

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
**Minutes of Meeting No. 2523**

Wednesday, August 20, 2008, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Ard	Midget	Alberty	Boulden, Legal
Cantrell	McArtor	Feddis	
Carnes	Miller	Fernandez	
Marshall		Huntsinger	
Shivel		Matthews	
Sparks		Sansone	
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, August 14, 2008 at 10:25 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Ard called the meeting to order at 1:30 p.m.

**REPORTS:**

**Worksession Report:**

Mr. Ard reported that there will be a worksession and training session next week.

Ms. Cantrell reported that Mr. Nore Winters will be speaking to the Planning Commission at the August 27<sup>th</sup> training session regarding the Preservation Plan update.

**Comprehensive Plan Report:**

Ms. Cantrell reported on the dates for city-wide workshops and encouraged everyone to attend.

**Director's Report:**

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

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**Minutes:**

**Approval of the minutes of July 23, 2008 Meeting No. 2521**

On **MOTION** of **CARNES**, the TMAPC voted 7-0-1 (Ard, Cantrell, Carnes, Marshall, Shivel, Sparks, Walker “aye”; no “nays”; Wright “abstaining”; McArtor, Midget, Miller, “absent”) to **APPROVE** the minutes of the meeting of July 23, 2008, Meeting No. 2521.

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**TMAPC COMMENTS:**

Ms. Cantrell requested that the comments of the Planning Commission be made part of the record explaining why they were going against staff’s recommendation for denial.

**Approval of the minutes of August 6, 2008 Meeting No. 2522**

On **MOTION** of **CARNES**, the TMAPC voted 7-0-1 (Ard, Cantrell, Carnes, Marshall, Shivel, Sparks, Walker, “aye”; no “nays”; Wright “abstaining”; McArtor, Midget , Miller “absent”) to **APPROVE** the minutes of the meeting of August 6, 2008, Meeting No. 2522, subject to full discussion of Z-7085 being included in the minutes regarding the vote against staff recommendation.

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**CONSENT AGENDA**

Mr. Ard announced that Item 2, Lot-split LS-20235 will be stricken from the agenda and will come back to the Planning Commission at another time.

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

3. **LS-20236** – Danny Mitchell (8418)/Lot-Split (PD 18C) (CD 8)  
East of South Mingo Road and South of East 81<sup>st</sup> Street, 8159 South Mingo Road East
4. **LS-20237** – Sidney Swinson (9332 )/Lot-Split (PD 18B) (CD 9)  
North of East 53<sup>rd</sup> Street and East of South Delaware Place, 5231 South Delaware Place (Related to Item 6)
5. **LS-20238** – Don Holden (1082)/Lot-Split (PD 8) (CD 2)  
South of West 78<sup>th</sup> Street and East of South 24<sup>th</sup> Avenue, 2202 West 78<sup>th</sup> Street

6. **LC-113** - Sidney Swinson (9332 )/Lot-Combination (PD 18B) (CD 9)  
North of East 53<sup>rd</sup> Street and East of South Delaware Place, 5231  
South Delaware Place (Related to Item 4)
7. **LC-114** – James Moran, Jr. (9431)/Lot Combination (PD 18) (CD 6)  
South of East 55<sup>th</sup> Place between South US-169 and South 107<sup>th</sup> East  
Avenue, 5630 South 107<sup>th</sup> East Avenue
8. **LC-115**– Oleg Roytman (9201)/Lot Combination (PD 1) (CD 4)  
Southeast corner of South Cincinnati Avenue and East 7<sup>th</sup> Street
9. **Z-5903-SP-2 – Mark Capron** (PD-18) (CD-7)  
South of the southeast corner of 61<sup>st</sup> Street and Mingo Road (Detail  
Site Plan for the 2,031 square foot expansion of the Miller Swim  
School.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for the 2,031 square foot (SF) expansion of the Miller Swim School, originally approved as Corridor Site Plan, Z-5903-SP-2. The existing uses of the building, Use Units 11, 19 and 20 are permissible uses within the existing Corridor District. The proposed expansion constitutes an increase of 20% in floor area from 10,072 SF to 12,103 SF and is well within the permitted 1.25 FAR allowed by the Corridor District, which would allow 121,948 SF of floor area for this parcel.

