

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
**Minutes of Meeting No. 2536**

Wednesday, January 21, 2009, 1:30 p.m.

City Council Chambers

One Technology Center – 175 E. 2<sup>nd</sup> Street, 2<sup>nd</sup> Floor

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Cantrell	McArtor	Alberty	Boulden, Legal
Carnes		Cuthbertson	
Keith		Fernandez	
Marshall		Huntsinger	
Midget		Matthews	
Shivel		Sansone	
Sparks			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, January 15, 2009 at 11:55 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Cantrell called the meeting to order at 1:36 p.m.

**REPORTS:**

**Comprehensive Plan Report:**

Ms. Cantrell reported on the upcoming Planitulsa workshops.

**Director's Report:**

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

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**Minutes:**

**Approval of the minutes of December 17, 2008 Meeting No. 2534**

On **MOTION** of **CARNES** the TMAPC voted 9-0-0 (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright “aye”; no “nays”; none “abstaining”; McArtor “absent”) to **APPROVE** the minutes of the meeting of December 17, 2008, Meeting No. 2534.

**Minutes:**

**Approval of the minutes of January 7, 2009 Meeting No. 2535**

On **MOTION** of **SHIVEL** the TMAPC voted 7-0-2 (Cantrell, Carnes, Keith, Midget, Shivel, Sparks, Wright “aye”; no “nays”; Marshall, Walker “abstaining”; McArtor “absent”) to **APPROVE** the minutes of the meeting of January 7, 2009, Meeting No. 2535.

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**CONSENT AGENDA**

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

- 2. **LC-140** – Karl Suggs, Jr. (8513)/Lot Combination (PD 18 B) (PD 8)  
South of East 86<sup>th</sup> Street and East of South Lakewood Avenue, 6207 E  
86<sup>th</sup> Place South
- 3. **AC-086 – Szapranski-Pugh & Assoc.** (PD-18) (CD-8)  
Northeast of the northeast corner of 81<sup>st</sup> Street and Mingo Road  
(Landscape Alternative Compliance for Lot 6, Block 1, Tallgrass Office  
Park.)

**STAFF RECOMMENDATION:**

The applicant is requesting TMAPC approval of an alternative compliance landscape plan for Lot 6, Block 1 – Tallgrass Office Park. The applicant’s landscape plan does not meet the required 5’ landscape strip along 145’ of the west boundary per Section 1002, A-3 of the Code. Section 1002. A-3 states, “Within the lot, off-street parking areas shall be separated from an abutting residential district or residential development area in a PUD, by a landscaped area which is not less than five feet in width”. The applicant is providing three landscaped beds along the west boundary per the attached Exhibit A.

The detail site plan for the 5,200 square foot office building was approved on 6/4/08. The property immediately to the west is a corridor district with a PUD overlay approved for multi-family residential use.

Section 1003, D of the Zoning Code states that the TMAPC may approve landscape plans that “although not meeting the technical requirements of this Chapter, it is equivalent to or better than the requirements of this Chapter”. Staff contends the landscape plan submitted herein meets that standard. The street yard is 71% landscaped and the total open/green space of the lot is 19.8%. Fifteen percent and ten percent are required respectively. Parking area and street yard tree requirements are being met.

Citing the narrowness of the lot with respect to building width and required parking area dimensioning and the open space and street yard landscaping requirements have been exceeded, staff can support the submitted plan and therefore, recommends **APPROVAL** of the alternative compliance landscape plan for Lot 6, Block 1 (Tract A) – Tallgrass Office Park resubdivision L1 B1 Tall Grass only.

4. **PUD-575-B – Chris Evertz** (PD-18) (CD-8)

North of the northeast corner of 81<sup>st</sup> Street and Mingo Road (Detail Site Plan for a 22,319 square foot office building.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 22,319 square foot office building. The proposed use, Use Unit 11 – Office, Studios and Support Services is a permitted use in PUD-575-B.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Parking has been provided per the Zoning Code, and a six-foot wrought iron fence will be constructed along the north boundary line. Landscaping is provided per the Landscape Chapter of the Zoning Code with a five-foot landscape buffer along the north boundary line as required. All sight lighting is limited to 23 feet in height and is directed down and away from adjoining properties. A trash enclosure has been provided as required by the PUD. Sidewalks exist along East 79<sup>th</sup> Street as required by PUD Development Standards and Subdivision Regulations. ADA accessible ramps will be added to the existing sidewalk at vehicle access points.

Staff recommends **APPROVAL** of the detail site plan for the 22,319 square foot office building on Lot 2, Block 1 – 7900 Mingo.

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

5. **PUD-260-B – Ron Caldwell**

(PD-18) (CD-7)

The northeast corner of Yale Avenue and 71<sup>st</sup> Street South (Detail Site Plan for an 11,945 square foot pharmacy.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for an 11,945 square foot pharmacy. The proposed use, drug store within Use Unit 13 – Convenience Goods and Services is an approved use within PUD-260-B.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Parking has been provided per the Zoning Code. Landscaping is provided per the landscape chapter of the Zoning Code and PUD Development Standards as amended. Sight lighting is provided and will be directed down and away from adjoining properties. A trash enclosure is being provided as required by the PUD and the proposed trash compactor will also be completely screened from the view of a person standing at ground level. Sidewalks will be provided or maintained along East 71<sup>st</sup> Street and Yale Avenue as required by PUD Development Standards and Subdivision regulations where they are not provided already. Separate pedestrian access is provided directly from 71<sup>st</sup> Street through the proposed parking lot as depicted on the attached site plan.

Staff recommends **APPROVAL** of the detail site plan for Lot 2, Block 1 – Hyde Park/PUD-260-B. The following revisions will be required prior to final processing and release of TMAPC approved plans:

- Per TMAPC submittal requirements, add an elevation view of both the trash compactor and the trash/dumpster enclosures. The view needs to include the over-all height of each enclosure, a typical fence/wall section, and a view showing the proposed solid screened gate.
- In the “TMAPC Attachment B” detail box on the site plan, clarify the building setbacks by describing what the building is being setback from (for example, 50’ from the Yale Avenue ROW).

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

**The Planning Commission considered the consent agenda.**

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Ard, Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **APPROVE** the consent agenda Items 2 through 5 per staff recommendation.

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

**Items Requested to be Continued:**

- 14. **Z-7124 – DeShazo, Tang & Associates** **RS-3/RM-2 to CS**  
 Southwest corner of East 15<sup>th</sup> Street and South Indianapolis Avenue (west 36 feet of Lots 18, 19 and 20.) (Related to Item 15.) (PD-4) (CD-4)
- 15. **Z-7125 – DeShazo, Tang & Associates** **RS-3 to RM-2**  
 South of southwest corner of East 15<sup>th</sup> Street and South Indianapolis Avenue (Related to Item 14.) (PD-4) (CD-4)

**STAFF RECOMMENDATION:**

Ms. Matthews indicated that the applicant would like to continue Items 14 and 15, to March 18, 2009 in order to file for a PUD.

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

**The applicant indicated his agreement with staff's recommendation.**

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **CONTINUE** Z-7124 and Z-7125 to March 18, 2009.

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9. **Riverwest** – (8202) Preliminary Plat (PD 8) (CD 2)  
East of Northeast corner of West 71<sup>st</sup> Street South and Okmulgee  
Expressway/Highway 75 (**Continue per legal notice to 1/28/09**)

**STAFF RECOMMENDATION:**

Staff requests a continuance in order to mail new notices for January 28, 2009 meeting.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **CONTINUE** the preliminary plat for Riverwest to January 28, 2009.

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**ZONING CODE AMENDMENT PUBLIC HEARINGS**

7. **Proposed amendment of the Zoning Code, City of Tulsa, to permit community garden as a use by right. Section 1201, Area-Wide Uses by Right and Section 1800, Definitions.**

**STAFF COMMENTS:**

Mr. Alberty stated that this is a proposed Zoning Code change that was precipitated by the fact that the current Code doesn't accommodate community gardens. In June of last year, Mayor Taylor sent a request to INCOG staff requesting that the Chairman of the Board of Adjustment appoint a subcommittee to study this issue. There were five subcommittee meetings held between June and August of 2008. Mr. Alberty introduced Mr. Cuthbertson, BOA Planner, INCOG.

Mr. Cuthbertson presented the proposed amendments and reported on the numerous meetings held with committees and neighborhoods. Mr. Cuthbertson presented new amendments to the proposal that were collected during the public meeting held on January 14, 2009 and submitted many letters and emails of support.

## **STAFF RECOMMENDATION:**

### **Background:**

In June, 2008 a committee was formed tasked with exploring ways to incorporate privately-owned Community Gardens into the zoning and development process. Community Gardens are already permitted on publicly-owned property (i.e., parks) as well as accessory uses to community facilities (i.e., schools, community centers, and churches) and as commercial uses in commercial districts, however, they are not permitted as independent uses on privately-owned parcels in residentially-zoned neighborhoods.

Neighborhood based Community Gardens have been identified and are gaining momentum as assets that can reinforce and/or play a role in neighborhood revitalization. Many cities across the nation have established programs or development standards that support neighborhood based Community Gardens.

