TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2557

Wednesday, August 19, 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	None	Feddis	Boulden, Legal
Carnes		Fernandez	Steele, Sr. Eng.
Dix		Huntsinger	
Leighty		Matthews	
Liotta		Sansone	
Marshall			
McArtor			
Midget			
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, August 13, 2009 at 4:20 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:

Chairman's Report:
Ms. Cantrell reported that the Land Use Education & Communication Committee Report and Response would be moved to the end of the agenda.

Comprehensive Plan Report:
Martha Schultz reported on the progress of responses and revisions to the PlaniTulsa workshops. Ms. Schultz further reported that the PlaniTulsa staff will be attending the August 26th TMAPC work session and presenting their findings.

Director's Report:
Ms. Matthews reported on the BOCC and City Council agendas.

Minutes:

Approval of the minutes of August 5, 2009 Meeting No. 2556

On **MOTION** of **CARNES,** the TMAPC voted 10-0-0 (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Midget "absent") to **APPROVE** the minutes of the meeting of August 5, 2009, Meeting No. 2556.

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

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Ms. Cantrell stated that Items 7 and 22 have requested a continuance:

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Midget "absent") to **CONTINUE** the lot-combination for LC-195 to September 2, 2009.

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22. **Sunrise Terrace II –** (9307) Minor Subdivision Plat (PD 4) (CD 4)

Southeast corner of East 15th Street and South Harvard Avenue (Continuance requested until September 16, 2009 for further Technical Advisory Committee review.)

STAFF RECOMMENDATION:

Continuance has been requested until September 16, 2009 for further Technical Advisory Committee review.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:
On **MOTION** of **MCARTOR**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Midget "absent") to **CONTINUE** the minor subdivision plat for Sunrise Terrace II to September 16, 2009 for further Technical Advisory Committee review.

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Mr. Midget in at 1:38 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. **LS-20326** – Joshua Adsit (1433)/Lot-Split (County)

   East of North 129th Avenue and North of East 66th Street North, 6811 North 129th East Avenue

3. **LS-20327** – Mike Marquardt (0330)/Lot-Split (PD 2) (CD 3)

   Southeast Corner of North Peoria Avenue and East Reading Street, 1601 North Peoria Ave East

4. **LC-1** – Erwin Reiff (8310)/Lot Combination (**Rescind)** (PD 18) (CD 8)

   West of South Maplewood Avenue and North of East 76th Place, 5951 East 76th Court

5. **LC-192** – Saul Bojorquez (9306)/Lot Combination (PD 4) (CD 4)

   Southeast corner of East 8th Street and South Trenton Avenue, 801 South Trenton Avenue

6. **LC-194** – St Peter & Paul Church (0335)/Lot Combination (PD 16) (CD 3)

   Southeast corner of East Oklahoma Place and North 67th East Avenue, 6704 East Oklahoma Place North

8. **LC-196** – Bob Bean, Jr. (9217)/Lot Combination (County)

   South of West 26th Street and West of South 57th Avenue, 6144 West 26th Street

9. **LS-20325** – Bob Bean, Jr. (9217)/Lot-Split (County)

   South of West 26th Street and West of South 57th Avenue, 6144 West 26th Street

10. **LC-197** – Habitat For Humanity (9233)/Lot Combination (PD 8) (CD 2)

    South of West 55th Street and East of South 41st Avenue, 4012 West 55th Street

11. **LC-199** – Tulsa Hills (8211)/Lot Combination (PD 8) (CD 2)

    North of West 81st Street and East of South US-75,Tulsa Hills

11a. ***LC-200** – Tulsa Hills (8211)/Lot Combination (PD 8) (CD 2)

    North of West 81st Street and East of South US-75, Tulsa Hills (Related to Item 20.)

12. **LS-20329** – Tulsa Hills (8211)/Lot-Split (PD 8) (CD 2)

    North of West 81st Street and East of South US-75,Tulsa Hills (Related to Items 13 & 19)

13. **LC-201** – Tulsa Hills (8211)/Lot Combination (PD 8) (CD 2)

    North of West 81st Street and East of South US-75,Tulsa Hills (Related to Items 12 & 19)

14. **LC-202** – Tulsa Hills (8211)/Lot Combination (PD 8) (CD 2)

    North of West 81st Street and East of South US-75,Tulsa Hills

15. **LC-203** – Jesus & Hilda Mejia (2320)/Lot Combination (County)

    East of North Delaware Avenue and west of North College Ave, 9205 North Delaware Avenue

16. **Tradition Blocks 8-11-** (8327) Final Plat (PD 26) (CD 8)

    West of the northwest corner of 111th Street South and South Sheridan Road

STAFF RECOMMENDATION:

This plat consists of 45 lots in four blocks on 26.97 acres.

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

17. **BOA-20961-**(9305) Plat Waiver (PD 4) (CD 4)

    Northwest corner of East 5th Place and South Harvard Avenue

STAFF RECOMMENDATION:

The platting requirement is being triggered by BOA case 20961 which approved a Special Exception for university facilities and accessory uses.

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

ZONING:
TMAPC Staff: The property has previously been platted.

STREETS:
No comment.

SEWER:
No comment.

WATER:
No comment.

STORM DRAIN:
No comment.

FIRE:
No comment.

UTILITIES:
No comment.

Staff recommends **APPROVAL** of the plat waiver.

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

18. **Riverside Market II Amended –** (8320) Amendment to Deed of Dedication (PD 18) (CD 2)

West of Riverside Parkway, North of East 101st Street South

19. **Z-7008-SP-1-K – Chris Evertz** (PD-8) (CD-2)

North of the northeast corner of West 81st Street South and Olympia Avenue (Corridor Minor Amendment to split 179,046 SF of lot area from Lots 3 and 4, Block 2, Tulsa Hills and add it to Lot 6, Block 2 and reallocate floor area.) (Related to Items 12 & 13)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to split 179,046 square feet (SF) of lot area from Lots 3 and 4, Block 2 - Tulsa Hills and add it to Lot 6, Block 2 – Tulsa Hills (see Exhibit A) and re-allocate floor area. Associated with this minor amendment are Lot Split LS-20329 and Lot Combination LC-201, also appearing on the August 19th agenda of the TMAPC.

The area being split from Lots 3 and 4 is the location of a 100' Public Service Company easement, a 17.5' utility easement, an overland drainage easement and a 20' trail easement. Therefore the area being split from Lots 3 and 4 and combined with Lot 6 may never be developed. Lot 6 is fully developed. Maintenance of the area being removed from Lots 3 and 4 will become the responsibility of the owner of Lot 6.

The existing lot areas and floor area allocations are as follows:

Lot	Existing Area	Allocated Floor Area @ .25 FAR per original approval of CO Plan Z-7008-SP-1/Tulsa Hills
Lots 3 & 4	777,131 SF	194,282 SF
Lot 6	401,245 SF	100,311 SF

The new lot area and floor area allocation resulting from the lot split/combinations:

Lot	New Lot Area	New allocation of floor area per lot split/combination @ .25 FAR	% increase/decrease
Lots 3 & 4	598, 085 SF	149,521 SF	15% decrease
Lot 6	401,245 SF	145,072 SF	16% increase

The setback requirement for Lots 3 and 4 from the lot line in common with the single family development to the east will remain 100' as originally approved.

