

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2601

Wednesday, May 4, 2011, 1:30 p.m.

City Council Chamber

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

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, April 28, 2011 at 3:35 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 Leighty called the meeting to order at 1:30 p.m.

REPORTS:

Chairman's Report:

Mr. Leighty reported that students from the Holy Family Cathedral School will be joining the meeting soon.

Work Session Report:

Mr. Leighty reported that he hasn't mailed the letter to the Mayor, but there were no changes recommended and it will be sent out as it was drafted.

Director's Report:

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

Mr. Leighty asked if the City Council will take action on the HP issue during the 2nd reading this Thursday. In response, Mr. Alberty stated that he can't answer that question. Mr. Alberty indicated that he was surprised to see it on the agenda and has received many calls regarding this item.

Mr. Leighty asked Mr. Alberty about the T-Gov status. In response, Mr. Alberty stated that a new employee has been hired and it is his understanding that they are working on the issues regarding publishing the TMAPC meetings with the agenda.

Mr. Midget stated that he was surprised that during the meeting held by Councilor Barnes that there was no real representation from the Preservation Commission to speak. Mr. Midget stated that he would like it on record that when this issue first came up and the Planning Commission discussed it and decided not change the text, his position was to bring all of the parties together to talk about it. He envisioned a different kind of work session and he let it slip by. He would like to discuss with all parties about small area planning and an ordinance of that nature. While there is some merit to it, he believes it is too broad and it may impact other neighborhoods that may want some of the elements that this ordinance would restrict.

Mr. Leighty stated that this issue should be taken up under the Planning Commissioners Comments at the end of the meeting. Mr. Midget stated that would be fine, but since the subject came up he wanted to mention it.

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Mr. Dix read the opening statement and rules of conduct for the TMAPC meeting.

Minutes:

Approval of the minutes of April 20, 2011 Meeting No. 2600

On **MOTION** of **MIDGET**, the TMAPC voted 7-0-0 (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **APPROVE** the minutes of the meeting of April 20, 2011, Meeting No. 2600.

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CONSENT AGENDA

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

2. **LC-328 – Tulsa Development Authority**, (Lot-Combo) (CD-1) Location: Southeast corner of North Cincinnati Avenue and East Seminole Place
3. **LC-329 – Tulsa Development Authority**, (Lot-Combo) (CD-1) Location: North of the Northwest corner of East Reading Street and North Cincinnati Place
4. **LC-330 – Tulsa Development Authority**, (Lot-Combo) (CD-1) Location: North of the Northwest corner of East Reading Street and North Cincinnati Place
5. **LC-331 – Tulsa Development Authority**, (Lot-Combo) (CD-1) Location: Northwest corner of East Reading Street and North Cincinnati Place
6. **LC-332 – Tulsa Development Authority**, (Lot-Combo) (CD-1) Location: Northeast corner of East Reading Street and North Cincinnati Avenue
7. **LC-333 – Tulsa Development Authority**, (Lot-Combo) (CD-1) Location: North of the Northeast corner of East Reading Street and North Cincinnati Avenue
8. **LC-334 – Tulsa Development Authority**, (Lot-Combo) (CD-1) Location: North of the Northeast corner of East Reading Street and North Cincinnati Avenue

TMAPC COMMENTS:

Mr. Leighty announced that Items 9, 10, 11, 12 and 13 will be removed from the consent agenda.

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **APPROVE** the consent agenda items 2 through 8 per staff recommendation.

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CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:

9. **LC-339 – Kurston P. McMurray**, (Lot-Combo) (CD-4) Location: Southeast corner of South Denver Avenue and West 2nd Street. (Related to LS-20431)
10. **LS-20431 – Kurston P. McMurray**, (Lot-Split) (CD-4) Location: Southeast corner of South Denver Avenue and West 2nd Street. (Related to LC-339)
11. **LC-340 – Kurston P. McMurray**, (Lot-Combo) (CD-4) Location: Southwest corner of South Cheyenne Avenue and West 2nd Street. (Related to LS-20431)

TMAPC COMMENTS:

Mr. Leighty stated that the applicant signed up to speak and he has indicated his agreement with the staff recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **APPROVE** items 9, 10 and 11 per staff recommendation.

12. **Riverbend Gardens** – Final Plat, (9211) (CD 4), Location: South and west of southwest corner of West 7th Street and South Elwood Avenue (Continued from 4/6/11 and 4/20/11.) **Strike item.**

STRICKEN.

13. **PUD-166-A-1 – Crown Neon Signs/Sheridan South Office Park**, Location: South of the southeast corner of East 91st Street South and South Sheridan Road, Requesting a Minor Amendment to increase the size of a sign to allow for the replacement of a sign removed by the City of Tulsa due to the widening of South Sheridan Road, **CS/PUD** (CD-8)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to increase the size of a sign to allow for the replacement of a sign removed by the City of Tulsa due to the widening of South Sheridan Road (see Exhibit A).

The requested sign would be a multi-tenant sign, 18-feet in height with 102 square feet (SF) of display surface area (DSA) as seen on the attached Exhibit B.

The PUD currently allows for one sign not to exceed 12-feet in height or 32 SF of display surface area. While this standard is consistent with the office use of the property it is not consistent with the underlying CS zoning of the property or the signs allowed on surrounding properties. The underlying CS zoning would permit a sign 25-feet in height with 330 SF of display area based on the 165-feet of frontage the lot has on South Sheridan Road.

All four corners of the intersection of 91st Street South and South Sheridan Road are zoned CS. Please refer to the attached Exhibit C for photographs of other signs in PUD-166 as well as signs in the vicinity.

The original approval of PUD-166 allowed for commercial uses on this tract. When PUD-166 was amended in 1981 to allow this tract to be developed as a multi-tenant office the standard was written to follow the office use since the area was much more remote at the time. Since then the intersection has transitioned into much more of a commercial center.

Staff contends approval of the minor amendment will not substantially alter the size, location, number and types of signs within the PUD and will not significantly change the character of the PUD.

Therefore, staff recommends **APPROVAL** of minor amendment PUD-166-A-1.

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

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Walker, Shivel "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **APPROVE** the minor amendment for PUD-166-A-1 per staff recommendation.

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Mr. Leighty welcomed the students from Holy Family Cathedral and explained the mission of the Planning Commission.

COMPREHENSIVE PLAN PUBLIC HEARINGS:

14. Consider Adoption of the City of Tulsa Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan as Amendments to the Comprehensive Plan for the City of Tulsa

STAFF RECOMMENDATION:

Staff has reviewed the above-referenced plan, which is required to update the City's compliance with Federal ADA regulations and indicate plans for future improvements. The City of Tulsa has long been cognizant of the need for accessibility by all people.

The recently adopted comprehensive plan encourages full accessibility by all residents to all venues within the city by a variety of forms of transportation. The transportation plan component also encourages multi-modal transportation on the major roadways, including sidewalks along streets. The City's Subdivision Regulations also address the need for sidewalks. Currently, the permitting process includes review of building and other plans for compliance with ADA regulations. The public transit system (Tulsa Transit) is now totally ADA accessible and the LIFT program operates to serve its clients as a part of Tulsa Transit. This ADA Plan Update reinforces that proactive approach and emphasizes the vision of the comprehensive plan. Therefore, staff recommends that the ADA Self Evaluation and Transition Plan Update be adopted as part of the comprehensive plan and recommends that the TMAPC do likewise.

Applicant's Comments:

Brian Shamburger and Kristi Avalos, Kimley-Horn and Associates, Inc., presented a PowerPoint presentation for the ADA Self-Evaluation and Transition Plan Update.

Brent Stout, Public Works, thanked everyone for their time and consideration of this issue.

TMAPC COMMENTS:

Mr. Leighty expressed concerns that the ADA plan is a 30-year plan. Mr. Leighty suggested that the Planning Commission add some language to the consultant's plan that states that the City of Tulsa is devoted to trying to do this as aggressively as possible and identify funds to do it in a fashion sooner, but we are going to allow ourselves 30 years under the worst case scenario. Mr. Leighty stated that he hopes he can get the support of the other Commissioners to amend whatever it is before us today and put some kind of language that states we are going to try to do better [sic].

Mr. Alberty stated that this has been prepared as a document, which is required and staff is recommending that the Planning Commission approve and adopt this plan to make it a part of the Comprehensive Plan. The motion could state the comments regarding the timeframe, because he doesn't believe the Planning Commission would want to add anything to their report. It was done by the consultants and supported by City staff. Any additional comments or support probably could be placed in the motion. Mr. Boulden agreed with Mr. Alberty and explained that this will ultimately be a part of the Capital Improvement Projects and it will be a matter of financing for the City of Tulsa. The statement could be made to encourage the City of Tulsa to accomplish this faster. Mr. Alberty stated that since the Planning Commission isn't a funding organization, there is not control over the funds.

Ms. Matthews stated that a few months ago the Planning Commission found in accordance with the Comprehensive Plan a whole series of ADA requests for CIPs, which were prepared by Mr. Stout who worked with the consultants. The Planning Commission has already endorsed several of the improvements.

