yorktown Neighborhood Historic District. Barnard Elementary School lies across the street west from the townhouse development and there is a traffic light at the corner of 17<sup>th</sup> and Lewis.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 6 Plan designates this area as Low Intensity-Residential land use. This reflects the existing use and zoning at the time of the plan's adoption. According to the Zoning Matrix, the requested OL zoning **is not** in accord with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

Even though the requested rezoning is not in accord with the Comprehensive Plan, trends and transitions in the area have made this property less desirable as a single-family residential land use. The Plan Map designation as residential was made based on the existing use and zoning at the time. Transition of this blockface from single-family residential uses to office and commercial uses began with the conversion of the residences south of the commercial at the southeast corner of the 15<sup>th</sup> Street and Lewis intersection earlier. Development of the drive-in restaurant north of the property was allowed under existing zoning but did not enhance the subject property's desirability as a single-family residence.

Had the subject property been designated No Specific land use, the requested rezoning **may be found** in accord. Based on surrounding land uses, the site's location on a very busy urban arterial and trends in the area, staff can support the requested rezoning and therefore recommends **APPROVAL** of OL zoning for Z-6985.

If the TMAPC deems it appropriate to recommend rezoning of this property to OL, staff should be directed to prepare plan map amendments to reflect that change. Plan amendments may also be in order for the properties to the south of the subject property up to the townhouse development and perhaps including the entire west-facing frontage along Lewis.

**Applicant's Comments:**

**Margaret Aycock**, 1601 South Lewis, Tulsa, Oklahoma 74104, submitted photographs (Exhibit A-1) and described the subject property and the surrounding properties, as well as uses and vacancies. Ms. Aycock stated that she believes the best use for the subject property is to rezone it to light office. The home fronts a major arterial street and there are many vacant lots, homes and businesses within the radius surrounding the subject property. The Zoning Code indicates that light office zoning serves as a buffer between neighborhoods and commercial areas. She stated that she believes a light office/studio will be a buffer and an asset to the neighborhood. She explained that her husband is a counselor and she is an artist. They intend to use the subject property, if the rezoning is approved, to see clients and an art studio.

Ms. Aycock commented that she believes she will be a stabilizing force within the neighborhood. She explained that before purchasing the subject property, it had been repossessed by the bank and vacant for a while. It later became a rental unit and housed one person who was wanted by the law. She indicated that she and her husband have been in the same business for over 25 years and are stable people. The subject property would be kept as lovely as it is. They do not believe anyone able to afford the subject property would purchase it to live in it because it is close to the street and next to a Sonic Drive-In with neon lights and music late into the night. The subject property sits close to Lewis, unlike the homes south of the subject property that have expansive lawns to serve as a buffer between the noise of the street and the homes. There are several homes directly north of the subject property that have been used for quiet offices for many years without adverse effects to the neighborhood. The neighborhood is currently a mix of commercial, office, condominiums, single-family homes and a school. It is not out of the question to consider one light office on the street that contains all of the above.

Ms. Aycock stated that her neighbors on Lewis, who would be directly affected by her presence, are overwhelming in support of her and her husband. She indicated that she began polling the neighborhood on Lewis. Ms. Aycock submitted a map (Exhibit A-1) which indicates the people in favor of the rezoning. She commented that she polled some of the neighbors farther into the neighborhood and found that people who had signed in opposition of her rezoning had been told that if something were to happen to her or husband, it was a strong possibility that a massage parlor or a tattoo parlor would be put in its place. After talking with the Zoning Board she found that these types of businesses wouldn't be zoned because they are illegal businesses. A legal

massage parlor, which is called a therapeutic massage, is a legal entity but it is not in light office zoning and would be considered a commercial type of zoning. She believes that the people that signed against the rezoning were misinformed. Ms. Aycock cited that many of the properties are owned by people outside of the neighborhood (32%) and many are owned by banks and trusts and they were unable to get in touch with them. There are nine vacant properties on Lewis within the radius of where the former Homeland Store is located. There are 11 homes that represent businesses and there are two other homeowners who would like to rezone their properties to office.

**INTERESTED PARTIES:**

City Councilor Tom Baker, 200 Civic Center, District 4, stated that he drove north onto Lewis from 21<sup>st</sup> Street to review the subject area. When he reached 16<sup>th</sup> Street he noticed a change in the street from residential into commercial just as it was planned to be.

Councilor Baker stated that there are several homes that have changed to rental property, but there is a need and a place in our residential inventory for rental properties. Because homes have become rental properties does not mean that it is necessary to move them into another use.

Councilor Baker stated that he doesn't appear before the Planning Commission often because he values their deliberation. This is a critical part of the growth and the future of our city with what is decided today. He explained that he is present today merely to ask that the Planning Commission keep in mind the value and significance of these residential properties to our rooftop inventory that is critical to the commercial part, that is already existing, and that recognize that properties that have transition to rental properties does not necessarily mean that they have to go to commercial. This is a planned residential thoroughfare and it is an attractive area.

**TMAPC COMMENTS:**

Ms. Bayles stated that she was invited to a meeting last week with regards to the development pressures that were occurring in the neighborhoods that were adjacent to Cherry Street. Now that the Cherry Street district has extended its boundary to Harvard this would be a neighborhood that would and may possibly also considered. She asked Councilor Baker if he felt that the neighborhood is receptive to entering into some degree of dialogue to understand the pressures and the development trends that currently exist within this neighborhood. In response, Councilor Baker stated that what he was focusing on in that discussion was the possibility of having an evaluation of the planning process that would relate the historic preservation districts to the commercial development along Cherry Street and Utica. He commented that in three years that he has been a part of the City Council and attended many neighborhood meetings, he has never heard of neighborhood association saying that they didn't want to be involved in the discussion and planning of the future of their homes in their areas.

Councilor Baker stated that he would expect that there would be a willingness to be involved and have the dialogue with the commercial and development sector of our city. Councilor Baker further stated that there can't be commercial areas without viable neighborhoods and rooftops and vice versa.

**Ms. Bayles** stated that there will be a time limit imposed for the ten interested parties who have signed up. The TMAPC will start with a three-minute time limit and if there is anyone willing to give up their time, it will be appreciated.