Staff has reviewed the proposal and feels approval of the minor amendment does not represent a significant departure from the approved development concept, nor will it change the character of the development. Since the buffer for the single family development to the east is not being reduced or altered, combined with the aforementioned, staff can recommend **APPROVAL** of minor amendment Z-7008-SP-1k.

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

20. ***Z-7008-SP-1-L – Chris Evertz** (PD-8) (CD-2)

North of the northeast corner of West 81st Street South and Olympia Avenue (Corridor Plan Minor Amendment to combine the remainder of Lot 7, Block 1 – Tulsa Hills with the north half of Lot 8, Block 1 to create new Lot 7/Tract C and allocate floor area. (Related to Item 11a.)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to combine the remainder of Lot 7, Block 1 – Tulsa Hills with the north ½ of Lot 8, Block 1 to create new "Lot

7/Tract C" and allocate floor area per the existing .25 floor-to-area (FAR) ratio allocated as part of the original approval of the Tulsa Hills Corridor District Site Plan (see Exhibit A). Associated with this minor amendment to combine the remainder of Lot 7 with the northern portion of Lot 8 is Lot Combination #LC-200, also on the August 19, 2009 agenda of the TMAPC.

Lot 7 was split per Lot Split #LS-20308. The northern portion of Lot 7 is being combined with the southern portion of Lot 6 to create "Lot 6 /Tract B" per Lot Combination LC-199 also on the 8/19/09 TMAPC agenda. Floor area for this split/combination was allocated per minor amendment Z-7008-SP-1d, approved by the TMAPC on 3/5/08. Lot 8 was also split per Lot Split #LS-20308. Consequently, this minor amendment is required to allocate floor area to the new Lot 7/Tract C and the remainder of Lot 8.

The existing lot areas and floor allocations are as follows:

Lot	Existing Area	Allocated Floor Area @ .25 FAR per original approval of CO Plan Z-7008-SP-1/Tulsa Hills
Southern ½ Lot 7, Block 1	31,681 SF	7,920 SF
Northern ½ Lot 8, Block 1	58 SF	100,311 SF
Southern ½ Lot 8, Block 1	58 SF	100,311 SF

The new lot area and floor area allocation resulting from the lot combination is as follows:

Lot	New Lot Area	New allocation of floor area per lot split/combination @ .25 FAR	% increase/decrease
Lot 7/ Tract C, Block 1	598, 085 SF	149,521 SF	15% decrease
Remainder Lot 8, Block 1	401,245 SF	145,072 SF	16% increase

Staff has reviewed the floor area allocation and feels approval of the minor amendment does not represent a significant departure from the approved development concept, nor will it change the character of the development. Since the FAR for the new lots remain at .25 as originally approved and is well below the 1.25 FAR allowed by the underlying zoning, staff views the request as minor in nature and can recommend **APPROVAL** of minor amendment Z-7008-SP-1-l.

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

21. **PUD-575-B – Richard Johns** (PD-18) (CD-7)

Northeast of the northeast corner of 81st Street South and South Mingo Road (Detail Site Plan and Landscape Plan for a two-story, 5,996 SF office building.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site and landscape plan for a 2-story, 5,996 square foot (SF) office building. The proposed use, Use Unit 11 – Office, Studios and Support Services is a permitted use within PUD-575-B.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site is provided from 79th Street South. Parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping is provided per the landscape chapter of the Zoning Code and adopted PUD development standards. Site lighting is not proposed at this time. Sidewalks are provided along East 79th Street South as required by PUD Development Standards and subdivision regulations. A pedestrian walkway thorough the parking lot is provided per PUD development standards.

Staff recommends **APPROVAL** of the detail site plan for Lot 4, Block 1 – 7900 Mingo.

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

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:
On **MOTION** of **WRIGHT,** TMAPC voted **11-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the consent agenda Items 2 through 6, 8 through 21 per staff recommendation.

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PUBLIC HEARING

23. **CZ-402 – John Copp** **RS to IM or IL**

East of southeast corner of South 45th West Avenue and West 55th (County)

STAFF RECOMMENDATION:

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

RELEVANT ZONING HISTORY:

CZ-315 January 2003: All concurred in approval of a request for rezoning a 1.79± acre tract of land from RS to IL for light industrial, on property located west of northwest corner West 57th Street South and South 45th West Avenue.

CZ-314 December 2002: All concurred in approval of a request for rezoning a tract of land from RS to IL for industrial use, on property located west of the northwest corner West 57th Street South and South 45th West Avenue

CZ-307 July 2002: All concurred in approval of a request for rezoning a .79± acre tract of land from RS to IL for a lawn service, on property located northeast corner of West 55th Street South and South 43rd West Avenue.

CZ-263 February 2000: All concurred in approval of a request for rezoning two lots from RS to CH for an existing hotel/motel, located west of the southwest corner of West 56th Street and South 45th West Avenue.

CZ-258 December 1999: All concurred in approval of a request to rezone a lot from RS to IL for light manufacturing use, located east of northeast corner of I-44 and West 57th Street South.

CZ-250 February 1999: All concurred in approval of a request to rezone a tract from RS to IL for a proposed landscape maintenance service business, located on the east side of South 45th West Avenue between West 56th Place South and West 57th Street South.

CZ-248 December 1998: All concurred in approval of a request to rezone a tract from RS to IL for a body shop, located on the southwest corner of West 55th Place and South 41st West Court.

CZ-233 May 1997: All concurred in approval of a request to rezone a 2.2-acre tract from RS to IL, located east of the northeast corner of West 61st Street South and South 49th West Avenue.

CZ-202 June 1993: All concurred in approval of a request to rezone a .6-acre tract from RS to IL for a truck repair service, located on the northeast corner of West 56th Street South and South 45th West Avenue.

CZ-188 June 1991: All concurred in approval of a request to rezone a tract from RS-3 to IL for a fireworks facility, located east of the southeast corner of South 45th West Avenue and West 55th Street South.

CZ-142 April 1986: All concurred in approval of a request for rezoning a tract of land from RS to IL on property located on the north side of 55th Place and East of 45th West Avenue.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately .8± acres in size and is located east of the southeast corner of South 45th West Avenue and West 55th Place. The property appears to be used for parking/storage of the trailers for semis and is zoned RS.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
West 55th Place	N/A	N/A	2 (barely; no curbs or gutters. Needs to be improved to industrial collector standards – 80' ROW)

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

SURROUNDING AREA: This is an older area that appears to be transitioning from residential uses to industrial and commercial. The subject tract is abutted on the east by a single-family residence, zoned RS; on the north and south by industrial uses, zoned IL and residential uses, zoned RS; and on the west by a single-family residence, zoned RS.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:
The District 8 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Special District C – a part of the Skelly Drive Frontage Area. Plan policies call for this area to develop commercially within the actual Skelly Drive frontage portion and to develop industrially within the remainder (which would include the subject property). According to the Zoning Matrix, the requested IM or IL zoning **may be found** in accord with the Plan due to the site's location within a special district.

