

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2543

Wednesday, March 25, 2009, 1:30 p.m.

City Council Chambers

One Technology Center – 175 E. 2<sup>nd</sup> Street, 2<sup>nd</sup> Floor

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Cantrell	Carnes	Alberty	Boulden, Legal
Keith	Sparks	Feddis	Steele, Sr. Eng.
Leighty		Huntsinger	Shultz, Plan. Dept.
Marshall		Matthews	
McArtor		Sansone	
Midget			
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, March 19, 2009 at 1:04 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 1:30 p.m.

### **REPORTS:**

#### **Work session Report:**

Ms. Cantrell reported that a work session will be immediately following the TMAPC meeting today. She commented that the work session is open to the public, but they are not generally encouraged to speak at work sessions.

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

Martha Shultz, Planning with the City of Tulsa, reported on the Planitulsa progress.

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

Mr. Alberty reported on the TMAPC receipts for the month of February 2009. He further reported that the receipts are down in comparison with last month, but the receipts are ahead of the 2008 receipts for the total receipts.

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

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**Minutes:**

**Approval of the minutes of March 4, 2009 Meeting No. 2541**

On **MOTION** of **MIDGET**, the TMAPC voted 7-0-1 (Cantrell, Keith, Leighty, Midget, Shivel, Walker, Wright “aye”; no “nays”; McArtor “abstaining”; Carnes, Marshall, Sparks “absent”) to **APPROVE** the minutes of the meeting of March 4, 2009, Meeting No. 2541.

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

**Mr. Marshall in at 1:40 p.m.**

**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. **LC-155** – City of Tulsa (9202)/Lot-Combination (PD 1) (CD 4)  
Southeast corner of West 3<sup>rd</sup> Street and South Houston Avenue, 175 East 2<sup>nd</sup> Street #260
3. **LC-158** – Paul Bargard (8418)/Lot-Combination (PD 18) (CD 8)  
Southwest corner of East 81<sup>st</sup> Street and South Garnett Road, 11016 East 81<sup>st</sup> Street
4. **LC-159** – Nichols & Sons (0225)/Lot-Combination (PD 2) (CD 1)  
North of East Tecumseh Street and West of North Lansing Avenue, 755 East Tecumseh Street
5. **LS-20293** – Origins Development, LLC (9201)/Lot-Split (PD 1) (CD 4)  
South of East 3<sup>rd</sup> Street and West of South Kenosha Avenue, 624 E Third Street

Ms. Wright requested that Items 6, 7 and 8 be removed from the consent agenda.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **WRIGHT**, TMAPC voted **9-0-0** (Cantrell, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Carnes, Sparks "absent") to **APPROVE** the consent agenda Items 2 through 5 per staff recommendation.

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**CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA**

**6. PUD-648-A-2 – Roy Johnsen (PD-8) (CD-2)**

The northeast corner of West 71<sup>st</sup> Street and U.S. Highway 75 (Minor Amendment for Olympia Medical Park II to reduce the required setback from the 200 feet to 50 feet from the south boundary/property line for Development Areas D and E.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment for Olympia Medical Park II, to reduce the required setback from the centerline of West 71 Street from 200' to 50-feet from the south boundary/property line for Development Areas D and E (see Exhibit A).

The current setback requirement from the centerline of West 71<sup>st</sup> Street is 200-feet. Referring to Exhibits A and B, the West 71<sup>st</sup> Street right-of-way (ROW) in the project vicinity ranges from 200-feet wide to 160-feet wide. There is also a 17.5 utility easement that runs along the entirety of the south boundary of both lots, in which no structure may be located. Provided the aforementioned, by reducing the required setback from 200-feet from the centerline, to 50-feet from the south property line, the setback from the centerline of West 71<sup>st</sup> Street would range from 150-feet (+/-) to 130-feet (+/-).

Also, Lot 1, Block 1 and Lots 15 through 19, Block 2 of Tulsa Hills, immediately across West 71<sup>st</sup> Street from Olympia Medical Park and adjacent to West 71<sup>st</sup> Street have a setback requirement of 25-feet from the southerly ROW line of West 71<sup>st</sup> Street.

Therefore, provided the aforementioned and in keeping with the existing setback requirement from the West 71<sup>st</sup> Street ROW in the immediate vicinity, staff recommends **APPROVAL** of minor amendment PUD-648-A-2 for development Areas D and E of Olympia Medical Park II only, as depicted on Exhibit A.

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

**TMAPC COMMENTS:**

Ms. Wright questioned what the benefit would be in reducing the setback. In response, Mr. Sansone stated that the benefit would give the applicant more room to actually put the building on the site, park it and meet the landscaping requirements. Ms. Wright asked if the original PUD required a 200-foot setback. In response, Mr. Sansone answered affirmatively. Ms. Wright asked why there is an attempt today to reduce the setback. In response, Mr. Sansone reiterated that it would give the applicant more room to put the building on the site. The setback is actually from the centerline of the street and not from the property line. The request is to reduce the setback from the centerline of the street to a 50-foot setback from the property line. In response, Ms. Wright stated that she understands the request, but if that was their original intention, she asked why that wasn't brought forth to begin with. Mr. Sansone suggested Ms. Wright ask the applicant why he is attempting to reduce the setback. Ms. Wright stated that this is an attempt to come back and wiggle out of what was originally agreed to by the Planning Commission. In response, Mr. Sansone stated that he wouldn't necessarily use the term "wiggle-out-of", but they would like to seek a reduction of the setback so that they will have more room on the site.

Ms. Cantrell stated that she emailed Mr. Sansone previous to the meeting regarding the reduction in setback and she understands that the 200-foot setback would have probably come from the underlining zoning, which is required in corridor zoning, and the applicant may not have thought about it until they started laying out the property.

**Applicant's Comments:**

**Roy Johnsen**, 201 West 5<sup>th</sup> Street, Suite 501, 74103, representing the Olympia Medical Park, stated that some years back it was originally planned as an office complex and it was the first CO zoning along Highway 75 to develop. Times have changed in two ways. When the corridor district was originally established there was a desire to have the 200-foot setback to avoid overuse of the arterials and more use of an interior collector street. Some concerns were that they didn't want to strip out some of the frontages of the corridor and wanted to emphasize the collector street. In this instance, the Olympia Medical Park has been consistent with that. The street Olympia is a full collector going through the middle of the project north and south. Over time it has been recognized, in some instances, that a lesser setback might be appropriate. PUD's were used as overlays to permit some of that to happen. Now things have emerged with Tulsa Hills and that was looked at on their frontages because they would be retail and large commercial developments, zoned corridor without any PUDs. By interpretation, the Code allowed less than a 200-foot setback and established on Tulsa Hills a 50-foot setback. The initial setback was 200 feet from the centerline for the Olympia Medical Park tract. The right-of-way is not uniform, but 71<sup>st</sup>

Street is a primary arterial and the normal right-of-way would be 120 feet and the normal setback would be 50 feet, because of the corridor they went to 200 feet. Now he is proposing to setback from the right-of-way because that is really what counts. In the subject site there is more than enough setback than is needed and the 50 feet gives a greater opportunity for the development of the subject property and is developing as more than an office complex. There will be an urgent care facility on one of the parcels to the east and Tulsa Hills is all basically retail. Mr. Johnsen commented that 50 feet is a reasonable setback and is consistent with the commercial development all over the City of Tulsa.

