

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2541

Wednesday, March 4, 2009, 1:30 p.m.

City Council Chambers

One Technology Center – 175 E. 2nd Street, 2nd Floor

Members Present	Members Absent	Staff Present	Others Present
Cantrell	McArtor	Alberty	Boulden, Legal
Carnes	Midget	Feddis	
Keith	Sparks	Fernandez	
Leighty		Huntsinger	
Marshall		Matthews	
Shivel		Sansone	
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, February 26, 2009 at 3:37 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 Cantrell called the meeting to order at 1:36 p.m.

REPORTS:

Comprehensive Plan Report:

Martha Schultz reported on the Comprehensive Plan update and advised everyone to visit the website, www.planitulsa.org, for more information as it becomes available.

Director's Report:

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

Ms. Cantrell read the opening statement and rules of conduct for the TMAPC meeting.

CONSENT AGENDA

- 1. **LS-20284** – Andrew Shank (9318)/Lot-Split (PD 6) (CD 9)
Northwest corner of East 22nd Place and South Zunis Avenue, 2145 East 22nd Place
- 2. **LS-20285** – Barton Construction Co., Inc. (0322)/Lot-Split (PD 16) (CD 3)
Northwest corner of East 30th Street North and North Sheridan Road, 3002 North Sheridan Road
- 3. **LS-20286** – Malcolm Rosser (0213)/Lot-Split (PD 25) (CD 1)
Northwest corner of East 36th Street North and North Hartford Avenue, 505 East 36th Street North
- 4. **Smith Acres Amended - (7333) Final Plat (County)**
Northwest corner of 181st Street South and South Yale Avenue

Staff Recommendation for Smith Acres Amended:

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

All release letters have been received and staff recommends **APPROVAL**.

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Cantrell, Carnes, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Keith, McArtor, Midget, Sparks "absent") to **APPROVE** the consent agenda Items 1 through 4 per staff recommendation.

Ms. Cantrell stated that the following cases have requested a continuance:

- 5. **LS-20096** Joseph Wells (9404)/Lot-Split (Continued (PD 17) (CD 6)
from 2/25/09)
Southwest corner of East Admiral Place and South 145th Avenue, 420 South 145th East Avenue (Request for a continuance to April 15, 2009.)

STAFF RECOMMENDATION:

Ms. Feddis stated that the owners are requesting a continuance to April 15th to continue working on requirements.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Cantrell, Carnes, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Keith, McArtor, Midget, Sparks none "absent") to **CONTINUE** LS-20096 for lot-split to April 15, 2009.

6. **Tom's Kids** – (8333) Preliminary Plat (PD 26) (CD 8)
Southwest corner of 116th alignment and South Yale Avenue
(Continuance requested to 3/18/09 for proper legal notice.)

STAFF RECOMMENDATION:

Staff is requesting a continuance to March 18, 2009 for a proper legal notice.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Cantrell, Carnes, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Keith, McArtor, Midget, Sparks "absent") to **CONTINUE** the preliminary plat for Toms' Kids to March 18, 2009.

8. **BOA – 20874** – (0226) Plat Waiver (PD 2) (CD 1)
West of North Cincinnati Avenue and north of East Queen Street
(Continuance requested to 3/18/09 for Board of Adjustment consideration)

STAFF RECOMMENDATION:

Staff is requesting a continuance to March 18, 2009 in order to allow the Board of Adjustment to hear this case on March 10, 2009.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Cantrell, Carnes, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Keith, McArtor, Midget, Sparks "absent") to **CONTINUE** the plat waiver for BOA-20874 to March 18, 2009.

PUBLIC HEARING

7. **Z-7126** – (9308) Plat Waiver (PD 4) (CD 4)
Northeast of the northeast corner of East 15th and South Lewis

STAFF RECOMMENDATION:

The platting requirement is being triggered by a pending rezoning to PK for a parking lot for an existing Braum's store.

Staff provides the following information from TAC at their February 19, 2009 meeting:

ZONING:

TMAPC Staff: The property is a small tract that is currently platted. It will be leased from ODOT (Oklahoma Department of Transportation) for parking use only.

STREETS:

Based on the parking use we have no objection.

SEWER:

No comment.

WATER:

No comment.

STORM DRAIN:

No comment.

FIRE:

No comment.

UTILITIES:

No comment.

Staff recommends **APPROVAL** of the plat waiver because of the existing platted property.

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

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

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

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

- 10. Is this a Major Amendment to a P.U.D.? X
 a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?
- 11. Are mutual access easements needed to assure adequate access to the site? X
- 12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? X

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Cantrell, Carnes, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Keith, McArtor, Midget, Sparks "absent") to **APPROVE** the plat waiver for Z-7126 per staff recommendation.

Commissioner Keith in at 1:50 p.m.

- 9. **PUD-769 – Hunter Construction MGT, Inc.** **OL to OL/PUD**
 East of the northeast corner of East 81st Street and South Yale Avenue (PUD to divide the subject property into four or five pad sites for Use Unit 11 – Office, Studio and Support Services only.) (PD-18) (CD-8)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 17231 dated October 17, 1989, established zoning for the subject property.

PROPOSED ZONING: OL/PUD **PROPOSED USE:** Office

RELEVANT ZONING HISTORY:

PUD-500 June 1993: All concurred in approval of a propose Planned Unit Development a 7.6± acre tract of land for a commercial shopping center on property located on the northeast corner of East 81st Street and South Yale Avenue and abutting the subject property to the west.