STAFF RECOMMENDATION:
This area has been in transition to higher intensity uses for many years due in part to its accessibility to various transportation modes. Numerous industrially-zoned properties lie adjacent to or nearby the subject site and nearly all are designated IL. Therefore, staff can recommend **APPROVAL** of IL zoning for CZ-402.

TMAPC COMMENTS:
Mr. Leighty asked Mr. Copp if he is the same John Copp who was in a real estate transaction in 1988 for property on Harvard. In response, Mr. Copp answered negatively.

Applicant's Comments:
John Copp, 4104 South Narcissi Avenue, Broken Arrow, 74012, stated that he would like to build a commercial building for truck repairs, storage and office space. Mr. Copp submitted photographs of the vacant home that his land will abut.

Interested Parties Comments:
Deanna Clark, 5601 South 45th West Avenue, 74107, stated that she lives one block from the subject property. Ms. Clark confirmed staff's impression of the existing roads being too narrow for two cars to pass and that there is a five-ton limit on 45th West Avenue and 11/2 ton limit on the low water bridge. The semi-trailer trucks are destroying the existing road, which is not up to industrial or commercial use standards. Ms. Clark submitted several photographs of the road and surrounding properties (Exhibit A-1). She explained that she has been in contact with the County for eight years regarding the roads and trying to get them improved. Ms. Clark described how the semi-trucks entering and exiting Steve's Diesel shop have to use the ditches and easements in the residential roads to turn around. Ms. Clark indicated that she isn't in opposition to the proposal, but she is opposed to the trucks using the existing roads and feels the roads should be improved before this application is granted.

Ms. Clark stated that she had lived in the subject neighborhood for 14 years and when she purchased her home it was mainly residential. The truck drivers are not respectful of the residential properties. Ms. Clark made several complaints about the existing business across the street from her property, which is not included in this application. Trucks come in at all hours of the day and night and they are not marked with the chemicals that they "might" be hauling. The buildings are not marked with the chemicals that "might" be stored. Ms. Clark commented that as a homeowner she feels that she is being squeezed out of the area by commercial properties. Most of the subject properties are still zoned residential in the subject area.

TMAPC COMMENTS:

In response to Mr. Midget, Ms. Clark indicated where her residence is located and the various rental properties that she owns. She commented that it is difficult to rent the homes because people are not able to get in or out due to the condition of the streets.

Ms. Cantrell asked Ms. Clark if her complaint is with the business one block over from her home or with Steve's Diesel. In response, Ms. Clark stated that it is a combined thing. She explains that the drivers are not sure of where they are going and have to turn around on the narrow roads. She requested that the roads be built up to handle the semi-trailer/trucks.

Ms. Clark clarified that she is complaining about all of the roads in the subject area and not just the road that runs in front of her home. The roads are not built to handle commercial use.

Applicant's Rebuttal:

Mr. Copp stated that all of the trucks that he has are for his own drivers. They know where he is located and they wouldn't be running around the neighborhood looking for work.

Steve's Diesel was already located in the subject area before Ms. Clark moved in. Mr. Copp stated that he built that building in 1993, which was built before Ms. Clark purchased her home.

In response to Mr. Leighty, Mr. Copp stated that his drivers come from the service road onto his lots. He is one block off of the service road and right behind the Days Inn and Jake's Fireworks. There is a low-water bridge in the subject area and anyone who would take a semi-truck over it would be crazy. His drivers come off of Skelly Drive and turn by the Days Inn on 55th Place and come into his lot.

Mr. Liotta asked Mr. Copp where the TNT trailer yard accesses from. In response, Mr. Copp stated that they enter from the Skelly Bypass. Mr. Liotta asked how the change in zoning would materially affect the use of the roads, the number of trucks, etc. Mr. Copp stated that it would not change anything because he is only working on his personal trucks and it is not open to the public.

Ms. Wright stated that she doesn't have a problem with Mr. Copp's operation, but there is a combination of things that should be assessed. Mr. Copp stated that once he builds his office space and garage there will be not trucks or trailers parked on the subject property. They would only be there for repairs.

Mr. McArtor asked if the trailers that are presently stored on the subject property belong to the applicant. Mr. Copp answered affirmatively. Mr. McArtor asked Mr. Copp if the subject property is zoned RS. In response, Mr. Copp answered

affirmatively. Mr. McArtor asked how long the trailers have been parked on the subject property. In response, Mr. Copp stated that they have been there three or four years. Mr. McArtor asked Mr. Copp how that works when it is zoned RS, which is residential. Mr. McArtor asked Mr. Copp where he plans to put these trailers when he starts to build. In response, Mr. Copp stated that he owns two acres down the street at 4514 West 57th, which backs up to BNM Oil Company and that is where they will be moved. Mr. McArtor asked if there is any reason why they are not there now. In response, Mr. Copp stated that he will have about 300 loads of rock first. Mr. McArtor asked Mr. Copp if he is saying that once his office and repair shop is built, it will not increase the traffic into the neighborhood. In response, Mr. Copp answered affirmatively.

Mr. Liotta stated that the homeowner mentioned some bridges that are load-limited. Mr. Copp stated that 45th Street has a five-ton load-limit on it and 45th goes from the service road and has a low-water bridge that is load-limited to 1 ½ tons. Mr. Copp indicated that the he doesn't believe the bridge would hold a semi-trailer truck. He stated that his trucks are not going over 45th Street and the low-water bridge.

Mr. Shivel asked Mr. Copp how many trucks he owned in his fleet. In response, Mr. Copp stated that at this time he has 13 trucks. He explained that he has downsized from 39 trucks to 13 trucks. He is currently still parking trailers on the subject property.

Mr. Leighty asked Ms. Clark when she purchased her property. In response, Ms. Clark stated that she has lived there for 14 years. She explained that the building where Steve's Diesel is now located was an empty building when she moved into her home. Steve's Diesel has been there ten years. Mr. Leighty asked Ms. Clark if she moved into the area around 1994. Ms. Clark answered affirmatively.

In response to Mr. Leighty, Ms. Matthews stated that the subject area was one of the first plans to be adopted into the Comprehensive Plan in 1970's. There was already a trend at that time for industrial and commercial type zoning. Skelly Drive had been built and the railroad track (Interurban Drive) was already present. The planners at that time saw that this would eventually develop into commercial along the frontage and industrial on the interior.

Ms. Wright asked Mr. Steele to come forward. Ms. Cantrell reminded Ms. Wright that this is a county rezoning case. Ms. Wright requested Mr. Steele to come forward regardless. **David Steele**, Senior Engineer for the City of Tulsa.

