

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2495

Wednesday, October 17, 2007, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Ard	Cantees	Alberty	Boulden, Legal
Cantrell	Carnes	Butler	
Harmon	Miller	Chronister	
Marshall		Fernandez	
McArtor		Matthews	
Midget			
Shivel			
Sparks			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, October 11, 2007 at 10:33 a.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 Ard called the meeting to order at 1:33 p.m.

REPORTS:

Chairman's Report:

Mr. Ard reminded the Planning Commission of the TMAPC Retreat to be held November 2, 2007 from 1:00 p.m. to 5:00 p.m. at the Centennial Building. There will be a questionnaire that everyone should fill out and bring to the October 24th meeting. The facilitator will take the questionnaire and work through it.

Comprehensive Plan Update Report:

Ms. Cantrell reported that the committee is still working through the RFP's and will be interviewing sometime next week. January is the target date for signing an agreement.

Director's Report:

Mr. Alberty reported on the TMAPC September receipts. He indicated that the receipts are running behind from this time last year.

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

Mr. Alberty reported that staff received a letter from the Mayor's office requesting the TMAPC to take the necessary steps to establish criteria and a timeline to create and implement a pilot program using form-based codes. The Mayor requested that the pilot program area be located within, but not exceed, the boundaries of the Pearl District as defined in the formerly adopted plan (6th Street Corridor Plan). Mr. Alberty indicated that he did respond to the Mayor's letter and in summary he recommended that a consultant be hired who has experience with form-based codes to work with staff and the TMAPC to establish it. Land Development Services doesn't have available staff to perform that function, but are willing and offering to coordinate with a consultant to prepare that.

Mr. Alberty reported that not only on staff's performance measurements for this fiscal year, but also the result of the LEAN process, staff's goal was to transmit zoning applications within 75 days from the time the application was filed. Staff has met and exceeded this goal in most cases. There were many cases transmitted within 40 days and there was only one case that took longer than 75 days and that was due to the applicant requesting a continuance five times. Mr. Alberty stated that next year he would like to see if that can be reduced more.

Mr. Ard stated that this is a great thing that staff has worked through the process and he is sure the development community is pleased to have in speeding up that process. Mr. Ard congratulated the staff for their meeting and exceeding their goals.

Minutes:

Approval of the minutes of September 5, 2007 Meeting No. 2491

On **MOTION** of **HARMON**, the TMAPC voted 6-0-0 (Ard, Cantrell, Harmon, Marshall, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, McArtor, Midget, Miller "absent") to **APPROVE** the minutes of the meeting of September 5, 2007, Meeting No. 2491.

Minutes:

Approval of the minutes of September 19, 2007 Meeting No. 2492

On **MOTION** of **HARMON**, the TMAPC voted 6-0-0 (Ard, Cantrell, Harmon, Marshall, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, McArtor, Midget, Miller "absent") to **APPROVE** the minutes of the meeting of September 19, 2007, Meeting No. 2492.

Minutes:

Approval of the minutes of September 26, 2007 Meeting No. 2493

On **MOTION** of **HARMON**, the TMAPC voted 6-0-0 (Ard, Cantrell, Harmon, Marshall, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, Midget, McArtor, Miller "absent") to **APPROVE** the minutes of the meeting of September 26, 2007, Meeting No. 2493.

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

COMPREHENSIVE PLAN PUBLIC HEARING

Tulsa County Tax Incentive District Number 2 and Resolution Finding the Tulsa County Tax Incentive District 2 Plan is in conformance with the Tulsa Metropolitan Area Comprehensive Plan. (Resolution No. 2495:889)

STAFF RECOMMENDATION:

Ms. Matthews stated that this is for a Tax Incentive District that will involve the Cherokee District and the Saber property, which is approximately 67 acres. A project plan has been submitted and over five years, they will forgive the ad valorem tax as part of the incentive. The projected building cost is \$105,000,000.00. This is a high intensity use and is in accord with the plan. The intensity is projected to stay the same as it was under the Saber use. This is for the Electronic Data Systems (EDS), who have leased the facility.

TMAPC COMMENTS:

Mr. Ard asked staff if the Planning Commission is strictly looking at land use to find this in accord with the Plan. In response, Ms. Matthews answered affirmatively.

In response to Mr. Marshall, Mr. Andy Armstrong, INCOG, stated that there is an error and on page 2, #4 under financing, it should read "2009" rather than 2008.

RESOLUTION No.: 2495:889

A RESOLUTION FINDING THAT THE TULSA COUNTY TAX INCENTIVE DISTRICT NO. TWO PROJECT PLAN IS IN CONFORMANCE WITH THE TULSA METROPOLITAN AREA COMPREHENSIVE PLAN

WHEREAS, the Tulsa Metropolitan Area Planning Commission on June 29, 1960 adopted by Resolution a Comprehensive Plan for the Tulsa Metropolitan Area, which Plan was subsequently approved by the Mayor and Board of City Commissioners of the City of Tulsa, Oklahoma, and by the Board of County

Commissioners of Tulsa County, Oklahoma, for the orderly development of the City and County of Tulsa, Oklahoma with subsequent amendments to date; and

WHEREAS, said Comprehensive Plan contains sections providing policies and programs for providing specific guidance and direction of the physical development of various elements or areas of the metropolitan community including the area delineated and defined in the North Tulsa County Comprehensive Plan; and

WHEREAS, the Tulsa County Board of County Commissioners authorized the creation of a Local Review Committee in accordance with the Local Development act, 62 O.S. §851 (2001) et. Seq.; and