PUD-457 March 1990: All concurred in approval of a propose Planned Unit Development a 76.7± acre tract of land for residential development, subject to conditions on property located north and east of the northeast corner of East 81st Street South and South Yale Avenue and abutting north and east of subject property.

Z-6256 October 1989: All concurred in approval of a request for rezoning a 80± acre tract of land from AG to RS-3/OL on property located east of northeast corner of East 81st Street and South Yale Avenue and a part of the subject property

Z-6026/PUD-389 February 1985: All concurred in approval of a request for rezoning a 32± acre tract of land from RS-3 to RM-0/OL and a propose Planned Unit Development for multi-family use on property located on the southeast corner of 81st Street and South Yale Avenue and abutting south, across 81st Street, of subject property.

PUD-210 June 1978: All concurred in approval of a propose Planned Unit Development a 10.77± acre tract of land for single-family development on property located north of the northeast corner of East 81st Street and South Yale Avenue.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 3.31± acres in size and is located east of northeast corner of East 81st Street and South Yale Avenue. The property appears to be vacant and is zoned OL.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 81 st Street South	Secondary Arterial	100'	3

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

SURROUNDING AREA: The subject tract is abutted on the north and east by Holland Lakes, zoned RS-3/PUD; on the south by 81st Street and then The Vintage on Yale, zoned RD/RS-3/PUD; and on the west by Holland Center, zoned CS/RM-1/RS-3/PUD.

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 Low Intensity – No Specific Land Use. According to the Zoning Matrix, the existing OL zoning **may be found** in accord with the Plan. In 1989, the OL zoning was found to be in accord with the Plan.

STAFF RECOMMENDATION:

The subject property is a 2.71 acre (118,125 sq) tract located east of the northeast corner of 81st Street South and South Yale Avenue. As stated above, the subject tract is abutted on the north and east by a heavily wooded reserve area for Holland Lakes and then Holland Lakes, a single family residential development zoned RS-3/PUD; on the south by 81st Street and then The Vintage on Yale, zoned RD/RS-3/PUD; and on the west by Holland Center, zoned CS/RM-1/RS-3/PUD.

The subject property is zoned OL, the land area of which would permit 43,312 SF of floor area at a .3 floor-to-area (FAR) ratio. PUD-769 proposes to divide the site into four or five pad sites allowing a total 40,000 SF of floor area, limited to Use Unit 11 – Office, Studio and Support Services only (see Exhibits A-1 and A-2).

Please refer to Exhibit B, the topographic map of the site, showing an approximate 15-foot (+/-) decline in topography from the 81st Street right-of-way (ROW) to the south edge of the Holland Lake (see also site photographs attached hereto by staff). Rather than level the site and raise grade 15 feet (+/-) with retaining walls, the applicant is proposing the PUD overlay to take advantage of the site topography and allow construction of split-level buildings with basements and parking under the first floor in the rear (see Exhibit C, C-1 and C-2 - Elevations). Single-story elevations will front 81st Street with the two-story rear of the buildings screened from view with a six-foot solid wall or fence in addition to utilizing the heavily wooded south boundary of the abutting reserve area to provide additional natural screening. The inside of the screening wall or fence will also be heavily landscaped to further aid in screening.

Access to the site will be from one primary access point off 81st Street, and from a mutual access easement from Holland Center - the abutting property to the west. Sidewalks will be constructed along 81st Street.

Please refer to the attached Technical Advisory Committee (TAC) comments. Fees-in-lieu of on-site stormwater detention will be allowed for this site since there is a 100-year public drainage system along the west boundary of the site to which the stormwater will be directed. No stormwater will be allowed to drain into the reserve area for the adjacent Holland Lakes development.

The applicant notes subdivision platting is planned for the spring of 2009. The applicant anticipates the first custom building will break ground by fall 2009. The balance of the lots will be developed as the marketing of the individually owned buildings are sold.

With additional buffering and screening along the north and east boundaries of the site in addition to the naturally heavy vegetation in the reserve area of

Holland Lakes and drainage diverted away from the aforementioned reserve area, staff can support the proposal.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-769 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-769 subject to the following conditions as amended by staff:

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

AREA:

GROSS:	3.31 ACRES	144,375 SF
NET:	2.71 ACRES	118,125 SF.

PERMITTED USES:

Those uses permitted as a matter of right in Use Unit 10 - Off-Street Parking Areas and Unit 11 - Offices, Studios and Support Services only.

MAXIMUM BUILDING FLOOR AREA: 40,000 SF.

MAXIMUM BUILDING HEIGHT:

One story, not to exceed 20 feet facing 81st Street frontage and two stories, not to exceed 40 feet on the north elevation, with the lower level being covered parking, storage or day light basements for general office and mechanical equipment space.

Off-STREET PARKING:

As required by the applicable Use Unit of the Tulsa Zoning Code. Covenants and cross easements between lots in the subdivision will allow some shared parking.

MINIMUM BUILDING SETBACKS:

From centerline of 81 st . Street:	100 FT
From the east boundary of the PUD:	10 FT
From the north boundary of the PUD:	40 FT
From the west boundary of the PUD:	40 FT
From internal lot lines:	0 FT*

** A 10 foot building separation is required*

MINIMUM LANDSCAPED AREA:

A minimum of 15% of land area shall be improved as internal landscaped open space in accord with the Landscape Chapter of the Zoning code, as well as perimeter landscaping as required by the Zoning Code which may be included in open space calculations.

