

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2546

Wednesday, April 22, 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	Keith	Alberty	Boulden, Legal
Carnes	McArtor	Feddis	Steele, Sr. Eng.
Leighty	Sparks	Fernandez	
Marshall	Wright	Huntsinger	
Midget		Matthews	
Shivel		Sansone	
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, April 16, 2009 at 3:00 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:

Comprehensive Plan Report:

Ms. Cantrell reported that the kick-off for the different scenarios will be on May 12th at Cain’s Ballroom from 5:30 p.m. to 7:30 p.m. She encouraged the Planning Commissioners to attend.

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Director’s Report:

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

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Minutes:

Approval of the minutes of March 25, 2009 Meeting No. 2543

On **MOTION** of **CARNES**, the TMAPC voted 6-0-0 (Cantrell, Carnes, Leighty, Marshall, Shivel, Walker “aye”; no “nays”; none “abstaining”; Keith, McArtor, Midget, Sparks, Wright “absent”) to **APPROVE** the minutes of the meeting of March 25, 2009, Meeting No. 2543.

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

CONSENT AGENDA

CONSENT AGENDA

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

- 2. **LS-20289** Mickey Michalec (2319)/Lot-Split (County)
West of North Trenton Avenue and south of East 153rd Street North,
15110 North Trenton Ave
- 3. **PUD-260-B-8 – Lori Worthington/CVS Pharmacy** (PD-18) (CD-7)
Northeast corner of 71st Street South and Yale Avenue (Minor Amendment to allow an increase from one square foot of display surface area per lineal foot of wall sign to 1.28 square feet of display surface area per lineal foot of wall to which the sign is affixed for the south-facing elevation only on Lot 2, Block 1, Hyde Park.)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to increase the permitted display surface area for wall signs on the south facing elevation only of a future CVS Pharmacy. The increase being requested is from 1 square foot (SF) of display surface area (DSA) per each lineal foot of wall (LFW) to which the sign is affixed, to 1.28 SF of display surface area per each lineal foot of building wall to which the sign is affixed.

PUD-260 was originally approved anticipating office, bank and a hotel use. The more restrictive sign standards for office uses were subsequently adopted for the PUD and a ratio of 1:1 was established for wall signs. Major amendments PUD-

260-A and PUD-260-B were approved adding restaurant uses and all uses permitted by right in the CS District respectively. As these major amendments were approved, the sign standards were not updated to accurately reflect the change in the development of the PUD from office uses to more intensive commercial uses as exists today.

A reflection of this change is seen in the six (6) minor amendments that have been approved by the TMAPC for this PUD; five of which have been strictly moderate increases in permitted signage and are well below what is permitted by the underlying CS zoning.

Specific to wall signs, the TMAPC has granted an increase from 1 to 1.5 SF of display area per each lineal foot of wall twice – once in 1995 for a McDonald's restaurant, and one as recently as February of 2009. In both instances, the increase was granted for specific elevations of the building, and not for the entire PUD.

Since this request is below the increase to 1.5 SF of display area per lineal foot of wall which has been previously approved by the TMAPC, staff views this request as minor in nature. It is staff's opinion that the .28' increase would not substantially alter the character of the PUD or the intent of the PUD chapter of the code.

Therefore, staff recommends **APPROVAL** of minor amendment PUD-260-B-8, allowing 1.28 square feet of display surface area per lineal foot of wall to which the sign is affixed, for the south facing elevation only on Lot 2, Block 1 – Hyde Park.

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

4. **PUD-739 – Tulsa Engineering and Planning/Tim Terral** (PD-8) (CD-2)

East of the northeast corner of West 81st Street South and U.S. Highway 75 (Detail Site Plan for the entry gates and guard house for the Reserve at Stonebrook.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for the entry gates and guard house for the Reserve at Stonebrook/PUD-739.

Approved as PUD-739 in April 2007, The Reserve at Stonebrook is a single-family residential development located east of the northeast corner of W. 81st Street and U.S. Hwy. 75. The property is zoned RS-3/PUD.

