

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
**Minutes of Meeting No. 2618**

Wednesday, January 18, 2012, 1:30 p.m.

City Council Chamber

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

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Cantrell	Midget	Alberty	Edmiston, Legal
Carnes		Bates	Tohlen, COT
Dix		Fernandez	Warlick, COT
Edwards		Huntsinger	Keller, COT
Leighty		Matthews	
Liotta		Sansone	
Perkins			
Shivel			
Stirling			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, January 12, 2012 at 11:30 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

**REPORTS:**

**Director's Report:**

Mr. Walker thanked Mr. Leighty for his work as Chairman last year.

**Director's Report:**

Mr. Alberty reported on the TMAPC Receipts for the month of December 2011. He indicated that the receipts have increased 5% over this time last year.

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Mr. Edwards out at 1:32 p.m.

**Minutes:**

**Approval of the minutes of January 4, 2012, Meeting No. 2617**

On **MOTION** of **CARNES**, the TMAPC voted 9-0-0 (Cantrell, Carnes, Dix, Leighty, Liotta, Perkins, Shivel, Stirling, Walker “aye”; no “nays”; none “abstaining”; Edwards, Midget “absent”) to **APPROVE** the minutes of the meeting of January 4, 2012, Meeting No. 2617.

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Mr. Edwards in at 1:33 p.m.

**AGENDA:**

**CONSENT AGENDA:**

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

2. **LC-374** - (Lot-Combination) (CD-6), Location: Northeast corner of South Garnett Road and East 32nd Street South
3. **LC-375** - (Lot-Combination) (CD-1), Location: West of the northwest corner of North Boston Place and East Victoria Street
4. **LC-376** - (Lot-Combination) (CD-3), Location: Northeast corner of North Fulton Avenue and East Independence Street
5. **LC-378** - (Lot-Combination) (CD-3), Location: North of the northwest corner of East 101st Street South and South Memorial Drive (Related to Item 7, PUD-773)
6. **Reinstatement of Plat** – The Shoppes on Peoria, Location: Northeast corner of North Peoria Avenue and East Reading Street, (CD 1)
7. **PUD-773 – Tanner Consulting, LLC/Matt Baer**, Location: North of the northwest corner of 101st Street South and South Memorial Drive, Requesting **Detail Site Plan** for a 7,290 square foot two-story dental office, (**RS-3/OL/CS**) (CD-8) (Related to Item 5, LC-378)
8. **PUD-313-9 – Kenney Russell**, Location: South of the southwest corner of West 61st Street South and South 28th Avenue West, Requesting a **Minor Amendment** to increase the permitted coverage for a driveway in the required front yard, (**RT/RS-3**) (CD-2)

9. **PUD-313-10 – Kenney Russell**, Location: South of the southwest corner of West 61st Street South and South 28th Avenue West, Requesting a **Minor Amendment** to increase the permitted coverage for a driveway in the required front yard of an RS-3/PUD zoned lot per the attached plan, **(RT/RS-3) (CD-2)**
10. **PUD-636-6 – Russell McDaris/Tuscany Hills**, Location: Northeast corner of West 78th Street South and South Union Avenue, Requesting a **Minor Amendment** to establish sign standards for the Tuscany Hills at Nickel Creek Apartment complex, **(CO) (CD-2)**
11. **PUD-787 – Wallace Engineering/Jim Beach/West Park Apartments**, Location: Northeast corner of South Lewis Avenue and East 4th Place South, Requesting a **Detail Site Plan** for a three-story mixed use building to be located at the northeast corner of South Lewis Avenue and East 4th Place South, **(RM-2/CS) (CD-4)**
12. **PUD-696-B – Khoury Engineering/Patriot Bank**, Location: South of the southwest corner of 91st Street South and South Delaware Avenue, Requesting a **Detail Site Plan** for a 14,119 square foot, two-story bank, **(OL/CS) (CD-2)**

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

#### **ZONING CODE AND FORM-BASED CODE PUBLIC HEARING**

13. **Proposed Amendments to the Tulsa Revised Ordinances, Title 42 and Title 42-B, the Zoning Code and Form-Based Code of the City of Tulsa**

#### **PUBLIC HEARINGS:**

14. **LC-377** - (Lot-Combination) (County), Location: West of the southwest corner of South 129th East Avenue and East 191st Street South (Related to Item 15, LS-20842)
15. **LS-20842** - (Lot-Split) (County), Location: West of the southwest corner of South 129th East Avenue and East 191st Street South (Related to Item 14, LC-377)
16. **PUD-397-B-1 – Andrew A. Shank/61 MM, LTD**, Location: Southwest corner of East 61st Street and South 91st East Avenue, Requesting a **Minor Amendment**, (CD-7) (Continued from 12/21/2011) (Staff requests a continuance to February 1, 2012 in order for this item to be heard before the BOA 1/24/2012)