Ms. Wright stated that she has a question concerning the truck contents. She reiterated Ms. Clark's comments that trucks may be carrying chemicals and the trucks are unmarked. She asked under EPA, OSHA, etc. how that is handled and what would happen if the Planning Commission were to look at this. In

response, Mr. Steele stated that he believes that trucks hauling hazardous material must be marked as such. There is a code that they have to follow and that code tells what is being stored and it is primarily for emergency workers coming to a site where there is a problem. There are transportation laws that govern where these trucks can be parked, where they can and can't go. Restrictions on residential areas he is unaware of and he would have to defer to someone else that knows more about transportation law.

Ms. Wright directed her comments to Ms. Clark and explained that what the applicant is doing is different than Steve's Diesel operation. She explained that she did a lot of fleet safety and fleet work a long time ago and she understands the owner/operation garage facility. Mr. Copp will be lessening the load based upon what he wants to develop. The infrastructure issues and the actual contents of the trucks are questionable. This is a County issue and it will go before the Board of County Commissioners.

Mr. Carnes stated that this should better the neighborhood. The applicant will be moving the trailers to another location and build an office with a repair garage for his own trucks. Mr. Carnes moved to approve the IL zoning per the staff recommendation.

Mr. Midget seconded Mr. Carnes's motion.

Ms. Cantrell stated that policy is that infrastructure follows development. She is concerned about this circumstance because she believes that this is a safety issue and if the roads are not capable of handling semi-trucks, then that it is a potential safety issue. Ms. Cantrell indicated that she will support this application and encourages the County Commission to look at what can be done to improve the roads. If this is going to be an industrial area, it needs to have industrial roads.

Mr. Liotta stated that he would like to meet with the Clarks and the County Engineer at the location to look at the specific problems. This is separate from today's issue.

Mr. Midget encouraged the interested parties to attend the Board of County Commissioners meeting when this case goes before them and share the same concerns they have shared today.

Mr. Leighty stated that he will be supporting this application because he doesn't believe it will add to the traffic in the neighborhood and it is consistent with the Comprehensive Plan. It appears that this neighborhood was headed towards more industrial development going back many years.

Mr. Dix stated that he will probably support this, but he would admonish the applicant for using residential property for industrial use. He would be happy to

speak to the applicant at a later time about any other properties that may be available for parking the trailers that would cost a lot less than what he is expecting to put into the other property. He asked Mr. Copp if he had any other properties in the subject area. Mr. Copp stated that he doesn't have any other properties except in Sapulpa.

Mr. McArtor agreed with Mr. Dix regarding the applicant using the existing property for storing trailers on RS-zoned property. He can support the application because he believes it is well founded. However, when one comes before any kind of regulatory board and asks for the help of the law without having followed the law it is not a very shrewd move. It doesn't give the neighbors much confidence that the applicant will follow the new regulations because the old ones have been violated. This is asking a lot from people to help you out and not following the rules that are already laid down. Hopefully the applicant and others will remember that before coming to the Planning Commission. Mr. McArtor stated that the interested parties are in the middle of the industrial/commercial area and that is tough and he is sorry about that. He hopes that something can be done to improve their situation. Hopefully this application will improve the subject area.

Mr. Marshall recognized Mr. Clark.

Jack Clark, 5601 South 45th West Avenue, 74107, reiterated the problems he and his wife are experiencing from Steve's Diesel across the street from their residence. He expressed concerns that the same will happen with the proposed development.

Ms. Cantrell explained to Mr. Clark that the applicant will have to go through the platting process and there will be setbacks that will have to be met. Mr. Copp will have to meet all of the requirements of the IL district according to the County Zoning Code.

Mr. Clark expressed concerns that the applicant will not follow the requirements due to his past history.

Ms. Wright asked Mr. Copp how many bays he would have. Mr. Copp indicated that there will be four bays. There will be six trucks on the property at any given time. There are 16 drivers/owner/operators, and one mechanic. He explained that in 1993 when he built Steve's Diesel, it was for personal use and not open to the public and he didn't have to have a hard surface. When Steve purchased it, it was then open to the public and he had to hard-surface it. He has hard surface in front of his building called Oil Capital Signs for parking as required. Ms. Wright asked Mr. Copp if he has double trailers or single trailers. Mr. Copp indicated that he does only single trailers. He further indicated that he doesn't haul hazmat or other hazardous material. The Federal Government gives the authority to whether someone can haul hazmat and he has never been allowed to do so and

has never had a hazmat license. Primarily his drivers haul light poles for highways in California, Oregon, and Washington State. His drivers also haul shopping carts and Ameristar Fence. There are no refrigerator trucks.

Mr. Liotta stated that the application meets the Comprehensive Plan and matches the property, but from a County perspective and as a former Highway Superintendent, he is looking at infrastructure and he asked if it does meet the intent of the property's intended use or current use. If his Commissioner comes to him and asks should this be allowed to go in with the streets in the condition that they are in, his job would be to say no. He feels that he should oppose the application as a flag to the Commissioner that when this comes before the Board of County Commissioner that they are aware of the infrastructure.

Mr. Copp stated that the only street marked with a five-ton limit is 45th Street and he doesn't utilize that street. His drivers use 55th Street.

Ms. Wright stated that when the applicant goes before the BOCC it could be a better thing for him because he could have the whole infrastructure in that area tagged.

TMAPC Action; 11 members present:
On **MOTION** of **CARNES**, TMAPC voted **10-1-0** (Cantrell, Carnes, Dix, Leighty, Marshall, McArtor, Midget, Shivel, Walker, Wright "aye"; Liotta "nay"; none "abstaining"; none "absent") to recommend **APPROVAL** of the IL zoning for CZ-402 per staff recommendation.

Legal Description for CZ-402:
Lots 7, 8, 9, 10 and 11, Block 5, Opportunity Heights, an addition to Tulsa County, State of Oklahoma, according to the recorded plat thereof.

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24. **PUD-772 – Khoury Engineering, Inc.** **RM-2 to RM-2/PUD**

Between East 13th Street and East 13th Place and between South Trenton Avenue and South Utica Avenue (PUD for a three story, 129 unit elderly/retirement housing, assisted living and memory care development.) (PD-4) (CD-4)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11815 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

PUD-760 October 2008: All concurred in approval of a proposed Planned Unit Development on a 1.35± acre tract of land for retail and office use on property located northwest corner of East 15th Street and South Troost Avenue.

Z-7102 October 2008: All concurred in approval of a request for rezoning a 2.7± acre tract of land from OL/RM-2 to OH for office use on property located southwest corner of the Broken Arrow Expressway and South Utica Avenue.

Z-7038 October 2006: A request for rezoning a 2± acre tract of land from RM-2 to CH for new commercial development and parking, was withdrawn by applicant, on property located north of the northeast corner of South Troost Avenue and East 15h Street.

PUD-728 May 2006: All concurred in approval of a proposed Planned Unit Development on a 4.03± acre tract of land for office, hospital, residential treatment center and transitional living center and off-street parking uses, on property located east and west sides of South Trenton Avenue between East 12th Street and East 13th Street.

