

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2611

Wednesday, October 5, 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
Dix	Cantrell	Alberty	Edmiston, Legal
Edwards	Carnes	Back	Steele, Sr. Eng.
Leighty		Fernandez	Hamer, COT
Liotta		Huntsinger	
Midget		Matthews	
Perkins		Sansone	
Shivel			
Stirling			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, September 29, 2011 at 2:52 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:

Director's Report:

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

Minutes:

Approval of the minutes of September 07, 2011 Meeting No. 2609

On **MOTION** of **MIDGET**, the TMAPC voted 8-0-1 (Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; Dix "abstaining"; Cantrell, Carnes "absent") to **APPROVE** the minutes of the meeting of September 07, 2011, Meeting No. 2609.

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

AGENDA:

CONSENT AGENDA:

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

2. **LS-20463**, (Lot-Split) (CD-9), Location: West of the southwest corner of South Rockford Avenue and East 34th Street South
3. **LS-20464**, (Lot-Split) (CD-2), Location: North of the northwest corner of East 66th Place South and South Peoria Avenue
4. **Vacation of Plat and Amendment of Deed of Dedication – Stanford Court Subdivision**, Location: North of northwest corner of East 51st Street South and South 177th East Avenue
5. **PUD-780 – HROAK, Inc./The Boulevard**, Location: ¼ mile north of the northwest corner of East 51st Street South and South 177th East Avenue, Requesting a Detail Site Plan for a gated entry and perimeter wall to a residential single-family subdivision, **RS-3**, (CD-6)
6. **AC-108 – Tulsa Engineering and Planning/Tim Terral/H.W. Allen Company, LLC**, Location: North of the northwest corner of 41st Street South and South Garnett Road, Requesting Landscaping Alternative Compliance for a proposed Dollar General Store to approve the use of hose attachments within 100 feet of the landscaped area as permitted irrigation for the site, **CS**, (CD-6)

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:

CAPITAL IMPROVEMENT PROJECTS PUBLIC HEARINGS:

7. **FY 12-16 CIP Amendment – Review of Cousins Park Improvements for conformance of the Comprehensive Plan.**

PUBLIC HEARINGS:

8. **Estates of Waterstone Extended – Preliminary Subdivision Plat**, Location: South of the southeast corner of South Louisville and East 111th Street South (CD 8)
9. **Manion Park – Plat Waiver**, Location: 2901 East 56th Street South, East of Delaware, North of 56th Street

10. **Heller Park** – Plat Waiver, Location: 5337 South Utica, East of Utica, South of East 53rd Street
11. **PUD-202-E – Retherford Enterprises/Rachel Long/Verizon**, Location: Southwest corner of East 63rd Street and South Memorial Drive, Requesting a Major Amendment to add Antenna and Supporting Structure within Use Unit 4 – Protection and Utilities as a permitted use within PUD-202, the applicant proposes to add antenna only to the top of a multi-story office building, **RS-3/OM/PUD**, (CD-7), (Related to item 12)
12. **PUD-202 E** - Plat Waiver, Location: 8023 East 63rd Place, Lots 1, 2, Block 2, Shadow Mountain II, (Related to item 11) (CD 7)
13. **Z-7183 – Tanner Consulting/Matt Baer**, Location: South of southwest corner of East Latimer Street and North Delaware Avenue, Requesting **RM-1 to IM**, (CD-3)
14. **PUD-787 – Roy Johnsen/West Park Multi-Use Building**, Northeast corner 4th Place and South Lewis Avenue, Requesting a PUD to allow a three story, mixed use building to be constructed, **RM-2/CS to RM-2/CS/PUD-787**, (CD-4)

OTHER BUSINESS

15. **Consider requesting Legal opinion on Form-Based Codes regarding nonconforming structures**
16. **Review and Consider TMAPC 2012 Meeting Schedule**
17. **Commissioners' Comments**

ADJOURN

CD = Council District

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MINUTES:

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.

4. **Vacation of Plat and Amendment of Deed of Dedication** – Stanford Court Subdivision, Location: North of northwest corner of East 51st Street South and South 177th East Avenue
5. **PUD-780 – HROAK, Inc./The Boulevard**, Location: ¼ mile north of the northwest corner of East 51st Street South and South 177th East Avenue, Requesting a Detail Site Plan for a gated entry and perimeter wall to a residential single-family subdivision, **RS-3**, (CD-6)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for a gated entry and perimeter wall to a residential single-family subdivision located north of the northwest corner of 51st Street South and South 177th East Avenue.

The submitted site plan meets all applicable structure height and setback limitations. The plan has also received the requisite signatures from the City of Tulsa Fire Marshall and Traffic Engineering.

Staff recommends **APPROVAL** of the detail site plan for the perimeter wall and entry gated for PUD-780.

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

6. **AC-108 – Tulsa Engineering and Planning/Tim Terral/H.W. Allen Company, LLC**, Location: North of the northwest corner of 41st Street South and South Garnett Road, Requesting Landscaping Alternative Compliance for a proposed Dollar General Store to approve the use of hose attachments within 100 feet of the landscaped area as permitted irrigation for the site, **CS**, (CD-6)

STAFF RECOMMENDATION:

The applicant is requesting TMAPC approval of an alternative compliance landscape plan for a proposed Dollar General Store to be located north of the northwest corner of 51st Street South and South Garnett Road.

Specifically, the applicant is requesting TMAPC approval to use hose attachments located within 100' of all landscaped areas as permitted irrigation for the site.

Section 1002.D.2.c of the code states that permitted irrigation may include, "A hose attachment within 100 feet of all landscaped areas. No landscape plan submitted after June 30, 1996 shall use this method to irrigate required landscape area without the prior approval of TMAPC".

Section 1202.D.5 of the Code requires all required landscaping to be maintained in a live and healthy condition and shall be replaced as necessary to comply therewith.

Whether the landscaping is maintained by an underground irrigation system or through the use of hose attachments, the landscaping must be maintained or replaced as a continuing condition of the certificate of occupancy (COO). Where landscaping is required, all property owners accept responsibility for maintaining the landscaping on their property. While the hose attachment method appears to be much more labor intensive, it is the property owner's responsibility to maintain the landscaping or jeopardize their COO.

In exchange for the use of hose attachments the applicant is proposing to exceed their street yard landscaping by 7.8%. The applicant is also self-imposing an open space requirement of 19.3% of the lot when an open space requirement does not exist, therefore meeting the requirement that the landscape alternative compliance plan "be equivalent to or better than" the requirements of Chapter 10 of the code as suggested by section 1003.D.

Staff recommends **APPROVAL** of Alternative Compliance Landscape Plan AC-108.

TMAPC COMMENTS:

Mr. Leighty stated that there is a request to continue Item 2, LS-20463 and a request to strike Item 3, LS-20464.

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

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

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:

2. **LS-20463**, (Lot-Split) (CD-9), Location: West of the southwest corner of South Rockford Avenue and East 34th Street South

STAFF RECOMMENDATION:

Staff is requesting a continuance to October 19, 2011.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes "absent") to **CONTINUE** LS-20463 to October 19, 2011.

