

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2531

Wednesday, November 5, 2008, 1:30 p.m.

Aaronson Auditorium

Central Library, 400 Civic Center

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, October 30, 2008 at 2:25 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:**

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

Mr. Ard reported that the Planning Commission will meeting in the Aaronson Auditorium for the next three meetings, November 5<sup>th</sup>, November 19<sup>th</sup>, and December 3<sup>rd</sup>.

Mr. Ard reported that there will not be a projection system in the meeting today and so the staff and Planning Commission will try to describe better what is being discussed.

#### **Comprehensive Plan Report:**

Mr. Ard reported on the Planitulsa Workshops that were held recently.

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

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

Mr. Alberty reiterated that the Planning Commission will meeting in the Aaronson Auditorium for November 19<sup>th</sup> and December 3<sup>rd</sup>.

Mr. Alberty reported that the video conference that is being held today at INCOG at 3:00 p.m. will also be available on CD and staff will schedule a training session in the future for the Planning Commission to view the CD.

Mr. Alberty reported that the TMAPC receipts for the month of September are down from this time in 2007.

\* \* \* \* \*

**Minutes:**

**Approval of the minutes of October 15, 2008 Meeting No. 2529**

On **MOTION** of **CARNES**, the TMAPC voted 6-0-0 (Ard, Carnes, Marshall, Shivel, Walker, Wright “aye”; no “nays”; none “abstaining”; Cantrell, McArtor, Midget, Smaligo, Sparks “absent”) to **APPROVE** the minutes of the meeting of October 15, 2008, Meeting No. 2529.

**Minutes:**

**Approval of the minutes of October 22, 2008 Meeting No. 2530**

On **MOTION** of **CARNES**, the TMAPC voted 5-0-1 (Ard, Carnes, Marshall, Shivel, Walker “aye”; no “nays”; Wright “abstaining”; Cantrell, McArtor, Midget, Smaligo, Sparks “absent”) to **APPROVE** the minutes of the meeting of October 22, 2008, Meeting No. 2530.

\* \* \* \* \*

Per Ms. Wright, Mr. Ard announced that there will be a meeting tomorrow, November 6, 2008, at 3:00 p.m., in the City Council Chambers for the Subcommittee Task Force on Planning Commission. Councilor Christiansen’s subcommittee is meeting tomorrow.

\* \* \* \* \*

**Mr. Ard announced that the following Items are withdrawn, stricken or have requested a continuance:**

5. **LC-131 – Roger Eldredge (0493)/Lot-Combination** (PD-3) (CD-4)  
Southwest Corner of North Sandusky Avenue and East Admiral Place  
North, 4172 East Admiral Place North

This application has been withdrawn by the applicant.

**WITHDRAWN.**

8. **BOA – 20798** - (9332)/Plat Waiver (Cell Tower) (PD-18B) (CD-9)  
2438 East 51<sup>st</sup> Street

This application has been stricken from the agenda.

**STRICKEN.**

\* \* \* \* \*

15. **Harvard Square South- (9328) Preliminary Plat** (PD-6) (CD-5)  
Southeast corner of East 41<sup>st</sup> Street and South Harvard Avenue  
(Continuance requested to 11/19/08 to allow City Council to approve  
PUD standards.)

**STAFF RECOMMENDATION:**

Staff is requesting a continuance to November 19, 2008 to allow City Council to approve PUD standards.

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

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Ard, Carnes, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to **CONTINUE** to November 19, 2008.

\* \* \* \* \*

10. **PUD-142-7 – John B. Wimbish** (PD-18) (CD-7)  
Lot 14 & 15, Block 4, South Point (Minor Amendment) (Continue to  
November 19, 2008 for renoticing.)

**STAFF RECOMMENDATION:**

Applicant submitted an incorrect legal description; therefore, this case will have to be continued to November 19, 2008 in order to re-advertise and mail out notices.

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

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Ard, Carnes, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to **CONTINUE** to November 19, 2008.

\* \* \* \* \*

**Mr. Ard explained that the Planning Commission will possibly go into executive session during Item 25. At that time the room will then have to be cleared except for staff, Planning Commissioners and Legal.**

**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. **LS-20259** – Sack & Associates (8215)/Lot-Split (PD-8) (CD-2)  
West of the Southwest corner of West 89<sup>th</sup> Street and South Union
- 3. **LS-20263** – Rollie & Priscilla Lucas (9404)/Lot-Split (PD-17) (CD-6)  
South of East 4<sup>th</sup> Place and West of South 135<sup>th</sup> Avenue, 13248 East 4<sup>th</sup> Place (Related to Item 4.)
- 4. **LC-130** –Denice Guston (9404)/Lot-Combination (PD-17) (CD-6)  
South of East 4<sup>th</sup> Place and West of South 135<sup>th</sup> Avenue, 13248 East 4<sup>th</sup> Place (Related to Item 3.)
- 6. **Hillcrest Ridge USA Drug-** (9306)/Final Plat (PD-4) (CD-4)  
West of South Lewis Avenue and South of East 3<sup>rd</sup> Street South

**STAFF RECOMMENDATION:**

This plat consists of one lot in one block on .990 acres.

All release letters have been received and staff recommends **APPROVAL** of the final plat.

- 7. **Crossing at 86<sup>th</sup> Street Phase IV** – (1326)/Final Plat (County)  
South and East of the southeast corner of East 86<sup>th</sup> Street North and Sheridan Road

**STAFF RECOMMENDATION:**

This plat consists of 42 lots in four blocks on 35.9 acres.

All release letters have been received and staff recommends **APPROVAL** of the final plat.

9. **PUD-260-B-6 – Ron Cardwell/CVS Pharmacy** (PD-18) (CD-7)

Northeast corner of South Yale Avenue and East 71<sup>st</sup> Street South  
(Minor Amendment to decrease the minimum ten-foot landscape strip required along Yale Avenue to five feet.).

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to decrease the minimum ten-foot landscape strip required along Yale Avenue, to reflect existing conditions of the former Bennigan's site as it is re-developed for a pharmacy. Specifically the request is to decrease the required 10-foot strip to the required minimum 5-feet, including the width of the existing retaining wall.

Exhibit A is a copy of the detail landscape plan as approved by the TMAPC in 1994 for construction of the former Bennigan's restaurant. This approved plan makes reference to the widening/improvements made to the Yale Avenue and 71<sup>st</sup> Street intersection and the effect it had on this lot, stating the subject tract, "sets somewhat higher than the intersection", and that, "the proposed development will not make use of a retaining wall along these frontages and landscaping will be placed on steep slopes to the street curbs". Conversely, all subsequent TMAPC-approved detail site plans for the Bennigan's restaurant show the existing retaining wall along Yale Avenue and less than ten feet of landscaping on the property line along the Yale Avenue right-of-way.

Referring to the accompanying PUD aerial photograph and Exhibit B, in addition to the landscape strip located on the property along Yale Avenue, there is an approximately ten-foot wide landscape strip in the Yale Avenue right-of-way. This makes the total approximately 15 feet of landscape buffer along the street right-of-way. If the 10-foot landscape strip requirement were retroactively enforced on the new owner of the property, it would require the relocation of the retaining wall along Yale Avenue. Given the rise in grade along Yale Avenue this retaining wall is viewed as a necessary engineering feature of the lot, the relocation of which would create significant hardship on the new owner of the lot.

The over-all landscaping along Yale Avenue remains over ten feet wide, including the landscaped right-of-way. Also, the proposed concept landscape plan exceeds the PUD requirements for open space landscaping. Provided the aforementioned and since the non-conformity is an existing condition staff recommends **APPROVAL** of minor amendment PUD-260-B-6.

Note: Approval of a minor amendment does not constitute detail site, landscape or sign plan approval.

11. **Z-6051-SP-2 – D & M Acquisitions** (PD-18c) (CD-8)

South of the southeast corner of Mingo Road and 81<sup>st</sup> Street South (Corridor Detail Plan for a 106,000 SF, 34-foot high mini-storage, measured from grade.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 106,000 square foot (SF), 34-foot high mini-storage (measured from grade). The proposed use, Use Unit 16 – Mini-Storage is an approved use within this corridor district. This site plan review does not include the open air storage area included in the south portion of Development Area B of Z-6051-SP-2, which will be constructed at a later date.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations (see Exhibit A). The exterior of the building will be masonry finished per required development standards. South- and east-facing windows will be decorative in nature only and will not allow clientele to see out the windows. A gated entry will be provided across the entrance to the mini-storage facility restricting entry to clients only. Parking has been provided per the applicable Zoning Code Use Unit. An eight-foot solid screening wall will be constructed along the entire east boundary of South Mingo Plaza, similar in appearance to the six-foot masonry wall constructed along the northern boundary of South Town Square Extended/Southern boundary of College Park at Meadowbrook – PUD-625 (see Exhibit B). A crash gate as required by the City of Tulsa Fire Marshall is provided across 82<sup>nd</sup> Place South per adopted standards that will remain closed at all times to prevent “thru” traffic. Landscaping will be provided per the landscape chapter of the Zoning Code and adopted CO District development standards. There is no free-standing lighting proposed for this development area. Building mounted lighting will be limited to 15-feet in height and will be directed down and away from adjoining properties and verified herein by application of the Kennebunkport Formula. Five-foot sidewalks will be constructed along both sides of 82<sup>nd</sup> Place South/the corridor collector street. A trash enclosure is provided per development standards. Hours of operation will be limited to 7 am to 7 pm, seven days a week, with 24-hour access provided only to clientele with legitimate need. The entire facility will be monitored with video surveillance.

Provided the aforementioned, staff recommends **APPROVAL** of detail site plan for Lot 4, Block 1 – South Mingo Plaza, Z-6051-SP-2.

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

**The Planning Commission considered the consent agenda.**

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

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Ard, Carnes, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to **APPROVE** the consent agenda Items 2, 3, 4, 6, 7, 9, and 11 per staff recommendation.

\* \* \* \* \*

**PUBLIC HEARING TULSA COUNTY ZONING CODE**

**13. Consider amending the Tulsa County Zoning Code Text**

Proposed changes to bring the Code into compliance with the Oklahoma Statutes that appeals from Board of Adjustment to the District Court shall be limited to the District Court's review of the record at the proceedings had before the County Board of Adjustment.)

**STAFF RECOMMENDATION:**

Mr. Alberty stated that currently, the Tulsa County Zoning Code is not consistent with the State Statutes. The proposed amendments would bring the Code up to date.

**CHAPTER 16**

**BOARD OF ADJUSTMENT**

(Language with a strike-through has been deleted and language with an underline has been added.)

**SECTION 1690. APPEALS TO THE DISTRICT COURT**

### **1690.1 Procedure**

An appeal to the District Court from any decision, ruling, judgment, or order of said County Board of Adjustment may be taken by any person, or persons, firm or corporation, jointly or severally, aggrieved thereby, or any department, board or official of government by filing with the Clerk of said Board within ten days from the date of such action, a notice of such appeal, accompanied by payment of the public notice fee. No bond shall be required for such appeal, but costs may be required in the District Court as in other cases such as, but not limited to, filing fees, administrative fees and other such statutory fees. Upon filing of such notice, the Clerk of said Board shall forthwith transmit to the Clerk of the District Court the originals or certified copies of all the papers constituting the record in the case, together with the order, judgment or decision of the Board. ~~(Upon receipt of said record, the Clerk of the District Court will, within three days, determine the date, time and place of the trial and so advise the Clerk of the Board.)~~ The Clerk of the Board shall notify all property owners within a three hundred (300) foot radius of the exterior boundary of the subject property of the pending appeal litigation ~~and shall give the date, time and place of said trial and shall give the title of the case, the District Court Case Number and the name of the Judge assigned regarding such appeal.~~ At such trial, both the appellant and the County Board of Adjustment shall be entitled to present whatever evidence they wish which is admissible under the rules of evidence in this State. The District Court may hear and consider any evidence offered regardless of whether such evidence was offered or heard at the hearing before the Board of Adjustment which is the subject of the appeal. The appeal to the District Court shall be limited to the District Court's review of the Record of the proceedings had before the County Board of Adjustment. The judicial review of any action of the Board will be to determine if said action was arbitrary, unreasonable or capricious, and that by reason thereof such action has worked or, if enforced, will work as unnecessary hardship on or create substantial harm or loss to the complaining party based upon the Record of the proceedings held before the Board as set out in ~~In its determination of whether to sustain or overrule the order on appeal, the District Court shall apply the standard of review set forth in 19 O.S., § 863.22.~~ An appeal to the Supreme Court from the decision of the District Court shall be allowed as in other cases.

### **TMAPC COMMENTS:**

In response to Mr. Ard, Mr. Alberty stated that if there are no changes by the Planning Commission, then the language presented today will be transmitted to the Board of County Commissioners.

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



**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Ard, Carnes, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of the proposed text amendments for the Tulsa County Zoning Code per staff recommendation.

\* \* \* \* \*

**PUBLIC HEARING**

- 14. **Pine Street Park II Amended** – (0431) Preliminary Plat (PD-16) (CD-6)  
 South side of east Pine Street, between North Mingo Road and North Garnett Road

**STAFF RECOMMENDATION:**

This plat consists of 20 lots, two blocks, on 23 acres.

The following issues were discussed October 16, 2008 at the Technical Advisory Committee (TAC) meeting:

- 1. **Zoning:** The property is zoned IL. This is a replat of Pine Street Park with some changes to lot lines. The trail system goes near the property (see transportation comments) and it was suggested that an abandoned existing road could be used for this purpose. A copy of a letter sent about the project from ODOT was given to the consulting engineer (shown in this report).
- 2. **Streets:** Label streets as public or private.
- 3. **Sewer:** No comment.
- 4. **Water:** No comment.
- 5. **Storm Drainage:** Please add a "Note: Roof drainage on Lots 10, 11, 12 and 13 of Block 2 must be conveyed to North 105<sup>th</sup> East Place."
- 6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** PSO may need additional easements especially on the side lot lines.
- 7. **Other: Fire:** No comment.

**GIS:** Remove the contours from the face of the plat.

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.

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

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Ard, Carnes, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to **APPROVE** the preliminary plat for Pine Street Park II Amended, subject to special conditions and standard conditions per staff recommendation.

\* \* \* \* \*

16. **Quick Trip #27** – (9308) Minor Subdivision Plat (PD-4) (CD-4)  
Northwest corner of South Harvard and East 21<sup>st</sup> Street

**STAFF RECOMMENDATION:**

This plat consists of one lot, one block, on 1.23 acres.

The following issues were discussed October 16, 2008 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned PUD 756 (CS, OL). All PUD standards must be followed and shown in the covenants. Structure setbacks should be shown. A fence easement should be provided. The bus stop relocation will be coordinated with MTTA and Transportation Planning.
2. **Streets:** Call out 10 foot dimension at northeast corner of property. There is a ten-foot strip dimension shown on the plat. Is this extra right-of-way dedicated by this plat? If so, clearly call out as such. If this strip has been previously dedicated call it out and show book and page number. Use standard sidewalk language. Limits of No Access need to be shown.
3. **Sewer:** In Section 1.3.2 add sanitary sewer easement to the easements restricted.
4. **Water:** No comment.
5. **Storm Drainage:** Remove Subsection 1.9 from these Covenants.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
7. **Other: Fire:** No comment.

**GIS:** No comment.

Staff recommends **APPROVAL** of the Minor 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.

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

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **5-1-0** (Ard, Carnes, Marshall, Shivel, Walker "aye"; Wright "nay"; none "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to **APPROVE** the minor subdivision plat for QuikTrip #27, subject to special conditions and standard conditions per staff recommendation.

\* \* \* \* \*

17. **Smith Acres** – (7333) Minor Subdivision Plat (County)  
Northwest corner of 181<sup>st</sup> Street South and South Yale Avenue

**STAFF RECOMMENDATION:**

This plat consists of two lots, one block, on 6.45 acres.

The following issues were discussed October 16, 2008 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned RE.
2. **Streets:** Sidewalks are required. Add sidewalk note on face of plat. Add sidewalk language. The additional eight feet of right-of-way called out for East 181<sup>st</sup> Street South, 388 feet long is not required to be dedicated. This requirement only applies on a secondary arterial where there is planned a right turn lane.
3. **Sewer:** No comment.
4. **Water:** Outside of City of Tulsa service area.
5. **Storm Drainage:** No comment.

6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
7. **Other: Fire:** No comment.

**GIS:** Provide the surveyors' e-mail address. Tie the plat from a Section Corner using bearings and distances from a labeled point of commencement (POC) to a labeled point of beginning (POB). Add a metes and bounds description that matches distances and bearings on the face of the plat to describe the property.

Staff recommends **APPROVAL** of the Minor 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.**

**TMAPC Action; 6 members present:**

On **MOTION** of **SHIVEL**, TMAPC voted **6-0-0** (Ard, Carnes, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to **APPROVE** the minor subdivision plat for Smith Acres, subject to special conditions and standard conditions per staff recommendation.

\* \* \* \* \*

18. **CZ-396 – James C. Coulson**  
9340 North Cincinnati Avenue

**AG to RS**  
(County)

**STAFF RECOMMENDATION:**

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

**PROPOSED ZONING:** RS

**PROPOSED USE:** Residential

**RELEVANT ZONING HISTORY:**

**CZ-303/PUD-664 August 2002:** All concurred in denial of a request for rezoning a 5.19± acre tract of land from AG to RM-1/PUD. They did approve RS zoning and the proposed Planned Unit Development for an 18-unit, multifamily

development on property located south of the southeast corner of East 96<sup>th</sup> Street North and North Cincinnati Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately .606± acres in size and is located at 9340 North Cincinnati Avenue. The property appears to be used residentially and is zoned AG.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
North Cincinnati Avenue	Secondary arterial	100'	2

**UTILITIES:** The subject tract has no municipal water and sewer available.

**SURROUNDING AREA:** The subject tract is abutted on the east by a large-lot single-family use and a three-bay garage of indeterminate use, zoned AG; on the north by a single-family residential use, zoned R in Sperry; on the south by large-lot single-family uses, zoned AG; and on the west by vacant land, zoned AG. Two churches are located to the east and north across North Cincinnati, as is a twelve-plex residential development, zoned RS/PUD-664 in Sperry.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The North Tulsa County Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Agricultural/Rural Residential land use. According to the Zoning Matrix, the requested RS zoning is in accord with the Plan.

**STAFF RECOMMENDATION:**

Given the existing large-lot development surrounding this property and the Plan designation for Agricultural/Rural Residential uses, staff cannot support the requested RS rezoning and recommends **DENIAL** of RS zoning for CZ-396, but **APPROVAL** of RE zoning in the alternative. (Note that notice of request for RS rezoning confers ability to recommend RE in the alternative.)

**Applicant's Comments:**

**Steve Schuller**, 1100 Oneok Plaza, 100 West 5<sup>th</sup> Street, 74103, stated that his client had a 20-acre tract that was subdivided among the children and created four tracts with five acres each. Out of one they carved out the existing family homestead, which is the subject property. His client did all of this without advice from counsel and now they would like to sell it and lot-split approval is required for the title.

