

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2567

Wednesday, December 2, 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	Midget	Bates	Steele, Sr. Eng.
Dix		Fernandez	Warlick, COT
Leighty		Huntsinger	
Liotta		Matthews	
Marshall		Sansone	
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Wednesday, November 25, 2009 at 8:40 a.m., posted in the Offices of the City Clerk and County Clerk on Tuesday, November 24, 2009 at 3:44 p.m.

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

### **REPORTS:**

#### **Chairman's Report:**

Ms. Cantrell reported that she has asked Mr. Midget and Mr. McArtor to be on the nominating committee. The Planning Commission will be voting on their new officers in January.

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

Mr. Theron Warlick, City of Tulsa Planning Department, reported on the progress of PLANitULSA. Mr. Warlick indicated that he would deliver a hardcopy to the Planning Commissioners.

**Director's Report:**

Mr. Alberty reported on the BOCC and City Council agenda. Mr. Alberty further reported that the TMAPC receipts for the month of October are down 40% from this time last year. The fiscal year receipts are down approximately 25%.

Mr. Alberty reported on personnel changes within Land Development Services. He explained that Jocelyne Feddis, Lot-Split Administrator, resigned to move out of state. Due to budget cuts and the resignation, INCOG has planned to promote from within for the lot-split administrator and hasn't decided which position will remain open, but there will be at least one position. Staff is hoping that the City doesn't cut the budget any more, but if they do, there is a possibility that we will lose an additional position. Right now staff is holding fast with one lost position.

Ms. Cantrell stated that the Planning Commission will miss Jocelyne and wish her the best of luck.

\* \* \* \* \*

**Minutes:**

**Approval of the minutes of November 4, 2009, Meeting No. 2565**

On **MOTION** of **CARNES**, the 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 minutes of the meeting of November 4, 2009, Meeting No. 2565.

**Minutes:**

**Approval of the minutes of November 18, 2009, Meeting No. 2566**

On **MOTION** of **CARNES**, the TMAPC voted 8-0-1 (Cantrell, Carnes, Dix, Liotta, Marshall, Shivel, Walker, Wright "aye"; no "nays"; Leighty "abstaining"; McArtor, Midget "absent") to **APPROVE** the minutes of the meeting of November 28, 2009, Meeting No. 2566.

\* \* \* \* \*

## 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-20346** – Collins Land Survey, Inc. (7435)/Lot-Split (County)  
East of Lake Bixhoma Road and northeast corner of East 181<sup>st</sup> Street,  
17701 South 161<sup>st</sup> East Avenue
5. **LS-20347** – Gerardo Romero (9410)/Lot-Split (PD 17) (CD 6)  
East of South 157<sup>th</sup> Avenue and south of East 13<sup>th</sup> Street, 1345 S 157<sup>th</sup>  
East Ave (Related to Item 6.)
6. **LC-219** – Gerardo Romero (9410)/Lot Combination (PD 17) (CD 6)  
East of South 157<sup>th</sup> Avenue and south of East 13<sup>th</sup> Street, 1345 S 157<sup>th</sup>  
East Ave (Related to Item 5.)
7. **LC-214** – Carol A. Myers (7426)/Lot Combination (County)  
East of South 161<sup>st</sup> East Avenue and south of 161<sup>st</sup> Street, 16309  
South 161<sup>st</sup> East Avenue
8. **LC-216** – Roy Johnsen (9318)/Lot Combination (PD 6) (CD 9)  
North side of East 29<sup>th</sup> Street South and west of South Utica, 1623  
East 29<sup>th</sup> Street
9. **LC-217** – Lewis Engineering (2914)/Lot Combination (PD 18) (CD 6)  
Southwest corner of South 129<sup>th</sup> East Avenue and East 60<sup>th</sup> Street,
10. **LC-218** – Sack & Associates (8224)/Lot Combination (PD 26) (CD 8)  
Northeast corner of East 101<sup>st</sup> Street and South Memorial Drive
11. **Candlewood/Yale** – Final Plat (3913) (PD 18B) (CD 7)  
South of the southwest corner of East 51<sup>st</sup> Street and South Vandalia  
Avenue

### **STAFF RECOMMENDATION:**

This plat consists of two lots in one block on 3.70 acres.

All release letters have been received and staff recommends **APPROVAL**.

13. **PUD-237-4 – Michael P. Hughes/IBC Bank** (PD-18) (CD-2)  
Southwest of the southwest corner of 71<sup>st</sup> Street South and Lewis Avenue  
[Minor Amendment to reduce the required parking from 201 spaces to  
187 spaces to allow for a reconfiguration of the drive-through banking  
area and the addition of an automated teller machine (ATM).]

## **CONSENT AGENDA (cont.)**

### **STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to reduce the required parking from 201 spaces to 187 spaces to allow for a reconfiguration of the drive-through banking area and the addition of an automated teller machine (ATM) (see Exhibit A).

On November 24, 2009 the Board of Adjustment (BOA) in case #21001 granted a variance reducing the required parking from 201 spaces to 187 spaces.

Two site visits (one at mid-morning and one at mid-afternoon) indicate this lot appears to have sufficient capacity for the parking needs of the office building (see Exhibit B).

Therefore, staff recommends **APPROVAL** of minor amendment PUD-237-4 to reflect approval of BOA case 21001 reducing the required parking from 201 spaces to 187 spaces.

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

14. **PUD-722-2 – Sisemore Weisz & Associates, Inc./Hutcherson YMCA Tee-Ball Field** (PD-2) (CD-1)

Southwest corner of East Oklahoma Street and North Owasso Avenue  
(Minor Amendment to allow an accessory T-ball/baseball diamond in Development Area B.) (Related to Item 15.)

### **STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to allow an accessory T-ball/baseball diamond in Development Area B of PUD-722 (see Exhibit A).

The proposed field does not abut any residential properties and is immediately adjacent to U.S Highway 75. There are no permanent structures proposed or lighting associated with construction of the ball field.

Staff recommends **APPROVAL** of minor amendment PUD-722-2.

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

## CONSENT AGENDA (cont.)

16. PUD-586-A-8/Z-5888-SP-4c –Warren Prof. Building Corp./Tom Cooper (PD-18) (CD-8)

Northwest corner of South Garnett Road and 91<sup>st</sup> Street South (Minor Amendment to modify the screening requirement around the perimeter of the cooling tower area and trash compactor associated with the new medical office building.)

### STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to modify the screening requirement around the perimeter of the cooling tower area and trash compactor associated with the new medical office building located at St. Francis Heart Hospital.

On April 6, 2003 the TMAPC approved minor amendment PUD-586-A-2 waiving the screening requirement for the trash compactor and cooling towers for the main hospital building citing that neither is exposed to any public streets or any adjacent residential properties (see attached site photographs of the existing cooling tower area). The same is true of this minor amendment request.

In addition, in the attached letter dated November 2, 2009, the applicant states that the cooling towers and generator need “adequate air circulation to function properly and efficiently” and that the trash compactor is partially screened by a 14’ retaining wall/earth berm.

Staff finds that the request is consistent with the intent of the PUD standards and PUD Chapter of the Code and does not represent a substantial deviation from the originally approved plans. Therefore, staff recommends **APPROVAL** of minor amendment request PUD-586-A-8.

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

## CONSENT AGENDA (cont.)

17. **PUD-179-T-2 – Amax Signs/Lori Worthington** (PD-18) (CD-7)

West of the southwest corner of East 71<sup>st</sup> Street South and South Mingo Road (Minor Amendment to increase the permitted display surface area for a wall sign from 1.5 square feet per lineal foot of wall to 1.9 square feet per lineal foot of wall.)

### **STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the permitted display surface area for a wall sign on the northern elevation of the subject building from 1.5 square feet per lineal foot of wall (SF/LFW) to 1.9 SF/LFW, to allow for a 35.11 square foot (SF) wall sign. The elevation in question is the primary elevation of the building facing 71<sup>st</sup> Street South.

The subject building sits approximately 420 feet (+/-) from the 71<sup>st</sup> Street right-of-way (ROW) with an intervening restaurant between the hotel and the street. The building is surrounded by commercially zoned PUD properties. These surrounding properties generally allow 1.5 to 2.0 SF/LFW for wall signs. In permitting a .4 square foot increase in the permitted display surface area for this single wall sign, staff does not believe this will represent a substantial deviation from the approved concept plan or the intent of the PUD Chapter of the Code. Staff concludes the increase would not substantially alter the character of the PUD.

Therefore, staff recommends **APPROVAL** of minor amendment PUD-179-T-2 increasing the permitted display surface area for wall signs from 1.5 SF/LFW to 1.9 SF/LFW on the northern facing canopy only of the subject building located on Lot 2, Block 1 – Woodland Hills Annex.

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

## CONSENT AGENDA (cont.)

18. PUD-411-C-14 – Sack & Associates, Inc./Mark B. Capron (PD-26) (CD-8)

Northeast corner of East 101st Street South and South Memorial Drive (Minor Amendment to combine Lots 2 and 3, Block 1 – South Town Market and reallocate permitted floor area.) (Related to Item 19.)

### STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to combine Lots 2 and 3, Block 1 - South Town Market and reallocate permitted floor area (see Exhibit A).

With this application there is no increase in the amount of permitted floor area being requested. If approved, the 259,410 square feet of floor area as allowed by minor amendment PUD-411-C-12 and all other development standards would remain effective (see Exhibit B).

Section 1107-H-1 of the Code allows the adjustment of internal development area boundaries, provided the allocation of land to particular uses and the relationship of uses within the project are not substantially altered. Since there is no request for an increase in floor area or for additional uses being made staff views the request as minor in nature. Approval of the request will not substantially alter the character of the PUD or the intent of the PUD Chapter of the Code.

Therefore, staff recommends of **APPROVAL** of minor amendment PUD-411-C-14 with all development standards as adopted by PUD-411-C-12 remaining effective.

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

## CONSENT AGENDA (cont.)

19. PUD-411-C – Sack & Associates, Inc./Mark Capron/South Town Market (PD-26) (CD-8)

Northeast corner of 101<sup>st</sup> Street South and South Memorial Drive (Detail Site Plan for an 18,697 square foot, one-story retail building.) (Related to Item 18.)

### STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for an 18,697 square foot (SF), one-story retail building. The proposed use, Use Unit 14 – Shopping Goods and Services is a permitted use within Development Area 1A-1 of PUD 411-C. Associated with this detail site plan is lot combination application LC-218 (combining lots 2 and 3) and minor amendment request PUD-411-C-14, both appearing on the December 2<sup>nd</sup> agenda of the TMAPC. The minor amendment request is required to reflect the lot-combination and allocation of existing floor area.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site is provided from one point along Memorial Drive and one from 101<sup>st</sup> Street South with mutual access easements along the east side of Lot 2 and in between Lots 3 and 4 as required by adopted development standards. Parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping will be provided per the Landscape Chapter of the Zoning Code. Site lighting is limited to 30' in height as allowed by the PUD and a trash enclosure has been provided as required. Sidewalks are provided along 101<sup>st</sup> Street and Memorial Drive as required by subdivision regulations.

Staff recommends **APPROVAL** of the detail site plan for Lots 2 and 3, Block 1 – South Town Market conditional upon the approval of Lot Combination application LC-218 and minor amendment request PUD-411-C-14.

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



## CONSENT AGENDA (cont.)

20. **PUD-399-1 – HRAOK, Inc./Dwayne Wilkerson/Tom’s Kids** (PD-26) (CD-8)

North of the northwest corner 121st Street South and South Yale Avenue (Minor Amendment to increase the permitted building height for a single-family dwelling from 35 feet to 45 feet.)

### **STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the permitted building height for a single-family dwelling from 35’ to 45’ measured from the finished floor of the structure.

The proposed house will sit on a 7.4 acre/323,224.95 square foot (SF) tract, and will be approximately 238’ feet from the nearest property line (see Exhibit S-2). An increase in the permissible height of the house within this PUD is allowed by Section 1107, H-9 of the Code and if approved, would not affect any nearby property or district.

Therefore, staff recommends **APPROVAL** of minor amendment PUD-399-1 for Lot 2, Block 1 only of Tom’s Kids.

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

21. **PUD-131-C – Walter Tempinski/Interstate Park** (PD-17) (CD-5)

Southwest corner of South Garnett Road and Skelly Drive (Detail Site Plan for a 16,193 square foot office building with accessory warehousing space.)

### **STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 16,193 square foot office building with accessory warehousing space. The proposed use, Use Unit 15 - Trades and Services not elsewhere classified (NEC) is a permitted use within PUD-131-C.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site is provided from Skelly Drive and via mutual access easement from Garnett Road. Parking has been provided per the applicable Use Unit of the Zoning Code. Landscaping will be provided per Alternative Compliance Landscape Plan AC-93, approved by the TMAPC on 10/21/09. All sight lighting is limited to 12 feet in height and will be directed down and away from adjoining properties.

Staff recommends **APPROVAL** of the detail site plan for Lot 4, Block 1 – Interstate Park.

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

22. **PUD-762 – Tanner Consulting, LLC, St. John Tulsa Federal Credit Union** (PD-4) (CD-4)

Northwest corner of South Lewis Avenue and East 13th Place South  
(Detail Site Plan for a 2,973 square foot federal credit union.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 2,973 square foot (SF) federal credit union. The proposed use, Financial Institution within Use Unit 11 – Offices, Studios, and Support Services is a permitted use within PUD-762.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site is provided from one point from Lewis Avenue and two points off 13<sup>th</sup> Place as approved by the City of Tulsa Traffic Engineering per the attached signed site plan as required by the PUD. Parking has been provided per the applicable Use Unit of the Zoning Code. An eight-foot solid masonry wall will be constructed along the west boundary line and along the first 50' of the north boundary line as required by PUD development standards. A six-foot wooden screening fence will then commence 50' from the northwest corner of the site and will travel another 50', making the screening along the northern boundary 100' long as required. All sight lighting within the west 75' of the site will be limited to 14-feet in height with the rest permitted up to 25-feet. All lighting will be directed down and away from adjoining properties and will not exceed .5 foot-candles at the west and north boundary lines as permitted by the PUD. If sidewalks do not exist or where they are existing, sidewalks will be provided and/or maintained along East 13<sup>th</sup> Place and Lewis Avenue as required by PUD Development Standards and Subdivision regulations.

Staff recommends **APPROVAL** of the detail site plan for Lot 1, Block 1 – St. John Tulsa Federal Credit Union RSB PRT Terrace Drive Addn.

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

**TMAPC COMMENTS:**

Ms. Cantrell stated that the applicant, John Moody, for Item 12, plat waiver has requested a continuance to December 16, 2009.

Ms. Cantrell stated that she will be pulling Item 3 and 15 from the consent agenda.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **APPROVE** the consent agenda Items 4 through 11, 13 and 14, 16 through 22 per staff recommendation.

\*\*\*\*\*

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

- 12. **John Moody** – (9331) Plat Waiver (PD 18A) (CD 9)  
 South of East 55<sup>th</sup> Street and east of South Peoria Avenue (Continued from 11/18/09)

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **CONTINUE** the plat waiver for south of East 55<sup>th</sup> Street and east of South Peoria Avenue, John Moody (applicant) to December 16, 2009.

\*\*\*\*\*

- 3. **LS-20345** – Carol Douglas (2318)/Lot-Split (County)  
 Southeast corner of North Peoria Avenue and East 163<sup>rd</sup> Street North,  
 1502 East 163<sup>rd</sup> Street North

**TMAPC COMMENTS:**

Ms. Cantrell stated that she didn't want to move forward with this application without acknowledging the letter received from Ms. Kaun (Exhibit A-1). The letter is expressing some concerns and she wanted to make note that staff has been made aware of this and contacted Terry West, County Inspections. Most of the

issues mentioned in the letter seem to be regarding neighborhood inspection issues. There is no legal issue that would prevent a lot-split at this time. Staff indicated that this lot-split does meet all of the requirements.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, 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-split for LS-20345 per staff recommendation.

\*\*\*\*\*

- 15. **PUD-722 – Sisemore Weisz & Associates, Inc./Hutcherson YMCA Tee-Ball Field** (PD-2) (CD-1)

Southwest corner of East Oklahoma Street and North Owasso Avenue (Detail Site Plan for construction of a T-ball/baseball diamond in Development Area B.) (Related to Item 14.)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for construction of a T-ball/baseball diamond in Development Area B of PUD-722 (see Exhibit A). Associated with this detail site plan is minor amendment request PUD-722-2 also appearing on the 12/2/09 agenda of the TMAPC.

The submitted site plan meets all applicable development standards for PUD-722. There are no abutting residential properties and no permanent structures or lights proposed. Parking is provided on Lot 1, Block 1; Lot 1, Block 3 and Lot 1, Block 4, all under ownership of the YMCA. Prior to the release of construction permits the applicant is required to furnish release letters from the Oklahoma Department of Transportation (ODOT) and the City of Tulsa verifying approval of the use of surplus ODOT owned property and a City of Tulsa owned abandoned alleyway within the confines of the baseball diamond.

Staff recommends **APPROVAL** the detail site plan for PUD-722.

Note: Detail site plan approval does not constitute landscape or sign plan approval.

**TMAPC COMMENTS:**

Ms. Cantrell stated that she mistakenly didn't pull Item 14, which is related to this detail site plan.

### **INTERESTED PARTIES COMMENTS:**

**Robert Dixon**, 1022 East Oklahoma Street, 74105, stated that he owns property adjacent to the subject property and he is concerned with the parking overflowing into his lot. He is also wanted to know if there would be a fence installed. He explained that the only fence present currently is his fence that has barbed-wire on it.

Mr. Dixon expressed concerns that his property would be used for parking and the children would be climbing on his fence.

### **Applicant's Comments:**

**Darin Akerman**, Sisemore Weisz and Associates, 6111 East 32nd Place, 74135, stated that the parking is on located on the Hutcherson YMCA property, which is a part of the tee ball fields. There are 125 parking stalls under the Hutcherson YMCA ownership. The parking will be accommodated through the parking facilities to the north.

Mr. Akerman stated that there is a full perimeter cyclone fence around the field itself. There is an opening on the westerly side as requested by the City of Tulsa for maintenance of the sanitary sewer line that runs through the subject property. The field is approximately 100 feet away from the west property and it is not unusual to have ball fields near other businesses. He understands Mr. Dixon's concerns, but this will be a very low-key use and there will be no lighting. The field will be used during the warmer weather seasons and parking will be accommodated.

There was discussion away from the microphone by Mr. Sansone and Mr. Dixon regarding the placement of the fence.

### **TMAPC COMMENTS:**

Mr. Liotta asked Mr. Akerman if the cell tower is fenced off. In response, Mr. Akerman stated that it is fenced. There is a gravel road that leads to the cell tower as well. He indicated that the chain-link is approximately six feet in height. Mr. Liotta asked if the fencing has barbed-wire on it and would it be an attraction for kids to climb on. Mr. Akerman stated that often times they do have barbed-wire at the top of the fence, but he isn't sure if it does.

Mr. Carnes asked what age plays tee ball. In response, Ms. Cantrell stated that she believes it is to the 3<sup>rd</sup> grade.

Mr. Dix asked Mr. Dixon if his parking lot has a fence around it. Mr. Dixon stated that a portion of the parking lot is fenced. He commented that anyone who doesn't want to utilize the existing parking on the Hutcherson property will use his property. Mr. Dix asked Mr. Dixon if there has been any discussion with the YMCA about providing a certificate of insurance and being allowed to use his parking area. In response, Mr. Dix answered negatively. Mr. Dix asked Mr.

Akerman if that would be possible. Mr. Akerman answered away from microphone (inaudible). Mr. Dixon stated that he is all for the tee ball field, but he is concerned about the parking and children climbing his fence, which has barbed-wire at the top.

Mr. Akerman stated that there is sufficient parking on the Hutcherson site and they didn't want to go to that level of improvement to provide parking where the fields will be located. Mr. Dix stated that there is sufficient parking, but it is not very usable for the tee ball fields. Mr. Akerman stated that perhaps Mr. Dixon should post that there is no parking is allowed on his property.

Mr. Dix stated that the detail site plan has a note about ODOT ownership on the subject tee ball field. Mr. Akerman stated that is correct and there are actually three owners of the subject property: Hutcherson YMCA, an encroachment area of the ODOT right-of-way and the City of Tulsa alleyway. Mr. Dix asked if the detail site plan has been approved by ODOT. Mr. Akerman stated that he has submitted this to ODOT several months ago and haven't received a consent letter at this time.