SITE SCREENING:

A minimum of a six-foot (6') solid screened wall or fence shall be constructed along the entirety of the north and east boundaries of the PUD in conformance with Section 1211, C-1 of the Tulsa Zoning Code.

LIGHTING:

All parking area light standards shall not exceed 16 feet in height. All parking lot lighting shall be directed downward and away from the north and east boundary of the property in compliance with Section 1303-C of the Tulsa Zoning Code. Verification of compliance shall be through application of the Kennebunkport formula and submission of a photometric plan.

No lighting on the north- and east-facing walls of the office buildings shall be permitted other than accent and security lighting which shall also comply with Section 1303-C of the Code. Verification of compliance shall also be through application of the Kennebunkport formula and submission of a photometric plan.

SIDEWALKS:

Sidewalks will be provided along 81st Street South per subdivision regulations.

TRASH CONTAINERS:

Trash receptacles shall be completely screened from view of a person standing at ground level within an abutting residential district. Trash collection will be restricted to 9:00 am to 6:00 pm.

SIGNS:

One tenant identification sign is permitted along the 81st Street frontage identifying the office park not to exceed eight feet in total height nor 64 square feet of display surface area. Each building will be permitted one south facing wall sign not to exceed one square foot of display surface area per lineal foot of wall to which the sign is affixed.

3. No zoning clearance permit shall be issued until a detail site plan for the lot, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards. Cross parking arrangements shall be reflected on each site plan.
4. A detail landscape plan for the 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 will be installed by a specific date in accordance with the approved landscape plan, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
5. No sign permits shall be issued for erection of a sign within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
7. 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 or existing stormwater drainage structures and detention areas serving the development area have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
8. No building permit shall be issued until the platting requirements of Section 1107-F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
9. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
10. 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.

11. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle. Receptacle screening shall be constructed of materials having an appearance similar to the buildings themselves and be of complementary color. Trucks or truck trailers may not be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

TAC Comments:

General: No Comments.

Water: A 12-inch water mainline exists along the south side of E. 81st St. South.

Fire: The required turning radius of a fire apparatus access road shall be determined by the fire code official. Fire apparatus roads shall be designed with a minimum of 28 feet inside radius and a minimum of 48 feet' outside radius.

Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

Exceptions:

1. For Group R-3 and Group U occupancies, the distance requirement shall be 600 feet (183 m).
2. For buildings equipped throughout with an approved automatic sprinkler system the distance requirement shall be 600 feet.

Stormwater: Stormwater notes from the Pre-Development Conference state the following: A Stormwater Pollution Prevention Plan (SP3) will be required for this site. There is a 100-Year Public Drainage System along the west boundary of this site, therefore, Fees-In-Lieu of providing On-site Detention will be allowed. Additional drainage is not allowed to flow to the existing Reserve Area. Fill materials and spoils cannot be placed in the floodplain. It is recommended that a location specific Flood Zone Determination be requested for all buildings constructed on this site. An Infrastructure Development Process (IDP) project, previously known as Privately Financed Public Improvement (PFPI), will be required to connect to the Public Drainage System, and to construct Public Drainage Systems on this site.

Wastewater: Access to sanitary sewer service must be provided to all lots within the proposed development.

Transportation: Sidewalk required along 81st St. Include sidewalks in Access and Circulation section on Page 4.

INCOG Transportation comments:

- MSHP: 81st St. S., between S. Sheridan Rd and S. Yale Ave., is designated secondary arterial.
- LRTP: 81st St. S., between S. Sheridan Rd and S. Yale Ave., planned 4 lanes.

- TMP: No comments.
- Transit: No existing or future plans for this location.

GIS: No comments.

Street Addressing: No comments.

Mr. Sansone explained that he apologizes for leaving the language out for site screening. He indicated that it would be a six-foot solid screening wall or fence around the entirety of the northern border and the eastern border of the subject site.

Mr. Sansone indicated that he has met with some of the homeowners of Holland Lakes and the screening does seem to be one of the primary issues.

TMAPC COMMENTS:

Ms. Cantrell asked if traditionally the Planning Commission has required a masonry wall when abutting residential. Mr. Sansone stated that he can't think of an instance where strictly office use was required to use masonry walls for screening. He commented that when there are mixed-use developments with retail and/or commercial components, then the masonry wall has been required. For less intensive uses, such as offices, staff feels comfortable with the six-foot solid wood fence for screening.

Ms. Cantrell asked if staff has any problem with the wall being developed before the buildings in order to keep the dust and noise down for the neighborhood. In response, Mr. Sansone stated that he wouldn't have a problem with that requirement, but there could be some problems from the development standpoint regarding utilities.

Ms. Cantrell stated that there is nothing in the staff report today that would prevent the applicant from doing extensive earth moving and then putting in a two-story building. She asked if there is something that staff could suggest that would ensure that there wouldn't be a substantial amount of dirt brought in to build it up to two stories. Mr. Sansone stated that there isn't anything in the staff report that would guarantee that. He does believe that it is the intent of the developer to not do extensive earth moving and try to work with the topography of the subject property. Staff relies on Development Services to ensure that these types of things are being looked at.

Mr. Sansone stated that the subject site does have some topographical challenges and there will be some earth changing necessary. The drop-off is greatest the farther west away from the subject site.

In response to Mr. Marshall, Mr. Steele stated that there is a portion of floodplain along the northern perimeter, which will have to be accommodated in the infrastructure development plan that will follow this to ensure that they are not

filling in the floodplain or causing any change in the floodplain that would increase flooding downstream.

