

# **TULSA METROPOLITAN AREA PLANNING COMMISSION**

## **Minutes of Meeting No. 2455**

Wednesday, August 16, 2006, 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		Chronister	Boulden, Legal
Bayles		Huntsinger	
Bernard		Matthews	
Cantees			
Cantrell			
Carnes			
Collins			
Harmon			
Jackson			
Midget			
Wofford			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, August 10, 2006 at 3:31 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 Bernard called the meeting to order at 1:33 p.m.

Mr. Bernard read the opening statement and rules of conduct for the TMAPC meeting.

Mr. Bernard stated that he discussed some items with Ms. Huntsinger regarding the minutes and found that some of the comments he made are actually on the July 17<sup>th</sup> minutes.

Ms. Bayles stated that are some Commissioner Comments relative to the July 2005 Planning Magazine that are not included in Commissioners Comments with reference to Eugene, Oregon and she would like those to be included in the amendments as amended please.

Ms. Bayles stated that as long as the amendments are acknowledged, she will make a motion to approve as amended.

**Minutes:**

**Approval of the minutes of July 5, 2006 Meeting No. 2451**

On **MOTION** of **BAYLES**, the TMAPC voted 11-0-0 (Ard, Bayles, Bernard, Cantees, Cantrell, Carnes, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the minutes of the meeting of July 5, 2006, Meeting No. 2451 as amended. [NOTE: after the 8/16/06 meeting, it was discovered that the comments Ms. Bayles was referring to were in the minutes of July 5, 2006 and there was no need for an amendment.]

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**REPORTS:**

**Chairman's Report:**

Mr. Bernard reported that he would like to discuss with staff the possibility of doing some type of programming on TGOV similar to Government Day that was done in the past. He would like to follow this up with Mr. Alberty when possible and with TGOV representatives or Planning Commissioners who wish to be involved in this. He would like to discuss a way to produce another program that involves the process at the Planning Commission and try to encourage citizen involvement, also any parties who are planning to make applications learn what they need to do and how the process works.

**Director's Report:**

Ms. Matthews reported on the TMAPC receipts for the month of July 2006.

Ms. Matthews called the Planning Commissions' attention to a flyer they received in their packets regarding APA audio training and workshops. She requested the Planning Commissioners indicate whether they would be interested in something in this format and to let staff know which workshop or group they would be interested in participating.

Mr. Ard asked if staff has previewed the audio training or workshops because they seem that they would be very good for all of the commissioners.

Mr. Bernard asked if there are specific dates. In response, Ms. Matthews stated that there several different workshops and dates to choose from. Mr. Bernard encouraged everyone to look through these and notify staff which ones they are interested in.

Ms. Matthews reported on the City Council and BOCC agendas.

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Mr. Bernard welcomed Michelle Cantrell to the TMAPC as their newest member. Mr. Bernard encouraged Ms. Cantrell to call on staff and Planning Commissioners for anything she may need or have a question about.

Mr. Bernard reported that there are several items requesting a continuance and he would like to take care of these at this time.

Mr. Bernard stated that Item 2, Downtown Linkage Report, is a presentation to the Planning Commission to determine if it should be set for a public hearing.

Mr. Bernard stated that Item 15, Z-7031 has requested a continuance.

**Application No.: Z-7031**

**RS-3 to CS**

**Applicant:** Roy D. Johnsen

(PD-17) (CD-6)

**Location:** Northeast corner South 161<sup>st</sup> East Avenue and East 51<sup>st</sup> Street  
South

**STAFF RECOMMENDATION:**

Ms. Matthews stated that staff needs further research and requests a continuance to September 27, 2006.

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

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

**TMAPC Action; 11 members present:**

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Carnes, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the Z-7031 to September 27, 2006.

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**Application No.: Z-4900-SP-5**

**CORRIDOR SITE PLAN**

**Applicant:** R.L. Reynolds

(PD-18c) (CD-7)

**Location:** 9901 East 73<sup>rd</sup> Street

**STAFF RECOMMENDATION:**

The applicant has requested a continuance to August 23, 2006.

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

**TMAPC Action; 11 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **11-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Carnes, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the corridor site plan for Z-4900-SP-5 to August 23, 2006.

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**Application No.: Z-7035**

**RS-3 to CS**

**Applicant:** Richard Gardner

(PD-18c) (CD-6)

**Location:** South of southeast corner South Mingo Road and East 61<sup>st</sup> Street

**STAFF RECOMMENDATION:**

The applicant is requesting a continuance to October 4, 2006.

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

**TMAPC Action; 11 members present:**

On **MOTION** of **HARMON**, TMAPC voted **11-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Carnes, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** Z-7035 to October 4, 2006.

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**UNFINISHED BUSINESS:**

**Discussion and possible action on District One Plan (Downtown Linkage Report).**

**STAFF RECOMMENDATION:**

Ms. Matthews stated that the Planning Commission has received a briefing on the preliminary plan several months ago and the Planning Team has requested that this be heard for a possible amendment to the District 1 Plan. Staff wanted the Planning Commission to see what how the final plan looks before going to public hearing.

**TMAPC COMMENTS:**

Mr. Midget asked if he understood that staff would like some direction on whether to set this for public hearing after today's presentation. In response, Ms. Matthews answered affirmatively.

**Applicant's Comments:**

**Jim Norton**, President of Downtown Tulsa Unlimited, 321 S. Boston, Suite 101, Tulsa, OK 74103, stated that a Master Plan was requested by the previous administration, under Mayor LaFortune in connection with the arena and convention center. Unfortunately, nobody had the money to develop a Master Plan for downtown Tulsa. As he was doing his planning work for the Centennial Walk and some of the projects that were funded downtown with Vision 2025, then there was a budget available to do the Master Plan and accomplish all of the objectives that the Mayor wanted accomplished.

Mr. Norton explained that the Master Plan is for over 900 acres and over 1400 owners. He further explained that CDB zoning allows a multitude of uses and has no density and no parking requirements where development could be controlled. There were five items determined that the City of Tulsa can control downtown to encourage development, which are the following: 1) streets; 2) sidewalks; 3) greenspace; 4) structured parking, and 5) strategic acquisitions. The Master Plan focuses on these five items and points out the street improvements or sidewalk improvements that are currently funded and future funding that the City should consider, etc.

**TMAPC COMMENTS:**

Mr. Bernard asked Mr. Norton for specific dates that funds were provided for various projects. In response, Mr. Norton cited the dates and funding amounts for various projects.

Mr. Norton introduced Kathleen Page.

**Kathleen Page**, Consensus, 3006 South Yorktown, 74114, explained how the plan for the Downtown Linkage was developed through the Vision 2025 project called the Centennial Walk, which was part of the Downtown Neighborhoods Plan. Ms. Page presented the Downtown Linkage Report and presented a PowerPoint presentation.

Ms. Page explained how the Downtown Linkage Report came together and how the information has been presented throughout Tulsa via various meetings, presentations and organizations.

**TMAPC COMMENTS:**

Mr. Bernard explained that the Planning Commission and staff have perceived concern about public involvement and requested that Ms. Page walk the

Planning Commission through the process of how this came to be and the ability for citizens to be able to interact in the process. In response, Ms. Page stated that the first step was the public vote on Vision 2025, which established that there would be a downtown fund and it would be expended for the improvement of downtown. The summit that was conducted was not a public forum, but on the final day of the summit several representatives of downtown were invited. The summit involved every public planning organization and every professional group that was planning a Vision 2025 project. She explained how the Linkage Report has been presented to many professional and neighborhood groups. Although this has not specifically been open to public comment, she is prepared to do so.

Mr. Norton expanded on how many different groups have received a presentation and have signed off with their agreement of the concept.

Mr. Bernard stated that he simply wanted to give Ms. Page and Mr. Norton the chance to have this on the record because the Planning Commission has been challenged on this issue. Mr. Bernard asked how the attendance for the summit worked out. In response, Mr. Norton stated that it was held at the OSU facility and it was well attended (200 or 250 people). In addition, these presentations have been made to various groups and it has had a broad airing in the public.

Mr. Midget asked about the coordination with utility companies. In response, Mr. Norton stated that once the plan was at a stage where he knew it was fairly set, it would be the time to sit down with various utility companies. He explained that he didn't want to discuss a plan that wasn't approved.

Mr. Ard asked about new fire suppression codes. In response, Mr. Norton stated that the new codes have not gone into effect at this time. They were proposed about six months ago and the commercial property owners and residential property owners opposed them. There has been a compromise reached with the residential property owners and thought they had a deal with the commercial people, but it turns out they do not. The building owners are perfectly willing to fully suppress the spaces when a tenant moves out and before a new one comes in. The proposal is to sprinkle everything by a date certain, whether fully occupied or not. It is easier on the tenant and the property owner to wait until there is major renovation of the space to fully suppress the space.

Mr. Ard stated that he knows that there is a goal to have 500 additional housing units in the downtown area and there was a RFP funded in January. He asked Mr. Norton how many of those units were funded through that portion and how many more are needed in the next round of funding. In response, Mr. Norton stated that the Vision 2025 housing program funded about 425 units. That the money and third penny money that was designated for housing recycles and as it is paid back, it will be continuously made available.

Mr. Ard asked if any of the 425 units or projects have started yet. In response Mr. Norton stated that there is one ready for the Tulsa Development Authority to approve the redevelopment agreement for the 6<sup>th</sup> Street Lofts, which will be on 1<sup>st</sup> Street between Elgin and Detroit. The Mayo Hotel is very close to their final engineering and design, but due to the owner's health, the project will probably be delayed six months.

Mr. Ard asked if there are locations chosen for the suggested structured parking. In response, Mr. Norton stated that it is shown on the map, but the Walker Parking Study suggested three sites for a new garage. One of the sites mentioned was at 3<sup>rd</sup> and Main and it is currently a site for a new park. There is a need for 1200 to 1300 parking spaces needed within the general area of 6<sup>th</sup> and Main.

Mr. Ard asked Mr. Norton if there is any way to incorporate the CORE recommendations into the Linkage Plan so that there are not two separate plans addressing similar issues. In response, Mr. Norton stated that this is a great point, and yes, it could be done. He further stated that if it could get to a point where the Preservation Commission and DTU were both saying the same thing; then he would be more than happy to include those recommendations in the Master Plan. It does speak to preservation and it does speak to the fact that there is too much surface parking downtown and should endeavor to put structured parking in. It also addresses preserving historic structures and DTU is committed to that, but to make every building downtown go through a demolition permit process is a bit much. He believes this all can be worked out with the Preservation Commission.

Mr. Ard asked if there is a website or place to get a copy of this document or view it. In response, Mr. Norton stated that he believes the maps and documents are on the TMAPC website. Ms. Matthews stated that she would see that it is available on the TMAPC website.

Mr. Ard invited Mr. Norton and Ms. Page to make a presentation to the Preservation Commission if it is at that point in the process. Mr. Norton stated that these presentations have been given for the last six months and if he would like a presentation to the TPC, he would be happy to come to make it. Mr. Ard stated that he would see if he could move that forward.

Mr. Harmon stated that this is an excellent project and has a lot of potential for doing great things for the City of Tulsa over many years. He believes it is time to instruct staff to have a public hearing and get it advertised and moved forward.

Ms. Bayles recommended that staff include both TMAPC staff and Tulsa Preservation Staff in order to incorporate those mutual concepts in terms of content and philosophy in order to see something that meets the needs of the City at large.

Mr. Harmon stated that he doesn't believe the Planning Commission can set an agenda for TPC, but can set the Planning Commission's agenda for a public hearing.

Ms. Bayles stated that there wouldn't be anything lost by having both staffs work together and we saw the same benchmark and recommendation out of the Economic Development Strategic Plan. Having both of these staffs work together would be highly beneficial to the City at large.

Mr. Harmon stated that he doesn't argue with that concept, but he doesn't believe the Planning Commission can hold the TPC to the Planning Commission's schedule.

Ms. Bayles stated that the two staffs can work with one another at any time.

Mr. Norton stated that it would be possible to get the two staffs together before the next hearing.

Mr. Ard stated that he believes that Stacey is only recommending that the Planning Commission would like to have the TPC staff involved in the process.

**TMAPC Action; 11 members present:**

On **MOTION** of **HARMON**, TMAPC voted 11-0-0 (Ard, Bayles, Bernard Cantees, Cantrell, Carnes, Collins, Harmon, Jackson Midget, Wofford "aye"; no "nays"; none "abstaining"; none "absent") to direct staff to hold a public hearing for the District One Plan (Downtown Linkage Report).

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**SUBDIVISIONS:**

**LOT-SPLITS FOR WAIVER OF SUBDIVISION REGULATIONS:**

**L-19971 – Ray Biery** (8333) (PD 26) (CD 8)

Northwest corner of East 118<sup>th</sup> Place South and Yale Avenue (Related to Item 8.)

**STAFF RECOMMENDATION:**

The applicant has applied to split a five-acre tract into an approximately one-acre parcel and a four-acre parcel; both of which meet the RS-1 bulk and area requirements. The Major Street and Highway Plan (MSHP) designates Yale Avenue as a secondary arterial, requiring 50' of right-of-way from the center of the street be deeded to the City of Tulsa. East 118<sup>th</sup> Place South is a standard residential street, requiring 25' from the center of the street.

The applicant is willing to give the required right-of-way along Yale Avenue, but is seeking a waiver of the Subdivision Regulations Section 6.5.1.(c)(3) requiring right-of-way be given to the City of Tulsa/Tulsa County for the required right-of-way along East 118<sup>th</sup> Place South.

Also, the property was rezoned from AG to RS-1, triggering the platting requirement. The applicant has filed a plat waiver for the subject property. The plat waiver would have to be approved in order for the lot-split to be approved.

On July 20, 2006, the Technical Advisory Committee (TAC) expressed two concerns with the lot-split. Although there is no planned construction for Tract 1 at this time, it is being kept as a separate tract. Should the plat waiver be approved, there would be no regulation for future development on the proposed tracts. TAC also expressed concern on the requested waiver of street dedication.

