

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2499

Wednesday, December 5, 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 | Chronister | |
| Harmon | Miller | Fernandez | |
| Marshall | | Huntsinger | |
| McArtor | | Matthews | |
| Midget | | Sansone | |
| Shivel | | | |
| Sparks | | | |

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, November 29, 2007 at 3:49 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 Ard called the meeting to order at 1:34 p.m.

REPORTS:

Chairman's Report:

Mr. Ard asked Mr. Marshall if he would like to report on the seminar held last week in Norman, Oklahoma. In response, Mr. Marshall reported that the seminar was mostly geared toward professional planners and planning departments. There were a lot of good speakers and it was the 60th Anniversary of the OU Planning Department and numerous former students were invited to speak at the seminar.

Director's Report:

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

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

Mr. McArtor in at 1:37 p.m.

COMPRHENSIVE PLAN PUBLIC HEARING

Proposed amendment for District 18 Plan Map, a part of the Comprehensive Plan for the Tulsa Metropolitan Area and Resolution. (Resolution No. 2499:890).

STAFF RECOMMENDATION:

Ms. Matthews stated that the Planning Commission has received several requests for rezoning in this area. At each one of the recommendations, the Planning Commission was instructed that if these rezoning cases were found appropriate that staff should be directed to prepare the amendments and that is what is before the Planning Commission today. Ms. Matthews provided the District 18 Plan Map, which indicates the changes. Staff is recommending approval and has prepared the appropriate resolution.

RESOLUTION NO.: 2499:890

**A RESOLUTION AMENDING
THE DISTRICT 18 PLAN MAP,
A PART OF THE COMPREHENSIVE PLAN FOR THE TULSA
METROPOLITAN AREA**

WHEREAS, Pursuant to Title 19, OSA, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29th day of June 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area, which Plan was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law; and

WHEREAS, the TMAPC is required to prepare, adopt and amend, as needed, in whole or in part, an official Master Plan to guide the physical development of the Tulsa Metropolitan Area; and

WHEREAS, on the 27th day of August, 1975, this Commission, by Resolution No. 1078:403 did adopt the District 18 Plan Map and Text, a part of the Comprehensive Plan for the Tulsa Metropolitan Area; and

WHEREAS, a public hearing was held on the 5th day of December, 2007 and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA,

Section 863.7, to amend the District 18 Plan Map, a part of the Comprehensive Plan of the Tulsa Metropolitan Area, by designating the area east of Riverside Drive east to the easternmost lot line of properties east of and fronting South Quincy Avenue, south of the southernmost lot lines of properties fronting on East 71st Street south to East 75th Street/Riverside Drive as Medium Intensity-No Specific land use.

NOW, THEREFORE, BE IT RESOLVED by the TMAPC, that the amendment of the District 18 Plan Map, as set out above, be and is hereby adopted as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

TMAPC COMMENTS:

Ms. Cantrell asked if the subject area is within the Arkansas River Study that has been adopted. In response, Ms. Matthews stated that it is within the Arkansas River Study. Ms. Cantrell asked if the rezoning cases are in compliance with the River Study as well. In response, Ms. Matthews stated that she believes that the River Study calls for mixed uses and this would be offices, which is a transitional use.

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 recommend **APPROVAL** of the proposed amendments for District 18 Plan Map, a part of the Comprehensive Plan for the Tulsa Metropolitan Area and Resolution No. 2499:890 per staff recommendation.

Mr. Ard announced that there are several items that have requested a continuance:

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.

Mingo Crossing Park – (9431)/Minor Subdivision Plat (PD 18) (CD 5)

Southeast corner of East 59th Street South and Mingo Road (**Request continuance to 12/19/07 for further TAC review**)

STAFF RECOMMENDATION:

Ms. Matthews stated that this application needs some extra time in order to have further TAC review.

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 **CONTINUE** the minor subdivision plat for Mingo Crossing Park to December 19, 2007 for further TAC review.

PUBLIC HEARING

L-20159 -White Surveying – (1326)/Lot-Split (County)

8470 North 66th East Avenue (**Staff is requesting a continuance to December 19, 2007 to allow BOA hearing on 12/18/07.**)

STAFF RECOMMENDATION:

Ms. Matthews stated that this application requires Board of Adjustment action before the Planning Commission can consider this case.

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 **CONTINUE** the lot-split for L-20159 to December 19, 2007.

CZ-388 – David Stone/Gilcrease Foundation **AG to IL**

North of West 158th Street, between South 33rd Avenue and South 26th Avenue (Continued from 8/15/07 and 09/19/07) (**Applicant's attorney has indicated that his client is withdrawing this zoning application.**) (County)

STAFF RECOMMENDATION:

The applicant has requested that this item be withdrawn.

WITHDRAWN.

11636 East 51st Street

STAFF RECOMMENDATION:

The platting requirement is being triggered by Board of Adjustment Case BOA-20605 which requests that a church use be permitted in an IL zone.

Staff provides the following information from TAC at their November 15, 2007 meeting:

ZONING:

TMAPC Staff: The Board of Adjustment approved case 20605 on November 27, 2007.

STREETS:

The maximum width of the proposed driveway shall be 36 feet and located within the 40-foot platted access (west 40 feet of east 65th feet) or as shown in an approved change of access.

SEWER:

No comments.

WATER:

No comments.

STORM DRAINAGE:

Legal description does not match the dimensions on the existing site plan. The FEMA floodplain on this property must be placed in an Overland Drainage Easement. Construction will not be allowed in the floodplain without an approved "Conditional Letter of Map Revision."

FIRE:

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 buildings equipped throughout with an approved automatic sprinkler system the distance requirement shall be 600 feet. Provide proper fire hydrant coverage for this project.

UTILITIES:

No comments.

Staff recommends **APPROVAL** of the plat waiver. The property has previously been platted.

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

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

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

| | YES | NO |
|--|-----|----|
| 4. Is right-of-way dedication required to comply with Major Street and Highway Plan? | | X |
| 5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived? | | X |
| 6. Infrastructure requirements: | | |
| a) Water | | |
| i. Is a main line water extension required? | | X |
| ii. Is an internal system or fire line required? | | X |
| iii. Are additional easements required? | | X |
| b) Sanitary Sewer | | |
| i. Is a main line extension required? | | X |
| ii. Is an internal system required? | | X |
| iii. Are additional easements required? | | X |
| c) Storm Sewer | | |
| i. Is a P.F.P.I. required? | | X |
| ii. Is an Overland Drainage Easement required? | | X |
| iii. Is on site detention required? | | X |
| iv. Are additional easements required? | | X |
| 7. Floodplain | | |
| a) Does the property contain a City of Tulsa (Regulatory) Floodplain? | | X |
| b) Does the property contain a F.E.M.A. (Federal) Floodplain? | X* | |
| 8. Change of Access | | |
| a) Are revisions to existing access locations necessary? | | X |
| 9. Is the property in a P.U.D.? | | X |
| a) If yes, was plat recorded for the original P.U.D. | | |
| 10. Is this a Major Amendment to a P.U.D.? | | X |
| a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.? | | |
| 11. Are mutual access easements needed to assure adequate access to the site? | | X |

12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? X

*An overland drainage easement and letter of map revision for the floodplain will be needed before construction is permitted.

Mrs. Fernandez stated currently there is no construction anticipated in the near future on the subject property and staff can approve the plat waiver.

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 **APPROVE** the plat waiver for BOA-20605 per staff recommendation.

* * * * *

PUD-346-B – DeShazo, Tang & Assoc. (PD-18) (CD-2)

Southeast corner of East 88th Street South and South Lewis Avenue (Major Amendment to split the 1.375 acres into two distinct development areas, Development Area A and B, to allow construction of a separate free-standing 88 unit Senior Assisted Living Facility.)

