

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2539

Wednesday, February 18, 2009, 1:30 p.m.

City Council Chambers

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

Members Present	Members Absent	Staff Present	Others Present
Cantrell		Alberty	Boulden, Legal
Carnes		Feddis	
Keith		Huntsinger	
Leighty		Matthews	
Marshall		Sansone	
McArtor			
Midget			
Shivel			
Sparks			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, February 12, 2009 at 4:47 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

REPORTS:

Chairman's Report:

Ms. Cantrell welcomed Mr. Leighty to the Planning Commission.

Comprehensive Plan Report:

Martha Schultz reported on the Planitulsa workshops for the next two weeks.

TMAPC COMMENTS:

Ms. Cantrell requested that the Guiding Principles be more visible on the Planitulsa website.

Director's Report:

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

Mr. Alberty reminded the Planning Commission that the APA conference is coming up in April and the deadline for registering is next week. He requested that the Planning Commissioners let staff know who would like to attend the conference.

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Minutes:

Approval of the minutes of January 21, 2009 Meeting No. 2536

On **MOTION** of **CARNES** the TMAPC voted 10-0-0 (Cantrell, Carnes, Leighty, Marshall, McArtor, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; Keith "absent") to **APPROVE** the minutes of the meeting of January 21, 2009, Meeting No. 2536.

Minutes:

Approval of the minutes of January 28, 2009 Meeting No. 2537

On **MOTION** of **MIDGET** the TMAPC voted 9-0-1 (Cantrell, Carnes, Leighty, Marshall, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; McArtor "abstaining"; Keith "absent") to **APPROVE** the minutes of the meeting of January 28, 2009, Meeting No. 2537.

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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-149** – New Beginnings Community Church (PD 10) (CD 1)
(9202)/Lot Combination

Northwest corner of South Rosedale Avenue and Charles Page Boulevard, 1401 West Charles Page Boulevard

- 3. **LC-152** – Mike & Trena Person (8203)/Lot (PD 8) (CD 2)
Combination

South of West 63rd Street and East of South 29th Place, 2823 W 64th Street

4. **LC-151** – Dwight Siens (0432)/Lot Combination (PD 16) (CD 6)
South of East Pine Street and West of North 129th Avenue, 12716
East Pine Street
5. **LC-153** – Matt King (0236)/Lot Combination (PD 2) (CD 1)
West of North Peoria Avenue and North of East Easton Street, 1131
East Easton Street
6. **LS-20282** – Mike Marrara (1405)/Lot-Split (County)
Northeast corner of North 126th East Avenue and East 116th Street
North, 11621 North 126th East Avenue
7. **Change of Access –** (8318) 1617 East 81st Street (PD 18) (CD 2)
South of East 81st Street South, East of Riverside Parkway (Related to
Item 12.)

STAFF RECOMMENDATION:

This application is made to allow a change of access to add access along East 81st Street South and add a new access along Riverside Parkway. This property is zoned PUD-684, PUD-684-A.

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

TMAPC COMMENTS:

Ms. Cantrell stated that there is an interested party wishing to speak on Item 8, Z-6503-SP-2a and that will be pulled from the consent agenda.

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Cantrell, Carnes, Leighty, Marshall, McArtor, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; Keith "absent") to **APPROVE** the consent agenda Items 2 through 7 per staff recommendation.

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

Commissioner Keith in at 1:48 p.m.

Items to be continued:

10. **PUD 636-3** – (8318) Authorization for Accelerated Release of Building Permit (PD 8) (CD 2)
Northwest corner of West 81st Street South and U.S. Highway 75
(Continuance requested to 2/25/09 for further Development Services review.)

STAFF RECOMMENDATION:

Mr. Alberty stated that this is continued based upon information that has yet to be received from Public Works Development Services.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **MIDGET**, TMAPC voted **11-0-0** (Cantrell, Carnes, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the authorization for accelerated release of building permit to February 25, 2009.

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13. **Z-5412-SP-2 – Whistler Sign Company, LLC** (PD-6) (CD-7)
West of northwest corner East Skelly Drive and South Harvard Avenue
(Corridor Plan) (Applicant has requested a continuance to 2/25/09 to verify spacing requirement.)

STAFF RECOMMENDATION:

Mr. Sansone stated that the request is so that the applicant can have the spacing requirement verified by the Board of Adjustment.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Cantrell, Carnes, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the corridor plan for Z-5412-SP-2 to February 25, 2009.

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CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA

8. **Z-6503-SP-2a – Whistler Sign Company, LLC** (PD-18) (CD-8)

Southeast of the southeast corner of 91st Street South and South 101st East Avenue (Corridor Plan Minor Amendment to add digital technology to a previously approved outdoor advertising sign.)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to add digital technology to a previously approved outdoor advertising sign. The use – Outdoor Advertising within Use Unit 21 – Business and Outdoor Advertising Signs is a permitted use per the approval of Corridor District Site Plan Z-6503-SP-2 (see Exhibit A).

The need for the minor amendment is triggered by Section 1221, G-14 of the Zoning Code which states that a conversion of a lawfully existing outdoor advertising sign to a digital outdoor advertising sign shall be considered a change in use.

Since the outdoor advertising sign use has been approved by the TMAPC as well as, the Tulsa City Council in approval of Corridor Site Plan Z-6503-SP-2 staff can support the request to add the digital technology use to the outdoor advertising sign use and recommends **APPROVAL** of minor amendment Z-6503-SP-2a.