The Tulsa Community Garden Committee is composed of the following members:

Frazier Henke, Chairman of the Board of Adjustment  
Lise Inman, Chair of the Community Garden committee; neighborhood representative  
Diana Askins, Tulsa Community Garden Association  
Ed Mitchell, Park Plaza South Neighborhood Association  
Chris Bolden-Newsome, Newsome Community Farms  
Demalda Bolden-Newsome, Newsome Community Farms  
Heather Oakley, Global Gardens  
Justin Pickard, Sustainable Green Country, Brady Heights Neighborhood Association  
Scott Smith, Crosbie Heights Neighborhood Association  
Barbie Rainey, Tulsa Garden Center  
David White, Board of Adjustment member, White City Neighborhood  
Wayne Alberty, Manager Land Development Services, INCOG  
Kurt Ackermann, City of Tulsa Legal Department  
Duane Cuthbertson, City of Tulsa Board of Adjustment staff, INCOG

### **The Committee established the following benefits of Community Gardens:**

- Improves the quality of life for people in the garden
- Stimulates social interaction
- Provides opportunities for intergenerational and cross-cultural connections
- Creates income opportunities and economic development
- Creates opportunity for recreation, exercise, therapy, and education
- Provides a catalyst for neighborhood and community development
- Beautifies neighborhoods
- Re-greens an otherwise abandoned urban lot
- Reduces crime
- Produces nutritious food

- Reduces family food budgets
- Conserves resources
- Promotes recycling and sustainability

The committee submits, for your consideration, a definition for Community Garden and nine use conditions, or performance standards, to assist the use with its potential relationship with surrounding residential properties.

The committee recommends that Community Gardens be permitted as a principal use by right in all districts in the City of Tulsa and be incorporated into Chapter 12, Section 1201 accordingly as an 'Area-Wide Use By Right'.

With the above-stated benefits in mind, the Committee recommends that the attached ordinance amendment be presented to the Tulsa Metropolitan Area Planning Commission for their consideration and full recommendation to the Tulsa City Council for action to amend and include Community Gardens as a defined use in the City of Tulsa Zoning Code.

The committee is willing to host an informal public meeting in attempt to introduce, inform, and discuss the merits of the proposed Community Garden use prior to its review in the public process.

**PROPOSED ZONING CODE AMENDMENTS:**

**SECTION 1800. Definition**

**Community Garden:** One or more lots or parcels of land used to produce vegetables, fruits, or flowers or other plant material for personal use by the property owner or individuals authorized by the property owner.

**Section 1201. Use Unit 1**

**B. Included Uses:**

Community Garden

**C. Use Conditions**

1. Unless permitted by the underlying zoning district or granting of a special exception by the Board of Adjustment, on-site sale of community garden products shall be prohibited.
2. Mechanical equipment, other than the type customarily identified as lawn and garden equipment, creating offensive noise, dust, odor or electrical disturbance shall be prohibited.
3. The site shall be designed and maintained to prevent chemical pesticides, fertilizer and other garden waste from draining on to adjacent properties.



4. An on-site trash storage container shall be provided. Trash storage and compost bins are to be located as close as practicable to the rear lot line. Trash shall be removed from the site at least once a week.
5. Accessory structures including buildings or signs shall comply with requirements of the underlying zoning district.
6. Only individuals, or organizations authorized by the property owner shall participate in the community garden.
7. Cultivated areas shall be prevented from encroaching onto adjacent properties.
8. The property shall be maintained free of high grass, weeds or other debris.
9. In addition to any other applicable use conditions, a community garden located in a residential zoned district shall be subject to the following:
  - a. ~~During non-operating hours, vehicles used in conjunction with a community garden shall be parked off the street on the lot containing the community garden and shall be of a type customarily found in a residential area.~~
  - b. Hours of operation shall follow Park hours of 5:00 a.m. to 11:00 p.m. ~~Operating hours for community garden activities shall be between one half (1/2) hour before sunrise until one half (1/2) hour after sunset.~~

**D. Off-Street Parking and Loading Requirements: None**

**TMAPC COMMENTS:**

Mr. Midget asked Mr. Cuthbertson if there was any discussion about fencing the community gardens. In response, Mr. Cuthbertson stated that the committee felt it would best to not require fencing because it would become too burdensome to impose.

Mr. Marshall asked if there are any restrictions from having a garden in a residential front yard. Mr. Marshall expressed concerns with gardens being neglected after harvesting and causing an eyesore for the surrounding neighbors. In response, Mr. Cuthbertson stated that currently there are no ordinances regulating any citizen in Tulsa from planting sunflowers or cornstalks in a front yard and the committee didn't feel it was necessary to regulate it out of community gardens. Mr. Cuthbertson stated that there are ordinances that prevent front yards from becoming unruly and disheveled.

Ms. Wright questioned the operating hours and stated that she would support the elimination of both A and B without hesitation because people who work in the gardens know what they need to do.

Ms. Cantrell stated that she believes this is a great idea and she appreciates staff and the committee for their time on this subject. Ms. Cantrell commented that everyone had referred to neighborhood groups and community gardens that do not have to be established by anyone living in the neighborhood or is in any way affiliated with the neighborhood. People need to be aware that if there is an empty lot in their neighborhood and an out-of-town owner decided to send someone in to garden, that will be a use by right. If the park hours were used for regulation of operating hours and someone worked out of that timeframe it would require someone complaining before it is enforced.

**Interested Parties In Support of Community Gardens:**

**Corey Williams**, 571 S. Allegheny, 74112; **Gwen Goff**, P.O. Box 48583, 74148; **Rita Scott**, 16523 E. 171<sup>st</sup> S., 74008; **Justin Pickard**, 20 West Latimer St., 74106; **Erica Hellen**, 1337 North Denver, 74106.

**Interested Parties In Support of Community Gardens Comments:**

Desire to sell the produce without having to go before the Board of Adjustment; parking on the street is not a problem; gardeners are respectful of other neighbors regarding operating hours; this is a positive land use; community gardens reduce crime in neighborhoods; park hours would be good for operating hours of the community gardens; should have signage regarding hours of operation; no fencing is necessary and would be costly; community gardens creates safety for the neighborhood because people are out and seeing what is going on in the neighborhood.

**TMAPC COMMENTS:**

Ms. Wright asked Mr. Cuthbertson what type of discussion occurred regarding selling produce from the gardens. In response, Mr. Cuthbertson stated that the initial thinking was to be cautionary toward the neighborhood. Without specific definition the selling of the produce could become a weekly or every other day Farmer's Market. There are several farmers' markets available within the City of Tulsa and Tulsa County and there is nothing that would prevent community gardeners from transporting his/her produce to the market.

Ms. Wright stated that as a gardener she believes that the community gardens should be able to sell their extra produce without going before the BOA.

Mr. Boulden stated that he interprets the language differently from staff regarding the ability to sell produce with a special exception. If the land is zoned to allow the selling of the produce, then it would be allowed. If the land is zoned to not allow selling of the produce, then it wouldn't be allowed. Obviously, commercial sales are not allowed on residentially-zoned properties and the language is not saying that "by the way, one can sell anywhere by special exception". The language right now doesn't allow selling of produce by special exception in a residential neighborhood.

Ms. Cantrell stated that she didn't interpret the language the same as Mr. Boulden. She thought it was to allow the gardeners to go to the BOA and obtain a special exception to sell their produce.

Mr. Cuthbertson stated that if the underlying property is zoned commercially or industrially, the produce can be sold as a matter of right. Most residential neighborhoods are not zoned commercially or industrially and are zoned residentially. He understood the provision to allow the residentially zoned properties to go before the BOA and obtain a special exception in order to sell their produce on the same property as the community garden.

Mr. Boulden stated that if the Planning Commission decides to allow this, the language will need to be tweaked to make sure it is allowed anywhere by special exception.

Mr. Carnes stated that he is in favor of the community gardens getting permission to sell their produce. This may prevent a gardener from bringing produce in to sell on the community garden location and making this a fruit stand with no parking and no access. Traffic for this type of scenario could become a problem for the neighborhood.

Ms. Cantrell gave examples where the ability to sell produce without a special exception could be a problem. Getting a special exception when the neighborhood supports it is easy to do. The special exception allows for some protection to the neighborhoods.

Mr. Cuthbertson stated that the BOA is able to establish relative performance standards and set time limitations with special exceptions.

Ms. Wright stated that there would be nothing to prevent the gardeners from giving away their produce or for a donation. The donations could be used to help offset their costs.

Mr. Marshall stated that he would be comfortable with the BOA handling the sale of produce because it could be a quality-of-life issue for some people.

Ms. Wright suggested that default hours such as the park hours be implemented for community gardens. Ms. Wright commented that she has done gardening at midnight, but she believes nature will take care of itself and it is much easier to work at 4:30 a.m. and 5:00 a.m. rather than at midnight.

Mr. Boulden asked if anyone knows the specific hours for parks. In response, Mr. Cuthbertson stated that per the Tulsa Parks website the hours are from 5:00 a.m. to 11:00 p.m.

Ms. Cantrell stated that the hours of operation provide protection and if someone is gardening too early or too late, a neighbor can make a complaint. She believes that following park hours would be good.

Mr. Shivel concurred with Ms. Cantrell on the hours of operation.

Ms. Wright stated that she would be in favor of deleting Section C.9.a and modifying b. with the park hours.

Ms. Cantrell stated that she would be in favor of striking C.9.a.

Mr. Cuthbertson reminded the Planning Commission that "a." is not a requirement for the gardener, but a requirement for "community vehicle" off of the street. For example if the community garden purchased a truck or trailer it would have to be parked off of the street and it is not for each individual's personal vehicle.

Ms. Cantrell stated that there was discussion that there are other ordinances that deal with non-residential types of vehicles. In a residential area a vehicle or trailer can be parked in the street as long as it is moved every 24 hours and that would apply to the community garden as well.

Ms. Cantrell asked the Planning Commission if they had any comments about adding the language for plants and chemical pesticides or the compost bin.

Mr. Boulden stated that the language should be edited and brought back to the Planning Commission for final vote.

Mr. Cuthbertson stated that there was a request that any of these conditions could be modified by special exception.

Mr. Boulden stated that there could be one provision that says that any of these requirements could be varied by special exception.

Mr. Boulden recommended that the Planning Commission close the public hearing portion and bring the modifications back next week under other business for action.

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **CONTINUE** the proposed amendment of the Zoning Code, City of Tulsa, to permit community garden as a use by right, Section 1201, Area-Wide Uses by Right and Section 1800, Definitions to January 28, 2009 under other business.