Mr. Sansone stated that the developer will have to divert additional drainage from Holland Lakes. It will have to be diverted offsite through the 100-year detention area to the west of the subject property.

David Steele, Senior Engineer, Development Services, City of Tulsa, was requested by Mr. Marshall to answer a few questions. Mr. Steele gave the following answer to Mr. Marshall regarding drainage issues and diverting runoff on the subject property: Mr. Steele stated that when the City reviews the final plans for infrastructure development, the grading will have to be as such to allow all of the runoff to go into the 100-year system on the west side. This was designed to accommodate all of the flow for a fully developed water channel stream. The City will look at their plans and their early grading plans to ensure that they don't increase the runoff that goes into Holland Lakes. Holland Lakes is a system that is running well now and shouldn't be disturbed by this development. He explained that he hasn't seen any plans for the final grading because they haven't been developed yet, but they will have to grade properly to avoid runoff to Holland Lakes.

Ms. Wright asked about perc testing to find out the amount of water that is now seeping naturally into the land. In response, Mr. Steele stated the final plans will be responsible for diverting the runoff. He explained that there will be analysis of the drainage, increase in pervious area and as well as the land that is left pervious, including the soil type, vegetation coverage and its absorption capabilities. This is all a part of the detail design during the next step. He further explained that fees-in-lieu will be allowed for the subject property because the 100-year system was built to accommodate the subject site. Ms. Wright asked what recourse the homeowners would have if the water is not diverted. In response, Mr. Steele stated that the water runoff will be diverted or the City will not approve it unless it works correctly.

Mr. Boulden asked who is responsible for the maintenance of Holland Lakes. In response, Mr. Steele stated that most reserve areas are the responsibilities of the homeowners association. There are some that are the responsibility of the City to maintain. He doesn't know for certain regarding the Holland Lakes. There are detention easements and the primary purpose is to detain stormwater. If the wooded area around the lake is a threat to any potential embankment, then it should be cleared. Wooded areas around the pond should be no problem and the trees are the homeowners association's responsibility. (Mr. Steele repeated his explanation of the detention basin and maintenance of the basin to the interested parties who were having problems hearing due to the sound system.) Mr. Steele informed the homeowners that they are free to call the City at any time and the City will come out to look at it and advise the homeowners on the maintenance and any additional work that may need to be done on it. Mr. Steele

concluded that he doesn't believe the proposed project plans to change the basin in any way.

Mr. Marshall asked Mr. Steele to confirm that presently drainage from the subject land is already draining into the reserve, but no additional drainage will be allowed to flow. Mr. Steele stated that the goal is to not upset the balance of the lake. He will have to work with the engineers that design the subject proposal and get with the neighbors as well since the water coming from the wooded area will not be of the same quality it is currently. This will be discussed between the engineer and Development Services. The homeowners are welcome to be involved in that process at anytime. The water quality coming from a parking lot will be different from what is coming from a wooded area. The City will know how much runoff is generated by the subject project and the effect it will have on the lake. If the runoff is an adverse effect, and if the homeowners do not want it, then the City will require that the drainage be diverted from the parking lots over to the 100-year system and not into the pond. Mr. Steele reminded everyone that the City doesn't know enough about the project at this point to advise the effects it will have on the basin. The development process follows immediately after granting the PUD and establishing standards.

Applicant's Comments:

Ted Sack, 111 South Elgin, 74120, representing Hunter Construction, stated that he is in agreement with staff's recommendation. Mr. Sansone did an excellent job of explaining the situation of the subject property. Adjacent to the subject property is a reserve area that is part of the platted subdivision that exists to the north and acts as a natural buffer from the proposed office development. The subject property currently could be developed without a PUD; however, he feels that it would make for a better development and more flexibility with the property by going through the PUD process. This would allow a common drive along the front rather than having four or five driveways going out to 81st Street. By filing a PUD it is possible to have a private street that goes along the front and ties each of the lots together and limits it to one point of access out to 81st Street. The property to the west would have a second means of access.

Mr. Sack stated that the challenge of the site is that there is 20 feet of fall that runs from the south side of the subject property up to the north side of the subject property. The desire of his clients is to try and work with the topography and they have come up with the concept to build a one-story office building, but have the backend of it where it has the capability of being open to allow parking underneath it. This would allow more landscaping and less of the overall property being taken up with parking. Perhaps the area underneath the building could be used as storage or some capability in that regard, possibly with doors on it to make it a parking garage.

Mr. Sack stated that his clients have met with the neighborhood to explain their proposal. He commented that he doesn't believe that his client and the

neighborhood are in agreement. His clients have no problem building a wood screening fence along the north and east boundaries to prevent car lights from glaring into homes. This is some distance from any rear of homes and there are very few homes.

Mr. Sack described the elevations and slopes across the subject property. Mr. Sack submitted elevations for the east and west end of the subject property (Exhibit A-1). There is a little bit of a regulatory floodplain at the northwest corner of the subject property and his client doesn't plan on doing any filling on that corner of the subject property. He understands the floodplain situation, as well as the detention requirement. There is a 100-year storm sewer on the west side of the subject property and his client has an option to pay a fee-in-lieu and use that storm sewer system. The plan is to capture the water in the parking lot on the north side of the subject property and drain it to the west parking lot and then into the storm sewer system.