Mr. Schuller stated that he filed an application with the County Board of Adjustment for a variance and it was granted with the condition that the adjacent property have a covenant imposed that they would not develop the adjacent 4.2

acres for any more than one residence. The adjacent neighbor is not willing to do execute the covenant. His client's alternative is to rezone the subject property to RS. Mr. Schuller described the surrounding zoning in the subject property.

Mr. Schuller indicated that the RE zoning would not help his client because the lot would not conform to the bulk and area requirements, but it does conform to the RS zoning bulk and area requirements. Mr. Schuller commented that if he is granted the RE zoning, then he would have to go back to the County Board of Adjustment.

**TMAPC COMMENTS:**

Mr. Ard asked what the plans were for the subject property. In response, Mr. Schuller stated that the house has been sold and this is necessary to clear the title. The new owner wants to use it as a residence and it is consistent with the RS zoning.

Mr. Ard stated that if the house was scraped there would be no way to get two or more houses on the lot if it were zoned RE or RS. In response, Ms. Matthews agreed. Ms. Matthews stated that staff would not lose any sleep over the property being zoned RS.

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

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Ard, Carnes, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of RS zoning for CZ-369 as requested by the applicant.

**Legal Description for CZ-396:**

North 110' of east 240' of north half of northeast quarter of the southeast quarter of northeast quarter (N/2 NE/4 SE/4 NE/4) of Section 23, T-21-N, R-12-E, Tulsa County, State of Oklahoma; **From: AG (Agriculture District) To: RS (Residential Single-family District).**

\* \* \* \* \*

19. **Z-7114 – Robert Nichols**

**AG to CS**

Southwest corner West 81<sup>st</sup> Street and South Elwood (PD-8) (CD-2) Avenue

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11827 dated June 26, 1970, established zoning for the subject property.

**PROPOSED ZONING:** CS

**PROPOSED USE:** Commercial

**RELEVANT ZONING HISTORY:**

**Z-7065/PUD-742 September 2007:** All concurred in approval of a request for rezoning a 24± acre tract of land from AG to OL and a Planned Unit Development for an office park, per staff recommendation with some modifications on property located south of the southeast corner of West 71<sup>st</sup> Street South and South Elwood Avenue.

**PUD-739 May 2007:** All concurred in approval of a proposed Planned Unit Development for rezoning a 25± acre tract of land for single-family development permitting 43 dwelling units on property located northwest corner of West 81<sup>st</sup> Street South and South Elwood Avenue.

**Z-7008-SP-1/Z-6966-SP-1/Z-6967-SP-1 March 2006:** All concurred in approval of a Corridor Site Plan on 176± acres to permit a regional shopping center know as the Tulsa Hills site with a total of 1,554,194 square feet of maximum building floor area approved at a .25 floor area ratio. On property located east of US Highway 75 between West 71<sup>st</sup> and West 81<sup>st</sup> Streets.

**Z-6942 May 2004:** TMAPC and Staff concurred in denial of a request to rezone a 60+ acre tract from IL to RS-3 for a single-family subdivision on property located east of northeast corner of West 81<sup>st</sup> Street and South Elwood. The request was appeal to City Council and was denied.

**Z-6871 November 2002:** All concurred in approval of a request to rezone a 141-acre tract located on the northwest corner of West 81<sup>st</sup> Street and South Elwood Avenue, from AG to RS-3 for residential development.

**Z-6679 March 1999:** All concurred in approval of a request to rezone a 9.8-acre tract located east of the southeast corner of West 81<sup>st</sup> Street and South Elwood Avenue, from AG to IL for a proposed auto sales business.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 4.81± acres in size and is located at the southwest corner of West 81<sup>st</sup> Street South and South Elwood Avenue. The property appears to be used residentially and is zoned AG.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
West 81 <sup>st</sup> Street South	Secondary arterial	100'	2
South Elwood Avenue	Secondary arterial	100'	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by large-lot single-family residential use, zoned AG; on the north by single-family residential uses (through a PUD approved in 2007), zoned RS-3/PUD; on the south by large-lot single-family uses, zoned AG; and on the west by large-lot single-family residential uses, zoned AG.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 8 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being a five-acre (Type I) node at the intersection of South Elwood and West 81<sup>st</sup> Street. According to the Zoning Matrix, the requested CS zoning **is** in accord with the Plan.

**STAFF RECOMMENDATION:**

Based on the Comprehensive Plan and recent rezoning trends in the area, staff can support the requested CS zoning and therefore recommends **APPROVAL** of CS zoning for Z-7114.

**Applicant's Comments:**

**Robert Nichols**, 601 South Boulder, 74119, stated that he concurs with staff's recommendation. He explained that there are no immediate plans for development on the subject tract, but anticipates continued development in the subject area and tried to file this application in accordance with the Comprehensive Plan as it exists.

**Interested Parties Comments:**

**Linda Mares**, 8359 South Maybelle Avenue, 74132, stated that she lives in a subdivision and she is opposed to the proposal. There is other land available for commercial development. She believes it sets a bad precedent if a house can be turned into commercial.

**TMAPC COMMENTS:**

Mr. Ard stated that he believes that staff's recommendation for approval has to do with this being in accordance with the Comprehensive Plan because it is an arterial corner.

**Interested Parties Comments:**

**Jody Cole**, 2440 West 81<sup>st</sup>, 74132, stated that the subject site is on a secondary arterial and it is located at the bottom of a blind hill from West 81<sup>st</sup> Street and going north on Elwood. Mr. Cole indicated that he is an architect and is usually on the other side of the fence with regard to development. The whole area is agricultural and if this is approved more and more areas will become commercial. Mr. Cole indicated that the infrastructure is not compatible with commercial use. He expressed concerns with stormwater drainage.

### **TMAPC COMMENTS:**

Ms. Wright stated that she wanted to make sure she has the location correct. This is the intersection that is very close to the airport. When that area floods it floods the White Mansion. In response, Mr. Cole stated that the bridge has just been replaced. Ms. Wright stated that it still floods and becomes a massive mud slide right there. Mr. Cole stated that a quarter of a mile from the intersection is sinking and the City has tried excavating that drainage, but the problem lies farther downstream. The northeast corner is all floodplain and with new housing developments there is more runoff. Mr. Cole stated that he has seen an increase of flooding in the subject area since all of the development. Ms. Wright stated that there have been some multifamily or single-family dwellings to the north between 81<sup>st</sup> and 71<sup>st</sup>, which has added a burden to the subject area. Mr. Cole stated that there is a lot of traffic in the subject area and the streets are not designed to handle the traffic. Ms. Wright stated that they are basically unimproved streets with blacktop and no curbs or guttering. Ms. Wright stated that the point she wanted to make is that she believes that because of the traffic increase in the subject area, Jones Airport has now had to barricade the drive because so many people are trying to get around through there to pass all of the flooding and mudslides. In response, Mr. Cole agreed with Ms. Wright's statements. Ms. Wright stated that the subject area is currently not scheduled for any type of improvement and commercial use in the subject area would add an additional burden to the existing infrastructure. Mr. Cole stated that when Tulsa Hills was proposed, he was told that the road would be repaired and the repairs that have been done near Tulsa Hills are horrible. Ms. Wright asked Mr. Cole if Tulsa Hills essentially only repaired the street as far down as the entrance into Tulsa Hills. In response, Mr. Cole stated that they only patched the street. Elwood was resurfaced from 81<sup>st</sup> up to 71<sup>st</sup> Street. Ms. Wright stated that right across the street from exactly north of 81<sup>st</sup> Street behind Tulsa Hills is yet another huge addition that is also being scheduled and also has flooding issues and one can see the marsh. In response, Mr. Cole stated that they have built retention and backfill through any marshy area on the property Ms. Wright is speaking of. Ms. Wright stated that essentially this is a fragile zone and she wanted to make sure she was in the right location.

### **Interested Parties Comments:**

**Sylvia Powell**, 8611 South 33<sup>rd</sup> West Avenue, 74132, stated that she basically concurs with Mr. Cole's statements. Ms. Powell submitted photographs of the subject area (Exhibit A-1). Ms. Powell stated that when it rains the subject corner heads into the street which floods and is north of Jones Airport that is closed when it rains and becomes a mudslide.

Ms. Wright asked Ms. Powell if this doesn't also cause problems with the school buses that go up and down the street. In response, Ms. Powell stated that the school buses cannot go through there when it floods. All the streets heading into Jenks are two-lane streets and every street in Jenks is a two-lane street. This proposal will create more traffic and congestion. Ms. Powell stated that there are

no four-lane streets until one reaches 71<sup>st</sup> or heads west on 81<sup>st</sup> and onto Highway 75. There are tractors on the street in the subject area and she has personally driven a tractor on the street. She doesn't believe that the proposal is a very good idea. The reason most residents moved to the subject area is to have acreage and a rural area. The subject streets and area are not prepared for commercial zoning.

Ms. Wright asked Ms. Powell if it was impossible to walk on the subject streets. In response, Ms. Powell stated that one cannot walk on those streets. Ms. Powell stated that one of the problems in the subject area is that the City gets confused as to who responds to what. Ms. Powell expressed concerns that the commercial zoning will decrease the value of her home. Ms. Powell stated that there are very few areas within the City of Tulsa that has acreage and she believes that in her subject area the large homes with acreage should remain.

**Interested Parties Comments:**

**Bill Satterfield**, 1 West 81<sup>st</sup> Street, 74137, stated that he has property in the subject area since 1967 and the predecessor to INCOG always called this area a commercial area. Mr. Satterfield blamed the levee for the flooding that he considers being made artificially because of the levee. He indicated that if the levee was removed the water would run all the way to the river. It floods in front of his house every time it rains and he owns the white house that was mentioned earlier. He explained that he has had flood insurance for 28 years and has never had a flood claim. Mr. Satterfield stated that he doesn't believe that the existing flooding is caused by development, but is due to the fact that the levee prevents runoff into the river. Mr. Satterfield indicated that he is in support of the proposal and he is for development in the subject area. The subject area needs more revenue dollars to accommodate the infrastructure. All of the flooding can be handled with engineering and detention ponds. Mr. Satterfield stated that he is the one who got the sewer in the subject area and made Tulsa Hills possible. Without the sewer that goes across his property, development could not happen in the subject area.

**TMAPC COMMENTS:**

Mr. Walker asked Mr. Satterfield when the levee was built. In response, Mr. Satterfield stated that the levee was built in 1911 to keep the Arkansas River from flooding, but when the Keystone Dam was built it improved the situation and the levee is no longer necessary.

**Interested Parties Comments:**

**Cindy Gildersleeve**, 2809 East 90<sup>th</sup> Street, Unit 5, 74132, stated that she owns the property on the southeast corner of the intersection and she would like it noted that she would like for it to remain agricultural. The area is not conducive to commercial traffic.



**Applicant's Rebuttal:**

Mr. Nichols stated that there are facts that he would like to point out: 1) the subject property is designated as a commercial node at the intersection of two secondary arterials. The Major Street and Highway Plan provides that these will ultimately be built to 100-foot rights-of-way for those two streets; 2) the property immediately to the north of the subject property on the northwest corner is also designated as a five-acre commercial node and it has been platted and is currently being developed as a single-family residential development. There are five acres of potential commercial development at the subject intersection that was planned is not going to occur within the economic future. The two corners on the east of the subject property do suffer from stormwater issues, but the subject tract does not. The subject property is the only opportunity in the foreseeable future to be productive as commercial in the subject area.

Mr. Nichols thanked the residents for coming today to the public hearing. He stated that he didn't hear any issues that were raised that the staff had not considered in their review of this application. Mr. Nichols concluded that he would appreciate the Planning Commission's favorable approval as recommended by staff.

**TMAPC COMMENTS:**

Ms. Wright noted that Mr. Nichols stated that there is no commercial development in the subject area, but less than one mile away is Tulsa Hills and there is a good commercial strip going on in that stretch. One of the things that is really an opportunity for anyone who wants to develop, especially in this historic residential area like this, has been residential long before the Comprehensive Plan did their swath through there. She asked Mr. Nichols if he has met with the homeowners in the subject area to discuss any plans. In response, Mr. Nichols stated that his client has lived in this area for a number of years and knows most of the neighbors up and down 81<sup>st</sup> Street. Mr. Nichols commented that he was involved in moving the power line that was proposed to go on the south side of 81<sup>st</sup> Street to the north side of 81<sup>st</sup> Street and so he is personally acquainted with all of the neighbors who live there. There was one telephone call from a neighbor to the south of the subject property and he did not get any opposition from any of the adjacent property owners.

Mr. Nichols stated that the Tulsa Hills development was approved by the Planning Commission after an amendment to the Comprehensive Plan that included the subject tract. The application is consistent with the Comprehensive Plan that was amended in 2006. The subject tract was not designated as lower intensity and was not taken off of the Comprehensive Plan as a commercial development at that time. The whole subject area has been replanned as recently as 2006.

Ms. Wright stated that perhaps with the number of neighbors who are here today and who are not in agreement with the proposal, the applicant might like to meet

with him and come to something that might be more of a win-win-proposition. In response, Mr. Nichols stated that he has filed his application, is here at the public hearing and his client is ready to have a vote on it.

Ms. Wright asked for a corridor plan for Tulsa Hills. Staff indicated that they do not have the Tulsa Hills Corridor Plan at the meeting.

Ms. Matthews stated that the District Plan was thoroughly reviewed when staff did their recommendation. This is in the corridor and it is recommended for medium intensity development.

Ms. Wright stated that she would like to take some opposition with that. She would like to know if the neighborhood was informed that they were up zoned to corridor.

In response to Mr. Ard, Ms. Matthews stated that there is some confusion of what is zoning and what a land use designation is. The land use designation typically comes first and what the applicant is asking the Planning Commission to do today is to make the zoning conform to what is being planned in the subject area. The 2006 action changed the land use and not the zoning to corridor designation.

Mr. Ard stated that within the Comprehensive Plan, the subject area land use categories were changed as a part of the Tulsa Hills project. In response, Ms. Matthews stated that Tulsa Hills was involved in the change, but that doesn't mean that everything throughout the corridor is part of Tulsa Hills. Ms. Matthews stated that the key to the new development is that the water had been extended into the subject area and sewer as well.

In response to Mr. Ard, Ms. Matthews stated that when the Comprehensive Plan is being amended, it not required to mail notices to properties within the 300-foot radius. Homeowner Associations are notified if they are registered with the Mayor's office. There are public hearings and in this case there were at least two public hearings held for District 8. The Comprehensive Plan for District 8 was amended in 2006.

Mr. Ard recognized Mr. Nichols.

Mr. Nichols stated that the specific intersection has been designated as medium intensity for many years under the Comprehensive Plan. The change to the Comprehensive Plan in 2006 primarily changed and set in place the special planning district for Tulsa Hills and through that change in the Comprehensive Plan, his clients realized that their property designation was not changed and are relying on the action of the Planning Commission and the City Council.

Ms. Matthews agreed with Mr. Nichols's comments. She stated that when the corridor designation was laid on it the underlying intensities were not changed.

Mr. Ard recognized Ms. Powell.

Ms. Powell stated that on behalf of her neighbors who are not present today, the TMAPC should consider that everyone in the subject area lives on one- to five-acre tracts and there are no homeowner associations. She further stated that she doesn't know some of her neighbors and she has lived there for 20 years. Ms. Powell stated that she never has trick-or-treaters and she doesn't believe that the City of Tulsa will be sending her a letter informing her that her property has been rezoned, which she doesn't believe is fair.

Mr. Ard explained to Ms. Powell that her property was not rezoned. There was a replanning in the Comprehensive Plan, but that particular corner didn't change at all. The subject corner has been identified by the Comprehensive Plan as a medium intensity for medium intensity commercial use since long before the Tulsa Hills replanning happened.

Mr. Carnes stated that the subject corner was on the Comprehensive Plan to become commercial many years before Ms. Powell's 20 years that she has been living there. The Planning Commission has no reason to turn this down and if they do, then it would go to court and the applicant would likely win in court.

Mr. Carnes moved to approve the staff recommendation for CS zoning. Mr. Shivel seconded the motion.

Mr. Marshall stated that usually when he disagrees with the Comprehensive Plan it is because it usually has low intensity at some place and through transitions it should be higher intensity. However, he disagrees with the Comprehensive Plan in this particular tract and believes that it should be a lower intensity considering all of the residential development. There is plenty of commercial along Highway 75 and it would be a shame to allow CS zoning. Mr. Marshall concluded that he will have to oppose this application and believes that on the subject southwest corner he believes it should be a lower intensity. The northeast corner and the southeast corner are fine with the medium intensity and the northwest corner is already taken care of.

Ms. Wright stated that presently the Planning Commission has had several cases where the land owners were unaware that the land use capability had been altered in some way. She believes that this is an example. The homeowners are caught unaware of the potential development that could happen. She indicated that she is opposed to the CS zoning.

Mr. Marshall asked the Planning Commissioners to deny this zoning because he doesn't believe it is appropriate for the subject area.

Mr. Ard stated that it is a tough location for him and his position is that this has been identified as a medium intensity corner for a long time. It is an arterial corner location. The drainage issues are handled during development that occurs and he understands the interested parties' concerns. He indicated that he would support staff's recommendation.

Mr. Shivel stated that one of the things he has seen as a Planning Commissioner quite often are these concerns and he is respectful of them. However, he has found that one of the largest concerns is infrastructure and he has found that it improves as a result of the improvements of the roof tops. Mr. Shivel indicated that he would be supporting this application.

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **4-2-0** (Ard, Carnes, Shivel, Walker, "aye"; Marshall, Wright "nays"; none "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of CS zoning for Z-7114 per staff recommendation.

**Legal Description for Z-7114:**

EAST 473.5' OF THE NORTH 436' NE/4 NE/4 SEC 14 T-18-N, R-12-E, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA; **From AG (Agriculture District) To CS (Commercial Shopping Center District).**

\* \* \* \* \*

Mr. Ard asked Ms. Wright if she was going to stay in the room in order to keep a quorum. In response, Ms. Wright stated that she is going to the rest room. Mr. Ard stated that the meeting will have to wait.

Ms. Wright out at 2:36 p.m.

TMAPC lost their quorum at 2:36 p.m.

Reconvened at 2:40 p.m.

20. **Z-7115/Z-7115-SP-1 – Roy Johnsen** **AG to CO**

Southwest corner of Highway 75 South and West 81<sup>st</sup> Street South (Corridor Plan for mixed use development with retail, office, hotel and multifamily residential uses.) (PD-8) (CD-2)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11827 dated June 26, 1970, established zoning for the subject property.

**PROPOSED ZONING:** CO

**PROPOSED USE:** Retail and multifamily

**RELEVANT ZONING HISTORY:**

**Z-7008-SP-1/Z-6966-SP-1/Z-6967-SP-1 March 2006:** All concurred in approval of a Corridor Site Plan on 176± acres to permit a regional shopping center know as the Tulsa Hills site with a total of 1,554,194 square feet of maximum building floor area approved at a .25 floor area ratio. On property located east of US Highway 75 between West 71<sup>st</sup> and West 81<sup>st</sup> Streets.

**PUD-636/Z-5457-SP/Z-4825-SP October 2000:** All concurred in approval for a proposed Planned Unit Development, on a 108± acre tract of land for a mixed use development including, single-family, townhouse dwellings , multi-family and commercial uses subject to conditions of the PUD located on the northwest corner of West 81<sup>st</sup> Street South and South Highway 75 and north of subject property.