**INTERESTED PARTIES IN OPPOSITION OF Z-6985:**

**Bernard Scott**, 1604 South Lewis Place, Tulsa, Oklahoma 74104; **Mark Braunschweig**, 2138 East 17<sup>th</sup> Place, Tulsa, Oklahoma 74104; **Terry A. Baxter**, 2534 East 19<sup>th</sup> Street, Tulsa, Oklahoma 74104; **Scott Kartee**, 2627 East 19<sup>th</sup> Street, Tulsa, Oklahoma 74104; **Karen Smith**, Lewiston Garden Homeowners Association, 2502 East 19<sup>th</sup>, Tulsa, Oklahoma 74104; **Alice Campbell**, 1601 South Lewis, Tulsa, Oklahoma 74104; **David Preston**, 1568 South Gillette Avenue, Tulsa, Oklahoma 74104; **Brad Popejoy**, 2445 East 19<sup>th</sup> Street, Tulsa, Oklahoma 74104; **Beth Battles**, representing the Maple Ridge Association, 207 East 25<sup>th</sup> Street, Tulsa, Oklahoma 74114; **Jennifer Law**, 2446 East 17<sup>th</sup> Place, Tulsa, Oklahoma 74104.

**COMMENTS OF INTERESTED PARTIES OPPOSING Z-6985:**

Mr. Scott stated that his property is immediately behind the subject property; he knew when he purchased the property that there would be a Sonic Drive-In, but he understood that it was part of a PUD and the lots in front of him would remain residential; the zoning plan is a like a contract for the people living in the area and when that contract is changed it affects the value of the property; light office zoning would change the character of the neighborhood and risks putting the whole neighborhood at loss; supported the Albertson's because it was in a PUD and the proposal is piecemeal; rezoning the subject property could cause a domino effect, which is what attracted Mr. Aycock to the property in the first place; Lewis could someday be lined with offices all the way to the Bank of Oklahoma; these same type of offices are in the Yorktown Neighborhood and now there is a bank being built next to the neighborhood; allowing the applicant to rezone the subject property and have a sign in the front yard will be detrimental to the neighborhood and lower the values of the existing homes; the applicant would not be living in the home, but using it for a business and would be going to their residence at night when the Sonic might be bothering someone else living in the subject property; people living in the neighborhood feel that it should remain a neighborhood; Aycocks should use office space already available instead of purchasing a home and changing it to office; Ms. Smith stated that several people made a request to have their names stricken from the petition because they didn't understand the ramifications of this application on the neighborhood; Ms. Smith warned the Planning Commission that there are several people who have signed both petitions; Ms. Smith apologized for making the Planning Commissioners feel that they were being tracked down to be given

the petitions and letters because that was not their intent; Ms. Smith submitted additional names to the previous petition; concerned for the school children's safety because once businesses start moving in, it will start down the street; concerned about drainage issues; this proposal would negatively impact the neighborhood; retention planning, screening, landscaping, signage, setback and a garage apartment are some of the many reasons that they are already non-compliant; the garage apartment is being used currently by a friend of the Aycocks; parking is limited and can't figure out how that would work out; the neighborhood has a cottage atmosphere and Lewis is the only way to enter into the subject neighborhood; first impression is important when showing properties, and off of Lewis the impression is great; the submitted photographs were deceiving; nine homes have sold in the last six months in the subject area on the average of \$99.00 per square foot and some as high as \$120.00 per square foot; location is the greatest asset when selling property and this application would change the location; one of the issues that concerns the neighbors is that people coming before the Board to request a variance and while each variance should stand on its own merit, based on particular set of circumstances, sometimes approval of those variances is construed to be a precedent; a precedent could happen if this application is approved today and there is a speaker present today that stated he is waiting in the wings for this particular zoning to be approved so that he can achieve the same thing; moved into Lewiston Gardens to get away from commercial properties; offices bring foot traffic and more vehicle traffic.

**TMAPC COMMENTS:**

Mr. Midget asked Mr. Braunschweig if he is familiar with a PUD and how they are used in zoning. In response, Mr. Braunschweig answered negatively. Mr. Midget stated that a PUD allows for more restrictions on the subject property and doesn't change the underlying zoning. Mr. Midget stated that he is very familiar with the subject area and he hates that the Sonic was allowed in. Mr. Midget asked Mr. Braunschweig how he would feel about the subject property being in a PUD. In response, Mr. Braunschweig stated that he hasn't thought about that.

Mr. Midget asked Mr. Baxter if a PUD on the subject property would be acceptable. In response, Mr. Baxter stated that he can't speak for the entire neighborhood, but he would love to see a PUD that would maintain the character of the property and allow the Aycocks to do what they wish to do with the house they purchased within a residential area.

Ms. Bayles reminded Ms. Smith that she indicated that she was going to speak to the staff recommendation. She informed Ms. Smith that she has already gone over four minutes and she hasn't addressed the subject application. She requested that Ms. Smith speak to the staff recommendation. Ms. Smith stated that in regard to the staff recommendation, she reviewed the relevant zoning history, a good deal of which is on 11<sup>th</sup> Street and is not relevant to the surrounding area. The site analysis of the staff recommendation shows an exit on 16<sup>th</sup> Street and the neighborhood would not support an exit onto 16<sup>th</sup> Street.

The surrounding area is all residential, except for Sonic. There is no office on the west as staff's recommendation suggests; the business running from the house is illegal. The proposal does not follow the Comprehensive Plan. The Comprehensive Plan is everywhere in the Zoning Code and in the Development Guidelines. Staff's recommendation regarding trends and transitions may be the staff's idea of trends and transitions but that is not how the neighborhood feels about it. If staff were to say to this Planning Commission, "Abide by the Comprehensive Plan, keep it the way it is", then the Planning Commission would and there wouldn't be speculators moving in and these homes would return to their residential status.

Ms. Bayles stated that the staff recommendation doesn't address parking and Ms. Smith has exceeded her time. Ms. Bayles opened the floor to questions from the Planning Commission.

Mr. Midget stated that regardless of the underlying zoning, if the application came in as a PUD, the Planning Commission can establish conditions. It wouldn't matter if it is residential, OL, CH, or commercial, it doesn't matter. He wanted to clarify this due to Ms. Smith's earlier reference that a PUD had no relevancy.

Ms. Smith stated that she agrees with Mr. Midget and her concern is that with today's application, there is no ability to put any restrictions on it as straight zoning. Ms. Smith stated that she can't speak for the HOA whether or not they would agree with a PUD, but that is not what is before the Planning Commission today.

Mr. Midget stated that he has had ex parte communication with Mr. Popejoy, for the record. Mr. Midget asked Mr. Popejoy if an application similar to this one came in with a PUD and it maintained the residential character of the neighborhood, he would consider it as opposed to straight OL zoning. In response, Mr. Popejoy stated that he would have to address the community before addressing this because he is also the treasurer of the Lewiston Garden's Homeowners Association.

Ms. Bayles stated that the four houses have an orientation to the street and not away from the street. One home appears to be vacant and one duplex appears to be half occupied at this point. Ms. Bayles asked Mr. Popejoy if this is a consideration that they are located on a busy street next to a Sonic Drive-in regarding the marketing. In response, Mr. Popejoy stated that marketing is the key to moving a property or selling it. There was no sign up at 1601 when the Aycocks paid \$90.00 per square foot. There are no signs for sale on the other properties that have been mentioned as being vacant. Apparently, whoever owns it is waiting for something like this to transpire (letting their property run down) so that the Planning Commission would change the zoning. He recommended that the Planning Commission deny this application and someone

will move into subject property to use as residential. Price will determine who moves into homes.