8. **Proposed amendment of the Zoning Code, City of Tulsa, governing the use or construction of property located in a residentially zoned area for the purpose of providing a home for independent living that provides room and board, personal care and/or habilitation service in a family environment as a single-housekeeping unit. Section 1800, Definitions; Section 1205, Use Conditions and Section 1208, Use Conditions.**

**STAFF RECOMMENDATION:**

AN ORDINANCE AMENDING ORDINANCE NUMBER 21898, WHICH ESTABLISHED A MORATORIUM ON THE ISSUANCE OF PERMITS, VARIANCES, SPECIAL EXCEPTIONS, AMENDMENTS, OR OTHER PERMISSIONS ALLOWING FOR THE CONSTRUCTION OR USE OF A PROPERTY LOCATED IN A RESIDENTIAL SINGLE FAMILY ZONED AREA FOR MORE THAN SIX INDIVIDUALS NOT RELATED BY BLOOD OR MARRIAGE, BY EXTENDING THE MORATORIUM BEYOND OCTOBER 31, 2008, AND UNTIL MARCH 1, 2009; AMENDING SECTION 4, TO EXTEND THE EFFECTIVE AND REPEAL DATES FOR THE MORATORIUM; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Tulsa enacted Ordinance Number 21898 to impose a moratorium on the use or construction of property located in a residentially zoned area for the purpose of providing a home for independent living that provides room and board, personal care, and/or habilitation service in a family environment as a single-housekeeping unit until November 1, 2008; and

WHEREAS, the Tulsa Metropolitan Area Planning Commission and the City Council require additional time to review, deliberate and collect public input on recommendations and proposed amendments to the City's Zoning Code regarding the use or construction of property located in a residentially zoned area for the purpose of providing a home for independent living that provides room and board, personal care, and/or habilitation service in a family environment as a single-housekeeping unit; and

WHEREAS, in order to preserve the status quo pending further investigation, review, collection of public input and deliberation by the Tulsa Metropolitan Area Planning Commission and the City Council, the City of Tulsa has determined that the current moratorium enacted by Ordinance Number 21898 upon the use or construction of property located in a residentially zoned area for the purpose of providing a home for independent living that provides room and board, personal care, and/or habilitation service in a family environment as a single-housekeeping unit, and on the issuance of permits or other municipal approvals for the same should be extended.

BE IT ORDAINED BY THE CITY OF TULSA:

*Section 1. That Sections 1 and 2 of Ordinance No. 21898 be and the same are hereby amended to read as follows:*

"Section 1. The City of Tulsa hereby imposes a moratorium, suspension, and ban (herein simply "moratorium") upon the use or construction of property located in a single family residentially zoned area for the purpose of providing a home for independent living that provides room and board, personal care, and/or habilitation service in a family environment as a single-housekeeping unit for more than six (6) persons, and on the issuance of permits or other municipal approval for the same, until March 1, 2009.

Section 2. During this moratorium, the Tulsa Metropolitan Area Planning Commission (TMAPC) shall convene as needed, collect evidence and hear testimony, hold at least one public hearing, deliberate, and issue written recommendations to the City Council and the Mayor (1) concurring or disagreeing with the findings of the Residential Occupancy Taskforce, in whole or in part, and providing the reasons therefor; and (2) providing for the prohibition, permission, and/or regulation of community group homes, neighborhood group homes, or other uses of structures in a single family zoned area for more than six (6) individuals, including proposed ordinance language. The TMAPC shall transmit its recommendations to the City Council and the Mayor on or before February 1, 2009."

*Section 2. That Section 4 of Ordinance No. 21898 be and the same is hereby amended to read as follows:*

"Section 4. EFFECTIVE DATES. This Resolution shall remain in full force and effect through February 28, 2009, after which it shall be automatically null, void, and specially repealed, provided that the effective and repeal dates of this Resolution may be modified as enacted by subsequent ordinance or resolution of the City of Tulsa."

*Section 3. SEVERABILITY CLAUSE. If any section, sentence, clause or phrase of this Ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance or any part thereof.*

*Section 4. EMERGENCY CLAUSE. That an emergency is now declared to exist for the preservation of the public peace, health and safety, by reason whereof this Ordinance shall take effect immediately from and after its adoption, approval, and publication.*

### **STAFF RECOMMENDATION:**

Mr. Boulden presented the proposed amendments for the Zoning Code. He cited the history of how group homes are handled in the Zoning Code. Mr. Boulden explained the Federal Fair Housing Act and how it protects individuals who may be disabled and it considers recovering substance abuse individuals as being disabled. The Fair Housing Act protects these individuals and allows them to live as a group in a residentially-zoned area. There are no onsite counseling or medical resources provided. This is strictly a communal type of cohabitation where, in this particular case, substance abusers can support each other in their recovery process.

Mr. Boulden explained that the Councilors have experienced that the group homes in residential areas have caused some problems with traffic and cars being parked on the street, which then raises attention of the neighbors and they contact their Councilors. When asked by the Councilors and neighbors regarding what can be done with these types of groups, they have to be reminded that they are protected by the Federal Fair Housing Act and there is little that can be done. These groups have to be treated the same as one would any other non-disabled group. In the Zoning Code these types of groups are included in the definition of "Family". They are allowed to have up to ten people in a home without being discriminatory against them. Councilor Westcott and other Councilors have met together in the past year and created a Residential Occupancy Task Force to look at this situation and situations where there are a lot of adult workers who all live in one house together, but who are not related by blood, marriage or adoption. Mr. Boulden explained that the task force looked at this issue with a much broader context than zoning and he believes that is why it didn't come through the Planning Commission first. The Council enacted a moratorium on any future group homes until the Planning Commission and City Council could look at some amendments to the Zoning Code to address some of the problems.

The proposed definitions would put the group homes in their own category and add a definition of a community group home. A community group home is where there is communal living and no one is particularly in charge of the house, but simply living there together and supporting one another. The neighborhood group home is where perhaps there are a group of elderly disabled individuals in a residence and they need caregivers present.

Mr. Boulden indicated that the proposed amendments that he submitted today are not complete and if the Planning Commission were to adopt these provisions there will need to be an amendment to Section 401 of the Zoning Code and possibly others.

**TMAPC COMMENTS:**

Mr. Carnes asked Mr. Boulden if this draft could be taken today and moved forward. In response, Mr. Boulden stated that he would recommend that the public hearing be held today and then he would submit a closer final draft next week to the Planning Commission.

Mr. Midget stated that he would agree with Mr. Boulden to allow for more public discussion.

In response to Ms. Cantrell, Mr. Boulden stated that he misstated earlier and explained that currently the Zoning Code allows eight individuals. The current Code allows six individuals, plus two resident staff. Legal has always advised the Planning Commission and the Board of Adjustment that in order to make a reasonable accommodation under the Fair Housing Act, if eight are allowed in any circumstance in the definition of family, then any other group would have to be allowed eight. Now the Code would allow those who are disabled up to eight to be residents not related by blood, marriage or adoption.

Ms. Wright asked what the ramifications are if there are violations such as there being “x” number of people running amok, traffic being a neighborhood’s nightmare. In response, Mr. Boulden stated that it is an enforcement issue through Neighborhood Inspections. Ms. Wright asked how many phone calls it requires to the Police Department and Neighborhood Inspections before the City steps in.

Mr. Midget stated that once the City has been notified that there is a violation, then the property owner is notified with a violation and they are given a certain amount of time, by law, to abate that particular problem. If that doesn’t happen, then the City moves to the next phase to start the process of shutting it down. Ms. Wright asked how long it would take to go through this process. In response, Mr. Midget stated that most of the time the City has to give them at least ten days’ notice and they have the right to appeal. Mr. Midget explained that it could take 20 to 30 days to resolve the violation. Mr. Boulden reminded the Planning Commission that this is not a simple matter and they are protected by the Fair Housing Act. The Planning Commission and the City Council should be very cautious of what they enact to ensure that there is no discrimination against those who need this type of housing in order to recover or maintain a lifestyle.

Mr. Boulden stated that the idea behind the proposed amendments is to lower the threshold of what is allowed for those who are not disabled, but to allow a special exception that would at least meet what is currently existing or perhaps give those who are disabled more latitude under our Code. The City is not discriminating against those who are disabled. Ultimately this proposal will be less discriminatory against those who are disabled because it allows more than those who are not disabled can do. The City wants to make sure that in no way



there is any discrimination against those groups, but at the same time, to consider the impact of those groups on residential areas to find a balance.

**Applicant's Comments:**

**Councilor Westcott**, District 2, stated that Mr. Boulden has made an excellent presentation to this body. He affirmed Mr. Boulden's statements that the Council has been faced with several complaints from citizens all over town. The Task Force wanted to try and find a way to solve those problems, but to also recognize that Task Force could not do anything that would infringe upon the disabled's Constitutional rights. In trying to balance this out, the Task Force took a hard look at other municipalities who had faced similar problems, some of whom had been sued successfully and some of whom had been sued, but because of the language of their ordinances, they were successful in defending those lawsuits. The Task Force tried to address the valid complaints received and at the same time not infringe on anyone else's constitutional rights. The proposal before the Planning Commission today is a product of several months of work. The Task Force included two or three City Councilors and several citizens, who met on a weekly basis for several months. This is a good starting point and he trusts that the Planning Commission will tweak it and send it back to the Council.