Z-6977/PUD-708-A July 2005: All concurred in approval of a proposed Major Amendment to a PUD on a 1.34± acre tract of land on property and to allow on property located on the southeast corner East 15th Street and South Utica Avenue. Staff and TMAPC recommended approval to remove HP zoning subject to the removal of the Victor access. The City Council motioned to retain the three lots in HP overlay zoning, and approve the curb-cut onto Victor but not allow to open until the scheduled improvements at 15th and Utica intersection are made; and to approve a landscaping addition to the project at the southeast corner of parking lot providing a buffer and transition into the remaining single-family residential uses to the south.

PUD-708 August 2004: All concurred in approval of a proposed Planned Unit Development on a 1.34± acre tract of land, to permit the consolidation of several parcels with various zoning, CH, OL, PK, RS-3 and HP to allow for a bank, including drive-thru facility, and office use subject to staff recommendations and eliminating access to Victor Avenue, and to specific traffic flow requirements on property located on the southeast corner of East 15th Street South and South Utica Avenue.

Z-6935 April 2004: All concurred in an approval for a request to rezone a 4.5± acre tract from RM-2/PK/OL/CH to OH for the eastern two-thirds (207') of the site and OMH on the western one-third (103') of the site on property located west of the southwest corner of East 11th Street and South Trenton.

PUD-697 February 2004: All concurred in approval for Hillcrest Medical Center to develop .46± acres for private parking, located on the southeast corner of East 13th Street South and South Utica Avenue.

BOA-19170 September 11, 2001: The Board of Adjustment approved a Variance of required parking spaces from 96 to 88; and Variances of required parking setbacks on three sides of the subject tract to allow 5' of required landscape strip (South Troost Avenue from 45' to 34'; East 13th Street from 45' to 35'; and South Utica Avenue from 60' to 55' and from 90' to 70', subject to a tie-contract with the church across the street for overflow parking, finding 60' setbacks on Troost, 13th Street and Utica, and the elevation change from the west to the east, on property located at the Southwest corner East 13th Street and South Utica Avenue and a part of the subject property.

PUD-432-E October 2000: A major amendment to PUD-432-D to add a tract of land formerly occupied by the day-old bakery store and to add to the existing PUD, Development Area D into Development Area C for additional retail floor area, allowing Convenience Goods and Services and Shopping Goods and Services to the PUD which would allow a new gift, newspaper stand, souvenir shop and thrift store. The property is located between South Utica Avenue and South Victor Avenue, East 11th Street and East 12th Street, the amendment was unanimously approved

PUD-614 August 1999: All concurred in approval of a proposed Planned Unit Development a 1.2± acre tract for a one-story medical office (KMO Cancer Care Facility) on property located on the southeast corner of East 15th Street and South Victor Avenue.

Z-6613 February 1998: A request was filed to rezone a 4.4-acre tract located on the northeast corner of East 12th Street and South Trenton Avenue, zoned RM-2 and OL, and a smaller tract consisting of two small lots located south of the southeast corner of East 11th Street and South Utica Avenue and zoned CH. The larger tract is east, across South Trenton Avenue, from subject property. CH or OH zoning was requested for a proposed medical center; staff and TMAPC recommended OH zoning on both tracts and City Council concurred.

PUD 553 April 1997: All concurred in approval of a proposed Planned Unit Development on a 2.14± acre tract of land to permit a bank, including drive-in facility, and office use per conditions on property located on the southwest corner of East 15th Street an South Utica Avenue.

PUD-432-D August 1995: All concurred in approval of a major amendment to expand the existing PUD to the east allowing for additional medical office and hospital buildings. The property is located between Utica and Xanthus Avenues from East 11th Street to East 13th Street.

BOA-16248 January 12, 1993: The Board of Adjustment approved a Special Exception to permit an existing church in an R district; per plan submitted; finding that the use has been in existence for many years, and has proved to be compatible with the surrounding neighborhood, on property located at 1244 South Utica and abutting north across East 13th Street from subject property.

BOA-15106 April 6, 1989: The Board of Adjustment approved a Special Exception to allow for office uses in an RM-2 district; and a Variance of the required screening; finding that the applicant resides in the home and the residential character of the structure will be maintained, and that office use is prevalent in the general area, on property located at 1312 South Troost Avenue and a part of the subject property.

Z-6213 January 1989: All concurred in approval of a request to rezone a 0.4-acre tract located on the southeast corner of East 12th Street and South Utica Avenue from OL, RM-2 and PUD-432 to OMH/PUD-432-A.

PUD-437 August 1988: All concurred in approval of a proposed Planned Unit Development a 1.35± acre tract of land for uses as permitted by right in an OL district excluding drive-in banks and funeral homes and allowing 2 stories on property located on the southeast corner of East 14th Place and South Utica Avenue.

PUD-432 November 1987: All concurred in approval to develop 4.5 acres located between South Utica Avenue and South Victor Avenue, from East 12th Street to East 13th Street for hospital and office uses.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 4.81± acres in size and is located between East 13th Street and East 13th Place and between South Trenton Avenue & South Utica Avenue. The property appears to be used residential and is zoned RM-2.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Utica Avenue	Urban Arterial	70'	4 w/ median
South Trenton Avenue	Residential Collector	60'	2
East 13th Street	Residential Collector	60'	2
East 13th Place	Freeway Access	60'	3

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

SURROUNDING AREA: The subject tract is abutted on the east by Utica Ave. and then Terrace Drive Addition (resubdivision), zoned RM-2 and RS-3; on the north by Parkside Resubdivision, Part of Block 6 and 7 Forest Park, zoned RM-2; on the south by 13th Place and then the Broken Arrow Expressway, zoned RS-3; and on the west by Forest Park Addition Amended, zoned RM-2.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:
The District 4 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being within the Hillcrest Healthcare Special District. According to the Zoning Matrix, the existing RM-2 zoning **is** in accord with the Plan. According to the Plan development within this area should be limited to residential, health and health-related uses. Furthermore the plan states, as transition occurs from previous land use to health, hospital-related and/or compatible uses, developers are encouraged to minimize adverse impacts on adjacent low intensity (residential) uses by assembling several parcels, when feasible, rather than by spot development, and development should be through the PUD process.

STAFF RECOMMENDATION:
PUD-772/Luther Place is an in-fill development proposal consisting of 5.892 (+/-) gross acres (256,653 gross square feet). The development tract is located on Utica Avenue between 13th Street and 13th Place and covers the two block area from Utica Avenue to Trenton Avenue. The two-story brick apartment building at the southeast corner of Trenton and 13th Street is not included in PUD-772. Troost Avenue from 13th Street to 13th Place (the BA Expressway) is proposed for closure.

The property is bordered on the east by Utica Avenue and then RS-3/PUD-697 zoned property which is currently vacant. PUD-697 is approved for a private parking lot for the Hillcrest Hospital complex. On the north the property is bordered by 13th Street and then RM-2 zoned property being used as a church/school as well as, what appears to be a vacant office building to the northwest. On the west the tract is bordered by the aforementioned apartment building and Trenton Avenue and then RM zoned property being used as a parking lot and three duplex units. The property is bordered on the south by 13th Place, an access road to the Broken Arrow (BA) Expressway.