WHEREAS, said Local Development Act requires that the Tulsa Metropolitan Area Planning Commission review the proposed Project Plan, make recommendations, and certify to the Tulsa County Board of County Commissioners as to the conformity of any proposed Tax Incentive or Tax Increment Plan to the Comprehensive Plan for the Tulsa Metropolitan Area; and

WHEREAS, on behalf of the Board of County Commissioners for Tulsa County and EDS, a Project Plan has been prepared and submitted to the Review Committee for the creation of Tax Incentive District No. Two, County of Tulsa, Oklahoma; and

WHEREAS, On October __, 2007 the Tulsa County Local Review Committee recommended to the Tulsa County Board of County Commissioners that the proposed Tax Incentive District No. Two, County of Tulsa, Oklahoma, Project Plan be approved and adopted by Resolution; and

WHEREAS, said Tax Incentive District No. Two, County of Tulsa, Oklahoma, Project Plan has been submitted to the Tulsa Metropolitan Area Planning Commission for review in accordance with the Local Development Act.

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

The Tax Incentive District No, Two, County of Tulsa, Oklahoma, Project Plan in connection with the Local Development Act is hereby found to be in conformity with the Comprehensive Plan for the Tulsa Metropolitan Area and further recommends to the Tulsa County Board of County Commissioners the approval of the Tax Incentive District No. Two, County of Tulsa, Oklahoma, Project Plan without amendment.

Copies of this Resolution shall be forwarded to the Tulsa County Board of County Commissioners.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, TMAPC voted **7-0-0** (Ard, Cantrell, Harmon, Marshall, Midget, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, McArtor, Miller "absent") to **APPROVE** the Tulsa County Tax Incentive District 2 and Resolution No. 2495:889 finding it to be in conformance with the Tulsa Metropolitan Area Comprehensive Plan.

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

CONSENT AGENDA

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

3. **Second Amendment to Deed of Dedication of the Village at Woodland Hills** (PD 18) (CD 7)
North of 71st Street and West of South Memorial
4. **Amendment to Deed of Dedication of College Center at Meadowbrook** (PD 18c) (CD 18)
East of South Mingo and South of East 81st Street
5. **Southminster Presbyterian Church** – Final Plat (PD 6) (CD 9)
(9224)
Southwest corner of East 34th Street South and Peoria Avenue
6. **Crossing at 86th Street Phase III** – Final Plat (County)
East of Southeast corner of 86th Street North and North Sheridan Road
7. **Z-7004-SP-1 – Harden & Assoc./Mike Marrara** (PD-17) (CD-6)
706 South 129th East Avenue (Corridor Detail Site Plan for a 6,000 SF new building and an existing 850 SF building to remain temporarily to be demolished in the future.)
8. **PUD-375-E – Sack & Assoc./Mark Capron** (PD-8) (CD-2)
2433 West 61st Street South (Detail Site Plan for a planned additional classroom building to accommodate junior high students.)

9. **L-20143** – Harden & Associates (9333) / Lot-Split (PD 18) (CD 7)
5122 South Vandalia Avenue
10. **L-20144** – J. R. Donelson (7335) / Lot-Split (County)
17319 South Sheridan
11. **L-20145** – Carol Knowlton (9217) / Lot-Split (County)
3002 South 49th West Avenue
12. **L-20146** – Gayelynn Head (9212) / Lot-Split (PD 7) (CD 2)
1509 South Baltimore
13. **L-20150** – Stacy Lee (9410) / Lot-Split (PD 17) (CD 6)
14918 East 13th Street
14. **L-20151** – George Folz (6303) / Lot-Split (County)
18717 South Lakewood
15. **L-20153** – Tonya Harrison (0404) / Lot-Split (County)
13809 East 60th Place North
16. **LC-69** – DeShazo, Tang (8201) / Lot-Combination (PD 18) (CD 2)
1027 East 66th Place
17. **LC-70** – Sandra Combs (8203) / Lot-Combination (PD 8) (CD 2)
2802 West 61st Place
18. **LC-71** – Toomey Oil Company (9212) / Lot-Combination (PD 1) (CD 4)
1124 South Frankfort

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Ard, Cantrell, Harmon, Marshall, Midget, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, McArtor, Miller "absent") to **APPROVE** the consent agenda Items 3 through 18 per staff recommendation.

Mr. Ard stated that the applicant for Item 22, L-20142 has requested a continuance.

Ms. Chronister stated that the owner of the subject property is requesting a continuance to November 28, 2007 in order to meet with the neighborhood and discuss their concerns.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, TMAPC voted **7-0-0** (Ard, Cantrell, Harmon, Marshall, Midget, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, McArtor, Miller "absent") to **CONTINUE** the lot-split requesting a Subdivision Regulations waiver for L-20142 to November 28, 2007.

Mr. McArtor in at 2:00 p.m.

PUBLIC HEARING

Southtown – (2420) Preliminary Plat (County)

Northwest corner of East 136th Street North and Garnett Road

STAFF RECOMMENDATION:

This plat consists of 17 lots, one block, on 11.1 acres.