**TMAPC COMMENTS:**

Ms. Wright stated that she is curious about the type of complaints that the City Councilors received. She asked Mr. Westcott to please clarify the perception that she has that there is a difference between a communal home of four or five versus a group of people who are wheelchair bound versus those with drug and alcohol issues. When the complaints were filtered and examined, what kind of populations were they regarding and what kinds of recourses did the neighborhoods have to prevent some of the more unpleasant aspects. In response, Councilor Westcott stated that most of the complaints were related to group homes that are typically a commercial business, but also the group homes were mostly related to individuals who were going through drug rehabilitation or something along that line. There are some individuals and corporations who operate these homes for profit and they are still valid legitimate needs that people have and can't be treading upon those people's rights. Some of the complaints received were related to parking problems because the residents have jobs and cars. With several residents in one home having cars, they block the access for emergency vehicles because they park in the street. These are some of the problems that the Task Force tried to address. Hopefully, one of the ways to address this is to limit the cars or number of residents in the home.

Ms. Wright asked if there were any complaints of thieving, vandalism, etc. In response, Councilor Westcott stated that there was some anecdotal complaints received and they were not able to substantiate a lot of those complaints with Police reports. There is some concern, by residents who have children and live in established residential neighborhoods, that large numbers of people living in a residential home may go out in the evening and roam through the neighborhood

and be a problem or cause a hazard. Those are probably valid concerns, but the task force wasn't able to find substantial evidence that this had occurred.

Ms. Wright stated that in her discussions, she knows of a particular person who lives in her neighborhood who has a group home across from his and have called the police repeatedly and the children have been removed from the home by DHS. The children have been brought back and there are crack runners and men in the house who are not supposed to be there. The violations are long and the neighbor has done everything possible, but nothing has been done and she is trying to help him contact the correct people. She would like to know what other cases has the City received with similar complaints in which it has been an ongoing problem; not just six months but more than one year. We are dealing with destructive neighborhood life. She believes that one can placate and say that we can group everybody under one heading, but there will be different problems for different groups of people. She commented that she is not comfortable, and she understands the fair housing issue and the tenuous waters that we are walking on to enable non-discriminatory housing, but it is almost as if we are trying to expect the best from a very difficult population. At least one could run the full spectrum on these that are trying to be met by one simple thing. In response, Councilor Westcott stated that there are some valid complaints we have heard from several neighbors where during the evening hours, late night hours, individuals have been seen cutting through someone's yard or going over someone's fence. In essence, those are not necessarily criminal violations, but they are certainly valid concerns. In trying to solve this it has been proposed to reduce the number of people in the homes and also increasing the distance of one group home from another.

In response to Ms. Wright, Councilor Westcott stated that he would hate to make a blanket statement that the commercially-run group homes cause the most problems, but it certainly seemed most of the complaints received stemmed from those operations and he doesn't believe that the complaints were because those houses were run by a commercial entity per se, but because that commercial entity rented space to several occupants in the home, as opposed to a community home not having that same number of occupants.

Mr. Boulden stated that this is not for Item No. 10 nor for South Yale and this is not dealing with transitional living centers. This is for typically residentially-zoned single-family property that is used by groups who are not related by blood, marriage or adoption.

Mr. Midget stated that the Councilman stated that they have had a lot of problems substantiating a lot of the criminal activities reported. Some of the nuisance behavior is typical behavior that he experiences in his neighborhood. Everyone has some type of nuisance behavior in his/her neighborhood. The level of activity that Ms. Wright is referring to is something that both the WIN Department and the Police Department should be looking at in a much more

forceful way. General nuisance behavior is hard to substantiate that it came from the types of group homes being discussed today and he is not saying that it didn't happen, but it is hard to link the two. He doesn't want to mischaracterize some of these facilities because they do serve a very genuine and public purpose.

**Interested Parties:**

**Diane Story**, 7320 South Birmingham Place, 74136, representing Woodcrest HOA.

**Interested Parties Comments:**

Woodcrest HOA has two group homes in their neighborhood and the company that owns the group homes has 19 homes in the Tulsa area; three of the group homes are in the 74136 Zip Code; the two homes in the Woodcrest HOA are only 800 feet from each other; prefer that existing homes are not grandfathered in because of the clustering issues; the number of residents in the homes is too high and there have been up to 22 residents between the two homes in the neighborhood; 22 residents between two homes impacts the neighborhood because of the cars being parked on the street and emergency vehicles cannot get through the neighborhood; twelve to fifteen people in a home is too many and it is more than what a neighborhood was designed to have; some of the residents of the homes bring their work trucks home and they are large trucks and vans; if there were only six or seven residents in a home and one group or community group home in the neighborhood there would not be any problems; the two existing homes affects the quality of life as home owners due to safety issues; residents of the two homes having arguments in the front yards with children present within hearing distance; residents of the homes walk through backyards and cut through neighbors' properties and make the residents feel unsafe; when there are two homes close to one another, then the property values are going to take a major hit; there are vacant homes in the neighborhood next to the two group homes because no one wants to purchase them because it is mandatory to disclose that there is a group home in the vicinity; Woodcrest HOA would like to be a part of the solution; many of the cars have been parked in one place more than six weeks in the street and the police do not come when called.

**TMAPC COMMENTS:**

Ms. Cantrell asked Ms. Story based on what is it required to report that a group home is in the neighborhood when selling the home. In response, Ms. Story stated that the agent who is selling the home must legally put that in the document. If an agent doesn't put that information in the paper work, they would be liable and could be sued. Ms. Story indicated that in January 2008, they asked Councilor Westcott to help them.

Mr. Boulden stated that earlier he made a comment that this doesn't affect transitional living centers and after hearing Ms. Story speak, he realizes that

there is an anti-clustering provision, which would also require spacing to those types of facilities.

Ms. Cantrell asked Mr. Boulden if the Planning Commission could **not** grandfather something in. In response, Mr. Boulden stated that the Planning Commission can allow amortization to get the use out of their property before prohibiting them from using it as intended. This is something that has not been considered and he didn't anticipate that the Planning Commission would try to do away with non-conforming uses.

**Interested Parties Comments:**

**Christine Booth**, 2332 South Evanston, 74114, stated that she wanted to know how this ordinance differs from transitional housing.

Mr. Boulden stated that transitional housing is more institutionalized and services are provided on site.

Ms. Booth stated that transitional living is one of the larger group homes and she understood that there is counseling on site for neighborhood group homes. In response, Mr. Boulden stated that neighborhood group homes would allow two resident caregivers and community group homes would not allow it. It would be strictly communal living.

Ms. Booth asked if today's proposal would apply to transitional housing and is there another zoning ordinance that should be looked at. In response, Mr. Boulden stated that Ten North Yale is considered multifamily apartment living and not any kind of center. This is not applicable to that in any way. He doesn't know of any amendments that are being proposed to address that.

In response to Ms. Booth, Mr. Boulden stated that today's proposal doesn't contemplate any type of joint use.

Ms. Booth explained that she is the former President of the Pearl District Association and there was a proposal to have a 60-unit facility in the area. There would be 24 rooms of which would be for disabled people, primarily transitional men recovery substance addiction. There were 24 single rooms set aside out of the 60-unit facility. The remainder of the 60 units would be occupied by working adults and families with low income. There is some concern about the density. Ms. Booth commented that basically she believes that the proposal is good and she was especially interested in the clustering and spacing, which is an important point. There is already clustering of services in certain parts of town and the Pearl District is one of them. The Pearl District Association felt that the 60-unit facility that was being proposed would be a detriment to their area, which is trying to revitalize and which has been blighted since the 1950's due to flooding problems. Ms. Booth stated that from her basic understanding today, she would be very supportive and the Board of the Pearl District Association is in agreement

that they are supportive of the direction that this is going, especially the ¼ of a mile limit for spacing. Ms. Booth further stated that there should be group homes and everyone should be cognizant of the challenges we face as a society and not to warehouse them in one district or another so that all know and realize the challenges that we face.

Ms. Booth asked what kind of quantifiers determines that it is injurious to a neighborhood. In response, Ms. Cantrell stated that one would have to be very careful that it couldn't be anything that is contributable the disability itself.

Ms. Cantrell questioned the spacing requirement and how this would be applied to group homes that didn't require a special exception. In response, Mr. Boulden stated that when a new group home comes through, there would be a notice mailed and hopefully the neighborhood would let the Board know that there is an existing group home in the area.

Mr. Marshall asked how the spacing requirement is determined. In response, Mr. Boulden stated that he believes it would be lot-line-to-lot-line and that has been omitted. It should be in the proposed amendments.

Ms. Wright asked if the spacing would be a quarter mile radius. In response, Mr. Boulden stated that it is ultimately a radius, but it is from the edge and typically lots are square. Ms. Wright commented that one of the speakers mentioned that homes immediately adjacent to the group homes have lost value and other property values will go down within that radius, so will that be three houses in that radius that will also lose their value. In response, Mr. Boulden stated that he is cautious about attributing the decline of property value to a particular facility in a neighborhood. In response, Ms. Wright stated that she has heard that a lot and she gets very "testy" concerning allegations that something will affect someone's property value, but when someone does try to sell his/her home, no one is going to purchase a home across from the QuikTrip that is now going to be a huge development and now that homeowner has lost his/her home basically. This happens all of the time and she doesn't believe the boards pay enough respect to that. In response, Mr. Boulden stated that it certainly deserves respect, but he knows that real estate values are falling all over and to attribute it to one instance is not the only factor. In response, Ms. Wright stated that it is called "commonsense". In response, Mr. Boulden stated that is why there is a Planning Commission.

Ms. Cantrell stated that the Planning Commission received a letter from the Homeless Network. She explained that they would like to have a meeting to get more information. Ms. Cantrell acknowledged that this issue will have to be continued in order to get specific language and she would like to keep the public hearing open for the next meeting.

Ms. Matthews stated that she spoke with Mr. Lyall of Community Service Council of Greater Tulsa this morning and someone from staff and Mr. Boulden would need to meet with these groups. There is a deadline that the Planning Commission has to make and report to the City Council. Ms. Cantrell asked if this was moved forward to next week, would staff and Mr. Boulden have time to meet with Mr. Lyall and his groups. In response, Mr. Midget stated that he believes that Mr. Lyall could get his group together to meet and stay on the target date. Mr. Midget reminded the Planning Commission that once this goes to the City Council, it is still up for public hearing.