Mr. Sansone reminded the Planning Commission that part of the condition of the approval of the detail site plan would be that the applicant provide the letters from ODOT and the City of Tulsa.

Mr. Akerman stated that sometimes it takes two to six months to get an answer back from ODOT. He anticipates that this will become a surplus tract and they will sell it to whomever wants to pay the fair market value. Mr. Dix informed Mr. Akerman that the YMCA could request to lease the ODOT property.

Ms. Cantrell asked if there is street parking available on Oklahoma Street and Owasso Avenue. If someone wanted the convenience and doesn't want to park in the parking lot, she would think that they would be more inclined to park on the street given the fences. One would have to walk around the fences to park on Mr. Dixon's property.

Discussion away from the microphone from Mr. Dixon (inaudible).

Mr. Akerman stated that Hutcherson wouldn't have a problem with purchasing signs for Mr. Dixon stating that no parking is allowed and violators would be subject to tow and towing fees. He doesn't believe that Mr. Dixon has a comfort level to allow parking on his property. Mr. Dix believes that parents would park on the gravel access easement to the cell tower.

Mr. Boulden if Oklahoma and Owasso are still open streets. In response, Mr. Akerman answered affirmatively. Mr. Boulden asked if the alley is still open and if Hutcherson YMCA has received a consent letter from the City of Tulsa. Mr. Akerman stated that it has been requested and the plans have been approved by

the City. However, he doesn't have the consent letter from Public Works at this time. Mr. Boulden stated that he is concerned that this property is being requested to be rezoned and there is no consent from the owners. This is a minor amendment, but it is a minor amendment to a PUD zoning, which is a rezoning. He raises this concern that consent is needed from the underlying owners.

Ms. Cantrell stated that the Planning Commission has already actually approved the minor amendment during the consent agenda. Mr. Boulden recommended that the Planning Commission may want to reconsider the minor amendment.

After a lengthy discussion it was determined to reconsider the minor amendment and continue both the minor amendment and detail site plan to December 16, 2009 to allow the applicant to speak with neighboring properties' owners regarding parking. Mr. Dix suggested that the ball park be reconfigured to stay out of the ODOT-owned portion of the property.

**TMAPC Action; 9 members present:**

On **MOTION** of **SHIVEL**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **RECONSIDER** the minor amendment for PUD-722-2.

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Liotta, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **CONTINUE** the minor amendment for PUD-722-2 and the detail site plan for PUD-722 to be continued to December 16, 2009 to allow the applicant to meet with the neighborhood and address parking issues.

\* \* \* \* \*

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

**PUBLIC HEARING**

23. **Tulsa Downtown Stadium –** (9201) Minor Subdivision (PD 1) (CD 4)  
Plat

201 North Elgin Avenue

**STAFF RECOMMENDATION:**

There is a request to continue this application to December 16, 2009.

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Liotta, Leighty, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **CONTINUE** the minor subdivision plat for Tulsa Downtown Stadium to December 16, 2009.

\* \* \* \* \*

24. **Church of God –** (9229) Minor Subdivision Plat (County)  
5010 West 41<sup>st</sup> Street South

**STAFF RECOMMENDATION:**

This plat consists of one lot, one block, on 38 acres.

The following issues were discussed November 19, 2009 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned IL (industrial light), IR (industrial research), CS (commercial shopping) with approval for a church use per Board of Adjustment case 2352. A release letter from the fire department serving the property must be received.
2. **Streets:** No comment.
3. **Sewer:** Planned sanitary sewer line needs to be less than eight inches in diameter.
4. **Water:** No comment.
5. **Storm Drainage:** No comment.



6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.

7. **Other: Fire:** Get with Berryhill Fire Department or the Oklahoma State Fire Marshals' office for comments. The fire hydrants do not meet the spacing requirements per the International Fire Code. The radius in the parking lots do not meet the turning radius for fire trucks.

**GIS:** Submit a control data subdivision form.

**County Engineer:** Access must be approved by the County Engineer. Project is acceptable.

Staff recommends **APPROVAL** of the MINOR Subdivision plat subject to the TAC comments and the special and standard conditions below.

**Waivers of Subdivision Regulations:**

1. None requested.

**Special Conditions:**

1. The concerns of the Public Works Department staff must be taken care of to their satisfaction.

**Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.

6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any

wells not officially plugged. If plugged, provide plugging records.)

- 20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
- 21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
- 22. All other Subdivision Regulations shall be met prior to release of final plat.
- 23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
- 24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to **APPROVE** the minor subdivision plat for Church of God per staff recommendation, subject to special and standard conditions.

\* \* \* \* \*

25. **Z-7145 – Real Property Dynamics, Inc.**

3321 East 27<sup>th</sup> Street

**RS-3 to OL**

(PD-6) (CD-9)

**STAFF RECOMMENDATION:**

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

**RELEVANT ZONING HISTORY:**

**Z-6925 February 2004:** All concurred in approval of a request for rezoning a 7,500± square foot tract of land from RS-3 to OL for a beauty shop on property located east of the southeast corner of East 27<sup>th</sup> Place South and South Harvard Avenue.

**BOA-18904 November 14, 2000:** The Board of Adjustment approved a Special Exception to permit an auto painting shop within 150 feet of an R district, on conditions that all painting and related activities be conducted within the building, all permits, licenses and inspections be obtained, and all access be from Harvard Avenue, on property located at 2615 South Harvard and abutting the subject property to the north and west.

**PUD-621 November 1999:** All concurred in approval of a proposed Planned Unit Development on a 2.5± acre tract of land for office and commercial development on property located on the southeast corner of East 27<sup>th</sup> Street South and South Harvard Avenue.

**Z-6565 November 1996:** Staff recommended denial of a request to rezoning from RS-3 to OL on a tract of land located on the southeast corner of East 29<sup>th</sup> Street and South Harvard. TMAPC recommended approval based on the proposed parking lot for a heating and air-conditioning business adjoining the lot and City Council concurred in approval of OL zoning.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 7,500± square feet in size and is located 3321 East 27<sup>th</sup> Street. The property appears to be a vacant single-family residential structure- and is zoned RS-3.

**STREETS:**

<b><u>Exist. Access</u></b>	<b><u>MSHP Design</u></b>	<b><u>MSHP R/W</u></b>	<b><u>Exist. # Lanes</u></b>
East 27 <sup>th</sup> Street South	N/A	N/A	2 (one-way to the expressway); traffic light at 27 <sup>th</sup> Street

**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 Hourglass Auto Repair, zoned CH; on the south by vacant and single-family residential uses, zoned RS-3; and on the west by Trippett's Shoes and associated parking lot and an apparently vacant single-family residence, zoned OL and CH.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 6 Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Low Intensity – Residential land use. According to the Zoning Matrix, the requested OL zoning **is not** in accord with the Plan.

**STAFF RECOMMENDATION:**

This area is in transition, probably due to the proximity of the expressway to the north and the one-way street leading to it. An office use is a likely transition from the CH and OL uses to the west to the RS-3 uses remaining to the east... At some point, perhaps the Comprehensive Plan for this area should be reevaluated to determine if the current designation is appropriate, and if not, to consider some other designation. Staff recommends **APPROVAL** of OL zoning on Z-7145.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; McArtor, Midget "absent") to recommend **APPROVAL** of the OL zoning for Z-7145 per staff recommendation.

**Legal Description for Z-7145:**

Lot 7, Block 6, Kirkmoore, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

**Mr. Leighty recused himself from Items 26 and 27 and left the room at 2:46 p.m.**

- 26. **Z-7146 – Storage Station of Tulsa, LLC** **RM-2/OM to OMH**  
 East of southeast corner of East 51<sup>st</sup> Street South and (PD-18b) (CD-9)  
 South Delaware Place (Related to Item 27.)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 18265 dated August 1, 1994 and ordinance number 19507 dated 19507 dated March 11, 1999, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**Z-6675/PUD-513-A March 1999:** All concurred in approval of a request for rezoning a 4.57± acre tract of land from RS/RM-1/OM/PUD-513 to RM-1/RM-2/OM/PUD-513-A and a proposed Planned Unit Development to expand existing PUD with office and mini-storage uses on property located east of southeast corner of East 51<sup>st</sup> Street South and South Delaware Place and the subject property.

**PUD-295-A November 1996:** All concurred in approval of a proposed Major Amendment to a Planned Unit Development a tract of land to increase the original PUD by adding three adjoining residential lots to allow single-family homes, additional parking for the existing townhouses, and a water retention facility, on property located south of the southeast corner of East 51<sup>st</sup> Street South and South Columbia Place.

**Z-6517 January 1996:** All concurred in approval of a request for rezoning a 2.7<sup>±</sup> acre tract of land from RM-1/CS/PUD-513 to RM-1/OM/PUD513 for office and mini-storage use, thereby bringing the north 150 feet of the tract into compliance with the Comprehensive plan on property located east of southeast corner of East 51<sup>st</sup> Street South and South Delaware Place and the subject property.

**Z-6448/PUD-513 August 1994:** Staff recommended for denial of a request for rezoning a 2.7<sup>±</sup> acre tract of land from RS-2 to RM-1/CS/PUD and a proposed Planned Unit Development to permit office use and mini-storage facilities. TMAPC and City Council concurred on approval of the proposal with OM zoning instead of RM-1 zoning, on property located east of southeast corner of East 51<sup>st</sup> Street South and South Delaware Place and the subject property.

**Z-5948/PUD-257 June 1984:** Staff recommended denial of a request for rezoning on a .47<sup>±</sup> acre tract of land from RS-2 to OM but approval of OL zoning, and a proposed Planned Unit Development for office development on property located on the southwest corner of East 51<sup>st</sup> Street South and South Columbia Place. The TMAPC and City Council concurred in approval of OM zoning as requested.

**PUD-266 September 1981:** All concurred in approval of a proposed Planned Unit Development on a 8.9<sup>±</sup> acre tract of land for an 18,000 square foot office building, 212 apartment unit development and a club house on property located on the south side of East 51<sup>st</sup> Street at South Delaware Place and abutting south and west of subject property.

**PUD-295 September 1982:** All concurred in approval of a proposed Planned Unit Development a tract of land for 21 townhomes with conditions on property located south of the southeast corner of East 51<sup>st</sup> Street South and South Columbia Place.

