

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2587

Tuesday, October 5, 2010, 4:00 p.m.

City Council Chamber

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

Members Present	Members Absent	Staff Present	Others Present
Cantrell	McArtor	Bates	Boulden, Legal
Carnes	Midget	Fernandez	Steele, Sr. Eng.
Dix		Huntsinger	
Edwards		Matthews	
Leighty			
Liotta			
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, September 30, 2010 at 2:55 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 4:00 p.m.

REPORTS:

Chairman's Report:

Ms. Cantrell reported that at the next TMAPC meeting there will be another work session to discuss the Form Based Codes and implementation of the Comprehensive Plan. Ms. Cantrell stated that she appreciates all of the work staff has done regarding the staff reports and encouraged the Planning Commissioners give their input regarding the staff reports.

Minutes:

Approval of the minutes of September 7, 2010 Meeting No. 2585

On **MOTION** of **LEIGHTY**, the TMAPC voted 8-0-0 (Cantrell, Carnes, Dix, Edwards, Leighty, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Midget "absent") to **APPROVE** the minutes of the meeting of September 7, 2010, Meeting No. 2585.

Minutes:

Approval of the minutes of September 15, 2010 Meeting No. 2586

On **MOTION** of **LEIGHTY**, the TMAPC voted 8-0-0 (Cantrell, Carnes, Dix, Edwards, Leighty, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Midget "absent") to **APPROVE** the minutes of the meeting of September 15, 2010, Meeting No. 2586.

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. **LC-282**– Tulsa Development Authority (9201) Lot-Combination (CD-4)
Southwest corner of North Greenwood Avenue and East Archer Street
4. **LS-20396**– Sunny Investment Properties, LLC (9328) Lot-Split (related to PUD-766-1) (CD-7)
North of the Northwest corner of East 51st Street and South Yale Avenue
5. **Correction Affidavit** – Storage Station Amended Addition (CD 9)
(9332)
West of Southwest corner of East 51st Street and South Harvard Avenue

Consent Agenda (cont'd)

6. PUD-536-2 – Tulsa Design/Mark Nelson/Ambassador Manor RD/RM-1/RM-2/PUD

East of the southeast corner of 61st Street South and South Peoria Avenue (Minor Amendment to relax front setback from the centerline of 61st Street from 85 feet to 74 feet.) (CD-2)

STAFF RECOMMENDATION:

The Ambassador Manor Nursing Home is requesting a minor amendment to relax the front setback from the centerline of 61st Street from 85' to 74'. The setback reduction is being requested to reflect as built conditions for two covered porches only and would not extend to any other portion of the building (see exhibit sheet SP1.01 and attached photographs). The request is being triggered by a proposed remodel of the two porches (see exhibit sheet A4.03).

Staff contends per Section 1107, H-9 of the Code that this reduction is minor in nature and the reduction in setback for these two porches only will not substantially alter the approved Development Plan, the approved PUD standards or the character of the development.

Therefore, staff recommends **APPROVAL** of minor amendment PUD-536-2.

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

7. Z-7139-SP-1/Z-6254-SP-2 – H Design Group/Todd Bolin/Tulsa Metro Outdoors & More CO/PUD

Northeast corner of 63rd Street South and South Mingo Road (Detail Site Plan for a 24,580 square foot multi-use Metro Appliances and More store.) (CD-7)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for a 24,580 square foot (SF) multi use Metro Appliances and More store. The proposed uses, Use Units 14 (Shopping Goods and Services), 15 (Other Trades and Services) and 23 (Warehousing and Wholesaling) are permitted uses within this Corridor District.

The submitted site plan meets all applicable building floor area, open space, building height, lot coverage and setback limitations. Access to the site is provided from 63rd Street South with a one way exit only provided to Ingo Road. Parking has been provided per the applicable Use Units of the Zoning Code. Landscaping is provided per the landscape chapter of the Zoning Code with a

minimum 20-foot landscape buffer provided along the east boundary line. All sight lighting is limited to 16-feet in height and will be directed down and away from adjoining properties. A trash enclosure has been provided as required by the Corridor District Development Plan. Sidewalks will be provided where not existing and maintained where existing along South Mingo Road and 63rd Street South as required by CO District Development Standards and Subdivision regulations.

Therefore, staff recommends **APPROVAL** of the detail site plan for Z-7139-SP-1/Z-6254-SP-2.

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

- 7a. **PUD-766-1 – Sunny Investment Properties, LLC/Jack In The Box** **CH/CS/PUD**
 North of the northwest corner of 51st Street South and South Yale Avenue (Minor Amendment to reflect a lot-split and reallocate existing floor area to the two new lots identified as Lot 8 and Lot 8A.) **(CD-7)**

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to reflect a lot-split and reallocate existing floor area to the two new lots identified as Lot 8 and Lot 8A on the attached Exhibit A. There is no request to increase the permitted floor area on this lot or relax any existing development standard of PUD-766. Associated with this application is LS-20396 also appearing on the October 5, 2010 agenda of the Tulsa Metropolitan Area Planning Commission (TMAPC).

Lot 8, Block 1 – 51 Yale statistics are as follows:

Lot	Land Area	Floor Area Allocation
8	122,622 SF	47,470 SF

Upon the split of Lot 8 into Lots 8 and 8A land area and floor area would be distributed as follows:

Lot	Land Area	Floor Area Allocation
8	90,615 SF	43,470 SF
8A	32,047	4,000 SF
Total	122,622 SF	47,470 SF

With no increase in floor area requested staff views this request as minor in nature and recommends **APPROVAL** of minor amendment PUD-766-1.

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

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Midget "absent") to **APPROVE** the consent agenda Items 3 through 7a per staff recommendation.

PUBLIC HEARING

- 9. Rockford Industrial Park – (0331) Minor Subdivision Plat (CD 3)
 1212 North Rockford, South of East Pine Street, East of North Peoria Avenue (Request continuance to 10/20/2010 for plat revisions per Technical Advisory Committee.)

STAFF RECOMMENDATION:

The applicant requests that this application be continued to October 20, 2010 in order for plat revisions per the Technical Advisory Committee.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Midget "absent") to **CONTINUE** the minor subdivision plat for Rockford Industrial Park to October 20, 2010.

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

Ms. Cantrell announced that Councilor Mautino has requested that Item 13, Z-7160 be moved up in the agenda. The Planning Commissioners concurred to allow the following case to be taken out of order:

Mr. Liotta in at 4:10 p.m.

13. **Z-7160 – Susan J. Colwell Frederick**

RS-3 to AG

West of the northwest corner of East 11th Street and South
145th East Avenue

(CD-6)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11817 dated June 26, 1970,
established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-7014 March 2006: All concurred in approval of a request for rezoning a 2±
acre tract of land from CS to RS-3 for residential housing, on property located
southeast corner of East 11th Street and South 145th East Avenue and southeast
of subject property.

BOA-18233 November 10, 1998: The Board of Adjustment approved a Special
Exception to permit a church in an RS-3 zoned tract, per plan submitted and
subject to the landscape requirements, on property located at 764 South 145th
East Avenue and abutting northwest of subject property.