17. **CBOA-2408** – Plat Waiver, Location: 7250 West 50th Street South, north of West 51st Street, east of West 73rd West Avenue (County)
18. **Z-7159** – Plat Waiver, Location: Saint Francis Hospital, southeast corner of East 61st Street and South Yale Avenue (CD 9)
19. **Z-7191 – Robert Christie**, Location: South of the southwest corner of East 11th Street South and South Vandalia Avenue, Requesting rezoning from **RS-3 to PK**, (CD-4)
20. **Z-7192 – Roy D. Johnsen**, Location: Northwest corner of 49th Street South and South Harvard Avenue, Requesting rezoning from **OM to CS**, (CD-9)

### OTHER BUSINESS

#### 21. Commissioners' Comments

### ADJOURN

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Mr. Dix read the opening statement and rules of conduct for the TMAPC meeting.

## MINUTES:

### CONSENT AGENDA

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

2. **LC-374** - (Lot-Combination) (CD-6), Location: Northeast corner of South Garnett Road and East 32nd Street South
3. **LC-375** - (Lot-Combination) (CD-1), Location: West of the northwest corner of North Boston Place and East Victoria Street
4. **LC-376** - (Lot-Combination) (CD-3), Location: Northeast corner of North Fulton Avenue and East Independence Street
5. **LC-378** - (Lot-Combination) (CD-3), Location: North of the northwest corner of East 101st Street South and South Memorial Drive (Related to Item 7, PUD-773)

7. **PUD-773 – Tanner Consulting, LLC/Matt Baer**, Location: North of the northwest corner of 101st Street South and South Memorial Drive, Requesting **Detail Site Plan** for a 7,290 square foot two-story dental office, **(RS-3/OL/CS)** (CD-8) (Related to Item 5, LC-378)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 7,290 square foot, two-story dental office. The proposed use, Dentist Office within Use Unit 11 – Office, Studios and Support Services is a permitted use in PUD-773. Associated with this PUD Detail Site Plan is case #LC-378 also appearing on the January 18th agenda of the TMAPC. Approval of LC-378 would combine Lots 1 and 2, Block 1 – NGP Business Complex.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Detailed specifications can be seen on the attached site plan, “PUD-773 Site Data” box.

Access to the site is provided from Memorial Drive. Parking will be provided per the applicable Use Unit of the Zoning Code. Parking area dimensioning meets the applicable requirements of Chapter 13 of the Code. Landscaping will be provided per the PUD and landscape chapters of the Zoning Code. All site lighting, including building mounted, will be limited to 14 feet per PUD limitations for exterior lighting. Lighting will be directed down and away from adjoining residential properties of the west in a manner that the light producing element and/or reflector are not visible to a person standing at ground level within said residential district. A trash enclosure will be provided as required by the PUD. There is an existing sidewalk along Memorial Drive and a distinct pedestrian access will be provided from the sidewalk through the parking lot to the front of the dental clinic.

Staff recommends **APPROVAL** of the detail site plan for Lots 1 and 2, Block 1 – NGP Business Park.

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

10. **PUD-636-6 – Russell McDaris/Tuscany Hills**, Location: Northeast corner of West 78th Street South and South Union Avenue, Requesting a **Minor Amendment** to establish sign standards for the Tuscany Hills at Nickel Creek Apartment complex, **(CO)** (CD-2)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to establish sign standards for the Tuscany Hills at Nickel Creek Apartment complex

located in PUD-636. The original approval of the PUD did not establish sign standards for the apartment complex, in which the underlying zoning is Corridor (CO).

The apartment complex does not cover the entirety of the development areas in question, so the proposed sign standards would be applicable to the Tuscany Hills Apartments only. Should other development occur within these development areas, the sign standards will be addressed through either the PUD chapter of the zoning code based on the use of the land, or through minor amendment based on the underlying Corridor District (CO) zoning.

The property has 415 lineal feet of frontage along Union Avenue. Based on the property's street frontage, one 500 square foot (SF) ground sign could be constructed if only one sign were constructed on-site. If two ground signs were constructed, the signs would be permitted up to 415 SF of display area in the aggregate. Wall signs would be limited to 3 square feet of display area per lineal foot of building wall to which the sign is affixed.

Proposed sign standards are as follows (see attached exhibits for sign sizes and location):

1. One 60 SF, non-illuminated wall sign located on the western most apartment building (sign #1 on attached sheet P1) ;
2. One 24 SF, non-illuminated wall sign located on the unoccupied tower section of the clubhouse (sign #2 on attached sheet P1) ;
3. Two 41 SF monument style ground signs not to exceed 8.5' in height located on either side of at the access point along West 78th Street South (signs 3 and 4 on attached sheet P1).

If approved, staff contends the signs will not substantially alter the size, location, number and character (style) of signs permitted within the PUD. Further the signage will not substantially alter the character of the development or the intent of the approved PUD concept plan. Therefore, staff recommends **APPROVAL** of minor amendment PUD-636-6.