The following issues were discussed October 4, 2007 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned RS. A Board of Adjustment case (CBOA-02284) is pending (October 16, 2007) for this site for a "Variance of a structure setback from abutting streets ½ of the right-of-way designated on the Major Street Plan, a Variance of the required front yard from 25 feet to 15 feet, and a Variance of the required yard abutting an arterial street from 85 feet to 32.5 feet from the centerline. It appears that there are too many driveway cuts. Show access for northern lots. Detention easements need to be detailed and defined. A neighbor to the south has expressed concerns about drainage. *The consulting engineer for the project will advise his client to put in sidewalks although the County Engineers' office does not see the need for sidewalks for this project. Board of Adjustment action may put special conditions on the development.*

2. **Streets:** Show Limits of No Access along the Arterials. Change both curve # 1's from 35 feet (but scales 25 feet) to 30 foot radii per the Major Street Plan for an arterial intersection. Document existing right-of-way especially any north of Lots 14 to 17 and show their street name. Include standard dedication of Utility easement in Section IA. Addressing needs to be assigned for final plat.
3. **Sewer:** Out of Tulsa service area. Aerobic systems are proposed for each lot.
4. **Water:** Rural Washington County water district # 3 is currently annexing this area for water service.
5. **Storm Drainage:** Overland drainage easements or storm sewers in storm sewer or utility easements will be required to convey the drainage flowing on to this site to the stormwater detention easement, which should be placed in a Reserve area, not on platted lots in a multiple lot subdivision. Please do not place utility easements in the middle of the stormwater detention facility. Suggest clarifying both large drainage easements with dimension arrows. Please add the standard language for surface drainage, overland drainage easement in a reserve and stormwater detention easement in a reserve. Add the conceptual design plan for conveyance of all drainage to the stormwater detention easement in a reserve.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** Additional easements may be necessary. AT&T will need more easements.
7. **Other: Fire:** A release letter from the appropriate Fire Department will be required before Final Plat approval. Out of City of Tulsa Fire Department response area. Check with Claremore (Collinsville per developer) Rural Fire Department for any related comments. No Fire hydrants shown. Where a portion of the 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: For group R-3 and Group U occupancies, the distance requirement shall be 600 feet.

GIS: State on face of plat that this is a resubdivision of "Industrial Heights Addition" and what Blocks and Lots are involved – reflect this information in the covenants. Show bearings and distances from point of commencement to point of beginning on the face of the plat. On the location map, show locations and names of the subdivisions within the mile section. On the face of plat, show names of all the adjacent subdivisions. Include the e-mail address for the surveyor. Show the date of preparation for the plat. Fix duplicate lot numbers (Lot 8 is used twice). Update the actual number of

lots. State the basis of bearing for this plat's survey and give this bearing in degrees, minutes and seconds. Locate and label all rights-of-way on the face of plat adjacent to the property (IE. Street and street names).

County Engineer: Label street on north and west, and show all existing right-of-way. Show Limits of No Access along 136th Street North and east side of Lot 17. Show additional right-of-way on Lot 1, east of structure. Add language for maintenance of detention area. Section 1 A – include easements in dedication.

Mrs. Fernandez stated that the original staff report was to recommend denial or a continuance in the alternative for this plat. The plat is over an existing plat that was filed in 1911 called "Industrial Heights". The differences between the existing plat, which is being vacated, and the new plat before the Planning Commission today is considerable. The drainage issues will be taken care of by the County Engineer. She reported that Mr. Alberty and staff met with the County Engineer, the developer and the Assistant County Engineer on Monday, October 15, 2007. Mrs. Fernandez indicated that she believes that everyone attending the meeting came to the same conclusion that a lot of the issues that are being addressed today can be taken resolved. In the original agenda on page 20.8 there were waivers requested concerning the easements, sidewalks and street widths for the subject plat. After the Monday meeting the easement and sidewalk waivers are being withdrawn. Tulsa County Engineers has assured staff that the drainage issues will be resolved. There were several calls from neighbors regarding drainage, as well as, the City of Collinsville. The City of Collinsville has sent a letter to the TMAPC (page 20.13). The City Planner from Collinsville came to the INCOG office this morning and he reiterated that their letter represents their comments.

Mrs. Fernandez stated that another issue was the access drives and the access cuts onto a major arterial street. The developer agreed that common driveways would be installed for three to four lots at one time and mutual access used in order to reduce the driveways cuts on the plat.

Staff can recommend **APPROVAL** of the preliminary plat based upon the changes that the applicant, County Engineer and staff agreed to on October 15, 2007. The Board of Adjustment did approve variances per request on October 16, 2007.

~~Staff cannot recommend approval of this plat in the present form due to a number of design considerations. There are concerns about the sidewalk waiver request, access to the northern lots being shown, lots facing a major arterial with the number of curb cuts onto arterial streets, and Zoning Code variances. The Board of Adjustment case will be heard the day before the TMAPC Preliminary Plat review. Staff can recommend a continuance of the plat until November 7, 2007 or denial of the plat if the continuance is not granted.~~

Waivers of Subdivision Regulations:

1. Waivers to right-of-way dedication, easements, and sidewalks have been requested. See attached request information.

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:

Ms. Cantrell asked staff about the waiver for the street right-of-way. In response, Mrs. Fernandez stated that staff is in favor of the waiver because the setbacks on the existing housing will be larger according to the way the right-of-way will be dedicated. The existing houses were allowed to be a little too close to the road.

Mr. Marshall questioned why there are several existing homes built without approval of the preliminary plat. In response, Mrs. Fernandez stated that the existing homes do have approval, but part of the confusion is the old existing plat from 1911. The County Inspectors Office let building permits based upon the old plat. The lot size has been changed to accommodate the aerobic sewer system.