BOA-7482 June 1, 1972: The Board of Adjustment approved a Special
Exception to permit a fire station, on property located west of northwest corner of
East 11th Street and South 145th East Avenue and abutting west of subject
property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 5± acres in size and is
located west of the northwest corner of East 11th Street and South 145th East
Avenue. The properties around it appear to be in large-lot residential related to
agricultural use, with some industrial use developing around it and zoned RS-3
(the industrial is zoned IL to the north). A City Fire Station, built in 1975, is
located one lot east but not adjacent to this property. This area was apparently
blanket-zoned when the City adopted the 1970 zoning map. According to the
applicant, she and the previous owner were unaware of the RS-3 zoning and the
realtor did not inform them of the rezoning.

VISION PLAN:

The Vision Plan calls for 11th Street to be one of frequent bus service.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 11 th Street	Secondary arterial	100	2

UTILITIES: The subject tract has municipal water and no sewer available.

SURROUNDING AREA: The subject tract is abutted on the east by large-lot single-family residential and agricultural uses and zoned RS-3 and CS; the south by single-family residential uses, zoned RS-3; on the north by vacant land, zoned AG; and on the west by single-family residential uses, zoned RS-3.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The comprehensive plan calls for this area to be one of growth. Rezoning of this site to an AG designation would **not** be in accord with the plan. In the past, AG zoning has basically been a holding zone for future development until conditions (economic, technological or adjacent development) have been auspicious. The plan and zoning that reflect RS-3 on the subject property were adopted to encourage further residential development in the east Tulsa area. The current comprehensive plan and City Council representative, by approving the comprehensive plan, certainly support that as well.

STAFF RECOMMENDATION:

Staff understands that this property was rezoned from AG to RS-3 in 1970, when the zoning maps were readopted as a blanket action. This type of action is no longer allowed. The comprehensive plan now envisions this east Tulsa area to be one of future development, as noted above. Agriculturally-zoned uses typically lend themselves to single-family residential with one house on a large lot with some accessory buildings and agricultural land uses. Neither the current comprehensive plan nor its predecessor envisioned that and the current City Councilor for the District has espoused the need for more rooftops in the area. Therefore, staff cannot support rezoning to AG and recommends **DENIAL** of AG zoning for Z-7160.

TMAPC COMMENTS:

Ms. Cantrell asked staff if agricultural use would be in opposition to existing neighborhoods, because she thought existing neighborhoods were left as whatever they are. In response, Ms. Matthews stated that "existing neighborhoods" implies residential, and though there may be a residence on the subject property, a horse farm is not compatible with the existing neighborhoods. Ms. Cantrell stated that if the lot were to be split up there would be no access to it at this point.

Applicant's Comments:

Susan J. Colwell Frederick, 14301, stated that there are several discrepancies in the staff report regarding her property. There has been no significant growth in the immediate area, and there is no mention of the application filed on the 85 acres abutting the subject property on the north side, which was a Community Development Plan (CDP) and is now known as a PUD. It was brought back to AG in 1970.

Ms. Frederick stated that she has been in the horse business since 1960. She further stated that she has tax returns back to 1988 that prove that she has worked in the horse business and pays farm taxes to Tulsa County. Ms. Frederick explained that she leased/purchased the subject property. There are no industrial uses or development within one mile of her subject property. The subject area was apparently blanket-zoned and she and the previous owners were unaware of the blanket zoning. The vision plan designates a frequent bus route, but currently there is a two-lane road with no curbs or sidewalks. There are no plans in the near future to improve the roads. The lack of sewer reduces the density of growth and there is none in the subject area.

Ms. Frederick stated that the abutting property to the east is zoned RS-3, but has a special exception for church use. There is commercial property abutting the subject property that sold in 2002 and was being used for car and trailer sales until someone complained about it and they had to clean it up. Ms. Frederick commented that the adjacent property owner turned her in for not having proper zoning. She explained that she had no idea that she was not properly zoned and the same use has always been on the subject property. Ms. Frederick further commented that the new Comprehensive Plan doesn't address her AG uses. She questioned that the subject area as being designated as an area of growth. Ms. Frederick requested that the Planning Commission acknowledge and make part of the record that an error has been made and that her property has always been used agriculturally. Ms. Frederick further requested, based on an error of the implementation of blanket zoning, a refund of her application fees.

TMAPC COMMENTS:

Ms. Wright asked Ms. Frederick why she is before the Planning Commission today. She asked if she plans to sell the subject property. In response, Ms. Frederick answered negatively.

Ms. Wright asked Ms. Frederick what triggered the need to downzone. In response, Ms. Frederick stated that the gentleman who owned the commercial property adjacent to the subject property complained about her property.

Ms. Matthews explained that part of the reason this application came up is that the applicant had a nonconforming use, which at that point was a "legally" nonconforming use. The Zoning Code doesn't allow a nonconforming use to be increased and the applicant built a barn, which increased the nonconformity.

Ms. Frederick stated that the subject property had a barn and the ice storm collapsed the roof. She was told it was a fire hazard and to be removed since there was a gas line to the barn. She removed the barn and she had no idea that it would do away with her nonconformity. The previous barn had been there for 20 years. By law she has to provide shelter for the animals and her only recourse was to build a barn.

Mr. Walker asked Ms. Frederick if she is in any other violations with the Code or zoning. Ms. Frederick stated that she was also in trouble with the downed trees and she wasn't allowed to have a burn permit. There have been two complaints from the same person.

Mr. Edwards stated that he is confused about what the applicant is doing that is in violation. Ms. Matthews stated that the applicant built a barn and increased the nonconformity. Ms. Frederick stated that the barn is larger than the original barn and she did away with a carport. Ms. Matthews stated that Ms. Frederick wasn't grandfathered because she removed the barn and then replaced it with a larger facility. Mr. Edwards asked if Ms. Frederick considered going before the Board of Adjustment. In response, Ms. Frederick stated that she did discuss that, but decided she would just get it all out of the way and rezone it.

Mr. Walker asked Ms. Frederick what her basis for a refund would be. In response, Ms. Frederick stated that Councilor Mautino may have something to say about it. The whole area is not zoned properly and there is a lot of improper zoning in the subject area, which Mr. Mautino wants to address.

INTERESTED PARTIES COMMENTS:

Councilor Jim Mautino, City of Tulsa City Councilor, stated that he has lived in the subject area since 1963 and the prior owner of the subject property utilized the property for horses. Councilor Mautino cited the history of the subject property and surrounding area. He commented that there has never been anything on the subject property that changed the zoning except the blanket zoning.

Councilor Mautino stated that he has been getting so many complaints lately that he will probably be coming before the Planning Commission soon to have them consider rezoning all of the RS-3 to RS-1, which is what it was before the RS-3 blanket zoning. The point is that there has never been any posting anywhere and he has no recollection of the rezoning to RS-3. Councilor Mautino stated that as far as he knows the subject property has always been AG and AG uses.

TMAPC COMMENTS:

Mr. Leighty asked Councilor Mautino if he is supporting the application for the AG zoning. Councilor Mautino answered affirmatively. Mr. Leighty asked Councilor Mautino if he agreed with the staff report statement regarding the need for roof tops in the subject area and that Councilor Mautino has stated that there is a need for more roof tops in the subject area. Councilor Mautino stated that he would agree with that statement if those words were used for former Councilor Troyer because he was quite adamant about the phrase "roof tops". Councilor Mautino stated that he has been after development in the different areas of East Tulsa to save Eastland Mall from moving out. Councilor Mautino stated that he is

totally against the Brashear property being rezoned to AG because of the dollars invested in the lift station that need to be recouped.