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

11. **PUD-787 – Wallace Engineering/Jim Beach/West Park Apartments,**

Location: Northeast corner of South Lewis Avenue and East 4th Place South, Requesting a **Detail Site Plan** for a three-story mixed use building to be located at the northeast corner of South Lewis Avenue and East 4th Place South, **(RM-2/CS)** (CD-4)

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a three-story, mixed use building to be located at the northeast corner of South Lewis Avenue and East 4th Place South. The building will contain approximately 7,180 square feet (SF) of office and retail space and will include two apartment dwelling units. The proposed uses of the building – Use Unit 11 – Office, Studios and Support Services; Use Units 12, 13, and 14 (restaurants, conveniences goods and shopping goods and services), and health club within Use Unit 19 are permitted by PUD-787.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site will be provided from East 4th Place South and will share mutual access with the apartment development to the east. Parking is provided per the applicable Use Unit of the Zoning Code. Parking area dimensioning meets the applicable requirements of Chapter 13 of the Code.

All site lighting including building mounted will be limited to 25 feet in height per PUD limitations for exterior lighting, excepting that any light standard placed within the northern 50 feet of the eastern 100 feet of the PUD shall be limited to 15 feet in height. Lighting will be directed down and away from adjoining residential properties in a manner that the light-producing element and/or reflector are not visible to a person standing at ground level within said residential district.

Sidewalks will be provided along 4th Place and Lewis Avenue as required by PUD Development Standards and Subdivision Regulations.

Staff recommends **APPROVAL** of the detail site plan for the mixed-use building to be located at the northeast corner of 4th Place South and South Lewis Avenue in PUD-787.

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

12. **PUD-696-B – Khoury Engineering/Patriot Bank**, Location: South of the southwest corner of 91st Street South and South Delaware Avenue, Requesting a **Detail Site Plan** for a 14,119 square foot, two-story bank, **(OL/CS) (CD-2)**

**STAFF RECOMMENDATION:**

The applicant is requesting approval of a detail site plan for a 14,119 square foot, two-story bank. The proposed use, Financial Institution within Use Unit 11 – Offices, Studios and Support Services, is a permitted use in PUD-696-B.

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations. Access to the site will be provided from South Delaware Avenue and private street "Reserve A". Parking will be provided per the applicable Use Unit of the Zoning Code. Parking area dimensioning meets the applicable requirements of Chapter 13 of the Code. Landscaping will be provided per the PUD and landscape chapters of the Zoning Code. All site lighting including building mounted will be limited to 25 feet in height per PUD limitations for exterior lighting. Lighting will be directed down and away from adjoining residential properties or residentially used properties in a manner that the light-producing element and/or reflector are not visible to a person standing at ground level within said area. A trash enclosure will be provided as required by the PUD. Sidewalks are provided along South Delaware Avenue and private street "Reserve A" as required by PUD Development Standards and Subdivision Regulations. Distinct pedestrian access is provided from the sidewalk along South Delaware Avenue through the parking lot to the front of the building.

Staff recommends **APPROVAL** of the detail site plan for Lot 6, Block 1 – 9200 Delaware.

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

Mr. Walker stated that the following Items will be removed from the consent agenda: Items 6, 8 and 9.

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

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

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Midget "absent") to **APPROVE** the consent agenda Items 2 through 5, 7 and 10 through 12 per staff recommendation.



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

- 6. **Reinstatement of Plat** – The Shoppes on Peoria, Location: Northeast corner of North Peoria Avenue and East Reading Street, (CD 1)

**STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of the reinstatement of this subdivision plat per the approved minutes showing approval of the preliminary plat and accelerated building permit with conditions on March 17, 2010.

**TMAPC COMMENTS:**

Mr. Leighty asked if the applicant still needs the relief for the sidewalks now that the funding is in place and could the Planning Commission request the sidewalks at this time. Mrs. Fernandez stated that the detailed site plan for the PUD on the subject property was approved with sidewalks all around the site. It is staff understands that there will be sidewalks.

Mr. Dix asked Mrs. Fernandez if she is certain about that because he remembers the discussion about the sidewalks and whether or not they all had to be built or not. Mr. Dix stated that he believes that the City Council granted a waiver. Mrs. Fernandez stated that she believes that the Planning Commission made their position clear during the detail site plan that there would be sidewalks. Mrs. Fernandez further stated that it is her understanding from Mr. Sansone that the detail site plan was approved with sidewalks all the way around the property.

Ms. Cantrell stated that as she recalls, the Planning Commission did give some relief on the back side of the property at Quaker and didn't require that they build the actual sidewalk along that street. Mr. Sansone stated that the detail site plan was submitted and approved with sidewalks all the way around the site.

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

**TMAPC Action; 10 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Midget "absent") to **APPROVE** the reinstatement of Plat for the Shoppes on Peoria per staff recommendation.