**TMAPC COMMENTS:**

Ms. Cantrell clarified that it is not like it is going from 200 feet to 50 feet. It is actually going back to the original and it is less of a reduction. Mr. Johnsen stated that he believes the smallest area from centerline is approximately 80 feet and then tack the 50 feet on that.

Ms. Wright stated that it sounds like, given the Planning Commission was only provided with a couple of pages concerning this, the Planning Commission might want to revisit the original PUD to see what the intentions were and those of the corridor study. Right now basically it is at a disadvantage with the amount of information the Planning Commission should review to see if this is indeed in accordance with what the original intention was. She admits times have changed, but the aerials do not reflect anything. She requested that the aerials be updated because they do not show Tulsa Hills. Considering what is before her today, an updated aerial would be very helpful.

Ms. Wright moved for continuance on this item until she is able to collect the information needed to examine and review this request. She doesn't understand the need for the setback since the applicant knew what the setback was originally and the original development was in line with that setback. It sounds like there has been a change in the original intention.

Mr. Johnsen stated that it is proposed to change because the circumstances have changed. Ms. Wright stated that it is a change in the original PUD and she doesn't have the original PUD in front of her. Mr. Johnsen stated that the relevant fact is that he advised the Planning Commission that this is an office complex 200 feet from centerline, which was the standard setback at that time; however, that is no longer the standard in the corridor district. Tulsa Hills reduced that to 50 feet. Ms. Wright stated that the Planning Commission needs to ask staff to provide the corridor district approved standards.

Mr. Midget stated that Ms. Wright made a motion to continue this case and it is still on the floor.

Commissioner Keith asked Mr. Sansone if there was anything negative that would come out of having the 50 feet as opposed to the original. In response, Mr. Sansone stated that he doesn't believe there would be anything negative.

Mr. Sansone stated that the lots immediately adjacent to West 71<sup>st</sup> Street in Tulsa Hills (southerly right-of-way line) is set back only 25 feet and the proposal is seeking a reduction of 50 feet from the northerly right-of-way line. Given the excessive right-of-way distance from that has been dedicated from Highway 75 beyond Tulsa Hills, staff doesn't see this as a safety issue or traffic issue. West 71<sup>st</sup> Street has been sufficiently widened to allow for the Christmas season traffic and it is one of the widest streets in the City right now. None of the detail site plans that have been approved for Tulsa Hills has the building sitting on the 25-foot setback line. The building has to be parked and landscaped, so reducing the setback to 50 feet doesn't necessarily mean that the building will be sitting right on the 50-foot setback line.

Ms. Wright stated that the parking is already into the easement and it doesn't show the landscaping at all in Exhibit A. In response, Mr. Sansone stated that they are required to provide landscaping along the street right-of-way and parking is allowed to be in the utility easements.

Ms. Cantrell asked if anyone wanted to second Ms. Wright's motion to continue this item.

**MOTION FAILED FOR LACK OF A SECOND.**

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

**TMAPC Action; 9 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **8-1-0** (Cantrell, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Walker "aye"; Wright "nay"; none "abstaining"; Carnes, Sparks "absent") to **APPROVE** the minor amendment for PUD-648-A-2 per staff recommendation.

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7. **Z-7008-SP-1 Hollis Allen Jr./Walter P. Moore & Assoc.** (PD-8) (CD-2)

East of the southeast corner of South Olympia Avenue and West 71<sup>st</sup> Street (Detail Site Plan for a 2,948 square foot Arby's restaurant.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 2,948 square foot (SF) Arby's restaurant. The proposed use, Use Unit 12 – Eating Establishments other than Drive-ins is a permissible use within this Corridor District.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping is provided per the landscape chapter of the Zoning Code. All sight lighting is limited to 30-feet in height and will be directed down and away from adjoining properties. A trash enclosure has been provided as required by the Corridor District Development Plan. Sidewalks have been provided along West 71<sup>st</sup> Street as required by CO District Development Standards and Subdivision regulations.

Therefore, staff recommends **APPROVAL** of the detail site plan for a 2,948 SF Arby's restaurant on Lot 16, Block 2 – Tulsa Hills.

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

Ms. Wright indicated that she unintentionally pulled this from the consent agenda.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **KEITH**, TMAPC voted **9-0-0** (Cantrell, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Carnes, Sparks "absent") to **APPROVE** the detail site plan for Z-7008-SP-1 per staff recommendation.

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8. **Z-6054-SP-6 – Paul L. Burgard** (PD-18) (CD-8)

West of the southwest corner of 81st Street and South Garnett Road  
(Detail Site Plan and landscape plan for an 8,288 square foot  
restaurant.) (Related to Item )

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site and landscape plan for an 8,288 square foot (SF) restaurant. The proposed use, Use Unit 12 – Eating Establishments other than Drive-ins is a permissible use within Corridor District Z-6054-SP-6. Concurrent with this application is Lot Combination (LC) application LC-158 which will combine the part of Lot 2 and the landlocked part of Lot 3, Block 1 – Union Place affected by this proposal.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping is provided per the

landscape chapter of the Zoning Code. All sight lighting is limited to 25-feet in height and will be directed down and away from adjoining properties. A trash enclosure has been provided as required by the Corridor District Development Plan. Sidewalks will be provided along 81<sup>st</sup> Street and high contrast striping will be used across access points from 81<sup>st</sup> Street to mark pedestrian walkways as required by the CO District Development Standards and Subdivision Regulations.

Therefore, staff recommends **APPROVAL** of the detail site plan for Part of Lots 2 and 3, Block 1 – Union Place subject to the approval of Lot Combination LC-158, also on the 3/25/09 agenda of the TMAPC.

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

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

**TMAPC COMMENTS:**

Ms. Cantrell commented that the subject property is providing 150 parking spaces and it only requires 83 parking spaces. She believes that it is odd that the Planning Commission is routinely allowing people to put almost twice as much parking as required. She understands that there are no rules against this, but she believes it is something in the future that should be addressed.

Mr. Sansone agreed with Ms. Cantrell's comments. He suggested that when the revisions to the Zoning Code are done with the new Comprehensive Plan, perhaps it could be addressed at that time.

Ms. Wright stated that the parking is what caught her attention. She believes that it is over-parked. Is there a way that the Planning Commission could ask for more landscaping rather than extra parking spaces for the subject lot? In response, Mr. Sansone stated that it can be requested, but if the applicant meets the minimum requirement, staff is inclined to recommend approval.

Ms. Wright asked if the Planning Commission has the ability to request that the parking be reduced and increase the landscaping during the detail site plan review. In response, Mr. Sansone stated that he doesn't believe that they can make it a requirement, but they can request it.

Ms. Wright moved to approve the detail site plan with a gentle recommendation that parking be reduced and landscaping is increased.

Motion seconded by Commissioner Keith.

Ms. Cantrell asked Ms. Wright if she is only requesting the applicant to consider reducing the parking and increasing the landscaping. In response, Ms. Wright acknowledged that the Planning Commission can't require this but could request it.

Mr. Alberty stated that the Planning Commission is approving a detail site plan exactly as it is being presented. The last portion of the motion has no applicability. If the Planning Commission wants to make an editorial statement apart from this motion, that is a totally separate thing. To say that the applicant would reduce the parking and increase the landscaping would mean that he would have to come back before this Planning Commission with a revised site plan.

Ms. Wright stated that she is confused because the Planning Commission has, at detail site plan review, made amendments, which were changes on the spot. She commented that she can think of several different examples.

Mr. Alberty stated that the motion is confusing because the Planning Commission is making a recommendation for approval, but then making a suggestion. Either make a motion to approve the submitted site plan or make a motion to approve it with a condition.