Mr. Midget informed Ms. Battles that the Planning Commission doesn't grant variances. The Planning Commission deals with the underlying zoning and the land use. The Board of Adjustment is the proper board to apply for a variance. Mr. Midget asked Ms. Battles if she would be opposed to this application if it came in as a PUD and maintained the residential character of the neighborhood. In response, Ms. Battles stated that she would have to talk with the other members first.

**Applicant's Comments:**

**Scott Aycock**, owner of property at 1601 South Lewis, Tulsa, Oklahoma 74104, living at 1135 North Denver, Tulsa, Oklahoma 74106; stated that he moved in because they love the house and the neighborhood. He commented that he wanted to live in the house and he doesn't believe that there is a conflict because one can still care about the neighborhood and have a business of light office in the neighborhood. He explained that he is a marriage and family therapist and he doesn't work with serious mental illness. There is a distinction between light office and commercial zoning. This would be a good buffer between the commercial zoning and the neighborhood. The integrity of the house will not be changed and they will keep the house and yard the way it is today. He indicated that he was requesting a sign be put in the front yard. The only thing he would do is to widen the existing driveway, which anyone who has a residence in a neighborhood can do as long as it is on their property. He prefers to have his business in a house instead of a building where it seems sterile. He doesn't believe that a light office zoning will cause someone to want to put in a massage parlor or tattoo parlor. There is no one wanting to go into the interior of the neighborhood and put up a building where there is no access and no visibility. He wants to be on Lewis because it is a busy street and he wants to put a sign out because it would help his business and there is access. He commented that he didn't want to go into the middle of the neighborhood and put in an office because it doesn't make sense, and he doesn't think anyone else would either.

**TMAPC COMMENTS:**

Mr. Jackson asked Mr. Aycock if he would be residing in the subject home. In response, Mr. Aycock answered negatively.

Mr. Midget asked Mr. Aycock how many pieces of property he owns besides his home and the subject property. In response, Mr. Aycock stated that he owns two rental houses in the Brookside area and one rental house on Denver from his existing residence.

Mr. Midget asked Mr. Aycock if he thought that at some point he would sell one of the properties that he has mentioned. In response, Mr. Aycock stated that

there is a possibility he may sell of one of his rental properties, but not the subject property because he would like to office there.

Mr. Ard asked if the subject property is currently vacant or being rented. In response, Mr. Aycock stated that the subject property is vacant. He indicated that he purchased the property in February of 2005.

**INTERESTED PARTIES IN SUPPORT OF Z-6985:**

**Joan Crager**, 1620 South Lewis, and owner of the property at 1610 and 1612 South Lewis, Tulsa, Oklahoma 74104, stated that she was thrilled to find that the Aycocks purchased a vacant house. She would much prefer light office with an artist and therapist to move in, who she knows will take good care of the subject property.

Ms. Crager stated that neighbors in the Lewiston Gardens were putting out flyers stating that if this is approved it would be allowing commercial business. She further stated that OL is not commercial business. She indicated that she is in total support of having people who are going to take good care of the property, and to have it as a buffer makes sense to her.

**TMAPC COMMENTS:**

Mr. Midget asked Ms. Crager if she would consider living next to a funeral home or a payday loan company. In response, Ms. Crager stated that there is a risk when you buy a home along a busy street. She indicated that she wouldn't mind living next to a funeral home at all and she is not sure that she would mind a light office as long as the traffic is not increased. She commented that when she purchased her home on Lewis it was a known fact that there was going to be traffic along Lewis and a lot of it.

Mr. Ard asked Ms. Crager if she had any trouble keeping her duplexes occupied. In response, Ms. Crager stated that she has been very fortunate to have the same tenants for the past two and three years.

**INTERESTED PARTIES IN SUPPORT OF Z-6985:**

**Harry Myers**, 5411 East 15<sup>th</sup> Street, Tulsa, Oklahoma 74112, stated that he is in favor of this rezoning. He indicated that he owned property across the street from the subject property located at 1604 South Lewis and the property is currently an undeveloped vacant lot. He has been unsuccessful in marketing the vacant lot as a residential lot due to the Lewis frontage and traffic. It is a hard sell for any of the properties that front Lewis for residential use. These properties should be OL or placed in a PUD and used for OL or equivalent.

Mr. Myers indicated that in the future he plans to present to the Planning Commission a zoning change similar to the one before them today for his property located at 1604 South Lewis. He believes that a professional service or organization at 1601 South Lewis would be a great neighbor. He commented

that although his lot is vacant, he would want to build something that would work well with the neighborhood and not depreciate anyone's value.

Mr. Midget recognized someone from the audience regarding a procedural question. Unidentified person asked if she could have more time to present her arguments since she is the representing attorney for the group.

In response, Ms. Bayles stated that only if a Planning Commissioner recognizes someone. Ms. Bayles explained that the procedure is that the Planning Commission move to staff presentation, applicant presentation, interested parties (everyone who has signed up and everyone who did not sign up) and then procedurally it would be the applicant's turn for a rebuttal.

**Applicant's Rebuttal:**

Ms. Aycock stated that the only change that is planned is for a small sign in the front yard. There is ample parking (five spaces), which she checked out with the Zoning Code first. There are four parking spaces in the immediate driveway and a shared driveway with another parking space on the other side of the home. Mr. Popejoy and others have mentioned that appearance is their main problem. She explained that she lives in a historic neighborhood and she has fought for historic preservation in her own neighborhood in Brady Heights. She further explained that she plans to keep the subject home exactly the way it is today. The only change done on the outside is to replace wooden siding on the home. There is a garage apartment and a home on the subject property.

Ms. Aycock stated that Mr. Popejoy indicated that he never saw a sign on the subject property. She commented that she is not an evil person or speculator and there was a sign in the yard for a long time. The sign stated that the subject property was for rent or own. The owner was willing to have another rental person in there, which there is nothing wrong with. However, ownership is more stable for a neighborhood. The owner of the subject property was looking for anyone he could get. The sign remained after the purchase of the subject property until the closing three months later.

Ms. Aycock stated that she purchased the home because of the gardens, trees and the appearance. She doesn't want to change the appearance. She commented that it has been very confusing to her today because everyone refers to the subject application as commercial and it is not commercial but light office. Ms. Aycock cited that there are many restrictions on light office and she cited some of the restrictions. She commented that she is not sure how a light office would affect the school children and is confused about that concern. She further commented that she has a problem with the petitions in the way that they were presented to the neighbors with scare tactics by stating that the office could become a tattoo parlor or massage parlor.