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8. **PUD-313-9 – Kenney Russell**, Location: South of the southwest corner of West 61st Street South and South 28th Avenue West, Requesting a **Minor Amendment** to increase the permitted coverage for a driveway in the required front yard, **(RT/RS-3)** (CD-2)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the permitted coverage for a driveway in the required front yard of an RS-3/PUD zoned lot per the attached plan. Necessitating the need for the minor amendment is the odd shape of the lot and very limited street frontage the parcel has on this cul-de-sac.

Section 1303.D of the Code permits up to 34% coverage of the required front yard for driveways on RS-3 zoned lots. Section 1106 of the Code allows the Planning Commission to modify parking requirements by minor amendment so long as the approved modification is recorded in the subdivision plat. Since the definition of parking area in section 1800 of the Code includes the driveways that lead to required parking spaces, the request qualifies as a parking modification. Should the Planning Commission be inclined to approve the request, the applicant will need to record the modification on the plat by filing the amendment by separate instrument with the County Clerk's office.

Please refer to the attached aerial photograph, site plan, and case photographs (please note that other driveways on the cul-de-sac appear to exceed the permitted driveway coverage). Located at the end of a cul-de-sac, the subject property is triangular in shape, with a limited 24 feet of frontage along the street. The proposed driveway is a standard 18-foot by 22-foot or 396 square foot (SF) driveway. Given the odd shape of the lot and limited street frontage almost any size driveway would exceed the maximum coverage permitted, which would normally fit on a typical rectangular shaped RS-3 zoned lot.

The PUD requires this parcel to have 1,368 square feet (SF) of livability space (open space) on the lot. With the extra coverage by the driveway, the lot will meet the requirement, having approximately 2,040 SF of livability space.

Given the odd shape of the lot and limited street frontage, combined with the livability space requirement being met staff can support the request. Staff contends the increase in driveway coverage will not substantially alter the character of the development, the approved PUD concept plan and is in conformance with the intent of the PUD chapter of the Code. Therefore recommends **APPROVAL** of minor amendment PUD-313-9 per the attached site plan.

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

9. **PUD-313-10 – Kenney Russell**, Location: South of the southwest corner of West 61st Street South and South 28th Avenue West, Requesting a **Minor Amendment** to increase the permitted coverage for a driveway in the required front yard of an RS-3/PUD zoned lot per the attached plan, **(RT/RS-3) (CD-2)**

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to increase the permitted coverage for a driveway in the required front yard of an RS-3/PUD zoned lot per the attached plan. Necessitating the need for the minor amendment is the odd shape of the lot and very limited street frontage the parcel has on this cul-de-sac.

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Please refer to the attached aerial photograph, site plan, and case photographs (please note that other driveways on the cul-de-sac appear to exceed the permitted driveway coverage). Located at the end of a cul-de-sac the subject property is triangular in shape, with a limited 24 feet of frontage along the street. The proposed driveway is a standard 18-foot by 22-foot or 396 square foot (SF) driveway. Given the odd shape of the lot and limited street frontage, almost any size driveway would exceed the maximum coverage permitted, which would normally fit on a typical rectangular shaped RS-3 zoned lot.

The PUD requires this parcel to have 1,368 square feet (SF) of livability space (open space) on the lot. With the extra coverage by the driveway the lot will meet the requirement having approximately 2,040 SF of livability space.

Given the odd shape of the lot and limited street frontage, combined with the livability space requirement being met staff can support the request. Staff contends the increase in driveway coverage will not substantially alter the character of the development, the approved PUD concept plan and is in conformance with the intent of the PUD chapter of the Code.

Therefore recommends **APPROVAL** of minor amendment PUD-313-10 per the attached site plan.

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

Mr. Sansone stated that Items 8 and 9 are requesting the same type of relief (minor amendment) in order to permit driveway coverage, which exceeds the Zoning Code requirement in the required front yard. Both lots are located on a cul-de-sac with 24 feet of frontage. The sidewalks are standard size sidewalks. In the past the Planning Commission has allowed a three-car wide driveway. The driveways are standard driveways, which are 18 feet wide by 22 feet in depth. Almost any driveways poured onto these lots are going to go over the minimum requirement because of the triangular nature of the lot. The applicant was flagged for exceeding the coverage when he applied for his permits.

**TMAPC COMMENTS:**

In response to Ms. Cantrell, Mr. Sansone stated that the request for continuances has come from the interested parties.

**Applicant's Comments:**

**Kenney Russell**, 10305 South 76th East Avenue, 74133, stated that the houses have been designed to fit in the neighborhood and are actually placed on each lot to complement the space between the other two homes. All of the setbacks for the zero lots have been addressed. Mr. Russell questioned why the interested parties are requesting a continuance. He explained that no two-car driveway would be allowed on any of these lots in the subject PUD. The house has been set back accordingly and he meets the livability space and the first floor is less than 1,000 SF, which fits in with all of the other houses.

