

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2574

Wednesday, March 17, 2010, 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	McArtor	Alberty	Boulden, Legal
Carnes	Shivel	Bates	Tohlen, Eng.
Dix	Walker	Fernandez	Schultz, COT
Leighty		Huntsinger	Warlick, COT
Liotta		Sansone	
Marshall			
Midget			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, March 11, 2010 at 1:50 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:**

Ms. Schultz reminded the Planning Commission that there will be an additional public hearing for PLANitULSA March 23, 2010 at 6:00 p.m. in the City Council meeting room. She invited all citizens and the Planning Commission to review the plan drafts that are posted on the website. Ms. Schultz stated that staff is trying very hard to keep everything organized on the website so that everyone can continue to review the comments and continue to consider the contents of the plan.

Mr. Leighty reminded everyone that the Planning Commission appreciates their comments, but if there are particular concerns about the plan, he asked that they provide page number and a reference number for the language that they are concerned about. He asked that they tell the Planning Commission what you don't like about the language and propose an alternative language.

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

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

Mr. Alberty reported that the TMAPC receipts for the Month of February 2010 have some improvements due to an increase in BOA and Subdivision applications. The receipts are 18% down over last year.

Ms. Wright asked Mr. Alberty if staff had any input with TGOV because she noticed that the last TMAPC public hearing wasn't posted yet. In response, Mr. Alberty stated that Barbara Huntsinger noticed that the meeting wasn't posted and requested that it be done, but she hasn't heard anything back from them.

\*\*\*\*\*

**Minutes:**

**Approval of the minutes of February 17, 2010 Meeting No. 2572**

On **MOTION** of **LEIGHTY**, the TMAPC voted 6-0-0 (Cantrell, Carnes, Dix, Leighty, Marshall, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Midget, Shivel, Walker "absent") to **APPROVE** the minutes of the meeting of February 17, 2010, Meeting No. 2572.

**Minutes:**

**Approval of the minutes of February 23, 2010, Special Meeting**

On **MOTION** of **LEIGHTY**, the TMAPC voted 6-0-0 (Cantrell, Carnes, Dix, Leighty, Marshall, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Midget, Shivel, Walker "absent") to **APPROVE** the minutes of the meeting of February 23, 2010, Special Meeting.

\*\*\*\*\*

**CONSENT AGENDA**

All matters under "Consent" are considered by the Planning Commission to be routine and will be enacted by one motion. Any Planning Commission member may, however, remove an item by request.

2. **LC-229** – H.E. Reynolds (7427) (County)  
East of the Southeast corner of South 157<sup>th</sup> East Avenue and East 167<sup>th</sup> Street, 15728 East 167<sup>th</sup> Street South
3. **LC-232** – Tanner Consulting, LLC (9228) (PD9) (CD2)  
Northwest corner of West 51<sup>st</sup> Street and South 33<sup>rd</sup> West Avenue, 5048 South 33<sup>rd</sup> West Avenue (Related to Items 4, 5 and 6)

4. **LS-20361** – Wallace Engineering (9223) (PD9) (CD2)  
Northeast corner of West 36<sup>th</sup> Place South and South Tacoma Avenue (Related to Items 3, 5 and 6)
5. **LC-230** – Wallace Engineering (9223) (PD9) (CD2)  
Northeast corner of West 36<sup>th</sup> Place South and South Tacoma Avenue (Related to Items 3, 4 and 6)
6. **LC-231** – Wallace Engineering (9223) (PD9) (CD2)  
Northeast corner of West 36<sup>th</sup> Place South and South Tacoma Avenue (Related to Items 3, 4 and 5)
7. **LS-20363** – Louis Reynolds (0429) (PD16) (CD6)  
North of the Northwest corner of East Pine Street and North 129<sup>th</sup> East Avenue, 2112 North 129<sup>th</sup> East Avenue
11. **7900 Mingo Plat, Lot 1, Block 1** - Change of Access – (PD 18) (CD 7)  
(4807)  
Northeast Corner of South Mingo and East 79<sup>th</sup> Street South

**STAFF RECOMMENDATION:**

This application is made to allow a change of access to move an existing access to the south along South Mingo Road. The property is zoned Planned Unit Development 575-B (PUD-575-B).

The Traffic Engineer has reviewed and approved the request. Staff recommends **APPROVAL** of the change of access as submitted.

12. **BOA-18886-**(9327)Plat Waiver for Cell Tower (PD 18) (CD 7)  
4908 South Sheridan, Part of Lot 1, Block 1, Sheridan Plaza Center

**STAFF RECOMMENDATION:**

This platting requirement was triggered by BOA-18886, which allowed a cell tower in a CS 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.

13. **Tuscana on Yale** - (8315) Final Plat (PD 18B) (CD 8)  
8900 South Yale, North of Northeast corner of South Yale Avenue and East 91<sup>st</sup> Street

**STAFF RECOMMENDATION:**

This plat consists of seven lots in one block on 6.53 acres.

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

Mr. Midget in at 1:44 p.m.

14. **PUD-579-A – John Sanford** (PD-18) (CD-8)  
Northwest of the northwest corner of East 81<sup>st</sup> Street South and U.S. Highway 169 (Detail Site Plan for a 4,700 SF medical office and clinic.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 4,700 square foot (SF) medical office and clinic. The proposed use, Use Unit 11 – Offices, Studios and Support Services is a permitted use in PUD-579-A.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site is provided from South 101<sup>st</sup> East Avenue and includes a mutual access easement with Lot 11 to the south. Parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping is provided per PUD requirements and the landscape chapter of the Zoning Code. All sight lighting, including building mounted, is limited to 25-feet in height and will be directed down and away from adjoining properties. A trash enclosure has been provided as required by the PUD. Sidewalks will be provided along East 101<sup>st</sup> East Avenue as required by PUD Development Standards and Subdivision Regulations.

