

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2552

Wednesday, June 24, 2009, 1:30 p.m.

City Council Chambers

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

Members Present	Members Absent	Staff Present	Others Present
Cantrell	Shivel	Alberty	Boulden, Legal
Carnes		Feddis	Steele, Sr. Eng.
Dix		Fernandez	Schultz, COT Plan.
Leighty		Huntsinger	
Liotta		Matthews	
Marshall		Sansone	
McArtor			
Midget			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, June 18, 2009 at 4:37 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 there will be a work session immediately following today's TMAPC meeting.

Director's Report:

Mr. Alberty reported on the TMAPC receipts for the Month of May 2009.

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

Comprehensive Plan Report:

Ms. Schultz reported on the surveys that were collected for the Comprehensive Plan updates. The study is on time and on budget and should have a something approved and in place by late December or early January 2010.

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

Ms. Cantrell stated that the following case has been withdrawn:

- 2. **LS-20096** – Albertson’s Tulsa Distribution (9404)/Lot-Split (PD-17) (CD-6)
 (Continued from 4-15-09)
 Southwest corner of East Admiral Place and South 145th East Avenue,
 420 South 145th East Avenue

Withdrawn.

CONSENT AGENDA

- 1. **LS-20308** – Chris Evertz (1812)/Lot-Split (PD 8) (CD 2)
 East of US 75 between West 71st and West 81st Streets

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Walker, Wright "aye"; no "nays"; none "abstaining"; Shivel "absent") to **APPROVE** the consent agenda Item 1, LS-20308 per staff recommendation.

PUBLIC HEARING

- 3. **LS-20311** – Lou Reynolds (8418)/Lot-Split (PD-18 C) (CD-8)
 East of US-169 and north of East 91st Street

STAFF RECOMMENDATION:

This is a lot-split to divide two parcels into two tracts. Staff can recommend approval contingent upon the approval of a minor amendment to PUD-586-A-7 if required or if it has been re-plated.

There were no interested parties wishing to speak.

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Midget, Walker, Wright "aye"; no "nays"; none "abstaining"; Shivel "absent") to **APPROVE** the lot-split for LS-20311 per staff recommendation.

Mr. Midget out 1:43 p.m.

4. **PUD-516-B – Roy D. Johnsen** (PD-26) (CD-8)

East of southeast corner of 101st Street and South Yale Avenue (Major Amendment to add children's nursery only within Use Unit 5 as a permitted use in Lot 19, Development Area 1 and proposes two additional small office buildings.) (Continued from 6/03/09 and 6/17/09.)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 19548 dated June 1, 1999, established zoning for the subject property.

PROPOSED ZONING: RS-4/OL/CS/PUD-516-B **PROPOSED USE:**
Office/Children's Nursery

RELEVANT ZONING HISTORY:

Z-6844/PUD-658 March 2002: All concurred in approval of a request for rezoning on a 2.5± acre tract of land from AG to OL/CS and a proposed Planned Unit Development for a mixed use development on property located on the northwest corner of East 101st Street South and South Yale Avenue.

PUD-516-A June 1999: All concurred in approval of a proposed Major Amendment to PUD on a .81± acre tract of land to reallocate floor area and add Development areas for mixed use development on property located south of southeast corner of East 101st Street South and South Yale Avenue and a part of subject property

Z-6572/PUD-552 December 1996: All concurred in approval of a request to rezone a 2.5 acre tract from AG to RD/PUD and a proposed Planned Unit Development for a residential elderly housing facility, on property located on the southeast corner of South Yale Avenue and East 102nd Street and south the subject tract.

PUD-538-A November 1996: All concurred in approval of a proposed Major Amendment to PUD-538 to add a dry cleaner and laundry business on property located in the northeast corner of East 101st Street and South Yale.