**INTERESTED PARTIES COMMENTS:**

**Tena Alexander**, 2819 West 63rd Street, 74114, stated that she lives north of the vacant property and requested a continuance in order to meet with the developer and the neighborhood. She explained that all of the driveways are about 23 feet in length and that is how it is written up in the original PUD and not at 18 feet. She believes that there are other issues that she would like to discuss and research. Ms. Alexander stated that she has a pine tree and an electrical box in her yard and she is worried that there is some type of easement or something that has to do with anything that is underground. Ms. Alexander further stated that there wasn't a sign posted for the subject site regarding this meeting about the driveway.

**TMAPC COMMENTS:**

Mr. Leighty asked Ms. Alexander what her concerns are regarding this application. Ms. Alexander stated that she is concerned about stormwater drainage. She has water that sits on the sides of her home and she would like to make sure that her home wouldn't be flooded if a new home is built next to her.

Mr. Leighty asked Ms. Alexander if she expected that a house would never be built on the subject lot. In response, Ms. Alexander stated that she was told that since there is no way a driveway could be actually erected or built there that the lot would stay vacant. She explained that her real estate agent told her it wouldn't be developed. Mr. Dix stated that the realtor didn't know what she was talking about.

Mr. Leighty asked Ms. Alexander where she had drainage issues. Ms. Alexander stated that she has four sewer drains, one in the front yard and three in the back yard. Water pools in her yard and the back yard is soggy all year around. Mr. Leighty stated that it appears Ms. Alexander's home is higher than the driveway and that it stormwater would drain away from her home. Ms. Alexander stated that there is a hill in the back yard and it all comes down hill and stays there. Mr. Leighty asked if it drains toward the street and Ms. Alexander answered affirmatively. Mr. Leighty asked Ms. Alexander what type of investigating did she plan to achieve that would require a continuance. She stated that she would like to go to the City Engineering Department and get a diagram of where all of the drains are located and make sure that there is a good runoff.

Ms. Cantrell asked Ms. Alexander if anyone met with her regarding this development. In response, Ms. Alexander answered negatively. Ms. Alexander commented that she received a notice through the mail and then she started walking around the neighborhood to find out who else had been notified.

**INTERESTED PARTIES COMMENTS:**

**Kaye Price**, 5815 South 31st West Avenue, 74107, representing homeowners, stated that she met with some of the homeowners the other night and their concern is that there was no signage for the meeting and there are people in the neighborhood who doesn't know about this. Ms. Price stated that if one looks at the entirety of it, there are three cul-de-sacs and all three of them are in a perfect linear line and perfectly spaced so that it looks like that these lots have been utilized as part of the stormwater management system. If that is the case, then it would not be appropriate for a house to be built on the subject property. The homeowners have been told that their driveways are illegal and will be condemned and that they will have to remove them. The homeowners have been told a lot of different things and they need about a month to get

together and meet with the developer and go to the Engineering Services and find out if this is part of the Master Plan for the stormwater management. There is some kind of easement because there is an electrical box and a tree planted there.

**Aaron Wojtalewicz**, 2822 West 63rd Street, 74114, explained that he lives on the south side of the lot and his house was flooded in 2003. He would like to make sure that the proposed lots were not intended to be stormwater management. He expressed concerns that the proposed driveways may impact his property values.

**Matthew Else**, 8023 South Wheeling Avenue, 74136, representing his brother, stated that his brother is currently purchasing a house to the south of one of the subject lots. The address of the house his brother is purchasing is 2818 West 62nd Street. He indicated that his brother has not been informed about the subject lot being purchased for development. They were told that the lot was vacant for many years and there seems to be a lot of issues that his brother is unaware of and this is a big investment. He would like to meet with the current owner, the neighbors and developer.

**Applicant's Rebuttal:**

**Mr. Russell** stated that he appreciates the interested parties coming to today's meeting. He was informed that when he applied for a minor amendment that the mailings would satisfy the requirement. There will be no adverse water flow caused by the proposed constructions. Because everything will be swelled to the street and both lots slope from the west to the east, as do most of the houses in the cul-de-sac. In order to do a double-car driveway he will have to abide by the PUD requirements, which he is doing.

**TMAPC COMMENTS:**

Mr. Dix asked Mr. Russell if there are any contractual obligations that a continuance would obstruct. In response, Mr. Russell stated that he is getting ready to start an out-of-town project, but he can come back.

Ms. Cantrell stated that she would think as a neighborly thing to do is at least meet with the people immediately adjacent to the subject properties to let them know what is going on. Would a continuance to February 1st give him enough time to meet with the neighborhood? In response, Mr. Russell stated that would be fine.

Mr. Sansone stated that he did some preliminary research and neither one of the subject properties, nor most of the subdivision, are in a floodplain. There are two reserve areas per the plat dedicated to stormwater

detention. The subject lots are not the reserve area and both were intended for home construction.

Mr. Leighty asked Mr. Sansone if a minor amendment requires a yellow sign. In response, Mr. Sansone stated that a minor amendment doesn't require a yellow sign.

Ms. Cantrell stated that she would support a continuance to allow the developer to meet with the neighbors. That is common courtesy to meet with the neighbors and let them know what is going on.