**TMAPC COMMENTS:**

Mr. Jackson asked Ms. Aycock what size her homesite is. In response, Ms. Aycock stated that she couldn't remember. She commented that she did check with the Zoning Officer and with the square footage she would need five parking spaces.

Mr. Boulden asked Ms. Aycock what her plans were for the garage apartment. She explained that she is renting the garage apartment out to someone who used to live in her other garage apartment in Brady Heights. Mr. Boulden asked Ms. Aycock what her plan would be for her renter if she was granted the OL zoning. In response, Ms. Aycock stated that she really hadn't thought about it. She commented that she doesn't know what would be available as a use with the OL zoning for the garage apartment.

Mr. Jackson recognized an interested party.

**Nancy Cox**, 1638 South Lewis Place, Tulsa, Oklahoma 74104, stated that this is her first home and it means a great deal to her. She commented that she walks each evening in the neighborhood and she walked past the subject property. She stated that she doesn't believe that the subject property is kept up as nice as many of the homes in the neighborhood. There is already a bad issue with traffic and recently a four-way stop has been installed to slow down the cut through traffic. No one mentioned to her about a massage parlor or anything like that when asked to sign the petition opposing the subject application. She was asked to sign the petition to keep the subject property from becoming light commercial or whatever.

Chairman Bayles closed the public hearing.

**TMAPC COMMENTS:**

Mr. Jackson stated that he has listened to many interested parties today and focused on Lewis itself. To him it is a very busy street and he would have a hard time backing out onto Lewis to go south or north. Someone made a comment that this would set precedent if this were approved. To him each case holds its own merit and the only precedent that he can see is that it is good planning to transition from CH to OL and then RS, with the subject property buffered by CH to RS. Mr. Jackson stated that the size of the subject lot, with the stormwater management issues that would come in with new construction and the parking with new construction, does not give the applicant an opportunity to scrape off the house and build something extremely out of character as far as residential.

Mr. Ledford stated that there are several things he would like to discuss. The Planning Commission heard today a lot of about office zoning, commercial zoning, and unfortunately, the perception of most residential homeowners is that any change is a commercial business and that is not true by our zoning laws.

Mr. Ledford stated that one of the things that the Planning Commission looks at in neighborhoods is in transition. He commented that as he drove the neighborhood, it was very obvious that there are areas along Lewis that are in transition. He explained that transition means different from single-family ownership. There is going to be pressure along Lewis where there are residential properties that front Lewis because of the difficulty getting access to and from Lewis without backing out into the urban arterial. There is enough traffic on the urban arterial that there is difficulty in backing out. The transition that he sees taking place is not going to office, but going to rental. He would not go to a realtor looking for a home fronting an urban arterial street.

Mr. Ledford stated that as an out-going Planning Commissioner, he has seen these things for years. Brookside went through a lot of transition and there is always going to be pressure in these neighborhoods because properties are not platted like this anymore because of the way the Subdivision Regulations are set up. The older neighborhoods are always going to have the pressure to take the residential properties that front an arterial street and change them into some other use. Most of the uses the Planning Commission see are comparable to office use zoning. Mr. Ledford recommended that the neighborhood get together and come up with a special use study to study this problem. This problem will not go away and there will be more pressure to modify some of these areas. The front yards on Lewis could be modified so that the rental properties could have a turnaround so that they are actually exiting onto the arterial street and not backing out onto the street.

Mr. Ledford stated that he could not support this OL zoning because he doesn't see the transition occurring to change the base zoning. As an out-going Planning Commissioner he will not be supportive of the OL zoning.

Mr. Harmon stated that he has read and reviewed mountains of information concerning this and he has driven the neighborhood and read the staff recommendation. In spite of the interruptions of the cheerleading committee, which he found to be very distracting, he has reached the decision that he can't support the OL zoning.

Mr. Midget stated that he can't support the OL zoning for the subject property. It is difficult to predict what will happen twelve years down the road, especially if there is a chance to sell the property for a good price. The new property owner could come in and raze the home and once zoned OL, there could be a funeral home or payday loan office, dental or medical clinic, etc. These types of uses are what the neighbors are talking about and that they want to protect their neighborhood from. A straight OL zoning without a PUD is very difficult for him at this particular time. He can't support the application as it is, but it doesn't mean that if the applicant comes in tomorrow with a PUD that he would support it. Because he is familiar with the subject area, it is very difficult for someone to buy the subject property as a residence. The light from Sonic shines into the house

and it is annoying. He doesn't know of anyone who would want to live there with the Sonic light shining on that house all night. The neighborhood should get together and figure out how to relieve some of the pressures that the neighborhood will be facing because of property like this.

Ms. Hill asked staff if the OL zoning with a PUD was put on the property and it was sold later, a new owner could demolish the house and put in something for OL. In response, Ms. Matthews stated that they could put anything that meets the PUD requirements. Ms. Matthews stated that the typical types of restrictions would be with lighting, hours of operation, signage, landscaping and the screening. One advantage to OL zoning is that it is already restrictive.

Ms. Hill asked staff if the Planning Commission would be able to put restrictions on the type of building. In response, Ms. Matthews stated that the Planning Commission typically does in a PUD.

Ms. Hill stated that she can't support the straight zoning for OL. She encouraged the neighborhood to get together and form a plan to address these issues.

Mr. Carnes stated that he agrees with the other Commissioners and can't support the straight zoning for OL. However, if this was brought in as PUD with restrictions he would probably be amiable to support that.

Ms. Bayles thanked staff for their job on the recommendation. She believes that the staff specifically and rightfully described the circumstances in that area affecting this neighborhood that is in transition, whether the property owners are speculators or not. What has happened is the potential for some blighted area within then Lewiston Garden area. The interested parties had led a very unified and forceful front; however, Ms. Aycock and her neighbors to the north are also within the neighborhood association. Ms. Bayles encouraged the interested parties to take the opportunity, as well as the relationship with the Gillette Neighborhood, to determine what would be good land uses for the affected area. Residential properties (owner-occupied) are preferred and this neighborhood is going through a transition that adds pressures upon it. These types of issues are not confined to historic neighborhoods.

Ms. Bayles stated that she can't vote in support of this zoning based on the Planning Commissioners' comments and the comments that have been voiced today.

Mr. Horner stated that the Planning Commission and the group have diligently studied this and had professionally done their job; however, the neighborhood needs a spokesman and a closer neighborhood association. He advised them not to do a victory dance if the Planning Commission disapproves this application, because it will happen again and it will continue to happen. He

recommended that the neighborhood association be prepared for these types of issues. He commented that he will not be supporting this application.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget "aye"; no "nays"; none "abstaining"; Dick "absent") to recommend **DENIAL** of the OL zoning for Z-6985.