Z-6498/PUD-538 September 1995: All concurred in approval of a request to rezone a 5± acre tract from RM-2 to RM-2/CS/PUD and a proposed Planned Unit Development. They approved CS zoning for all except the west 150' and the south 150' of the tract which was designated for OL zoning, on property located on the northeast corner of E. 101st Street S. and S. Yale Avenue and across E. 101st Street from the subject tract.

Z-6451/PUD-516 July 1994: A request to rezone 10 acres, which included the subject tract, from AG to CS and RS-4 for office and multifamily development. Staff and TMAPC could not support CS zoning and uses because of the school which is located across S. Yale from the property. It was recommended the request be amended and re-advertised for OL zoning to a depth of 150' fronting Yale and E. 101st Street, with CS adjacent to the OL zoning on a tract approximately 300' x 150' and RS-4 on the balance of the tract. City Council concurred in approval of the amended request as recommended by TMAPC.

BOA-15228 September 1989: The Board of Adjustment approved a Special Exception to permit a public school in a RM-2, RM-0, RS-3 and RS-2 zoned district on property located on the southwest corner of E. 101st Street South and South Yale Avenue and west of the subject tract.

Z-6202/PUD-440 August 1988: All concurred in approval of a request to rezone a 10± acre tract from AG to RS-2/PUD and a proposed Planned Unit Development located south and east of the southeast corner of East 101st Street and South Yale Avenue and southeast of the subject tract.

BOA-11843 March 18, 1982: The Board of Adjustment approved a Special Exception for community, cultural, and educational uses (church and private school) in an AG district, subject to the following conditions: That the total student population of the school not exceed 800; that the proposed buildings be complete with brick exterior in a Williamsburgh architecture style before occupied; that a subdivision plat be filed, subject to a letter being written by the Staff to the Hydrology Department expressing the Board's concern with the drainage in the subject area; that no traditional sanctuary be permitted on the subject property without a public hearing as per plot plan submitted; that a monument-type business sign be permitted with shrubbery lights not to exceed 32 square feet; that all the buildings have windows and shutters in accordance with the Williamsburgh style; and subject to the applicant returning to the Board with detailed plans concerning the proposed gymnasium before a building permit is issued for the facility, on property located east of the southeast corner of East 101st Street and South Yale Avenue.

BOA-11508 June 11, 1981: The Board of Adjustment approved a Special Exception to permit a church, church school, and related activities, per plans submitted with the condition that plans for any future structures on the property be submitted to the Board for approval, on property located east of the southeast corner of East 101st Street and South Yale Avenue and abutting east of subject property

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.73± acres in size and is located east of southeast corner of East 101st Street and South Yale Avenue. The property appears to be vacant and is zoned RS-4/OL/CS/PUD-516-A.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
East 101 st Street South	Secondary Arterial	100'	3
South Yale Avenue	Secondary Arterial	100'	3

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

SURROUNDING AREA: The subject tract is abutted on the east by Life Christian Center, zoned AG; on the north by 101st Street and then Winbury Center and Winbury Place, zoned CS/RM-O/PUD-538; on the south by 101 Yale Village, zoned RS-4/PUD-516; and on the west by 101 Yale Village, zoned OL/CS/PUD-516-A.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 26 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area designates this area as being Special District 2, and may be developed at medium intensity under a PUD application. There is no zoning change requested with this application.

STAFF RECOMMENDATION:

PUD-516-B is a 1.73 acre (75,358 SF) lot located east of the southeast corner of 101st Street South and South Yale Avenue. The subject tract is abutted on the east by AG zoned property with a school use; on the north by 101st Street and then CS/RM-O/PUD-538 and PUD-538-A zoned property which has been developed commercially and as single family residential; on the south by RS-4/PUD-516 zoned property having been developed as residential single-family; and on the west by 101 Yale Village, zoned OL/CS/PUD-516-A developed as office uses. Across Yale Avenue to the west is a City of Jenks Independent School.

