

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2510

Wednesday, April 2, 2008, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Ard	Carnes	Alberty	Boulden, Legal
Cantrell	Perry	Fernandez	
Harmon		Huntsinger	
Marshall		Matthews	
McArtor		Parker	
Midget		Sansone	
Shivel			
Sparks			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, March 27, 2008 at 3:55 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 1:30 p.m.

REPORTS:

Director's Report:

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

Minutes:

Approval of the minutes of March 5, 2008 Meeting No. 2507

On **MOTION** of **HARMON**, the TMAPC voted 8-0-0 (Ard, Cantrell, Harmon, Marshall, McArtor, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Perry "absent") to **APPROVE** the minutes of the meeting of March 5, 2008, Meeting No. 2510.

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.

2. **L-20190** – Sisemore Weisz & Associates, Inc (PD 18C) (CD 5)
(9431)/Lot-Split
Northwest corner of East 61st Street South and South Mingo Road, 5907 East 61st Street South
3. **L-20191** – Stephen Rosencutter (8214)/Lot-Split (PD 8) (CD 2)
West of South Elwood Avenue and North of 46th Street, 836 West 84th Street South
4. **L-20192** – Olen L. Brittain (2201)/Lot-Split (County)
Northeast corner of 186th Street North and North Garrison Ave, 450 East 186th Street North
5. **LC-75** – Sack & Associates (9330)/Lot-Combination (PD 6) (CD 9)
East of the Southeast corner of East 43rd Court and South Peoria Avenue
6. **LC-84** - Construction Service, LLC (8418)/Lot-Combination (PD 18C) (CD 8)
Northwest of South 99th Avenue and East 85th Place, 8520 South 99th East Avenue
7. **L-20175** – Jerry Butts (0334)/Lot-Split (PD 16) (CD 3)
Northwest corner of East Haskell Place and East of North Irvington Avenue, 517 North Irvington Avenue
8. **North Mingo Addition**/Change of Access – (047) (PD 16) (CD 3)
East of North Mingo Road and South of East 56th Street North

STAFF RECOMMENDATION:

This application is made to allow a change of access along North Mingo Road. The property is zoned IM.

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

9. **PUD-541/541-A – Sack & Associates, Inc.**

(PD-6) (CD-9)

Northwest corner of South 44th Place South and South Quaker Avenue (Detail Site Plan for construction of a 4,855 SF office building.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for construction of a 4,855 square foot office building. The proposed use, Use Unit 11 – Offices, Studios and Support Services is in conformance with Development Standards of PUD-541 and PUD-541-A.

Major amendment PUD-541-A was approved making Lot 4, Block 6 – Wilder Addition, a part of PUD-541, for parking and setback purposes. PUD-541-A covers the limits of Lot 4, Block 6 – Wilder Addition only.

Associated with this request is Lot-Combination application LC-75, also on the April 2, 2008 TMAPC agenda (see Exhibit A). This lot combination will effectively make PUD-541, and PUD-541-A one PUD. Also, a plat waiver was granted for PUD-541-A by the TMAPC on 3/5/08. The TMAPC approved revisions to the covenants and restrictions of the Wilder Addition plat, adding the development standards for PUD-541-A (Lot 4, Block 6 only) to the Wilder Addition plat Deed of Dedication and Restrictive Covenants on 3/5/08 as well.

The applicant's proposal meets all building floor area, setback, building height, landscaping and parking requirements. The applicant has agreed to revise the submitted south elevation plan to reflect no second-story windows greater than 12" in height, with obscure glass and fixed lower sashes per the approval of PUD-541. The applicant is also aware that this recommendation is conditional upon the TMAPC approval of lot-combination application LC-75.

Therefore, staff recommends **APPROVAL** of the detail site plan for Part of Lot 2, Block 2 – 4300 Brooktowne and Lot 4, Block 6 – Wilder Addition, PUD-541 and PUD-541-A subject to approval of lot-combination application LC-75 and receipt of the following minor revision to the submitted site plan:

- On south building elevation revise to show 2nd floor windows no greater than 12" in height with obscure glass and a fixed lower sash.

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

10. **Z-6023-SP-1a – Scott Aneshansley** (PD-18C) (CD-8)

8520 South 99th East Avenue (Corridor Minor Amendment to reduce the required rear yard setback on Lot 18, Block 6 from 20 feet to 15.3 feet.)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to Z-6023-SP-1a to reduce the required rear yard setback on Lot 18, Block 6 – South Towne Square only, from 20' to 15' 3" for the purpose of allowing approximately 16+/- square feet of an existing structure to encroach 4' 9" into the required rear yard (see Exhibit A).

The existing structure meets all other applicable PUD bulk and area requirements and development standards. Section II, C-4 of the Deed of Dedication and Restrictive Covenants of South Towne Square which serve as the development standards for the PUD states that, "customary accessory structures may be located in the rear yard, but no building shall be erected nearer than ten feet to the rear lot line nor encroach upon any utility easement". Staff interprets this as allowing the possibility relaxing rear yard setback requirements.

Since the applicant is seeking the relief for such a small portion of the structure (approximately 16 SF) the request is seen as negligible versus seeking relief for the entire rear of the building. Any future development of this lot or Lot 19 to the east which is under common ownership will observe the required 20' rear setback requirement.

Therefore, staff recommends **APPROVAL** of corridor plan minor amendment Z-6023-SP-1a, for Lot 18, Block 6 – South Towne Square, allowing only the portion of the building depicted on Exhibit A to encroach over the rear setback.