Development standard #14 of PUD-739 reads:

“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.”

The submitted site plan meets applicable building height, wall/gate height, and setback limitations. The proposed plan has also received the required endorsement of the City of Tulsa Fire Marshall and Traffic Engineering (see attached).

Since the proposed site plan meets all applicable PUD development standards and requirements, staff recommends **APPROVAL** of the detail site plan for the entry gate and guard house for PUD-739 as depicted in the attached exhibits.

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

5. **Resolution Adopting the Southwest Tulsa Neighborhood Plan Phase I, Implementation Plan as a Part of the Comprehensive Plan for the Tulsa Metropolitan Area (Resolution No. 2546:896)**

STAFF RECOMMENDATION:

RESOLUTION NO.: 2546:896

**A RESOLUTION ADOPTING
THE SOUTHWEST TULSA NEIGHBORHOOD PLAN PHASE 1,
IMPLEMENTATION PLAN AS
A PART OF THE COMPREHENSIVE PLAN
FOR THE TULSA METROPOLITAN AREA**

WHEREAS, Pursuant to Title 19, OSA, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29th day of June 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area, which Plan was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law; and

WHEREAS, the TMAPC is required to prepare, adopt and amend, as needed, in whole or in part, an official Master Plan to guide the physical development of the Tulsa Metropolitan Area; and

WHEREAS, a public hearing was held on the 1st day of April, 2009, and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.7, to

adopt the Southwest Tulsa Neighborhood Plan Phase 1, Implementation Plan as a part of the Comprehensive Plan of the Tulsa Metropolitan Area.

NOW, THEREFORE, BE IT RESOLVED by the TMAPC, that the Southwest Tulsa Neighborhood Plan Phase 1, Implementation Plan be hereby adopted as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

6. **Resolution Amending the Comprehensive Plan for the Tulsa Metropolitan Area by adopting the Detail Plan Text for Planning District 8, a Part of the Comprehensive Plan for the Tulsa Metropolitan Area, by adopting the Southwest Tulsa Neighborhood Plan Phase One Detailed Implementation Plan (Resolution No. 2546:897)** (CD-2)

STAFF RECOMMENDATION:

RESOLUTION NO.: 2546:897

A RESOLUTION AMENDING THE COMPREHENSIVE PLAN FOR THE TULSA METROPOLITAN AREA BY ADOPTING THE DETAIL PLAN TEXT FOR PLANNING DISTRICT 8, A PART OF THE COMPREHENSIVE PLAN FOR THE TULSA METROPOLITAN AREA, BY ADOPTING THE SOUTHWEST TULSA NEIGHBORHOOD PLAN PHASE ONE DETAILED IMPLEMENTATION PLAN

WHEREAS, Pursuant to Title 19, OSA, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29th day of June 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area, which Plan was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law; and

WHEREAS, the TMAPC is required to prepare, adopt and amend, as needed, in whole or in part, an official Master Plan to guide the physical development of the Tulsa Metropolitan Area; and

WHEREAS, on the 28th day of January, 1976, this Commission, by Resolution No. 1115:428, did adopt the Detail Plan for Planning District 8, a part of the Comprehensive Plan for the Tulsa Metropolitan Area; and

WHEREAS, a public hearing was held on the 1st day of April, 2009, and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.7, to amend the District 8 Plan, a part of the Comprehensive Plan of the Tulsa Metropolitan Area, by adopting the provisions for Plan text amendments related to the Southwest Tulsa Neighborhood Plan Phase One Detailed Implementation Plan, as set forth in Exhibit A, attached and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED by the TMAPC, that the amendment to the Detail Plan Text for Planning District 8, as set out above, be and is hereby adopted as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

7. **Resolution Amending the Comprehensive Plan for the Tulsa Metropolitan Area by Adopting the Detail Plan Text for Planning District 9, a Part of the Comprehensive Plan for the Tulsa Metropolitan Area, by adopting the Southwest Tulsa Neighborhood Plan Phase One Detailed Implementation Plan (Resolution No. 2546:898)** (CD-2)