Approved in 1994, PUD-516 designated a development area of retail and office uses which were subsequently platted as Lots 18 and 19, Block 1, 101 Yale Village (Development Area A on attached Exhibit 1). The PUD also designated a

development area of office use only which was subsequently platted as Lots 16 and 17, Block 1, 101 Yale Village (Area B on Exhibit 1). Lot 18 was developed as the F & M Bank on the corner of Yale Avenue and 101st Street South. Lot 19 was then acquired by the Springer Clinic and was planned for medical office use. Minor amendment PUD-516-6 was approved by the TMAPC in 1999 which allowed combining a portion of Lot 17 to Lot 19 (Depicted as Area I on attached Exhibit 2).

Also in 1999, major amendment PUD-516-A was approved designating Lot 16 as a retail development area and reallocated previously approved retail and office floor area to other areas in the PUD (see Exhibit 2). The amendment further assigned previously unallocated office floor area permitted by the existing underlying CS and OL zoning. PUD-516-A also divided Lot 17 into four development areas; Areas I, II, III, and IV as depicted on the attached Exhibit 2. Development Area I was planned for additional parking for Lot 19; which at the time was the proposed Springer Medical Office/Clinic Facility. Development Areas II, III and IV developed as office parcels with common parking areas and mutual access drives. Area 1 was then combined with Lot 19 to create new Development Area 1/Lot 19 as exists today.

Major amendment PUD-516-B proposes to add Children's Nursery only within Use Unit 5, as a permitted use in Lot 19/Development Area 1 only (see Exhibit A – Conceptual Site Plan). PUD-516-B also proposes two additional small office buildings. All floor area is permitted by the underlying zoning as shown on Exhibit 3 – Floor Area Analysis.

In summary, PUD-516-B seeks to:

1. Amend the permitted uses for Lot 19 and Development Area I to include Children's Nursery only within Use Unit 5.
2. Amend the minimum building setback from the south boundary of the Property from 50 FT to 20 FT. The setback for office uses in adjoining properties, including Development Area I, was originally established by PUD-516 at 20 FT. The setback for Lot 19 was originally established at 50 ft. during the time that retail use was permitted within Lot 19. When Development Area I was combined with Lot 19, the 50 ft. setback was restated.
3. Increase permitted floor area to accommodate the location of the Children's Nursery.
4. Clarify that permitted uses for Lot 19 and Development Area I include Use Unit 10 and 11 uses.

5. Provide for reconfiguration of the existing two parcels into three parcels at detail site plan review including provision for cross parking and mutual access easements among parcels, followed by implementing lot splits.
6. Reduce the width of the Mutual Access Easement that is depicted in the Plat of 101 Yale Village along the east boundary of Lot 19 from 30 FT to 20 FT.

Staff has reviewed the development proposal and conducted site visits (see attached case report photographs). Staff feels the proposed uses herein would be no more intrusive on the surrounding neighborhoods than uses which are currently permitted by PUD-516-A. This includes medical office and general business office uses, especially with respect to traffic generation. Allowing the children's nursery use appears appropriate given past and present development trends in the area and the proximity to surrounding schools. In addition, with the limit placed on permitted floor area and proposed buffering mechanisms proposed below staff can support this application.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-516-B 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-516-B subject to the following conditions:

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

* The Development Standards herein set forth are intended to implement the changes set forth in the Development Concept and restate the development standards previously established by PUD-516 and PUD-516-A that remain applicable.

Development Standards - Lot 19 and Development Area I

Net Land Area: 1.7318 acres 75,439 SF

Permitted Uses:

Uses permitted by right within: Use Unit 10, Off-Street Parking Areas; and Use Unit 11, Offices, Studios and Support Services; Children's Nursery as set forth within Use Unit 5; and uses customarily accessory to permitted principal uses.

Maximum Building Floor Area:

Office	13,000 SF
Children's Nursery	6,500 SF

Minimum Building Setbacks:

From centerline of 101 st St.	100 FT
From east boundary of development area	20 FT
From south boundary of development area	20 FT
From other boundaries of development area	0 FT

Maximum Building Height:

Office	2 stories, not to exceed 30 FT
Children's Nursery	1 story, not to exceed 30 FT*

**On the Children's Nursery decorative features such as finials may extend to a maximum height 36 ft.*

Off-street Parking:

As required by the applicable use unit; appropriate cross-parking and mutual access to be established upon parcelization and detail site plan review.