Ms. Cantrell asked Mr. Alberty if he is stating that the detail site plan shows 150 parking spaces and if the applicant didn't put 150 parking spaces in, he would be in violation of the approved detail site plan. In response, Mr. Alberty answered affirmatively.

Ms. Wright reiterated that the Planning Commission has made changes in the past. In response, Ms. Cantrell stated that if the Planning Commission approves the detail site plan as submitted, then the applicant has to put in the 150 parking spaces to be in compliance.

Ms. Wright suggested that the motion needed to be modified.

Mr. Boulden stated that he would prefer that there be two motions on the subject application. The suggestion should be separate so that it won't be confused as some sort of condition.

Ms. Wright withdrew her motion.

Ms. Cantrell agreed with Ms. Wright that parking needs to be reduced and she would like to visit this issue at some point. She believes that this is a matter that the Planning Commission should come back and visit, but she is not going to be in support of requiring it at this time.

In response to Mr. Midget, Ms. Cantrell stated that she believes that this can be revisited for the PUDs and corridors in the future, but at this point she believes that this has already left the station and to come back now at the detail site plan and require something that wasn't required at the time of the approval would be inappropriate.

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-1-0** (Cantrell, Carnes, Keith, Leighty, McArtor, Midget, Shivel, Walker "aye"; Wright "nay"; none "abstaining"; Marshall, Sparks "absent") to recommend **APPROVAL** of the detail site plan for Z-6054-SP-6 per staff recommendation.

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**PUBLIC HEARING**

No Items.

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**OTHER BUSINESS:**

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| <p>9. <b><u>PUD-769 – Hunter Construction MGT, Inc.</u></b></p> <p>East of the northeast corner of East 81<sup>st</sup> 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.) (Continued from 3/4/09 and 3/18/09.)</p> | <p><b>OL to OL/PUD</b><br/>(PD-18) (CD-8)</p> |
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**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 proposed Planned Unit Development on a 7.6± acre tract of land for a commercial shopping center on property located on the northeast corner of East 81<sup>st</sup> Street and South Yale Avenue and abutting the subject property to the west.

**PUD-457 March 1990:** All concurred in approval of a proposed Planned Unit Development on 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 81<sup>st</sup> 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 on a 80± acre tract of land from AG to RS-3/OL on property located east of northeast corner of East 81<sup>st</sup> 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 on a 32± acre tract of land from RS-3 to RM-0/OL and a proposed Planned Unit Development for multifamily use on property located on the southeast corner of 81<sup>st</sup> Street and South Yale Avenue and abutting south, across 81<sup>st</sup> Street, of subject property.

**PUD-210 June 1978:** All concurred in approval of a proposed Planned Unit Development on a 10.77± acre tract of land for single-family development on property located north of the northeast corner of East 81<sup>st</sup> 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 81<sup>st</sup> Street and South Yale Avenue. The property appears to be vacant and is zoned OL.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 81 <sup>st</sup> 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 81<sup>st</sup> 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 so) tract located east of the northeast corner of 81<sup>st</sup> 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 81<sup>st</sup> 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 81<sup>st</sup> 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' (+/-) with retaining walls, the applicant is proposing the PUD over-lay 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 81<sup>st</sup> 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 81<sup>st</sup> Street, and from a mutual access easement from Holland Center - the abutting property to the west. Sidewalks will be constructed along 81<sup>st</sup> 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 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 and the TMAPC (items with strikethrough have been removed, underlined items have been added in):

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 81<sup>st</sup> St. frontage and two stories, not to exceed 40 feet on the north elevation, with the lower level being covered parking, accessory 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 <sup>st</sup> St.:	100 FT
From the east boundary of the PUD:	<del>40</del> <u>20</u> 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 ten-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.

Along the north and east boundary lines trees shall be planted in a manner that further screens buildings from residential properties to the north and east. The trees shall be loblolly pine or evergreen trees and shall have a minimum caliper of 3" and no less than 15' to 20' in height at the time of planting

**SITE SCREENING:**

An ~~minimum of a six-foot (6')~~ eight foot (8') solid screened wall or fence shall be constructed along the entirety of the north and east boundaries of the PUD in conformance with §1211, C-1 of the Tulsa Zoning Code.

On the east boundary of the PUD the wall shall be of masonry construction, similar to the masonry wall found along 81<sup>st</sup> Street for the Holland Lakes subdivision.

**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 §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 §1303-C of the Code. Verification of compliance shall also be through application of the Kennebunkport formula and submission of a photometric plan.

**WINDOWS:**

Windows on the east side of the easternmost building shall be located no less than seven feet above the finished floor above which they are located and shall be transom in nature. The distance shall be measured from the bottom of the window. Windows on the north elevation of the easternmost building shall be opaque in nature.

**SIDEWALKS:**

Sidewalks will be provided along 81<sup>st</sup> 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 a.m. to 6:00 p.m.

**SIGNS:**

One tenant identification sign is permitted along the 81<sup>st</sup> Street frontage identifying the office park not to exceed 8' in total height nor 64 square feet of display surface area. Each building will be permitted one south facing wall sign not to exceed 1 square foot of display surface area per lineal foot of wall to which the sign is affixed.

**PROTECTION FOR THE HOLLAND LAKE:**

Prior to any construction on the site an earthen berm shall be placed along the boundary line in common with the Holland Lakes Reserve Area adjacent to the site to protect the Holland Lake from silt or other debris from entering the pond/lake.

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. 81<sup>st</sup> 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 81<sup>st</sup> St. Include sidewalks in Access and Circulation section on Page 4.

**INCOG Transportation comments:**

- MSHP: 81<sup>st</sup> St. S., between S. Sheridan Rd and S. Yale Ave., is designated secondary arterial.
- LRTP: 81<sup>st</sup> 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.

**TMAPC COMMENTS:**

Ms. Cantrell stated that Mr. Thompson has signed up for this item, but at this point the public hearing has been closed. She asked Mr. Thompson if he had any new or specific information that he wanted to provide. Ms. Cantrell requested that Mr. Thompson make it brief.

**Interested Parties Comments:**

**John Thompson**, 8016 South Darlington, 74136, stated that an alternate site plan has been submitted to the developer for their review and they were going to take it to the civil engineer for a response. He spoke with the developer last night and all of the major issues that were important to the homeowners were denied. Mr. Thompson submitted a letter and packet with the two alternative ways to develop the subject property to the Planning Commissioners (none submitted for the record).

**TMAPC COMMENTS:**

Ms. Wright asked Mr. Thompson if he knew what the cost of dredging was for each homeowner. In response, Mr. Thompson stated that homeowners have very serious concerns about the lakes and the close proximity of the fencing and parking lot structure. Mr. Thompson indicated that he doesn't know what the cost was per homeowner. He commented that it took four to six weeks to dredge the pond.

Ms. Wright asked Mr. Thompson if the dredging was necessary due to a development upstream. In response, Mr. Thompson answered affirmatively. Ms. Wright asked if the developer upstream shared any of that burden. In response, Mr. Thompson answered negatively. Ms. Wright stated that it is kind of like our poultry issue with our surrounding states in some way. In response, Mr. Thompson stated that he is not that familiar with the details of that. Mr. Thompson further stated that there is serious erosion from a hill collapsing in the subject area. The City is currently trying to remedy that problem.

Mr. Boulden stated that the packets that were distributed had specific names. He asked if each of the Planning Commissioners received the same exact documents. In response, Mr. Thompson answered affirmatively.