Based on TAC's recommendation that the street right-of-way be deeded to the city and considering City of Tulsa Zoning Code,

#### Section 213. PLATTING REQUIREMENT—EXCEPTIONS,

B. Exceptions. Provided that the Planning Commission, pursuant to its exclusive jurisdiction over subdivision plats, may: 1. Waive the platting requirement upon a determination that the purposes have been achieved by previous platting, have or will be achieved by other actions, including any conditions prescribed by the Commission, or could not be achieved by plat or replat,

Staff recommends **DENIAL** of the waiver of Subdivision Regulations and of the lot split. Should the Planning Commission desire to approve the lot-split, Staff recommends that approval be subject to street right-of-way be given to the City of Tulsa according to the MSHP (50' from the center line of Yale Avenue and 25' from the centerline of East 118<sup>th</sup> Place South), and that the plat waiver be approved only on Tract 1, allowing for regulation for future development on Tract 2.

#### **TMAPC COMMENTS:**

Mr. Bernard asked Ms. Chronister, based on the staff recommendation, whether the TMAPC should hear Item 8 first and decide if they are going to do the plat waiver then move onto Item 3. In response, Ms. Chronister stated that the lot-split was applied for and because of the rezoning of the property, it does require a plat waiver and staff wanted to explain the reason for the plat waiver request and the conditions that are on the plat waiver.

Mr. Bernard asked Mr. Boulden what the proper way to do this is. In response, Mr. Boulden stated that he doesn't believe that there is a requirement that the Planning Commission hear Item 8 first. There is a suggestion that the Planning Commission only waive the platting requirement on Tract 1 and he would suggest that it would be better to determine the lot-split first.

Mr. Bernard asked if the Planning Commission doesn't do the plat waiver, then the rest really doesn't matter. In response, Ms. Chronister stated that if the Planning Commission denies the lot-split, then it could be possible that the applicant could request that the plat waiver be removed.

**TMAPC COMMENTS:**

Mr. Harmon asked if staff would have a problem with the lot-split if the right-of-way from 118<sup>th</sup> Street South was obtained. In response, Ms. Chronister stated that staff recommends denial of the lot-split and plat waivers.

Mr. Harmon asked Ms. Chronister on what basis would she continue to recommend denial on the lot-split if the right-of-way were obtained. In response, Ms. Chronister stated that it is her understanding that when these lots were created not only the subject tract but the surrounding tracts, were split off originally and staff does not want to encourage a wildcat subdivision. The property is being rezoned.

Mr. Harmon stated that he is not suggesting that the plat be waived, but for the lot-split alone, if the required right-of-way were to be obtained it would be in compliance with the District Plan. In response, Ms. Chronister stated that it would meet the bulk and area requirements.

**Applicant's Comments:**

**Ray Biery**, 9709 South Maplewood, 74136, stated that he is one of the partial owners of the four tracts in question. He explained that the subject property was a five-acre site and it was zoned AG. All of the five-acre sites around the subject property have adequate access as required and his initial idea was to have an estate type of development with the homes having five acres. Mr. Biery described the lots and their locations.

Mr. Biery stated that he initially wanted to square up the lot lines and do away with the panhandles. He doesn't believe that the four tracts of land were not lot-splits, but splits of land tracts and they do not meet the definition of lot-split. This was originally a 20-acre tract and divided into four tracts. He explained that the only thing he wanted to do was to split off the 140' add it so that the 11 acres would be contiguous to each other. After visiting with Mr. Alberty, it was determined that it should be rezoned RS-1 and early this year he rezoned it RS-1. Then when he came in to do the lot-split he was told that he has split the land over twice and he started running into problems. All he wanted to do is to split the lot and he doesn't plan to do a subdivision at this time. He explained that he

has developed a substantial amount of property in Tulsa, Oklahoma, and he understands development. This is not a subdivision and he doesn't want to go through all of the process. This will be subdivided someday in the future.

Mr. Biery stated that the subject property is in a floodplain and it can't be built on. The only thing it would be used for is access when it is not raining. It would only be a driveway to the house and no building permit is needed. There was a suggestion to take the subject property and combine it with the five acres next door and this could be worked out.

Mr. Biery stated that the next issue is roadway dedications. He indicated that the road were established about 30 or 40 years ago when the property was in the county. He explained the previous dedications from the surrounding properties. When Wind River Subdivision came before the City of Tulsa, TAC, staff, etc., he pointed out many times that they were not requiring Wind River to dedicate an additional 25 feet for Toledo to provide access to 121<sup>st</sup> Street. He reminded the Planning Commission that he informed them that if they didn't require Wind River to dedicate the 25 feet for Toledo, it would be establishing a precedent for the subject area and never to expect to get 25 feet off of his property. There should be one standard and not two. In the past it was required to give the additional right-of-way, but if Wind River is not required, they shouldn't take it from him. He is adamant about this and if the conversation goes toward dedication of 118<sup>th</sup>, then we can recess this or he will withdraw the application right now. He is not going to do a dedication and he is not going to run a six-inch waterline to serve a floodplain that will not be developed. Mr. Biery indicated that he has given more land to the City of Tulsa on Yale and more value to the City of Tulsa on Yale for right-of-way on land that he had zoned and not platted. Mr. Biery cited the various areas along Yale that he has dedicated right-of-way for intersection and stormwater improvements. He has worked with the City for over 40 years regarding easements and rights-of-way. Mr. Biery commented that he is offended when staff or someone states that they are going to make him give right-of-way. He stated that they would not make him do anything. Consider this request as it stands, straightforward to square up the property.

**TMAPC COMMENTS:**

Mr. Harmon stated that he doesn't know what happened at Wind River and why they didn't have to give the right-of-way, but he would not be inclined to support any kind of a lot-split unless the 118<sup>th</sup> Street right-of-way was obtained. In response, Mr. Biery stated that he would recommend that the Planning Commission deny the application.

Mr. Carnes stated that the applicant wants to square up the line in a floodplain and he is in favor of making a motion to approve the application.

Mr. Wofford seconded the motion for discussion.

Mr. Harmon stated that there is only one opportunity to get the proper right-of-way and there is no way to know how this would be used in the future. This is the opportunity to get the right-of-way. Just because there has been an oversight doesn't mean that there should be the same oversight again. He could not support a motion to approve a lot-split without the right-of-way.

Mr. Carnes stated that the applicant is willing to give the right-of-way on Yale and it is floodplain and can't be developed along 118<sup>th</sup>.

Mr. Harmon stated that floodplains change once drainage is redesigned and sometimes what is in a floodplain today may not be in a floodplain tomorrow.

Mr. Carnes stated that if the land is ever developable, then he would have to come back with a plat and at that time the easement could be donated.

Mr. Midget asked if the applicant could have requested a lot-split without rezoning it. In response, Ms. Matthews stated that her understanding was that he could not split without rezoning, but that conversation was between Mr. Biery and Mr. Alberty.

Ms. Bayles stated that since there have been several references to Mr. Alberty making statements to the applicant, perhaps it would be best to postpone until Mr. Alberty returns for clarification. In response, Ms. Matthews stated that this could be done and staff could do some research as to why Wind River wasn't required to dedicate the 25 feet.

Mr. Bernard stated that he would also like to know if the Planning Commission were to approve this if there is something down the road that would make this come back before them so that they could address the issue at that time regarding the right-of-way.

Mr. Carnes withdrew his motion and moved to continue this application for one week.

Mr. Wofford seconded.

**TMAPC Action; 11 members present:**

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Carnes, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the L-19971 to September 6, 2006.

Mr. Bernard stated that Item 8 would need a motion for continuance to September 6, 2006 as well.

**Z-7013** – (8333)

(PD 26) (CD 8)

Northwest corner of East 118<sup>th</sup> Street South and Yale Avenue  
(Related to Item 3.)

**TMAPC Action; 11 members present:**

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Carnes, Collins, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the plat waiver for Z-7013 to September 6, 2006.

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

**L-19980 – Patricia Williams** (0330)

(PD 2) (CD 3)

2007 North Rockford Avenue

**L-19982 – Jeffrey Levinson** (9319)

(PD 6) (CD 9)

2238 East 38<sup>th</sup> Street

**L-19983 – Mattie Rider** (6309)

(County)

19473 South Harvard

**L-19984 – Jonathan Kuhn** (7330)

(County)

16333 South Rockford

**L-19985 – James Bohmer** (9302)

(PD 5) (CD 6)

445 South 67<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

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

**INTERESTED PARTIES:**

**Steve Novick**, 1717 South Cheyenne Avenue, Tulsa, OK 74119, representing residents of Peaceful Terwilliger Acres, stated that two weeks ago he was before the Planning Commission for a rezoning case with six members present and he would like to take 30 seconds to review that situation because it is related to this lot-split.

Mr. Novick cited the history of the rezoning case for down-zoning from RS-2 to RS-1 in order to prevent lot-splits within the subject neighborhood. Approximately three weeks after the zoning application was filed, Mr. Enterline closed on the purchase of Lot 4, Block 8, Lewis Road Estates located on East

38<sup>th</sup> Street. It is his belief that Mr. Enterline knew of the rezoning request at the time he purchased the subject property. Ten days later Rockford Road, LLC applied for the lot-split that is now before the Planning Commission for ratification. INCOG deferred action on the lot-split, pending action on the zoning case (Z-7030), which was heard two weeks ago. On August the 2<sup>nd</sup> there was a hearing before the Planning Commission for Z-7030 and Rockford Road, LLC objected to the inclusion of the subject property in that rezoning request. A determination was made by the Planning Commission that the applicant for rezoning had no legal or equitable interest in that property and voted to exclude consideration of the subject property. On August 3, through two written communications to INCOG staff, they were advised of information in Mr. Novick's possession that the subject property did not have adequate lot width for a lot-split as a matter of right. Notwithstanding that information, on the very next day, INCOG staff approved the lot-split and it is now before the Planning Commission for ratification.

Mr. Novick stated that his client protest this ratification to this lot-split and ask for one of three alternative remedies today: 1) the lot-split be denied outright because it doesn't comply with the underlying zoning; 2) if there is any outstanding question about whether it complies with underlying zoning then the matter should be further investigated and then full review by the Planning Commission after notice and an opportunity to be heard, and 3) that ratification of this lot-split be continued to a future date either for the purpose of further investigation by INCOG staff or for the purpose of permitting what he believes may be fruitful negotiations between his clients and Mr. Enterline for the outright purchase of the subject property. Mr. Novick stated that in support of denying the ratification of the lot-split, he would contend that the average width of the lot is less than 150 feet and therefore it cannot produce two RS-2-compliant lots by splitting the lot. The Zoning Code requires a minimum average lot width for RS-2 to be 75 feet and that would require the subject lot to have 150 feet in lot width. Mr. Novick submitted a plat of survey conducted by White Surveying Company (Exhibit A-1). He indicated that he received this plat this morning and he has not had time to reduce it for the overhead. The survey shows that the frontage on the subject property is 149.62 feet and the back line of the property is 149.56 feet, which is less than 150 feet.

Mr. Novick read various sections from the Zoning Code regarding lot-splits and the requirements.

Mr. Novick stated that he has heard that the Planning Commission doesn't use the actual size of the lot, but use the platted measurement of the lot to determine a lot-split. He indicated that he has searched the Subdivision Regulations and the Zoning Code for the City of Tulsa, as well as legal research and he hasn't found that method anywhere. He further indicated that he did some research at INCOG and he did find a precedent case that is similar from 1994, L-17544 on a piece of property around the corner from the subject property involved in this

case. The applicant for L-17544 had to go to the BOA for a variance in order to slit the lot due to the average lot widths not meeting the RS-2 requirements. The applicant applied at the BOA and the variance was denied due to no hardship (Exhibit A-2).

Mr. Novick stated that the plat of survey that he has provided is accurate to two decimal places and he contends that his actual measurements are relevant in view of the fact that the Subdivision Regulations address legal description in terms of accurate dimensions to two decimal places. He addressed that the subject property is only off by inches where the precedent setting case was off two feet for each lot. He questioned the Planning Commission, as to where the line would be drawn requiring the lot width. There is a line drawn and the Planning Commission should stick to that line and if the lot-split is to be approved, then it should be done by going to the BOA and obtaining a variance based on the criteria that are established.

Mr. Novick requested that the lot-split be denied. Alternatively, he would request that the matter be remanded to staff for further investigation on these measurements. It was clear that the INCOG staff had prior notice of some substantial doubt as to whether or not this lot-split would conform to the underlying RS-2 zoning. It is his position that there were violations of the Subdivision Regulations in approving this lot-split at the staff level. He stated that the application for the lot-split failed to state an average lot width in the application. The application inaccurately stated the frontage on the subject property and the scale drawing that was submitted with the application failed to show the existing building and the distances from lot lines that existed on the subject property at the time the application was filed, even though that building has since been torn down.

Mr. Novick stated that there are two more issues that he would like to mention. He explained that he had attempted to begin some negotiations with Rockford Road to purchase the subject lot. He indicated that two weeks ago there had been an offer to the neighborhood from Mr. Enterline to purchase the lot. It was not clear at that time whether the offer was for the purchase of the subject lot alone or two lots. It was clarified this morning that Mr. Enterline would entertain a proposal for the purchase of the subject property alone. He would like to have the opportunity to pursue that avenue. If the lot-split is ratified today, then in order to achieve the neighborhood's objective, they would have to come back and file an application for a lot-combination and an application to have the property rezoned RS-1 (if they were to purchase the subject property from Mr. Enterline). Mr. Novick stated that this application was put off until the City Council has a chance to review the rezoning decision of two weeks ago, because they have the ability to send it back to the Planning Commission and include the subject lot in the down-zoning application.

Mr. Bernard asked if there is anyone present who can address the selling of the lot to the neighborhood.

**Nick Enterline**, 1511 East 35<sup>th</sup> Street, 74105, stated that he made that offer prior to the first hearing with a date certain of the date prior to the hearing. The offer was rejected by Ms. Southmayd and it is no longer on the table. Mr. Enterline stated that he would like to continue with this application.

Mr. Novick stated that he is conversation was with Mr. Hardcastle this morning regarding the purchase of the subject property.