Mr. Marshall asked if the applicant is putting in any streets besides the existing ones. In response, Mrs. Fernandez stated that there is a preliminary street cut into the addition from the south, but she isn't sure it will be utilized.

Applicant's Comments:

Ricky Jones, Tanner Consulting, LLC, 5323 South Lewis Avenue, 74105, representing Kyle Smalygo, stated that there was a legally-filed plat of record from 1911. The plat contained 47 lots and Mr. Smalygo has reconfigured the lots and obtained legal building permits from the Tulsa County Building Inspectors Office.

Mr. Jones stated that he met with INCOG staff and the County Engineer and has worked out all of the issues. Two of the waiver requests are being withdrawn. The only thing before the Planning Commission for a waiver is to not dedicate the required right-of-way shown on the Major Street and Highway Plan. His client is dedicating what he can and the County has requested that he file an additional roadway easement on the lot. The County believes that they can maintain and build the road wider when necessary. This is a standard preliminary plat and all of the issues have been worked out.

TMAPC COMMENTS:

In response to Mr. Marshall, Mr. Jones stated that the Board of Adjustment approved the variances requested. Mr. Jones further stated that the hardship for the variance was due to the old plat of record and setbacks. Mr. Jones described the overland drainage system that is planned.

In response to Mr. Marshall, Mr. Alberty explained that a meeting was held Monday with the applicant, staff and County staff to work out all of the issues. Most of staff's concerns were negotiated and the County Engineer was satisfied with the way these issues were amended. This is not an ideal situation and he

doesn't believe that the developer feels that it is an ideal situation. The developer was caught between utility jurisdictions and this became very complicated. All the issues were dealt with during the meeting on Monday and everyone walked away in agreement that this would be allowed to proceed. This is a preliminary plat approval and Mr. Jones explained that there are going to be some changes made to the face of the plat that was worked out during the Monday meeting. At this point, with those conditions stated and the owner is in agreement with, this preliminary plat can be approved. In final plat all the changes should be in place as agreed upon.

Mr. Jones reiterated that there will be 17 lots. Mr. Jones explained, and after a lengthy discussion, it was determined that replatting the subject property is the best route.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted **8-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Midget, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, Miller "absent") to **APPROVAL** the preliminary plat for Southtown subject to the special and standard conditions, subject to the amended and restated staff recommendation. (Language with a strike-through has been deleted and language with an underline has been added.)

Ogan's Circle – (0225) Preliminary Plat

(PD 2) (CD 1)

Southwest corner of East Virgin Street and Lansing Avenue

STAFF RECOMMENDATION:

This plat consists of 14 lots, one block, on 3.21 acres.

The following issues were discussed October 4, 2007 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned RS-4. Make sure lots meet lot width requirement. Detail what the property is between the subdivision and North Lansing Avenue. Pedestrian access to trail to the west of the subdivision will be along sidewalk on East Virgin Street. Show Limits-of-No-Access.
2. **Streets:** Add street name and state whether it is public or private. Document all existing right-of-way especially the 20-foot adjacent to Lansing. Sidewalks shall be constructed to a width of four feet and shall include

standard handicap ramps at intersections.

3. **Sewer:** Since the existing 20-foot easement between Lots 7 and 8 will be vacated, the existing sanitary sewer line must be centered within the 15-foot easement in order to allow for adequate maintenance of the sanitary sewer line.
4. **Water:** The perimeter bearings and distances of the plat should be grouped together for clarity. Use standard water, sewer and storm water covenant language. A water main line extension is proposed.
5. **Storm Drainage:** The Pre-Development conference minutes indicate that on-site stormwater detention, to be placed in a reserve area, is required. Unless the designer can prove no adverse impact to properties downstream of this site due to the additional rainfall runoff generated by this development, on-site stormwater detention is required. Add standard language for stormwater detention easement in a reserve. Section II.E: No Overland Drainage Easements (ODE's), or remove the language for them. Please replace Section IIB with the standard language for "owner responsibility to water mains, sanitary sewers, and storm sewer services". Common areas, such as Reserves, should be maintained by a Homeowners' Association. Section III A 19 should be titled "surface drainage" and should be included in Section II. Detention will need to show no impact down stream.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** Additional easements will be needed.
7. **Other: Fire:** No comment.

GIS: Tie the plat from a Section corner using bearings and distances from a labeled point of commencement to (POC) a labeled point of beginning (POB). Add POC and POB to the legend. Show the locations and names of the subdivisions within the mile section of the location map. Replace "south" and "west" with actual bearings on the traverse around the property. Add to the covenants a metes and bounds description that matches distances and bearings on the face of the plat to describe the property.

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

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. The concerns of the Public Works Department 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. Marshall asked staff if Lots 13 and 14 could be split into three lots in the future since it is zoned RS-4. In response, Mrs. Fernandez stated that if the lot-split met the RS-4 requirements they can be split.

Mr. Midget asked if the Urban Renewal Plan would have any bearing on whether lots would be split, since splitting the lots would not be in conformance with the Plan. In response, Ms. Matthews stated that the Urban Renewal Plan is very specific about how many units are allowed per acre and it would trump all other plans. Mrs. Fernandez stated that the developer could put in a private restriction against lot-splits.

Interested Parties Comments:

Norman Edwards, 1174 North Frankfort Avenue, 74106, stated that he wanted to know what the plans were for the property that his grandmother owns.

TMAPC COMMENTS:

Mr. Midget stated that the subject property has been sold and if there is a question of ownership Mr. Edwards should go the Tulsa Development Authority. The subject development area has been under a different ownership for quite sometime.