Board of Adjustment (BOA) case #20574 (see Exhibit A) approved the reduction of the front setback from the centerline of Mingo Road from 200' to 175', to allow for the proposed addition to the front of the existing building. Also, lot combination LC-104 was approved 7/2/08 effectively making the southern most 158.16' of Lot 1 and all of Lot 2, Baldwin Acres one lot, to allow for additional parking to the east of the existing building as required by the Code and the BOA.

The proposed site plan meets all applicable floor area, setback, building height and open space requirements (see Exhibit B). Parking and landscaping has been provided per the Zoning Code.

Given the aforementioned, staff recommends **APPROVAL** of detail plan for the Miller Swim School Expansion, CO District site plan #Z-5903-SP-2.

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

10. **PUD-523-5 – Donald T. Pike**

(PD-18) (CD-8)

East of the southeast corner of Memorial Drive and 81<sup>st</sup> Street South  
(Minor Amendment to reduce the required rear setback from 20' to 10'  
to allow for a roof to be constructed over an existing patio.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to reduce the required rear setback from 20' to 10' to allow for a roof to be constructed over and existing patio (see Exhibit A-1). The lot is a corner lot and is abutted directly in the rear by a reserve area for stormwater drainage approximately 110' from the property line of the closest neighbor to the rear (see Exhibit A).

A patio with no roof is permitted to encroach into the required rear yard per the definition of "building" in section 1800 of the Code (*Building: A structure which is permanently affixed to the land, and has one or more floors and a roof, and is bounded by either another building with a common party wall, open air, or the lot lines of a lot*). By not meeting the definition of a "building" according to the Code, the patio is not required to meet the minimum 20' rear building setback per PUD Development Standards. However, with the addition of a roof the patio meets the definition of a building and therefore would need to meet the minimum building setback, and therefore the basis for this minor amendment request.

A majority of the homeowners in the immediate vicinity of the subject tract have signed a petition in favor of the request. The petition is attached herein as Exhibit B.

Since the patio addition will meet the required side setback from the non-arterial ROW along South 87<sup>th</sup> East Ave., is abutted in the rear by an un-developable reserve area, and has the support of a majority of the neighbors in the immediate vicinity, staff recommends **APPROVAL** of minor amendment PUD-523-5 for Lot 12, Block 2 of Bristol Park only.

*Note: Approval of a minor amendment does not constitute detail site, landscape or 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 **CARNES**, TMAPC voted **8-0-0** (Ard, Cantrell, Carnes, Marshall, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget, Miller "absent") to **APPROVE** the consent agenda Items 3 through 10 per staff recommendation.

Mr. Ard announced the following items have asked for a continuance:

14. **Plantation Apartments** – (7913) Minor Subdivision (PD 18B) (CD 7)  
Plat  
Northeast corner of East 47<sup>th</sup> Place and South Fulton Avenue  
(continued from the 8/6/08 meeting)

**STAFF RECOMMENDATION:**

The applicant has requested a continuance to September 3, 2008.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Ard, Cantrell, Carnes, Marshall, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget, Miller "absent") to **CONTINUE** the minor subdivision Plantation Apartments to September 3, 2008.

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16. **Z-7106 – Charles E. Norman** **RM-2/OL to CS**  
Southeast corner of East 41<sup>st</sup> Street South and (PD-6) (CD-9)  
South Harvard Avenue (Related to Item 17.)

**STAFF RECOMMENDATION:**

Ms. Matthews indicated that the applicant and the interested parties are both in agreement to a continuance to September 24, 2008.

**Interested Parties Comments:**

**Josh McCormick**, 3424 East 41<sup>st</sup> Street, 74135, stated that he doesn't have a problem with the continuance, but he did have some issues with the placement of the notice signs on the subject property.

Mr. Ard suggested Mr. McCormick visit with staff regarding the placement of the notice signs.