**Applicant's Rebuttal:**

**Brett Biery**, 11720 South Vandalia, 74137, stated that he hasn't reviewed the packet that was just handed out so it is difficult to address those issues. The bulk of the subject property is downstream of the pond. The bulk of any erosion or runoff would not go into the pond. He has discussed and it will be implemented into the development plan that drainage and erosion measures will be taken to ensure that no water does runoff into the Holland Lakes pond at the very onset of construction. Mr. Sack is present to speak to the comments as to the site plan and development plan that the homeowners presented today.

**Ted Sack**, 111 South Elgin, 74120, stated that he believes that the Planning Commission has the same site plan that he was provided by the homeowners last week. By reviewing it briefly, he noticed several things that really spoke out to him. There was a lot of thought given to the conceptual site plan that was part of the PUD and submitted by his client. The following represents issues of concerns regarding the homeowner's proposal:

**Homeowner's Plan**

The alternative plan would move the office buildings closer to the residential development.

The homeowners plan does not allow for any fire protection to the north side of the building. There is no access for fire protection to the north side of the buildings.

There is no way in the homeowners' site plan to control the water as it leaves the office buildings. It is all going to be landscaped area or some sort of ground cover between the buildings and the pond area.

**Applicant's Site Plan**

There was a lot of thought put in the applicant's conceptual site plan that is a part of the PUD.

His client met with the Fire Marshal early in the project and presented the conceptual site plan and it was acceptable with the Fire Marshal.

The conceptual site plan has a parking lot, which offers a way to capture all of the water coming off of the site and direct it to the west where there is storm sewer. This will keep the water from the site, the pond area and also the siltation from the pond area.

Mr. Sack indicated that the site plan doesn't identify the fact that the very northwest corner is part of the floodplain. They have a building that is in the regulatory floodplain and that wouldn't work. Mr. Sack stated that this is a type of plan, which he keeps hearing from neighborhoods and Planning Commissions, that is not preferred because it has a sea of parking in front of the development. The landscaping requirement in the parking area is not met. The grades that

they are being proposed make the site set down in a hole. He questions the accessibility of being able to get onto 81<sup>st</sup> Street and then get back into the development to the west.

Mr. Sack stated that the conceptual site plan that his client presented was not something created over night. There was a lot of time put into the conceptual site plan and requests that the Planning Commission approve the PUD as it was submitted.

**TMAPC COMMENTS:**

Commissioner Keith asked Mr. Sack how far back from the stakes the actual building would be located. In response, Mr. Sack stated that the conceptual site plan that his client submitted would have over 60 feet from the stakes. Mr. Sack indicated that he can't determine how much green space will be left in the back, but there are some trees there and his client will try to preserve the trees if possible. There will be some green space in the back, but he can't determine how much at this time. Commissioner Keith asked if it would be ten or twenty feet. In response, Mr. Sack stated that it would probably be ten feet, but he would only be guessing at this point.

Mr. Marshall asked Mr. Sack to explain how his client would prevent any silt from getting into the pond. In response, Mr. Sack stated that there are many ways to do this. One way is to create a berm on the northern side of the subject property and the berm would be at a height that would keep any of the water from going onto the north into the pond area. It would capture the water and allow the water to drain it to the west. He would utilize silt fences, but they can't always be relied on and that is why he would want to use a berm as well. The berm would be created first and it can be done with the stripping of the top soil. He suggested that along with silt fences there could be some straw bale dikes. These are types of methods that are usually used for siltation and erosion control. Mr. Marshall stated that this is very important and there can't be silt back into the pond. Mr. Sack stated that he understands the situation.

Ms. Wright asked Mr. Sack how the water edge is determined. Ms. Wright pointed out several issues regarding the submitted scale and where the water edge is located. In response, Mr. Sack stated that he believes that the water edge, for these exhibits that were prepared, were taken from an aerial photograph and he doesn't know the time or what the water elevation was at that time. Ms. Wright stated that she is very concerned about approving a PUD that has these dimensions and granting the right to develop that close to the water. It seems that this would be a better development if the number of buildings were reduced and give more of a greenbelt to the whole area. Mr. Sack stated that he did an Alta Survey and located the water boundary and it actually comes from that survey and it was done after the exhibits. It shows the water edge to be very much the same as the depicted on the exhibit. It does not really agree with the regulatory floodplain and if one tried to compare those two regulatory floodplains

by mapping on a very large scale drawing then those are usually not very accurate. Ms. Wright asked how much of the subject area is in a regulatory floodplain. In response, Mr. Biery stated that the water line is the static pool elevation at spillway and that is as high as the water could go in that pond. The parking is 12 feet at the very closest point of the property line and then an additional ten feet for the green area, which would be 22 feet from parking edge to the water edge. In response, Ms. Wright stated that an average car is about 20 feet and that would be the length of an average car. So basically there would be a car parked on the water's edge. Mr. Biery stated that there is a static pool elevation of the Holland Lake Pond and that is the highest the water can go in the pond. At the very closest point there is 12 feet from the property line to the edge of the water. At the very corner it is about 15 feet from the corner to the edge of the water and in the center it bows out to 42 feet. Mr. Biery indicated that it averages out 30 feet from the waters edge to the property line. Mr. Biery pointed out the location of the 17-foot utility easement. The pond is actually in the utility easement and perhaps the pond needs to be filled to the utility easement point in order to accommodate utilities. If the pond were filled to the utility easement point, there would be a greater distance from the screening fence to the pond. Ms. Wright stated that when the development was done the reservoir was placed in there as a serviceable water retention pond and serves a serious purpose. Mr. Biery stated that he is aware of the reason for the retention pond, but he is just stating that if the Planning Commission's concern is the distance from water's edge to property line, it could be filled in those areas.

Commissioner Keith asked Mr. Biery if he could do some dense tree planting to create some screening, because it is very intrusive into the neighborhood due to the proximity. Mr. Biery stated that it is his intention to have the landscaping buffer between the parking lot and the screening fence. He has been petitioned not to touch any of the trees or vegetation within the reserve areas and he will respect that request. The only access into the reserve area that is necessary would be in the 17.5-foot utility easement and would be accessed by the utility companies.

Ms. Wright asked Mr. Steele about an environmental permit 404. In response, Mr. Steele stated that a 404 permit is required when there is a wetland involved, which is Section 404 of the Clean Water Act of 1972. This is under the jurisdiction of the Federal Government and administered by the Corps of Engineers for the Tulsa District. Ms. Wright stated that the subject area happens to house several different types of birds. What qualifies an area to have a 404 designation? Mr. Steele stated that this is not the City of Tulsa's jurisdiction, but he will comment on this since he is retired from the Corps of Engineers, if the Planning Commission will understand that he is not speaking for the City of Tulsa. The Corps of Engineers would look at a number of things such as plant species, the wet conditions of the soil, how often it is wet and would do an onsite investigation. Mr. David Manning of the Corps of Engineers is the regulatory official who would send someone to the site. Once that designation is made,