Mr. Leighty stated that the Comprehensive Plan has a lot of visionary statements and he doesn't see why we can't have a visionary statement in this to state to the public and to those individuals who are affected directly by our non-compliance, which has been going on since 1992. There is an enormous backlog of needs in order to get them into compliance. He believes that this is a responsibility of a community to try and address those needs and allowing 30 years to do it is a stretch. If government says they are going to take 30 years, then they will take the 30 years and he believes that if the City can identify funds, is aggressive about seeking these funds and understanding the need of the people who are affected by this, they are going to try and do better. Mr. Leighty asked Mr. Shamburger if he knew how to get this type of language in the plan.

Mr. Dix commented that Mr. Leighty's suggestion to add language in the plan is probably putting them in the position of the City Council. He believes that this would be the Council's responsibility and not the Planning Commissions. Mr. Leighty stated that the Planning Commission can make a recommendation and the Council can accept it or not. Mr. Dix suggested that a recommendation be made and not belabor the subject.

Ms. Cantrell asked if securing the ADA Plan helps secure federal funds or make the role easier. In response, Mr. Shamburger stated that the Planning Commission has gone through the steps to identify the need and therefore he believes it vents the argument that the City will pursue federal funds. There are no guarantees for federal funding. This plan identifies the need and the severity of the need.

Mr. Leighty asked Mr. Shamburger to answer his question about adding language to the Plan or motion that the City will try to achieve this faster than the 30 years. Mr. Shamburger stated that anytime one shows commitment it is good, but it will not help or hurt in either way. The City is looking at a reasonable funding schedule that is possible to achieve. There is no control on what funding is available and this plan simply identifies the need. Mr. Leighty stated that the City has control over how aggressively they seek funds and how much of a priority is made. Mr. Shamburger stated that the language in the document does say that the City will do everything they can to secure funding and look at other opportunities to help lower the cost impact and outside funding sources.

Mr. Liotta asked Mr. Shamburger if there was an opportunity for representatives of folks with disabilities to have input in the development of this document. In response, Mr. Shamburger stated that they were made a part of the steering advisory committee.

TMAPC Action; 7 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to recommend **APPROVAL** of the adoption of the City of Tulsa Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan as amendments to the Comprehensive Plan for the City of Tulsa and that we will do everything possible to come into full compliance at the earliest possible opportunity that funding becomes available, and hopefully less than the 30 years projected.

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PUBLIC HEARING

15. **Jenks West 3rd and 4th Grade Center Addition** – (8214) (CD 2) Minor Subdivision Plat, Location: North of West 91st Street, East of U.S. 75
16. **Authorization for an Accelerated Building Permit** – (8214) (CD 2), Jenks West 3rd and 4th Grade Center Addition, Location: North of West 91st Street, East of U.S. 75

STAFF RECOMMENDATION:

Applicant has requested a continuance for Items 15 and 16 to May 18, 2011.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **CONTINUE** Item 15, Jenks West 3rd and 4th Grade Center Addition, Minor Subdivision Plat and Item 16, authorization for an accelerated building permit to May 18, 2011.

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17. **Woodland Valley Office Park II** – (8301) (CD 7) Minor Subdivision Plat, Location: 8920 East 61st Street

STAFF RECOMMENDATION:

This plat consists of two lots, one block, on 3.5 acres.

The following issues were discussed April 21, 2011, at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned Planned Unit Development 397 C. Setbacks need to meet requirements of the Planned Unit Development standards. PUD standards need to be recited in the restrictive covenants.
2. **Streets:** Include sections on Limits of No Access and sidewalks. Maximum width of driveway on 90th East Avenue cannot exceed 36 feet.

3. **Sewer:** The 15-foot utility easement shown along the west boundary line of the plat needs to be increased to a 17.5-foot utility easement. Show the existing easement width for the existing lots along the south boundary line of the plat. Since Lot 1 does not have access to a sanitary sewer main for service, the plat can not be filed until sanitary sewer plans have been approved and construction started. The scale shown on the title block area does not appear to match the one used in the drawing. The proposed lamp hole must extend a minimum of ten feet into Lot 1. If the generator enclosure is constructed of anything other than a fence, it will not be allowed to encroach into the utility easement.
4. **Water:** A looped water main line extension could be required for meeting fire hydrant spacing needs.
5. **Storm Drainage:** Remove contours from the face of plat. Drainage flowing onto the site from the west is public drainage, and must be conveyed across the site in a public overland drainage easement and/or storm sewer easement. Remove "Paragraph C" from the 1st line of Subsection I.C.5, and replace it with "Above Paragraphs" or "Subsection I.C". Add the standard language for overland drainage easement.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** Back to back eleven-foot easements are acceptable. Additional easement may be required on Lot 1.
7. **Other: Fire:** Fire hydrant will be required within 400 feet of any part of a non-sprinkled building and within 600 feet of any part of a sprinkled building.

GIS: Scale the location map and state what the scale is. Provide the expiration date for the engineer/surveyor number. The basis of bearings needs to provide degrees, minutes and seconds of that bearing from the described plat. Please make note on the face of the plat of any benchmarks. On face of plat show number of lots, blocks, and reserves. Add the word "scale" and move the text "1" = 40" to be beneath the graphic scale bar. On face of plat add the bearing for the 60-foot distance leading to point of beginning. Submit subdivision control data form. Add date of preparation. Fix inconsistencies between metes and bounds description and face of plat. The bearing described for the distance of 348.52 feet on the northerly line of "The Cottages at Woodland Valley" does not match what is shown on the face of the plat. The distance leading back to the point of beginning is shown as 449.99 feet on the face of the plat but is described in the legal description as 450.00 feet.

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

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. The concerns of the Public Works Department 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.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **APPROVE** the minor subdivision plat for Woodland Valley Office Park II per staff recommendation, subject to special conditions and standard conditions.

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18. **Authorization for an Accelerated Building Permit – (8301) (CD 7)**
Woodland Valley Office Park II, Location: 8920 East 61st Street

STAFF RECOMMENDATION:

The property is zoned Planned Unit Development 397 C. Full permits are requested. The site has been previously platted.

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

The applicant offers the following explanation of the extraordinary and exceptional circumstances that serve as the basis for this request: TFCU (Tinker Federal Credit Union) is proposing a relocation of TFCU's branch at 61st and Memorial (Eton Square).

In order to vacate the existing facility this year the new branch must be open. This permit if approved will give TFCU more time for construction and more flexibility should weather become a factor. Nothing is proposed on Lot 2.

The following information was provided by the Technical Advisory Committee in its meeting April 21, 2011:

ZONING:

TMAPC Staff: A full permit is requested.

STREETS:

Transportation: No comment.

SEWER:

Waste Water: No water tap can be issued for the building until the sanitary sewer main extension has been completed and accepted into service.

WATER:

Water: No comments.

STORM DRAIN:

Storm Water: Separate instrument easements will be required.

FIRE:

Fire: No comment.

UTILITIES:

No comment.

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

TMAPC COMMENTS:

In response to Mr. Dix, Mrs. Fernandez stated that in this case the accelerated permit doesn't limit the applicant too much. They are asking for full permits to start the development. If there are any problems the applicant wouldn't receive a permit of occupancy. The process saves anywhere from 60 to 120 days because the applicant doesn't have to have a final plat filed. The plat catches up with the development and if there are any problems everything will stop and it is an "at risk" building permit for the developer.

Mr. Dix asked if this is something that should be made part of the standard building permit process. Mrs. Fernandez gave examples of previous accelerated permits granted. The City Legal Department didn't like temporary plat waivers and felt that they were against the law and this process was created.

Ms. Cantrell asked if possibly the wording should be changed regarding "extraordinary or exceptional circumstances". Ms. Cantrell stated that she doesn't see this as problematic, but she doesn't see it as having extraordinary or exceptional circumstances.

Mr. Boulden asked how the location is extraordinary.

Applicant's Comments:

Ted Sack, 111 South Elgin, 74120, stated that when the accelerated building permit came about several years ago, it was to deal with the City-granted foundation permits and certain types of building permits and there was no real way to legally do this without a subdivision plat being filed first. In order to make this process it was legal, the authorization of an accelerated building permit was established. This allows the system to work with the development community and try to expedite the building process and allow projects to proceed.

Mr. Sack explained that this particular project has all of the infrastructure, is basically to the subject property and it is being split into two tracts and before the second tract will ever be allowed to get a building permit, the subdivision plat has to be filed. There are mechanisms and ways to protect the City of Tulsa and to ensure that the property will be platted. In this particular case there is a savings of 30 to 45 days in the process.

TMAPC COMMENTS:

Mr. Leighty informed Mr. Sack that he hasn't responded to Mr. Boulden's question regarding what makes the relocation of the facility an extraordinary circumstance. Mr. Sack stated that the timing is a very critical to them and they can't move forward until such time that they had approval of the banking commission, which was delayed for some time. Now they have it, they would like to proceed with the project.