INTERESTED PARTIES COMMENTS:

Kaye Price, 5815 South 31st West Avenue, 74107, stated that she has never met Ms. Frederick until today. She commented that she lives on the west side of Tulsa, but someone gave her name to Ms. Frederick and they have been talking for several weeks.

Ms. Price stated that the point that everyone seems to be missing, including staff and inspections, is that no one has produced any evidence of any person whoever had ownership of the subject property ever asking for a zoning change on it. There have only been two people who have owned this property since 1948 and none of them have ever asked for the subject property to be rezoned to RS-3. Somewhere along the line someone and staff has decided to use the Comprehensive Plan to say that zoning exists there and it does not. None of them have produced any evidence of a zoning change application or produce an ordinance number, which always goes with a zoning change. They have not produced one single shred of evidence that this property is zoned RS-3 and it is not zoned RS-3. It is designated for RS-3 development under the new Comprehensive Plan, but it has never been rezoned and it is AG. This lady is so confused and has come before the Planning Commission because that is what the inspection officer told her to do, change it back to AG. This is why she is asking for a refund, she has no business here, this is ridiculous [sic].

Ms. Price stated that the subject property is in yellow on the new Comprehensive Plan map and that means it is stable and the purple areas are for development, not the yellow ones. If somebody could explain to her, because she needs it clarified now because if it is true, her neighborhood is in worse shape than she thought it was. She understands that what staff is stating is that because the new Comprehensive Plan perceives this as an area of growth, part of it and the applicant's property is not in purple, but even if it were in purple is this Planning Commission and staff telling her and the rest of the citizens of Tulsa that the Planning Commission will come in and designate their property as having been rezoned without their knowledge or permission because that is what fits the Comprehensive Plan. If that is what is about to happen, then the Planning Commission needs to own up to it right now, because "it's" going to hit the fan if that is the case. If the Planning Commission and staff can take a Comprehensive Plan and just walk in and change everybody's zoning and the use of their property, then "you haven't seen nothing yet". She needs someone, Chair or what, to tell her, because that appears to be what staff is saying, if that is the plan and if that is PLANiTULSA to just go in and indiscriminately change everyone's zoning without their knowledge, change the use of their land, change the value of their land, this woman's mortgage is based on outbuildings and so is everyone's if they live in an AG area. This applicant was grandfathered when she was annexed into the City of Tulsa in 1966 and she was designated as AG,

which is always done whenever property is annexed. It has never been zoned or rezoned to this property except agricultural use. The applicant has a State Statute that allows her to build a barn on agricultural land, because no one wants to look at AG land and horses with the barns falling in. Where all of this came from she doesn't know, but it is ridiculous. Changing her barn on AG property doesn't negate that she is still grandfathered, if she was RS-3 and tore down the barn, then staff would be correct, but she is not RS-3. She wants the staff to prove to her in writing with an ordinance number that it is zoned RS-3.

Ms. Matthews stated that there is an ordinance number on the staff report and the subject property was blanket zoned in 1970 and it was legal at that time. It is no longer legal without the owner's consent or their representative's consent. Ordinance #11817, dated June 26, 1970. Ms. Price stated [sic] "be sure to read it; it is basically designating that there will be specific areas and divide up in planning districts for the new Comprehensive Plan that was coming up at that time and it gives the authority to do that from zoning ordinances. There is no case number in that ordinance that directs towards the subject property. Ms. Matthews stated that they didn't have case numbers at that time. They would blanket zone by map and there would be no case number associated with the subject property. Ms. Matthews further stated that the zoning maps at that point had nothing to do with the planning districts and we no longer have the planning districts. Ms. Price asked staff if they are saying that they can just go in and change people's property usage and not tell them. In response, Ms. Matthews stated that it is not allowed anymore. Ms. Price asked why staff is trying to hold the applicant to that standard now if it was determined illegal. Ms. Matthews stated that it was not determined illegal; the law was changed and it is not retroactive. Ms. Price stated that she would have to look at that a little closer, and if staff is right, that is terrible and she hopes that it happens to everybody who votes on this.

Mr. Carnes stated that it looks like all the Planning Commission would have to do is to get a unanimous vote to zone the subject property back to agricultural. Mr. Carnes moved to approve the AG zoning.

Ms. Cantrell stated that there are three more speakers present and one is in opposition to the motion.

INTERESTED PARTIES COMMENTS:

John Wilhelm, 209 North Magnolia Court, Broken Arrow, 74012, stated that the reason this application is before the Planning Commission is because there was a complaint filed about the subject property being utilized as a boarding stable. Mr. Wilhelm indicated that he owns the property east of the subject property that is zoned CS, which he purchased in 2002. He stated that he checked the zoning of the surrounding properties and based his decision to purchase his property based on the surrounding zoning. His plan was to develop his property and put retail sales on it, but things have changed.

Mr. Wilhelm stated that in 1960 the subject property was utilized as a private home with a few farm animals and garden. In the 1970's a convenience store and a fire station were built in the subject area. In the 1980's, the subject property was utilized as a runway for ultra-light airplanes to take off and land there prior to Ms. Colwell. In the early 1990's, horse barns with stalls were erected behind the residence. The building that was torn down was a two-car garage and there is still an existing foundation on the subject property. One barn was moved to the front of the subject property and the barn in the rear is approximately 40' x 70' or 40' x 60', which was built without a permit in the late 80's early 90's. The barn was damaged by ice in the 1990's and then repaired and extended. Overhead doors and concrete were added to the barn in the 1990's. On the west side of the building there was a lean-to built and a tack room. The applicant has raised horses on the subject property and she has raised world champions. The use of the property, even with AG, is being overrun with horses right now. In the last 60 days, the applicant has moved some of the horses off of the subject property. There is a Shetland pony on the east side of the subject property and it has no shelter and hasn't for the past two years.

Mr. Wilhelm stated that if one visits the subject property around 4:00 p.m. or 5:00 p.m., a group of people start congregating and they bring drinks and have a little party. He has cleaned up many beer bottles off of his property and so have the church and neighbors. One of the neighbors directly by the applicant's corral has built a six-foot wooden fence.

In 2004, Ms. Colwell moved to Chouteau Oklahoma and leased the property out to two different people and the property at one point was not utilized for horses. In 2006, Ms. Colwell returned to the subject property and brought approximately 20 to 22 horses with her. He raised some concerns with Ms. Colwell at that time and started selling horses. Ms. Colwell indicated in 2007 that she doesn't have any horses of her own on the subject property. There are 30 horses on the subject property at this time and the property is creating revenue and she hasn't been paying any taxes on it. In 2009 the applicant built another barn to accommodate six horses on the north end of the subject property. Two portable buildings have been added, as well as a makeshift pole barn on the west side of the subject property.