Mr. Novick believes it was legal error for the Planning Commission to exclude the subject property from the down-zoning application. The relevance to the lot-split is that first it was legal error because there are many cases that find that restrictive covenants serve as an equitable servitude on property. There are restrictive covenants at play. Because this property is subject to a restrictive covenant and others on the street are empowered to enforce those restrictive covenants by an action in equity in the District Court for an injunction. Mr. Novick indicated that his clients did have a very limited equitable interest in the subject property to the extent of enforcing the equitable servitude on that property on the principle of one lot and one house. He informed the Planning Commission that this is the issue he will present to the City Council on the rezoning matter comes up. It is possible; his understanding of the Zoning Code, the City Council could determine that the subject property should have been included in the down-zoning. If this happens, then he could be back before the Planning Commission for another hearing to determine if RS-1 zoning would be applied to all of the properties on the street. If that is ultimately supported by the City Council, then the lot-split clearly could not happen because with RS-1 zoning there would have to be 100 feet of lot width. Ratification is premature until the City Council has had an opportunity to act on RS-1 down-zoning case.

Mr. Novick requested the Planning Commission to apply the rules as they exist today and if they are applied then this lot-split can't be ratified because it does not have the requisite lot width.

**TMAPC COMMENTS:**

Mr. Jackson stated that the Planning Commission doesn't take covenants into consideration, but since Mr. Novick has brought it up, he asked if the covenants are alive today. In response, Mr. Novick stated that in his opinion they are.

Mr. Jackson asked Mr. Boulden if the covenants been reissued. In response, Mr. Boulden stated that he doesn't have any information to act upon or give advice on whether the covenants are valid today. Mr. Boulden further stated that he can only advise the Planning Commission that they do not have a legal equitable interest in the property that Mr. Novick has discussed, and therefore they cannot apply to rezone someone else's property.

Mr. Jackson stated that the subject property is platted at 150 feet in lot width and evidently Mr. Novick had a survey performed that shows a 149.67 feet or three inches off. Mr. Jackson asked Mr. Novick if he looked at this further to see where the actual homesite was and how many square feet of area is being discussed. Mr. Novick stated that it is a square. Mr. Jackson asked Mr. Novick if he did the calculations to see how many square feet there are. In response, Mr. Novick stated that he does not know how many square feet unless it is shown on the survey.

Mr. Jackson stated that there have been issues before where residents hold out and are not volunteering to be rezoned with the rest of the neighborhood. Recently, in the CBD, there were several who didn't want to change their zoning. Mr. Jackson asked staff how these holdouts exist in these situations. In response, Ms. Matthews stated that they exist with the zoning that they have. Ms. Matthews stated that there are several neighborhoods that have asked to be rezoned from multifamily to single-family, and for various reasons, several property owners wanted to opt out and the Planning Commission voted that they not be included. Ms. Matthews explained that sometimes there are property owners who never respond to the letters for rezoning and the Planning Commission voted to include them.

Mr. Jackson asked Mr. Novick when he initiated the rezoning from RS-2 to RS-1 what the subject lot's position was at that time. In response, Mr. Novick stated that he doesn't know what their position was at the time of the application because they didn't own the property yet. Mr. Jackson asked if the existing owner signed the rezoning petition. Mr. Novick stated that he is not sure what Mr. Jackson is asking.

Mr. Jackson stated that he is trying to have everything transparent. In response, Mr. Novick stated that in the application every resident property owner on the street signed and supported the application. The only opposition to the application came from Mr. Enterline who owns two lots, the subject property and the other lot is a lot that has occurred from a 1959 lot-split. He did not consent to the rezoning and his lawyer sent a letter to that affect to INCOG. On the basis of that letter the Planning Commission voted to exclude consideration of his property from the rezoning application, notwithstanding the fact that he presented three prior cases to the Planning Commission in which rezoning applications for down-zoning were granted over the specific objection of resident homeowners. One such case was the down-zoning by the Philbrook area that went to District Court. Mr. Novick cited the case and its history.

Mr. Jackson stated that it has been his experience on the Planning Commission that property owners who wish to be left out have been left out in the past. He doesn't know what Mr. Novick is speaking to, but usually they are left out. Mr. Jackson asked Ms. Southmayd to come forward.

**Patty Southmayd**, 2251 East 38<sup>th</sup> Street, 74105, stated that at the time that the residents made the application, which all happened in a very quick manner, the homeowners of lot Mr. Enterline had purchased had relocated to Houston and put their house on the market. She tried to contact the property owners on several occasions and they didn't return her phone calls. The residents elected, because of the time consideration, to proceed with the application.

Mr. Jackson stated that he was trying to find out if the original owners of the subject lot had agreed to the down-zoning and then when Mr. Enterline purchased the property he disagreed, but Ms. Southmayd has indicated that the original owners didn't inform the residents either way regarding the zoning.

**Mr. Collins out at 3:00 p.m.**

Mr. Wofford stated that he has a question for Mr. Novick.

Mr. Novick interrupted Mr. Wofford to respond to Mr. Jackson's last question. Mr. Novick stated that he subsequently learned that when the existing property owners sold to Mr. Enterline, Mr. Enterline had them sign some sort of confidentiality agreement and he suspects that is the reason they didn't return the phone calls.

Mr. Wofford asked Mr. Novick to reiterate his timeline. In response, Mr. Novick stated that the application to rezone from RS-2 to RS-1 was made on June 20, 2006. Rockford Road, LLC **closed** on the subject property on July 7, 2006. The subject lot-split was applied for on July 17, 2006. The rezoning hearing was held August 2, 2006 and information regarding the questionable lot width was provided to INCOG on August 3, 2006. INCOG staff approved the lot-split on August 4, 2006.

Mr. Ard stated that he appreciates Mr. Novick's comments regarding the rezoning, but it has already been voted on and the Planning Commission needs to move forward. What is before the Planning Commission is whether or not to approve the lot-split and to see if Mr. Levinson, if he is still present, would have a response. He doesn't think it serves any purpose to rehash the entire case over again.

Mr. Ard asked staff if there is a difference when looking at the regulations between the platted width and the field measurements, and if so, which takes precedence.

Mr. Boulden stated that traditionally staff can only rely upon the records before them and so they rely on the platted width. It is a rare occasion that someone comes in and challenges the platted width. As a practical matter, if the Planning Commission believes there is a question as whether or not the platted width is

correct, then they should consider that in determining whether to ratify the subject lot-split approval.

Mr. Ard asked if there is a field measurement that does not agree with staff's understanding of width of the lot as it is platted, then that would be grounds for continuing this until staff can review it.

Mr. Boulden stated that the Planning Commission's options are as follows: 1) the lot-split could be ratified; 2) waive the Subdivision Regulations and have a full review by the Planning Commission of this lot-split, which he would assume would be done on a different date and everyone prepared to present all of the facts, or 3) continue this matter one week and see if this can be resolved by staff without having to go to a full hearing.

Mr. Ard asked Mr. Novick if a week would be enough time to review the new information or is he requesting that it be sent back to staff for reconsideration and not come back to the Planning Commission until the City Council has a chance to review it. In response, Mr. Novick stated that he would prefer that this was put off until the City Council acts on the rezoning, but if the Planning Commission is not inclined to do that, then he would prefer two weeks and not one week for continuance since he will be out of town.

Ms. Matthews stated that the next meeting this could be heard would be September 6, 2006.

**INTERESTED PARTIES:**

**Patty Southmayd**, 2251 East 38<sup>th</sup> Street, 74105, stated that when negotiations were being made on the subject property it wasn't directly with her, but with the Peaceful Terwilliger HOA. She stated that Mr. Novick has provided some very accurate and compelling reasons as to why TMAPC should reconsider the 38<sup>th</sup> Street lot-split. She requested that the lot-split application be denied. The neighborhood prefers one home on one lot as originally platted and not two houses on two smaller lots. The HOA is not opposed to developers or development, but are objecting to this particular lot as completely and unnecessary and detrimental to the property values of the street.

**Melissa Waller**, 2226 East 38<sup>th</sup> Street, 74105, stated that evidence has been provided to the Planning Commission that two new resulting lots cannot be created from this lot-split that are 75' each. Therefore, they will be nonconforming and do not meet the zoning requirements. This should require a variance because there are not two 75' lots that can be created from the evidence provided today.

**Applicant's Rebuttal:**

**Nick Enterline**, 1511 East 35<sup>th</sup> Street, 74105, stated that he would like to see the survey that was provided to the Planning Commission because he hasn't seen it.

He further stated that these are the same arguments that were made at the last hearing.

Mr. Bernard asked Mr. Enterline if he would oppose to staff's further review and continue this to September 6, 2006. In response, Mr. Enterline stated that staff has already reviewed this application and recommended approval and have recommended approval again today. He believes that this should be approved and goes to the next level, which will probably be District Court. He is prepared to go to Court if necessary.

Mr. Ard asked Mr. Enterline if he had a survey. In response, Mr. Enterline stated that he doesn't have a current survey. He further stated that he relied on the plat like anyone would. He explained that the subject property was platted and pinned when they used chains. Mr. Enterline pointed out that the submitted survey from Mr. Novick is not a plat, but a plat of survey or a drive-by. He explained that they don't check anything or tie it in and this type of survey would be used for financial reasons (mortgage). He stated that one can't rely on three-inches from this type of survey. He stated that they only found two pins that are not the same size and no pins found in front or back.

Ms. Bayles asked staff if the lot-split application meets the requirements that are typically and normally done. In response, Ms. Chronister stated that the plat of survey or plot plan that was submitted at the time of application provided two lots that stated they were 75 feet wide and staff did pull the plat and it was platted at 150 feet. Ms. Chronister further stated that she did hear complaints that the survey was not 150 feet, but staff never received anything in person or written. The application, at the time it was presented, and review of the plat indicated that all the requirements are met for this lot-split.

Ms. Bayles stated that both parties have stated that this case will be challenged at some point and it meets our requirements. She believes that staff has advised the Planning Commission in the past that if it meets the requirements it should be moved forward for approval.

Ms. Bayles moved to ratify L-19982 and Mr. Midget seconded.

Mr. Bernard informed Mr. Novick that the Planning Commission is in review now.

Mr. Novick stated that there has been untruth told and it needs to be corrected.

Mr. Bernard was interrupted by Mr. Novick stating that the truth does matter and it needs to be heard.

Mr. Bernard informed Mr. Novick he is out of order.

Mr. Novick continued to speak to the Planning Commission while out of order.

Mr. Bernard informed Mr. Novick that he was out of order two additional times.

Mr. Novick continued by stating that if the Planning Commission approves this lot-split then it is out order.

Mr. Harmon stated that he believes that the Planning Commission has made prior decisions based on information that was reliably presented and it was appropriate to approve then and he believes that ratification is appropriate at this point.

Mr. Bernard stated that earlier he was interrupted and didn't finish his statement. He wasn't trying to say that the truth isn't important, but what he was trying to say was that the point Mr. Novick was trying to bring up was not an issue and germane to the decision and the motion that is on the table now. The Planning Commission is making their decision based on staff recommendation and the information that staff has provided and based on that information there is a motion and a second.

Ms. Cantees stated that she has had ex parte communication.

Mr. Ard stated that there is a possibility that there is a survey that hasn't been seen by staff yet (reliable or not) and he believes it would behoove staff to take a week or until the next meeting to review new information and decide if it is valid.

Mr. Wofford concurred with Mr. Ard.

Mr. Midget asked Ms. Chronister if she had had the survey prior to today's meeting, would staff have taken it into consideration in the review or still use the plat information that is on file. In response, Ms. Chronister stated that she believes that staff would have reviewed it. She indicated that she consulted the original plat and another thing to take into consideration is the number of pins. She explained that another surveyor told her that five different surveyors could survey the same land and all would have different distances, etc. She commented that there have been occasions where she has a field measurement and the platted measurements were different.

Ms. Cantrell stated that there is no harm in reviewing the information and if it comes back stating that it is an incorrect survey, then the Planning Commission could approve it at that point.

Mr. Jackson stated that there is only one true pin and had a 1 ¼ pipe and the original surveyor didn't stick a 1 ¼ pipe in the ground. There were no back pins. White Surveying probably didn't close the whole subdivision and get the survey to close. Mr. Enterline is going to complain that the survey is invalid and staff

can't make that judgment because if they received two more surveys they could come in with totally different numbers.

Mr. Carnes stated that he is in favor of the motion and the reason he is in favor of the motion is because the Planning Commission is not supposed to be lawyers and nor is staff. The Planning Commission depends on the recorded plats and that is what lot-splits have gone by in the past. He backs staff on the proceedings that they have done.

Mr. Harmon stated that he agrees with the comments regarding various surveyors and having different figures each time it is surveyed. He has seen this happen. If the recorded plat states that it is a 150-foot lot then it is. If this was taken from the original survey when the street was laid-out then he can guarantee that the lot measured 150 feet. One cannot survey just one lot and prove it is 150 feet; the surveyor would have to go back to a central starting point and resurvey the whole subdivision.

Mr. Midget stated that his issue comes with staff saying that if they had had this information in front of them they would have reviewed it. He would like staff to have the opportunity to look at the survey. It doesn't necessarily change his mind because this is a matter of a few inches.

Ms. Matthews confirmed that if the survey had been submitted at the time of the application, then staff would have reviewed it.

In response to Mr. Bernard, Ms. Matthews stated that any more time is fine with staff and they will review the second survey.

Ms. Bayles asked Mr. Boulden to comment on questions of staff.

Mr. Boulden stated that he believes it is a good idea for staff to consider new information. He further stated that either way, he believes that this will be in District Court. It is appropriate to review the new information.

Ms. Bayles withdrew her motion. Mr. Midget withdrew his second.

Ms. Bayles moved to continue L-19982 to September 6, 2006, Mr. Carnes seconded.

Mr. Harmon asked staff if traditionally they rely on the plat. In response, Mr. Boulden stated that he believes that they do and that is usually the only information they have at the time, unless a metes and bounds description is submitted.

Mr. Harmon stated that the recorded plat is what has been used previously and now the plat is not good enough. He disagrees with this and believes that the recorded plat is sufficient.

Ms. Matthews commented that many people have stated that anyone can go out and measure the property and come up with completely different measurements and the plat is the best information that staff has to go by.

Mr. Harmon stated that the plat is of record and if it states the subject property is 150 feet, then it is 150 feet.