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**Application No.:** Z-6986

**IL/IM TO CBD**

**Applicant:** TMAPC

**(PD-1) (CD-4)**

**Location:** Downtown Tulsa areas within the Central Business District

**STAFF RECOMMENDATION:**

Many recent rezoning actions in the downtown area since 1980 have involved rezoning to the CBD designation.

**AREA DESCRIPTION:**

All areas are within the Inner Dispersal Loop (IDL). The first area is in the west central portion of the downtown, generally north of West 3<sup>rd</sup> Street and south of West Brady, west of Boulder Avenue to Guthrie Avenue. It encompasses the area for the new arena and related uses. A second area lies east of this area, between the alleys south of East Brady to just north of East 2<sup>nd</sup> Street, Boston Avenue to just east of Frankfort Avenue. The third area lies along the eastern leg of the IDL to generally the alley west of South Frankfort, north of East 8<sup>th</sup> Street to the northern leg of the IDL.

**SITE ANALYSIS:** The subject properties are located throughout the northern part of the downtown area, in mixed usage and ownership and zoned either IL or IM. Many are currently being redeveloped/reused in various infill efforts.

**STREETS:** Streets in the downtown are generally all Commercial/CBD/Industrial collectors, with 60' rights-of-way.

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
Varies	Commercial/CBD/Industrial collector	60'	varies

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

**SURROUNDING AREA:** The properties are surrounded by similarly mixed uses, largely institutional, industrial, office and commercial, with some related off-street and on-street parking.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District One Plan supports the rezoning of most properties within the Inner Dispersal Loop to CBD in the future. A portion of the properties included herein for rezoning will be incorporated into the new arena site, and the CBD zoning will be advantageous for that use. Other properties also included are within the redeveloping portion in the northeast part of the downtown. The requested rezoning is in accord with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan, redevelopment plans and trends in the area, staff can support the requested rezoning and recommends **APPROVAL** of CBD zoning for Z-6986.

Ms. Matthews explained staff, in conjunction with Downtown Tulsa Unlimited, compiled a list of those who responded, those who didn't respond and those who responded positively or wish to be excluded from the CBD rezoning. There are three sub-areas and the expansion area for the new arena has been included in this application. Staff attempted to choose areas that would be contiguous. Ms. Matthews stated that there are several landowners present today who may wish to be excluded and staff doesn't have a problem with that request. She explained that many of the businesses are already operating industrially and it is not the desire of the Planning Commission or the City to shut down any operations or make them nonconforming. She requested that the property owners who wish to be excluded supply their legal description so that they will be excluded from the proposal.

**TMAPC COMMENTS:**

Mr. Jackson asked why someone wouldn't want to be rezoned. In response, Ms. Matthews stated that if the property owner is already operating as an industry (sheet metal shops or a wrecking company) these types of uses would not be included in a CBD. Staff would not want to run these existing businesses out of downtown or make it where they can't expand.

Mr. Ard asked if any of the property owners who didn't respond are in noncompliance today. Ms. Matthews stated that without going out to check each and every piece of property she wouldn't know. She indicated that two property owners stated that they would not be in compliance with CBD zoning, but they are in compliance with the industrial zoning. If these properties are left out of the rezoning, they would remain legal conforming, but if they are rezoned CBD they would be nonconforming and would not be able to expand. Ms. Matthews explained that if the properties wishing to be excluded submit their legal

description before transmitting to the City Council, then they will be left out. Staff has no wish to make anyone nonconforming.

Mr. Jackson asked Ms. Matthews if staff is considering silence as acceptance to the rezoning. In response, Ms. Matthews answered affirmatively.

Mr. Harmon asked staff if the long range plans is for everything within the IDL to be CBD. Ms. Matthews stated that this is the intent of the plan, which states all or most, recognizing that there are some industries that have a useful place and a rightful place to be downtown. The industry is quite compatible and has been for many years and staff would like to encourage it to remain in the downtown area.

**Mr. Ledford out at 3:35 p.m.**

**INTERESTED PARTIES:**

**Tim Lawson**, 312 South Lansing, Tulsa, Oklahoma 74120, legal address: Lots 3 & 4 and 5 & 6, Block 12, Hodge Addition, stated that he is currently an industrial manufacturer and would like to be excluded from the CBD zoning. He explained that he has been located in the subject are for 12 years and wishes to maintain his manufacturing status.

**Jim Norton**, 321 South Boston, Tulsa, Oklahoma 74103, President of Downtown Tulsa Unlimited, stated that he personally sent out two letters to the property owners and he knows that INCOG staff sent two or three. Every attempt has been made to determine which properties wanted to be excluded from this rezoning. He indicated that he would support the exclusions and he realizes that there was the possibility of missing some of the property owners.

Mr. Norton thanked the INCOG staff, particularly Ms. Matthews, for their hard work on this issue. This is something the DTU have been wanting to do for a number of years. He thanked the INCOG staff and the Planning Commission for their work on this issue.

**Sam Kumar**, 202 South Frisco, Tulsa, Oklahoma 74103, General Manager of Trigen Tulsa Energy Corporation, stated that his company supplies chilled water and steam to the downtown area. He requested some clarification of this application because he doesn't understand the full impact of being zoned CBD. He asked if the rezoning would impact the usage of his plant.

Ms. Matthews stated that Mr. Kumar could continue to do his activities, but she believes that is an industrial use and his company couldn't expand if they were rezoned. If the company was destroyed beyond 50% of their value they wouldn't be allowed to rebuild.

Mr. Kumar stated that this would be a major negative point and he would need to discuss this with his attorneys before agreeing to rezone.

Ms. Matthews agreed and informed Mr. Kumar that he should get in touch with staff as soon as possible.

**Ken Adams**, 202 South Frisco, Tulsa, Oklahoma 74103, Trigen Tulsa Energy Corporation, stated that he needs clarification on how this rezoning would affect the company. He indicated that he is not fully prepared to address this issue today.

Ms. Bayles asked staff if there was a deadline regarding this issue.

Ms. Matthews stated that she would need the information by next. In response, Mr. Adams indicated that he would be able to send Ms. Matthews a letter next week.

Mr. Ard asked staff if there are areas north of Brady and west of Main zoned other than CBD. In response, Ms. Matthews stated that everything that is colored on the map is zoned either IL or IM.

Mr. Ard asked staff if there is a reason why the no response lots are not being included between Main, Denver, Brady and Cameron. In response, Ms. Matthews stated that staff was looking for contiguity and where there is activity going on at the present time or being planned.

Ms. Bayles complimented staff on the thought and consideration into what are the current development trends and what is anticipated to be future. This is to the benefit of the City of Tulsa and she appreciates staff's work.