11. **PUD-136 – Martin Brown** (PD-18) (CD-8)

7500 South Yale Avenue (Detail Site Plan for entry gates and a guardhouse for the 75th Street entrance from Yale Avenue.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for entry gates and a guardhouse for the 75th Street entrance to PUD-136 from Yale Avenue. The proposed use is in conformance with Development Standards of PUD-136.

The existing gated entry and guardhouse providing access to PUD-136 from Yale Avenue to 75th Street South is being removed as a result of the City of Tulsa widening of Yale Avenue along the PUD western development area boundary.

The proposed entry gate and guardhouse meets the required 80-foot setback from the centerline of Yale Avenue, as well as, any other building height, floor area and landscaping requirements.

Therefore, staff recommends **APPROVAL** of the detail site plan for the gated entry and guardhouse for PUD-136 at the intersection of South Yale Avenue and 75th Street South, with the condition that City of Tulsa Fire Marshall sign off on the plan prior to transmittal to the City of Tulsa Permit Center.

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

The Planning Commission considered the consent agenda.

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, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Perry "absent") to **APPROVE** the consent agenda Items 2 through 11 per staff recommendation.

* * * * *

PUBLIC HEARING

13. **Decatur Park** – (8322)/Preliminary Plat (PD 18 C) (CD 5)
Southwest corner of East 93rd Street South and South Canton Avenue

STAFF RECOMMENDATION:

This plat consists of 18 lots, three blocks, on 4.35 acres.

The following issues were discussed March 20, 2008 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned PUD 740. All PUD conditions must be met and put in the plat covenants. Sidewalks must be installed per the PUD requirements. A Homeowners Association must be formed.
2. **Streets:** ~~Provide hammerhead or cul-de-sac at the end of the private street.~~ Prefer that the public right-of-way for 94th Street and Braden Place be squared off in order to include the entire intersection. One proposal would be for the south line to be at or near and parallel to the south curb line of 94th

Street. No objection to the curvilinear, east property line of Reserve B, but recommend an adjacent roadway easement maintaining 12 feet behind the curb throughout the reverse curve in front of Lot 3 for public maintenance purposes.

3. **Sewer:** The sewer line will need to be extended to serve all lots. We will need to review the proposed sewer plan for the site before we can approve the plat.
4. **Water:** A water main extension is required.
5. **Storm Drainage:** Please add Vensel Creek Tributary "E" to the label for the City of Tulsa Regulatory Floodplain. Utility easements should not be placed within the construction limits for the stormwater detention facility. The City of Tulsa must receive a written copy of the owners' agreement with PSO to allow the stormwater detention facility to be constructed on their right-of-way easement. Section ID is not desired other than for the information stating that there is floodplain in Reserve A. 100 year floodplain is typically placed in an overland drainage easement with that standard language being included in the covenants. Remove all language alluding to a "100 Year Floodplain Easement". See plat comments relative to Reserve A and utility easements and labeling. Show the limits of the stormwater detention easement, which may have different maintenance requirements and restrictions than the park area or the floodplain area.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** Additional easements may be needed.
7. **Other: Fire:** No comment.

GIS: "Hunters' Park on location map should read "Hunter Park". Finish labeling all platted and unplatted areas on the location map. Include a north arrow for the location map. Basis of bearing should be clearly described and stated in degrees, minutes, and seconds. Description of commencement should include "... of Section 22, Township 18 North, Range 13 East".

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.

Mrs. Fernandez explained to the Planning Commission about the letter from Public Works recommending a cul-de-sac or hammerhead. She further explained the process that this subject property has been through prior to this request from Public Works. Mrs. Fernandez commented that it is her understanding that Public Works wanted to bring this to the Planning Commissions' attention at this time, but the applicant is not in any violation from the Fire Marshall, Subdivision Regulations or from any of the PUD standards that have been approved.

TMAPC COMMENTS:

Mr. Ard asked Mrs. Fernandez if she ever considered a turnaround in the oversight of this PUD development. In response, Mrs. Fernandez stated that she is not the staff person who officiates over the PUD process and Mr. Alberty may have some history on the PUD process. This PUD came through when Delise Tomlinson was at INCOG. Mrs. Fernandez stated that she understands that this has been through several different designs to make it better.

Mr. Ard asked why there wasn't a cul-de-sac provided and if there was a density impact or if it would have made the lots too small.

Mr. Alberty stated that when this PUD was submitted staff had some real concerns about the layout. This is probably the third or fourth generation of the layout. Staff felt that most important thing was the orientation of the lot, which was corrected with the submitted plan. There were two issues that had to be resolved: 1) the public street with a stub to the west for future development; 2) lot orientation. He would agree that the best design practice would be to have at least a hammerhead; however, based on the fact that the really crucial issues were solved and this was one of the softer design standards, we conceded on this point. It doesn't create an extended length that the Fire Marshal has set in footage.

Mr. Ard stated that the subject PUD has been through several iterations of development process. The Technical Advisory Committee (TAC) has reviewed all along the way and this isn't a surprise to anyone that this is the configuration. In response, Mr. Alberty concurred with Mr. Ard's statement.