Minimum Landscaped Open Space: 15% of net lot area

Other Development Standards

Mutual Access and Cross Parking

It is anticipated that the existing two parcels (Lot 19 and Development Area I) will be reconfigured into three parcels. The uses within the parcels shall be mutually accessible to each other, and cross parking shall be permitted between the parcels pursuant to a mutual access easement and cross parking agreement to be established by recorded document at the time of detail site plan review. Each of the parcels shall also be accessible to Lots 16 and 18, and the balance of Lot 17, 101 Yale Village.

Parking Screening and Setback

Parking adjacent to arterial streets shall be set back at least ten feet from the street right-of-way and shall be screened from view from the street by landscaping or berming to a minimum height of three feet. Parking adjacent to the east boundary of Lot 19 shall be set back at least five feet from that boundary.

Landscaping and Screening along abutting Residential Lots

A five-foot landscaped buffer strip and a six-foot or higher screening fence shall be provided along any boundary adjoining a residential lot except where mutual access is permitted.

Architectural Requirements

All buildings shall have pitched roofs and an architectural style that will be compatible with the surrounding residential structures. Elevation drawings of buildings shall be submitted with the detail site plans. Variations in rooflines, brick or stone facades, and buildings with offset rather than straight exterior walls are encouraged.

Signs

Wall signs shall be permitted on buildings located within Lot 19 and Development Area I. Wall signs shall not exceed one square foot per linear foot of building wall to which affixed and no wall signs shall be permitted on walls facing the residential lots in Development Area C of PUD-516.

Within Lot 19, one ground sign is allowed along East 101st Street South. The ground sign shall not exceed a display surface area of 100 SF, nor eight feet in over-all height. There shall be no ground signs in Development Area I. No sign permits shall be issued for erection of a sign within a development area until a Detail Sign Plan for that lot has been submitted to the TMAPC and approved as being compliance with the development standards.

Lighting

All parking lot lighting shall be shielded and directed downward and away from adjacent residential areas. Compliance with these standards shall be verified by application of the "Kennebunkport Formula". No parking lot light standard shall exceed 15 feet in height.

Trash, Mechanical and Equipment Areas

All trash, mechanical and equipment areas shall be screened from public view by persons standing at ground level. Within Development Area I, bulk trash containers shall be set back a minimum of 50 feet from residential lots.

Outside Storage

There shall be no outside storage or recyclable material, trash or similar material outside a screened receptacle, nor shall trucks, truck-trailers or containers be parked in the PUD, except while they are actively being loaded or unloaded. Truck trailers or outside containers shall not be used for storage.

Parcelization

Division of either development area may occur by approved lot split application and subject to the further approval of the Tulsa Metropolitan Area Planning Commission of proposed floor area allocations and confirmation of the existence of any necessary cross parking and mutual access easements.

Transfer of Allocated Floor Area

Allocated floor area may be transferred to another lot or lots by written instrument executed by the owner of the lot from which the floor area is to be allocated provided however the allocation shall not exceed 10 % of the initial allocation to the lot to which the transfer of floor area is to be made.

Site Plan Review

The development area may be developed in phases and no building permit shall be issued until a detailed site plan (including landscaping) of the proposed improvements has been submitted to the Tulsa Metropolitan Area Planning Commission and approved as being in compliance with the development standards. No certificate of occupancy shall be issued for a building until the landscaping of the applicable phase of development has been installed in accordance with a landscaping plan and phasing schedule submitted to and approved by the Tulsa Metropolitan Area Planning Commission.