**Interested Parties Comments:**

**Lloyd Haggard**, 2604 East 73<sup>rd</sup>, 74136, stated that he lives in the Woodcrest neighborhood. He explained that there are two groups' homes in his neighborhood within 900 feet of each other, which was measured by the street. He asked for clarification of who Jim Lyall is and the groups he represents. In response, Ms. Matthews stated that Jim Lyall is representing the Homeless Services Network that is a group of providers. The groups that he would like to include in the meeting are the Mental Health Association of Tulsa, Volunteers of America, Associated Centers for Therapy, Tulsa Housing Authority, the Salvation Army and the Day Center for the Homeless, John 3:16 Mission and other agencies.

Mr. Haggard stated that the homes in his neighborhood are not large homes; they are 2,500 SF to 3,500 SF with the possibility of 11 to 15 people in these homes. He sees that this is an obligation to serve this group and he is not asking them to be kicked out, but he is asking that the homeowners in the subject area only do their fair share. Two homes within 900 feet are not acceptable.

**TMAPC COMMENTS:**

Ms. Wright asked how much square footage does a person in jail has to have. How can one accommodate ten to twelve people in a 2,500 SF home. In response, Mr. Marshall stated that he believes he has seen in the Code that it requires 300 SF, but he is not sure. Ms. Wright stated that she is glad to see that Mr. Marshall is up to date on his jail lingo. Ms. Wright further stated that she is curious because it is extremely excessive and what she does know about this in other cities is that they make it per foot allowance. Each resident has to have 600 square feet. In response, Mr. Boulden stated that this is something that would be incorporated in a building code and he believes that the Task Force had some discussions regarding that; however, it is not an issue before the Planning Commission.

In response to Ms. Wright, Ms. Cantrell stated that the Planning Commission should stay with what is being discussed. Mr. Boulden stated that the advertising is broad enough that there is some latitude about what is discussed. Ms. Wright stated that one could make a comment "why aren't backup generators required in

nursing homes.” In response, Mr. Boulden stated that the comments would have to be more relates to what the amendments were advertised.

**TMAPC Action; 9 members present:**

On **MOTION** of **WRIGHT**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none “abstaining”; McArtor "absent") to **CONTINUE** the public hearing for proposed amendment of the Zoning Code, City of Tulsa, governing the use or construction of property located in a residentially zoned area for the purpose of providing a home for independent living that provides room and board, personal care and/or habilitation service in a family environment as a single-housekeeping unit. Section 1800, Definitions; Section 1205, Use Conditions and Section 1208, Use Condition to be continued to January 28, 2008.

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**PUBLIC HEARING**

10. **Z-7123** – (2329) Plat Waiver (PD 9) (CD 2)  
South of West 37<sup>th</sup> Place and East of South Tacoma Avenue

**STAFF RECOMMENDATION:**

The platting requirement is being triggered by a pending rezoning from RS-3 to CG.

**Staff provides the following information from TAC at their January 8, 2009 meeting:**

**ZONING:**

TMAPC Staff: The property has been platted previously.

**STREETS:**

No comment.

**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 three questions would generally be FAVORABLE to a plat waiver:**

	<b>Yes</b>	<b>NO</b>
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:**

	<b>YES</b>	<b>NO</b>
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; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **APPROVE** the plat waiver for Z-7123 per staff recommendation.

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- 11. **Z-7109** – (9306) Plat Waiver (PD 4) (CD 4)  
Southeast corner of 10<sup>th</sup> and South Troost Avenue

**STAFF RECOMMENDATION:**

The platting requirement is being triggered by a rezoning from RS-4 to OL.

**Staff provides the following information from TAC at their January 8, 2009 meeting:**

**ZONING:**

TMAPC Staff: The property has been previously platted.

**STREETS:**

No comment.

**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 three questions would generally be FAVORABLE to a plat waiver:**

	<b>Yes</b>	<b>NO</b>
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:**

	<b>YES</b>	<b>NO</b>
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.?<br>a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?        | X |
| 11. | Are mutual access easements needed to assure adequate access to the site?   | X |
| 12. | Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? | X |

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **APPROVE** the plat waiver for Z-7109 per staff recommendation.

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Mr. Walker stated that he would be abstaining from PUD-511-1.

12. **PUD-511-1 – Tulsa Engineering & Planning/Tim Terral** (PD-6) (CD-9)

East of the northeast corner of 31<sup>st</sup> Street and Peoria Avenue (Minor Amendment to increase the maximum permitted height of a privacy wall/fence from eight feet to ten feet.) (Continued from 1/7/08)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the maximum permitted height of a privacy wall/fence located in a required yard from eight feet to ten feet (see applicant’s Exhibits A – C). This request was continued from the 1/7/08 TMAPC meeting to consider if the applicant needed to apply to the City BOA for a variance to increase the wall height, prior to applying for a minor amendment to the PUD.

Upon consultation with the Commission’s legal representative, it has been determined that the applicant does not need to apply to the BOA for a variance. This is based on Section 1107-H-9 of the City of Tulsa Zoning Code which gives the Planning Commission authority to increase “structure heights” through the minor amendment process. By definition of “structure” in Section 1800 of the Zoning Code, a screening wall is considered a structure if it is permanently affixed to the ground with a footing, as is the case with the subject wall.

Provided the aforementioned, within the vicinity of the subject tract and along 31<sup>st</sup> Street (from Peoria Avenue to Utica) relief has been granted twice with respect to fence/wall height. The BOA permitted an increase for a wall along 31<sup>st</sup> Street up to 8.5 feet citing the varying topography of the project location on a tract located immediately east of the southeast corner of 31<sup>st</sup> Street and Rockford. The BOA also granted an increase to six-foot for a fence located along Quaker Avenue in the front yard of a house on the northeast corner of 31<sup>st</sup> Street and Quaker Avenue. To staff's knowledge there has never been relief granted to allow a 10' high masonry wall along the 31<sup>st</sup> Street ROW within the immediate vicinity of the subject tract.

Please refer to Exhibits D - H. Exhibit D is a topographic map of the site showing an approximate ten-foot difference between the high point of 31<sup>st</sup> Street (676') and the high point of the site (686'). Exhibits E through G are photographs taken from the southern right-of-way (ROW) line of 31<sup>st</sup> Street at the highpoint of the street (please note the full size SUV in "F" and the full sized pick-up truck in "G"). These photos show the top of the existing eight-foot wall to be approximately 14 feet above grade of the street. It is staff's contention that the single story sections of the house (as seen in Exhibit B) proposed along 31<sup>st</sup> Street will not be visible. According to Exhibit B, the two story sections are screened from the street by the roof(s) of the single-story sections. Exhibit H was taken from the interior of the property looking south to 31<sup>st</sup> Street. Given the over-all height of the subject property in relation to 31<sup>st</sup> Street and that no traffic can be seen from the interior of the lot over the eight-foot wall, staff believes the eight-foot screening wall is sufficient to provide the property owner with adequate privacy and security.

Therefore, staff recommends **DENIAL** of the request to increase the maximum permitted height of a masonry wall from eight feet to ten feet on Lots 3 and 4, Block 1 – Helmerich Estates/PUD-511.

**Applicant's Comments:**

**Tim Terral**, Tulsa Engineering and Planning, 6737 South 85th East Avenue, Tulsa, OK 74133, stated that his client does have a building permit to build the wall at eight feet in height. He feels that due to the topography and elevation change, his client needs a ten-foot wall in height for privacy and noise abatement.

Mr. Terral stated that from this topography there is a 676-foot elevation at the high points with one-foot contour intervals and Chris is showing two-foot contour intervals. The finished floor elevations can be 687 feet or 688 feet, which is back in the north half of the property. The front portion of the home, which is located around 682 feet or 683 feet, will have a five-foot elevation change from where it is now to the finished floor elevation. This will not have the typical eight- or nine-foot ceilings but will be taller with probably a ten-foot floor plate. This will make it easier for automobiles, SUVs and trucks to see inside and the homeowner to see

out of the site. Privacy and noise abatement issues are the reason for the request.

Mr. Terral stated that the landscape architect informed him that for every foot and a half on center there will be ivy planted and within three years the wall should be completely covered in ivy and there will be a green vegetated cover that will blend in with the surrounding environment.

**TMAPC COMMENTS:**

Ms. Cantrell asked if the current wall is at eight feet. In response, Mr. Terral stated that it is at eight feet.

Mr. Marshall asked Mr. Terral if he would be putting any bricks on the stone wall or just try to cover it with ivy. In response, Mr. Terral stated that it would stucco type finish, but he is not sure what the finish will be, but it will be ultimately covered by ivy.

In response to Mr. Marshall, Mr. Terral stated that there are some trees on the subject property and there will be planting of trees as well.

Mr. Marshall stated that Exhibit A shows the trees and landscaping that is proposed and on Exhibit B it shows the height of the trees that are proposed and it would hide everything from the house. He doesn't believe there will be any way that one would see from inside out and certainly one wouldn't be able to see from the street. In response, Mr. Terral stated that some of the trees have been taken out and they are not all evergreen trees, so in the early spring time and the fall there wouldn't be leaves to screen the views. Mr. Marshall stated that trees have leaves on them nine months out of the year.

Commissioner Keith asked if the neighbors have complained about the ten-foot proposal. In response, Mr. Terral stated that Ms. Cantrell stated at the previous meeting that she was contacted by Greg Bledsoe, who indicated that he is starting a neighborhood association and they had no problems with the wall and setback issues that were approved at the previous meeting.

Commissioner Keith stated that the only issue then is setting a precedent. In response, Mr. Terral stated that this is a PUD and technically it would be precedent in terms of the wall, but he feels it is due to topography and elevation issues as to why he is asking for this relief.