Mr. Midget asked Mr. Sack if he understood that this was at risk to the developer. In response, Mr. Sack stated that he does understand it and the developer does as well. Mr. Midget stated that he didn't hear staff say that this would be a risk to the City. Mr. Midget agreed with Ms. Cantrell that during a work session perhaps the language should be amended to accommodate these kinds of development. Mr. Midget further stated that he doesn't see any reason to hold this up and have this long discussion.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the accelerated building permits for Office Park II per staff recommendation.

19. **PUD-397-C – Sack & Associates/Mark Capron/Tinker Federal Credit Union**, Location: Southwest corner of 61st Street South and South 90th East Avenue, Requesting Detail Site Plan for a single story, 9,654 square foot federal credit union, **RM-1/PUD (CD-7)**

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for a single-story, 9,654 square foot federal credit union. The proposed use, drive-through banking within Use Unit 11 – Offices, Studios and Support Services and Use Unit 5 – Community Services and Similar Uses are permitted uses in PUD-397-C.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site will be provided from 61st Street and South 90th Avenue East. Parking is provided per the applicable use units of the Zoning Code. Parking area dimensioning meets the applicable requirements of Chapter 13 of the Zoning Code. Landscaping will be provided per PUD requirements and the landscape chapter of the Zoning Code. There is no exterior sight lighting proposed at this time. A trash enclosure will be provided as required by the PUD. Sidewalks will be provided along 61st Street and South 90th East Avenue as required by PUD Development Standards and Subdivision Regulations.

Distinct pedestrian access is provided from the sidewalk along 61st Street and South 90th East Avenue through the parking lot to the front and east side of the building as required by the PUD. Pedestrian access does not cut-through any parking spaces and will be distinguished by either raised pavement or striping on the ground as required (see attached Detail Site Plan Sheet 1).

Staff recommends **APPROVAL** of the detail site plan for PUD-397-C, Lot 1, Block 1 - Tinker Federal Credit Union.

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

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **WALKER**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **APPROVE** the detail site plan for PUD-397-C per staff recommendation.

20. **PUD 781** – (9934) (CD 2) Plat Waiver, Location: Southwest corner of West 53rd Street and South Union Avenue

STAFF RECOMMENDATION:

Stricken from the agenda.

21. **BOA 21250** – (9314) (CD 5) Plat Waiver, Location: 2190 South 67th East Avenue

STAFF RECOMMENDATION:

The platting requirement is being triggered by a Special Exception for a school use in an RS-3 zoning district.

Staff provides the following information from TAC at their April 7, 2011 meeting:

ZONING:

TMAPC Staff: The property was previously platted. Lot splits or combinations will be needed.

STREETS:

Impact of development on traffic may need to be evaluated.

SEWER:

No comment.

WATER:

Depending on the plans for the property a waterline extension for a fire hydrant may be required.

STORMWATER:

Plat was originally filed in 1951. Off site drainage needs to be collected. An Infrastructure Development Plan may be needed. Jones Creek floodplain is located on the western portion of the site. Overland Drainage Easements or Reserve Areas may be needed.

FIRE:

No comment.

UTILITIES:

No comment.

Staff can agree to the plat waiver because the property was previously platted, but would prefer a replat of the property. Easements for drainage

will be needed per approval of Development Services staff. A minor subdivision plat would be acceptable if the property is replatted.

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 may be additional easements needed.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **APPROVE** the plat waiver for BOA-21250 per staff recommendation.

* * * * *

22. **Bluecross Blueshield Addition** – (9212) (CD 4) Sketch Plat, Location:
1400 South Boston Avenue

STAFF RECOMMENDATION:

This plat consists of 1 Lot, 1 Block, on 2.68 acres.

The following issues were discussed April 21, 2011, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned CH. Sketch plats do not proceed to TMAPC unless the applicant requests approval of the planning commission. In this case the sketch plat was inadvertently advertised for the TMAPC meeting. No action is required of the commission.
2. **Streets:** Revise sidewalk note as there is only one block. Provide reference for street right-of-way, include plat # or book and page # for street right-of-way. Where are the private streets referenced in the covenants? The alley is a public right-of-way. Since there are no Limits of No Access on the face of the plat, why is the section included in the covenants?
3. **Sewer:** The face of the plat twice refers to "Note#5". However, I did not find any such notes on plat. A sanitary sewer easement or a utility easement must be provided to protect the existing sanitary sewer pipe. The covenants refer to a sanitary sewer easement, but one was not shown on the face of the plat. If you are going to develop the area over the existing sanitary sewer pipe, then you will be required to video inspect the existing pipe and bring it up to City of Tulsa standards before the work begins. Contact Tony

Patete in Engineering Wastewater design to review the video inspection. If you will pave over the existing pipe, then it must be replaced with ductile iron pipe and type "A" aggregate backfill.

4. **Water:** Use standard language for public streets utility easement; water; sanitary sewer and storm sewer service.
5. **Storm Drainage:** Site features and contours will not be allowed on the face of the preliminary plat. Storm sewer easements must be shown on the face of plat for the public storm sewer system, and they must be a minimum of 15 feet wide, centered on the pipe. The last inlet upstream of a pipe connection to the public system and that pipe will be public, and must be placed in a storm sewer easement. Include standard language for preliminary plat. Show conceptual storm drainage system.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** PSO and Cox may need perimeter and additional easements.
7. **Other: Fire:** No comment.

GIS: Clarify legal description. Submit subdivision control data sheet.

Staff has included this information for TMAPC review in case the public wished to comment on the sketch plat.

Waivers of Subdivision Regulations:

1. None 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 this sketch plat and Item 23 were inadvertently advertised for a meeting and normally sketch plats do not come to the Planning Commission unless the applicant requests a hearing. Ms. Fernandez stated that this is not a hearing for vacation of the easement and that it is a totally different process. Public Works takes care of the vacation of easement process and it is about a 30-day process. Easement closings go to the City Council and then onto District Court. The public input would be done at the City Council meetings.

INTERESTED PARTIES COMMENTS:

Don Honeywell, 1438 South Boston, 74147, expressed concerns about the possibility that the alley behind his business will be closed. He was informed by David Young of Public Works to attend today's meeting to discuss the closure of the alley.

TMAPC COMMENTS:

Mr. Boulden stated that if it is an open alley, then there will be a public hearing before the City Council and if Mr. Honeywell is within 300 feet, he will receive notice.

No action necessary.

* * * * *

23. **Plaza 41 Neighborhood Center** – (9220) (County) Sketch Plat, Location: Northwest corner of West 41st Street South and South 57th West Avenue

STAFF RECOMMENDATION:

This plat consists of one lot, one block, on 9.03 acres.

The following issues were discussed April 21, 2011, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned Planned Unit Development 566. Sketch plats do not proceed to TMAPC unless the applicant requests approval of the planning commission. In this case the sketch plat was inadvertently advertised for the TMAPC meeting. No action is required of the commission. All PUD conditions must be met. The parcel on the northwest corner must be included in the plat as it was never technically filed of record.
2. **Streets:** Revise sidewalk note, as there is only one lot, one block. Provide reference for street right-of-way, include plat # or book and page # for street right-of-way.
3. **Sewer:** Include an easement for the private sanitary sewer septic tank and lateral lines. The 17.5-foot perimeter easement along both the north and south boundary line must extend across the ONG easement, all the way to the west boundary line of the plat. Include restrictive language in the covenants for the private sanitary easement, restricting the use to sanitary sewer purposes only. Include language requiring the owners to disconnect from the septic system, and connect to the City of Tulsa sanitary sewer system within 90 days of it becoming available to the property.
4. **Water:** the extension of a looped water main may be required to serve the tract.
5. **Storm Drainage:** Remove the contours and place them on the conceptual plan for preliminary plat submittal. Label the Berryhill Creek FEMA floodway and floodplain, as such. The entire floodway and floodplain, plus an additional 20 feet adjacent to and outside the limits of those areas on both

sides of them, must be placed in overland drainage easements. Flooding downstream of this site makes this site a good candidate for a stormwater detention facility and its related easement. All offsite drainage flowing onto the site must be collected and conveyed across the site in a public drainage system with its related easements. Standard covenant language should be used for the preliminary plat, and it should include language for overland drainage easements and, if necessary, stormwater detention easements.

6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
7. **Other: Fire:** Fire hydrant will be required within 400 feet of any part of a non-sprinkled building and within 600 feet of any part of a sprinkled building. Fire department access roads need to be 20 feet wide minimum. If fire access road is dead ended over 150 feet a turn around will be required per International Fire Code 12006 appendix D. A release letter from the fire department serving the site will be required.

GIS: Clarify legal description. Submit subdivision control data sheet.

Staff has included this information for TMAPC review in case the public wished to comment on the sketch plat.

Waivers of Subdivision Regulations:

1. None 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.

There were no interested parties wishing to speak.

No action necessary.

24. **PUD-237-A – CRB Companies, LLC/CB Richard Ellis**, Location: West of southwest corner East 73rd Street and Lewis Avenue, Requesting a Major Amendment to add Antenna and Supporting Structure only within Use Unit 4 – Protection and Utilities as a permitted use within the PUD to allow for a cellular antenna to be mounted on the top of the office building, **OM/PUD-237 to OM/PUD-237-A, (CD-2)**

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 14834 dated August 14, 1980, established zoning for the subject property.

