

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2588

Wednesday, October 20, 2010, 1:30 p.m.

City Council Chamber

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	Edwards	Alberty	Boulden, Legal
Carnes	McArtor	Bates	Steele, Sr. Eng.
Dix		Fernandez	
Leighty		Huntsinger	
Liotta		Sansone	
Midget			
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, October 18, 2010 at 8:10 a.m., posted on October 15, 2010 at 12:55 p.m. in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Cantrell called the meeting to order at 1:30 p.m.

### **REPORTS:**

#### **Chairman's Report:**

Ms. Cantrell reported that the Planning Commission held a training session at 11:30 a.m. today and thanked Mr. Matt Meyer, Executive Director of the River Parks Authority, for his presentation today. There will be a work session immediately following today's TMAPC meeting.

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

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

Mr. Alberty reported that the TMAPC receipts for September are slightly up for the month, but still below the year overall.

## 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.

1. **LC-283**– Eric P. Nelson (9430) Lot-Combination (CD-6)  
Northwest of the northwest corner of South Garnett Road and 51<sup>st</sup> Street South (Related to Item 2.)
2. **PUD-312-A-12 – Tulsa Bone and Joint Clinic** IL/PUD  
Northwest of the northwest corner of South Garnett Road and 51<sup>st</sup> Street South (Minor Amendment to combine two development areas within PUD-312-A for the purpose of constructing across a lot line). (Related to Item 1.) (CD 6)

### **STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to combine two development areas within PUD-312-A for the purpose of constructing across a lot line allowing internal access to and from both buildings as seen on the attached exhibits. Associated with this minor amendment is lot combination LC-283 also appearing on the October 20, 2010 agenda of the TMAPC.

There is no request for additional floor area or request to relax any existing development standard of the PUD.

Referring to the attached Exhibits A and B by constructing across the internal lot line, the two buildings effectively become one according to the Tulsa/International Building Code. If the two lots are not legally combined, the applicant would be required to put a firewall along the lot line, negating internal access between the two buildings.

Floor area in the existing development areas is allocated as follows:

#### **Area B1-A-1 Maximum Building Floor Area:**

Use units 12, 13, 14, 16, and 17 -	45,977 SF
Use units 11, 19, and 22 -	172,873 SF

#### **Area B1-A-2 Maximum Building Floor Area:**

Use units 12, 13, 14, 16, and 17 -	20,470 SF
Use units 11, 19, and 22 -	76,970 SF

Upon combination of the two areas, creating Development Area B1-A floor area allocation will be combined as follows:

#### **Area B1-A Maximum Building Floor Area:**

Use units 12, 13, 14, 16, and 17 - 66,447 SF  
Use units 11, 19, and 22 - 249,843 SF

Since there is no limit to floor area ratio (FAR) in the IL district, and there is no request to add floor area or relax any existing development standard of PUD-312-A, staff recommends **APPROVAL** of minor amendment PUD-312-A-12.

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

4. **PUD-648-A-4 – Olympia Land Development** **CO/PUD**  
North of the northeast corner of South Olympia Avenue and West 71<sup>st</sup> Street South (Minor Amendment to add Use Unit 10 – Off Street Parking as a permitted principal use in Development Area F of PUD-684-A.) (CD 2)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to add Use Unit 10 – Off Street Parking as a permitted principal use in Development Area F of PUD-684-A as shown on the attached Exhibit A.

The applicant contends the success of the Tulsa Spine and Specialty Hospital located adjacent to this lot to the north has created the need for over-flow parking. Separate site visits for this case and familiarity with the area verify that the parking on the Tulsa Spine site is at or near capacity regularly during weekday business hours. Please see the attached case report photographs.

Staff believes with 44,300 square feet of floor area dedicated to the subject tract that the proposed parking lot will be temporary in nature because the lot will eventually be developed in the future when market conditions improve.

Staff recommends **APPROVAL** of minor amendment PUD-648-A-4 for Lot 2, Block 2 – Olympia Medical Park.

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

5. **AC-99 – Olympia Medical Park** **CO/PUD**  
North of the northeast corner of South Olympia Avenue and West 71<sup>st</sup> Street South (Alternative Compliance Landscape Plan to preserve a naturally wooded area on the west side of the parcel.) (CD 2)

**STAFF RECOMMENDATION:**

The applicant is requesting TMAPC approval of an alternative compliance landscape plan for Lot 2, Block 2 – Olympia Medical Park II in order to preserve a naturally wooded area on the west side of the parcel as seen on the attached plan and photographs. This area contains 25 mature oaks trees ranging from 12 inches to 24 inches in diameter. Section 1002, E of the code encourages the retention of existing mature trees by providing incentive credits for preserving mature trees.

The proposed landscape plan does not meet the technical requirements of Chapter 10 of the code because seven parking spaces are not within 75 feet of a landscaped area “containing at least 100 square feet, with a minimum width or diameter of seven feet” and the street yard trees are not technically located within the street yard as defined by the code.

Although not meeting the technical requirements of chapter 10 of the code, section 1003 allows the TMAPC to approve alternative compliance landscape plans so long as the proposed plan is equivalent to or better than the requirements of chapter 10.

Staff contends that the proposed plan is equivalent to or better than the requirements of chapter 10 since the plan easily exceeds the 10% open space requirement and there are 34 trees on site when 15 are required. Staff recommends **APPROVAL** of AC-99 for Lot 2, Block 2 – Olympia Medical Park II.