**Z-4948-SP-3 March 2000:** All concurred in approval of a proposed Corridor Site Plan on a 7.26± acre tract of land to allow Use Unit 9 to place a 14'x70' mobile home on the site for residence for an employee/security/additional office and storage space, on property located south of the southeast corner of West 81<sup>st</sup> Street South and South Union Avenue and abutting south of subject property.

**Z-4948-SP-2 January 1999:** Staff recommended denial of a proposed Corridor Site Plan on a 4.7± acre tract of land allowing Use Unit 21 for an outdoor advertising sign, on property located south of the southeast corner of West 81<sup>st</sup> Street South and South Union Avenue and abutting south of subject property. The TMAPC and City Council concurred in approval of the application.

**Z-4948-SP-1 October 1985:** All concurred in approval of a proposed Corridor Site Plan on a 14.94± acre tract of land allowing Use Units 11 and 15 for an x-ray company, on property located south of the southeast corner of West 81<sup>st</sup> Street South and South Union Avenue and abutting south of subject property.

**Z-5993/PUD-377 November 1984:** All concurred in approval of request for rezoning a 2.06± acre tract of land from RS-3 to OL/CS/PUD and a proposed Planned Unit Development for a printing and graphic art reproduction & associated sales business on property located on the southwest corner of West 81<sup>st</sup> Street South and West Union Avenue and west of subject property.

**Z-3794 October 1970:** All concurred in approval of a request for rezoning a tract of land from RMH to AG on property located south of the southwest corner of West 81<sup>st</sup> Street South and South Union Avenue and a part of the subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 25.97± acres in size and is located at the southwest corner of Highway 75 South and West 81<sup>st</sup> Street South. The property appears to be vacant and is zoned AG.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
West 81 <sup>st</sup> Street South	Secondary arterial	100'	2
South Union Avenue	Secondary arterial	100'	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by US 75, zoned AG; on the north by a developing multifamily residential use, zoned PUD-636/CO; on the south by office/industrial uses, zoned CO; and on the west by vacant land, mixed uses and large-lot single-family residential uses, zoned CS/OL/PUD-377 and RS-3.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 8 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being within a Corridor land use if developed to Corridor intensity; otherwise, the Plan designates the area as Low Intensity-No Specific land use, with Medium Intensity – No Specific land use for the five acres at the corner of West 81<sup>st</sup> Street and South Union. According to the Zoning Matrix, the requested CO zoning is in accord with the Plan.

**STAFF RECOMMENDATION FOR ZONING:**

The requested rezoning is in accord with the District 8 Plan and current trends in the area. A pending rezoning request immediately east and north of this property (Z-7116/PUD-765) is for rezoning to PUD/CS. According to the application for Z-7115, the applicant plans to develop subject property as retail and multifamily use. Staff can support the requested rezoning and recommends **APPROVAL** of CO zoning for Z-7115, subject to the TMAPC's approval of the accompanying Corridor Site Plan as submitted, or some variation thereof.

**STAFF RECOMMENDATION FOR CORRIDOR SITE PLAN:**

Z-7115-SP-1 is a 25.97 acre tract located west of the southwest corner of Highway 75 and West 81<sup>st</sup> Street South. The subject tract is zoned AG. Concurrently a rezoning application (Z-7115) has been filed to request Corridor District zoning.

Adjoining the subject tract to the east is a 4.64-acre tract located at the immediate corner of the intersection of Highway 75 and West 81<sup>st</sup> Street South and is proposed for rezoning to CS - Commercial Shopping District and

development as a PUD. The PUD tract is not included in this Corridor District Site Plan. The subject tract and the PUD Tract are in common ownership and development will be coordinated. Both tracts will be platted per Zoning Code and Subdivision regulations.

The subject tract is bordered on the west by Union Avenue and then a PUD/CS/OL zoned tract at the corner of 81<sup>st</sup> and Union Avenue (see zoning case map). The remaining two-thirds of the tract along Union Avenue are bordered by RS zoned property. The subject tract is also bordered by CO zoning to the south as well as, to the north across 81<sup>st</sup> Street (PUD-636). It is bordered by US Highway 75 to the east. The subject tract has approximately 899 feet of frontage on Highway 75; 412 feet of frontage on 81<sup>st</sup> Street; and 1,326 feet of frontage on Union Avenue.

This proposal is for mixed use development with retail, office, hotel and multifamily residential uses (see Exhibit A). Specifically, the applicant is proposing a maximum of 320 multifamily dwelling units on the western half of the development with 122,512 square feet (SF) of commercial/office floor area and 152,400 SF dedicated to a hotel use on the eastern ½ of the development area. The floor areas are within the permissible 1.25 FAR permitted in the CO District per the Zoning Code.

Principal access to the site will be from a 26-foot wide private collector street providing shared access to and from 81<sup>st</sup> Street with PUD-765 immediately east of the subject tract. An access point will also be provided from South Union Avenue to the multifamily portion of the development. Sidewalks will be provided along 81<sup>st</sup> Street and Union Ave, as well as, along both sides of the corridor collector street per subdivision regulations. Internal pedestrian circulation will be provided to provide easy access between the multifamily development area and all other areas of the Corridor Plan as well as the PUD immediately to the east (PUD-765). A pedestrian circulation plan will be subject to detail site plan review at each phase of development.

The Corridor Site Plan is submitted herein to establish a conceptual site plan with designation of development areas, allocation of uses, intensity of uses, establish development standards as well as, conditions to be followed by detailed corridor district site plans of each phase of development to be submitted to and approved by the TMAPC. The concept plan including the bulk and area requirements and design standards and limitations meet Zoning Code regulations.

Staff finds the uses and intensities of the development proposed to be in harmony with the spirit and intent of the Code and development trends in the area. Staff finds Z-7115-SP-1 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4)

consistent with the stated purposes and standards of the CO Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of Corridor District Site Plan, Z-7115-SP-1 subject to the following conditions:

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

**Development Area A - Multifamily**

Land Area: 12.78 acres/556,696 SF (net)  
14.72 acres/641,203 SF (gross)

Permitted Uses:

Use Unit 8 - Multifamily dwellings and customary accessory uses.

Maximum Number of Dwelling Units: 320 Dwelling Units

Minimum Livability Space Per Dwelling Unit:\* 200 SF  
*\*Livability Space is defined as open space not used for parking or drives.*

Minimum Landscaped Open Space: 25% of net lot area

Maximum Building Coverage: 30% of net lot area

Maximum Building Height: 45 FT

Maximum Stories: ~~4~~3

Minimum Principal Building Perimeter Setbacks/Yards:

From centerline of an arterial street	85 FT
From right of way of corridor collector street	20 FT
From other development area boundaries	20 FT

Minimum Accessory Garage Perimeter Setbacks/Yards:

From centerline of an arterial street	60 FT
From right of way of corridor collector street	10 FT
From other development area boundaries	20 FT

Minimum Off-street Parking Spaces:

As required by the applicable use unit.



Other Bulk and Area Requirements:  
As established within the RM-2 District.

Lighting:

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from adjoining residential properties. No light standard shall exceed ~~20~~ 25 feet in height. Lighting shall be so designed that the light producing elements and the polished light reflecting elements of exterior lighting fixtures shall not be visible to a person standing within an adjacent residential area. ~~or street right-of-way~~. Compliance with Section 1303-C of the Zoning Code will be by application of the Kennebunkport Formula or other IESNA accepted practice and will be verified at detail site plan review by the submission of a detail lighting plan.

Signs:

Signs shall be limited to one identification sign for each arterial street frontage not exceeding eight feet in height and 64 square feet of display surface area, provided however, one ground sign identifying a tenant or tenants within Development Area B shall be permitted along the 81<sup>st</sup> Street frontage, not exceeding eight feet in height and 64 square feet of display surface area.

**Development Area B - Commercial**

Land Area: 11.25 acres/490,050 SF

Permitted Uses:

Uses permitted by right within: Use Unit 10, Off-Street Parking Areas; Use Unit 11, Offices, Studios, And Support Services including drive-thru banking facilities; Use Unit 12, Eating Establishments Other Than Drive-Ins; Use Unit 13, Convenience Goods And Services; Use Unit 14, Shopping Goods And Services; Use Unit 19, Hotel, Motel And Recreation Facilities; and uses customarily accessory to permitted principal uses.

Maximum Building Floor Area:

Use Units 11, 12, 13, 14 and 19  
excepting hotel/motel use (.25 FAR): 122,512 SF

Use Units 19 limited to hotel/motel uses  
not to exceed 5 site acres (.70 FAR): 152,400 SF

Maximum Building Coverage: 30% of net lot area

Minimum Building Setbacks:

From HW 75 right of way	10 FT
From right of way of corridor collector street	20 FT
From south boundary of Area B	20 FT
From north boundary of Area B	10 FT
From interior lot line	0 FT

Maximum Building Height:

For Architectural Elements	65 FT
	80 FT

Off-street Parking: As required by the applicable use unit.

Minimum Landscaped Area 10% of net lot area.

Lighting:

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential properties. No light standard shall exceed 25 feet in height. Lighting shall be so designed that the light producing elements and the polished light reflecting elements of exterior lighting fixtures shall not be visible to a person standing within an adjacent residential area. ~~or street right-of-way.~~ Compliance with Section 1303-C of the Zoning Code will be by application of the Kennebunkport Formula or other IESNA accepted practice and will be verified at detail site plan review by the submission of a detail lighting plan.

Signs:

Signs shall be limited to:

- (a) Wall or canopy signs not exceeding two square feet of display surface area per lineal foot of the main building wall to which affixed, provided however, the aggregate length of wall signs shall not exceed 75% of the wall or canopy to which affixed..
- (b) Two project identification ground signs, to be located along the Highway 75 frontage not exceeding 35 feet in height and 500 square feet of display surface area.
- (c) Two center tenant directional signs along the frontage of the corridor collector street not exceeding 12 feet in height and 96 square feet of display surface area.

- (d) One monument sign for each lot having frontage on the corridor collector street not exceeding eight feet in height and 64 square feet of display surface area.

## **GENERAL REQUIREMENTS**

### **Landscaping and Screening:**

Landscaping throughout the Corridor District shall meet the requirements of the Landscape Chapter of the Tulsa Zoning Code. In addition, a minimum landscape perimeter of not less than ten feet shall be maintained along the arterial street frontages and the south boundary of the Site, excepting points of access. The required perimeter landscaping shall include plant materials designed to achieve an attractive street view and screening for nearby residential areas. Fencing other than security fencing and gating shall not be required.

### **Access and Pedestrian Circulation:**

Access is to be derived from a 26-foot wide interior private collector street system having points of access to West 81<sup>st</sup> Street South and to South Union Avenue.

Sidewalks will be provided along 81<sup>st</sup> Street and Union Ave, as well as, along both sides of the corridor collector street per subdivision regulations. Internal pedestrian circulation will be provided to provide easy access between the multi-family development area and all other areas of the Corridor Plan as well as the PUD immediately to the east (PUD-765). The pedestrian circulation plan will be subject to detail site plan review at each phase of development.

Sidewalks shall be constructed in compliance with the engineering design standards for the City of Tulsa. Sidewalks shall be maintained in good repair by the property owner or the property owners' association.

3. No zoning clearance permit shall be issued for a lot within the development until a detail site plan for the lot, which includes all buildings, parking, lighting and landscaping areas has been submitted to the TMAPC and approved as being in compliance with the approved CO District Site Plan development standards.
4. A detail landscape plan for each development area and/or lot shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences will be installed by a specific date in accordance with the approved landscape plan for the lot, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an

occupancy permit.

5. No sign permits shall be issued for erection of a sign on a lot within the development until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved CO District Site Plan development standards.
6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
7. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.
8. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
9. All private roadways shall have a minimum width of 26' in width. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor public street. The maximum vertical grade of private streets shall be ten percent.
10. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets. The developer shall pay all inspection fees required by the City.
11. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the CO District Site Plan conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
12. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
13. Approval of the CO District Site Plan is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

14. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle, nor shall trucks or truck trailers be parked in the CO District Site Plan area except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the CO District Site Plan area.

**TAC Comments:**

**General:** No comments.

**Water:** A water main extension line will be needed to serve each lot.

**Fire:** Request another emergency entrance at the north end. Address questions to Mr. Terry Whiteley, 596-9689. The fire department, per Terry Whiteley, would like to have a fire department access off of 81st Street. It could be for emergency access only, but with large ladder trucks there is some concern about the current layout.

This is a request only; the design meets the minimum standards.

**Stormwater:** Show and label all Floodplains as to type and the Name of the Floodplain Basin. The Plan shows construction of Buildings over existing overland drainage ways. Please address the issue of how the drainage will be conveyed and rerouted around the buildings.

**Wastewater:** Sanitary sewer access must be provided to all lots within the proposed development.

**Transportation:** Add standard sidewalk language to Section V Access and Circulation. Label the collector street public or private. In order that the traffic carrying capacity of the transportation system may be maintained, any corridor development's access must be principally from internal collector service streets. ~~The access from South Union is therefore not allowed.~~ Delete reference to South Union Avenue per Harold Tohlen at TAC meeting.

**INCOG Transportation:**

- MSHP: S. Union Ave, between 81<sup>st</sup> Street S. and 91<sup>st</sup> St. South, is designated secondary arterial. W. 81<sup>st</sup> St. S., between S. Union Ave and S. Elwood Ave, is designated secondary arterial.
- LRTP: S. Union Ave, between 81<sup>st</sup> Street S. and 91<sup>st</sup> St. South, planned 4 lanes. US-75, between 81<sup>st</sup> Street S. and 91<sup>st</sup> St. South, planned 6 lanes. W. 81<sup>st</sup> St. S., between S. Union Ave and S. Elwood Ave, existing 2 lanes. Sidewalks should be constructed if non-existing or maintained if existing, per Subdivision Regulations.
- TMP: No comments.
- Transit: Currently, Tulsa Transit operates services at 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.

**Traffic:** Show defined distance from centerline of proposed private collector street to centerline of U. S. Highway 75 ramp centerline.

**GIS:** No comments.

**Street Addressing:** No comments.

**County Engineer:**

Mr. Ard stated that he would have to abstain from this application and Mr. Shivel will take the chair. There will still be quorum because he will remain in the room and abstain.

Mr. Sansone stated that the applicant submitted some language changes prior to the meeting and staff can support those changes.

**Applicant's Comments:**

**Roy Johnsen**, 201 West 5<sup>th</sup> Street, Suite 501, 74103, cited the history of the zoning and overlays for development of properties. He explained that there are 30 acres and approximately 25 are the subject matter of the corridor and approximately six are the subject matter of the CS zoning and the PUD overlay (Z-7116/PUD-765). Mr. Johnsen stated that Z-7115/Z-7115-SP-1 and Z-7116/PUD-765 will serve both components of the development. Mr. Johnsen cited the surrounding uses and zoning in the subject area.

Mr. Johnsen stated that he originally submitted the incorrect language for the lighting and would like to delete the phrase: "or street right-of-way" and he understands that staff is in agreement.

Mr. Johnsen stated that the collector street will provide for both the PUD and corridor portion of the subject application. Mr. Johnsen concluded and requested that the Planning Commission approve the staff recommendation with the modifications discussed regarding the lighting.

**Interested Parties Comments:**

**John Clark**, 7901 South Waco, 74132, stated that his wife's trust owns the property that is northwest of 81<sup>st</sup> Street and Union that is zoned commercial. He commented that the notice he received did not mention motel, hotel or office.

Mr. Boulden stated that the notice shows the most intense uses on the subject property. He further stated the Planning Commission could hear this case today.

Mr. Clark stated that if the hotel is small, that is one thing, but if it is 200 or 300 units he doesn't see how that could be discussed today. Mr. Clark commented that additional multifamily units would increase crime in the subject area. Mr. Clark read a police report about crime for the 61<sup>st</sup> and Union area. He indicated that there are similar crimes committed at 71<sup>st</sup> and Trenton. Mr. Clark commented that he believes that they will end up looking like a ghetto.

**TMAPC COMMENTS:**

Mr. Walker asked Mr. Clark if he is against the multifamily and hotel. In response, Mr. Clark stated that he doesn't know anything about the hotel.

Mr. Boulden stated that he believes that the notice is proper and that the TMAPC should continue hearing this application.

**Interested Parties Comments:**

**Earl Pregler**, 11354 East Independence, 74116, stated that he owns 80 acres directly across the street from the subject property. He indicated that he doesn't have any objections to the proposal.

**Jody Cole**, 2440 West 81<sup>st</sup> Street, 74132, stated that it was mentioned that 81<sup>st</sup> and Union were arterial streets, but they are secondary arterial streets. He stated that infrastructure should be in first before the development. The roads are inadequate and can't handle the amount of trips this proposal will generate. Mr. Cole stated that he is not on city sewer and wanted to know if it is extended to the subject property would he have to pay a tap fee. He commented that he is not against development, but it is not what is wanted on this side of town. There was concern about stormwater drainage, infrastructure and more stop lights that aggravate the neighbors.

**TMAPC COMMENTS:**

Mr. Shivel stated that one of the responsibilities of the City of Tulsa is to ensure that all those type of issues are clarified and supported. This takes place during the Technical Advisory Committee reviews. In response, Mr. Cole stated that there is a new development at 71<sup>st</sup> and no improvements on 71<sup>st</sup> Street. This will happen again at 81<sup>st</sup> Street with this proposal. Mr. Cole suggested that there be conditions that the developer has to improve the roads. In response, Mr. Shivel stated that these issues are addressed during TAC review and today the Planning Commission can only address the rezoning, PUD, and site plans.

Ms. Wright informed Mr. Cole that it is her understanding that either the applicant or the protestant can request a continuance for any reason. If he were to request a continuance he could possibly meet with the applicant and try to get some more details concerning this PUD. The questions that he is raising about the infrastructure could be addressed between him and the developer. She would concur wholeheartedly with Mr. Cole's assessment that we far too often put in developments and then expect the surrounding tax payers to fix the problem that was not there before the development. In response, Mr. Cole stated that he would agree and he would like to propose a continuance. Ms. Wright stated that Mr. Cole may ask for a continuance and either side may ask for a continuance one time. Ms. Wright asked Legal if that was correct.

Mr. Boulden stated that if there is a timely request for a continuance either side may request a continuance. The Planning Commission is in the middle of hearing right now, but that would be up to the Planning Commission whether to consider a continuance.

Ms. Wright stated that it sounds that no one has met with the developer and there has been no meeting to answer the questions regarding the hotel, size of hotel, the impact on the area and there have been some wonderful situations where the neighbors and the developer have come to some mutual understanding.

Mr. Cole stated that he understands that the developer hasn't had the opportunity to meet with the neighbors because everyone lives on large lots and are spread out. Trying to get around to everyone could be challenging and he has had to do this himself because sometimes it needs to be done.

Ms. Wright stated that finding out the owner and developer can also be troublesome.