Applicant's Comments:

Roy Johnsen, 201 West 5th Street, Suite 501, 74103, stated that the original design was strongly recommended by the staff to be corrected. This is about the fifth try at the design and orientation, which has been reviewed at every step. This application has had two or possibly three TAC reviews and the last TAC

review on the PUD addressed the turnaround issue. The Fire Marshal advised him that it wasn't necessary since the drive wasn't longer than 150 feet. The drive is 130 feet and it meets the Subdivision Regulations. Mr. Johnsen cited the various meetings and approvals that the PUD has received throughout the development process.

Mr. Johnsen stated that when the platting process started, it had to go for TAC review. At the last TAC meeting someone from Public Works stated that they thought it would be better if there was a turnaround at the south end of what is basically a private drive. Mr. Weisz appealed this decision and explained that the PUD had been through several designs and approved by the Planning Commission and the City Council. There were substantial concessions made which changed the design in order to have a stub street to the west for future development. Mr. Hardt studied the appeal and the background of the subject site and agreed with the applicant and will not require the turnaround. Mr. Hardt expressed concerns that this could cause some inconvenience for some people, but there is not a safety issue, no violation of any requirements and he upheld the appeal of Mr. Weisz. Later Mr. Weisz received a letter from Public Works strongly recommending to do some sort of redesign. Mr. Johnsen stated that as he reads it, it is not a recommendation to the Planning Commission and it is not a requirement, but simply a recommendation to the developer. Mr. Johnsen stated that the design will work and he has seen the same type design work in his neighborhood for over twelve years. Mr. Johnsen stated that this project has been studied and restudied and there are no violations. He requested that the Planning Commission approve the preliminary plat as it was submitted and originally approved by everyone.

Interested Parties Comments:

David Steele, Senior Engineer, Development Services for the City of Tulsa, stated that it is correct that there are no violations of Fire Code or the Subdivision Regulations. This came before Mr. Hardt during the weekly PFPI review of plans and his first review comment was that the engineer should design a turnaround. A letter of deficiency was sent to the engineer. The response was to appeal Mr. Hardt's decision and it was presented to Mr. Hardt last week. After reviewing this for Mr. Hardt, it was determined that there are no violations. Mr. Hardt stated that they would grant the approval of the design as shown with a strong recommendation that a turnaround be provided because it has been the City's experience that it is inconvenient to traffic coming into the area trying to find a way to turnaround. Residents who have driveways are continually harassed by the public intruding on their private property to use their driveways to turn around. There have been times in the past that residents will barricade their own driveway to keep people out.

TMAPC COMMENTS:

Mr. Harmon asked Mr. Steele if the project meets all of the requirements and regulations, then on what grounds could the Planning Commission require the turnaround. In response, Mr. Steele stated that the City has no grounds to require it. He reiterated that this is a strong recommendation to the engineer.

Mr. Harmon stated that based on the information that was provided, he would recommend approval without the requirement of the hammerhead or cul-de-sac.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted **8-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Carnes Midget, Perry "absent") to **APPROVE** the preliminary plat for Decatur Park, subject to the special conditions and standard conditions per staff recommendation, subject to removing the Technical Advisory Committee recommendation for a cul-de-sac or hammerhead at the end of the private street as modified by the Planning Commission. (Language with a strike-through has been deleted and language with an underline has been added.)

* * * * *

14. **Church of God West Tulsa –** (9233)/Minor Subdivision Plat (County)
North of West 61st Street and East of South 49th West Avenue

STAFF RECOMMENDATION:

This plat consists of one lot, one block, on 1.15 acres.

The following issues were discussed March 20, 2008 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned RS with a Board of Adjustment Special Exception (2168) for the church use.
2. **Streets:** Include standard sidewalk language in the Deed of Dedication. Document the existing right-of-way of the south 35 feet of 61st has been previously dedicated (as opposed to granting a roadway easement.). Assuming the ownership is correct; the label for the arterial should be changed from 50 feet to 15 feet "right-of-way dedicated by this plat".
3. **Sewer:** Site abuts sanitary sewer.
4. **Water:** No comment.

5. **Storm Drainage:** Please revise the “legend” to reflect that “drainage easement” is used for “stormwater detention easement”. Dedication, lien authority, and maintenance related authority should be given to Tulsa County, not the City of Tulsa; with the exception of water mains and sanitary sewer mains, if they are owned by the City of Tulsa or another legal entity. Correct Section IC to reflect Tulsa County Storm Sewers. Add standard language for “Lot Surface Drainage”. Section IF: 1. Should be titled Reserve “A” – stormwater detention easement. 2. Replace City of Tulsa with Tulsa County. 3. See standard language and add F3, change existing F3 to F4 add F 4 d, F5, change existing F4 to F.6 and in the 7th line of F.6 remove “Provided however, the lien shall not exceed 1/140th of the costs”.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
7. **Other: Fire:** Point of information: if occupant load exceeds 300, building will be required to be sprinkled.

GIS: Label the point of commencement. Label and show the “date of preparation” for the plat. Increase the line thickness for the boundary. Show the written scale for the location map. Surveyors’ C.A. # and expiration date should be listed at the top of plat with address and phone number. “Beginning at the southwest corner ...” should read “Commencing at the southwest corner”

County Engineer: Show right-of-way dedicated by this plat as 15 feet. Show the 10.25 easement between statutory and property line from Book 1048, page 566. Replace references to “City of Tulsa” to “Tulsa County” where appropriate.

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 County Engineer must be taken care of to his 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.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted **8-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Carnes Midget, Perry "absent") to **APPROVE** the minor subdivision plat for Church of God West Tulsa, subject to special conditions and standard conditions per staff recommendation.

