

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2551

Wednesday, June 17, 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		Feddis	Steele, Sr. Eng.
Leighty		Huntsinger	Schultz, COT Plan.
Liotta		Matthews	Warlick, COT Plan.
Marshall		Sansone	
Midget			
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, June 11, 2009 at 2:30 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:**

#### **Work session Report:**

Ms. Cantrell reported that Mr. Cuthbertson, Mr. Midget, and Mr. Shivel will be giving a presentation regarding the 2009 APA National Conference at the June 24, 2009 work session.

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#### **Comprehensive Plan Report:**

Ms. Schultz reported on the PlaniTulsa survey and deadlines. She encouraged everyone to respond to the survey before June 18, 2009 deadline.

Ms. Schultz reported that the update is currently at Step 7 of the 12-step process for PlaniTulsa. Through the summer they will be going through all of the data

and input to write the Comprehensive Plan update. There should be a presentation of their findings before the Planning Commission and the City Council by the Fall of 2009.

**Mr. Midget in at 1:35 p.m.**

**Director’s Report:**

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

Mr. Alberty reported that the Utica Place sidewalk lawsuit has been settled. Mr. Alberty congratulated Mr. Boulden for his work on this lawsuit. The applicant has agreed to pay a fee-in-lieu of sidewalks.

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**Minutes:**

**Approval of the minutes of May 20, 2009 Meeting No. 2548**

On **MOTION** of **CARNES**, the TMAPC voted 9-0-0 (Cantrell, Carnes, Dix, Leighty, Marshall, Midget, Shivel, Walker, Wright “aye”; no “nays”; none “abstaining”; Liotta, McArtor “absent”) to **APPROVE** the minutes of the meeting of May 20, 2009, Meeting No. 2548.

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**Mr. Midget out at 1:41 p.m.**

**Minutes:**

**Approval of the minutes of May 27, 2009 Meeting No. 2549**

On **MOTION** of **CARNES**, the TMAPC voted 7-0-1 (Carnes, Dix, Leighty, Marshall, Shivel, Walker, Wright “aye”; no “nays”; Cantrell “abstaining”; Liotta, McArtor, Midget “absent”) to **APPROVE** the minutes of the meeting of May 27, 2009, Meeting No. 2549.

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**Minutes:**

**Approval of the minutes of June 3, 2009 Meeting No. 2550**

On **MOTION** of **CARNES**, the TMAPC voted 7-0-1 (Cantrell, Carnes, Dix, Leighty, Marshall, Shivel, Wright “aye”; no “nays”; Walker “abstaining”; Liotta, McArtor, Midget “absent”) to **APPROVE** the minutes of the meeting of June 3, 2009, Meeting No. 2550.

Ms. Cantrell stated that the following items have requested to be continued for withdrawn:

- 15. **LS-20307** – Randall Pickard (4813)/Lot-Split (PD 26) (CD 8)  
West of South Sheridan Road and north of East 121<sup>st</sup> Street

**Withdrawn.**

\* \* \* \* \*

- 18. **PUD-260-B-9 – Ron Cardwell, P.E.** (PD-18) (CD-7)  
Northeast corner of 71<sup>st</sup> Street South and South Yale Avenue (Minor Amendment to reduce the required landscape buffer along Yale Avenue from six feet to four feet and to reduce the required depth of parking stalls along the west side of the building from 18 feet to 17 feet.)

**Stricken.**

\* \* \* \* \*

- 19. **LC-171 –** (9328) Plat Waiver (PD 6) (CD 7)  
East of the northeast corner of South Harvard and East 51<sup>st</sup> Street South (continued from 6/3/2009) (Applicant requests continuance to July 1, 2009 to work on recommended conditions per TAC.)

**STAFF RECOMMENDATION:**

Applicant has requested a continuance to July 15, 2009.

There were no interested parties wishing to speak.

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Midget "absent") to **CONTINUE** the plat waiver for LC-171 to July 15, 2009.

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24. **PUD-516-B – Roy D. Johnsen**

(PD-26) (CD-8)

East of southeast corner of 101st and South Yale Avenue (Major Amendment) (Continued from 6/17/09.) (Applicant is requesting a continuance to June 24, 2009 in order to consider alternate site plans in connection with neighborhood representatives.)

**Applicant’s Comments:**

**Roy Johnsen**, 201 West 5<sup>th</sup>, Suite 501, 74103, stated that this item was continued from a previous meeting to permit continued discussion with the neighborhood representatives. He would like to have another continuance to continue the discussions and he believes they will be ready by June 24, 2009.

There were no interested parties wishing to speak.

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Midget "absent") to **CONTINUE** the major amendment for PUD-516-B to June 24, 2009.

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

**CONSENT AGENDA**

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

- 4. **LS-20305** – Beth Langston (2430)/Lot-Split (County)

Southwest corner of West Spring Street and North 109<sup>th</sup> Avenue, 14320 N 109<sup>th</sup> Street (Related to Item 5.)

- 5. **LC-173** – Beth A. Langston (2430)/Lot Combination (County)

Southwest corner of West Spring Street and North 109<sup>th</sup> Avenue, 14320 North 109<sup>th</sup> Street (Related to Item 4.)

6. **LC-174** – Sisemore Weisz & Associates, Inc. (9223)/Lot Combination (PD 9) (CD 2)  
Northwest corner of South Elwood Avenue and West 37<sup>th</sup> Place South
7. **LC-171** – William LaFortune (9328)/Lot Combination (PD 6) (CD 7)  
North of East 51<sup>st</sup> Street and west of South Knoxville Place, 3355 East Skelly Drive
8. **LS-20309** – Lewis Engineering, P.L.L.C. (2914)/Lot-Split PD 8) (CD 2)  
West of South 129<sup>th</sup> West Avenue and north of West Albany Street, 12626 East 60<sup>th</sup> Street
10. **LS-20310** – Julie Rubio (1404)/Lot-Split (County)  
West of North 145<sup>th</sup> Avenue and north of East 122<sup>nd</sup> Street North, 12404 North 145<sup>th</sup> Avenue East
11. **LC-178** – US Cellular (7714)/Lot Combination (County)  
East of 7<sup>th</sup> Street and north of Porter Avenue, 16602 South 157<sup>th</sup> East Avenue
12. **LS-20304** – Glynda Redding (1320)/Lot-Split (County)  
East of North Delaware Avenue and west of North College Ave, 9205 North Delaware Avenue
13. **LS20306** – Sack and Associates, Inc. (8320)/Lot-Split (PD 18) (CD 2)  
North of the northwest corner of Creek Turnpike and Riverside Parkway
14. **LC-177** – Tulsa Cornerstone Assistance Network (0236)/Lot Combination (PD 2) (CD 1)  
West of North Peoria Avenue and south of East Latimer Place
16. **PUD-306-H-4 – Sack and Associates** (PD-18) (CD-2)  
North of northwest corner Creek Turnpike and Riverside Parkway (Minor Amendment for the purposes of a lot-split creating new tracts and allocation of floor area.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment for the purposes of a lot-split creating new Tracts A-1 and B, and the allocation of floor area for Tracts A-1, B and existing Tract B-1 as depicted on the attached Exhibit B.

PUD-306-H is an 8.43 acre tract located north of the northwest corner of the Creek Turnpike and Riverside Parkway. The PUD was approved allowing uses permitted by right in the CS zoning district, with a maximum permitted floor area of 180,000 square feet (SF) as allocated below and on Exhibit A. The existing allocation of floor area is as follows:

<b>Maximum Building Floor Area for PUD:</b>	<b>180,000 SF</b>
Lot 2, Block 1 (Outback)	10,000 SF
Tract A in Lot 1 (Red Robin)	10,000 SF
Tract B1 in Lot 1	140,000 SF
Tract B2 in Lot 1	10,000 SF
Tract B3 in Lot 1	10,000 SF

The applicant is proposing the following floor area re-allocation:

<b>Maximum Building Floor Area for PUD:</b>	<b>180,000 SF</b>
Lot 2, Block 1 (Outback)	10,000 SF
Tract A in Lot 1 (Red Robin)	10,000 SF
New Tract A in Lot 1 (future development)	130,000 SF
New Tract B in Lot 1 (Access)	0 SF
Tract B1 in Lot 1 (Johnny Carino's)	10,000 SF
Tract B2 in Lot 1 (Feline Clinic)	10,000 SF
Tract B3 in Lot 1 (Trek Bikes)	10,000 SF

Staff finds the proposed minor amendment does not represent a significant departure from the approved Development Plan and approved PUD development standards, nor does it substantially change the character of the PUD. Therefore, staff recommends **APPROVAL** of minor amendment PUD-306-H-4.

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

**Ms. Cantrell stated that she would like to remove Item 17 from the consent agenda. Mr. Leighty requested that Item 9 be removed as well.**

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Liotta, McArtor, Midget "absent") to **APPROVE** the consent agenda Items 4 through 8, 10 through 14 and Item 16 per staff recommendation.

Mr. Liotta in at 1:48 p.m.

**CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA**

9. **LC-176**- Heidi Gault (9212)/Lot Combination (PD 6) (CD 4)  
Northwest corner of South Madison Avenue and East 16<sup>th</sup> , 1542 South  
Madison Avenue

**STAFF RECOMMENDATION:**

This lot-combination has received prior approval and has met all of the conditions.

**TMAPC COMMENTS:**

Mr. Leighty asked where the five-foot additional right-of-way will be located for easements. In response, Ms. Feddis stated that it will be located on East 16<sup>th</sup> Street.

Mr. Leighty asked why the applicant needs a lot-combination. In response, Ms. Feddis stated that the applicant is building a pool and the lots need to be combined in order to receive the permit. The pool will straddle the property line.

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

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **APPROVE** the lot-combination for LC-176 per staff recommendation.

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Mr. Midget in at 1:51 p.m.

17. **Z-5412-SP-1a – Claude Neon Federal Signs** (PD-6) (CD-9)  
3141 East Skelly Drive (Corridor Plan Minor Amendment to reduce the required setback for a 50-foot in height sign from 25 feet to 17 feet due to a 35-foot storm sewer easement for Joe Creek drainage channel.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to reduce the required setback for a 50-foot high sign from 25' to 17' due to a 35' storm sewer easement, which protects the Joe Creek underground drainage channel.