Ms. Cantrell stated that she wanted to clarify that Mr. Bledsoe stated that this neighborhood association is just starting up. He is speaking for them, but she didn't want to give the impression that this is a cohesive neighborhood group that voted on this issue.

Ms. Cantrell asked Mr. Terral if he wanted to go up two feet higher for the entire wall. In response, Mr. Terral stated that it would only be along 31<sup>st</sup> Street and ten feet would be the highest height and less in other areas.

Ms. Wright asked how much view is blocked from the street with the eight-foot fence that is currently in place. Mr. Sansone stated that he would estimate 12 to 14 feet. Ms. Wright stated that if one is measuring from the street level then the wall is already over eight feet in height. Mr. Sansone was away from the microphone.

Mr. Terral stated that the topography goes up from south to north and the house will be higher than the streets about ten to twelve feet.

Ms. Wright stated that since it is privacy issue, perhaps the house should sit farther back on the lot. In response, Mr. Terral stated that there is no room to set it back. Ms. Wright suggested the house be smaller.

Mr. Carnes stated that if the Planning Commission allows a ten-foot wall on top of three-foot to six-foot rise above the street, then this will set a precedent for what will happen in Tulsa from now on. He indicated that he will make a motion to deny this proposal when the time comes.

Ms. Cantrell stated that originally she thought this wall was already ten feet and was in keeping with the rest of the neighborhood, but she believes if two more feet of wall goes on top of the existing eight-foot fence, then it is substantial and bigger than the surrounding area. If there were some specific concerns and it was below the street, then she would consider it, but it is going to create a prison-like environment along 31<sup>st</sup> Street. She will agree with Mr. Carnes to deny this proposal.

Commissioner Keith asked Mr. Sparks to speak about the height, noise abatement, etc. In response, Mr. Sparks stated that when one looks at the elevation of the house it is a little bit different from what the photographs are indicating in that the elevation of the site and finished floor will be above the wall. Looking at the photographs it is a no-brainer, but when the house is built and the finished floor is set with the size and scale of the house, he believes that the wall will not be as intimidating as it is now. He understands the concern of possibly setting a precedent and he appreciates it, but architecturally he doesn't see a problem with the ten-foot wall over the long haul. Possibly the Planning Commission should reconsider that for certain areas and certain scale of homes, the height limit should be reconsidered and possibly this can be done with the Comprehensive Plan. This is a unique situation.

Ms. Cantrell stated that one should possibly keep the wall height in mind when building a home and know that the fence height limit is eight feet. If one chooses to build a house that tall, then the varying of wall height could be too easily

applied across the board. She doesn't see this as a noise issue because eight feet will provide a buffer, particularly since the cars are going to be actually be below that. As far as privacy issues she doesn't see but possibly two windows that could look across into this subject lot. Most of the homes across the street will be below the wall.

Mr. Terral stated that he believes that this is a unique situation because of the topography. This house will be sitting much higher and it wouldn't have to be a big house to have the same issue. It is the finished floor and the topography rises from the street up further behind the wall. The photographs are misleading in terms of what ultimately will be built.

Mr. Shivel stated that he agrees with Mr. Terral that the house sits up behind the wall. He indicated that he viewed the subject property himself and then seeing the pictures today he is reminded that the perspective of the potential "lookers" would be close to the wall and down from the wall five to six feet at street level versus the top of the grade where the wall starts. Even seeing the windows from the perspective of the first floor will probably not happen because of the angle of the view. The combination of that and the setting of a precedent he would have to go with the staff's recommendation.

Mr. Marshall stated that he doesn't like to go against the Code and eight feet is a tall wall or fence. With the lower elevation of the street there is no way that anyone can see anything on the inside. Dealing with the subject home looking out there is a possibility that they can see across the street into another home, but that can be taken care of by planting evergreens. Mr. Marshall indicated that he would have to agree with staff on this application.

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **6-2-1** (Cantrell, Carnes, Marshall, Midget, Shivel, Wright "aye"; Keith, Sparks "nays"; Walker "abstaining"; McArtor "absent") to **DENY** the minor amendment for PUD-511-1 per staff recommendation.

\* \* \* \* \*

13. **PUD-375-D – Sack and Associates, Inc./Mark Capron** (PD-8) (CD-2)

North of northwest corner of the West 61<sup>st</sup> Street South and South Union Avenue (Detail Site Plan for construction of a 17,098 square foot church building.)

### **STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for construction of a 17,098 square foot church building. The proposed use, Use Unit 5 – Community Services and Similar Uses is a permitted use within PUD-375-D.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Parking has been provided per the Zoning Code. A trash enclosure has been provided per PUD development standards. Street yard landscaping is provided per Chapter 10 of the Zoning Code.

The Adopted development standards for PUD-375-D state that the use of “screening or open landscaping along the north boundary” be determined during detail site plan review. Staff is in agreement with the applicant that a 548.55’, six-foot solid screened fence be provided along the north boundary of the PUD within the project limits. Landscaping is provided per the landscape chapter of the Zoning Code. A trash enclosure is provided per PUD development standards.

Approval of major amendment PUD-375-D also included the provision that sight lighting requirements would be determined during the detail site plan review process to ensure compliance with section 1303-C of the Zoning Code. Section 1303-C requires that all parking lot lighting be directed down and away from boundary lines in common with R districts and shielded in such a manner that the light producing element is not visible to a person standing at ground level in an R district. Therefore, staff has advocated and the applicant has agreed to no lights ~~standards~~ within the north 50’ of this tract and a limit of 20’ in total height for the remainder of this tract. This lighting requirement is for the subject tract only; subsequent development in this PUD would be subject to the same detail site plan review as this tract.

Provided the aforementioned, staff recommends **APPROVAL** of the detail site plan for the Life Park Christian Church, PUD-375-D, Lot 1, Block 1 – Life Park.

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

**The applicant indicated his agreement with staff’s recommendation.**

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

### **TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **APPROVE** the detail site plan for PUD-375-D per staff recommendation. (Language with a strike-through has been deleted and language with an underline has been added.)



16. **Z-7126 - Tanner Consulting, LLC**

**RS-3 to PK**

Northeast of the northeast corner of East 15<sup>th</sup> Street (PD-6) (CD-4) and South Lewis Avenue (east of and adjacent to an existing ice cream store.)

**STAFF RECOMMENDATION:**

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

**PROPOSED ZONING:** PK

**PROPOSED USE:** Parking expansion for ice cream store

**RELEVANT ZONING HISTORY:**

**BOA-18188 September 22, 1998:** The Board of Adjustment approved a Variance to permit a structure in the planned right-of-way, per plan submitted, on property located at the northeast corner of South Lewis Avenue and East 15<sup>th</sup> Street and abutting subject property to the south.

**BOA-18108 July 14, 1998:** The Board of Adjustment approved a Variance of the setback from an abutting R District, the Broken Arrow Expressway right-of-way, to permit a building within a CS District to be constructed within 6 feet of a south right-of-way line of the Broken Arrow Expressway, per plan submitted, on property located at

**BOA-12440 February 24, 1983:** The Board of Adjustment approved a Special Exception to allow a Use Unit 15 in a CS District, to permit a storage building; subject to the dumpster presently located at the adjacent Braum's store be located adjacent to the proposed building, that the fence to the east of the Braum's store be repaired, that the south and west sides of the proposed building be bricked to match the Braum's store and that the roof match that store by having composition roof to match the existing Braum's store, on property located at the southeast corner of East 14<sup>th</sup> Street and South Lewis Avenue and abutting west of subject property.

**Z-4744 January 1975:** All concurred in approval of a request for rezoning a tract of land from RS-3/CS to OL on property located on the northeast corner of South Lewis Avenue and East 14<sup>th</sup> Place and southwest of subject property.

**Z-4108 May 1972:** All concurred in approval of a request for rezoning a tract of land from RS-3 to CS on property located north of the northeast corner of South Lewis Avenue and East 14<sup>th</sup> Place and abutting west of subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately .08+ acres in size and is located northeast of the northeast corner of East 15<sup>th</sup> Street and South Lewis Avenue. The property appears to be vacant and is zoned RS-3.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South Lewis Avenue	Urban arterial	70'	4

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

**SURROUNDING AREA:** The subject tract is abutted on the east by roadway right-of-way, zoned RS-3; on the north by roadway right-of-way and S.H. 51/U.S. 64, zoned RS-3; on the south by a parking lot and grocery store, zoned CS; and on the west by an ice cream/dairy store, zoned CS and OL..

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 6 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being within the Cherry Street Special Consideration Area, Special Development Subarea E. According to the Zoning Matrix, the requested PK zoning **may be found** in accord with the Plan due to its location within a Special Consideration Area. Plan provisions call for potentially higher intensity commercial development.

**STAFF RECOMMENDATION:**

The proposed parking lot expansion appears to be a logical and compatible reuse of an otherwise vacant and probably unusable property. No residential properties are nearby, although residentially-zoned property (the roadway right-of-way) is adjacent on two sides. Staff can recommend **APPROVAL** of PK zoning for Z-7126.

**TMAPC COMMENTS:**

Ms. Wright questioned where the notice was posted on the subject property. In response, Ms. Matthews stated that staff had a debate about the placement of the sign due to the expressway and there weren't many options. The sign has to be on the subject property and the placement was the only option.

**The applicant indicated his agreement with staff's recommendation.**

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

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, "absent") to recommend **APPROVAL** of the PK zoning for Z-7126 per staff recommendation.

**Legal Description for Z-7126:**

The south 65.30' of Lot 3, City View Hill 2<sup>nd</sup> Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof; **From RS-3 (Residential Single-family District) To PK (Parking District).**

\* \* \* \* \*

**OTHER BUSINESS:**

- 17. **Proposed amendments to the TMAPC General Policies**

**STAFF RECOMMENDATION:**

**SECTION I: Policies and Procedures**

**I. GENERAL POLICIES**

**A. Name**

The name of this Commission shall be "Tulsa Metropolitan Area Planning Commission (TMAPC)", hereinafter referred to as the "Commission".