TMAPC COMMENTS:

In response to Ms. Cantrell, Mr. Sack stated that there have been developments in the past that have installed the screening wall first. In this case, it will be a wooden fence and there will be some utilities along the boundaries. He believes it would be best to do the fence near the end of the project because it would look newer and be in better shape. There is a certain amount of grading that will have to happen and utility projects that will not happen until near the end of the project.

In response to Mr. Marshall, Mr. Sack stated that there would not be a mini-storage unit on the subject property. The only Use Units being requested for the subject PUD are Use Units 10 and 11.

Mr. Marshall asked Mr. Sack if he would consider a ten-year limit on the subject PUD. If the PUD was approved and the applicant didn't develop the land within ten years, then it would revert to OL zoning. In response, Mr. Sack stated that he would have to discuss this with his client. Mr. Marshall asked Mr. Sack to discuss with his client about fill and possibly having a condition that existing grade elevations of land not exceed one-foot without approval of the City of Tulsa. In response, Mr. Sack stated that the topography is going to be a challenge and his client doesn't know exactly what type of buildings will be built on the subject property. Obviously there will need to be some dirt moved around in order to flatten down area for the parking lot. His client is not trying to bring in a tremendous amount of fill material and level the site. He reiterated that his client is trying to work with the topography as much as possible. Mr. Marshall stated that he would like to see an eight-foot pre-cast concrete screening wall, especially on the east side of the subject property.

Mr. Carnes asked Mr. Marshall when the Planning Commission has ever asked for an eight-foot screening wall for an office development. In response, Mr. Marshall stated that he thought under a PUD the Planning Commission has

always required an eight-foot masonry wall. Mr. Sack stated that he recalls that when there is a commercial tract of land that abuts residential, then there would be a screening requirement on the commercial side. In an office situation next to residential, he is not aware of an eight-foot masonry screening wall being required.

Mr. Sack reminded the Planning Commission that the subject tract has been zoned for office use for a long time and this is not a new change in use for the subject property.

Mr. Boulden asked Mr. Sack about the possibility of using the lower portion for storage and would that be allowed in this situation because some storage could be unsightly. In response, Mr. Sack stated that it could be opened and provide for parking spaces under the building. He further stated that he is not talking about storing vehicles and that could be restricted with covenants. His clients want a nice development and the storage would be for the office or vehicular parking.

Mr. Marshall stated that he would like to see something other than a wooden fence next to the residential area.

Interested Parties:

George "Buddy" Richardson, submitted a petition (Exhibit A-2) (Holland Lakes Homeowners) 5307 East 80th Place, 74136, **Paul Tims**, 5120 East 79th, 74136, **Douglas Benshoof**, 8008 S. Braden, 74136; **Terry Fisher**, 7908 S. Fulton, 74136; **John Thompson**, 8016 S. Darlington, 74136.

Ms. Cantrell requested that the interested parties not repeat previously stated concerns in order to move the meeting along and give everyone an opportunity to speak.

Interested Parties Comments:

Mr. Richardson read the petition submitted by Holland Lakes Homeowners (Exhibit A-2) with their requests; prefer a masonry wall for a screening wall; Hunter Construction has been great and has met with the association; need to see a 3-D concept plan; don't know what is going to be built on the subject property at this time; concerns that the PUD standards and restrictions will not be followed as happened in an adjacent PUD-500 (Border's Bookstore); greenbelt with trees were removed to do the 100-year flood system; screening fence was never erected by the developer of Borders as was required; homeowners in Holland Lakes that surround water features can't have screening fences, except to screen their backyards with a three-foot tall wrought-iron or open structure of some type; the water features will be impacted by the traffic coming and going into the subject property; homeowners had to pay for the water features to be dredged to eliminate the silt; this development could take up to three years to completely develop and to not have the wall up first it would leave the

neighborhood open for two to three years; a pre-cast masonry wall would make it look continuous with the existing neighborhood; pull the development from the eastern boundary and have more room between the eastern boundary of the neighborhood; the storm sewer on the eastern portion is not adequate to carry the flow of water underneath the road and covers about three quarters of the road at that crossing; the reserve area closest to Mr. Thompson's property is only 20 feet in depth; concerned about property values and quality of life; the subject property is already ten to twelve feet higher than Mr. Thompson's land and his neighbors and is concerned that a one-story building at 25 feet in height will be 30 to 32 feet higher than his home and a person looking out of the office building windows will be looking into his home and backyard; the proposal for a 42-foot structure will raise the height to 50 to 52 feet above his home and would not be able to counter it with any buffer or screening; approval of this would completely destroy any privacy of the neighbors and their backyards and pool area; the proposal will create a visual height and a monstrosity because it will be substantially higher than the homes; the subject property has been zoned OL for many years and everyone in the neighborhood knew that it could be developed for single-story office buildings and not multilevel buildings; neighbors agree that the developer should work with the natural lay of the land, but keep it one story; there should be sufficient planting of trees and they should be staggered to make a substantial buffer;

Councilor Bill Christiansen, City Council, District 8, stated that he is present today because he became involved in this last Sunday by the neighbors requesting him to come over for a meeting with the developer. The developers are really good and responsible developers. The real problem is that nobody really knows what is going to develop on the subject property and what format the design is going to be. There are good discussions going on because of the Sonoma Grande situation about the possibility of requiring three dimensional views. He believes that this is an appropriate piece of land to require that. The neighborhood does want to work with the developer. Office Light (OL) is a good concept to be established next to a neighborhood like this. The neighbors' fears are of the unknown at this point because they do not know what is going to be developed on the subject property. Councilor Christiansen indicated that he wouldn't disagree with a continuance, but he does understand that they are under a deadline on the subject property.

