

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2560

Wednesday, September 16, 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	None	Alberty	Boulden, Legal
Carnes		Feddis	Steele, Sr. Eng.
Dix		Fernandez	Schultz, Plan Dept.
Leighty		Huntsinger	Warlick, Plan Dept.
Liotta		Matthews	
Marshall		Sansone	
McArtor			
Midget			
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, September 10, 2009 at 3:36 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:**

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

Martha Schultz, City of Tulsa Planning Department, reported on the PLANitULSA Comprehensive Plan update and reminded the Planning Commission that this is a draft. She encouraged the Planning Commissioners to contact her if they see anything incorrect regarding grammar, spelling, etc. She reminded the Planning Commissioners that John Fregonese will be giving a presentation on September 23 during the Planning Commission work session.

Ms. Schultz stated that there will be an open house September 23, 2009 at the Greenwood Cultural Center from 4:30 p.m. to 8:00 p.m. Consultants will give a presentation at 5:30 p.m. at the open house.

**Director's Report:**

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

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**Minutes:**

**Approval of the minutes of August 26, 2009 Meeting No. 2558**

On **MOTION** of **CARNES**, the 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 minutes of the meeting of August 26, 2009, Meeting No. 2558.

**Minutes:**

**Approval of the minutes of September 2, 2009 Meeting No. 2559**

On **MOTION** of **CARNES**, the 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 minutes of the meeting of September 2, 2009, Meeting No. 2559.

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Ms. Cantrell read the opening statement and rules of conduct for the TMAPC meeting. Ms. Cantrell reminded the Planning Commissioners that during discussion they should remember to call on the Chair before speaking in order to be recognized. She explained that she is unable to see everyone at all times. If she doesn't see that a member would like to speak, please get Mr. Shivel's attention and he will inform her that someone wishes to speak and the meeting will be orderly.

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Ms. Cantrell stated that Item 7, Z-6054-SP-6b, has an interested party wishing to speak and it will be removed from the consent agenda.

## 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.

3. **LS-20334** – Tim Terral (8333)/Lot-Split (PD-26) (CD-8)  
Northwest corner of South Oswego Avenue and East 116<sup>th</sup> Street, 11536  
South Oswego Avenue (Related to Items 4 and 8)
4. **LC-208** - Tim Terral (8333)/Lot-Split (PD-26) (CD-8)  
Northwest corner of South Oswego Avenue and East 116<sup>th</sup> Street, 11536  
South Oswego Avenue (Related to Items 3 and 8)
5. **LC-207** – Rigo Camarena (9204)/Lot Combination (PD-10) (CD-1)  
East of South 44<sup>th</sup> Avenue and South of West 4<sup>th</sup> Street, 411 South 49<sup>th</sup>  
44<sup>th</sup> Avenue West\*
6. **BOA-20956** – (7303) Plat Waiver for Cell Tower (PD-26) (CD-8)  
5749 East 131<sup>st</sup> Street, East of Arkansas River, North of 131<sup>st</sup> Street

### **STAFF RECOMMENDATION:**

The platting requirement was triggered by BOA-20956 which allowed a cell tower in an AG zoning district.

It is the policy of TMAPC to waive the platting requirement for the cell tower use (Use Unit 4 public protection and utility facilities/antennas and supporting structures). Therefore, staff can recommend **Approval** of the requested plat waiver.

8. **PUD-709-4 – Tulsa Engineering and Planning/Tim Terral** (PD-26) (CD-8)  
East of the northeast corner of South Delaware Avenue and 116<sup>th</sup> Place  
South (Minor Amendment to allow a lot-split and lot-combination.)  
(Related to Items 3 and 4)

### **STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to allow a lot-split and lot-combination. The lot-split would split approximately 239 square feet (SF) from Reserve Area E and combine it through the lot-combination process with Lot 7, Block 3 of Sequoyah Hill II (see Exhibits A – F). Concurrently with this minor amendment request is lot-split LS-20334 and lot-combination LC-208, also appearing on the 9/16/09 agenda of the TMAPC.

The splitting and combining of these two parcels will allow for a driveway along the southern portion of Lot 7 leading to a rear entry garage. The removal of 239 SF from Reserve Area E will not affect or impact the over-all open space/livability space requirement of the PUD which will still be met on each lot, as well as, within Reserve Areas A and B as permitted by Section 1104, C of the Code. This request will not increase or decrease the permitted number of dwelling units with in the development.

On July 16, 2008 the TMAPC approved minor amendment PUD-709-3 for Lot 3, Block 2 – Sequoyah Hill II for the identical reason herein. The request for minor amendment PUD-709-3 was to remove a very small area from a reserve area and add it to the adjacent lot. The subject tract of PUD-709-3 is directly across the street from the parcel which is the subject of this minor amendment request.

Pending the approval of the aforementioned lot-split and lot-combination applications, staff recommends **APPROVAL** of minor amendment PUD-709-4 subject to the deed of dedication and restrictive covenants for Sequoyah Hill II be amended to reflect the proposed lot-split and lot-combination.

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

9. PUD-281 – Wallace Engineering/Union Public Schools (PD-18c) (CD-7)  
West of the southwest corner South Mingo Road and 61st Street South  
(Site Plan for an accessory parking lot for soccer fields.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for an accessory parking lot for soccer fields located on Lot 2, Block 6 of Gleneagles, Re-subdivision of Part of Glen Haugen (see Exhibit A). The principal use – recreational facilities is a permitted use on Lot 2, Block 6 per adopted PUD development standards and the deed of dedication and restrictive covenants for the subdivision.

The submitted site plan meets all applicable open space and setback limitations. There are no buildings being proposed for construction (see attached Exhibits). Access to the site is provided from one point along 61<sup>st</sup> Street and parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping is provided per the landscape chapter of the Zoning Code with a 130' + landscape buffer along the north boundary along 61<sup>st</sup> Street and a 100'+ buffer along the east boundary. There is no site lighting proposed. Sidewalks are provided along 61<sup>st</sup> Street as required by PUD Development Standards and Subdivision regulations.

Staff recommends **APPROVAL** of the detail site plan for the accessory parking lot to be located on Lot 2, Block 6 Gleneagles, re-subdivision of Part of Glen Haugen.

*Note: Detail site plan approval does not constitute landscape and 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 **CARNES**, 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 3 through 6, 8 and 9 per staff recommendation. \*Scrivener's error: The address for Item 5, LC-207, was incorrect. However, the legal description and general location was correct on the notice and agenda. (Language underlined has been added and language with a strike-through has been deleted.)

\* \* \* \* \*

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

**7. Z-6054-SP-6b – Global Sign Solutions (PD-18c) (CD-8)**

West of the southwest corner of 81<sup>st</sup> Street South and South Garnett Road (Corridor Plan Minor Amendment to permit a second ground sign not to exceed 11 square feet of display surface area or 12 feet in total height and to decrease the required 100 feet of separation between ground signs to 55 feet on this lot only.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to permit a second ground sign on the above described lot not to exceed 11 square feet (SF) of display surface area (DSA) or 12 feet in total height (OAH) and to decrease the required 100' separation between ground signs to 55' on this lot only.

Current ground sign standards for this lot are as follows:

- One ground sign shall be permitted for each lot with frontage on East 81<sup>st</sup> Street or South Garnett Road with a maximum of 125 square feet of display surface area and 25 feet in height. No ground sign shall be permitted for lots with frontage solely on the collector.

- Ground signs shall maintain a minimum separation of 100 feet.

The Corridor District chapter of the Code, in Section 802, B-3 defaults to Section 1221, D of the Code for sign restrictions in the Corridor District. Section 1221, D of the Code are the sign restrictions for the CS District, which allows one square foot of display surface area per lineal foot of frontage if two signs are erected on the lot with a minimum sign separation of 30 feet. Since this lot has 225 lineal feet of frontage along 81<sup>st</sup> Street, the ground sign DSA for the lot, if two signs are erected, would be 225 SF. The lot would be allowed 500 SF if only one sign were erected.

Minor changes in the proposed corridor development may be authorized by the Planning Commission, so long as substantial compliance is maintained with the approved site plan and the purposes and standards of the Corridor Chapter of the Code. Changes which represent a significant departure from the site plan require compliance with the notice and procedural requirements of an initial site plan review and approval.

Since the proposed additional ground sign would be permitted on this lot, had the sign standards not been modified with the original approval of the corridor district site plan, staff can support this request. Staff contends that the approval of the request will not represent a significant departure from the originally-approved corridor district site plan nor does it depart from what is permitted by the CO Chapter of the Code. Therefore, staff recommends **APPROVAL** of minor amendment Z-6054-SP-6b with the ground sign DSA of 125 SF and a sign height of 25' for the lot remaining effective.

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

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

**The applicant indicated his agreement with staff's recommendation.**

**TMAPC Action; 11 members present:**

On **MOTION** of **CARNES**, 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 minor amendment for Z-6054-SP-6b per staff recommendation.

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## **PUBLIC HEARING**

10. **Sunrise Terrace II, renamed to Sunset Terrace II** (PD-4) (CD-4)  
(9307) Minor Subdivision Plat  
Southeast corner of East 15<sup>th</sup> Street and South Harvard Avenue  
(continued from August 19, 2009 meeting)

### **STAFF RECOMMENDATION:**

This plat consists of one lot, one block, on .60 acres.