then they have the option of aborting the site or providing some type of mitigation. Ms. Wright stated that she has visited the subject area twice and has walked within the subject area, which during her visits her feet sank into the soil. She asked Mr. Steele if the wet soil conditions necessitate some type of piling. She further stated that there is a lot of caving in of the soil underneath the land shell and erosion. Once the applicant starts construction, she is concerned about the land caving in. In response, Mr. Steele stated that the stability of the site is the responsibility of the homeowners association for the bank. This is not a City reserve area. When the City reviews the plans that come in, it will be looked at for stability of the edge versus the proposed subject. If stabilization needs to be done it would be determined at the review. Ms. Wright stated that she is confused about Mr. Steele's comments because the shelf is fine today, but if development comes in and creates a problem, how does that become a homeowner's responsibility? In response, Mr. Steele stated that the maintenance of the pond itself today is the homeowners association's responsibility, but if any damages are done to the lake by the subdivision, then that would be their responsibility. He can't judge on that until he sees the plans. Ms. Wright asked Mr. Steele about the erosion and anything required by the Department of Environmental Quality. In response, Mr. Steele stated that since the plans would disturb more than one acre of ground, the project would require a stormwater pollution prevention plan, which is required by the Oklahoma Department of Environmental Quality. The City of Tulsa administers that program for Tulsa and it will review the erosion control plan, which is a major and significant part of the SP-3. The erosion control measures will be reviewed because they are not allowed to produce any erosion or settlement into the lake. The City of Tulsa inspectors go onto the site to ensure that this is indeed the case. The developer is fined \$1,000.00 per day when they violate these measures.

Ms. Cantrell asked staff how big the drainage easement is on the east side. In response, Mr. Sansone stated that it appears to go from 15 feet to roughly 35 feet at the top because it angles. From the audience Mr. Sack stated that it is 15 feet on the south side next to the 81<sup>st</sup> Street right-of-way and then 35 feet at the north end.

Ms. Wright stated that she has serious reservations due to the proximity of these developments. "My first concern is for the reservoir and that we are looking at doing some significant environmental and erosion harm to the subject area if this PUD is not significantly reduced and what could come back later to the Planning Commission as a building site. It is a buildable piece of property. It can be done, but it is just too close to this reservoir and to this land. I would be very hesitant to approve anything unless I start seeing some engineering studies on the stability of this land." Ms. Wright concluded that she is not comfortable approving this proposal as it stands today. She would love to see another plan that would be accommodating to this particular topography because there are multiple issues

that need to be addressed. It would be very difficult to keep silt and other land from going into the pond given the elevation.

Ms. Cantrell stated that she can appreciate what Ms. Wright is saying, but the Planning Commission also has to balance that against the fact that the applicant already has the right to develop with the underlying zoning OL. They could develop without having to come to the Planning Commission. If there are environmental concerns, that will be addressed by the City or DEQ. Right now the Planning Commission has to deal with the fact that office is already allowed on the subject property and what steps could be taken to ensure that the developer will proceed with a PUD so that there can be some oversight and at the same time provide some protections to the neighborhood. The east side is the biggest concern and ten feet is very close for a 40-foot building next to someone's backyard. Ms. Cantrell indicated that she would like to see a larger setback on the east side. The silt and erosion issues will be deal with by the City and DEQ and the Planning Commission doesn't deal with that. She stressed that the City needs to look at this very cautiously. A fence should be installed before the development starts to add more protection to the neighborhood. If this were Office Medium the applicant could have a two-story building, but it would have to set back an additional two feet for every foot over 15 feet and she doesn't think this is too much to ask for today rather than a ten-foot setback. Ms. Cantrell suggested that the applicant have a 20-foot setback with addition to the easement, which would be at the least a 35-foot setback from the residential. Landscaping has been discussed and she would stress tree planting along the landscaping for erosion and providing privacy.

Mr. Leighty stated that he visited the subject site and obviously Holland Lakes is one of the prettiest subdivisions in Tulsa. The good news is that the homeowners have had the enjoyment of looking wilderness for 15 years because it is a difficult building site. Mr. Leighty further stated that he applauds the homeowners and the developers for the hard work that has been put into this issue and the patience that has been shown. He tends to want to support this project with a condition. He is concerned with the idea of storage and the placement of the buildings. He wouldn't want the neighborhood to have to look at anything except automobiles and light trucks. Mr. Leighty offered a condition that the storage would be limited to accessory use and not principal use. It would be limited and relevant only to the operations of the onsite tenants. He would not be opposed to extending this one more week because an enormous amount of information has been submitted.

Ms. Cantrell informed Mr. Leighty that the only use that is allowed by right and the way the PUD is developed is Use Unit 11, which is office spaces and so any storage would have to be accessory to that. This was discussed several weeks ago and it would not include boats and RV's. Mr. Leighty stated that he would like wording that the storage would have to be enclosed and out of view. If it

were open and there were cars and light trucks there, that would be one thing, but anything beyond that should be enclosed.

Ms. Cantrell stated that she wouldn't be in favor of another continuance for one week. She appreciates that there has been a lot of new information, but she believes it is important to keep in mind that the Planning Commission is making a recommendation and all of this information would be taken and looked at by the City Council. She understands the concerns and they have been made very clear. The developer has tried to meet with the neighbors and she wouldn't be in favor of another continuance.

Mr. Shivel stated that this is all a matter of perspective because when one looks at the proposed building from 81<sup>st</sup> Street it appears to be a single-story building. The only reason it appears to be two-story in the back is because of the slope of the topography. Frankly, if and when he considers purchasing another home within the City of Tulsa as he has now, he would make sure that he does due diligence in terms of finding out how surrounding property is zoned and what implications that would be. At this point he is in favor of the proposal and he understands the issue of the homeowners wanting to have it in a sense closer to the creek, but he also understands the Fire Department's concerns about access.

Ms. Wright asked Mr. Sansone what OL allows for maximum height from ground level. In response, Mr. Sansone stated 20 feet. Ms. Wright stated that, in other words, it probably is better for the neighborhood not to have a PUD there. Under a regular Office Light, which is the right to build as it stands right now; the maximum height the neighbors would be looking at would be 20 feet. In response, Mr. Sansone stated that it would be 20 feet on top of a 15-foot to 20-foot retaining wall. Ms. Wright stated that 20 feet plus a 15-foot retainer and actually since there is a difference of slope on the subject land, they would be looking at a maximum of 30 feet versus 40 feet. In actuality, the PUD makes the proposal much more intrusive and visually space-consuming than under straight Office Light. In response, Mr. Marshall stated that wouldn't be correct. Ms. Wright stated that she is asking Mr. Sansone. He is staff. Ms. Wright asked Mr. Sansone to please be helpful and answer her question. Mr. Sansone stated that he believes that it is subjective. It would depend on what one enjoys looking at and it is a matter of personal preference. He wouldn't say it is definitively better to look at a site that has been leveled with a 20-foot building than a site that tried to blend in with the topography, which he believes the applicant is trying to do.

Ms. Wright stated that something Ms. Cantrell brought up was that under Office Light the setback increases with every increment in height. In response, Ms. Cantrell stated that she was referring to Office Medium. She asked under Office Light, what the required setback would be for a 20-foot tall structure. In response, Mr. Sansone stated ten feet would be the setback. Ms. Wright asked if that would be from the property line. In response, Mr. Sansone answered

affirmatively. Ms. Wright stated that under the PUD they are suggesting that they are going to set it back the length of a car and so there is no advantage for a PUD. Mr. Sansone stated that the PUD allows the applicant to relax certain restrictions in exchange for other things. It is generally seen as give and take. The applicant will not seek relaxation on every requirement for the underlying zoning. Originally the developer was proposing a five-foot setback from the property line and staff suggested they set it back to what the underlying zoning requires and they agreed. Mr. Sansone stated that the height limitation in the OL district is one story and there is no footage limitation on it. One could build a one-story 35-foot building in the OL district. This is in Section 603 of the Tulsa Zoning Code. There is no height restriction in the OL district, but it can only be one story. Ms. Wright asked staff what protections this PUD offers the homeowners. In response, Mr. Sansone stated that he believes that it prevents leveling the entire site and providing the screening and landscaping on the rear and on the east. He believes that the efforts on the developer's behalf have been there, but the reason to come to the Planning Commission is for the Planning Commission to make the decision. Staff sees that the developers are meeting the majority of the standards and are trying to work with the landscaping, rather than bringing in fill.

