

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2462

Wednesday, October 25, 2006, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Ard	Bayles	Alberty	Boulden, Legal
Bernard	Collins	Fernandez	
Cantees	Wofford	Huntsinger	
Cantrell		Matthews	
Carnes			
Harmon			
Jackson			
Midget			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, October 20, 2006 at 2:07 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 1:35 p.m.

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

### Minutes:

#### **Approval of the minutes of September 6, 2006 Meeting No. 2457**

On **MOTION** of **HARMON**, the TMAPC voted 7-0-0 (Ard, Bernard, Cantrell, Carnes, Harmon, Jackson, Midget "aye"; no "nays"; none "abstaining"; Bayles, Cantees, Collins, Wofford "absent") to **APPROVE** the minutes of the meeting of September 6, 2006, Meeting No. 2457.

\*\*\*\*\*

## **REPORTS:**

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

Mr. Bernard reported that the Planning Commission is trying to set up a training session where the members would go through the various processes with zoning and platting. Mr. Bernard asked the Planning Commissioners for their input on when they would like to have the training scheduled.

Ms. Cantrell requested that the training session not be held on a Saturday because it would be very difficult for her to do.

Mr. Ard stated that a worksession would be his choice.

Mr. Bernard directed staff to find a worksession date to schedule the training session.

Mr. Alberty stated that he would hope to do this as soon as possible and staff will look at the upcoming agendas.

Mr. Bernard recognized that today is Planning Commissioner Jackson's last meeting. Mr. Bernard stated that he will miss Mr. Jackson and has appreciated all of his service to the Planning Commission.

Mr. Jackson stated that he has had a good tenure and he has enjoyed serving the City and the County. He hopes to see everyone soon in another public service effort. (Ovation.)

Mr. Bernard asked Mr. Harmon to fill Mr. Jackson's role as secretary until the end of the year. In response, Mr. Harmon agreed, but reminded Mr. Bernard that he will be out for the first two weeks of November.

Mr. Midget stated that perhaps Ms. Bayles may be able to rotate and serve as secretary to help out until new elections.

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

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

Mr. Alberty reported that Mr. John Shivel will be on the City Council's Thursday agenda for his appointment to the Planning Commission.

\*\*\*\*\*

**SUBDIVISIONS:**

**PLAT WAIVERS:**

**PUD-93 - (9335)**

(PD-18) (CD-7)

Northwest of the northwest corner of East 61<sup>st</sup> Street South and Memorial Drive (continued from October 18, 2006, request continuance to November 1, 2006 meeting to accomplish TAC recommendations)

**STAFF RECOMMENDATION:**

Mrs. Fernandez stated that the applicant is requesting a continuance to November 1, 2006 to accomplish TAC recommendations.

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

**TMAPC Action; 7 members present:**

On **MOTION** of **JACKSON**, TMAPC voted **7-0-0** (Ard, Bernard, Cantrell, Carnes, Harmon, Jackson, Midget "aye"; no "nays"; none "abstaining"; Bayles, Cantees, Collins, Wofford "absent") to **CONTINUE** the plat waiver for PUD-93 to November 1, 2006.

\* \* \* \* \*

**Amendment to Deed of Dedication and Restrictive Covenants:**

**College Center at Meadowbrook – (8418)**

(PD-18c) (CD-8)

South of East 81<sup>st</sup> Street South, East of South Mingo Road

**STAFF RECOMMENDATION:**

Mrs. Fernandez stated that these are amendments to deed of dedication and restrictive covenants. The amendments are considered housekeeping items to staff and they come before the Planning Commission for signatures since this is in a PUD.

Mrs. Fernandez stated that the applicant is amending the covenants to increase the number of lot owners who have to approve any later amendments and staff recommends approval.

**Applicant not present.**

**TMAPC COMMENTS:**

Mr. Ard asked what the reason would be for bringing this document forward. In response, Mrs. Fernandez stated that there are several reasons that these could be brought forward. The City of Tulsa is part of the enforcing body and any time there is a change made in a PUD, then there needs to be notification, and if the PUD changes, the covenants should change.

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

**TMAPC Action; 7 members present:**

On **MOTION** of **HARMON**, TMAPC voted **7-0-0** (Ard, Bernard, Cantrell, Carnes Harmon, Jackson, Midget "aye"; no "nays"; none "abstaining"; Bayles, Cantees, Collins, Wofford "absent") to **APPROVE** the amendment to the deed of dedication and restrictive covenants for College Center at Meadowbrook as submitted per staff recommendation.

\* \* \* \* \*

**Ms. Cantees in at 1:50 p.m.**

**Stonecreek III – (8407)**

(PD-18c) (CD-7)

South of East 71<sup>st</sup> Street and East of South Mingo Road

**STAFF RECOMMENDATION:**

Mrs. Fernandez stated that these are amendments to deed of dedication and restrictive covenants. The amendments are considered housekeeping items to staff and they come before the Planning Commission for signatures since this is in a PUD.

Mrs. Fernandez stated that this amendment is to add to the list of permitted uses, which the added use is cell towers and accessory equipment. This use was previously approved in the PUD and now the covenants are being amended to show that use is permitted.

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

Mr. Boulden stated that he has been working with the applicant on what approvals are necessary for this item. Mr. Boulden indicated that he hasn't reviewed all of the backup documentation. He requested that the Planning Commission approve this subject to Legal's approval.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **HARMON**, TMAPC voted **8-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Jackson, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Wofford "absent") to **APPROVE** the amendment to the deed of dedication and restrictive covenants for Stonecreek III as submitted per staff's recommendation, subject to being held for Legal's approval and release.

**CHANGE OF ACCESS ON RECORDED PLAT:**

**Lots 2 and 3, Block 1, Holland Center – (8310)**

(PD-18b) (CD-8)

East of South Yale Avenue, North of East 81<sup>st</sup> Street South

**STAFF RECOMMENDATION:**

This application is made to allow a change of access along South Yale Avenue. The property is zoned CS and RM-1 under PUD-500.

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

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Jackson, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Wofford "absent") to **APPROVE** the change of access on recorded plat for Lots 2 and 3, Block 1, Holland Center per staff recommendation.

\*\*\*\*\*

**CONTINUED PROPOSED ZONING CODE AMENDMENTS PUBLIC HEARING:**

**Proposed amendments for the City of Tulsa Zoning Code from the "B" List: Sections 902.A, 1202.C.4.c. and 1303.E.**

**"B" LIST (FOR FURTHER EXPLANATION AND DISCUSSION)  
CORRIDOR DISTRICT AMENDMENT**

**10. Section 902.A**

**Suggested changes:** Allowing an accessory dwelling unit (ADU) on-site for the purposes of security and management.

**Reason:** Some industrial uses prefer/require an on-site security person. This will correct an overlooked condition that now requires a variance and hardship finding by the BOA.