STAFF RECOMMENDATION:

EXISTING ZONING: RM-3/CS/PUD-346 **EXISTING USE:** Elderly housing

ZONING ORDINANCE: Ordinance number 13106 dated March 18, 1974, and 19926 dated September 21, 2000, established zoning for the subject property.

PROPOSED ZONING: RM-3/CS/PUD-346-B **PROPOSED USE:** Elderly housing and assisted living/Creating two Development areas within PUD

RELEVANT ZONING HISTORY:

Z-6782 September 2000: All concurred in approval of a request for rezoning a .92± acre tract of land from CS to RM-3 to allow for an increased permitted floor area within the major amendment PUD-346-A on property located southeast corner East 88th Street South and South Lewis Avenue.

PUD-346-A September 2000: All concurred in approval of a proposed Major Amendment to a Planned Unit Development on a 5.2± acre tract of land to add 1.38 acres on the north to the PUD for construction of an 84-unit assisted living and Alzheimer care facility on property located southeast corner East 88th Street South and South Lewis Avenue.

BOA-15665 February 1991: The Board of Adjustment approved a variance of the required number of parking spaces from 100 to 84 and a special exception to approve an amended site plan in order to clear title to the property and per plot plan submitted, subject to the complex being utilized as elderly housing only. The property is the southern 4.7 acres of the subject tract.

PUD-346 December 1983: All concurred in approval, per conditions, to develop the 4.7 acres of the subject property for an elderly housing facility. The approval included an accessory restaurant that would provide meals for the residents of the elderly apartment project.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 5.3± acres in size and is located southeast corner of East 88th Street South and South Lewis Avenue. The property has been developed as elderly housing and is zoned RM-3/CS/PUD.

STREETS:

| <u>Exist. Access</u> | <u>MSHP Design</u> | <u>MSHP R/W</u> | <u>Exist. # Lanes</u> |
|------------------------------------|---------------------------|------------------------|------------------------------|
| South Lewis Avenue | Secondary Arterial | 100 | 3 |
| East 88 th Street South | Residential Collector | 60 | 2 |

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

SURROUNDING AREA: The subject tract is abutted on the east by apartments, zoned RM-1 and Home Depot, zoned IL; on the north by retail uses, zoned CS; on the south by South Lewis Express Storage, zoned CS; and on the west by retail uses and a motel, zoned CS.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being medium intensity. According to the Zoning Matrix, the existing RM-3/CS/PUD zoning is found to be in accord with the Plan.

STAFF RECOMMENDATION:

PUD-346-A is a 5.3006 acre assisted living facility for the elderly located on the southeast corner of 88th Street South and South Lewis Avenue. An original 4.7-

acre tract was approved in 1983 as PUD-346 allowing a 10-story, 171-unit elderly-housing development with accessory uses, including an activities building, amenities building and restaurant. The existing structure is actually a ten-story, 133-unit facility with an attached kitchen, dining room, and living room building. This development meets all applicable requirements of PUD-346. The existing facility is 38 units below the permitted number of units per development standards.

In 2000 PUD-346 was amended to PUD 346-A adding an additional 1.375 acres of platted property located immediately to the north of PUD-346 known as Lots 1 & 2, Block 5, Crown Imperial Addition. This amendment was to facilitate expansion of the facility to include an additional 84 unit assisted living facility. This proposal has never materialized.

PUD-346-B proposes to split the 1.375 acres added in the approval major amendment PUD 346-A, into two distinct development areas, Development Area A and B, to allow construction of a separate free-standing 88 unit Senior Assisted Living Facility, Use Unit 8, currently permitted per PUD-346-A.

The existing underlying zoning within PUD-346-A is RM-3, Residential Multifamily, and CS, Commercial Shopping Center District. The proposed Assisted Living Facility, Use Unit 8, is a permitted use by right in the RM-3 district and by special exception in the CS district. Because a PUD may include uses permitted by right or by special exception per underlying zoning, PUD 346-B has been filed to include the Assisted Living Facility use.

The PUD development standards for PUD-346-A and concept plan will remain intact as shown on attached applicant's concept plan Exhibit A with the exception that Lot 1, Block 1 Lewis Center East, and Lot 2, Block 5 of Crown Imperial Addition will be separated into a distinct Development Area B with a proposed 88-unit stand-alone structure constructed on the north tract of the PUD as depicted on applicant's attached concept plan Exhibit B. The proposed structure will have two access points, one off Lewis Avenue and another off 88th Street South. A portion of the parking for the existing structure is located in the proposed Development Area. This split will not affect required parking within the existing Development Area which requires 67 parking spaces per the Zoning Code. There are 101 parking spaces provided for the existing structure.

Staff finds the overall development proposal to be consistent with the original intent of the PUD as the actual number of units upon completion of this proposal (221) will remain below the permitted number of units (255).

The entire PUD, comprised of Lots 1 and 2, Block 1 of Lewis Center East and Lots 1 and 2, Block 5 Crown Imperial Addition, will be re-platted as a single subdivision with two lots.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-346-B to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-346-B subject to the following conditions:

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

Development Area A:

| | |
|-------------------|--------------------------|
| EXISTING ZONING | RM-3/CS/PUD |
| LAND AREA (Gross) | 3.740 Acres (162,925 SF) |
| LAND AREA (Net) | 3.471 Acres (151,201 SF) |

PERMITTED USES:
 Assisted Living Facility with accessory uses per Use Unit 8, including an activities building, amenities building and restaurant.

| | |
|--|---------------------|
| Maximum Number of Dwelling Units: | 133 |
| Maximum Building Floor Area Ratio: | .5 |
| Maximum Building Height: | ten-stories or 120' |
| Minimum Building Setbacks: | |
| From Centerline of South Lewis Ave. | 85' |
| From the South Boundary Development Area B | 10' |
| From the South Boundary of PUD | 80' |
| From the Eastern Boundary Development Area A | 120' |

Minimum Landscape Area and Screening: 20% of net lot area

Parking Requirements:

Per Zoning Code Standards (.5 spaces per dwelling unit) Signs per Zoning Code standards for Residential development.

Development Area B:

EXISTING ZONING: RM-3/CS/PUD
LAND AREA (Gross): 2.435 Acres (106,073 SF)
LAND AREA (Net): 1.830 Acres (79,695 SF)

PERMITTED USES:
Assisted Living Facility/Alzheimer’s Care Facility with accessory uses per Use Unit 8.

Maximum Number of Dwelling Units 88
Maximum Building Floor Area Ratio .5

Maximum Building Height: 4-stories or not to exceed 60’
*Architectural elements may exceed maximum building height with detail site plan review.

Minimum Building Setbacks:
From Centerline of South Lewis Ave. 85’
From Centerline of 88th Street South. 45’
From east lot line of Lot 1, Block 5, Crown Imperial Addition 20’
From the south lot line of Lots 1 and 2, Block 5, Crown Imperial Addition 32’

Minimum Landscape Area and Screening:
20% of net lot area, with a six-foot screening wall or fence on east Boundary of Development Area B

Parking Requirements:
Per Zoning Code Standards (.5 spaces per dwelling unit)

Signs:
Per Zoning Code standards for Residential development
Pedestrian Circulation:

A pedestrian circulation plan shall be required that includes the following:

- (a) Sidewalks along the east side of Lewis Avenue and the south side of 88th Street South;

- (b) Pedestrian walkways through parking lot(s); a minimum of three (3) feet in width, separated from vehicular travel lanes to the maximum extent possible and designed to provide safe access to non-street front building entrances and/or sidewalks and trails where applicable. The three (3) foot width shall not include any vehicle overhangs. Wheel stops shall be installed in parking spaces adjacent to all pedestrian walkways.
 - (c) Pedestrian walkways connecting transit stops to non-street front building entrances where applicable.
 - (d) Pedestrian walkways clearly distinguished from traffic circulation, particularly where vehicular and pedestrian routes intersect.
 - (e) Sidewalks or walkways which cross vehicular aisles or driveways distinguished as follows: by a continuous raised crossing, by using contrasting paving material and/ or by using high contrast striping.
3. No zoning clearance permit shall be issued for a lot within the PUD until a detail site plan for the lot, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
 4. A detail landscape plan for each development area shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences will be installed by a specific date in accordance with the approved landscape plan for the lot, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
 5. No sign permits shall be issued for erection of a sign on a lot within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
 6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.

7. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.
8. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
9. All private roadways shall have a minimum right-of-way of 30' and be a minimum of 26' in width for two-way roads and 18' for one-way loop roads, measured face-to-face of curb. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor residential public street. The maximum vertical grade of private streets shall be ten percent.
10. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets. The developer shall pay all inspection fees required by the City.
11. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
12. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
13. Entry gates or guardhouses, if proposed, must receive detail site plan approval from TMAPC, Traffic Engineering and Tulsa Fire Department, prior to issuance of a building permit for the gates or guard houses.
14. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.
15. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle, nor shall trucks or truck trailers be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

TAC Comments 11/15/07:

General: No comments.

Water: No comments.

Fire: No comments.

Stormwater: No comments.

Wastewater: The existing ten-inch sanitary sewer line located along the East property line of Lot 1, Block 5 Lewis Center East, appears to be too close to the western edge of the easement to allow for the existing 20' building line. If there is not adequate distance from the edge of the easement to the existing sewer line (five-foot is requested), then additional easement will be required.

Transportation: No comments.

Traffic: No comments.

GIS: No comments.

Street Addressing: No comments.

County Engineer: No comments.

TMAPC COMMENTS:

Ms. Cantrell asked staff if the wording under the bulk and area requirements: "four stories or 60'" would mean that it can be four stories with no more than 60 feet total and the word "or" makes it seem as though it could be either one. She requested that it be clarified that it be no more than 60 feet. Ms. Cantrell requested that the pedestrian circulation language also be added to the PUD standards.

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 **MIDGET**, TMAPC voted **8-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Midget, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, Miller "absent") to recommend **APPROVAL** of the major amendment for PUD-346-B per staff recommendation and as amended by the Planning Commission. (Language with a strike-through has been deleted and language with an underline has been added.)

Legal Description for PUD-346-B:

Lots 1 and 2, Block 1, Lewis Center East Addition; and Lots 1 and 2, Block 5, Crown Imperial Addition, additions to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof; **From RM-3/CS/PUD (Residential Multi-family District/Commercial Shopping Center District/Planned Unit Development [PUD-346]) To RM-3/CS /PUD (Residential Multi-family District/Commercial Shopping Center District/Planned Unit Development [PUD-346-B]).**

Z-7080 – Charles Norman/Union Public Schools

CO to OM

Southeast corner of East 62nd Street and South Mingo Road (PD-18b) (CD-6)

STAFF RECOMMENDATION:

EXISTING ZONING: CO

EXISTING USE: Vacant

ZONING ORDINANCE: Ordinance number 15995 dated April, 1970, and 16380 dated June 21, 1985 established zoning for the subject property.

PROPOSED ZONING: OM

PROPOSED USE: Public school play fields

RELEVANT ZONING HISTORY:

Z-7035 September 2007: All concurred in approval of a request for rezoning a 2± acre tract of land from RS-3 to CS for retail sales, on property located south of southeast corner of South Mingo Road and East 61st Street South and abutting the subject property to the north across East 62nd Street.

Z-7061 August 2007: All concurred in approval of a request for rezoning a .87± acre tract of land from RS-3 to OL for office use, on property located on the southeast corner of East 63rd Street and South Mingo Road and south of subject property.

Z-6882 March 2003: All concurred in approval of a request for rezoning a 2.9± acre tract of land from OL to CO for church athletic fields, on property located south of southeast corner of East 63rd Street and South Mingo Road.

Z-5903-SP-4 March 2003: All concurred in approval of a proposed Corridor Site Plan on 6.3± acre tract for church athletic fields, on property located south of southeast corner of East 63rd Street and South Mingo Road.

Z-5903-SP-3 November 2002: All concurred in approval of a proposed Corridor Site Plan on 1.1± acre tract for a two-story office building, on property located southeast of southeast corner of East 63rd Street and South Mingo Road.

Z-6840/PUD-656 November 2001: A request to rezone a 2.37± acre tract from CO to IL/PUD on property located south of southeast corner of East 61st Street South and South Mingo Road and abutting south of subject property, for uses permitted by right and exception in an IL district excluding Use Unit 12A. Staff recommended denial of IL zoning and for the PUD but the TMAPC recommended approval per modifications. The City Council approved the rezoning and PUD per modifications.

Z-5908-SP-1 February 1989: All concurred in approval of a request for rezoning a 3.24± acre tract of land for a softball and baseball hitting arena and building for video games, concessions, control area for batting machines and restrooms with conditions that no lights shall be placed in the north 150' of the east 200' and all lights in east half of property shall be turned off by 11pm; limit to one-story height of any structure; and no gravel for parking area on property located on the southeast corner of East 62nd Street South and South Mingo Road and a part of the subject property.

Z-5903-SP-2 April 1995: All concurred in approval of a proposed Corridor Site Plan on 6.3± acre tract for Miller Swim School, on property located south of southeast corner of East 63rd Street and South Mingo Road and abutting the subject property to the south.

Z-5903-SP-1 April 1995: All concurred in approval of a proposed Corridor Site Plan on 3.25± acre tract for indoor and outdoor skating rinks, on property located south of southeast corner of East 63rd Street and South Mingo Road and abutting the subject property to the south.

Z-6254/Z-6254-SP-1 September 1989: All concurred in approval of rezoning a .4-acre lot located on the northeast corner of East 63rd Street South and South Mingo Road from RS-3 to CO and approval was also granted on a detail corridor site plan, Z-6254-SP-1 on the property for a small appliance business in the existing building.

Z-5950/PUD-368 June 1986: A request to rezone a 1± acre lot from OL to IL and a Planned Unit Development on property located on the northwest corner of East 61st Street and South 99th Avenue East and abutting the subject property to the east, was approved with an OL buffer to the west, north and east. The PUD approved Use Units 11, 12, 13 and 14 and excluding specific uses within.

Z-6044 June 1985: All concurred in approval a request for rezoning a .6± acre tract of land from RS-3 to CO for mixed use on property located south of southeast corner of South Mingo Road and East 62nd Street South and a part of the subject property. No corridor site plan was ever approved for the property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 4.7± acres in size and is located southeast corner of East 62nd Street and South Mingo Road. The property appears to be vacant and is zoned CO.

STREETS:

| Exist. Access | MSHP Design | MSHP R/W | Exist. # Lanes |
|------------------------------|--------------------|-----------------|----------------------------|
| South Mingo Road | Secondary arterial | 100' | Five (center turning lane) |
| East 62 nd Street | N/A | N/A | Two |

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

SURROUNDING AREA: The subject tract is abutted on the east by vacant land, zoned RS-3; on the north by vacant and large-lot single-family residential uses, zoned RS-3; farther to the northeast by Union School property, zoned RS-3; on the south by an industrial use, zoned IL/PUD-656; and on the west by a large-lot single-family use, zoned AG and CS. The subject property is in the old Union community, which has been undergoing transition for some time. The single-family residence to the west across Mingo is currently for sale.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18b Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Corridor-Low Intensity. TMAPC policies have been that developments at a Medium Intensity category (as OM is) are allowable under a CO zoning. However, if the proposed rezoning **from** CO is not permitted by the land use intensity, then it is not in accord with the Plan. According to the Zoning Matrix, the requested OM zoning **is not** in accord with the Plan.