Mr. Midget out at 2:51 p.m.

Mr. McArtor stated that he thought he read in the recommendation that by using the PUD it reduces the actual amount of square footage on the floor area that otherwise would be given as right under OL zoning. In response, Mr. Sansone stated that one of the things being exchanged is the total permissible square footage. The underlying straight zoning would allow the developer to build approximately 43,000 SF for one building and the applicant is offering to break it up into smaller buildings and smaller footprints and not exceed 40,000 SF total. Mr. McArtor asked if there was something about entryway from 81<sup>st</sup> Street that is significant here as far as PUD versus Office Light. In response, Mr. Sansone stated that the access that the applicant is providing to the site would have one access point and then a mutual access easement for the property to the west and this will minimize the coming and going off of 81<sup>st</sup> Street.

Mr. Marshall asked staff if the applicant went straight Office Light they would have four or five different curb-cuts. In response, Mr. Sansone stated that it would depend on if the applicant parceled the subject property. In response, Mr. Marshall stated that the PUD makes it much easier to get one access in to serve all of the buildings. In response, Mr. Sansone stated that if the applicant were to divide the parcel into separate lots, then each lot would be required to have access to 81<sup>st</sup> Street.

Ms. Wright stated that given that the homeowners have had to dredge the ponds due to development upstream from them, it could be possible that, as a condition of the PUD, this developer would have to go in and dredge to make sure that it

was restored to exactly the condition it was before they started. In response, Mr. Sansone stated that this is something that staff relies on the City of Tulsa to ensure. The developer is required to submit a stormwater pollution prevention plan. The PUD strictly addresses the land use and the certain bulk and area requirements that are associated with that land use. Since the PUD has been through the Technical Advisory Committee and then it subsequently has to go through a stormwater review, staff would rely on Mr. Steele and his staff to ensure that the requirement that no more runoff be put onto a neighborhood property, as well as no silt go into the pond be met. Ms. Wright stated that also that probably would include some condition over time so that if anything happens to this as a result of development, it would fall back on the developer and not on the homeowners. In response, Mr. Sansone stated that perhaps the Planning Commission could consider that, but over time it would be hard to gauge. The Planning Commission is able to put conditions on an approval as they see fit.

Mr. Marshall asked Mr. Biery if there is any way that he could bring the height of the building down to 35 feet from 40 feet by forgoing the parapet and possibly putting the equipment down on the ground. In response, Mr. Biery stated that he could bring it down to 35 feet. He explained that he would like to have finished floor to finished ceiling to be ten feet, four-foot for mechanical roof structure and then a parapet at some height. The parapet is to screen any mechanical units on top of the building. Mr. Biery stated that there would be vents and exhaust on the roof and not everything can be eliminated from the roof. The rooftop units could be placed in the basement level or even on the grade level, but it would open up the useable area if there are none on the main floor. He would have no problem with the average height restriction being 35 feet, but it still may be 40 feet on the back. Mr. Marshall stated that he wants to get it down to 35 feet period. Mr. Marshall further stated he prefers 35 feet in the back, especially on the east building. In response, Mr. Biery stated that he could do that, but he still may be putting the rooftop units up and they may not be screened. Mr. Marshall stated that he would like it to be 35 feet with nothing on top of the roof like that. Mr. Marshall stated that the 35 feet would be measured from the finished floor area. In response, Mr. Biery stated that finished floor to parapet is somewhere in the neighborhood of 20 feet. It would be just a matter of how much is cut into the grade for access and 15 feet should be adequate and still have a four-foot parapet. Mr. Marshall stated that he would make a motion for 35 feet in height and that would be at the back. In response, Mr. Biery stated that he doesn't see a problem with that.

Ms. Wright stated that currently the conceptual plan has five buildings on it and the staff report states a four- or five pad site. Ms. Wright asked Mr. Biery if he has considered only have two or three buildings. In response, Mr. Biery stated that it could turn into only three buildings. He indicated that he doesn't have anyone specifically identified who wants to build yet. The size of the building would be based on the tenants' needs. Mr. Biery reminded Ms. Wright that the plan in front of her is conceptual and is not the exact design.

Mr. Leighty stated that he would like to give the reasons why he supports the project. The City of Tulsa needs development and infill development is needed. There is a limit of what can be done on the subject property, but there will be another hearing before the City Council if the Planning Commission recommends approval of the PUD. The detail site plan will be back before the Planning Commission for review and interested parties have an opportunity to come back for that review. The reality is that the Planning Commission can tweak this proposal a little bit, but eventually there will be a building on the subject site someday. He believes that the developers have bent over backwards to try to deliver something that is going to be compatible with what is currently existing. He doesn't see whether it is a one-story building or it is built up with a retaining wall, the elevation of it will essentially be the same. He doesn't see where digging down, as proposed by the homeowners, would work due to the difficult access in and out of the project and he can't imagine the developers would want to proceed with that. The homeowners have made a very good case and he would like to support them in any way he can, but new development is needed and protecting neighborhoods is important as well. He believes that this is a good balance and good compromise. Mr. Leighty suggested that the homeowners work with the developers through the rest of the process and hopefully come up with something that they can be happy with as well.

Commissioner Keith stated that she believes everyone would feel more comfortable if there was any way to push that east boundary for development at least five more feet and ten feet would be ideal, but still meet the Fire Code requirements and get enough of the economic bang for the buck out of the property. More green space would give the neighbors more buffers and make the subject property more valuable. In response, Mr. Biery stated that he would be agreeable to increase the east setback to 20 feet and agree to an eight-foot screening fence around the project on the north and east boundary with a material of his choice. Mr. Biery indicated that he would build a temporary berm at the very onset of any construction to ensure that no runoff goes directly into the pond. He commented that he is fully aware of the effects of erosion since he has built many ponds. Mr. Biery stated that he would consider the height restriction; however, he has given up on something that he has no idea what the wants, needs or desires are going to be for a future tenant and what type of equipment would be needed. He would prefer to keep the height at 40 feet and will endeavor to keep it as low as 30 feet if possible.

Ms. Cantrell asked Mr. Biery if he would also consider putting in some landscaping. In response, Mr. Biery stated that with the increased setback on the east it would help him place more trees in that subject area. He visited with Dr. Thompson about placing those trees once a building is built, based on where the windows and sight lines are.

Commissioner Keith stated that if she were a neighbor she would rather see a parapet than a piece of machinery on a ceiling. If the units were on the ground it might be sending more noise into the neighborhood, as opposed to having it up and away. Mr. Biery stated that it is more efficient and saves energy to have the rooftop units and it is the more "green thing" to do.