**TMAPC Action; 8 members present:**

On **MOTION** of **SHIVEL**, TMAPC voted **8-0-0** (Ard, Cantrell, Carnes, Marshall, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget, Miller "absent") to **CONTINUE** Z-7106 to September 24, 2008.

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17. **PUD-761 – Charles E. Norman** **RM-2/OL to CS/PUD**  
Southeast corner of East 41<sup>st</sup> Street South and South (PD-6) (CD-9)  
Harvard Avenue (PUD for a 360,000 SF mixed-use  
development.) (Related to Item 16.)

**STAFF RECOMMENDATION:**

Ms. Matthews indicated that the applicant and the interested parties are both in agreement to a continuance to September 24, 2008.

**TMAPC Action; 8 members present:**

On **MOTION** of **WRIGHT**, TMAPC voted **8-0-0** (Ard, Cantrell, Carnes, Marshall, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget, Miller "absent") to **CONTINUE** PUD-761 to September 24, 2008.

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**PUBLIC HEARING**

12. **LS-20234** – Charles Norman (9418)/Lot-Split (Rescind) (PD 17) (CD 5)  
South of East 21<sup>st</sup> Street and West of South Garnett, 2160 South  
Garnett Road

**STAFF RECOMMENDATION:**

This is a lot-split that was approved in 2006 with "tie language" restricting the "Strip Shopping Center" property and "Tiffany Bowl" property from being conveyed separately. However, the Strip Shopping Center was sold separately by a title company that did not include the tie language. The owner hired a second title company to sell Tiffany Bowl property, which is where the error with the tie language was caught. The owner needs to rescind the tie language prior to selling the Tiffany Bowl property.

**TMAPC COMMENTS:**

Mr. Walker asked Mr. Johnsen why the tie language is being rescinded. In response, Mr. Johnsen stated that in the lot-split that was done in 2006 for the smaller tract to the east there was a determination made that there wasn't enough sufficient frontage on the remainder and so it was tied with the north tract because of frontage. Mr. Norman filed an application when this became known to the Board of Adjustment to vary the frontage requirement. The tract had access to Garnett and the Board of Adjustment varied the frontage requirement last week. Now each of the two tracts meets the Zoning Code and there is no longer any reason for them to be tied.

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Ard, Cantrell, Carnes, Marshall, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget, Miller "absent") to **APPROVE** to rescind the tie agreement for LS-20234.

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13. **Crestwood Village** – (8334) Preliminary Plat (PD 26) (CD 8)  
Northwest corner of East 121<sup>st</sup> Street South and South Sheridan Road

**STAFF RECOMMENDATION:**

This plat consists of 25 lots, five blocks, on ten acres.

The following issues were discussed August 7, 2008 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned PUD 759. All PUD standards must be followed and shown in the covenants. A mutual access easement or access agreement wording must meet with the Fire Marshal's approval. The emergency access should be shown on the face of the plat. Limits of No Access must be shown as approved by the Traffic Engineer.
2. **Streets:** Define access on Block 1 along 121<sup>st</sup> Street South in the frontal boundary of the platted development. Clarify the 12.72 foot dimension line shown in Lot 2, Block 2. Reduce the dimension of the two points of access along South Sheridan Road to a maximum width of 40 feet unless it can be shown that a center median (indicate accordingly) will be part of the improvements. Depending on the configuration of the gated entry, limits of no access may be required along the street side of Lot 1, Block 5, and Block 2, Lot 2, at the north ingress/egress location of Sheridan Road.
3. **Sewer:** The four-foot fence easement along the northern boundary line of Block 1 encroaches too far in to the 11-foot utility easement to allow for adequate maintenance of the proposed sanitary sewer line. Change the 11-foot utility easement to a 17.5-foot utility easement and locate the sanitary sewer line 12.5 feet from the north boundary line. This means that you must also shift the proposed 15-foot restricted water easement 6.5 feet further south as well. The 11-foot utility easement along the west boundary of Lot 1, Block 1, and the west boundary of Lots 3 and 4, Block 4, must be increased to a 17.5-foot utility easement. Extend the 11-foot utility easement within Lots 5-7, Block 3, to the north across Reserve B.