Note: Approval of a minor amendment does not constitute detail sign plan approval

Applicant's Comments:

Michael Joyce, 1717 South Boulder, Suite 200, 74119, representing DFI Crossroads and Whistler Sign Company, stated that he is in agreement with staff's recommendation. He explained that there has been a billboard on the subject site previously and it was allowed to be 125 feet in height. His client terminated the month-to-month lease in conjunction with the development of the subject property. The original owner of the sign removed the sign when he lost his month-to-month lease. The outdoor advertising sign will be in the same spot. The corridor site plan was approved and it provides for an outdoor advertising sign in exact the spot. Subsequent to the site plan, the City Council approved digital outdoor advertising through the ordinance and his client is seeking to modify the plan to allow for the digital outdoor advertising sign. He was before the Board of Adjustment a week ago and they approved the spacing for the sign. He noted that currently there is a lawsuit pending with the State of Oklahoma Department of Transportation regarding a permit because they allege that the spacing is not sufficient for a billboard to go back where the original billboard was located. The State's attorney was present at the spacing hearing before the BOA

and they did not raise any objection to the spacing. He believes that the objection will be waived.

TMAPC COMMENTS:

Mr. McArtor asked Mr. Joyce if the subject sign becomes a digital sign, how far it would be from the nearest digital sign. In response, Mr. Joyce stated that it would be well in excess of two miles away from the Mathis Brothers Furniture sign and there is another monochrome digital sign at the Creek Turnpike and Memorial. In the spacing approval for the BOA, the nearest billboard sign to the north is 1,964 feet (non-digital) and the nearest billboard to the south/southwest is 1,237 feet.

In response to Mr. McArtor, Mr. Joyce stated that his client (DFI) has filed an appeal to ODOT's determination of spacing and ODOT has argued that there is only 900 feet between the Lamar board to the south and the approved site on the corridor site plan. However, the surveyor's certificate shows that the sign is 1,237 feet before the BOA, which was approved and ODOT's attorney was present and didn't object or give any input. Mr. Joyce stated that he believes the appeal will be heard on March 17, 2009.

In response to Mr. Marshall, Mr. Joyce stated that the sign company that lost their request before the City Council was a different sign company and not his client. His client's corridor site plan has been approved and today he is seeking a minor amendment to add digital technology.

Ms. Wright asked Legal if there would be any conflicts if the Planning Commission considered this application today with a pending law suit. In response, Mr. Boulden stated that the Planning Commission shouldn't be concerned with any litigation that has been referred to today.

Interested Parties Comments:

Bill Stokely, 3605 Orange Circle, Broken Arrow, Oklahoma 74133, stated that ODOT had legal representation at the BOA last week only to observe and not to speak. Mr. Stokely indicated that he had a billboard on the subject location and it is not the exact spot, but close to it. After losing his lease he removed his sign and moved across the street to another location.

Mr. Stokely stated that the proposed sign will be near a severe curve with a 100-foot drop and the digital sign will be distracting to drivers. He claims it is a safety issue. Mr. Stokely indicated that he did have a sign there previously, but it was a static billboard.

TMAPC COMMENTS:

Mr. Walker asked Mr. Stokely if he would be in support of a static sign, but not a digital sign. In response, Mr. Stokely answered affirmatively.

Ms. Wright asked if there has been any longevity in looking at situations that were inadvertently caused by digital signs and who the liability falls back on. In response, Mr. Stokely stated that they have only been up for three or four months and the technology is too new.

Mr. Leighty asked Mr. Stokely if he would still object to the sign if there were no 100-foot fall. In response, Mr. Stokely stated that he wouldn't be against it if the 100-foot fall weren't present. He indicated that he will be putting a sign up across the highway on SouthCrest property and it will not be on the same curve and will not be 125 feet in height. Mr. Stokely commented that he will never put an LED sign up on a curve like the subject curve and 125 feet in height. Mr. Stokely stated that he has an LED sign up now with motion and he uses a lot of commonsense with it.

Ms. Cantrell informed Mr. Moody that the Planning Commission just received the letter prior to the hearing and there is no way the Planning Commission can read this in time. She encouraged Mr. Moody to submit exhibits in advance in the future. Mr. Moody stated that he simply wanted it in the record.

Interested Parties Comments:

John W. Moody, 5610 East 76th Street, 74136, submitted a letter, minutes, etc. (Exhibit A-1), stating that he doesn't believe that this can't be a minor amendment because it is a change in use. Mr. Moody read from the Zoning Code regarding a change in use.

Mr. Moody stated that the height of the proposed sign is an issue. Mr. Moody cited history regarding applications and former signs on the subject property for a 60-foot in height billboard sign. Mr. Moody read the BOA minutes for previous applications before the BOA (Exhibit A-1). The variance ran with the height of the sign that was for a normal outdoor advertising sign and he doesn't believe that the applicant is entitled to use that for approving a sign at the new height. He requested that if the Planning Commission is inclined to approve this application, that it be no higher than 60 feet. He suggested that the applicant should go before the BOA for a variance for anything higher than 60 feet.

Mr. Moody stated that everything that has happened in this case and everything that has been submitted by the applicant has always been based upon the approvals that he obtained for the Stokely sign starting in 1995 when the property was originally zoned CO and in 1996, he applied to increase the signage to 125 feet. These approvals were not for a digital sign and these approvals are being used and cited by the applicant and staff. In 2007, Mr. Stokely removed his sign when his lease was terminated. Mr. Moody stated that his point today is that the subsequent reference to the approvals that were granted to Stokely and the approvals granted for Z-6503-SP-2 were based upon the approvals that had been granted for Mr. Stokely's sign, which was still on the subject property in May 2007. He doesn't believe that the staff's recommendation adequately sets

out that 6503-2 and 6503-1 and the BOA variance granted was limited in the scope and application and shouldn't be used to approve the subject application. He requested that this application be continued to allow Legal to review everything submitted today in Exhibit A-1. Mr. Moody requested that if the Planning Commission is inclined to approve the digital sign that they send the applicant back to the BOA for the variance in height because the Planning Commission doesn't have authority to approve a sign over 60 feet in height.