Mr. Shivel stated that since the neighbors are present and the developer with his representative is present, it would be a good opportunity to sit down and have a conversation about the proposal. In response, Mr. Cole asked if the improvements are not placed in any requirement now, then what is the next point where there is an opportunity to request that? In response, Mr. Shivel stated that during the site plan review that is down the road and will be back before the Planning Commission. Mr. Cole asked if he would be notified when the detail site plan is brought back before the Planning Commission. Ms. Wright stated that the neighbors should watch the agenda like hawks because oftentimes cases are continued to the point that one doesn't know when they might show up. People who are concerned about this might show up time and time again, only to have it continued after taking off time to be here and it becomes a nullified issue.

Mr. Marshall read the TAC comments to Mr. Cole that address the water main extension, the sewer being extended and long-range transportation plans between 81<sup>st</sup> and 91<sup>st</sup> Street that is planned for four lanes.

Mr. Alberty stated for the benefit of the Planning Commission and interested parties who may not understand the public policy for the City of Tulsa: The policy in the City of Tulsa is that the City of Tulsa is responsible for everything in the right-of-way in terms of infrastructure improvements. Everything on private property is the responsibility of the developer. In many instances, a developer wants to develop ahead of infrastructure improvements. Primarily, with regard to water, stormwater and sanitary sewer, the developer will extend those at his own cost and they are public improvements done through private financing (PFPI). There may be some misunderstanding today about not doing zoning or development until the infrastructure is in place. It has always been the City's policy that land use and zoning decisions would precede infrastructure improvements. To say that infrastructure has to be in place is a change in public policy and would require City Council action. With regard to a site plan, the corridor site plan that is before the Planning Commission for approval today has



conditions and this is the official notice for that site plan. If there are going to be actual site plan improvements in accordance with the corridor site plan that may be approved today, those standards will have to be met and there is no public notice for that. The only public notice that would be required if there would be changes from any of those standards and those are typically a minor amendment.

**Interested Parties Comments:**

**Jane Duenner**, 2320 West 96<sup>th</sup> Street, 74132, representing Diane Bell, Steve and Carol McGraff and Jack and Reba Nix, stated that she would like to protest Items Z-7115 and Z-7116. She moved in the subject area because it was relatively removed from civilization and had a rural atmosphere. She would like it to remain AG and is opposed to CS and PUDs. The area is growing too fast and she is concerned with the health issues regarding water, sanitary sewer, crime and runoff water. She believes that the multifamily dwellings will negatively affect her property value. There is no need for another Eastland Mall and Tulsa Hills is enough. The neighbors do not want a 71<sup>st</sup> and Memorial situation at 81<sup>st</sup> and Union. Low density development with single-family dwellings would be preferred. She asked that the TMAPC not reduce the setbacks if the Planning Commission determines it appropriate to approve this application and do not increase the height of the lighting.

**Sylvia Powell**, 8611 South 33<sup>rd</sup> West Avenue, 74132, one mile west of the subject proposal, submitted a photograph of the subject property (Exhibit B-1). There are no tall buildings in the subject area and the subject land is currently used for haying twice a year. There are no sidewalks in the subject area for kids to catch the school bus and parents usually wait with the kids at the street. She commented that Mr. Pregler stated that he doesn't have any problems with this development, but he doesn't live there. Pregler Estates was built in Creek County and not in Tulsa. Currently there are no public sewers and seven years ago received Tulsa water. The subject area doesn't receive trash service from the City of Tulsa and private haulers are hired. There is no such thing as stormwater management where she lives. She explained that there is a drainage ditch that is on her property behind her house and on everyone's property north of her that runs down south to various ponds. If it rains too hard her garage gets water in it. She has called to request something to be done about it and stormwater management told her it is on private property. The subject area is not capable of handling an apartment complex or any more housing that is currently out there. Tulsa Hills Mall provides enough retail for the subject area and there is no need for more retail at 81<sup>st</sup>. There are apartments at 61<sup>st</sup> Street and South 33<sup>rd</sup> West Avenue, 61<sup>st</sup> and South Union Avenue and she doesn't see any reason for more apartments. There are no existing buildings in the subject area that are as tall as what is being proposed for the hotel. This is not an appropriate idea for the subject area.

Ms. Powell stated that the applicant is requesting that zoning to be reduced from 100 feet to 85 feet and that doesn't work.

**TMAPC COMMENTS:**

Mr. Marshall stated that the City of Tulsa does require sidewalks and there will be sidewalks for the new development. They will have to extend sanitary sewer to the subject property. Ms. Powell asked about the trash service because she has to hire a private hauler. Will that extend to everyone who lives in the subject area? Mr. Marshall stated that he is simply trying to clear up some issues and not argue with Ms. Powell. Mr. Marshall stated that all commercial projects have to hire private trash haulers.

Ms. Matthews stated that most of the City of Tulsa has to hire their own private trash service and there is a very small portion of the City that gets City trash services. In response, Ms. Powell stated that her mother received City trash service and she paid for it through her utility bill. In response, Ms. Matthews stated that the City hires the contractors. Ms. Powell stated that a trash service is not listed on her utility bill.

Mr. Carnes stated that the subject proposal is not about trash and we need to get back on the subject.

**Gail Sherrell**, 700 South Union, 74132, stated that she lives half a mile from the subject property and she opposes multifamily. People move to the subject area on one- to five-acre lots in order to have elbow room.

**Applicant's Rebuttal:**

Mr. Johnsen stated that there is a 16-inch water line along 81<sup>st</sup> Street and it is the City of Tulsa's water. The City brought sewer to the general area through a TIF project he believes, which crosses Highway 75 north of the subject property. The sewer will cross Highway 75 with a substantial amount of public funding to encourage development in the subject area. This will be uphill from the subject property, and when he is able to acquire the appropriate easements, the sewer will be extended from the north along west Highway 75 to the subject site. Development like this can't be done until there is sanitary sewer and water.

Mr. Johnsen stated that Highway 75 is in place and it provides convenient access to the subject property, which most suburban developments do not have. It is the City's policy to establish the land use and when the need gets great enough and priorities are reached, and then there will be a widening of 81<sup>st</sup> to four lanes and also for Union. A city can't grow without this policy, and it is a good policy because a City can't go out and build the streets before the development.

Mr. Johnsen stated that his client advised him that he is not considering four stories and he will amend the application in regard to multifamily height to three stories. Then the setback would be 85 feet and it will comply with the setback.

The hotel will be four stories high and the 80 feet comes a bell tower that is a decorative feature and not habitable.

Mr. Johnsen stated that procedurally Mr. Alberty informed the Planning Commission that they are not required to give notice for site plan approval, but there are instances where people who have sufficient interest ask that they be notified by a letter. That can happen here if the interested parties wish it to happen. Site plan is an important part of the process and the Planning Commission will see it for review and approval.

Mr. Johnsen stated that this is a classic corridor with a parallel arterial street and Highway 75. He commented he can't think of a better place for multifamily development. This is an essential part of the City of Tulsa and this is a good example of an appropriate location for the land use proposed.

**TMAPC COMMENTS:**

In response to Mr. Marshall, Mr. Johnsen stated that it is possible to get a conceptual site plan approval in a corridor and then there are conditions. One of those conditions is a detail site plan review and the other condition is that he will have to plat the property.

Mr. Carnes moved to approve the CO zoning for Z-7115 and Mr. Marshall seconded.

Ms. Wright stated that she believes it would be appropriate to continue this application to allow the neighbors and the developer to meet.

Mr. Boulden stated that there is a standing motion with a second on the floor to approve the CO zoning and that would have to be acted on first.

Ms. Wright asked Mr. Johnsen and the neighbors if they would be willing to meet and discuss what is being proposed in the subject area. She believes that a continuance would be best if there could be a meeting of the minds and so that the citizenry can have a voice.

Mr. Johnsen stated that he would like to proceed with the vote for approval. He explained that he has one of the neighbor's names and contact information and he will try to meet with them before the City Council hearing.

Ms. Wright asked Mr. Johnsen if he saying that he wouldn't meet with the citizens. She commented that she is not sure of what he just said.

Mr. Johnsen stated that he is going to contact the neighbors to see if they would like to meet, but he would like to go ahead and have a decision from the Planning Commission.

Ms. Wright stated that the motion also includes the setback and that sort of thing he was asking for a reduction in the setback. In response, Mr. Johnsen stated that there is no reduction in setback.

Mr. Alberty stated that the reduction in the setback is not required since Mr. Johnsen reduced the height from four to three stories.

Ms. Wright asked Mr. Johnsen if he would be able to go before the Board of Adjustment and appeal that. In response, Mr. Johnsen stated that theoretically he guesses he could... Ms. Wright interrupted Mr. Johnsen's answer and stated that he could go before the BOA and unless the Planning Commission decides this today, that is just an opportunity for him to go the BOA at some point and raise the height again. In response to Ms. Wright, Mr. Johnsen stated that he believes that is a great misstatement and misleads people. One can file an application for anything and file with the BOA to vary the setback, but it requires a hardship. He doesn't think it is a very practical aspect. Possibly it could happen, but it is doubtful after his clients agreeing to the setbacks during this process today.

Mr. Shivel asked Ms. Wright if she would like to make a motion at this time. Ms. Wright stated that apparently Mr. Johnsen won't visit with these neighbors so she guesses the continuance motion would fail.

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **4-1-1** (Carnes, Marshall, Shivel, Walker "aye"; Wright "nay"; Ard "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of CO zoning for Z-7115 per staff recommendation.

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **4-1-1** (Carnes, Marshall, Shivel, Walker "aye"; Wright "nay"; Ard "abstaining"; Cantrell, McArtor, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of corridor plan for Z-7115 SP-1, per staff recommendation, subject to modifications presented by staff and the applicant. (Language with a strike-through has been deleted and language with an underline has been added.)

**Legal Description for Z-7115/Z-7115-SP-1:**

A tract of land located in the NW/4 of the NW/4 of Section 14, T-18-N, R-12-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof, being more particularly described as follows: Beginning at the northwest corner of Section 14, T-18-N, R-12-E of the Indian Meridian, a stem of an ODOT Brass Cap; Thence S 89E52'44" E along the north line of the NW/4 of Section 14 toward the North Quarter corner of Section 14 being an ODOT Brass Cap, a distance of 446.92 feet to the westerly right of way for U.S. Highway 75; Thence S 00E07'16" W along the westerly right of way for

U.S. Highway 75 a distance of 40.00 feet; Thence S 89°52'44" E along the westerly right of way for U.S. Highway 75 a distance of 275.00 feet; Thence S 75°36'44" E along the westerly right of way for U.S. Highway 75 a distance of 255.03 feet; Thence S 07°44'06" E along the westerly right of way for U.S. Highway 75 a distance of 723.53 feet; Thence S 03°12'18" W along the westerly right of way for U.S. Highway 75 a distance of 507.19 feet to the south line of the NW/4 of the NW/4 of Section 14; Thence N 89°52'29" W along the south line of the NW/4 of the NW/4 of Section 14 a distance of 1037.95 feet to the west line of the NW/4 of Section 14; Thence N 00°00'08" E along the west line of the NW/4 of Section 14 a distance of 1325.97 feet to the  $\Delta$ Point of Beginning@. LESS and EXCEPT Commencing at the northwest corner of Section 14, a stem of an ODOT Brass Cap; Thence S 89°52'44" E along the north line of the NW/4 of Section 14 toward the North Quarter corner of Section 14 being and ODOT Brass Cap, a distance of 411.52 feet to the "Point of Beginning"; Thence continuing S 89°52'44" E along the north line of the NW/4 of Section 14, a distance of 35.40 feet to the westerly right of way for U.S. Highway 75; Thence S 00°07'16" W along the westerly right of way for U.S. Highway 75, a distance of 40.00 feet; Thence S 89°52'44" E along the westerly right of way for U.S. Highway 75, a distance of 275.00 feet; Thence S 75°36'44" E along the westerly right of way for U.S. Highway 75, a distance of 255.03 feet; Thence S 07°44'06" E along the westerly right of way for U.S. Highway 75, a distance of 331.40 feet; Thence S 90°00'00" W a distance of 514.55 feet; Thence N 00°00'00" E a distance of 74.73 feet to a tangent curve to the left; Thence along a tangent curve to the left with a central angle of 32°49'46", a radius of 200.00 feet, an arc length of 114.60 feet, a chord bearing of N 16°24'53" W and a chord length of 113.04 feet; Thence N 32°49'46" W and tangent to the previous curve a distance of 65.47 feet to a tangent curve to the right; Thence along a tangent curve to the right with a central angle of 32°49'46", a radius of 125.00 feet, an arc length of 71.62 feet, a chord bearing of N 16°24'53" W and a chord length of 70.65 feet; Thence N 00°00'00" E and tangent to the previous curve a distance of 126.47 feet to the "Point of Beginning". Said tract contains 1,131,206 square feet or 25.9689 acres. The non-astronomic bearings for said tract are based on an assumed bearing of S 89°52'44" E along the north line of the NW/4 of Section 14, T-18-N, R-12-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof **From AG (Agriculture District) To CO (Corridor District [Z-7115-SP-1])**.

\* \* \* \* \*

Mr. Ard stated that he is not involved in the following item and no longer needs to abstain.

Ms. Wright requested a break.

Mr. Ard stated that Ms. Wright needs to leave by 4:15 p.m. and there may be time constraint. He agreed to a two- to three-minute break.

Planning Commission took a break at 3:50 p.m.  
Planning Commission reconvened at 3:56 p.m.

**Mr. McArtor in at 4:00 p.m.**

21. **Z-7116/PUD-765 – Roy Johnsen** **AG TO CS/PUD**

Southeast corner of West 81<sup>st</sup> Street and South Union Avenue (PUD for retail development providing four commercial pad sites with a total of 50,295 SF of commercial floor area.)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11877 dated June 26, 1970 and 11944 dated October 6, 1970, established zoning for the subject property.

**PROPOSED ZONING:** CS/PUD

**PROPOSED USE:** Retail

**RELEVANT ZONING HISTORY:**

**Z-7008-SP-1/Z-6966-SP-1/Z-6967-SP-1 March 2006:** All concurred in approval of a Corridor Site Plan on 176± acres to permit a regional shopping center know as the Tulsa Hills site with a total of 1,554,194 square feet of maximum building floor area approved at a .25 floor area ratio on property located east of US Highway 75 between West 71<sup>st</sup> and West 81<sup>st</sup> Streets.

**PUD-636/Z-5457-SP/Z-4825-SP October 2000:** All concurred in approval for a proposed Planned Unit Development, on a 108± acre tract of land for a mixed use development including, single-family, townhouse dwellings, multifamily and commercial uses subject to conditions of the PUD located on the northwest corner of West 81<sup>st</sup> Street South and South Highway 75 and north of subject property.

**Z-4948-SP-3 March 2000:** All concurred in approval of a proposed Corridor Site Plan on a 7.26± acre tract of land to allow Use Unit 9 to place a 14'x70' mobile home on the site for residence for an employee/security/additional office and storage space, on property located south of the southeast corner of West 81<sup>st</sup> Street South and South Union Avenue and south of subject property.

**Z-4948-SP-2 January 1999:** Staff recommended denial of a proposed Corridor Site Plan on a 4.7± acre tract of land allowing Use Unit 21 for an outdoor advertising sign, on property located south of the southeast corner of West 81<sup>st</sup> Street South and South Union Avenue and south of subject property. The TMAPC and City Council concurred in approval of the application.

**Z-4948-SP-1 October 1985:** All concurred in approval of a proposed Corridor Site Plan on a 14.94± acre tract of land allowing Use Units 11 and 15 for an x-ray company, on property located south of the southeast corner of West 81<sup>st</sup> Street South and South Union Avenue and south of subject property.

**Z-5993/PUD-377 November 1984:** All concurred in approval of request for rezoning a 2.06± acre tract of land from RS-3 to OL/CS/PUD and a proposed Planned Unit Development for a printing and graphic art reproduction & associated sales business on property located southwest corner of West 81<sup>st</sup> Street South and West Union Avenue and west of subject property.

**Z-3794 October 1970:** All concurred in approval of a request for rezoning a --± acre tract of land from RMH to AG on property located south of the southwest corner of West 81<sup>st</sup> Street South and South Union Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 4.64± acres in size and is located southeast corner of West 81<sup>st</sup> Street and South Union Avenue. The property appears to be largely vacant, heavily wooded, hilly and is zoned AG.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
West 81 <sup>st</sup> Street South	Secondary arterial	100'	2
South Union Avenue	Secondary arterial	100'	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by U.S. 75, zoned AG; on the north by West 81<sup>st</sup> Street and then Nickel Creek, zoned CO/PUD-739; on the south and west by vacant land, now zoned AG but currently proposed for rezoning to CO for multifamily and retail use (Z-7115). This has been requested by the same applicant and the proposed intensities and uses will be similar to those proposed in this application, as well as those intensities approved for PUD-636 (Nickel Creek) to the north.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 8 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being within a Corridor land use designation if developed to Corridor intensities. If not developed to Corridor

intensities, the underlying land use/intensities would prevail, which in this case is Low Intensity-No Specific land use. According to the Zoning Matrix, the requested CS zoning **is not** in accord with the Plan. However, the applicant has submitted an accompanying PUD, so staff believes the equivalent controls may be achieved through the PUD process as would be required through the CO Site Plan review process.

**STAFF RECOMMENDATION FOR ZONING:**

Based on the above reasoning and development trends in the area, staff can recommend **APPROVAL** of CS zoning for Z-7116, with the proviso that the accompanying PUD or some variation thereof be recommended for approval by the TMAPC.

**STAFF RECOMMENDATION FOR PUD:**

PUD-765 is a 4.64 acre tract located on the southwest corner of Highway 75 and West 81<sup>st</sup> Street South (see Exhibit A). Adjoining the PUD tract to the west is a 25.97 acre tract, concurrently proposed for rezoning to a Corridor District and development in accordance with a Corridor District Site Plan (Z-7115-SP-1). The PUD Tract is presently zoned AG and concurrently an application (Z-7116) has been filed to request the rezoning of the PUD Tract to CS - Commercial Shopping District. The PUD development will be platted as a four lot, one block subdivision. The entire Corridor and PUD developments are proposed for a mixed and multi-use residential and commercial development.

The subject tract is abutted on the east by U.S. 75; on the north by W. 81<sup>st</sup> Street and then Nickel Creek, zoned CO/PUD-739; on the south and west by vacant land, now zoned AG but currently proposed for rezoning to CO for multifamily and retail use (Z-7115). This has been requested by the same applicant and the proposed intensities and uses will be similar to those proposed in this application, as well as those intensities approved for PUD-636 (Nickel Creek) to the north

The CS/PUD Tract and the CO/Corridor Tract are in common ownership and development will be coordinated. A 26 foot wide planned private collector street will provide primary access to both tracts from 81<sup>st</sup> Street. There will be one additional access point from 81<sup>st</sup> Street to service the PUD tract. Sidewalks will be constructed along 81<sup>st</sup> Street, the private collector street and along mutual access easements within the PUD tract to allow for easy pedestrian circulation between and within the CO and PUD tracts.

The development concept of the PUD is a retail development providing four (4) commercial pad sites with a total of 50,295 square feet (SF) of commercial floor area as permitted by CS zoning at a .25 FAR. Building heights would be limited to 35'.

Uses permitted within the PUD will be limited to those uses permitted by right within Use Unit 10 - Off-Street Parking; Use Unit 11 - Offices, Studios, and



Support Services including drive-thru banking facilities; Use Unit 12 - Eating Establishments Other Than Drive-Ins; Use Unit 13 - Convenience Goods and Services; Use Unit 14 - Shopping Goods And Services and Use Unit 18 - Drive-In Restaurant.