RELEVANT ZONING HISTORY:

BOA-21001 November 24, 2009: The Board of Adjustment approved a Variance of the parking requirement for an office use from a previously reduced 201 spaces to 187 spaces and an Amendment to a previously

approved site plan (BOA-18484), on property located at 2250 E. 73rd St. S. and the subject property.

PUD-128-H May 2007: All concurred in approval of a proposed Major Amendment to a PUD on a 8± acre tract of land for cellular tower use on property located on the northwest corner of South Wheeling Ave and East 78th Street.

PUD-128-G May 2005: All concurred in approval of a proposed Major Amendment to a PUD on a 23.8± acre tract of land for office use and multifamily use on property located on the southeast corner of East 73rd Street South and South Wheeling Avenue and abutting north of subject property.

BOA-18484 and PUD-237-1 August 1999: A variance was granted by the Board of Adjustment and a minor amendment was approved for the reduction of the number of parking spaces required for the bank and offices located on the lot west of the southwest corner of East 73rd Street South and South Lewis Avenue and the subject property.

PUD-282 May 1982: All concurred in approval of a proposed Planned Unit Development a 47± acre tract of land for commercial development on property located on the southwest corner of East 71st Street and South Lewis Avenue and abutting north across E. 73rd St of subject property.

PUD-237 August 1980: All concurred in approval of a proposed Planned Unit Development a 3.2± acre tract of land for 7-story office building with barber and beauty shop use on property located west of the southwest corner of 73rd Street and Lewis Avenue and the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 2.68± acres in size and is located west of southwest corner East 73rd Street and South Lewis Avenue. The property is developed and is zoned OM/PUD-237.

SURROUNDING AREA: The subject tract is abutted on the east by Kensington, zoned OM and being used as an office; on the north by East 73rd Street and then Kensington Fashion Center, zoned CS/PUD-282 and being used commercially; on the south and southwest by Kensington, zoned RM-1/OM/RS-3/PUD-128-G and being used as multifamily dwellings; and on the northwest by Kensington, zoned CS/PUD-282.

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

TRANSPORTATION VISION:

The Tulsa Comprehensive Plan does not designate East 73rd Street South; the primary access to the site.

STREETS:

The Tulsa City-County Major Street and Highway Plan Designates East 73rd Street South as a Commercial Collector.

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 73 rd Street	Commercial Collector	80'	4

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Tulsa Comprehensive Plan identifies the subject tract as an Area of Growth and a Regional Center.

Areas of Growth are described in the Plan as areas to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Regional Centers are mid-rise mixed-use areas for large-scale employment, retail, and civic or educational uses. These areas attract workers and visitors from around the region and are key transit hubs; station areas can include housing, retail, entertainment, and other amenities. Automobile parking is provided on-street and in shared lots. Most Regional Centers include a parking management district.

Since this PUD was established well before the adoption of the new Comprehensive Plan, there is no rezone request with this proposal and there is no significant construction involved with the addition of the requested use, staff finds the proposal to be **in accord** with the plan.

STAFF RECOMMENDATION:

PUD-237 is a fully developed 2.6 acre tract located west of the southwest corner of East 73rd Street South and South Lewis Avenue. The tract is flat and is the site of an existing multistory office building (see attached Exhibit A).

The purpose of major amendment PUD-237-A is to add Antenna and Supporting Structure only within Use Unit 4 – Protection and Utilities as a permitted use within the PUD to allow for cellular antenna to be mounted on the top of the office building (see attached Exhibits A and Sheet C-2). The proposal does not include plans to construct a free-standing cellular tower on which the antenna would be mounted.

Triggering the need for the major amendment is the application for building permits to swap out the outdated and existing antenna with newer equipment which should provide better cellular coverage in the area. Upon application for the permits it was discovered that the cellular use is not a permitted use in the PUD, although the existing antenna have been in service for some time.

Since the proposal does not include any significant construction and should not affect any surrounding properties staff views the addition of the use as not significantly altering the character of the PUD. As a note, should a free-standing cellular tower be proposed in the future, the applicant will be required to return to the TMAPC with a PUD major amendment 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-237-A to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-237-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. Development Standards:
All conditions of PUD-237 shall remain effective with the addition of the following:

Permitted Uses*:

All uses permitted as a matter of right in the OM District including Barber and Beauty Shops; Antenna and Supporting Structure only within Use Unit 4 – Protection and Utilities and uses customarily incidental and subordinate to principal permitted uses.

** Should an applicant seek to construct a free-standing cellular tower for location of antenna that proposal will be brought to the TMAPC in the form of a major amendment application.*

Subject to conditions recommended by the Technical Advisory Committee which are approved by TMAPC.

TAC COMMENTS:

General: No comments

Water: No comments

Fire: No comments

Stormwater: No comment

Wastewater: No comments

Transportation: No comments

INCOG Transportation:

- **MSHP:** No comments.
- **LRTP:** No comments.
- **TMP:** E 73rd Street is a planned on-street bikeway.
- **Transit:** No comments.

Traffic: No comments

GIS: No comments

Street Addressing: No Comment (2250 E 73 ST S)

County Engineer: No Comments

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **CANTRELL**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to recommend **APPROVAL** of the major amendment for PUD-237-A per staff recommendation.

Legal Description for PUD-237-A:

Lot 2, Block 9, Kensington, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

* * * * *

25. **PUD 237 A** – (8307) (CD 2) Plat Waiver, Location: 2250 East 73rd Street South

STAFF RECOMMENDATION:

The platting requirement is being triggered by PUD-237-A an amendment to allow a cell antenna on the rooftop of an existing building.

It is the policy of TMAPC to waive the platting requirement for the cell antenna use (Use Unit 4 public protection and utility facilities/antennas and supporting structures). Therefore, staff can recommend **APPROVAL** of the requested plat waiver per pending approval of the Planned Unit Development amendment.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **APPROVE** the plat waiver for PUD-237-A per staff recommendation.

* * * * *

26. **Z-7166 – Bob David/Leadership Property**, Location: Southwest corner of East 31st Street and South Gary Place, **Requesting RS-1 to OL**, (CD-9) **APPLICANT HAS WITHDRAWN THIS REQUEST.**

Z-7166 application was withdrawn by the applicant.

* * * * *

27. **PUD-784 – HRAOK/Dwayne Wilkerson/Stonegate II**, Location: East of northeast corner of East 51st Street and South 177th East Avenue, Requesting PUD for three car garages and an associated extra wide driveway to accommodate the garage, **RS-3 to RS-3/PUD**, (CD-6)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 20915 dated August 25, 2004, established zoning for the subject property.

RELEVANT ZONING HISTORY:

BOA-20265: This application is pending and will be heard by the Board of Adjustment on May 24, 2011. The requests are: Special Exception to permit a (Use Unit 5) Child Care Center and Church use in the AG district (Section 301); and a Variance to permit Recreational Vehicles parked on the site during construction of the facility to be used for dwelling purposes and to be connected to utilities (Section 302.B.3.b); and a Variance to permit the RV's to be parked on a non-all-weather surface (Section 222), on property located north of northeast corner of E. 51st St. and S. 177th E. Ave. and abutting west of subject property.

BOA-20256 April 26, 2011: An application was made to the Board of Adjustment for a Variance of the maximum amount of the required front yard permitted to be covered with an all-weather surface in the RS-3 district from 34% to 45% to permit three car wide driveways in front of three car garages (Section 1303.D), on property located at east of the northeast corner of East 51st Street and South 177th East Avenue and the subject property. The applicant requested and was granted a continuance to the May 10th meeting.

PUD-780 March 2011: All concurred in approval of a proposed Planned Unit Development on a 9.93± acre tract of land for a gated single-family development, on property located north of the northwest corner of East 51st Street and South 177th East Avenue and west of subject property.

BOA-21101-A October 12, 2010: The Board of Adjustment *approved* a Variance of the maximum amount of required front yard permitted to be covered with an all-weather surface parking area in the RS-3 district from 34% to permit 28 ft. wide driveways in front of three (3) bay garages (Section 1303.D). It is specifically emphasized this approval is limited to those residences containing three-bay garages. It is also specifically emphasized there shall remain a minimum of 4,000 square feet livability space per lot throughout the addition regardless of lot size. It is also noted that in the material submitted this area is now known as Oxford Court. This approval is pending the approval of PUD No. 779. The Board finds that according to the Comprehensive Plan this is an area of stability in an existing neighborhood. The existing platted RS-3 zoning is in accordance with developmental objectives as outlined in the Comprehensive Plan. Today's marketing trend is in favor of three-car garages in the Tulsa region as many new homes and new subdivisions are building them, and some possess wide driveways; the driveways in this case shall be limited to 28 feet in width and pertain to the larger rectangular and the pie shaped lots in the addition; on property located south of southwest corner of East 41st Street and South 177th East Avenue and northwest of subject property.

PUD-779 November 2010: All concurred in approval of a proposed Planned Unit Development on a 57± acre tract of land for a single-family development that allows for 28 foot driveways in the required front yard, subject to the approval of the Board of Adjustment, on property located south of southwest corner of East 41st Street and South 177th East Avenue and northwest of subject property.