**Suggested by:** INCOG staff, previous applicants.

## **CHAPTER 9 INDUSTRIAL DISTRICT PROVISIONS**

### **SECTION 902. ACCESSORY USES PERMITTED IN INDUSTRIAL DISTRICTS**

#### **A. Accessory Uses Permitted**

1. Accessory uses customarily incident to a principal use permitted in an Industrial District are permitted in such district.
2. An accessory dwelling for the purposes of security or management is permitted in all Industrial districts.

Mr. Carnes moved to approve this Section, Mr. Midget seconded.

#### **TMAPC COMMENTS:**

Mr. Ard expressed concerns with this proposal and fears that this would open something up without knowing the long-term implications. He would feel more comfortable with this going through with a special exception. Mr. Ard explained that he is not trying to add work to the BOA agenda, but this way there is some oversight. It seems a broad stroke to allow a residential apartment on any industrial location.

Mr. Midget stated that he understood that this is for purposes of security or management.

Mr. Bernard stated that right now it requires a hardship to be provided, which is difficult. Perhaps making it a special exception would be the better way to do this.

Mr. Midget stated that he will go with however the Planning Commission feels that they would like to go. When one looks at infill development and how more dense urban communities are developing and there are often an industrial areas in which perhaps residential is compatible. This should be allowed and he doesn't want to make things more difficult for infill development and trying to rebuild areas in our downtown area.

Mr. Harmon stated that he doesn't see any inherent risk in allowing this. This wouldn't affect the integrity of the City or the way the City is managed by allowing this.

Mr. Ard stated that he is in agreement with the comments of Mr. Harmon.

Ms. Cantrell asked Mr. Ard what sort of things he foresees that would need monitoring. She doesn't understand what it would hurt if someone lives in an apartment on an industrial site. In response, Mr. Ard stated that he didn't know.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Jackson, Wofford "absent") to recommend **APPROVAL** of proposed amendment to the City of Tulsa Zoning Code for Section 902.A per staff recommendation and as modified by the Planning Commission.

**INTERESTED PARTIES:**

**Clayda Stead** expressed concerns that these could be manufactured homes.

Mr. Alberty stated that manufactured homes are already permitted as a use by special exception in an industrial area. This was simply to allow residential use by right in an industrial area.

\*\*\*\*\*

**11. Section 1202.C.4.c**

**Comments:** Opposition.

**Suggested changes:** Eliminating the condition that requires consent of the owner of an adjacent dwelling before a construction staging site is allowed.

**Reason:** The BOA cannot delegate its authority to adjacent property owners.

**Suggested by:** City legal staff and zoning attorneys.

**CHAPTER 12  
USE UNITS**

**SECTION 1202. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES**

**C. Use Conditions**

**4. Construction Facilities:**

- e. ~~The use shall not be located nearer than 100 feet to any lot containing an occupied dwelling, without the consent of the owner thereof.~~

### **TMAPC COMMENTS:**

Mr. Bernard asked staff what protections the BOA provides for a homeowner who is next to a place where there some type of construction staging. In response, Ms. Matthews stated that the BOA can put any type of conditions on a piece of property that they want, but typically it involves hours of operation, noise, and dust control. Mr. Bernard asked Ms. Matthews to elaborate on what they could require. In response, Ms. Matthews stated that they could require a setback so that no equipment could be stored within a certain number of feet of a residence. Mr. Bernard asked if the BOA could require a screening fence. In response, Mr. Boulden stated that the BOA can put any conditions on this type of use that are reasonable related to the requested relief.

Mr. Alberty stated that he believes that there is some misinformation regarding what this action would do. This action does not relieve the BOA from consideration of any comments, complaints or suggestions that a neighbor might have. In recent memory there hasn't been any staging operation, to his knowledge, that has been approved adjacent to a neighborhood that would perhaps impact it in a negative way. The application is filed and then the BOA will listen to anyone who appears, and certainly they would listen to a neighbor who would be living in a dwelling next door on how it is approved. The most recent case that he is familiar with was next to Saint Francis Hospital and the staging application was approved by the BOA, but it was only for off-street parking for personnel who were working on the construction that was actually on site. This would only affect the off-site capability to stage construction and the BOA is very diligent in looking at all aspects on how it would impact the neighborhood. All this proposal would do is remove something that is illegal and has been in the ordinance. It doesn't mean that the BOA would stop listening to or start ignoring the comments that are being brought up.

### **INTERESTED PARTIES:**

**Leta Cosby**, 8705 East 21<sup>st</sup> Street, 74129, requested more restrictions and time limits put on staging sites. Ms. Cosby referred to some pictures that she had submitted of a staging site that was in a residential area and that was not approved by the BOA (89<sup>th</sup> and 21<sup>st</sup> Street). Ms. Cosby cited the problems with dust and noise for the neighborhood. She contacted Oklahoma City regarding this situation and they do not allow off-site staging areas to be located in residentially-zoned or other zoning districts that do not permit that use. She believes this is how Tulsa should handle this situation. She reiterated that this type of problem happened in a two-year period in her neighborhood without going to the BOA.

Mr. Boulden asked Ms. Cosby if she is indicating that the BOA ultimately approved the staging sites. In response, Ms. Cosby stated that they did not go to the BOA. She further stated that if the Code were changed like the Oklahoma City code, then it would prevent this entirely. In response, Mr. Boulden stated



that changing the Zoning Code wouldn't have changed it in this case because they did it illegally. Ms. Cosby stated that one of the off-site staging areas was stopped by Mayor Savage, and the other had to go to the City Council to get it stopped.

**Clayda Stead**, BOA member, Mingo Valley HOA, no address given, stated that the off-site staging site Ms. Cosby spoke of was a complete mess. She does wish the Zoning Code was clearer with 200' or 300' from residential areas in order to help the BOA with setting restrictions. Ms. Stead indicated that there has been one request recently with regard to the Jenks Bridge, but in the BOA's opinion, it was too early to even think about a storage place and the Board denied the application. Ms. Stead stated that she does believe that there have been several staging areas that do not come before the BOA and she doesn't know why.

**TMAPC COMMENTS:**

Ms. Cantrell asked Ms. Stead if she could think of any reason why the BOA would grant an off-site staging area within 100 feet of a residential area. In response, Ms. Stead answered negatively.

Mr. Carnes asked when ODOT comes through for road construction, how it is handled regarding their staging sites. In response, Mr. Boulden stated that the City would have to look at these on a case-by-case basis and determine if they could regulate the State. The Legal Department has provided an opinion that states "If the Department of Transportation has a construction facility that is on or immediately adjacent to a highway then it is an accessory use for maintenance and construction of a highway, but it has to be actually within the vicinity." Mr. Boulden stated that the Zoning Code can regulate the City's activity regarding expanding intersections and should be the first ones to obey the Code. He believes that Public Works is aware of these situations and he believes that there are provisions in their contracts that the contractor has to comply with the Zoning Codes and ordinances of the City.