STAFF RECOMMENDATION:

Staff cannot support the requested OM zoning, based on the District 18 Detail Plan and therefore recommends **DENIAL** of OM zoning. However staff could support a rezoning to OL based on the same Plan and therefore recommends **APPROVAL** of OL zoning in the alternative.

Applicant's Comments:

Rodger Eldridge, 401 South Boston, Suite 2900, 74103; stated that his client is in agreement with the staff recommendation for OL zoning in the alternative.

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 recommend **APPROVAL** of the OL zoning for Z-7080 per staff recommendation.

Legal Description for Z-7080:

LOT 8, BLOCK 4, AND THE EASTERLY PORTION OF LOT 7, BLOCK 4, UNION GARDENS ADDITION, MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE NORTHEAST CORNER OF LOT 7; THENCE SOUTH ALONG THE EAST LINE 122.53'; THENCE WESTERLY A DISTANCE OF 421.12'; THENCE NORTHERLY A DISTANCE OF 122.53'; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 7 A DISTANCE OF 420.99' TO THE POINT OF BEGINNING, ACCORDING TO THE RECORDED PLAT OF UNION GARDENS ADDITION, AND ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA. **AND** THE WEST 155' OF LOT 7, BLOCK 4, UNION GARDENS ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING OT THE RECORDED PLAT THEREOF. **AND** HALF OF THE PUBLIC STREET RIGHT-OF-WAY ABUTTING SAID LOTS 7 AND 8, BLOCK 4, UNION GARDENS ADDITION, MORE PARTICULARLY DESCRIBED AS: BEGINNING AT A POINT THAT IS THE INTERSECTION OF THE CENTERLINE OF SOUTH MINGO ROAD AND THE CENTERLINE OF EAST 62ND STREET SOUTH; THENCE EAST ALONG THE CENTERLINE OF EAST 62ND STREET SOUTH TO A POINT ON SAID CENTERLINE THAT IS NORTH OF THE NORTHEAST CORNER OF LOT 8, BLOCK 4, UNION GARDENS ADDITION; THENCE SOUTH TO THE NORTHEAST CORNER OF SAID LOT 8; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID LOT 8 TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH ALONG THE WESTERLY LINE OF SAID LOT 8 TO THE SOUTHWEST CORNER THEREOF; THENCE CONTINUING SOUTH ALONG THE WESTERLY LINE OF THE WEST 155' OF LOT 7, BLOCK 4, UNION GARDENS ADDITION TO THE SOUTHWEST CORNER OF THE SAID 155' OF LOT 7; THENCE WEST TO A POINT ON THE CENTERLINE OF SOUTH MINGO ROAD; THENCE NORTH ALONG THE CENTERLINE OF SOUTH MINGO ROAD TO THE POB **From CO (Corridor District) To OM (Office Medium Intensity District).**

Z-7081 – Augustus C. Oliver, Jr.

RS-3 to RS-4

South of southeast corner South 25th West Avenue and West 45th Place

(PD-9) (CD-2)

STAFF RECOMMENDATION:

EXISTING ZONING: RS-3

EXISTING USE: Residential/agriculture

ZONING ORDINANCE: Ordinance number 11822 dated June 26, 1970, established zoning for the subject property.

PROPOSED ZONING: RS-4

PROPOSED USE: Residential development

RELEVANT ZONING HISTORY:

There is no recent zoning history.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 7.26+ acres in size and is located south of southeast corner of South 25th West Avenue and West 45th Place. The property appears to be in single-family residential and agricultural use, heavily wooded, appears to have some significant topographical challenges and is zoned RS-3.

STREETS:

| Exist. Access | MSHP Design | MSHP R/W | Exist. # Lanes |
|------------------------------------|--------------------|-----------------|-----------------------|
| South 25 th West Avenue | N/A | N/A | Two |

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

SURROUNDING AREA: The subject tract is abutted on all sides by single-family residential uses, zoned RS-3. To the northwest is St. Catherine's School and Church, zoned RS-3.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 9 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Low Intensity-Residential land use. According to the Zoning Matrix, the requested RS-4 zoning is in accord with the Plan.

STAFF RECOMMENDATION:

Although the requested RS-4 zoning is in accord with the District Plan, the property is surrounded by RS-3 zoned properties that have been developed at that density or lower. To rezone this to a greater density would be a clear case of spot zoning. Spot zoning is an intensification of zoning in the midst of lower intensities or densities, away from perimeter arterials. Ideally, higher intensities/densities are located near the streets that are designed to accommodate higher traffic (although in this case, the density will be only marginally higher than for RS-3) and staff cannot support that. Staff therefore recommends **DENIAL** of RS-4 zoning for Z-7081. However, if the applicant should choose to submit a PUD application along with this rezoning request, staff would encourage that.

TMAPC COMMENTS:

Mr. Ard stated that the Planning Commission received several letters and a petition in support of the rezoning and a petition opposing the RS-4 zoning.

Ms. Cantrell asked what South 25th West Avenue is designated. In response, Ms. Matthews stated that it is not shown on the Major Street and Highway Plan map. Ms. Cantrell stated that the street seems to be fairly wide with a substantial amount of traffic.

Ms. Cantrell asked staff what type of safeguards are they looking for with a PUD. In response, Ms. Matthews stated that they are looking for setbacks primarily and how the drainage issues would be addressed. Staff would like to see how the onsite drainage is addressed and how it is engineered if the applicant wants to develop the subject property as RS-4.

Mr. Ard stated that a conditional deed restriction has been given to the Planning Commission. In response, Ms. Matthews stated that this is something that the Planning Commission does not have jurisdiction over. The deed restrictions would require civil action if they were violated and the Planning Commission would not have a part of that.

Mr. Marshall asked if the City would have to check out the drainage issues regardless of a PUD. In response, Ms. Matthews stated that the Stormwater Management staff would have to check this out, but staff would like the Planning Commission to see it and to see the plat if they decide to develop at an RS-4 density. Ms. Matthews explained that restrictions in the deed could become part of the PUD and then City would be made party of them and could enforce those conditions.

Mr. Harmon asked for the overall density difference between RS-3 and RS-4. In response, Ms. Matthews stated that RS-3 is approximately five units per acre and RS-4 is approximately 6.5 units per acre. The frontage requirements are 60 feet for RS-3 and 50 feet for RS-4.

Mr. McArtor asked staff to explain what spot zoning consists of. In response, Ms. Matthews stated that it is considered spot zoning because it is a more intense zoning amidst less intense zoning. Staff prefers to see the more intense zoning closer to streets that are equipped to carry more traffic. Ms. Matthews agreed that RS-4 would not be that much more intense than RS-3, but staff prefers to see RS-4 on the periphery or closer to the periphery and the proposal is in the center of a section.

Mr. McArtor asked how a PUD would mitigate this proposal. In response, Ms. Matthews stated that a PUD can mitigate it by placing conditions in terms of density, setbacks, height, etc. Ms. Matthews reminded the Planning Commission that in a straight zoning the Planning Commission cannot place conditions. Ms.

Matthews stated that the Planning Commission can't require that the applicant file a PUD. Mr. McArtor asked staff if this is a serious spot zoning situation. In response, Ms. Matthews stated that it is not, but she would hate to put it on a scale of one to ten. Ms. Matthews further stated that this is a situation between a 50-foot frontage lot versus a 60-foot frontage lot.