The PUD plan is submitted to establish a conceptual site plan with designation of development areas, to establish permitted uses, the intensity of uses, bulk and area requirements and conditions to be followed by detailed site plans of each phase of development submitted to and approved by the TMAPC.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-765 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-765 subject to the following conditions:

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

**Land Area:** 4.64 acres /202,118 SF (net)  
5.09 acres/221,731 SF (gross)

**Permitted Uses:**

Uses permitted by right within Use Unit 10 - Off-Street Parking Areas; Use Unit 11 - Offices, Studios, and Support Services including drive-thru banking facilities; Use Unit 12 - Eating Establishments Other Than Drive-Ins; Use Unit 13 - Convenience Goods and Services; Use Unit 14 - Shopping Goods and Services; Use Unit 18 - Drive-In Restaurant; and uses customarily accessory to permitted principal uses.

**Maximum Building Floor Area (.25 FAR):** 50,295 SF

**Maximum Building Coverage:** 30 % of net lot area

**Minimum Building Setbacks:**

From HW 75 right of way	10 FT
From centerline of 81 <sup>st</sup> St.	85 FT
From right of way of corridor collector street	20 FT
From south boundary	10 FT

From interior lot line 10 FT

**Maximum Building Height:** 35 FT

**Off-street Parking:** As required by the applicable use unit.

**Minimum Landscaped Area:** 10% of net lot area.

**Lighting:**

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential properties. Lighting shall be so designed that the light producing elements and the polished light reflecting elements of exterior lighting fixtures shall not be visible to a person standing within an adjacent residential area. ~~or street right-of-way.~~ No light standard shall exceed ~~20~~ 25 feet in height. Compliance with Section 1303-C shall be by application of the Kennebunkport Formula or other IESNA accepted practice and will be verified during detail site plan review by submission of a site lighting/photometric plan.

**Signs:**

- (a) Wall or canopy signs shall not exceed two square feet of display surface area per lineal foot of the building wall to which affixed, provided however, the aggregate length of wall signs shall not exceed 75% of the wall or canopy to which affixed.
- (b) One tenant identification ground sign may be located along the Highway 75 frontage and one tenant identification sign may be located along the 81<sup>st</sup> Street frontage. Each sign shall not exceed 25 feet in height and 128 square feet of display surface area.
- (c) One monument sign for each lot having frontage on the corridor collector street not to exceed eight feet in height and 64 square feet of display surface area.

**Landscaping and Screening:**

Landscaping shall meet the requirements of the Landscape Chapter of the Tulsa Zoning Code. In addition thereto, a minimum landscape perimeter of not less than ten feet shall be maintained along the arterial street frontage and corridor collector street frontage. The required perimeter landscaping shall include plant materials designed to achieve an attractive street view and screening for nearby residential areas. Fencing shall not be required.

### **Access and Circulation:**

~~Access is to be derived from one point of access to West 81<sup>st</sup> Street South and from the 26-foot wide interior private collector street system having points of access to West 81<sup>st</sup> Street South and to South Union Avenue. Interior lots may derive access from mutual access easements. Sidewalks shall be constructed along 81<sup>st</sup> Street, along the corridor collector street, and along both side of mutual access easements within the individual lots in compliance with the engineering design standards for the City of Tulsa. Sidewalks shall be maintained in good repair by the property owner or the property owners' association.~~

~~Where practicable, pedestrian walkways through parking lot(s); a minimum of three (3) feet in width, separated from vehicular travel lanes to the maximum extent possible and designed to provide safe access to non-street front building entrances and/or sidewalks and trails will be required where applicable. The three (3) foot width shall not include any vehicle overhangs. Wheel stops shall be installed in parking spaces adjacent to all pedestrian walkways. Pedestrian walkways will connect transit stops to non-street front building entrances where applicable. Where installed, pedestrian walkways will be clearly distinguished from traffic circulation, particularly where vehicular and pedestrian routes intersect. Sidewalks or walkways which cross vehicular aisles or driveways may be distinguished as follows: by a continuous raised crossing, by using contrasting paving material and/or by using high-contrast striping.~~

Access is to be derived from a 26-foot wide interior private collector street system having points of access to West 81<sup>st</sup> Street South and to South Union Avenue.

Sidewalks will be provided along 81<sup>st</sup> Street, as well as, along both sides of the corridor collector street per subdivision regulations. Internal pedestrian circulation will be provided to provide easy access between the multi-family development area to the west and all other areas of the Corridor Development Plan, Z-7115-SP-1. The pedestrian circulation plan will be subject to detail site plan review at each phase of development.

Sidewalks shall be constructed in compliance with the engineering design standards for the City of Tulsa. Sidewalks shall be maintained in good repair by the property owner or the property owners' association.

3. No zoning clearance permit shall be issued for a lot within the PUD until a detail site plan for the lot, which includes all buildings, parking, lighting and

landscaping areas has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.

4. A detail landscape plan for each development area shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences will be installed by a specific date in accordance with the approved landscape plan for the lot, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
5. No sign permits shall be issued for erection of a sign on a lot within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
7. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.
8. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
9. All private roadways shall have a minimum width of 26' in width. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor public street. The maximum vertical grade of private streets shall be ten percent.
10. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets. The developer shall pay all inspection fees required by the City.
11. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.

12. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
13. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.
14. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle, nor shall trucks or truck trailers be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

**TAC Comments:**

**General:** See also comments for Z-7115-SP-1/Corridor Site. No comment here.

**Water:** No comments.

**Fire:** No comments.

**Stormwater:** In Section V. on Page 3 of the narrative: Add information about the drainage being collected on-site, and being conveyed to the Stormwater Detention Facilities. The Drainage must be piped into the facilities once it reaches the toe at the outside slope of the Detention Berm. Add this information to Exhibit 'A'. NOTE (confirmed with David Spear, City of Tulsa): City Stormwater has since indicated they wanted the applicant to be aware of the situation and was comfortable with how the applicant is handling the issues at this stage of the project

**Wastewater:** No comments.

**Transportation:** Add standard sidewalk language to Section IV Access and Circulation. Remove reference to access from Union Avenue

**Traffic:** No comments.

**INCOG Transportation:**

- MSHP: S. Union Ave, between 81<sup>st</sup> Street S. and 91<sup>st</sup> St. South, is designated secondary arterial. W. 81<sup>st</sup> St. S., between S. Union Ave and S. Elwood Ave, is designated secondary arterial.
- LRTP: S. Union Ave, between 81<sup>st</sup> Street S. and 91<sup>st</sup> St. South, planned 4 lanes. US-75, between 81<sup>st</sup> Street S. and 91<sup>st</sup> St. South, planned 6 lanes. W. 81<sup>st</sup> St. S., between S. Union Ave and S. Elwood Ave, existing 2 lanes. Sidewalks should be constructed if non-existing or maintained if existing, per Subdivision Regulations.
- TMP: No comments.
- Transit: Currently, Tulsa Transit operates services at 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.

**GIS:** No comments.

**Street Addressing:** No comments.

**County Engineer:** No comments.

**Applicant's Comments:**

**Roy Johnsen**, 201 West 5<sup>th</sup> Street, Suite 501, 74103, stated that the interior pedestrian circulation that staff is proposing to be served is consistent with the language in the corridor is acceptable to him for the PUD.

**Interested Parties Comments:**

**Sylvia Powell**, 8611 South 33<sup>rd</sup> West Avenue, 74132, stated that her issue with this particular proposal is that it is asking for eating establishments, banking and those kinds of retail, which is already in the Tulsa Hills Mall. Ms. Powell cited the available commercial and retail uses within the subject area at 71<sup>st</sup> and 91<sup>st</sup>. She doesn't see the point in rezoning the subject property for retail uses and multiply housing.

**TMAPC COMMENTS:**

Mr. Ard stated that people should know that all of the Planning Commissioners are volunteers and that their recommendations go to the City Council for a final decision. There is an opportunity at the City Council if the interested parties disagree with the Planning Commission's recommendation.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-1-0** (Ard, Carnes, Marshall, McArtor, Shivel, Walker "aye"; Wright "nay"; none "abstaining"; Cantrell, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of CS zoning for Z-7116 per staff recommendation.

Mr. McArtor stated that he would have to abstain from the PUD motion since he is not familiar with the amendment.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **5-1-1** (Ard, Carnes, Marshall, Shivel, Walker "aye"; Wright "nay"; McArtor "abstaining"; Cantrell, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of PUD-765, per staff recommendation, subject to the modifications presented by staff. (Language with a strike-through has been deleted and language with an underline has been added.)

**Legal Description for Z-7116/PUD-765:**

A tract of land located in the NW/4 of the NW/4 of Section 14, T-18-N, R-12-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof, being more particularly described as follows: Commencing at the northwest corner of Section 14, a stem of an ODOT Brass Cap; Thence S 89°52'44" E along the north line of the NW/4 of Section 14 toward the North Quarter corner of Section 14 being an ODOT Brass Cap, a distance of 411.52 feet to the "Point of Beginning"; Thence continuing S 89°52'44" E along the north line of the NW/4 of Section 14, a distance of 35.40 feet to the westerly

right of way for U.S. Highway 75; Thence S 00°07'16" W along the westerly right of way for U.S. Highway 75, a distance of 40.00 feet; Thence S 89°52'44" E along the westerly right of way for U.S. Highway 75, a distance of 275.00 feet; Thence S 75°36'44" E along the westerly right of way for U.S. Highway 75, a distance of 255.03 feet; Thence S 07°44'06" E along the westerly right of way for U.S. Highway 75, a distance of 331.40 feet; Thence S 90°00'00" W a distance of 514.55 feet; Thence N 00°00'00" E a distance of 74.73 feet to a tangent curve to the left; Thence along a tangent curve to the left with a central angle of 32°49'46", a radius of 200.00 feet, an arc length of 114.60 feet, a chord bearing of N 16°24'53" W and a chord length of 113.04 feet; Thence N 32°49'46" W and tangent to the previous curve a distance of 65.47 feet to a tangent curve to the right; Thence along a tangent curve to the right with a central angle of 32°49'46", a radius of 125.00 feet, an arc length of 71.62 feet, a chord bearing of N 16°24'53" W and a chord length of 70.65 feet; Thence N 00°00'00" E and tangent to the previous curve a distance of 126.47 feet to the "Point of Beginning". Said tract contains 201,950 square feet or 4.6361 acres. The non-astronomic bearings for said tract are based on an assumed bearing of S 89°52'44" E along the north line of the NW/4 of Section 14, T-18-N, R-12-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof **From: AG (Agriculture District) To CS/PUD (Commercial Shopping Center District/Planned Unit Development [PUD-765]).**

\* \* \* \* \*

**Ms. Wright out at 4:15 p.m.**

22. **PUD-559-B/Z-5888-SP-5 – John Moody/Southcrest, LLC.** (PD-18) (CD-8)

North and east of the northeast corner of East 91<sup>st</sup> Street and South 101<sup>st</sup> East Avenue (Major Amendment to allow a second outdoor advertising sign within the southern-half of Development Area A of PUD-559-A.) (Returned to TMAPC by the Tulsa City Council.)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 19538 dated May 17, 1999, established zoning for the subject property.

**PROPOSED ZONING:** CO/PUD

**PROPOSED USE:** Use Unit 21, to add a second outdoor advertising sign

**RELEVANT ZONING HISTORY:**

**Z-6503-SP-2 October 19, 2007:** Staff approved a proposed sign application in a Corridor Site Plan on a tract of land to replacing a previously approved outdoor sign, on property located east of the southeast corner of East 91<sup>st</sup> Street South and South Mingo Road, abutting west of the Mingo Valley Expressway and located south of subject property across East 91<sup>st</sup> Street South.

**Z-6503-SP-2 May 2007:** All concurred in approval of a proposed Corridor Site Plan on an 8.67± acre tract of land for new commercial and office development, on property located east of the southeast corner of East 91<sup>st</sup> Street South and South Mingo Road, abutting west of the Mingo Valley Expressway and located south of subject property across East 91<sup>st</sup> Street South.

**Z-7003/PUD-721 January 2006:** All concurred in approval of a request for rezoning and a proposed Planned Unit Development on a 40± acre tract of land from AG to RS-3/OL/CS/PUD for mixed use development with four development areas on property located northeast corner of East 91<sup>st</sup> Street South and South Mingo Road.

**Z-5888-SP-4/PUD-586-A January 2002:** All concurred in approval of a proposed Corridor Site Plan and Major Amendment to a PUD on a 23.4± acre tract of land to allow Use Unit 21 for two outdoor advertising signs in Development Area A, along the Mingo Valley Expressway with 1,300 feet distance between signs on property located on the northeast corner of East 91<sup>st</sup> Street South and Mingo Valley Expressway.

**Z-6910-SP-2 April 2006:** All concurred in approval of a proposed Corridor Site Plan on a 4.45± acre tract of land for commercial and medical office use and to establish the aggregate floor area of 27,380 square feet for office development on property located east of southeast corner of East 91<sup>st</sup> Street South and South Mingo Road.

**Z-6910-SP-1 December 2003:** All concurred in approval of a proposed Corridor Site Plan for a four-story medical office building on property located east of southeast corner of East 91<sup>st</sup> Street South and South Mingo Road.

**Z-6910 November 2003:** All concurred in approval of a request for rezoning from AG to CO on property located east of southeast corner of East 91<sup>st</sup> Street South and South Mingo Road.

**BOA-19101 June 12, 2001:** The Board of Adjustment approved a Special Exception to construct an 80 foot monopole cellular transmission tower on property zoned AG, per plan submitted on property located east of southeast corner of East 91<sup>st</sup> Street South and South Mingo Road.



**BOA-18760 June 13, 2000:** The Board of Adjustment approved a Variance of allowable height for existing outdoor advertising sign from 60' to 125', subject to meeting the spacing requirement between outdoor advertising signs finding the hardship to be the elevation of the Broken Arrow South Loop interchange on property located east of the southeast corner of East 91<sup>st</sup> Street South and South Mingo Road, abutting west of the Mingo Valley Expressway and located south of subject property across East 91<sup>st</sup> Street South.

**BOA-18480 August 1999:** The Board of Adjustment denied a request for a variance of the required 1,200' spacing between outdoor advertising signs to 940' to relocate an existing outdoor advertising sign, finding that there is no hardship to support the variance, on property located east of the southeast corner of East 91<sup>st</sup> Street South and South Mingo Road, abutting west of the Mingo Valley Expressway and located south of subject property across East 91<sup>st</sup> Street South.

**Z-6503-SP-1a June 16, 1999:** All concurred in approval of a proposed minor amendment to a Corridor Site Plan to remove an existing outdoor advertising sign, (located in the Mingo Valley Expressway Right-of-way) and erect a new sign that is within 940' of another outdoor advertising sign to the south, subject to applicant applying and receiving approval for a variance from the Board of Adjustment or applicant finding another location that will meet the spacing requirement, on property located east of the southeast corner of East 91<sup>st</sup> Street South and South Mingo Road, abutting west of the Mingo Valley Expressway and located south of subject property across East 91<sup>st</sup> Street South.

**Z-6503-SP-1 March 1996:** All concurred in approval of a proposed Corridor Site Plan on a 10.6± acre tract of land for an outdoor advertising sign subject to the requirements of Section 1221.F of the Tulsa Zoning Code, on property located south of southwest corner of East 91<sup>st</sup> Street South and South Highway 169.

**Z-6503 October 1995:** All concurred in approval of a request for rezoning a 10.6± acre tract of land from AG to CO on property located east of southeast corner of East 91<sup>st</sup> Street South and South Mingo Road and the subject property.

**PUD-559-A/Z-5888-SP-3 May 1999:** All concurred in approval of a proposed Major Amendment to Planned Unit Development and a Corridor Site Plan on a 58.4± acre tract of land for outdoor advertising sign on property located on the northwest corner of East 91<sup>st</sup> Street and South Mingo Valley Expressway and a part of the subject property.

**PUD-559-A May 1999:** Approval was granted for a major amendment to allow two outdoor advertising signs on property located east of the northeast corner of East 91<sup>st</sup> Street and South 101<sup>st</sup> East Avenue and within Development Area A of the original PUD-559 that was approved for SouthCrest Hospital facilities.

**PUD-586 June 1998:** All concurred in approval of a request for a proposed Planned Unit Development and Detail Corridor Site Plan on a 29± acre tract for a mixed-use development. The development proposed a medical complex, related offices, residential facilities and retail shopping area, located on the northwest corner of East 91<sup>st</sup> Street South and South Garnett Road.

**PUD-559 November 1997:** All concurred in approval of a proposed Planned Unit Development on a 60.9± acre tract of land for multi-use development including apartments, offices, colleges and universities was approved on property located on the northwest corner of East 91<sup>st</sup> Street and South Mingo Valley Expressway and a part of subject property.

**Z-6523 March 1996:** All concurred in approval of a request for rezoning a .87± acre tract of land from AG to CO on property located east of southeast corner of East 91<sup>st</sup> Street South and South Mingo Road and south of the subject property.

**Z-6503-SP-1 March 1996:** All concurred in approval of a proposed Corridor Site Plan on a 10.6± acre tract of land for an outdoor advertising sign subject to the requirements of Section 1221.F of the Tulsa Zoning Code, on property located south of southwest corner of East 91<sup>st</sup> Street South and South Highway 169.

**Z-6503 October 1995:** All concurred in approval of a request for rezoning a 10.6± acre tract of land from AG to CO on property located east of southeast corner of East 91<sup>st</sup> Street South and South Mingo Road.

**Z-6194 July 1988:** All concurred in approval of a request for rezoning a 4± acre tract located east of the southeast corner of East 91<sup>st</sup> Street and South Mingo Road from CS to CO.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 5.03± acres in size and is located north and east of the northeast corner of East 91<sup>st</sup> Street and South 101<sup>st</sup> East Avenue. The property is vacant and is zoned CO/PUD.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design.</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
91 <sup>st</sup> Street South	Secondary Arterial	100'	5
South 101 <sup>st</sup> East Avenue	Commercial Collector	80'	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by Highways 169 and 64 zoned RS-3; on the north by Tulsa Community College-Southeast

campus, zoned AG; on the south by St. Francis Medical facility, zoned CO; and on the west by SouthCrest, zoned CO.

**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 Corridor/Development Sensitive (in conjunction with a floodplain) and Low Intensity-No Specific land use. This means that development to Corridor standards is encouraged; however, if not developed at that higher intensity, then development should be at the Low Intensity-No Specific land use designation. According to the Zoning Matrix the requested zoning is the same as is currently in place. The issue in question is an additional outdoor advertising sign. The Plan does not address this level of detail.

**STAFF RECOMMENDATION:**

This application was originally recommended for denial by the TMAPC on 7/23/08. That decision was appealed to the Tulsa City Council. The Tulsa City Council has returned the case to the TMAPC for reconsideration (see Exhibit A-1).

PUD-559-B is an undeveloped 14.86-acre (637,864 SF) tract located east of SouthCrest Hospital and west of the southbound inter-dispersal loop of US Highway 169 and the Creek Turnpike. The major amendment request is to allow a second outdoor advertising (OA) sign within the southern ½ of Development Area A, of PUD-559-A.