Ms. Stead stated that it is her understanding that when ODOT owns the property, they do not come before the BOA. What this issue today is about is off-site or on-site construction within neighborhoods where homeowners are prevalent. The 21<sup>st</sup> Street site that has been discussed was actually for a construction project on 103<sup>rd</sup> and 102<sup>nd</sup>. She doesn't have any problem with the highway construction where they purchase the property.

Mr. Jackson asked Ms. Stead how she would like to see the text written. In response, Ms. Stead stated that she would like it stated to provide nothing closer than 200 feet to a residential property.

Mr. Ard explained that the recommendation is to delete the verbiage entirely. He asked Ms. Stead if she is requesting that, rather than deleting the verbiage, it

should be beefed up. In response, Ms. Stead stated that she would like it to have a 200' setback from a residentially-zoned property. Mr. Ard asked Legal if he understands this correctly that the current verbiage is illegal because they have to get consent of the adjacent owner. In response, Mr. Boulden answered affirmatively.

Mr. Ard asked Mr. Boulden if he has had a chance to read the letter regarding Oklahoma City and if he had looked to see how other cities handle this situation. In response, Mr. Boulden stated that the Oklahoma City letter basically states that the Public Works Department doesn't allow off-site staging areas to be located in residentially-zoned districts. It doesn't say that there is a Zoning Code that prohibits it. It would be the same as the City of Tulsa putting in their contracts with construction companies that they shall not locate their off-site facility near a residential property.

Mr. Bernard stated that now there are two issues being discussed. The first being the verbiage, which he believes everyone, is in agreement with, that the owner would not have the ability to deny it. The second issue now is to put some restrictions in the Zoning Code with some type of reasonable understanding that the City is concerned with the resident's welfare.

**Herb Beattie**, 3474 South Zunis Avenue, 74105, stated that he agrees with the comments from previous interested parties. He agrees that the current verbiage should be deleted and then some language added restrictions to protect the neighborhoods.

**Hank Brandt**, 8937 East 15<sup>th</sup>, 74112, cited the history of the staging site that has been discussed on 21<sup>st</sup> Street. He commented that the way it is written now will work if Public Works doesn't interfere with the citation given by the Neighborhood Inspections, which is what happened at 21<sup>st</sup> Street during Mayor Savage's term. Mayor Savage was able to get the equipment moved.

Ms. Cantees asked Mr. Brandt if he is suggesting that the Planning Commission should put a definition in terms of footage or a numerical amount in terms of what off-site shall be. In response, Mr. Brandt stated that he recommends either a number of feet or a definition because they will try to stretch it.

**Mr. Jackson out at 2:26 p.m.**

In response to Ms. Cantees, Mr. Boulden stated that Public Works can't disobey the law any more than anyone else can. Obviously the BOA can only exercise their powers that they are granted by the Zoning Code. He believes that Public Works understands that now.

Mr. Midget stated that if the question is whether or not Public Works would allow a contractor to set up a staging area in violation of City Ordinance, then the answer is no.

**Al Nichols**, 8525 East 10<sup>th</sup> Street, 74112, stated that he supports Ms. Cosby's proposal. Mr. Nichols submitted photographs of an off-site staging area on 21<sup>st</sup> and 89<sup>th</sup> Streets (Exhibit A-1). This problem occurred on the same property two years ago.

Mr. Midget stated that this is the same illegal site that has been referred to earlier and Mayor Savage got involved in. In response, Mr. Nichols stated that this particular site was one he become involved with and went to the City Council for help closing it down. The one that Mayor Savage shut down was two years prior.

**Jim Mautino**, 14028 East 12<sup>th</sup> Street, 74108, stated that Neighborhood Inspections has no authority to enforce their recommendations. That is why Mr. Nichols took the photographs to the City Council. Mr. Mautino indicated that he called Broken Arrow to see how they handle these situations and they do not have a set policy, but they have an unwritten rule that if it isn't zoned they can not use the property for staging. Broken Arrow puts a time limit, which is the time or length of the project. This prevents the sites being used for the original project and future projects down the road. Mr. Mautino believes that the neighbors should have some input.

Mr. Midget asked Mr. Mautino if he is in favor of these issues going to the BOA. In response, Mr. Mautino stated that he believes there should be a policy and it could go before the BOA for some reasons, but in his opinion the BOA has a lot of other things to do. There could be something written for a procedure or ordinance to set out the guidelines for an off-site construction site. There is no need to get too much involved unless there is a particular issue that needs to be situated. The BOA does allow a public hearing and allows interested parties to speak and give their opinion. Unless it is something extraordinary, then it should go to the BOA, but it could all be put down in this particular paragraph.

Mr. Ard stated that these are defined as area-wide special exception uses and it is specific to construction facilities off-site. It seems to be an enforcement issue. There are several things that could be done to tighten this up, such as time limits, spacing, etc. Mr. Ard explained that currently, the Zoning Code requires these types of uses to go before the BOA and perhaps the rules need to be tightened up.

Mr. Bernard explained again that there are two issues being discussed. The item before the Planning Commission is to delete the verbiage which is illegal. He is not sure that today the Planning Commission can make recommendations to change this because it is not advertised. Perhaps this should go back to staff

and possibly TAC to determine the footage that would be acceptable. Staff would need to come back with a specific recommendation.

Mr. Carnes moved to pass this issue back to the staff for conditions. Everyone's input has been similar and it is now known what is needed. Mr. Carnes commented that this shouldn't be rewritten during a regular meeting while everyone else is waiting on the balance of the agenda today.

Ms. Cantrell stated that she believes the Planning Commission could proceed with the restriction of spacing 200 feet today.

Mr. Alberty stated that the conditions are already in place and there are three conditions within the Zoning Code. The applicant has to go to the BOA in any district, which is more restrictive than Oklahoma City or Broken Arrow. This requires BOA action because this use is not allowed by right in any district. He suggested continuing this item until the February 28, 2007 meeting.

Mr. Midget requested that staff have some definition for off-site and on-site.

Ms. Cantees requested that staff have some kind of idea of what a length of a project would be or a reasonable length of a project.

**Chip Atkins**, 1638 East 17<sup>th</sup> Place, 74120, stated that he hasn't heard anything about building construction, such as highrises. He indicated that St. Johns Hospital has had construction going on for at least 20 years. The 19<sup>th</sup> and Utica area has had a building project for three years and the issue is that they own the property and have the right to have an off-site construction site there. This should be defined as well. They own the property, but the construction is actually across the street from the staging site. He commented that noise, dust pollution and time constraints have been problems for the neighbors. He agrees that it should go back to the BOA.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes, Harmon, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Jackson, Wofford "absent") to **CONTINUE** the Section 1202.C.4.c. to February 28, 2007.

\* \* \* \* \*

**14. Section 1303.E**

**Suggested changes:** Restricting the height of required screening of off-street parking areas to not less than three feet nor more than four feet.