The following issues were discussed September 3, 2009 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned PUD-770. All PUD standards must be described in the covenants.
  2. **Streets:** There can be no 105-foot access off 15<sup>th</sup> Street. The Traffic Engineer has indicated that access widths need to be changed and access deleted from the proposal. Access must meet with Traffic Engineering approval.
  3. **Sewer:** Prior to construction of the proposed drive, the sanitary sewer service line for the existing house in Lot 19, east of the project site, must be replaced with ductile iron pipe to a point east of the new boundary line of the plat.
  4. **Water:** No comment.
  5. **Storm Drainage:** No comment.
  6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
  7. **Other: Fire:** No comment.
- GIS:** No comment.

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

**Waivers of Subdivision Regulations:**

1. None requested.

**Special Conditions:**

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

**Standard Conditions:**

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



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

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

Mrs. Fernandez stated that under the street conditions, the Traffic Engineer has revised his recommendation and is in agreement with the plat as it is shown in the agenda packet. Mrs. Fernandez submitted emails from Traffic Engineering designating their agreement.

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

**The applicant indicated his agreement with staff's recommendation.**

**TMAPC Action; 11 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **10-0-1** (Cantrell, Carnes, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; Dix "abstaining"; none "absent") to **APPROVE** the minor subdivision plat for Sunset Terrace II; subject to special conditions and standard conditions per staff recommendation.

\* \* \* \* \*

11. **Bixby Northeast Campus** – (7405) Minor Subdivision Plat (County)  
West of Northwest corner of South 121<sup>st</sup> East Avenue and East 131<sup>st</sup> Street

**STAFF RECOMMENDATION:**

This plat consists of one lot, one block, on 18.78 acres.

The following issues were discussed September 3, 2009 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned AG (agricultural) with an approved County Board of Adjustment case, CBOA 2317, for a school use.
2. **Streets:** Add an email address for the surveyor. On the location map, label the north half of the section as unplatted. Submit a subdivision control data form in which the first point shall be the point of beginning with two other points on or near the plats' boundary.
3. **Sewer:** No comment.
4. **Water:** No comment.

5. **Storm Drainage:** Please remove contours from the face of plat. The conceptual plan indicates three stormwater detention facilities. Rainfall runoff is collected, and then piped to the facilities. It does not indicate the need for overland drainage easements (ODE). Please remove the ODE's. Add standard language for "water, sanitary sewer, and storm sewer service" and "stormwater detention easement". Replace City of Tulsa with Tulsa County.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
7. **Other: Fire:** Outside of Tulsa, please coordinate with City of Bixby. Show title as a Minor Subdivision plat. Subdivision regulations require that the square footage of a lot be shown on the plat.

**County Engineer:** The County Engineer is in agreement with the plat.

Staff recommends **APPROVAL** of the Minor Subdivision plat subject to the TAC comments and the special and standard conditions below. Release letters for the plat have been received.

**Waivers of Subdivision Regulations:**

1. None requested.

**Special Conditions:**

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

**Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).

4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.

17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

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

**The applicant indicated his agreement with staff's recommendation.**

**TMAPC Action; 11 members present:**

On **MOTION** of **MCARTOR**, 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 minor subdivision plat for Bixby Northeast Campus, subject to special conditions and standard conditions per staff recommendation.

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12. **Jet Port Industrial Plat** – (2407) Preliminary Plat (PD-16) (CD-3)  
West of North Garnett Road, East 46<sup>th</sup> Street North (Request  
continuance to 10/7/2009 meeting to work on plat details.)

**STAFF RECOMMENDATION:**

There is a request for a continuance in order to work on plat details. The  
continuance date requested is October 7, 2009.

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

**TMAPC Action; 11 members present:**

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Cantrell, Carnes, Dix, Leighty,  
Liotta, Marshall, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none  
"abstaining"; none "absent") to **CONTINUE** the preliminary plat for Jet Port  
Industrial Plat to October 7, 2009.

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13. **PUD-578-A-5 – Global Sign Solutions** (PD-26) (CD-8)  
Northwest corner of 111<sup>th</sup> Street and South Memorial Drive (Minor  
Amendment to change the location of the ground sign/tenant ID sign  
from the primary entrance to the secondary entrance, and to allow a  
second ground sign along 111<sup>th</sup> Street South at 20 feet in height with 32  
square feet of display surface area.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to change the location of the  
ground sign/tenant ID sign from the primary entrance located along Memorial  
Drive to the secondary entrance (see Exhibit B), and to allow a second ground  
sign along 111<sup>th</sup> Street South at 20 feet in height with 32 square feet (SF) of  
display surface area (DSA).

The PUD allows ground signs for Wal-Mart along Memorial and 111<sup>th</sup> as follows:

- One center and tenant identification ground sign shall be permitted at the  
principal entrance on South Memorial Drive and one at the principal entrance  
on East 111<sup>th</sup> Street with a maximum of 280 square foot of display surface  
area and 25 feet in height for each sign, unless in addition to the minimum  
setback, the sign is setback one-foot for each foot of height exceeding 25  
feet. In no case shall the sign exceed 30 feet. No other ground signs shall be  
permitted on East 111<sup>th</sup> Street.

According to applicant's Exhibit A, the "center and tenant identification ground sign" along Memorial Drive and the second ground sign along 111<sup>th</sup> Street (the "Tire and Lube Express" sign), "have been in place without complaint or incident for three years without permit (or TMAPC approval) due to an over-sight". Staff contends this is rather common with this sign contractor and this practice should be strongly discouraged.

The claim in Exhibit A that the secondary entrance along Memorial Drive is a more suitable location since the primary entrance is "smaller" is not justifiable since the primary entry is three travel lanes wide, while the secondary is two lanes wide. Stating that the existing sign would interfere with traffic and other signs allowed within the PUD is mute, since all signs must maintain a minimum separation of 100' between signs as required by the PUD chapter of the Code and may not be located within a right-of-way. The sign in its existing location, does meet the separation requirement being approximately 115' south of the existing "Burger King" sign, and 120' north of the existing "Arvest" sign on the corner of 111<sup>th</sup> and Memorial. The sign is setback 65' from the centerline of Memorial as required by the 30' height.

Section 1107, H-12 of the Code allows by minor amendment, "modifications to approved signage, provided the size, location, number and character (type) of the sign(s) is not substantially altered". The underlying CS zoning of this property would allow the second ground sign along 111<sup>th</sup> Street so long as the proposed display surface area of both signs along 111<sup>th</sup> Street is allowed by the 890 feet (+/-) lineal feet of frontage (500 SF maximum). The location of the ground sign along Memorial Drive would not be relevant in straight CS zoning, so long as the sign is not located in a utility easement or City right-of-way (ROW) or planned ROW. Both signs appear to maintain the required 100-foot separation between ground signs in a PUD.

Review of the approval of major amendment PUD-578-A indicates the requirement that the sign along Memorial Drive be placed at the "primary entrance" was not in response to neither protest, a request of any concerned citizens or any involved Department within the City of Tulsa or the City of Bixby. Provided the aforementioned, staff feels approval of the minor amendment will not substantially alter the size, location, number and character (type) of the sign(s) allowed within the PUD and can recommend **APPROVAL** of minor amendment PUD-578-A-5.

Note: Approval of a minor amendment does not constitute detail sign plan approval.

Mr. Sansone stated that this item was put on the public hearing portion rather than the consent agenda because staff has had some problems with this particular sign contractor. Staff is recommending approval, but it has been a struggle. If the PUD was removed, the underlying zoning would allow what the applicant is requesting based on their street frontage. The CS district does not specify the location of the sign with respect to entrances. There was a restriction

put in the PUD that stated where the sign should be located. The sign was put in the incorrect position and the applicant is now asking for permission to keep it where it is currently located. This contractor has a history of installing signs prior to receiving approval and this behavior needs to be discouraged in the future.

**TMAPC COMMENTS:**

Ms. Cantrell stated that she appreciates staff bringing this to the Planning Commission's attention, as she believes it is an important fact to know. She asked Mr. Sansone if the applicant would have requested a different location prior to installing the sign, then staff had been okay with the request. Mr. Sansone stated if the applicant would have requested a different location prior to installing the sign, then staff would have visited the site to see if there is any reason it shouldn't be at the requested location. Staff is recommending approval because the underlying zoning would have allowed this location. When a developer installs a sign without prior approval and permission, it is difficult for staff when they request forgiveness, because staff has to determine a good reason for it. Staff simply wanted to bring this to the Planning Commission's attention and hopefully rectify this situation in the future.

Mr. Sansone clarified for Mr. Midget that the applicant would like to leave the sign where it is currently located; however, staff cannot approve the sign plan because it doesn't meet the PUD standards and restrictions. Mr. Sansone stated that the sign went up without the permits and Planning Commission staff review of plans. Now it is in the wrong location. A field inspector caught the sign being there illegally and requested permits from the owner and found that there were no permits issued.

Mr. Carnes stated that if this is allowed, then others will put signs up wherever they prefer and not come before the Planning Commission for approval or obtain permits. It would be best to keep the present PUD as it is and move the sign to the correct location.