Applicant's Comments:

Brandon Jackson, 320 South Boston, 74103, stated that the subject property, which is a 5.2 acre tract, was acquired from the Tulsa Development Authority and today's application is for the remaining 3.2 acres of the tract. It was sold whole and in part to REDIA, Inc. for redevelopment. Mr. Jackson demonstrated the lots that were purchased from the TDA.

Mr. Edwards stated that he still has the deeds to the lots being discussed. In response, Mr. Midget recommended that Mr. Edwards visit with TDA and discuss this issue with Leon Davis.

Greg Carter, Briesch and Associates, stated that he believes this can be worked out with Mr. Edwards because he believes that it is a misunderstanding. He indicated that he would meet with Mr. Edwards and Mr. Davis to figure this out.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted **8-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Midget, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, Miller "absent") to **APPROVAL** the preliminary plat for Ogan's Circle, subject to special conditions and standard conditions per staff recommendation.

Application No.: Z-7074

RS-2/RS-4 to OM

Applicant: Sisemore Weisz & Associates

(PD-18A) (CD-2)

Location: South of southeast corner of East 71st Street and South Quincy Avenue

STAFF RECOMMENDATION:

Z-7066 September 2007: All concurred in approval of a request for rezoning a 4.78± acre tract of land from RS-2 to OM on property located immediately south of the southernmost lot in this application.

PUD-388-C March 2006: All concurred in approval of a Major Amendment to a PUD on a .96 acre tract of land to increase the maximum floor area for building expansion of retail/restaurant use on property located on the northwest corner of East 71st Street South and South Trenton Avenue.

PUD-691-A October 2003: All concurred in approval of a proposed Major Amendment to a Planned Unit Development on a 1.81± acre tract of land to permit a drive thru bank on property located south of the southeast corner of 71st Street South and South Riverside.

Z-6908/PUD-691 October 2003: All concurred in approval of a request for rezoning of a 1.81± acre tract of land from RS-2 to OL and a PUD on property located south of the southeast corner of 71st Street South and South Riverside.

BOA-19563 April 22, 2003: The Board of Adjustment approved a Special Exception to permit Use Unit 8 for a Congregate Care Retirement Facility in an RS district; a Special Exception for alternate screening along the property abutting a residential district (*the subject properties*); and a Variance to increase the maximum building height from 35 feet to 41 feet per plan and with conditions, on property located on the northwest corner of Riverside Parkway and South Quincy Avenue.

Z-6389/PUD-388-B February 1993: A major amendment to PUD-388-A was filed to permit a mini storage facility within Development Areas C and D. Approval was granted for the major amendment as well as the rezoning of the southern portion of the development area from OM to CS in order to increase the permitted floor area.

PUD-388-A May 1991: All concurred in approval of a major amendment to the PUD to allow for restaurant use within the southern end of the PUD, with retail and commercial development standards remaining on the northern half.

PUD-261-D October 1997: Approval was granted for a major amendment to allow a church and church uses on property located north and east of the northeast corner of East 71st Street and South Riverside Drive.

PUD-128-E September 1987: All concurred in approval for a Major Amendment to PUD-128-D to reallocate floor area, revise development areas and redistribute uses, including office and retail, office, multifamily with accessory commercial and open space on a 96-acre tract located on the southwest corner of East 71st Street and Riverside Parkway.

PUD-357-A December 1984: All concurred in approval of a Major Amendment to PUD-357 to increase commercial density located east of the southeast corner of East 71st Street and South Quincy Avenue.

PUD-357 May 1984: The TMAPC and City Commission approved a proposal for a commercial/office complex on 8.5 acres located south and east of the southeast corner of East 71st Street South and South Quincy Avenue. This PUD combined and thereby voided the earlier PUD-279 and PUD-305.

PUD261-A December 1983: All concurred in approval of the development of approximately 18 acres located on the northeast corner of East 71st Street and South Riverside Drive for office and a retail Wal-Mart store.

PUD- 128-A November 1979: All concurred in approval of a proposed Major Amendment to a PUD on an approximately 118-acre tract to delete six acres from the originally-approved PUD, thereby reducing the total number of dwelling units in the remaining PUD. This modified some of the development standards for the different development areas that have approved single-family dwellings, garden apartments, town homes and duplexes on them. The property is on East 71st Street South and west of the Joe Creek channel, abutting the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 11.97± acres in size and is located south of the southeast corner of East 71st Street and Quincy Avenue. The property appears to be in single-family residential use (some vacant) and is zoned RS-2 and RS-4.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Quincy Avenue	N/A	N/A	Scant 2 lanes

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

SURROUNDING AREA: The subject tract is abutted on the east by multifamily residential uses, zoned RM-1; on the north by commercial/office and related uses, zoned PUD-357-A; on the south by a proposed office use (currently vacant single-family residential use), recently rezoned OM; and on the west by the Prairie Rose multifamily Use Unit development, zoned RS-2 (and allowed by BOA action). The area has been in transition for several years.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18A Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Low Intensity-No Specific land use. According to the Zoning Matrix, the requested OM zoning **is not** in accord with the Plan; however a recent rezoning immediately south of the subject property (Z-7066, to OM from residential single-family) was unanimously approved by both the TMAPC and the City Council (9/20/07). This area has been in transition for some time and it appears that this request and the previous one will facilitate that.