Staff recommends **APPROVAL** of the detail site plan for PUD-579-A, Lot 10, Block 1 – Tallgrass Office Park.

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

Ms. Cantrell announced that the following items will be removed from the consent agenda: Item 8, 9 and 10 to be heard along with Item 16.

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **7-0-0** (Cantrell, Carnes, Dix, Leighty, Marshall, Midget, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Shivel, Walker "absent") to **APPROVE** the consent agenda Items 2 through 7 and Items 11 through 14 per staff recommendation.

\* \* \* \* \*

**PUBLIC HEARINGS FOR UPDATED FY 11-15 CAPITAL IMPROVEMENT PROJECTS**

- 15. Updated FY 2011 Capital Improvement Projects to find in conformance with the Tulsa Metropolitan Area Comprehensive Plan.

**STAFF RECOMMENDATION:**

Staff has completed the annual review of the Capital Improvement Plan requests, as developed and submitted by various operating departments of the City of Tulsa. In accordance with Oklahoma Statutes, Title 19 Section 863.8, no improvements "of a type embraced within the recommendations of the master plan shall be constructed or authorized without first submitting the proposed plans thereof to the Commission". Upon staff review and recommendation, the Planning Commission must review the requests as well, and transmit a finding in writing that the requests are in accord with the Plan.

Some 11 requests were submitted this year (a lower volume than in years past). Submitting departments include Information Technology (three requests), Parks (one request), MTTA (one), Facilities (one), Planning (one) and Streets (four). Four of the requests are beyond the scope of the Plan: IT requests for system replacements and the Facilities request for OTC curtain wall window seal replacement, none of which are land use issues and none of which the Plan addresses.. The remainder is in accord with the Plan provisions. The Parks Department request is for a parking lot expansion at Hunter Park. The Planning Department proposes development of a Central Campus Green at the downtown campus, as suggested in a recent update of the District One Plan. The four Street Department requests and the MTTA request are in accord with the Long Range Transportation Plan.

Staff has reviewed these proposed projects and found them in accord with the Plan. Likewise, staff recommends the TMAPC do the same. Upon the TMAPC's recommendation, staff will forward these comments along with minutes from the TMAPC meeting to the City of Tulsa Finance Department.

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

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-0** (Cantrell, Carnes, Dix, Leighty, Marshall, Midget, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Shivel, Walker "absent") to recommend **APPROVAL** of the updated FY 2011 Capital Improvement Projects finding that they are in conformance with the Tulsa Metropolitan Area Comprehensive Plan, per staff recommendation.

\* \* \* \* \*

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

**PUBLIC HEARING**

8. **LC-234** – Louis Reynolds (Related to LS-20364) (9334) (PD18c) (CD7)  
South of the Southwest corner of East 60<sup>th</sup> Street South and South Lakewood Avenue, 6010 South Lakewood Avenue (Related to Items 9, 10 and 16)
9. **LC-211** – Louis Reynolds (Rescind) (9334) (PD18c) (CD7)  
South of the Southwest corner of East 60<sup>th</sup> Street South and South Lakewood Avenue, 6010 South Lakewood Avenue (Related to Items 8, 10 and 16)
10. **LS-20338** – Louis Reynolds (Rescind) (9334) (PD18c) (CD7)  
South of the Southwest corner of East 60<sup>th</sup> Street South and South Lakewood Avenue, 6010 South Lakewood Avenue (Related to Items 8, 9 and 16)
16. **LS-20364** – Louis Reynolds (related to LC-234) (9334) (PD18c) (CD7)  
South of the Southwest corner of East 60<sup>th</sup> Street South and South Lakewood Avenue, 6010 South Lakewood Avenue (Related to Items 8, 9 and 10)

Ms. Cantrell stated that Items 8, 9, 10 and 16 are all related and will be considered together.

**STAFF RECOMMENDATION:**

The Lot-split proposal is to split 2,648 SF from Lot 19, Block 9, Park Plaza Subdivision and combine it with Lot 12, Block 9, Park Plaza Subdivision creating a 14,016 SF. Tract. The related Lot-Combination is found on the Consent Agenda as LC-234. The proposed tracts meet the RS-3 bulk and area requirements of the City of Tulsa Zoning Code.

However, both tracts would have more than three side lot lines as required by the Subdivision Regulations. The applicant is requesting a waiver of the *Subdivision Regulations* that no tract have more than three side lot lines.

A prior Lot-Split was approved involving the same tracts for which the applicant has requested to rescind on the Consent Agenda the previous LS-20338 and corresponding LC-211. Reasoning for the new lot-split is to allow both lots to still have access to a sanitary sewer line.

The Technical Advisory Committee expressed no concerns at their March 4, 2010, meeting.

Staff believes this lot-split would not have an adverse effect on the surrounding properties and recommends **APPROVAL** of the waiver of *Subdivision Regulations* and of the lot-split.

**TMAPC COMMENTS:**

In response to Ms. Cantrell, Mr. Bates stated that the application meets all of the requirements for both lots.

Mr. Marshall asked if the applicant wants to put a pool in or more construction. In response, Mr. Bates stated that he understands that they simply want to increase the size of their backyard.

**Applicant's Comments:**

**Andrew Shank**, 2727 East 21<sup>st</sup> Street, 74114, stated that the previous lot-split removed access to the sewer line and the client is interested in the lot-split to extend the backyard. There are no plans for new construction or anything like that. This is a cost-saving measure for his clients for connecting and extending to the sewer line and would allow them to get out of that obligation. Rescinding of the previous lot-split is completely contingent upon the approval of today's application.