Mr. Wilhelm stated that his only concerns are the use of the subject property being used as a boarding stable as shown in the pictures (Exhibit A-3). It looks a little better now because Neighborhood Inspections has been to the subject property. He is the one who complained about the subject property, and that information wasn't supposed to be shared, but it was and he believes it was done through Councilor Mautino. Mr. Wilhelm indicated that he uses his property for car and trailer storage and he was told by the City of Tulsa that he could put cars on gravel. He has had five complaints and he has always worked it out with the City. The last time he decided he was done with it and he has moved 90% of the

vehicles. He now has one truck, two trailers and some building materials on his property. He would like to eventually develop the subject property as commercial, but he doesn't want to go out and see animals running around and dogs running across his property with horse manure in the driveway, etc. There are flies and stagnant water that stands out there year round at the corral. He feels for Ms. Colwell and she has been a decent neighbor until she started running a boarding stable. The property is not being used for AG as the original owners had it. He understands the blanket zoning and he doesn't necessarily believe that is fair to the applicant, but if she was using it to raise horses for her own personal use, he wouldn't have any problem with this. He does have a problem with there being 30 or 40 horses on the subject property and it is approximately 50 percent developed.

TMAPC COMMENTS:

Ms. Cantrell stated that some of the things Mr. Wilhelm complained about regarding the beer and parties are beside the point because no matter what it is zoned, one can have bad neighbors. What the Planning Commission is looking at is if this is an appropriate place for agricultural land, regardless of what type of neighbor she may or may not be. Mr. Wilhelm stated that it is not the neighbor that is the problem, it is the tenants who board horses on the subject property.

Ms. Cantrell asked Mr. Dix if there are any restrictions on how many horses one can have per acre. In response, Mr. Dix stated that there are guidelines and recommendations, but there are no restrictions that he is aware of. Ms. Cantrell stated that she was going to inform Mr. Wilhelm that if the applicant is in violation of the number of horses she is maintaining, then he could report her.

Mr. Wilhelm stated that he understood that typically it is one horse per acre in the City of Tulsa.

Mr. Carnes moved to approve the AG zoning and Ms. Wright second.

Mr. Walker stated that he would like it in the minutes that he takes exception to Ms. Price's inference that staff and the Planning Commission would arbitrarily and illegally change zoning. That is a ridiculous and he wants it in the minutes.

Mr. Dix concurred with Mr. Walker.

Mr. Leighty stated that he would be voting against this application. He is sympathetic towards the applicant in some respects. Everyone could use a realtor when purchasing a piece of property to find out the zoning. Ms. Price was speaking like she was an authority on what the zoning is, but he will have to go with staff's report and staff is stating that it has been zoned residential since 1970. This request is not consistent with the new Comprehensive Plan. In a sense Councilor Mautino is trying to pick and choose because he was very much against a down-zoning to AG on property in the subject district earlier. Ms.

Leighty stated that he believes there needs to be some consistency and he will vote against it.

Mr. Dix stated that he would support Mr. Carnes motion because he visited the subject property today and he sees nothing out of the ordinary or abusive horses or overpopulation of horses. They had shelter and care and seem in good shape. He sees nothing wrong with the subject property being rezoned back to AG as it is being used.

Ms. Cantrell stated that she would support the motion as well and her reasoning is similar to Mr. Dix's. Ms. Cantrell further stated that it is important to keep in mind that PLANiTULSA does envision growth in the East, but it is a 20-year plan and it didn't mean that East Tulsa would start growing tomorrow. The idea is that the subject area is slated for growth and when it does develop, it should be done in a very physically responsible manner. She doesn't believe the subject area is ready to grow and she believes that it is still AG in the subject area. The subject property is also owned by one person who is not willing to sell and it will not grow if she holds onto it. If the subject property is sold for development, they can come back and rezone the property in a way that is consistent with the Comprehensive Plan. Holding it in AG until it is ready to develop is still applicable and PLANiTULSA didn't change that.

Mr. Edwards stated that he understands staff's position and what they are looking at to make a recommendation. He understands the applicant's request and where she is at this time. She was already established when Mr. Wilhelm moved into the subject area, so he was aware of the use. He understands Mr. Carnes's motion and the applicant's position and the staff's position. Everything that staff is looking at states that the subject property is zoned RS-3 and they have to go with what the zoning is designated.

Ms. Wright stated that she will be in favor of the motion as well.

Mr. Boulden reminded everyone that the Planning Commission is a recommending board and the City Council will make the final decision regarding the rezoning. For the statements made that somehow the Planning Commission rezoned property in a blanket manner without doing it properly is simply not done. He would like to make a sure there is a distinction that the City does have the ability to zone people's property and to exercise its police powers giving proper notice to the owners and affected abutting property owners with an accompanying public hearing.

Ms. Matthews stated that they rezoned by map in 1970 and prior to it, and now they do have to give notice; however, it is her understanding that back in the 1970's they weren't required to give notice.

Mr. Leighty stated that he is going to change his mind and support the AG zoning. Our Chairman and other Commissioners made some compelling arguments.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to recommend **APPROVAL** of the AG zoning for Z-7160.

Legal Description for Z-7160:

W/2 W/2 E/2 SE/4 SE/4 OF SEC. 4, T-19-N, R-14-E OF THE INDIAN MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA.

TMAPC COMMENTS:

Mr. Carnes stated that the applicant requested a refunding of the fee, but staff had to work on it. If this is brought to vote he will have to abstain from it.

Ms. Cantrell stated that a specific request has to be made and put on another agenda separately.

Ms. Matthews stated that staff spent a substantial amount of time on this application.

Mr. Carnes out at 5:03 p.m.

8. **LS-20386**– Joseph Watt, PE (9315) Lot-Split (corrected legal) (CD-4)
South of the Southeast corner of East 25th Place South and South Yale Avenue

STAFF RECOMMENDATION:

Summary: The Lot-Split is to correct errors in the previously submitted legal descriptions approved by the TMAPC on 7/21/2010.

The lot-split proposal is to split two .236 acre +/- tracts from an existing 2.39 acre +/- tract creating a 1.723 acre +/- remainder tract. The proposed tracts meet the RS-3 (Single Family Residential) bulk and area requirements of the Tulsa County Zoning Code.

The Lot-Split was previously before you and approved at the TMAPC meeting on 7/21/2010. The application is now back before you to correct the legal

descriptions to accurately describe the properties. The error occurred in the quarter sections of the legal description but has been fixed to staff's satisfaction.

Staff believes this lot-split would not have an adverse affect on the surrounding properties and recommends **APPROVAL** of the Lot-Split and corrected legal descriptions.

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 **SHIVEL**, TMAPC voted **8-0-0** (Cantrell, Dix, Edwards, Leighty, Liotta, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Carnes, McArtor, Midget "absent") to **APPROVE** the lot-split and corrected legal descriptions for LS-20386 per staff recommendation.

Mr. Carnes in at 5:04 p.m.

10. **Z-6423 --** (9336) Plat Waiver (CD 7)
5874 South Mingo Road

STAFF RECOMMENDATION:

The platting requirement is being triggered by a previous rezoning from 1993 which has been on the property but was rediscovered during a record search request due to an application for remodeling permits.

Staff provides the following information from TAC at their September 16, 2010 meeting:

ZONING:

TMAPC Staff: The property was previously platted and has existing structures on site.

STREETS:

No comment.

SEWER:

No new service connections will be allowed on the existing 18-inch sanitary sewer main. If a new service connection is required then an eight-inch main must be extended to the property, to allow access to sanitary sewer service.

WATER:

No comment.

FIRE:

No comment.

UTILITIES:

No comment.

Staff recommends **Approval** of the plat waiver for the previously platted property.

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

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

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

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

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

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 9 members present:

On MOTION of WRIGHT, TMAPC voted 9-0-0 (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to APPROVE the plat waiver for Z-6423 per staff recommendation.