* * * * *

15. **Z-7084** – (9223)/Plat Waiver (PD 9) (CD 2)
East of South Galveston Avenue and South of West 36th Street

STAFF RECOMMENDATION:

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

Staff provides the following information from TAC at their March 20, 2008 meeting:

ZONING:

TMAPC Staff: The rezoning to IL triggered the platting requirement on this previously platted property.

STREETS:

Additional right-of-way of 10 feet required along 36th Place.

SEWER:

A lot combination may be needed for access to sewer.

WATER:

No comment.

STORM DRAIN:

No comment.

FIRE:

If or when a building permit is applied for a new hydrant may have to be added. This will not be required for the planned existing structure remodel.

UTILITIES:

No comment.

Staff recommends **APPROVAL** of the plat waiver with the TAC conditions as recommended. The right-of-way is in the process of being dedicated as required.

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

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted **8-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Carnes Midget, Perry "absent") to **APPROVE** the plat waiver for Z-7084 per staff recommendation.

16. **PUD-689-A – Kamlesh Aggarwal** (PD-17) (CD-5)

Southwest corner of East 21st Street and South 109th East Avenue
(Major amendment to abandon PUD-689.) (Applicant has requested a continuance to May 7, 2008) (Related to Item 17.)

17. **Z-7086 – Kamlesh Aggarwal** **OMCS to CS**

Southwest corner of East 21st Street and South 109th East Avenue (Applicant has requested a continuance to May 7, 2008.) (Related to Item 16.) (PD-17) (CD-5)

Applicant's Comments:

Ms. Aggarwal stated that she would like a continuance to May 7, 2008 because she is still working with her engineer on this project.

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, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Perry "absent") to **CONTINUE** Z-7086 and PUD-689-A to May 7, 2008.

18. **PUD-379-B – Lou Reynolds**

(PD-18) (CD-7)

South of the southwest corner of South Memorial Drive and East 66th Street South (6612 South Memorial Drive) (Major Amendment to create definable PUD development standards for Lot 2, Block 1 and to definitively establish Use Unit 12 - Restaurant Use as a permitted principal use on the existing tract.)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 16243 dated January 8, 1985, established zoning for the subject property.

PROPOSED ZONING: PK/PUD

PROPOSED USE: Mixed use shopping center

RELEVANT ZONING HISTORY:

PUD-379-6 July 11, 2007: The Planning Commission approved a Minor Amendment to PUD-379 to increase the number of ground signs permitted from two to three; and to increase the maximum allowable (aggregate) display surface area for ground signs from 480 square feet to 552 square feet; and increasing permitted display surface area for wall signs from one and one-half square feet per lineal foot of building wall to two square feet per lineal foot of building wall in conjunction with remodeling and reuse of the former Mervyn's retail store on subject property.

PUD-379-5 April 4, 2007: The Planning Commission approved a Minor Amendment to reduce the parking requirement from 448 to 391, as approved by the Board of Adjustment (BOA-20452) on March 13, 2007; and increasing permitted building height from 30 feet to 40 feet to accommodate proposed changes to the building's façade, associated with reuse of the former Mervyn's store as a gym and retail space.

BOA-20491 May 8, 2007: The Board of Adjustment approved a Special Exception to reduce parking requirements 10% for a mixed use commercial center on property located and abutting the subject property. A Minor Amendment was done to the PUD to reflect the Boards decision as case number: PUD-379-7/PUD-379-A-8.

BOA-20452 March 13, 2007: The Board of Adjustment approved a *Variance* of the parking requirement from 448 to 391; finding the requirement of one parking space to 200 sq. ft. is excessive in this case; and the applicant has cross-parking agreements with other areas in the center; located at 6612 S. Memorial Drive and the subject property.

Z-7029 September 2006: All concurred in approval of a request for rezoning a .55± acre tract of land from AG/OL to CS for restaurant and retail uses on property located on north of the northeast corner of South Memorial Drive and East 71st Street South.

PUD-186-A May 2002: All concurred in approval of a request to rezone at 2.97+ acre tract from RM-1 to CS and a proposed Major Amendment to PUD, on property located on the east side of South 85th East Avenue and south of East 66th Street South. The original PUD approved and restricted this property to a public library but the Major Amendment allows for retail and office uses.

Z-6320/PUD-470 June 1991: A request to rezone a tract approximately 4.85 acres in size and located on the southeast corner of East 66th Street South and South Memorial Drive from AG and OM to CS/PUD for commercial uses. All concurred in approval of CS zoning on the East 32' of the south 605' of Lot 1, Block 3, to align with the CS zoning to the east. The balance of the tract remained zoned OM and approved the PUD for 9,500 square feet of commercial use.

PUD-379-A/Z-6113 July 1986: All concurred in approval of a request for rezoning and a Major Amendment to PUD-379 on a 32.9± acre tract of land from PK to CS to add commercial property to the existing development, therefore changing the development standards, located directly west of subject property.

PUD-379/Z-6011 December 1984: A request for rezoning and a Planned Unit Development on a 33± acre tract of land from CS/RS-3/OL/AG to CS/RM-2/PUD for commercial development was approved by the TMAPC recommending CS and PK instead of RM-2, for retail development, located and a part of subject property. The request also abandoned the original PUD-209 that was approved for the property.

PUD-309/Z-5790 April 1983: All concurred in approval of a request for rezoning a Planned Unit Development on a 10.28± acre tract of land from OM to CS for retail shopping and a cinema theater, with the North 300 feet remaining OM on property located northeast of subject property.