3. **LS-20464**, (Lot-Split) (CD-2), Location: North of the northwest corner of East 66th Place South and South Peoria Avenue

STAFF RECOMMENDATION:

The applicant has requested that this application be stricken.

STRICKEN.

CAPITAL IMPROVEMENT PROJECTS PUBLIC HEARINGS:

7. **FY 12-16 CIP Amendment – Review of Cousins Park Improvements for conformance of the Comprehensive Plan.**

STAFF RECOMMENDATION:

The City of Tulsa Capital Planning Section of the Budget and Planning Division recently submitted a request for the TMAPC to review proposed improvements to the Cousins Park, land that was donated many years ago by the Cousins family. This property lies at the southwest corner of East 121st Street South and Yale Avenue, and is within an area designated by the Comprehensive Plan as open space. It also is planned to have trails linkage. The plan calls for a paved parking lot, a crushed stone trail and a small deck.

Staff finds the proposal to be in accord with the Comprehensive Plan and recommends that the TMAPC do likewise.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **8-0-1** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Stirling, Walker "aye"; no "nays"; Shivel "abstaining"; Cantrell, Carnes "absent") to recommend **APPROVAL** of the FY 12-16 CIP Amendment of Cousins Park Improvements and finding it in conformance of the Comprehensive Plan per staff recommendation.

* * * * *

PUBLIC HEARING

8. **Estates of Waterstone Extended** – Preliminary Subdivision Plat,
Location: South of the southeast corner of South Louisville and East 111th
Street South (CD 8)

STAFF RECOMMENDATION:

This plat consists of two lots, four blocks, on 3.4 acres.

The following issues were discussed September 15, 2011, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned PUD 681 A. PUD standards must be provided in covenants.
2. **Streets:** No comment.
3. **Sewer:** No comment.
4. **Water:** No comment.
5. **Storm Drainage:** Dimension the existing storm sewer easement along the southwest boundary. That storm sewer easement must be extended to the north boundary line for conveyance of overland flow and storm sewer from adjacent properties. The storm sewer easement along the southwest boundary of lot 1 cannot have other easements platted over it, unless they are crossing this easement at one specific point. Updated easement language should be required for overland drainage easements and water, sanitary sewer and storm sewer services. A more comprehensive drainage plan must be provided prior to approval of the final plat.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.

7. Other: Fire: No comment.

GIS: The point of commencement for the plat needs to begin at a section corner. Clarify total number of acres for project. Note benchmarks and monuments. State actual bearing in degrees, minutes and seconds for the basis of bearings. Submit subdivision control data form. Addresses should be 11436 and 11446 South Louisville Place East.

Staff recommends **APPROVAL** of the Preliminary 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 staff 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.

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes "absent") to **APPROVE** the preliminary plat for Estates of Waterstone Extended, per staff recommendation subject to special conditions and standard conditions.

9. **Manion Park** – Plat Waiver, Location: 2901 East 56th Street South, East of Delaware, North of 56th Street

STAFF RECOMMENDATION:

The platting requirement is being triggered by a permit request for an existing park.

Staff provides the following information from TAC at their September 15, 2011 meeting:

ZONING:

TMAPC Staff: The property is zoned RS-2.

STREETS:

Sidewalks required along 56th Street.

SEWER:

No comment.

WATER:

No comment.

STORMWATER:

No comment.

FIRE:

No objection to plat waiver. Need to provide conceptual drawing of any buildings to be built.

UTILITIES:

No comment.

Staff recommends **APPROVAL** of the plat waiver for the existing park.

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

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|-----|---|---|
| 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 |

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes "absent") to **APPROVE** the plat waiver for Manion Park per staff recommendation.

10. Heller Park – Plat Waiver, Location: 5337 South Utica, East of Utica, South of East 53rd Street

STAFF RECOMMENDATION:

The platting requirement is being triggered by a permit request in an existing park.

Staff provides the following information from TAC at their September 15, 2011 meeting:

ZONING:

TMAPC Staff: The property is zoned RS-3.

STREETS:

Sidewalks required along Wheeling.

SEWER:

No comments.

WATER:

No comments.

STORMWATER:

No comments.

FIRE:

No objection to plat waiver. Need to provide conceptual drawing of any buildings to be built.

UTILITIES:

No comment.

Staff recommends **APPROVAL** of the plat waiver for the existing park use.

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

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes "absent") to **APPROVE** the plat waiver for Heller Park per staff recommendation.

- 11. **PUD-202-E – Retherford Enterprises/Rachel Long/Verizon**, Location: Southwest corner of East 63rd Street and South Memorial Drive, Requesting a Major Amendment to add Antenna and Supporting Structure within Use Unit 4 – Protection and Utilities as a permitted use within PUD-202, the applicant proposes to add antenna only to the top of a multi-story office building, **RS-3/OM/PUD**, (CD-7), (Related to item 12)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 15144 dated September 24, 1981 and 15551 dated December 14, 1982, established zoning for the subject property.

RELEVANT ZONING HISTORY:

PUD-585 May 1998: All concurred in approval of a proposed Planned Unit Development on a 3.59± acre tract of land for a hotel and office building, *including Use Unit 4 in permitted uses*, on property located southwest corner of East 61st Street and South Memorial Drive and north of subject property.

PUD-202-C December 1982: All concurred in approval of a Major Amendment to PUD-202 on a 2.3± acre tract of land to allow for a private club on the ground floor of the office building, on property located west of the southwest corner of East 63rd Street and South Memorial Drive and a part of the subject property.

PUD-202-B September 1981: All concurred in approval of a proposed Planned Unit Development on a 15.9± acre tract of land to re-allocate floor area, on property located southwest corner of East 63rd Street and South Memorial Drive and a part of the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 5± acres in size and is located southwest corner of East 63rd Street and South Memorial Drive. The property is fully developed with office uses and is zoned RS-3/OM/PUD-202-B & C.

SURROUNDING AREA: The subject tract is abutted on the east by Memorial Drive and then Burning Tree Executive Park, zoned OM and being used commercially and as offices; on the north by East 63rd Street and then Southbridge East Office Park (PUD-585) and Triad Center Resubdivision Lot 1, Block 1, Crow-Dobbs Office Park (PUD-202-D), zoned CS and being used as offices and commercially; on the south by East 63rd Place and then Shadow Mountain Condominiums, zoned RS-3/PUD-187 and being used residentially; and on the west by Shadow Mountain, zoned OM/RS-3/PUD-202 being used as an office building.

Please see the attached photographs.

UTILITIES: The subject tract is fully developed with municipal water and sewer available.

TRANSPORTATION VISION:

The Comprehensive Plan designates Memorial Drive as a Commuter Corridor and does not designate 63rd Street or 63rd Place.

STREETS:

The Tulsa City-County Major Street and Highway Plan designates the surrounding streets as follows:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 63 rd Street	Residential Collector	60'	4
South Memorial Drive	Primary Arterial	120'	5
East 63 rd Place	Residential Collector	80'	4

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Tulsa Comprehensive Plan identifies the subject tract as being within an “Area of Growth” with a land use designation of “Town Center”.