The Corridor chapter of the Zoning Code, in Section 802, B-3 states that signs in the Corridor District are subject to Section 1221, D of the Zoning Code. Section 1221, D-1 of the Code states:

A ground sign, projecting sign or a promotional business sign abutting a major street shall not exceed twenty-five (25) feet in height measured from the mean curb level of the lot upon which it is erected unless, in addition to the minimum setback prescribed in 1221.C.5, the sign is setback one (1) foot for each foot of height exceeding twenty-five (25) feet. In no event shall the sign exceed forty (40) feet unless the abutting street is a designated freeway on the Major Street and Highway Plan. *In those cases where the abutting street is a designated freeway, the maximum permitted height shall be fifty (50) feet.* The maximum height of ground and projecting signs where permitted abutting a minor street shall be as prescribed in Section 1221.C.8.b.

Since this sign is located along a designated freeway (I-44), it is permitted to a height of 50 feet so long as it is setback one-foot for every foot over 25-feet. This would make the required setback from the I-44 right-of-way (ROW) 25'. Referring to the attached exhibits, a 25-foot setback would place the sign in a 35' storm sewer easement, which is the location of a Joe Creek underground drainage channel. The depth beneath the ground that is required to adequately support the sign would breach the underground drainage channel making the 25-foot setback location impossible.

It is staff's opinion that the eight-foot reduction in setback does not represent a significant departure from the approved Corridor Development Plan nor does it substantially change the character of this Corridor District given its proximity to the highway. Therefore, staff recommends **APPROVAL** of minor amendment Z-5412-SP-1a.

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

**TMAPC COMMENTS:**

Ms. Cantrell stated that it is her understanding that the applicant would need a variance from the Board of Adjustment in addition with the amendment. She explained that she doesn't see anywhere in the corridor provision that the Planning Commission has the flexibility to vary the requirements.

Mr. Sansone stated that it was staff's interpretation that the corridor district allows more flexibility than the PUD district because it is not spelled out what can or cannot be amended by minor amendment. It simply says one may amend the corridor plan and whether the applicant goes for the variance or not he will need a minor amendment. Action will be required today and the applicant will be informed that he will need to apply for the Board of Adjustment for a variance.



Mr. Boulden stated that he did review the ordinances and this particular application and he agrees that it needs a variance from the Board of Adjustment. The corridor site plan and regulations do not allow some of the flexibility that the Planning Commission would have as it would have in a PUD. The ordinance states that the signs shall be located pursuant to Section 1221 of the Zoning Code and since the applicant wants to vary that, and the Planning Commission doesn't have the flexibility to grant the variance, he will have to go before the Board of Adjustment.

Mr. Boulden stated that there are two steps that need to be satisfied in order for this to move forward. One step is a change in the site plan that is consistent with their plan and the second step is applying for and receiving a variance from the Board of Adjustment.

**Applicant's Comments:**

**Gary Mitchell**, Trade Winds Hotels, stated that he is moving a sign at the request of ODOT, in fact at their command, and the location proposed is the only place available between the State's easements and the City's easements.

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **APPROVE** the corridor plan minor amendment for Z-5412-SP-1a per staff recommendation.

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Mr. Dix stated that he will recuse himself from Items 20, 21 and 22.

Mr. Dix out at 1:55 p.m.

**PUBLIC HEARING**

**STAFF COMMENTS:**

Ms. Matthews stated that Items 20, 21 and 22 are related. After reviewing the request it was determined that the applicant could probably better achieve their goals by filing a PUD. The applicant has agreed to file the PUD and it is before the Planning Commission today. If the Planning Commission approves the PUD, which Mr. Sansone will present, it would achieve the same thing or more and give the Planning Commission some flexibility. Ms. Matthews stated that the Planning Commission will need to make separate motions on each of the three items. If the Planning Commission approves the PUD, then they should either deny or withdraw Items 20 and 21.

Ms. Matthews explained that the proposal is a very easy concept and the subject area is developing. The subject area has a great deal of commercial and office use.

**TMAPC COMMENTS:**

Ms. Cantrell stated that she understands that the applicant is still seeking to rezone a portion of the subject property as OL and there have been advertisements for OL. In response, Ms. Matthews stated that she believes so, but she believes it was advertised under the PUD. Ms. Cantrell questioned if the applicant would have to rezone the underlying zoning to OL for the eastern 29 feet. Ms. Matthews stated that she believes that is correct, but she also believes that if the PUD is approved it will cover everything requested.

Ms. Cantrell stated that she understands that the house will be removed from the subject property for Item 21. Ms. Cantrell questioned if it would be a buildable lot. In response, Ms. Matthews stated that she would have to defer this question to the applicant. Ms. Matthews further stated that the applicant was considering all of the lots as one and they had a plan for the front portion that fronts Indianapolis and the back portion was to be a drive-through.

Mr. Marshall stated that there will still be enough footage for RS-3 and it would be buildable.

Mr. Alberty stated that OL zoning cannot be approved under a PUD, but the OL uses can be approved under a PUD because it is partially commercial and multifamily. There may be some confusion as far as why the application states OL and it should be disregarded. Staff doesn't have an application for OL zoning. If the PUD is approved, the requested OL zoning is meaningless and doesn't matter.

20. **Z-7124 – DeShazo, Tang & Associates**

**RS-3/RM-2 to CS**

Southwest corner of East 15<sup>th</sup> Street and South (PD-4) (CD-4) Indianapolis Avenue (west 36 feet of Lots 18, 19 and 20.) (Related to Items 21 and 22.) (Continued from 1/21/09, 3/18/09 and 6/03/09)

**STAFF RECOMMENDATION:**

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

**PROPOSED ZONING:** CS/RS-3

**PROPOSED USE:** Car wash and access to be attached to existing business to west on Harvard/15<sup>th</sup> Street frontage

**RELEVANT ZONING HISTORY:**

**BOA-15179 June 15, 1989:** The Board of Adjustment approved a Variance of setback from abutting streets to allow for gasoline island canopies; per site plan submitted; subject to the execution of a removal contract; finding that the lots in the older area are narrow, and many structures are located closer to the street than the current code allows; on property located at the southeast corner of East 15<sup>th</sup> Street and South Harvard Avenue and abutting west of subject property.

**BOA-14419 March 19, 1987:** The Board of Adjustment approved a Variance of setback from abutting R District from 10 feet to 5 feet to allow for construction of a new building; per plot plan submitted; finding a hardship demonstrated by the narrow shape of the lot and mixed zoning classifications; and finding that the proposed building will align with the structure to the north, on property located at 1515 South Harvard Avenue and abutting subject property to the west.

**BOA-13005 February 23, 1984:** The Board of Adjustment approved a Variance of setbacks from abutting streets; and a Variance of building setbacks from abutting R District boundary in a CS District under the provisions of Section 1670, and a Variance of the right-of-way designated by the Major Street Plan in a CS District, per plan, subject to execution of a Removal Contract for those items in the proposed right-of-way, subject to the existing screen wall remaining as it is and being maintained by the owner, and subject to no lighting being designed for the property which would shine directly into the apartments on the south side to permit a gas station, on property located at the southeast corner of East 15<sup>th</sup> Street and South Harvard Avenue and abutting the subject property to the west.

**BOA-14095 June 12, 1986:** The Board of Adjustment approved an *Interpretation* of the Zoning Text; finding that the use proposed by the applicant constitutes a home furnishing establishment and therefore requires 1 off-street parking space for each 300 sq. ft. of floor area; approved a *Variance* to permit the construction of the proposed building within 35' of the required 50' from the centerline of E. 15<sup>th</sup> St.; approved a *Variance* of the required off-street parking spaces (one space less than required for a Use Unit 14 containing 6,873 sq. ft.); and approved a *Variance* to permit the required off-street parking spaces for the use located on Lots 1 and 2 to be located on Lot 3; per plot plan submitted; subject to the execution of a tie contract on the 3 lots in question; finding that the proposed use constitutes a home furnishings establishment and therefore requires 1 off-street parking space for each 300' of floor area; on property located at 1502 South Harvard Avenue and the southwest corner of East 15<sup>th</sup> Street and South Harvard Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately .14± acres in size and is located at the southwest corner of East 15<sup>th</sup> Street and South Indianapolis Avenue. The property appears to be used as single-family residential and is zoned RS-3/RM-2.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South Indianapolis Avenue	N/A	N/A	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by single-family residential uses, zoned RS-3; on the north by a resale shop/parking lot and a church, zoned RS-3; on the south by single-family residential uses, zoned RS-3; and on the west by a service station/convenience store, zoned CS.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 4 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Medium Intensity-No Specific land use on the northern two lots and Low Intensity-Residential land use on the southern lot. According to the Zoning Matrix, the requested CS zoning **is** in accord with the Plan on the Medium Intensity portion but **is not** in accord with the Low Intensity portion.

If approved for all or a portion of the requested rezoning, the applicant must apply for a Special Exception from the Board of Adjustment to allow a Use Unit 17 (auto wash) use on the property. Per provisions of the Zoning Code, screening and setback requirements must be met where adjacent to the R district to the east and south.

**STAFF RECOMMENDATION:**

This application has been revised since its first application in December, 2008. The applicant has reduced the width of the portion requested for CS zoning from 36' to 29'. A companion rezoning request involving the remaining portion of Lot 20 to RM-2 has been withdrawn (Z-7125). The southernmost lot in Z-7124, as noted earlier, abuts residentially-zoned property on two sides. Therefore, staff can recommend **APPROVAL** of CS zoning for Z-7124 only on Lots 19 and 20 and **DENIAL** of CS zoning on Lot 18.

**Withdrawn.**

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21. **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 Items 20 and  
22.) (Continued from 1/21/09, 3/18/09 and 6/03/09)

(PD-4) (CD-4)

**STAFF RECOMMENDATION:**

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

**PROPOSED ZONING:** RM-2

**PROPOSED USE:** Single-family

**RELEVANT ZONING HISTORY:**

**BOA-15179 June 15, 1989:** The Board of Adjustment approved a Variance of setback from abutting streets to allow for gasoline island canopies; per site plan submitted; subject to the execution of a removal contract; finding that the lots in the older area are narrow, and many structures are located closer to the street than the current code allows; on property located at the southeast corner of East 15<sup>th</sup> Street and South Harvard Avenue and abutting west of subject property.

**BOA-14419 March 19, 1987:** The Board of Adjustment approved a Variance of setback from abutting R District from 10 feet to 5 feet to allow for construction of a new building; per plot plan submitted; finding a hardship demonstrated by the narrow shape of the lot and mixed zoning classifications; and finding that the proposed building will align with the structure to the north, on property located at 1515 South Harvard Avenue and abutting subject property to the west.

**BOA-13005 February 23, 1984:** The Board of Adjustment approved a Variance of setbacks from abutting streets; and a Variance of building setbacks from abutting R District boundary in a CS District under the provisions of Section 1670, and a Variance of the right-of-way designated by the Major Street Plan in a CS District, per plan, subject to execution of a Removal Contract for those items in the proposed right-of-way, subject to the existing screen wall remaining as it is and being maintained by the owner, and subject to no lighting being designed for the property which would shine directly into the apartments on the south side to permit a gas station, on property located at the southeast corner of East 15<sup>th</sup> Street and South Harvard Avenue and abutting the subject property to the west.