6. **PUD-773 – Parkhill Liquors**

**CS/PUD**

Northwest of the northwest corner of 101<sup>st</sup> Street South and South Memorial Drive (Detail Site Plan for an 11,778 square foot (SF) liquor store.)

(CD 8)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for an 11,778 square foot (SF) liquor store. The proposed use, Use Unit 14 – Shopping Goods and Services is a permitted use in PUD-773.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site will be provided via mutual access easement from Memorial Drive. 43 parking spaces will be provided per a variance granted by the Board of Adjustment in case number 21133 on September 14, 2010 and minor amendment to the PUD approved September 15, 2010 by the TMAPC. Landscaping will be provided per the PUD and landscape chapters of the Zoning Code. All sight lighting will be directed down and away from adjoining residential properties in a manner that the light

producing element and/or reflector are not visible to a person standing at ground level within any residential district. A trash enclosure will be provided as required by the PUD. Pedestrian access is provided from Memorial Drive. Sidewalks are provided along Memorial Drive as required by PUD Development Standards and Subdivision Regulations.

Staff recommends **APPROVAL** of the detail site plan for Lot 5, Block 1 – NPG Business Complex.

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

7. **PUD-386-B-1 – Sanctuary Church**

**CS/RM-1/AG/PUD**

North of the northeast corner of 91<sup>st</sup> Street South and South Memorial Drive (Minor Amendment to reduce the required parking for a broadcast studio and church to 127 spaces.) (CD 8)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to reduce the required parking for a broadcast studio and church to 127 spaces. Based on the square footage dedicated to each use, the parking requirement for the broadcast studio would be 88 spaces and for the church 125 spaces.

On September 14, 2010 the Board of Adjustment (BOA) in case number 21136 granted a variance of the parking requirement for the uses based on the differing hours of operation for the uses and the unlikelihood that the existing parking lot could be expanded. Opportunity for expansion is limited since much of the adjoining lot area is limited to open space, recreation and stormwater management which limits the probability of additional parking spaces.

Exhibits presented to the BOA including the Board's motion are attached hereto.

Staff recommends **APPROVAL** of minor amendment PUD-386-B-1 decreasing the required parking for the broadcast studio and church to 127 spaces.

(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; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Edwards, McArtor "absent") to **APPROVE** the consent agenda Items 1, 2, 4, 5, 6 and 7 per staff recommendation.

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

**PUBLIC HEARING**

- 3. **PUD 564-B - Declaration of Covenants Amendment-** (CD 5)  
North and East of the Northeast corner of East 31<sup>st</sup> Street and South Memorial Drive, 8220 East Skelly Drive (Related to Item 11.)

**STAFF RECOMMENDATION:**

The applicant has submitted declaration of covenants and restrictions for PUD-564-B plat waiver.

**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 **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Edwards, McArtor "absent") to **APPROVE** the declaration of covenants and restrictions for PUD-564-B per staff recommendation.

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- 11. **PUD 564 B –** (9313) Plat Waiver (CD 5)  
8220 East Skelly Drive, North and East of the Northeast corner of East 31<sup>st</sup> Street and South Memorial Drive (Related to Item 3.)

**STAFF RECOMMENDATION:**

The platting requirement is being triggered by a Major PUD amendment to allow an additional use under Use Unit 15 "Other Trades and Services" limited to contract construction services for an existing building.

Staff provides the following information from TAC at their October 7, 2010 meeting:

**ZONING:**

TMAPC Staff: The property has been previously platted.

**STREETS:**

No comment.

**SEWER:**

Sidewalk required along Skelly Drive.

**WATER:**

No comment.

**FIRE:**

No comment.

**UTILITIES:**

No comment.

Staff recommends **APPROVAL** of the plat waiver for the previously platted property. New covenants are to be approved in a related item on this planning commission agenda.

***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. X
- 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.? 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 to be approved for filing in a related item for this agenda.

**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 **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Edwards, McArtor "absent") to **APPROVE** the plat waiver for PUD-564-B per staff recommendation.

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- 8. **Rockford Industrial Park** – (0331) Minor Subdivision Plat (CD 1)  
 1212 North Rockford, South of East Pine Street, East of North Peoria Avenue (Continued from 10/5/2010, Request continuance to 12/7/2010 for plat revisions and further TAC review.)



**STAFF RECOMMENDATION:**

Mrs. Fernandez stated that staff is requesting a continuance to December 7, 2010 in order to review plat revisions and further TAC review.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Edwards, McArtor "absent") to **CONTINUE** the minor subdivision plat for Rockford Industrial Park to December 7, 2010.

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9. **Oklahoma Methodist Manor (OMM/Crestwood) – (9321)** (CD 9)  
Preliminary Plat, 4234 East 31<sup>st</sup> Street South, South of East 31<sup>st</sup> Street South, West of South Yale Avenue

**STAFF RECOMMENDATION:**

This plat consists of one lot, one block, on 39.03 acres.

The following issues were discussed October 7, 2010, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned Planned Unit Development 197 A. Vacate underlying plat and easements. Show gate plan for electronic access on concept plans. Development must meet the PUD standards and recite these in the covenants. Check building line standards and make sure they match PUD requirements. Five lots have been added to the subdivision. The Comprehensive Plan designates the area as Existing Neighborhood and Growth Areas.
2. **Streets:** Access along 31<sup>st</sup> Street must be limited to a 50-foot access, one 16-foot inbound lane, two 12-foot outbound lanes and a ten-foot median. Sidewalks must be provided along all arterial and non-arterial streets. Modify section IK to include both 31<sup>st</sup> and 33<sup>rd</sup> Street. Concept plan needs to include section along 33<sup>rd</sup> Street. Sidewalk must be provided along 33<sup>rd</sup> Street.
3. **Sewer:** No comment.
4. **Water:** Waterlines that are not located within easements must have 20 foot restrictive waterline easements placed over them. Easements that do not contain waterlines should be vacated. Water main line is not shown inside

the platted restrictive water line easement.