STAFF RECOMMENDATION:

Based on trends in the area and surrounding existing and proposed land uses, staff can support the requested OM zoning and therefore recommends **APPROVAL** of OM zoning for Z-7074. If the TMAPC finds this zoning change appropriate, they should direct staff to prepare amendments to the District 18 Detail Plan map and text.

Mr. Midget out at 2:23 p.m.

TMAPC COMMENTS:

Ms. Cantrell stated that she is in support of this, but it is a real problem that the Comprehensive Plan is outdated and it doesn't really reflect what is going on in the subject area. She does believe that it will be high intensity in the subject area and she can support his application.

Mr. Harmon stated that the case map clearly shows that this is an area that is in transition.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, TMAPC voted **7-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, Midget, Miller "absent") to **APPROVE** the OM zoning for Z-7074 per staff recommendation.

Legal Description for Z-7074:

Lots 2 through 6, Block 1, River Grove subdivision, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof; **From RS-2/RS-4 (Residential Single-family District) To OM (Office Medium Intensity District).**

Application No.: Z-7075

AG to RS-3/RS-4

Applicant: Roy D. Johnsen

(PD-17) (CD-6)

Location: West of the southwest corner of 41st Street South and 177th East Avenue

STAFF RECOMMENDATION:

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

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

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

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

Z-6999 September 2005: All concurred in approval of a request to rezone a 90± acre tract locate west of the southwest corner of East 41st Street and 193rd East Avenue from AG/RS-3/OL/ CS to RS-4 for single-family development.

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

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

Z-6913 October 2003: A request to rezone 11.6 acres, located west of the northwest corner of East 51st Street and South Lynn Lane (South 177th East Avenue) from AG to RS-4. Staff recommended denial on the grounds there were no other zoning and development patterns in the area with RS-4 zoning. Staff recommended the applicant re-submit the application along with a Planned Unit Development.

Z-6911 September 2003: Approval was granted to rezone 160 acres located east of the northeast corner of East 51st Street South and South 161 East Avenue from AG to RS-3 for single-family development.

Z-6500 September 1995: The TMAPC and City Council approved rezoning from AG to RS-4 on a property north of East 51st Street between South 177th East Avenue and South 193rd East Avenue.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 122+ acres in size and is located west of the southwest corner of East 41st Street South and South 177th East Avenue. The property appears to be vacant and is zoned AG.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 41 st Street South	Secondary arterial	100'	2 (currently being resurfaced)

UTILITIES: The subject tract has municipal water available and ~~no sewer~~ available sewer to be extended via lift station.

SURROUNDING AREA: The subject tract is abutted on the east by vacant/agricultural land, zoned RS-3; on the north by vacant/agricultural land, zoned AG; on the south by single-family residential development, zoned RS-3; and on the west by vacant land, zoned AG.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 17 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Low Intensity – No Specific land use. According to the Zoning Matrix, either or both of the requested RS-3/RS-4 zoning **are** in accord with the Plan.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, surrounding zoning and trends in the area, staff can support RS-3 zoning for the subject property. Therefore, staff recommends **APPROVAL** of RS-3 zoning for Z-7075. Staff cannot recommend RS-4 zoning due to surrounding intensities. This is an undeveloped area and infrastructure (two-lane roads and no sewer) does not appear to be in place to accommodate RS-4 intensities. Therefore, staff recommends **DENIAL** of RS-4 for Z-7075.

Applicant's Comments:

Roy Johnsen, 201 West 5th Street, Suite 501, 74103, stated that there may have been some confusion. When he filed this application, the intention was that the northwest 40 acres would have RS-4 zoning and the balance of 82 acres be zoned RS-3.

Mr. Johnsen stated that to the south, west and north is basically all AG zoned. To the east there is RS-4 zoning, which is a single-family classification. Mr. Johnsen described the difference in lot sizes between RS-3 and RS-4 and frontage requirements. He commented that it has been proven throughout the city that RS-3 and RS-4 are compatible when done in a proper fashion. Having adjacent segments of your development with different lot sizes is a proven development pattern and consistent with the Plan. Both classifications would be compatible with the Comprehensive Plan and are considered to be low intensity single-family lots.

Mr. Johnsen stated that there is a lot of development happening in the subject area. He explained that over two million dollars has been spent for a lift station in the subject area for sanitary sewer and the subject tract is included within that drainage basin. The Stone Creek lift station is operative and completed. There will be sewer and ultimately the streets will be widened.

TMAPC COMMENTS:

Ms. Cantrell asked Mr. Johnsen if he has considered zoning RS-3 with a PUD in order to manipulate the lot frontages. The strain on the infrastructure is the total numbers and she is not concerned with the lot sizes. In response, Mr. Johnsen stated that it is possible to get there with a PUD and if that is the Planning Commission's preference, he probably wouldn't resist it. If this is the desire of the Planning Commission, then he would like the record to reflect that the Planning Commission is not saying that those sizes of lots are inappropriate in the northwest 40 acres.

Ms. Cantrell stated that she believes that RS-4 is a little intense in terms of the numbers that would be brought to the subject area. She would more comfortable with an RS-3/PUD.

Mr. Johnsen stated that RS-3 lots have a 60-foot frontage and RS-4 has a 50-foot frontage. The RS-4 lots will have 55-foot frontage with 6,600 SF lots and RS-3 will have 6,900 SF lot with a 60-foot frontage. The difference is fairly small academically, but it does make a difference with the markets that one is trying to reach and the resulting home that will be constructed.