4. **Water:** Provide a 15-foot restrictive water line easement adjacent to the 11-foot utility easement on west side of Block 1, Lot 1. Extend the 15-foot restrictive water line easement to the west along the north side of Block 1, Lot 1. Provide a 15-foot restrictive waterline easement along Block 5 of Lots 1, 2, and 3 along the roadway. Provide a 15-foot restrictive waterline easement along the south side of Block 5, Lots 1, 2 and 3 along the roadway. Provide a 15-foot restrictive waterline easement along the south side of Block 5, Lot 1, from South Sheridan Road. Remove the 15-foot restrictive waterline easement outside of the Reserve A areas. Extend a water main line along the east side of Block 1, Lot 1 connecting onto the existing 12-inch on East 121<sup>st</sup> street South. Extend a water main line along the south side of Block 5, Lot 1 and around the roadway along Lots 1, 2 and 3.
5. **Storm Drainage:** Both existing and proposed floodplain must be shown and labeled, as such, as "Fry Ditch No. 2 Tributary, City of Tulsa Regulatory Floodplain." These floodplains, along 121<sup>st</sup> Street South and along South Sheridan Road, must be placed in a Reserve, and in an overland drainage easement. All floodplains must be plotted on the preliminary plat and conceptual plan by using the 100 year water surface elevation and existing contours at the site. All unlabeled lines, abbreviations, and symbols must be included in a legend on this sheet. Add the standard language for overland drainage easement in a reserve for all floodplains required to be platted for this project. Add the overland drainage easements, floodplains, and reserves from the plat comments, and show and label the existing contours.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** Additional easements may be needed.
7. **Other: Fire:** Provide emergency fire apparatus access easements across Lot 1, Block 1, from both Reserve A drives.

**GIS:** Label the point of commencement and the point of beginning. The metes and bounds description does not match the face of the plat, please correct.

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

**Waivers of Subdivision Regulations:**

1. A sidewalk waiver is requested as a fee-in-lieu-of project. Documentation is attached.

**Special Conditions:**

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

**Standard Conditions:**

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

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

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

**TMAPC COMMENTS:**

Ms. Cantrell asked staff if the fee-in-lieu of the sidewalks is for 121<sup>st</sup> and South Sheridan and this is not a waiver for any internal sidewalks. In response, Mrs. Fernandez stated that the fee-in-lieu is for 121<sup>st</sup> and South Sheridan and not for the internal sidewalks.

Ms. Wright asked why a sidewalk couldn't be installed around the stormwater detention. In response, Mrs. Fernandez stated that the fee-in-lieu of was going to allow Public Works to put in a sidewalk as needed in the future. Ms. Cantrell stated that she believes that when the PUD was before the Planning Commission, it was discussed and the reason was that it is in the floodplain. It would be difficult to put a sidewalk in this area due to the floodplain.

**Applicant's Comments:**

**Ricky Jones**, Tanner Consulting, LLC, 5323 South Lewis Avenue, 74105, stated that the improvements have been made and the steep angle of the existing topography precludes building a practical sidewalk at this time. He has worked the details out with Development Services and when the full intersection is improved, then the sidewalk will be installed. He negotiated with them to do the new fee-in-lieu of sidewalks. Mr. Jones concluded that he is in agreement with staff's recommendation.

**TMAPC COMMENTS:**

Mr. Shivel stated that this is the best example of the value of a fee-in-lieu of that is now in place because of the high probability of the expansion of the roadway.

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

Mr. Carnes moved to approve the preliminary plat, waive the Subdivision Regulations and allow the applicant to pay a fee-in-lieu of sidewalks.

Mr. Boulden requested that the motion be amended to restrict the sidewalk waiver to be for only 121<sup>st</sup> Street and South Sheridan.