Ms. Matthews stated that Mr. Norton was instrumental in this application because he has his finger on the pulse of downtown.

**Bob Parker**, CB Kerr Realty, 3314 East 51<sup>st</sup>, Tulsa, Oklahoma 74135, stated that his company owns the block that is surrounded by Archer and Frisco Tracks and Denver and Cheyenne (228 West Archer, 12 North Cheyenne and 16 North Cheyenne). The subject property is the old four-story Oklahoma Tire and Supply warehouse and a couple of other buildings on the same block. The primary building is used for storage, but two buildings are currently being used for machine shop or wood shop types of uses. He is concerned that he would fall into a nonconforming use.

Ms. Matthews stated that if Mr. Parker's properties became a nonconforming use and it is not active for 36 consecutive months within a four year period, then he would lose his nonconformity.

Mr. Parker stated that he is comfortable with that and he supports CBD and speaks for the Sanditen family that has had a presence in this area for 75 years. He commented that he heard that one of the City Councilors is proposing to change the turnaround to 90 days and he is concerned about that. He would prefer to pull his property out then getting into the mix that is called City Council right now.

Mr. Parker stated that he would like to pull his properties out at this time. In response, Ms. Matthews requested a property description.

Ms. Bayles closed the public hearing for review.

**TMAPC COMMENTS:**

Mr. Midget stated that with no further discussion and understanding that if any of the other properties would like to opt out before this case is transmitted to the City Council he would move that this application be approved for CBD zoning.

**TMAPC Action; 8 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **8-0-0** (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson, Midget "aye"; no "nays"; none "abstaining"; Dick, Ledford "absent") to recommend **APPROVAL** of the CBD zoning for Z-6986 per staff recommendation.

**LEGAL DESCRIPTION FOR Z-6986:**

**ORIGINAL TOWNSITE ADDITION:** ALL LTS 3 4 & 5 & PRT LT 6 & PRT VAC ALLEY BEG NEC LT 3 TH WLY150 NLY7.5 WLY150 TO PT 42.5SLY NWC LT 6 TH SLY157.5 TO SWC LT 5 ELY300 TO SECR LT 4 NLY 150 POB BLK 42; LTS 1 & 2 BLK 44, LT 3 BLK 44; S50 LOT 2 & ALL LOTS 3 & 4 & S50 LOT 5 BLK 55; LTS 1 THRU 7 & 20 VAC ALLEY ADJ THEREOF BLK 57; PT LT 5 BLK 80 BEG NEC WLY 99.54 SLY87.5 ELY100.79 NLY104.8 TO BEG; LTS 5 6 & 7 BLK 54 LESS MK&T RWY; A TR BEG NWC BLK 74 TH WLY80 NLY200 ELY80 SLY120 E LY300 SLY TO NEC BLK 74 WLY300 POB SEC 1 19 12 .92 AC & ALL BLK 74; PRT LTS 3 THRU 6 & VAC ALLEY & VAC ST BEG SWC LT 4 TH NE TO PT 25SWLY AS MEAS AT RT ANG CL RR TR NW1 56.08 NW122.93 CL VAC ST SELY187.81 NELY40 POB BLK 79; TRI BG. NEC LT 2 BLK 4 TH W. 50' SELY 36.92' NELY 50 TO BEG; W50 LT 5 & A STRIP LYING E & CONTIGUOUS TO THE W50 BEG 50E NWC TH E5.5 INCHES S87.5 NWLY8 INCHES N T O POB BLK 80; LTS 3 & 4 BLK 81 ORIG TOWN & LTS 1 2 3 4 5 8 9 10 & 11 KOSTACHEKS SUB OF LTS 1 & 2 BLK 81 ORIG TOWN & LT 6 PRAY AMND LTS 6 & 7 RESUB KOSTACHEKS RESUB LTS 1 & 2 BLK 81; 1/2 LT 5 BLK 86; LT 3 BLK 87; E50 N40 LT 8 BLK 113; N40 LT 9 BLK 113; E49.46 W50 N128 & E14.46 W15 S32 LT 8 BLK 113; E50 S120 LT 8 & E35 W50 S32 LT 8 & S120 LT 9 BLK 1 13; LT 7 & W6.5 LT 8 BLK 113; PRT VAC GREENWOOD AVE & PRT VAC ALLEY & PRT LT 5 B LK 113 & PRT LT 4 BLK 114 BEG 70SW SWC LT 4 BLK 11 3 TH SW29.82 NW332.65 NE29.34 SE170 SW50.61 SE155. 19 POB BLK 114; LTS 1 THRU 3 & PRT LT 4 & PRT VAC GREENWOOD AVE BE G