5. **Storm Drainage:** The existing 15-foot stormwater detention easement located roughly in the center of the plat must be extended to the end of the storm sewer. Similarly, the overland drainage easement in the same area must be extended until it reaches the overland drainage easement coming from the northeast. The IDP project for this site must be completed prior to the filing of this plat. City field engineering will have to investigate flagged easements and lines.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
7. **Other: Fire:** The Fire Department connection shall be on the address side of the building with a fire hydrant located within 100 feet of the fire department connection.

**GIS:** Tie the plat from a Section Corner using bearings and distances from a labeled point of commencement to the labeled point of beginning on the face of the plat. Add point of commencement to the legend. The basis of bearing should be clearly described and stated in degrees, minutes and seconds. Correct inconsistencies on face of plat and covenants. Use "date of preparation". Submit subdivision closure form.

Staff recommends **APPROVAL** of the Preliminary Subdivision plat subject to the TAC comments and the special and standard conditions below. There is a sidewalk waiver requested with this plat. Attached is the information as provided by the applicant. Staff points out that there will be a sidewalk put in along 31<sup>st</sup> Street which is the arterial street. There is an existing fence along 33<sup>rd</sup> street and there is no ingress or egress to the campus on this side of the development. There are no sidewalks in the surrounding residential neighborhood at all so there will be no connection unless sometime in the future the City builds a new sidewalk system throughout the entire area. The ordinance for fee-in-lieu of sidewalks deals with arterial streets and would not be usable in this instance.

**Waivers of Subdivision Regulations:**

1. A sidewalk waiver is requested.

**Special Conditions:**

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

**Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.

14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

Mrs. Fernandez stated that there have been some concerns about the access and possibility that this application is taking neighbors property. The access was approved back in March by the TMAPC and the City Council. This application doesn't propose to take anyone's property.

Mrs. Fernandez stated that there is a sidewalk waiver request for this application. There is no recommendation regarding the sidewalk waiver. This is an older neighborhood and there are no sidewalks to connect to in the subject area. The fee-in-lieu ordinance doesn't apply to residential collector streets.

**Applicant's Comments:**

**Greg Weisz**, 6111 East 32nd Place, 74135, stated that the campus is secure and is for elderly housing with a fence. There are internal pedestrianways and the proposed development is in the northern portion of the site. The entrance off of 31<sup>st</sup> Street is being modified and there will be a public sidewalk along the full frontage of 31<sup>st</sup> Street. The sidewalk along 33<sup>rd</sup> Street will be of no benefit to Oklahoma Methodist Manor because it is a secure site. The surrounding neighborhood is an existing neighborhood and it has no sidewalks anywhere within the vicinity.

**TMAPC COMMENTS:**

Mr. Leighty stated that he did visit the site and met with Darin Akerman to discuss this application. The number one reason people give for not wanting to put in the sidewalks is because they don't connect to anything, but the reason for that is because for several decades the City didn't feel that it was that important for quality of life. Each time this issue comes up, it puts the Planning Commissioners in a situation where they have to make a subjective decision based on the merits or not of a particular application. Mr. Leighty commented that since there are requirements for sidewalks by the Code, he has decided that he is going to favor the building of sidewalks. The argument that it doesn't connect to anything will not be enough for him. He will be voting against the waiver for the sidewalk. Sidewalks are important structures in the City and they have been neglected for too long. Mr. Leighty stated that he met one neighbor and she indicated that she would love to see a sidewalk on 33<sup>rd</sup> to walk her dog on. He is not sure what the Oklahoma Methodist Manor's reason is for having a secure facility and it might be something simply to satisfy the customers there. One comment was made by one of the visitors that it should be opened up a little bit and let people in and out. The detention pond area would be a great play area for the children in the neighborhood. Mr. Leighty concluded that he would vote to deny the waiver for the sidewalk.

Ms. Cantrell stated that she is generally on the pro sidewalk side, but the one thing that is different here is that the requirement for the 33<sup>rd</sup> Street sidewalk is out of proportion to the actual changes that the PUD is doing right now. They are only expanding a few lots outside of their original forum and to require in addition to the 31<sup>st</sup> Street sidewalk the 33<sup>rd</sup> Street sidewalk that is so far from where the development is taking place is a bit problematic. Ms. Cantrell commented that she is uncomfortable with punishing an applicant for small changes. If someone comes in and completely redevelops an area that is one thing, but when they come in and add a few more houses or expand their independent living facilities slightly, that is quite a bit of expense. The fence along 33<sup>rd</sup> creates a bit of a problem for sidewalks and she understands that it would be nice to open it up, but Ms. Cantrell indicated that her son plays the violin at this facility and she understands why it is closed because there are quite a few elderly people who need that structure. Ms. Cantrell stated that she agrees with waiving the

sidewalk request. There does need to be some consistency and she would like to have a work session regarding this issue.

Mr. Carnes stated that he agrees that there should be sidewalks and shouldn't make exceptions, but this is a gated elderly community and they are allowing for pedestrian walkways throughout the development. He will be supporting the waiver of sidewalks.