The purpose of **Areas of Growth** is 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 exist 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.

Town Centers are medium-scale; one to five story mixed-use areas intended to serve a larger area of neighborhoods than Neighborhood Centers, with retail, dining, and services and employment. They can include apartments, condominiums, and townhouses with small lot single family homes at the edges. A Town Center also may contain offices that employ nearby residents. Town centers also serve as the main transit hub for surrounding neighborhoods, and can include plazas and squares for markets and events. These are pedestrian-oriented centers designed so visitors can park once and walk to number of destinations.

Please see the attached Comprehensive Plan maps of the area.

STAFF RECOMMENDATION:

The purpose of Major Amendment PUD-202-E is to add Antenna and Supporting Structure within Use Unit 4 – Protection and Utilities as a permitted use within PUD-202. Specifically, the applicant proposes to add antenna only to the top of a multi-story office building as illustrated on the attached plans. The antenna would extend seven (7) feet above the roofline of an eight-story office building. Section 1204.C.4.b.1 of the code permits antenna to extend up to 20’ above the roofline of a building. There is no proposal to construct a free-standing cell tower.

Approved in 1977, PUD-202 is a flat, 46 acre PUD permitting a mix of commercial and office uses development. The church use is also permitted by PUD-202. There have been four major amendments to the

PUD. PUD-202-A removed 5.91 acres (approximately the west 318', between 61st and 63rd Streets) from the PUD. PUD-202-B added 28,604 square feet of office floor area to the area located between 63rd Street and 63rd Place (making the total permitted office floor area in the PUD 273,104 square feet). PUD-202-C added Private Club as a permitted use within the PUD to allow a restaurant in the entry level floor of the building closest to Memorial Drive. PUD-202-D added those uses permitted by right in a CS District and the "fabrication and testing of prototypes and exemplars of fishing rods and reels and similar related products as included in Use Unit 15 as an accessory use to the principal office use". The amendment was limited to 10% of the floor area of the office building. The amendment added the use to the area located at the northeast corner of 63rd Street and 76th East Avenue.

Section 1204.C.5.b of the Code encourages the collocation of cellular facilities "wherever practical by allowing reasonable extra height or tower diameter necessary to support multiple antennas". Staff believes this should also extend to the mounting of antenna on existing multi-story buildings in an attempt to minimize the need for the construction of more free-standing cellular facilities in the City.

With no construction or expansion of any existing facilities proposed, staff contends the additional use will not significantly alter the approved Development Plan nor will change the character or intent of the PUD. There will be minimal to no impact to surrounding properties including the residential development to the south and southeast.

Staff finds the uses and intensities of proposed development to be in harmony with the spirit and intent of the Code. Staff finds PUD-202-E 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-202-E subject to the following conditions:

1. The terms and conditions of PUD-202 and subsequent amendments remain effective unless modified herein.
2. Development Standards:
Add to the permitted uses of PUD-202 Antenna and Supporting Structure only within Use Unit 4 – Protection and Utilities to property identified as Lots 1 and 2, Block 2 – Shadow Mountain II.

3. 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 comments.

Wastewater: No comments.

Transportation: No comments.

INCOG Transportation:

- **MSHP:** No comments.
- **LRTP:** No comments.
- **TMP:** No comments.
- **Transit:** No comments.

Traffic: No comments.

GIS: No comments.

Street Addressing: No Comments

8023 E 063 PL S; Addressing Atlas Page # ('s): 00761

Inspection Services: No comments.

INTERESTED PARTIES COMMENTS:

Larry Wallis, 10901 Waters Welling Way, Edmond, Oklahoma 73013, asked if the antennas would be 20 feet in height or seven feet in height.

In response, Mr. Leighty stated that it would seven feet in height.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes "absent") to recommend **APPROVAL** of the major amendment for PUD-202-E per staff recommendation.

Legal Description for PUD-202-E:

Lots 1 and 2, Block 2, Shadow Mountain II, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

RELATED ITEM:

12. **PUD-202 E** - Plat Waiver, Location: 8023 East 63rd Place, Lots 1, 2, Block 2, Shadow Mountain II, (Related to item 11) (CD 7)

STAFF RECOMMENDATION:

The platting requirement is being triggered by a major amendment to PUD 202 to allow the additional cell tower use.

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

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes "absent") to **APPROVE** the plat waiver for PUD-202-E per staff recommendation.

* * * * *

- 13. **Z-7183 – Tanner Consulting/Matt Baer**, Location: South of southwest corner of East Latimer Street and North Delaware Avenue, Requesting **RM-1 to IM**, (CD-3)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11809 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-7025 June 2006: All concurred in approval of a request for rezoning a .86± acre tract of land from RM-1 to IM for industrial use on property located on the southwest corner of East Latimer and North Delaware Avenue and abutting north of subject property.

BOA-21329: An application was made to the Board of Adjustment for a Variance of the building setback from an R District from 75' to 10'; and a Variance of the screening requirement abutting an R District along the East property line, on property located at 1031 North Columbia Place East, and includes the subject tract. *This application will be heard by the Board on October 11, 2011.*

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 7,250 sq. ft. in size and is located south of the southwest corner East Latimer Street and

North Delaware Avenue. The property appears to be used residentially and is zoned RM-1. It is near and adjacent to the Dawson industrial area.

SURROUNDING AREA: The subject tract is abutted on the east by residential and vacant land, zoned RM-1; on the north by vacant land and industrial uses, zoned IM; on the south by residential land, zoned RM-1; and on the west by industrial uses, zoned IM.

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

TRANSPORTATION VISION:

The Comprehensive Plan does not designate North Delaware Avenue.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
North Delaware Avenue	N/A	N/A	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan designates the entire RM-1 zoned area as an existing neighborhood. It is seen as an Area of Stability. The requested IM zoning is **not** in accord with the Comprehensive Plan.

STAFF RECOMMENDATION:

The area is surrounded on two sides by residential uses and a vacant lot, the latter of which is believed to be owned by the owner of the subject property in this case. The requested rezoning is not in accord with the Plan and could potentially be disruptive to the existing residential area. This area would be a candidate for a small area plan if the City so decided to sponsor it in the future. Transition and redevelopment within an existing neighborhood such as this should not be piecemeal, but undertaken as part of a plan for the general area to be reviewed and approved by the City Council. Therefore, staff recommends **DENIAL** of IM zoning for Z-7183 at this time.

Applicant's Comments:

Ricky Jones, Tanner Consulting, 5353 South Lewis, 74105, representing Sawyer Manufacturing, stated that his client has been at the same location for approximately 60 years. Through the course of their growth they have acquired the subject property in 1976. The property to the north of the subject property was rezoned in 2006 by John Moody and at that time that request was not in accordance with the Comprehensive Plan. Staff recommended approval and it was rezoned to IM zoning. Mr. Jones indicated that the property to the north and west of the subject property is currently zoned IM.