**BOA-14095 June 12, 1986:** The Board of Adjustment approved an *Interpretation* of the Zoning Text; finding that the use proposed by the applicant constitutes a home furnishing establishment and therefore requires 1 off-street parking space for each 300 sq. ft. of floor area; approved a *Variance* to permit the construction of the proposed building within 35' of the required 50' from the centerline of E. 15<sup>th</sup> St.; approved a *Variance* of the required off-street parking spaces (one space less than required for a Use Unit 14 containing 6,873 sq. ft.;

and approved a *Variance* to permit the required off-street parking spaces for the use located on Lots 1 and 2 to be located on Lot 3; per plot plan submitted; subject to the execution of a tie contract on the 3 lots in question; finding that the proposed use constitutes a home furnishings establishment and therefore requires 1 off-street parking space for each 300' of floor area; on property located at 1502 South Harvard Avenue and the southwest corner of East 15<sup>th</sup> Street and South Harvard Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately .15± acres in size and is located south of southwest corner of East 15<sup>th</sup> Street and South Indianapolis Avenue. The property appears to be used as single family and is zoned RS-3.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South Indianapolis Avenue	N/A	N/A	2

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

**SURROUNDING AREA:** The subject tract is abutted on the east by single-family residential uses, zoned RS-3; on the north by an existing single-family property, zoned RS-3 and the subject in part of Z-7124; on the south by single-family residential uses, zoned RS-3; and on the west by a convenience store/service station, zoned CS.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 4 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Medium Intensity – No Specific land use (northern two lots) and Low Intensity – Residential land use (southern lot). According to the Zoning Matrix, the requested RM-2 zoning is **not** in accord with the Plan.

**STAFF RECOMMENDATION:**

As staff noted in Z-7124, this is part of a request to basically reconfigure the land use on the property. This request would extend the existing RM-2 line adjacent to it on the north farther south to include the eastern 104' of this lot. As the stated purpose for this rezoning request is to develop it as a single-family use, staff questions whether redevelopment of this property and that involved in Z-7124 could not be more effectively achieved, and with more information provided, by other means. Perhaps a PUD involving one or both properties might provide the information staff needs to review the proposals. Staff cannot support the extension of RM-2 zoning across from RS-3 zoned properties. As the TMAPC is aware, the zoning goes with the property and there is no assurance that once approved, the property would remain in single-family use. Therefore, staff recommends **DENIAL** of RM-2 zoning for Z-7125.

**Withdrawn.**

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**22. PUD-770 – DeShazo, Tang & Associates      **RM-2/RS-3/CS to RM-2/RS-3/CS/PUD****

Southeast corner of 15th Street and Harvard (PUD to add a 29-foot strip of property to the existing Fiesta Mart to create a buffer to the neighborhood to the east.) (Related to Items 20 and 21.) (Continued from 6/03/09)      (PD-4) (CD-4)

**STAFF RECOMMENDATION:**

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

**PROPOSED ZONING:** ~~ØL~~/RM-2/RM-3/CS/PUD      **PROPOSED USE:**  
Commercial

**RELEVANT ZONING HISTORY:**

**Z-7125 March 2009 :** A request for rezoning a 6500± square feet tract of land from RS-3 to RM-1 for single-family, on property located south of southwest corner of East 15<sup>th</sup> Street and South Indianapolis Avenue and abutting subject property to east. This application was continued to June 3<sup>rd</sup> meeting, to be heard with PUD-770.

**Z-7124 March 2009:** A request for rezoning a 6300± square feet tract of land from RS-3/RM-1 to CS for car wash attached to existing business, on property located southwest corner of East 15<sup>th</sup> Street and South Indianapolis Avenue (west 36' of Lots 18, 19, and 20) and a part of subject property. This application was continued to June 3<sup>rd</sup> meeting, to be heard with PUD-770.

**BOA-15179 June 15, 1989:** The Board of Adjustment approved a Variance of setback from abutting streets to allow for gasoline island canopies; per site plan submitted; subject to the execution of a removal contract; finding that the lots in the older area are narrow, and many structures are located closer to the street than the current code allows; on property located at the southeast corner of East 15<sup>th</sup> Street and South Harvard Avenue and abutting west of subject property.

**BOA-14419 March 19, 1987:** The Board of Adjustment approved a Variance of setback from abutting R District from ten feet to five feet to allow for construction of a new building; per plot plan submitted; finding a hardship demonstrated by the narrow shape of the lot and mixed zoning classifications; and finding that the

proposed building will align with the structure to the north, on property located at 1515 South Harvard Avenue and abutting subject property to the west.

**BOA-13005 February 23, 1984:** The Board of Adjustment approved a Variance of setbacks from abutting streets; and a Variance of building setbacks from abutting R District boundary in a CS District under the provisions of Section 1670, and a Variance of the right-of-way designated by the Major Street Plan in a CS District, per plan, subject to execution of a Removal Contract for those items in the proposed right-of-way, subject to the existing screen wall remaining as it is and being maintained by the owner, and subject to no lighting being designed for the property which would shine directly into the apartments on the south side to permit a gas station, on property located at the southeast corner of East 15<sup>th</sup> Street and South Harvard Avenue and abutting the subject property to the west.

**BOA-14095 June 12, 1986:** The Board of Adjustment approved an *Interpretation* of the Zoning Text; finding that the use proposed by the applicant constitutes a home furnishing establishment and therefore requires 1 off-street parking space for each 300 SF of floor area; approved a *Variance* to permit the construction of the proposed building within 35' of the required 50' from the centerline of E. 15<sup>th</sup> St.; approved a *Variance* of the required off-street parking spaces (one space less than required for a Use Unit 14 containing 6,873 SF, and approved a *Variance* to permit the required off-street parking spaces for the use located on Lots 1 and 2 to be located on Lot 3; per plot plan submitted; subject to the execution of a tie contract on the three lots in question; finding that the proposed use constitutes a home furnishings establishment and therefore requires 1 off-street parking space for each 300' of floor area; on property located at 1502 South Harvard Avenue and the southwest corner of East 15<sup>th</sup> Street and South Harvard Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 27,875± square feet in size and is located on the southeast corner of East 15<sup>th</sup> Street and South Harvard Avenue. A portion of the property is vacant, a section is used residentially and the remainder used commercially. The property is zoned CS/RM-2/RS-3.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
East 15 <sup>th</sup> Street	Secondary Arterial	100'	5
South Harvard Avenue	Secondary Arterial	100'	5

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

**SURROUNDING AREA:** The subject tract is abutted on the east by Sunrise Terrace Addition, zoned RM-2 and RS-3; on the north by 15<sup>th</sup> Street and then Summit Heights Addition, zoned CH and RS-3; on the south by Sunrise Terrace



Addition, zoned CS; and on the west by Harvard Ave. and then Exposition Heights Addition, zoned CH/CS/RS-3.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 4 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being medium intensity and low-intensity, no specific land use. According to the Zoning Matrix, the existing CS zoning is in accord with the plan and requested OL zoning **may be found** in accord with the Plan.

**STAFF RECOMMENDATION:**

PUD-770 is a 27,875 square foot site (.59 acres) located on the south-east corner of 15<sup>th</sup> Street and Harvard Avenue. The site is developed and used commercially by a Fiesta Mart Gas Station. The property is zoned CS. The site is abutted on the east by three residentially zoned properties; on the south by commercially zoned property; and on the north and west by arterial streets and then commercially zoned property (please refer to attached case maps and aerial photographs).

Two lots adjacent to the site to the east are zoned RM-2, while the third lot adjacent to the southeast is zoned RS-3. All three lots are under common ownership by the owner of the Fiesta Mart (see attached zoning map).

PUD-770 proposes to remove the house on the southern most RS-3 zoned lot, split off the western most 29-feet of all three lots, and add it to the existing Fiesta Mart site through the lot combination process, thus creating a buffer from the neighborhood to the east where currently none exists (see attached Exhibits A, B, D, and G-2). The house on the “middle” residential lot will remain.

The aforementioned would allow for the construction of an additional, entry only access point off 15<sup>th</sup> Street South, an access drive behind the existing building leading to a single-bay car-wash. There are no other uses proposed or allowed on the 29' strip, aside from parking/access. The car wash would be located on the CS portion of the lot; a use by right in the CS zone.

With the addition of the 29' feet from the lots to the east and the creation of a larger buffer area, the existing and lawfully existing non-conforming Fiesta Mart store would become a conforming structure. The Zoning Code requires a setback distance of 10-feet, plus two feet of additional setback for every foot the building is over 15-feet high for any building which is located on commercial property directly abutting residential property. Currently the Fiesta Mart store sits approximately 5-feet (+/-) from the property to the east (please refer to the attached case map photographs). The addition of the 29' will create a 30' building setback from the east for the principal building.

Within the new buffer area, the applicant is proposing an eight-foot masonry type wall with a five-foot wide landscape strip and pine trees planted every twenty (20) feet on center. The trees will be no less than six feet in height at the time of planting. The proposed car-wash would sit approximately 40 feet from the properties to the east. The proposed access drive behind the existing building would be approximately 145 feet long before turning to access the car wash. This would provide for ample stacking space for automobiles waiting for the car wash. The car wash will be one bay with doors on either end of the structure that will close when the car wash is in operation. The doors should help further buffer sound created by the car wash.

Staff has reviewed the development proposal and after site visit and observation can support this application given the store location on two arterial streets and the building being brought into conformance with today’s zoning code. Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-770 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code. Therefore, staff recommends **APPROVAL** of PUD-770 subject to the following conditions and as modified by the TMAPC (items with strikethrough have been removed, underlined items added in):

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

**LAND AREA:**

Net:	0.64 AC	27,825 SF
Gross:	0.94 AC	40,795 SF

**PERMITTED USES:**

The uses permitted as a matter of right in the OL – Office Light and CS-Commercial Shopping districts, excluding Use Unit 12a, Use Unit 16 and Use Unit 19; and uses customarily accessory to permitted uses.

**MAXIMUM PERMITTED FLOOR AREA:**

Commercial	7,000 SF (0.25 FAR)
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**MAXIMUM BUILDING HEIGHT:** 25 FT

**MINIMUM BUILDING SETBACKS:**

From S. Harvard Avenue Right of Way	50 FT
From 15 <sup>th</sup> Street Right of Way	47 FT

From the south boundary  
From the east boundary

5 FT  
30 FT

**OFF-STREET PARKING:**

Off-street parking as required by the applicable Use Unit.