Mr. McArtor asked why the applicant didn't install the sign in the correct location according to the PUD. In response, Mr. Sansone stated that page 13.4 of the TMAPC agenda has the reason given by the applicant for installing the sign at its present location. According to the applicant, the approved location would have been a hindrance to traffic and not meet the sign separation requirements, which staff wouldn't know how until every development's sign are up. Mr. Sansone indicated that after visiting the subject site he believes that there would be plenty of room for the sign to be placed in the approved location, even if it had been the last sign installed. Signs have to be out of the right-of-way and that keeps them out of the line of site, so he doesn't believe that the sign would have interfered with traffic as the applicant claims. Mr. Sansone stated that he doesn't necessarily agree with the applicant's logic, but staff frequently relies on the underlying zoning as a line of logic for amending PUDs.



Mr. McArtor asked staff what would happen if the Planning Commission recommended denial of the minor amendment. In response, Mr. Sansone stated that it is his understanding that they would have to relocate the sign and he understands from the applicant that they would have reroute the electricity for the sign.

Mr. Marshall stated that the City of Tulsa has some responsibility for this because they should have caught this long before the sign went up. One has to get a permit for a sign. Mr. Sansone explained that the applicant never applied for the permit before erecting the sign. The City wouldn't be able to catch something that was erected without a permit. Mr. Marshall stated that the inspector should have caught this while Wal-Mart was being developed. Mr. Sansone stated that the sign has been erected for three years and it should have been caught at some point during the development review process. Mr. Sansone reminded the Planning Commission that when this Wal-Mart was being developed, the City of Tulsa didn't have sign inspectors. There is a higher level of inspection being done today.

Mr. Marshall recognized Ms. Shannon Bengel, Inspection Services Manager, City of Tulsa, stated that this subject sign was actually caught by the City Inspector and that is why he is before the Planning Commission today. She explained that it was caught approximately one year ago or more.

Ms. Wright asked if there is a landscape plan and are there any trees, because this is reopening the entire PUD. Mr. Sansone stated that there is a landscape plan, and the entire PUD is not necessarily being reopened. The only issue before the Planning Commission today is the sign requirement. TMAPC staff is not field inspection services and staff doesn't write violation notices. Staff site visits for requests that are before them only and do not reopen the PUD for inspection.

Ms. Cantrell asked if there was a specific reason the Planning Commission or staff wanted the sign located at the other location. Mr. Sansone stated that he read the approved minutes for the PUD and he can't tell if there was any point of contention with respect to the signs.

Mr. McArtor stated that he is confused as to why the Planning Commission is getting this application now. Mr. McArtor read the letter on page 13.4 from Richard Craig, General Manager of Global Sign Solutions, which states that they made an application for a permit. Mr. Sansone explained that they made an application for the permit to erect the sign and INCOG staff reviews the plans to determine if it meets the PUD requirements. The applicant uses the approved sign plan to obtain their construction permit for the sign. He assumes that they went to apply for their permit first and was informed that they needed to obtain an approved detail sign plan. Mr. Sansone explained that there was a considerable amount of time between when they applied for their permit and submitting a sign

plan to INCOG. The applicant was denied because the current sign was in the wrong location and six months later they applied for a minor amendment, which is before the Planning Commission today. The sign was already erected prior to applying for a permit.

Mr. Midget explained that the whole problem is that the applicant did everything prior to applying for a permit and now they are coming to the Planning Commission on the back end and asking for permission to build a sign that is already built. Had the applicant come to obtain the permit first, then the review would have shown that the sign was proposed for the wrong location and this could have been avoided. The applicant built this in the wrong spot and the City discovered that the sign was not permitted.

Mr. McArtor summarized that they are actually asking the Planning Commission to allow the sign to remain in the wrong location that they built prior to being permitted. Mr. Sansone confirmed that the applicant built a sign without a City permit and without an approved detail site plan.

**Applicant's Comments:**

**Richard Craig**, 1889 North 105<sup>th</sup> East Avenue, 74116, Global Sign Solutions, stated that Wal-Mart shipped a sign to his company and hired him to erect the sign at the subject location. He explained that Wal-Mart mailed him a site plan, which showed the location where it is currently erected. Wal-Mart told him they needed the sign put up soon because they wouldn't be able to get their certificate of occupancy until the sign was installed. He put the sign up very quickly and he didn't get the permit first. He explained that he didn't know it was in the wrong place because he was only given one site plan by Wal-Mart, which indicated the location where it is today. He explained that there was a total of three ground signs to be installed and he didn't know at the time that there was any conflict with a PUD approval or prior approval. The signs were installed at the present locations because that is where Wal-Mart requested.

Mr. Craig acknowledged that he didn't obtain permits for the signs and he is finally getting the permits because now the City of Tulsa has sign inspectors, which have been reviewing all of the signs to see if they have permits. This is the last sign that he has not obtain a permit for and he needs some type of action so he can finish the permitting process and make this sign in compliance with the City Code.

Mr. Craig explained that the developer's plans indicated that power was to be at the current location for the subject sign and some tenant panels. They were approved for 30 feet at a certain setback, certain square footage and that is what was purchased and installed. Everything was in compliance until he found out that the subject sign was in the wrong location and that only one sign was allowed on the south property, which is a directional sign. He apologized for not

getting everything approved when he should have, but he explained he was late in the process.

**TMAPC COMMENTS:**

Mr. Midget asked Mr. Craig if he knew he had to obtain permits. In response, Mr. Craig answered affirmatively. Mr. Midget explained that if Mr. Craig had obtained his permits at the front end, as he indicated that he knew he was supposed to do, then no matter what Wal-Mart requested, he would have known the correct location for the subject signage and wouldn't be here today.

Mr. McArtor asked Mr. Craig who is responsible for obtaining the permits. In response, Mr. Craig stated that it is his responsibility since he is the licensed contractor. In this case he didn't obtain the permits.

Mr. Leighty asked Mr. Craig to respond to the statements that there has been a long history of no obtaining permits. In response, Mr. Craig stated that there were several sign permits that were pulled and this was one of those, which happens to be in a PUD. Since that time he has pulled all permits for every sign that he is aware of that was missed during the time when there were no sign inspectors in Tulsa. Mr. Craig indicated that sign companies from other cities and from Tulsa could put up signs without a permit during the time the City of Tulsa didn't have sign inspectors. He commented that during the 1980's he paid more for permits in order to hire a full-time inspector and that inspector would come in and keep other people out of there and keep sign companies, like him, who are legally able to do their work and not be infringed upon by outside contractors. The City of Tulsa stopped sign inspections and for two years he was being bombarded by outside people. Mr. Craig indicated that he did obtain permits for some of his signs, but some were missed and didn't get a high priority on it. Mr. Craig stated that he has been on probation for a year with the City because his failure to obtain permits. He is trying to rectify this situation and make all of the signs compliant.

Mr. Leighty asked Mr. Craig who would pay for the sign to be removed if the Planning Commission denied him the amendment. In response, Mr. Craig stated that his company will take it down and Wal-Mart will have to decide whether to move it to the other location.

Mr. Craig indicated that Wal-Mart has never asked him to remove the sign. He was requested by Wal-Mart to get the permits for the existing signage at the current location.

Mr. McArtor asked Mr. Craig if he knew how much it would cost him if the minor amendment is not approved. In response, Mr. Craig stated that it costs about \$1400.00 dollars to remove the sign and approximately \$5,000.00 to reinstall the signage at the correct location.

Mr. Craig stated that he was servicing every Wal-Mart sign in Oklahoma and this was the first time he was asked to do installations for Wal-Mart in Tulsa. He was given a short time frame because Wal-Mart stated they needed the signs up in order to obtain their Certificate of Occupancy permit. He explained that Wal-Mart should have waited for him to get the permits, but now it has been two years and he is trying to get it all cleaned up.

Ms. Cantrell asked Ms. Bengé if the City has any authority to impose any fees for the days that this applicant has been in violation of the Zoning Code. Ms. Bengé stated that the applicant has been cited on every one of the Wal-Mart signs, which involved over 30 Wal-Mart signs put in illegally. This applicant was imposed triple-fees on every one of those signs, which was upwardly of \$10,000.00 dollars. Mr. Craig has been before the Electrical Appeals Board on his license and he has been to court. This is probably the last issue that he has to correct in order to come into full compliance. Ms. Cantrell stated that it is not the Planning Commission's job to punish people, but it is important to know that if people are not following the rules, there are consequences to that.

Mr. Marshall asked if the signage has to be in place before receiving a Certificate of Occupancy. Ms. Bengé stated that it is not the City's position to hold up an occupancy permit for a sign that has not been installed. If the sign was installed and it was installed in the wrong location, then the occupancy permit would have been held up because it wouldn't have met the PUD requirements. At the time the current sign was installed, she is not sure they would have held up the occupancy permit based on a sign because it is not a requirement for the sign to be installed to meet the PUD, but it is a requirement that, once it is installed, it is installed at the right location. Mr. Marshall stated that he simply wanted to know if there was a way to open the store without signage being installed. Ms. Bengé stated that the City of Tulsa allows anybody to open up with a temporary certificate of occupancy as long as they meet all of the life safety requirements for up to 90 days.

Mr. Carnes moved to deny the minor amendment. Ms. Wright seconded the motion.

Ms. Cantrell requested discussion before taking a vote.