Mr. Shivel stated that he remembers the original application and he agrees with Mr. Carnes in this particular case. He indicated that he will be supporting the waiver.

Mr. Liotta stated that this is a particular situation where it would be unfair to make the sidewalk requirement. He does want to associate himself with Mr. Leighty's comments and reasoning. The excuse to not put sidewalks in because they wouldn't connect to a system is not a reason to not put sidewalks in. The Planning Commission is trying to fix the mistakes that were made in the past and he will be supportive of efforts to get sidewalks put in where they should be.

Mr. Dix asked if there is room on the street side to install a sidewalk next to the fence. In response, Mr. Weisz stated that there is room, but it would have to meander a little bit and wouldn't be in the standard location. Mr. Dix requested information on the cost of the sidewalk and the total cost of the proposed project. The sidewalk along 33<sup>rd</sup> Street would cost approximately \$20,000.00 compared to a thirty million dollar project. Mr. Weisz stated that it is the principal and there is no destination with the subject property being fenced. If there would be sidewalks in the future in the neighborhood it would make sense to have a sidewalk on the other side of the street of 33<sup>rd</sup> Street. Mr. Dix stated that the destination is at each end of the project. Sidewalks are not necessarily meant for those who own the property behind them, but meant for people coming to and from the sidewalk. There has to be a line drawn somewhere on what will be supported and not supported in way of a waiver because the City needs sidewalks. Sidewalks support pedestrian traffic, bicycles, etc. Mr. Weisz stated that he understands the need for sidewalks and there have been many instances where his clients wanted to ask for a waiver and he advised them not to. Mr. Weisz further stated that the subject property has been platted before, but due to purchasing three additional lots, his client decided to replat. The subject proposal is 600 feet from 33<sup>rd</sup> Street. The sidewalk will serve no purpose to the subject property and because there are no sidewalks within the neighborhood, he felt it was reasonable to request the waiver. Mr. Dix stated that the excuse that the people who own the project will not be served by the sidewalk doesn't hold water with him. He can't find a reason to grant the waiver.

David Steele, Senior Engineer for the City of Tulsa stated that the City of Tulsa's fee-in-lieu sidewalk costs/allowance is \$55.00 a square yard for a standard four-

inch thick sidewalk, which is based on bid prices received by the engineering service provider each year.

Mr. Leighty asked Mr. Weisz if the issue is the money it costs to install the sidewalks. In response, Mr. Weisz stated that it is about the money and hating to see it wasted. Mr. Leighty stated that everyone likes sidewalks but no one wants to pay for them. Sidewalks are important to the quality of life and they have been neglected for too long. This is a long section and someone could walk from one end to the other and be close to ½ mile. Mr. Leighty commended the Oklahoma Methodist Manor for their campus and their service to Tulsa. Mr. Leighty indicated that he will vote with the majority vote of the Planning Commission.

Ms. Wright concurs with Mr. Dix and strongly supports sidewalks. Ms. Wright asked Legal if the Planning Commission could request a fee-in-lieu of the sidewalk requirement. In response, Mr. Boulden stated that it would require the approval of the Public Works Director and the concurrence of the Planning Commission. Ms. Wright asked if the Planning Commission could request that the applicant participate in the fee-in-lieu of the sidewalks. If there is no fee-in-lieu of there should be a sidewalk. Ms. Wright indicated that she would support a sidewalk.

Ms. Cantrell stated that this is a tough position, and if it weren't for the fact that she believes that the requirement is not commensurate with the actual development, she would be more hesitant.

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **4-5-0** (Cantrell, Carnes, Liotta, Midget, "aye"; Dix, Leighty, Shivel, Walker, Wright "nays"; none "abstaining"; Edwards, McArtor "absent") to **APPROVE** the preliminary plat for Oklahoma Methodist Manor and **DENY** the request for the sidewalk waiver.

**Motion Failed.**

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **7-2-0** (Cantrell, Carnes, Dix, Liotta, Midget, Shivel, Walker, "aye"; Leighty, Wright "nays"; none "abstaining"; Edwards, McArtor "absent") to **APPROVE** the preliminary plat for Oklahoma Methodist Manor per staff recommendation, subject to special conditions and standard conditions and to waive the sidewalk requirement along 33<sup>rd</sup> Street.

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Ms. Cantrell stated that she will recuse herself from Item 10, Darby Industrial Park and Mr. Leighty will chair.

Ms. Cantrell out at 2:15 p.m.

10. **Darby Industrial Park** – (0321) Preliminary Plat (CD 3)  
2940 North Toledo Avenue, North of Apache Street,  
West of North Toledo Avenue

**STAFF RECOMMENDATION:**

This plat consists of one lot, one block, on 8.38 acres.

The following issues were discussed October 7, 2010, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned IL (industrial light). The Comprehensive Plan designates the area as Growth and Employment areas.
2. **Streets:** Fifty feet of right-of-way along North Toledo must be dedicated to the City of Tulsa. Include standard section for sidewalks. Provide five-foot wide sidewalk and ramps along North Toledo Avenue.
3. **Sewer:** No comment.
4. **Water:** No comment.
5. **Storm Drainage:** No comment.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** AT&T pointed out the need to make sure that covenants are completed with standard utility language (see Section B4).
7. **Other: Fire:** No comment.

**GIS:** Tie the plat from a section corner using bearings and distances from a labeled point of commencement to the labeled point of beginning on the face of the plat. Add point of beginning and point of commencement to the legend. Add scale information. Provide all surveyor and engineer information. Show railroad and Gilcrease Expressway on location map. Correct the inconsistencies in the description for covenants and face of plat. Show "date of preparation". Submit subdivision control data sheet.