**MINIMUM INTERNAL LANDSCAPED OPEN SPACE and PERIMETER REQUIREMENTS:**

A minimum of 10% of the net land area shall be improved in accord with the Landscape Chapter of the Tulsa Zoning Code as internal landscaped open space, which shall include a minimum five foot landscaped buffer along the east boundary and in substantial conformance with the 'Landscape and Screening Details', Exhibit C. ~~4-gallon~~ Loblolly pine trees, no less than six feet in height at the time of planting, shall be placed along the eastern boundary line spaced twenty feet (20') apart. All landscaped areas shall be native grass and ground cover.

**SCREENING:**

A minimum eight-foot (8') masonry-type screening wall on concrete footings shall be required along the east boundary and the eastern twenty-nine feet (29') on the south boundary of the planned unit development.

**SIGNS:**

Signs shall be provided per Section 1103, B-2 of the City of Tulsa Zoning Code.

**LIGHTING:**

All lights, including building mounted, shall be hooded and directed downward and away from abutting residential properties. Shielding of outdoor lighting shall be designed so as to prevent the light producing element or reflector of the light fixture from being visible to a person standing at ground level in adjacent residential areas. Compliance with these standards shall be verified by application of the Kennebunkport Formula and/or submittal of a photometric plan at detail site plan review. Consideration of topography must be included in the calculations.

**ACCESS AND CIRCULATION**

The principal access to the existing gas station is at two (2) existing driveways along South Harvard Avenue and at two (2) existing driveways along 15<sup>th</sup> Street as shown on Exhibit D – Access and Circulation.

An entry-only drive is proposed off of 15<sup>th</sup> Street to provide an access point to the car wash. Circulation will be provided within the site to allow vehicles at the gas station to access the car wash internally instead of having to exit and re-enter for the car wash.

Pedestrian circulation shall be provided by existing sidewalks along South Harvard Avenue and 15<sup>th</sup> Street, on both sides of the major driveways and within the parking areas as shown on Exhibit D.

No access to or from the residential areas to the east is permitted.

3. No zoning clearance permit shall be issued until a detail site plan, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
4. A detail landscape plan shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences will be installed by a specific date in accordance with the approved landscape plan, 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, 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. 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.
10. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.

11. 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.
12. 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 16-inch water main exists along the east side of Harvard Ave. and a six-inch water main exists along the south side of 15<sup>th</sup> Street.

**Fire:** No comments.

**Stormwater:** No comments.

**Wastewater:** A mainline extension will be required to provide sanitary sewer access for the remainder of Lots 18, 19, & 20. The existing line must be video inspected and brought up to City Standard. If repairs are required, it must be done at the developer's expense. If paving is to be added over the existing pipe, then it must be replaced with DIP.

**Transportation:** Both Harvard and 15<sup>th</sup> Street are secondary arterials. Existing ROW on Harvard is 30', therefore 20' of right-of-way must be dedicated to the City of Tulsa; eight feet is also required for right-turn-lane. Existing ROW along 15<sup>th</sup> is 30'; therefore 20' of right-of-way must be dedicated to the City of Tulsa.

### **INCOG Transportation:**

- MSHP: East 15<sup>th</sup> Street South, between South Harvard Avenue and South Yale Avenue, considered secondary arterial. South Harvard Avenue, between 11<sup>th</sup> Street South and 21<sup>st</sup> Street South, secondary arterial.
- LRTP: East 15<sup>th</sup> Street South, between South Harvard Avenue and South Yale Avenue, existing four lanes. South Harvard Avenue, between 11<sup>th</sup> Street South and 21<sup>st</sup> Street South, existing four lanes. Sidewalks should be constructed if non-existing or maintained if existing, per Subdivision Regulations.
- TMP: No comments.
- Transit: Currently, Tulsa Transit operates a bus service at this location. According to MTTA future plans this location will continue to be served by a transit route. Therefore, consideration for access to public transportation should be included in the development.

**GIS:** No comments.

**Street Addressing:** No comments.

### **TMAPC COMMENTS:**

Ms. Cantrell stated, to be clear again, that none of the underlying zoning needs to be changed in order to achieve the purpose of the PUD. In response, Mr. Sansone answered affirmatively.

Mr. Marshall asked if there is anything in the Zoning Code about a driveway. Is there anything that one could go to in order to prevent a driveway in the back

portion of the subject property? Mr. Sansone stated that there has to be access and maneuvering areas to the parking, and in essence, that is what is being provided with the PUD. The access is not only for the car wash, but for anyone to be able to pull off of 15<sup>th</sup> Street and access the entire site.

Mr. Marshall stated the PUD standards state that an eight-foot masonry screening wall will be erected on the south 29 feet that abuts the RS-3 property, but it is not shown on the submitted landscape and screening details (Exhibit C). Mr. Sansone stated that the PUD standards do state that there will be a masonry screening wall on the south boundary and when the detail site plans are reviewed, he will rely on the language in the standards.

**Applicant's Comments:**

**Nichole Watts**, DeShazo, Tang & Associates, 10830 East 45<sup>th</sup> Street, 74146, stated that she is in agreement with the staff recommendation. She explained that she has discussed this application with Councilor Gomez and the homeowners association. There should be a letter from the homeowners association indicating their agreement with the proposal.

Ms. Watts stated that it is her client's intention to install a masonry screening wall on the south boundary. The access drive will provide and bring the subject property into compliance with the Zoning Code. The property line is directly behind the building and doesn't give fire protection or access to the building. With the new drive it would provide a fire access to the building. It will also pull the property line farther from the building to allow it to be in compliance with the Zoning Code.

**TMAPC COMMENTS:**

Ms. Cantrell asked Ms. Watts if she intends to withdraw the other two rezoning request if the Planning Commission approves the PUD. In response, Ms. Watts answered affirmatively.

Mr. Marshall asked Ms. Watts if she talked with the neighbor directly next to Lot 18. In response, Ms. Watts stated that there were three attempts to contact the property owner and there was no response.

Mr. Leighty questioned the one-gallon loblolly pine tree and how long it would take to grow and be a substantial tree for landscaping. He asked Ms. Watts if she would consider a larger planting. In response, Ms. Watts stated that she would be willing to work with the Planning Commission and whatever they suggest.

Mr. Carnes suggested that the tree plantings be at least two to four feet in height. Ms. Watts stated that her client is planning on the minimum height to be six feet.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-1-0** (Cantrell, Carnes, Leighty, Liotta, Marshall, Midget, Shivel, Walker "aye"; Wright "nay"; none "abstaining"; Dix, McArtor "absent") to recommend **APPROVAL** of PUD-770 per staff recommendation, subject to Loblolly pine trees, no less than six feet in height at the time of planting, being placed along the eastern boundary line spaced twenty feet (20') apart as modified by the Planning Commission. (Language with a strike-through has been deleted and language with an underline has been added.)

**Legal Description for PUD-770:**

Lots 1, 2, 3 and the west 29' of Lots 18, 19, and 20, Block 1, Sunrise Terrace Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

**Mr. Dix in at 2:10 p.m.**

23. **CZ-400 – John W. Moody**

**AG/IM to IM**

North of northeast corner of North Harvard Avenue and (County)  
East 61st Street North (Continued from 6/17/09.)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Resolution number 98254 dated September 15, 1980, established zoning for the subject property.

**PROPOSED ZONING:** IM

**PROPOSED USE:** Industrial

**RELEVANT ZONING HISTORY:**

**CZ-298 March 2002:** All concurred in approval of a request for rezoning a 19+ acre tract of land from AG to IL for light industrial use on property located on the northwest corner of East 66<sup>th</sup> Street North and North Yale Avenue.

**CZ-277 January 2001:** All concurred in approval of a request to rezone the south five acres of the subject property located on the northwest corner of East 66<sup>th</sup> Street and North Yale Drive, from AG to IM. No resolution was published and the tract remains AG-zoned.

**CZ-269 September 2000:** All concurred in approval of a request to rezone a 17-acre tract located west of the northwest corner of East 66<sup>th</sup> Street North and North Yale Drive and fronting East 66<sup>th</sup> Street and U. S. Highway 75 North from AG to IM for a proposed office and warehouse.

**CZ-257 November 1999:** All concurred in approval of a request for rezoning a 56.3± acre tract of land from AG to IM for industrial use, on property located on the west side of North Yale Drive between East 66<sup>th</sup> Street North and East 76<sup>th</sup> Street North.

**CZ-217 October 1994:** All concurred in approval of a request to rezone a 988± acre tract located on the east side of North Yale Avenue between East 61<sup>st</sup> Street North and East 76<sup>th</sup> Street North, from IL to IM, less a 200' strip along East 76<sup>th</sup> Street, a 150' strip along North Yale Avenue, and eight acres of Amoco property, all of which remained in IL zoning.

**CBOA-204 June 18, 1982:** The Board of Adjustment approved a Special Exception to allow a sanitary landfill in an AG District, subject to the Tulsa City-County Health Department regulations, subject to the County Engineer's requirements, for a period of three years, on property located at the northeast corner of East 56<sup>th</sup> Street North and North Harvard Avenue and abutting south of subject property. On June 24, 1983 the application was brought back before the Board to consider and define the previous conditions of approval. After discussion and agreement that the applicant had three years to gain meet those guidelines, the Board took action stating the applicant does not have approval of a sanitary landfill until Health Department approval is granted (whether by county or state), and to Deny the Building Inspector's request to rescind the special exception action on Case No. 204.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 19.6± acres in size and is located Northeast corner of North Harvard Avenue and East 61<sup>st</sup> Street North. The property appears to be vacant and is zoned AG. The site is located entirely within the Bird Creek and Flat Rock Creek floodplains (regulatory floodways).

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
North Harvard Avenue	N/A	N/A	N/A

**UTILITIES:** The subject tract has no municipal water and sewer available.

**SURROUNDING AREA:** The subject tract is abutted on the east by apparently vacant land, zoned IM and AG; on the north by U.S. 75, zoned AG; on the south by a landfill, zoned AG; and on the west by U.S. 75, zoned AG and vacant land, also zoned AG.



**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

This area is not currently encompassed within any District Plan, nor the North Tulsa County Plan. According to the Metropolitan Development Guidelines, an adopted part of the Comprehensive Plan for the Tulsa Metropolitan Area, this site does not qualify as any type of Medium Intensity node. Therefore, without any existing means of access, the area would qualify as Low Intensity-No Specific land use, and the requested IM zoning would **NOT** be in accord with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

This site has no frontage on an arterial, as is required under Industrial zoning. It does have some frontage on U.S. 75, but no means of access from it. Moreover, any access from North Harvard is minimal. The site's location entirely within two regulatory floodways makes it unsuitable for the type of zoning the applicant is requesting. For these reasons, staff cannot support the requested IM zoning and therefore recommends **DENIAL** of IM zoning on CZ-400.