Councilor Christiansen stated that the details are the problem at this point. He indicated that the east boundary is the concern due to the setback being ten feet from the property line. The neighbors don't really know what they are going to get and he doesn't believe that the Planning Commission really knows what they are voting on today. He requested of the developer that the final landscape plan come back through the City Council. He agrees with Michelle that a PUD is probably the best way to go. Sonoma Grande has made everyone gun shy and he appreciates that Commissioner Keith and Michelle have visited the Sonoma Grande property. Councilor Christiansen commented that Mr. Steele mentioned

that he doesn't know enough about the project at this time and he is right, no one knows enough about the project. Councilor Christiansen stated that he is not trying to stop the project and it is probably a very good project, but there is a compromise somewhere and it is hard to get there when one doesn't know what it is going to be out his/her back door. Councilor Christiansen stated that he doesn't know the answer.

TMAPC COMMENTS:

Ms. Cantrell stated that part of the process is who everyone that is here today and has signed the petition will get notification of future proceedings and during the detail site plan review process. Ms. Cantrell explained to Mr. Richardson that the floor area ratio is according to the City of Tulsa Zoning Code, which is .30 FAR for OL.

Ms. Wright asked Mr. Richardson to describe the problems that occur during the rainy season. In response, Mr. Richardson stated that he couldn't provide that information, since he has only lived in the addition for about two years.

In response to Mr. Marshall, Mr. Richardson stated that there are several ponds and creeks that run through the neighborhood.

In response to Ms. Cantrell, Mr. Richardson stated that there are no homes that directly abut the subject property line. There is a waterway, a spillway and a water transfer ditch that is the outfall for the west lake and allows water to flow southwest.

Ms. Cantrell asked Mr. Benshoof if he contacted the City about the PUD requirements not being followed. In response, Mr. Benshoof stated that he notified Public Works, which was overseeing the 100-year flood system.

Mr. Boulden stated that it sounds like PUD-500 made Border's to maintain the trees and then later on, the City of Tulsa via a Public Works project, removed the trees. In response, Mr. Benshoof stated that the Public Works project came first and stripped the land and then the Border's Bookstore came in. The City took out all of the trees and leveled the place and changed the topography. Mr. Benshoof stated that he installed his screening fence before the bookstore project ever started to secure his property.

Ms. Wright thanked Mr. Benshoof for holding the TMAPC more accountable for their actions. She stated that she would be happy to go back and look at PUD-500 and follow up on the issues brought up.

Mr. Alberty stated that when PUD conditions are imposed it is formulated into the subdivision plat, in the form of restrictive covenants. They are entirely enforceable and it is not too late for the requirements to be enforced today. It is unfortunate that PUD-500 has not been enforced for this length of time, but it is

not too late to report the problem. The City of Tulsa has a PUD inspector to make sure that the requirements are being followed. Mr. Alberty informed Ms. Wright that the Planning Commission doesn't have any enforcement abilities and that is the City of Tulsa's Neighborhood Inspections responsibility. It is not too late to contact them.

Councilor Christiansen stated that he would contact the City regarding PUD-500 and make sure the PUD conditions are being followed.

Ms. Wright commented that there seems to be a series of incidents where PUDs are not being followed appropriately, such as when a greenbelt is wiped out and will take about 50 to 60 years to redo. How can the Planning Commission add a level of protection for land? The City of Tulsa has lost trees due to the ice storms and is the answer to make a bigger setback or stand out there with chain fences and not allow developers to touch certain areas? What can the Planning Commission do to keep developers from razing the property? Mr. Alberty stated that he doesn't know quite how to answer Ms. Wright's question. It sounds like this was a City of Tulsa project that took out the trees and it had nothing to do with setback. Mr. Alberty commented that this is a complicated situation and he doesn't really know how to answer this question. Ms. Wright stated that neighbors are supposed to call people to enforce the problem that the City is doing and so there is a miscommunication going on somewhere. Mr. Alberty stated that he doesn't know about a miscommunication, but there certainly needs to be some communication.

In response to Mr. Marshall, Mr. Alberty stated that the OL district is restricted to Use Unit 11 and mini-storage is a Use Unit 16 that has to be granted by special exception.

Ms. Cantrell explained to Mr. Thompson that if the applicant doesn't seek a PUD and develops with the OL zoning designation only, the concerns about the masonry wall, landscaping, etc., will not be conditioned by the Planning Commission. The developer will have to follow the Zoning Code requirements for OL zoning, which don't require a masonry wall; they will not have to come before the Planning Commission for an approved landscape plan. If they come through with a PUD there has to be something that the developer gains by doing a PUD. If the Planning Commission keeps it at one story and requires an eight-foot masonry wall, and develop less developed square footage, then there is no reason for them to do a PUD. There have to be some trade-offs in order to make this an economical proposal for both parties. If the applicant stays with OL, then the lot will have to be leveled off in order to build one-story buildings. To have someone coming in and changing the terrain is a little bit more threatening than a two-story building. The Planning Commission has no control over fill.