STAFF RECOMMENDATION:

RESOLUTION NO.: 2546:898

A RESOLUTION AMENDING THE COMPREHENSIVE PLAN FOR THE TULSA METROPOLITAN AREA BY ADOPTING THE DETAIL PLAN TEXT FOR PLANNING DISTRICT 9, A PART OF THE COMPREHENSIVE PLAN FOR THE TULSA METROPOLITAN AREA, BY ADOPTING THE SOUTHWEST TULSA NEIGHBORHOOD PLAN PHASE ONE DETAILED IMPLEMENTATION PLAN

WHEREAS, Pursuant to Title 19, OSA, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29th day of June 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area, which Plan was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law; and

WHEREAS, the TMAPC is required to prepare, adopt and amend, as needed, in whole or in part, an official Master Plan to guide the physical development of the Tulsa Metropolitan Area; and

WHEREAS, on the 24th day of November, 1976, this Commission, by Resolution No. 1139:445, did adopt the Detail Plan for Planning District 9, a part of the Comprehensive Plan for the Tulsa Metropolitan Area; and

WHEREAS, a public hearing was held on the 1st day of April, 2009, and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19, OSA, Section 863.7, to amend the District 9 Plan, a part of the Comprehensive Plan of the Tulsa Metropolitan Area, by adopting the provisions for Plan text amendments related to the Southwest Tulsa Neighborhood Plan Phase One Detailed Implementation Plan, as set forth in Exhibit A, attached and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED by the TMAPC, that the amendment to the Detail Plan Text for Planning District 9, as set out above, be and is hereby adopted as part of the Comprehensive Plan for the Tulsa Metropolitan Area.

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 6 members present:

On **MOTION** of **CARNES**, TMAPC voted **6-0-0** (Cantrell, Carnes, Leighty, Marshall, Shivel, Walker "aye"; no "nays"; none "abstaining"; Keith, McArtor, Midget, Sparks, Wright "absent") to **APPROVE** the consent agenda Items 2 through 7 per staff recommendation.

PUBLIC HEARING ZONING CODE AMENDMENTS

8. **Consider Amendments to the Zoning Code, City of Tulsa, Oklahoma to reflect changes in spacing requirements among various Use Unit 14 Uses, Chapter 12, Section 1214, Tulsa Zoning Code.**

STAFF RECOMMENDATION:

Amendments to Chapter 12, Section 1214, Tulsa Zoning Code

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- C. Use Conditions
 3. Delete spacing requirements for blood banks, plasma centers and pawn shops. Delete day labor hiring centers from the list. Existing spacing requirements for liquor stores from parks, schools, and other liquor stores, etc. (elsewhere in the Zoning Code) shall remain. Delete second sentence of existing paragraph and all following in that paragraph.

Change Item 3. to read, "Bail bond offices (except when located within a CBD-zoned district) must be no closer than 300 feet from any R-zoned property and must be screened from any abutting R district as set forth in Item C.2, Chapter 12, Section 1214."

Mr. Midget in at 1:43 p.m.

TMAPC COMMENTS:

Ms. Cantrell stated that this is an ongoing process and there were several goals requested by the City Council. Ms. Matthews agreed that this is an ongoing process and possibly the Planning Commission could give recommendations in phases or present an overall presentation.

Ms. Cantrell was concerned that although some of the original issues and concerns regarding spacing have gone away due to economics it could come back in the future. She expressed concerns with clustering.

Ms. Matthews discussed possibly having the spacing be an administrative function and not require applicants to go before the BOA. Ms. Cantrell stated that she would like to see a side-by-side consideration regarding costs and time for the process.

Ms. Matthews stated that today was just the first step and she plans to work with Mr. Boulden to put an entire package together to address the City Council's request.

Mr. Boulden stated Councilor Martinson is being tolerant on the deadline, but he does want a recommendation soon.