TMAPC COMMENTS:

Mr. Marshall asked Mr. Moody if he is planning to take this issue to District Court. In response, Mr. Moody answered affirmatively.

Applicant's Rebuttal:

Mr. Joyce stated that a lot of issues have been raised and in his opinion they are smoke-screen issues. He doesn't see the City of Tulsa objecting, no neighbors objecting, and no safety groups present today objecting, but he does see a competitor present objecting. The variance runs with the land and the actions in the past have all been proper and he is present today to request a minor amendment to add LED technology to a billboard. Mr. Moody and his client were denied at the City Council and now they are suing the City and they are threatening to sue the Planning Commission today. There are Federal Regulations in place and State Regulations in place for digital signs. Mr. Joyce stated that Mr. Stokely does have a digital sign on Creek Indian land and it has motion on the sign, which is not allowed on the Federal and State rules, but since it is in Indian land, it is not regulated. Mr. Joyce requested that the Planning Commission approve the staff recommendation.

Mr. Moody stated that he did not threaten to sue the Planning Commission as stated by Mr. Joyce.

TMAPC COMMENTS:

In response to Mr. Walker, Mr. Joyce stated that the projected revenue of the sign should have no impact on the decision.

Ms. Cantrell questioned if this is a legal non-conforming sign. In response, Mr. Boulden stated that he must have missed that statement. Mr. Boulden stated that he has trouble calling this a non-conforming use when there is no use present.

Ms. Cantrell stated that she understood that the applicant has a variance for a regular outdoor advertising sign, but not a variance for a digital outdoor advertising sign. Mr. Boulden stated that it may need a variance for the digital outdoor sign.

After a lengthy discussion it was determined that this case should be continued to allow Legal to review the submitted information and this application in order to

give an opinion whether the Planning Commission can grant this minor amendment.

TMAPC Action; 11 members present:

On **MOTION** of **MARSHALL**, TMAPC voted **11-0-0** (Cantrell, Carnes, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the corridor plan minor amendment for Z-6503-SP-2a to February 25, 2009 to allow Legal to review all submitted information.

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PUBLIC HEARING

11. Original Town Downtown Stadium Ball Park – (8211) (PD 1) (CD 4)
Authorization for Accelerated Release of Building Permit
East of North Elgin Avenue and North of East Archer Avenue

STAFF RECOMMENDATION:

The property is zoned CBD. Full permits are requested. The original townsite plat was filed in 1915. Streets and easements are in process of being vacated.

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

The applicant offers the following explanation of the extraordinary and exceptional circumstances that serve as the basis for this request: Occupancy of the Tulsa Drillers Stadium facility is scheduled for April 2010 and must begin building immediately to meet schedule.

The following information was provided by the Technical Advisory Committee in its meeting February 5, 2009.

ZONING:

TMAPC Staff: Full permits are requested.

STREETS:

Public Works, Transportation: No comment.
Public Works, Traffic: No comment.

SEWER:

Public Works, Waste Water: No comment.

WATER:

Public Works, Water: The extension and abandonment of main water lines are being processed.

STORM DRAIN:

Public Works, Storm Water: No comment.

FIRE:

Public Works, Fire: No comment or objection.

UTILITIES:

Franchise Utilities: No comment.

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

The applicant indicated his agreement with staff’s recommendation.

Interested Parties Comments:

James Alexander, 431 East Ute Street, 74106, expressed his opposition to this application. He explained that he is opposed to this because it is in a black historical area and where one of the worst race riots occurred. Mr. Alexander cited that he filed a lawsuit to stop this development. He advised the Planning Commission to not approve this until the Courts, HUD, etc., act on the lawsuits.

TMAPC Action; 11 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **9-1-1** (Cantrell, Carnes, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Walker "aye"; Wright "nay"; Sparks "abstaining"; none "absent") to recommend **APPROVAL** of the authorization for accelerated release of building permit for Original Town Downtown Stadium Ball Park per staff recommendation.

12. **PUD 684, 684-A-** (8318) Plat Waiver (PD 18) (CD 2)
South of 81st Street South, East of Riverside Parkway (Related to Item 7.)

STAFF RECOMMENDATION:

The platting requirement is being triggered by a previous rezoning to PUD 684, 684-A for a temporary parking lot use.

Staff provides the following information from TAC at their February 5, 2009 meeting:

ZONING:

TMAPC Staff: The property is being used for a temporary parking lot use. A change of access request is also on this agenda for the site. A new plat should be processed when structures are proposed on the site per the PUD.

STREETS:

At that location Riverside is a Parkway. Minimum right-of-way requirement is 150 feet. Current right-of-way available is 50 feet. Additional 25 feet of right-of-way must be provided. An additional 10 feet is required for 388 feet for right turn lane at intersection of Riverside and 81st Street. Eighty-First Street is a secondary arterial with 100 feet of right-of-way required. It is not clear from plans that 50 feet of right-of-way from center line of 81st Street is available all along the north property line. Right-of-way dedication of up to 50 feet may be required.

SEWER:

No comment.

WATER:

A 12 inch water main exists along East 81st Street and Riverside Parkway.

STORM DRAIN:

No comment.

FIRE:

No comment or objection.

UTILITIES:

No comment.

Staff can recommend **APPROVAL** of the plat waiver at this time with the proper additional right-of-way dedication.