Ms. Wright asked Mr. Biery if he was going to put in tiny trees that do no good or is he going to put in large trees that would screen. In response, Mr. Biery stated that it would be evergreens, Loblolly Pines that are 15 to 20 feet as planted, which grow fast. Ms. Wright questioned the screening fence being of the developer's choice of materials and she believes that Mr. Marshall had requested a masonry fence versus chain link. In response, Mr. Biery stated that he would agree that chain link is not a screening fence and it needs to be an opaque or solid screening fence and chain link would not qualify under his measure of material. Ms. Wright asked Mr. Biery if the 20-foot setback be from the existing stake close to the water's edge and would it be from the neighboring property with the pool or 20 feet from the reserve pond. Mr. Biery stated that there is a 40-foot setback from the north property line and now he is agreeing to the 20-foot setback from the east property line. Ms. Wright stated that Mr. Biery is still going to try to run it up as close a possible to the pond. Ms. Cantrell stated that it would be 20 feet from the pond. Mr. Biery stated that it is drawn at 60 feet and if he can keep 60 feet he will, but he doesn't know because that is a 60' x 90' footprint with 5,400 SF and if someone wants 6,000 SF then it may be 60' x 100' building and he would go ten feet farther than what is shown. As this relates to the Thompsons' fence, there is 35 feet of greenbelt plus the 20-foot setback, which is 55 feet from the Thompsons' property line.

Commissioner Keith thanked Mr. Biery for making some concessions.

Mr. Marshall stated that he would like for the neighbors to know his background. Mr. Marshall explained his background as a homebuilder and being the president of the Brookside Neighborhood Association. He commented that he has been on both sides of the fence.

Mr. Marshall explained that the biggest concern he has is the height on the east side of the property line. Mr. Marshall moved to approve the PUD with the following conditions. East side of subject property conditions: He would recommend that there be an eight-foot masonry type of fence along the east side with trees planted in front measuring with a three-inch caliper trunk and something that grows quick; request that the developer go from ten foot to 25-foot setback on the east side for good vehicle and pedestrian circulation; on the east side a masonry type fence that will be compatible with what is currently existing on the front entrance with stone columns and the stucco in between; no windows on the east side and north side of the building, to allow light in put the window up seven feet or higher where one cannot look out and skylights if additional light is needed. North side of subject property conditions: request an

eight-foot wood fence; eliminate building number five and keep the proposal to four buildings.

Mr. Marshall stated that he would accept any friendly amendments or answer any questions regarding his motion.

Ms. Wright asked staff what the FAR would be with one building being removed. In response, Ms. Cantrell stated that unless the Planning Commission changed the maximum allowed square footage, it doesn't change anything except to allow for four larger buildings. Mr. Marshall confirmed that his concern was more of the number of the buildings and not their square footage.

Ms. Wright suggested that the Planning Commission discuss the motion before seconding it.

Mr. McArtor informed the Chair that it is not appropriate to discuss a motion without a second.

Ms. Wright seconded the motion.

Mr. Marshall stated that he would like to add the following to the motion: a maximum of 35 feet in height from the 40 feet that the applicant proposed. This is not the average height, but 35 feet in height at the back of the finished floor area. Mr. Marshall explained that usually developers have to build their property up in order to pour their foundation and after the foundation is put on that is the finished floor and he is stating up from that foundation to 35 feet.

Ms. Cantrell asked about the windows on the east side since it is fairly close to the neighborhood. She wouldn't like to restrict the design that specifically and asked if she could possibly amend the motion as follows: far eastern building windows on the east or north side should be opaque or something that one cannot see through. In response, Mr. Marshall stated that he would like the windows to be transom-type at the top above seven feet on the east and north side, which would only allow light in. The rest would be brick or some other material and this would prevent anyone from looking out and seeing the backyards. Ms. Cantrell stated that she is a little concerned because that does put a significant restriction on the style of building.

Ms. Wright asked if an architectural question is a part of this committee's concern.

Ms. Cantrell stated that the applicant doesn't have any tenants at this time and she believes that it may be something that would affect their ability to attract tenants. Ms. Cantrell stated that she is okay with the condition, but it does give her some pause. Mr. Marshall confirmed that this restriction would be for the east building only.

Commissioner Keith stated that this is all conceptual and perhaps the wording should be "the eastern edge" and she agreed with Ms. Cantrell to allow an opaque window to allow sunlight to come in and not allow anyone to see out. This would accomplish the same thing and not force the developer to brick up a wall. In response, Mr. Marshall suggested that the transom windows be used on the east side of the building only and on the north side use the opaque glass. In response, Ms. Cantrell stated that she would be okay with that proposal.

Mr. Leighty stated that he doesn't believe that it is the Planning Commission's place to tell them what kind of windows that they can have. This is a commercially-zoned piece of property and part of the attraction of the site is the beauty of the area. It wouldn't be fair to ask the applicant to give up the view. Everything that he has understood so far is that one of the main objections is that this building would be towering over the neighborhood and it is going to be dominating everything. He believes that with the screening that they are planning with the trees and what currently exists in the reserve area the neighborhood will have a good shield. The applicant already has the OL zoning and if the PUD isn't approved, then the neighbors do not have anything to say about the windows. He doesn't like the idea of telling the developers that they can't have windows on the backside of their building. The applicant has already agreed to a 20-foot setback and that is a major concession. Another five feet may not sound like a lot to the Planning Commission but to the developer it is considerable and he doesn't see that there would be that much gained by that additional five-foot setback on the east side. Mr. Leighty asked for a clarification regarding the height. He would prefer the 40 feet so that homeowners wouldn't have to view the rooftop mechanics. The finished floor that Mr. Marshall is talking about starts at starts 15 to 20 feet off of the ground. Ms. Cantrell explained that the finished floor would start where the foundation is poured and wouldn't be 15 to 20 feet off of the ground. Mr. Leighty concluded that if the PUD is withdrawn the applicant can build with OL and put all glass along the backside if they choose to.

Ms. Wright stated that in response to Mr. Leighty she said he brings up an excellent point about the view. Given the fact that the developer would be benefitting from a view that they have not contributed to, perhaps it would be appropriate to ask the developer to take on the cost of maintaining that reservoir pond if they are going to use it as a marketing ploy.

Ms. Cantrell reminded Mr. Marshall that there was a friendly amendment to have on the east side of the eastern edge, windows starting at seven feet high and she is not comfortable with the northern side of the eastern edge and would like to consider only restricting windows on the east side of the eastern edge. In response, Mr. Marshall stated that he would agree to Ms. Cantrell's amendment and go opaque on the north side and keep it to the seven foot on the east side.

He doesn't want people to be able to look into the backyards of the neighborhoods.

Ms. Wright stated that increasing the setback would eliminate a lot of the issues regarding windows. Mr. Marshall stated that the setback doesn't make any difference regarding windows and seeing things. Ms. Wright stated that there is a lot of rambling brush throughout the entire area and it is pretty dense so visibility to the street is limited. Mr. Marshall stated that there are some nice buffers all the way around the subject property. Starting on the east side from the property line of homeowner to the subject property there was about 25 feet and there are buffers about 25 feet on the north side too. The west side has all kinds of buffers available and if the trees are planted on the east side and north side with the three-inch tree trunks. The trees will grow up and hide everything.

Mr. Leighty asked Ms. Cantrell if it is possible to have two motions. In response, Ms. Cantrell stated that there is a motion on the floor and the friendly amendment was accepted and now the window requirement is the seven-foot requirement on the east and opaque on the north. If there is something at this point that a Planning Commissioner specifically disagrees with then he or she should propose an amendment and if Mr. Marshall doesn't accept that amendment, then the Planning Commission will vote on a hostile amendment or non-friendly amendment.

Ms. Cantrell asked if anyone else would like to offer an amendment.