**TMAPC Action; 8 members present:**

On amended **MOTION** of **CARNES**, TMAPC voted **7-0-1** (Ard, Cantrell, Carnes, Marshall, Shivel, Sparks, Wright "aye"; no "nays"; Walker "abstaining"; McArtor, Midget, Miller "absent") to **APPROVE** the preliminary plat for Crestwood Village, subject to special conditions and standard conditions, a waiver of the Subdivision Regulations for a sidewalk waiver and allow a fee-in-lieu of sidewalk requirements for 121<sup>st</sup> Street and South Sheridan only per staff recommendation.

15. **CZ-393 – Doyle E. Lee, Jr.** **RE to CS**  
 Southwest corner of West 40<sup>th</sup> Street and South 129<sup>th</sup> West Avenue (County)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE/RESOLUTION:** Resolution number 98254 dated September 15, 1980, established zoning for the subject property.

**PROPOSED ZONING:** CS **PROPOSED USE:** Mini-storage expansion

**RELEVANT ZONING HISTORY:**

**CZ-312 October 2002:** All concurred in approval of a request for rezoning a .97± acre tract of land from RE to CS for a mini-storage on property located north of the northwest corner of West 41<sup>st</sup> Street and South 129<sup>th</sup> West Avenue and abutting south of subject property.

**CBOA-1750 July 2000:** The County Board of Adjustment approved a request for a Special Exception to allow Use Unit 16, mini-storage facility, on property south of the subject tract and located on the northwest corner of West 41<sup>st</sup> Street and South 129<sup>th</sup> West Avenue.

**CZ-249 February 1999:** All concurred in approval of a request for rezoning a 1.7-acre tract from RE to CS for commercial use, on property located on the northwest corner of West 41<sup>st</sup> Street and South 129<sup>th</sup> West Avenue and south of the subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 1.6± acres in size and is located southwest corner of West 40<sup>th</sup> Street and South 129<sup>th</sup> West Avenue. The property appears to be in residential use and is zoned RE.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South 129 <sup>th</sup> West Avenue	Secondary arterial	100'	2
West 40 <sup>th</sup> Street	Residential	50'	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by vacant land, zoned AG; on the north by large-lot single-family residential uses, zoned RE; on the south by a mini storage facility, zoned CS; and on the west by large-lot single-family residential uses, zoned RE.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The Sand Springs Comprehensive Plan designates this area as being Low Intensity-Residential land use. According to the Zoning Matrix, the requested CS zoning is **not** in accord with the Plan.

**STAFF RECOMMENDATION:**

Based on the Sand Springs Comprehensive Plan and surrounding uses/zoning, staff cannot support the requested rezoning and therefore recommends **DENIAL** of CS zoning for CZ-393, finding that the proposed rezoning would create a strip-zoning situation and potentially be facing residential uses on three sides.

**Applicant's Comments:**

**Doyle Lee, Jr.**, 4024 South 129<sup>th</sup> West Avenue, Sand Springs, 74063, stated that he is the co-owner and manager of the facility. He explained that this would be a continuation of five-acre tract to expand the mini-storage. This is the only place he could expand his facility. He commented that the only property this would adjoin is his property and that of Mr. Miles McArthur, and he is in agreement with the rezoning.

Mr. Lee submitted photographs of the subject property (Exhibit A-2) and explained that he currently owns the property. It has an old home on it that is in poor condition. Part of the reason he wanted to expand is to clean up the subject tract and expand the mini-storage.

**TMAPC COMMENTS:**

Mr. Ard stated that staff's opposition is based on the continuation of the commercial zoning going farther north into an area that is primarily surrounded by AG and residential zoning.

Mr. Marshall asked Mr. Lee if the property where his home is located is zoned CS. In response, Mr. Lee stated that it is zoned CS and he filed for a special exception to have the house there. Mr. Lee acknowledged that there are boats and RVs stored on the property to the south behind his home, but there would not be any stored on the expansion to the north. Mr. Marshall complimented Mr. Lee on how well he kept his property clean and neat.

Mr. Lee cited the surrounding properties and reiterated that the only property adjacent to the subject property is Miles McArthur's, who is present and in support of the subject application. Mr. Lee commented that this proposal will not bother anyone in the subject area. The subject property has been neglected for 20 years and it looks terrible.