**Reason:** To accomplish the screening function without compromising security. A screening height of from 3'-4' shields adjacent uses from vehicular headlights but will not conceal a person seeking to hide behind it.

**Suggested by:** INCOG staff, numerous property owners, American Planning Association.

## **CHAPTER 13 OFF-STREET PARKING AND OFF-STREET LOADING**

### **SECTION 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**

- E. Unenclosed off-street parking areas which are principal uses shall be screened by the erection of a screening wall or fence on the lot line or lines ~~in common with~~ adjacent to an R District. Unenclosed off-street parking areas, containing 6 or more spaces, which are accessory to uses not required to provide screening shall be screened by the erection of a screening wall or fence on the lot line or lines ~~in common with~~ adjacent to an RE or RS District, provided that if the parking area is located more than 50 feet from the RE or RS lot line or lines, the screening requirement shall not apply. A screening fence, as required in this subsection, shall be not less than three feet in height and not more than four feet in height.

#### **TMAPC COMMENTS:**

Ms. Cantrell asked staff how Section 1303.E was different from the one voted on last time in terms of the fencing and the yard, which was denied. In response, Ms. Matthews stated that this proposal is more specific on the three to four feet in height.

#### **INTERESTED PARTIES:**

**Chip Atkins**, 1638 East 17<sup>th</sup> Place, 74120, stated that he discussed the three-foot wall issue at the last meeting and he believes that three feet is too low for any type of privacy at all. Someone could lie down and hide behind a three-foot wall. The larger SUVs' lights are higher than three feet and perhaps they should be four feet. A three- or four-foot wall is not adding any security for the abutting property.

Mr. Alberty stated that the issue regarding the larger SUVs is a good point and perhaps it should be four feet in height. The issue that staff was trying to address is that the six-foot screening fence has been repeatedly addressed before the BOA for a variance and adjacent owners are not wanting the tall six-

foot fence. This would be for a parking lot that is an accessory to a use and not the use itself. The use would still require the six feet. This would be for an off-site parking area.

Mr. Ard asked if the screening discussed at the last meeting was strictly for the use and now this addresses the accessory parking lot. He thought that at the last meeting this was taken back up to six feet and he doesn't want to create a conflict.

Mr. Alberty stated that the last action was for a different provision of the Code and it was kept at six feet for the use. This would be for an accessory parking lot. Mr. Alberty gave examples of this type of issue come up in the Cherry Street area. The principle use parking lots were adjacent to residential homes and there were homeowners who came to the hearings and requested that the fences be limited to four feet. If the use is an office building, such as the case across from Mr. Atkins's home, that was a PUD requirement that was later modified to six feet. That is a principal use office in combination with off-street parking. This provision today refers to principal use parking and wouldn't conflict with the action taken last week.

Mr. Atkins asked if it is abutting an RS does this include across the street as well.

Mr. Alberty stated that this provision is just for an adjacent to and wouldn't apply to something across the street.

Mr. Atkins stated that if this is in the backyard, he would stay with the six-foot, but if it is abutting another parking lot he would agree with the four-foot height for privacy issues.

Ms. Cantrell stated that she understands that this is treated differently in different parts of the Code. It seems that actually it is the same issue because it is whether a parking lot should have a six-foot screening fence or not. In terms of the requests that were made along Cherry Street, he asked if these were these ever made with respect to walls that abutted backyards or where was it located. She could understand where they wouldn't want a six-foot wall coming up to the street, but if it where in a backyard she believes that the parking lot should be screened at six feet and not four feet. In response, Mr. Alberty stated that the abutting neighbors had identified an unsafe situation because of the six-foot fences and that is the reason why it was reduced. That is the reason staff is suggesting the same today.

In response to Ms. Cantrell, Mr. Alberty stated that the issue along Cherry Street was for a sideyard.

Mr. Bernard asked staff if his backyard abutted a parking lot, then this ordinance would now say that the maximum height of the fence would be four feet, or if it is

designed for a side lot or front lot only. In response, Ms. Matthews stated that the way it is worded right now it stated adjacent to an R district, which would be front, back or sideyard. Mr. Bernard asked staff if that was their intent. In response, Ms. Matthews stated that this is what the neighborhoods were requesting, which was a sideyard at the time. Mr. Bernard stated that he would see this for a front or sideyard, but not a backyard.

Mr. Atkins stated that he agrees with Mr. Bernard and he would like to know which neighborhoods these are because he knows that Swan Lake has not been one of the neighborhoods that have agreed to this. Mr. Atkins listed several neighborhoods that he believes would be against this amendment.

Ms. Matthews stated that the neighbors don't always tell staff where they are from when complaining of this ordinance. In response, Mr. Atkins stated that staff has no data to support staff's assertion except for Cherry Street.

Mr. Bernard stated that he would take staff's word that they have had comments regarding this issue. Mr. Atkins reiterated that staff doesn't have any data. In response, Mr. Bernard asked Mr. Atkins to not go there right now.

Ms. Cantrell asked if there is a way to word this so that the fences could be reduced in front of a building line. In response, Mr. Atkins stated that Ms. Cantrell's proposal would be preferable. Ms. Cantrell stated that there is a real concern for privacy when it comes to a backyard.

Mr. Bernard asked staff if this could be reworded so that if it is abutting a backyard, then it shall be six feet, but on a building line or front or side lot, it shall be four feet.

Mr. Carnes suggested that the six-foot fence requirement be left in the Code and then include a clause that it could be lowered to four feet if the adjacent neighbors request it. In response, Mr. Alberty stated that this is already in the Code, because it can be lowered by the BOA through a special exception. Staff will go back and look at this language and make sure that it can be modified and consistent with other sections within the Code.

Mr. Bernard asked if the intent was to prevent having to go to the BOA. In response, Mr. Alberty stated that this suggested proposed amendment was due to address this specific situation and it wouldn't address any other commonly required six-foot screening fences. It is only to address this one provision of the Code. There is a provision in the Code that allows anyone to file an exception to the BOA to modify the screening for all screening requirements.

Mr. Bernard asked what the point in doing this if the Code already allows the screening to be modified. In response, Mr. Alberty stated that the point is that this is a specific requirement for this specific use condition. Where it now states

six feet, staff is proposing that it be modified to between three and four feet. Discussion has indicated that perhaps the Planning Commission doesn't want to do this and that is fine. Staff would eliminate this proposal.

Mr. Midget stated that the Code should remain as it is now stated and eliminate this proposal. The BOA can make any variations needed because there is a concern about parking lots backing into backyards. Rewording it would be more cumbersome and he suggested it remain as it is today.

Ms. Stead agreed with striking Section 1303.E.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Jackson, Wofford "absent") to **DENY** proposed amendment to the City of Tulsa Zoning Code for Section 1303.E.