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

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

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

	YES	NO
4. Is right-of-way dedication required to comply with Major Street and Highway Plan?	X	
5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived?		X
6. Infrastructure requirements:		
a) Water		
i. Is a main line water extension required?		X
ii. Is an internal system or fire line required?		X
iii. Are additional easements required?		X
b) Sanitary Sewer		
i. Is a main line extension required?		X
ii. Is an internal system required?		X
iii. Are additional easements required?		X
c) Storm Sewer		
i. Is a P.F.P.I. required?		X
ii. Is an Overland Drainage Easement required?		X
iii. Is on site detention required?		X
iv. Are additional easements required?		X
7. Floodplain		
a) Does the property contain a City of Tulsa (Regulatory) Floodplain?		X
b) Does the property contain a F.E.M.A. (Federal) Floodplain?		X
8. Change of Access		
a) Are revisions to existing access locations necessary?	X*	
9. Is the property in a P.U.D.?	X	
a) If yes, was plat recorded for the original P.U.D.		X
10. Is this a Major Amendment to a P.U.D.?		X
a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?		
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

* Change of access requested on the same TMAPC agenda as the plat waiver request.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Cantrell, Carnes, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the plat waiver for PUD-684, 684-A per staff recommendation.

14. **PUD-747-A – Khoury Engineering, Inc.** **RS-3/OL/CS/PUD**

North of northeast corner East 91st Street and South Yale Avenue (Major Amendment to add 1.58 acres of land area to the southern portion of the existing Development Area B to expand the permitted office, retail and restaurant area and increase the maximum permitted floor area within Area B from 61,476 square feet to 69,750 square feet.) (PD-18) (CD-8)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 21730 dated February 5, 2008, established zoning for the subject property.

PROPOSED ZONING: RS-3/OL/CS/PUD

PROPOSED USE: Mixed-use development

RELEVANT ZONING HISTORY:

PUD-747 February 2008: All concurred in approval of a proposed Planned Unit Development on a 5± acre tract of land for office and commercial use on property located north of the northeast corner of East 91st Street and South Yale Avenue and a part of the subject property. The City Council approved it per conditions that the trees to be located along the east lot line they shall be of such type, size and number of trees as agreed to between the developer and the representative for the abutting property owners, who is designated as Mr. Jones Jones. The agreement will be submitted to the City Council Secretary and signed by both parties. Any amendment to the type, size and number of trees along the east lot line shall be considered a major amendment to be approved by the City Council.

BOA-20211 February 28, 2006: The Board of Adjustment approved a Modification of a previously approved site plan for a planned car wash facility, per plan submitted today, on property located north of the northeast corner of East 91st Street and South Yale Avenue; and a part of the subject property.

BOA-19870 July 13, 2004: The Board of Adjustment approved a Special Exception to permit an automobile car wash in a CS district per plan submitted, on property located north of the northeast corner of East 91st Street and South Yale Avenue; and a part of the subject property.

Z-6878 December 2002: All concurred in approval for a request to rezone a 200' x 330' tract located north of the northwest corner of East 89th Street South and South Yale Avenue from RS-3 and OL to OL for office use.

PUD-355-C June 2001: All concurred in approval of a proposed Planned Unit Development on a 10± acre tract of land for office use on property located northwest corner of East 91st Street South and South Yale Avenue.

Z-6791/PUD-269-B January 2001: All concurred in approval of a request for rezoning a tract of land from RS-3 to OL and a proposed Major Amendment to a Planned Unit Development to add a 30,000 square foot/3-story office building on property located north and east of East 89th Street South and South Yale Avenue and abutting subject property to the north.

Z-6784 September 2000: All concurred in denial of a request to rezone a lot located north of the northeast corner of East 89th Street and South Vandalia Avenue and east of the subject property, from RS-3 to OL.

PUD-355-B August 2000: All concurred in approval of a request for a Major Amendment to the PUD to establish new Development Areas, decrease the landscaped areas, increase the access points and increase the maximum building floor area on property located west of the northwest corner of East 91st Street and South Yale.

Z-6765 June 2000: All concurred in approval of a request to rezone a .5± acre tract from RS-3 to OL for office use, on property located south of the southwest corner of East 87th Place South and South Yale Avenue.

PUD-355-A December 1999: All concurred in approval of a proposed Major Amendment to add uses permitted by right in a CS district to the east 195' of the south 299' of Phase II tract of the original PUD property and which consisted of five acres west of the northwest corner of East 91st Street and South Yale. The request was to also delete the commercial uses previously approved for the remainder of Phase II.

Z-6715 October 1999: All concurred in approval of a request to rezone a 135' x 305' tract located on the northwest corner of East 89th Street South and South Yale Avenue from RS-3 to OL.

Z-6684 March 1999: All concurred in approval of a request to rezone a tract located north of the northwest corner of East 89th Street and South Yale Avenue from RS-3 to OL for office use.

PUD-354 May 1984: All concurred in approval of a proposed Planned Unit Development on a 14.45+ acre tract of land for single-family subdivision with private streets, on property located east of northeast corner of East 91st Street South and Yale Avenue and abutting subject property to the east.

Z-5929/PUD-355 March 1984: A request was filed to rezone a tract of land from RD, RS-3, and CS to OM for an office park development. The tract consisted of four separate lots, and to avoid nonresidential zoning on the property abutting the residential uses on the north and west, staff recommended OL zoning on the lot in the northeast corner and OL zoning on the lot along the north boundary. Both tracts would provide an OL buffer to the residential uses. All concurred in denial of the rezoning on the remainder of the property and approval of the request for a proposed PUD to build an office park within the RS-3, OL, OM and CS underlying zoning.

PUD-269-A September 1982: All concurred in approval of a major amendment to the PUD to reduce the number of office buildings allowed on property; increasing the height of buildings from two story to five stories and increasing the open space from approximately 58% to 65% which would allow for a park-like setting for the building.

Z-5633/PUD-269 November 1981: All concurred in approval of a request to rezone a tract of land from RS-3 to OL/PUD and a proposed Planned Unit Development for office use subject to reducing the amount of OL zoning allowed to approximately 279.4 feet by 880.7 feet along South Yale Avenue with the balance of the tract remaining RS-3.