#### **AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 1.61<sup>±</sup> acres in size and is located east of southeast corner of East 51<sup>st</sup> Street South and South Delaware Place. The property appears to be offices and is zoned RM-2/OM/PUD-513/PUD-513-A.

**STREETS:**

<b><u>Exist. Access</u></b>	<b><u>MSHP Design</u></b>	<b><u>MSHP R/W</u></b>	<b><u>Exist. # Lanes</u></b>
East 51 <sup>st</sup> Street South	Secondary arterial	100'	4, with turning lanes

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

**SURROUNDING AREA:** The subject tract is abutted on the east by vacant land and a drainage facility, zoned OM and CS; on the north by cleared land, zoned RM-2 and OL; on the south by a mini storage facility, zoned PUD-513 and 513-A; and on the west by a clubroom for the apartments to the south of the mini storage facility, zoned RM-2.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 18b Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being Medium Intensity – Office land use. According to the Zoning Matrix, the requested OMH/PUD zoning **may be found** in accord with the Plan.

**STAFF RECOMMENDATION:**

At least one other hotel has been approved in this area. With the widening of I-44, it is likely that more may be proposed. Hotel/motel uses are compatible with the surrounding uses in this area and therefore staff recommends **APPROVAL** of OMH zoning for Z-7146, if the TMAPC deems is appropriate to approve PUD-513-B.

**RELATED TO ITEMS:**

27. **PUD-513-B – Storage Station of Tulsa, LLC** **RM-1/RM-2/OM/PUD-513/PUD-513-A to OMH/PUD-513-B**  
East of southeast corner of East 51<sup>st</sup> Street South and South Delaware Place (Major Amendment to remove existing offices and construct a three-story, 60-room hotel on the northern 1/3 of the site.) (Related to Item 26.) (PD-18b) (CD-9)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 18265 dated August 1, 1994 and ordinance number 19507 dated 19507 dated March 11, 1999, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**Z-6675/PUD-513-A March 1999:** All concurred in approval of a request for rezoning a 4.57± acre tract of land from RS/RM-1/OM/PUD-513 to RM-1/RM-2/OM/PUD-513-A and a proposed Planned Unit Development to expand existing PUD with office and mini-storage uses on property located east of southeast corner of East 51<sup>st</sup> Street South and South Delaware Place and the subject property.

**PUD-295-A November 1996:** All concurred in approval of a proposed Major Amendment to a Planned Unit Development a tract of land to increase the original PUD by adding three adjoining residential lots to allow single-family homes, additional parking for the existing townhouses, and a water retention facility, on property located south of the southeast corner of East 51<sup>st</sup> Street South and South Columbia Place.

**Z-6517 January 1996:** All concurred in approval of a request for rezoning a 2.7± acre tract of land from RM-1/CS/PUD-513 to RM-1/OM/PUD513 for office and mini-storage use, thereby bringing the north 150 feet of the tract into compliance with the Comprehensive plan on property located east of southeast corner of East 51<sup>st</sup> Street South and South Delaware Place and the subject property.

**Z-6448/PUD-513 August 1994:** Staff recommended for denial of a request for rezoning a 2.7± acre tract of land from RS-2 to RM-1/CS/PUD and a proposed Planned Unit Development to permit office use and mini-storage facilities. TMAPC and City Council concurred on approval of the proposal with OM zoning instead of RM-1 zoning, on property located east of southeast corner of East 51<sup>st</sup> Street South and South Delaware Place and the subject property.

**Z-5948/PUD-257 June 1984:** Staff recommended denial of a request for rezoning on a .47± acre tract of land from RS-2 to OM but approval of OL zoning, and a proposed Planned Unit Development for office development on property located on the southwest corner of East 51<sup>st</sup> Street South and South Columbia Place. The TMAPC and City Council concurred in approval of OM zoning as requested.

**PUD-266 September 1981:** All concurred in approval of a proposed Planned Unit Development on a 8.9± acre tract of land for an 18,000 square foot office building, 212 apartment unit development and a club house on property located on the south side of East 51<sup>st</sup> Street at South Delaware Place and abutting south and west of subject property.

**PUD-295 September 1982:** All concurred in approval of a proposed Planned Unit Development a tract of land for 21 townhomes with conditions on property located south of the southeast corner of East 51<sup>st</sup> Street South and South Columbia Place.



**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 4.5+ acres in size and is located east of southeast corner of East 51<sup>st</sup> Street South and South Delaware Place. The property is developed and is zoned RM-1/RM-2/OM/PUD-513/PUD-513-A.

**STREETS:**

<b><u>Exist. Access</u></b>	<b><u>MSHP Design</u></b>	<b><u>MSHP R/W</u></b>	<b><u>Exist. # Lanes</u></b>
East 51 <sup>st</sup> Street South	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 unplatted property, zoned OM and RM-2; on the north by 51<sup>st</sup> Street and then vacant land, zoned OM/OL/RM-2 (this property will ultimately be I-44 ROW once the widening is complete); and on the south and west by Brittany Square, zoned RM-1/RM-2/PUD.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The District 18b Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being medium intensity - office. According to the Zoning Matrix, the requested OMH/PUD zoning **may be found** in accord with the Plan.

**STAFF RECOMMENDATION:**

Major amendment PUD-513-B is an infill development proposal consisting of 4.5 acres (196,240 SF) located west of the southwest corner of East 51<sup>st</sup> Street South and South Harvard Avenue. The southern 2/3 of the property has been developed as a mini storage, while the northern 1/3 has three small one-story structures and a parking lot.

Concurrent with this application is request Z-7146 seeking to rezone the RM-2/OM portion of the property to OMH allowing for the additional requested hotel use. Approval of the PUD will be contingent upon approval of the rezone request.

This proposal would remove the existing dated offices and allow for construction of a three-story, 60-room hotel on the northern 1/3 of the site (see Exhibit E). The subject property will be replatted.

The PUD concept plan is submitted herein to establish a conceptual site plan with designation of development areas, allocation of uses, intensity of uses, establish development standards as well as, conditions to be followed by detailed PUD site plans to be submitted to and approved by the TMAPC. The concept

plan including the bulk and area requirements and design standards and limitations meets Zoning Code regulations.

There are no residentially-used properties immediately adjacent to the area proposed for the hotel development. The need for hotels and motels in the area appears necessary as the result of the widening of I-44 and the demolition of several in the area. Access to the ministorage would be via mutual access thorough the hotel parking lot.

Since there has been a need created for new hotels in the area by the widening of I-44 staff can support this request. The subject property's location gives it great freeway exposure as a result of the I-44 widening. Easy freeway access makes the site ideal for a small sized hotel.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-513-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-513-B subject to the following conditions (development standards for the existing mini-storage have been included for administrative purposes):

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

<b>AREA:</b>	<u>Gross</u> 209,490 SF	<u>Net</u> 196,240 SF
	<u>Area A Gross</u> 76,545	<u>Area A Net</u> 60,795

**MAXIMUM BUILDING FLOOR AREA:**

<b><u>Development Area A:</u></b> OMH and Hotel Use	60,000 SF
<b><u>Development Area B:</u></b>	None
<b><u>Development Area C:</u></b>	68,000 SF*

*\*Any building floor area not used for mini-storage may be added to the permitted building floor area for Development Area A*

**PERMITTED USES:**

**Development Area A:**

All uses available by right or special exception in OMH

**Development Area B:**

Private Access Drive  
Parking  
Landscaping  
Trash receptacle

**Development Area C:**

Mini-storage and customary uses  
Use Unit 11 uses

**MAXIMUM BUILDING HEIGHT:**

OMH and Hotel Use	50 feet
Use Unit 11 Use	35 feet
Mini-storage uses	12 feet**

*\*\*Exterior perimeter walls of the mini-storage buildings shall not exceed eight (8) feet in height.*

**MINIMUM PERIMETER BUILDING SETBACKS:**

From centerline of 51 <sup>st</sup> Street:	100 feet
From West and East property lines:	
Development Area A:	10'
Development Area B:	10'
Development Area C:	5'
From South property line:	3'
From Internal Lot Lines:	0'

**MINIMUM REQUIRED OFF STREET PARKING:**

Per the applicable use unit in the Zoning Code.

<b>MINIMUM LOT FRONTAGE:</b>	75 feet for lots abutting 51 <sup>st</sup> Street
------------------------------	--

<b>MINIMUM LANDSCAPED OPEN SPACE:</b>	OMH Use 15% Hotel Use 10% Mini-storage Uses: 10%
---------------------------------------	--

**MAXIMUM SIGNAGE:**

As permitted by the Zoning Code within the CS district.

**SCREENING:**

The perimeter of the PUD (excluding 51<sup>st</sup> Street frontage) will be screened by the existing fencing, new screening fence, or the walls of the buildings

to be built on the property. The TMAPC shall determine appropriate screening at the time of Detail Site Plan Approval.

**DOOR OPENINGS:**

The mini-storage shall be designed so that all openings to mini-storage buildings are screened from view by persons standing at ground level at the boundaries of the PUD. This screening shall be accomplished by the use of the exterior building walls of storage units. Access gates shall be opaque if needed to screen interior door openings.

**TRASH/MECHANICAL:**

All trash, mechanical and equipment areas shall be screened from public view by persons standing at ground level.

**STORAGE LIMITATIONS:**

No hazardous, toxic or explosive materials will be permitted to be stored in the mini-storage facilities. Open-air storage is prohibited.

**LIGHTING:**

Exterior light standards shall not exceed 15 feet in height and shall be hooded and directed downward and away from the boundaries of the planned unit development. Shielding of outdoor lighting shall be designed so as to prevent the light producing element of 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. Consideration of topography must be included in the calculations.

**ACCESS AND CIRCULATION:**

Access to the property is provided by 51<sup>st</sup> Street which runs along the northerly boundary of the property. Access to Development Areas A and B is directly from 51<sup>st</sup> Street. Access to Development Area C is through Development Area B from 51<sup>st</sup> Street and across a mutual access easement along Development Area B. Internal circulation will be provided by interior drives. (See Exhibit "B").

Sidewalks will be constructed along 51<sup>st</sup> Street or maintained where existing as required by subdivision regulations.

**LANDSCAPING:**

A Detailed Landscaping Plan shall be submitted to and approved by the Tulsa Metropolitan Area Planning Commission and a statement from a licensed landscape architect that the required landscaping is installed shall be delivered to the City of Tulsa prior to occupancy of a building.