After a lengthy discussion the Planning Commission determined that this item should be continued.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MARSHALL**, TMAPC voted **7-0-0** (Cantrell, Carnes, Leighty, Marshall, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Keith, McArtor, Sparks, Wright "absent") to **CONTINUE** the proposed amendments to the Zoning Code, City of Tulsa, Oklahoma to reflect changes in spacing requirements among various Use Unit 14 Uses, Chapter 12, Section 1214, Tulsa Zoning Code to May 27, 2009.

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PUBLIC HEARING

- 9. **Heritage Landing** – (0329) Authorization for Accelerated (PD 3) (CD 3) Release of Building Permit

West of the Southwest corner of Apache and North Harvard Avenue
(continued from 3/18/09, 4/1/09, and 4/15/09)

STAFF RECOMMENDATION:

The property is zoned RM-3. Shell permits are requested. A preliminary plat was approved on March 18, 2009 for this location.

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: Asking only for shell construction permit to meet project schedule. The property is one lot, one block, and very little public improvement is needed for property development.

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

ZONING:

TMAPC Staff: Shell permits are requested.

STREETS:

Public Works, Transportation: No comment.

Public Works, Traffic: No comment.

SEWER:

Public Works, Waste Water: Sanitary sewer access must be provided through a mainline extension before the project can get either a water or sewer tap.

WATER:

Public Works, Water: No comment.

STORM DRAIN:

Public Works, Storm Water: ~~Do not recommend approval of the Accelerated Release until compensatory storage and floodplain impact issues have been addressed.~~ **Development Services staff is now ready to support the application but the permit will not be released until all floodplain issues meet City requirements.**

FIRE:

Public Works, Fire: No comment.

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.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Cantrell, Carnes, Leighty, Marshall, Midget, Shivel Walker "aye"; no "nays"; none "abstaining"; Keith, McArtor, Sparks, Wright "absent") to **APPROVE** the authorization for accelerated release of building permit for Heritage Landing per staff recommendation. (Language with a strike-through has been deleted and language with an underline has been added.)

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OTHER BUSINESS:

10. **Consider and Review TMAPC Code of Ethics and Mission Statement.**

STAFF RECOMMENDATION:

SECTION II: Code of Ethics

A. Definitions

1. PRIVATE BENEFIT means a direct or indirect benefit not shared by the general public that could be reasonably expected to impair a Commissioner’s objectivity or independent judgment.

2. ORGANIZATIONAL INTEREST exists when a Commissioner is a director or board member of a company, business, or organization that takes an official position before the Planning Commission.

3. EX PARTE COMMUNICATION means a private communication with a Commissioner from a party with an interest, financial or otherwise, in a particular matter before the Planning Commission.

BA. Conflict of Interest:

~~A Planning Commissioner to whom some private benefit, direct or indirect, financial or otherwise, may come as a result of some public action should not be a~~

~~participant in that action. Conflicts of interest may be financial or associational.~~^{1.}
A conflict of interest exists whenever a Commissioner

a. may receive a private benefit as a result of a public action taken by the Planning Commission; or

b. has an organizational interest regarding a matter before the Planning Commission.

~~4.~~ The possibility, not the actuality, of a conflict of interest should govern. The question is, "~~do I think I would~~Would a reasonable person believe me to be unbiased and impartial?"

2. A Planning Commissioner experiencing a conflict of interest should declare his interest publicly, abstain from voting on the matter, and should refrain from any deliberations on the matter other than statements of fact. When possible, the Planning Commissioner should leave the public hearing room.

3. A Planning Commission member experiencing a conflict of interest should not discuss the matter in any venue other than the public hearing with any fellow TMAPC member, staff or other officials involved in decision making on the matter for the purpose of influencing a decision thereon. Discussion at the public hearing on the part of the member experiencing the conflict should be limited to points of information and statements of fact.