**TMAPC COMMENTS:**

Mr. Leighty requested Mr. Shank to explain the sewer issue and how it changes with this application. Mr. Shank stated that the previous lot-split separated Lot 19 from the sewer line, which required the sewer extension and after his client ran the cost on that extension, he decided to go back and reattach the lots and save

the cost of the extension to Lot 19. The second lot-split will connect everybody to the sewer line. Mr. Leighty stated that there is no utility easement along Lot 19. Mr. Shank answered affirmatively.

Mr. Marshall stated that there is a utility easement in the back and the reason they are doing this is so that they can get sewer. Lot 19 can connect to the sewer line and it would have been more difficult to do with the previous proposal. Mr. Marshall stated that the Planning Commission received some letters from neighbors who didn't think this was a good idea. Mr. Shank stated that he understands that and Mr. Reynolds informed him that he had talked with some of the concerned neighbors, and after explaining what they were trying to do they were satisfied; however, he can't speak to everyone who have concerns. The owners are just trying to simply extend the backyard and connect Lot 19 to the sewer line to save some costs. His client intends to put in a fence and grant an easement so that the fence will be straight and not show the panhandle. He understands that there are other lots in the subject area with smaller yards or similar in size to the proposal.

Mr. Boulden informed the Planning Commission that they can handle 8, 9, 10 and 16 all in one vote if they believe it will be for an approval.

In response to Mr. Dix, Mr. Boulden stated that this would not require a plat amendment.

#### **INTERESTED PARTIES COMMENTS:**

**Richard Quareles**, 5819 South Hudson Place, 74135, stated that he is the president of the homeowners association for LaFortune Park homeowners. He wanted to make sure that this lot-split doesn't cause property values to drop in the subject area. He expressed concerns with the gas meters being moved and how they would be moved. Mr. Quareles stated that he wouldn't want this to start a trend in the neighborhood that would hurt the values of the properties.

#### **TMAPC COMMENTS:**

Ms. Cantrell stated that the applicant has already been approved to cut off part of the backyard. What they are asking now is to give a chunk of it back and if the Planning Commission doesn't approve this, then the applicant will leave it as is. She explained that the proposal meets all the requirements and it would be difficult for the Planning Commission to deny this.

#### **Applicant's Rebuttal:**

Mr. Shank stated that his client owns two homes in the subject area and the owners are just as concerned about property value. He clarified that this is not necessarily a loss in value with a smaller yard, but a transfer to the property that has a bigger yard and in his opinion the net effect is negligible.

#### **TMAPC COMMENTS:**

Mr. Leighty stated that this lot-split has already been approved and the damage has been done. This will make him look at these more closely and he feels from a planning standpoint this is really not well-advised in most cases. Mr. Leighty commented that he will support it because they are actually giving back some property.

**Mr. Liotta in at 2:05 p.m.**

Mr. Carnes stated that all of the zoning laws are in place and nothing will change and therefore he will support this application.

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **7-0-1** (Cantrell, Carnes, Dix, Leighty, Marshall, Midget, Wright "aye"; no "nays"; Liotta "abstaining"; McArtor, Shivel, Walker "absent") to **APPROVE** LC-234, LC-211 (Rescind), LS-20338 (Rescind) and LS-20364 per staff recommendation.

\* \* \* \* \*

17. **The Shoppes on Peoria** – (2330) Minor Subdivision Plat (PD 2) (CD 3)  
Northeast corner of North Peoria Avenue and East Reading Street  
(continued from March 2, 2010) (Related to Item 18)

**STAFF RECOMMENDATION:**

This plat consists of three lots, one block, on 3.07 acres.

The following issues were discussed February 18, 2010 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned Planned Unit Development 705 (pending) with CS (commercial shopping) existing underlying zoning. PUD standards need to be shown in the covenants. Access had been approved with the Director of Public Works approval through PUD 705 standards through the Planning Commission (Council approval is pending.) TMAPC denied the requested sidewalk waiver through the PUD at the February 2, 2010 commission meeting. Another waiver request has been received for the subdivision application and process.
2. **Streets:** Sidewalks are required along all streets per subdivision regulations. Provide standard sidewalk language. (Development Services does not support the new waiver request as the TMAPC has denied the PUD request.)

3. **Sewer:** No comments.
4. **Water:** No comments.
5. **Storm Drainage:** Storm sewers must be centered in a minimum 15 foot wide, storm sewer easement. More storm sewer easements are required for all storm sewers that cross lot lines, and are not located within utility easements or street rights-of-way. A combination mutual access and utility easement may be required. The property lines and all easements should be shown. Otherwise it is extremely difficult to tell if public utilities are located within their necessary easements.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** Add ONG in Section 2 for gas service in covenants.
7. **Other: Fire:** No comments.

**GIS:** Provide the e-mail address for the surveyor. Update location map to show planned and existing expressways and subdivisions. Correct legal description and scale. Submit subdivision control data form.

Staff recommends **APPROVAL** of the Minor Subdivision plat subject to the TAC comments and the special and standard conditions below. The Planning Commission approved the **Denial** of the requested sidewalk waiver as part of Minor Amendments requested for the Planned Unit Development at the February 2, 2010 TMAPC meeting. The applicant appealed the sidewalk waiver request to the City Council. At the March 4, 2010 City Council meeting the denial of the sidewalk waiver was overturned. The staff is not favorable to the sidewalk waiver request but realizes that the Planned Unit Development standards as approved are to be implemented by the subdivision plat.

#### **Waivers of Subdivision Regulations:**

1. A sidewalk waiver and radius waiver is 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.

**TMAPC COMMENTS:**

Ms. Wright asked if the compromise is because of the back portion being developed first and with the intention that as this is developed toward the street, that those sidewalks would be installed. In response, Mrs. Fernandez stated that she doesn't believe so.

Mr. Marshall asked if the Planning Commission has to go with what the PUD approval states, especially since the City Council approved an alternative to the sidewalk issue.

Mr. Boulden stated that it would complicate matters if the Planning Commission doesn't approve the waiver, which is consistent with the PUD as it has been approved. This would put him in an awkward situation if this decision is contrary to what the City Council has approved.