Ms. Bayles moved to ratify all the lot-splits except for L-19982 and moved to continue L-19982 to 9/6/06.

Mr. Carnes stated that he would second these two motions; however, when the lot-split comes back he will stand on the fact that the Planning Commission should stay with what we have done all the time with the recorded plats and not force everyone to spend money to get a survey of an entire area. That was not the intent of this law and he still stands by staff that using the recorded plat was correct.

**TMAPC Action; 10 members present:**

On **MOTION** of **BAYLES** the TMAPC voted **10-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Carnes, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Collins "absent") to **RATIFY** these lot-splits given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff except lot-split L-19982.

**TMAPC Action; 10 members present:**

On **MOTION** of **BAYLES**, TMAPC voted **9-1-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Carnes, Jackson, Midget, Wofford "aye"; Harmon "nay"; none "abstaining"; Collins "absent") to **CONTINUE** the L-19982 to September 6, 2006.

Ms. Bayles reminded Mr. Bernard that the Planning Commission spent an hour and half going over lot-splits ratifications and she would like to think that the discussion on September 6, 2006 would be abbreviated.

Mr. Bernard strongly encouraged the parties to see if there is some way to resolve this prior to the next meeting, because he is sure that the Planning Commission and the Legal Department would appreciate it.

\* \* \* \* \*

**Mr. Carnes out at 3:30 p.m.**

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

**LC-26 – Jeff Andrews** (9431) (PD 18) (CD 5)

5401 South Mingo

**LC-27 – Paul Celick** (9233) (PD 8) (CD 2)

4132 West 57<sup>th</sup> Place

**LC-28 – David Charney** (0222) (PD 11) (CD 1)

2302 West 30<sup>th</sup> Street North

**STAFF RECOMMENDATION:**

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON** the TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **RATIFY** these lot-combinations given prior approval, finding them in accordance with Subdivision Regulations as recommended by staff.

\*\*\*\*\*

**PLAT WAIVERS:**

**BOA- 20317 – (8321)** (PD-18 B) (CD-8)

4300 East 91<sup>st</sup> Street

**STAFF RECOMMENDATION:**

The platting requirement was triggered by BOA-20317, which permitted a cell tower in an AG zoning district.

It is the TMAPC's policy to waive the platting requirement for antennas and supporting structures under Use Unit 4, Public Protection and Utility Facilities.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the plat waiver for BOA-20317 per staff recommendation.

\* \* \* \* \*

**BOA 20246/Z-7021 – (9431)**

(PD 18) (CD 6)

5705 South 107<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

The platting requirement is being triggered by a rezoning to IL.

***Staff provides the following information from TAC at their August 3, 2006 meeting:***

**ZONING:**

TMAPC Staff: The plat waiver is for property zoned IL.

**STREETS:**

Subdivision regulations require sidewalks. On question # 3 the adjacent property does not readily describe the location of the property based on the complexity of the legal with various "less and except". On question # 4 an additional five feet of right-of-way for 107<sup>th</sup> East Avenue (classified as an Industrial Street) is required for a total of 30 feet on the east side.

**SEWER:**

Sanitary sewer service is available and no additional easement is required.

**WATER:**

A ten-inch water main exists along East 73<sup>rd</sup> Street South.

**STORM DRAINAGE:**

No comment.

**FIRE:**

The east building will be required to be sprinkled per IBC section 903.2.8.

Where a portion of a facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official. Exceptions: The distance requirement shall be 600 feet for

Group R-3 and Group U occupancies. The distance requirement shall be 600 feet for buildings equipped throughout with an approved automatic fire sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. Exceptions: The fire code official is authorized to increase the dimension of 150 feet when: The building is equipped throughout with an approved automatic fire sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of fire protection is provided. There are not more than two Group R-3 or Group U occupancies. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet six inches. The required turning radius of a fire apparatus access road shall be determined by the fire code official. Fire apparatus access roads shall have a minimum of 48 feet of outside turning radius.

**UTILITIES:**

No comment.

Staff can recommend **APPROVAL** of the plat waiver requested per the TAC comments because of the existing plat for the site.

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

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

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

- |  | YES | NO |
|--|-----|----|
| 4. Is right-of-way dedication required to comply with Major Street and Highway Plan?                   | X   |    |
| 5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived? |     | X  |

6. Infrastructure requirements:
  - a) Water
    - i. Is a main line water extension required? X
    - ii. Is an internal system or fire line required? X
    - iii. Are additional easements required? X
  - b) Sanitary Sewer
    - i. Is a main line extension required? X
    - ii. Is an internal system required? X
    - iii. Are additional easements required? X
  - c) Storm Sewer
    - i. Is a P.F.P.I. required? X
    - ii. Is an Overland Drainage Easement required? X
    - iii. Is on site detention required? X
    - iv. Are additional easements required? X
7. Floodplain
  - a) Does the property contain a City of Tulsa (Regulatory) Floodplain? X
  - b) Does the property contain a F.E.M.A. (Federal) Floodplain? X
8. Change of Access
  - a) Are revisions to existing access locations necessary? X
9. Is the property in a P.U.D.? X
  - a) If yes, was plat recorded for the original P.U.D.
10. Is this a Major Amendment to a P.U.D.? X
  - a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?
11. Are mutual access easements needed to assure adequate access to the site? X
12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? X

**\* Applicant has agreed to right-of-way dedication and this will likely have been received before the TMAPC meeting.**

**TMAPC COMMENTS:**

Mr. Harmon asked staff if the property not being adequately described does not create a problem. In response, Ms. Chronister stated that she believes that it is the adjacent property that is not adequately described. Mr. Harmon stated that staff's form states that property is not adequately described by surrounding platted properties or street right-of-way. Ms. Chronister stated that Diane Fernandez is on vacation and she is the one who reviews this.

Ms. Matthews suggested that this be sent back to staff for one week so that Mrs. Fernandez can respond to it.

Mr. Bernard stated that there is an error in the packet and page 7.6 does not refer to this item.

**Applicant's Comments:**

**Brad McMains**, Hunter Construction Company, 10051 South Yale, Suite 200, 74137, asked the Planning Commission if they have a question.

Mr. Harmon stated that if the property is not properly described, then perhaps this needs more review and a continuance would be in order.

Mr. McMains stated that he attend the TAC meeting on August 3, 2006.

**Darryl French**, Traffic Engineering, 200 Civic Center, representing TAC, stated that this issue was brought up in the written response by TAC. The original lot has had many modifications over the years and the corners have been cut off. TAC is just trying to respond to the technical question on the questionnaire that it is not clean-cut. Technically there is a reasonable description of the surrounding property, but there are many "less and except" in the complex description. He concluded that TAC wanted to lay this out for the Planning Commission and then let the Planning Commission determine if the plat waiver should be approved.

Mr. Harmon asked if the easements and rights-of-way could be affected by this. Mr. Harmon asked if the property boundary is not identified, how does anyone know how far to build a building from the property line. In response, Mr. French stated that this is part of the purpose of visually replatting a piece of property and that why this is in front of the Planning Commission.

Mr. Midget stated that it sounds like it was adequately described, but not exactly described from what Mr. French is stating. Mr. French stated that the surrounding properties are the next lot and no it is not adequately described because there are a lot of "less and except" descriptions and the easy ones are nice rectangular lots.

Mr. Jackson asked Mr. French, with his expertise level, if he can understand the legal description. In response, Mr. French answered affirmatively.

Mr. McMains stated that he doesn't know where to go next, because the legal description was adequate enough last July to apply for rezoning and it was rezoned from RS-3 to IL. He was directed that he would need to apply for a plat waiver and he has done so and he doesn't follow why now the description is inadequate.

Mr. Harmon suggested a continuance and let staff look this over again.

Mr. Bernard asked staff if they understood what the boundaries for the subject property are. In response, Ms. Matthews answered affirmatively.

Mr. Bernard asked if there is any information that staff needs that they do not have that could be acquired to give warm and fuzzy feelings.

Ms. Matthews informed the Planning Commission that there is a footnote that the applicant has agreed to right-of-way dedication and perhaps this footnote was added thinking that the legal would be straightened out once that dedication is made. The footnote indicated that this information would probably be received before the TMAPC meeting.

Mr. McMMain stated that the right-of-way dedication has not been addressed.

Ms. Bayles asked why this was brought forward to this meeting and not noted as a continuance. The Planning Commission doesn't have the information to make an appropriate and reasonable judgment.

Mr. McMMain stated that he doesn't know why this is being required and he doesn't know why he is being required to put in a five-foot sidewalk when there is no sidewalk on any of 170<sup>th</sup> East Avenue.

Mr. Jackson stated that the sidewalks are a whole different discussion. He informed Mr. McMMain that he will put the sidewalk in because that is the rules today.

Mr. McMMain asked where he gets the answers as far as where that is defined. Mr. Jackson stated that hopefully the adjacent property will put their sidewalk in soon, but for now Mr. McMMain will be putting his sidewalk in.

Mr. Jackson stated that on the right-of-way dedications staff reviews the verbiage and then it goes to Legal, before the applicant receives his final stamps from Mrs. Fernandez.

Mr. Harmon suggested that a continuance would be best for this application and let staff do further review.

Mr. Wofford asked Mr. McMMain if he has discussed the easements with anyone. In response, Mr. McMMain stated that he has talked with John at the permit center and he has given him the information needed to get the legal information to them so that they can take it to their legal counsel. Mr. McMMain explained that he wasn't told that this is necessary to have ready for today.

Mr. Wofford stated that the Planning Commission tries to have a complete file before them before deciding on an application. Mr. McMMain asked if he has to have the other two requirements ready (drawings, etc.) as well.

Mr. Midget stated that he doesn't believe the applicant has to have drawings for the sidewalks ready by the next meeting, but he should be prepared to have something showing the sidewalks because they will be required.

Ms. Cantees asked the applicant if he has agreed to the right-of-way dedication. In response, Mr. McMain answered affirmatively. Ms. Cantees asked Mr. McMain if he has agreed to the right-of-way dedication even though he doesn't know what it is. In response, Mr. McMain stated that he has agreed verbally.

Mr. Jackson stated that for everyone to understand, TAC tells the applicant that they would like him to dedicate right-of-way of frontage and then it is his responsibility to go to his surveyor to provide him the verbiage. The applicant has been informed and before he can move forward in his building process he must get that done.

Ms. Cantees stated that she understands, but the Planning Commission doesn't have the documents that it stated we would have.

Mr. Jackson stated that even though the Planning Commission may approve this, the applicant doesn't get a sheet of paper that says yes until he meets all of the requirements. He has to meet all of the requirements, not just the right-of-way dedication.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **CONTINUE** the plat waiver for BOA-20246/Z-7021 to September 6, 2006.

\* \* \* \* \*

**FINAL PLAT:**

**Warren Cat –** (0417)

(PD 16) (CD 5)

Northeast corner of East 36<sup>th</sup> Street North and US 169

**Applicant's Comments:**

This plat consists of one lot in one block on 35.7 acres.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Jackson, Harmon, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the final plat for Warren Cat per staff recommendation.

\* \* \* \* \*

**Pine Street Park – (0431)**

(PD 16) (CD 6)

South side of East Pine Street, between Mingo Road and Garnett Road

**STAFF RECOMMENDATION:**

This plat consists of 16 lots in two blocks on 21.23 acres.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the final plat for Pine Street Park per staff recommendation.

\* \* \* \* \*

**Ms. Bayles announced that she has had ex parte communication on the following item.**

**Application No.: CZ-381**

**AG to IL**

**Applicant:** Spradling & Associates, Inc.

(County)

**Location:** South of southeast corner of West 51<sup>st</sup> Street and South 65<sup>th</sup> West Avenue

**STAFF RECOMMENDATION:**

**CZ-327 August 2003:** All concurred in approval of a request to rezone a 13.534+ acre tract from IR to IL located on the northwest corner of South 49<sup>th</sup> West Avenue and West 46<sup>th</sup> Street South.

**CZ-157 February 1987:** A request to rezone a 73.5 acre tract from AG to IL for industrial uses was recommended for denial by staff; however the TMAPC recommended to approve the request except for a 125' buffer on the eastern and southern boundary of Jane Addams School, which shall remain zoned AG; the 125' buffer is known as the subject property in question. The County Commission approved the request per the TMAPC recommendation.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 4.15± acres in size and is located south of southwest corner of West 51<sup>st</sup> Street and South 65<sup>th</sup> West Avenue. The property is vacant and is zoned AG. It lies adjacent to a school property on the north and west.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South 65 <sup>th</sup> Avenue West	Secondary Arterial	100'	2 lanes

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

**SURROUNDING AREA:** The subject tract (an L-shaped lot) is abutted on the east by vacant land, zoned IL; on the north by vacant land, zoned AG; on the south by industrial uses, zoned IL and on the west and north by Jane Addams School, zoned RS. West of South 65<sup>th</sup> West Avenue are single-family residential uses, zoned RS in the County.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 9 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as low intensity. According to the Zoning Matrix, the requested IL **is not** in accord with the Plan.

**STAFF RECOMMENDATION:**

This property was approved in 1987 as a (125') buffer surrounding Jane Addams School and was retained as AG zoning. That school continues to serve as a viable facility and staff can see no reason for this buffer to not remain in place. The larger Polson Industrial Park, of which this property is a part, is the subject of a preliminary subdivision plat. Staff can see no reason for not retaining the AG zoning on this property as a protection for the Jane Addams School. Therefore, staff recommends **denial** of the requested IL zoning for CZ-381

**Applicant's Comments:**

**David Washington**, Spradling Associates Engineering, 8556 East 101<sup>st</sup> Street, Tulsa, Oklahoma 74133, stated that he filed this application according to what he informed INCOG he needed and was told to file. He indicated that staff told him that he could "possibly" get rezoning for the subject tract.