Mr. Jones stated that he has met with Councilor Turner and he is in support of the application. Mr. Jones further stated that he understands

that Councilor Barnes is opposed to this application and has submitted a letter (Exhibit A-3). Mr. Jones reminded the Planning Commission that this application is in Councilor Turner's district. Mr. Jones commented that he doesn't know why Councilor Barnes sent the letter and had he known that he needed to talk with her, he would have. He explained that he limited his conversation to Councilor Turner.

Mr. Jones stated that he met with the abutting neighbors and some are present today. He explained that he discussed the site plan with the Mr. Gragg and he had some concerns, but nothing major that couldn't be worked out. His client redesigned the site plan and pushed the proposed building farther north from Mr. Gragg's property (Exhibit A-2). The office will be relocated as well to buffer the residential from the industrial. There will be a parking lot as well. Mr. Jones indicated that he discussed the possibility of filing a PUD on the subject property and there were some conditions that probably weren't appropriate for a PUD and he decided not to go the PUD route. Mr. Jones expressed concerns with the City Council considering modifying the PUD Chapter of the Zoning Code. Mr. Jones stated that he reviewed the redesigned site plan with Mr. Gragg. He indicated that Mr. Gragg is concerned with the access onto Delaware. Mr. Jones indicated that his client has one point of access at this point and they have approximately three to four trucks a day that come and go from their facility. One is a semi-tractor trailer and three to four are enclosed panel trucks. His client is proposing to direct signs and direct their truck traffic to turn left-only onto Delaware.

Mr. Jones stated that he believes that his client is in accord with the Comprehensive Plan. Mr. Jones indicated on the Land Use Plan map and the Growth and Stability map where he believes the lines should be drawn to include his client's property in the area of growth. Mr. Jones read and submitted page 75 from the Comprehensive Plan (Exhibit A-2). Mr. Jones concluded that he has done everything possible to make this proposal work. He indicated that he has discussed this with the property owner across the street and several other property owners and they are in favor of the proposal.

TMAPC COMMENTS:

Mr. Midget stated that he doesn't have a problem with the development, but he would suggest that in addition to the signage that the curb out to Delaware be curved to make it difficult to turn right. Mr. Jones stated that his client has decided to leave the house on the subject lot for this expansion, but they do need to take a portion of the subject lot for the drive out. He realizes that the Planning Commission doesn't like to approve nonconforming uses and if the house stays it will be a nonconforming use. However, he believes by virtue of the blanket zoning that was done previously, that the entire subject area is nonconforming.

By not putting the subject property in a PUD, the Zoning Code requires a 75-foot setback between Mr. Gragg's property and the subject property. The Zoning Code will safeguard the residential properties. Mr. Jones stated that his client has the right to have access out to Delaware now. Mr. Jones stated that they would look at designing the access the best as possible to minimize any negative impact to the neighbors.

Mr. Dix suggested larger dimensions and radius for the access to Delaware.

In response to Mr. Dix, Mr. Jones stated that the existing house will probably be removed when the next phase happens and his client doesn't have a date for the next phase of expansion. Mr. Jones stated that the existing house could be gone tomorrow, but he anticipates something more like ten to fifteen years. Mr. Dix suggested more dimensions for the turn radius and curb height.

Mr. Jones stated that his client is proposing significant landscaping to help buffer the subject area. Mr. Jones further stated that his client wants to be a good neighbor and understand the sensitivity of the residential area.

Mr. Walker asked Ms. Matthews if the proposal is injurious to the neighborhood. In response to Mr. Walker, Ms. Matthews stated that what staff thinks and what she believes is that this is probably a candidate for a small area plan. This is part of the old Dawson area and it needs to be looked at on a smaller scale and in some detail. Ms. Matthews stated that the subject area is probably in transition and sounds like it may be the will of the neighborhood to do a small area plan.

Mr. Jones stated that if this application is approved, he would encourage the Planning Commission to ask for a small area plan. Mr. Jones indicated on the map where he believes the lines should be squared up for the industrial area and the residential homes. Mr. Walker stated that the argument would be where does one stop with the lines between industrial and residential? Mr. Jones reiterated that his client owns the property to the north of the subject property that was rezoned in 2006 to IM.

INTERESTED PARTIES COMMENTS:

George Gragg, 1024 North Delaware Avenue, 74110, stated that he lives south of the subject lot. He indicated that he has talked with every neighbor in the neighborhood and they are opposed to this proposal. Mr. Gragg indicated that Mr. Jones visited with him with the plans and told him he doesn't need to show up for the meeting. Mr. Gragg stated that Mr. Jones is still trying to convert the subject lot into commercial use. There are several children living on Delaware and they play in the street with their skate boards and bicycles. Mr. Gragg indicated that Delaware is not

in good shape and will not be able to handle heavy traffic. Mr. Gragg stated that currently the applicant is using Columbia to enter and exit after loading and unloading. Mr. Gragg indicated that he is opposed to the proposal.

TMAPC COMMENTS:

Mr. Leighty reminded Mr. Gragg that the applicant already has the right to access Delaware on the property to the north. Mr. Gragg stated that he understands. He expressed concerns with the proposed application and the possibility of the existing home being destroyed. Mr. Gragg further stated that this is a nice residential area.

Mr. Leighty stated that he personally visited the subject area Saturday and discussed the proposal with a couple of the neighbors and they indicated that they were not opposed to the application. He doesn't think it could be stated that "everyone" is opposed to the application.

INTERESTED PARTIES COMMENTS:

Sandy Dellaria, 1012 North Delaware Avenue, 74110, stated that he is opposed to this application. He is concerned that Mr. Jones believes that the lines should be changed and rezoned to industrial because his home would be in the area that he is wanting changed.

Mr. Leighty assured Mr. Dellaria that the only thing before the Planning Commission today is the rezoning on the one lot.

Mr. Dellaria suggested that the applicant move everything north and put the loading dock on the other side of the building. Keep the trucks off of Delaware Avenue. The applicant needs to redesign his plans and utilize the property that is currently zoned IM and leave the subject property residential.

Councilor Turner, District 3, stated that he is in support of the subject application. Mr. Turner stated that the City of Tulsa should be a business friendly City.

Mr. Gragg stated that his other concern is property values. Right now the subject area is residential. Mr. Jones indicated that originally they would plant trees down the fence line and now it will be an open-mesh fence and that is not something he wants to look at.

Applicant's Rebuttal:

Mr. Jones stated that he would like to apologize to the interested parties. He didn't try to mislead them in anyway. He met with them and explained to them that the house was intending to stay and showed them the plans.

Mr. Jones stated that the reason his client can't expand to the north is due to the Coal Creek 100-year floodplain limit. It is not feasible to take the road over the 100-year floodplain because it would be acting as a dam and he would have to go through Mr. Steele and hydrology nightmares. The office is a less intense use than the industrial use and it would be a buffer between the industrial and the residents. His client can only expand to the east due to the floodplain.