This case was continued from 6/25/08 to allow for further legal investigation to verify if a variance for the height of an outdoor advertising sign granted to the property owner to the south is a variance that goes in perpetuity with the land, or is applicable to the permitted sign and therefore a specific assign owner only. Also under consideration was weather the 1,200-foot spacing requirement for outdoor advertising signs was a 1,200-foot requirement between existing signs (in the ground), or should the spacing verification consider signs that are not constructed and in the permitting/spacing verification process, but also have an approved detail sign plan.

As approved PUD-559 and PUD-559-A permits two Outdoor Advertising signs. One permitted OA sign location is within the east 100 feet of Development Area B and one Outdoor Advertising sign within the limits of Development Area A (see Exhibit A). There is one existing Outdoor Advertising sign in the northern half of Development Area A along the US 169 right-of-way (ROW) as depicted on attached Exhibits A and B. It appears that this sign is greater than 1,200 feet from any other outdoor advertising sign.

The proposed new Outdoor Advertising sign location is also depicted on Exhibits A and B, and appears to be located greater than 1,200 feet south of the existing Outdoor Advertising sign within Development Area A.

The new location is less than 1,200 feet from an approved Corridor Site Plan (Corridor site plan # Z-6503-SP-2, located south of the subject property) which has been approved for outdoor advertising signs as a permitted use, and has historically had an outdoor advertising sign on site per the approved site plan for Z-6503-SP-1. Staff understands that the ODOT application filed for relocation of this billboard, which was pending when this application was originally heard by the TMAPC, has since been denied.

However, since this proposed location is within 1,200 feet of an existing approved Outdoor Advertising sign location and there are already two billboards permitted in PUD-559, staff recommends **DENIAL** of PUD-559-B.

Staff has been informed prior to today's meeting of some new information that the Planning Commission would be interested in; however, staff is continuing to recommend denial of the subject application.

**TMAPC COMMENTS:**

Mr. Ard asked Mr. Sansone if he could expand on this. In response, Mr. Sansone stated that there is an existing approved detail sign plan for the sign across the street from the subject property, which means that someone will construct a sign. Staff doesn't necessarily verify that the ODOT permit has been secured because it is a function of the permitting process. There are eleven or twelve certain pieces of verifiable evidence that have to be submitted with the sign permit application before actually putting the hole in the ground. One of the pieces of evidence is a copy of the issued ODOT permit. When staff receives a request for a major amendment to allow the use or a detail sign plan review request, which is before the Planning Commission today, for an outdoor advertising sign staff doesn't make the applicant verify that the ODOT permit has been issued. Staff has an approved outdoor advertising sign less than 1,200 feet away across the street from the subject application. The point of contention with the applicant is that the approved sign is not in the ground at this time.

Mr. Marshall stated that all of these issues came up before and he had suggested previously that the Planning Commission wait until ODOT had made a decision. Now it is back before us.

Mr. Alberty stated that he was present at the City Council meeting when this application came up. Information that the Council had at that time was did the Planning Commission know that the ODOT permit had been denied, and if that was the basis for their denial would it make any difference if they knew that information today. Mr. Alberty indicated that he couldn't answer that question for the City Council. He informed the City Council that from his view, there were

other reasons why it was denied and this was not the sole reason. With that information Council determined to send this application back to the Planning Commission and let the new information be considered.

**Applicant's Comments:**

**John W. Moody**, 5610 East 76<sup>th</sup> Street, 74136 stated that the staff recommendation is based upon the approved detail site plan and there is no sign built or existing within 1,200 feet of the proposed sign. Staff believes that because there is an approved sign plan across the street that is within the 1,200 feet, and therefore it violates the City ordinance. The permit by ODOT had previously been rejected when he first appeared before the Planning Commission; however, the applicant had appealed that decision and after the hearing in July the appeal was decided and again rejected and they denied the permit. As it stands right now, there is no State permit and there is only an approved detail sign plan that has no meaning since one can't build a sign without a State permit.

Mr. Moody stated that the City of Tulsa Board of Adjustment (BOA) is officially, as stated in the Zoning Code, the body that interprets the meaning of the Zoning Code as stated in Section 1601 and Section 1606. On September 30, 2008 the same issue was presented to the BOA where an application was filed to verify that an outdoor advertising sign met the 1,200-foot spacing requirement. The Planning Commission had approved the relocation of a sign 200 feet at U.S. Highway 169 and the Broken Arrow Expressway. The applicant appeared and protested, stating that he had an approved corridor detail sign plan for a sign within 1,200 feet. The BOA determined that the Zoning Code says that the 1,200-foot spacing applies only to existing signs and not an approved corridor sign plan where there is no sign built. Mr. Moody submitted the minutes from the BOA meeting (Exhibit B-2). Mr. Moody stated that the 1,200-foot spacing only applies to existing signs in the ground and not something that may be permitted under the zoning. There is a very valid reason for that because there is no way one can determine if the spacing requirement is met if there is no sign built. Mr. Moody reiterated the official determination of the BOA regarding spacing.

Mr. Moody commented that he understands that the other sign company has an appeal before the State of Oklahoma regarding their sign permit and it may go on for two years. He indicated that the appeal shouldn't make any difference because of the spacing requirements according to the Zoning Code and determination of the BOA that it should be an existing sign and not an approved site plan. Mr. Moody stated that it is his opinion that the staff recommendation is no longer valid with regard to an approved detail sign plan. Mr. Moody further stated that the other reason staff recommends denial is because previously there had been two billboards permitted in the original PUD-559. One of those signs is 2,400 feet to the north or more and on property owned by the Tulsa Community College. There is another sign that is more than 1,200 feet away than the subject application that is on the property owned by SouthCrest. However, there

is no standard in the Zoning Code or anywhere else that says that a property owner can only have a certain number of signs. The only standard is the 1,200-foot spacing and if one is within a freeway corridor and has the appropriate zoning, which this application meets, the only limitation is the 1,200-foot spacing between outdoor advertising signs. Yes this is within a PUD and he believes he meets the clear intent of the Zoning Code and this sign is compatible with everything that is in the subject area. The sign that was across the street was 120 feet in height and previously owned by his client, Bill Stokely, and at the demand of the property owner the sign was removed. The subject sign would replace the sign that was owned by Mr. Stokely and will be 60 feet in height. It is better to have a 60-foot sign than to permit a 120-foot sign across the street. The previously existing sign is gone and the permit has been rescinded by the State. His client rescinded the variance request for the height of the sign, and as far as he is concerned there is no sign across the street or within 1,200 feet. Mr. Moody believes that his request conforms to the existing PUD and he believes that he meets the Zoning Code. Mr. Moody stated that one can't say that the property owner has too many signs and if the property were owned by three different people it wouldn't be an issue. Mr. Moody requested that the Planning Commission approve the major amendment.

**TMAPC COMMENTS:**

Mr. Marshall stated that this is just too confusing.

Mr. McArtor asked Mr. Moody if it is his position that this Planning Commission is bound by the BOA's interpretation of the Zoning Code. In response, Mr. Moody stated that as far as the interpretation, yes, because they are the official body designated by the Zoning Code and it is also contained in the State Statutes that the BOA makes the official interpretation of the text of the Zoning Code. Mr. McArtor asked Mr. Moody if he is saying that his understanding of the statutes is that this Planning Commission is bound to a BOA interpretation of the Zoning Code. In response, Mr. Moody stated that as far as that Section of 1221 that says that an outdoor advertising sign must be 1,200 feet from another outdoor advertising sign. Mr. Moody further stated that the Planning Commission can deny for another reason. In response, Mr. McArtor stated that the decision by the BOA refers to actual poles in the ground and not just an approved location. That is not a decision handed down by the BOA in this matter, is it? In response, Mr. Moody answered negatively. Mr. Moody stated that once the BOA makes an interpretation of the Zoning Code, it is an authority that makes those determinations under the Zoning Code. Mr. McArtor stated that the Planning Commission would have to know the context of that particular case in terms of the BOA before drawing a conclusion that in all cases everywhere at all times before this Planning Commission, the interpretation of the Zoning Code obligatory on this Planning Commission is between poles in the ground and not a pole and approved space before drawing an interpretation of the ruling. In response, Mr. Moody stated that was not necessarily, the case and in this

particular case, he would say it is even closer because that specific case involved the exact issue as involved in the subject proposal.

Mr. McArtor stated that this would be the first time he had heard this interpretation and he doesn't remember the Planning Commission ever having a situation where he was informed that he would need to follow the interpretation of the Zoning Code sent down by the BOA. In response, Mr. Moody stated interpretations come up every once in awhile and one doesn't usually hear much about them. Mr. Moody submitted a letter from the Department of Transportation (Exhibit B-1) that was sent August 14, 2008.

Mr. Boulden stated that Mr. Moody did an admirable job and definitely represents his client, but he does have some disagreements with him. It is important to know that the case before the BOA was for a spacing verification and he would agree that the Zoning Code does provide that there are spacing requirements between uses and not-permitted uses. That was a totally different situation as far as how they were applying the verification of spacing. The major amendment is in a PUD and Corridor Site Plan and the Planning Commission has the discretion to determine what uses are allowed on this property and whether or not the PUD and corridor site plan is amended. Regardless of spacing and requirements, if the Planning Commission believes that the permitted uses here are sufficient now and leave it at that and not allow another outdoor advertising sign, then the Planning Commission is well within its authority to make that recommendation. If the Planning Commission would like to allow another sign on the subject property then that would be appropriate also. This is within the Planning Commission's discretion.

In response to Mr. Ard, Mr. Boulden stated that he believes that it is certainly a consideration that the Zoning Code, as far as a spacing requirement, cannot consider what is allowed, but consider what the existing uses are in the spacing requirement. Mr. Boulden stated that he believes that the Planning Commission can consider the approved uses as to whether there should be an amendment to a PUD or corridor site plan. If there is a permitted use within that distance and the Planning Commission doesn't believe it is a good idea, then that could be done or they could authorize a sign on the subject location, subject to there not being any uses or permitted uses within 1,200 feet.

In response to Mr. Shivel, Mr. Boulden stated that he believes that an approved sign plan is with the property for as long as the sign plan stands without any amendments to change it.

Mr. Marshall thought he had been told at one time that the sign had to be constructed or in the process of being installed. In response, Mr. Boulden stated that the bottom line is that there is a spacing requirement between uses of property and not with what we can do or what might be allowed to do because one has a permit.

Mr. Marshall asked if an outdoor advertising sign is approved in a PUD or CO classification, if that makes it different. In response, Mr. Boulden stated that what one is allowed to do does not mean under other provisions of the Zoning Code he or she can't do that. For the subject property and that PUD, it is one of the uses that can be allowed, but it would still have to meet other requirements of the Zoning Code. There is no vested right that is granted just because one has provisions in the PUD that says it is legal to put in a sign on the subject property.

Mr. Marshall stated that he doesn't understand why staff recommended denial. In response, Mr. Boulden stated that he believes staff felt that for land use planning it is not a good idea.

**Interested Parties Comments:**

**Michael Joyce**, 1717 S. Boulder, Suite 200, 74119, representing the owner of the property on the southwest corner, stated that he agrees that this is very confusing. Mr. Joyce stated that according to the letter from the City Council, they did not send this back before the Planning Commission for reconsideration of law or change of ordinance or interpretation by the BOA. What was advised to the City Council was to send this back for deliberation for a change in fact. Mr. Moody presented to the City Council, which was with reference to DFI's application to rebuild the approved sign, that ODOT has denied the permit and that the process is finished with ODOT. That is not the case and is a misrepresentation in his opinion. The decision is now pending before the Oklahoma County District Court and it may be some time before it is decided. Moreover, another change in fact that was noted is that DFI, the owner of the property, has submitted to ODOT and ODOT has accepted, a second application for an outdoor advertising sign a little farther away from the site in question. The reason for this is because ODOT alleges that there is a double-control of highways (ODOT=U.S. 169 and OTA=Turnpike) and therefore the spacing is measured differently. This second application is outside of the double-control of highway systems. Regardless, DFI will have an outdoor advertising sign on one of the two spots.

**TMAPC COMMENTS:**

In response to Mr. Marshall, Mr. Joyce stated that the appeal is for the same location of the previous sign that was removed by Mr. Moody's client. The second application is for if the appeal is unsuccessful for DFI's original location. Mr. Joyce indicated that ODOT has officially rejected Mr. Stokely's application and he is not sure that it has been appealed. The City Council sent this back because of a change in facts. The facts are that the original DFI application is not fully and finally considered resolved. If the determination is against DFI, then the second application that was applied for and accepted by ODOT would go into effect on the same property. Mr. Moody's client has been denied by ODOT on the subject property.



In response to Mr. Walker, Mr. Joyce stated that this application should be denied and he fully supports staff's recommendation.

**Applicant's Rebuttal:**

Mr. Moody stated that Mr. Stokely's application was rejected only because he had not received the approval of the zoning yet.

**Bill Stokely**, Stokely Outdoor Advertising, 3605 Morning Circle, Broken Arrow, 74012, stated on the south side of the street was his billboard that was 120 feet in height. He gave 50% of the revenue into the YMCA and was a great situation. A new buyer came along that Mr. Joyce says he represents, but he also represents Whistler Outdoor Advertising, which came in and offered to take all the money and give it to the landowner. Mr. Stokely proposes to install a 60-foot outdoor advertising sign across the street at SouthCrest and have a respectful advertiser sitting on it.

**TMAPC COMMENTS:**

Mr. Marshall asked Mr. Stokely if he sold his sign on the south side of the street. In response, Mr. Stokely stated that he was offered a lot of money to leave the sign and he wouldn't sell it to them. Mr. Marshall asked Mr. Stokely if it is his intent to move the 120-foot sign over to the north side and make it a 60-foot sign. In response, Mr. Stokely answered affirmatively.

Mr. Marshall asked Mr. Stokely how the previous sign on the south side got approval. In response, Mr. Stokely stated that it was years ago and he built it before the expressway was there. He further stated that the sign is gone because he cut it down and wouldn't sell it to the new owners. At this time there are no signs on either property. There will either be a sign on the south side or the north side.

Mr. Shivel asked Mr. Stokely if the reason for the sign on the south side of the street being 120 feet in height was because of the overpassing situation and the elevation of the road that exist at U.S. 169. In response, Mr. Stokely stated that when he built the original sign on the south side, it was only 50 feet in height and he later changed to 120 feet in height when the highway was built.

Mr. Moody reiterated the BOA interpretation with regard to spacing requirements.

Mr. Marshall requested that Mr. Joyce come forward.

Mr. Joyce stated that the facts are completely different in the case before the BOA and the subject application.

**Recording interrupted at 4:40 p.m.**

**Recording restored at 4:42 p.m.**

Mr. Joyce cited the pending appeals and applications for his approved sign plan and he cited that he believes that Mr. Moody has appealed his rejection from ODOT.

In response to Mr. Marshall, Mr. Joyce stated that this entire discussion has been about two different sites. He explained that Mr. Stokely had a month-to-month lease for the south-side location where an existing sign was located. His client, DFI, terminated the lease in its pursuing its own options. Mr. Stokely or whatever entity might have approached SouthCrest across 91<sup>st</sup> Street to the north is now attempting to develop a second or a different site other than the original site. There currently is no sign on either property; Mr. Stokely removed the existing sign when he lost his lease. Mr. Joyce explained that his client has been developing the property on the south side and the original sign needed to come down during the development. Now that the development process is completed his client would like to reinstall the billboard and there are sour grapes because it will not be Mr. Stokely's board. Mr. Stokely is trying to install a sign across the street, but it is not available to him at this time.

Mr. Boulden stated that he believes that there was an existing sign, Mr. Stokely's sign, on the south side. Mr. Joyce's client, DFI, came in and bought the property and requested that it be removed so that they could put up their own sign. The bottom line is that the sign came down and now they want to put up a sign on basically the same property. Mr. Stokely wants a sign in the same vicinity because he lost his sign on the south side. Now there is a sign war and one wants to get up before the other one.

Mr. Marshall asked if this is the process both parties need to go through before taking this court. In response, Mr. Boulden answered affirmatively.

Mr. Ard reread the letter from City Council directing the Planning Commission to reconsider the subject application because of the facts possibly being different.

**Ms. Wright back in at 4:54 p.m.**

Mr. McArtor stated that he remembers that previously there was discussion about there being too many signs and the area being too congested, etc. He hasn't heard anything today that would change the facts underlying that recommendation or should change the Planning Commission's vote. This is why, as a general rule, it is difficult for him to have these reconsiderations. The Planning Commission has already hashed this out and held hearings when it was fresher on their minds than it is today. This has reopened Pandora's Box here at the end of the day and they are trying to figure out things that months before were handled better. He tends to believe that the Planning Commission's decision on these types of situations is better than a subsequent decision done hastily. Especially when the relative fact that is before the Planning Commission

has not changed at all. Mr. McArtor stated that he would vote to uphold the staff recommendation.

**TMAPC Action; 7 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **5-1-1** (Ard, Marshall, McArtor, Shivel, Walker "aye"; Carnes "nay"; Wright "abstaining"; Cantrell, Midget, Smaligo, Sparks "absent") to recommend **DENIAL** of the major amendment for PUD-599-B/Z-5888-SP-5 per staff recommendation.

\* \* \* \* \*

**23. Z-7096/PUD-757–Charles Norman/Roy Johnsen RS-3/OL to RT/PUD**

North of northwest corner of East 15<sup>th</sup> Street and South Norfolk Avenue (PUD proposing a town home development designed for occupancy by single-family residential owners with common area facilities located within a reserve area to be maintained by a homeowners association.) (Returned to TMAPC by the Tulsa City Council)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 16532 dated January 15, 1986, and Ordinance number 11814, June 26, 1970, established zoning for the subject property.

**PROPOSED ZONING:** RT/PUD

**PROPOSED USE:** Townhouses

**RELEVANT ZONING HISTORY:**

**Z-6378 April 1993:** All concurred in approval of a request for a supplemental overlay zoning on a tract of land to HP for historic preservation on property located south of subject property.

**Z-6339/PUD-478 December 1991:** All concurred in approval of a request for rezoning from OL/OMH/RS-3 to RS-4 and of a proposal Planned Unit Development a 7.73± acre tract of land for single-family development with private streets on property located west of the northwest corner of South Peoria Avenue and East 15<sup>th</sup> Street and east of subject property.

**Z -6081 January 1986:** All concurred in approval of a request for rezoning a tract of land from RS-3 to OL for office use on property located on the northwest corner of East 15<sup>th</sup> Street South and South Norfolk Avenue and a part of the subject property.

