

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2509

Wednesday, March 26, 2008, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Ard		Alberty	Boulden, Legal
Cantrell		Fernandez	
Carnes		Huntsinger	
Harmon		Matthews	
Marshall		Parker	
McArtor		Sansone	
Midget			
Perry			
Shivel			
Sparks			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, March 20, 2008 at 3:40 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 Ard called the meeting to order at 1:30 p.m.

REPORTS:

Director's Report:

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

TMAPC COMMENTS:

Mr. Ard stated that the minutes for February 20, 2008, Meeting No. 2505 has an incorrect wording on page 15, paragraph four, second sentence should state "two access points along Memorial Drive".

Minutes:

Approval of the minutes of February 20, 2008 Meeting No. 2505

On **MOTION** of **HARMON**, the TMAPC voted 9-0-0 (Ard, Cantees, Cantrell, Carnes, Harmon, Marshall, Perry, Shivel, Sparks "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **APPROVE** the minutes of the meeting of February 20, 2008, Meeting No. 2505 as corrected.

Minutes:

Approval of the minutes of February 27, 2008 Meeting No. 2506

On **MOTION** of **HARMON**, the TMAPC voted 9-0-0 (Ard, Cantees, Cantrell, Carnes, Harmon, Marshall, Perry, Shivel, Sparks "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **APPROVE** the minutes of the meeting of February 27, 2008, Meeting No. 2506.

Mr. McArtor in at 1:35 p.m.

Mr. Ard announced that there is a request for a continuance for Item 9, Z-7089/Z-7089-SP-1.

9. **Z-7089/Z-7089-SP-1 – Roy Johnsen** **AG to CO**
Northeast corner of West 61st Street South and Highway 75 South (Corridor Plan to establish a conceptual site plan with designation of development areas.) (Continued from 3/5/08) **(Application will be continued by agreement, date to be determined at the meeting.)** (PD-8) (CD-2)

STAFF RECOMMENDATION:

Ms. Matthews stated that staff is in agreement with the request for the continuance.

Mr. Ard asked what date Mr. Johnsen would like to continue this case to. In response, Mr. Alberty stated that the applicant is not requesting the continuance; it is an interested party. He believes that the applicant is in agreement with the requests and he understood that the date for continuance was April 16, 2008.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **HARMON**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Perry, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Midget "absent") to **CONTINUE** Z-7089/Z-7089-SP-1 to April 16, 2008.

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. **L-20184** – Harden & Associates (2428)/Lot-Split
North of 136th Street North and west of North 145th Avenue, 14301 East 136th Street North (County)
3. **PUD 274 A – One Summit Plaza Lots 2-6 Amended** – (PD 18) (CD 9)
(9332) Amendment to Deed of Dedication
South and east of the southeast corner of East 57th Street South and Lewis Avenue
4. **Airpark Distribution Center** – Change of Access (PD 16) (CD 6)
North of East Apache Street, east of North Garnett Road

STAFF RECOMMENDATION:

This application is made to allow a change of access along North Garnett Road. The property is zoned IM.

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

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **PERRY**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Perry, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Midget "absent") to **APPROVE** the consent agenda Items 2 through 4 per staff recommendation.

PUBLIC HEARING FOR TULSA COUNTY ZONING CODE

Public hearing to consider amending the Tulsa County Zoning Code Text to eliminate Business Signs and Outdoor Advertising Signs as a use by right in the Agricultural Zoning District. Proposed amendments for Chapters 3 and 12 of the Tulsa County Zoning Code.

STAFF RECOMMENDATION:

Mr. Alberty stated that this was advertised for consideration today. This affects the Tulsa County Zoning Code only. This was requested by the Oklahoma Department of Transportation when they realized that there are some jurisdictions that do two things: 1) spot-zoning to permit outdoor advertising signs, which is prohibited according to the State Statutes and not in conformance with the Federal Highway Beautification Act of 1965; 2) outdoor advertising signs or business signs should not be permitted by right in an agricultural district. As a result of the notice staff received from Oklahoma Department of Transportation and after checking with the District Attorney's Civil Division, they have agreed that we had a potential conflict. The urgency about this is that it could affect Federal funding and under the state of revenue generation we have today, the Planning Commission wouldn't want to do anything that would affect revenues from the Federal government.