TMAPC COMMENTS:

Mr. Dix asked Mr. Jones how many employees are currently employed and if the expansion would increase the number of employees. In response, Mr. Jones stated that there are approximately 25 employees and the expansion will allow approximately ten more jobs.

Mr. Midget asked why it is necessary to bring trucks around to exit onto Delaware Avenue. Mr. Jones stated that originally they had a loading dock on the east side of the expansion and after discussing it with the neighbors he decided to do away with those. The existing loading dock will remain, but with the addition the trucks can't make their loop in the back and head back to Columbia. It is important to have more than one way in and out to please the Fire Marshal and for emergencies. Mr. Leighty asked how many vehicles would be using the egress/ingress. In response, Mr. Jones stated that on a typical day there are three to four trucks per day and one of the trucks is a true semi-trailer truck and the other are more like panel delivery trucks. It isn't Sawyer Manufacturing responsibility to improve the road.

Mr. Shivel asked for the hours of operation. Mr. Jones answered 7:30 a.m. to 5:00 p.m. The trucks make deliveries during normal business hours.

Mr. Leighty asked Mr. Dix if he was thinking about putting his concerns in a motion and to amend the application to provide for it. Mr. Dix stated that this isn't a detail site plan. Mr. Alberty stated that the application before the Planning Commission is for straight zoning and it can't be conditioned. The applicant would have to accept these as suggestions.

Mr. Jones reminded Mr. Dix that once the engineering is done there could be some modifications and he will have the suggestions of the radius and curbing that Mr. Dix has stated. Mr. Dix asked if the entrance would be further south of the subject property is rezoned. In response, Mr. Jones stated that he doesn't see it moving farther south.

Mr. Leighty recognized Mr. Dellaria. Mr. Dellaria recommended some changes with the proposed plans. He stated a driveway through a floodplain will not make a dam effect. Mr. Dellaria further stated that they

should leave the residential area alone and let the kids be safe where they play. Mr. Dellaria stated that his neighbors are opposed and he is opposed to the proposal.

Mr. Leighty stated that he reluctantly supports this application. He doesn't believe there is a small area plan in the near future for the subject area. The applicant already has a right to access Delaware from the property that is already zoned IM to the north. One lot is not a huge encroachment into the neighborhood. Mr. Leighty reiterated that he spoke to the neighbors in the subject area and they informed him that they thought the company has been a good neighbor over the years. Mr. Leighty stated that he does appreciate the quality of the subject neighborhood. Mr. Leighty further stated that at this point he would not support any further encroachment other than the subject property. There are no further improvements planned except for surfacing for the egress/ingress. This expansion will be very limited and will bring ten new jobs to Tulsa, which is needed.

Mr. Midget stated that he will also reluctantly support this application. He would like the applicant to take some time and seriously consider the trucks coming down, further encroaching into the neighborhood. It may be difficult, but give it another look. If there are only four trucks on a daily basis and the one big semi, he is not sure that is in fact the case, but it has an effect to one's quality of life in the neighborhoods. Mr. Midget commended Mr. Jones for putting the office between the residents and the industrial use. Mr. Midget reminded the Planning Commission and Mr. Jones that these are suggestions and he is taking Mr. Jones at his word to work on this issue.

Mr. Shivel stated that the operation hours will be 7:30 a.m. to 5:00 p.m. and assuming the truck traffic is legitimately stated, is mostly during the time children are in school. The office building being on the east side is a good buffer. Mr. Shivel stated that he is supporting this application with a little bit of reluctance as well.

Mr. Dix stated that he agrees with Mr. Shivel's comments. This is the second time in two weeks that the Planning Commission has had to address a little area being left out of the areas of stability and areas of change. There should be a map revision to correct this. Mr. Dix explained that he is really concerned about the trucks and there needs to be a barrier or whatever radius that can be achieved and possibly up to 50 feet. He would expect the owners to maintain their landscape and sod around those radiuses to not deter from the neighborhood. Mr. Dix indicated that he would be supporting this application.

Mr. Liotta stated that if limiting the truck traffic from Delaware Avenue or eliminating it would be a way to reduce encroachment into the neighborhood he would look at denying this request. However, the applicant already owns the property to the north of the subject property and could access Delaware Avenue from that property. He assumes that there would be a gate on the Delaware Avenue entrance that would be closed after hours. That would eliminate traffic off of Delaware after hours. Mr. Liotta stated that he doesn't see how denying this would help protect the neighborhood because the owners already have by right to do what he/she would like with the IM-zoned property to the north.

Mr. Perkins stated that industrial growth is very important and jobs are also important. However, just as important are the property owners in the surrounding areas so that development doesn't infringe on what they can count on. They can count on the Comprehensive Plan and the areas of stability that are identified. If this applicant is able to do what they want anyway, without changing the zoning on the subject property, then he would like them to work a little harder to stay within the existing IM designation they currently have. Mr. Perkins indicated that he would be opposing this application.

Mr. Edwards stated that if this was a new business coming he would be against it, but it is an existing business and expansion is necessary. It is bounded on one end by floodplain and he understands Mr. Perkins's comments, but to deny this and prevent the existing business from growing would not be in the best interest of the City and the existing business. Mr. Edwards further stated that reluctantly he will be supporting this application.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **8-1-0** (Dix, Edwards, Leighty, Liotta, Midget, Shivel, Stirling, Walker "aye"; Perkins "nay"; none "abstaining"; Cantrell, Carnes "absent") to recommend **APPROVAL** of the IM zoning for Z-7183.

Legal Description for Z-7183:

The north 50' of Lot 4, Portland Place, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

* * * * *

14. **PUD-787 – Roy Johnsen/West Park Multi-Use Building**, Northeast corner 4th Place and South Lewis Avenue, Requesting a PUD to allow a three-story, mixed use building to be constructed, **RM-2/CS to RM-2/CS/PUD-787**, (CD-4)

STAFF RECOMMENDATION:

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

RELEVANT ZONING HISTORY:

BOA-21334: An application was made to the Board of Adjustment for Variance of height limitation from 35' to 44'; and Variance of required parking from 226 spaces to 220 spaces, on property located east and south of the northeast corner of South Lewis Avenue and East 4th Place and abutting east and south of subject property. *This application will be heard by the Board on November 8, 2011.*

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.05± acres in size and is located at the northeast corner of East 4th Place and South Lewis Avenue. The property has a parking lot on a portion, the remainder being vacant. The property is zoned RM-2/CS.

SURROUNDING AREA: The subject tract is abutted on the east by --, zoned --; on the north by RT Daniels Addition, zoned CS and being use commercially; on the south by Peoples State Bank Addition Resub. L14 and L33-50B3 College View, zoned OM and being used as a bank; and on the west by a vacant portion of College View Addition Amended, zoned RM-2.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates Lewis Avenue as a Multi-Modal Corridor and does not designate East 4th Place South.