Z-7048 March 2007: All concurred in approval of a request for rezoning a 46.7± acre tract of land from AG to RS-4 for single-family development on property located south of southwest corner of East 41st Street South and South 177th East Avenue.

Z-7006 January 2006: All concurred in approval of a request to rezone an 80± acre tract from RS-3 to RS-4 for residential purposes located south of the southeast corner of East 41st Street South and South 177th East Avenue.

Z-6970 February 2005: All concurred in approval of a request to rezone a 10± acre tract from AG to RS-3, located south of the southwest corner of East 49th Street and South 177th East Avenue.

Z-6945 August 2004: All concurred in approval of a request to rezone a on a 126.5± acre tract from AG to RS-3, on property located north and east of the northeast corner of East 51st Street and South 177th East Avenue and a part of the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 39± acres in size and is located east of northeast corner of East 51st Street and South 177th East Avenue. The property is vacant and zoned RS-3.

SURROUNDING AREA: The subject tract is abutted on the east by Stonecreek Farms I, II and III, zoned RS-4; on the north by Stonegate and Stonegate II, zoned RS-3; on the south by 51st Street and then The Greens at Broken arrow and the Broken Arrow Athletic Club, zoned RM/FD/PUD; and on the west by un-platted land, zoned AG.

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

TRANSPORTATION VISION:

The Tulsa Comprehensive Plan does not designate 51st Street in the project vicinity.

STREETS:

The Tulsa City-County Major Street and Highway Plan designates 51st Street South as a secondary arterial.

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 51 st Street	Secondary Arterial	100'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Tulsa Comprehensive Plan designates the subject tract as an Area of Growth and a New Neighborhood.

Areas of Growth are described in the Plan as areas at which the allocation of resources should be directed and growth channeled to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

New Neighborhoods are intended for new communities developed on vacant land. These neighborhoods are comprised primarily of single-family homes on a range of lot sizes, but can include townhouses and low-rise apartments or condominiums. These areas should be designed to meet high standards of internal and external connectivity, and shall be paired with an existing or new Neighborhood or Town Center.

Staff finds the proposal to be **in accord** with the plan.

STAFF RECOMMENDATION:

PUD-784 is an RS-3 zoned tract located on the north side of 51st Street South, east of 177th Avenue East. The subject property is relatively flat with a low point in elevation of 690-feet at the northeast corner of the site to a high point of 698-feet at the center of the site (see attached aerial photograph with contours). The property is vacant and will be platted as Stonegate III.

The purpose of PUD-784 is to reflect what the applicant describes as market demand for three car garages and an associated extra wide driveway to accommodate the garage. In an RS-3 zoned district driveways are limited to covering 34% of the required front yard per §1303-D of the Zoning Code. With the smaller sized lots located in the RS-3 district a three car driveway inevitably exceeds the 34% limitation.

This case addresses exactly the same issue that the TMAPC heard in September 2010 for Oxford Court an existing residential single-family subdivision located on the west side of 177th Avenue East, south of 41st Street South. In that case, the applicant originally sought relief from the City Board of Adjustment (BOA – case #21102) in the form of a blanket variance which the BOA had granted four times in the past (2005 - case #20016; 2007 - case #20458; and twice in 2008 - cases #20888 and #20890). In the 2010 case, the BOA advised the applicant they did not have the authority to grant blanket variances, denied the application and advised the applicant to take the proposal to the TMAPC in the form of a PUD proposal.

The proposal was brought to the TMAPC in the form of a PUD. The TMAPC had an extensive conversation debating whether the Commission had the authority to vary this requirement in a PUD. The TMAPC voted 6-3-0 to approve the PUD conditioned upon the applicant returning to the BOA for the blanket variance. Ultimately the blanket variance was approved by the BOA (case #21102-A) in October 2010.

Until the zoning code can be amended or rewritten and following what the staff and applicant believe is the proper course of action for this type of request, on April 26, 2011 the current applicant sought the same relief from the BOA in case #21256. That case has been continued by the BOA pending the outcome of the PUD request before the TMAPC today.

Staff has conducted site visits and can support the application since all other requirements of the RS-3 district will continue to be met. Most importantly, each lot will still need to meet the 4,000 square foot (SF) livability/open space requirement. There is no other relief being sought from any other requirement of the RS-3 district or subdivision regulations.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-784 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-784 subject to the following conditions:

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

Land Area:

38.99 acres (gross)

Permitted uses:

Those uses permitted as a matter of right in Use Unit 6 – Single-Family Dwelling and customary accessory uses.

Bulk and Area Requirements:

RS-3 Bulk and Area requirements remain applicable with the following exceptions:

- a. Maximum unenclosed off street parking area shall be surfaced with an all weather material not covering more than 45% of the required front yard;
- b. Livability space: 3,463 SF/per lot;
- c. Minimum common open space 1.90 acres (537 SF minimum per lot).

Signs:

Signs shall be subject to the conditions of Chapter 4 of the Tulsa Zoning Code as allowed on May 4, 2011.

Street Design and Access Limitation:

All street pavements will be constructed to meet or exceed the minimum standards as defined by the City of Tulsa for public minor residential street construction. The streets will be public streets.

Sidewalks will be constructed by the developer within the street right-of-way along East 51st Street South. No residential lots will be allowed to have direct vehicular or pedestrian access to East 51st Street South.

Sidewalks will be constructed on both sides of the street within the street right of way as required in section 4.3 of the City of Tulsa subdivision regulations. The sidewalk plan is depicted on the Connectivity Exhibit.

Landscape and Screening:

A screening fence with a minimum height of 6 feet will be provided along 51st Street South within a reserve area as shown on the attached Exhibit E.

All fencing, landscaping, gates and appurtenances which are placed in a reserve area will be maintained by the homeowners association.

3. No building permit shall be issued until the requirements of Section 1107-F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions. For the purposes of detail site plan review the final plat shall serve as the detail site plan.
4. No sign permits shall be issued for erection of a sign on a lot within the PUD until a detail sign plan for that lot has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
5. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
6. A homeowners association shall be created and vested with sufficient authority and financial resources to properly maintain all private streets (where applicable), sidewalks, landscaped areas and common areas, including any stormwater detention areas, security gates, guard houses or other commonly owned structures within the PUD.
7. All private roadways shall have a minimum right-of-way of 30' and be a minimum of 26' in width for two-way roads and 18' for one-way loop roads, measured face-to-face of curb. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor residential public street. The maximum vertical grade of private streets shall be ten percent.
8. The City shall inspect all private streets and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets. The developer shall pay all inspection fees required by the City.
9. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
10. Entry gates or guardhouses, if proposed, must receive detail site plan approval from TMAPC, Traffic Engineering and Tulsa Fire Department, prior to issuance of a building permit for the gates or guard houses.
11. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.

TAC Comments:

General: No comments

Water: A looped water main extension line will be required.

Fire: Fire Hydrant spacing will need to meet the requirements of International Fire Code 2006 Appendix C. Any gates across fire access roads will require Knox access.

Stormwater: No comment

Wastewater: No comment

Transportation: Page 3; Minimum width of driveway entrances is 24'.

INCOG Transportation:

- **MSHP:** E. 51st St., between S. 177th East Ave and S. 193rd East Ave, designated secondary arterial. S. 177th East Ave, between 41st St S. and 51st St. S., designated secondary arterial. Per TMAPC subdivision regulations, sidewalks should be constructed if non-existing or maintained if existing.
- **L RTP:** E. 51st St., between S. 177th East Ave and S. 193rd East Ave., existing 2 lanes. S. 177th East Ave, between 41st St S. and 51st St. S., existing 2 lanes.
- **TMP:** No comment
- **Transit:** No current or future plans for this location.

Traffic: No comments

GIS: No comments

Street Addressing: No Comment (Will Address Lots Upon Receipt of "a" Plat)

County Engineer: No Comments.

TMAPC COMMENTS:

Discussion ensued regarding livability space, parking areas, and permeable areas. It was determined that this issue needs to be addressed during a work session in the future.

Applicant's Comments:

Dwayne Wilkerson, HRAOK, 1913 West Tacoma, Suite A, Broken Arrow, OK 74012, stated that his goal is to get a blanket-coverage for the entire subdivision to prevent the applicant from having to come back for each lot individually. He agrees with staff's recommendation.

INTERESTED PARTIES COMMENTS:

Councilor Jim Mautino stated that this is market driven and he is in support of this application.

TMAPC COMMENTS:

Mr. Leighty stated that this is an easier decision for him because there are no existing homes and the new owners will know exactly what they are getting themselves into.

Ms. Cantrell stated that she voted against this type of request previously because she didn't like the procedure and she still doesn't like the procedure, but she understands that there is an attempt to fix the PUD Chapter. This is a new subdivision and she doesn't have a problem with it, but in the future the Planning Commission should be concerned with too much runoff and too much paving.

Mr. Sansone stated that if the Planning Commission approves the three-car driveway, it doesn't mean that they will be built subdivision wide. This simply gives the homeowner an opportunity to choose that option.