Mr. Leighty thanked staff for making the proper recommendation to approve this application because of the underlying zoning and uses in cases past. This will not have a detrimental affect on the subject property. The mistakes made should not be excused, but it seems that the applicant has made an effort over a period of time trying to come into compliance. Mr. Leighty indicated that he is leaning towards going with the staff recommendation on this. He doesn't want the applicant or anyone else to think that they can get away with this every time that they want to, but at this point, he asked what would really be gained by denying this application.

Mr. Dix stated that signs always come in at the last minute and that is not an excuse for the applicant to not obtain the permit. If Wal-Mart was making this application, then he would absolutely be for denial, but since it is the applicant and his money that he will have to pay out to remove this sign, he doesn't see any real benefit to cause the applicant to move it.

Mr. McArtor stated that the applicant relied on Wal-Mart, but he should have obtained the permit first and now it is his money at issue. Mr. McArtor indicated that he will vote to approve this application because there is no real problem with where the sign is located. The only injury here is that the applicant failed to obtain a permit and he is paying dearly for it now. Denying this would only cost him more money out of his pocket. Mr. McArtor stated that he trust that all of the money this gentleman has been out in the past will be an appropriate sanction for him to always make the application before installing signs.

Mr. Midget stated that he will support staff's recommendation for approval. The current sign is not harming anything. Under any circumstances this wouldn't have happened because the first move should have been to obtain a permit. If there had been any problems with the signage being located at the subject site, then he wouldn't support it at all. He trusts that this will not happen again because he has lost his Wal-Mart accounts and he has paid fines. He hopes that if there are any other sign contractors out there who are tuning into this, they need to take note. This will not be tolerated in the future.

Mr. Carnes stated that he was a contractor for 38 years and if he installs a sign where he was told to install it, he doesn't believe any judge would make him be responsible for moving it. He thinks this is strictly a Wal-Mart problem and this gentleman didn't obtain the permit, which is his problem.

Ms. Cantrell stated that she agrees with Mr. McArtor and Mr. Midget. The only issue before the Planning Commission is did the PUD require the sign to be located in the approved location for a specific reason and is there any reason not to move it. She appreciates the concern and doesn't have a lot of sympathy for this applicant; however, she thinks it is very critical to always to look at the property and not the person. The Planning Commission is charged with looking at zoning land and not punishing people. This applicant deserves punishment and she is glad to know the City is doing that and hopefully with the sign inspectors, more of these problems will be addressed. It is pertinent that staff probably would have granted the sign to be placed in the subject location if they had done it the right way and this shouldn't be denied because they did it the wrong way.

**TMAPC Action; 11 members present:**

On **MOTION** of **CARNES**, TMAPC voted **2-9-0** (Carnes, Wright "aye"; Cantrell, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker "nays"; none "abstaining"; none "absent") to **DENY** the minor amendment for PUD-578-A-5.

**Motion Failed.**

**TMAPC Action; 11 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **10-1-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker "aye"; Wright "nays"; none "abstaining"; none "absent") to **APPROVE** the minor amendment for PUD-578-A-5 per staff recommendation.

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- 14. **Z-7141 – City of Tulsa/Mary Kell** **RS-3 to IL**  
 North of northeast corner of East 36<sup>th</sup> Street North and North Harvard Avenue (PD-16) (CD-3)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11802 dated June 26, 1970, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**BOA-20193 February 28, 2006:** The Board of Adjustment approved an amendment to a previously approved Mohawk Park master plan and a Special Exception to permit a public park to expand Mohawk Park, on property located at 5701 East 36<sup>th</sup> Street North.

**Z-6954 October 2004:** All concurred in approval of a request for rezoning a 1.1± acre tract of land from RS-3 to IL for Society Prevention of Cruelty to Animals on property located on the northeast corner of East 38<sup>th</sup> Street North and North College Avenue.

**Z-6914 December 2003:** All concurred in approval of a request to rezone a 7.3± acre tract that includes the TSPCA existing facility and the property across North College Avenue from the offices, from RS-3 to IL. The property is located on the southwest and southeast corner of East Mohawk Boulevard and North College Avenue

**BOA-18080 June 1998:** The Board of Adjustment approved a Special Exception to permit an animal shelter (existing SPCA) and to build a veterinary clinic for the facility in an RS-3-zoned district on property located on the southwest corner of North College Avenue and Mohawk Boulevard.

**Z-6319 June 1991:** All concurred in denial of a request to rezone the 3.9± acre tract from RS-3 to CG or IL for commercial use, on property located on the southwest corner of North Gary Avenue and Mohawk Boulevard.

**Z-6293 September 1990:** All concurred in approval of a request to rezone a 2.5± acre tract from RS-3 to IL on property located west of the southwest corner of East 38<sup>th</sup> Street North and North College.

**Z-6289 August 1990:** All concurred in approval of a request for rezoning a .86± acre tract, from RS-3 to IL for a light manufacturing business located on the southwest corner of Highway 75 and Mohawk Boulevard.

**BOA-16179 November 10, 1992:** The Board of Adjustment approved a Special Exception to permit an animal shelter in an RS-3 district, subject to all of the conditions contained in the applicant's application (Exhibit G-1), including specifically the provision that will restrict all animals to be kept within the building on site (no outside animal runs) and that the building be designed with sufficient sound-resisting materials to ensure practically no outside noise and subject to the plot plan submitted, on property located at 3901 North Harvard Avenue and the subject property.

**BOA-16503 November 9, 1993:** The Board of Adjustment approved a Special Exception to permit a water treatment plant in an RS-3/AG district; per plan submitted; finding that the use is existing and that proposed additional construction will not be detrimental to the neighborhood, on property located at 3710 Mohawk Boulevard and part being the subject property.

**BOA-16503 October 12, 1993:** The Board of Adjustment approved a Special Exception to permit an existing water treatment plant and two new buildings containing a sludge dewatering system and to continue a Special exception for a new water treatment plant to November 9, 1993; per plan submitted; finding that the proposed buildings housing the sludge dewatering the existing structures, on property located north and east of the northeast corner and part being the subject property.

**BOA-13735 September 12, 1985:** The Board of Adjustment approved a Special Exception to allow an existing water treatment plant in an RS-3 district and to allow for expansion under the provisions of Section 1680, on property located at 3710 Mohawk Boulevard and abutting east of subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 40+ acres in size and is located north of northeast corner of East 36<sup>th</sup> Street North and North Harvard Avenue. The property appears to be vacant and is zoned RS-3.

**STREETS:**

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
North Harvard Avenue	Secondary arterial	100'	2
Mohawk Boulevard	N/A	N/A	2
East 38 <sup>th</sup> St. North	N/A	N/A	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east and north by the Mohawk Water Treatment Plant, zoned RS-3 and AG; on the south by a Tulsa County garage and single-family residential uses, zoned CS and RS-3; and on the west by older large-lot single-family residences, zoned RS-3.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 16 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates the portion of this area fronting North Harvard as being Medium Intensity-No Specific land use and the remainder of the site as Low Intensity-Residential land use. According to the Zoning Matrix, the requested IL zoning **may be found** in accord with the Plan for that portion that is designated Medium Intensity-No Specific land use and **is not** in accord with the Plan for that area designated as Low Intensity-Residential land use.

**STAFF RECOMMENDATION:**

One of the major municipal water treatment plants lies immediately to the north of the subject property and beyond that is Lake Yahola. One of the Tulsa County garages lies immediately to the south. Although a portion of the site is designated for Low Intensity-Residential land use and the requested IL is not in accord with the Plan, staff can support the requested rezoning. Staff would also caution that the applicant may also be required to apply to the City Board of Adjustment for a Special Exception as a Use Unit 2, Area-wide Special Exception Use. Staff therefore recommends **APPROVAL** of IL zoning for Z-7141.

Ms. Matthews reminded the Planning Commission that this is straight IL zoning.

**TMAPC COMMENTS:**

In response to Ms. Cantrell, Ms. Matthews stated that the water treatment plant has been located in the subject area for a long time and preceded the residential



development. The designation for residential would have come when the Comprehensive Plan was adopted in 1975 or 1976.

Mr. Midget stated that he would like to make one clarification and that is that the animal shelter will not be built in the subject area. The City moved the location to the current animal shelter. There are no plans to build the animal shelter.

Ms. Cantrell asked if staff considered requesting a PUD rather than straight IL. Ms. Matthews stated that several options were considered, but the City felt it was more forthright to go through a straight rezoning. Staff felt that a PUD would be overkill for the subject proposal. Ms. Cantrell stated that there is always a potential that they could sell the subject property and it would have IL zoning on it. Ms. Matthews stated that staff feels comfortable with the IL zoning because there is an industrial use north and south of the subject property.

**Applicant's Comments:**

**Mary Kell**, City of Tulsa Engineering Services, 2317 West 23<sup>rd</sup> Street, 74107, stated that there was a neighborhood meeting last week with the residents to review the overall plan. The City of Tulsa already owns the 40-acre tract of land and the project is funded by the 2006-2011 Sales Tax Extension. There will be one department slated to move. There will be administration and maintenance for Traffic Engineering. The second building is the utility building for the same department. There will be no less than 300 feet of buffer on the south property and the southeast corner has residential directly abutting it. The two buildings are proposed to be metal buildings with the front having a brick façade.

Ms. Kell stated that the City originally looked at renovating the traffic building and was built in 1960 and is beyond repair. The Traffic Department has grown three times since the original building was built and desperately need a new facility.