Mr. Alberty stated that the maximum density that could be approved under an RS-3/PUD would be 36 units and under RS-4 would be 47 units. He believes that the applicant may be able to achieve the 36 units with a PUD rather than going to the RS-4 zoning. With regard to spot zoning, it doesn't bear reasonable relationship to the surrounding zoning. Typically where the surrounding zoning allowing a less density is in place, then one doesn't come in the middle of an area that has already been fully developed where the zoning is decided and create a higher density, which is creating a density that is not comparable to the development. The RS-3 zoning, if it were fully developed, in itself will be greater because most of the existing lots are larger than the minimum lot size than in RS-3. A PUD is helpful when there are drainage issues and one can back off of the drainage and not be penalized for the units that would be lost in the drainage area or reserve areas, but the same density is allowed to occur irrespective how it is developed on the site. With all of these issues in mind staff felt that the PUD would probably be the best way to achieve this proposal. The PUD would probably allow 36 units or more with the RS-3 underlying zoning. Mr. Alberty stated that it is very difficult to achieve five units per acre with straight zoning.

Mr. McArtor asked if the RS-4 is in accord with the Comprehensive Plan. In response, Mr. Alberty answered affirmatively.

Applicant's Comments:

Augustus C. Oliver, Jr., 4753 South Union Avenue, 74107, cited the history of the subject property and stated that he plans to build 36 lots. He needs the RS-4 zoning due to the onsite stormwater detention that he will be required to develop for the 36 lots. The layout with the maximum number of lots is to have two cul-de-sacs coming east off of 25th West Avenue and the average lot depths would be over 99 feet, but to meet the square footage requirements of the existing RS-3 zoning the width would be 70 feet and then it would only allow 29 or 30 lots. The economics become quite marginal at best under the RS-3 zoning considering the land lost for the detention facility. Mr. Oliver is proposing to make the lots 60 feet wide with the 99 feet depth. He would like to have lots with a backyard that is 16 feet less than a typical RS-3 lot. The only vehicle to achieve his goal is RS-4 zoning or a PUD.

Mr. Oliver explained that the existing RS-3 properties were developed when it was labeled RS-3. Over 1,200 of the existing RS-3 lots in the subject section do not comply with RS-3 zoning. Over 1,000 of the existing RS-3 lots do not comply with RS-4 zoning. There are 760 existing lots that actually comply with the RS-3

zoning within the subject section. Mr. Oliver cited the surrounding properties widths.

Mr. Oliver stated that some of the existing residents are concerned that he will be building small homes and it would devalue their homes. He commented that a small three-bedroom home with 1,000 SF would sell today for over \$100,000.00 dollars. Mr. Oliver cited the value of homes in the surrounding area. New homes, regardless of their size, would be a good addition to the community because existing homes are aging and declining in overall condition. Mr. Oliver submitted photographs of homes in the immediate area (Exhibit A-2 and A-3) and their values as listed with the County Assessor's office.

Mr. Oliver stated that he plans to have restrictive covenants and he has filed deed restrictions that are contingent upon the zoning change. He believes the restrictions address the concerns INCOG has and would condition them in a PUD. Mr. Oliver stated that he plans to have at a minimum a 1,200 SF home and quite possibly at the time the plat is actually filed it may be 1,300 to 1,500 SF if the market allows. The homes will have masonry facades with a two-car garage and a minimum roof pitch and a mandatory homeowners association and an architectural control committee. He would like this addition to look similar to Churchill Park in Jenks, Oklahoma, where he has built a number of homes.

Mr. Oliver recognized that Mr. Cole has organized the opposition to the zoning change, as well as submitting several pages of petitions from homeowners in the subject area. Prior to the circulation of Mr. Cole's petition Linda Fitzgerald tried to set up a meeting with Mr. Coles to discuss the matter and he was advised that Mr. Cole was opposed to any type of change. Mr. Oliver indicated that a meeting was set up with surrounding homeowners for December 2, 2007 and delivered 150 flyers to the neighbors. There were nine property owners at the meeting. Mr. Oliver disclaimed the points of concern that are on Mr. Cole's petition opposing the RS-4 zoning.

Mr. Oliver concluded that he has met with business people with the Southwest Tulsa Chamber of Commerce and he received a unanimous approval from all of the business members. No new housing additions have been built in the Webster High School area for over 20 years in the price range that middle class can afford. There is a desperate need for this in the community. He requested that the Planning Commission would approve the RS-4 zoning. He explained that PUDs work well for developers, but his financing is contingent upon approval of the zoning request and he doesn't have the extra money to file the PUD and then possibly still be denied. Mr. Oliver stated that if the Planning Commission denies the RS-4 request then the project will be dead and the property will go back on the market.

TMAPC COMMENTS:

In response to Mr. Ard, Ms. Matthews reminded the Planning Commission that the petition opposing the RS-4 zoning was emailed to the Planning Commissioners earlier in the week and the original is in the case file for the record.

In response to Mr. Midget, Mr. Oliver stated that he has discussed the cost of filing a PUD with Breisch and Associates and was given a quote of \$3,000.00 to simply do the paper work and submit the application for a PUD. The issues with the stormwater management will be require some engineering fees and will add to the project approximately \$6,000.00, plus other work necessary to get up to that point. He expects it to cost him a minimum of \$10,000.00 to file the PUD. In response, Mr. Midget stated that the amount Mr. Oliver is quoting is not all associated with the PUD. Mr. Midget further stated that Mr. Oliver will have to do the onsite detention facility regardless if he files a PUD.

Mr. Oliver explained that if the RS-4 passes, then his funding can proceed with the development and then he can hire the engineer. If it doesn't pass he doesn't have a checkbook that can cover the costs.

Mr. Harmon asked where on the property the retention pond would be located. In response, Mr. Oliver stated that it would probably be on the east end where the downhill end is located. Mr. Harmon asked Mr. Oliver how many lots he believes he will lose due to the retention facility. In response, Mr. Oliver stated that approximately ten to twenty percent of the land area, which would allow 35 lots under the RS-4 zoning. Mr. Oliver indicated that he has figured approximately 34 lots would be feasible, but perhaps two additional lots could be added depending on the where the cul-de-sac is located. He believes 36 lots would be the maximum he could expect with the RS-4 and onsite detention.

Mr. Marshall asked if the pond would be close to the cul-de-sacs. In response, Mr. Oliver answered affirmatively.

Mr. Marshall asked Mr. Oliver to quote the frontage of the lots on his conceptual drawing. In response, Mr. Oliver cited the frontages and stated that no lots will be 50 feet in width and the average will be 60 feet in width with the possibility of some 55-foot lots in order to save mature oak trees.

Mr. Marshall asked Mr. Oliver what the depth of the lots would be. In response, Mr. Oliver stated that they would be 99.25 feet for 34 lots.

Mr. Marshall asked several questions regarding Mr. Oliver's experience in developing a subdivision and building homes. In response, Mr. Oliver stated that he has never built a subdivision before, but he has built several homes. Mr. Marshall asked Mr. Oliver several questions about his financing for the proposal and his experience in building homes. In response, Mr. Oliver stated that he

started building homes in 1995 and he has built about 27 homes, including a 5,100 square foot home on Brook Wood Hill. Mr. Marshall asked Mr. Oliver if he would be building all of the lots himself or would he try to sell some of the lots. In response, Mr. Oliver stated that there is one builder who has expressed interest in building some homes on the subject property. Mr. Oliver further stated that he would prefer to build ¼ of the homes himself. Mr. Marshall asked Mr. Oliver if he has the paid in full for the subject property. In response, Mr. Oliver stated that he has a \$50,000.00 note against it right now. Mr. Marshall asked Mr. Oliver if he is a member of the Homebuilders Association. In response, Mr. Oliver answered negatively. Mr. Marshall stated that they have a Code of Ethics is the reason he is asking. Mr. Oliver stated that he is a Realtor and Realtors have a code of ethics as well.