~~4. A Planning Commissioner who experiences a conflict of interest and who has abstained may still participate in the public hearing as a private citizen.~~

B. Ex Parte Communication ~~— Private communication with a Planning commissioner from a party with an interest, financial or otherwise, in a particular.~~

1. Although not forbidden, per se, ex parte communication has the potential to influence a Planning Commissioner's decision on quasi-judicial matters before the Commission. The Planning Commissioner who receives ex parte communication may, if he or she feels that it is appropriate, disclose this prior to public discussion of the subject matter.

2. The Commissioner should also evaluate whether, as a result of this communication, he/she can remain unbiased and impartial and should either abstain or participate accordingly. As with a potential conflict of interest, the appearance, not the actuality, of bias should govern.

C. Release of Information:

1. No Planning Commissioner or staff member shall use or transmit to others for private benefit any information derived from Planning Commission activities unless and until such information is made available to the public at large.

2. No Planning Commissioner or any person appearing before the Planning Commission shall knowingly misrepresent facts or distort information for the purpose of achieving a desired outcome.

D. Appearance at City Council

1. Planning Commissioners who appear at City Council Public Hearings on Planning Commission matters as Commissioners should do so as representatives of the majority opinion. Only the person designated by the Chair shall be the official spokesperson for the Planning Commission. The official spokesperson for the Commission shall, to the best of his or her ability, present an unbiased record of the proceedings, including facts that were presented, and the decision of the Commission. The official spokesperson shall not present new facts or arguments that were not made available at the hearing before the Commission.

2. Nothing herein would prevent a Planning Commissioner from appearing before the Council as a private citizen, however. If a Planning Commissioner chooses to appear as a private citizen before the Council during a public hearing, the Commissioner must state:

a. Though they are a Planning Commissioner, they are before the City Council as an individual, and not on behalf of the Commission; and

b. They have no authority to make representations regarding the Planning Commission's public meetings, thought processes, or decision making.

E. Violations of the Code of Ethics

1. The Planning Commission may refer a violation of these Codes of Ethics for a hearing before the governing body by which he/she was appointed.

TMAPC COMMENTS:

Ms. Cantrell stated that she doesn't have a problem with the addition of language from Mr. Marshall.

Mr. Carnes suggested that the Planning Commission should go into a session to speak about their own personnel before going to the elected officials.

Mr. Marshall stated that he wanted this inserted so that the Planning Commission would have something. He indicated that he would expect the Planning Commission to discuss any issues among themselves first. Mr. Marshall pointed out that he used the word "may". If the Planning Commissioners agree that this should be done, then the City Councilors or the County Commissioners could take action.

Mr. Carnes stated that he didn't pickup on the word "may".

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **SHIVEL**, TMAPC voted **7-0-0** (Cantrell, Carnes, Leighty, Marshall, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Keith, McArtor, Sparks, Wright "absent") to **APPROVE** the proposed amendments to the Code of Ethics as submitted. (Language with a strike-through has been deleted and language with an underline has been added.)

Proposed Amendment

Tulsa Metropolitan Area Planning Commission Mission Statement

The Mission of the Tulsa Metropolitan Area Planning Commission (TMAPC) is to provide unbiased advice to the City Council and the County Commissioners on development and zoning matters, to provide a public forum that fosters public participation and transparency in land development and planning, to adopt and maintain a comprehensive plan for the metropolitan area, and to provide other planning, zoning and land division services that promote the harmonious development of the Tulsa Metropolitan Area and enhance and preserve the quality of life for the region's current and future residents.

There were no interested parties wishing to speak.

TMAPC Action; 7 members present:

On **MOTION** of **MARSHALL**, TMAPC voted **7-0-0** (Cantrell, Carnes, Leighty, Marshall, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Keith, McArtor, Sparks, Wright "absent") to **APPROVE** the proposed amendments to the Tulsa Metropolitan Area Planning Commission Mission Statement as submitted.

There being no further business, the Chair declared the meeting adjourned at 1:55 p.m.

Date Approved: 5-6-09

Michelle Cantrell
Chairman

ATTEST: Jordana A. Walker
Secretary