NWC LT 1 BLK 114 TH NELY211.06 SWLY332.65 SWLY12 0.18 NWLY320  
POB & E6 INCHES VAC ALLEY ADJ ON W BLK 114; LTS 1 & 2 BLK 113; E50  
LT 3 BLK 113; LT 6 & PRT LT 5 & PRT VAC ALLEY BEG NEC LT 5 TH SE  
LY170 WLY78.97 NWLY186.8 ELY79.50 POB BLK 113; BEG SWC LT 4 TH  
NELY50 NWLY150 TO CTR VAC ALY SWLY 80.21 S155.19 NELY70 POB BLK  
113; W/2 LT 4 & N10 VAC ALLEY ADJ S THEREOF BLK 142; LT 3 & N160 E/2  
VAC GREENWOOD AVE & N10 VAC ALLEY ADJ S LT 3 BLK 142; PRT LTS 1  
& 2 & ALL LT 3 & PRT VAC GREENWOOD AVE & PRT VAC 5TH ST & PRT  
VAC ALLEY BEG NEC LT 1 TH NE 40 SELY340 SWLY200 NW40 NWLY301  
NE130 POB BLK 141; PRT LT 1 & PRT VAC 5TH ST BEG NEC LT 1 TH S195.9  
S W ON CL VAC 5TH ST TO PT NW180 NE89.7 POB & E/2 LT 4 & ALL LT 5 &  
W30 VAC KENOSHA AVE ADJ ON E & S10 VAC ALLEY ADJ ON N LT 1 & N10  
VAC ALLEY ADJ ON S E/2 LT 4 & LT 5 BLK 142; W60.2 LT 1 & ALL LT 2 & E40  
VAC STREET ADJ LT 1 ON W & N40 VAC 5TH STREET ADJ ON S THEREOF  
& S10 VAC ALLEY ADJ ON N BLK 142; LTS 4 THRU 6 & PRT VAC ALLEY &  
PRT VAC 5TH ST BEG NWC LT 6 TH NE170 SELY301 SE40 SW40 NW40  
SW100 NW3 00 POB BLK 141; E50 LT 8 & ALL LTS 9 & 10 & S40 VAC 5TH ST  
ADJ ON N & N10 VAC ALLEY ADJ ON S & W30 VAC KENOSHA AVE A DJ ON  
E BLK 143; N55 LTS 1 THRU 3 & S10 VAC ALLEY ADJ ON N & W30 VA C  
KENOSHA ADJ ON E BLK 143; LTS 4 THRU 7 & W50 LT 8 & PRT VAC ALLEY  
ADJ THEREO F BEG SECR LT 4 TH W200 N300 E250 S150 W50 S150 PO B &  
S40 VAC 5TH STREET ADJ ON N BLK 143; S85 LTS 1 2 3 & PRT VAC 6TH ST  
& KENOSHA AVE BEG S WC LT 3 SELY16 NE26.18 SELY1.67 CRV RT  
APROX 189.7 6 CL KENOSHA N APROX 197.8 SW32.66 S92.52 SECR BLK  
143 SW205.9 POB BLK 143; LTS 1 THRU 3 & E10 VAC ALLEY ADJ ON W  
THEREOF BLK 144; LTS 1 2 3 BLK 167; PRT LTS 10 & 11 BEG NEC LT 11 TH  
S51 NWLY23.88 SWL Y58.64 NWLY TO PT ON WL E/2 LT 10 TH N3  
NELY137.9 POB BLK 169; PT LTS 2 3 8 & 9 BEG NWC LT 8 TH S300 E137.65  
N300 .15 W147.10 TO BEG BLK 169; LT 1 LESS W15 THEREOF & PRT VAC  
ALLEY BEG 15ELY NW C LT 1 TH NWLY10.8 NELY35.4 SLY.80 CL VAC  
ALLEY NE LY87.9 SLY NEC LT 1 SWLY POB BLK 169; PRT LTS 2 9 & 10 &  
VAC ALLEY BTW BEG NEC LT 9 TH W LY52.9 SLY300.15 ELY62.35 NLY150  
NELY15 NW.80 NELY 35 NWLY149.2 SWLY50 POB BLK 169; W15 LT 1 BLK  
169; ALL LTS 3 & 4 & SLY46 LTS 2 & 5 & SLY 146 VAC ALLE Y BLK 43; N50  
LT 5 & ALL LT 6 LESS W15 LT 6 & LESS W15 N32 N 50 LT 5 & W10 VAC  
ALLEY ADJ ON E THEREOF BLK 56; LT 1 THRU 7 & VAC ALY & ST ON N BLK  
168; LT 1 N1/2 LT 2 BLK 39; LT 6 BLK 39; N25 S50 LT 2 BLK 39; LT 5 BLK 39;  
S25 LT 2 N50 LT 3 BLK 39; S50 LT 3 BLK 39; N50 LT 4 BLK 39; S50 LT 4 BLK  
39; N5 LT 6 ALL LT 7 BLK 61; W58 LT 4 BLK 38; S45 LT 6 BLK 61; LTS 1 2 3  
BLK 61; LT 4 5 BLK 61; E90.6 EACH LT 1 2 3 BLK 69; BALANCE OF BLK 69;  
E50 OF EACH LT 1 & 2 BLK 68; W90 LTS 1 & 2 & E10 VAC ALLEY ADJ ON W  
THEREOF BLK 68; E50 LTS 3 & 4 & W10 VAC ALLEY ADJ ON E THEREOF  
BLK 68; W90 OF EACH LT 3 & 4 BLK 68; BLK 92 & THE ALLEYS THERIN; LT 1  
BLK 93; LTS 1 2 3 BLK 67; N 50 LT 6 & ALL LT 7 BLK 93; LT 2 BLK 93; LTS 3 &  
4 BLK 93; E. 47.5 LESS E. 2.5 LT 5 & E. 47.5 S. 50 LESS E. 2 .5 LT 6 BLK 93;  
N50 LT 6 & ALL LT 7 BLK 94; W47 1/2 E95 LT 5 & W47 1/2 E95 S50 LT 6 BLK

93; W45 LT 5 & W45 S50 LT 6 BLK 93; LTS 1 THRU 4 LESS W2.5 THEREOF BLK 94; LT 5 & S50 LT 6 BLK 94; **BURNETT ADDITION:** N50 LT 4 & ALL LT 5 & S25 LT 6 & W10 VAC ALLEY ADJ ON E THEREOF & E30 VAC KENOSHA AVE ADJ ON W BLK 3; S50 LT 4 & W10 VAC ALLEY ADJ ON E & VAC 5TH PL BEG SECR LT 4 TH E10 S30 W150 N30 E140 POB & E30 VAC KENOSHA AVE ADJ ON W BLK 3; **HODGE ADDITION:** LT 1 BLK 4; PRT LT 1 & PRT LTS 15 & 16 & VAC ALLEY BEG 50N SWC LT 1 TH E48.1 TH NW TO EL 1ST ST TH SW70.04 E118. 1 POB BLK 5; S45.7 LT 2 & E10 VAC ALLEY ADJ ON W BLK 5; LTS 12 & 13 & W10 VAC ALLEY ADJ ON E LESS PRT LT 1 3 BEG NWC TH E140 S4.30 W65 SW TO PT ON WL LT 13 T H N22.15 POB BLK 5; LT 3 & E10 VAC ALLEY ADJ ON W BLK 5; W 1/2 S 1/2 LT 5 & W 1/2 LTS 6 & 7 BLK 5; LTS 8-9-10-&11 BLK 5; W E46 LT 1 BLK 12; W40 OF LT 1 BLK 12; PRT LT 12 BEG SWC TH N TO NWC THEREOF E75 SW TO PO B BLK 12; LT 2 BLK 12; These properties are located in three general areas; 1) between West Brady and West 3<sup>rd</sup> Street, Inner Dispersal Loop to Boulder; 2) between West Brady and 2<sup>nd</sup> Street, North Boston to North Greenwood; and 3) I-244 to E. 8<sup>th</sup> Street, between Elgin Avenue to U. S. Highway 75, Tulsa, Oklahoma, **From:** IL and IM (Industrial Light District and Industrial Moderate District) **To:** CBD (Central Business District).

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**Application No.:** PUD-142-6

**MINOR AMENDMENT**

**Applicant:** Big Red Enterprises/Bryan Ward (PD-18) (CD-7)

**Location:** 3823 East 66<sup>th</sup> Street

**STAFF RECOMMENDATION:**

This application is for a minor amendment to replace an existing deck and sunroom, which were originally built into the common area of PUD-142. The proposed replacement, as submitted, will not increase the encroachment, and letters from the homeowner's association officers indicate no opposition to the improvements. Because this is a replacement of a structural addition that was not opposed initially, staff can support it, finding that it will not materially harm existing land uses. Therefore, staff recommends **APPROVAL** of PUD-142-6.