**David Polson**, 11933 East 510 Road, Claremore, Oklahoma 74017, stated that initially he talked to the engineering company about the school and was sensitive to that. He has a 65-acre preliminary plat proposed and it will be close to the school. There are 330 feet of road frontage and a portion of the land is involved in that. Mr. Polson stated that he wanted to have the least amount of impact as possible around the school and he would like to make the lots one acre in size. The engineer talked to INCOG staff and they informed him if he wanted to go with that small a lot near the school, he would have to have the strip of AG rezoned to IL and if the AG remained it would require two-acre lots. Mr. Polson decided to request the IL zoning in order to have the one-acre lots. He understands the buffer zone between the school and the existing IL, but he is proposing small lots and there would be approximately 20 lots available. Some would only be offices and warehouses or distribution, which would be low-impact and place these near the school. He commented that he could make the lots larger on the AG portion and would be a larger impact on the school. Mr. Polson stated that if seems that staff has changed their minds regarding the rezoning request.

#### **TMAPC COMMENTS:**

Mr. Midget stated that he is glad that Mr. Polson clarified that staff gave him advice to help him do what he said he wanted to do. Staff was not saying that they would recommend it or anything. Mr. Polson probably asked staff how he could achieve his goal and they advised him what he had to do, but it doesn't mean that they have changed their minds because they didn't give Mr. Polson an opinion. Mr. Midget explained that staff and TMAPC get blamed for a lot of things and he tries to minimize that as much as possible.

Mr. Bernard asked Mr. Polson if he is the original owner of the subject property. In response, Mr. Polson stated that he assembled three tracts of land last year.

Mr. Bernard asked Mr. Polson if anyone told him about the buffer that was created for the school. In response, Mr. Polson stated that when he purchased the subject property he saw a zoning map and saw the AG property and assumed that it was a buffer zone around the school.

#### **INTERESTED PARTIES:**

**Pamela Roland**, 4223 South 27<sup>th</sup> West Avenue, 74107, stated that she volunteers at the school and she doesn't believe the buffer should be rezoned. She further stated that she isn't happy with the road running next to the school as the plat indicates. The school has been working on an education initiative for all of West Tulsa, which includes environmental and horticultural studies. The students and school have been working on a short-grass prairie theme for their contribution to this study. Truck traffic through the subject area will distract the kids from their studies and run wildlife off that the school is trying to entice to the school. Currently, wildlife is abundant in the subject area.

Ms. Roland described the school as a community school serving a small portion called Oakhurst. There are 1067 homes with 28% of the children under the age of 18. There is a walk-zone for the kids to walk from Oakhurst to the school in a safe manner. The County has maintained the walk-zone for the kids. The proposed road in the plat will cross over the walk-zone. The proposed road will also be 50 feet from the school entrance and parking lot. Ms. Roland opposes this application due to safety issues and the potential for parents choosing another school for their children away from an industrial park.

**Carolyn Moore**, 5323 South 65<sup>th</sup> West Avenue, 74107, Principal of Jane Adams Elementary School, said the school has been on the subject property since 1960 and has always been a small school, which is the westernmost school in the Tulsa Public Schools. Ms. Moore cited the history and how the school serves the community.

Ms. Moore stated that she is concerned about her student's safety, since they walk to the school on a county road, and this proposal would create a lot of truck traffic. She requested that there be no entrance allowed onto 65<sup>th</sup> West Avenue by the school. If the applicant and the school could work together, she believes that they could come up with a plan that would work for the school. Ms. Moore explained that her job is to be a good steward of the school and the students and that is why she is opposed to the rezoning.

Ms. Moore explained that the school is in a true feeder pattern and because of this she was able to get extra funding to enhance some of the programs at the school. Part of the funding was for a Horticulturist who would be divided among the seven schools. Each school has a project and her school has the short-grass prairie. The buffer zone would be a good place to put the short-grass prairie project and it could help with drainage for Mr. Polson's project. It would best for the school to leave the buffer as it was originally set up to protect the school and work together to develop any industry that goes behind the school. She doesn't want any noise or air pollution that could harm her students. Ms. Moore stated that there are several letters opposing the rezoning (Exhibit D-1). There is a Planning committee in Southwest Tulsa, which is a Tulsa Urban Development Department project for Southwest Tulsa and has been meeting for approximately two years to make plans. This plan is to increase housing and enrollment in all of the schools and provide services in a true feeder pattern that would enhance education in Southwest Tulsa. This project will be detrimental to what is already in place.

Ms. Moore cited the improvements that the area has experienced and will experience due to bond money. Because there has been bond money poured into this school, she doesn't want anything to take students away from the school because parents believe there is an unsafe situation.

**TMAPC COMMENTS:**

Mr. Bernard asked if anyone from the school has had conversation with the developer. In response, Ms. Moore stated that she did have a meeting with Mr. Polson.

Ms. Matthews informed Ms. Moore that she can access the County Zoning Code on the INCOG website and see what is allowed in IL zoning.

Ms. Matthews stated that Tulsa Public Schools was notified about the rezoning application; however, the tax records show the mailing address at the New Haven office for Tulsa Public Schools and it is their responsibility to see that these things are disseminated to the schools that are affected.

**INTERESTED PARTIES:**

**Kay Price**, 5815 South 31 West Avenue, 74107, submitted photographs (Exhibit D-1) and cited the history of the subject area and surrounding areas. Ms. Price stated that she is opposed to the rezoning and requested that it be denied.

**TMAPC COMMENTS:**

Mr. Midget stated that there are several more speakers wanting to speak and there is a related item on the agenda for this. The issue right now is the buffer around the school. If any of the remaining speakers on this buffer around the school are not coming to support the buffer (against rezoning the buffer) then he would like to move to deny the IL zoning on CZ-381.

Mr. Midget moved to deny IL zoning on CZ-381 and was seconded by Mr. Harmon.

Mr. Bernard informed Mr. Midget that the applicant is due his rebuttal time first.

Mr. Midget removed his motion.

**Applicant's Rebuttal:**

Mr. Polson stated that there is sewer available and refineries are not allowed in IL or IM zoning. If the staff believes it is appropriate to keep the buffer zoning as AG then it would be fine with him. He thought he would be doing the school a favor by rezoning it and offering smaller lots. He understood when he purchased the property that the AG was a buffer zone for the school.

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to recommend **DENIAL** of the IL zoning for CZ-381 per staff recommendation.

**Related Item:**

**PRELIMINARY PLAT:**

**Polson Industrial Park – (9232)**

County

5555 South 65<sup>th</sup> West Avenue (north of northeast corner of West 56<sup>th</sup> Street South and 65<sup>th</sup> West Avenue) (Related to Item 17.)

**TMAPC COMMENTS:**

Ms. Matthews stated that she would think the applicant would need to rework his plat.

Mr. Polson stated that the only amendment he would need to do would be on the south edge with the first four lots, which are 1.17 acres each could be combined into two larger lots. He doesn't believe it is appropriate to have all of the truck traffic going past the school and he has been working with the Union Pacific Railroad to get a crossing at 49<sup>th</sup> West Avenue. He indicated that he has been working with the railroad on this issue for over a year and they still haven't resolved this issue. He has secured an easement to the north where the road dead-ends and will take the road to 51<sup>st</sup> Street. The County has scheduled a widening project for 51<sup>st</sup> Street in the next 12 months. He believes that 85 to 90 percent of his traffic will go straight to the north onto 51<sup>st</sup> Street.

Mr. Ard stated that the applicant will have to take this plat back and amend it and allow staff to review it. In response, Ms. Matthews concurred.

Mr. Ard asked Mr. Polson if there is any way to move West 56<sup>th</sup> Street to Lots 1 through 4 and get it as far away as possible from the school. In response, Mr. Polson indicated that he could do that, but he cited the various scenarios that would happen to impact the school.

Mr. Ard suggested that Mr. Polson meet with Ms. Moore and discuss the issues and try to come back with these issues resolved or agreed upon if possible.

Mr. Polson stated that he has met with a representative of Tulsa Public Schools, Jim Spears, and he indicated that they didn't have a problem with the proposal.

Mr. Ard stated that he appreciates that Mr. Polson has met with various people, but he believes another meeting with Ms. Moore would be a good next step.

Mr. Polson asked if combining the lots would create a major amendment that requires a review before coming back with a preliminary plat.

Ms. Matthews advised Mr. Polson to contact Diane Fernandez at INCOG to discuss these issues.

Ms. Bayles stated that Mr. Polson has been more than fair with the accommodation of the Planning Commission today. He has also mentioned that he needs some assistance with the railroad. She suggested Mr. Polson contact Bob LaBass with the Tulsa Public Schools Bond Facilities Projects Department, as well as with Principal Moore. She explained that the applicant has the opportunity, with a new superintendent coming in who she can guarantee does not want to see the theory of knowledge upset within this area and disrupting a student's ability to learn in anyway shape or form, their commitment to the appropriate redevelopment of this site will be tremendous, so please take advantage of contacting Mr. LaBass personally and see if there is some kind of assistance with regard to the railroad. She agrees that the Planning Commission will be more than flexible with the applicant in working out these issues outside of that 120-foot buffer.

Mr. Midget stated that he didn't want to raise Mr. Polson's hopes about the railroads because the City has dealt with the railroads and they are hard to deal with. Any other viable alternative Mr. Polson could work with would be best.

Mr. Polson stated that he looked into developing the subject property into residential. There is 145 acres and depending on the type of zoning there could be four or five lots per acre, which would be 600 to 800 lots and still the only access would be next to the school. That would more traffic with 600 to 800 homes than an industrial site with 20 businesses.

Ms. Matthews suggested that this be stricken from the agenda until Mr. Polson can return with a revised plat.

Ms. Moore agreed that Mr. Polson has been agreeable regarding this issue. She agreed that Mr. Polson should meet with Mr. LaBass and the Southwest Planning Group as well.

Mr. Midget suggested that anyone that should be at the meeting should attend.

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **CONTINUE** the preliminary plat for Polson Industrial Park to be reset at staff discretion.

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**Mingo Crossing – (2325)**

County

North of northwest corner of East 136<sup>th</sup> Street North and  
97<sup>th</sup> East Avenue (Mingo Road)

**STAFF RECOMMENDATION:**

This plat consists of 31 lots, two blocks, on 20.68 acres.

The following issues were discussed August 3, 2006 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned RE. A stub street should be shown to the north or south of the addition for future circulation/access.
2. **Streets:** The location map needs to be corrected: 136<sup>th</sup> East Avenue changed to East 136th Street North. Curve data is incomplete at returns on Mingo. Property description in heading and in covenants should be corrected to include part of the N/2. Subdivision regulations require sidewalks on all streets. Dimension the limits of no access along Mingo Road. Provide complete street names per the County.
3. **Sewer:** Out of Tulsa service area. Aerobic systems are proposed.
4. **Water:** Rural Water District Washington # 3 will serve the addition.
5. **Storm Drainage:** The County Engineer has some drainage concerns that will need to be taken care of to his specifications.
6. **Utilities: Telephone, PSO, ONG, Cable:** Twenty-foot easements will be necessary in some areas. Additional easements may be necessary.
7. **Other: Fire:** Outside of City Limits. Fire service must be established and send a letter of release before final plat approval.

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

**Waivers of Subdivision Regulations:**

1. A waiver to the sidewalk requirement and to the stub-street requirements are being requested.

**Special Conditions:**

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

**Standard Conditions:**

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

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

24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

**TMAPC COMMENTS:**

Mr. Harmon stated that the applicant is requesting a sidewalk waiver, which he is not willing to recommend. Mr. Harmon asked what the applicant is referencing regarding a stub street waiver. In response, Ms. Chronister stated that staff and the County Engineer are recommending a street along the northwest lots where the turnaround is located. The street should go up to the northern lot line/boundary line of the subject property and be stubbed for future extension of the street. She believes that the preference is to the north or south, but she believes they prefer the north.

Mr. Wofford asked if the stub street would be between Lots 12 and 13. In response, Ms. Chronister answered affirmatively.

Mr. Harmon asked if the applicant is objecting to the stub street. In response, Ms. Chronister stated that the applicant is requesting a waiver of the stub street. However, the County Engineer and staff recommend that this not be waived and that the stub street be required.

**Applicant's Comments:**

**Valerie Rogers**, Rogers Engineering, stated that she is requesting a waiver for the sidewalks because it is 2 ½ miles to the nearest store and 1 ½ miles to the nearest sidewalk in the subject area. A large part of this has already been developed through lot-splits without sidewalks.

Mr. Bernard asked Ms. Rogers if she is requesting a waiver for the stub street. In response, Ms. Rogers stated that she is requesting a waiver for the stub street, but if it is required, she would prefer to install the north stub street. The lots to the south are too narrow to put a road in the middle.

In response to Mr. Bernard, Ms. Rogers stated that she would like a waiver for the internal and external sidewalks. She explained that there are no sidewalks anywhere in the subject area.

In response to Mr. Jackson, Ms. Rogers stated that there are no typical sections and no room for sidewalks. Ms. Rogers further stated that it would be 26-foot wide paving, two-foot shoulders and then three-to-one side slopes on the borrow ditch, rounded bottom and three-to-one side slopes with the minimum two foot, which would take up the full 60 feet, and the question would be where would the sidewalks be located.

Mr. Harmon stated that it would be in the next three feet.

Mr. Jackson asked staff if they have looked into the sidewalk issue with the County. In response, Ms. Matthews stated that they have and the trails system as well.

Ms. Rogers stated that she has a letter from Tom Rains, County Engineer, and it indicates that he doesn't have any objections to there being no sidewalks.

**Brent Day**, 3202 Par Court, Claremore, OK 74017, stated that he owns the subject property and originally he had one entrance with three stubs coming off of it. He explained that he changed that after the zoning to allow for two entrances because it was more feasible to have two entrance and exit points. He is willing to do the stub if necessary. Mr. Day described the properties to the north and why he feels that the subdivision would look better without a stub street. Mr. Day reiterated that he would do the stub street if required, but he would prefer not to because he believes the appearance of the property would be better without it. He explained that he changed to two entrances in order to not have a stub street.

**TMAPC COMMENTS:**

Mr. Jackson asked Mr. Day what he would be stubbing into. In response, Mr. Day stated that to the north there is a farm house, pond and acreage behind it (approximately 20 acres). Mr. Jackson explained that a stub street is for future connectivity. Mr. Day stated that the 40 acres above the 20 acres has a connection on the west side that would take one all the way to the other side of the section (one mile).