Staff recommends **APPROVAL** of the Preliminary Subdivision plat subject to the TAC comments and the special and standard conditions below. There is a sidewalk waiver requested with this plat. Attached is the information as provided by the applicant. The area in question is industrial with industrial uses except for a site with residential zoning and dilapidated structures on it, which is surrounded



by industrial zoning that will eventually transition to industrial zoning. The street for the plat dead-ends into the highway right-of-way and there are no sidewalks anywhere in the area. The ordinance for fee-in-lieu of sidewalks deals with arterial streets and would not be usable in this instance.

**Waivers of Subdivision Regulations:**

1. A sidewalk waiver is requested.

**Special Conditions:**

1. The concerns of the Public Works Department and Development Services 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.

**INTERESTED PARTIES COMMENTS:**

**Councilor Turner**, District 3, stated that he is in favor of the sidewalk waiver. The borrow ditches are very shallow and there is no traffic in the subject area. There are only two areas in the subject area that are still zoned RS-3. Councilor Turner stated that he doesn't want to start putting things on businesses that are moving into Tulsa that are unnecessary. The subject area has borrow ditches and doesn't have any sidewalks. There are no homes in the subject area to have pedestrian traffic and the street dead ends at the expressway. The businesses moved into the subject area with it looking this way and as a group, if they decide they want the street repaired and sidewalks, they could get a paving district set up. The subject area is for businesses and they are the same type of businesses.

**TMAPC COMMENTS:**

In response to Mr. Walker, Councilor Turner stated that he doesn't want to lose the borrow ditches in order to install sidewalks.

Mr. Steele, Senior Engineer for City of Tulsa, stated that there is no provisions for a waiver for sidewalks for a stormwater management facility, such as a borrow ditch. If the sidewalk is required in a certain area, the stormwater may have to go into an underground conduit. There would have to be engineering done to make sure that this happens. Mr. Steele concluded that sidewalks can't be waived simply because of stormwater facilities. In response to Ms. Wright, Mr. Steele stated that the burden of cost would be based on the circumstances. Sidewalks can be placed away from the borrow ditch to where both could be in place.

**Applicant's Comments:**

**Chuck Holliday**, Harden & Associates Surveying, stated that the only pockets of residential are on the south end of Toledo against Apache. The residential area is completely dilapidated and overgrown and has been for many years. If it were to redevelop in the future he would guess it would be industrial rather than residential. If a sidewalk is required, he would have to level the slopes and it reduce the volume of the borrow ditches. Stormwater Management feels that it is currently draining adequately for the subject area, but if the sidewalks are installed he believes it would significantly change the drainage.

**INTERESTED PARTIES COMMENTS:**

**Bob Darby**, President of Darby Equipment, 2854 South Gary 74114, stated that he purchased the subject property and adjoining land to build offices. There is

one home in the subject area and it is dilapidated, so there would be no residents in the subject area to utilize sidewalks.

**TMAPC COMMENTS:**

Mr. Leighty asked if the employees in the area could use the sidewalk. In response, Mr. Darby stated that he wouldn't think so because the other businesses are quite a distance away. He indicated that he would be putting in a fitness center in the new office and possibly a walking track.

Ms. Wright asked Mr. Steele if the sidewalks would interrupt the flow of stormwater drainage. Mr. Steele stated that the City wouldn't approve a sidewalk that would alter the flow. There are cases where one can appeal to the Director of Public Works if topography or other conditions such that sidewalks are not physically practical, then the Director of Public Works could waive the requirement.

Mr. Dix stated that in the previous case it was dealing with a sidewalk going from residences to residences, but in this case it is going from a sidewalk from nothing to nothing. He indicated that he is in support of the waiver.

Mr. Carnes stated that this is infill and encourage infill that is industrial. There are many reasons for the sidewalk not being necessary. Mr. Carnes indicated that he would be in support of waiving the sidewalks.

Mr. Liotta stated that everyone is searching for consistency and trying to apply a consistent principle on case-by-case basis. The sidewalks wouldn't be adding anything to the residence because it is ½ mile to any residence. This is purely an industrial park and surrounded by industrial light. Mr. Liotta stated that there wouldn't be any benefit by adding sidewalks.

Mr. Midget stated that he agrees with the consistency statements and it would be unreasonable to require these sidewalks in this case, given the condition and location of the subject area.

Ms. Wright stated that she is disappointed that the Planning Commission has strayed so far from their commitment to have sidewalks. It doesn't matter if there are residents there are not. There might be employees or other people using that area. This is a sign of revitalization when there are sidewalks showing that there is attention being paid to an area. Basically the Planning Commission is condemning it to non-growth and it is an area of growth and stability. Sidewalks fall into the category of showing signs of growth. The Planning Commission has to look at this so that they become more consistent in the sidewalk requirements and quit doing this waiver for whatever reason people can come up with. Ms. Wright indicated that she is opposed to waiving the sidewalks and will be voting against this. Ms. Wright stated that she supports having sidewalks in the subject area and to quit making excuses for the Planning Commission not doing their job.

Mr. Midget stated that he takes issue with Ms. Wright's comments. The Planning Commission needs to be responsible and reasonable when looking at developments. To require sidewalks just for the sake of requiring sidewalks he believes is irresponsible. Mr. Midget stated that in his opinion he is being reasonable and fair.