Mr. Leighty stated that he did vote against the previous request because it was an established neighborhood. Mr. Leighty stated that he too didn't like the process but that this being looked at and possibly being fixed.

Mr. Boulden stated that he isn't concerned with this request. He further stated that since there are two Councilors present he would like to take this opportunity to encourage the City Council to look at this amendment that is included in the "bridge" amendments for the Zoning Code.

TMAPC Action; 7 members present:

On **MOTION** of **WALKER**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to recommend **APPROVAL** of PUD-784 per staff recommendation.

Legal Description for PUD-784:

A tract of land situated in the Southwest Quarter (SW/4) of Section 25, Township 19 North, Range 14 East, of the Indian Base and Meridian, City of Tulsa, Tulsa County, State of Oklahoma, according to the U.S. government survey thereof, said tract being more particularly described as follows: Beginning at the Southeast Corner of the Southwest Quarter (SW/4) of said Section 25; Thence N 89° 56' 51" W, along the South Line of the Southwest Quarter (SW/4) of said Section 25, a distance of 1411.00 feet; Thence N 00° 02' 49" E a distance of 1210.82 feet, to a point on the South line Block 7 of "Stonegate" a subdivision to the City of Tulsa recorded as Plat No. 5992; Thence S 89° 56' 33" E, along the South line of said "Stonegate" and along the South line of "Stonegate II" a subdivision in the City of Tulsa recorded as Plat No. 6269, a distance of 1230.79 feet; Thence S 00° 03' 27" W, along the Platted Right of Way of South 185th East Avenue per "Stonegate II", a distance of 71.07 feet; Thence S 89° 56' 33" E, along the Platted Right of Way of South 185th East Avenue per "Stonegate II", a distance of 60.00 feet; Thence along a curve to the right, along the Platted Right of Way of South 185th East Avenue per "Stonegate II", having a tangent bearing of N 00° 03' 27" E, a radius of 25.00 feet, a central angle of 90° 00' 00", an arc distance of 39.27 feet, a chord bearing

of N45° 03' 27" E and a chord distance of 35.36 feet; Thence S 89° 56' 33" E a distance of 95.17 feet, to a point on the East line of the Southwest Quarter (SW/4) of said Section 25; Thence S 00° 02' 39" W, along the East line of the Southwest Quarter (SW/4), a distance of 1164.63 feet, to the Southeast Corner of the Southwest Quarter (SW/4) and the Point of Beginning. Said tract containing 1,698,413.217 sq. ft. / 38.990 acres, more or less.

28. **Z-7167/PUD-785 – Roy D. Johnsen/Urban 12**, Location: Southwest corner 36th Place and Quincy Avenue, Requesting **RS-3 to RM-0/PUD**, (CD-9) **APPLICANT HAS WITHDRAWN THIS REQUEST.**

Applicant withdrew this case.

29. **Z-7168 – Edwin M. Harris/Charles Jamison**, Location: Southeast corner of East Apache Street and North Rockford Avenue, Requesting **OL to CS**, (CD-3)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11809 dated June 26, 1970, established zoning for the subject property. Zoning was done by map, as was legal to do in 1970. It is therefore unclear as to why this property was zoned OL.

RELEVANT ZONING HISTORY:

Z-3619 February 1970: All concurred in denial of a request for rezoning a tract of land from OL to CH on property located on the southeast corner of East Apache Street and North Rockford Avenue and the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 8,880± square feet in size and is located at the southeast corner of East Apache Street and North Rockford Avenue. The property appears to be a vacant restaurant (The Chicken Hut) and is zoned OL. It was first built and used as a gas station in the 1950s. It was converted to food service uses in the 1970s, and in the intervening years has been used for several different endeavors.

SURROUNDING AREA: The subject tract is abutted on the east by a barbecue restaurant, zoned CH and OL; on the north by mixed retail/office and vacant uses, zoned CH-; on the south by primarily single-family residential uses and vacant properties-, zoned RS-3; and on the west by single-family residential uses, zoned RS-3.

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

TRANSPORTATION VISION:

The Comprehensive Plan does not designate either Apache Street or North Rockford Avenue as anything other than streets. The vision is that Pine Street one mile to the south will be developed as a multi-modal corridor, to accommodate personal vehicles, pedestrians, bicycles and transit.

The Major Street and Highway Plan designates the streets as follows.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East Apache Street	Secondary arterial	100'	4
North Rockford Avenue	N/A	N/A	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The comprehensive plan designates this as a neighborhood center and an area of growth. According to the plan, the requested CS zoning is in accord with the plan. Many commercial and office uses exist along Apache Street and the restaurant is one that existed prior to this proposed rezoning.

STAFF RECOMMENDATION:

This particular stretch of East Apache Street is heavily traveled and largely stripped out commercially and for offices. It is highly unlikely that a new single-family residence would be built facing onto Apache here. Staff can therefore commend **APPROVAL** of CS zoning for Z-7166. Staff also points out that if CS zoning is approved, the developer must screen areas abutting residentially zoned properties and must landscape the street yard and parking lots. The applicant will also be required to replat or seek a plat waiver. Adequate parking, in accord with the zoning code, must be provided. All of this was discussed with the applicant at his initial meeting with staff.

TMAPC COMMENTS:

In response to Mr. Leighty, Ms. Matthews stated that the subject property had been operating as a legal non-conforming use in the past. Ms.

Matthews reviewed the photographs of the subject property and surrounding properties. Ms. Matthews stated that there are a few vacant homes in the subject area and they have problems with some loans through Tulsa Development Authority.

APPLICANT'S COMMENTS:

Eddie Harris, 1162 North Elgin, 74106, stated that he is a native Tulsa and grew up in the subject area. Mr. Harris indicated that he owned a radio station in the subject area for over ten years and it had a positive impact on the subject area. Mr. Harris explained that he has a five-year lease on the subject property. He stated that he canvassed the subject area regarding this application. Mr. Harris commented that he wants to bring a sense of security for the subject area.

Mr. Harris stated that when he found out that there would be some issues with his request he took pictures of the subject area of the 2500 block of North Rockford and discussed his application with the residents. Mr. Harris explained that he has a two million dollar general liability insurance policy and he hired a security company with six security guards to prevent parking along the North Rockford block.

TMAPC COMMENTS:

Mr. Leighty asked Mr. Harris what his operational hours would be for the subject property. In response, Mr. Harris stated that he would operate from noon to midnight or one or two o'clock in the morning on weekends and during the week it would be eleven o'clock.

Mr. Walker asked Mr. Harris what the issues and opposition that he is speaking of. In response, Mr. Harris stated he was made aware that there is a lot of apprehension about the violence that transpired in that subject area. The violence occurs in the entire area and there are people who want everyone to believe that that spot creates the cause of the violence. It is not true because the entire subject area is a blighted area and has been that way for years. He commends the City Councilor for putting forth the effort resolve some of those issues, but one can't say that one particular business is the reason why there are violence issues. The issues were there before that business opened. Mr. Walker asked Mr. Harris if his intended use is a restaurant. In response, Mr. Harris answered affirmatively.

Mr. Dix asked if the building to the east of the subject property is Wilson's Barbeque. Mr. Harris stated that Wilson's is adjacent to the subject property and there is a convenience store called "Dash In". The convenience store owner has signed the petition in support of this application. Mr. Dix asked if there are any tanks underground on the subject property. In response, Mr. Harris stated that he is assuming that

they have been filled with sand. Mr. Dix asked if there is any remediation being planned for that and if they are registered with the State. The owner of the subject property stated that the tanks are registered with the State. Mr. Dix asked when the last time the tanks were used and the reason for his questioning is that there is a requirement that the tanks be removed within one year after they cease operation. Mr. Dix stated that he is not sure what bearing this has, but he thought he would bring that subject up so that it could be addressed.

Mr. Boulden stated that he doesn't know what Mr. Dix's line of questioning has to do with rezoning. It appears that Mr. Dix simply wanted to make a point. Mr. Dix stated that he is trying to make a point and find out whether it has any bearing on a rezoning of this to a food operation. Mr. Dix explained that there could be contamination there.

Mr. Harris submitted a petition of support from the residents and business owners in the subject area (Exhibit A-2) and submitted a copy of his liability policy (Exhibit A-3).

Mr. Leighty stated that the Planning Commission received a letter from Mr. Jamison and Mr. Harris and it states that City Councilor Roscoe Turner and Jack Henderson were briefed on the new business plan and that they understand and agree with the plan. Mr. Leighty asked Mr. Harris if he stands by that letter. Mr. Harris stated that initially Councilor Turner had a conversation and at the first conversation, he gave the impression that he was on board if there weren't any issues, but now that there are some issues he has deviated. Mr. Harris stated that Councilor Turner is one person, just as the owner of Wilson's Barbeque is one person, but he has 85% of the residents of the subject area in support. Saint Luke's Church has given him authorization to allow parking in their parking lot.

Mr. Leighty stated that he understands that a land use and zoning change, but the hours of operation, particularly with the history of the subject area, the later the business stays open the more possibility that there will be continued problems with security. In response, Mr. Harris stated that this is the reason why he has obtained a licensed and bonded armed security company and he will have six security guards. Mr. Harris explained his plan to prevent parking within the neighborhood.