**TMAPC COMMENTS:**

Mr. Midget asked if there would be offices in the proposed building. In response, Ms. Kell answered affirmatively.

Mr. Midget asked Ms. Kell if there would be any future expansion of the proposed facility. In response, Ms. Kell stated that the proposed facility will house the complete Traffic Engineering Department and the two proposed buildings are the only ones currently funded. The Public Works Department is moving to the subject property eventually, but it is not funded at this time and she is not sure when it will be funded. Street Maintenance, Engineering Services, Water Distribution and Solid Waste Departments will be located at the subject location when it is funded.

Ms. Kell explained that there wouldn't be any trucks carrying sand from the subject property.

**Mark Brown**, Traffic Operations Manager for City of Tulsa, stated that the largest trucks that traffic operations uses are bucket trucks to fix highway lighting. There would be deliveries approximately twice a year carrying paint for marking the streets, which will be delivered on a semi-tractor trailer. There will be periodic deliveries by semi-trucks that will travel north on Harvard up to Mohawk. The service entrance for all vehicles for that will come off Mohawk and not Harvard. Mr. Brown addressed the question regarding the integrity of the roadway and stated that the water treatment plant has deliveries that use the roadways and the County has a facility in the subject area. He doesn't see severe deterioration from what has been traveling up and down the road and the proposal will not be adding more substantial weight. There will be mainly service trucks in use at the subject site.

Mr. Brown explained that there would be 59 employees located at the subject site.

Mr. Marshall asked Mr. Brown how the traffic would flow. Mr. Brown explained that the subject property gives good access to U.S. Highway 75. The area of service is all over the City of Tulsa and being able to get out to the highway is ideal. The fuel pump facilities are at the Police Station at 36<sup>th</sup> Street North and there will be easy access onto U.S. Highway 75. Mr. Marshall asked if they would more than likely use 36<sup>th</sup> Street North and going west to access U.S. Highway 75 or going east to use U.S. Highway 169. Mr. Brown stated that they would have access to Highway 11 to the south; to the east they would have access to U.S. Highway 169. Mr. Marshall asked if he had any idea of how much traffic would increase due to the proposal. Mr. Brown stated that most of the employees will leave in the morning out to the work site and return at the end of the day. There are service trucks that go out and periodically return for supplies throughout the day, which may be four trips in and four trips out (five trucks).

Mr. Marshall asked how large the facility at the 23<sup>rd</sup> and Jackson is today. In response, Mr. Brown stated that entire facility is on 40-plus acres. Mr. Marshall asked if eventually everything at 23<sup>rd</sup> and Jackson will be relocated to the subject site. In response, Mr. Brown stated that it is possible, but there would have to be a lot of capital dollars become available. He wouldn't say it isn't possible, but he wouldn't have any idea when that would be because there are numerous things that would have to happen first.

#### **Mr. Carnes out at 2:55 pm.**

Mr. Marshall asked Ms. Kell if there is any chance the City could put some type of fence that is decorative on the neighborhood side. Ms. Kell stated that they would definitely consider a decorative fence. Mr. Marshall acknowledged that this is straight zoning and the Planning Commission can not make the City install a decorative fence, but he would like to make the suggestion. Ms. Kell stated that on the far east side of the subject property there are waterlines to the City,

which are about three feet deep and that limits the development on the east side and it will remain completely untouched.

Ms. Kell stated that the subject site is 40 acres and she believes that the actual size of the proposed building is about a 30 percent increase of what they have now at 23<sup>rd</sup> and Jackson. Ms. Kell stated that she is not aware of another 40-acre piece of property that the City of Tulsa already owns. She was given the task to design and develop the subject property.

Ms. Kell stated that she is willing to take any suggestions from INCOG and the Planning Commission regarding the development of the subject property.

Mr. Dix stated that the straight IL zoning concerns him and there are 40 acres that could be developed IL. He is curious why the City didn't propose a PUD.

Ms. Kell explained that there will probably have to be some berming on the south portion of the subject property to screen the buildings from the residences along with the screening fence.

Mr. Midget asked if this would be a LEED facility or green building. In response, Ms. Kell stated that they haven't considered it as a straight LEED facility at this point. It is close to highways and close to the day-to-day functions so there are some site locations that would lend it more toward LEED.

**Interested Party's Opposing Z-7141:**

**Helen Page**, 3833 North Knoxville, 74115; **Pastor Stephen Rathod**, 3506 East 36<sup>th</sup> Street North, 74115; **Ann Nero**, 3821 North Knoxville, 74115;

**Ms. Cantrell requested that speakers keep their comments to five minutes and please do not repeat issues that have already been mentioned.**

**Interested Party's Comments:**

Concerned about traffic; traffic noise; welding noise; facility used for bands to practice as another facility is currently allowing; maintenance and upkeep of the proposed facility grounds; will not add value to existing homes; existing County facility creates noise and traffic, but recognize it was there prior to the residences; prefer the City relocate this facility by the airport along Mingo; existing residential area is quiet and peaceful and would like to keep it that way; concerns about stormwater runoff; senior citizens live in the subject area and need peace and quiet; streets are narrow and no sidewalks; if approved build a nice screening wall, turning signals and turning lanes and build sidewalks; the Lake Yahola Addition was founded by professional African Americans; the county property in the earlier years wasn't too bad, but once they expanded it became a problem when the weather is bad; noise level is unacceptable;

**TMAPC COMMENTS:**

Ms. Wright asked Ms. Page how much traffic or noise has she experienced from the water treatment facility. In response, Ms. Page stated that she has not experienced a lot of noise. Ms. Wright asked Ms. Page if she had ever been inconvenienced by the water treatment plant. Ms. Page stated that there are occasions when they are moving trucks and equipment. Ms. Wright asked if it would be considered normal for everyday use. Ms. Page answered affirmatively.

Mr. Leighty stated that he wasn't aware that there is a lot of noise associated with welding. In response, Ms. Page stated that there could be. Mr. Leighty stated that the building will be a good distance away from the residential area. Ms. Page stated that they are proposing metal buildings and she is not sure if they will be insulated to reduce noise.

Ms. Cantrell informed Pastor Rathod that the Planning Commission has no authority to put conditions on a straight zoning case.

Ms. Wright stated that she is completely baffled by the objections to this proposal. The comments today have nothing to do with what is being proposed and will not have the same impact. This proposal is near the water treatment plant and will have the same ingress/egress and had she heard any complaints about the water treatment plant, then she could understand the opposition more. There will be more buffer and a detention pond will help with the overland flow. This is a sensitive development area and there is likely to be no other development on the subject property because the City owns it and it is designated for this type of use. This would be the best neighbor one could hope for as far as a huge buffer zone. Ms. Wright commented that this proposal would be a low impact neighbor. Ms. Nero asked Ms. Wright if she was asking her a question. Ms. Wright stated that she is just flummoxed by the opposition to this proposal and she could understand if it were a Wal-Mart. Ms. Nero stated that to her this would be a Wal-Mart. She doesn't trust that the traffic will stay off of 36<sup>th</sup> Street. Ms. Nero stated that she lives there and experiences the traffic every day.

Mr. McArtor stated that the Planning Commission struggles with the fact that infrastructure is not available before the development. Generally what happens is the development comes first and then the infrastructure follows. If the City moves onto the subject property and he wouldn't be surprised if the streets are not improved very fast. Ms. Nero stated that would be a good thing. Mr. McArtor stated that he is not promising that would happen, he is just speculating. Ms. Nero stated that her concerns are that her neighborhood stays the same as it is right now.

**Applicant's Rebuttal:**

Ms. Kell stated that the detention pond is designed to be a dry pond, which means that if there is a huge event it may keep water in it for two to three days before it drains straight down. It is not meant to hold the water and the overflow goes to the street. The City is actually improving that area because right now there is some flooding that happens at Harvard and Mohawk without this development. This would capture the runoff from the subject site and keep it on the site.

**TMAPC COMMENTS:**

Ms. Wright asked Ms. Kell if this is in a floodplain. In response, Mr. Steele answered negatively. Ms. Wright asked if the neighbors will experience any flooding at all from the subject property. In response, Ms. Kell stated that the subject property drains from the southeast to northwest and the high point is closest to the neighbors. None of the drainage from the subject property will go in the direction of the residents. The water will be kept onsite.

Ms. Wright asked Ms. Kell what the noise level is on 23<sup>rd</sup> and Jackson with regard to Traffic Engineering. In response, Ms. Kell stated that they haven't done a noise study. There are several departments are at the same site and she doesn't know how easy it would be to isolate the traffic for Traffic Engineering. There is some welding done onsite, but it is a small portion of what they do. The building will be enclosed and it is only for maintenance. Most things are delivered prefabricated and not welded every day.

Ms. Cantrell asked Ms. Kell about solid waste that was mentioned previously. Ms. Kell stated that it is another department with Public Works and she is not sure what their day-to-day operations are. Ms. Cantrell asked if there would be solid waste on the subject property or just the Solid Waste Division. Ms. Kell stated that it would be the operation that manages solid waste onsite. Mr. Midget stated that no solid waste would be on the subject property.

Ms. Cantrell stated that a PUD would better protect the neighborhood and give them some protections.