Ms. Matthews explained that after a discussion with the applicant and his attorney it was discovered that the subject property is in area that is within a flood zone, but it is also in two regulatory floodways. The applicant is going to ask the Planning Commission to withdraw this application and request that the Planning Commission to initiate rezoning the subject property to FD. The subject property is within the County and the County has a FD district and the earliest staff could give notice for this would be for a public hearing on August 5, 2009. Staff is recommending that the Planning Commission direct staff to initiate the rezoning to FD.

**TMAPC COMMENTS:**

In response to Ms. Cantrell, Ms. Matthews explained that the applicant is willing to withdraw his application if the Planning Commission is willing to rezone the subject property to FD. Staff, at this point, is willing to recommend FD zoning for the subject property.

Ms. Wright asked what FD zoning stands for. In response, Ms. Matthews stated that it is for flood district and is in the County Zoning Code book, Chapter 10.

Mr. Leighty asked why the applicant is asking for this rezoning. Ms. Matthews stated that the applicant didn't realize that they were in two regulatory floodways. The applicant would like to have it reflected adequately what the propensities of the property are and for public protection. The idea is to not build within the floodways and not to allow concentrations of sensitive populations be there.

**Applicant's Comments:**

**John Moody**, 5610 E. 76th St, 74136, representing Jean and Brent Hendricks, owners of the subject property, stated that he originally requested industrial zoning because all of the subject area is zoned industrially. The subject area has been a landfill for many years. His client's father and family has owned the subject property and sold it off at various times, and his client has inherited the only remaining piece. His client was trying to determine how the subject property might be used and didn't know the full extent of the floodplain problems until the application was filed. After the continuance he met with staff and Ray Jordan, County Engineer, and learned that the subject property is actually in two floodplains and it restricts the development of the property. This doesn't leave his client much of anything to do or give them any certainty of what can be done with the subject property. After discussion with staff and the County Engineer his client decided to ask the Planning Commission to initiate the subject property to FD. Construction would be limited to only things that would not impact the capacity to carry the floodwater. Those uses that could be approved by the Board of Adjustment are limited to things such as cell phone towers, mobile towers, outdoor advertising signs and things of that nature. The only thing that makes sense is to rezone the subject property to FD and it is the most restrictive.

Mr. Moody suggested that they continue the IM application until hearing the outcome of the FD rezoning application. He will withdraw the IM application if the FD zoning is approved.

**TMAPC COMMENTS:**

Mr. Leighty asked how much this would cost and where the funds would come from if the Planning Commission initiates the rezoning. Ms. Matthews stated that the applicant spent \$1,700.00 for the IM application. The Planning Commission would have to pay basically the same for notification. Ms. Matthews explained that she suggested to the County that they might want to look at a larger area for FD zoning, but they are not ready to make that decision at this point.

Mr. Moody stated that the cost should be less, because his cost involved the application fees that have to be paid to the staff and so forth. The advertising and notification costs are less than that \$1,700.00 and probably cost more around \$400.00 to \$500.00.

**INTERESTED PARTIES COMMENTS:**

**Lou Reynolds**, 2727 East 21<sup>st</sup> Street, Suite 200, 74114, representing several property owners in the subject area, stated that his clients have no problem with the withdrawal.

**Charles Sissler**, 2525 East 66<sup>th</sup> Street North, 74130, asked why the applicant doesn't keep the subject property zoned AG. What would be the advantage of having the FD zoning?

Ms. Cantrell suggested that Mr. Sissler contact the applicant and discuss the restrictions that go along with FD zoning.

Ms. Matthews stated that the applicant paid approximately \$440.00 notification fees and that would be the approximate cost for a new notice for FD zoning.

**C.J. Bryson**, 3404 East 66<sup>th</sup> Street North, 74117, representing herself and her mother, 3405 East 66<sup>th</sup> Street North, 74117, asked how she could find out what FD zoning means so that she would know whether to be for or against it. She expressed concerns regarding the money being spent to beautify downtown Tulsa and Highway 75 is the main thoroughfare from the north to downtown Tulsa and motorists already see a giant dump. She expressed that the subject application would bring more eyesores to the subject area.

Ms. Cantrell suggested that Ms. Bryson talk with staff for the information she is seeking.

Ms. Wright stated that the Planning Commission really needs to look at the worst-case scenario that could happen under FD zoning as contrasted with AG zoning. In response, Mr. Boulden agreed. Ms. Wright asked if a continuance for this would be a wise idea. Mr. Boulden stated that he would have to leave that up to the Planning Commission. He explained that this is in the County and the City of Tulsa does not have FD zoning.

Mr. Moody stated the FD zoning is extremely restrictive and the subject property is in the actual floodway. This means that his client can't do anything with the subject property. It will open-space with the exception of any structure that can be approved by the County Engineer as having no impact at all on either raising floodplain elevations or restriction of the flow of water. This limits it to such things as a cell phone tower. FD zoning prohibits any use except agricultural and flood channel improvements.

Mr. Moody stated that soccer fields can be utilized in areas like this, but the soccer buildings used for storage have to be out of the floodway and elevated. It could be used for park use or open-space activities.

Ms. Wright asked if FD-zoned property is typically owned by individuals. In response, Mr. Moody stated that it is. The County and the City of Tulsa use regulations to govern what can happen in those areas. In certain instances where they have the funds and where actual improvements are needed, then through Federal Government funding the government entity will acquire properties to make those improvements. Mr. Moody explained that regulations are used to not "take the property", but severely limit its use to accomplish that purpose.

Mr. Alberty explained to the Planning Commission that the rezoning to FD is the staff's recommendation. In the past the City or County didn't actually go out and rezone property unless they came in for rezoning and what was within the FD area they zoned FD. This is the appropriate zoning for the subject property and the only reason the Planning Commission is hearing it today is because the subject application is 100% in the floodway. The floodway is distinguished from the floodplain is because the floodway is actually the area necessary to carry the water for the 100-year event. This is the only appropriate zoning for the subject property. The FD zoning is more restrictive than anything else that could be placed on it. There are some options through the Board of Adjustment, but basically if one is not farming on the property, then there is nothing else that can be done.

Mr. Alberty indicated that the applicant would like continue CZ-400 to August 5, 2009 and instruct staff to advertise for the FD zoning. The applicant would like to keep his opportunity to argue for IM if the subject property is not zoned FD.

**TMAPC Action; 10 members present:**

On **MOTION** of **WRIGHT**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **CONTINUE** the CZ-400 to August 5, 2009 and direct staff to prepare a notice for a public hearing to rezone the subject property to FD zoning.

\* \* \* \* \*

25. **Z-7135 – Richard E. Comfort** **RS-3 to OL**  
South of southeast corner of South Peoria Avenue and (PD-18) (CD-9)  
East 55<sup>th</sup> Street

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11823 dated June 26, 1970, established zoning for the subject property.

**PROPOSED ZONING:** OL

**PROPOSED USE:** Attorney office

**RELEVANT ZONING HISTORY:**

**Z-6813/PUD-652 August 2001:** All concurred in approval of a request for rezoning and a proposed Planned Unit Development on a .872± acre tract of land from OL to CS/PUD for a retail development as included within Use Unit 14, but excluding pawnshop, on property located on the northeast corner of South Peoria Avenue and East 55<sup>th</sup> Place and abutting south of subject property. The Family Dollar Store is the business that exists now.

**Z-6349 March 1992:** All concurred in approval of a request for rezoning a .4+ acre tract of land from RS-3 to OL for office uses on property located on the southwest corner of South Peoria Avenue and East 56<sup>th</sup> Street and southwest of subject property.

**Z-5634 January 1982:** All concurred in approval of a request for rezoning a tract of land from RS-3 to OL on property located on the southeast corner of South Peoria Avenue and East 55<sup>th</sup> Street and abutting north of subject property.

**Z-5361 March 1980:** All concurred in denial of a request for rezoning a tract of land from RS-3 to CS but approval of OL on property located north of northwest corner of South Peoria Avenue and East 56<sup>th</sup> Street and southwest of subject property.

**BOA-11942 April 29, 1982:** The Board of Adjustment approved a Special Exception for a waiver of the screening requirement on the north and east and temporarily on the south as long as the existing fence remains in place, on property located on the southeast corner of South Peoria Avenue and East 55<sup>th</sup> Street and abutting north of subject property.

**BOA-11816 March 4, 1982:** The Board of Adjustment approved a Variance of the setback from the centerline of Peoria Avenue from 100 feet to 75.4 feet per plot plan submitted, on property located on the southeast corner of South Peoria Avenue and East 55<sup>th</sup> Street and abutting north of subject property

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately .46± acres in size and is located south of southeast corner of South Peoria Avenue and East 55<sup>th</sup> Street. The property may be residential in use and is zoned RS-3. Note that the front yard is mostly paved and there is a wrought iron fence with a gate surrounding it. Staff did not observe any business signs on the site, however.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
South Peoria Avenue	Secondary arterial	100'	4

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

**SURROUNDING AREA:** The subject tract is abutted on the east by a parking lot and bus storage area for Evangelistic Temple, zoned RS-3; on the north by a dental office, zoned OL; on the south by a discount store, zoned PUD-652; and on the west by a credit union on the corner, zoned CS and mixed residential/office uses, zoned RS-3 and OL..

**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 within a Medium Intensity Linear Development Area and the Southern Peoria Consideration Area. According to the Zoning Matrix, the requested OL zoning **may be found** in accord with the Plan due to its location within a Consideration Area.

**STAFF RECOMMENDATION:**

Based on trends in the area and the Comprehensive Plan, staff can support the requested OL zoning and therefore recommends **APPROVAL** of OL zoning for Z-7135. Staff adds that the medium intensity uses and zoning that extend farther south along Peoria (including multifamily residential uses, commercial and institutional/public) make it unlikely that the subject property will be reused as single-family residential.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to recommend **APPROVAL** of the OL zoning for Z-7135 per staff recommendation.

**Legal Description for Z-7135:**

Lot 2, Block 6, J. E. Nichols, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

26. **Z-7136 – Bill Satterfield**

**IL to AG**

East of northeast corner of West 81st Street and South  
Elwood Avenue

(PD-8) (CD-2)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 19506 dated March 11, 1999, established zoning for the subject property.