\* \* \* \* \*

**CONTINUED ZONING PUBLIC HEARING:**

**Application No.:** PUD-431-A-9

**MINOR AMENDMENT**

**Applicant:** Jeffrey G. Levinson

(PD-26) (CD-8)

**Location:** 101<sup>st</sup> Street , west of South Sheridan Road and east of South Kingston Avenue

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to PUD-431-A to modify signage standards for Development Area 'D' as they relate to sub-area 'D-1'. The applicant proposes to increase the maximum permitted height of the ground sign from 16 feet to 22.5 feet, delete the 150-foot setback requirement for a ground sign from the west and south boundaries of Development Area 'D', modify the wall signage standards (which permit one square foot per each lineal foot of building wall to which attached) to permit an aggregate display surface area for one or more signs not to exceed 150 square feet regardless of the length of the wall to which attached, and delete the restriction against wall or canopy signs on west or south-facing elevations.

The applicant has modified the above requested amendments as follows: the ground sign shall be set back a minimum of 20 feet from the west and east boundaries and a minimum of 50 feet from the south boundary of Development Area D-1; and clarify that the prohibition of flashing and intermittently lighted



signs shall not apply to “LED” signs that provide information and do not change copy or text more frequently than every sixty (60) seconds.

Current development standards are tied to the original PUD, which established development areas ‘A’ through ‘G’. Sign standards for Development Area ‘D’ permit the following:

**Ground Signs:** Ground signs shall be limited to one sign along 101<sup>st</sup> Street and one sign along Sheridan identifying the center and/or tenants therein. A permitted ground sign shall not exceed 16 feet in height, nor exceed a display surface area of 180 square feet. No ground sign shall be permitted closer than 150 feet from the west or south boundary of Parcel (Development Area) ‘D’.

**Wall or Canopy Signs:** The aggregate display surface area of the wall or canopy signs shall be limited to one square foot per each lineal foot of building wall to which the sign or signs are affixed. Wall or canopy signs shall not exceed the height of the building. No flashing or intermittently lighted signs are permitted and no wall or canopy signs are permitted on the west or south elevations of buildings constructed on Parcel (Development Area) ‘D’.

PUD-431-A altered the size, permitted uses, permitted floor area and percent of landscaping in Development Areas ‘A’, ‘B’, ‘C’, and ‘D’, mainly providing more commercial floor area for Development Area ‘A’. Sign standards were not modified by the amendment. Subsequently, Development Area ‘D’ was divided by minor amendment into three development areas and two reserve areas: Tract ‘D-1’ has frontage on 101<sup>st</sup> East Avenue; Tracts ‘D-2’ and ‘D-3’ are on the interior of the site; the reserve areas front South Sheridan Road. Therefore, Tract ‘D-1’, the subject tract, is the only developable lot with frontage on a public street. Sign standards were not modified by the minor amendment.

Development Area ‘E’, adjacent to the west boundary of Development Area ‘D’ and more specifically Area ‘D-1’, has been developed as an office park in accord with Development Standards (which remained the same under PUD-431-A). Sign standards for this development area permit one monument sign along 101<sup>st</sup> Street not to exceed eight feet in height or 32 square feet in display surface area. The existing ground sign is approximately four feet tall and 32 square feet in display surface area site.

Development Area ‘C’, adjacent to the east boundary of Development Area ‘D’, was amended by PUD-431-B to permit a convenience store and was initially developed as such but has since reverted to a restaurant use as permitted by the original PUD. PUD-431-B retained the original sign standards which permitted one ground sign not to exceed 180 square feet of display surface area and 16

feet in height. The approved ground sign for the restaurant is sixteen feet in height with 56 square feet of display surface area.

Development Area 'A' at the southwest corner of East 101<sup>st</sup> Street South and South Sheridan Road has been developed by May's and Arby's. Two minor amendments were approved increasing the permitted height of the ground sign from 16 feet to 25 feet and display surface area from 180 square feet to 225 square feet. The ground sign is located adjacent to the intersection. Minor increases in wall signage were also approved per subsequent amendments.

Development Area 'B' south of the southwest corner of East 101<sup>st</sup> Street South and South Sheridan Road has been developed as a small retail and office center. Sign standards for the area permit one ground sign not to exceed 16 feet in height or exceed a display surface area of 180 square feet. The approved ground sign for the center is 10 ½ feet in height and 60 square feet of display surface area.

PUD-431 and its amendments have generally been developed according to the original concept for each development area. Sign standards, with exception to Development Area 'A' at the intersection of the arterials, have not been modified. In fact, further away from the intersection signs have been smaller than what standards permit. With residential immediately across the street from the subject tract and given existing development immediately west and east, staff finds that the proposed increase in height of the ground sign along East 101<sup>st</sup> Street frontage and proposed 150 square foot wall sign to be excessive and out of character with the remainder of the PUD. However, staff agrees with the applicant's request to modify setback of the ground sign from the east, west and south boundaries as proposed; allow wall or canopy signs on the west and south sides of buildings constructed on Development Area D-1 so long as the sign does not exceed one square foot of display surface area per lineal foot of the wall to which attached; and allow for the clarification regarding "LED" signs that provide information and do not change copy or text more frequently than every sixty seconds.

Therefore, staff recommends **DENIAL** of the applicant's request to increase the height of the ground sign and display surface area of wall signs, and **APPROVAL** of the remaining amendments proposed by PUD-431-A-9 per the following conditions:

1. All ground signs, excluding directional signs as defined by the Tulsa Zoning Code, shall be set back a minimum of (20) feet from the west and east boundaries of Development Area D-1 and fifty (50) feet from the south boundary of Development Area D-1.

2. Wall or canopy signs shall be permitted on the north, west, east and south sides of the building not to exceed one square foot of display surface area per lineal foot of the wall to which attached.
3. No flashing or intermittently lighted signs are permitted. This provision, however, shall not prohibit "LED" signs that provide information and do not change copy or text more frequently than every sixty (60) seconds.

**TMAPC COMMENTS:**

Mr. Ard asked why staff included the south with regard to page 7.5 of the agenda, No. 2 condition. In response, Ms. Matthews stated it is anticipated to that the south would develop into residential uses or something with lower intensity. Ms. Matthews further stated that it is being restricted to one lineal foot, which is a wall sign.

**Applicant's Comments:**

**John W. Moody**, 1800 South Baltimore, Suite 900, Tulsa, Oklahoma 74119, representing Mr. Jeffrey Levinson, submitted photographs of existing signs (Exhibit B-4), maps (Exhibit B-1), site plan (Exhibit B-2) and stated that he is in agreement with staff's recommendation dealing with everything except for the height of ground sign.

Mr. Moody explained that this PUD was done several years ago and since that time there have been some modifications for commercial uses. Mr. Moody cited the various uses within the subject PUD and the surrounding area. Mr. Moody submitted a letter of support from the adjacent property owner (Exhibit B-3). Staff was concerned about the increasing of the height of the sign based upon the fact that there are some existing single-family residences on the north side of 101<sup>st</sup> Street and he thought the current 16 feet in height would be appropriate. An existing restaurant retained the 16-foot height. Mr. Moody cited the height and size of signs currently existing and their locations compared to his client's proposed sign. Mr. Moody indicated the spacing between the signs and how far they are from the existing residential area.