**INTERESTED PARTIES:**

**James Fletcher**, 13808 North 97<sup>th</sup> East Avenue, Collinsville, Oklahoma 74021 stated that he is adjacent to the subject property. He expressed concerns with the plot plan that indicates 50-foot roads and they are supposed to be 60-foot. Mr. Fletcher commented that the applicant is stating that there are no sidewalks within 1 ½ miles and he would say that a couple of months ago he could have said that there is no residential subdivision within 1 ½ miles. The applicant knew what he would have to do regarding streets and sidewalks and now they want waivers. When he built his building, he had to meet all of the County regulations and have inspections. He indicated that there are drainage problems and if he ever takes out his pond, then the subject property is in for a storm. Everyone has voiced his concerns about this and it has fallen on deaf ears.

**Applicant's Rebuttal:**

Ms. Rogers stated that the 60-foot right-of-way is actually 50-foot right-of-way with the five-foot drainage easements on either side, so there is 60 feet total, which is what the County requires.

Ms. Rogers stated that sidewalk requirements in the County are very new and all of the subdivisions that her client studied did not have sidewalks nor were required to have. She understands that the sidewalk requirement is written in the Subdivision Regulations, but it is a fairly new change.

**TMAPC COMMENTS:**

Mr. Jackson stated that the developer will be required to install sidewalks along Mingo, but on the individual lots the individuals builders would have to put the sidewalks in. In response, Ms. Rogers stated that she understands that. Ms. Rogers further stated that she feels the sidewalk requirement is pointless when so much of the area is already developed without sidewalks. In response, Mr. Jackson stated that one day it will all have sidewalks. The developer doesn't have to do sanitary sewers and if they were in the City limits, they would have to run a dry sewer. Mr. Jackson reiterated that today, the applicant needs to worry about sidewalks along Mingo and let the individual builder worry about the sidewalk on their individual lots, which will probably be between the property line and the drainage easement.

Mr. Boulden asked Ms. Rogers if she would have any objections to dedicating the right-of-way for a stub street if it is waived. This would allow for the street to be there in the future. In response, Mr. Day stated that he doesn't know if that would work. It would affect the square footage of the houses.

Mr. Day cited the surrounding developments in other communities that do not have sidewalks. He explained that he went the necessary steps for the zoning and looked the Comprehensive Plan. He wouldn't have pursued purchasing the property if it didn't fit.

Mr. Jackson stated that he understands what Mr. Day is saying, but look at the sidewalks as being an amenity of the subdivision instead of a detriment. If someone is trying to use the sidewalks it will not go anywhere.

Mr. Harmon stated that today that would happen, but the next subdivision will have sidewalks.

Mr. Midget stated that this is planning for the future. He further stated that Mr. Day would be a pacesetter and set a standard for the future developments. People appreciate that a developer has the foresight to provide this type of amenities.

Mr. Day stated that he would only argue that he doesn't know when the sidewalks would be in place. If everyone else has to do it, then he wouldn't have a problem doing the same.

Mr. Bernard referenced the letter from the County Engineer that indicates that they hope the property to the north will develop because of this development. If

that happens, then there will be more need for sidewalks. Once this all continues developing and sidewalks are in, then it keeps moving forward.

Mr. Day stated that he doesn't know when the sidewalk issue went into effect, but if it went into effect on say August 8<sup>th</sup>, then everyone who had a plat on August 8<sup>th</sup> in the subject area approved is required to do sidewalks, then he would do the same. But if it is not, then he wouldn't be were happy about that.

Mr. Midget commented that Mr. Day could consider the sidewalks requirement for future plats done.

Mr. Harmon moved to approve the preliminary plat for Mingo Crossing, including the sidewalk requirements and a stub street to the north between Lots 12 and 13.

Ms. Bayles asked Mr. Harmon if he would include in the motion the fact that the preliminary plat that is shown in the packet, page 12.11 has been replaced with the plat showing the stub street on the northwest corner as submitted into the record today (Exhibit B-2).

Mr. Harmon answered affirmatively.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to recommend **APPROVAL** of the preliminary plat to include the sidewalk requirements and include the north stub street between Lots 12 and 13 per, subject to the revised plat showing the stub street on the northwest corner as submitted (Exhibit B-2) staff recommendation.

\* \* \* \* \*

**CONTINUED ZONING PUBLIC HEARING:**

**Consider proposed amendments to Title 42, Tulsa Revised Ordinances (Tulsa Zoning Code Text). (Sec. 400.A.3, 1800 change "churches" to "place of worship" and definition; and Sec. 1211.B, Appendix B and massage therapists to Use Unit 11 and definition.)**

**STAFF RECOMMENDATION:**

Mr. Boulden stated that the definition is before the Planning Commission that he drafted for these two items. He explained that he tried to focus on the use and not the person in drafting this definition and he suspects that the concern with the licensing requirement may have been tied to the fact that somehow it may be a sexually oriented business. This definition does not include any massage activity

that is governed by the sexually oriented business provision in Section 705 of the Zoning Code.

Mr. Bernard asked Mr. Boulden to read the definitions one at a time.

Mr. Boulden read the following definition for place of worship:

**Section 400.A.3 and Section 1800 Definitions: Place of Worship:** A facility or facilities used by persons to regularly assemble, attend, observe, participate in or hold religious services, meetings, rituals, and other related activities in reverence or veneration to a supernatural power, including but not limited to a church, chapel, mosque, synagogue, temple and similar facilities.

**TMAPC COMMENTS:**

Mr. Wofford asked if Buddhists believe in the supernatural. In response, Mr. Boulden indicated that he doesn't know for sure.

Ms. Bayles stated that she would prefer to move this for a continuance to next weeks meeting on August 23, 2006 in order to have the ability to frame what has been crafted and perhaps subject to revision at this point for public review.

Mr. Midget concurred.

Ms. Bayles stated that in fact if it needs to be further revised to take in Mr. Wofford's concern, which was raised originally when it was continued, that the definition would be very specific.

Mr. Boulden asked if someone has a suggestion, because he doesn't know anything about Buddhism or many other religions. He frankly doesn't believe a definition is needed and one could rely on the common and ordinary definition, which is in the dictionary.

Mr. Midget stated that he agrees with Mr. Boulden and when the phrase "and similar facilities" are included it makes it all inclusive. It would be difficult to include every specific religious group and one would be bound to miss someone. He does agree that this should be continued to allow the public to see it since it was not available until August 15, 2006.

Mr. Boulden stated that similar facilities are intended to catch all types of religions. The list of items are of similar in nature, but not intended to be all inclusive.

Mr. Ard asked Mr. Boulden if he looked into other city's zoning codes to see if they have something similar. In response, Mr. Boulden stated that he did look into North Shore City, Michigan, Virginia and Indiana municipalities.

Mr. Wofford stated that he is fine with this if “and similar facilities” catches it.

Mr. Bernard asked if everyone is fine with this wording before it goes out for review. In response, the Planning Commission indicated that they were in agreement.

Mr. Boulden stated that he looked at other municipalities and he can list those for them and he also looked at the Tulsa Ordinance that regulates licensed massage therapist.

**Section 1211.B and Appendix B: Massage Therapy:** The manipulation of soft or connective tissues of the human body to alleviate pain, enhance circulation, improve joint mobilization, relieve stress and muscle tension, promote general relaxation, or instill a general sense of well-being, by applying pressure or friction, stroking, rubbing, kneading, tapping, pounding, vibrating or stimulating by human exertion, whether or not aided by any mechanical or electrical apparatus, appliances or supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations. This definition shall not include any manipulation of the human body regulated in Title 42 Tulsa Revised Ordinances, Section 705, governing sexually-oriented businesses.

**TMAPC COMMENTS:**

Mr. Bernard asked the Planning Commission if they have any problems with this wording.

Mr. Midget stated that he doesn't have any problem with the wording, but he wanted to make sure that this to regulate the use and not the person. He asked Mr. Boulden if he feels comfortable with the definition that he just read that it is still not regulating the person. In response, Mr. Boulden stated that he believes that it is a very fine point and he does believe that this does regulate the use and not necessarily focusing on the individual.

Mr. Harmon stated that he has no problem with the wording as it is, but to him it could be shortened quite a lot. Mr. Harmon suggested shortening the wording as follows:

**Section 1211.B and Appendix B: Massage Therapy:** The manipulation of soft or connective tissues of the human body to alleviate pain, enhance circulation, improve joint mobilization, relieve stress and muscle tension. This definition shall not include any manipulation of the human body regulated in Title 42 Tulsa Revised Ordinances, Section 705, governing sexually-oriented businesses.

Mr. Bernard asked if the Planning Commission is in agreement with this wording or any more changes.

Mr. Midget asked if Legal believe that removing the wording as Mr. Harmon has suggested will cover everything.

Mr. Boulden stated that the language could be removed and it would still be covered.

Mr. Bernard stated that the intent is there without the verbiage.

Mr. Harmon repeated the new definition: Massage Therapy: The manipulation of soft or connective tissues of the human body to alleviate pain, enhance circulation, improve joint mobilization, relieve stress and muscle tension. This definition shall not include any manipulation of the human body regulated in Title 42 Tulsa Revised Ordinances, Section 705, governing sexually-oriented businesses.

**TMAPC Action; 9 members present:**

On **MOTION** of **BAYLES**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **CONTINUE** the proposed amendments to Title 42, Tulsa Revised Ordinances (Tulsa Zoning Code Text) for Section 400.A.3., 1800 and Section 1211.B, Appendix B to August 23, 2006.

\* \* \* \* \*

**CONTINUED ZONING PUBLIC HEARING:**

**Application No.: PUD-514-A**

**MAJOR AMENDMENT**

**Applicant:** R.L. Reynolds

(PD-6) (CD-5)

**Location:** Northeast corner of East 33<sup>rd</sup> Street and South Yale Avenue

**STAFF RECOMMENDATION:**

**PUD-514 September 1994:** All concurred in approval of a 3.5+ acre tract for a PUD to expand the existing Saied Music store and to provide sufficient parking thereof and a possible expansion of the vacant restaurant building if converted to retail uses on subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 82,500 square feet in size and is located at the northeast corner of East 33<sup>rd</sup> Street and Yale Avenue. The property appears to be vacant and is zoned CS/RS-2/PUD.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
Yale Avenue	Primary arterial	120'	4 lanes
East 33 <sup>rd</sup> Street	N/A	N/A	2 lanes

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

**SURROUNDING AREA:** The subject tract is abutted on the east by a residential, zoned RS-2; on the north by Arvest Bank, zoned CS/RS-2/PUD-514; on the south by some residential and a truck rental business, zoned CS/RS-2 and on the west by mixed commercial/office/multifamily uses, zoned CH.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 6 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as Medium Intensity-Commercial land use on the Yale frontage and Low Intensity-Residential land use on the eastern portion. According to the Zoning Matrix, the requested Use Unit 4 is in accord with the CS portion of the PUD.

**STAFF RECOMMENDATION:**

The applicant proposes a major amendment to PUD-514 for the purpose of adding a stealth communication tower (flagpole), Use Unit 4, to Development Area 'A'. Underlying zoning is CS, Commercial Shopping. The proposed 100-foot high tower will be set back more than one hundred ten percent (110%) of the height of the tower from any adjoining lot line of a residential, office or agriculturally-zoned lot; furthermore, the tower will be located 250 feet from the easterly boundary of PUD-514, which is also the nearest property line of a residential use.

Upon finding the proposed amendment to be (a) consistent with the Comprehensive Plan; (b) in harmony with the existing and expected development of surrounding areas; (c) a unified treatment of the development possibilities of the project site; and (d) consistent with the stated purposes and standards of the PUD chapter of the zoning code, staff recommends **APPROVAL** of PUD-514-A subject to the following conditions:

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

**PERMITTED USES:**

In addition to those uses permitted per PUD-514, Antenna and Supporting Structure as provided within Use Unit 4, Public Protection and Utility Facilities.

**MAXIMUM HEIGHT:** 100 FT

**SETBACKS:**

From east boundary of PUD-514-A: 250 FT  
From centerline of South Yale Ave.: 75 FT

**USE CONDITIONS:**

As provided per Section 1204.C, Public Protection and Utility Facilities/Use Conditions, and other applicable sections of the Zoning Code.

3. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
4. No Zoning Clearance Permit shall be issued for a lot within the PUD until a Detail Site Plan for the lot, which includes all structures, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
5. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
6. Except as above modified, the development standards of PUD-514 as amended, shall remain applicable.

**TAC COMMENTS from 7-6-06:**

**General:** No comment.

**Water:** Water mains exist in the area.

**Fire:** No comment.

**Stormwater:** No comment.

**Wastewater:** Proposed lease area should not encroach into the easement for the sanitary sewer.

**Transportation:** No comment.

**Traffic:** No comment.

**GIS:** No comment.

**County Engineer:** No comment.

**TMAPC COMMENTS:**

Mr. Ard asked if staff determines how close other cell towers are to ones that are being proposed. In response, Ms. Matthews answered affirmatively.

Mr. Ard asked if there are any guidelines that states one cell tower can't be within 500 feet of another cell tower. In response, Ms. Matthews stated that she doesn't believe there is a general guideline. She does know that the height is considered in the calculations and the taller the tower the farther it has to be set back. Staff encourages collocation whenever possible.

**Applicant's Comments:**

**Lou Reynolds**, 2727 East 21<sup>st</sup> Street, Suite 200, 74114, stated that he is in agreement with staff's recommendation. He met with neighbors and told them of the location of the tower. He suggested that the interested parties speak first and then he would rebut.

**INTERESTED PARTIES:**

**Richard Conwell**, 5009 East 33<sup>rd</sup> Street, 74135, stated that he opposes the 100-foot in height cell tower and he understands that antennas can be placed above the 100 feet. This is in the middle of a neighborhood. He suggested that the cell tower be placed along 31<sup>st</sup> Street where there are large void areas. The neighborhood doesn't want this tower and he understands it will have lights on it. Mr. Conwell indicated that the neighborhood already has problems with Saied Music Company and now they will have a cell tower.

Ms. Bayles asked staff to show the location of the cell tower on the case map. In response, Mr. Reynolds stated that the cell tower will be out on Yale and by the front door of Saied Music Company, which will be disguised as a flag pole with an American flag. There will not be a light on top of the flag pole, but there will be a light on the ground focused on the flag.