Multi-modal streets emphasize plenty of travel choices such as pedestrian, bicycle and transit use. Multimodal streets are located in high intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity. These streets are attractive for pedestrians and bicyclists because of landscaped medians and tree lawns. Multi-modal streets can have on-street parking and wide sidewalks depending on the type and intensity of adjacent commercial land uses. Transit dedicated lanes, bicycle lanes, landscaping and sidewalk width are higher priorities than the number of travel lanes on this type of street. To complete the street, frontages are required that address the street and provide comfortable and safe refuge for pedestrians while accommodating vehicles with efficient circulation and consolidated-shared parking.

Streets on the Transportation Vision that indicate a transit improvement should use the multi-modal street cross sections and priority elements during roadway planning and design.

STREETS:

The Tulsa-City County Major Street and Highway Plan designates Lewis Avenue as an Urban Arterial/Main Street and 4th Place as a Residential Collector.

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South Lewis Avenue	Urban Arterial/ Main Street	70'	4
East 4 th Place	Residential Collector	50'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Tulsa Comprehensive Plan designates the subject tract as an “Area of Growth” with a land use designation of “Mixed use Corridor”.

The purpose of **Areas of Growth** is 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 exist 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.

Mixed-Use Corridors are Tulsa’s modern thoroughfares that pair high capacity transportation facilities with housing, commercial, and employment uses. Off the main travel route, land uses include multifamily housing, small lot, and townhouse developments, which step down intensities to integrate with single family neighborhoods. Mixed-Use Corridors usually have four or more travel lanes, and sometimes additional lanes dedicated for transit and bicycle use. The pedestrian realm includes sidewalks separated from traffic by street trees, medians, and parallel parking strips. Pedestrian crossings are designed so they are highly visible and make use of the shortest path across a street. Buildings along Mixed-Use Corridors include windows and storefronts along the sidewalk, with automobile parking generally located on the side or behind.

Staff contends the proposed development is **in accord** with the Plan.

STAFF RECOMMENDATION:

The purpose of PUD-787 is to allow a three-story, mixed use building to be constructed on the northeast corner of South Lewis Avenue and East 4th Place South. Specifically, the proposal calls for a three-story, 45-foot tall building with a maximum of 10,000 square feet (SF) of office and retail services on the first level. This includes a fitness center, community space and management space for the proposed adjoining off-site apartments. Additionally, 20 apartment units would be located on the first, second and third floors of the building.

The proposed site is a flat, 1.1 acre site with a parking lot on the portion of the tract fronting Lewis Avenue with the remainder of the site being vacant. There is .6 acre / 26,172 SF of CS zoning on the site with .5 acre / 21,810 SF of RM-2 zoning on the property which would allow 11,886 SF of commercial floor area with a maximum of 20 dwelling units. A complete zoning intensity analysis is attached.

The tract is located in the West Park area of the Kendall Whittier neighborhood and is part of a larger infill development proposal being funded (mostly) by the George Kaiser Family Foundation (see attached plans). The area will be known as the Westpark Apartments. The adjoining six acres has been acquired in accordance with the Kendall-Whittier Urban Renewal Plan and will be developed as a multi-family community, designed to provide mixed-income housing opportunities. The development will replace some dilapidated housing and areas defined by residents of the neighborhood as questionable. As staff has a very close working relationship with the Kendall Whittier neighborhood association, the neighbors have wanted to see this property redeveloped for years. Approval of this proposal will be the first step in that direction.

The proposal is supported by the Tulsa Comprehensive Plan as a Town Center which seeks to redevelop some properties with buildings that have windows and storefronts along the sidewalk and automobile parking generally located on the side or behind.

The proposal is also along the edge of the 'North Central District' and within the "Lewis Street Corridor" of the Kendall-Whittier Master Plan that has been adopted by the City of Tulsa. Section 10, of the Plan, calls for acquisition and redevelopment of the fringe and troubled properties in this area, allowing the area to be redeveloped into a more vibrant neighborhood.

PUD-787 is intended to accomplish these goals by establishing a conceptual site plan with allocation of uses, intensity of uses and development standards and conditions, to be followed by detailed site plan review for development of the property.

City Planning staff should be commended for their effort in developing the overall plan for the Westpark Apartments including the subject proposal. Working with City staff, TMAPC staff has been involved in the overall review of the implementation strategy for this development for nearly two-years and strongly supports the proposal.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-787 to be: (1) consistent with the Tulsa Comprehensive Plan and the Kendall Whittier Master 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-787 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:

Net Land Area (after Lewis Avenue right of way dedication)
.815 acres 35,518 SF

Permitted Uses:

Uses included within: Use Unit 10. Off-Street Parking Areas; Use Unit 11. Offices, Studios, And Support Services including drive-thru banking facilities; Use Unit 12. Eating Establishments Other Than Drive-Ins; Use Unit 13. Convenience Goods And Services; Use Unit 14. Shopping Goods And Services; Use Unit 19. Hotel, Motel And Recreation Facilities (limited to fitness center); Use Unit 8. Multifamily Dwellings and Similar Uses (limited to apartments); and uses customarily accessory to permitted principal uses.

Maximum Retail/Office Floor Area: 10,000 SF*

Maximum Dwelling Units: 20*

**As an alternative use, apartment dwelling units may be converted to office use to the extent that the resulting floor area of office use is within the permitted intensity of the underlying zoning districts.*

Minimum Livability Space: 200 SF/DU

Minimum Building Setbacks:

From Lewis Avenue Centerline	50 FT
From 4 th Place Centerline	30 FT
From east boundary	90 FT
From north boundary	10 FT

Maximum Building Height: 3 stories / 45'

Off-street Parking Spaces Required: 48 spaces

Minimum Landscaped Area: 10% of net lot area

Lighting:

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from adjacent residential properties. Lighting shall be designed so that the light producing elements and the polished light reflecting elements of exterior lighting fixtures shall not be visible to a person standing within an adjacent residential area. No light standard shall exceed 25 feet in height, provided that within the north 50 ft. of the east 100 feet of the Property, no light standard shall exceed 15 feet in height.

Signs:

Signs shall be limited to:

- (a) Wall or canopy signs not exceeding 2 square feet of display surface area per lineal foot of the main building wall to which affixed, provided however, the aggregate length of wall signs shall not exceed 75% of the wall or canopy to which affixed.

- (b) One monument sign not exceeding 8 feet in height and 64 square feet of display surface area shall be permitted.

Landscaping

Landscaping shall meet the requirements of the Landscape Chapter of the Tulsa Zoning Code. For the purposes of determining the street yard as defined by the Landscape Chapter, the minimum setback from Lewis Avenue shall be deemed to be 15 feet and the minimum setback from 4th Place shall be deemed to be 5 feet.

Access and Pedestrian Circulation

Access is to be derived from 4th Place, and a mutual access easement will be established between the Planned Unit Development and the property adjoining the east boundary of the Planned Unit Development.

Sidewalks will be provided, if not currently existing, along Lewis Avenue and 4th Place. Additional internal pedestrian circulation will be subject to detail site plan review.