Ms. Wright out at 5:05 p.m.

- 11. PUD-208-A – Lou Reynolds/Lighthouse Shopping Village OM/PUD-208
 Southeast corner of South Yale Avenue and East 71st Street (CD-7)
 (Major Amendment to add a health club use only from Use Unit 19, Hotel, Motel and Recreation, and involves no construction or expansion of the existing facilities.)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 14094 dated April 3, 1978, established zoning for the subject property.

RELEVANT ZONING HISTORY:

BOA-20615 December 11, 2007: The Board of Adjustment approved a Variance of the parking requirement from 215 to 191 existing parking spaces for a commercial mixed-use development, on property located at the southeast corner of East 71st Street and South Yale Avenue and the subject property.

PUD-208 April 1978: All concurred in approval of a proposed Planned Unit Development on a 3.3± acre tract of land for commercial development and complying with the District Court orders of case number C-77-403, on property located on the southeast corner of East 71st Street and South Yale Avenue and the subject property.

AREA DESCRIPTION:

SITE ANALYSIS:

The subject property is approximately 3.46± acres in size and is located southeast corner of South Yale Avenue and East 71st Street. The property appears to be a mixed use shopping center and is zoned OM.

TULSA COMPREHENSIVE PLAN TRANSPORTATION VISION/STREET

CLASSIFICATIONS:

Yale Avenue is designated as a Main Street and East 71st Street is designated as a Commuter Corridor.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 71 st Street	Primary Arterial	120'	6
South Yale Avenue	Primary Arterial	120'	6

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

SURROUNDING AREA: The subject tract is abutted on the east by Nob Hill, zoned OM with office/child care uses; on the north by mixed retail/office uses, zoned PUD-260-B and CS; on the south by office uses, zoned OM; and on the west by office uses, zoned PUD-289 and OM. A larger version of this display is attached.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Tulsa Comprehensive Plan designates this property as an Area of Growth and a Town Center. According to the plan, a Use Unit 19 - Health Club use, would be **in accord** with the plan. Page 32, "Land Use – Town Centers" states that they are medium in scale (one to five story mixed uses...with retail, dining, services and employment. They also are to serve as transportation hubs for surrounding neighborhoods and may include plazas and squares for markets and events. They are to be pedestrian oriented so that visitors can park and walk to numerous destinations. Larger versions of these maps are attached.

SUMMARY:

This is an amendment to add a use only and involves no construction or expansion of existing facilities. There is no request to amend any existing development standard of PUD-208. Staff supports the application.

STAFF RECOMMENDATION:

PUD-208 is a 3.46 acre tract, mixed-use commercial development located at the southeast corner of 71st Street South and South Yale Avenue. The property is zoned OM/PUD and gently slopes from north to south. The property is completely built out.

PUD-208 allows uses that are permitted by right in the Commercial Shopping District (CS) excluding Use Units 4 (Protection and Utilities), 15 (Other Trades and Services), 16 (Mini-storage), 17 (Automotive), 18 (Drive-in Restaurants), 19 (Hotel Motel and Recreation) and Use Unit 20 (Commercial Recreation). Further, there are no liquor stores, beer taverns, adult bookstores, message parlors or night clubs permitted.

Major amendment PUD-208-A seeks to add health club use only from Use Unit 19 – Hotel Motel and Recreation to the permitted uses within the PUD. The proposed tenant space is located at the extreme northeast corner of the property as identified on the attached “surrounding area” display. There is no construction or expansion of the existing facilities proposed and no request to alter any existing development standard applicable to the PUD.

The Tulsa Comprehensive Plan identifies this area as a Town Center. Town Centers provide the surrounding neighborhoods with retail, dining, services and employment. Staff supports health clubs as an additional service to be provided to the surrounding neighborhoods. Since there is no proposed construction, increased floor area, or request to relax any existing development standard for PUD-208 staff can support the application.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-208-A to be: (1) consistent with the Tulsa 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-208-A subject to the following conditions:

1. The applicant's Concept Development Plan and Text be made a condition of approval, unless modified herein.
2. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
3. That all existing development standards of PUD-208 and associated amendments shall remain applicable excepting the flowing as modified herein:

PERMITTED USES:

Those uses permitted as a matter of right in the CS District and Health Club/Spa Use only within Use Unit 19 – Hotel, Motel and Recreation.

The following uses shall not be permitted: Use Units 4 (Protection and Utilities), 15 (Other Trades and Services), 16 (Mini-storage), 17 (Automotive & Allied Activities), 18 (Drive-in Restaurants), 19 (Hotel Motel and Recreation) with the exception of Health Club/Spa only which shall be permitted, and Use Unit 20 (Commercial Recreation). Further, there are no liquor stores, beer taverns, adult bookstores, message parlors or night clubs permitted.

TAC Comments:

General: No comment.

Water: A water main line exists along South Yale Avenue.

Fire: The site plan needs to be corrected to reflect 71st Place instead of 73rd Street.

Stormwater: No comment.

Wastewater: No comment.

Transportation: Corner clip at 71st Pl and Yale must be a minimum of 35.36'. Corner clip of 35.36' must be provided at intersection of 71st St. and S. Braden Ave.

INCOG Transportation:

- **MSHP:** 71st Street is a designated primary arterial. S. Yale Avenue is a designated primary arterial.
- **LRTP:** 71st St. S., between Yale Ave and Sheridan Rd., existing 6 lanes.
- **TMP:** No comments.
- **Transit:** Currently, Tulsa Transit operates an existing route on 71st Street and Yale Ave. According to MTTA future plans, this location will continue to be served by transit routes.

Traffic: No comment.

GIS: No comment.

Street Addressing: No comment.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

Applicant's Comments:

Lou Reynolds, 2727 East 21st Street, Suite 200, 74114, stated that he wanted to note that staff has withdrawn the transportation TAC comments.

TMAPC Action; 8 members present:

On MOTION of CARNES, TMAPC voted 8-0-0 (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to recommend APPROVAL of the major amendment for PUD-208-A per staff recommendation.

Legal Description for PUD-208-A:

Lots 1, 2 and 3, Block 1, Nob Hill, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

Ms. Wright in at 5:06 p.m.

12. Z-7159 – Roy Johnsen/Saint Francis Hospital, Inc. RS-3/OL/OM to OH
Southeast corner of 61st Street and South Yale Avenue (CD-7)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11829 dated June 26, 1970, established zoning for the subject property. (It should be noted that PUD-435, in the southeastern portion of the property, was abandoned in 1989).

RELEVANT ZONING HISTORY:

PUD-435-D July 2000: All concurred in approval of a proposed Major Amendment to a Planned Unit Development on a 24.97+ acre tract of land, to revise statement of existing and proposed building floor areas (Total: 774,785 square feet); to add .94 acres to PUD; and to abandon approximately 2.37 acres; and to modify the perimeter setbacks, on property located on the northeast corner of South Yale Avenue and East 66th Street South and abutting south of subject property.

BOA-3026 February 12, 1958: The Board of Adjustment approved St. Francis Hospital and other buildings constituting the Warren Medical Research Center, on property located at the southeast corner of East 61st Street and South Yale Avenue and the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 48.5+ acres in size and is located at the southeast corner of East 61st Street and South Yale Avenue. The property is part of the Saint Francis Hospital/Medical Center complex and is zoned RS-3/OL/OM.