Mr. Harmon asked Mr. Johnsen if his client would be willing to have a split zoning with the north 80 acres being RS-3 and the south 40 acres being RS-4. In response, Mr. Johnsen stated that he client would be willing to do this, but it would be the other way around. He requested that the northwest 40 acres be zoned RS-4 with the adjacent arterial street (41st Street).

Mr. Marshall asked if RS-4 zoning would set a precedent. In response, Mr. Alberty stated that once RS-4 is in the subject area then it does set a precedent. The Comprehensive Plan states that RS-4 is a consideration and staff's concern at this particular time is that RS-4 on the interior of that section typically goes just the reverse. It usually goes from denser to a less dense area toward the interior of the section. The overriding issue at this particular point is continually approving a higher density single-family in areas that are adequately served by infrastructure. This is more of concern to staff than other issues. If the Planning Commission approves RS-4, then they should be prepared to approve RS-4 wherever on that interior of that section.

Mr. Marshall stated that he believes a PUD would probably be best for this application.

Mr. Johnsen stated that he does believe the RS-4 would set a precedent, but a developer may not necessarily seek RS-4. RS-4 is a use that is consistent with the Plan and he appreciates staff's concern about infrastructure. However, if the water and sewer is not available, it couldn't be developed. The only real infrastructure issue is 41st Street. Traditionally, the City of Tulsa builds streets after the development occurs and becomes a priority. If the PUD is the will of the Planning Commission, then he would accept that, but he would like a comment in the minutes that it is not a suggestion that within a PUD it might not be appropriate.

Mr. Marshall asked Mr. Johnsen if 41st Street is being resurfaced. In response, Mr. Johnsen stated that he believes they are resurfacing, but it is not a widening process.

Ms. Matthews stated that she did a field check and they were only resurfacing 41st and there was no widening or other improvements.

Mr. Harmon stated that there is an RS-4 within a quarter of a mile so this isn't a brand new concept.

Mr. Johnsen stated that it is an academic situation with the market place. If the market is there for the larger lots, then the developer will likely build them. The RS-4 is a smaller lot and probably there is not as much demand, but there is a demand. The request is for single-family, detached units that are consistent with the Comprehensive Plan and considered to be low intensity.

Ms. Cantrell stated that she would prefer to keep the entire application for RS-3 zoning to maintain the livability requirements and the total numbers. She doesn't have a problem with the lots being rearranged to be more appropriate to RS-4 in the areas where the applicant wants to do that.

Mr. Ard stated that in the past he has had some problems with RS-4 in areas that have acreage home sites. This particular location is surrounded by primarily AG land and he understands staff's planning process, wanting the higher intensity closer to the arterials. There is RS-4 zoning in the subject area and RS-4 is in the Comprehensive Plan, so it seems to be in conformance. He wouldn't have a problem with the northwest part of the tract being RS-4.

Mr. Harmon agreed with Mr. Ard. He could support RS-4 for the northwest 40 acres and RS-3 on the remainder.

Mr. Marshall stated that the developer is trying to give potential buyers a choice for different price ranges. Mr. Marshall indicated that he could support Mr. Johnsen's proposal.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, TMAPC voted **6-1-0** (Ard, Harmon, Marshall, McArtor, Shivel, Sparks "aye"; Cantrell "nay"; none "abstaining"; Cantees, Carnes, Midget, Miller "absent") to **APPROVE** the RS-4 zoning for Z-7075 on the northwest 40 acres and RS-3 on the remainder of the tract as modified by the Planning Commission. (Language with a strike-through has been deleted and language with an underline has been added.)

Legal Description for Z-7075:

To be zoned RS-4:

THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE/4 NW/4) for 40 acres ± from **AG (Agriculture District)** to **RS-4 (Residential Single-family District)**; AND

To be zoned RS-3:

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (SW/4 NE/4) AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER (NW/4 NE/4) PLUT THE WEST 2 ACRES OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER (NE/4 NE/4) OF SECTION 26, T-19-N, R-14-E, OF

THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF for 82 acres ±; From **AG (Agriculture District)** to **RS-3 (Residential Single-family District)**

Application No.: PUD-405-20

MINOR AMENDMENT

Applicant: Jackson Nixon

(PD-18) (CD-8)

Location: 7229 East 92nd Street South

STAFF RECOMMENDATION:

The applicant is requesting approval of a minor amendment to reduce the required rear yard of 20 feet to 11.7 feet to permit an addition. The requested minor amendment is not in conformance with Development Standards of PUD 405 and would be incompatible with the existing development. Setbacks are established for the purpose of providing consistency of development and uniform neighborhood design. The applicant has not demonstrated a hardship that is created by the unusual circumstance or condition peculiar or unique to this lot, but rather is attempting to expand the structure outside the approved building envelope.

Therefore, staff recommends **DENIAL** of the requested minor amendment to reduce the required rear yard to 11.7 feet

Applicant's Comments:

Jackson Nixon, 705 North Yorktown Avenue, 74110, stated that the addition would not hinder any of the utilities and the utility easement is eleven feet. There will be 11.7 feet from the addition to the fence. He has received the approval from the homeowners association. He believes that there have already been two or three minor amendments from the setback in the subject area. Mr. Nixon submitted a site plan (Exhibit A-1).

TMAPC COMMENTS:

Mr. Ard asked Mr. Nixon if he had a letter from the homeowners association stating that they in agreement with this proposal. Mr. Nixon stated that he had a letter from the homeowners association.