**PUD-394-A December 1991:** All concurred in approval of a request to abandon PUD-394 which originally approved high-rise office on the site; on condition of approval of RS-4 zoning for Z-6339 and PUD-478 as recommended by staff on property located east of subject property and west of the northwest corner of South Peoria Avenue and East 15<sup>th</sup> Street

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately .43± acres in size and is located north of northwest corner of East 15<sup>th</sup> Street and South Norfolk Avenue. The property appears to be residential and vacant and is zoned RS-3/PUD.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 15 <sup>th</sup> Street	Urban Arterial	70'	4
South Norfolk Avenue	Residential Collector	60'	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by Norfolk Avenue, Broadmoor Addition and Maplevue on Cherry Street, zoned RS-4 and OL respectively; on the north by the U.S. 64/444, OK.-51 right-of-way, zoned RS-3; on the south by 15<sup>th</sup> Street and Morningside Addition, zoned RS-3; and on the west by Broadmoor Addition, zoned RM-2.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 6 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being low-intensity, Special Development Sub-area F according to the District 6 Comprehensive Plan Map, and page 6-23 of the Plan. This area is “bounded by the Broken Arrow Expressway on the north, the lot line west of Utica on the east, the inner-dispersal loop on the west, and the Cherry Street Business Sub-Area A and Maple Ridge Sub-Area C on the south”.

According to section 3.5.6.1 of the Plan, “the area west of Peoria should be low-intensity office use on the west half” and medium intensity office/commercial use on the east. Multifamily use should be discouraged”. Since the applicant is proposing to re-plat the property as seven individual single-family lots, this development is not a multifamily development per chapter 18 of the Zoning Code.

Therefore, and according to the Zoning Matrix, the requested RT zoning **may be found** in accord with the Plan by virtue of its location within a Special District area.

**STAFF RECOMMENDATION FOR ZONING:**

Based on the Comprehensive Plan and existing development in the area, staff can support the requested rezoning and therefore recommends **APPROVAL** of RT zoning for Z-7096, subject to the TMAPC's recommendation to approve the accompanying PUD-757 or some variation thereof.

**STAFF RECOMMENDATION FOR PUD:**

PUD-757 is a .43-acre tract located on the west side of Norfolk Avenue, north of 15<sup>th</sup> Street, approximately 1,200 feet west of Peoria Avenue. This PUD proposal and associated rezone application Z-7096 was originally approved by the TMAPC on May 21, 2008. It is being returned to the TMAPC by the Tulsa City Council with the recommendation that the TMAPC reconsider the proposed zoning being switched to RT (Residential Townhouse) zoning.

The applicant is proposing a townhouse development designed for occupancy by single-family residential owners with common area facilities located within a reserve area to be maintained by a homeowners association. The location of the property is shown on the attached aerial photograph. The development will be re-platted as one-block, with individual lots and common reserve area(s).

Elevation for the proposed development area range from a high of 716' at the northeast corner of the tract to 708 feet at the southwest corner of the tract with the property generally sloping downward from east to west. According to the Soil Survey of Tulsa County, Oklahoma, soil types are identified as Kamie-Urban Land Complex, 1% - 8% Slopes. Development constraints are associated with these soils and will be addressed in the engineering design phase of the project.

The Maple Terrace Townhomes property is immediately south of the US-64/444, OK.-51, inner dispersal loop and is adjacent on the north and west to a recently completed pedestrian and bicycle path, a part of the metropolitan trail system. The applicant is proposing direct access to the path for residents of the development.

The property is zoned RS-3 and OL-Office Light. A companion application Z-7096 is being considered to change the zoning of the property to RT – Residential Townhouse. Should the request for the RT zoning be approved, underlying RT zoning would allow five dwelling units according to the available land area per dwelling unit required for an RT development (24,994 gross square foot lot divided by 4,200 SF required per dwelling unit in RT zoning = five units permissible).

A minimum of 1,200 square feet of livability space will be provided for each townhouse lot. Livability space for each lot may be provided in landscaped features within the reserve area(s) as permitted by Section 1104-C of the Zoning Code. The reserve areas will be maintained by the homeowners association.

Access to the site will be from Norfolk Avenue, via mutual access easement (MAE). Entry gates will be constructed per the applicant's concept plan and as agreed to by the City of Tulsa Fire Marshall. Sidewalks will be provided along Norfolk Avenue, as well as, from the northeast corner of the site to the proposed trail access. Two car garages are proposed for each townhouse with an additional off-street parking spot provided within the development. All parking will be accessed from the interior of the development. A hammerhead turn-around for traffic on South Norfolk Avenue will be constructed at the northeast corner of the project. Part of the existing cul-de-sac will be declared surplus per the City of Tulsa Engineering Design Manager to allow for this turn-around. The final design of the aforementioned turn-around must be approved by the City of Tulsa prior to final approval of the re-plat of the property.

A letter prepared by the Public Works Department, Development Services Division, dated April 8, 2008 states there will be no onsite detention required for the proposed development. Maple Terrace Townhomes will continue to drain overland in conformance with historical drainage patterns common to the site prior to the construction of the Inner Dispersal Loop. A detailed hydrology analysis and report will be prepared and submitted to the City of Tulsa Development Services for approval during the platting process.

Existing City water and sanitary sewer services are available to the development. The existing two-inch water line along the east side of South Norfolk Avenue will be replaced with a six-inch water line which will be looped through the development and extended to connect with the existing six-inch water line running along the south side of East 15<sup>th</sup> Street South.

Sanitary sewer is accessible to the site by an eight-inch line that extends south across East 15<sup>th</sup> Street South from an existing lamp-hole at the southwest corner of the development. An internal sanitary sewage collection system with eight-inch lines will be constructed along the perimeter boundaries of the development and will connect to the existing lamp-hole and to a new manhole which will be constructed at the southeast corner of the development.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-757 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-757 subject to the following conditions and as amended by the TMAPC (items with strikethrough have been removed, underlined items have been added in):

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

LAND AREA:

Net Area:	0.43 Acres	18,617 SF
Gross:	0.57 Acres	24,994 SF

PERMITTED USES:

Townhouses: As permitted in Use Units 7a, and uses customarily accessory to the permitted principal uses.

Reserve A: Controlled entrance, parking and common area facilities, and uses customarily accessory to townhouse dwellings, to be maintained by an owners association.

MAXIMUM NUMBER OF DWELLING UNITS: 5

MINIMUM LOT WIDTH: 22 FT

MINIMUM LOT AREA: 1,600 SF\*

*\*The remainder of the required lot area per dwelling unit shall be provided in common areas as permitted by Section 1104-B of the Zoning Code.*

MAXIMUM BUILDING HEIGHT: 35 FT

OFF-STREET PARKING: 3 spaces per dwelling unit

MINIMUM BUILDING SETBACKS:

From the centerline of S. Norfolk Ave.	50 FT*
From the north boundary	10 FT
From the south boundary	10 FT
From the west boundary	20 FT

*\*For the purpose of establishing the required street yard, the front yard set back shall be considered to be 10 feet.*

MINIMUM PARKING AREA SETBACKS from the north boundary: 5 FT

LIVABILITY SPACE:

A minimum of 1,200 square feet of livability space shall be provided for each townhouse lot. Livability space may be provided within common and reserve areas per Section 1104-C of the Zoning Code.

**SIGNS:**

One project identification ground sign shall be permitted at the South Norfolk Avenue entrance with a maximum of 12 square feet of display surface area and six feet in height.

**LIGHTING:**

Exterior light standards shall not exceed 12 feet in height and shall be hooded and directed downward and away from the boundaries of the planned unit development. Shielding of outdoor lighting shall be designed so as to prevent the light producing element or reflector of the light fixture from being visible to a person standing at ground level in adjacent residential areas. Compliance with these standards shall be verified by application of the Kennebunkport Formula. Consideration of topography must be included in the calculations.

**DECORATIVE FENCING:**

A decorative six feet high wrought-iron type screening fence shall be constructed along the east boundary; such screening fence shall continue at least 25 feet from the north and south property boundaries and be subject to detail site plan review and approval prior to a building permit being issued. Screening along the remainder of the property boundaries shall be optional.

**TRASH, MECHANICAL AND EQUIPMENT AREAS:**

All trash, mechanical and equipment areas (excluding utility service transformers, pedestals, or equipment provided by franchise utility providers), 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.

3. No building permit shall be issued until the platting requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
4. No building permit shall be issued for any building within the development until a detail site and landscape plan for that lot or parcel has been submitted to the Tulsa Metropolitan Area Planning Commission and approved as being in compliance with the approved development standards.
5. No sign permits shall be issued for erection of a sign within the PUD until a detail sign plan has been submitted to the TMAPC and approved as being in compliance with the applicable development standards.



6. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all stormwater drainage and/or proposed detention is in accordance with applicable City requirements prior to issuance of an occupancy permit on that lot.
7. A homeowners association shall be created and vested with sufficient authority and financial resources to properly maintain all private streets, sidewalks and common areas, including any stormwater detention areas, security gates, guard houses and/or other commonly owned structures within the PUD.
8. All private roadways shall have a minimum right-of-way of 30' and be a minimum of 26' in width for two-way roads and 18' for one-way loop roads, measured face-to-face of curb where applicable. Any curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor residential public street if installed. The maximum vertical grade of private streets shall be ten percent where applicable.
9. The City shall inspect all private streets and/or access drives to certify that they meet City standards prior to any building permits being issued on lots accessed by those streets or access drives. The developer shall pay all inspection fees required by the City.
10. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
11. Entry gates or guardhouses, if proposed, and screening walls or fences, must receive detail site plan approval from TMAPC, Traffic Engineering and Tulsa Fire Department, prior to issuance of a building permit for the gates or guard houses.
12. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

**TAC Comments:**

**General:** No comments.

**Water:** A 20' restrictive water line easement will be required for the proposed six-inch looped water main line on the property. A Revision Project will be required for replacing the existing two-inch water main line along Norfolk Avenue with a six-inch size water main line.

**Fire:** No comments.

**Stormwater:** No comments.

**Wastewater:** A sanitary sewer mainline extension will be required to serve all lots within the PUD area. A fence easement should be included, to ensure fence is not placed in utility easement.

**Transportation:** There are title ownership issues along the east side of the property. Locate DOT and COT easements; ROWs or ownership at that location.

**Traffic:** Include design standards within the PUD development standards for the proposed private street. The standards must meet or exceed Public Works' standards for minor residential streets.

**GIS:** No comments.

**Street Addressing:** No comments.

**County Engineer:** No comments.

### **TMAPC COMMENTS:**

Mr. Ard asked if the only change from the original recommendation to the City Council is that staff is recommending five units rather than four units, and the applicant has added extra parking. In response, Mr. Sansone stated that he believes that the original recommendation had the extra parking.

Mr. Ard asked if the original PUD will comply with the RT zoning that is being proposed. In response, Mr. Sansone stated that this application was returned to the Planning Commission to reconsider the project and recalculate the land area and land area per dwelling unit that is required and that calculation comes out to five. He contacted the applicant to see if he/she was comfortable with requesting five units and they were in agreement. Staff is coming back with what the land allows if the RT zoning were approved.

In response to Mr. McArtor, Mr. Sansone stated that the previous recommendation was to rezone from RS-3/OL to OL for the entire site. Mr. Sansone further stated that basically what is being sent back is the rezoning portion. As a result of reconsidering the RT zoning it can change the number of permissible dwelling units. Staff calculated the land with RT zoning and five units would be allowed and he contacted the applicant prior to preparing staff recommendation. Staff's recommendation is based on what the Zoning Code would allow for RT zoning and the calculations of the land area. The Planning Commission reduced the units based on the request at the hearing at that time, which were for seven units. Mr. Sansone explained that OL zoning would allow seven units as originally proposed. In response, Mr. McArtor asked why this application is coming back for a different rezoning. In response, Mr. Sansone stated that he can't speak for the City Council but possibly Mr. Johnsen could speak on this.

Ms. Wright stated that she has the minutes from the meeting and can read how the Planning Commission voted. Ms. Wright stated that the City Council sent it back because there is no reason to have OL zoning for townhouses and was considered excessive zoning.

Mr. Ard stated that he is not sure that is necessarily true. Mr. Ard asked Ms. Wright if she had the verbiage from the City Council. Mr. Ard asked Ms. Wright what the City Council stated. Mr. Ard stated that he understood that it was because it was a split vote and it was late in the evening and they were concerned that they didn't get a good vote from the Planning Commission. In response, Ms. Wright stated that one of the points of contention that keeps coming up is that it was a 3-4-0 for a denial of the OL zoning (motion failed) and then it came back and the Planning Commission approved it at 4-3-0 for approval of OL zoning. Then the Planning Commission passed an amendment to the approval of the PUD 4-3-0 for approval to remove permitted Use Unit 8, reduce the maximum number of dwelling units from 7 to 4 and reduce the height from 45' to 35'. Off-street parking would have three parking spaces per dwelling unit. Mr. Ard asked if the PUD was then approved by the Planning Commission 4-3-0 and not unanimous. In response, Ms. Wright answered affirmatively, but stated that there was a 7-0-0 for the amended motion for the PUD. Mr. Ard stated that the final PUD was voted unanimously.

**Applicant's Comments:**

**Roy Johnsen**, 201 West 5<sup>th</sup> Street, Suite 501, 74103, representing his client, Mr. and Mrs. Jackson, stated that his client started this application in May and now we are in November trying to get a final decision. Mr. Johnsen further stated that the original hearing was late, around 9:00 p.m. There were difficult items prior to this hearing and everyone was tired. It may have been a record-setting time for the TMAPC meetings. Mr. Johnsen stated that Mr. Midget was present and spoke very articulately about infill development and that the subject application was important. Mr. Johnsen cited the motions and vote from the previous meeting. There were parties concerned that the OL would become office uses. The zoning map shows that part of the subject property was zoned OL and the property to the immediate south was zoned OL and is used as a dental office. The first two lots on the other side of Norfolk are also zoned OL. Office zoning was justified because of the physical facts and to the west the property is zoned RM-2. To the north is the expressway. The zoning would have permitted 11 dwelling units and Mr. Norman requested seven dwelling units when he made the PUD request. This will be townhouses with individual home ownership that will be upscale units. During the original meeting, his client reduced the number of dwelling units from seven to five. Mr. Midget was very much in favor of that and made a motion to approve it. During the discussion, County Commissioner Perry stated that he was not comfortable with the five units and moved to amend the motion from five to four units and it passed 4-3-0 to amend the motion to consider four units rather than five. At this point he believed that there were several Planning Commissioners who thought it was a good project and it was voted to approve the PUD with the amendment of four dwelling units with a vote of 7-0-0. When this application made it to City Council, Planning Commissioner Wright was one of the people who showed up and he would guess in an objection capacity, but he is not exactly sure what role she was playing. There were others who seemed very concerned about the OL classification. Councilor

Westcott, after discussion, determined that it should be sent back due to the lateness of the Planning Commission meeting and due to the fact that some of the Planning Commissioners had left the meeting prior to the adjournment. He believes that the entire package was sent back to the Planning Commission to determine what the zoning should be. When that happened he discussed it with his client and filed a written amendment to the application, so that there would be no question about it, for RT zoning for the entire property. Mr. Johnsen stated that this will be a high-quality infill project with five units and RT zoning, which is a district intended for allowing individual ownership and a perfect type of zoning in an infill situation. Mr. Johnsen indicated that Chip Atkins stated at the City Council that he didn't have any objections to the project if it is done in an RT zoning.

Mr. Johnsen concluded that the real issue is whether it will be four units or five units. All other issues have been addressed and conditions have been agreed and he is not objecting to any of the staff's recommendations.

Mr. Johnsen discussed the height issue and he understands that a property owner south of 15<sup>th</sup> Street who has a two-story house was concerned that his view would be obstructed by the height of the proposal. At the north end of Norfolk the land and houses on the east side rise approximately 39 feet. He explained that his client originally requested 45 feet and reduced it to permit a pitched roof. There would be three stories with a garage on the bottom and then two levels with a pitched roof, which takes about 42 feet. This has been approved on numerous occasions within the City of Tulsa. Mr. Johnsen stated that the height is not a deal-breaker and can be done with the 35-foot height, but it will be a flat roof and he believes the Planning Commission would be missing an opportunity to have a better looking old-world type of architecture in this development. He doesn't believe the 42-foot height will impact anyone's view. He indicated that his client will do the 35-foot height if that is the Planning Commissions' recommendation and believes is most appropriate.

Mr. Johnsen stated that he does want to argue about the fifth unit. He stated that his proposal meets all of the significant setbacks for the RT district. The requirement is for two parking spaces per dwelling unit and each garage for each unit meets that requirement. Mr. Johnsen asked the Planning Commission why they would want to limit the proposal to four units and what that would achieve. There is not a real traffic problem in the subject neighborhood or 15<sup>th</sup> Street. He asked what public purpose is being served by holding this to four units and what is wrong with having a fifth family living in the subject area. This is a very upscale townhouse project that will be \$300,000.00 plus. What would actually be accomplished to hold the subject project to four units in regards to the City? Will that one unit create a traffic problem? The parking is addressed with three spaces per unit rather than two. There is an internal circulation system that the Fire Marshal is okay with. Mr. Johnsen stated that the site is tucked back and is difficult to work with, but his client would like to have the opportunity to try to

design this project and bring it to detail site approval. This meets all of the requirements. It works and it is practical. Mr. Johnsen concluded by stating that if the design can't work with five units, then his client would build only four, but he would like the opportunity to design for five units.

**TMAPC COMMENTS:**

Mr. McArtor asked Mr. Johnsen if he still wanted the PUD. In response, Mr. Johnsen answered affirmatively. He explained that with the RT zoning he could probably develop the project without a PUD, but without a PUD there wouldn't be a site plan review and his client is willing and wanting to go through that process.

Ms. Wright asked about the land discussed for the hammerhead. In response, Mr. Johnsen stated that there is a remnant tract of land that he believes is owned by ODOT and looks to the City of Tulsa to manage. This is surplus property and it would be an excellent use to have as a hammerhead. Ms. Wright asked if the property has been acquired. In response, Mr. Johnsen stated that it hasn't been acquired at this time. In response, Ms. Wright stated that unless the property is acquired, then none of this proposal would really apply. In response, Mr. Johnsen stated that ODOT disposes of their surplus properties and if it doesn't happen, then there won't be five units. Ms. Wright stated that unless the land can be acquired then this is a moot issue. In response, Mr. Johnsen stated that he believes the development could still be done, but it wouldn't be for five units. Ms. Wright stated that this is something that the Planning Commission would need to consider on four units because the PUD was approved at four units. What the Planning Commission is being asked to look at is the RT verses the OL and that was really the problem because with OL something other than residential could go in there. It was approved for 35 feet and not 42 feet and she noticed that on the visuals. This is why she spoke with the City Council, because the 42 feet and five unit thing keeps showing up again and it is not reflecting what the Planning Commission had excluded.

Mr. Johnsen explained to Ms. Wright that the application is back in front of the Planning Commission with PUD-757 and perhaps the Planning Commission may decide not to look at it again. He believes that it is jurisdictionally in front of the Planning Commission to consider and he has an opportunity to speak to it and that is what he is doing. The City has given its okay to include the surplus property in the proposal and he believes the property will be acquired. If it doesn't, then his client will not be able to do this project and there is no risk to the City because the PUD requires a hammerhead.

Mr. Carnes stated that seven feet is all that is involved with the height and it will give the applicant a chance to make it look better. The Planning Commission isn't supposed to be the architect. He would be supportive of five units at 42 feet in height and this is the perfect chance to have infill development. Mr. Carnes complimented Mr. Johnsen and his client for their effort.