**TMAPC Action; 10 members present:**

On **MOTION** of **CANTRELL**, TMAPC voted **10-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Midget "absent") to **CONTINUE** PUD-313-9 and PUD-313-10 to February 1, 2012.

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## **ZONING CODE AND FORM-BASED CODE PUBLIC HEARING**

### **13. Proposed Amendments to the Tulsa Revised Ordinances, Title 42 and Title 42-B, the Zoning Code and Form-Based Code of the City of Tulsa**

**STAFF RECOMMENDATION:**

Mr. Alberty presented the proposed language changes. The City Council requested that the Planning Commission consider certain items, one being what would happen if a building were to be destroyed or damaged beyond 51%. The City Council also thought the Planning Commission may want to consider if there are other areas in the Form-Based Code, Title 42 B that needs to be reviewed. Staff has met several times with Mr. Edmiston and developed some preliminary language for the Planning Commission to consider. The proposed language addresses what the City Council has requested and there may be other areas that may result in being unintentional consequences of things that have to be addressed. This is a pilot effort and there will be issues that are probably going to pop up. At this time the proposed language addresses three items.

Mr. Alberty informed the Planning Commission that a letter was included with the agenda from Mr. Tomsen, who owns the Loomis facility, who expressed some opposition to the Form-Based Code. Staff erroneously included the letter; however, it is related and that is probably how the mistake was made. It would be more appropriately included when the Planning Commission discusses expanding the Form-Based Code to the remainder of the Pearl District. At this time and point, please disregard

the letter as having any applicability to what is being discussed today. Today the issue is Title 42 B, Form-Based Code amendments. Mr. Alberty stated that there may be some other issues and this is a public hearing and there may be interested parties wishing to speak on this.

**Section 102. Other applicable regulations**

- A. All development must comply with relevant federal, state and City regulations. Whenever any provision of this Code imposes a greater requirement or a higher standard than is required in any state or federal statute or other City ordinance or regulation, the provisions of this Code shall govern unless preempted by state or federal law.
- B. Wherever there appears to be a conflict between the Form-Based Code and other sections of the City of Tulsa Zoning Code, Title 42, Tulsa Revised Ordinances and subdivision regulations for the Tulsa Metropolitan Area, the requirements specifically set forth in this Code shall prevail.
- ~~C. Land, building and structure uses are addressed in this Code by prescribing street frontage types, which generally facilitate mixed use development. Except where this Code clearly provides to the contrary, land use districts prescribed in Title 42, Tulsa Revised Ordinances, the Zoning Code shall be used in the administration of this Code, consistent with the following table~~

**Table: Land Use Zoning District to Street Frontage Type**

<i>TRADITIONAL LAND USE DESCRIPTIONS DETAILED IN THE CITY'S ZONING CODE REFER TO ZONING DISTRICTS. FOR PURPOSES OF APPLYING AND INTERPRETING THIS CODE, LAND USE DESCRIPTIONS USED IN THE ZONING CODE SHALL CORRESPOND TO THE FOLLOWING STREET FRONTAGE TYPES.</i>	
<b>Zoning District</b>	<b>Frontage Type</b>
RS, RD, RT, and RM	Townhouse/Small Apartment / Detached
OL, OM, OMH, OH, CS, CG, CH and CBD	Urban General/Storefront
IL and IM	Workshop



**C. D.** This Code shall not interfere with or annul any easements, covenants, or other agreements between parties; provided that where this Code imposes a greater restriction upon the use and dimensions of buildings, structures or land, or requires larger open spaces than imposed by other ordinances, regulations, permits, private easements, covenants or agreements, the provisions of this Code shall govern.

**D. E.** Where this Title (42-B) is silent or fails to address the procedure in question, applicable provisions of Title 42 shall control.

OPTION "A"									
Applicability Matrix	BFS: General Provisions	Individual BFS: Height	Individual BFS: Siting	Individual BFS: Elements	Uses	Urban Space Standards	Parking Standards	BFS: Signage	BFS: Lighting and Mechanical
<b>Urban General/Storefront, Workshop, or Townhouse/Small Apartment Frontages</b>									
New Construction	X	X	X	X	X	X	X	X	X
<i>Replacement of Damaged or Destroyed Building</i>					X				
Change of Use, Expansion of Use					X				
Expansion of Building Footprint									
0%-25% expansion of building footprint					X				
26%-50% expansion of building footprint*		X			X	X		X	
51% expansion of building footprint	X	X	X	X	X	X	X	X	X
Expansion of Surface Parking Area Only (not in conjunction with a use/building)									
Up to 10 spaces			X			X			
11 or more additional spaces	X		X	X		X	X	X	X
Façade Changes (increase/decrease in fenestration, awnings)				CA				X	
<b>Detached Frontage</b>									
New Construction	X	X	X	X	X	X	X	X	X
<i>Replacement of Damaged or Destroyed Building</i>					X				
Change of Use					X				
Expansion of Use (addition, deck, sun room, porch)*		X	X	X	X			X	
Expansion of Use (accessory structure, shed, detached garage, recreation facility)*		X	X	X	X			X	
Expansion of Building Area									
0%-25% expansion of building footprint					X				
26%-50% expansion of building footprint*		X			X	X		X	
51% expansion of building footprint	X	X	X	X	X	X	X	X	X
<b>Notes:</b>									
CA Code Administrator's discretion									
* Expansion to an existing footprint or use shall, in themselves, comply with the Code (but do not require the retrofitting of existing elements to comply with the Code.)									