**PROPOSED ZONING:** AG

**PROPOSED USE:** Residential and approved accessory uses

**RELEVANT ZONING HISTORY:**

**PUD-742 September 2007:** All concurred in approval of a proposed Planned Unit Development on a 24± acre tract of land for an office park anchored by the corporate offices for an energy business, on property located south of the southeast corner of West 71<sup>st</sup> Street and South Elwood Avenue.

**PUD-739 May 2007:** All concurred in approval of a proposed Planned Unit Development for rezoning a 25± acre tract of land for single-family development permitting 43 dwelling units on property located northwest corner of West 81<sup>st</sup> Street South and South Elwood Avenue.

**BOA-18516 September 28, 1999:** The Board of Adjustment approved a Special Exception to allow for wedding chapel, receptions, business meetings in an IL zoned district, excluding hotel-motel use (Use Unit 19). All would be in an 11' x 27' room in the existing house, on property located east of northeast corner of West 81<sup>st</sup> Street and South Elwood Avenue and the subject property.

**Z-6679 March 1999:** All concurred in approval of a request to rezone a 9.8-acre tract located east of the southeast corner of West 81<sup>st</sup> Street and South Elwood Avenue, from AG to IL for a proposed auto sales business.

**BOA-18111 July 1998:** The Board of Adjustment approved a special exception to permit a private pre-school through third grade per conditions on property located east of northeast corner of West 81<sup>st</sup> Street and South Elwood Avenue and the subject property. The decision of the Board of Adjustment has been appealed to District Court by surrounding property owners and was dismissed without prejudice by the judge.

**BOA-17524 October 1996:** The Board of Adjustment approved a request for a variance of the required lot width in an AG zoned district from 200' to 143.5' on property located east of the southeast corner of W. 81<sup>st</sup> Street S. and S. Elwood Avenue and across W. 81<sup>st</sup> Street from the subject tract.

**Z-6177 December 1987:** All concurred in approval of a request for rezoning a tract of land from AG to IL on property located east of northeast corner of West 81<sup>st</sup> Street and South Elwood Avenue and abutting east of the subject property.

**BOA-14083 July 1986:** The Board of Adjustment approved a Use Variance to allow a health spa in an AG district; per guidelines submitted by the applicant, subject to a wall sign being a maximum of 32 sq. ft.; and subject to all lighting being a maximum of 32 square feet; and subject to all lighting being directed away from the residences; finding that a health spa will not be detrimental to the neighborhood, based on the proximity of the airport and other commercial uses nearby, located on the subject property .

**BOA-11848 March 1982:** The Board of Adjustment approved a Variance to more than one dwelling unit on a lot, per plan submitted, and located on the subject tract.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 9.76± acres in size and is located east of northeast corner of West 81<sup>st</sup> Street and South Elwood Avenue. The property appears to be in residential and accessory uses and is zoned IL.

**STREETS:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
West 81 <sup>st</sup> Street	Secondary arterial	100'	

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

**SURROUNDING AREA:** The subject tract is abutted on the east by vacant, heavily wooded land, zoned IL; on the north by vacant land, zoned AG; on the south by vacant land, zoned AG; farther to the southeast is the Jones Riverside Airport, zoned IL and on the west by what appears to be large lot residential/agricultural uses, zoned AG.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 8 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Medium Intensity-Industrial land use and some Development Sensitive. The latter is in conjunction with the County Levee, which crosses the property midway from east to west. According to the Zoning Matrix, the requested AG zoning is in accord with the Plan.

**STAFF RECOMMENDATION:**

This request is a reversal of a March 1999 approval of rezoning on this property from AG to IL for automobile sales. At that time, the TMAPC voted 7-1-0 to approve IL zoning. Two nearby residents appeared to speak against the proposal and one letter of support was received. The applicant in this subject case may be related to the applicant in the 1999 case.

Based on the Comprehensive Plan and surrounding uses, staff can support the requested rezoning and therefore recommends **APPROVAL** of AG zoning for Z-7136.

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

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



**TMAPC COMMENTS:**

Ms. Wright asked Mr. Satterfield why he was rezoning his property back to AG.

Mr. Satterfield, One West 81<sup>st</sup> Street, stated that he is trying to obtain a reverse mortgage and the lending entity will not grant a reverse mortgage on industrially zoned property.

**TMAPC Action; 10 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to recommend **APPROVAL** of the AG zoning for Z-7136 per staff recommendation.

**Legal Description for Z-7136:**

E/2 E/2 SW/4 SW/4 less 24.75' for road, Section 12, T18N, R12E, City of Tulsa, Tulsa County, State of Oklahoma.

\*\*\*\*\*

27. **PUD-747-A – Khoury Engineering, Inc.** (PD-18) (CD-8)

North of northeast corner of 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 increase permitted floor area.)

**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 91<sup>st</sup> 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. Logan 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 91<sup>st</sup> 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 91<sup>st</sup> 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 89<sup>th</sup> 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 91<sup>st</sup> 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 89<sup>th</sup> 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 89<sup>th</sup> 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 91<sup>st</sup> 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 87<sup>th</sup> 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 91<sup>st</sup> 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 89<sup>th</sup> 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 89<sup>th</sup> 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 91<sup>st</sup> 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 91<sup>st</sup> 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 91<sup>st</sup> 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 91<sup>st</sup> 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:**

<b>Exist. Access</b>	<b>MSHP Design</b>	<b>MSHP R/W</b>	<b>Exist. # Lanes</b>
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 (so) Penn Office Park site is located north of the northeast corner of Yale Avenue and 91<sup>st</sup> 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).

\*\* The initial application for Major Amendment, PUD 747-A, comprising 6.53 acres and 3 development areas which included the original tract and additional 1.58 acres, was recommended for approval by the Tulsa Metropolitan Area Planning Commission on February 18, 2009. At the request of the applicant, the Urban and Economic Development Committee of the Tulsa City Council referred the matter to the Tulsa Metropolitan Area Planning Commission to consider proposed revisions to the site plan.

The site plan has been revised to provide for individual lots in an area where multiple buildings are anticipated and to provide for internal circulation by means of Mutual Access Easements. The text has been revised to establish new development standards to reflect the new lot arrangement and circulation. There have been no major changes in permitted uses and bulk and area requirements between what is in front of the Planning Commission today, versus what was recommended for approval in February of 2009.

Staff continues to find the uses and intensities of the concept development plan proposed 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 subject to the following conditions:

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

**DEVELOPMENT AREA A (LOT 7)**

**Net Land Area:** 1.328 acres 57,860 SF

**Permitted Uses:**

Uses permitted by right within: Use Unit 10, Off-Street Parking Areas; and Use Unit 11, Offices, Studios and Support Services; and uses customarily accessory to permitted principal uses.

**Maximum Floor Area Ratio:** .50

**Maximum Floor Area:** 20,000 SF

**Minimum Building Setbacks:**

From the east boundary of the lot	80 feet
From the north and south boundaries of the lot	60 feet
From the west boundary of the lot	0 feet

**Maximum Building Height:** Two stories, not to exceed 35 FT.

**Off-street Parking:**

As required by the applicable use unit, provided that parking may be located within other lots in the Subdivision pursuant to a recorded cross-parking agreement

**Minimum Landscaped Area:**

10% of net lot area.

**Landscaping and Screening:**

A masonry screening wall, eight feet in height, shall be provided and maintained along the eastern boundary of the development area. The minimum 10% net lot area landscaping shall include landscaping ten feet in width parallel to and along the eastern boundary of the development area, immediately west of the masonry screening wall. Within the ten-foot landscaping area, trees shall be planted, the type, size and number of which will be agreed to by the owner and Mr. Logan Jones who will serve as the representative for the owners of abutting residential lots. The agreement shall be in writing and signed by the owner of the development area and Mr. Jones and shall be submitted to the secretary of the Tulsa City Council. If no agreement is reached, the owner of the development area will notify the Council secretary in writing of the inability to reach an agreement, and the type, size and number of trees within the ten-foot landscaping area shall be determined by the City Council. No occupancy permit shall be issued for a building within the development area until the type, size and number of trees within the ten-foot landscaping area has been determined. Subsequent amendments to the type, size and number of trees shall be considered a major amendment of the PUD requiring City Council approval.

**Lighting:**

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from the east boundary of the development area. Compliance with these standards shall be verified by application of the Kennebunkport Formula. No lighting on the east wall of the building planned for location in the development area shall be permitted other than accent and security lighting which shall be hooded and directed downward to prevent spillover lighting into the Fox Point subdivision. No light standard located in the east half of the development area shall exceed 14 feet in height, and no light standard located in the west half of the development area shall exceed 20 feet in height.

**Signs:**

Signs shall be limited to wall or canopy signs on the lower level of a building within the lot, not exceeding 32 square feet of display surface

area. Additional identification of the uses in Lot 7 may be located within the Project Business Sign as defined below.

**Trash Containers:**

Exterior trash containers will be located along the northwest or southwest corner of the development area and shall be screened from view from the abutting residential areas and public street rights-of-way.

**DEVELOPMENT AREA B**

**LOT 1**

**Net Land Area:** .709 acres 30,865 SF

**Permitted Uses:**

Uses permitted by right within CS, Commercial Shopping District under the Tulsa Zoning Code and uses customarily accessory to permitted principal uses.

**Maximum Floor Area Ratio:** .50

**Maximum Floor Area:** 3,675 SF

**Minimum Building Setbacks:**

From the east boundary of the lot	0 feet
From the north boundary of the lot	0 feet
From the south boundary of the lot	20 feet
From the west boundary of the lot	50 feet

**Maximum Building Height:** Two stories, not to exceed 35 feet.

**Off-street Parking:**

As required by the applicable use unit, provided that parking may be located within other lots in the Subdivision pursuant to a recorded cross-parking agreement

**Minimum Landscaped Area:**

10% of net lot area, which shall include landscaping parallel to and along the South Yale Avenue right-of-way not less than five feet in width.

**Lighting:**

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential areas and public street rights-of-way. Compliance with these standards shall be verified by application of the Kennebunkport Formula. No light standard shall exceed 20 feet in height.



**Signs:**

Signs shall be limited to one monument sign, not exceeding eight feet in height nor 48 feet of display surface area and wall or canopy signs not exceeding one square foot of display surface area per lineal foot of the main building wall to which affixed, provided however, the aggregate length of wall signs shall not exceed 75% of the wall or canopy to which affixed.

**Trash Containers:**

Exterior trash containers shall be screened from view from residential areas and public street rights-of-way.

**LOT 2**

**Net Land Area:** 2.845 acres 123,920 SF

**Permitted Uses:**

Uses permitted by right within CS, Commercial Shopping District under the Tulsa Zoning Code and uses customarily accessory to permitted principal uses.