Mr. McArtor asked if the setback is 20 feet or 25 feet. Mr. Marshall stated that he stated a 25-foot setback. Mr. Leighty could offer another friendly amendment. Mr. McArtor stated that he would like to offer a friendly amendment to reduce the setback from 25 feet to 20 feet. In response, Ms. Wright stated that it should remain at 25 feet. Mr. Marshall stated that he wouldn't accept the 25-foot setback and that would be a hostile amendment. Mr. McArtor stated that he will leave the motion as it stands and he will have to vote against Mr. Marshall's motion. Mr. McArtor further stated that he likes PUDs as a general rule, but he doesn't like it when the Planning Commission gets into discussion much like the time they try to engineer a gate. Mr. McArtor commented that he would never forget sitting there questioning why the Planning Commission was doing this because they are not engineers and know nothing about gates or how to build gates. This is a conceptual plan and the Planning Commission is telling the developer how to build these buildings and hears what the neighbors are saying, but he is concerned that as the Planning Commission accumulates these restrictions that this PUD will go away. If the PUD goes away, the neighbors wouldn't like what they get under straight zoning. Mr. McArtor concluded that he believes a 20-foot setback would be appropriate and the planting of trees, but with the number of windows and size of windows, there seems to be no end to this.

Commissioner Keith believes that the vote should be taken and then move on.

Mr. Marshall stated that he will concede on the 25 feet down to 20 feet for the setback and will take it as a friendly amendment.

Ms. Cantrell stated that there would be a 20-foot setback; 35-foot maximum height; berms installed at the beginning of development; eight-foot fence that is masonry on the east side and wooden on the north side; three-inch trees planting; windows at seven feet or higher on the east side, opaque on the north side.

Commissioner Keith stated that she would like to make a friendly amendment because she believes the 35 feet in height is too restrictive and if she were a neighbor she would rather have the parapets covering rooftop mechanics.

Ms. Cantrell stated that she thought the developer could still have the mechanics on the rooftop and screen them at 35 feet.

Mr. Leighty stated that the Planning Commission keeps talking about the east building and asked what if the fourth building becomes the east building and the fifth building is never developed? In response, Mr. Marshall stated whatever the last building is would be the east building. Mr. Leighty stated they would have more setback if the fifth building is not built and it doesn't seem fair to hamstring them on the fourth building. Ms. Cantrell stated that she was under the impression that the 35-foot height limit was for all of the buildings. Mr. Marshall stated that he made the height limit of 35 feet on all of the buildings.

Mr. Biery stated that he may not be able to do the parapet with the height limitation of 35 feet.

Commissioner Keith asked the neighbors if that is a bad thing or good thing. The parapet might deflect some of the sound versus the equipment being on the ground and closer to the neighbors.

Mr. Marshall asked if the parapet counts into the height of the building. In response, Mr. Sansone answered affirmatively.

Ms. Cantrell asked if there were a percentage of the height that is allowed for non-livable space. She thought it was ten percent for something that is considered decorative and non-functioning part of the building. In response, Mr. Sansone stated that he doesn't know where that is written into the Zoning Code. Mr. Alberty stated that an architectural feature is allowed a percentage, but the height of a building is measured from the highest point of the structure and a parapet wall is considered to be a part of the structure.

Ms. Cantrell asked Mr. Marshall if he would accept the friendly amendment from Commissioner Keith to allow the 40-foot height in order to allow the parapet. In response, Mr. Marshall stated that he wouldn't accept that amendment and would prefer to leave the maximum building height at 35 feet.

Commissioner Keith stated that she would like to hear from the neighborhood.

**Terry Fisher**, 7908 South Fulton, 74136, representing the neighborhood, stated that the developer mentioned specifically that they could live with the 35-foot height. One of Mr. Biery's suggestions was a northern boundary fence of material of their choice.

Ms. Cantrell asked Mr. Fisher to address the issue of the maximum building height because the Planning Commission is not reopening the public hearing.

Mr. Fisher stated that this is right to that point by giving on the height up to 40 feet if Mr. Biery would install a concrete fence, not wood. Mr. Fisher asked Mr. Biery if he had a deal.

Ms. Cantrell stated that the Planning Commission needs to make a decision and the neighborhood and Mr. Biery can work on other deals before it goes to City Council.

Ms. Wright stated that keeping the height at 35 feet, which was my friendly amendment, was at a very minimum to match the fencing that goes all around Holland Lakes and keep it consistent with material.

Mr. Marshall stated that the masonry fence at the back would cost too much money in his opinion. On the east side it matches and is compatible with the existing fence and that would be fine. A wood fence in the back would be just fine.

Ms. Cantrell asked Commissioner Keith if she would like to offer an unfriendly amendment or vote on the motion as it stands.

Commissioner Keith stated that she would like to make an unfriendly amendment to Mr. Marshall's motion to allow the maximum building height of 40 feet, which would give a better protection for the neighborhood.

Ms. Cantrell seconded.

**TMAPC Action; 8 members present:**

On **MOTION** of **KEITH**, TMAPC voted **6-2-0** (Cantrell, Keith, Leighty, McArtor, Shivel, Walker "aye"; Marshall, Wright "nays"; none "abstaining"; Carnes, Midget, Sparks "absent") to recommend **APPROVAL** of the maximum building height from the finished floor to be 40 feet in height.

Mr. Leighty asked Ms. Cantrell if she planned to take this item by item. In response, Ms. Cantrell stated only on the items that the Planning Commission is having an amendment.

Ms. Cantrell asked the Planning Commission if there are any more unfriendly amendments and if not, she will call for the vote.

Ms. Cantrell repeated the motion: 20-foot setback, 40-foot maximum building height, berm built prior to development, eight-foot masonry fence on the east side, eight-foot wooden screening fence on the back, three-inch trees along the north and east border, no windows on the east side except for transom windows starting at seven-foot, opaque windows on the north side.

Ms. Wright stated that she wanted to add that the developer would be responsible for making and restoring the reservoir pond back to its original condition.

Mr. Marshall stated that he wouldn't accept that amendment because it is too much. The legal profession would have to get involved in that. In response, Ms. Wright stated that she is sure that they will.

**TMAPC Action; 8 members present:**

On **MOTION** of **MARSHALL**, TMAPC voted **8-0-0** (Cantrell, Keith, Leighty, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Carnes, Midget, Sparks "absent") to recommend **APPROVAL** of PUD-769 per staff recommendation, subject to Planning Commission's amendments as follows: East side of subject property conditions: an eight-foot masonry type fence that will be compatible with what is currently existing on the front entrance with stone columns and stucco in between along the east side, trees planted in front of masonry fence measuring with a three-inch caliper trunk and trees that grow quickly, 20-foot setback on the east side; berm built prior to development, no windows on the east side except for transom windows starting at seven-foot, opaque windows on the north side; north side of subject property conditions: request an eight-foot wood fence and for all buildings to have a maximum of 40 feet in height. (Language with a strike-through has been deleted and language with an underline has been added.)

**Legal Description for PUD-769:**

South 275' of west 525' of east half of SW/4 SW/4 of Section 10, T-18-N, R-13-E of IBM, Tulsa County, State of Oklahoma, LESS south 50' thereof; **From OL (Office Low Intensity District) To OL/PUD (Office Low Intensity District/Planned Unit Development [PUD-769]).**

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**Commissioners' Comments**

None.

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There being no further business, the Chair declared the meeting adjourned at 3:45 p.m.

Date Approved: 7-22-09  
  
Chairman

ATTEST:   
Secretary