Building expansions permitted within two (2) calendar years of each other on a single lot shall be viewed by this Code in the aggregate.

## OPTION "B"

Applicability Matrix	BFS: General Provisions	Individual BFS: Height	Individual BFS: Siting	Individual BFS: Elements	Uses	Urban Space Standards	Parking Standards	BFS: Signage	BFS: Lighting and Mechanical
<b>Urban General/Storefront, Workshop, or Townhouse/Small Apartment Frontages</b>									
New Construction	X	X	X	X	X	X	X	X	X
<i>Replacement of Building Destroyed or Damaged in excess of 51%**</i>					X				
Change of Use, Expansion of Use					X				
Expansion of Building Footprint									
0%-25% expansion of building footprint					X				
26%-50% expansion of building footprint*		X			X	X		X	
51% expansion of building footprint	X	X	X	X	X	X	X	X	X
Expansion of Surface Parking Area Only (not in conjunction with a use/building)									
Up to 10 spaces			X			X			
11 or more additional spaces	X		X	X		X	X	X	X
Façade Changes (increase/decrease in fenestration, awnings)				CA				X	
<b>Detached Frontage</b>									
New Construction	X	X	X	X	X	X	X	X	X
<i>Replacement of Building Destroyed or Damaged in excess of 51%**</i>					X				
Change of Use					X				
Expansion of Use (addition, deck, sun room, porch)*		X	X	X	X			X	
Expansion of Use (accessory structure, shed, detached garage, recreation facility)*		X	X	X	X			X	
Expansion of Building Area									
0%-25% expansion of building footprint					X				
26%-50% expansion of building footprint*		X			X	X		X	
51% expansion of building footprint	X	X	X	X	X	X	X	X	X
<b>Notes:</b>									
CA Code Administrator's discretion									
* Expansion to an existing footprint or use shall, in themselves, comply with the Code (but do not require the retrofitting of existing elements to comply with the Code.)									
** Requires Approval by Board of Adjustment									
Building expansions permitted within two (2) calendar years of each other on a single lot shall be viewed by this Code in the aggregate.									

### **TMAPC COMMENTS:**

Mr. Leighty stated that his understanding was that today the Planning Commission was going to just talk about the three issues that the City Council had in their original letter, October 25th. Mr. Leighty stated that Mr. Alberty has

mentioned several times throughout his presentation today that it might include other things besides the three issues addressed today. Mr. Leighty asked Mr. Alberty where in the Consensus or letter does he see this. Mr. Alberty read the Consensus, Section 1 C) “whether the City of Tulsa Zoning Code should be further amended to address additional zoning and administrative issues arising out of the implementation of Title 42A, (which should read 42B), of the Tulsa Revised Ordinances.” Mr. Alberty stated that the City Council left it open and they are not recommendations, but requests to consider it. Staff is suggesting that, based upon their understanding and research, recommending that these three areas be amended. Mr. Alberty further stated that perhaps the Planning Commission has thought of other areas or interested parties present today have thought of other areas and this is a public hearing and they should all be considered. Mr. Dix asked Mr. Alberty if whatever is considered today should only apply to the pilot program currently and has nothing to do with additional properties to be included in Form-Based Codes. In response, Mr. Alberty stated that what is being considered today is just the text and the text has been adopted as a City of Tulsa Ordinance. We are not discussing the Regulating Plan; that would be the next step to expand the Form-Based Code. Mr. Leighty stated that he is confused about considering other issues because the Form-Based Code has already been approved by the City Council, so the consideration of any other measures would be inappropriate at this time, other than tying Title 42 and Title 42A and to providing for catastrophic destruction and the rebuilding. Mr. Alberty stated that is all staff is suggesting today. Mr. Leighty stated that when Mr. Alberty stated that there might be speakers that might want to talk about these things, that would be an addition to the three items or actually two things. Mr. Alberty agreed.