Mr. Leighty asked Mr. Harris what type of food he would be serving at this restaurant. In response, Mr. Harris stated that he didn't want to give away his secrets. Mr. Leighty asked Mr. Harris how a restaurant could afford to have six security guards. Mr. Harris stated that the restaurant is not his only business. He explained that he also owns a call center and he has a very lucrative contract with Cox Cable and Direct TV.

Mr. Boulden pointed out to the Planning Commission that it seems that it has gotten off of the subject of the rezoning by discussing security, etc.

Mr. Leighty stated that he would have to take issue with Mr. Boulden because this is an important discussion. Mr. Harris stated that he has taken steps to have security and once it is established that there are rules and regulations, then the people who patronize the business understand it is in place, and there will be no violence issues. The previous business owners didn't understand that they had a responsibility to the people who live in the subject area and they didn't have a commitment to protect the subject area. They were only concerned with opening up the doors and making money and not concerned with what was happening on the outside.

Mr. Midget stated that there have been some issues all over Tulsa and he doesn't want to stigmatize the subject area as an area with a lot of issues. People know that there was a shooting at the subject property, but there was a shooting at Southern Hills as well. What happened there is not indicative of the environment. Mr. Harris has gone overboard to provide security and let folks know that he will be in charged of the grounds where his property is located. The whole issue of the security, while it is not the whole subject, it is to get the zoning straightened out so that he can operate the business. Mr. Harris has taken the time to talk with the neighbors and to show that he will be a better operator of the subject property. Mr. Midget stated that it doesn't matter how late and it doesn't give an invitation that something is going to happen at two o'clock in the morning. Mr. Midget further stated that he would like to see if there is anyone who has some comments regarding the zoning change and then pick up some of this other stuff in our comments when we discuss it.

INTERESTED PARTIES COMMENTS:

Charles Jamison, 3010 North Garrison, 74106, stated that he has owned the subject property for 27 years. He personally operated the subject business for 15 years and never had an issue. Mr. Jamison indicated that when he purchased the establishment it was a type of food establishment and also it had pumps out front. He turned it into a full restaurant and he didn't have a zoning problem because it was grandfathered in. Mr. Jamison explained that the young men he leased the subject property to didn't have good business sense and didn't understand business. The shooting that occurred during this time was between two people who had issues with each other. The young man who actually did the shooting had stated that he would do this wherever he found him and happened to find him at the restaurant. The young man walked up and shot that particular person standing in line with his sister and then got in his car and left. The paper reported that the restaurant continued to sell food to people who stepped over the body. He called his renters and they explained that a lot

of young people were present and had already ordered and paid for their food before the incident. The police allowed the 25 people who had already ordered and paid for their food to collect their food, but didn't allow the restaurant to continue taking orders. The food was not handed to the patrons over the body of the victim. Mr. Jamison explained that during the time he operated the establishment he never had to call for police, but he attracted an older clientele.

Mr. Jamison stated that regarding the gas tanks, the Oklahoma Oil Commission came out ten years ago and informed him to fill the tanks with sand and that is what he did.

Mr. Dix stated that the Health Department will advise him on what he needs to do with the existing tanks when he applies for a permit.

Mr. Jamison stated that North Tulsa needs businesses and there are very few businesses in the subject area that supply jobs. If the business is operated correctly, then he doesn't feel there will be a problem.

Mr. Leighty asked Mr. Jamison if he would like to clarify the letter submitted that Councilor Turner was in support of this application. In response, Mr. Jamison stated that initially he was trying to address all of the issues and talked with Councilor Turner and briefly gave him a plan. He indicated that at that time, Councilor Turner stated that he didn't have a problem with it. Mr. Jamison stated that Amos Adetula has a problem with it and now Councilor Turner has a problem with it. Two people shouldn't run the entire community. Amos is one person and Mr. Harris and I went to talk with everyone who lives within the scope of the subject property and they are in support of it.

In response to Mr. Shivel, Mr. Boulden stated that the existing underground tanks shouldn't have any bearing on the classification of CS zoning.

INTERESTED PARTIES COMMENTS:

Amos Adetula, 5000 East 94th Street North, Sperry, Oklahoma 74073, stated that he is the owner of Wilson's Barbeque and he is not here to stop anyone from running a business. North Tulsa needs new businesses, but the history of North Tulsa and especially North Apache regarding the Chicken Hut is absolutely unbelievable. There was a crime issue on Apache and the City of Tulsa tried to clean it up, but when the Chicken Hut opened up there were many problems with drugs, insufficient parking and no lighting. Mr. Adetula explained that he installed a fence to separate his parking lot from the Chicken Hut.

Mr. Adetula stated that the Dash In has a security guard and two weeks ago he was shot in the leg. He is so concerned about the time period that the proposed business will be opened. He explained that he has cut his hours down at the Apache store to 9:00 p.m. to protect his workers. There is no lighting.

TMAPC COMMENTS:

Ms. Cantrell asked Mr. Adetula if a different person owned the subject property would he have a problem with it being commercial rather than office use. In response, Mr. Adetula stated that he wouldn't have any problem with that. Ms. Cantrell asked Mr. Adetula if the issue is the owner. In response, Mr. Adetula stated that it is not the owner, but it is the type of business and the duration of hours. Ms. Cantrell asked Mr. Adetula if the subject property remained office use it would be better. In response, Mr. Adetula stated that as an office he wouldn't have a problem at all.

In response to a question from Mr. Dix, Mr. Adetula stated that the public schools are closed campus.

Mr. Adetula stated that his main concern is safety and security. If one visits his store on Apache around ten or eleven p.m., it is unbelievable what happens there. He has had to deal with it for the past six to seven years.

Mr. Midget asked Mr. Adetula if the subject property was a Wing Stop franchise would it be an issue. Mr. Adetula stated that all he is concerned with is security and he doesn't care what is in there. Mr. Midget stated that he understands what Mr. Adetula is saying because he was raised in the subject area. However, if the subject property never opened up again, there would still be some of the issues there. Mr. Midget stated that he doesn't understand the real issue, particularly if security is a real concern and the owner is going to provide security. Mr. Adetula stated that he is surprised that Mr. Midget is confused because he believes that Mr. Midget was involved a few years ago with the crime issue in the subject area. There is no parking space and they use Wilson's parking all of the time. Mr. Adetula stated that he had to install security cameras to protect his clients. Mr. Midget stated that he understands the issues that Mr. Adetula is speaking of, but he doesn't want to deprive any other business from coming in. There is a possibility that if no one is allowed to go into the subject property there will never be any businesses. It is contradictory to say we need business, but not next to me. Mr. Adetula stated that is not the issue at all. Mr. Midget stated that he is trying to get to the issue. Mr. Adetula stated that they don't have adequate lighting or parking. Mr. Midget stated that if it is going to be a restaurant they will have parking requirements that they will have to meet. Mr. Adetula stated that he does

want more business in North Tulsa, but the patrons have to have security and safety. He doesn't see how one will control those kids out there. Mr. Midget stated that businesses will have to provide security. Mr. Midget reminded Mr. Adetula that he has a business there. Mr. Adetula stated that he has to close his business earlier in order to keep his workers and clientele.

Councilor Roscoe Turner stated that this is something that is very disturbing. He commented that he never told anyone that he didn't care, but he did tell the applicant that he would have to go through the process. Councilor Turner stated that after talking with the applicant, as he was leaving the room, he said he wouldn't go along with the proposal. Councilor Turner stated that he didn't really plan to come today, because if something happens it may end up in front of the City Council and he doesn't want to be bothered with it. He doesn't want to be classified as trying to fight his own fights in front of the City Council.

Councilor Turner stated that he has known Mr. Harris for a long time and he has no problem with him. Hiring security is good, but the hours of operation are an issue. Councilor Turner stated that he has been getting calls about this proposal all week. The zoning that the applicant is requesting, and if granted and then he decides to move away so his security leaves too and the zoning remains with the land. The area is in transition and he is trying to get the mindset changed in the subject area. Councilor Turner stated that he was going to talk about the gas tanks being there, but someone else brought it up. Councilor Turner addressed Mr. Midget and told him to not tell him what he is thinking because he doesn't know what he is thinking. Councilor Turner stated that Mr. Midget told him that he was thinking about how to do something and he will do it himself. Councilor Turner told the Planning Commission to do what they have to do and he will have to live with it.

Mr. Midget stated that he doesn't recall even mentioning Councilor Turner's name. Councilor Turner stated that he would rather not talk about it. Mr. Midget requested that Councilor Turner not say that in public because he didn't recall mentioning his name. Councilor Turner stated that he hopes this is filmed and on tape.

Ms. Cantrell stated that the subject property has been used commercially for a long time and putting aside the actual person, because we look at the land and not the person, she is having a hard time seeing what justification we would have to keep it as an office use. Councilor Turner agreed that the subject property has been used for commercial use for a long time. He stated that the phone calls he has received are not against the zoning, but against the violence and the subject property is where that has been a problem. He further stated that he is planning on trying to get

the subject area as a corridor from Peoria to Lewis and he will be looking for commercial uses. He commented that these other things have him confused and he has a hang-up with it. Councilor Turner stated that he doesn't have to agree with it.