Mr. Alberty proposed that language be deleted from the County Zoning Code Use Unit 21, which is Business Signs and Outdoor Advertising as a use by right in an AG district, Table 1 and also affects Section 1221.4 AG District Use Conditions, the entire section of the Code should be eliminated, Table 1. This only affects the Tulsa County Zoning Code. The City of Tulsa Zoning Code already prohibits this.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **HARMON**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Perry, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Midget "absent") to recommend **APPROVAL** of the proposed amendments for the Tulsa County Zoning Code Text to eliminate Business Signs and Outdoor Advertising Signs as a use by right in the Agricultural Zoning District, amending Chapter 3 and 12 of the Tulsa County Zoning Code per staff recommendation.

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PUBLIC HEARING

- 7. **LC-81** – Sue Hillam (1309)/Lot-Combination (PD 3) (CD 3)
 Northwest corner of East King Street and North Yale Avenue, 1010
 North Yale Avenue (Related to Item 8)

STAFF RECOMMENDATION:

Mrs. Fernandez stated that this lot-combination meets all the requirements and staff recommends **APPROVAL**.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Perry, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Midget "absent") to **RATIFY** the lot-combination for LC-81 per staff recommendation.

- 8. **BOA 20650** – (0333) Plat Waiver (PD 3) (CD 3)
 Northwest corner of East King Street and North Yale Avenue (Related to Item 7)

STAFF RECOMMENDATION:

The platting requirement is being triggered by a request for a day care use in an RS-3 zoning district. The Board of Adjustment heard the case on March 25, 2008 and it was approved.

Staff provides the following information from TAC at their March 20, 2008 meeting:

ZONING:

TMAPC Staff: Lot Combination # 81 is on the same TMAPC agenda to be approved with the plat waiver request.

STREETS:

Sidewalk required along King Street. A separate document will be required to create Limits of No Access along Yale per the site plan.

SEWER:

No comment.

WATER:

No comment.

STORM DRAIN:

No comment.

FIRE:

No comment.

UTILITIES:

No comment.

Staff recommends **APPROVAL** of the plat waiver.

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

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

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

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

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

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Perry, Shivel, Sparks Walker "aye"; no "nays"; none "abstaining"; Midget "absent") to **APPROVE** the plat waiver for BOA-20650 per staff recommendation.

OTHER BUSINESS:

- 10. **PUD-619-C – Sisemore Weisz & Associates** (PD-26) (CD-8)

Approximately 1/8 mile west of South Memorial Drive and 106th Street South (Detail Site Plan for Lot 1, Block 1, Memorial Commons for the construction of a multi-use Lifetime Fitness center, including floor area dedicated to child care, office uses, two restaurants, a gymnasium, and a health club/spa.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for Lot 1, Block 1 - Memorial Commons for the construction of a multi-use Lifetime Fitness center including floor area dedicated to child care, office uses, two restaurants, a gymnasium, and a health club/spa. The proposed use, Use Unit 19 – Hotel, Motel and Recreation Facilities is in conformance with Development Standards of PUD-619-C.

A condition of the approval of major amendment PUD-619-C was the applicant to provide certification showing compliance with a letter of agreement between representatives of the developer/Lifetime Fitness and Mr. Alan Carlton, property owner to the west and manager of Red C LLC, dated 2/6/08 (Exhibit A-1, as modified by the Planning Commission). This certification letter is attached herein as Exhibit A-2.

Specific portions of the letter agreement that were made part of the approval of PUD-619-C include requirements of paragraph #3, the last three paragraphs of #4 and paragraph #6 (see attached Exhibit A-1). Staff has reviewed the applicant's plans and finds them to be in conformance with these requirements. All other PUD floor area, setback, landscaping, height and bulk and area requirements have been met per staff review and the attached certification letter.

Therefore, staff recommends **APPROVAL** of the detail site plan for Lifetime Fitness, Lot 1, Block 1 – Memorial Commons.