Mr. Boulden, Legal Department, stated that he believes that a PUD would be problematic when the City of Tulsa is the owner. The covenants usually say the City of Tulsa shall enforce them and when one is enforcing against themselves it becomes an odd situation. He isn't sure how the Planning Commission would construct it to make this enforceable. Mr. Reynolds suggested that a band of residential property be left between the subject property and the residential properties, which wouldn't allow industrial operations in that area. The Planning Commission could approve the rezoning less and except the south 50 feet. This is just a possibility and he is not saying that a PUD is not possible, but it would take some rethinking of how to construct it.

Ms. Cantrell asked Mr. Boulden if the subject proposal would have to install a solid wall where residential is abutting. Mr. Boulden stated that he doesn't recall what the buffer would be, but his feeling is that industrial is not usually put in next to residential as a general rule.

Mr. Midget described this as an infill development and he supports a PUD being filed with this application. Although it may be problematic, it is not insurmountable. A PUD would provide greater protection for the neighborhood and if in 25 years the City decides to sell the subject property, and then it could impact the neighborhood with straight zoning of IL. The existing facility on 23<sup>rd</sup> and Jackson cannot be remodeled and should be removed. This will be something of quality because of past experiences and what the public's expectations are now. The neighborhood needs to be protected and he doesn't believe a PUD is out of the question.

Ms. Wright asked what the buffer zone between residential and industrial. (Several people calling out the requirements but it is inaudible). Mr. Boulden confirmed it is 75 feet. Ms. Wright stated that the City is proposing to have 300 feet of buffering.

After a long discussion it was determined to continue this case and allow Ms. Kell to apply with the Board of Adjustment or to come back with a PUD application.

**TMAPC Action; 10 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **10-0-0** (Cantrell, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Carnes "absent") to **CONTINUE** Z-7141 to October 21, 2009.

\* \* \* \* \*

**Mr. Midget and Ms. Wright out at 4:00 p.m.**

**Mr. Dix recused himself and left the meeting at 4:01 p.m.**

15. **Z-7142/PUD-773 – Tanner Consulting, Inc./Lou Reynolds** CO to RS-3/OL/CS/PUD

North of northwest corner East 101<sup>st</sup> Street South and South Memorial Drive (PUD for a two development area, up to seven lot mixed-use office and retail development.) (PD-26) (CD-8)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 18947 dated March 21, 1997, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**PUD-411-C-12/Z-5842-SP-7 February 2008:** The Planning Commission approved a Minor Amendment to PUD-411-C to increase permitted floor area of Development Area 1-A by reducing two setback requirements and increasing permissible height restrictions; per staff recommendation as modified by the Planning Commission and per submitted, on property located on the northeast corner of South Memorial Drive and East 101<sup>st</sup> Street South.

**PUD-411-E/Z-5842-SP-7 February 2008:** A Major Amendment to PUD-411 was proposed to amend the development standards to create a new Development Area 1A-1. The applicant requested to reduce his request to a Minor Amendment (See PUD-411-C-12) on property located on the northeast corner of South Memorial Drive and East 101<sup>st</sup> Street South.

**Z-6579-SP-4 June 2006:** Staff recommended for approval of a proposed Corridor Site Plan on a 4.91± acre tract of land for automobile dealership and commercial uses. The TMAPC had a tie vote and so decided to send on to City Council without a recommendation. The City Council voted to deny the application, on property located north of northwest corner of East 101<sup>st</sup> Street and South Memorial Drive and the subject property.

**Z-6391/Z-6391-SP-1/PUD-701 April 2004:** All concurred in approval of a request for rezoning a 4.56± acre tract of land from RS-1 to CO/PUD with a proposed Corridor Site Plan and Planned Unit Development for automotive dealership and retail; per staff recommendation and as amended by the Planning Commission, on property located on the northwest corner of East 98<sup>th</sup> Street and South Memorial Drive.

**Z-6579-SP-3/PUD-671 December 2002:** The TMAPC and staff recommended for approval of a proposed Planned Unit Development and Corridor Site Plan on a 4.9± acre tract of land for automobile and light truck sales (new and used), repair and service (excluding body repair and painting), and also those uses permitted by right in CS district, excluding Use Unit 12a, on property located

north of northwest corner of East 101<sup>st</sup> Street and South Memorial Drive and the subject property.

**BOA-19464 November 12, 2002:** The Board of Adjustment approved a Variance of the requirement that a Corridor development's access shall be principally from an internal collector street, finding it would be an unnecessary hardship to require a collector street because it would not serve any other properties, on property located north of the northwest corner of East 101<sup>st</sup> Street South and South Memorial Drive and the subject property.

**BOA-19047 April 24, 2001:** The Board of Adjustment approved a Special Exception to permit an automobile wash in a CS district, per applicant's conditions submitted at meeting, and vacuums shall be located on east boundary line, on property located west of the northwest corner of East 101<sup>st</sup> Street and South Memorial Drive.

**Z-6579-SP-2/PUD-603-A January 2000:** All concurred in approving a request for a Major Amendment to PUD-603. The original PUD and corridor site plan designated four development areas for retail commercial and office use, including an automobile dealership on the south 2.5 acres. The major amendment was approved for two development areas for CS uses on a 9.4± acre tract located on the southwest corner of East 98<sup>th</sup> Street and South Memorial Drive and abutting north of subject property.

**Z-6579-SP-1/PUD-603 January 1999:** A Planned Unit Development and Corridor Site Plan were approved for retail and office use on property located on the southwest corner of East 98<sup>th</sup> Street South and South Memorial Drive and abutting north of subject property.

**Z-6617/PUD-581 February 1998:** All concurred in approval of a request for CO zoning and a PUD on an 11.9± acre tract for multifamily development. The Comprehensive Plan did not support CO zoning to a depth greater than 500' from South Memorial Drive, but staff and TMAPC concurred that the drainage way and City of Tulsa detention facility located southwest of the property established a natural demarcation for the CO zoning to a depth of 1,320'. On property located on the southwest corner of South Memorial Drive and the Creek Turnpike East.

**PUD-378-A March 1997:** All concurred in approval of a proposed Major Amendment to a PUD to allow single family use of the previously approved office development on a 7± acre tract of land on property located west of the southwest corner of East 101<sup>st</sup> Street and South Memorial Drive.

**Z-6579 March 1997:** All concurred in approval of a request to rezone a 24.5± acre tract from RS-1 to CO located on the southwest corner of East 98<sup>th</sup> Street South and South Memorial Drive and a part of the subject property.



**Z-6578/PUD-554 January 1997:** All concurred in approval of a request to rezone a 30.8± acre tract of land from AG and RS-1 to RS-3/PUD for a single-family residential development, subject to modifications located west of the southwest corner of East 98<sup>th</sup> Street and South Memorial Drive and abutting west of subject property.

**Z-5842-SP-5/PUD-411-C October 1993:** All concurred in approval of a proposed Major Amendment and Corridor Site Plan on a 93± acre tract of land to modify the development areas, permitted uses and development standards to permit automobile and allied activity, office use, multi-family and single-family development, on property located on the northeast corner of East 101<sup>st</sup> Street and South Memorial Drive.

**Z-5842-SP-1/PUD-411 February 1986:** All concurred in approval of a proposed Planned Unit Development and Corridor Site Plan on a 177± acre tract of land for mixed use development on property located on the northeast corner of E. 101<sup>st</sup> Street S. and S. Memorial drive.

**PUD-378 November 1984:** All concurred in approval of a proposed Planned Unit Development for an office and commercial development a 20± acre tract of land on property located on the southwest corner of East 101<sup>st</sup> Street South and South Memorial Drive, subject to conditions.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 4.91± acres in size and is located north of the northwest corner of East 101<sup>st</sup> Street South and South Memorial Drive. The property appears to be vacant and is zoned CO.

**STREETS:**

<b><u>Exist. Access</u></b>	<b><u>MSHP Design</u></b>	<b><u>MSHP R/W</u></b>	<b><u>Exist. # Lanes</u></b>
South Memorial Drive	Primary arterial	120'	Under construction; planned 6 lanes; four lanes presently

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

**SURROUNDING AREA:** The subject tract is abutted on the east by Memorial Drive and then South Town Market, zoned CO/PUD-411-C used as a Super Target and four out-parcels; on the north by Jim Norton Center West, zoned CO and used as vehicle sales and service; on the south by a Memorial 101 and Cab Addition, zoned CS and AG used as a retail gasoline sales and convenience store and car wash, and a smoke shop; and on the west by Audubon Park, zoned RS-3/PUD-554 used as a single-family residential development.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 26 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Low or Medium Intensity—No Specific land use/Corridor. According to the Zoning Matrix, the requested RS-3/OL/CS/PUD zoning is in accord with the Plan.

**STAFF RECOMMENDATION FOR ZONING:**

Based on the District Plan and trends in the area, staff can support the requested RS-3/OL/CS/PUD and therefore recommends **APPROVAL** of the requested rezoning for Z-7141, provided the standards and conditions of the accompanying PUD-773 are deemed acceptable. However, staff points out that the rezoning may not have been necessary, given that the existing zoning is CO.

**STAFF RECOMMENDATION FOR PUD:**

PUD-773 is a 5.58 gross acre (243,208 gross SF) tract located north, of the northwest corner of Memorial Drive and 101<sup>st</sup> Street South. The tract is currently vacant and has 496' feet of frontage along Memorial Drive. Concurrently with this application is rezone application Z-7141, seeking to rezone the property from Corridor (CO) zoning to RS-3 (residential single family); OL (Office Light); CS (Commercial Shopping Center); and Planned Unit Development (PUD).