Ms. Wright asked Mr. Thompson if there are currently drainage issues near the pool. In response, Mr. Thompson affirmatively, but he acknowledged that water

has never been on his property or in his home. The channel is six feet deeper than his yard and it does get full when it rains heavily. Ms. Wright made a statement regarding setbacks and the lay of the land and possibly that the "cookbook FAR formula" is not appropriate for the subject site. She indicated that this proposal will increase a drainage issue, a permeability issue and it will make more of a problem with the drainage. The land will be developed and under a PUD there is a lot more opportunity for the homeowners, the citizens and the developer to get together with a plan. What the Planning Commission doesn't want to see is abuses where things are not followed through that were committed to. Mr. Thompson stated that he is not personally against a PUD, but this particular PUD does not address the concerns that the neighbors have. Ms. Wright stated that the PUD as it stands will probably be okay, but there are additional issues that need further addressing. She wants to give credit where it is due and Mr. Sack is a pretty good guy, but she doesn't know about Hunter Development. The whole purpose is that the Planning Commission wants to work within the system to get to a positive goal. Ms. Wright stated that she would request that there not be as many buildings as proposed on the subject property. She informed that either party may request a continuance for further observation. She suggested that the interested parties request a continuance today so that everyone can go out and look at the subject property. The Planning Commission doesn't have to take action today.

Mr. Carnes explained to Councilor Christiansen that there has to be a starting point and some compromises. If the underground parking isn't allowed, then there won't be a PUD and then the applicant can build to the OL district requirements. There will be no added protections for the neighborhood. Perhaps if the neighbors allowed the parking under the building and the builder agreed to a 20-foot setback that would be two items of compromise to start with and go somewhere. There has to be a starting point. In response, Councilor Christiansen stated that he totally agrees that there has to be a starting point. The neighbors are adamant about there being a masonry wall and that the wall should go up first. The water is six feet from the where the wall will be located. There are several developments around Tulsa where the developer goes in and clears the earth (rightfully so) and then there is a heavy rain and the silt runs wild. If the Planning Commission is considering passing the PUD, he hopes that they would consider what the neighbors are asking for with regard to the wall and when it would be built. Additionally, he has a real problem with the east boundary since it is so close to the neighbor's property line and backyard.

Mr. Walker stated that 3-D modeling could be done so that the height of the building could be visualized.

Mr. Boulden asked Councilor Christiansen if he wanted control over the detail site plan and minor amendments. In response, Councilor Christiansen answered affirmatively.

Councilor Christiansen stated that all that is available today is a concept for a PUD and there could be four or five buildings. He mentioned that there could be windows on the east-facing building that will look into the neighbor's yards and homes.

Mr. Leighty asked Councilor Christiansen what he would like the Planning Commission to do today. In response, Councilor Christiansen stated that he would like this continued and ask the developer to provide a three-dimensional profile of what this is going to be. Then the developer could meet with the neighbors to discuss it more and possibly come to an agreeable compromise. Councilor Christiansen stated that there was a meeting yesterday that Mr. Alberty attended and Jack Page presented some proposed changes to the process. He believes what was proposed was right-on. The 3-D profiles were one of the suggestions and this would also help the developers.

Ms. Cantrell asked Legal how much leeway the Planning Commission has when reviewing a detail site plan. In response, Mr. Boulden stated that the Planning Commission is held to the PUD standards. Mr. Alberty stated that what the applicant is actually bound by is the development standards. They have shown the Planning Commission a concept plan and in all instances that concept plan is more restrictive than the development standards. There is some flexibility present between the development standards and what they are showing today in the concept plan. The development standards can be tightened down by the Planning Commission.

Applicant's Rebuttal:

Mr. Sack stated that there are some questions about the east boundary line and the homeowner adjacent to the boundary. Mr. Sack pointed out that the elevation of 744 is off of the neighbor's deck and the subject property is at the same elevation as the deck. The buildings on the concept plan are all conceptual and the applicant doesn't have a buyer right now for an office building. To do a 3-D model once there is a real building would make sense at that point and time. The approval could be subject to coming back with a detail site plan for the Planning Commission's approval once there is a building. The applicant has heard the neighbors' concerns and he will try to eliminate those problems. This is an office tract that could be developed under straight zoning and that is something that the neighbors have to keep in mind. The subject property is a very difficult tract to develop and affordability has to be kept in mind while developing. His clients want a nice looking project and they are not trying to make it unattractive. The wooden fence would be built with the nice finished side facing the neighborhood. The fence will be made from a treated material that will last longer. The homes are 100 feet or more back from the subject property with a reserve area that is a natural buffer that was built in to this addition from the office tract. The grade along the east side of the subject property will have to be maintained.

TMAPC COMMENTS:

In response to Ms. Cantrell, Mr. Sack stated that there is only so much depth to work with and his client is trying to follow the contours of the land for development. There are a lot of restraints on the subject property due to the topography. Mr. Sack stated that siltation was brought up today and he is uncomfortable discussing that today because it is a big issue. Berms and silt fences can be built during development. Developers and engineers are familiar with ways to control the silt.

Ms. Wright asked about time constraints for the applicant. In response, Mr. Brett Biery, 11720 South Vandalia, 74136, stated that he is under contract with the subject property and the time period ends April 1, 2009. Ms. Wright asked if their due diligence is to find out if it is even possible to develop the subject tract. In response, Mr. Biery answered affirmatively. Ms. Wright asked Mr. Biery if the Planning Commission limited this to three buildings, what would happen. In response, Mr. Biery stated that it would not be feasible to develop the tract of land. The market is for buildings in the 5,000 SF average today. He indicated that he expects medical and dental uses to be in the office buildings and some general office use.