Z-4197 September 1972: A request for rezoning a 26.76+ acre tract of land from AG to RM-2/CS for retail and multi-family uses was recommended for denial by staff. However, all concurred in approval for rezoning the subject tract from AG to RS-3/OL/CS on property located on the northeast corner of East 91st Street South and South Yale Avenue and a part of subject property.

Z-3766 August 1970: A request for rezoning a 10+ acre tract of land from AG to CS was recommended for denial by staff, on property located on the southeast corner of East 91st Street South and South Yale Avenue. The TMAPC recommended to the City Commission to approve OL on the south and east 150 feet of tract and CS on the remainder, however the City Commission denied the

CS. The case went to District Court and granted CS uses on RS-3 zoned property (Case number: DC-C-71-728).

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 6.53± acres in size and is located north of northeast corner of East 91st Street and South Yale Avenue. The property has one structure under construction in the eastern portion of the property with the bulk of the property appearing to be vacant. The property is currently zoned RS-3/OL/CS/PUD-747.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Yale Avenue	Primary Arterial	120-feet	3

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

SURROUNDING AREA: The subject tract is abutted on the east by single-family residences, zoned RM-1/PUD 354; on the north by a mid-rise office building, zoned OL/PUD 269-B; on the south by mixed retail and office uses, zoned CS and OL; and on the west by Yale Avenue and then a mid-rise office building, zoned OM.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 18 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being medium-intensity, no specific land use and low-intensity, no specific land use. According to the Zoning Matrix, the requested amendment to the existing PUD and the existing zoning **are** in accord with the Plan.

STAFF RECOMMENDATION:

Approved as PUD-747 in November 2007, the 4.95 acre/215,622 square feet (SF) Penn Office Park site is located north of the northeast corner of Yale Avenue and 91st Street South. As approved by the TMAPC and Tulsa City Council, PUD-747 is a mixed use development allowing 81,476 SF of office and retail uses including all uses permitted by right in the Commercial Shopping (CS) district. A majority of the property is zoned CS (4.56 acres) with a portion of OL zoning (0.941 acres) and RS-3 zoning on 1.328 acres (see attached case map). For this major amendment proposal the underlying zoning provides for ample floor area therefore no rezoning is proposed. The property will be re-platted.

The subject tract slopes gradually down from east to the center of the site and then slopes back up to the west (see attached site photographs and Exhibit B showing topographic lines). As stated above, the tract is abutted on the east by single-family residences, zoned RM-1/PUD-354; on the north by a mid-rise office building, zoned OL/PUD-269-B; on the south by a QT gas station/convenience

store, Sonic Drive-in and Firestone Automotive Center, zoned CS and OL. The property is abutted on the west by Yale Avenue and then a mid-rise office building, zoned OM.

Major amendment PUD-747-A contemplates adding 1.58 acres/68,824 SF of land area to the southern portion of the existing Development Area B of PUD-747 (see Exhibit A). This addition would be along the north side of the QT Store and Sonic Drive-in properties and does not abut directly to any residentially zoned property or designated residential development area within an approved PUD. This addition would make the total land area for PUD-747-A 6.53 acres.

The existing Development Area A of PUD-747 (the far east portion of the site as identified on applicant Exhibit A as 'Development Area A') and associated development standards as previously approved will remain effective allowing a two-story office building with a maximum of 20,000 square feet of floor area. This includes the landscape modification included in the approval of PUD-747 by the Tulsa City Council (see Development Area A Landscape Requirements below). The detail site plan for this structure was approved by the TMAPC in July of 2008. The office building is currently under construction. Development Area C of PUD-747 and associated development standards will also remain unchanged allowing private roadway access and access to Development Area A via mutual access easement. Area C will also provide over-flow parking for Development Areas A and B.

With the addition of 1.58 acres to the southern portion of Development Area B, PUD-747-A will expand the permitted office, retail and restaurant area, and increase the maximum permitted floor area within Area B from 61,476 SF to 69,750 SF (an increase of 8,274 SF). This will bring the total maximum permitted floor area for PUD-747-A, including the previously approved office building to 89,750 SF. Under straight zoning, the CS zoned land area of the site would permit 133,729 SF of commercial floor area based on the .5 floor-to-area (FAR) permitted by CS zoning. The proposal for PUD-747-A includes a four-pad office site located near the center of the development immediately west of and adjacent to the previously approved office building. A commercial strip including retail and restaurant uses, and one retail out parcel will be located in the western ½ of Development Area B, along Yale Avenue (see Exhibit A).

Staff finds the uses and intensities of the concept development plan proposed, and as amended by staff, to be in harmony with the spirit and intent of the Code. Staff finds PUD-747-A to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of major amendment PUD-747-A, as amended by staff and the TMAPC, subject to the following conditions (items with strikethrough have been removed, items with underline added in):

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

DEVELOPMENT AREA A

Permitted Uses:	As permitted in Use Unit 10, Off-Street Parking Areas; Use Unit 11, Offices, Studios and Support Services.
Net Lot Area:	1.328 Acres (57,680 SF)
Maximum Floor Area Ratio:	0.50
Minimum Building Setbacks:	
From East Boundary:	80 feet
From North and South Boundary:	60 feet
From West Boundary:	60 30 feet
Maximum Building Height:	35 feet (Not to exceed two stories)
Maximum Building Floor Area:	20,000 SF
Off-Street Parking:	As required by the applicable Use Unit of the City of Tulsa Zoning Code.