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

Mr. Sansone stated that there is a typographical error on page 10.28 of the TMAPC agenda packet, which reads "...loblolly pines will be planted 15 feet", which should read "12 feet".

TMAPC COMMENTS:

Mr. Ard asked Mr. Sansone if the letter from Mr. Carlton is a part of the PUD requirements. In response, Mr. Sansone stated that there were specific sections of the letter that were made part of the PUD standards, Paragraphs 3, 4 and 6. Everything else in the letter is between Mr. Carlton and representatives of Lifetime Fitness and Mr. Charles Norman and would only be enforceable through Civil Court.

Mr. Marshall expressed concerns that this sets a precedent for other PUDs to have this much detail.

There were no interested parties wishing to speak.

Mr. Walker announced that he would have to abstain from this item.

TMAPC Action; 10 members present:

On **MOTION** of **HARMON**, TMAPC voted **9-0-1** (Ard, Cantrell, Carnes, Harmon, Marshall, McArtor, Perry, Shivel, Sparks "aye"; no "nays"; Walker "abstaining"; Midget "absent") to **APPROVE** the detail site plan for PUD-619-C for Lifetime Fitness, Lot 1, Block 1, Memorial Commons per staff recommendation.

Mr. Midget in at 1:55 p.m.

Consider an Ordinance Amending Chapter 42 of the Zoning Code of the City of Tulsa

Consider proposed amendments of the Zoning Code, City of Tulsa, Oklahoma by adding a new Section for "Off-Premise Digital Signs", a new definition for "digital signs" and providing for penalties and publication.

TMAPC COMMENTS:

Mr. Ard reminded the gallery that the public hearing on this item is officially closed. The Planning Commission is officially in review.

STAFF RECOMMENDATION:

Mr. Boulden cited the proposed language and changes that he is proposing. The most recent draft ordinance is dated 3/23/08. The Planning Commission asked questions and made suggestions. The following members of the Sign Advisory Board were present and participated in the discussion: Shannon Bengé, Public Works Inspection Services; Navid Mirsaeidi, Chairman of Sign Advisory Board; James Adair; and Bobbi Hunt.

Mr. Midget out at 3:15 p.m.

Letter received from concerned citizen (Exhibit A-1).

TMAPC COMMENTS:

Mr. McArtor asked if the 2,400 FT spacing was suggested by the SAB for safety reasons or for esthetic reasons. In response, Mr. Mirsaeidi stated that it could be for both reasons. Mr. McArtor stated that he personally believes that the digital signs are prettier than billboards.

Ms. Bengé stated that the Sign Code prohibits signs that are not maintained; however, there have not been sign inspectors since 2001. This is something that the sign inspectors will start addressing immediately. There are no good neutral studies regarding the signs. They are either studies by the sign industry or people against the signs. The SAB wanted to come in with a conservative figure until the effects are actually known.

Mr. McArtor asked if the lower NIT level and if language regarding when the sun goes down would alleviate some of the concerns for safety. In response, Mr. Mirsaeidi answered affirmatively. Mr. Mirsaeidi stated that the sign industry has stated that 300 NITS is livable, but they would prefer 500 NITS.

Mr. Marshall stated that he would prefer the 1,200 FT spacing and he would agree with the "same traveled road". He explained that he believes that 2,400 FT would hurt the small companies unless there is a way the SAB can assure that

Lamar would get their 85% and Whistler would get whatever their percentage of the market is. Then he would go along with the 2,400 FT spacing.

Mr. Harmon stated that he personally believes that 1,200 FT spacing is appropriate. It is in place and it is functional and enforceable. He would prefer to see 1,200 FT between all signs regardless if it is digital or billboard. He doesn't believe that they create any more distraction than any other sign that is out there. Mr. Harmon agreed with Mr. Marshall's concerns about small businesses.

Mr. Carnes stated that when one is driving 70 mph on an expressway with signs having 2,400 FT of spacing, there will be a digital sign every 20 seconds. Once the signs are installed the Planning Commission can't make them take them down, but can give permission to put more up at a later date.