PUD-209-A April 1981: All concurred in approval of a proposed Major Amendment to a Planned Unit Development on a 33± acre tract of land to allow for a mixed use and was approved for 169, 000 square feet of commercial use and 88 dwelling units on property located north of the northwest corner of East 71st Street and South Memorial Drive and the subject property.

PUD-187 August 1976: All concurred in approval of a proposed Planned Unit Development 165.5± acre tract of land for single-family, duplexes, multi-family, tennis club expansion and park/detention facilities with a total of 863 dwelling units on property located between East 61st Street South and East 71st Street South and between South Memorial Drive and South Sheridan Road; and abutting north and west of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 5.95± acres in size and is located south of the southwest corner of South Memorial Drive and East 66th Street South. The property is developed and is zoned PK/PUD.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Memorial Drive	Primary Arterial	120'	4-6

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

SURROUNDING AREA: The subject tract is abutted on the east by Memorial Drive and Woodland Hills Mall, zoned AG/OL/OM/CS/CG/PUD; on the north by Shadow Mountain, zoned RS-3/PUD; on the south by PUD-379-A and Clark Plaza Third, zoned CS; and immediately on the west by PUD-379, zoned PK and further west by Shadow Mountain, zoned RS-3.

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 PK zoning is in accord with the Plan.

STAFF RECOMMENDATION:

The original approval of PUD-379 allowed Use Unit 12 on the east 400 feet of the south 227 feet of Lot 1, Block 1 – the Village of Woodland Hills. In 1995, minor amendment request PUD-379-2 was made asking that the restaurant use be extended to the remainder of Lot 1, Block 1. The application and case minutes for this request is attached as Exhibit AA.

In researching the current request staff found that:

- a. On page 1 of Exhibit AA, the Legal Description of Tract Under Application states, “Lots 1 and 2, Block 1 – The Village at Woodland Hills”;
- b. The TMAPC motion made on Page 3 of Exhibit AA does not specify a lot, block or development area to which the amendment applies;

- c. Page 4 of Exhibit AA, the advertisement for the minor amendment, states “on property described as Lots 1 & 2, Block 1 – The Village at Woodland Hills...” ;
- d. The case map on page 5 of Exhibit AA, used as the legal advertisement of the case includes Lot 2 as part of the “tract under application”; and
- e. Exhibit BB, a motion made at the 5/24/95 TMAPC meeting approving the “Execution of Amended Certificate of Dedication” for the Village at Woodland Hills includes the approval as recommended by staff for PUD-379-2.

Staff finds that the intent of minor amendment application PUD-379-2 was to extend Use Unit 12 to Lot 1, Block 1 only. However, staff believes the interpretation of the above allows Use Unit on Lot 2, Block 1 by the approval of PUD-379-2. However the clarity of the motion made in approval of PUD-379-2, combined with supporting evidence from the application submitted and information used for notification justifies this major amendment application.

The purpose of this amendment then is to clarify the aforementioned by creating definable PUD development standards for Lot 2, Block 1 and to definitively establish Use Unit 12 - Restaurant Use as a permitted principal use on the existing tract. The existing building is being renovated to include an approximately 46,000 square foot Gold's Gym facility. The remaining 32,000 square feet will be utilized as mixed use retail. At this time there is no proposed expansion, or additional square footage request being made for the existing structure.

In a related manner and on March 13, 2007 the Board of Adjustment (BOA) in case 20452 approved a variance to reduce the required parking for the tract to 391 parking spaces (a 12.7% reduction) (see Exhibit CC). Consequently, the TMAPC in case PUD-379-7 approved a minor amendment reducing the required parking for the tract by 12.7% to 391 spaces. All other Development Standards within PUD 379 will remain applicable.

Attached to this application are a conceptual elevation plans Exhibits A and B and a conceptual site plan Exhibit C.

Staff finds the proposed additional use and existing intensity of development to be in harmony with the spirit and intent of the Code. Staff finds PUD-379-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 existing development 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-379-B subject to the following conditions:

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

Development Area: Lot 2, Block 1 –The Village at Woodland Hills

Gross Area: 5.95 +/- acres

Permitted Uses: Uses permitted as a matter of right in the CS – Commercial Shopping Center District and Use Unit 12 – Eating Establishments Other than Drive-ins. Use Unit 12-a is not permitted.

Maximum Floor Area (existing): 78,000 SF
(.3 FAR)

Minimum building setbacks:

From the West Boundary	85 feet
From the south boundary	20 feet
From the north boundary	35 feet
From the centerline South Memorial	130 feet

Maximum Building Height (to top of parapet): 40 feet

Parking Requirements: 391 spaces

Minimum Landscaped Open Space: 8%*

**Landscaped open space includes required arterial street landscaping, interior landscape buffer, landscaped yards and plazas and pedestrian areas, but does not include any parking, building or driveway areas.*

~~Pedestrian Circulation:~~

~~A pedestrian circulation plan shall be required for detail site plan approval that includes the following:~~

~~(a) Sidewalks along the west side of Memorial Drive;~~

~~(b) Pedestrian walkways connecting transit stops to non-street front building entrances where applicable.~~

- ~~(c) Pedestrian walkways clearly distinguished from traffic circulation, particularly where vehicular and pedestrian routes intersect where applicable.~~
- ~~(d) 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.~~

Site Lighting:

~~All parking lot lighting shall be hooded and directed downward and away from adjacent residential areas to the north. No light standard or building-mounted light shall exceed 25 feet in height. Lights shall be set back at least 25 feet from any residential areas abutting the PUD. Compliance with these standards shall be verified by application of the Kennebunkport Formula. Consideration of topography must be included in the calculations.~~

Any new site lighting shall not exceed the height of any existing lighting on the site and shall be directed down and away from adjoining residential areas in a manner that shields the light from a person standing at ground level in the adjoining residential district. Compliance with these standards shall be verified by application of the Kennebunkport Formula. Consideration of topography must be included in the calculations.