PUD-772 proposes a 3-story, 129 unit elderly/retirement housing, assisted living and memory care development as permitted under Assisted Living Facility within Use Unit 8 – Multifamily and Similar Uses (see attached exhibits). The total floor area for the facility would be 129,163 SF with a building footprint of 72,150 sf. The underlying RM-2 zoning provides ample density for development therefore no zoning change is requested. The PUD is proposed to achieve the development flexibility with respect to building height and as required by the Comprehensive Plan for development within the Hillcrest Healthcare Special District within Planning District 4.

Access to the site is primarily from three points along 13th Street, a gated access point along Trenton Ave and an entrance only access point along 13th Place. There is no proposed access from Utica Avenue.

Staff has reviewed the concept development plan and performed site visits (see the attached area photographs). Given the tract location within the Hillcrest Healthcare Special District of the Comprehensive Plan and the recommendations associated with development within the special district, staff can support the application. Staff feels the proximity to one of the City's healthcare corridors and the site location along an urban arterial street and freeway access road makes this infill development proposal appropriate for the area. The redeveloped property will replace some properties which have been in decline for many years.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code and the Comprehensive Plan. Staff finds PUD-772 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 Residential and PUD Chapters of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-772 subject to the following conditions as modified by staff and as amended by the Planning Commission (items with strikethrough have been removed, underlined items added in):

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

2. Development Standards:

Permitted Use:	Assisted Living Facility <u>only</u> as permitted in Use Unit 8, Multifamily Dwelling and Similar Uses and customary accessory uses.
Gross Land Area:	5.892 Acres (256,653 SF)
Net Land Area:	3.582 Acres (156,032 SF)
Minimum Land Area per Dwelling Unit:	1,200 SF
Minimum Livability Space per Dwelling Unit:	200 SF
Maximum Building Height:	50 feet - not to exceed three stories
Minimum Building Setbacks:	

From centerline of South Utica Avenue:	85 feet
From East 13th Street ROW:	10 feet
From East 13th Place ROW:	10 feet
From South Trenton Avenue ~~ROW~~ property line:	~~10~~ 50 feet
Maximum Building Height:	50 feet - not to exceed three stories
Parking Ratio*:	As required by the applicable Use Unit within the Tulsa Zoning Code.

* *Parking proposed within the 13th Place right-of-way (ROW) must receive approval from the City of Tulsa prior to the submittal and approval of detail site plans.*

Landscape Area:
A minimum of ten percent (10%) of the land area shall be improved as internal landscape open space in accordance with the Landscape Chapter of the Zoning Code. Street yards shall be landscaped per Chapter 10 of the Tulsa Zoning Code.

Lighting:
Exterior light standards, including building mounted, shall not exceed 25 feet in height and shall be hooded and directed downward and away from the boundaries of the planned unit development. Shielding of outdoor lighting shall be designed so as to prevent the light producing element or reflector of the light fixture from being visible to a person standing at ground level within adjacent properties. Compliance with these standards shall be verified by application of the Kennebunkport Formula or submittal of a photometric plan as part of the required detail site plan to be approved by the TMAPC. Consideration of topography must be included in the calculations.

Trash Containers:
Outside trash containers will be located within the southern half of the development and not within the western 65 feet of the development. Trash enclosures shall be completely screened from the view of a person standing within the adjacent residential areas and roadways.

Signs:
Signs shall be limited to the following:

No free standing signs or wall signs shall be permitted. Two identification signs incorporated into the screening wall along Utica Avenue, one at the corner of 13th Street and one at the corner of 13th Place shall be permitted. One additional identification sign shall be allowed, incorporated into the

screening wall along 13th Street. Each sign will not exceed 32 SF of display area nor eight feet in total height.

Access and Circulation:
Ingress and egress to Luther Place on Utica will be from 13th Street and Trenton Avenue. Only ingress is allowed from 13th Place. There will be no access from Utica Avenue. Sidewalks will be constructed, or maintained where existing, along the entire perimeter of the property per subdivision regulations.

3. No zoning clearance permit shall be issued within the PUD until a detail site plan for the lot, which includes all buildings, parking, site lighting, site/perimeter screening and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards. This shall include verification from the Oklahoma Department of Transportation (ODOT) that an agreement has been reached with respect to proposed parking in the 13th Place right-of-way (ROW).

4. A detail landscape plan for the development shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences will be installed by a specific date in accordance with the approved landscape plan for the lot, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.

5. No sign permits shall be issued for erection of a sign within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.

6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.

7. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.

8. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.

9. No building permit shall be issued until the requirements of Section 1107-F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.

10. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC (below).

11. Entry gates and/or guardhouses, if proposed, must receive detail site plan approval from TMAPC, Traffic Engineering and Tulsa Fire Department, prior to issuance of a building permit for the gates or guard houses.

12. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

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

TAC Comments:

General: No comments.

Water: An IDP Water Mainline Revision Project is required. The proposed location of the water service meters should be in a green space area/island. If this standard is not met than traffic loaded rated vault/can will be required.

Fire: When relocating water mains maintain the required fire hydrant spacing. 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: No comments.

Wastewater: Existing sanitary sewer lines on the property, and adjacent to the property must be relocated or brought up to City of Tulsa Standards prior to issue of any building permit. Capacity issues must be resolved prior to approval of the plans.

Transportation: To the access and circulation section include sidewalk requirement on all streets around the development per subdivision regulations.

INCOG Transportation:

1. **MSHP:** South Utica Avenue is a designated Urban Arterial.
2. **LRTP:** Sidewalks should be constructed if non-existing or maintained if existing, per Subdivision Regulations.
3. **TMP:** No comment.
4. **Transit:** Currently, Tulsa Transit operates existing route on South Utica Avenue, between 11th Street South and 15th Street South According to MTTA future plans, this location will continue to be served by transit routes. Therefore, consideration for access to public transportation should be included in the development.

GIS: No comments.

Street Addressing: No comments.

TMAPC COMMENTS:

Ms. Cantrell asked if staff considered the setback on South Trenton Avenue being back farther than ten feet. This seems a little close since it is primarily single-family homes and some multifamily homes. Mr. Sansone stated that that the Trenton Avenue side abuts duplexes. Staff believes that with the screening that will be done and the requirement that everything be screened, including the equipment the setback is sufficient. The 50-foot height is to allow for parapet. There is some constraint for space on the tract and he is comfortable with the setback.

Applicant's Comments:

Malek Elkhoury, 1435 East 41st Street, 74105, stated that he did have a lot of meetings with the neighborhood associations in the subject area and they are all in support of this project. His client has also contacted the City Council and they are also in support of the project. The project will be designed in accordance with the City of Tulsa Zoning Code and regulations.

TMAPC COMMENTS:

Ms. Cantrell stated that in the conceptual site plan it appears as though the building is set back significantly more than the ten feet that is required by staff. Mr. Elkhoury stated that there will be a retaining wall on the south side because of the grade that will be holding up the parking lot, but there will not be a structure. Ms. Cantrell asked Mr. Elkhoury if the Planning Commission were to increase the setback on the Trenton side would it affect it that much since the building is already setback more than the ten feet. In response, Mr. Elkhoury stated that there will be landscape buffer, the parking and then the building.