Mr. Moody stated that he met with his client and this will be for office use. Mr. Moody read the Code regarding light office districts and signage that would be permitted. His client is willing to reduce the size of the sign from 22.5 feet to 20 feet. Now there is a difference of four feet in height of the signs and he believes he has a fairly legitimate reason for making this request. He also proposes to move the sign as far to the east as possible, which is 36 feet from the property line or within seven feet of the actual drive. This would make the sign furthest away from the residential additions. To do this would make the proposed sign closer to the restaurant sign. He would like to have the extra height for more visibility for the oncoming traffic. His client also agrees to reduce the present allowable display surface area from 180 SF to 150 SF and plat it far on the

northeast corner of the subject property (36 feet from the property line) from the residential addition.

**TMAPC COMMENTS:**

Mr. Midget reiterated that the applicant is willing to reduce the display surface area from 180 SF to 150 SF and 20 feet in height placed on the farthest east location. In response, Mr. Moody answered affirmatively.

Mr. Bernard stated that the other signs Mr. Moody pointed out are not directly across the street from single-family residential uses and the proposed sign will be directly across from residential.

Mr. Midget stated that most of the residential backs into the subject site and it wouldn't be at their front doors. If this project had come in as an OL district, then it would be permitted by right. This is a PUD and some restrictions can be added and what the applicant is asking is not unreasonable.

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Jackson, Wofford "absent") to **APPROVE** the minor amendment for PUD-431-A-9 per staff recommendation, subject to sign modifications as follows: the ground sign shall be 20 feet in height and 150 SF of display surface area and shall be located on the farthest eastern location of the subject property (36 feet from the property line) as modified by the Planning Commission.

\* \* \* \* \*

**OTHER BUSINESS:**

**Application No.:** PUD-500

**DETAIL SITE PLAN**

**Applicant:** Sack & Associates

(PD-18) (CD-8)

**Location:** Northeast corner of South Yale Avenue and East 81<sup>st</sup> Street South

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a drive-through bank and off-street parking. The proposed uses, Use Unit 11, Offices, Studios and Support Services, and Use Unit 10, Off-Street Parking, are in conformance with Development Standards of PUD-500.

The proposed building and parking meet minimum setback requirements. The building also complies with maximum permitted floor area and permitted height. The site meets minimum landscaped area and landscaped street yard

requirements for both lots and parking lot lighting complies with development standards and the zoning code.

Sidewalks are required along South Yale Avenue and East 81<sup>st</sup> Street South and are indicated on the site plan as existing and proposed.

Therefore, staff recommends **APPROVAL** of PUD-500 detail site plan for the bank and off-street parking subject to TMAPC approval of the related change of access.

(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; 7 members present:**

On **MOTION** of **HARMON**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Jackson, Wofford "absent") to **APPROVE** the detail site plan for PUD-500 subject to TMAPC approval of the related change of access per staff recommendation.

\*\*\*\*\*

**Application No.: PUD-327-A**

**DETAIL SITE PLAN**

**Applicant:** Eric Randall/Dr. Kathryn Beller (PD-18) (CD-8)

**Location:** 7711 East 81<sup>st</sup> Street South

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a new medical office building. The proposed use, Use Unit #11, Offices, Studios and Support Services, is in conformance with Development Standards of PUD-327-A.

The proposed building complies with minimum building setbacks and is within maximum floor area restrictions. The site provides minimum net landscaped area and landscaped street yard. Proposed parking complies with the zoning code; no site lighting is proposed other than decorative building lighting.

Development standards permit one-story buildings, only. The building elevations appear to indicate a two-story structure; however, accompanying floor plans

suggest that the second floor is intended for mechanical equipment. This is permissible so long as the second floor is not habitable.

Sidewalks are required along East 81<sup>st</sup> Street but are not indicated on the site plan.

Therefore, staff recommends **APPROVAL** of PUD-327-A detail site plan subject to the second story being used for storage and mechanical equipment, only, and that it not be used as a habitable floor; and sidewalks being provided along the East 81<sup>st</sup> Street.

**Applicant's Comments:**

**Danny Mitchell**, 5110 South Yale, Suite 510, 74135, stated that this was recently before the Planning Commission for a modification of the signage at the front, which was for a different applicant.

Mr. Mitchell stated that there is a stairwell shown on the plans that provide access to a partially-floored area in the attic for access to the heat and air conditioning equipment. His client prefers to have the access in this location rather than inside the office where patients are located.

Mr. Bernard asked Mr. Mitchell if he is in agreement with staff's recommendation. In response, Mr. Mitchell stated that he does have a comment regarding the sidewalks. The property immediately west of this is developed and he doesn't believe there is a sidewalk there. To the east is a large drainage channel and he doesn't know if there will ever be a sidewalk across there. He supports development of sidewalks, but when it comes to these small infill areas where if the sidewalk was put in then it would not be connected to anything. He requested that the sidewalk not be required. If it is the decision of the Planning Commission that the sidewalk is needed, then he will put a sidewalk in.

**TMAPC COMMENTS:**

Mr. Midget stated that he can appreciate Mr. Mitchell's concern, but there may be patients who need the sidewalk. The policy of the Planning Commission is to install sidewalks.

Mr. Ard asked if the transformer will cause the parking to be pushed back in order to install the sidewalks. In response, Mr. Mitchell stated that there is a huge transformer and two telephone pedestal boxes and he may have to go between that and the street to put the sidewalk in. Mr. Mitchell further stated that there is space for the sidewalk.

**INTERESTED PARTIES:**

**Greg Jennings**, 2260 South Troost, Tulsa, Oklahoma 74114, stated that he is in favor of the sidewalk.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Jackson, Wofford "absent") to **APPROVE** the detail site plan for PUD-327-A, subject to the second story being used for storage and mechanical equipment only, and that it not be used as a habitable floor; and sidewalks being provided along the East 81<sup>st</sup> Street per staff recommendation.

\*\*\*\*\*

**Application No.: PUD-411-C**

**DETAIL SITE PLAN**

**Applicant:** Sack & Associates/Jim Beach

(PD-26) (CD-8)

**Location:** Immediately south of the Mingo Valley Expressway, east of South Memorial Drive and north of East 98<sup>th</sup> Street South

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for Trinity Restoration Auto Body Shop. The proposed use, Use Unit 17, Automotive and Allied Activities, is in conformance with Development Standards of PUD 411-C.

The proposed building complies with land coverage, setback and height restrictions, and adequate landscaped open space and parking have been provided in conformance with the zoning code. Vehicle Repair, as established in Use Unit 17, does not provide for open storage of vehicles; therefore, all parking must conform to design standards per Section 1303 of the zoning code. Parking along the east and west boundaries does not conform to design standards.