Trash, Mechanical and Equipment Area Screening

All trash, recycling, mechanical and equipment areas, including building-mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level. ~~provided however, that one side of the screening of a trash receptacle area may be open to permit access and gating shall not be required.~~

3. No zoning clearance permit shall be issued for development within the PUD until a detail site plan, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
4. A detail landscape plan shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences will be installed by a specific date in accordance with the approved landscape plan for the lot, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
5. No sign permits shall be issued for erection of a sign within the PUD until a detail sign plan has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
7. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.

8. 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.
11. 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.
12. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
14. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review and/or the subdivision platting process.
15. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle, nor shall trucks or truck trailers be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

TAC Comments:

General: PUD is acceptable. Utilities must be relocated in accordance with Early Release comments which state "All required utility relocations that serve off-site properties must be accomplished before building permits are issued".

Water: No comments.

Fire: If buildings exceed 30' in height will need to provide aerial fire apparatus access lanes per Section D105 of the International Fire Code.

Stormwater: No comments.

Wastewater: No comments.

Transportation: No comments.

INCOG Transportation:

- **MSHP:** S. Lewis Ave is a designated Urban Arterial with a street designation of Main Street.
- **L RTP:** S. Lewis Ave, between E. 11th Street S. and Admiral Place, existing 2 lanes. Per Subdivision regulations, sidewalks should be constructed if non-existing or maintained if existing.

- **TMP:** No comments.
- **Transit:** Currently, Tulsa Transit operates existing routes on S. Lewis Ave. According to MTTA future plans, this location will continue to be served by transit routes. Therefore, consideration for access to public transportation should be included in the development.

Traffic: No comments.

GIS: No comments.

Street Addressing: No Comments.
411 S LEWIS AVE
Addressing Atlas Page # ('s): 00027

Inspection Services: No comments.

Applicant's Comments:

Roy D. Johnsen, 1 West 3rd, Suite 1010, 74103, stated that his client is agreeable to putting a gate on the trash receptacle. Mr. Johnsen further stated that this proposal is in accord with the Kendall Whittier Comprehensive Plan, the Urban Renewal Plan, the City of Tulsa Comprehensive Plan and the West Park Plan. This proposal is one of the implementing steps of the West Park Plan. His client has had at least one plus years of involvement, particularly with three workshops and numerous people who were involved in the development of the West Park Plan. Mr. Johnsen commented that to his knowledge no one is objecting to this application. Most of the property will be owned by the City of Tulsa and has been acquired by Tulsa Development Authority over time (six acres to the south and east is what Mr. Johnsen was referring to).

Mr. Johnsen concluded that the development company is very well thought of and the plan is excellent and one of the best he has seen. Mr. Johnsen explained that his client is doing the PUD on the front portion for the office building and apartments. The office building will be related to the apartment development that will occur to the south and east. There will be a fitness center and some retail available for the residents of the development as it progresses. Mr. Johnsen explained that the remainder of the project is already zoned RM-2 and there is no need for a PUD on it, but the property will be platted together. The PUD was necessary on the front to allow for the mixed use, which abuts 4th Street and Lewis.

TMAPC COMMENTS:

Mr. Leighty stated that this is totally irrelevant to this case, but being familiar with what the City Council is considering on their meeting Thursday night by suggestion of Councilor Mautino, if he was successful this project would not be able to be built as a PUD. Mr. Leighty asked Mr. Johnsen if he is correct on this. In response, Mr. Johnsen stated that is a good question. It would be a standpoint of when the ordinance becomes effective, and what would the City Council do with PUDs that are pending? If the decision was to draw a line right now and not allow reallocation of floor area, then this project couldn't proceed under the PUD. Mr. Leighty stated that the reason he brings this up is part of PLANiTULSA, the new Comprehensive Plan, strategies were to build demonstration projects that would basically show the City and the citizens what can be done. Mr. Leighty stated that he hasn't seen anything that would be a better demonstration project than this one. This project is right on to what the PLANiTULSA is trying to accomplish and to not have that tool is scary. Mr. Leighty stated that he wanted to make this clear for his own understanding. Mr. Johnsen stated that he agreed with Mr. Leighty 100 percent, and unfortunately, he will not be able to attend the City Council meeting. Mr. Edmiston informed Mr. Leighty that the subject matter is outside of the agenda.

Mr. Liotta asked Mr. Johnsen how they size how much dumpster is needed for a building when one doesn't know what retail will be going in. Is there some formula that is used. Mr. Johnsen stated that he believes there is a formula if the use is known. His client has a good idea of the uses.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes "absent") to recommend **APPROVAL** of PUD-787 per staff recommendation, subject to the trash receptacle being completed enclosed. (Language underlined has been added and language with a strike-through has been deleted.)

Legal Description for PUD-787:

Lots 8, 9, 11, 12, 21, 22, 23 and 24, Block 2, College View Addition Amended, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

OTHER BUSINESS:

15. Consider requesting Legal opinion on Form-Based Codes regarding nonconforming structures

TMAPC COMMENTS:

Mr. Leighty stated that he requested that this be put on the agenda. He believes that the Planning Commissioners are aware that the City Council is still considering the final step in the rezoning of the Pearl District pilot district. An issue of concern has come up for several people in the subject area and staff is working diligently for a solution. After the October 5th work session, it was clear that there is some ambiguity and it is maybe not entirely clear of what present Zoning Code would say in the event of a catastrophic event. It might be appropriate for the Planning Commission to ask for a legal opinion in that respect.

LEGAL STAFF COMMENTS:

Mr. Edmiston stated that from what he understands the question that has really been discussed and the area of concern that has brought this to everyone's attention is the American Legion. Attorney Doug Dodd has made several arguments, both to the Council and staff, with regards to his position in advocating for his client. Mr. Leighty has asked Legal to look at the Form-Based Code to see if he can determine what would happen in the event some catastrophe, either to the American Legion or other buildings, under that Code as it is written. Frankly there are two schools of thought on whether or not the Form-Based Code, as it is written 42 B, covers that particular question. In other words, in the event that an established structure, conforming or nonconforming, is damaged, does the Form-Based Code offer direction on how it is to be rebuilt and is that reconstruction development or redevelopment. Both terms are used and do we have a matrix which applies principles to that event? In Title 42, Sections 1402 and 1405 have language that helps with regard to nonconforming uses and nonconforming structures. In talking with Mr. Boulden, who worked diligently drafting the existing document, he was very generous with his ideas and thoughts to the point of admitting that the language that is in the Form-Based Code is not clear. Mr. Boulden intended it to be clear and thought it was, but he also realizes that there will be times that it would require tweaking or some changes as events would occur or demands made on the construction of the code he drafted. After looking at several areas of the Code with Mr. Boulden, in his opinion, it appears that language intended was omitted or perhaps on Tuesday when reviewing their proposed language they had an idea, but when they looked at it again on Thursday they had a different perspective and put in Thursday's perspective and omitted Tuesday's perspective. This is done sometimes when drafting ordinances. Mr. Boulden fully admitted that there is some clarity needed. Mr. Boulden did suggest that he would be

available if a Legal opinion is necessary or a memorandum discussing these areas of ambiguity.