Site Screening:

~~An eight-foot solid screening wall or fence shall be erected along any lot line or lines in common with an R District if one does not exist.~~

An eight-foot solid screening wall or fence shall be erected along any lot line or lines in common with an R District if one does not exist.

Signs:

One ground sign shall be permitted along Memorial Drive not to exceed 25 feet in height and 72 SF of Display Surface Area. Wall signs shall be limited to two SF of display surface area for each lineal foot of building wall, or storefront/lease space to which the sign will be affixed.

3. No zoning clearance or building permits shall be issued for the lot until a detail site plan for the lot, which includes all buildings, building elevations, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.

4. Where applicable and per section 1001 of the Zoning Code, a detail landscape plan 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 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. Hours of operation shall not extend past midnight (per PUD-379-2).
9. 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 when applicable.
10. Platting Requirement: No building permit shall be issued until the requirements of Section 1107-F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, or an amendment is approved by the TMAPC that will incorporate within the existing restrictive covenants these PUD conditions of approval and making the City beneficiary to said covenants.
11. Subject to conditions recommended by the Technical Advisory Committee during the major amendment advisory process, which are approved by TMAPC.
12. Approval of the PUD amendment is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

13. There shall be no outside storage of recyclable material, trash or similar material outside a solid-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:

General: No comments.

Water: No comments.

Fire: No comments.

Stormwater: No comments.

Wastewater: No comments.

Transportation: Sidewalk required along Memorial.

Traffic: No comments.

GIS: No comments.

Street Addressing: No comments.

County Engineer: No comments.

INCOG Transportation:

MSHP: S. Memorial Drive, between 61st Street South and 71st Street South, designated primary arterial.

LRTP: S. Memorial Drive, between 61st Street South and 71st Street South, planned six lanes. Sidewalks should be constructed if non-existing or maintained if existing, per Subdivision Regulations.

TMP: No Comment.

Transit: Currently, Tulsa Transit operates services on this location. According to MTTA future plans this location will continue to be served by a transit route. Therefore, consideration for access to public transportation should be included in the development.

Mr. Sansone stated that he amended the staff recommendation since the packet mail-outs. After a meeting with Mr. Reynolds, there were some amendments made to the staff recommendation and staff agrees with these amendments. Mr. Sansone cited the changes that are deleted.

TMAPC COMMENTS:

Ms. Cantrell asked if staff would recommend allowing restaurant use regardless of the confusion from previous actions. In response, Mr. Sansone answered affirmatively.

Ms. Cantrell stated that since this is a major amendment it would be close to a new PUD and this would be the time to require pedestrian circulation. In response, Mr. Sansone that staff felt that given the proximity of the parking and the relief that the applicant has already been granted, adding pedestrian circulation to the existing lot as it is today would require more elimination of parking spaces that shouldn't be reduced.

Ms. Cantrell asked if there are any sidewalks currently. In response, Mr. Sansone stated that there are no internal sidewalks. There was a sidewalk requirement as a part of PUD-379 along Memorial, but it is not a part of this PUD.

In response to Mr. Marshall, Mr. Sansone stated that sidewalks along Memorial have always been a requirement, but they were never installed and to force this applicant to install a sidewalk would be retroactive.

Mr. Harmon stated that there is a sidewalk in front of Red Lobster and this particular improvement should have been done when it was formerly the Mervyn's store. Mr. Harmon commented that because it wasn't done during the Mervyn's development doesn't mean it isn't a requirement now. In response, Mr. Sansone agreed and stated that the Planning Commission can make that a requirement of the approval. Mr. Harmon stated that it would be important to him to have the sidewalk.

Mr. Sansone reiterated that initially staff was recommending a sidewalk along Memorial, but after meeting with Mr. Reynolds, staff decided to concede the sidewalk and internal pedestrian circulation plan.

Applicant's Comments:

Lou Reynolds, 2727 East 21st Street, 74114, stated that this application is a little bit confusing how it came about. He explained that when his client purchased the subject property they thought they already had restaurant use. His client researched the records and the records are confusing and could be read as restaurant use being allowed. The Planning Commission as gone so far as to approve an amendment to the deed of dedication to allow restaurant use in 1995, which for some reason never went forward. His client purchased the subject property with the intentions of using it for restaurant purposes. Mr. Reynolds cited the history of applications and process the subject site has been through to date with the knowledge that a restaurant would be one of the uses for the subject property. When the applicant filed for a building permit for a restaurant he was informed that restaurant use was not approved, but the Permit Officers changed their minds when the applicant submitted the history of applications and they issued a building permit. Mr. Reynolds explained that his client requested him to review the restaurant issue and he can see why it is confusing whether restaurant use is allowed. Lot 2 was carved out of the PUD process because it was intended to be a Mervyn's and restaurant use was not included with Lot 2. Mr. Reynolds compared this application to correcting a title defect and not rezoning property. The existing tenant is a 2,000 SF restaurant in a 78,000 SF building. The building is not being increased in size and they are not adding a use that was not permitted within the PUD nor affecting the intensity. This is really a major amendment in form and substance, because clearly the documents that staff referred to discuss Lots 1 and 2. The notice that was mailed out only stated Lot 1 and that jeopardized that process. Mr.