LANDSCAPE AREA:

A minimum of ten percent (10%) of the land area shall be improved as internal landscape open space in accordance with the Landscape Chapter of the Zoning Code and shall include at least ten feet of landscape area just west of the eight-foot masonry screening wall located on the east boundary. In this ten-foot landscape area, clusters of Loblolly Pine trees a minimum of fifteen feet in height will be planted. The location of the pine trees will be located with the approval of the representative of the owners of the single family homes of Lots 34, 35, 36 and 37 in Fox Pointe Addition Subdivision, Mr. Jones Jones. The landscape plan will bear the signatures of Mr. Jones and a representative of the developer. The signed landscape plan will be filed with the TMAPC as well as the office of the Tulsa City Council.

If an agreement between Mr. Jones and the developer can not be reached, a letter from the developer to the Tulsa City Council will be provided stating the reasons why an agreement can not be reached. The City Council will then schedule a public hearing to resolve the differences between the two parties.

No certificate of occupancy shall be issued by the City of Tulsa until the landscape plan has received approval with a signature from the neighborhood association representative and the developer, or been approved by the Tulsa City Council.

LIGHTING:

1. Parking area light standards in the east half of Area A shall not exceed 14 feet in height and shall be equipped with deflectors directing the light downward and away from the east boundary of the property. Height standards on the west half of Area A shall not exceed 20 feet in height.
2. No lighting or signs on the east walls of the office building shall be permitted other than accent and security lighting which shall be hooded and directed downward to prevent spillover lighting into the Fox Pointe Addition Subdivision.
3. All lighting will be directed down and away from adjoining residential properties in such a manner as to comply with §1303-C of the Zoning Code. Such compliance shall be verified by application of the Kennebunkport Formula or submission of a photometric plan showing 0 foot-candles at any lot line in common with an R zoned district, or residentially designated development area within a PUD. Consideration of topography in relationship to surrounding residential areas must be considered.

TRASH CONTAINERS:

Outside trash containers will be located along the northwest or southwest corner of Development Area A and shall be completely screened from the view of a person standing in an adjacent residential area and roadways.

SIGNS:

Signs shall comply with the standard of the Tulsa Zoning Code, Section 1103.B.2.

DEVELOPMENT AREA B

Permitted Uses:	As permitted in CS - Commercial Shopping District under the Tulsa Zoning Code.
Net Lot Area:	4.240 Acres (184,715 SF)
Maximum Floor Area Ratio Per Lot:	0.50
Minimum Building Setbacks:	
From East Boundary:	20 feet
From North Boundary:	10 feet
From South Boundary:	20 feet

From the centerline of Yale Avenue:	110 feet
Maximum Building Height:	38 feet (Not to exceed two stories)*
<i>* Architectural projections, as depicted on attached conceptual elevation plan and identified as "central tower" may extend up to 50'.</i>	
Maximum Building Floor Area:	69,750 SF
Off-street Parking:	As required by Use Unit of the Tulsa Zoning Code.

LANDSCAPE AREA:

A minimum of ten percent (10%) of the land area shall be improved as internal landscape open space in accordance with the Landscape Chapter of the Zoning Code and shall include at least five feet of landscape area just east of the Yale Avenue roadway dedication.

LIGHTING:

1. Parking area light standards in the east half of Area B shall not exceed 20 feet in height and shall be equipped with deflectors directing the light downward and away from adjoining properties.
2. All lighting will be directed down and away from adjoining residential properties in such a manner as to comply with Section 1303-C of the Zoning Code where applicable. Such compliance shall be verified by application of the Kennebunkport Formula or submission of a photometric plan showing 0 foot-candles at any lot line in common with an R zoned district, or residentially designated development area within a PUD. Consideration of topography in relationship to surrounding residential areas must be considered.

TRASH CONTAINERS:

Outside trash containers shall be completely screened from the view of a person standing in adjoining residential areas and roadways.

SIGNS:

One lighted monument sign will be permitted for each lot having frontage along Yale Avenue identifying the commercial uses in Development Area B. Each sign shall not to exceed 64 square feet of display surface area and six feet in height, and shall have a minimum separation between signs of 150'.

Wall signs shall comply with the standards of the Tulsa Zoning Code, Section 1103.B.2.

ACCESS AND CIRCULATION:

Pedestrian circulation shall be provided by a sidewalk along Yale Avenue per subdivision regulations and within the parking areas by walkways clearly

distinguished from traffic circulation, particularly where vehicular and pedestrian routes intersect.

Sidewalks or walkways which cross vehicular aisles or driveways should be distinguished to greatest means practicable as follows: by a continuous raised crossing, by using contrasting paving material and/or by using high contrast striping.

Pedestrian access shall be provided from sidewalks along Yale Avenue to the entrances of buildings fronting Yale Avenue.

DEVELOPMENT AREA C

Permitted Uses:	Private roadway access and additional parking for Development Areas A & B.
Net Development Area:	0.941 Acres (40,999 SF)
Off-street Parking:	As required by the applicable Use Unit of the City of Tulsa Zoning Code to supplement parking for Areas A and B.

LANDSCAPE AREA:

A minimum of ten percent (10%) of the land area shall be improved as internal landscape open space in accordance with the Landscape Chapter of the Zoning Code.

LIGHTING:

Parking area light standards in the east half of Area C shall not exceed 14 feet in height and shall be equipped with deflectors directing the light downward and away from adjoining residential properties where applicable. Compliance with §1303-C of the Zoning Code shall be verified by application of the Kennebunkport Formula or submission of a photometric plan showing 0 foot-candles at any lot line in common with an R district, or residential designated area within a PUD. Consideration of topography in relationship to surrounding residential areas must be considered.

SIGNS:

One lighted monument sign will be permitted along the South Yale frontage identifying the office use in Development Area A not to exceed 64 square feet of display surface area and six feet in height.

3. No zoning clearance permit shall be issued for a lot within the PUD until a detail site plan for the lot, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.