**B. Policies Regarding Meetings**

- 1. It is the policy of the Commission that sufficient supporting information, such as a plot plan, plat of survey, etc., be filed with an application in order for the staff and Commission to have time to evaluate the proposal. If staff concludes that sufficient supporting information has not been provided, staff shall consider the application as incomplete and shall not place the item on the agenda. If material is received by Commissioners less than 48 hours prior to a meeting, the application may be continued by a majority vote of Commissioners present at that meeting.
- 2. In order to help alleviate potential conflicts and assure that interested parties have adequate information, the Commission encourages applicants to meet with surrounding property owners of nearby areas prior to public hearings.
- 3. It shall be the policy of the Planning Commission in cases where the recommended PUD concept plan is changed from the applicant's submitted plan that a revised plan reflecting

the Planning Commissions' recommendation be prepared and submitted to the Planning Commission staff for transmittal to the City Council with the minutes of the meeting.

4. It is the policy of the Commission that public comments are not encouraged at worksessions or training sessions.

**C. Zoning Initiated by TMAPC**

1. As a general rule, the TMAPC will not initiate applications for zoning changes without the consent of the owner or his agent, unless such application is requested by the proper legislative body.

**D. Subdivisions and Lot Splits**

1. PLAT WAIVER: It is the TMAPC's policy to waive the platting requirement for Antennas and Supporting Structures (Use Unit 4. Public Protection and Utility Facilities) and Open Air Activities (Use Unit 2. Subsection 1202.2). The Code lists Open Air Activities as: carnivals; Christmas tree sales; circuses; fruit and vegetable sales; plant sales; tent revivals; and any other sales from trucks, trailers, pickups and other vehicles.
2. LOT-SPLITS:
  - a. Right-of-way acquisition by the City of Tulsa requires the processing and approval of a lot-split by the Tulsa Metropolitan Area Planning Commission (TMAPC) when the City acquires only a portion of an existing lot of record. It is the policy of TMAPC to permit Staff to process such lot-splits as "prior approval lot-splits" and stamp the deed(s) for recording with the Tulsa County Clerk. TMAPC then ratifies Staff approval at the next regularly scheduled meeting of TMAPC.
  - b. No lot-split applications which require waiver of a provision of the Subdivision Regulations shall be processed as prior approval lot-splits. Such lot-splits shall require a ten-day written notice to abutting property owners (including lot owners separated only by a residential street). Deeds for such lot-splits shall not be stamped or released until the TMAPC has approved said lot-split in a public meeting.

**E. Comprehensive Plan**

It shall be the policy of the Planning Commission to not recommend or advocate site-specific locations for such public and quasi-public

uses as water storage facilities, stormwater management facilities, traffic signs and signals and other similar uses.

**F. TMAPC Privacy**

Frequently the public asks how to contact members of the TMAPC. This may be done in one of three ways. The first is by letter correspondence to the TMAPC secretary who will deliver it to the members. The second is by-email to the TMAPC secretary, who will deliver it to the TMAPC members. The third method, if the individual wishes to speak personally with the TMAPC members, is for that individual to call the TMAPC secretary and leave a message to that effect. Staff will not release addresses or phone numbers of TMAPC members without that member's approval.

**II. MEMBERSHIP AND OFFICERS**

**A. Commission Membership (0.8.19-863.5)**

The Tulsa Metropolitan Area Planning Commission consists of eleven members, selected as follows: Six are appointed by the Mayor of the City of Tulsa and approved by the City Council, and three are appointed by the Board of County Commissioners of Tulsa County. The Mayor or a person designated by the Mayor as an alternate and the Chairman of the Board of County Commissioners or other member of the Board designated by the Chairman of the Board as an alternate shall be ex officio members of the Commission and shall be entitled to vote on all matters. Appointed members shall serve for terms of three years, and shall continue to serve until their successors are appointed. Vacancies occurring, otherwise than through the expiration of term, shall be filled only for the unexpired term in the same manner as set out above. All appointed members of the Commission shall serve without compensation and shall hold no municipal or county office.

A member of such Commission, once qualified, can thereafter be removed during his/her term of office only for cause and after a hearing held before the governing body by which he/she was appointed.

**B. Absentees**

In order to properly conduct business, Commissioners must attend as many meetings as practical. If a Commissioner fails to attend ten regularly scheduled meetings, excluding worksession and training session, during a 12 month period the Commission may contact the appointing body to request that the Commissioner be removed and replaced.

**C. Officers**

1. Annually, on the first Wednesday in January, the Commission shall elect from its appointed members a Chair, a First Vice-Chair, a Second Vice Chair and a Secretary. No Commission member shall hold the same office for more than two consecutive full one-year terms. Any vacancy in office shall be filled by the Chair for the unexpired term only.
2. The duties of the Chair shall include:
  - (a) Presiding over meetings when present, unless the Chair designates another member to preside;
  - (b) Appointing commissioners to serve on other governmental agency committees;
  - (c) Establishing ad hoc committees as the Chair deems necessary and appointing members and chairs to that committee;
  - (d) Signing official documents of the Commission; and
  - (e) Representing the Commission before other governmental bodies, unless the Chair designates another member or a member of the Commission's staff.
3. The First Vice-Chair shall assume all of the duties of the Chair during the Chair's absence. The First Vice-Chair shall work in consultation with staff to arrange training sessions and acquire training material for the benefit of the Commission.
4. The Second Vice-Chair shall assume all of the duties of the Chair during the Chair's and the First Vice Chair's absence.
5. The Secretary shall keep or cause to be kept full and complete minutes of all public hearings of the Commission and shall assume all duties of the Chair in the event the Chair, First Vice-Chair and Second Vice-Chair are absent. The Secretary shall attest the Chair's signature on all documents and receive all District Court appeals from any action of the Commission. In the event the Secretary is not present, the First Vice-Chair or Second Vice-Chair, in that order, will assume the Secretary's duties.
6. Each of the officers above named shall be entitled to participate in discussion and vote on any question before the Commission, whether occupying the position of the Chair or not.

### **III. MEETING PROCEDURES**

#### **A. Quorum**

A numerical majority of six of the full membership of the Commission, including the ex officio members thereof shall constitute a quorum for the conduct of any Commission business except at Worksessions where four members shall constitute a quorum.

#### **B. Training and Worksessions**

1. The TMAPC shall meet as a committee of the whole in a worksession on the fourth Wednesday of the month, or at call of the Chair, unless the Chair determines that such a meeting is unnecessary. The TMAPC Chair shall preside or designee.
2. The purpose of the worksession shall be to discuss work items and Planning Commission issues, to share other information and determine whether work items are ready to be considered at regular TMAPC meetings. TMAPC shall take no final action on work items while in Worksessions. Generally, special requests coming to the Commission for consideration shall be reviewed by the Commission in the worksession prior to action, if appropriate, at the regular TMAPC meeting.
3. To assist Commissioners in their job, the TMAPC shall hold regular training sessions at times and locations to be determined.

#### **C. Meeting Schedule**

1. The Commission shall meet regularly on the first, third and fourth Wednesday of each month in the Tulsa City Council Chambers, 2<sup>nd</sup> Level, One Technology Center, 175 E. 2<sup>nd</sup> Street, or in another designated location, in accordance with its approved calendar.
2. Special Public Hearing meetings may be held on approval by a majority vote of the Commission. Such public hearings shall be held in the regular meeting place of the Commission.
3. Normally, land division matters and zoning public hearings will be considered on the first and third Wednesdays and Comprehensive Plan matters as needed.

4. All meeting agendas must be posted twenty-four (24) hours in advance of the meeting for all special and regularly scheduled hearings, provided that for special meetings the Tulsa County Clerk must be given notice of the date, time and place of such meeting, in writing, in person or by telephone means, forty-eight 48 hours in advance of all special Commission hearings and Committee meetings (Title 25 Oklahoma Statutes, Section 311).
5. Items to be placed on the TMAPC agenda shall meet the cut-off dates as specified on the approved TMAPC annual planning calendar. New items shall not be added to the final agenda mailed to TMAPC on Friday proceeding the regularly scheduled Wednesday meeting unless authorized by the Chair.

**D. Annual Meetings**

Once a year, at a time and place to be determined, the Commission shall meet to review Rules of Procedure and Code of Ethics, to discuss work programs, and to discuss other matters pertinent to the efficient running of the TMAPC.

**E. General Procedures**

1. The latest edition of *Robert's Rules of Order* shall govern all TMAPC proceedings to which they are applicable and where they do not conflict with other adopted rules herein.
2. A waiver of the Subdivision Regulations shall require six affirmative votes by the Commission.
3. An amendment to the Tulsa Comprehensive Plan, including the Tulsa City/County Major Street and Highway Plan, shall require six affirmative votes by the Commission.
4. The Commission may grant a continuance of a scheduled public hearing or other business item at the request of the applicant or another interested party. A request for a continuance should be made in writing and must contain the reasons for the request. In considering the request, the Commission may consider the timeliness of the request, the reasons given for the request, and the inconvenience created.

**F. Notification**

1. The Commission shall provide notices for all public hearing items as prescribed by the Zoning Code and Subdivision



Regulations. Methods of notification for public hearing items for zoning changes include giving at least twenty (20) days notice of the public hearing by: publication in a newspaper, posting of a sign on the affected property and by mailing written notice to all property owners within 300-foot radius of the exterior boundary of the affected property. The method of notice for proposed subdivision plats shall be by mailing a written notice of any proposed preliminary plat to the owners of property abutting the proposed plat a minimum of fifteen (15) days prior to the hearing. Also all commission meeting agendas are posted on the TMAPC website at least five (5) days prior to the hearing.