Mr. Leighty stated that he hopes that Mr. Midget doesn't believe that if the Planning Commission doesn't agree with him that they are being unfair. Mr. Leighty stated that his feeling on this issue is that the Planning Commission has a mandate from the Citizens of Tulsa to increase the walkability to our businesses and neighborhoods. This is a proven fact and it is part of the Comprehensive Plan. We need sidewalks in neighborhoods, commercial areas and industrial areas. Mr. Leighty indicated that he would be voting against the waiver. Mr. Leighty stated that he appreciates Councilor Turner taking time to come to the Planning Commission today on behalf of the business person who is feeling like they are being singled-out and he understands his reasoning completely, but he believes that the Planning Commission needs to refocus their thinking that sidewalks and infrastructure are part of doing business and part of what we are really trying to build in Tulsa. Everyone needs to step up to the plate and do their share and that may have to be piece by piece since there are not a lot of funds out there right now to build sidewalks throughout the City.

Mr. Walker moved to approve the application per staff recommendation.

Mr. Carnes seconded.

**TMAPC Action; 8 members present:**

On **MOTION** of **WALKER**, TMAPC voted **6-2-0** (Carnes, Dix, Liotta, Midget, Shivel, Walker "aye"; Leighty, Wright "nays"; none "abstaining"; Cantrell, Edwards, McArtor "absent") to **APPROVE** the preliminary plat for Darby Industrial Park per staff recommendation, subject to special conditions and standard conditions and approval of the sidewalk waiver.

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Ms. Cantrell in at 2:31 p.m.

**OTHER BUSINESS:**

12. Request by Tulsa City Council directing TMAPC to study and report on recommending Zoning Code amendments to protect Historic Preservation District boundaries.

### **STAFF RECOMMENDATION:**

Mr. Alberty stated that the Planning Commission received a letter from the Chairman of the City Council requesting this study. The Preservation Commission requested the City Council to request the Planning Commission to conduct the study based on some issues regarding the boundaries of Historic Preservation District. The request was not specific or clear and would probably require some discussion to determine exactly what the intent and the purpose was for the request.

### **INTERESTED PARTIES COMMENTS:**

**Amanda DeCort**, staff for Tulsa Preservation Commission, stated that essentially she is present to ask for the opportunity to work with the Planning Commission and staff to study these issues. For a long time there has been development pressure on the edges of the four HP zoned districts that border on commercial arterials. Ms. DeCort stated that she would like to search for consistency and make sure that development that occurs on the commercial arterials can co-exist peacefully with the residential neighborhoods. These residents have worked hard to achieve the HP zoning layer and would like for it to be very clear how that HP zoning overlay interacts with any commercial zoning it might abut or find itself affected in some other manner by the commercial zoning. With the Zoning Code being rewritten, it would be a good time to get this issue addressed.

### **TMAPC COMMENTS:**

Ms. Cantrell asked Ms. DeCort if there are specific issues that the Preservation Commission has already contemplated or if they are starting from scratch. Ms. DeCort stated that there needs to be some research. She further stated that in the past, the PUD and the HP zoning overlay have sometimes found themselves at odds and it would be helpful to determine how those two overlays could work together.

Mr. Walker asked Ms. DeCort if there was an event or application that triggered this request. In response, Ms. DeCort stated that September 9, 2010 was the regular Preservation Commission meeting and this issue was part of it. Recently there have been some requests for demolition in the HP district. This is something that has been seen in the past and there is no reason to believe it is going to go away. The Commission would like to find a way for it all to work together.

Mr. Walker asked Ms. DeCort if she had recently met with Hillcrest or St. Johns about this issue. In response, Ms. DeCort stated that she hasn't and this request is to look at the Zoning Code as the HP relates to the commercial zoning. Ms. DeCort further stated that she is aware that there have been some discussions about a medical corridor but it is separate from this issue. Mr. Walker asked if some demolition permits triggered this request. Ms. DeCort answered affirmatively.

Mr. Dix asked Ms. DeCort if there is another compelling reason besides the demolition permits that the Planning Commission should pull this out of the Zoning Code rewrite and address it now rather than the rest of the Zoning Code. Ms. DeCort stated that the Commission wants to look at it now because it is continuing to see disinvestment near the commercial areas and would like to get ahead of this and be prepared when it is time to rewrite the Zoning Code. The Commission may ask that the Zoning Code be amended now, but that would depend on what the study shows. Mr. Dix stated that he is inclined to deal with this as part of the overall rewrite of the Zoning Code rather than pulling it out and dealing with it now. Ms. DeCort stated that the Commission has been doing a lot on the Preservation Zoning Ordinance lately.

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

**Bob Sober**, Chairman of the Preservation Commission, 2420 East 24<sup>th</sup> Street, 74114, cited the Preservation Commission's authority, purpose and explained the HP zoning. When development is allowed to encroach across the boundary or speculation that it would be allowed to cross the boundary, because of demolition or demolition by neglect of houses on the border, it causes significant detrimental effect on the character of the district. This is why he is here today before the Planning Commission asking for an examination of the Zoning Code and to find the weaknesses in the Code that allow these things to occur and give the TPC the ability to exercise their responsibility for the City by having a little bit stronger borders on the HP districts.

Mr. Sober stated that the timing is important and there is full knowledge that a review of the entire Zoning Code will take place. He believes that it would take possibly two years to reexamine the Zoning Code and a lot can happen during that two year time. This request is a starting point and to help the districts to be preserved and the TPC needs the tools to do this. The tools are inadequate right now and there are some holes that need to be filled and this is not an exhausting job and shouldn't be tied up with waiting for an examination of the entire Zoning Code in order to fill these gaps.