4. A detail landscape plan for each development area shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences will be installed by a specific date in accordance with the approved landscape plan for the lot, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
5. No sign permits shall be issued for erection of a sign within the PUD until a detail sign plan has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
7. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.
8. The Department of Public Works or a professional engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required stormwater drainage structures and detention areas serving a lot have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
9. All private roadways shall have a minimum right-of-way of 30' and be a minimum of 26' in width for two-way roads and 18' for one-way loop roads, measured face-to-face of curb. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor residential public street.
10. The City shall inspect any private streets or roadways and certify that they meet City standards prior to any building permits being issued on lots accessed by those streets. The developer shall pay all inspection fees required by the City.
11. No building permit shall be issued until the requirements of Section 1107F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
12. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.

13. Entry gates or guardhouses, if proposed, must receive detail site plan approval from TMAPC, Traffic Engineering and Tulsa Fire Department, prior to issuance of a building permit for the gates or guard houses.
14. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review or the subdivision platting process.
15. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle, nor shall trucks or truck trailers be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

TAC COMMENTS:

General: No comments.

Water: A main line extension and meter locations must be reviewed and approved.

Fire: Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

Exceptions:

1. For Group R-3 and Group U occupancies, the distance requirement shall be 600 feet (183 m).
2. For buildings equipped throughout with an approved automatic sprinkler system the distance requirement shall be 600 feet.

Stormwater: Existing overland drainage easement must be vacated.

Wastewater: Sanitary sewer access must be provided for all proposed lots within the PUD area.

Transportation: No comments.

INCOG Transportation:

- MSHP: S. Yale Ave, between E. 81st St. S. and E. 91st St. S, designated primary arterial, Sidewalks and ADA compatible ramps where needed required along Yale frontage.
- LRTP: E. 91st Street S., between S. Yale Ave and S. Sheridan Rd, planned 4 lanes. S. Yale Ave, between E. 81st St. S. and E. 91st St. S., planned 6 lanes. Sidewalks should be constructed if non-existing or maintained if existing.
- TMP: No Comment
- Transit: No current or future plans for this location.

GIS: No comments.

Street Addressing: No comments.

ONG: ONG will require the standard covenant language and standard 17.5' U/E.

TMAPC COMMENTS:

Ms. Cantrell commended Mr. Sansone on the staff report.

In response to Mr. Marshall, Mr. Sansone explained pedestrian walkways.

The applicant indicated his agreement with staff's recommendation.

Interested Parties Comments:

Jones Jones, 8920 South Braden Avenue, 74137, expressed his concern that nothing has been developed at this time. He explained that the property owner promised him several things and nothing has happened at this time. He further expressed concerns about the subject property being cleared and then left for several months without development. The cleared land has affected his need for privacy. Mr. Jones complained of weeds growing throughout the summer and he has experienced an increase in noise and light pollution as a result of heavy traffic on Yale and 91st Street.

Mr. Jones stated that the applicant has promised him an eight-foot masonry fence to be constructed between the residential property lines and Development Area A and this has not been done. He requested that the Planning Commission table any decisions until the developer's promises are provided to the homeowners. He further requested that the developer provide a timeline for construction so that the neighbors could be aware of how aggressively the construction will continue for all development areas. Mr. Jones stated that if the Planning Commission is inclined to approve this amendment that it be associated with an expiration date for development of the land.

Mr. Jones commented that, as a resident of the subject area, any need for pedestrian access off of Yale is moot. It would be an extremely unsafe practice to encourage pedestrians to walk along 91st Street to get to the subject property.

TMAPC COMMENTS:

Ms. Wright stated that on the far eastern boundary there appears to be about four homes and she is curious because Mr. Jones stated that he now has light and noise pollution. What was different before? In response, Mr. Jones stated that the subject site was heavily wooded and blocked the view of the traffic from 91st and Yale Avenue. Ms. Wright stated that this would only be for about three or four houses. In response, Mr. Jones stated that he doesn't understand the question. In response, Ms. Wright stated that the northern boundary lines up to a curb on the street and it looks like there are maybe three or four houses that at one time backed up to a wooded area. In the past the Planning Commission has approved development that backs up to, in fact encroaches upon entire neighborhoods and she just wanted to get some clarification. In response, Mr. Jones asked Ms. Wright if she is asking about the noise pollution. In response, Ms. Wright stated that the houses are set far from the road and she was concerned or curious because the Planning Commission hears frequently about

noise, view, etc. and she was trying to figure out where the noise was coming from. In response, Mr. Jones stated that the noise is obviously coming from the traffic noise off of 91st and Yale. Mr. Jones further stated that there really isn't any sort of buffer between the homes and where the traffic is. The most aggressive traffic is off of Yale Avenue. He can easily see from his back door the traffic on Yale.

Commissioner Keith asked Mr. Jones what type of promises have been made by the developer and were there any timelines. In response, Mr. Jones stated since the granting of this PUD nothing has been done and promises have not been kept. Commissioner Keith asked Mr. Jones if he obtained the promises in writing. In response, Mr. Jones answered negatively.

Ms. Wright asked Mr. Jones if the promises were made during the previous hearing on the subject property. In response, Mr. Jones answered affirmatively.

Ms. Cantrell stated that she understands that the developer may have made those promises to him and she is sorry if he is not keeping them. As she recalls, it was not made a condition on the PUD and there was no timeframe put in the PUD for building the wall. The City Council could have done this and they didn't do that. The Planning Commission can't force someone, based on a verbal agreement, to build the masonry wall in a certain timeframe. As far as the weeds and the grass growing too high, she would encourage him to contact the Mayor's Action Line. These issues are brought to the Planning Commission frequently and the Planning Commission can't punish people for not doing what they are supposed to. The Planning Commission doesn't look at the developer but at the land and whether this is an appropriate decision based upon the land. If the Planning Commission started getting into issues of not approving something because we didn't like the behavior of the developer, the Planning Commission would be in trouble very quickly. There is not in Area A that is going to change and everything that the neighborhood and City Council agreed to will remain the same. The only issue today is whether to include additional land in Area A. It is already zoned CS and the developer has a right to build on it without the Planning Commission's approval. The Planning Commission has never put an expiration date on approvals and she is not sure that the Planning Commission has the legal authority to do so. If a PUD went away, then the underlying zoning would be commercial and the developer could build whatever commercial development he wanted without the Planning Commission having any say whatsoever.