TRANSPORTATION VISION:

The Comprehensive Plan designates South Yale as a Main Street and East 61st Street as a Multi-Modal Corridor.

The Major Street and Highway Plan designates Yale and 61st as follows:

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South Yale Avenue	Primary arterial	120'	6
East 61 st Street	Secondary arterial	100'	4

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

SURROUNDING AREA: The subject tract is abutted on the east by single-family residential uses, zoned RS-3, and by office and mixed use, zoned OL; on the north by LaFortune Park/Golf Course, zoned RS-3; on the south by mixed office uses, zoned PUD-435-; and on the west by the Warren Center complex, which includes office, retail and hotel uses, zoned CH.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan for the City of Tulsa designates this as an area of growth and as a regional center. The plan defines regional centers (page 32) as "mixed use areas for large-scale employment, retail and civic or educational uses...". They attract people from around the entire region and are important transit hubs, possibly having related accessory uses associated with them. The requested OH zoning is in accord with the plan.

STAFF RECOMMENDATION:

Based on the comprehensive plan and surrounding uses/zoning, staff recommends **APPROVAL** of OH zoning for Z-7159. St. Francis Hospital and related adjacent medical uses have been major growth centers for decades and they continue to expand. The hospital use is compatible with and complementary to the nearby medical/office buildings and the hotel located in the Warren Center development.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

Applicant's Comments:

Roy D. Johnsen, Williams Center Tower One, One West 3rd Street, Suite 1010, 74103, stated that he would like to share a picture of Saint Francis when it opened in 1960.

Mr. Johnsen stated that there was an interested party who was concerned about the boundaries of the subject property. There is a landscaped reserve area for the neighborhood and is owned by Saint Francis. The interested party was concerned that somehow this application would affect the zoning of her property, but he has explained to her that there is no intention to rezone east of the subject property.

TMAPC COMMENTS:

Mr. Walker congratulated Saint Francis on the 50th Anniversary.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to recommend **APPROVAL** of the OH zoning for Z-7159 per staff recommendation.

Legal Description for Z-7159:

All that part of the W/2 NW/4 of Section 3, T18N, R13E, of the Indian Base and Meridian, Tulsa County, Oklahoma, more particularly described as follow, to-wit: Beginning at a point 350 feet South and 300 feet East of the Northwest corner of said W/2 NW/4, thence Easterly and parallel to the North Boundary of said W/2 NW/4 a distance of 1,020.83 feet to a point in the East boundary of said W/2 NW/4 350 feet from the Northeast corner thereof, thence Southerly along the East boundary of said W/2 NW/4 a distance of 1,147.88 feet to a point, said point being 1,145 feet North of the Southeast corner of said W/2 NW/4, thence Westerly parallel to the South boundary of said W/2 NW/4 a distance of 1,020.62 feet to a point, said point being 300 feet East of the West boundary of said W/2 NW/4, thence Northerly parallel to the West boundary of said W/2 NW/4 a distance of 1,147.05 feet, to the point of beginning, containing 26.89 acres more or less; AND, All that part of Lot 4 and the SW/4 NW/4 (together, also being W/2 NW/4), Section 3, Township 18 North, Range 13 East, of the Indian Base and Meridian, Tulsa County, Oklahoma, more particularly described as follows to wit: Beginning at a point 50.00 feet South and 50.00 feet East of the Northwest corner of said Lot 4; thence Easterly parallel to and 50.00 feet South of the North Boundary of said Lot 4, a distance of 1270.83 feet to a point in the East boundary of said Lot 4 and 50.00 feet South of the Northeast corner thereof, said point

being the Northwest corner Lot 1, Block 2 of the official amended plat of Warren Center East; thence Southerly along the West boundary of Warren Center East Amended plat a distance of 300.00 feet; thence Westerly parallel to the North boundary of said Lot 4, a distance of 1,020.83 feet to a point 300.00 feet East of the West boundary of said Lot 4; thence Southerly parallel to the West boundary of said Lot 4 a distance of 1147.05 feet to a point on the North boundary of Warren Professional Building property, (Warren Medical Professional Center, an addition in the City of Tulsa, Tulsa County, Oklahoma) thence Westerly along the North boundary of Warren Professional Building property (Warren Medical Professional Center, an addition in the City of Tulsa, Tulsa County, Oklahoma) a distance of 250.00 feet to a point 50 feet East of the West boundary of said Section 3; thence Northerly parallel to and 50.00 feet East of the West boundary of said Section 3 a distance of 1447.05 feet to the point of beginning, containing 15.33 acres more or less, AND, A parcel of land lying in Warren Medical Professional Center, an addition in the City of Tulsa, Tulsa, County, Oklahoma, further described as follows, to wit: Beginning at the northeast corner of said Warren Medical Professional Center, thence north $89^{\circ}-57'-12''$ west along the north line of said Warren Medical Professional Center a distance of 450 feet; thence south $0^{\circ}-07'-32''$ east a distance of 65 feet; thence south $89^{\circ}-57'-12''$ east a distance of 450 feet; thence north $0^{\circ}-07'-32''$ west a distance of 65 feet to the point of beginning, situated in Section Three (3), Township Eighteen (18) North, Range Thirteen (13) East, Indian Base and Meridian, Tulsa County, State of Oklahoma, containing .67 acres more or less, AND, A parcel of land lying in Warren Medical Professional Center and in The William K. Warren Medical Research Center, Inc., both being additions in the City of Tulsa, Tulsa, County, Oklahoma, further described as follows, to wit: Commencing at the southeast corner of said Warren Medical Professional Center for the point and place of beginning, thence $N89^{\circ}58'34''$ W and along the south line of said Warren Medical Professional Center a distance of 230.00 feet to a point; thence $S00^{\circ}07'32''$ E and along the east line of said The William K. Warren Medical Research Center, Inc., a distance of 246.24 feet to a point; thence $N89^{\circ}58'34''$ W a distance of 220.00 feet to a point; thence $N00^{\circ}07'32''$ W a distance of 665 feet to a point; thence $S89^{\circ}57'12''$ E a distance of 450.00 feet to a point on the east line of said Warren Medical Professional Center; thence $S00^{\circ}07'32''$ E and along the east line of said Warren Medical Professional Center a distance of 418.58 feet to the point and place of beginning, situated in Section Three (3), Township Eighteen (18) North, Range Thirteen (13) East of the Indian Meridian, Tulsa County, State of Oklahoma, containing 5.57 acres, more or less, **LESS AND EXCEPT**, A parcel of land beginning at the Northwest corner of Lot 1, Block 1, Warren Medical Professional Center, An addition in the City of Tulsa, Tulsa County, Oklahoma, thence North, a distance of 20 feet; thence east parallel to the North line of Lot 1, Block 1, Warren Medical Professional Center, a distance of 809.77 feet; thence South, a distance of 20 feet to a point on the North line of Lot 1, Block 1, Warren Medical Professional Center; thence West along the North line of Lot 1, Block 1, Warren Medical Professional Center, a distance of 809.77 feet to the Point of Beginning; containing .37 acres more or less.

14. **Z-7161 – Roy Johnsen/Perry R. Dunham**

RS-3 to OL

Northeast corner South Yale Avenue and East 75th Street

(CD-7)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 12527 dated July 31, 1972, established zoning for the subject property.