Mr. McArtor asked Mr. Oliver if he is indicating that, although his proposal would be developed as RS-4, it would not be more intense than the existing RS-3 in the subject area. In response, Mr. Oliver answered affirmatively. Mr. Oliver explained that today's market is not that interested in having a 50- or 75-foot deep backyard to maintain.

Mr. Marshall asked Mr. Oliver how much he would be asking for the lots when they are developed. In response, Mr. Oliver stated that he is hoping that the price would be approximately \$30,000.00 per lot. Mr. Marshall again asked Mr. Oliver if he has financing on the subject property. In response, Mr. Oliver stated that he has a bank that is interested in being a part of the development of the west side and he has meeting with the president of the bank at 4:30 p.m.

Mr. Boulden asked Mr. Oliver if he prepared the conditional deed restriction himself. In response, Mr. Oliver stated that he discussed it with his attorney and prepared the document himself. Mr. Boulden stated that it appears to be a notarized statement and there is no deed and he questions the value of the document. Mr. Boulden commented that it doesn't appear the document would be binding on the property owner, but simply a statement of intent. Mr. Oliver stated that if this is a deciding factor, then he would prefer a continuance over a denial. Mr. Oliver further stated that he would have to review the document and perhaps reword it. Mr. Boulden concluded that he believes it is simply a notarized statement.

Mr. Ard stated that the document wouldn't have any bearing on the zoning change as far as the Planning Commission is concerned. In response, Mr. Boulden agreed, but perhaps it could be some persuasive influence upon the Planning Commission.

Interested Parties in Support of Z-7081:

Gary Patton, 4721 South 81st West Avenue, 74132; **Linda Fitzgerald**, President of Southwest Tulsa Chamber of Commerce, 4315 South 27th West Avenue, 74107; **Richard Ryan**, 6822 South 28th West Avenue, 74107.

Interested Parties in Support of Z-7081 Comments:

Support project as a business owners, residents and as a school patrons of West Tulsa; no new home construction in the west side are for over 20 years and welcome this proposal; west side is trying to come back and revitalize and the subject proposal is welcomed; nice new homes are needed for new families with kids to populate the schools and support local businesses; lot size is not an issue; this will open the door for more development; the Southwest Tulsa Chamber of Commerce is in total support of the proposal; west side residents have left the area because there are no new homes to purchase; all of the local schools have had improvements and need more students and housing; in favor of the proposal because it will be quality housing.

TMAPC COMMENTS:

Mr. Harmon asked the interested parties if their support is conditional on the deed restriction being filed of record or straight RS-4 zoning. Mr. Harmon reminded the interested parties that the deed restriction would not have a bearing on the Planning Commission's decision and Legal has pointed out that it may only be a notarized statement and may not bear any weight. In response, the interested parties indicated that their support is not conditional upon the deed of restrictions.

Interested Parties Opposing the RS-4 Zoning:

Bill Cole, 4535 South 24th West Avenue, 74107, and **Mary Richie**, 2402 West 45th Place, 74107.

Interested Parties Opposing RS-4 Zoning Comments:

Not against the proposal, but oppose the RS-4 zoning classification; prefer the zoning remain RS-3 with nicer homes and larger homes; lack of communication between the developer and residents; expressed concerns that RS-4 zoning would devalue existing RS-3 zoned properties; want quality housing with larger square footage; prefer the homes be 1500 SF or larger; expressed concerns regarding the drainage; Mr. Cole and Ms. Richie reminded the Planning Commission that he submitted a petition opposing the RS-4 zoning, but he is not opposed to development; rooftops are needed, but they need to be quality roofs and large homes; do not believe that RS-4 zoning would benefit the subject area; some of the neighbors didn't receive notice of a meeting with the developer until the last minute;

TMAPC COMMENTS:

Mr. Ard explained that the Planning Commission doesn't deal with stormwater drainage, but is a part of the platting process and the development process, which the City of Tulsa will look at very carefully. This is a critical issue as far as the City of Tulsa is concerned and Stormwater Management will be making sure that no more water from the subject property is drained from the property than currently exists in its current state.

Ms. Cantrell stated that the Planning Commission can only control the lot size and not the square footage of the home. If the subject property remained zoned RS-3 and the applicant wanted to build 1500 SF homes, then he would have that right. The Planning Commission can only regulate the land use and can only consider the density and the size of the lot. Mr. Cole stated that he prefers larger lots than what is proposed and possibly the developer would build larger homes.

Mr. Ard assured Mr. Cole and Ms. Richie that the Planning Commission did receive their petition opposing the RS-4 and it is filed of record.

Mr. Midget asked Ms. Richie if she thought that an additional meeting with the developer would be beneficial. In response, Ms. Richie stated that if there was a mediator or a non-partial person to facilitate the communication and could keep the meeting on a factual level, then it may be beneficial.

In response to Mr. Marshall, Mr. Cole described the area where he circulated his petition opposing RS-4 zoning.

Mr. McArtor asked Ms. Richie if he understands that she is in support of developing the subject property, but she would rather see larger lots and homes and the subject property remain RS-3. In response, Ms. Richie stated that she has concerns that the higher density would cause some problems with traffic on 25th West Avenue and is the only access to the subject property. She would like to see homes the same size or larger than are currently in existence in the subject area. Mr. McArtor stated that from what Mr. Oliver is stating, it wouldn't be a higher density and would be a lower density than a lot of the homes in the subject area. In response, Ms. Richie stated that that wouldn't be the case in her neighborhood because they have very large lots in her neighborhood.

Mr. McArtor asked Ms. Richie if she would rather see the subject property remain undeveloped rather than have Mr. Oliver's proposal. In response, Ms. Richie stated that she personally would rather not answer that question. She believes that most people are interested in the subject property being developed for the betterment of the schools and businesses and she is interested in that as well.

Mr. Cole stated that there were two homeowners on the petition that would prefer that the subject property remain a greenbelt due to drainage issues.

Applicant's Rebuttal:

Mr. Oliver stated that the homeowners that Mr. Cole refer to regarding the Koi pond came to the homeowners and once they understood that the City of Tulsa would regulate the drainage issues, they signed the petition in favor of the RS-4 zoning. Mr. Oliver indicated that some of the neighbors signed petitions for and against the subject proposal. He indicated that the square footage of the

proposed homes will be market-driven. Mr. Oliver stated that allowed lot size doesn't necessarily mean that one will build a large home.

TMAPC COMMENTS:

Mr. Sparks asked Mr. Oliver if a PUD would kill the deal. In response, Mr. Oliver answered affirmatively.

Mr. Shivel asked staff what square footage homes could be built on the subject properties as they are proposed whether they be RS-3 or RS-4 zoned. In response, Ms. Matthews stated that the homes would have to meet the setbacks and height requirements, which would determine the square footage of the home. Ms. Matthews stated that it would depend on how the house is configured on the lot regarding the size of the home.

Mr. Marshall inaudible.

Mr. Sansone explained to the Planning Commission how the bulk and area requirements have to be met as well as the livability space. All of these requirements would determine the size of home that could be on a lot.

Mr. Marshall inaudible.

Ms. Cantrell asked staff how many people signed the petition opposing RS-4 zoning. Ms. Matthews indicated that there were 43 signatures.

Mr. Harmon stated that he is persuaded that RS-4 is not a risk to this neighborhood. This is a modest neighborhood and he appreciates any new development. Mr. Harmon indicated that he can support RS-4 for the subject property.