3. No Zoning Clearance Permit shall be issued for a development area within the PUD until a Detail Site Plan for the same, which includes all buildings, required parking, and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
4. A Detail Landscape Plan for each development area shall be submitted to the TMAPC for review and approval. A Landscape Architect registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences have been installed in accordance with the approved Landscape Plan for that development area 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 a development area of the PUD until a Detail Sign Plan for that development area has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
6. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be prohibited.
7. 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.
8. 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.
9. Perimeter walls shall require the approval of a detail site plan by The TMAPC prior to building permits being issued.
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 boats, vehicles, trailers or other items. There shall be no outside storage of 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.

**TAC COMMENTS:**

**General:** No comments.

**Water:** No comments.

**Fire:** At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572 mm) and a maximum of 30 feet (9144 mm) from the building, and shall be positioned parallel to one entire side of the building.

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.

Provide proper fire hydrant coverage for the mini-storage.

**Stormwater:** Detention may be necessary if access to Joe Creek cannot be obtained.

**Wastewater:** Sanitary sewer access must be provided to all proposed lots within the development.

**Transportation:** Access and Circulation section must include sidewalks for pedestrian access.

**INCOG Transportation:**

- **MSHP:** E. 51<sup>st</sup> Street is a designated secondary arterial.
- **LRTP:** E. 51<sup>st</sup> St. S., between S. Lewis Ave and S. Harvard Ave, existing 4 lanes. Sidewalks should be constructed if non-existing or maintained if existing.
- **TMP:** A planned multi-use trail is just to the east of the parcel along Joe Creek.
- **Transit:** Currently, Tulsa Transit operates an existing route on S. Harvard Ave, less than a mile from this development location. According to MTTA future plans, this location will continue to be served by transit routes. Therefore, consideration for access to public transportation should be included in the development.

**GIS:** No comments.

**TMAPC COMMENTS:**

Mr. Carnes stated that the staff recommendation indicates that there will be 60 rooms and 67 parking spaces. Mr. Carnes expressed concerns with the hotel overfilling and not having enough parking spaces. Mr. Sansone stated that the requirement in the Zoning Code is that the hotel supply one parking space for every guest room and then one parking space per every 100 square foot of accessory space. This hotel is not supplying any accessory areas and staff interpreted seven extra parking spaces are for overflow and staff. Cars will not be able to park out on 51<sup>st</sup> Street.

Ms. Cantrell questioned that the standard language for signage is missing in the PUD standards. Mr. Sansone stated that the applicant is along an arterial street directly across from a highway and he is not uncomfortable with allowing an LED message center; however, the Planning Commission can make that a condition. Ms. Cantrell stated that she has no problem with message center type signage, but she does have trouble with the "Sonic" type signage. These are very distracting to drivers.

**Applicant's Comments:**

**Kevin Coutant**, 320 South Boston, 74103, cited the surrounding uses and existing development. He indicated that 51<sup>st</sup> Street will be the service road for I-44 and it will be two-way. Mr. Coutant cited the history of the subject property. He explained that the rezoning is limited to the northerly 200 feet, which is the open area. The PUD development standards follow forward and there is no intent to change anything about the development standards with regard to the self-storage use. The modifications requested today are within regard to the use in the front of the subject property.

Mr. Coutant stated that there has been some discussion regarding parking and he intends to honor the Zoning Code requirements for hotel parking. He reminded the Planning Commission that today he only has a conceptual site plan and the final detail site plan will come back before the Planning Commission for approval. There is no parking on 51<sup>st</sup> Street because that would be dangerous and more dangerous when I-44 is fully developed.

Mr. Coutant indicated that he discussed this proposal with the neighboring properties and answered all of their questions regarding fencing.

**TMAPC COMMENTS:**

Mr. Boulden asked if I-44 would have any exits directly in front of this proposal. In response, Mr. Coutant stated that it would not. He understands that 51<sup>st</sup> Street would be improved as a two-way street and would not have a median.

Ms. Cantrell asked Mr. Coutant if he would be averse to putting in the general language for blinking, flashing types of signs. She stated that the subject area has traditionally been an office area that abuts neighborhoods. She expressed

concerns with a lot of flashy “Sonic” type of signs being brought into the subject area that would be detrimental. Mr. Coutant stated that there is no proposal for the “Sonic” type signs. He doesn’t object to the language being added, but he would like to review it first.

Mr. Sansone supplied the language proposed to be included for signage for Mr. Coutant’s review.

Mr. Coutant read the language and agreed to the additional language being included in the PUD.

**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, Liotta, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Leighty, McArtor, Midget "absent") to recommend **APPROVAL** of the OMH zoning for Z-7146 per staff recommendation.

**TMAPC Action; 8 members present:**

On **MOTION** of **MCARTOR**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Liotta, Marshall, Shivel, Walker, Wright "aye"; no "nays"; none "abstaining"; Leighty, McArtor, Midget "absent") to recommend **APPROVAL** of the major amendment for PUD-513-B per staff recommendation, subject to adding additional language regarding signage 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 Z-7146:**

Lots 1, 2, 3, 4 and 7, Block 1, Storage Station Amended, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

**Legal Description for PUD-513-B:**

Lots 1 through 7, inclusive, Storage Station Amended, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*



Mr. Leighty in at 2:46 p.m.

28 **Z-5537-SP-1e – PSA-Dewberry/Union Public Schools** (PD-18) (CD-8)

North of the northwest corner of South Garnett Road and East 81<sup>st</sup> Street South (Corridor Plan Minor Amendment to allow 60-foot stadium style light poles on two softball fields.)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to allow 60', stadium-style light poles on two softball fields at the above referenced property as depicted in attached exhibits A through E.

The ball fields are for the Union High School softball team(s). The field of greatest concern abuts directly to Lots 9 – 13, Block 1 - Hampton South II, single-family development (see Exhibits B and C). No stadium style lighting present at the facility has received site plan approval.

The applicant is proposing to shield the lights using aluminum spill and glare light control visors (see Exhibit E) and as pointed out in Exhibit F, by nature of the short playing seasons (March through May and August through October); limit the use of the lights. Also, the applicant has proposed to plant trees along the boundary line in common with Hampton South II per the attached landscape plan Exhibit B. The trees would be eight feet at the time of planting. The size tree which can be planted should be limited because of the proximity of over-head power lines immediately along the boundary line (see Exhibit G).

Given the height of the lights and their proximity to the single-family dwellings, staff has reservations about the request. Referring again to the photographs in Exhibit G, use of the lights could have a substantial impact not only on the lots adjacent to the fields, but at 60' high combined with the network of existing stadium style lighting, could adversely affect the neighborhood in general.

Due to the potential negative impact on surrounding properties staff recommends **DENIAL** of minor amendment request Z-5537-SP-1e.

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

**TMAPC COMMENTS:**

Mr. Leighty asked if there is existing lighting that has not been approved. In response, Mr. Sansone answered affirmatively.

Ms. Cantrell stated that she saw stadium lights on the tennis courts and asked if they were ever approved. In response, Mr. Sansone stated that lights can be

constructed with a simple electrical permit issued by the City of Tulsa; however, a site plan approval is supposed to be on record. Staff has no record of a site plan for lighting approval.

Mr. Carnes asked if staff is denying lights on the north and south or just the north. Mr. Sansone stated that the staff recommendation is suggesting that both be denied; however, if the Planning Commission feels that since the south field is no problem, they can amend the recommendation. Mr. Sansone stated that currently there are no lights on the south or north fields, but there are other lights on the grounds and it is not a part of the subject application. These lights will have to be addressed at a later date and today's application is to address the two northernmost ball fields.

Mr. Marshall asked Mr. Sansone if the Union School was in violation by installing the existing lights. In response, Mr. Sansone stated that technically they are in violation. There is no site plan on file that shows an approval for lights. The lights are permitted through the City of Tulsa to construct the lights by obtaining an electrical permit. There is a certain level of responsibility on the property owner's behalf to understand that they are located in a corridor district and that everything should be verified to see if it needs site plan approval. The plans that did come through for site plan approval did include dots on the plan that would typically signify the location of light poles. But without the submission of either a photometric plan or elevation views of the light poles using the Kennebunkport Formula showing the spillover there is no way of identifying the fact that there is lights being proposed on the ball fields. There could have been a certain level of disconnect between the owner and staff, but there are no site plans that are approved that include a lighting plan of any kind.

Mr. Marshall asked if the southeast corner of the subject property have 60-foot in height poles. Mr. Sansone stated that he is not sure how high the existing light poles are, but he would guess they are in that vicinity. Mr. Sansone stated that the homes adjacent to the ball fields sit slightly higher than the ball fields and that is where he took the pictures of the existing poles. Mr. Marshall stated that the poles are tall and have a lot of lights on them. Mr. Sansone stated that staff starts to become concerned with light poles when they reach 35 feet or higher on whether they can be adequately shielded from the bulb all the way to the ground.

Mr. Dix asked if there is any lighting allowed currently. In response, Mr. Sansone stated that the reason the applicant is here today is because anything that deviates from the originally approved concept plan needs to be brought to the Planning Commission as an amendment, because the initial site plans for the ball fields were approved under the impression that there was no lighting associated with it and now the site plans are showing lights.

**Applicant's Comments:**

**Michelle Bergwall**, Union Public Schools Director of Construction, 8506 East 61<sup>st</sup> Street, 74133, apologized for coming before the Planning Commission at such a late date. In October 2008 and April 2009, the school received two minor approvals for two softball facilities and thought they had received the property approvals for the expansion of the intermediate high school facility. Upon review with INCOG, it has been brought to light that they did not receive the proper approvals. Ms. Bergwall cited the improvements that are planned on the subject property. There will be a total of four new fields, two for baseball and two for softball. The new north field will be for the fast-pitch softball, which the season runs August 1<sup>st</sup> through October 15<sup>th</sup>. The maximum number of home games for both Varsity and Junior Varsity teams is eleven home games. The games typically last 1 ½ hours and start no later than 5:30 p.m. except in rain or inclement weather delay. During this time of year, Tulsa is under Daylight Savings Time and the average sunset is at 7:30 p.m. Only in extreme cases will the lights be on past sunset. The distance from home field to the home plate is 201 feet and there is about 30 feet from the outfield fence to the neighbor's privacy fences. The repositioned south softball field will be used for slow-pitch softball and their season runs from March through May 10<sup>th</sup> with a maximum number of homes at seven. Games for slow-pitch softball typically last one hour and start no later than 6:00 p.m., except in case of rain or inclement weather delay. During this time of year half of the season is during Daylight Savings Time and the average sunset is at 7:30 p.m. The lights will not be on beyond sunset for most of the seven home games. It would have little or no impact on the adjoining neighbors. There will be visors on the field lights on the north field, which is the field with the new lights. The south field will have reused lights that have been previously erected on the site. The photometric plan for the field on the north shows that there is a minimal two foot-candle light that reaches the houses and is equivalent to a nightlight in a child's bedroom. There will be trees planted at the facility to further help shield the field lights from the adjoining neighbors. The trees to be planted were picked because of their fast grow rate, height of maturity, year round evergreen foliage, and tolerance for Oklahoma weather.