Reynolds requested that the Planning Commission approve the major amendment as recommended by staff.

Mr. Midget in at 2:11 p.m.

Mr. Reynolds stated that the building is currently under construction and there is about 48,000 SF of the subject building that is ready to be turned to the tenants for the tenants' work. The restaurant is ready to be turned to the tenant for the tenant to complete their package. The majority of the landlord's work has been done and to be hit at the end with the sidewalk requirement is very burdensome for his client. The majority of the subject building has been leased and this would very burdensome to have the sidewalk requirement at this stage. Mr. Reynolds explained that his client has come before the Planning Commission on his own and wasn't requested to make an application.

TMAPC COMMENTS:

Ms. Cantrell asked Mr. Reynolds if his client would agree to deleting the internal pedestrian circulation and only requiring the sidewalk along Memorial. Mr. Reynolds stated that it would be very burdensome due to where this project is at this time regarding leasing. His client has leased it not thinking he would have to install a sidewalk. It is very hard to get it back in a 2,000 SF tenant basis.

Mr. Harmon stated that sidewalks are very important at this location. There are apartments to the north and people need a place to walk to come to the subject property and the restaurant. He personally believes that a sidewalk is needed and when there is already construction going on, then it isn't that hard to open up a shallow trench and run a sidewalk. In response, Mr. Reynolds stated that his client's construction is almost over and it is now the tenant's construction that is ready to take place. Mr. Harmon stated that there is still equipment on site. In response, Mr. Reynolds stated that there is some equipment still on site, but in the grand scheme of things it is ready to move off of the site. This would be very burdensome and very expensive at this late time and there should be a fairness to balance what is in the record and what actually happened. Mr. Reynolds stated that he agrees sidewalks are important, but he doesn't believe in this case there has been any change and to say that the small restaurant has made some type of major change on the subject property is not fair.

Mr. Ard asked Mr. Reynolds if the sidewalk would impact his parking. In response, Mr. Reynolds stated that it potentially could because the road tapers in for a deceleration lane and there wouldn't be a lot of room to put a sidewalk in toward the south end. There are some utility poles in the middle of where a sidewalk would be installed.

Mr. Ard asked Mr. Reynolds if there are lighting poles presently that are not compliant with the original staff recommendation. In response, Mr. Reynolds stated that currently there are lighting poles that meet the old PUD standards, but

if this was a new PUD, it would require a Kennebunkport Formula. The original site plan shows that the subject property is more than 200 feet from the nearest house and there are a lot of trees buffering between the subject site and houses.

Mr. Ard stated that the sidewalk issue is a difficult decision for him because there is always traffic there. From a good planning standpoint there should be sidewalks here. He understands Mr. Reynolds's position and the Planning Commission has an obligation to be fair to development communities, but it would nice to have a sidewalk along Memorial. There is always foot traffic in this area along Memorial.

Mr. McArtor stated that the Planning Commission wouldn't be revisiting this issue except that Mr. Reynolds brought this application before the Planning Commission to clear up the restaurant use and make sure they were doing the right thing. Now they are being told that they also need a sidewalk, which had they known that would happen, they might not have come before the Planning Commission because evidently they already have approval for a restaurant. He doesn't want to discourage people in the future to come before the Planning Commission to clarify uses. Mr. McArtor questioned if this would be good public policy.

Ms. Cantrell stated that sidewalks were required, but they were never installed. She expressed concerns that the applicant went before the Board of Adjustment for a parking reduction and didn't address the sidewalk at that point. Anytime one decreases the parking spaces, it should be compensated by providing other means of access. This is a major amendment and she wouldn't create all of the pedestrian circulations because she wouldn't reduce the parking more, but along Memorial it is not too much to ask for a sidewalk to be installed.

Mr. Reynolds stated that the subject building is 78,000 SF and before the Planning Commission today is a 2,000 SF restaurant that would be triggering this sidewalk. This is a 400-foot sidewalk and it would be out of proportion of what is being asked for. One of the things that have always been done with these types of issues is to strike a balance and look at what is really fair and look away from technicalities. His client is a victim of some poor draftsmanship and he is before the Planning Commission voluntarily to fix it and get it right. He feels that this is a "gotcha" and he doesn't believe the City of Tulsa is this type of town. This is a fact-specific case and there is rarely a case where it is unclear and he should be able to get a building permit issued. His client has not asked for a new use and there is nothing new to the subject PUD. It really doesn't fall within the traditional change of use or redevelopment of property. It would have been easier for his client if the sidewalk issue had come at the front end and not at the back end. Had this issue came up at the BOA his client could have budgeted and planned for it.

Mr. Sparks asked Mr. Reynolds if there are sidewalks to the north or south of the subject property. In response, Mr. Reynolds stated that there are no sidewalks to the north, south or across the street. There are sidewalks at the hard corner, which the City installed at 71st and Memorial. Mr. Reynolds explained that he doesn't consider this a "sidewalk to nowhere" case, but rather the balancing of the overall fairness.