Mr. Marshall stated that the Planning Commission received a protest letter from Michael P. and Jill Minihan. He asked Mr. Lee to show where the Minihans live and asked if he met with them. In response, Mr. Lee stated that they live half a mile away and wouldn't be able to see the subject property. Mr. Lee reiterated

that the interested parties who are opposed to the subject proposal do not abut the subject property and wouldn't be impacted. In response, Mr. Marshall stated that the interested parties are affected because they would have to drive by the subject property every day. It would affect the people living in the subject area.

Mr. Lee stated that his grandfather owned the subject property and moved the existing home onto the property in 1959. His grandfather died in 1986 and it has been totally neglected ever since. Mr. Lee commented that he has to look at the subject property every day and it is in poor condition.

Mr. Boulden asked Mr. Lee who owns the property that he is looking at every day. In response, Mr. Lee stated that he currently owns the property. Mr. Boulden asked Mr. Lee if he created the problem with the subject property. In response, Mr. Lee stated that he paid \$120,000.00 for the subject property and it is not worth \$50,000.00.

Ms. Wright inaudible. In response, Mr. Lee stated that his grandfather owned the subject property from 1959 to 1986. The new owner never lived on it, but he rented it out to his kids. He believes that by cleaning up the subject property and expanding his facility, it will make property values go up and not down.

Ms. Wright asked Mr. Lee if he currently owns the subject property. In response, Mr. Lee answered affirmatively. Ms. Wright stated that Mr. Lee could get rid of the mess that he is looking at any time. In response, Mr. Lee stated that he could, but what would he do with the property once it is cleared? The subject property is the only direction in which he can expand his business.

Ms. Cantrell stated that she doesn't believe anyone is objecting to Mr. Lee cleaning up the subject property and she believes that would be appreciated. The question is, can he convert the use of it from a residential to a commercial use? The issue is not so much whether there was a good neighbor or bad neighbor or what condition the subject property is in. Staff is pointing out that the proposal goes against the Comprehensive Plan and she hasn't heard any reason why the Planning Commission should ignore the Comprehensive Plan and rezone the subject property. In response, Mr. Lee stated that basically it is his property and he should be able to do what he wants with it if it doesn't infringe on anybody else. This proposal is good for Tulsa County with the property taxes and the taxes he collects on the facility. The subject property is divided from residential by a street. Mr. Lee admits that he could clean up the subject property and will, one way or another. He doesn't understand the objection to the proposal.

Mr. Marshall asked Mr. Lee whether, if the Planning Commission decided to approve this he would be willing to install an eight-foot pre-cast concrete fence to hide the mini-storage from down West 40<sup>th</sup> Street to the people who live there. In response, Mr. Lee stated that he would put up a privacy fence. He didn't believe

he could put the footing and a concrete fence up. Mr. Marshall stated that a pre-cast concrete fence wouldn't require footing.

Mr. Walker asked staff if they are concerned that this would set a precedent if it is allowed to further extend commercial use into residential. In response, Ms. Matthews stated that is a concern and the County Zoning Code requires screening against an existing R district. They would have to screen from north and west with a six-foot screening fence. They are not allowed outdoor storage as well. Ms. Matthews stated that the existing fence is not legal and they have accordion wire around the top that is not legal either.

**Interested Parties Comments:**

**Cordelia Burris**, 12921 West 40<sup>th</sup> Street, Sand Springs, 74063, stated that she has lived in the subject area for 40 years and she is across the street from Mr. McArthur. She doesn't believe this would be a good use for the subject area. Ms. Burris stated that there are two houses west of Mr. Lee's property and she doesn't understand why he didn't expand to the west fronting 41<sup>st</sup> Street. Ms. Burris expressed concerns with the lighting from the subject property shining into her property if it is approved for CS and Mr. Lee is allowed to expand his business. She further expressed concerns that this would start other AG properties wanting to rezone to CS in the subject area.