Mr. Liotta asked Mr. Harris if he is aware of the requirements that go with the rezoning requested. In response, Mr. Jamison stated that he is aware of the requirements for screening, parking, etc. Mr. Liotta asked Mr. Harris if he has a plan for those requirements. In response, Mr. Harris stated that he is aware that he has to put a screening fence on the southeast side of the building, the parking area will be moved to the north side to cut down on the noise. Mr. Harris stated that he did have a second conversation with Councilor Turner and several people whom he mentioned had called him in opposition have signed the petition of support. Mr. Liotta asked Mr. Harris if he is aware of the parking requirements according to the Zoning Code and if there is adequate space for the required parking. In response, Mr. Harris stated that there is because Saint Luke's parking lot across the street has authorized him to use their parking lot. Ms. Cantrell informed Mr. Harris that unless he goes to the Board of Adjustment, he will have to provide the required parking spaces on the subject lot. Mr. Harris stated that he can do that and it is not a problem.

Mr. Leighty stated that this is a tough decision and he would like to commend Mr. Harris for making a impassioned plea today. He doesn't doubt Mr. Harris and he has a good plan, which he is trying his best to put in a solid business, but he can't support this application. This is one application for a zoning change and today he will be voting against it. He doesn't think that we need, for the neighborhood, a restaurant that will stay open until the wee hours of the morning in view of what has happened in the past. Mr. Leighty stated that he is not trying to stigmatize the subject area, but their own letter admits that they are in a high crime area. If this is approved today it would be continuing a problem. He is hopeful that another application will come forward in the future for commercial development there that he can support and approve. Mr. Leighty encouraged Mr. Harris to continue to support the subject area and neighborhood, but based on everything he has heard today he can't support this request.

Mr. Dix asked Mr. Harris if there would be any alcohol served at the subject location. In response, Mr. Harris answered negatively. Mr. Dix indicated that he is very familiar with the subject area due to his previous job. Whatever business Mr. Harris does at the subject property will not add to the existing problems in the subject area. It will be another business in the subject area that needs business. He suspects the key issue for Mr. Adetula is probably cross parking. Possibly Mr. Adetula's

customers use the subject property for parking for which he doesn't have to pay and he is afraid that Mr. Harris's customers will use his parking for which he wouldn't be paying for. Mr Dix indicated that he will be supporting this application. There is a need for businesses in the subject area and if they are not allowed to start back up and operate, then he doesn't know how the subject area would be improved.

Mr. Midget stated that he would be voting in favor of this application. He believes that the subject property is improperly zoned and there is no one willing to locate an office in there. The surrounding zoning is CH except to the west, and it is located on a major arterial street. He doesn't know how not zoning the subject property is going to address the security concerns. There are other systemic problems there and regardless who opens a business on the subject property, there will still be some of those problems. Mr. Midget stated that one of the things he wanted to point out is that if this zoning change is approved, the applicant will have to go to the Board of Adjustment (BOA) and the BOA has a better likelihood of imposing restrictions that may impact the hours of operation and lighting, whereas the TMAPC is unable to do because it is a straight zoning request. Mr. Midget stated that without the proper zoning there he doesn't see any business being on the subject property, which will continue to cause blight in the subject area. There has to be some opportunity for success. Mr. Midget stated that he is not insensitive to the issues Mr. Adetula has talked about; and he is aware of what is going on in the subject area. The proper thing for the Planning Commission to do is to look at the underlying zoning and zone it accordingly.

Ms. Cantrell stated that she agrees with Mr. Midget's statements. As long as she can remember, the subject property has been used as commercial. She appreciates what Mr. Leighty has stated, but on the other hand across the street they can have a bar until all hours of the night and the property next door they can have a bar until all hours of the night. The problems will exist no matter who owns the subject property. The question is whether or not this land is appropriate to be zoned commercial. It has always been commercial and it is consistent with the Comprehensive Plan. It is a perfect place for commercial zoning. She hopes that in this process, they address the parking and have sufficient parking on their lot. There are issues with the gas tanks and hopefully the Health Department will address that issue. By bringing this subject property into compliance they will have to address some of the ongoing problems with parking and screening. Councilor Turner will stay on top of things to make sure that they are in compliance with the law and meeting their parking requirements. Ms. Cantrell indicated that she will be supporting this application.

Mr. Shivel stated that there are a number of hoops that the applicant will have to go through and some will have costs associated with them and that is the cost of being successful in the business. Mr. Shivel indicated that he would be supporting this application.

Mr. Leighty stated that before somebody makes a motion, he would like to say that he is not against commercial zoning in the subject area, but he is against this application. One of the reasons is because of what Councilor Turner stated about Mr. Jamison possibly selling this property next month to somebody else and the new owner might not have the same commitment that Mr. Harris has to provide security. In real estate and all of the years he has been in the business he has seen properties that are difficult to sell due to their histories. Mr. Jamison has to accept some of the responsibility for the fact that on his watch and ownership the subject property had a pretty sketchy past. He would love to see a new building there or some other type of business that wouldn't be operating until the late hours of the night. Mr. Leighty concluded that he doesn't believe that this is a positive for the subject area at this time.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **6-1-0** (Cantrell, Dix, Liotta, Midget, Shivel, Walker "aye"; Leighty "nay"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to recommend **APPROVAL** of the CS zoning for Z-7168 per staff recommendation.

Legal Description for Z-7168:

Lot 1, Block 1, Lincoln Heights Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

OTHER BUSINESS:

30. **Proposed amendments of the Zoning Code**, City of Tulsa, Oklahoma to Chapter 8; to attempt to provide Code amendments responsive to the new Comprehensive Plan. These are proposed "bridge" amendments until the Zoning Code will receive a thorough study and update. (Public Hearing closed 3/2/11 and final revision continued to 3/16/11, 4/6/11, 4/20/11 and 5/4/11.)

STAFF RECOMMENDATION:

Mr. Alberty apologized to the Planning Commission for not getting these changes in advance. Ms. Cantrell has worked very diligently along with Pat Boulden and himself to make these changes. He believes at this point the amendments are complete.

TMAPC COMMENTS:

Ms. Cantrell stated that staff worked very hard on this and it is nobody's fault; it just takes time. Ms. Cantrell further stated that just to take a little exception there was something added comparable to the PUD that would allow the Planning Commission to address parking without having to go through the BOA. Ms. Cantrell stated that she would be happy to vote on it today, but since everyone received it today she would leave it up to the other Planning Commissioners.

Mr. Dix stated that he would like time to review this before voting on it today.

Mr. Liotta stated that he would like time to review this before voting on it as well.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Dix, Leighty, Liotta, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Perkins, Stirling "absent") to **CONTINUE** Item 30, Proposed amendments to the Zoning Code, Chapter 8 to May 18, 2011.

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Commissioners' Comments

Mr. Leighty stated that he didn't mean to cut Mr. Midget off, because it is something that is needed to be discussed. Mr. Leighty indicated that he has received emails from Mr. Sober and others about this issue. It could be a moot point after Thursday night when City Council takes this issue up. The complaint Mr. Sober has is that he requested an opportunity to come down and has been told that it is not customary for the Planning Commission to receive public input or comment during the work sessions, although it has been done from time to time. He explained that Mr. Sober was under the impression that the Planning Commission didn't really understand historic preservation ordinance. Mr. Leighty stated that in his view the Planning Commission had a healthy discussion. Mr. Sober doesn't feel that the Planning Commission really did a study, which is what the City Council requested. The Planning Commission held a work session and listened to the input and then passed it onto the City Council. Mr. Leighty stated that he put it back on the work session and no one said anything so he assumed the Planning Commission didn't want to revisit it.

Mr. Boulden cautioned the Planning Commission that this is an item of commissioners' comments and if it turns into a discussion or debate on topics that are not on the agenda, then they shouldn't go too far afield. As a general rule, comments should be a statement made.

Mr. Midget stated that he wished that the Planning Commission had discussed the HP boundary issue more. He commented that in the past they have allowed the public to speak at the work sessions.

In response to Ms. Cantrell, Mr. Leighty stated that he believes that the TMAPC should wait to see how the City Council handles the HP boundary issue and then decide whether to put it on another TMAPC agenda.

Ms. Cantrell stated that she would like to discuss the accelerated building permit at a work session.

Mr. Dix requested that Ethics Rules for the TMAPC be reviewed because he has some problems of how this whole HP boundary and PUD issue has been handled. Mr. Dix stated that he would like to see if there have been some violations.

Mr. Alberty asked if staff is being directed to put this on a work session. In response, Mr. Dix answered affirmatively. Mr. Alberty stated that it can be scheduled for the 18th.

Mr. Leighty requested a discussion on PUDs in regards to what the line of questioning would be appropriate in holding to the fact that the Code says that the TMAPC will have a set of policies or a form in which the applications are made.

* * * * *

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

Date Approved:

May 18th 2011

[Signature]

Chairman

ATTEST:

[Signature]

Secretary