Ms. Wright asked how the proposal would prevent elopement of Alzheimer's patients. Mr. Elkhoury stated that the property will be fenced to protect the seniors. The fence will be installed around the buildings and interior parking lots. There will be a gate at one of the driveways and there will be a service area that

is not gated. Ms. Wright asked should the facility have someone elope, would they have access to wander onto the Broken Arrow Expressway. Mr. Elkhoury stated that he would let the architect discuss the building itself and how it is secured.

Ms. Wright engages in questions and answers from an audience member (name and address unknown).

Ms. Huntsinger requested that the speakers approach the podium in order to record their comments and to identify themselves for the record.

Interested Parties Comments:
Dean Maas, 1244 South Utica, 74104, President of Trinity Ministries, which is the owners of the subject property, as well as Pastor Emeritus of the First Lutheran Church, stated that there will be a company that is nationally known to supervise and run the facility. One of the things he is most proud of is the memory care unit. One of the things that is involved in this project is that it offers a choice and this will be the first one of its kind in the Tulsa area that will be urban. This is the first step in really improving the Forest Orchard Neighborhood. He believes that this will be the first beginning of renewal of the midtown area.

TMAPC COMMENTS:
Mr. Leighty stated that he believes it is wonderful concept and a great addition to midtown.

Interested Parties Comments:
Julia Allanda, 1312 South Trenton, 74104, stated that for the record the houses across the street on Trenton are not duplexes, they are all single-family residences. She explained that she has actively been working toward the neighborhood looking good and want the neighborhood to look good. She has no problem with the facility, but she asked if Troost would be closed and no longer has access to the highway. She explained that this will add extra driving for her.

Ms. Cantrell stated that the Planning Commission doesn't close streets and that is something that City Council will determine. Ms. Cantrell recommended that Ms. Allanda get in touch with her City Councilor regarding this issue.

Ms. Allanda stated that she is unable to access egress onto the highway without going back to Utica. She currently uses Troost access the Broken Arrow Expressway.

Ms. Allanda stated that she is concerned about the lighting and doesn't want the neighborhood illuminated by the facility.

Ms. Cantrell stated that the lighting is restricted to be 25 feet in height and shielded and pointed down. There is a Kennebunkport Formula that is supposed to control the amount of light spillage into the neighborhood. If this approved, then the applicant has to prepare a plan to address the issue of light. If for some reason there are lighting issues, please contact staff regarding this. Ms. Cantrell reminded everyone that the Planning Commission is only a recommending board and this will go before the City Council for final action.

Mr. Sansone stated that the setback requirement for a three-story multifamily building from a residential district is 75 feet and they are going to meet that along Trenton and they will be about 60 feet from the apartment building and over 70 from 13th Place. They are showing a ten-foot building line along Trenton because they are going to need to borrow some right-of-way to put their parking lot in. If ODOT doesn't allow part of the parking lot to be in part of the right-of-way, then it would significantly reduce the setback along 13th Place, but along Trenton Avenue they are clearly meeting it.

Ms. Cantrell read the building standards that require a ten-foot setback from Trenton Avenue right-of-way. Mr. Sansone stated that the Planning Commission has the authority to amend the standard. Ms. Cantrell explained that her concerns would be that if the applicant for some reason never developed this, then someone else could come in with a ten-foot setback for a 50-foot building. Mr. Sansone stated that he wouldn't be comfortable with that either. He suggested that the use be limited to the property and that would require an amendment for any other development. Ms. Cantrell stated that she is still feels that the ten foot setback is too close for the assisted living facility.

Applicant's Rebuttal:

Mr. Elkhoury stated that the lighting will be in accord with the current codes and have shielded boxes. The maximum height is 25 feet and zero spills at the property line. There is a street buffer before getting to the next property and he feels comfortable that there will not be any spillage. There will be security lighting that has to be provided for. Troost Avenue has been closed and the paperwork is at that Mayor's Office and has been signed. The City Council approved it and the appeal period has past.

Mr. Elkhoury stated that he does have an application with ODOT that was submitted approximately 90 days ago and is in contact with the District Engineer regarding leasing the property for parking use.

TMAPC COMMENTS:

Mr. Leighty asked Mr. Elkhoury if the Planning Commission moved to approve this subject to a setback on the Trenton side to 75 feet, would that be acceptable? In response, Mr. Elkhoury stated that he does have it at 75 feet right now, but he would like to have some more flexibility because he doesn't have final design. If the building has to be moved a foot here or there to make

room for interior, then he would like to have more flexibility. He would feel comfortable with 50 feet for the setback on the Trenton side. Ms. Cantrell stated that the 50 feet would be reasonable.

Mr. Leighty moved to approve the staff recommendation subject to a 50-foot setback. Mr. Midget seconded.

Ms. Cantrell stated that there was also discussion of limiting the PUD to only the assisted living facility. If this were to develop as something else she believes the Planning Commission may want to review the setbacks.

Ms. Cantrell recognized Mr. Coffey.

Roger Coffey, Architect, stated that the complex consists of three functions, memory care on the Utica end, assisted living in the center and then senior housing apartments on the three story end. The part with the discussed setback is for senior housing and not assisted living.

Ms. Cantrell asked staff if senior care would fall under assisted living. In response, Mr. Sansone answered affirmatively.

Ms. Cantrell stated that assisted living will cover all three categories of the proposed development.

Mr. Leighty accepted Ms. Cantrell's friendly amendment to restrict the use to assisted living.

Mr. Midget seconded.

In response to Ms. Wright, Mr. Elkhoury stated that if ODOT denies the lease he will have to rework that side of the building to fit the parking in. The setback would be 75 feet from the centerline of Trenton and not the property line. He is asking for 50 feet from the property line.

Mr. Dix stated that he is very familiar with the ODOT process. He asked Mr. Elkhoury how much of the ODOT property he is asking to lease. Mr. Elkhoury stated that it would be approximately 25 feet. Mr. Dix indicated that ODOT doesn't give 99 year leases as the applicant has requested. He further indicated that ODOT will have a provision in their lease that it is cancellable with a 30 days notice. Mr. Elkhoury stated that ODOT has told him that it is favorable to do the lease, but it is going through the various offices for approval. He is prepared to rework the site plan if they are denied. If ODOT does grant the lease, but has a 30-day notice to cancel that lease, then his client may choose to refuse the lease. There are no plans to widen the on-ramp, but they are not willing to sell the property in case they have future detours.

TMAPC Action; 11 members present:
On **MOTION** of **LEIGHTY**, TMAPC voted **11-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; none "absent") to recommend **APPROVAL** of PUD-772 per staff recommendation, subject to a 50-foot setback from the South Trenton property line and limiting the use to assisted living use as modified by the Planning Commission.