**Interested Parties Comments:**

**William Beers**, 1501 South Norfolk Avenue, 74120, stated that he is representing over 190 people who signed petitions against this project, which he submitted for the first hearing. There are no abutting property owners who agree to anything more than four units at 35 feet in height. The other misconception is that it is his home only that would be impacted by the height, but there are five homes with views that would be impacted. It is true that there are no view protection laws, but that is why it is important for the Planning Commission to follow the Zoning Code and only allow 35 feet. He requested that the Planning Commission stay with their original recommendation of four units at 35 feet in height. There is no compelling reason to allow an increase in height other than the esthetics, which translate into more money for the developer and a loss of property value for his home and the other homes that will lose their view. Mr. Beers indicated that if the Planning Commission approved a higher density, the 42 feet in height would force the neighbors to pursue litigation with the developer when he has already stated that he would proceed at 35 feet with four units. This is an excellent compromise and it would let everyone move on with their lives.

**TMAPC COMMENTS:**

Mr. Shivel stated that Mr. Johnsen indicated that the tree growth along the IDL was in fact higher than the 42 feet that is being proposed, and if this is so, that would mitigate any perceived loss of view. In response, Mr. Beers stated that there are no trees where the current house is located. The current house is diagonally in line with his home. There are trees to the left and to the right and the downtown view sits right where the house is currently sitting. The trees that are present are not much taller than the house and they only have leaves on them in the spring and summer.

Ms. Wright stated that she did have some ex parte communication on this project. The subject property is all a part of the historic area, but she doesn't know which group. Mr. Beers stated that the subject property had been reported to a National Preservation Commission that was distressed when they came to Tulsa and found that the subject property was going away. Ms. Wright stated that there is very few of these types of property remaining and it is on the Historic Neighborhoods of Tulsa list that was published a long time ago. The publication listed the subject area as a protected area. Ms. Wright asked how this comes into the mix and did the subject property not go through the historic process. In response, Mr. Beers stated that he found out that the Comprehensive Plan states that there is a certain duty to preserve the surrounding area of Historic Preservation designations and since there are homes that are HP-zoned within the 300-foot noticing boundary that is part of what needs to be preserved. The view has been there for almost 100 years. Mr. Beers described the proposed development as an encroachment.

Ms. Wright stated that there was another issue when dealing with Elm Creek Basin drainage problem, that the floodplain area kind of crept up through there

and these are all things that were not considered. There are a number of issues concerning this area.

**Interested Parties Comments:**

**Connie Desai**, 1512 South Norfolk, 74120, stated that she believes that Mr. Ard received an email or letter from Mr. Pielsticker and she would like it presented today. The definition of infill should be looked at when discussing this project. Normally infill is for blighted projects or vacant property and this property is neither one of those. There is a home on the subject property that is part of the National Register Historical District. The house in question is conforming, viable and structurally sound and has been nominated as a nationally endangered property to the State Preservation Corporation. She believes that this shouldn't be looked at as an infill project. The subject property is listed on the National Register and is inhabited and will be demolished to build these townhomes.

Ms. Desai stated that she doesn't understand why the applicant requested OL zoning in the first hearing unless he wanted to build an office. She indicated that there have not been any meetings since the case has been sent back to the Planning Commission and changed their request. Every time this project leaves the Planning Commission it has grown in its request. This project will create a parking problem on the south side of Norfolk and south of 15<sup>th</sup> Street. The applicant hasn't come back with new plans and she doesn't know what was submitted today. She commented that she can't say she approves or disagrees with the proposal before the Planning Commission today, since she can't see what is before them (meeting held in Aaronson Auditorium without video abilities). Mr. Ard offered Ms. Desai a copy of the submittal and she stated that if she had a copy now she couldn't make a decision in ten seconds (note: information is posted on the website at [www.tmapc.org](http://www.tmapc.org)). Ms. Desai requested that the Planning Commission consider the negative impact of the subject project. Ms. Desai cited that the subject property has been named as being among the most endangered historic place in Oklahoma.

**TMAPC COMMENTS:**

Mr. Marshall asked Ms. Desai how one gets on the national historic area that she was speaking of. In response, Ms. Desai stated that it was done years ago when Maple Ridge was given that designation. She explained that the HP overlay does not extend to the subject property, but it is in a National Historic District.

Mr. McArtor asked Ms. Desai if the existing home is on the National Historic Register. In response, Ms. Desai answered negatively.

Ms. Wright asked if the existing home is on the endangered list. In response, Ms. Desai stated that it has been nominated for the endangered list. Mr. Ard asked if it was just the house. In response, Ms. Desai stated it was the existing home specifically. This was a result of the National Trust Convention being held in Tulsa, an onsite visitation and discussion of properties at risk in Tulsa.

Mr. Boulden asked Ms. Desai who nominated the existing home. In response, Ms. Desai stated that she doesn't know. Mr. Boulden asked if the current homeowner nominated the home. In response, Mr. Desai stated that she doesn't know. Ms. Desai further stated that the property owner doesn't have to nominate it.

**Applicant's Rebuttal:**

Mr. Johnsen stated that the subject property is not in the historic preservation zoning district, nor is it within the National Register of Historic Places or Structures. The dividing line is 15<sup>th</sup> Street and properties south of 15<sup>th</sup> are within the National Register of Historic Places. He believes that there is a possibility that there could be some confusion that some of the properties north of 15<sup>th</sup> are included, but they are not. Maplevue development occurred in the 1990s and is east of the subject property. Mr. Pielsticker's house is on the north end of Norfolk and was built in the 1990's. The existing home is in terrible condition and it is not because of Mr. Jackson because he just recently purchased the property. The existing home and subject property are not on any register or subject to any historic preservation limitations and it would be misleading to suggest otherwise.

Mr. Johnsen stated that regarding the height of the proposal, his client will accept the 35 feet if that is the desire of the Planning Commission. He explained that if it is 35 feet in height, it will be without a pitched roof. Mr. Johnsen commented that his client would need 42 feet in height in order to have a pitched roof and he believes that it would look nicer. The five units are justified and nothing he has heard today suggests otherwise on merits. This is a great location for infill and if it is done right, one will want more units. It doesn't make good sense to hold it down to four units because it is difficult to lay it out or believe that it is overcrowded. The subject property meets all of the RT requirements and he would appreciate the Planning Commission's consideration for five units.

**Interested Parties Comments:**

Mr. Ard read Mr. Pielsticker's email citing that he is in agreement with the original recommendation of the Planning Commission (Exhibit C-2).

Mr. Ard stated that he would be in support of changing the zoning to RT. He believes that the Planning Commission had an initial unanimous vote for four units at 35 feet during the first public hearing and he doesn't know if he heard anything today that would change the Planning Commissions' ideas. It was late in the day and there was a lot of back-and-forth discussion, which he believes is good, helpful and thoughtful. Unfortunately Mr. Midget and Mr. Perry are not present today, but he believes it was a group effort by the Planning Commission and well discussed with a unanimous vote in the end. Mr. Ard concluded that he would support approving the original PUD and the RT zoning.



Mr. Carnes moved to approve the RT zoning and approve the PUD with five units with 35 feet in height.

Ms. Wright stated that she would like to support the original PUD that the Planning Commission was unanimous on. This would make it not unanimous.

Mr. Walker stated that he wasn't at the original meeting and so should he abstain. In response, Mr. Alberty stated that this is a new application and Mr. Walker has every right to vote on this.

Mr. McArtor seconded Mr. Carnes's motion.

**TMAPC COMMENTS:**

Ms. Wright stated that on the original application there was 1,400 SF of lot area and it has been changed to 1,600 SF. Things keep getting moved around here and the building height keeps changing. The Planning Commission approved four units at 35 feet on the original application and the critical question was whether this should be zoned RT or OL.

Mr. Ard stated that this is a new application and the Planning Commission has a motion that has been seconded.

Mr. Sansone stated that the special exception uses in the OL district require a certain square footage per dwelling unit. The residential townhouse dwelling unit requirement is higher and that is why it is 1,600 SF and no one is trying anything backhandedly. The Zoning Code requires that amount of square footage under RT zoning and the case report was prepared under the understanding that the Planning Commission was hearing an RT zoning application today. Section 403 of the Zoning Code lays all of these requirements out for the RT zoning. The Zoning Code dictates what goes into a staff recommendation.

Mr. Ard stated that he could support this with four units.

Mr. McArtor stated that he visited the subject property and it is small and he wondered how seven units would be able to go in there. With five units he is sure it is possible, but it will be tight; however, he understands why the applicant would like to have five.

Mr. Carnes called for the vote.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Ard, Carnes, Marshall, McArtor, Shivel, Walker, Wright "aye"; "nays"; none "abstaining"; Cantrell, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of RT zoning for Z-7096 per staff recommendation.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **4-3-0** (Carnes, Marshall, Shivel, Walker, "aye"; Ard, McArtor, Wright "nays"; none "abstaining"; Cantrell, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of PUD-767 per staff recommendation with five dwelling units at 35 feet in height.

**Legal Description for Z-7096/PUD-757:**

A TRACT OF LAND THAT IS PART OF LOTS ONE (1), TWO (2), THREE (3) AND A PORTION OF THE EAST HALF OF A 20' WIDE ALLEY, BLOCK THIRTEEN (13) OF "BROADMOOR ADDITION" TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT THEREOF, SAME BEING THAT TRACT OF LAND DESCRIBED IN QUIT CLAIM DEED RECORDED IN BOOK 6655, PAGE 2137 OF THE DEED RECORDS OF SAID TULSA COUNTY AND THAT TRACT OF LAND DESCRIBED IN GENERAL WARRANTY DEED RECORDED ON BOOK 5590, PAGE 840 OF SAID DEED RECORDS. BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 3, SAME BEING THE SOUTHEAST CORNER OF THE SECOND REFERENCED TRACT OF LAND; THENCE SOUTH 88° 28' 13" WEST (PREVIOUSLY DESCRIBED AS WEST), ALONG THE SOUTHERLY LINE OF SAID LOT 3, PASSING AT 140.00 FEET THE WESTERLY LINE THEREOF, IN ALL A DISTANCE OF 150.00 FEET TO THE WESTERLY LINE OF THE AFOREMENTIONED EAST HALF OF A 20' WIDE ALLEY, SAME BEING THE SOUTHWEST CORNER OF THE FIRST REFERENCED TRACT OF LAND. THENCE NORTH 01° 26' 10" WEST (PREVIOUSLY DESCRIBED AS NORTH), ALONG SAID WESTERLY LINE, A DISTANCE OF 78.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE BROKEN ARROW EXPRESSWAY; THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING TWO CALLS: NORTH 54°47'13" EAST A DISTANCE OF 129.93 FEET; NORTH 88° 32'59" EAST (PREVIOUSLY DESCRIBED AS EAST) A DISTANCE OF 42.00 FEET TO THE EASTERLY LINE OF THE AFOREMENTIONED LOT 1, THENCE SOUTH 01° 26' 10", ALONG THE EASTERLY LINE OF SAID LOTS 1, 2, AND 3, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING, **From RS-3/OL (Residential Single-family District/Office Low Intensity District) To RT/PUD (Residential Townhouse District/Planned Unit Development [PUD-757]).**

\* \* \* \* \*

## **OTHER BUSINESS:**

24. **Resolution finding that the amendment to the Brady Village Tax Increment District Number 1, City of Tulsa, Oklahoma Project Plan – Ten Year Extension – is in conformance with the Comprehensive Plan of the City of Tulsa.**

## **STAFF RECOMMENDATION:**

### **RESOLUTION OF THE TULSA METROPOLITAN AREA PLANNING COMMISSION**

**A RESOLUTION FINDING THAT THE AMENDMENT TO THE BRADY VILLAGE TAX INCREMENT DISTRICT NUMBER ONE, CITY OF TULSA, OKLAHOMA PROJECT PLAN – TEN YEAR EXTENSION – IS IN CONFORMANCE WITH THE COMPREHENSIVE PLAN OF THE CITY OF TULSA.**

**WHEREAS**, pursuant to Title 19, Oklahoma Statutes, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29<sup>th</sup> day of June 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area ("Comprehensive Plan"), which Plan was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma; and

**WHEREAS**, the Comprehensive Plan contains sections providing policies and programs for providing specific guidance and direction of the physical development of various elements or areas of the Metropolitan Community, including but not limited to the corporate limits of the City of Tulsa, Oklahoma; and

**WHEREAS**, on December 3, 1992, the City of Tulsa established the Local Development Act Review Committee in accordance with House Bill No. 1525, now cited as the Local Development Act, 62 O.S. Supp. 1992, §851 et seq.; and

**WHEREAS**, the Tulsa Metropolitan Area Planning Commission reviewed the original Brady Village Tax Increment District Project Plan ("Project Plan") and, on November 3, 1993, adopted a resolution declaring that Tax Increment District Number One, City of Tulsa, Oklahoma Project Plan is in conformity with the Comprehensive Plan for the City of Tulsa and recommended to the City Council of the City of Tulsa the approval of Tax Increment District Number One, City of Tulsa, Oklahoma, Project Plan; and

**WHEREAS**, said Local Development Act requires that the Tulsa Metropolitan Area Planning Commission review the proposed project plan,

including any major amendments, and make recommendations to the City Council of the City of Tulsa as to the conformity of any proposed Tax Incentive or Tax Increment Plan to the Comprehensive Plan of the City of Tulsa; and

**WHEREAS**, the City of Tulsa Economic Development and Real Estate Management Department has prepared an amendment to the Brady Village Tax Increment District Number One, City of Tulsa, Oklahoma, Revised Project Plan – Ten Year Extension – in connection with the Local Development Act; and

**WHEREAS**, on October 20, 2008 the Local Development Act Review Committee voted to recommend to the City Council that the proposed amendment to the Brady Village Tax Increment District Number One, City of Tulsa, Oklahoma, Amended Project Plan, be approved and adopted by ordinance to extend the term of the Increment District and additional ten (10) years, from December 21, 2008 through December 21, 2018; and

**WHEREAS**, said Brady Village Tax Increment District Number One, City of Tulsa, Oklahoma, Revised Project Plan Amendment – Ten Year Extension – has been submitted to the Tulsa Metropolitan Area Planning Commission for review in accordance with the Local Development Act;

**NOW, THEREFORE, BE IT RESOLVED BY THE TULSA METROPOLITAN AREA PLANNING COMMISSION THAT:**

Section 1. The Brady Village Tax Increment District Number One, City of Tulsa, Oklahoma, Revised Project Plan Amendment – Ten Year Extension – in connection with the Local Development Act is found to be in conformity with the Comprehensive Plan for the City of Tulsa and further recommends to the City Council of the City of Tulsa the approval of the Brady Village Tax Increment District Number One, City of Tulsa, Oklahoma, Revised Project Plan Amendment.

Section 2. Certified copies of this resolution shall be forwarded to the City Council of the City of Tulsa.

**TMAPC COMMENTS:**

Mr. Ard stated that he is on the TIF Committee and this is basically an extension of the Brady TIF that was originally approved in 1993. This will provide for infrastructure improvements. This was signed off by all of the parties that are on the TIF Committee, including the school districts that this would have the most impact on. Mr. Ard stated that he is in support of approving this resolution.

**TMAPC Action; 7 members present:**

On **MOTION** of **WALKER**, TMAPC voted **7-0-0** (Ard, Carnes, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, Midget, Smaligo, Sparks "absent") to recommend **APPROVAL** of the resolution finding that the amendment to the Brady Village Tax Increment District Number 1, City of Tulsa, Oklahoma Project Plan – Ten Year Extension – is in conformance with the Comprehensive Plan of the City of Tulsa per staff recommendation.

\* \* \* \* \*

**Mr. Carnes out at 5:50 p.m.**

Mr. Boulden stated that the Planning Commission will have to go into executive session to discuss the next item.

**TMAPC Action; 6 members present:**

On **MOTION** of **WALKER**, TMAPC voted **6-0-0** (Ard, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, Carnes, Midget, Smaligo, Sparks "absent") to **ENTER** executive session pursuant Title 25 O.S. Section 307(B)(4) to discuss pending litigation and a proposed settlement in the matter of Utica Place LLC v. Tulsa Metropolitan Area Planning Commission, an appeal from a decision of the Tulsa Metropolitan Area Planning Commission, conditioning approval of a Preliminary Plat upon compliance with Subdivision Regulations, requiring a Sidewalk along Utica Avenue, Tulsa County District Court Case No. CJ-2005-5878.

Mr. Boulden asked the room to be cleared except for staff and Planning Commission members.

Ms. Wright asked if her son could remain in the room and continue to work on his computer. In response, Mr. Boulden stated that he is sorry but he will have to leave because it breaches the confidentiality requirement. In response, Ms. Wright asked who this (other) guy is. Mr. Boulden stated that Mr. Steele is staff and he requested his presence.

25. **Consider motion and enter executive session pursuant Title 25 O.S. Section 307(B) (4) to discuss pending litigation and a proposed settlement in the matter of Utica Place LLC v. Tulsa Metropolitan Area Planning Commission, an appeal from a decision of the Tulsa Metropolitan Area Planning Commission, conditioning approval of a Preliminary Plat upon compliance with Subdivision Regulations, requiring a Sidewalk along Utica Avenue, Tulsa County District Court Case No. CJ-2005-5878.**

Entered Executive Session at 5:51 p.m.

\* \* \* \* \*

- 26. **Leave executive session to take action on pending litigation and a proposed settlement in the matter of Utica Place LLC v. Tulsa Metropolitan Area Planning Commission, an appeal from a decision of the Tulsa Metropolitan Area Planning Commission, conditioning approval of a Preliminary Plat upon compliance with Subdivision Regulations, requiring a Sidewalk along Utica Avenue, Tulsa County District Court Case No. CJ-2005-5878.**

**TMAPC Action; 6 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Ard, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, Carnes, Midget, Smaligo, Sparks "absent") to **LEAVE** executive session to take action on pending litigation and a proposed settlement in the matter of Utica Place LLC v. Tulsa Metropolitan Area Planning Commission, an appeal from a decision of the Tulsa Metropolitan Area Planning Commission, conditioning approval of a Preliminary Plat upon compliance with Subdivision Regulations, requiring a Sidewalk along Utica Avenue, Tulsa County District Court Case No. CJ-2005-5878.

Leave Executive Session at 6:05 p.m.

**TMAPC COMMENTS:**

Mr. Boulden stated that he would like a motion to authorize the City Attorney's Office, representing the TMAPC, to make a counter offer and authorization to allow the Chair of the Planning Commission to represent the Planning Commission in making decisions in dealing with this litigation.

**TMAPC Action; 6 members present:**

On **MOTION** of **SHIVEL**, TMAPC voted **6-0-0** (Ard, McArtor, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Cantrell, Carnes, Midget, Smaligo, Sparks "absent") to authorize the City Attorney's Office, representing the TMAPC, to make a counter offer consistent with executive session recommendation and authorization to allow the Chair of the Planning Commission to represent the Planning Commission in making decisions regarding the subject litigation.

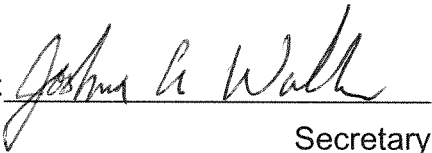
\* \* \* \* \*

There being no further business, the Chair declared the meeting adjourned at 6:06 p.m.

Date Approved:



Chairman

ATTEST:   
Secretary