**Mr. Midget out at 3:48 p.m.**

**TMAPC Action; 7 members present:**

On **MOTION** of HILL, TMAPC voted 7-0-0 (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson "aye"; no "nays"; none "abstaining"; Dick, Ledford, Midget "absent") to **APPROVE** the minor amendment for PUD-142-6 per staff recommendation.

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**Application No.:** Z-5637-SP-1a      **AMENDMENT CORRIDOR SITE PLAN**

**Applicant:** Sack & Associates      (PD-17) (CD-6)

**Location:** 4301 South Garnett

**STAFF RECOMMENDATION:**

The applicant is requesting approval of an amended Corridor Site Plan for Arvest Bank to relocate a previously approved ground sign. The applicant proposes moving the sign from the northwest corner of the lot to north of the access drive to Garnett. The proposed location does not conflict with utility easements and is properly setback in accordance with the requested 30' sign height. The applicant also proposes to increase the sign from 128.5 sq. ft. to 148.8 sq. ft., which is still within the 266' permitted based on frontage.

Staff recommends **APPROVAL** of amended corridor site plan Z-5637-SP-1a as proposed.

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

**Mr. Carnes out at 3:56 p.m.**

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

**TMAPC Action; 7 members present:**

On **MOTION** of HILL, TMAPC voted 7-0-0 (Ard, Bayles, Carnes, Harmon, Hill, Horner, Jackson "aye"; no "nays"; none "abstaining"; Dick, Ledford, Midget "absent") to **APPROVE** the amendment to the Corridor Site Plan for Z-5637-SP-1a per staff recommendation.

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## **OTHER BUSINESS:**

**Request from property owners of North Maple Ridge Association to correct HP zoning.**

*Ms. Bayles stated that she has had numerous ex parte communications on this subject, but none have either influenced or biased her with regard to her decision today.*

## **STAFF RECOMMENDATION:**

Mr. Alberty stated that staff has received a request from several property owners all of whom live on South Detroit. The map indicates the zoning that took place, which is Z-6378, that zoned all of the properties within the heavy-dashed line, with the exclusion of those that appear to be gray shadowed that would primarily be along the frontage of Peoria.

What is in question is Block 4 on the Detroit location, which includes six lots. There is a discrepancy among the two public agencies that display maps. The INCOG map, which is the official map, indicates that this area was in fact zoned for HP. At the time the HP zoning was presented, the northern two lots were a part of public right-of-way and in effect, the Tulsa Preservation Commission felt that this should not be zoned and there was some misunderstanding with regard to what is actually presented. Although the TPC intended to leave the public right-of-way out of the HP, it was zoned for HP. There is also another complication with a scrivener's error with the actual legal description describing Lots 1 through 6 and stating "Lots 1 and 6" instead of stating it correctly as Lots 1 through 6.

Mr. Alberty explained that what is before the Planning Commission today is a request to perhaps rectify this discrepancy and it may require action, but that would depend on what the Planning Commission instructs the staff to do. It is staff's opinion that those lots were in effect zoned, even though there is some discussion as far as the actual legal description. If there is an attempt to exclude those lots, then perhaps that would require further action. If that is what was intended by the TPC, then he would expect a request from the TPC to come forward.

Mr. Boulden stated that the homeowner of Lots 1 and 2 had an application before the TPC. The zoning ordinance that created the HP zoning clearly shows that Lots 1 and 2 and through six are in HP zoning. The legal description does state Lots 1 and 6, and from that it could easily be concluded that Lot 1 is in HP zoning and Lot 6 is definitely in the HP zoning. The inclusion of Lots 2 through 5 is debatable, but he has advised that the scrivener's error in the ordinance omitted the word "and" in it and he believes that when the councilors considered it, they probably didn't read the legal description but looked at the map and included all of the lots into HP zoning. Mr. Boulden commented that he is only offering an

opinion without perhaps having all of the evidence in. There is a property owner who has been caught in a bad situation and would like to develop the subject property and found out at the last minute that he couldn't. He stated that he told Mr. Kent Schell that he believes that all six lots should be processed and indicate whether these lots are in or out of HP zoning as if it were a new application. There should be a full hearing on whether they should be in or out of the HP zoning.

Ms. Bayles stated that she had made a request from TMAPC on Monday for Mr. Schell to respond to a letter sent to Ms. Townsend, Chair of the TPC. She explained that what she understood was that at one time these properties were under State of Oklahoma ownership, and therefore the TPC did not feel that they had jurisdiction nor did they include these particular lots within their original proposal for HP. She indicated that Ms. Matthews provided her with a packet and within Section 3 of the North Maple Ridge Neighborhood Report and Recommendation is a location and boundaries map of the proposed North Maple Ridge Historic District. Ms. Bayles cited the recommendation and boundaries. She asked Mr. Boulden what type of action should be taken to remedy this situation.

Mr. Boulden stated that he is not prepared to advise what the legal description should have stated, but he can tell you what it does state. He commented that from his past experience that when the City Councilors are ready to pass an ordinance, they do not read the legal description. They go by the map that is presented. He believes that the ordinance that adopted the HP zoning stands for is the zoning all of it into HP zoning. It is debatable on Lots 2 through 5. He recommended that the Planning Commission start from the beginning and have a full public hearing. He believes that the interpretation for the Planning Commission and before a zoning official should be that the lots are all in the HP zoning at this point. It would be in everyone's best interest to go back and correct the scrivener's error once everyone is confident of what it should be.

Ms. Bayles stated that she will accept staff's legal opinion to move for a public hearing.

Mr. Alberty stated that there will need for a 20-days notice and he is not prepared to give an actual date today, but he would get it done as soon as possible if the Planning Commission directs staff to do so.

Ms. Bayles asked Mr. Boulden if at this point, under these circumstances, these lots are considered being within the HP overlay zoning, Lots 1 through 6. In response, Mr. Boulden agreed with this statement, but stated that new facts could always come up.

Mr. Horner stated that the interest lies within Lots 1 through 6 and the other lot holders in the area could have no effect on the Planning Commission's decision going through the process.

In response to Mr. Horner, Mr. Boulden stated that he doesn't think it should and he believes that there is no question as to the other lots in the area. There should be no concern with those lots at this time.

Ms. Bayles asked if a motion is needed to move for a public hearing.

Mr. Alberty stated that staff has informed him that June 1<sup>st</sup> could be the date certain. He informed the Planning Commission that staff would have to notify the TPC about the hearing and part of staff's decision would be TPC's recommendation.

Ms. Bayles directed staff to place this item on the June 1<sup>st</sup> agenda.

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There being no further business, the Chair declared the meeting adjourned at 4:01 p.m.

Date Approved:

June 15, 2005

Tracy M. Bayles

Chairman

ATTEST:



Secretary