**Maximum Floor Area Ratio:** .50

**Maximum Floor Area:** 38,483 SF

**Minimum Building Setbacks:**

From the north boundary of the lot	70 feet
From the south boundary of the PUD	20 feet
From the west boundary of the PUD	50 feet
From all other boundaries of the lot	0 feet

**Maximum Building Height:**

Two stories, not to exceed 38 feet; central tower not to exceed 50 feet.

**Off-street Parking:**

As required by the applicable use unit, provided that parking may be located within other lots in the Subdivision pursuant to a recorded cross-parking agreement

**Minimum Landscaped Area:**

Ten percent of net lot area, which shall include landscaping parallel to and along the South Yale Avenue right-of-way not less than five feet in width.

**Lighting:**

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential areas and public street rights-of-way. Compliance with these standards shall be verified by application of

the Kennebunkport Formula. No light standard shall exceed 20 feet in height.

**Signs:**

Signs shall be limited to wall or canopy signs not exceeding 1 square foot of display surface area per lineal foot of the main building wall to which affixed, provided however, the aggregate length of wall signs shall not exceed 75% of the wall or canopy to which affixed; and one monument sign, not exceeding eight feet in height nor 64 feet of display surface area, provided however that an additional monument sign identifying the development and/or the uses within Lots 3, 4, 5, 6 and/or 7 may be located along the South Yale Avenue frontage within the north 70 feet of Lot 2 (the Project Business Sign as defined below).

**Trash Containers:**

Exterior trash containers shall be screened from view from residential areas and public street rights-of-way.

**LOT 3**

**Net Land Area:** .360 acres 15,666 SF

**Permitted Uses:**

Uses permitted by right within CS, Commercial Shopping District under the Tulsa Zoning Code and uses customarily accessory to permitted principal uses.

**Maximum Floor Area Ratio:** .50

**Maximum Floor Area:** 7,350 SF

**Minimum Building Setbacks:**

From the south boundary of the lot: 20 feet  
From all other boundaries of the lot: 0 feet

**Maximum Building Height:** Two stories, not to exceed 35 feet.

**Off-street Parking:**

As required by the applicable use unit, provided that parking may be located within other lots in the Subdivision pursuant to a recorded cross-parking agreement

**Minimum Landscaped Area:** ten percent of net lot area.

**Lighting:**

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential areas and public street

rights-of-way. Compliance with these standards shall be verified by application of the Kennebunkport Formula. No light standard shall exceed 20 feet in height.

**Signs:**

Signs shall be limited to wall or canopy signs on the lower level of a building within the lot, not exceeding 32 square feet of display surface area. Additional identification of the uses in Lot 3 may be located within the Project Business Sign as defined below.

**Trash Containers:**

Exterior trash containers shall be screened from view from residential areas and public street rights-of-way.

**LOT 4**

**Net Land Area:** .448 acres 19,495 SF

**Permitted Uses:**

Uses permitted by right within CS, Commercial Shopping District under the Tulsa Zoning Code and uses customarily accessory to permitted principal uses.

**Maximum Floor Area Ratio:** .50

**Maximum Floor Area:** 7,350 SF

**Minimum Building Setbacks:**

From the north boundary of the lot 70 feet  
From all other boundaries of the lot 0 feet

**Maximum Building Height:** Two stories, not to exceed 35 feet.

**Off-street Parking:**

As required by the applicable use unit, provided that parking may be located within other lots in the Subdivision pursuant to a recorded cross-parking agreement

**Minimum Landscaped Area:** Ten percent of net lot area.

**Lighting:**

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential areas and public street rights-of-way. Compliance with these standards shall be verified by application of the Kennebunkport Formula. No light standard shall exceed 20 feet in height.

**Signs:**

Signs shall be limited to wall or canopy signs on the lower level of a building within the lot, not exceeding 32 square feet of display surface area. Additional identification of the uses in Lot 4 may be located within the Project Business Sign as defined below.

**Trash Containers:**

Exterior trash containers shall be screened from view from residential areas and public street rights-of-way.

**LOT 5**

**Net Land Area:** .468 acres 20,399 SF

**Permitted Uses:**

Uses permitted by right within CS, Commercial Shopping District under the Tulsa Zoning Code and uses customarily accessory to permitted principal uses.

**Maximum Floor Area Ratio:** .50

**Maximum Floor Area:** 7,350 SF

**Minimum Building Setbacks:**

From the north boundary of the lot: 70 feet  
From all other boundaries of the lot: 0 feet

**Maximum Building Height:** Two stories, not to exceed 35 feet.

**Off-street Parking:**

As required by the applicable use unit, provided that parking may be located within other lots in the Subdivision pursuant to a recorded cross-parking agreement

**Minimum Landscaped Area:** Ten percent of net lot area.

**Lighting:**

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential areas and public street rights-of-way. Compliance with these standards shall be verified by application of the Kennebunkport Formula. No light standard shall exceed 20 feet in height.

**Signs:**

Signs shall be limited to wall or canopy signs on the lower level of a building within the lot, not exceeding 32 square feet of display surface area. Additional identification of the uses in Lot 5 may be located within the Project Business Sign as defined below.

**Trash Containers:**

Exterior trash containers shall be screened from view from residential areas and public street rights-of-way.

**LOT 6**

**Net Land Area:** .377 acres 16,413 SF

**Permitted Uses:**

Uses permitted by right within CS, Commercial Shopping District under the Tulsa Zoning Code and uses customarily accessory to permitted principal uses.

**Maximum Floor Area Ratio:** .50

**Maximum Floor Area:** 7,350 SF

**Minimum Building Setbacks:**

From the south boundary of the lot: 20 feet  
From all other boundaries of the lot: 0 feet

**Maximum Building Height:** Two stories, not to exceed 35 feet.

**Off-street Parking:**

As required by the applicable use unit, provided that parking may be located within other lots in the Subdivision pursuant to a recorded cross-parking agreement

**Minimum Landscaped Area:** ten percent of net lot area.

**Lighting:**

Exterior area lighting shall be limited to shielded fixtures designed to direct light downward and away from residential areas and public street rights-of-way. Compliance with these standards shall be verified by application of the Kennebunkport Formula. No light standard shall exceed 20 feet in height.

**Signs:**

Signs shall be limited to wall or canopy signs on the lower level of a building within the lot, not exceeding 32 square feet of display surface area. Additional identification of the uses in Lot 6 may be located within the Project Business Sign as defined below.

**Trash Containers:**

Exterior trash containers shall be screened from view from residential areas and public street rights-of-way.

## **GENERAL DEVELOPMENT STANDARDS**

### **Other Bulk and Area Requirements**

Except as herein modified, the development and use of Lots 1 through 6 shall be subject to the bulk and area requirements of a CS, Commercial Shopping District, and the development and use of Lot 7 shall be subject to the bulk and area requirements of an OL, Office Low Intensity District.

### **Trash, Mechanical and Equipment Area Screening**

All trash, mechanical and equipment areas, including building-mounted equipment, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.

### **Outside Storage**

Outside storage of recyclable material, trash or similar material shall be prohibited unless located within a screened receptacle. No trucks or truck trailers shall be parked within the Subdivision, except during the periods of active loading or unloading. The use of any truck trailer or shipping container for storage is prohibited.

### **Sidewalks**

Sidewalks shall be constructed along the South Yale Avenue frontage.

### **Project Business Sign**

Within the north 70 feet of Lot 2, along the South Yale Avenue frontage, there may be located a business sign, "monument" in style, not exceeding 12 feet in height nor 96 square feet of display surface area, identifying the development and/or one or more tenants within Lots 3, 4, 5, 6 and/or 7 (the "Project Business Sign").

### **Prohibited Signs**

Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.

### **Building Limit Lines**

No building shall be located nearer to a boundary of a lot than the Building Limit Lines depicted upon the accompanying plat. No building shall encroach upon any easement depicted upon the accompanying plat unless the portion of such easement upon which the building is constructed shall hereafter be vacated.

### **Detailed Site Plan**

Prior to the issuance of a building permit for construction within a lot, a detailed site plan for the lot (including landscaping), shall be submitted to the Tulsa Metropolitan Area Planning Commission and approved as being in

compliance with the approved development standards of the Planned Unit Development.

#### **Detailed Landscape Plan**

Prior to the issuance of a building permit for improvements within a lot, a detailed landscape plan for the lot, including a phasing schedule, shall be submitted and approved by the Tulsa Metropolitan Area Planning Commission as being in compliance with the approved development standards of the Planned Unit Development. Prior to the occupancy of any building within a lot, landscaping shall be installed in accordance with the approved landscaping plan, and in accordance with an approved phasing schedule. Prior to issuance of an occupancy permit, a landscape architect registered in the State of Oklahoma shall certify to the appropriate zoning officer of the City of Tulsa, that the required landscaping has been installed in accordance with the approved plan and the approved phasing schedule. The landscaping materials required by the approved landscape plan shall be maintained and replaced as needed as a continuing condition of the granting of an occupancy permit.

#### **Detailed Sign Plan**

Prior to the issuance of a sign permit for the installation of a sign within the Subdivision, a detailed sign plan for the lot in which the proposed sign is to be located shall be submitted to and approved by the Tulsa Metropolitan Area Planning Commission as being in compliance with the approved development standards of the Planned Unit Development.

#### **Parcelization**

Parcelization and the adjustment of the boundaries of lots as initially platted may occur by subsequent lot splits or re-platting subject to approval by the Tulsa Metropolitan Area Planning Commission of proposed floor area allocation and provision of necessary cross parking and mutual access easements.

#### **Transfer of Allocated Floor Area**

Allocated floor area may be transferred to another lot or lots by an instrument in writing executed by the owner of the lot from which the floor area is to be transferred, provided however the floor area transferred shall not exceed 10% of the initial allocation to the lot to which the floor area is to be transferred.

3. 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.

4. No building permit shall be issued until the requirements of Section 1107-F of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City beneficiary to said covenants that relate to PUD conditions.
5. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
6. 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.

**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. 81<sup>st</sup> St. S. and E. 91<sup>st</sup> St. S, designated primary arterial, Sidewalks and ADA compatible ramps where needed required along Yale frontage.
- LRTP: E. 91<sup>st</sup> Street S., between S. Yale Ave and S. Sheridan Rd, planned 4 lanes. S. Yale Ave, between E. 81<sup>st</sup> St. S. and E. 91<sup>st</sup> 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.



**Applicant's Comments:**

**Roy Johnsen**, 201 West 5<sup>th</sup> Street, Suite 501, 74103, stated that his client owns the western part of the subject property. The tract to the east is Development Area A and is intended for an office. There may be some question about timing on Development Area A and nothing before the Planning Commission today is to change the requirements applicable to that tract.