Mr. Midget stated that he talked with the owners of the project and he understands what they are looking at. The Planning Commission has jurisdiction and authority over the Subdivision Regulations. This project was part of a PUD and the Planning Commission required sidewalks all around the development. The Council overturned the Planning Commission ruling with regard to the PUD. He asked how this affects the Subdivision Regulations. He asked if the City Council action nullifies the Planning Commission's authority over the Subdivision Regulations. Mr. Boulden stated that he believes it is a practical matter and that it was nullified. Right now, the PUD is the zoning law of that particular property and now there is a subdivision regulation that is contrary to it, unless the Planning Commission waives it.

Mr. Alberty stated that the Planning Commission is in a complicated situation because in this instance there is a PUD filed on the subject property. He advised assuming that the PUD doesn't exist and now the applicant is coming in to develop the property and file a subdivision plat. The Subdivision Regulations state that it requires sidewalks and if the sidewalk restriction isn't waived, then that provision would have to go to District Court and not to the City Council. Technically, the Planning Commission could play difficult and say "we are not going to waive the Subdivision Regulations", but he believes there are practical reasons not to do that. Due to the PUD, the developers had requested some relief on the sidewalk, which staff and Planning Commission didn't go along with it, but it was appealed to the City Council and they overturned the requirements of TMAPC. When the plat comes in, the Planning Commission is responsible for making sure that the provisions within the PUD are reflected within the Subdivision Regulations and based on the fact that City Council overturned the Planning Commission's denial of the waiver, then staff feels like they are obligated to follow through on the subdivision plat.

Ms. Cantrell stated that she remembers the dentist who wanted the Planning Commission to waive the Subdivision Regulations, which was in a PUD as well and she is trying to be consistent. The Planning Commission has been told that they are the final say, but she is uneasy about the sidewalk situation.

Mr. Midget stated that the dentist situation was already developed and she was trying to get a certificate of occupancy. Because she didn't have sidewalks she wasn't given one and the dentist had to come back before the Planning Commission in a reverse part of the process. The subject development hasn't been built yet, so there is more flexibility here. Mr. Midget indicated that he agrees with the consistency part because he doesn't want developers coming in to circumvent the process through a PUD and not do sidewalks, if the City's goal is to become a walkable/pedestrian community. Mr. Midget further indicated that he had an opportunity to discuss this with the applicant and he understands more of what they are looking for and he will wait for them to speak on this application. It would be better explained by the applicant than speculating.

**Applicant's Comments:**

**Jim Beach**, Wallace Engineering, 200 East Brady, 74103, stated that he feels that he initiated the process by following the advice of the staff and his own awareness and knowledge of how the process works. The proposal is a great connection to the neighborhood, the subject project and to the sidewalk on Peoria. He feels strongly that the connections the subject project is providing give access from either the southeast corner or the northeast corner of the subject property and connects all of the neighborhoods to the east of the subject site. It also provides connections down both streets and a connection between those two streets through the subject project and to the bus stop. This alternative allows all of the connections to occur that would be the same kinds of connections that would occur if sidewalks were built all around the subject property, except that it doesn't impose such a large financial and technical burden on the developer who is under some specific financial constraints and scheduling constraints to bring this project to completion. The City Council felt that this is a good compromise and requests that the Planning Commission approve the plat.

Mr. Beach stated that he believes that this is really a modification of the Subdivision Regulations and not a waiver of the Subdivision Regulations. It would still be in compliance with a modification.

**TMAPC COMMENTS:**

Ms. Wright stated that she did have the opportunity to meet with Mr. Gant on this project and she understands that the intention was to eventually have sidewalks clear out to the street, but this is more for staging and financial reasons. The development will start in the back portion first and then come to the street. Mr. Beach stated that it is true that the portion to the rear (L-shaped building), all of the east part is phase one. All of the proposed sidewalks will be in place for phase one. There has been no discussion of extending them out to Peoria in some future date and he doesn't believe that is the intent, because if they are built as proposed they accomplish everything.

Ms. Cantrell stated that she was okay with the compromise, but she really wished that the developer would put sidewalks along the back of the subject property. People will have to go into the street to access the subject property if they are coming from the back. To be a good neighbor, she would like them to consider putting in the sidewalk along the back.

Mr. Dix asked Mr. Beach to explain what is technically difficult about sidewalks. Mr. Beach stated that the site is flat and because of that there are grading constraints and will have to rebuild the land in order to get it to drain properly. Once this is done, then the area where sidewalks would go has some slopes on it and would have to be leveled out to put a sidewalk and possibly build retaining walls. Mr. Dix stated that he doesn't buy that at all. Mr. Beach stated that he is not the engineer, but that is what he has been told by the engineers at his

employment. Mr. Dix asked Mr. Beach how much the additional sidewalks would cost. Mr. Beach stated that the estimate he received was \$40,000.00 to \$50,000.00. Mr. Dix stated that a sidewalk costs \$3.00 per square foot and he doesn't believe that it would cost that much. Mr. Dix informed Mr. Beach that he needed to know the total square footage in order to make a decision. Mr. Dix stated that he has never seen someone try to get a waiver of sidewalks and prove that they have access through internal configurations. He further stated that he has never seen anyone get a waiver for sidewalks around a business property in any part of the country. Mr. Dix indicated that he can't support this at all.