#### **TMAPC COMMENTS:**

Mr. Carnes asked if the permit for demolition had anything to do with the Zoning Code. In response, Mr. Sober stated that if the structure exists inside of an HP district the first thing the property owner must do is come to the TPC and ask for a certificate of appropriateness. Ms. Wright stated that the reason it is so important to look at this now is that there are people waiting out the 60-day stay and tearing down homes by claiming that they are inhabitable. Destruction is happening on the perimeter of the historic district and she understood that this was also to ask for a small area plan to be done as soon as possible. A lot of erosion could happen within the two years it will take to rewrite the Zoning Code.

Mr. Liotta asked Mr. Sober how it is appropriate for the Planning Commission to step into this question prior to the Zoning Code updates. The Planning Commission is in the middle and tries to retain objectivity. In response, Mr. Sober stated that he believes that the Planning Commission is responsible for the zoning and the final decision is made by the City Council. The rules and regulations and the Comprehensive Plan are all through zoning and it is his assumption that the Planning Commission would want to be a party to the creation of the rules and regulations that implement that plan. Mr. Liotta stated that his concern is that individual members could participate, but the request is for the entire Planning Commission to get involved and he has some concerns about that. Mr. Sober stated that it was his assumption that it would be assigned to a committee and then brought back to the Planning Commission for approval. He indicated that the Tulsa Preservation Commission could study this and bring it forward in a matter of weeks.

Mr. Dix stated that it sounds like Mr. Sober already knows what he wants changed and how he wants it changed. In response, Mr. Sober stated that his opinion of what needs to be changed has little weight in any of this. It is about having a group of people involved and understanding and creating rules that allows one to create a City that everyone wants and understand the problems and solutions. The TPC believes that there is a problem and it is their responsibility to point it out. It is not necessarily the TPC's responsibility to design the solution.

Mr. Liotta asked Legal if the City Council has the authority to direct the Planning Commission to do anything. In response, Mr. Boulden read the Zoning Code, Section 1702:

**SECTION 1702. ZONING TEXT AMENDMENTS**

The Planning Commission upon its own motion may, or at the direction of the City Council shall hold a public hearing, giving notice thereof, of a proposed text amendment. After holding the public hearing, the Planning Commission shall within 30 days transmit its report and recommendation to the City Council.

Mr. Midget asked Mr. Sober if he envisions having all parties at the table to study this issue. Mr. Midget stated that the reason he is asking this is because during the PLANiTULSA meetings, there was an attempt to change or amend what had been laid out for the historic boundaries, particularly in the hospital corridor, and the Planning Commission didn't amend it. He was pleased that everyone was on the same table when this was discussed during PLANiTULSA and the Planning Commission had built a confidence that they would proceed with everyone at the table. He doesn't want to violate that trust that was built with all parties involved and nor does he want to impeach the integrity of those of us who have to make a decision or part of that planning process. In response, Mr. Sober stated that he understands and there isn't any intent to undo anything that was done nor any



intent to create a district where there is no district or change a boundary lines where there isn't a boundary line. It is only discussion about what is the boundary lines meant to do and the TPC believes that the boundary lines were meant to allow some protection to the historic character of things that are inside of it and the collective group of structures. When the protection is not happening, for whatever reason, it is then the TPC's responsibility to raise a red flag. Mr. Sober commented that the intent of today's conversation was not intended to affect individual developers or individual property owners inside the district. He indicated that today's discussion is not about a specific property or specific issue, although it may have been triggered by a specific issue.

Mr. Boulden stated that he believes what the TPC is seeing are demolitions on properties that are within the HP district that directly abutting either office or some other use. For clarity purposes, all of the HP districts are zoned residential [except for *Brady Heights*] and so when a house is demolished in a residentially zoned HP district the people within the HP district have an expectation that what will be constructed on that property will be compatible with residential zoning and the HP zoning. Whatever is constructed would meet the design guidelines that have been approved by the City of Tulsa and would be compatible with historic districts character. What can happen in those situations, particularly where residential property borders another use zoned property (OL or CS) would be that a PUD could be put over both the commercial or office property and the abutting residential and then pursuant to the Zoning Code, PUD Chapter, something that would not be residential could be constructed on the HP zoned property. There is a specific provision in the PUD chapter that the Planning Commission might want to consider, which is Section 1103.A.3. Mr. Boulden suggested language that could be included in Section 1103.A.3, which would prevent the PUD from encroaching into residential use in the HP districts.

In response to Mr. Midget, Mr. Boulden stated that he believes that the allocation of uses in paragraph three would say it would be allowed by the Code and it would not necessarily have to abide by the HP zoning district design guidelines. It may be a vacant lot or a parking lot or some other use that would not have been expected to be constructed in an HP district.

Ms. Wright stated that this is an example of types of issues that need to be identified and the TPC are our step-child in a way. They report to us and we report to the City Council. It sounds like there is a need for a task force to identify some of the stakeholders and issues. This is a sensitive area and there needs to be a small area plans in the future. This is like precursor to this.

Mr. Midget stated that he isn't sure who Ms. Wright is addressing her statements, but he is not hearing from Mr. Sober that the Planning Commission do a small area plan or that this is a precursor leaning toward a small area plan. Mr. Midget further stated that what he is hearing is that TPC is asking for the Planning

Commission to reexamine the Zoning Code in order to restore the integrity of the HP district and not anything remotely related to a small area plan.