Ms. Burris read and submitted two letters of opposition from other neighbors (Exhibit A-1). She stated everyone is affected, whether they live adjacent it or across the street from it. Ms. Burris expressed concerns with asphalt adding to the stormwater runoff that currently exists. She requested that the subject property remain residential. Ms. Burris stated that recently there have been new homes built in the subject area and she believes that the subject property could be rebuilt for single-family use.

**TMAPC COMMENTS:**

Ms. Cantrell asked Ms. Burris if she would submit the letters and she appreciates her coming to the meeting to take part in the discussion.

**Interested Parties Comments:**

**Sue Poplin**, 12916 West 40<sup>th</sup> Street, Sand Springs, 74063, stated that she lives next to Mr. Miles McArthur and has lived there one year. The mini-storage has not been a problem and she is favor of the expansion. She commented that Mr. Lee keeps his place clean and mowed. She believes that a brick wall or cement wall would look like a compound or prison. The lights are a security for her and she doesn't see a problem. Ms. Poplin described the subject property and the lack of care. She explained that Mr. Lee has only owned the subject property for two months and he didn't allow it to go into disrepair.

**TMAPC COMMENTS:**

Ms. Cantrell stated that it sounds like Mr. Lee is a good neighbor, but she doesn't believe the residents understand that once the property is zoned CS, it will stay with the property. The current owner could sell the property and there are a lot of different uses that a CS zoning would allow. A new owner may not be as good as the current owner. There is some concern about whether anything under CS zoning would be appropriate at the subject location. In response, Ms. Poplin stated that they could also put in a trailer or build a shabby house and no one knows about tomorrow.

**Interested Parties Comments:**

**Miles McArthur**, 12910 West 40<sup>th</sup> Street, Sand Springs, 74063, stated that he lives west of where the proposal is located. He indicated that he is in favor of the subject application.

**Applicant's Rebuttal:**

Mr. Lee stated that he wanted to make sure that any lists of names or letters were from people in the subject neighborhood and within the 300-foot radius.

Mr. Lee stated that Ms. Burris expressed concerns regarding the lights. He explained that he uses high-pressure sodium lights with 70-watt bulbs and they are 7.5' in height. All of the roads are lighted and there are no lights above the buildings. Ms. Burris has a mercury-vapor light on the northwest corner of her house that lights up the whole place, so he doesn't see how that would affect her. The existing home on the subject lot currently has a security mercury-vapor light on it. Wildlife will not be destroyed with this application. He explained that he couldn't expand to the west because he doesn't own the property and there is a large drainage ditch. The screening might be a good point, but he believes an eight-foot concrete wall with a footing might be excessive. Mr. Lee stated that the issue was raised that he might sell the property in the future, but the neighbors might sell their properties in the future, too, and he can't control that. He commented that he has more money invested in the mini-storage than any of the neighbors have in their homes. He said he is simply trying to better himself and clean up the subject property too.

**TMAPC COMMENTS:**

Ms. Wright asked Mr. Lee for his hours of operation. In response, Mr. Lee stated that the gate hours are 6:00 a.m. to 10:00 p.m., seven days a week. There is one way in and out of the subject mini-storage.

Ms. Wright asked how many clients he has and what does he anticipate with the expansion. In response, Mr. Lee stated that there are 182 buildings and 24 boats and RVs. With the expansion, he believes it will be close to half as much as he currently has. Until he does his platting and hydrology report, he doesn't know how much he can build.

Ms. Wright asked how often people visit the units. In response, Mr. Lee stated that Saturdays and Sundays are the busiest days. During the week he would estimate two cars per hour. Ms. Wright asked Mr. Lee if this is a very low-intensity commercial use.

Mr. Carnes asked staff if the Planning Commission could leave part of the property to the north as residential, therefore creating a buffer between the commercial zoning and the residential land. In response, Ms. Matthews stated that it may not give the applicant a piece of property that is usable for his purposes. He would still have to screen against residential uses and he would have to screen his own property if a portion was left residential. There would be setback requirements and no outside storage would be allowed.