Mr. Leighty asked Mr. Gant what the value of the development is. Mr. Gant stated that it will cost \$3.1 million. Mr. Leighty stated that the Planning Commission wants to be consistent about these things and everybody could come and state financial difficulties. This will never be turned around and get the kind of connectivity in the neighborhoods if an exception is made every time. Mr. Gant stated that the development will be in phases and he intends to create pedestrian access into the development. He doesn't have any additional plans to develop the front 1/3 of the property. He indicated that he had a conversation with Ms. Wright that as the pad sites are developed in the front of the subject property, he would put the burden on them to install the sidewalks. Mr. Gant stated that he is taking care of and developing on 2/3rds of the subject property and providing an access into the subject site. There are sidewalks to the north and south to the grocery store and this compromise makes access easier from the east into his development, but it doesn't do anything for access to the grocery store and nothing changes there. Mr. Leighty asked Mr. Gant how this would work unless he divides the subject property since he owns all of the property. Mr. Gant stated that he does own the entire property, but he considers the property in the front as pad sites and he will lease the front 1/3<sup>rd</sup> of the subject property to an independent developer. There is a restaurateur who wants to lease a pad and develop his own restaurant.

Mr. Leighty stated that it is his understanding that if this application is approved there would be no way to require sidewalks on the front pads. Mr. Gant stated that he could require it in the lease agreements. Mr. Leighty stated that there is no way to require Mr. Gant to require that his lessees install sidewalks.

In response to Mr. Marshall, Mr. Gant stated that he is not intending to sell the pad sites, but he intends to lease them.

Mr. Sansone stated that each lot will have to come for a detail site plan review and none have been submitted.

In response to Ms. Wright, Mr. Sansone stated that if the Planning Commission is interested in phasing in the sidewalks, it would be required that they all go in and then the Planning Commission could phase the sidewalks in during the detail site

plan review. If the Planning Commission waives the requirement today and approves the alternative proposal, then there is no way to require additional sidewalks during detail site plan review. Mr. Sansone stated that if the Planning Commission wants to require additional sidewalks, they need to be specific as to where they are to be installed in the motion.

Mr. Dix stated that with the dimensions from the site plan it appears that there would be about 783 lineal feet of sidewalk missing. The cost of sidewalk at five feet would be approximately \$12,000.00. Mr. Gant stated that the estimates he has received were much higher than that from the engineers.

Ms. Cantrell stated that she believes that Quaker Street is problematic without a sidewalk. All of the other areas do have sidewalks across the street, but there are none along Quaker. There is some internal flow, but it will be quite an imposition for people to get to the one building if they are in a wheelchair all the way around to enter the subject property. Ms. Cantrell stated that she would prefer that Quaker have sidewalks and phase in the other sidewalks. She understands that the applicant's primary goal is not to help neighbors get to the supermarket, but if they are going to be using the supermarket sidewalk to get to the street, then the supermarket is doing that for the applicant and perhaps he could put in the Quaker side and be a good neighbor.

Mr. Gant stated that it is not like he is not trying to be a good neighbor, because he is, but he has limited funds for the project. In order to move this development along, he is willing to accommodate where he is able to do so. Building sidewalks around the entire perimeter creates an issue for him at this point.

Mr. Midget stated that he likes the compromise and if there is a provision to allow the sidewalks to be required during site plan review for the other pads he would be supportive of that. Mr. Midget further stated that he is not concerned about the backend of the subject property because he believes, with some assistance with the City Council, that would get done to accommodate the neighbors. He knows that the City Council has some capital funding that could assist with that since this would be a public improvement in the subject area.

Mr. Dix stated that he could support this if the sidewalks were to be phased in when occupancy permits it. Ms. Wright stated that she thought Mr. Sansone stated that sidewalks could be dealt with the detail site plan. Mr. Dix stated that he doesn't have a problem with that as long as it is tied to an occupancy permit.

Mr. Liotta asked where the compromise was developed. In response, Mr. Gant stated that he came up with it through the engineering firm.

Mr. Marshall asked if City Council approved Mr. Gant's compromise. In response, Mr. Gant answered affirmatively.

Ms. Cantrell stated that the City Council approved this compromise and she really hopes that the applicant will look at finding a way to put sidewalks along Quaker.

Mr. Leighty moved to approve the minor subdivision plat, subject to the requirements for the sidewalk for Lots 1 and 3 being required during site plan review.

Mr. Boulden stated that the motion should be to modify the subdivision requirement for sidewalks on Lots 1 and 3 at this stage and to make sidewalk requirements for Lots 1 and 3 subject to site plan approval and waive the sidewalk requirement for Quaker.

Mr. Boulden stated that he earlier commented that if the Planning Commission required sidewalks it would create a conflict for him representing the City of Tulsa. He doesn't believe this will cause a conflict since the approved compromise from the City Council is being accepted and that the Planning Commission is only requiring additional sidewalks for Lots 1 and 3 at the detail site plan level.

Ms. Cantrell restated the motion: to **APPROVE** the minor subdivision plat for The Shoppes on Peoria, subject to sidewalks being required as currently displayed on Pedestrian Circulation Exhibit (page 17.7) and additional sidewalks will be required subject to detail site plan for Lots 1 and 3.

Mr. Dix stated that had the Planning Commission waived this requirement in any other part of the City of Tulsa, then he would be okay with whatever is decided today, but he has never seen it done and he has never had it done on anything site plan he has ever developed for the City of Tulsa. Mr. Dix further stated that he doesn't understand why this is being considered just because it is in this part of the City.

Mr. Leighty stated that these things have to be looked at on a case-by-case basis. It would be easy to set this in concrete and that doesn't make a lot of sense. This area desperately needs new development and he is willing to make an exception and come to a compromise. Mr. Leighty stated that he would like to applaud Mr. Gant for being willing to invest in this development.

Mr. Dix stated that other developers will be looking at these areas will not go into an area that is not going to maintain the values that they are investing. If we do not require this of every developer in this area, then they will never do any development in this area.

Mr. Leighty stated that if this development doesn't start first, then there may not be a second development.