2. The Commission shall consider only public hearing items that have been properly advertised, as required by law, and only those items in which all fees have been paid, including fees for legal advertising.
3. Interested parties speaking on an agenda item for Corridor (CO) or PUD applications will be given notice of future related items appearing before the TMAPC if requested. These include such items as minor amendments, detail site plans, preliminary plats, and final plats.

**G. Public Hearing Procedures**

1. The Commission may grant an early zoning public hearing, if properly advertised and notice given, upon receipt of a letter setting out the reasons for the need of an early public hearing.
2. Staff recommendation on advertised matters shall be written and made part of the file (public record) five days in advance of the advertised public hearing date.
3. Form of Address: Each commissioner shall address only the presiding Chair for recognition; and shall confine their remarks to the question under debate.
4. Public Participation: Any member of the public may address the Planning Commission at a regular or special meeting after signing in for a specific item. When recognized by the Chair, a member of the public should state their name and address.
5. Limitation of comments: The Chair may rule comments out of order if it is redundant, irrelevant, indecorous or untimely.

6. Motions: The Chair shall restate motions before a vote is taken and shall state the maker of the motion and the name of the supporter.
7. The order of business for a public hearing shall be determined by the Chair; however, the following is provided as a guide:
  - (a) Chair announces the application and asks if the applicant is present and if there are any interested parties who wish to address the Commission.
  - (b) Chair asks staff for summary of the case and the physical facts of the area involved.
  - (c) Chair asks for staff recommendation, together with the reasons for the recommendation, and to provide, as part of that written recommendation, whether the request is, is not, or may be found, in conformance with the Comprehensive Plan.
  - (d) Chair calls on the applicant for a presentation, not to exceed 15 minutes for a zoning application, 20 minutes for a PUD or Corridor application or a joint PUD/zoning application. If the applicant presents a significantly changed application and/or Outline Development Plan from that submitted for staff review (determined by staff and TMAPC at the time of the presentation), such action is considered grounds for continuance.
  - (e) Chair calls on interested parties or protestants, and may direct that a time limit per speaker be imposed. Those wishing to speak must use the sign-in sheet.
  - (f) Applicant is given the opportunity to rebut, time not to exceed ten minutes. If applicant, in the Chair's opinion, should present new facts or information, the Chair may allow the protestants time to rebut same.
  - (g) Chair announces the public hearing is closed on the case and opens the review session, during which the Commission will discuss the case among themselves and make a recommendation.
  - (h) During the review session, which shall be open and public, no new evidence shall be admitted unless specifically requested by a member of the Commission. The Commission's recommendation shall be decided by a majority vote of the members present.
  - (i) The Chair shall announce the vote.

8. In the event the final vote on any zoning matter before the Commission results in a tie, such tie vote shall result in the matter being transmitted to the City Council as a tie vote, without recommendation.
9. The Commission shall not rehear a zoning application on the same property for a period of six months after action on the application has been taken by the Commission, unless said application is amended to a land use which is in accordance with the Comprehensive Plan.
10. The transmittal of applications for a zoning map amendment to the City Council in those instances where the applicant, staff and Commission are all in agreement and there are no interested parties will occur following the Commission hearing without minutes. All other applications will be transmitted when the meeting minutes are prepared.
11. Reconsiderations: A motion to reconsider an item on which a vote has been taken may be made only by a Member who voted with the prevailing side. If a motion to reconsider is adopted, the Members shall consider the need for additional notice to interested persons before a vote is taken on the item being reconsidered.

#### **H. Development**

1. **VARIANCES OF SECTION 206. STREET FRONTAGE REQUIRED:**  
Applicants proposing developments using a combination of private street(s) and a variance of the required 30 feet of frontage on a public street should instead be required (to the extent possible) to develop their project as a PUD, excepting a proposed townhouse development.
2. **COMPATIBILITY REVIEW:**  
A development project where rezoning is required shall be reviewed not only for compatibility with surrounding zoning patterns and land uses, but also for compatibility of the proposed intensities with surrounding intensities of like uses. Where review shows the potential exists for creating an intensity on the tract that is significantly different from that surrounding the tract, development of the project through the use of the PUD is encouraged. When reviewed as a PUD, it shall meet the test of being in harmony with the existing and expected development of surrounding areas (Section 1107.D.2, Zoning Code, City of Tulsa).

3. PUD DETAIL PLAN REVIEW

The staff of the TMAPC shall review and approve, approve with conditions or deny all Detail Sign and Landscape Plans and minor revisions to previously approved Detail Site Plans unless specifically directed by the TMAPC to present the Plans to the Commission for review. Prior to approval of any Detail Plans, the staff shall ascertain that the Plan complies with all PUD and Zoning Ordinance provisions. If the Plan does not comply with such requirements, the staff shall approve the Plan subject to conditions which bring it into compliance or deny the Plan.

If the applicant or interested parties disagrees with the decision of staff, they may appeal the staff decision as provided for in Section 1107C of the Tulsa Zoning Code.

The staff shall provide periodic reports to the TMAPC of Detail Plans they have approved or approved with conditions. If staff is uncertain as to whether a Detail Plan complies with the requirements of a PUD, staff shall place the items on the TMAPC agenda and the Planning Commission shall determine if the Plan is in compliance.

4. PROCEDURES FOR PROCESSING URBAN RENEWAL PLAN (URP) AMENDMENTS:

In keeping with Oklahoma statutory requirements, the Tulsa Development Authority (TDA) periodically requests that TMAPC review proposed amendments to the URP for conformance with the Comprehensive Plan. If a proposed URP amendment is not in accord with the Comprehensive Plan, an amendment to the respective District Plan must be processed prior to or concurrently with TMAPC review of the proposed URP amendments.

The foregoing points apply to proposals that lie within existing designated Urban Renewal areas. However, additional Urban Renewal areas may be created and amendments to the respective District Plans may need to precede the Urban Renewal area designation.

5. PROCEDURES FOR PROCESSING MINOR AMENDMENTS TO APPROVED CO SITE PLANS.

Minor changes in the proposed corridor development may be authorized by the Planning Commission, which may direct the processing of an amended subdivision plat, incorporating

such changes, so long as substantial compliance is maintained with the approved site plan and the purposes and standards of Section 805, Zoning Code, City of Tulsa. Changes that would represent a significant departure from the site plan shall require compliance with the notice and procedural requirements of an initial site plan review and approval. The following shall be considered minor amendments.

- (a) Adjustment of internal development area boundaries provided the allocation of land to particular uses and the relationship of uses within the project are not substantially altered.
- (b) Limitation or elimination of previously approved uses provided the character of the development is not substantially altered.
- (c) Increases in dwelling units, provided the approved number of dwelling units is permitted by the underlying zoning and the density of a development area is not increased more than 15%.
- (d) Increases in permitted non-residential floor area, provided the increased floor area is permitted by the underlying zoning and the floor area of a development area is not increased more than 15%.
- (e) Modification of the internal circulation system provided the system is not substantially altered in design, configuration or location.
- (f) Changes in points of access, provided the traffic design and capacity are not substantially altered.
- (g) Addition of customary accessory buildings and uses within the delineated common open space of a residential development area, including but not limited to swimming pools, cabanas, security buildings, clubhouses and tennis courts.
- (h) Location of customary residential accessory buildings and uses on an adjoining single-family residential lot within a residentially developed area including but not limited to a swimming pool, cabana, garage and tennis court, provided an agreement has been recorded by the owner prohibiting the conveyance of the lot containing the accessory use separate from the conveyance of the lot containing the principal use.
- (i) Changes in structure heights, building setbacks, yards, open spaces, building coverage and lot widths or frontages, provided the approved Corridor Plan, the approved Corridor Standards and the character of the development are not substantially altered.

- (j) Lot-splits which modify a recorded plat and which have been reviewed and approved by the Technical Advisory Committee (TAC).
- (k) Home occupations which meet the requirements of *Section 404.B Home Occupations*, of the Zoning Code.
- (l) Modifications to approved signage, provided the size, location, number and character (type) of the sign(s) is not substantially altered.
- (m) Modifications(s) to approved screening and landscaping plans provided the modification(s) is not a substantial deviation from the original approved plan.
- (n) Changes from multifamily (apartments) to duplexes, townhouses or detached single-family, thereby reducing the number of permitted dwelling units.

Ten days notice of public hearing shall be given for minor amendments by mailing written notice to all owners of property within a 300-foot radius of the exterior boundary of the subject property.

If the Planning Commission determines that the proposed amendment, if approved, will result in a significant departure from the approved Corridor Site Plan or otherwise change the character of the Site Plan significantly or that the cumulative effect of a number of minor amendments substantially alters the approved Site Plan, then the amendment shall be deemed a major amendment. Major amendments shall comply with the notice and procedural requirements of *Section 805. Site Plan Review*.

- 6. TENT AND OPEN AIR SALES IN PUD:
  - (a) Accessory tent sales are to be processed by TMAPC as site plan approvals.
  - (b) Principal use tent sales are to be processed by the Board of Adjustment.

**TMAPC COMMENTS:**

Mr. Marshall asked if corridor should be added to G. Public Hearing Procedures, 7.d. In response, the Planning Commission agreed that corridor should be added to this section.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Keith, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **APPROVE** the amendments to the TMAPC General Policies per staff recommendation and as modified. (Language with a strike-through has been deleted and language with an underline has been added.)

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**Commissioners' Comments**

Mr. Marshall and Mr. Midget stated that Ms. Cantrell did a good job conducting today's meeting as the new Chairman.

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There being no further business, the Chair declared the meeting adjourned at 4:16 p.m.

Date Approved: 2-18-09

Michelle Cantrell

Chairman

ATTEST: Joshua L. Walk  
Secretary