The PUD is being proposed to achieve deployment flexibility with respect to mixing uses and to use zoning districts in a traditional zoning pattern (RS-3 to OL to CS) as buffering and for heightened protections along the west boundary. A 30' wide, undevelopable strip of RS-3 zoning is being used along the entirety of the west boundary as a buffer zone adjacent to OL zoning. Additionally, and to ensure greater compatibility with the neighborhood to the west the applicant is eliminating uses normally allowed in "straight" CS zoned districts such as apartments, automobile sales and service, sexually orientated businesses and outdoor advertising (OA) signs.

Referring to the attached case aerial photograph and topography map, the site gradually slopes from the northeast corner of the site to the southwest corner of the site. Elevations are from 724' at the northeast corner of the site to approximately 698' at the southwest corner. The slope difference makes the sight somewhat topographically challenged.

The proposal for PUD-773, known as the "NGP Business Complex" is for a two development area, up to seven lot mixed use office and retail development with large open landscaped areas (see Exhibits A and C). The proposed zoning on the site would allow for 19,830 square feet (SF) of office space and 74,673 SF of commercial floor area for a total of 94,503 square feet of floor area. Under PUD-773 there is 50,000 square feet of floor area proposed, with 10,000 SF of the total being under the future expansion the existing QuikTrip® canopy from the south, which is included in the PUD as Development Area B. There is 40,000 SF of actual buildable floor area being proposed.

As a result of the existing topography of the site (see also attached photographs) the applicant is proposing through re-zoning and the PUD process to limit the permissible building height of the westernmost building to 20', within 50 feet of the western boundary. Further, the applicant is proposing to limit the finished floor elevation of the building to 714' above mean sea level in an effort to eliminate a "towering" effect. As indicated in Exhibits A, D, E and F excessive landscaping will be included and an 8' masonry wall will be used to further screen the building and provide added protections for the homes to the west above what the landscape chapter of the code requires. Exhibit G depicts the applicant's efforts to minimize spill-over lighting into the neighborhood to the west.

Access to the site will be from three points along Memorial Drive with mutual access easements between the QuikTrip property from the south and the auto dealership property to the north. There is an existing five-foot sidewalk along Memorial Drive which will be expanded to include pedestrian circulation to the site and pedestrian walkways though the interior of the site as well.

After conducting site visits, review of the conceptual development plan in addition to the TAC review of the concept plan, staff can support this application. Staff finds the uses and intensities of development proposed and efforts made to buffer the development to be in harmony with the spirit and intent of the Code. Staff finds PUD-773 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-773 subject to the following conditions:

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

#### **DEVELOPMENT AREA A**

<b>NET LAND AREA:</b>	187,695 SF	4.31 AC
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**PERMITTED USES:**

Uses permitted as a matter of right in Use Unit 10, Off-Street Parking; Use Unit 11, Offices, Studios and Support Services; Use Unit 12, Eating Establishments, Other Than Drive-Ins; Use Unit 13, Convenience Goods and Services; Use Unit 14, Shopping Goods and Services; Health Club/Spa only as permitted within Use Unit 19, Hotel, Motel and Recreation Facilities; and uses customarily incident to permitted principal uses.

**MAXIMUM NUMBER OF LOTS:** 7

**MAXIMUM PERMITTED BUILDING FLOOR AREA:**  
Commercial/Office: 40,000 SF

**MAXIMUM BUILDING HEIGHT:**  
Within 50' of west property line: 20 FT from adjacent ground level\*  
  
If more than 50' from west property line: 25 FT\* from adjacent ground level  
  
Unoccupied architectural features: 35 FT from adjacent ground level

*\*The finished floor elevation of the westernmost building in Development Area "A" shall not exceed 714 FT above mean sea level and the top of the westerly wall of such building will not exceed 729 FT above mean sea level.*

**MINIMUM BUILDING SETBACKS:**  
From South Memorial Drive right-of-way 50 FT  
From North Boundary of the PUD 25 FT  
From West Boundary of the PUD 40 FT  
From Boundary of Development Area "B" 11 FT  
From South Boundary of the PUD 11 FT

**OFF-STREET PARKING:**  
As permitted by the applicable Use Unit of the Tulsa Zoning Code.

**LANDSCAPED AREA:**  
A minimum of 15% of the total net land area shall be improved as internal landscaped open space in accord with the provisions of the Landscape Chapter of the Tulsa Zoning Code.

- SIGNS:**
1. Ground Signs:
    - a. Ground signs shall be limited to one (1) per lot with arterial street frontage with a maximum of 80 SF of display area and 25 FT in height. There will be a minimum 50 FT separation between ground signs.

- b. In addition to the ground signage provided in item a. above, a project/tenant identification signs shall be permitted along South Memorial Drive with a maximum of 225 square FT of display surface area and 25 FT in height.
2. Wall Signs: Wall signs shall be permitted not to exceed 2.0 square feet of display surface area per lineal foot of building wall to which attached. No wall signs shall be permitted on west-facing building walls.

**LANDSCAPED BUFFER AND SCREENING:**

Development Area "A" will be extensively landscaped by a 30 FT wide landscape screening buffer and the details of such landscaping are shown on Exhibits "D", "E" and "F".

Specifically, the project will be screened by a minimum 8 FT high masonry screening wall. Immediately adjacent to such 8 FT masonry screening wall will be a row of evergreen pine trees which pine trees will be a minimum of 12 FT in height at the time of planting. Additionally, within such 30 FT wide landscape screening buffer an additional row of pines, cypress and photinia will be planted along the west wall of the westernmost building.

The landscape features within the project will maintained in accordance with the requirements of the Landscape Chapter of the Tulsa Zoning Code.

**BUILDING FACADES:**

All exterior building walls of a building shall be of like material(s) on all faces of such building.

**LIGHTING:**

Lighting shall be arranged so as to shield and direct the light away from the residential area to the west and shall be verified through either the application of the Kennebunkport Formula and/or submittal of a photometric plan. All lighting shall be in substantial conformance with the proposed lighting plan as shown in Exhibit "G". Consideration of topography must be included in the calculations.

Except for bollards, no light standards shall be permitted with 25 FT of the west boundary.

Bollards not to exceed 4 FT in height with the light fixture directed to the east will be used to light the vicinity of the western wall of the westernmost building.

All pole mounted lighting within the west 50 FT of Development Area "A" will be shielded and/or cut off to reduce the potential for lighting to spill over to the west of the light fixture.

Pole and building mounted lighting shall not exceed 14 FT in height as measured from adjacent ground level. For purposes of measurement, ground level shall be considered the adjacent paved surface, if applicable.

Building mounted lighting on west facing buildings within 50 FT of the west boundary shall be restricted to security lighting only. Security lighting is defined as lighting which is intended to light rear door emergency exits and will be activated for a short period of time only when the door is opened.

**TRASH AND MECHANICAL EQUIPMENT:**

All trash, mechanical and equipment areas (excluding utility service transformers, pedestals, or equipment provided by franchise utility providers), including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level. Screened bulk trash containers shall be setback a minimum of 100 feet from the west boundary.

**NO OUTSIDE STORAGE:**

There shall be no outside storage of recyclable material, trash or similar materials outside of a screened receptacle, nor shall trucks or trailer trucks be parked unless they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage.

**DEVELOPMENT AREA "B"**

**NET LAND AREA:** 26,100 SF 0.60 AC

**PERMITTED USES:**

Uses permitted as a matter of right in Use Unit 14, Shopping Goods and Services; and uses customarily accessory to the permitted principal uses.

**MAXIMUM NUMBER OF LOTS:** 1

**MAXIMUM PERMITTED BUILDING FLOOR AREA:** 10,000 SF\*

*\*Includes that area covered by the fuel pump canopy.*

**MAXIMUM BUILDING HEIGHT:** 25 FT\*\*

*\*\*Architectural elements may exceed permitted height upon Detail Site Plan approval.*

**MAXIMUM PERMITTED HEIGHT OF FUEL PUMP CANOPY:** 20 FT

**MINIMUM BUILDING SETBACKS:**

From South Memorial Drive right-of-way	50 FT
From North Boundary	75 FT
From the West Boundary	80 FT
From the South Boundary	0 FT

**MINIMUM CANOPY SETBACK:**

From South Memorial Drive right-of-way	30 FT
From North Boundary	50 FT
From the West Boundary	185 FT
From the South Boundary	0 FT

**OFF-STREET PARKING:**

As permitted by the applicable Use Unit of the Tulsa Zoning Code.

**LANDSCAPED AREA:**

A minimum of 15% of the total net land area of Development Area "B" shall be improved as internal landscaped open space in accord with the provisions of the Landscape Chapter of the Tulsa Zoning Code.

**SIGNS:**

1. No ground signs are permitted within Development Area "B".
2. Wall and canopy signs shall be permitted not to exceed 2.0 square feet of display surface area per lineal foot of building wall or canopy to which attached. No wall signs shall be permitted on west facing building walls or canopies.