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **6-2-0** (Cantrell, Leighty, Liotta, Marshall, Midget, Wright "aye"; Carnes, Dix "nays"; none "abstaining"; McArtor, Shivel, Walker "absent") to **APPROVE** the minor subdivision plat for The Shoppes on Peoria, subject to modifying the sidewalk requirement as displayed on Pedestrian Circulation Exhibit (page 17.7) and additional sidewalks will be required subject to detail site plan for Lots 1 and 3 as modified by the Planning Commission.

\* \* \* \* \*

18. **The Shoppes on Peoria** – (2330) Accelerated Building (PD 2) (CD 3)  
Permit

Northeast corner of North Peoria Avenue and East Reading Street  
(continued from March 2, 2010) (Related to Item 17)

**STAFF RECOMMENDATION:**

The property is zoned Planned Unit Development 705 (pending) with CS (commercial shopping) existing underlying zoning. Full permits are requested. A minor subdivision plat is on the same TMAPC agenda for this project.

Review of this application must focus on the extraordinary or exceptional circumstances that serve as a basis for the request and must comply in all respects with the requirements of the approved preliminary plats per Section 2.5 of the Subdivision Regulations.

The applicant offers the following explanation of the extraordinary and exceptional circumstances that serve as the basis for this request: See attached explanation.

***The following information was provided by the Technical Advisory Committee in hits meeting February 18, 2010.***

**ZONING:**

TMAPC Staff: Full permits are requested.

**STREETS:**

Development Services, Transportation: No comments.

**SEWER:**

Development Services, Waste Water: No comments.

**WATER:**

Development Services, Water: No comments.

**STORM DRAIN:**

Development Services, Storm Water: Separate Instrument Easements may be required, unless approved corrections are made to the plat and covenants prior to building permits.

**FIRE:**

Development Services, Fire: No objection.

**UTILITIES:**

Franchise Utilities: No comments.

*The accelerated building permits were originally designed to accommodate large campus style type of developments and should concentrate upon "the benefits and protections to the City that may be forfeited by releasing the building permit prior to the filing of the plat". These requested permits adhere to this ideal. Staff recommends approval of the authorization to release the accelerated permits with the conditions as commented by the Technical Advisory Committee.*

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

**TMAPC Action; 8 members present:**

On **MOTION** of **WRIGHT**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Midget, Wright "aye"; no "nays"; none "abstaining"; McArtor, Shivel, Walker "absent") to **APPROVE** the accelerated building permit per staff recommendation.

\* \* \* \* \*

- 19. **BOA- 21034** -(0201) Plat Waiver (PD 24) (CD 1)  
 North of the Northeast Corner of North Cincinnati and East 56<sup>th</sup> Street,  
 Block 20 Suburban Hills Addition

**STAFF RECOMMENDATION:**

The platting requirement is being triggered by Board of Adjustment case BOA-21034 to allow the North Regional Health and Wellness Center, a health services facility of the Tulsa City-County Health Department on land owned by Tulsa County and zoned AG (agricultural).

**Staff provides the following information from TAC at their March 4, 2010 meeting:**

**ZONING:**

TMAPC Staff: There are many easements requested for the plat waiver. The covenants for the Block 20 part of the Suburban Hills Addition are from 1959 and do not include typical language or protections as those that are required for current developments. The original plat anticipated RS-3, residential single-family uses. The property is being changed from a park use to the health services facility. The County Engineer defers to the City staff on this project.

**STREETS:**

No comment.

**SEWER:**

An eleven-foot wide utility easement is required along the north and east boundary line of the proposed plat.

**WATER:**

As shown on the application, there is a good chance that a water main extension will be required and that it will require an easement. The extension requires an IDP (infrastructure development process) (formerly WMEC or water main extension contract).

**STORM DRAIN:**

The existing plat from 1959 has no special covenants for Block 20 and does not address the floodplain on this property. The 100 Year Water Surface Elevation should be plotted onto the sites' topography by elevation and placed in Overland Drainage Easement. Offsite drainage flows onto this site from the north. That drainage must be collected at the north property line, and thence be conveyed across the property in a Public Drainage System, within a Drainage Easement. The proposed screening fence cannot block the drainage flowing onto this site from the residential area to the north. The Stormwater Detention Facility must be placed in a Stormwater Detention Easement. Additional easements for conveyance of stormwater to the detention facility, and from the facility to the adjacent Public Storm Drainage System will be required. Covenants are needed for roof drainage to be collected and conveyed to the detention facility, and to spell out who is responsible for the maintenance of that detention facility. As stated on the application the collecting and conveying of public water requires an IDP (formerly PFPI or privately financed public improvement).

**FIRE:**

No comment.

**UTILITIES:**

No comment.

Staff recommends **DENIAL** of the plat waiver. Members of the Technical Advisory Committee have concern about the number of required easements (including drainage, water, sewer and storm drainage) that will have to be dedicated, drainage retention to the south for the project, and the age of the plat and existing covenants which do not address current needs for the new use of the property (previously a park use).

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

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

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

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

- |     |   |   |
|-----|---|---|
| 9.  | Is the property in a P.U.D.?<br>a) If yes, was plat recorded for the original P.U.D.  | X |
| 10. | Is this a Major Amendment to a P.U.D.?<br>a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?        | X |
| 11. | Are mutual access easements needed to assure adequate access to the site?   | X |
| 12. | Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? | X |

\* New covenants are recommended.

\*\* This will be handled under the IDP for the property.

Mrs. Fernandez stated that as of yesterday, the County is not objecting to this plat waiver and believe that all of the easements can be received through the staff process. The Development Services Department, Harold Tohlen, have expressed concerns regarding how the easements would be handled due to the number of easements involved.

Mrs. Fernandez stated that typically staff would recommend denial of the plat waiver because of all of the easements and things needing to be done on the subject property. This is an unusual public use and it is an unusual ownership arrangement. Staff is currently recommending denial of the plat waiver, but if the Planning Commission chooses to approve it, staff recommends that all of the easements be included that are recommended by Development Services Department.