Mr. McArtor stated that he agrees with Mr. Harmon. He explained that he is far more distracted by the old-fashioned billboard than by digital signs. Digital signs tell him exactly what he would like to see and he doesn't have to strain to figure out what is going on. We live in a visual age and there aren't many people driving our roads today who are not used to seeing flashing images constantly. These smaller sign companies have a point or they wouldn't be here today regarding competition for signage. He hasn't heard anything that would make him be conservative just because it is new technology.

Mr. Sparks stated that he doesn't pay attention to the existing billboards unless it is digital. Based on this, he believes the farther apart they are the better. The closer the digital signs are, the more distracted he would be and that is going opposite of what he believes the Planning Commission should be trying to go.

Ms. Cantrell stated that she tends to notice everything along the road. When the sign company was presenting their case, every time the video changed to a new screen it caught her attention. She doesn't believe it should be the obligation of the Planning Commission to prove that it is not safe because if there are some questions out there, then they should wait to see if it is safe. She would prefer going cautiously and if the Planning Commission finds out two years from now that they are causing a lot of accidents, then the City would be in trouble with one every 1,200 FT.

In response to Mr. Shivel, Ms. Bengé stated that she has been told that every site that is available has a sign on it, but this has not been verified.

Mr. Shivel expressed concerns with the eye pollution, but also with the fairness of the issue.

Mr. Walker stated that he is leaning toward the 2,400 FT and this would give the Planning Commission the option to change it at a later date.

Commissioner Perry stated that if he was convinced that this would have a negative impact on small businesses, he wouldn't support the 2,400 FT spacing. There is no sign in the Permit Office that states "no small companies need apply". He isn't convinced that it would have a negative impact by having the 2,400 FT spacing, which is the recommendation from the SAB. He concluded that he supports the 2,400 FT spacing.

After a lengthy discussion and suggestions made for changes the Planning Commission opened the floor for a motion.

TMAPC Action; 10 members present:

On **MOTION** of **PERRY**, TMAPC voted **6-4-0** (Ard, Cantrell, Carnes, Perry, Sparks, Walker "aye"; Harmon, Marshall, McArtor, Shivel, "nays"; none "abstaining"; Midget "absent") to recommend **APPROVAL** of any digital outdoor advertising signs shall be separated a minimum distance of 2,400 feet from any other digital outdoor advertising sign facing the same traveled way as recommended by the Sign Advisory Board.

Mr. Carnes out at 3:55 p.m.

TMAPC Action; 9 members present:

On **MOTION** of **HARMON**, TMAPC voted **9-0-0** (Ard, Cantrell, Harmon, Marshall, McArtor, Perry, Shivel, Sparks, Walker "aye"; "nays"; none "abstaining"; Carnes, Midget "absent") to recommend **APPROVAL** of the ordinance amending the Zoning Code, City of Tulsa, Oklahoma by adding a new Section for "Off-Premise Digital Signs", a new definition for "digital signs" and providing for penalties and publication as recommended by the Sign Advisory Board and as modified by the Planning Commission.

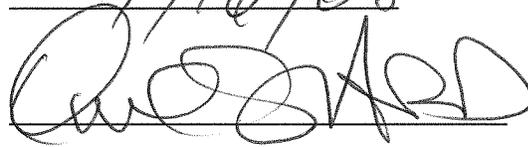
Mr. Boulden stated that he would draft the ordinance with the changes recommended by the Planning Commission and email a draft to staff for transmittal to the City Council.

Commissioners' Comments

Mr. Perry stated that Mr. Boulden deserves a pat on the back for his work on the draft ordinance. He suggested that in the future the language added be underlined and language being deleted have a strike-through. This makes it easier for people who do not have a color-copy of the ordinance.

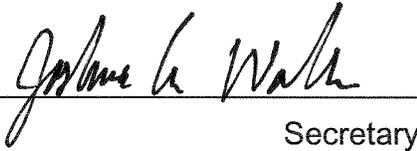
There being no further business, the Chair declared the meeting adjourned at 4:00 p.m.

Date Approved:

4/16/08


Chairman

ATTEST:


Secretary