Platting Requirement

The development area may be developed in phases, and no building permit shall issue until the development phase for which a permit is sought has been included within a subdivision plat submitted to and approved by the Tulsa Metropolitan Area Planning Commission and the Tulsa City Council, and duly filed of record. The required subdivision plat shall include covenants of record implementing the development standards of the approved Planned Unit Development, and the City of Tulsa shall be a beneficiary thereof. Existing platting (101 Yale Village) shall constitute the required platting, and covenants of record implementing these amendments shall be effectuated by separate instrument, submitted to and approved by the Tulsa Metropolitan Area Planning Commission and filed of record.

3. A detail landscape plan for each development area which conforms to the requirements of Chapter 10 of the City of Tulsa Zoning Code shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall

certify to the zoning officer that all required landscaping and screening fences will be installed by a specific date in accordance with the approved landscape plan for the lot, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.

4. Sidewalks will be provided, if not currently existing, along Yale Avenue according to Tulsa Subdivision Regulations. Additional internal pedestrian circulation will be subject to detail site plan review at each phase of development.
5. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
6. 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.
7. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
8. Approval of the PUD is not an endorsement of the conceptual layout. This will be done during detail site plan review.

TAC Comments:

General: No comments.

Water: 5' x 20' section of waterline easement extends into to the split portion of lot 17 from the west. In this easement is a 4-inch water line with a blow off hydrant at the end.

Fire: No comments.

Stormwater: No comments.

Wastewater: On Exhibit D, the proposed Office Building is too close to the easement to allow it to be constructed without encroaching into the Existing Easement. Footings, steps, porches, awnings, roofs, etc. would be considered to be encroachments into the easement and would not be allowed.

Transportation: No comments.

INCOG Transportation:

- MSHP: E. 101st St. S., between S. Yale Avenue and S. Sheridan Road, considered secondary arterial.
- LRTP: E. 101st St. S., between S. Yale Avenue and S. Sheridan Road, planned 4 lanes. Sidewalks should be constructed if non-existing or maintained if existing, per Subdivision Regulations.
- TMP: No comments.

- Transit: No service provided in this area.

GIS: No comments.

Street Addressing: No comments.

TMAPC COMMENTS:

Ms. Wright asked why the setback is being reduced. In response, Mr. Sansone stated that the PUD allows a 20-foot setback from that south boundary and the subject proposal is asking to stay in conformity with the rest of the PUD to the east. The 50-foot setback was established for retail uses and the applicant has requested the relaxation back to the 20 feet to stay in conformity with the rest of the PUD.

Ms. Wright asked what the hours of operation will be for the daycare facility. In response, Mr. Sansone stated that he believes that they proposing a limit of 7:00 p.m.

Mr. Marshall asked if there would be any children's equipment in the backyard. In response, Mr. Sansone stated that he understands they will have an outdoor play area to the east of the subject building.

Mr. Marshall asked why the staff recommendation didn't include the photometric plan under lighting. In response, Mr. Sansone stated that it can be in the staff recommendation if the Planning Commission would like to require it submitted in addition to the Kennebunkport Formula. Staff is comfortable with the applicant showing the Kennebunkport Formula for the light standards.

Mr. Leighty asked if this is substantially different from the first submittal. Mr. Sansone stated that the daycare facility and the office have switched locations. He understands that this was done in part due to negotiations with the neighbors to the south of the subject property. The neighbors had a preference to have the daycare closer to the boundary than the office building.

Mr. Leighty asked if there is a letter from the homeowners association indicating this preference. Mr. Leighty explained that this application has been continued due to letters of opposition from homeowners. Mr. Sansone stated that the letters received were from the homeowners located across 101st Street to the north. Mr. Sansone further stated that he has not been provided anything in writing from any of the homeowners to the south.

There were no interested parties wishing to speak on this application.

Ms. Wright asked if the access that is currently gated will be accessible to public traffic now. Mr. Sansone stated that he doesn't believe there will be any access there for the public.