**TMAPC COMMENTS:**

Ms. Cantrell asked if the Planning Commission has ever approved something of this nature before. Mrs. Fernandez stated that normally they do not. Staff typically works with the applicants to make sure that they dedicate by separate instrument for single-family residents or a very small plat waiver.

**Applicant's Comments:**

**Roy D. Johnsen**, One West 3rd Street, Suite 1010, 74103, representing Tulsa City/County Health Department, stated that his client recently filed a Board of Adjustment application for the subject facility as a special exception use, Use Unit 10. The Board of adjustment granted the special exception, which triggered this platting requirement. Mr. Johnsen requested a waiver of the platting.

Mr. Johnsen stated that this is an outstanding project, which is the North Tulsa Regional Health and Wellness Center. It provides services that are needed in this geographic area.

Mr. Johnsen stated that this is an unusual situation with County property within the City of Tulsa limits and the proposed use is the City/County Health

Department. An important fact is that this subject property has been platted and was not anticipated for residential use. The subject property was platted as one block. The two acres were deeded to the City of Tulsa for a fire station and they were not required to plat. The Health Department agreed to construct sidewalks on Cincinnati. Mr. Johnsen read from the Subdivision Regulations that state that the Planning Commission may waive the requirement if it has already been platted or if the things that would normally be gained by platting can be done by another method. In this instance the dedications on Cincinnati at 56<sup>th</sup> Street North have been done (arterial street rights-of way are in place) and that is one of the principal purposes of the platting requirement. There is already a description of the property because it has been platted. The County owns 12.1 acres and they are leasing the Health Department six acres for 100 years so they are not creating a lot. Mr. Johnsen commented that all of the purposes of platting have been attained or can be attained by other methods (separate instrument). This is a seven million dollar project, which includes public funds for a City/County agency on County property for any easement that is needed along the northern boundary for eleven feet that can be done by easement. There will be detention and there will be easement for detention.

**TMAPC COMMENTS:**

Mr. Leighty asked Mr. Johnsen if the request for the waiver is a financial reason. In response, Mr. Johnsen stated that it would cost approximately \$10,000.00 of public funds and should be spent if possible. The purposes of the Subdivision Regulations are met and he has seen the Planning Commission approve this type of request before. Mr. Leighty stated that he has never seen the rating system have so many "no's" before. Mr. Johnsen stated that the form is a guide and not a regulation. The form was designed to assist the Planning Commission in making a rational decision, but he is giving other circumstances. The Planning Commission has the power to grant the waiver.

Mr. Dix stated that he believes the \$10,000.00 quote is fairly cheap for a project this size.

Mr. Johnsen stated that the City is protected and the subject property has been platted.

In response to Ms. Wright, Mr. Johnsen stated that all of the drainage matters will have to be addressed and will be addressed.

Mr. Midget stated that he is comfortable with this proposal. This will be a good asset to the neighborhood, which is one of the City's Neighborhood Enhancement Areas.

Mr. Liotta asked Mr. Johnsen if he would agree that this is not a request of the County, but a request of the City/County Health Department, which is a separate entity created in Statute and is not coming from Tulsa County. In response, Mr.

Johnsen agreed. Mr. Johnsen further stated that it is a City/County agency and the County has vested interest in it. Mr. Liotta stated that he wanted to make clear that this is not Tulsa County coming forward with this request. Tulsa County owns the property which is currently a County Park and the County is leasing the property to the City/County Health Department. Mr. Johnsen agreed.

Mr. Leighty asked staff if they are persuaded at all by the arguments that have been made. Mr. Johnsen stated that Mrs. Fernandez is never persuaded on plat waivers. Mrs. Fernandez stated that staff recommendation stands. Mr. Leighty stated that he believes that staff made the proper recommendation. Mr. Leighty asked staff what is the worst thing that could happen if the Planning Commission approved the plat waiver. In response, Mrs. Fernandez stated that she doesn't know how to answer that question. Mrs. Fernandez stated that she understands that there was difficulty dealing with LaFortune Park because the easements were not readily available, or if extra easement is needed after the fact it can be a problem. She explained that the Fire Station was not required to plat, but that is not something that the staff would let go today because the City, County and Health Department is treated the same as normal developers. Mrs. Fernandez stated that the form before the Planning Commission today was created by the Planning Commission because Tulsa is one of the few communities around that has the plat waiver vehicle. It is policy vehicle for the Planning Commission to go down the form to see why they should authorize a plat waiver. Mr. Leighty asked staff if there is any scenario that could come back to hurt the City that would cost more than the \$10,000.00 of public funds that would be saved if the platting requirement were waived. Mrs. Fernandez stated that Mr. Tohlen and Mr. Rains are very professional and they will watch this project to make sure that there are no drainage problems and they will be good stewards with the public's money. She will do also with whatever involvement she has.

Ms. Cantrell asked Mrs. Fernandez about the LaFortune Park project for the library, if there were any issues. In response, Mrs. Fernandez stated that if there is a subdivision plat there is a clear record of where the easements are located and covenants that are up to date that speak to drainage for a new project. Covenants on the subject property are from 1959 and Mr. Johnsen indicated that they contemplated commercial use. That may have been the case, but the covenants from 1959 wouldn't suffice today. This is a policy situation and the TMAPC should trust staff to watch this application.

Ms. Wright stated that she wants to make sure that there is public transportation to the subject site. Mrs. Fernandez stated that MTTA is always given a copy of the Technical Advisory agenda and they didn't respond on the subject project. Ms. Wright stated that there is a loop that goes out to the casino and she urges that this site has public access. Mrs. Fernandez stated that she would be happy to check into that with the consulting engineer. The existing right-of-way is sufficient and there were no comments regarding it.