Mr. McArtor stated that he agrees with Mr. Harmon's comments. He doesn't believe that anyone is hurrying to develop this area and he appreciates all of the work that Mr. Oliver has done. There seems to be a lot of community support for this application. Even the interested parties that are against RS-4 zoning are in favor of the development. The community recognizes the need for new housing and he is impressed with the research that has been done to indicate that the size of the proposed lots are actually going to be smaller than the size of the lots surrounding the subject area which is zoned RS-3. Mr. McArtor indicated that he could support the RS-4 zoning.

Ms. Cantrell stated that she can support the rezoning. She appreciates the concerns of the neighborhood, but she believes that the difference between RS-3 and RS-4 is fairly minimal. Planning Commission can't demand that a developer builds certain size of housing and she doesn't see this as a case of spot zoning. This area needs development and if the only way to do so is by RS-4 zoning, then she doesn't have a problem with it. This is an older neighborhood where

there are a lot of different types of houses and may or may not be consistent with the current zoning. If the subject area was zoned as it was built there would be a lot of spots all around the subject area. She doesn't believe that a PUD is necessary.

Mr. Marshall inaudible.

Mr. Sparks stated that he believes that the upside out weighs the downside. He indicated that he can support the RS-4 zoning.

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 recommend **APPROVAL** of the RS-4 zoning for Z-7081.

Legal Description for Z-7081:

THE SOUTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER (S/2 N/2 NW/4 NW/4 SE/4) OF SECTION 27, T-19-N, R-12-E OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF AND THE N/2 OF THE S/2 OF THE NW/4 OF THE NW/4 OF THE SE/4 OF SECTION 27, T-19-N, R-12-E OF THE IBM, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF AND THE N/2 OF THE N/2 OF THE NW/4 OF THE NW/4 OF THE SE/4 OF SECTION 27, T-19-N, R-12-E OF THE IBM, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF **From: RS-3 (Residential Single-family District) To RS-4 (Residential Single-family District).**

Z-7082 – Don R. Loyd

RS-2 to CG

East of northeast corner of South Yale Avenue and East 32nd Street South (PD-18b) (CD-5)

STAFF RECOMMENDATION:

EXISTING ZONING: RS-2

EXISTING USE: Vacant

ZONING ORDINANCE: Ordinance number 11824 dated June 26, 1970, established zoning for the subject property.

PROPOSED ZONING: CG

PROPOSED USE: Mini-storage

RELEVANT ZONING HISTORY:

PUD-514-A November 2006: All concurred in approval of a proposed Major Amendment to a Planned Unit Development to permit a communications tower (Use Unit 4) on a 1.88± acre tract of land on property located on the northeast corner of East 33rd Street and South Yale Avenue.

PUD-514 September 1994: All concurred in approval of a 3.5± acre tract for a PUD to expand the existing Saied Music store and to provide sufficient parking thereof and a possible expansion of the vacant restaurant building if converted to retail uses on property located on the northeast corner of East 33rd Street and South Yale Avenue.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.31± acres in size and is located east of northeast corner of South Yale Avenue and East 32nd Street South. The property appears to be vacant and is zoned RS-2. The site has no frontage on an arterial street, as is required by the Zoning Code, but does have access to Yale Avenue (a major arterial) from East 32nd Street.

STREETS:

| Exist. Access | MSHP Design | MSHP R/W | Exist. # Lanes |
|------------------------------------|--------------------|-----------------|-----------------------|
| East 32 nd Street South | N/A | N/A | Two |

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

SURROUNDING AREA: The subject tract is abutted on the east by duplexes, zoned RD; on the north by the expressway, zoned RS-3; on the south by duplexes, zoned RD; and on the west by the commercial frontage on the east side of Yale Avenue, zoned CG and CS.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18b Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Low Intensity-Residential land use. According to the Zoning Matrix, the requested CG zoning is **not** in accord with the Plan.

STAFF RECOMMENDATION:

Staff has identified both positive and negative points about this rezoning request. Although the requested zoning is not in accord with the District Plan, surrounding land uses (an expressway, duplexes and commercial uses) dictate that this property will likely not be developed as single-family residential use. The mini storage use is relatively low-intensity in terms of traffic and noise generation and has provided a good buffer in the past between residential and higher intensity

uses. If mini storage abuts an R district, it must be screened on that side by a screening wall or fence, which would mean the north, east and south sides, in this case. Staff has some problems with the requested CG zoning, however, and the lack of frontage on an arterial street. CS zoning, unlike CG zoning, allows no outdoor storage of any kind adjacent to R districts, and that would alleviate some of staff's concerns. The lack of frontage on an arterial remains a problem. Therefore, staff cannot support either CG zoning or CS in the alternative, absent an accompanying PUD.

Staff believes that a PUD application here would offer protection to the surrounding residential uses. Issues that we expect the PUD to address in terms of that protection include signage, amount and location of lighting, hours of operation and screening materials, among other things. If the TMAPC deems it appropriate to recommend CG zoning, then staff recommends that the issue of outdoor storage also be addressed.

To reiterate, staff believes that this is a reasonable use for this site, but with the proper safeguards for what appears to be a stable residential area on two sides. With adequate controls, the mini storage use can be a buffer to that neighborhood against the commercial to the west.

Applicant's Comments:

Don Loyd, 6121 South 29th West Avenue, 74132, stated that he wasn't aware of the requirement for the arterial access for the subject property. He asked if there is another zoning that would work.

Ms. Matthews explained that mini-storage must be located on an arterial, unless there is a PUD.

TMAPC COMMENTS:

Mr. Ard asked Mr. Loyd if he would consider a PUD for the subject property. In response, Mr. Loyd answered affirmatively.

Mr. Ard stated that he personally believes that mini-storage would be a good use for the subject property, but the zoning guidelines require access onto an arterial.

Mr. Harmon asked if the applicant would like a continuance.

Mr. Alberty stated that one of the things that staff is concerned about is access from the arterial street. A PUD, without solving that primary issue, would be futile. If the applicant is capable of getting access through the commercial area to the west of his project, then this application might be considered. There is no way to meet the arterial access condition without access through the existing commercial properties. Currently, the only access to the subject property is through an interior residential street and that is not allowed for mini-storage use.

Mr. Harmon out at 3:22 p.m.

Mr. Loyd stated that mini-storage is not a traffic generator. In response, Ms. Matthews stated that staff understands this, but the letter of the Code is that this use has to be off of an arterial street.

Mr. Loyd requested a continuance in order to review his options.

Mr. Ard stated that there are several interested parties wishing to speak on this item. He suggested hearing the interested parties first.

Interested Parties Comments:

Eric Daffern, 1719 East 71st, 74133, stated that he owns property south of the subject property. Mr. Daffern described the surrounding housing in the subject area and how it would be affected by the mini-storage use. The proposed entrance would intersect with the apartment complex and to the single-family homes to the east. He expressed concerns with congestion once the 100 storage units are being accessed from the residential roads. Mr. Daffern commented that the subject proposal would have a negative impact on the subject area. Mr. Daffern expressed concerns with the hours of operation, lighting, etc. He believes that the subject property could be developed for residential use. Mr. Daffern concluded that he would prefer to see the subject property remain residential.

TMAPC COMMENTS:

Ms. Cantrell asked Mr. Daffern if he would be opposed to the mini-storage use if the applicant was able to work out access off of Yale only. In response, Mr. Daffern stated that the PUD would address the lighting, screening, and outdoor storage. Mr. Daffern further stated that this particular neighborhood is unique due to its location and isolation. The subject property would be an ideal place for duplexes, residential uses.

Mr. Marshall inaudible.