Mr. Marshall asked Mr. Jones if he has talked with the developer. In response, Mr. Jones stated that he had and they basically indicated that they are doing the best they can. Mr. Marshall reminded Mr. Jones that a lot of things have changed in the economy. Mr. Jones indicated that the developer didn't mention any issues with the economy.

Mr. McArtor stated that he understands where Mr. Jones is coming from. He commented that the developer is not showing good faith by clearing the land and then letting it sit without developing it. The developer needs to communicate with Mr. Jones and the neighbors. Unfortunately, there is not a lot the Planning Commission can do about the timeframe of the development. Mr. McArtor expressed his concerns of the land being cleared and no development occurring for over one year.

Mr. Sansone stated that the landscape area requirement for Development Area A is quite specific and was amended by the City Council at the hearing to approve the PUD. That verbiage has been added into the landscape area requirements. Unfortunately, the City Council did not put a timeline on when the masonry wall shall be developed. The developer and Mr. Jones do have to meet over the landscape plan and come to an agreement or the developer will have to go before the City Council to explain why they are unable to come to an agreement.

Mr. Sansone stated that Tanner Consulting has submitted a landscape plan application that has been approved by staff and forwarded to the City, where it is on hold. A certificate of occupancy can't be issued until Mr. Jones has signed off on the landscape plan. Tanner Consulting has been notified that the landscape plan is voided until Mr. Jones's signature is on the plan.

Applicant's Comments:

John Groves, Khoury Engineering, 1435 East 41st Street, 74105, stated that since the subject PUD was approved the first time the developer has taken on a partner to help facilitate funding of building the entire shopping center. The developer has hired a new consultant for the landscape architect so this can all be done at once. He has never been involved in a development where it was stated that something has to be built first or last. Mr. Groves stated that he is in agreement with the staff recommendation and requested that the Planning Commission approve it per their conditions.

TMAPC COMMENTS:

Commissioner Keith encouraged Mr. Groves to keep in consideration that the neighborhood will be impacted by the dust and noise. In response, Mr. Groves stated that he will speak with the developer about pushing that phase of the construction forward, but he is not authorized to say that the masonry wall will be developed first.

Mr. Leighty asked Mr. Groves if he is aware of the promises made to Mr. Jones. In response, Mr. Groves stated that he only knew of the landscape plan having to be signed off by Mr. Jones.

Ms. Wright out at 3:09 p.m.

The Planning Commissioners encouraged Mr. Groves that the developer should keep in touch with the neighbors as development progresses. Further encouragement was given to Mr. Groves that someone should meet with Mr. Jones. It was stressed that the screening wall should be built at the beginning of development to hold down on the dust and noise for the neighborhood.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Cantrell, Carnes, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Sparks, Walker, "aye"; no "nays"; none "abstaining"; Wright "absent") to recommend **APPROVAL** of the major amendment for PUD-747-A per staff recommendation. (Language with a strike-through has been deleted and language with an underline has been added.)

Legal Description for PUD-747-A:

Lot 1 and 2 and Reserve Area 'A', Block 1, Penn Office Park (Plat No. 6259) And Lot 2 and Reserve Area 'A', Block 1, 9100 Yale, Plat No. 5287, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof; **From RS-3/OL/CS/PUD (Residential Single-family District/Office Low Intensity District/Commercial Shopping Center District/District/Planned Unit Development [PUD-747]) To RS-3/OL/CS/PUD (Residential Single-family District/Office Low Intensity District/Commercial Shopping Center District/District/Planned Unit Development [PUD-747-A]).**

* * * * *

Ms. Wright in at 3:10 p.m.

OTHER BUSINESS:

15. Refund Request for PUD-712-3 Minor Amendment – AMAX Signs

Applicant withdrew the minor amendment request and requested a refund of any available fees.

STAFF RECOMMENDATION:

Mr. Alberty stated that this application was filed and fees total \$492.00. The \$92.00 was for advertising fees and \$400.00 was application fees. After the application had been worked by the staff the applicant decided to withdraw this application and requested any remaining fees to be refunded. Staff is recommending \$200.00 refund.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **11-0-0** (Cantrell, Carnes, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Sparks, Walker, Wright "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the refund request for PUD-712-3 minor amendment in the amount of \$200.00.

Mr. Midget out at 3:12 p.m.

Ms. Wright out at 3:12 p.m.

16. *Refund Request for Lot-Split 20287 Lisa Pillars

Applicant withdrew the lot-split application request (prior to staff review) and requested a refund of any available fees.

STAFF RECOMMENDATION:

Ms. Feddis stated that this is a refund request for a lot-split. The applicant was attempting to refinance the subject property and add water and sewer. That application was denied. Staff never worked the lot-split application and recommends a full refund of \$100.00.

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, Leighty, Marshall, McArtor, Shivel, Sparks, Walker "aye"; no "nays"; none "abstaining"; Midget, Wright "absent") to **APPROVE** the refund request for LS-20287 in the amount of \$100.00.

Commissioners' Comments

Ms. Cantrell reminded the Planning Commissioners that February 26th is the deadline for the APA Conference registration.

There being no further business, the Chair declared the meeting adjourned at 3:11 p.m.

Date Approved: 3-18-2009

Michelle Cantor

Chairman

ATTEST: Joshua A. Walker
Secretary