Ms. Bergwall stated that the subject property was platted in 1985 for use of the intermediate high school ball fields and tennis courts. The lights on the baseball field and tennis courts were erected at the same time the school was built and in the 1990's the third softball field was added and the lights were installed at that time. She has no record as to when or how those lights were erected.

**Jarod Mendenhall**, Assistant Superintendent of Union Public Schools, 8506 East 61<sup>st</sup> Street, 74133, stated that he is shocked and surprised by this. Mr. Mendenhall explained that he has a 5.5 million dollar bond issues that provided the opportunity to build the proposal. The school wanted to provide a facility for the athletes to be able to have hitting practices inside during inclement weather. When the property was platted in 1985 Highway 169 was not extended at that

time and Hampton South was not in existence either. A lot of things have changed in the corridor area since 1985.

Mr. Mendenhall stated that he is the one who receives complaints from the community, but he has never received any regarding the lights or the position of the fields.

Mr. Mendenhall stated that he met with Mr. Alberty and Mr. Sansone and they have been outstanding and helpful. Staff provided recommendations and he has tried to do that to the best he could. Mr. Mendenhall stated that they reduced the lights from six to four and added the tree plantings. He indicated that the school wants to be good neighbors because these are the same people that the school is educating.

Mr. Mendenhall indicated that the school sent out letters inviting the neighborhood to a meeting. The letter was sent to everyone within 300 feet of the school property and four people attended the meeting. The meeting was held November 23, 2009. Mr. Mendenhall submitted photographs of houses adjacent to the subject property (Exhibit B-2). He indicated that one of the homeowners is thinking about selling tickets to the games because he is very excited about the field being built near his home. There was no one else attending the meeting who lives in the houses immediately adjacent to the subject property. One homeowner did express concerns about players hitting homeruns into his home, but in fast-pitch baseball, homeruns are rare. The slow-pitch fields do hit homeruns and the outfield fences are 225 feet and 201 feet in height. The four people who attended the meeting were given a tour and the other three members indicated that there had been some questions, but no concerns. The property owners in the houses have the expectation of living next to a school and they know what they are living next to. Mr. Mendenhall reiterated that the school wants to be good neighbors and not have any problems.

Mr. Mendenhall explained that in 1990, the school went through a Title 9 lawsuit. Title 9 is a Federal law mandating the equity of women's athletics. Everything being built is equal. Had he known that they weren't allowed lights, he would have gone a different direction. He explained that he needs approval on this application and he will go back and rectify mistakes that have been made. The school had the very best attorney representing them for zoning matters until he passed away. The school is within 20 days of substantial completion on the project.

**TMAPC COMMENTS:**

Mr. Walker asked Mr. Mendenhall if he was shocked by the staff recommendation. In response, Mr. Mendenhall stated he was because he thought that the school tried to do the very best as far as accommodations. He understands that the staff has a job to maintain the peace and tranquility of any homeowner and let them know that they are protected. If there was a line of

people present to talk today or a lot of people contacting staff he could maybe see the recommendation for denial.

Mr. Walker asked Mr. Mendenhall what would happen to his plans if the lighting was denied. Mr. Mendenhall stated that he would have to go back through the process and probably have to appeal to the City Council. He has talked with Councilor Christiansen and he obviously has not had any questions and he was surprised by the staff recommendation for denial too.

Mr. Leighty asked how many people were included in the 300-foot notice. Ms. Bergwall stated that there were roughly one hundred people within the 300-foot radius and she also contacted the homeowners association and requested that they post it on their website. Everyone from Hampton South I and II were invited via the website.

Mr. Leighty stated that what has been presented regarding scheduling seems fairly manageable and not too hostile to the neighborhood due to the timeframes. If the school was granted the approval of this, he doesn't really see how they would be held to those restrictions and the school could put on tournaments, host other teams, expand the schedule, etc. In order to support this application there would have to be some type of restriction that the fields couldn't be used for public, adult use or leased out for some other purpose. Ms. Bergwall stated that the school doesn't open their facilities up to adult recreation. Usually adult teams are not interested in most of the facilities because it is school property and no alcohol or tobacco products are allowed. The seven and eleven home games are included when and if the teams go to regionals. Union did host regional games last season and some of those games were on a Saturday and were finished by 6:00 p.m. or 7:00 p.m. Mr. Mendenhall stated that it would be appropriate to put some type of restriction as far as the time that the lights could be on. He wouldn't think the lights should be on past 10:00 p.m. and he would be shocked if the lights are on more than seven or eight times out of the year, but the school needs the capacity or ability to host other things and do other things if needed.

Ms. Bergwall explained that due to the mounds' positions for different types of ball fields, it is difficult to use the same field for all types and softball doesn't utilize a mound. Baselines are different for the different types of ball fields as well.

Mr. Mendenhall reminded the Planning Commission that the whole background for this proposal is due to the Title 9 lawsuit and making sure that the school provides equity.

Ms. Cantrell asked Mr. Mendenhall if he could work with the proposal of allowing lights on the southern field and none on the northern field that is adjacent to the neighborhood. Mr. Mendenhall stated that he understands where the Planning

Commission is coming from, but he can see that it could cause some issues down the road because there is not equity there.

In response to Ms. Cantrell, Ms. Bergwall stated that the seasons do not overlap.

Mr. Shivel asked if the existing lights are used at any time other than games. Ms. Bergwall stated that the baseball lights are currently used for practice on a dark day; however, her observations have been that practices are over before 5:00 p.m. and the lights are off. Mr. Shivel asked if the lights are not left on for any other purposes such as illumination during the night or on weekends. Ms. Bergwall stated that they are on only for games and use of the field. The new facility will have wall-packs and lights on the sidewalks for pedestrian use.

Mr. Liotta asked Mr. Mendenhall to explain what he meant by stating the school needed the capacity for other events. Mr. Mendenhall stated that he doesn't remember what he said. Mr. Liotta asked if there is any possibility that these lights could be used for events for later in the evening. Mr. Liotta explained that once the school has the ability to have the lights, he is concerned that they will take the opportunity to use the lights in the evenings. Ms. Bergwall stated that the school will only have one field for each type of team. The JV baseball field will be used for practices only due to a billboard and creek being in the way. There will only be one regulation game playing field for baseball, one for fast-pitch and one for slow-pitch. It wouldn't be possible to host a tournament other than a Regional OSAA-sanctioned event because there is really only one field for each type of team. Baseball fields are not used for other sports. Mr. Mendenhall stated that Union is able to provide fields for all their different athletics. Year-around athletics is becoming popular and that is what happens with softball because they play in the spring, fall and then turn around and play in the spring and play slow-pitch.

Mr. Marshall stated that he is surprised that Mr. Norman didn't advise the school about this lighting issue. Mr. Marshall asked who the engineer was on the subject project. In response, Ms. Bergwall stated that Wallace Engineering is the Civil Engineer. Mr. Marshall asked if Mr. Beach, who is present, works for Wallace Engineering. Ms. Bergwall answered affirmatively. Mr. Marshall reminded the Ms. Bergwall that any time one does an improvement to their land the Zoning Code tells one what they have to do to stay in compliance. These lights are really going to affect the neighbors. Ms. Bergwall stated that she understands what Mr. Marshall is speaking about and she actually had a discussion about this in October 2008 when the school submitted the site plan for approvals and has been through the photometric issues at the Central Park facility and some of the other sporting facilities, which Mr. Norman guides through this process. Mr. Norman is no longer with us and advising the school. This discussion did come up with Wallace Engineering why they didn't have to go through the photometrics and the conclusion was because the use was not being changed. When looking back at the original plat from 1985 it talks about baseball

fields, sports fields, tennis courts and there have always been lights on that property since the current staff has been at Union and didn't realize that it wasn't on radar screen that this was a change of use and required special approval on the lights.

Mr. Marshall stated that he agreed with Ms. Cantrell that on the south field there isn't too much of a problem with the lights, but on the north field there needs to be something that will satisfy the school and take care of the neighbors. Sixty feet in height stadium lights is too intrusive.

Ms. Wright stated that only because she works with so many athletes that happen to play ball that she is 90% familiar with what the applicant's are talking about. Given the fact that the games are few and considering Daylight Savings Time, she has no problem with the request. She explained that she lives close to TU and the lights are on all of the time. Ms. Wright commented that for the limited time that these fields are used and this is during the daytime (90% of the time), she has no problems with this and is very pleased with all of the efforts that the applicants have taken to shield the neighbors.

Mr. Boulden asked if there are any lights from Highway 169 adjacent to the subject property and the neighbors. In response, Ms. Bergwall stated that there are street lights along Highway 169 all along the highway. Mr. Boulden stated that he understands that the highway lights are being turned off right now due to budget. Ms. Bergwall stated that the lights along the highway are not 60 feet in height, but the highway does sit up higher than the school and with the elevation change they may be the same as 60 feet.

#### **INTERESTED PARTIES COMMENTS:**

**Craig Abrahamson**, 7518 South 107<sup>th</sup> East Avenue, 74133, stated that the proposed lights would be in his eyes and in his house. The lights will be disruptive and he is adamantly opposed to any lights in the proposed area. The existing lights are offensive enough and he can see them at night when there is a game, but they aren't directly in his eyes or in his house; however, the whole neighborhood is lit up by them. He believes this will be significant amendment to his lifestyle if the lights are allowed. The lights will be offensive, intrusive and take away his ability to enjoy his property.