Mr. Johnsen explained that the principal client acquired an extra acre at the southwest corner of the subject property and is added to the subject PUD, which was approved by the Planning Commission February 18, 2009. When his client started the detail planning of the subject property, and in recognition of the market for individually owned small offices, a decision was made to have that option. The proposal is rather than having one lot with four offices on it, to have four lots with each having a small office on it. When the subject proposal reached the City Council it occurred to him that it is very difficult to change the application at the City Council meeting. He felt it was awkward for the City Council to work out the details since they are not as versed in the details like the Planning Commission is. This is the reason he made the request to return it to the Planning Commission and to create the four lots at today's meeting. The conditions are all the same. Mr. Johnsen stated that the staff recommendation is acceptable to his client.

**TMAPC COMMENTS:**

Ms. Wright stated that she is not seeing the required landscaping on the conceptual drawings. At the point where the subject property abuts the residential area and the way it reads is a little confusing. Since this is before the Planning Commission today she is not sure if it needs to be amended now and now would be the time to do it. There is a minimum of ten percent net lot area for landscaping and from the reading, it almost sounds like that is where all of the landscaping should be and there is no requirement than to do any more than that. That was an agreement with the neighborhood that they would agree to whatever planting of trees that were going to be in there for their comfort level and for screening purposes (page 27.8 and 27.9 of the agenda packet.)

Mr. Johnsen stated that the requirement is a minimum of ten feet of landscaped area along the east boundary and that is referenced, and then it goes on to say that the type and size of the trees will require neighborhood participation and that is referenced.

Ms. Wright stated that she understands that it is referenced, but on the drawings there is no other landscape indicated on page 27.18 of the agenda packet. Mr. Johnsen informed Ms. Wright that the normal process is to submit a detail site plan with the landscape plan and it will be done for the subject property. The standard is a minimum of ten feet of landscaping and receiving the Fox Pointe Neighborhood's input on the trees, as well as obtaining a detail site plan approval. Mr. Johnsen commented that the requirements are fully covered.

Ms. Wright stated that what she is interested in is that the way this reads right now, that is the only landscape requirement and she believes that was in addition to the ten percent that would be required. In response, Mr. Johnsen stated that there was no such requirement.

Mr. Marshall reminded Ms. Wright that she is discussing Development Area A and that is not before the Planning Commission today. Ms. Wright stated that this is an adjustment to the whole PUD. Mr. Johnsen stated that he would have to disagree with Ms. Wright. The standard is ten percent and there has to be ten feet of landscaping there and also in the parking areas there are requirements for landscaping. Trees aren't shown on the conceptual site plan, but the Planning Commission is aware of what the standard is. The detail site plan is followed by detail landscape plan and it will be fully met.

**INTERESTED PARTIES COMMENTS:**

**Logan Jones**, 8920 South Braden Avenue, 74137, stated that his home directly abuts Development Area A. Mr. Jones indicated that he is representing himself and other homeowners who are continuously impacted by the subject project. He stated that he and the homeowners do not oppose Mr. Johnsen's proposal that is before the Planning Commission today for Development Area B.

Mr. Jones stated the issues are intertwined between Development Area A and Area B and therefore he has to come to the meetings to voice his concerns about Development Area A.

Mr. Jones expressed concerns about the timetable for development, the possibility of his wooden fence being removed for utility work, and the timetable of when the masonry screening fence would be erected. Mr. Jones stated that it is difficult to get information about Development Area A and there is no one for that development present today.

**TMAPC COMMENTS:**

Ms. Wright stated that if she is not mistaken, when the neighbors were in force back in February, there was an agreement that the masonry boundary fence was to be installed before any construction could begin. Ms. Wright asked if anyone else recalls that. In response, several Planning Commissions indicated that they do not recall that condition. Mr. Jones stated that he talked with Ray Biery in 2007 and he indicated that the masonry fence would be installed first, but his interest and timetable are separate and distinct from the actual builder of Development Area A. Ms. Wright stated again that she recalls that the masonry wall would be installed before development began.

Mr. Carnes stated that he remembers the discussion that the masonry wall couldn't be installed until after the utility work was finished.

Ms. Wright asked if the Planning Commission has seen a detail site plan and if so, why are the utilities coming along the fence line?

Ms. Cantrell stated that she understands Mr. Jones's comments and the Planning Commission will see what they can do with respect to Development Area A, but as far as the Development Area B, he is fine with Mr. Johnsen's proposal. In response, Mr. Jones answered affirmatively.

Mr. Marshall asked Mr. Jones if he had an agreement between the homeowners and contractor. In response, Mr. Jones stated that he doesn't know who the contractor is and so he doesn't have an agreement.

Mr. Johnsen stated that he didn't handle the earlier proposals, but he did read the minutes and it quotes Ms. Cantrell as stating that she doesn't recall there was a condition made on the PUD and there was no timeframe put in the PUD for building the wall.

Mr. Johnsen stated that the agreement on the trees and landscaping is still in the PUD language as it has always been and it will occur at the end of the process. The wall is a condition, but there is no time condition. The norm, under the Zoning Code and as practiced in this community, is that one cannot get their occupancy permit until required screening walls or fences are in place. Mr. Johnsen stated that they will not take down Mr. Jones's wooden fence until they are ready to build the wall. There is some protection there right now with the wood fence and there is no thought in mind to take down his fence so that the dog could get loose. He didn't know that this was a concern. In order to do the utilities it may be necessary to bore or something to tie it to a sanitary sewer underneath the fence.

Ms. Cantrell asked Mr. Johnsen if he knew what the timeframe would be for Development Area A. In response, Mr. Johnsen indicated that after talking with Mr. Jones, he called the developer and they gave him a rough layout to give to Mr. Jones, which he did earlier this afternoon prior to this meeting. A wall can't be built until one knows what the grades are and not until the utilities are in place. The first thing being done right now for this project is trying to, as a whole, resolve the drainage issues. There is a retaining wall that has been constructed; there will be a conduit that will be in place and then they will do the grading, and then the utilities. Narrowing this down to Development Area A is a little different because this has basically been sold and there is a person who wants to build that office building. The term that he has heard has been "pulled the pad", which means they have done the grading for where the pad will go for that building. They are ready to start the footings and then they can start construction at that point. The timeframe that he has heard is 120 days about the time the utilities and the grading could be done on the back part so that a wall could be built. It takes two full weeks to build it and that would probably be mid-November. The

wall will be built much earlier than is normally required under the Code or by any action of this Planning Commission.

Mr. Dix asked if the existing wood fence is in the utility easement. In response, Mr. Johnsen stated that he is sure it is and is probably on both sides of the fence. Mr. Dix stated that more than likely, the utility contractor will have to take down the fence. In response, Mr. Johnsen stated that he didn't believe they would need to take down the fence. Mr. Johnsen further stated that if they do have to take down the fence they will notify the residents.

Ms. Wright asked Mr. Sansone if he knew anything about the property boundary of Development Area A and the residential uses regarding the utility easements. In response, Mr. Sansone stated that he could only speak to his experience with development in general. There are easements on both sides of the fence and property lines. This would leave Mr. Jones's fence in the utility easement, which is not a problem. Mr. Sansone stated that he couldn't definitely state that the fence would have to come down during the installation of utilities. Ms. Wright cited another PUD and issues with fencing and utilities installation and commented that she would not like to see the same thing happen to Mr. Jones and his neighbors. In response, Mr. Sansone stated that the other PUD that Ms. Wright is referring to was a City of Tulsa improvement project that took the fence down for stormwater management improvement. Mr. Sansone stated that PUDs are enforced as they are approved by the Planning Commission. Ms. Wright stated that if we get away from the fact that this fence needs to be there and we focus on the development farther away from it, because we keep saying this building doesn't have anything to do with it, but this is a PUD and its entirety has much to do with Mr. Jones's concerns. Mr. Sansone stated that this is one PUD with two development areas and today Development Area B is before the Planning Commission. The original portion has been platted and a detail site plan has been approved for Development Area A. Ms. Wright stated that essentially we can be very grateful that this has come back before us because it has been about two-year window now that we are looking at in a timeline and that is one of the criticisms that some of these PUDs go for a very long time, and without having a good timeline it becomes questionable. Mr. Sansone agreed and stated that he has heard this concern before.

Ms. Cantrell stated that she hopes today's discussion answered some of his questions. She is sure that he is a very diligent person and will stay on top of this issue. She encouraged the developer to install the wall as soon as possible.

Ms. Cantrell recognized Mr. Jones.

Mr. Jones stated that his concern is that Mr. Johnsen was gracious enough to come today and relay some information to him, but he has yet to hear the name of who the developer or construction company is for Development Area A. He doesn't know who to go to with his concerns. Mr. Johnsen represents an entirely

different entity. The developer and construction company is not making any effort to keep the residents informed.

In response to Ms. Cantrell, Mr. Johnsen stated that he would get some contract information and he would personally call the developer himself and encourage him.

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to recommend **APPROVAL** of the major amendment for PUD-747-A per staff recommendation.

**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.

\* \* \* \* \*

**OTHER BUSINESS:**

**28. Heritage Landing Project**

Refund Request for Preliminary Plat fee and Accelerated Building Permit Fee.

**STAFF RECOMMENDATION:**

Ms. Matthews stated that this is a request for a refund for monies expended for a preliminary plat fee and accelerated permit on a piece of property that is going to be devoted to assisted living. After paying the fees the applicant found that they qualify for CHDO, which is Community Housing Development Organization, and qualify for fee waivers. Staff is recommending refunding the entire fee.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **WRIGHT**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Midget, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor "absent") to **APPROVE** the refund request for preliminary plat and accelerated building permit fees per staff recommendation.

\* \* \* \* \*

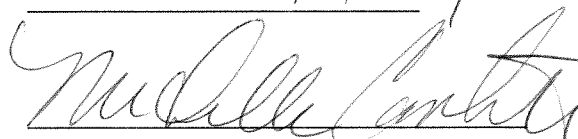
**Commissioners' Comments**

Ms. Cantrell requested the Planning Commissioners to start thinking about their annual meeting and determine what dates are best and what subjects they would like to discuss.

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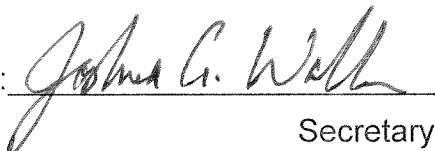
There being no further business, the Chair declared the meeting adjourned at 3:04 p.m.

Date Approved: 7-1-09



Chairman

ATTEST:

  
Secretary