Although there is an existing concrete panel wall on the residential properties adjacent to the site's east boundary, development standards require a six-foot high screening wall within the east 30 feet of development area 4 (A-1). None is proposed. Relief from this standard will require a minor amendment.

Per development standards, interior automotive services and work areas shall not be visible from the residential area to the east. The detail site plan indicates two overhead doors on the building's east elevation, providing for the possibility auto work will be visible from the east.

The site plan provides a fifteen-foot wide pedestrian access easement along the site's east boundary in conformance with development standards as amended by PUD 411-C-9. However, a security fence, which would impede the intended pedestrian access, is proposed perpendicular to the east boundary.

Site lighting as proposed complies with development standards and the zoning code.

Staff recommends **APPROVAL** of PUD 411-C detail site and landscape plan subject to the following conditions: (1) that all parking conform to minimum design standards as provided in Section 1303 of the zoning code; (2) provision of a minimum six-foot high screening wall within the east 30 feet of development area 4 (A-1); removal of east-facing overhead doors or assurance that work and service areas will not be visible from/through the doors; and provision for removal of that portion of security fencing which, as currently planned impedes access to the future pedestrian trail, when trail improvements are completed.

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

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Jackson, Wofford "absent") to **APPROVE** the detail site plan for PUD-411-C, subject to (1) that all parking conform to minimum design standards as provided in Section 1303 of the zoning code; (2) provision of a minimum six-foot high screening wall within the east 30 feet of development area 4 (A-1); removal of east-facing overhead doors or assurance that work and service areas will not be visible from/through the doors; and provision for removal of that portion of security fencing which, as currently planned impedes access to the future pedestrian trail, when trail improvements are completed per staff recommendation.

\*\*\*\*\*

**Application No.: PUD-670**

**DETAIL SITE PLAN**

**Applicant:** Roy D. Johnsen

(PD-6) (CD-9)

**Location:** 3138 South Rockford

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a new residence. The proposed use, Use Unit 6, Single-Family Dwelling, is in conformance with Development Standards of PUD-670.



The proposed residence complies with all building setback requirements and height restrictions. The proposed parking and walls are outside of the South Rockford right-of-way, although parking is designed such that two feet of the required eighteen-foot stall length is provided as overhang beyond the permanent wheel stop (curb) as permitted per Section 1303.A.3 of the zoning code. The proposed six-foot front screening fence is comprised of four feet of wrought iron on a two-foot masonry base as required per development standards as amended by City Council on November 21, 2002.

The site plan for the proposed residence complies with all development standards of PUD-670. However, because there has been a history of non-compliance with regard to encroachment of parking and front screening fences into the South Rockford right-of-way on the adjacent north two lots, staff is concerned that without verification through a survey, this site could likewise be built with portions of parking and the screening wall in the right-of-way.

Therefore, staff recommends **APPROVAL** of PUD-670 detail site plan for Lot 7, Block 1, Villarese, but strongly suggests that a survey be obtained for the site to assure that improvements are located and built on the site as proposed.

**Applicant's Comments:**

**Roy D. Johnsen**, 201 West 5<sup>th</sup>, Suite 501, Tulsa, Oklahoma 74103, reminded the Planning Commission that the only item before them today is Lot 7. Issues with Lots 5 and 6 are code enforcement problems. This is a site plan review and staff recommended it for approval because it meets all of the PUD requirements. There was a suggestion in the staff recommendation that a survey might be appropriate, to which he objected because it is a requirement that is not within the PUD and a departure from the Planning Commission's normal practices, and served no particular purpose. The process is in place to take care of a situation where the project is not built according to plan, which is a code enforcement issue. However, at the suggestion and encouragement of this Planning Commission, he took it to be that it would be helpful if the front corners of Lot 7 were flagged and the pins located. This has been done earlier today.

**INTERESTED PARTIES:**

**Phil Marshall**, P.O. Box 52011, 74152, Brookside Neighborhood Association, stated that he wanted to thank Mr. Johnsen for doing this for the neighborhood. He thanked the Planning Commission for extending this so it could be done.

**Greg Jennings**, 2260 South Troost, Tulsa, Oklahoma 74114, stated that he appreciates the fact that the developer went back and located the pins; he believes it was totally unnecessary. There shouldn't be a need to do a survey in order to do a detail site plan. The Planning Commission is not Code Enforcement, nor should the Planning Commission be asked to become Code Enforcement. Recently, there have been several neighborhoods that essentially wanted the Planning Commission to do exactly that. What is happening is the

Planning Commission is bogged down in the minutia of cases and trying to deal with things that aren't really under the Planning Commission's purview. This is a detail site plan and if the developer chooses to not follow this plan, then Neighborhood Inspections will have to be called out to clarify it and correct it. He appreciates neighborhoods coming in and informing the Planning Commission of problems, but he doesn't think it should be this Planning Commission who stands up and states that they are going to police this particular development after approving a site plan or after approving a PUD. Mr. Jennings concluded that he appreciates the Planning Commission for giving the developer the chance to do this, but he believes it was unnecessary and the Planning Commission should think twice about doing this in the future. Just because a neighborhood demands something doesn't mean they are entitled to it.

**TMAPC COMMENTS:**

Mr. Midget thanked Mr. Jennings for his comments.

**TMAPC Action; 7 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Jackson, Wofford "absent") to **APPROVE** the detail site plan for PUD-670 for Lot 7, Block 1, Villarese, per staff recommendation.

\*\*\*\*\*

**Request for Refund**

Corridor site plan Z-4900-SP-6 was approved by the TMAPC on August 23, 2006 and was inadvertently resubmitted by the applicant. The applicant is requesting a refund.

**STAFF RECOMMENDATION:**

Ms. Matthews stated that staff is recommending a refund of \$900.00 after reviewing the records.

**TMAPC COMMENTS:**

Mr. Ard requested that the Planning Commission be given a list of charges for their records. In response, the Recording Secretary, Barbara Huntsinger, reminded the Planning Commission that these charges are on the website. Ms. Huntsinger informed the Planning Commission that the fees will not be in the same format as the receipt that is in their packets today. (The list of fees will be sent to the Planning Commissioners via email.)

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

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Ard, Bernard, Cantees, Cantrell, Carnes Harmon, Midget "aye"; no "nays"; none "abstaining"; Bayles, Collins, Jackson, Wofford "absent") to **APPROVE** the refund of \$900.00 to the applicant.

\* \* \* \* \*

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

**Amendment to Policies and Procedures and Code of Ethics of the Tulsa Metropolitan Area Planning Commission**

Proposed policy for sidewalks in the unincorporated area of Tulsa County.