Mr. Abrahamson stated that if there is a game going on at night with the lights on, the noise that will be attending the evening games will be an additional disruption to his neighborhood. If they don't have the lights they can't have the noise at night. Once the lights are in place there is nothing to stop the school from using them as much as possible and get the most economic use out of them.

Mr. Abrahamson agrees that he knew he was moving next to a school that had no lights and no lights in the plan and no lights in the future. He stated that he didn't move to something that already existed and that is why he is here today

because the school wants to change it. The lights that are currently in place were in place when he moved into the neighborhood and he acknowledges that is something that he moved to, but the lights are far enough away to the south that they are not directed into the homes.

Mr. Abrahamson stated that the school did send out a letter about their meeting a week in advance of the meeting. The meeting was held on a Monday of Thanksgiving week and many people in the subdivision weren't available to attend the meeting. The letter invited the neighbors to come and see their ball fields and facilities, but the word "lights" wasn't in the letter.

Mr. Abrahamson stated that this proposal would set a precedent. There is a PUD to the north of Hampton South that went in after the subdivision was built. The development is called Woodland Park and the homeowners association was very involved in the approval of the PUD (PUD-567/Z-4789-SP-6). Development Area B is the Cinemark Movie Theater and the Planning Commission required restrictions on their lighting. The lighting for Development Area B was not to exceed 35 feet in height, they were required to be hooded and directed down and away from the south and east. There is a 150-foot setback for any lights over 16 feet in height. Mr. Abrahamson requested that this proposal be denied because he feels it would diminish his property value and his enjoyment of his property.

**TMAPC COMMENTS:**

In response to Mr. Leighty, Mr. Abrahamson stated that the southernmost lights were in place when he purchased his home. He knew when he moved to the subject area that there were no lights on the subject property and the plans for the future expansion of the fields didn't include any lights. When he originally moved into his home he saw an empty field and believed he was moving next to an empty field. When he found out it was approved for expansion for softball fields before he moved in, he knew that there were no lights involved. Mr. Leighty asked Mr. Abrahamson if he thought the empty field would remain empty. Mr. Abrahamson stated that he didn't know what would be in the empty field at the time he moved into the subject area.

Ms. Wright stated that Mr. Abrahamson indicated that the existing lights bother him and she is curious, given the schedule of the games being mostly during the day, when these lights bother him. Mr. Abrahamson stated that they bother him in the evening when they are on, but he has never kept track of how often. He commented that the lights are on frequently in the spring and the fall. Ms. Wright asked Mr. Abrahamson if it is fewer than 50 times or fewer than 20 times, there are 356 days (sic). Mr. Abrahamson stated that he doesn't have a number and is not sure what good guessing would do. Ms. Wright stated that she is sorry but she doesn't have much empathy for Mr. Abrahamson's burden of having lights shining into his home from events that don't happen very often. Ms. Wright asked Mr. Abrahamson if he had lights on his street. Ms. Cantrell informed Ms. Wright that there is no call for that. Mr. Abrahamson stated that he is offended



by Ms. Wright's comments. Ms. Wright stated that she is sorry, but the reason why is that from the statements that he is saying, it sounded like it was a direct light all the time, every day, 24/7. Mr. Abrahamson asked Ms. Wright if he said that. Ms. Wright stated that is what she heard and she is asking how often. Mr. Abrahamson stated that Ms. Wright is hearing things that weren't said. Ms. Wright stated that she is trying to get some clarification. How often were the lights on that they have been a bother; that is what she is asking. Ms. Cantrell stated that she believes Mr. Abrahamson has already stated that he is not sure. Ms. Wright stated that it is not a consistent use and some buildings have lights on all the time and there have been neighborhoods that have been affected by this. That is a very great concern and she believes that occasional use falls under a different category. That is the only distinction she is trying to make. Mr. Abrahamson stated that the school is telling the Planning Commission today that it is seven games in the fall and eleven games in the spring and there is nothing once they have those lights up to keep them to that schedule. If the Planning Commissioners had to live with seven games in the fall and eleven games in the spring with the noise and lights in their homes they wouldn't like it either.

#### **INTERESTED PARTIES COMMENTS:**

**Richard Acevedo**, 10705 East 74<sup>th</sup> Place, 74133, stated that he is the President of the Hampton South Homeowners Association. He concurred with Mr. Abrahamson's contention that the neighbors do see the present lighting illuminate the neighborhood at the times the lights at the tennis courts are on. He has lived in the subject neighborhood since 1997, but he figured that prior administrations and prior Planning Commission meetings had approved those lights to be on for the times that they have been used. If he had to guess how often the lights are on it would be during the fall and the spring time. They are on up to 11:00 p.m. from his recollection. He would guess that in a course of a year, the lights are on 16 to 20 times. All of the objections or issues from previous administrations had been worked out and was all water under the bridge. Last year he noticed the huge stadium lights being positioned and laying on the school property and clearly there was development underway to create ball fields. He met with Michelle Bergwall to inquire about the use of the lights and their placement. Ms. Bergwall informed him that the current administration was under the impression that the use of the lights for the facility had been approved in years past under the plat they had obtained in 1985. The Homeowners Association Board met and discussed this issue at length and their take was to see what sort of direction this would take and figure it out from there. The district was planning on putting in lights, but he was under the impression that such approval had been obtained years in advance.

Mr. Acevedo stated that the neighborhood association has been doing their due diligence by notifying neighbors and members of the HOA. The meeting held by the school on the November 23, 2009 information was emailed to the board and block captains and asked as members that could to attend the meeting. Four members of the HOA attended the meeting held by the school. He stated the

fact that only four people attended the meeting, could have been because the meeting was held the Monday before Thanksgiving and many people who already had plans were unable to attend. He requested the Planning Commission to not interpret the fact that only four people attended the meeting meant that there was no interest in the development. Mr. Acevedo stated that he is adamantly opposed to the installation of the lights at the subject facility. The lights will contribute to the light pollution that already exists and will only intensify that. The noise from the fields will come into the neighborhood. The illumination of six 60-foot high stadium lights will illuminate the neighborhood and some neighbors will be able to actually see the lights.

Mr. Acevedo stated that the tree plantings that are proposed will be restricted by the overhead power lines and couldn't grow to a height to mitigate the light pollution or spillover of light that will go into the neighborhood. Any illumination from the lights will go down the streets in the neighborhood. The school stated the schedule for the subject fields, but schedules change and the demands of the facility become more apparent as the number of children participating sports increases and demands on the facility will increase as well. He wouldn't blame the district if they were to capitalize on the use of the facility. Mr. Acevedo concluded by asking the Planning Commission to deny the petition for the amendment by the Union Public Schools.

**TMAPC COMMENTS:**

Mr. Liotta asked Mr. Acevedo if the school contacted the neighborhood association that would have clarified that lighting would be a subject at the meeting. Mr. Acevedo stated that he is not aware of any other indication other than what he had with Ms. Bergwall on this issue. The letter didn't mention the lighting issue when inviting the neighbors to see the new facility. Mr. Acevedo stated that the letter took him by surprise and he was under the impression that such use had been approved for the subject property.

Ms. Cantrell asked Mr. Acevedo has had any contact with the neighbors in terms of what they think about this proposal. Mr. Acevedo stated that he has spoken with other Board members about this issue and he has not heard anyone speak in glowing terms with regard to installation of the lights.

Mr. Leighty asked Mr. Acevedo if he is speaking for the HOA. In response, Mr. Acevedo stated that he is speaking for himself, but he can tell the Planning Commission that as far as the HOA is concerned, they are not excited in a good way about the installation of these lights.

Mr. Leighty stated that this is an open piece of property owned by the school and it doesn't seem to be a real stretch for them to want to develop this. Mr. Acevedo stated that is totally understandable that they would want to install ball fields and the illumination makes it quite a bit different, especially when they are talking about installing 60-foot lights. Mr. Leighty asked if it is the lights or the noise that

is the problem. Mr. Acevedo stated that he can hear activities and sporting events going on at his home at the present time. This will be amplified when there are two softball facilities that are now in closer proximity to the subdivision. Mr. Leighty stated that this is a delicate balance and will be a hard decision for everyone on the Planning Commission because they want to do what is in the best of the public at large and not just the school or neighborhood in the area. The school is really why people want to live in the subject area. To deny the school will be hard and he doesn't want to create a hardship for the neighborhood, but it seems like 17 dates out of 365 days a year is not a whole lot. Mr. Leighty asked Mr. Acevedo if he believes it will be such an encroachment on his lifestyle that he can't be opposed to for 17 dates a year. Mr. Acevedo stated that what he has to counter with is that the 17 dates is the schedule as it stands today, but the demands could increase the uses. Such use as being proposed over a period of time and increasing demands of a facility like this would constitute a nuisance and he would have to say no to this amendment.

**Ms. Wright out at 3:55 p.m.**

Ms. Cantrell requested that the applicants keep their rebuttal brief as possible given the late hour.

**Applicant's Rebuttal:**

Mr. Mendenhall stated that the school wants to be a good neighbor. Mr. Mendenhall indicated where the trees would be planted between the fields and the neighborhoods. The homeowner who would be most affected by this attended the meeting and he had no objections. There is existing noise from Highway 169 and the lights along Highway 169. The proposed lights are not on all of the time, but the lights at the Cinemark Theater are on 24/7. Intramural sports program are from grade school to high school; however, this is a varsity playing field and it is a field where the school will play OSSAA events not intramural sports. The trees will be planted and irrigated to grow and if they get diseased they will be replaced.

Mr. Mendenhall stated that if the Planning Commission would like to restrict the time the lights can be on, and then make it a stipulation. He has never seen the number of games from the OSSAA schedules change in a long time. He doesn't anticipate a schedule change any time in the future.

**TMAPC COMMENTS:**

In response to Mr. Shivel, Mr. Mendenhall stated that he doesn't know the height of the power pole, but he would guess it is 60 feet in height. The four lights that currently exist have long visors on them.

Ms. Cantrell questioned the trees being planted under the PSO lines, because PSO will cut them down if they get too high, if they are allowed to be planted in that area at all. In response, Ms. Bergwall stated that the trees chosen for

planting are from the PSO tree list, which has the guidelines for planting and height of mature trees.