Applicant's Comments:

Roy Johnsen, 201 West 5th Street, Suite 501, 74103, cited the history of the PUD as originally approved in 1994. He explained that originally retail was proposed for the subject property and there was a 50-foot setback. The subject property is on a ten-acre development that has developed according to plan in a satisfactory way. What has changed is the new use that is being proposed. If the permitted uses in a PUD are being requested to change, then it is a major amendment. His client is adding the daycare use to the PUD.

Mr. Johnsen indicated that his client was in contact with the residents abutting the subject property and after reviewing the conceptual site plan and meetings, it was determined that the residents prefer the daycare to be on the subject lot and the office to be moved to the other site. He understands that the residents are satisfied with the proposal and will not voice any protests. The homeowners who voiced objections are on the north side of 101st Street. He understood that their objection is essentially traffic. Currently 101st Street is two-lane and there is traffic and it planned to be widened to five lanes, but that will be in the future.

TMAPC COMMENTS:

In response to Mr. Leighty, Mr. Johnsen pointed out where the neighborhood was located who voiced opposition. He explained that it is a gated retirement community on the north side of 101st Street with only one point of access onto 101st. There are approximately 20 units and they are surrounded by retail and commercial uses. His client has met with the neighbors in opposition and they are still in opposition.

Mr. Johnsen stated that Ms. Wright asked about the setback and it has been touched on, but he would like to restate that the 50-foot setback was originally approved with anticipation of retail use. All of the office uses that abut the single-family lots have a setback of 20 feet and he would like to request the same, given the type of use being proposed. The hours of operation will be 6:00 a.m. to 6:00 p.m., Monday through Friday. There will be playground equipment and this is a well-thought-of provider of daycare service. The building is attractive with a pitched roof. A requirement of the PUD is that the architecture be close to or compatible with residential construction. Those requirements will be applicable for the subject property and will be met.

Mr. Johnsen submitted photographs (Exhibit A-1) and a conceptual site plan (Exhibit A-2).

Mr. Johnsen stated that the daycare facility only allows the children outside two hours in the morning and two hours in the afternoon. It should have minimal effect on a single-family neighborhood. East of the subject property is the Town and Country School with a maximum of 800 students that abuts the neighborhood.

Ms. Cantrell asked Mr. Johnsen to address the road and existing gate. Mr. Johnsen stated that the subdivision to the south derives its principal address from Yale Avenue and it is gated. There was a requirement that there be a second point of access for emergency purposes and it is gated, but is not used for daily trips and it will remain gated. Ms. Cantrell asked if only emergency vehicles are able to access the gate into the adjacent neighborhood. In response, Mr. Johnsen stated that it is for emergency use only and the subject development will not have access.

Mr. Marshall asked Mr. Johnsen to address the 20 feet instead of 30 feet. In response, Mr. Johnsen stated that 30 feet serves no real purpose and 20 feet will be more than enough for the drive for what is planned. By reducing that easement it will allow for some yard space.

Mr. Carnes moved to approve the staff recommendation and reduce the 50-foot setback to a 20-foot setback.

Ms. Wright stated that she has a question for Mr. Johnsen.

Ms. Cantrell stated that Mr. Marshall still has the floor.

Mr. Marshall asked Mr. Johnsen if his client met with the residents directly behind the subject property and, if they have agreed with this proposal. Mr. Johnsen answered affirmatively. Mr. Marshall stated that he is floored and he feels that the Use Unit 5 up against a residential neighborhood would be wrong. However, if the residents are not going to protest it, then he will probably say it is okay. In his opinion, the daycare facility is intrusive and those children back there will make a lot of noise. If the facilities were switched around, he believes it would be much better. However, if the residents have reached an agreement then that is fine. Mr. Johnsen stated that there may be people who would disagree with Mr. Marshall. The perception is a legitimate perception, but it has been disproven over time. The facility is a very nice neighbor and it has been proven over time and it is a better quality one.

Ms. Wright stated that this is one of the points that while the proposed facility might be good, this will now be designed for a daycare use facility, which means we should be looking at other potential users of this same space and may not be such great neighbors.