Mr. Leighty asked Mr. Biery if he wished for a vote today or a continuance. In response, Mr. Biery stated that he sent out notices to all of the adjacent property owners in January with a full packet of information and contact information. There were lengthy discussions and two weeks ago the neighborhood had a meeting.

Ms. Wright stated that it sounds like there has been dialogue between both parties.

Mr. Biery stated that he and his partner grew up on the subject property and has built several homes in Holland Lakes and surrounding areas. The homes near Borders Bookstore flooded and that is why they built the 100-year storm system before Mr. Benshoof purchased his property. His backyard was standing with water and there was a fence installed there at one time by the developer.

Ms. Wright stated that what she is hearing from the neighbors is that some of their questions haven't been answered regarding the topography. In response, Mr. Biery stated that he and his partner have always maintained that it is better to work with nature than against it. This is how he came up with the concept of a single-story building with a basement and not go in to level the site. Effectively, the building elevations would be at the same height that is currently shown with a 15-foot retaining wall and it will give the same view lines in the reserve area and backyards of the Holland Lakes.

Mr. Leighty questioned the height of the building being the same. In response, Mr. Biery stated that the height of the building will be the same if he were to build

a retaining wall and try to level the site around the 750' elevation. The subject tract falls from 760' to 740' and he would take the middle road leveled it off to 750 it would still have a finished floor elevation of about 752 with a 20-foot roof height. Inaudible. Mr. Biery indicated that he is proposing single-story buildings with basements. He explained that if he built a 15-foot retaining wall and built a single-story building he would still be allowed to have a basement below the single-story building under OL zoning.

Ms. Wright recognized Mr. Fisher.

Mr. Fisher stated that there was an option discussed about staggered development at the homeowners meeting. It is not only fill and go up or the subject proposal.

Mr. Biery stated that he explained to Mr. Tims that with the staggered concept there are other limitations, such as ADA access in the buildings. There would be more retaining walls and steps with the staggered development and it makes it difficult to meet the ADA requirements.

In response to Mr. Leighty, Mr. Biery stated that the basements could house parking or dental equipment. If it is used for parking it is not counted as useable office space.

Mr. Marshall moved to continue this item to March 18, 2009 and requested a line of site drawing. Mr. Carnes seconded. Mr. Carnes reiterated that the Planning Commission can require an eight-foot masonry fence with a PUD, but with straight zoning they would only have to put up a six-foot wooden fence.

Ms. Cantrell supports the continuance, but she is ready to vote on this today. She made clear that the public hearing is closed and they would be simply coming back to make a decision. The Planning Commission has heard extensive discussion about the proposal and there is no need to revisit the public hearing portion.

Ms. Wright stated that if there is new information she believes it would be appropriate to hear it.

Ms. Cantrell stated that if there is additional information that is fine, but she doesn't want people coming to the meeting next time thinking that they can sign up and speak again like they did today. If someone calls on an interested party they can speak, but the public hearing is closed.

In response to Mr. Brad McMane, 4011 East 87th Street, 74137, Ms. Cantrell strongly suggested that the applicant be present in case there are any questions at the next hearing. Everyone is invited back to the meeting, but she just wanted

to make it clear that there will not be a signup and go through the public hearing again.

TMAPC Action; 8 members present:

On **MOTION** of **MARSHALL**, TMAPC voted **8-0-0** (Cantrell, Carnes, Keith, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget, Sparks "absent") to **CONTINUE** PUD-769 to March 18, 2009 and request line of site drawings.

OTHER BUSINESS:

10. Capital Improvement Projects for FY 2010

Consider and find the Capital Improvement Projects to be in conformance with the Comprehensive Plan.

STAFF RECOMMENDATION:

Pursuant to State statutes (Title 19, Section 863.3) and the request of the City of Tulsa, staff has reviewed the FY 09 list of Capital Improvement Program proposals for conformance with the adopted Comprehensive Plan. The TMAPC is not being asked to approve or deny specific applications, but simply to determine whether or not they are in accord with the Plan. In some cases, proposed projects may be outside the scope of the Plan, being far more specific than the Comprehensive Plan, a general guideline, was intended to be. In those cases, unless the Plan states otherwise, those would be found to be in accord under the Plan's general intent to protect health, safety and welfare of the residents. Other projects that may not be addressed by the Plan but which are under the jurisdiction of higher levels of government are also deemed to be in accord with the Plan. These proposed projects are largely conceptual at this time, and in many cases site-specific locations have not been selected. As a very long-range capital improvement plan, many of those sites, their designs and their other specifications will not be decided for a number of years. When and as these plans progress, further review will be mandated through the site design and platting phases. Many requests involve making facilities ADA accessible and that is, of course, a requirement before any permits are issued.

Staff has reviewed all of the applications and indeed did find many outside the Plan's scope but still within the Plan's intent and therefore in accord. Some of these include Homeland Security measures, paving of parking lots and driveways, and improvements to existing facilities and equipment. Staff does not review these in detail.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, TMAPC voted **7-0-1** (Cantrell, Carnes, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; Keith "abstaining"; McArtor, Midget, Sparks "absent") to recommend **APPROVAL** of the Capital Improvement Projects for FY 2010 being found in accord with the Comprehensive Plan.

There being no further business, the Chair declared the meeting adjourned at 4:00 p.m.

Date Approved: 3/25/09

P. Michelle Cantrell

Chairman

ATTEST: Joshua G. Walk
Secretary