RELEVANT ZONING HISTORY:

PUD-136-A September 2006: All concurred in approval of a proposed Planned Unit Development on a 13.67± acre tract of land for an office park, on property located south of southwest corner of East 71st Street and South Yale Avenue and abutting west of subject property across South Yale Avenue.

PUD-134 June 1973: All concurred in approval of a proposed Planned Unit Development on a 24± acre tract of land for multifamily, duplex and single family development, on property located north of northeast corner of East 75th Street and South Yale Avenue and abutting north of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately .32± acres in size and is located at the northeast corner of South Yale Avenue and East 75th Street. The property is vacant and zoned RS-3.

VISION PLAN:

The Comprehensive Plan for the City of Tulsa designates South Yale Avenue as a Bus Rapid Transit Route and does not classify East 75th Street.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South Yale Avenue	Primary arterial	120'	6
East 75 th Street	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 single-family residential uses, zoned RS-3; on the north by multifamily/duplex housing, zoned RD/PUD-134; on the south by single-family residential uses, zoned RS-3; and on the west by Silver Ridge Office Park and condominiums, zoned PUD-136 and 136-A/RS-3/OL..

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan for the City of Tulsa designates this parcel as an area of growth and those to the south and east as areas of stability. According to the comprehensive plan, the requested OL zoning is in accord.

STAFF RECOMMENDATION:

Staff can support the request for OL rezoning on this property. This is a corner/frontage property on a primary arterial (Yale) that is also designated in the comprehensive plan as a Bus Rapid Transit (BRT) Route. A frontage road lies south of the property and parallel to Yale. It is unrealistic to expect that a single-family residential use would develop here, based on these facts. Office uses provide a low intensity transition to single-family residential uses from high intensity traffic-ways. Office uses are generally 8:00 a.m. to 5:00 p.m. five days a week with minimal impact on adjacent residential areas. The presence of office workers near the residential areas also provide additional eyes on the street and may thus deter crime. Since OL zoning allows no more than a single story by right, the building should be compatible with the nearby homes. Therefore, staff recommends **APPROVAL** of OL zoning for Z-7161.

TMAPC COMMENTS:

Ms. Cantrell stated that north of the subject property there are several homes that abut Yale Avenue near LaFortune Park. Ms. Matthews stated that there are some homes in that area, but this particular application is on a corner looking at an access road and looking at Yale Avenue, which is very busy since it has been widened. Ms. Matthews stated that the residences Ms. Cantrell is mentioning were already in place when they widened Yale Avenue.

Ms. Cantrell asked staff if they know why this area was designated as an area of growth. Ms. Matthews stated that she doesn't know why the consultant deemed it as such, but this is what the Planning Commission adopted and the City Council approved.

Applicant's Comments:

Roy D. Johnsen, Williams Center Tower One, One West 3rd Street, Suite 1010, 74103, representing Perry Dunham, stated that the subject lot is part of Woodcrest Estates, which was platted in 1973. At that time Yale was a significant road, but nothing in comparison as to what it is today.

Mr. Johnsen stated that originally there was a house on the subject property, but it was acquisitioned during the widening process by the City and they removed the existing home. After the construction was completed, the City declared the subject property as surplus and a small portion of the subject property is gone for right-of-way. Now the property is vacant and is now out of time relative to the rest of the development and to the south, where there is another home gone, there is a service road to provide an alternative access to the homes to the south. The City is trying to protect the access and efficiency of Yale by limiting

the amount of access. There will never be a home to the south and it is owned by the City of Tulsa. In the subject area from 71st to 81st, there is no single-family home abutting Yale Avenue and he believes that is what staff was referencing in their report.

Mr. Johnsen stated that his client now owns the subject property. He indicated that his clients spoke with the neighbors before purchasing the property. His client tried to contact neighbors within a 500-foot of radius, which was five houses on the north and four on the south. At the time there were six in favor, two against and one they were unable to contact. This is a transitional property and the new plan recognizes it. That is why it is colored blue on the maps. Historically, OL zoning has been found to be one of the most effective buffers between single-family and arterial streets and most compatible with close by single-family homes.

Mr. Johnsen indicated that the OL classification is one of the most restrictive by being one story, having landscaping requirements, lighting requirements and the uses and signage are restricted.

Mr. Johnsen stated that one of the persons whose names are shown on the interested parties protest letter is present today. The implication of the letter was that she was not in support of the OL zoning, but he believes that she is and she is present to speak on that. Four of the names on the protest letter are tenants and not property owners. Mr. Johnsen pointed out the owners who are in support on the case map. The subject vacant lot doesn't do anyone any good and the likelihood of a single-family home being built is not very good. Yale is a six-lane divided heavily traveled street. There is no single-family type of use all around the subject area.

Mr. Johnsen submitted photographs of the proposed use and style of office that would be built (Exhibit B-1).

TMAPC COMMENTS:

Ms. Wright stated that has to leave, but she is in support of this application and believes that it is a good transition.

Ms. Wright out at 5:25 p.m.

In response to Mr. Leighty, Mr. Johnsen stated that the City doesn't buy just the piece that they need because it would take the right-of-way right through the house. The City purchases the entire lot and when the construction is completed the City has permanent right-of-way and the subject tract that remains, which is declared surplus.

INTERESTED PARTIES OPPOSING THE OL ZONING:

Edwin Miranda, 4937 East 75th Street, 74136; **Margie Hensley**, 5138 East 75th Street, 74136; **Janice Thornton**, 5120 East 75th Street, 74136; **Moe Darbandi**, 4914 South 75th Street, 74136;

INTERESTED PARTIES OPPOSING THE OL ZONING COMMENTS:

Prefer a house be built on the subject property; people in the subject area signed a petition opposing the office building; if the lot is large enough for the proposed office there will be parking on the service road across the street; the proposed office will cause the single-home property values to go down; the City proposed to put the entrance to the neighborhood back once the construction was done and they didn't do it due to the funds being gone; the subject lot is too small for the proposed office use; cars visiting the proposed office will be parking within the neighborhood; there are occupancies all over Tulsa where the applicant could place their office; a good alternative would be to build a park and plant some trees and keep the neighborhood as it is; the applicant did contact the neighbors, but two realtors told them that an office building will increase the traffic and decrease the value of their homes.

INTERESTED PARTIES SUPPORTING THE OL ZONING:

Donna Gadan-Webb, 4913 East 75th Street, 74136, stated that she has lived in the subject area for over 20 years, but currently she is leasing her home because she has married. Ms. Webb stated that she doesn't believe that her renters should have signed the petition since they are not the property owners. When the existing home was removed, the noise from the street and office was terrible and she would appreciate the structure being developed to buffer the noise from Yale. She believes that the new structure will add value to her property.

Applicant's Rebuttal:

Mr. Johnsen submitted three letters in support of the proposal (Exhibit B-2) and these people are supposedly on the list in opposition as well. There are people who are opposed to this proposal, but there are some people who are in support of this as well who are closely located to the subject property. He understood that when the neighbors were trying to get a petition in opposition to this, they were telling people that this could become a McDonalds and if that was truly done that would scare people. Of course a McDonalds is not allowed in OL zoning. The other information given to the neighbors was that they would lose substantial value in their homes and he doesn't think that would hold up under an appraisal or in the history we have had in the City of Tulsa. Four of the people on the petition are tenants and do not own the property. The petition states that they are owners and it is simply not true. Neighbors do the best they can to represent their position and get support for their position.