Ms. Cantrell stated that anyone can sell his or her land and that is why the Planning Commission looks to the Zoning Code to see what protections it provides. If Ms. Burris were to sell her land, then whoever purchased it would be restricted to the RE zoning. The Planning Commission's concern is that looking at all the things that could be developed there are things that could potentially interfere to create a problem. Sometimes people have the perception that they own the land and should be able to do what they want, but that isn't simply true because land is zoned to protect everyone. Staff is concerned that this could set a precedent and it could harm property values of the surrounding neighboring areas. This is the reason for having a Comprehensive Plan and zoning, to make sure there are no conflicts and allow everyone to maximize the use of their property. Ms. Cantrell concluded that she believes staff has given a compelling argument of why the subject property shouldn't be zoned CS.

Mr. Sparks asked the applicant if he considered building a home on the north property, living in the property that is already zoned residential, then expanding the mini-storage to the south. In response, Mr. Lee stated that this is unfeasible due to the setbacks. Mr. Lee described the drainage across the tract to the south, which would prevent expanding to the south. In response, Mr. Sparks stated that he might not be able to expand as much as he would like, but he could expand to some degree to the south if the residential home was moved to the north tract.

Ms. Cantrell recognized Ms. Burris.

Ms. Burris stated that the new addition she referred to is on the case map. She commented that they are within 300 feet of the subject property. She believes that the new addition will be affected by the proposal as well.

Mr. Alberty stated that it doesn't make any difference whether the property within the 300-foot radius is in the City or County, the owner would still be notified.

Ms. Wright stated that just recently this Board has approved a very large cool storage facility next to a very expensive housing addition and this looks like it is in a rural area that possibly wouldn't be affected by much of the traffic. The Planning Commission has also approved similar zoning into more high-intensity urban areas with some very high-intensity commercial. She commented that she would support this application because it is low-intensity commercial and it is a home-based ownership, and if we are going to do like we did a few weeks ago by looking at personalities behind the development, then we should possibly give this man some regard because it is his home and he would be most inclined to take care of the property.

Ms. Cantrell stated that the corridor at 81<sup>st</sup> and Mingo was already zoned for that use and it was actually an approval of a corridor site plan as opposed to a rezoning as this application is. She further stated that 81<sup>st</sup> and Mingo was designated as being within the Comprehensive Plan and she supported that application. She doesn't believe in zoning on personalities. This is a close case, but in those circumstances she is inclined to go with staff. The subject proposal is against the Comprehensive Plan and she will be voting to deny it.

Mr. Carnes stated that he believes Ms. Wright said this very eloquently, and therefore, even though it is against the Comprehensive Plan, he will be supporting it.

Mr. Marshall stated that even though the applicant keeps a very nice business, he doesn't believe it is the proper use for the subject property to the north. The neighbors will be affected by driving down West 40<sup>th</sup> Street and he can't support this application.

Mr. Sparks agreed with Mr. Marshall, and in the long term, he doesn't believe he can support this application.

**TMAPC Action; 8 members present:**

On **MOTION** of **CANTRELL**, TMAPC voted **6-2-0** (Ard, Cantrell, Marshall, Shivel, Sparks, Walker "aye"; Carnes, Wright "nays"; none "abstaining"; Midget, McArtor, Miller "absent") to recommend **DENIAL** of the CS zoning for CZ-393 per staff recommendation.

\* \* \* \* \*

**OTHER BUSINESS:**

**Commissioners' Comments**

Ms. Cantrell stated that she would like to wish Mr. Charles Norman well and wish him good luck in his retirement.

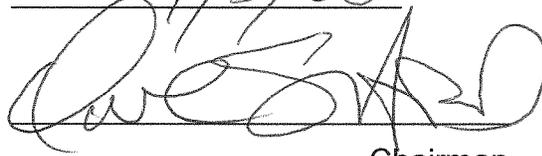
Mr. Ard reminded the Planning Commissioners about the training session and worksession for next week.

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There being no further business, the Chair declared the meeting adjourned at 2:58 p.m.

Date Approved:

9/3/08



Chairman

ATTEST:   
Secretary

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