Legal Description for PUD-772:
LOT 1, BLOCK 1, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 82, LESS AND EXCEPT A STRIP, PIECE OR PARCEL OF LAND LYING IN LOT 1, BLOCK 1, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, SAID PARCEL OF LAND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE WEST 40 FEET ALONG THE NORTH BOUNDARY OF LOT 1; THENCE SOUTH 42°24'38" EAST A DISTANCE OF 32.40 FEET; THENCE SOUTH 0°04'13" EAST A DISTANCE OF 24.88 FEET TO A POINT ON THE SOUTH LINE SAID LOT 1; THENCE EAST ALONG THE SOUTH LINE A DISTANCE OF 20.04 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; **AND** LOT 2, BLOCK 1, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 82, LESS AND EXCEPT A STRIP, PIECE OR PARCEL OF LAND LYING IN LOT 2, BLOCK 1, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, SAID PARCEL OF LAND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 2 A DISTANCE OF 20.04 FEET; THENCE SOUTH 0°04'13" EAST A DISTANCE OF 50.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 21.05 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 2 A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; **AND** LOT 3, BLOCK 1, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 82; LESS AND EXCEPT THE EAST PARCEL OF LAND OF SAID LOT 3 DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 3; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 3 A DISTANCE OF 21.05 FEET; THENCE SOUTH 0°04'13" EAST A DISTANCE OF 50.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 3; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 22.07 FEET TO THE SOUTHEAST CORNER OF SAID LOT 3; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 3 A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; **AND** LOTS 4 AND 5, BLOCK 1, LAKE VIEW ADDITION TO THE

CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT NO. 82 LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, LESS AND EXCEPT A STRIP, PIECE OR PARCEL OF LAND DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 4 A DISTANCE OF 22.07 FEET; THENCE SOUTH 0°04'13" EAST A DISTANCE OF 45.72 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 4; THENCE WEST ALONG SAID SOUTH LINE A DISTANCE OF 11.50 FEET; THENCE SOUTH 01°37'37" WEST A DISTANCE OF 50.06 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 5; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 37.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 5 AND LOT 4 DISTANCE OF 95.71 FEET TO THE POINT OF BEGINNING. **AND** LOTS 20, 21, 22, 23, 24, BLOCK 1, AND LOTS 1, 2, 3, 4, 5, BLOCK 2, LAKE VIEW ADDITION, TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 82. **AND** LOTS 4, 13, 14, 15, 16, BLOCK 8, AND LOT 17, AND THE 10 FEET VACATED STREET ADJACENT ON WEST OF LOT 17, BLOCK 8, OF THE RE-AMENDED PLAT OF FOREST PARK ADDITION TO TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 49.

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Mr. Carnes out at 3:00 p.m.
Mr. Midget out at 3:00 p.m.

OTHER BUSINESS:

Land Use Education & Communication Committee Report and Response.

Mr. Rich Brierre, Director, INCOG, Two West 2nd Street, 74103, stated that sometime ago the Mayor appointed a Land Use Education and Communication Committee Task Force. The task force has completed their report and reported to the Mayor in June and transmitted the same to TMAPC on July with a request to review and respond within 45 days with an assessment of advisability implementing the recommendations and costs, if any. The task force requested that their charge be extended and that they anticipate meeting on a quarterly basis to review the actions and response that takes place as a result of their recommendations. There has had a response team that has met that includes the Chair, Vice Chair, Keith McArtor and David White from the Board of Adjustment.

Mr. Brierre reviewed and gave an overview of the task force recommendations and TMAPC's responses. Mr. Brierre indicated to the Planning Commission what significant changes have already been made. The website has a lot that can be done and a lot that needs to be done and that INCOG desires to do.

Mr. Brierre stated that he intends to have a cover letter with the response to the Mayor and task force.

TMAPC COMMENTS:

Ms. Cantrell stated that staff did a wonderful job on the responses. She believes that it is a great response and she appreciates Mr. Shivel's and Mr. McArtor's help on this. Ms. Cantrell stated that she hasn't had a chance to go through the Citizen's Guide to Planning and Zoning and would like to make some comments on it. Mr. Brierre stated that he would welcome any comments and is open to suggestions.

In response to Mr. Shivel, Mr. Brierre stated the notice would include the 15 properties and those within a 300-foot radius.

Ms. Wright asked Mr. Brierre if he has thought about using some test subjects or guinea pigs, because we are not the best people to judge zoning. Mr. Brierre stated that this has been done by meeting with a couple of task force members and showing them the application forms, notice forms and signage that is posted on the property and they responded very favorably to the changes and additional suggestions were made that are being incorporated. Ms. Wright stated that it should be a reiterative process so that anybody who is totally new and has never dealt with this, such as the Mr. and Mrs. Clark, how user-friendly is it for them. Mr. Brierre stated that feedback needs to be continuous and he would welcome that process. Staff has met with some representatives of homeowners associations and others who have been involved in cases in recent months and they responded favorably to the changes.

Mr. Marshall asked what the process is now and will the Planning Commissioners get a chance to talk about this. Mr. Brierre stated that the process is that we respond to the Mayor and then those responses go back to the task force and they will meet on a quarterly basis. This will be a reiterative process. Mr. Marshall asked if he had any questions, should they be directed to staff. Mr. Marshall indicated that he does have some questions about what was requested by the task force. Mr. Brierre stated that staff did too, and some of the requests were a little difficult to understand.

Ms. Cantrell stated that staff has a certain amount of time to respond and asked Mr. Marshall if he has specific questions or are there things that should be in there that are not in there. Mr. Marshall stated that he has some questions about what the task force requested. Ms. Cantrell requested that he go ahead and ask his questions now.

In response to Mr. Marshall, Mr. Brierre stated that he has been advised that the long-term section of the report is not something that staff is being requested to respond to at this time. He believes that there are some more immediate issues

and he expects that there will be more discussions in reference to PUDs in the future and it is not a part of the response being presented today.

Mr. McArtor commended staff for all of the work they have put in on this. The task force was started and a lot of recommendations came out and staff did a great job responding to them. It goes a long way toward the concern that has always been out there that we may not be as responsive to questions or to making things more accommodating to folks in terms of intelligibility of the public notice etc. Staff is trying to make the language more clear, make the notice more available to the public and to know that they may attend the meetings and that they will be heard. The task force should be commended as well.

Mr. Leighty asked if the Planning Commission is supposed to vote on this and accept the draft as the final response. He personally feels that everyone needs a chance to review this and weigh in on it before asking all of their questions. He would like to see this put on a future agenda to actually have a discussion after everybody has a chance to review the response.

Ms. Cantrell asked Mr. Brierre if he has another week before having to respond to the Mayor. Mr. Brierre stated that the response has to be in before the end of the month. The Board of Adjustment is meeting next Tuesday to discuss this and if this was on the next Wednesday meeting he believes it will be fine. Mr. Brierre stated that he would be happy to discuss with any of the members.

TMAPC Action; 9 members present:
On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Dix, Leighty, Liotta, Marshall, McArtor, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Carnes, Midget "absent") to **CONTINUE** the Land Use Education and Communication Committee Report and Response to August 26, 2009.

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There being no further business, the Chair declared the meeting adjourned at 3:14 p.m.

Date Approved: 9/2/09

Chairman

ATTEST: _____

Secretary