Mr. Sober stated that the reality is that Mr. Midget and Ms. Wright are both right. There have been two requests sent to the City Council and they were both approved. One was to have a small area plan performed in the area that was identified as the medical corridor (21<sup>st</sup> Street to 11<sup>th</sup> Street, St. Johns and Hillcrest) some 700 to 1,000 feet wide that would address the very real concerns that should be addressed for that area. The issue before the Planning Commission is about boundary lines for HP districts wherever they may occur. It came today because of a specific event or series of events that would heightened the concern for the boundaries. The TPC is doing what they think is important to do and that is to point it out. The current way the Code is interpreted or written is allowing for the destruction of the character along the perimeter and has an enormous impact far into the district, which some is due to the zoning and some of it is due to speculation that the zoning will be approved because there is a precedent for that. There are things in the Zoning Code and past actions that have created circumstances that have diminished the character of some districts and are a possibility for all districts. The TPC wants to protect the big picture and to protect the boundary lines of historic preservation districts so that the TPC is capable of actually doing its job to protect the character of historic districts in Tulsa.

Mr. Carnes asked where the demolition took place. In response, Ms. Cantrell stated that Mr. Leighty has been waiting for a long time to say something and then Mr. Carnes. Ms. Cantrell reminded everyone that there is a full work session following today's meeting.

Mr. Leighty stated that he totally understands why the TPC is coming with the request and he would support a committee looking into this issue. Mr. Leighty commented that it will take some time to get the Zoning Code amended and with the priorities of hiring a new Planning Director and getting the Zoning Code amended it will be a long process. Mr. Leighty further stated that he doesn't know how this could be effective in doing this without the direction of a Planning Director. Obviously we have staff, but we really need some professional advice and he doesn't see how having these hearings and talking among ourselves is really going to do it. The best way for the TPC to protect their interest is stay up with the zoning cases that come before the Planning Commission and be vocal and let us know what their views are. In the meantime, if the TPC wanted to come up with a series of talking points or something to discuss at a work session, that would be a good idea. Mr. Leighty commented that there is a tiny issue here and properties are maybe threatened and they can be handled in public hearings. If the Planning Commission wants to approve this he would support it, but if not he hopes that the TPC will give the Planning Commission their best advice and be taken under advisement.

Ms. Cantrell stated that she wanted to make a quick comment. This is not something for the Planning Commission to vote up or down on. The Planning Commission has been directed by City Council to do this and she is certainly not going back to Council personally and saying that the Planning Commission chose not to do this. If someone else wants to do that, that is fine, but she believes that the Planning Commission has to do something because they have been directed to do so.

In response to Mr. Walker, Mr. Alberty stated that the Planning Commission could instruct staff to prepare and frame the issues. He would involve other staff, Mr. Sober and perhaps some other residents and TPC staff. Staff would bring a letter back to the next meeting to frame the issues and allow the Planning Commission to decide to put this in a work session to further discuss it or make a recommendation for a Zoning Code change. Mr. Alberty further stated that it seems to be clear-cut what the issues are.

Mr. Carnes stated that he would still like to get an answer of where the demolition that triggered these issues. He would like to drive the area that has triggered the issues. Mr. Alberty stated that there was an application at 15<sup>th</sup> and Utica (Arvest Bank) and he believes this one of the things that will be brought out in the report. There was a property acquired that was within the HP district and there was a dwelling on the subject property that the attorney representing the bank made an application to the TPC to demolish the structure. The attorney was turned down for demolition and waited the 60 days and then demolished the structure and filed a PUD. The Planning Commission had recommended amending the HP district and the City Council decided not to do that because there was a companion PUD filed and they handled it through the PUD rather than amending the HP district. Mr. Alberty indicated that this issue happened approximately three years ago. Ms. Cantrell stated that it may have been longer than three years. Ms. Wright stated that the TPC has little enforcement ability to protect its boundaries and developers wait out the 60 days and it is eroding the whole district. Ms. Wright further stated that she appreciates staff looking into these things and many of the issues that have come up over the years. Ms. Cantrell thanked Mr. Alberty and encouraged the Planning Commission to let Mr. Alberty know if they have any other ideas or thoughts regarding this issue.

Mr. Sober stated that the Arvest Bank issue did take place in 2004 and 2005. Three houses were demolished in that effort and all were within the HP district. That is their right to do that, and since that time, three more houses have been under application for demolition. One has been demolished and two have been waiting for the 60 day waiting period to be demolished because they were denied (15<sup>th</sup> and 16<sup>th</sup> along Victor).

Ms. DeCort stated that Ms. Wright referred to a home that wasn't in the district being discussed, but was in another HP district and so it is not just in one district that this is happening in. In any area with a lot of commercial activity there may

be some speculative demolitions so that the property can be reused for commercial or parking to support commercial.

Ms. Sober stated that it can be easily assumed that the TPC doesn't support development, which is absolutely not true. The TPC is in favor of development and having historic resources work hand in hand, which requires preplanning. It is important for the City and the TPC doesn't want to be an obstacle to that, but do both at the same time.

Ms. Cantrell stated that this issue will be revisited at the next meeting and staff will work on framing the issues.

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**Commissioners' Comments**

Ms. Cantrell stated everyone is thinking of Dane and wishing her the best and miss her. Our thoughts and prayers are with her.

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There being no further business, the Chair declared the meeting adjourned at 3:16 p.m.

Date Approved:

11-17-10



Chairman

ATTEST:



Secretary