Mr. Edmiston stated that the Code does provide for a Code Administrator and the Code Administrator, under the existing Code, must interpret, approve or disapprove site plans. All of this function is focused on the Code Administrator. As the Code is written today, the Code Administrator would have the authority under the Code to rule on the admissibility or on the acceptability of a plan and that would include interpreting the application of that applicability matrix or does one go back to the base, 42 Code, and apply Sections 1402 or 1405. The Code Administrator would have the authority to make that application. If it isn't clear than the Code Administrator shall state that it isn't clear. Once the Code Administrator makes a ruling, then that ruling can be appealed to the Board of Adjustment and then they would be the body to look at the wording of the code as it is written.

Mr. Edmiston stated that in his opinion the wording of the code is unclear and it needs some help. If the intention was to refer to Title 42 for nonconformities, it should be more clearly stated. There is no statement right now that directly makes that point. Mr. Edmiston further stated that he could point out the areas that he has discussed briefly today, give a memorandum and his conclusion essentially would be there is no misunderstanding, and there is no lack of clarity that a Code Administrator could make a ruling on the questions that are being asked. That ruling would be subject to appeal with the Board of Adjustment if there is an unhappy interested party. The Board of Adjustment would then determine what the code says and if the interested party doesn't like that, then it would go to court for clarity. The other option would be to refer it back to the Planning Commission for clarity.

TMAPC COMMENTS:

Mr. Leighty stated that it is confusing. Mr. Leighty further stated that he did ask Mr. Edmiston to look into the matter and Mr. Alberty rightfully pointed out that he is not at liberty to make a request; in fact none of the Planning Commissioners are, including the chair, of staff for these kinds of things and that is why it is brought to the Planning Commission today. Mr. Leighty asked if it is the Planning Commission's consensus to ask Mr. Edmiston to continue studying and working with staff on this and have answer ready should this be deferred back to the Planning Commission by the City Council.

Mr. Alberty handed out a schedule for the Form-Based Code process that was requested by the Planning Commission at the October 5, 2011 work session.

Mr. Leighty asked the Planning Commissioners if they are comfortable having Mr. Edmiston continue working on this issue with staff when it comes to these legal arguments that might be made. Mr. Edmiston stated that as instruction, if the group could simply authorize the Chair to request Legal's review should he come upon a more specific area for the review. Mr. Midget stated that he doesn't have an objection to that, but he would like to know what the Chairman is asking Legal to look at. Mr. Midget further stated that he believes Mr. Leighty is correct to have Legal to move forward and work with staff to have answers for the Form-Based Code and this issue.

16. Review and Consider TMAPC 2012 Meeting Schedule

STAFF RECOMMENDATION:

2012 SCHEDULE

Tulsa Metropolitan Area Planning Commission (TMAPC)

Regular meetings of the TMAPC are held on the first and third Wednesday of each month at 1:30 p.m. in the One Technology Center, 175 E. 2nd Street, City Council Chambers, 2nd Level, Tulsa, Oklahoma.

Regular work sessions of the TMAPC are held on the third Wednesday of each month following regular TMAPC business in the One Technology Center, 175 E. 2nd Street, City Council Chambers, 2nd Level, Tulsa, Oklahoma.

JANUARY	FEBRUARY	MARCH
4th	1st	7th
18th and worksession	15th and worksession	21st and worksession
APRIL	MAY	JUNE
4th	2nd	6th

18th and worksession

**16th and
worksession**

**20th and
worksession**

JULY

AUGUST

SEPTEMBER

11th

1st

5th

25th and worksession

**15th and
worksession**

**19th and
worksession**

OCTOBER

NOVEMBER

DECEMBER

3rd

7th

5th

17th and worksession

**28th meeting and
worksession**

**19th meeting and
worksession**

TMAPC COMMENTS:

Mr. Shivel asked staff if there was any negative feedback regarding the Planning Commission returning to daytime meetings on Wednesdays. In response, Mr. Alberty stated that there were no negative feedback. Mr. Dix asked if there was any feedback one way or the other. In response, Mr. Alberty stated that there was positive feedback.

Ms. Huntsinger explained that in July the regular meeting would be on July 4, 2012 and that has been moved to July 11, 2012.

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **SHIVEL**, TMAPC voted **9-0-0** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes "absent") to **APPROVE** the TMAPC 2012 Meeting Schedule per staff recommendation.

Commissioners' Comments

Mr. Leighty stated that at the September 21, 2011 meeting there was an exchange between Commissioner Midget and himself that created an unpleasant atmosphere for everyone in attendance. He would like to acknowledge that his handling of that matter was unprofessional and he regrets it. He would also like to apologize publicly to Commissioner Midget, all of the Planning Commissioners and everyone else who was present for this unfortunate incident. The bottom line is that he let his emotions get the best of him and it caused him to react in an angry-negative way and he is sorry for it. Since that occasion he has taken some positive steps to ensure that he is able to do a more professional job responding to such things in the future. The first step was to speak privately by phone with all of the Planning Commissioners, except Commissioner Midget whom he was unable to reach. Secondly, he asked for and received some feedback from Commissioners on how he might improve his service as the Chair and some made some recommendations and he has listened to those. One suggestion was to get rid of the gavel and he did that. Another suggestion was to offer all of the Planning Commissioners an opportunity to visit with him or approach him if they have any suggestions or concerns about his role as Chair. Mr. Leighty commented that he wants to do a good job and he feels that he is a servant and he is here to try and do the best job he can. He would like the members to feel free to come and talk with him at anytime.

Mr. Leighty concluded that he has acknowledged his mistake, apologized for it, taken steps to see that it doesn't happen again and he is ready for a fresh new start as the Chair. Mr. Leighty indicated that he is determined to do a better job. He sees his role as a facilitator and someone who directs traffic at the meetings in a businesslike fashion and he promises to treat all members with respect and recognize their right to speak at the appropriate time. Mr. Leighty stated that for the Commissioners' part he would like to ask for their cooperation in making sure to be recognized by the Chair before speaking and he requested that they allow for every Commissioner, including the Chair, an opportunity to exercise their right to question and converse with staff, applicants, interested parties and other Commissioners. This is a well-tested process for conducting our meetings and asks that each of them respect that process by helping him conduct the meetings in an orderly fashion.

Mr. Leighty stated that when he took over as Chair he was given a 600-page book on *Robert's Rules of Order* and it is very imposing. He would like to run the meeting in an orderly fashion and he would like the Commissioners to help him with the protocol on that. Mr. Leighty thanked the Planning Commissioners for their cooperation and consideration.

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TMAPC Action; 9 members present:

On **MOTION** of **LIOTTA**, TMAPC voted **9-0-0** (Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes "absent") to **ADJOURN** the TMAPC Meeting No. 2611.

Mr. Albery introduced Carolyn Back, INCOG's new Senior Planner for the Board of Adjustment and the Form-Based Code Administrator.

There being no further business, the Chair declared the meeting adjourned at 3:14 p.m.

Date Approved:

10-19-2011

Bob Leighty

Chairman

ATTEST:

[Signature]
Secretary