Ms. Matthews clarified that the staff recommendation states that there can't be any extraordinary lighting. Staff understands that flags have to be lit and they are usually small, unobtrusive lights.

Mr. Jackson asked Mr. Conwell if he has a problem with a flag pole. In response, Mr. Conwell stated that he doesn't have a problem with flying an American flag anywhere, but he has a problem with putting a flag pole next to Yale and the whole neighborhood will be able to see it.

Mr. Bernard stated that he believes that the antennas are actually inside the pole and it isn't obvious it is an antenna.

Mr. Jackson stated that the cross section states that it is a ten-foot antenna at the top of the pole and the only thing above the pole will be a lightning protection,

which has to be verified as a lightning rod at the top. The antenna is part of the pole itself and not going above the 100 feet.

Mr. Conwell stated that during the day it will just be a tall pole that everyone can see and he sees it as detrimental to traffic. The pole will be high enough that all of the neighbors to the east, west, north and south are going to be able to see it after dark. It is just another light, another problem, another pole and the zoning along this part of Yale is horrible.

Mr. Jackson stated that the applicant is making an effort by disguising it by utilizing a decorative device (American flag) and it is a lot better than the wood monopoles that are usually proposed.

Mr. Conwell asked why they are putting the pole in this location.

Mr. Bernard stated that usually engineers come through and determine where the cell towers are needed so that cell phones will work.

Mr. Conwell stated that the neighborhood committee has already met and they do not want the cell tower in Yorkshire Estates. One other reason that he is against this tower is because when Saied Music applied for their building permit nine years ago to move their building to the east toward his house, he lost the privacy that he had. He explained that there use to be house between Saied's and his home. He walks out into his backyard now and he can see through the slats of the fence and all you can see is cars, trucks and semi-trailers unloading. Now there is going to be a communication pole and it is not being put there as a flag pole, but a communication pole that someone is making a lot of money off of.

**Melissa Evans**, 5012 East 33<sup>rd</sup> Street, 74135 indicated that she is in agreement with Mr. Conwell's comments.

**Applicant's Rebuttal:**

Mr. Reynolds stated that this is classified as a coverage tower and that is the reason it is only 100 feet in height. It will cover the gap in coverage between existing towers. The cost to build this tower is \$500,000.00 for Verizon. Verizon prefers to collocate on existing towers is possible or on a building. It is not in their best interest to build new towers due to the expense and delay associated with building new towers.

Mr. Reynolds stated that this tower is to assure that a level of communication is held to a higher standard because the cell phone coverage will have streaming video and audio. The expectation of the customers is to expect this cell phone to work in their house and car. The original cell phones worked on a low band width and this would allow spacing some towers as far as ten miles apart. Now the phones work on a high frequency band width that allows to move data through the airways and the cell towers need to be closer (approximately one

mile apart). Verizon has made 75 towers in the Tulsa area and collocated on the vast majority of those. The only reason he is here today is because the PUD did not include this use and no one thought about those things at the time the PUD was originated. New PUDs now include Use Unit 4. Mr. Reynolds pointed out that straight zoning would allow the Use Unit 4 use.

Mr. Reynolds submitted photographs of the neighborhood and the relationship of where the tower will be located (Exhibit C-1). The landscaping will block the view of the tower from the neighborhood and the tower will be in front of the building of Saied Music Company. Mr. Reynolds stated that Verizon has done a remarkable job of being a good neighbor and making a nice amenity out of something that is a necessity. The service will be an asset to the community and as part of this modernization 911 will be able to locate cell phones within five feet. The cell phones have the capacity to track a car or children if needed. Verizon's coverage will not be lost in a metropolitan area and that is why he is here today. The only reason he had to come before the Planning Commission is because of the limited uses in this PUD.

Mr. Harmon stated that he is convinced and he would move that this be approved subject to staff's recommendation and recognizing the neighbor's concerns. He further stated that no one likes a tall tower in his backyard, but they do like the instant communication if they are injured or sick.

Mr. Midget seconded Mr. Harmon's motion.

Mr. Ard stated that he is not a big fan of cell towers, but he does use his cell phone all of the time. Personally, he believes this is a great way to present one that is relatively attractive and provides a good service. On the top of the 100-foot tower there is lightning pole and nothing else will be sticking up in the sky. In response, Mr. Reynolds stated that is correct.

Mr. Ard asked if this would be a single location tower or more than one company would be located on this tower. Mr. Ard asked if the antennas would be hanging off of the sides. In response, Mr. Reynolds stated that it can be collocated with three antennas inside the screening of the pole.

In response to Mr. Bernard, Mr. Reynolds stated that there are no exterior antennas outside of the pole.

Ms. Bayles recognized Mr. Conwell.

Mr. Conwell requested that the pictures that Mr. Reynolds submitted be viewed again. He explained that even though Mr. Reynolds stated that the tower would be on Yale, Saied is at a higher elevation. He pointed out that the cell tower will be double the height of the street light poles and then higher because Saied's lot is at a higher elevation.

Mr. Harmon stated that the Planning Commission recognizes that the tower will be 100 feet in height and it will be disguised as a flagpole. He understands that cell towers can be unsightly, but this is going to one of the better looking sites around that will look like a 100-foot flagpole. He appreciates the neighbors' concerns, but even they would have to admit that if they were sick or injured they would like the instant communication.

Ms. Bayles stated that the reason she recognized Mr. Conwell is because she believes she is one of the few members who lives within a block of a commercial district. She has a cell tower less than half a block away from her home and she also is very cognizant of the value that the commercial district brings to her neighborhood. It may not be the ideal location for every residential property owner, but all in all, having been an almost-50-year resident of Tulsa, she is appreciative that Saied is at this location and that they chose not to relocate elsewhere. This is commercial frontage from 31<sup>st</sup> Street to 36<sup>th</sup> Street with the exception of Highland Park. She agrees with everyone who has voiced their comments and she believes that all in all, this is a very sensitive and respectful addition of the cell tower into this neighborhood.

Mr. Conwell stated that in the literature that he has at home it states that there is supposed to be 110% fall factor, and if that was to fall there has to be 110 feet allowed in all directions before it to cross over into a property line. If this tower fell to the west it would cross Yale and it would end up in the convenience store parking lot and in the oil change parking lot. If it falls to the north it would be across the top of the Arvest Bank.

Ms. Matthews stated that the Zoning Code requires 110% set back from a residential area and Mr. Conwell is set back 250 feet.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the major amendment for PUD-514-A per staff recommendation.

**Legal Description for PUD-514-A:**

Lot 1, Block 2, Yorkshire Estates, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, being more particularly described as follow: Beginning at the southwest corner of said Lot 1, thence East 400' to a point; thence north 75' to a point; thence west 365' to a point; thence south 45' to a point; thence west 35' to a point on the west line of said Lot 1; thence south 30' to a point of beginning, AND the west 300' of Lot 2, Block 2, Yorkshire Estates, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof. **FROM CS/RS-2/PUD (Commercial Shopping Center District/Residential Single Family**

District/Planned Unit Development [PUD-514]) TO CS/RS-2/PUD  
(Commercial Shopping Center District/Residential Single Family  
District/Planned Unit Development [PUD-514-A).

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## ZONING PUBLIC HEARING

Application No.: PUD-555-A

MAJOR AMENDMENT

Applicant: Poe & Associates, Inc. (PD-18) (CD-8)

Location: East of northeast corner South Memorial Drive and East 91<sup>st</sup> Street  
South

### STAFF RECOMMENDATION:

**BOA-19515 February 2003:** The Board of Adjustment approved an amended site plan for an expansion of a church previously approved per plan for property located on southwest corner of 91<sup>st</sup> Street South and South Mingo Road.

**Z-6508/PUD-386-A November 1995:** A request to rezone a 13.9 acre tract located north of the northeast corner of E. 91<sup>st</sup> St and S. Memorial from RM-1/AG/PUD-386 to CS/PUD-386-A for commercial uses. All concurred in approval of a request to rezone the south 130' of the west 410' to CS and denial of the balance and approval of PUD-386-A with modifications made by staff.

**Z-6580/PUD-555 March 1997:** Approval was granted to rezone a 13 acre tract located west of the northwest corner of East 91<sup>st</sup> Street and South Mingo Road from AG to OL/PUD-555 for the missionary headquarters that would include a day care center and missionary living quarters.

**BOA-16212 December 1992:** The Board of Adjustment approved a Special Exception to permit a church in an AG district, subject to plans submitted on property located east of the northeast corner of E. 91<sup>st</sup> St. S. and S Memorial and abutting the subject property on the southwest.

**BOA-15203 July 1989:** The Board of Adjustment approved a Special Exception to allow a church and related uses in an AG district on property abutting the subject property to the west.

**PUD-448 May 1989:** All concurred in approval of a proposed Planned Unit Development on a 32.6+ acre tract for mixed use development on property located on northeast corner of E. 91<sup>st</sup> St. S. and S. Memorial Dr.

**BOA-120296 June 1982:** The Board of Adjustment approved a Special Exception to allow a church in an AG district per plan submitted at a later date, on property located on southwest corner of 91<sup>st</sup> Street South and South Mingo Road.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 12.91± acres in size and is located approximately one-half mile east of the northeast corner of East 91<sup>st</sup> Street South and South Memorial Drive. A church, missionary office, missionary quarters and walking trail are currently on the property, which also includes floodplain associated with Haikey Creek. The property is zoned OL, AG and PUD 555.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 91 <sup>st</sup> Street	Secondary Arterial	100'	2 lanes

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

**SURROUNDING AREA:** The subject tract is abutted on the east by Haikey Creek and vacant flood plain zoned RS-3; on the north by Haikey Creek and vacant flood plain zoned RS-3; on the west by a church use on 91<sup>st</sup> Street frontage and by Haikey Creek and vacant flood plain zoned AG; and on the south by 91<sup>st</sup> Street South and a residential subdivision zoned RS-3.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 18c Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as Low-Intensity No Specific Land Use, Development Sensitive. The proposed development is found to be **in accord** with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

The applicant is proposing an amendment to PUD-555 to decrease minimum required open space from eight (8.0) acres to five (5.0) acres and to reallocate permitted floor area among uses. Tulsa City Council approved PUD-555 in 1997 per TMAPC recommendation to permit church-related uses, including a children's nursery and a non-profit, non-congregational missionary ministry with accessory uses that include offices, chapel, auditorium, printing area, museum, kitchen and dining area, missionary quarters and storage. No new uses are proposed per this amendment; however, the applicant is seeking to build a new structure which will house sanctuary space, offices and accessory uses, and to build a new structure for storage. New parking associated with this expansion is proposed in a portion of the existing required open space. Therefore, the applicant is proposing to decrease that area from eight to five acres.

According to the 2030 Bicycle/Pedestrian Plan which is part of the Long Range Transportation Plan, a trail is proposed along Haikey Creek at the northeast boundary of the subject property. Staff suggests access be provided from the PUD to the trail or that a 20-foot wide trail easement be provided along this boundary. In addition, sidewalks are recommended along the East 91<sup>st</sup> Street right-of-way as are designated pedestrian ways through the parking lots; and to better accommodate traffic flow, the east parking lot should be connected by a drive to the west drive/ exit.

Staff finds the proposed development and related amendment to be consistent with the original intent of PUD-555 and in harmony with the spirit and intent of the Code. Based on the following condition, Staff finds PUD-555-A to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-555-A subject to the following conditions:

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

**2. Development Standards:**

Land Area (Net):	12.91 AC
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Permitted Uses:	Church, children's nursery, and non-profit, non-congregational missionary ministry with accessory uses that include offices, chapel, auditorium, printing area, museum, kitchen and dining area, missionary quarters and storage.
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Maximum Building Floor Area:	
Sanctuary	15,000 S.F.
Office/ Accessory Uses	47,100 S.F.
Missionary Quarters	6,500 S.F.
Storage Building	<u>1,400 S.F.</u>
<b>Total Permitted Floor Area:</b>	<b>70,000 S.F.</b>

Minimum Unpaved Open Space:	5.0 AC
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Minimum Building Setbacks:

From centerline of 91 <sup>st</sup> Street	100 feet
From abutting residential	35 feet
From abutting non-residential	20 feet
Other setbacks	none

Maximum Building Height: 35 feet

Off-Street Parking:

As required by the Zoning Code per the applicable use unit.

Traffic Circulation:

Provide paved access between the east parking lot and the west drive/exit.

Pedestrian and Trail Access:

Recommend a 20-foot wide trail easement for the planned Haikey Creek Trail be provided along the northeast boundary of the PUD. In addition, sidewalks are recommended along the East 91<sup>st</sup> Street right-of-way.

Recommend pedestrian walkways through parking lots at a minimum of one pedestrian way every 400 feet; a minimum of three (3) feet in width, separated from vehicular travel lanes to the maximum extent possible and designed to provide safe access to non-street front building entrances and/or sidewalks. The three (3) foot width shall not include any vehicle overhangs. Wheel stops shall be installed in parking spaces adjacent to all pedestrian walkways.

Lighting:

Light standards shall be limited to a maximum height of 35 feet and shall be set back a minimum 75 feet from any residential district boundary. All lights, including building mounted, shall be hooded and directed downward and away from residential district boundaries of the planned unit development. Shielding of outdoor lighting shall be designed so as to prevent the light producing element or reflector of the light fixture from being visible to a person standing at ground level in adjacent residential areas. Compliance with these standards shall be verified by application of the Kennebunkport Formula. Consideration of topography must be included in the calculations.

3. No buildings permitted in the regulatory flood plain.

4. 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 a person standing at ground level at the west and north boundary of the planned unit development.
5. No zoning clearance permit shall be issued for a lot within the PUD until a detail site plan for the lot, which includes all buildings, parking, screening fences and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
6. A detail landscape plan for each lot shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences have been installed in accordance with the approved landscape plan for the lot, prior to occupancy or at the soonest appropriate planting time. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
7. No sign permits shall be issued for erection of a sign on a lot within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
8. 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.
9. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
10. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
11. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

**TAC Comments from 8/3/06:**

**General:** No comments.

**Water:** A six-inch water main exists within the site.

**Fire:** No comments.

**Stormwater:** Proposed underground detention needs to be shown.

**Wastewater:** No comments.

**Transportation:** Sidewalks are required on 91<sup>st</sup> Street.

**Traffic:** No comments.

**GIS:** No comments.

**County Engineer:** No comments.

**Applicant's Comments:**

**Hollis Allen**, 4606 South Garnett Road, 74145, stated that he is in agreement with staff's recommendation. He requested that the trail easement be on the northeast side of Haikey Creek rather than the southwest side. This was originally a prayer garden and it is for the ministry that is located there. Each cul-de-sac provides a bench with a prayer verse. They do not want the prayer garden interrupted by the public trails system. Since the TAC and predevelopment meeting, he has specifically brought this up to his client and this was their only request.