Ms. Wright asked why the setback of 50 feet originally approved. Mr. Johnsen stated that he believes it was what the staff thought would be sufficient for retail use abutting residential. Ms. Wright asked if retail could still come in and use the subject space. In response, Mr. Johnsen stated that his client has limited the uses to daycare and office use. Ms. Wright asked Mr. Johnsen if he would agree that if another daycare facility moved into the subject space they could have later hours and offices adjoining them typically close around 5:00 p.m. to 6:00 p.m. In

response, Mr. Johnsen stated that he doesn't necessarily agree with the office hours.

Ms. Wright asked if his client will have to put up a new screening fence so that they are not encroaching on the residential fence. In response, Mr. Johnsen answered affirmatively. Ms. Wright stated that she could see this as a bone of contention between the daycare and the neighbors if the children were climbing over their fence. Mr. Johnsen stated that the facility has security and supervision and the children will not be climbing the fence. Ms. Wright asked Mr. Johnsen if he is stating that there will be no children's access at the back of the building to the fence, because it would be a great place to bounce a ball. There will be access to the backyard or play area, but it will be supervised. Ms. Wright asked if the play area is between the back of the building and the fence. In response, Mr. Johnsen stated that the play area is to the east of the proposed building. Ms. Wright stated that if one were to draw a line from the back of the building over there is still access to the fence that shares the residential space. Mr. Johnsen stated that outdoor activities are supervised and they don't just open the gate and let the children out without supervision.

Ms. Cantrell stated that she is a little bit shocked to hear the response to nursery center. To her that would be the most appropriate thing to be in a neighborhood. Childcare centers are something that the neighborhood itself would actually use. Ms. Cantrell commented that she lives next to a school and to her the sound of kids screaming during lunch is welcomed and makes her feel a part of the neighborhood. Putting a childcare next to a neighborhood is about as good a buffer as one could get. Clearly it will cause some traffic, but business causes traffic too and it is just life. This is restricted to a children's nursery and the rest is for office use and she can't imagine that this would cause much concern. She appreciates the developer meeting with the neighborhoods and working this out.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted **8-1-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, McArtor, Walker "aye"; Wright "nay"; none "abstaining"; Midget, Shivel "absent") to recommend **APPROVAL** of the major amendment for PUD-516-B per staff recommendation, including the 20-foot setback as requested.

Legal Description for PUD-516-B:

Lot 19, Block 1, 101 Yale Village, a subdivision in the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat (No. 5055) thereof; AND A tract of land which is part of Lot 17, Block 1, 101 Yale Village, a subdivision in the City of Tulsa, Tulsa County, State of Oklahoma according to the recorded plat (No. 5055) thereof, being more particularly described as follows, to-wit: Commencing at a point on the easterly right-of-way line of South Yale Avenue, said point also being the northwest corner of said Lot 17, Block 1; thence due east along the northerly line of said Lot 17, Block 1 for 26.30'; thence continuing along said northerly line north 62° 34'42" east for 260.27' to the point


of beginning of said tract of land; thence continuing north 62°34'42" east along said northerly line for 71.00'; thence south 29°09'40" east along the easterly line of said Lot 17, Block 1 for 201.09'; thence due west along the southerly line of said Lot 17, Block 1 for 54.07'; thence continuing along said southerly line south 60°00'00" west for 21.17'; thence north 30°00'00" west for 177.23' to the point of beginning.

OTHER BUSINESS:

Commissioners' Comments

Ms. Cantrell stated that she understands that the Land Use Task Force has made their recommendation to the Mayor. She understands that the Mayor will in turn request a response from the Planning Commission. She believes there will be 45 days to make the response. She will get with other Planning Commissioners about trying to work in a smaller group with staff to frame the response. The response will be conditioned upon everyone's input and everyone's approval.

There being no further business, the Chair declared the meeting adjourned at 2:10 p.m.

Date Approved: 7/15/09

Chairman

ATTEST: Joshua A. Walsh
Secretary