In response to Mr. Marshall, Mr. Daffern stated that the existing neighborhood has proved that there are several single-family dwellings that back up to the interstate and back up to the existing commercial. The unique nature of the location of the subject property could support a single-family development. Duplexes may be a better use and would still give a residential flavor to the existing neighborhood. The existing neighborhood has thrived through the years and has proven that residential use is appropriate for the subject area.

Interested Parties Comments:

Ryan Poole, 4940 East 32nd Street, 74135, stated that he would like to reiterate what Mr. Daffern has stated about homes backing up to the Broken Arrow Expressway and are still surviving in the subject area. Mr. Poole indicated that his home faces the subject property. He indicated that he is opposed to the

subject proposal. Mr. Poole submitted photographs of existing mini-storages in the City of Tulsa and how they deteriorate after a few years (Exhibit B-1). He commented that when he looks out his front window he would be looking into the proposed mini-storage. He expressed concerns with esthetics, lighting, hours of operation, outside storage, boats and R.V.s being parked in the subject property, etc.

After a lengthy discussion it was determined that the applicant would like a continuance and review his options.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Ard, Cantrell, Marshall, McArtor, Midget, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, Harmon, Miller "absent") to **CONTINUE** Z-7082 to February 20th, 2008.

Mr. McArtor out at 3:53 p.m.

PUD-533-B-2 – Sack & Associates

(PD-5) (CD-5)

Minor Amendment – Northeast corner of 27th Street South and Skelly Drive (I-44) service road; Lot 1, Block 1, Grizzly Mountain Mercantile; CG/CS/PUD. (Continued from 10/24/07 and 11/07/07)

STAFF RECOMMENDATION:

The applicant is requesting approval of a minor amendment to allow a lot-split creating two tracts in Lot 1 Block 1 Grizzly Mountain Mercantile, Development Area "B-1" of PUD 533-B. Development Area "B-1" currently contains 1.55 acres and has been approved for 12,000 square feet of furniture manufacturing and sales. The entire 1.55 acres was approved for the current use.

The proposed lot-split would create Tract A, 1.17 acres with the present 12,000 square foot building, parking and landscaping and Tract B, 0.37 acres with only landscaping and no building square footage or use other than the approved landscaping. The staff cannot support this request creating a lot with no development rights separating it from an approved site and landscape plan.

Therefore, staff recommends **DENIAL** of PUD-533-B-2 for the stated reasons.

Applicant's Comments:

Ted Sack, 111 South Elgin, 74120, stated that his client is trying to split off Tract B. There is no extra square footage available to the subject property and he has asked for several continuances in order to acquire more property to combine with

the subject property. This has not been accomplished. Mr. Sack indicated that he has filed a new application requesting a minor amendment to increase the floor area by 15%, which would allow 1800 SF for the property. The minor amendment is to be heard on January 9, 2008. He requested that the Planning Commission approve the subject application as it exists and allow his client to do the lot-split and close on his property that his business is on before the end of the year. He believes that this addresses staff's concerns.

TMAPC COMMENTS:

Mr. Marshall asked Mr. Albery if he agrees with Mr. Sack's proposal. In response, Mr. Albery stated that this is getting the cart before the horse. The proposal would create a tract without development rights and staff is opposed to that. The minor amendment that will be heard in January may rectify the situation, but staff hasn't had time to review his proposal. This application as it stands should be denied.

Mr. Sack stated that the property meets all of the lot-split requirements regarding sewer, water and access. The Planning Commission would simply be approving a tract without square footage and there are tracts that do exist in this way. His client doesn't plan to do anything with the tract of land and he understands staff's concern, but his client needs the lot-split in order to close on the property before the end of the year. Unfortunately, the minor amendment can't be heard until January 2008.

Ms. Cantrell and Mr. Ard agreed that the Planning Commission should wait for the minor amendment that will be heard in January 2008 before approving this application.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **CANTRELL**, TMAPC voted **5-1-0** (Ard, Cantrell, Marshall, Shivel, Sparks "aye"; Midget "nay"; none "abstaining"; Cantees, Carnes, Harmon, McArtor, Miller "absent") to **DENY** the minor amendment for PUD-533-B-2 per staff recommendation.

Mr. McArtor in at 4:02 p.m.

OTHER BUSINESS:

Vacation of Easements – Southern Woods Park III

North of East 91st Street South, West of South Yale Avenue (continued from 11/28/07)

STAFF RECOMMENDATION:

Mr. Alberty stated that this is not actually an application, but did put it on the agenda at the request of Mr. Norman. Staff has expressed their concern with this unprecedented request. There is an ordinance and procedure for vacating portions of easements, which is through the City Utility Coordinator. The only process the Planning Commission has is to vacate the entire plat, not portions.

Applicant's Comments:

Rodger Eldridge, 401 South Boston, Suite 2900, 74103, stated that this is the first time he has heard that this may not be the proper way to do this. He explained that he has discussed this same issue with Patrick Boulden last June on another matter and did the same thing at that time. He believes that Patrick Boulden agreed with him at that time that this was a perfectly appropriate way of doing this. Mr. Eldridge explained that he has 100% of the owners of the lots signing off on this proposal and this has been done routinely over the years.

TMAPC COMMENTS:

Mr. Ard asked why the Planning Commission is involved in this procedure. In response, Mr. Eldridge stated that the reason that the Planning Commission is involved is because this requires the approval of the City of Tulsa. Historically, the way this has been handled is to be submitted to the TMAPC for initial approval because this is the body that has initially approved the plat and then take it to the City Council for approval. He indicated that he has done this a number of times and there has never been an issue raised about the propriety. In response, Mr. Ard stated that he doesn't remember a time that this type of request has been before the Planning Commission; however, the Planning Commission members are all fairly new to the board.

Mr. Boulden stated that he believes that this is an appropriate way to vacate plats or portions of plats. Easements are a part of the plat, but the questionable area is the statute that allows this to be done doesn't include the Planning Commission in that process. Mr. Boulden further stated that if he had received this in his office he would send it to Public Works to see if any utilities are impacted by it and send a copy to the Planning Commission staff to ask if there is any problem with it being vacated. There is no official role to say yea or nay other than to give some comfort that it has been looked at closely and it doesn't impact the

development of the City. Mr. Boulden commented that this is probably more of a title concern.

Mr. Eldridge stated that it is a title concern. Mr. Eldridge explained that in years past he tried to speed things up by going straight to the City Council and was informed that he would have to go to the TMAPC first.

Mr. Midget stated that he could see that he may be told to come back before the Planning Commission since he has to have approval from the municipality. He commented that he doesn't see any harm in recommending approval.

Mr. Alberty stated that this instrument is before the Planning Commission without a recommendation from staff. The City of Tulsa has a process for this type of thing that provides a notice and then to the City Council agenda once everything is compiled. Occasionally staff receives a request to see if there are any problems with alleys or rights-of-way. Mr. Alberty explained that the authority will be with the City of Tulsa.

After a lengthy discussion it was determined that the Planning Commission would not be harming anything by recommending approval of the vacation of easements.

TMAPC Action; 7 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **7-0-0** (Ard, Cantrell, Marshall, McArtor, Midget, Shivel, Sparks "aye"; no "nays"; none "abstaining"; Cantees, Carnes, Harmon, Miller "absent") to recommend **APPROVAL** of the vacation of easement as proposed and authorize the Planning Commission Chairman to execute the appropriate instrument showing the vacation for Southern Woods Park III.

Commissioners' Comments

Ms. Cantrell distributed proposed amended mission statements to the Planning Commissioners and requested their input.

There being no further business, the Chair declared the meeting adjourned at 4:12 p.m.

Date Approved:

1/8/2008


Chairman

ATTEST: Michelle Cantello
Secretary