Mr. Bernard asked Mr. Allen if he is asking for the northeast boundary or the northeast side of the creek. In response, Mr. Allen stated that he would like the trail to be located on the northeast side of the creek and not connect to the prayer garden. Mr. Allen further stated that he would prefer that it not be on the subject property.

Ms. Matthews stated that staff would prefer that it would be linked up with their trail system, but she can understand that they wouldn't want their prayer garden intruded upon. There is also the suggestion for a mutual access and that can be looked at during the platting phase.

**TMAPC COMMENTS:**

Mr. Ard stated that the applicant is requesting that the trail easement be outside of the existing PUD, which the Planning Commission can't do. Ms. Matthews stated that staff can't control the trail easement being located outside of the PUD. The other part of the recommendation is that a 20-foot wide trail easement be provided along the boundary. If the applicant can provide this, then it would necessarily link up with the prayer garden trail system and staff would be satisfied with that.

Mr. Midget stated that if he could allow the 20-foot easement as far away from the prayer garden as possible would be good. In response, Ms. Matthews agreed.

Mr. Ard asked if that would be the most northeastern boundary. In response, Mr. Allen stated that this is not desired by his client. They see this as an opportunity for a security issue. This is a quiet place for prayer and they do not want the intrusion of the trail system and the public.

Mr. Midget stated that he understands what Mr. Allen is stating, but the Planning Commission is limited on how they can readjust the trail systems. If this is looked at closer there is some way to secure this with berms, fences or whatever. In response, Mr. Allen stated that he agrees with that, but he also understands that this plan isn't even conceptual yet and is merely a line on the map. The City of Tulsa owns the property to the east and north of the subject property. As long as it can be something that can be considered in the future and not something that had to be agreed to today.

Mr. Bernard asked how close the trail can be located near the creek. In response, Ms. Matthews stated that many of the water detention systems have trails systems in them and become submerged when it rains, but they are still trails when it is dry.

Mr. Harmon asked if the City of Tulsa owns the portion that is not platted. In response, Ms. Matthews stated that she doesn't know who owns it.

Mr. Allen stated that to the east of the subject property the City of Tulsa owns the property along Haikey Creek and to the north of the subject property's northern line. He indicated that the church has tried to purchase the remaining portion to the north and east that is owned by a single individual. If that is possible, then he doesn't believe the church would have a problem with putting the trail system on that property, but it is under negotiations right now.

Mr. Harmon stated that it shouldn't be a problem to get the trail across the property and it should be a joint venture between the church and the City of Tulsa.

Mr. Allen stated that as long as the City understands that the church doesn't want the trail connected to the prayer gardens.

Mr. Harmon stated that he understood Mr. Allen's position.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to recommend **APPROVAL** of the major amendment for PUD-555-A per staff recommendation, with the stipulation that a rough draft of a connecting trail be included and not to be a part of their trail system, but within

the subject property and encourage a joint venture between the property owner and City of Tulsa to find the appropriate placement for the trail along Haikey Creek.

**Legal Description for PUD-555-A:**

Lot 1 and Reserve "A" of Block 1, Living Word Missions, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat #5286, **FROM AG/OL/ PUD (Agriculture District/Office Low Intensity District/Planned Unit Development [PUD-555]) TO AG/OL /PUD (Agriculture District/Office Low Intensity District/Planned Unit Development [PUD-555-A]).**

\* \* \* \* \*

**Application No.: Z-7034**

**IL TO IM**

**Applicant:** Brent Bushyhead

(PD-16) (CD-6)

**Location:** East of the northeast corner of North 129<sup>th</sup> East Avenue and East Apache Street

**STAFF RECOMMENDATION:**

**Z-6459 October 1994:** All concurred in denial of a request to rezone a 5± acre tract from AG to IH and approval from AG to IM on property located west of northwest corner of East Apache and 141<sup>st</sup> East Avenue

**Z-6280 April 1990:** All concurred in denial of a request to rezone a 19± acre tract from AG to IH and approval of the east 509' to IL and IM on the remainder, on property located east of southeast corner of East Apache Street and North 129<sup>th</sup> East Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 5± acres in size and is located east of the northeast corner of North 129<sup>th</sup> East Avenue and East Apache Street. The property appears to be vacant with a dilapidated single-family residence on it and is zoned IL.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East Apache Street	Secondary arterial	100'	Four
North 129 <sup>th</sup> East Avenue	Secondary arterial	100'	Four

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

**SURROUNDING AREA:** The subject tract is abutted on the east by an auto salvage yard, zoned IM; on the north, by vacant land, zoned IH; on the south by auto salvage, zoned IM and vacant land, zoned IL; and on the west by vacant land, zoned AG. Farther to the west, beyond the vacant AG, is a large lot of either auto salvage or auto auction, zoned IM.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 16 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as Special District 2 – Industrial Usage (Section 3.2), with some Development Sensitive due to proximity to Bird Creek. Policies in the Plan call for sensitivity to the floodplain (which will be required and reviewed during the platting phase). The requested IM **may be found** in accord with the Plan, due to its inclusion within a Special District.

**STAFF RECOMMENDATION:**

Based on the District 16 Plan, an adopted part of the Tulsa Metropolitan Area Comprehensive Plan, and surrounding zoning/uses, staff can support the requested rezoning. Therefore, staff recommends **APPROVAL** of IM zoning for Z-7034.

**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, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to recommend **APPROVAL** of the IM zoning for Z-7034 per staff recommendation.

**Applicant's Comments:**

Mr. Bushyhead stated that he appreciates the Planning Commission and staff's efforts and it has been enjoyable today.

**Legal Description for Z-7034:**

West half of the West half of the East half of the Southeast quarter of the Southwest quarter of Section 21, T-20-N, R-14-E of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the Government Survey thereof, **From IL (Industrial Light District) To IM (Industrial Moderate District).**

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**Application No.: CZ-382**

**AG to CG**

**Applicant:** Paula Mooreen Taylor, Living Trust (PD-18c) (CD-6)

**Location:** East of the northeast corner of East 146<sup>th</sup> Street and North Cincinnati Avenue butting Highway 20

**STAFF RECOMMENDATION:**

Ms. Matthews pointed out that if the applicant was simply having a nursery it would be allowed under AG but the equipment sales puts this in the CG category.

**RELEVANT ZONING HISTORY:** There are no relevant zoning cases for this section.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 18± acres in size and is located east of northeast corner of East 146<sup>th</sup> Street and North Cincinnati Avenue abutting Highway 20. The property appears to be mostly vacant and wooded and is zoned AG.

**STREETS:**

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 146 <sup>th</sup> Street North (Highway 20)	Primary Arterial	120'	4 lanes

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

**SURROUNDING AREA:** The subject tract is abutted on the east by vacant land, zoned AG; on the north by vacant land, zoned AG; on the south by Highway 20, zoned AG and on the west by land, zoned AG.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The Skiatook Plan designates this area as Open Area/Recreational Use. The requested CG zoning **is not** in accord with the adopted Plan. A memo from the Director of Community Development in Skiatook (David L. Truelove) indicates the Skiatook Planning Commission reviewed this request and is recommending denial, due to its not being in accord with the Comprehensive Plan and its location within the regulatory floodway.

**STAFF RECOMMENDATION:**

Based on the Skiatook Comprehensive Zoning Plan, the location of the property within a regulatory floodway and adjacent development, staff cannot support the requested CG zoning and recommends **DENIAL** of CG zoning for CZ-382.

**Applicant's Comments:**

**William Hickman**, 211 North Robinson, Two Leadership Square, Oklahoma City, Oklahoma 73102, stated that he is representing the applicant and he has spoken with Mr. Truelove and the town of Skiatook and would like to make a couple of points clear. The subject property is not within the jurisdiction or the City Limits of Skiatook. Additionally, the subject property is not a flood district, but a regulatory floodway. The subject property is surrounded by agricultural property and intersects at Highway 11 and Highway 20. There is a fair amount of commercial zoning in the subject area. There is lot of frontage along Highway 20, which would assist in any flooding issues. He is not here today to talk about specifically what may or may not go onto that property, but rather should the property owner have the right to have it zoned commercially to see if anything possibly could potentially be developed and used on the subject property. This could potentially become a valuable piece of land from a commercial perspective if something could be worked out considering the regulatory floodway restrictions. Mr. Hickman stated that he doesn't believe that this is an issue for the Planning Commission to make a decision upon right now.

Mr. Hickman stated that he spoke with Mr. Truelove of Skiatook and his concerns were that there would still be adequate greenspace. There is adequate greenspace available in the subject area.

**TMAPC COMMENTS:**

Mr. Ard asked if the subject property is in the regulatory floodway. In response, Mr. Hickman stated that it is considered by Skiatook to be within their regulatory floodway and frankly the entire area along Cincinnati is also in the floodway.

Mr. Ard asked Mr. Hickman if he knew what level the subject property is in the floodway. In response, Mr. Hickman stated that it is his understanding that the level of risk for flooding is reduced since there is a lot of AG in the subject area and commercial development has been allowed along both sides of Highway 11.

Mr. Jackson stated that typically there are regulatory floodplains and if a building is built in these they have to be one foot above the 100-year floodplain mark. The applicant doesn't seem to know the base level and if they do want to build something there, they will have to create compensatory storage or create a situation where the water is able to flow through the building.

Mr. Ard stated that he understood that a floodway to be unbuildable because it suggests that water goes through the area or the land is at a level where water transgresses through it. Floodways are usually considered the bottom of the

creek and that is where the water moves through. Mr. Hickman stated that this is not his understanding of a floodway. Mr. Hickman cited his understanding of floodways.

Mr. Midget expressed concerns with the zoning requested because it allows warehousing and automotive related activities that could fall in this Use Unit. Eventually, this would become very unattractive and it is a gateway going into Skiatook Lake area. Mr. Midget stated that he has problems with CG zoning in the subject area because it becomes a junkyard eventually.

In response to Mr. Bernard, Ms. Matthews confirmed that the subject property is not within the City of Skiatook's City Limits, but it is in their fence line.

After a lengthy discussion Mr. Harmon moved to deny the CG zoning for CZ-382.

**TMAPC Action; 9 members present:**

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to recommend **DENIAL** of the CG zoning for CZ-382 per staff recommendation.

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**OTHER BUSINESS:**

**Application No.:** PUD-579-A

**DETAIL SITE PLAN**

**Applicant:** Sisemore Weisz & Associates

(PD-18) (CD-7)

**Location:** 8010 South 101<sup>st</sup> East Avenue

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a two-story medical office building. The proposed use, Use Unit 11, Offices, Studios and Support Services, is in conformance with Development Standards of PUD-579-A.

The proposed building complies with maximum permitted height, floor area and land coverage standards and meets minimum net landscaped area and landscaped streetyard requirements. Proposed parking and site lighting comply with development standards and the zoning code.

Therefore, staff recommends **APPROVAL** of PUD-579-A detail site plan as proposed.

*(Note: Detail site plan approval does not constitute 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 **HARMON**, TMAPC voted **9-0-0** (Ard, Bayles, Bernard, Cantees, Cantrell, Harmon, Jackson, Midget, Wofford "aye"; no "nays"; none "abstaining"; Carnes, Collins "absent") to **APPROVE** the detail site plan for PUD-579-A per staff recommendation.

\* \* \* \* \*

**Commissioners' Comments:**

Ms. Bayles thanked staff for the ledger sized exhibits so that she doesn't have to use her magnifying glass. Planning Commission concurred.

Mr. Ard welcomed Ms. Cantrell.

Ms. Bayles stated that there are some training issues that are relevant to what Ms. Matthews mentioned earlier. Everyone is welcoming the newest member, Michelle Cantrell, and she is receiving the first training manuals, which is the Citizen's Planners Resource Kit from the Lincoln Institute of Land Use that works well with the APA. This is self-taught and there is a DVD publication and online access for free.

Ms. Bayles stated that she talked with the Subscription Department at APA and everyone should be receiving the Planning magazine. Ms. Bayles asked staff if this is true. In response, Ms. Huntsinger stated that she has done an update with APA and assumes that APA has done the same. Ms. Bayles stated that if the Planning Commissioners are not receiving the planning magazine, please let Ms. Huntsinger know. The Planning Commission should also be receiving, on a quarterly basis, The Commissioner Newsletter and it has extremely valuable information.

Ms. Bayles encouraged the Planning Commission to read the August/September edition of Planning on page 34, Something Old, Something New, because it addresses everything the Planning Commission has been talking about.

Ms. Bayles stated that in welcoming Ms. Cantrell, she would be remiss and the Planning Commission would be remiss to not acknowledge Mary Hill's years of service to this Planning Commission. She would like for the Planning

Commission to extend some expression of appreciation to Ms. Hill for her eight years of service because they were appreciated.

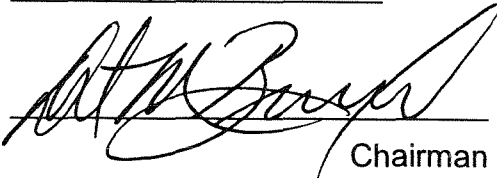
Mr. Bernard thanked Ms. Bayles for accumulating training information for the newest member.

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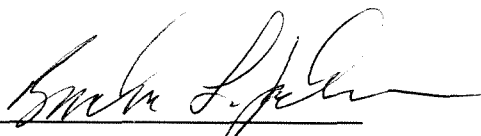
There being no further business, the Chair declared the meeting adjourned at 6:03 p.m.

Date Approved:

10/8/06

  
Chairman

ATTEST:

  
Secretary