Mr. Ard asked Mr. Nixon if there would be an exterior access and an access through the garage. In response, Mr. Nixon stated that there will be an exterior access and he can put an access through the garage as well.

Mr. Harmon stated that he can see possibly one foot or three feet, but when using up roughly half of it, that is more than he can support. Mr. Harmon asked Mr. Nixon if there is any way to avoid that. In response, Mr. Nixon stated that the utility easement only gave the property owner 20 feet from their property line to the setback. Mr. Nixon indicated that he would not be encroaching on the utility easement. The proposed building is 19 feet in length and ten feet in width. Mr. Harmon stated that he has a problem with this proposal.

Mr. Nixon stated that the only other way to build the building is to put it in the front and then it would take away from the homes in the subject area. This is a corner lot without a side yard that is not street property, so he is attempting to put the building at the back of the house so that it doesn't take away from the homes in the subject area.

Mr. Marshall asked Mr. Nixon if he has discussed this proposal with the adjacent neighbor. In response, Mr. Nixon answered affirmatively and submitted photographs (Exhibit A-2). Mr. Nixon indicated that the adjacent property owner has no problem with the proposal.

Mr. Sparks asked Mr. Nixon what type of shop this would be. In response, Mr. Nixon stated that it would be the homeowner's workshop to work in for woodworking.

Mr. Marshall asked what type of machinery would be used. In response, Mr. Nixon stated that it would be a skill saw. He indicated that the homeowner makes small wood objects.

Mr. Marshall asked Mr. Alberty what other exceptions have been made in the subject area. Mr. Alberty stated that there have been other sections within this area that have been granted relief, but he doesn't recall of them being to this extent. Staff is concerned with this proposed building facing the street and that is different when it is truly a rear yard situation and not visible from the street. Mr. Marshall stated that this proposed building will be visible.

Mr. Nixon stated that the design is to mold the addition into the house as if it were original. The brick work will be the same as the home and the roof line will mold into the existing home with a hip-roof design.

Mr. Nixon indicated that there would still be 30 feet between the proposed building and the house next door with a fence between them.

Mr. McArtor asked if the privacy fence would be torn down. In response, Mr. Nixon answered affirmatively.

Mr. Nixon stated that he could make the building 18 feet, put it behind the fence line and keep the privacy fence up.

In response to Mr. McArtor, Mr. Alberty explained that these are small lots and the existing home has almost filled up the entire building envelope. When an owner wants to expand a house, there is only way to do it and that is to expand into an existing setback. Setbacks are in place to maintain consistency and design control within a subdivision. This would be a violation of the PUD's setbacks and staff's job is to keep them consistently enforced. Mr. McArtor asked if there is no one in the neighborhood objecting and there is no problem with the easements, then what problem is there, other than cosmetic and regulatory?

Mr. Marshall stated that approving this minor amendment would open it up for all of the houses within the subdivision to request the same relief.

Ms. Cantrell asked if there was any notification to the neighborhood since this is a minor amendment. In response, Ms. Matthews stated that since it is a minor amendment there are no notices sent out. Ms. Cantrell stated that she isn't sure the neighborhood knows about this proposal. Mr. Nixon stated that he has an approval from the homeowners association. Ms. Cantrell stated that she is concerned about this proposal. Mr. Nixon commented that his clients did send letters to the neighborhood and the City did mail out notices to the neighborhood.

Mr. Marshall stated that this just doesn't feel right and he can't support it.

Mr. Ard stated that he appreciates the lengths the applicant has gone to design this and make it look like the existing home. Mr. Ard further stated that he can't support the overflow into the building setback in this great of an extent. The regulatory consideration of maintaining the setbacks overrides the homeowners association approving the proposal.

Mr. McArtor stated that it seems to him that this is a little hyper formalistic. This shop can't be built anywhere else. The owner wants to pursue his avocation and the neighbors don't mind and the neighborhood association doesn't mind. There are no violations of easements and they have gone out of their way to make this look like the original building. He understands the precedence theory, but he is in a type of business where precedents are set daily and that is how things move along.

Ms. Cantrell stated that if she was assured that the entire neighborhood was notified of the proposal she may feel differently, but she does believe this sets a bad precedent. She believes this is too much relief and it is next to a street. She believes that there are other alternatives the applicant could look to. Ms. Cantrell commented that she can't support this application.

Ms. Matthews corrected her statement and verified that minor amendments do have notices sent to properties within a 300-foot radius.

Mr. Harmon stated that he can appreciate homeowners wanting to use their lots for whatever they would like to use it for, but this is trying to crowd in an addition that doesn't fit.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **HARMON**, TMAPC voted **6-1-0** (Ard, Cantrell, Harmon, Marshall, Shivel, Sparks "aye"; McArtor "nay"; none "abstaining"; Cantees, Carnes, Midget, Miller "absent") to **DENY** the minor amendment for PUD-405-20 per staff recommendation.

Commissioners' Comments

Mr. Ard reminded the Planning Commission of the retreat for November 2, 2007 from 1:00 to 5:00 p.m. at the Centennial building. He asked them to please fill out the questionnaire and bring it back next week.

Ms. Cantrell stated that three of the Planning Commissioners attended a forum last night at Preserve Midtown and there was a lot of talk about conservation districts. There seem to be some support by the City Councilors who were in attendance.

There being no further business, the Chair declared the meeting adjourned at 3:03 p.m.

Date Approved:

11/28/07
[Signature]

Chairman

ATTEST:

[Signature]

Secretary