**STAFF RECOMMENDATION:**

Mrs. Fernandez stated that this is an amendment to the Planning Commission's policies and procedures and she would like the Planning Commission to adopt this proposed policy as to how to deal with sidewalks in the unincorporated area of Tulsa County. The Tulsa County Engineer took this to the County Commissioners and they approved the policy. Staff recommends **APPROVAL**.

**Arterial Roadways** – Sidewalks will not be required to be built by a developer unless the County Engineer determines that a sufficient use or activity "generator", "attraction" or "major activity center" necessitates that sidewalks be built at the time of development of a particular subdivision. The County will construct the sidewalks along arterials roadways when appropriate and the need exists.

**Residential Subdivisions** – Sidewalks will be required in RS-zoned residential subdivisions. Generally, subdivisions zoned RE, AG-R, or AG and rural in nature or with no curb or gutter requirement will not be required to put sidewalks in the development. The County Engineer has the option to require sidewalks in the RE, AG-R or AG-zoned developments if there are curb and gutter requirements or special "generator" activities that would warrant sidewalks.

**Industrial Subdivisions** – Industrial Parks or Subdivisions not containing commercial, office, retail mixed use or "generators" of activities which would encourage pedestrian activity or safe passage of pedestrians as they travel to a nearby use will not be required to install sidewalks. The County Engineer has the option to require sidewalks in industrial areas if activities or "generators" warrants sidewalks.

**Commercial and Office Subdivisions** – Sidewalks will be required for these types of developments.

**Generator Uses** – These would include but not be limited to schools, churches, club houses and swimming pools in subdivisions, tennis courts, parks, mixed use developments, retail establishments, public facilities, trail systems, eating establishments and major activity centers.

**General Conditions** – Sidewalks when required will be located on both sides of a street unless special circumstances warrant a deviation per the County Engineer and TMAPC.

Sidewalks will generally be constructed from concrete and be a minimum of four (4) feet in width and four (4) inches in thickness unless otherwise specified and approved by Tulsa County.

**TMAPC COMMENTS:**

Mr. Harmon stated that he didn't attend the worksession, unfortunately. How does this differ to the sidewalk requirements in incorporated areas? In response, Mrs. Fernandez stated that the City of Tulsa will still require sidewalks in all areas. Most of the residential rural zoning will be in Tulsa County unincorporated area and that is where the differences came up. Staff brought this to the attention of the County Engineers and everyone agreed that something should be done because it wasn't working properly for these large-lot developments in the County.

Mr. Harmon stated that personally he doesn't like to see two different standards. The land across the street (60 feet away) can have the County standards and on the other side have the City standards. If the City later annexes the County property in, then there is a lot of confusion of what is required and when it is required.

Mrs. Fernandez stated that it is an issue for the surrounding communities as well and she has discussed this issue with them. The large-lot rural development is what prompts this issue. Broken Arrow expressed their gratitude that Tulsa County is addressing this issue, because they know they will have the same issues. The County Engineer did some research on what other communities throughout the nation are doing. A local developer stated that it is not the cost of sidewalks, but it is how exactly one would put the sidewalks in on this type of development.

Mr. Alberty stated that this is not an amendment to the Subdivision Regulations. The Subdivision Regulations still require sidewalks in the County, as well as in the City. All this will do is establishing a policy that the County will review each individual application and make it consistent with this policy. The sidewalks requirement will still have to be waived if there are no sidewalks in a subdivision plat. This would be the policy that the Planning Commission would apply to determine whether to waive the requirement.

Mr. Ard asked if the County Engineer makes the recommendations to the Planning Commission with a new plat as part of the proposal from the engineer that the Planning Commission recommends no sidewalks are necessary. In response, Mr. Alberty answered affirmatively. The application would still have to come before the Planning Commission.

**INTERESTED PARTIES:**

**Greg Jennings**, 2260 South Troost, Tulsa, Oklahoma 74114, stated that he understands that these are recommendations, but he believes they come from the wrong prospective. Developers stand up at the Planning Commission meetings and state that they are not anti-sidewalk, but do not think they should be built here, etc. Shouldn't they have taken that under consideration when they were designing the development? The Planning Commission has stated that they are going to require sidewalks, end of story. He agrees that there will be problems down the road when these properties are annexed into the City. If the Planning Commission remembers that during their worksession the gentleman who addressed them regarding the Economic Development Plan stated that the City should be annexing land and it should be improved land. Essentially this would be setting the City up for it to incorporate unimproved land and that is not a good thing for the City because then the City has to bear the cost. He commented that to basically say "if they come we will make them build it" is ridiculous. People will not use something that is not there and that is why it needs to be installed with access to other neighborhoods, even if it is not the ending point of where these people are going. He stated that the Planning Commission can base this on the fact that this area will have a lot of traffic. Mr. Jennings concluded that this proposal doesn't make sense to him.

**TMAPC COMMENTS:**

Mr. Harmon stated that he is not particularly fond of this as he has stated before, but he knows that this has been looked at by a lot of people and maybe this is the best solution at this point. Mr. Harmon moved to approve the proposal.

Mr. Bernard asked if this would still have to come before the Planning Commission. In response, Mr. Alberty stated that the requirement is still there and that is the reason why the Subdivision Regulations are not being amended. The Planning Commission has Policies and Procedures and this would be added to that document.

Ms. Cantrell asked if this is adopted the Planning Commission will still have to routinely waive the sidewalks because of the policy. In response, Mr. Alberty stated that it would be coming to the Planning Commission as a recommendation from the County Engineer, which the County Commission has voted on and supports this policy. The Planning Commission is an instrument of the City and the County and this is what they want. The Planning Commission is more or less obligated to follow through.

Mr. Bernard stated that the regulation for sidewalks are still in place and if the County finds that they are unneeded or uncalled for in this particular situation, then they are going to recommend that the Planning Commission not follow the regulations and there is policy set in place to not follow the regulations under these specific terms. In response, Mr. Alberty stated that he believes it is clear to everyone that if they want the regulations waived, then they need some sort of guideline and that is what this effort is.

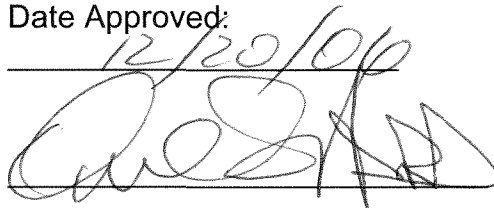
**TMAPC Action; 7 members present:**

On **MOTION** of **HARMON**, TMAPC voted **4-2-0** (Ard, Bernard, Harmon, Midget "aye"; Cantees, Cantrell "nays"; none "abstaining"; Bayles, Carnes, Collins, Jackson, Wofford "absent") to **APPROVE** the amendment to Policies and Procedures and Code of Ethics of the Tulsa Metropolitan Area Planning Commissioner per staff recommendation.

\*\*\*\*\*

There being no further business, the Chair declared the meeting adjourned at 3:54 p.m.

Date Approved:

12/20/09  


Chairman

ATTEST:



Secretary