**LANDSCAPE BUFFER:**

A minimum 10 FT wide landscape buffer shall be provided in Development Area "B" between the retaining wall extension and the new parking area. Such 10 FT wide landscape buffer will include a minimum of 8 Austrian pines, which pines shall be a minimum of 12 FT in height at the time of planting, four Leland cypresses, which cypresses shall be a minimum of 8 FT in height at the time of planting and 23 Loropetalum "fringe flower" plants which shall be 3 FT in height at the time of planting and shall be planted within such landscape buffer. The location of such landscape

buffer and the distribution of the landscaping shall be in substantial compliance with Exhibit "D".

The landscape features within Development Area "B" will be maintained in accordance with the requirements of the Landscape Chapter of the Tulsa Zoning Code.

**BUILDING FAÇADES:**

All exterior building walls of a building shall be of like material(s) on all faces of such building.

**RETAINING WALL:**

The existing retaining wall proximate to the west wall of the existing QuikTrip store shall be extended north to the north boundary of Development Area "B" and shall connect with the proposed retaining wall in Development Area "A" at a point along the common boundary line between the development areas. The location of the retaining wall is shown on Exhibit "D". The materials used for construction of the retaining wall extension in Development Area "B" shall match those used for retaining walls in Development Area "A", with material selection for Development Area "A" setting the precedent.

**LIGHTING:**

Light standards shall be restricted to height of 8 FT for building mounted lighting and 14 FT in height for pole mounted lighting. All canopy lighting shall be recessed with no part of the fixture extending below the canopy and shall be in substantial compliance with the proposed lighting as shown in Exhibit "G".

All light standards, including building mounted, shall be hooded and directed downward and away from adjacent residential boundaries. Compliance shall be verified by application of the Kennebunkport Formula and/or submittal of a photometric plan. Consideration of topography must be included in the calculations.

**TRASH AND MECHANICAL EQUIPMENT:**

All trash, mechanical and equipment areas (excluding utility service transformers, pedestals, or equipment provided by franchise utility providers), including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level. Bulk trash containers shall be screened using masonry materials that match the existing QuikTrip store and will be at least 1 foot taller than the trash container(s) and setback a minimum of 140 FT from the west boundary.



**NO OUTSIDE STORAGE:**

There shall be no outside storage of recyclable material, trash or similar materials outside of a screened receptacle, nor shall trucks or trailer trucks be parked within the development unless they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage.

**ACCESS AND CIRCULATION**

Access to Memorial Drive shall be provided by three access drives, two of which are located in Development Area "A". The northernmost access will be shared with Nelson Mazda as a three-way access in conjunction with a proposed traffic signal. The second access is approximately 140 feet to the south providing right turn, only, in and out. The third access, and only access in Development Area "B", is approximately 30 feet from the PUD's south boundary. Mutual access easements will assure access to all lots within the PUD and to adjacent properties.

The driveway access at the vehicular interface of Development Area "A" and Development Area "B" (providing access between Development Areas "A" and "B") shall have a slope no greater than six percent (6%) and have a minimum top paving elevation of no less than 721 FT and no greater than 722 FT. The slope, elevation and location of the driveway access between Development Area "A" and Development Area "B" are depicted on Exhibit "H".

Mutual Access Easements will assure access to all of the lots within the PUD and to South Memorial Drive and across the existing QuikTrip store to East 101<sup>st</sup> Street South.

Sidewalks will be provided along Memorial Drive. Pedestrian access and circulation are shown in Exhibit "A".

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

5. No sign permits shall be issued for erection of a sign on a lot within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
7. 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 the development have been installed in accordance with the approved plans prior to issuance of any occupancy permit.
8. 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.
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.

**TAC COMMENTS:**

**General:** Exhibit H is missing from the document so a review of the drainage and utilities could not be performed and will be done at the platting phase of development.

**Water:** A looped water main extension line will be required; inside a 20' restrictive waterline easement.

**Fire:** An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. Provide Fire Hydrants with water flow and spacing requirements as required per Appendixes B & C of the 2006 *International Fire Code*.

**Stormwater:** No comments.

**Wastewater:** Access to Sanitary Sewer Service must be provided to all Lots and Development areas within the PUD area.

**Transportation:** No comments.

**INCOG Transportation:**

- **MSHP:** Memorial Drive and 101<sup>st</sup> St. East of Memorial are designated Primary Arterials.
- **LRTP:** Memorial Drive, between E. 101<sup>st</sup> Street S. and E. 91<sup>st</sup> Street S., planned 6 lanes. Sidewalks should be constructed if non-existing or maintained if existing, per Subdivision Regulations.
- **TMP:** No comment.
- **Transit:** No current or future plans for this location.

**GIS:** No comments.

**Street Addressing:** No comments.

**TMAPC COMMENTS:**

Ms. Cantrell commented that this is unusual to be down-zoning from corridor. Mr. Sansone stated that the applicant wants to down-zone the subject property in effort to ensure the property owners to the west that they are putting forth their best effort to properly blend in with the surrounding properties. The subject property has attempted twice to redevelop in the past and both times it was denied and received opposition from neighbors to the west.

**Applicant's Comments:**

**Lou Reynolds**, 2727 East 21<sup>st</sup> Street, 74114, stated that he has spoken with Ms. Benge, who owns a house behind the subject property to the north. He commented that Ms. Benge has indicated her support of the subject proposal. Mr. Reynolds indicated that he has met with the neighbors several times.

**TMAPC COMMENTS:**

Mr. Marshall stated that the Planning Commission is going to remember that Mr. Reynolds stated that this is a small tract and it is really not good to have a small tract zoned corridor. Mr. Reynolds stated that all of the land is under a PUD and the subject property didn't get a PUD and today it is not the practice to have PUDs on CO-zoned property.

Mr. Reynolds added some language to Development Area A under maximum building height regarding the finished floor elevation. He indicated that he is in agreement with the staff recommendation. Mr. Sansone indicated that staff is in agreement with the added language. Mr. Reynolds cited the landscaping, heights of building walls and lighting.

**Interested Parties' Comments:**

**Shannon Bengé**, 9945 South 79<sup>th</sup> East Avenue, 74135, stated that she is a homeowner in the subject area and is in agreement with the proposal as presented. She feels that it is a better PUD designed to abut a residential district.

**TMAPC Action; 7 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **7-0-0** (Cantrell, Leighty, Liotta, Marshall, McArtor, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Dix, Midget, Wright "absent") to recommend **APPROVAL** of the RS-3/OL/CS zoning for Z-7142 per staff recommendation.

**TMAPC Action; 7 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **7-0-0** (Cantrell, Leighty, Liotta, Marshall, McArtor, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Dix, Midget, Wright "absent") to recommend **APPROVAL** of PUD-773 per staff recommendation as amended by applicant. (Language with a strike-through has been deleted and language with an underline has been added.)

**Legal Description for Z-7142/PUD-773:**

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (SE/4 SE/4) OF SECTION TWENTY-THREE (23), TOWNSHIP EIGHTEEN (18) NORTH, RANGE THIRTEEN (13) EAST, OF THE INDIAN MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SE/4 SE/4; THENCE NORTH 0°07'43" EAST AND ALONG THE EASTERLY LINE OF SAID SE/4 SE/4, FOR A DISTANCE OF 330.38 FEET TO A POINT; THENCE NORTH 89°52'17" WEST FOR A DISTANCE OF 120.00 FEET TO THE NORTHEAST CORNER OF BLOCK 1, MEMORIAL 101 (PLAT NO. 5007), SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 89°56'57" WEST ALONG THE NORTHERLY LINE OF BLOCK 1, MEMORIAL 101, FOR A DISTANCE OF 431.06 FEET TO THE SOUTHEAST CORNER OF BLOCK 2, AUDUBON PARK (PLAT NO. 5272); THENCE NORTH 0°05'16" EAST ALONG THE EASTERLY LINE OF BLOCK 2, AUDUBON PARK, FOR A DISTANCE OF 495.75 FEET TO THE SOUTHWEST CORNER OF BLOCK 1, JIM NORTON CENTER WEST (PLAT NO. 5635); THENCE SOUTH 89°57'22" EAST ALONG THE SOUTHERLY LINE OF BLOCK 1, JIM NORTON CENTER WEST, FOR A DISTANCE OF 431.41 FEET TO A POINT; THENCE SOUTH 0°07'43" WEST AND PARALLEL TO THE EASTERLY LINE OF SAID SE/4 SE/4 FOR A DISTANCE OF 495.80 FEET TO THE POINT OF BEGINNING; TRACT CONTAINING 213,795 SQUARE FEET OR 4.908 ACRES.

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**OTHER BUSINESS:**

None.

**Commissioners' Comments**

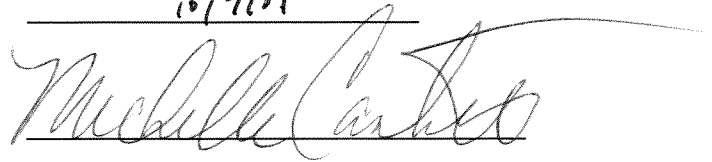
None.

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There being no further business, the Chair declared the meeting adjourned at 4:19 p.m.

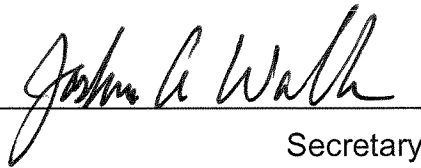
Date Approved:

10/7/09

  
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Chairman

ATTEST:

  
\_\_\_\_\_

Secretary