Mr. Johnsen stated that this is a vacant piece of property and it is difficult to develop. The lot is large enough to accommodate the proposal of a 2,500

square foot office and meet all the requirements and it is also consistent with the Comprehensive Plan. Across the street to the south is an empty lot with a service road that is owned by the City of Tulsa. He believes it will be extremely difficult to find someone willing to build a single-family home on the subject lot under the circumstances. He requested that the Planning Commission approve the staff recommendation.

TMAPC COMMENTS:

Ms. Cantrell stated that from her point of view, while she understands that the owners have a very strong interest, she doesn't think the applicant should discount just because someone is a renter. It doesn't mean that they shouldn't have a say of what is going on in their neighborhood. They have a right to have a voice too. Mr. Johnsen stated that all citizens have a right to voice and he respects that, but the petition starts off saying "the under signees own a home" and that is not correct.

Mr. Carnes stated that he has total sympathy for the neighborhoods on this, but historically when there is a lot on the arterial street the best neighbor one could have is an office. They will have to maintain that office and they will be closed in the evenings and weekends. This has happened where he lives and he has seen it on the Planning Commission. He thinks it is the best neighbor one can have.

Mr. Dix stated that he happens to know the two gentlemen that are trying to develop this and they will be a good neighbor. These two men are the most honorable men one will ever meet. Mr. Dix indicated that he will be supporting this application.

Mr. Leighty stated that he will be supporting this application as well. It is in line with the Comprehensive Plan and Tulsa needs the development. He believes that in the long term, the neighbors will find that the applicants will be good neighbors.

Ms. Cantrell stated that she is having trouble with this decision. She believes that the best solution would have been for the City to converted it into a park. It is unfortunate, because the City has put the neighborhood into a difficult position. It seems to be encroaching into the neighborhood and it concerns her. With the Comprehensive Plan this is a real question mark area and the Planning Commission is supposed to use their best judgment. If the City had turned this into a park we wouldn't be here now, but she can't make the City buy property and turn it into a park.

Mr. Shivel stated that if this office is built as it was depicted in the photographs of similar offices, then it could be a good buffer for the 1st or 2nd lots. He indicated that he will be in favor of the OL zoning.

Mr. Leighty recognized Mr. Miranda.

Mr. Miranda asked if the applicant already owns the property. In response, Ms. Matthews stated that the application states that Perry Dunham owns the subject property. Mr. Dix stated that Mr. Johnsen stated that they closed on the subject property last July. Ms. Matthews stated that even though there is no detail site plan process, they will have to go through the platting process.

Mr. Liotta stated that as long as the subject property remains vacant it makes the neighborhood vulnerable. Mr. Carnes made a good point that of all of the kinds of neighbors that potentially could be there, this is the best one could hope for. The neighbors asked the Planning Commission to put themselves in their place and that is easy for him to do because he grew up at 21st and 103rd between K-Mart and Highway 169. When he grew up there was a convenience store, a couple of offices and a bar and it wasn't a bad situation at first until it became adult businesses, one after another right in his backyard before the City started putting protections into place. Mr. Liotta stated that he will be supporting the motion to approve the OL zoning.

TMAPC Action; 8 members present:

On **MOTION** of **WALKER**, TMAPC voted **7-1-0** (Carnes, Dix, Edwards, Leighty, Liotta, Shivel, Walker "aye"; Cantrell "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to recommend **APPROVAL** of the OL zoning for Z-7161 per staff recommendation.

Legal Description for Z-7161:

LOT 1, BLOCK 7, WOODCREST ESTATES, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF, **LESS AND EXCEPT** THE FOLLOWING DESCRIBED PARCEL: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE ALONG THE WEST LINE OF SAID LOT 1 N01°18'48"W A DISTANCE OF 8.00 FEET; THENCE S46°19'45"E A DISTANCE OF 11.31 FEET TO POINT ON THE SOUTH LINE OF SAID LOT; THENCE ALONG SAID SOUTH LINE S88°41'12"W A DISTANCE OF 8.00 FEET TO THE POINT OF BEGINNING.

OTHER BUSINESS:

15. Reconsider TMAPC meeting dates and time.

TMAPC COMMENTS:

Mr. Carnes stated that he would like to return to holding the meetings on Wednesday at 1:30 p.m.

Ms. Cantrell stated that she has no problems with continuing with the 4:00 p.m. meeting and it has worked well. The bottom line is to serve the public.

Mr. Carnes stated that the 4:00 p.m. meetings haven't been attended by more people.

Mr. Carnes moved to return to Wednesdays at 1:30 p.m.

Mr. Walker seconded.

Ms. Cantrell stated that she would like to remind everyone that the Planning Commission received letters of support for the Tuesday, 4:00 p.m. meetings. She doesn't believe that anyone has complained about the 4:00 p.m. meetings. Every other city around Tulsa meets at 4:00, 5:00 or 6:00 p.m.

Mr. Dix stated that he saw a list where they met in afternoons.

Mr. Boulden asked if this will start in January, 2011, 1st and 3rd Wednesday each month.

Mr. Shivel asked if anyone tracked the attendance.

Ms. Cantrell stated that the Planning Commission has been in a slow period with very few controversial cases.

Mr. Carnes called for the vote.

Mr. Walker stated that when there is a controversial case the people's voice is heard and they will attend the meetings.

Mr. Leighty stated that he can see the blogs now that the Planning Commission sneaking one past everyone again. He personally would love to go back to the 1:30 p.m. meetings because it would be much more convenient for him, but he thinks the Planning Commission will be criticized and it would be a step in the wrong direction. He would support making it a true night meeting.

Mr. Liotta stated that as the sole vote against the 4:00 p.m. meeting, he has paid very close attention to the difference in attendance and if it actually gained any

citizen attendance, because he agrees with the Chair that if there is a benefit to the citizens then it should be considered. He has not seen that anything has been gained from the 4:00 p.m. meetings and there has not been an increase in attendance. The amount of cases has decreased because of the economic situation, but even with the cases that have been filed, he has not seen a change in the attendance to the meetings. He would support returning to 1:30 p.m. on Wednesdays.

Ms. Cantrell stated that this is not just about heads in the audience it is about people's perception. The Planning Commission received one letter that we should keep it at 1:30 p.m. compared to several letters that requested the night meetings.

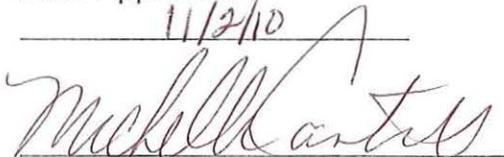
In response to Ms. Huntsinger, Mr. Boulden stated that if the Planning Commission changes their meeting dates after the December 15th filing it would require a ten-day notice to change the entire schedule.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, TMAPC voted **6-2-0** (Carnes, Dix, Edwards, Liotta, Walker, Shivel "aye"; Cantrell, Leighty "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to **APPROVE** the Planning Commission returning to the 1st and 3rd Wednesday of each month at 1:30 p.m., effective January 1, 2011.

There being no further business, the Chair declared the meeting adjourned at 6:12 p.m.

Date Approved:

11/2/10


Chairman

ATTEST:


Secretary