Mr. Harold Tohlen emphasized that there were no transportation comments and the dedicated right-of-way is the standard for the City of Tulsa. There is room to add shelters in the subject area if needed for bus stops.

Mr. Leighty moved to approve the plat waiver; seconded by Mr. Carnes.

Ms. Cantrell stated that she will not be supporting this request. She appreciates the development, but she would rather see some of her tax dollars spent to do it right. She knows that Mrs. Fernandez would stay on top of this, but she will not always be there and she would prefer that it was done right.

Mr. Liotta stated that he understands that the County is donating \$300,000.00 from the Industrial Authority and donating some of the asphalt and dirt work. He commented the wanted the Planning Commission to be aware of what the County is contributing.

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **7-1-0** (Carnes, Dix, Leighty, Liotta, Marshall, Midget, Wright "aye"; Cantrell "nays"; none "abstaining"; McArtor, Shivel, Walker, "absent") to **APPROVE** the plat waiver for BOA-21034, subject to easements.

\* \* \* \* \*

**Mr. Carnes out at 3:17 p.m.**

20. **Z-7151 – David Rogers** **IM to CS**  
Southeast corner of East 6<sup>th</sup> Street and South Xanthus Avenue (Continued from 3/2/10) (PD-4) (CD-4)

**STAFF RECOMMENDATION:**

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

**RELEVANT ZONING HISTORY:**

**Z-6912 November 2003:** All concurred in approval of a request for rezoning 7916.25± square feet of land from IM to CS for office machine sales on property located southwest corner of East 6<sup>th</sup> Street and South Xanthus Place and abutting east of subject property.

**Z-6415 October 1993:** The Hillcrest blanket-zoned neighborhood was rezoned from RM-2 to RS-4, at the neighborhood's request and the TMAPC's sponsorship, on property located southeast of subject property.

**Z-6414 October 1993:** The Wells blanket-zoned neighborhood was rezoned from RM-1 to RS-4, at the neighborhood's request and the TMAPC's sponsorship, on property located north of the subject property.

**BOA-15682 March 26, 1991:** The Board of Adjustment approved a *Special Exception* to permit an antique and furniture store only (Use Unit 14) in an IM district; a *Variance* of the required number of off-street parking spaces from 54 to 18; and a *Variance* to permit required off-street parking to be located on a lot not containing the principal use; subject to the prohibition of a flea market operation, as well as any auctions being conducted on the property; and to the parking lot to the west being retained as parking for the antique and furniture store during the term of the lease; finding the use, as presented compatible with the area; and finding a hardship imposed by the size of the building in an IM zoned district, and the fact that the building has limited parking and almost any use made of the building would require relief by the Board, on property located at 1924 East 6<sup>th</sup> Street and abutting west of subject property across South Xanthus Street.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately .96+ acres in size and is located at the southeast corner of East 6<sup>th</sup> Street and South Xanthus Avenue. The property appears to be vacant and is zoned IM. The southern portion of the tract abuts South Xanthus Place and a railroad track abuts it on the south. This was the original ice house in Tulsa and is quite old.

**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>
East 6 <sup>th</sup> Street	Collector	56'	4
South Xanthus Avenue	N/A	N/A	2
South Xanthus Place	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 by mixed commercial/residential uses, zoned CS and RS-4; on the north by mixed industrial/commercial uses, zoned IM; on the south by railroad tracks, zoned IM; and on the west by mixed industrial/commercial/office uses, zoned IM. This is an older industrial area that was and is served by the railroad.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 4 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Medium Intensity-Residential land use. According to the Zoning Matrix, the requested CS zoning **is not** in accord with the Plan. However, a large part of the area so designated on the Plan has been zoned IM for many years, which designation is also not in accord

with the Plan. Staff believes the designation is in error and that, at the very least, the Residential land use overlay should be removed. With the Residential designation, the requested CS zoning **is not** in accord with the Plan. Without it, the CS would have been in accord.

**STAFF RECOMMENDATION:**

The applicant is seeking a mixed use approval for CS zoning which is not currently in accord with the District Detail Plan. Along with the commercial use of part of the property, the applicant proposes to renovate this historic building as residential use for his family and caretakers. In light of the ongoing discussions in favor of allowing mixed uses in some areas, staff can support the requested CS zoning, finding that RS-4 and CS zoning and uses currently exist to the east of the subject property. The property's reuse would actually be less intense than the IM as it is currently zoned. Therefore, staff recommends **APPROVAL** of CS zoning for Z-7151.

**TMAPC COMMENTS:**

In response to Ms. Cantrell, Mr. Alberty stated that the applicant will have to go before the Board of Adjustment and request a special exception. The applicant is aware of this and has already made an application.

**INTERESTED PARTIES COMMENTS:**

**Khaled Rahhal**, 4363 East 72<sup>nd</sup> Street, 74136, stated that he owns substantial properties in the subject area and he is in support of this application.

**The applicant was not present.**

**TMAPC Action; 7 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Marshall, Midget, Wright "aye"; no "nays"; none "abstaining"; Carnes, McArtor, Shivel, Walker "absent") to recommend **APPROVAL** of the CS zoning for Z-7151 per staff recommendation.

**Legal Description for Z-7151:**

The west 126 2/3 ft of Lots 1, 2, 3, 4 and 5, and all of Lots 6, 7, 8, Block 3, ABCO's Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

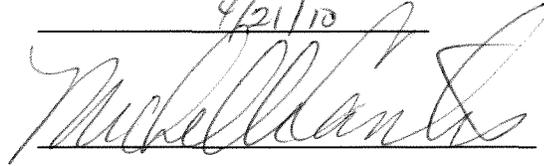
**OTHER BUSINESS:**

**Commissioners' Comments**

No comments.

There being no further business, the Chair declared the meeting adjourned at 3:23 p.m.

Date Approved:

4/21/10  


Chairman

ATTEST:

John A. Walk  
Secretary