Mr. Leighty asked Mr. Mendenhall what he could do if they are denied today. In response, Mr. Mendenhall stated that he doesn't know. Mr. Leighty asked if they would have to look for another site. In response, Mr. Mendenhall stated that they may have to go back to the taxpayers. The bond issues were for the subject ball fields. The facilities are there and it would be difficult to figure how to relocate them. There are locker rooms, coach's offices, rest rooms, etc. already in place. This project started in 2008 and there were two bond issues passed to make this happen. There have not been any complaints or concerns regarding this project.

Ms. Bergwall stated that she did meet with Mr. Acevedo prior to today's meeting. She walked the site with him and assured him that the school had received all of the proper approvals. She explained that she contacted Mr. Acevedo again when the issue came up that the lights had not been approved. The reason for the November 23<sup>rd</sup> meeting date was due to the application being on this agenda and the short timeframe.

Ms. Bergwall pointed out some mature trees that filter out light for an adjoining property and explained that they are the same trees that the school is proposing to plant.

Mr. Leighty asked Ms. Bergwall how she would respond to the fact that in the meeting notice, there wasn't anything to mention about the lighting issue. Ms. Bergwall stated that her intent was to get neighbors there to talk about it and there was full disclosure at the meeting and she walked the site with them. The President-Elect of the homeowners association was present.

Mr. Dix asked if the engineers do a photometric study for the current conditions. In response, Ms. Bergwall answered negatively. There was a photometric study done on the lights for the south field and it didn't show any foot candles that passed the north field and the photometric that were included in the packet include the south and north field photometrics. The tennis courts were not included because they are somewhat adjacent to the parking lot of the subject facility, but they are farther down.

Mr. Boulden asked if the lights that were taken down are the same lights they are wanting to reinstall. In response, Ms. Bergwall stated that they are the same kind of lights. There will be six poles on the south field and four poles on the north field. The lighting configurations and shields are the same.

Mr. Liotta asked if 30-foot lights accomplish the same as 60-foot lights. In response, Ms. Bergwall stated that the engineers proposed the 60-foot lighting in order to reach the proper levels of lighting for athletic fields. She would have to go back to them to see if 30 feet would work.

Mr. Marshall stated that he doesn't see how the light can be deflected from the neighborhood. Ms. Bergwall stated that the photometric plan shows a two foot-candle that will actually reach the houses and that doesn't take into consideration the tree plantings.

Mr. Leighty stated that shielding has been mentioned several times, but if there is a 60-foot light pole and the tree is 20 feet in height, and then the light will come over the tops of the tree. Ms. Bergwall stated that it would be ambient light and if one were to look up they would see the lights, but it wouldn't be brighter than a night light when light spills over into one's yard.

Mr. Marshall asked if 8:00 p.m. would be a good time to require the lights to be shut off. Mr. Mendenhall stated that 8:00 p.m. would be fine. Mr. Mendenhall stated that the caveat is that they are only restricting the two fields. Baseball is a totally situation because they have a lot more games and play more in the evening with double-headers. Softball is different, they start at 4:00 p.m. and they don't play many double-headers and it is a short season. They do not turn the lights on very often.

Mr. Carnes stated that during the summer time it is still daylight at 8:00 p.m. and perhaps it should be 9:00 p.m. because then they wouldn't be using the lights. Mr. Marshall stated that not using the lights would be the point.

Mr. Marshall asked Mr. Mendenhall if he need to continue this application so that he could talk with the HOA or would he like a decision today. Mr. Mendenhall stated that he needs to talk with his consultants first.

Mr. Leighty stated that he would probably support the application with a 9:00 p.m. time restriction on the lights. This is a hard decision, but his decision to support this is for the good at large, which includes the neighborhood and the school. Union schools have been one of the prizes of the Tulsa area. He would be surprised if there are more than five people in Hampton South who didn't believe that there wouldn't be lights installed there. When one moves next to a school, one expects athletic activities to be going on. To have the lights on a couple nights a week during the season is not a lot to ask. Mr. Leighty commented that he certainly appreciates the neighbors' concerns, but he is also taking into consideration that only two people came today to speak against the proposal. It is very unfortunate that the school didn't make sure that the lighting issue was in the notice because it is important and should have been included in the notice.

Mr. Walker asked staff if they were recommending approval the whole way or did they take into consideration the low and minimal impact on the neighborhood regarding lighting. In response, Mr. Sansone stated that staff had a very productive meeting with the applicants and what staff was looking for was something a little taller at the time of planting of trees to provide some immediate

relief and the revised plan had the trees at eight feet in height. There are different levels of impact.

Mr. Marshall recognized Mr. Mendenhall.

Mr. Mendenhall stated that he would like the Planning Commission to make their decision today. The School has done their due diligence with the HOA and would like a decision today. He would like to stay with the 60-foot stadium lights because the 35-foot lights would increase the number of lights that would have to be installed.

Ms. Cantrell stated that this is a hard decision and if it were just the southern field, she would be in support of this application. It is unfortunate that this proceeded the way it did. Had this issue been addressed early on, there is enough space to reconfigure this and protect the neighborhood. The northern field is too close to houses and she can't support lights being on the fields. The neighbors did buy a house next to a school, but they didn't buy a house next to a night-time baseball stadium, which is a big difference. School is a daytime activity and it wouldn't have occurred to her that buying next to a school she would have a night-time stadium with lights next to her. She would support allowing the stadium lights on the southern field and support lower poles on the northern field. Ms. Cantrell commented that this is a tough call and she believes that staff is right on this one. Stadium lights this close to someone's backyard cannot be shielded by trees.

Mr. Marshall stated that he agrees with Ms. Cantrell and this would be an intrusion on the neighborhood. The Planning Commission tries to come to a compromise with the neighbors and the applicant. He would like to try to separate the north field from the south field. Mr. Marshall suggested approving the south field and limit the lighting to 35 feet in height on the north field. Mr. Marshall commented that he believes that staff is right with regard to the lights.

Mr. Liotta stated that he believes he will have to oppose the application. If a letter had been sent out that stated the issue is the 60-foot stadium lights or some other communication that would have told the neighbors that he believes more would have been inclined to attend the meeting. He doesn't believe due diligence was done in terms of ensuring that all of the neighbors understood what is planned and what will be coming. Mr. Liotta stated that the configuration could be modified significantly and perhaps more lights are necessary for shorter poles, but surely there is another configuration that doesn't affect the neighborhood.

Ms. Cantrell stated that the letter didn't state the fact that the lights are an issue and that is a significant point.

Mr. Dix stated that if this weren't next to Highway 169 and the associated lights and noise from the highway, then he might see this differently. There is only one

backyard that is immediately adjacent to fields that has a pool in the backyard or any sort of outdoor recreation in their backyard. It appears that the other four houses use their backyards very little, which is an assumption not a reason. He commented that after dark, mosquitoes will drive everyone into their homes anyway. Those five houses appear to be the only ones really affected by this proposal and only one attended the neighborhood meeting, which indicated that he would sell tickets. Mr. Dix stated that he would like to see the photometric information show what it is like today and what it would be like with the other lights in place. The individual who said that this proposal would ruin his life has houses and a street between him and the fields and so he didn't take his comments into consideration. Mr. Dix concluded that he doesn't see this as being a problem and he watches fast pitch softball on television all the time. It is fun to watch and he really likes it. The girls really play hard and they should be given the opportunity to play hard here. He would like to see the lights configured better and shining back toward home plate.

Mr. Leighty moved to approve the application subject to a 9:00 p.m. disconnect on the lighting.

Mr. Carnes stated that he would second that motion if he could add that the trees be increased in size when they are planted to 12 to 15 feet in height at planting.

Mr. Leighty agreed to Mr. Carnes amendment.

Mr. Shivel asked Ms. Bergwall how far from the fenceline the projected poles are going to be located. In response, Ms. Bergwall stated that the poles are actually at the corner of the outfield fence and the baseline fence. The two are at the corner and the other two are closer to home plate. The distance is approximately 30 feet from the fence line.

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **4-4-0** (Carnes, Dix, Leighty, Walker, "aye"; Cantrell, Liotta, Marshall, Shivel "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to **APPROVE** the minor amendment for Z-5537-SP-1e subject to a 9:00 p.m. disconnect on the lighting and increase the size of the trees to 12 to 15 feet in height at time of planting as modified by the Planning Commission.

**Tied vote.**

Mr. Boulden suggested that this will be an issue that would be transmitted to the City Council as alternative appeal within 15 days unless another motion is made.

Mr. Carnes moved to approve the minor amendment subject to a 9:00 p.m. lights disconnect, trees to be 12 to 15 feet in height at time of planting and the north field lights to be no higher than 35 feet in height. Ms. Cantrell seconded.

Mr. Alberty explained that this is a not a PUD and the Zoning Code itself gives the Planning Commission the right to consider minor amendments, whatever the Planning Commission considers a minor amendment. There is no prescribed appeal process for this. This could be transmitted to the City Council with a tie vote because as it stands a tie vote is the same as denial.

Mr. Dix stated that he would like to make it noted for the record that the Planning Commissioner who had to leave early was in support of this before she left.

Ms. Cantrell stated that she was, but she didn't vote and she is supposed to keep her mind open until a vote comes.

Mr. Carnes asked Mr. Mendenhall if he would be in agreement with the 35 feet in height for the north field lights. Mr. Mendenhall stated that he would have to talk with his consultants. He would think there would have to be more light poles and he doesn't know if that would be appropriate or not. He is not absolutely opposed to it, but he can't speak to this without speaking to his consultant.

Mr. Marshall stated that this might be the best option because it will probably pass and if the consultants say no it won't work then appeal to the City Council.

**TMAPC Action; 8 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Dix, Leighty, Liotta, Marshall, Shivel, Walker "aye"; no "nays"; none "abstaining"; McArtor, Midget, Wright "absent") to **APPROVE** the minor amendment for Z-5537-SP-1e, subject to a 9:00 p.m. disconnect on the lights, subject to the trees being 12 to 15 feet in height at time of planting and subject to the north field lights be no higher than 35 feet in height as modified by the Planning Commission.

\* \* \* \* \*

**OTHER BUSINESS:**

**Commissioners' Comments**

None.

\* \* \* \* \*



There being no further business, the Chair declared the meeting adjourned at 4:34 p.m.

Date Approved:

1/5/10

Michelle Cantley

Chairman

ATTEST:

Joshua A. Walk

Secretary