Mr. Marshall stated that it would cost approximately \$80,000.00 to put a sidewalk in the subject area (400 FT x \$20.00 per lineal foot). In response, Mr. Reynolds agreed. Mr. Marshall stated that he preaches fairness all the time and in this case he will go with the fairness, although he does refer sidewalks.

Mr. Harmon stated that it would cost \$8,000.00.

Mr. Reynolds stated that his engineer estimated it would cost \$80,000.00 due to the topography and a need for a retaining wall. Mr. Reynolds explained that a City Engineer stated that it would cost more than \$80,000.00.

Mr. David Steele, Senior Engineer for the City of Tulsa, stated that he was asked to do a site view this morning. He explained that in addition to the sidewalk there would have to be at least a four- to six-foot wall along about half of the length and that requires a separate permit from the City of Tulsa. There is a very steep slope at the subject site and there would be additional work needed before the City would allow a sidewalk.

Mr. Reynolds stated that there is a good deal of topography at the subject site and Mr. Sack pointed out that there is a high-pressure gas line in the grass and that is why it is shaped like a knoll. He commented that Mr. Sack stated that the knoll would be able to be cut down very much. Mr. Reynolds reminded the Planning Commission that there are utility poles in the subject area where the sidewalk would be installed.

Mr. Midget stated that it is the City's policy to require sidewalks with development, but he feels the same as Mr. Marshall regarding fairness. There would be no other sidewalks in the subject area and how does one go back in and make everyone put sidewalks in to be fair.

Mr. McArtor stated that he agrees with Mr. Midget. He commented that he likes sidewalks and believes they are necessary, but it is not an absolute. This is a "gotcha". The original PUD required sidewalks, but for some reason this was not enforced and the applicant may have relied on that when they applied for the major amendment.

Mr. Harmon stated that just because the sidewalk was not installed when it should have been installed doesn't make a valid reason to not require them. If they are not required now, then when are they required? If the Planning

Commission doesn't require them here, then the next developer before the Planning Commission will bring this up.

Mr. McArtor stated that a rule that is not enforced, after a while, becomes unenforceable when people begin to rely upon those things, especially when the applicant came in of their own free will.

Mr. Harmon stated that everyone that comes to the Planning Commission for zoning or use change comes in on their own free will.

Mr. Reynolds reminded Mr. Harmon that his client thought he already had the restaurant use and it was only a legalistic set of circumstances that his client didn't have this use and staff reflected that well in their report. He is not coming to the Planning Commission today and asking for a zoning change, but simply making it right like fixing a title problem.

Mr. Ard stated that in this case he would have to side with Mr. Marshall and Mr. McArtor. He believes that this is a technicality that they are trying to correct and to be fair to the developer, the sidewalk should not be required. The Planning Commission has been trying for the last two years to correct the problems of sidewalks because they are needed.

Mr. Harmon stated that he is a strong sidewalk advocate, but based on what he has heard today and let the record state, that this is not a precedent and not setting any standards for future development, but the TMAPC is simply trying to facilitate an existing use, and he could make a motion to approve per staff recommendation.

TMAPC Action; 9 members present:

On **MOTION** of **HARMON**, TMAPC voted **8-0-1** (Ard, Cantrell, Harmon, Marshall, McArtor, Midget, Shivel, Sparks "aye"; no "nays"; Walker "abstaining"; Carnes, Perry "absent") to recommend **APPROVAL** of the major amendment for PUD-379-B per staff recommendation. (Language with a strike-through has been deleted and language with an underline has been added.)

Legal Description for PUD-379-B:

LOT 2, BOCK 1, THE VILLAGE AT WOODLAND HILLS, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF; **From PK/PUD (Parking District/District/Planned Unit Development [PUD-379]) To PK/PUD (Parking District/Planned Unit Development [PUD-379-B]).**

* * * * *

OTHER BUSINESS:

19. **Z-6023-SP-1 – Scott Aneshansley** (PD-18C) (CD-8)
8520 South 99th East Avenue (Staff requests a refund for Corridor
Site Plan review that wasn't necessary.)

STAFF RECOMMENDATION:

Mr. Alberty stated that it was determined after the application had been taken that it wasn't necessary. Staff recommends a refund of \$200.00.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Midget, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Carnes, Perry "absent") to **APPROVE** the refund for Z-6023-SP-1 per staff recommendation.

* * * * *

Commissioners' Comments

Mr. Harmon stated that when the sign ordinance goes to the City Council he would appreciate that the minutes reflect the discussion regarding the spacing and the vote taken. In response, Mr. Alberty stated that it was included in the minutes.

Mr. Shivel asked if the completion of a project is a portion of the inspector's responsibility to ensure that requirements have been met before signing off. In response, Mr. Alberty stated that it is, and up until the last few years there was not a PUD-trained inspector, which is not the case today. When PUD-379 was constructed there was no one enforcing the PUD requirements. There was probably 80 to 90 percent of compliance when there were no PUD inspectors. Mr. Alberty cited the history of why now there are PUD inspectors, which he believes do a good job enforcing the PUD requirements.

In response to Mr. Shivel, Mr. Alberty stated that he couldn't answer whether Neighborhood Inspections could retroactively work with contractors to facilitate the completion of requirements that have not been met.

Mr. Boulden stated that he believes the inspectors could write a zoning violation and enforce it through municipal court. He doesn't believe this practice is done for these older PUDs.

* * * * *

There being no further business, the Chair declared the meeting adjourned at 2:35 p.m.

Date Approved:

4/23/08
[Signature]

Chairman

ATTEST: [Signature]
Secretary