Ms. Cantrell stated that she has some concerns about how this is draft right now due to clarity. She indicated that she has no problem with the proposal “E” language, but she still believes that Section 102.B. gives the Planning Commission the authority anytime this is silent to revert to Title 42. If option “A” or “B” wasn’t added, wouldn’t it automatically revert back to Title 42 and deal with nonconformities. In response, Mr. Alberty stated that there is some dispute on interpretation, Section 102.B. states if there is a conflict and what “E” does is provide for when Form-Based Code is silent. Ms. Cantrell stated that if “E” were to be included, then option “A” or “B” could be left out. Ms. Cantrell stated that she believes that both option “A” and option “B” are fairly vague with respect to Title 42 because there is a very specific procedure for moving forward with any types of replacement. With option “A”, since there is no definition of “damage” or “destroyed”, how will it differ from new construction? Mr. Alberty stated that Ms. Cantrell raises a good question and this is simply a starting point. The intent was the fact that these would refer to anything up to 50%, either addition or replacement of an existing building, Title 42B addresses. The question is what happens if something is wiped out and in the informational meetings there were a number of people who were very concerned about that because they lived in single-family detached dwellings that were shown in a small apartment or

townhouse. According to Title 42B they would have to build back according to the frontage, which is a townhouse or a small apartment and they are on a 50-foot lot. There are areas that were identified as detached frontage. Had that been expanded into some of these other areas, then it wouldn't be an issue, but it is an issue when a building type changes from what is existing, and if it is destroyed it has to go back to the frontage. Mr. Alberty commented that if that was what was intended, so be it, but he believes that is why the meeting is being held today. The American Legion raised the question and rightfully so.

Ms. Cantrell asked Mr. Alberty how frequently have there been cases before the BOA regarding Chapter 14 and how lenient is the BOA. Mr. Alberty stated that at this particular time there is a BOA that functions very well, very reasonably and very legally. Mr. Alberty stated that he hasn't seen any such application in his tenure. It is there to protect those and during this transition it was something that was silent and needs to be addressed.

In response to Ms. Cantrell, Mr. Alberty stated that all of Section 102.C. could be deleted. Mr. Edmiston stated that he agrees with Mr. Alberty completely, because paragraph E will cover it. Mr. Edmiston further stated that Title 42B would rule where there is a conflict with Form-Based Code in a Form-Based Code area. It would be appropriate to define what the Planning Commission considers to be damage.

Mr. Carnes stated that he doesn't believe that the Planning Commission should send anything to the Board of Adjustment (BOA). The Planning Commission should take the responsibility and not send it to the BOA. Mr. Leighty asked Mr. Carnes why the Planning Commission should make a special exception for the Form-Based Code; this is the way it is done in every other part of the City. Mr. Carnes stated that it wouldn't be making an exception. There are two options being proposed and one option would allow the Planning Commission to handle the issue and the other would to send it to the BOA. Mr. Leighty stated that this is for the pilot area and not for the City of Tulsa and that would be treating the Form-Based Code pilot area differently from all the rest of the City of Tulsa. Mr. Carnes stated that it sounds like Form-Based Code is different from the rest of the City of Tulsa. Mr. Leighty stated that we have a lot of different Zoning Codes.

Mr. Walker suggested that the floor be opened to the interested parties.

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

**Max Tankersley**, 1312 East 26th Street, 74114, stated that he is a member of Post 1, American Legion. He further stated that he believes that there is some misunderstanding about the American Legion versus the VFW. The VFW is right on 6th Street and the American Legion is the small white building north of the graveyard. The Post was established in 1919 and one of the oldest Post besides the one in Paris, France. The Post wouldn't have the funds to deal with these Code issues. Mr. Tankersley stated that he is also a member of the Joe Carson

Foundation, which is the only entity of Post 1's property. There are no funds to fight these battles and Mr. Dodd has volunteered his time to come to the meeting and take care of this. Mr. Tankersley requested that the Planning Commission not put the Post in a corner with the unusual minutias in the Code system. The Post would like to be left alone.

**Doug Dodd**, 3215 East 57th Street, 74105, representing the Carson, Wilson, Rigney, Forrester, Shoemaker Post 1 of the American Legion, stated that the Post's address is 1120 East 8th Street, 74120. Mr. Dodd stated that he agrees that some clarification is needed to describe what is meant "replacement or destroyed building". It would be helpful if everyone knew it was an unintentional damage or destruction that exceeded a certain percentage. Mr. Dodd asked if the applicability matrix was adopted by the Code as part of the Code and where would one be sent to the applicability matrix because he didn't see it in Section 102. If there is no other reference in the Code that references these issues, then whatever is determined to be best for the City and best for the Code followers that they know how to get there. Mr. Warlick stated that the applicability matrix is in Section 204. Stated that the American Legion Post's preference would be Option A because the Post is not insured to build back to Form-Based Code, but to build back the way it is. Mr. Dodd asked who would determine the percentage: 51% of what? Would it be 51% of the current footprint structure and is this a City determination or insurance appraiser. Mr. Dodd expressed concerns with BOA's actions regarding granting a special exception to allow a rebuild at the current status rather than the requirements of the Form-Based Code.

**TMAPC COMMENTS:**

Ms. Cantrell stated that she doesn't believe any of the Planning Commissioners or the City of Tulsa would want the American Legion to not be able to build back. Ms. Cantrell expressed concerns with Option A becoming a loop-hole and subject to abuse. Whoever is looking over it she feels confident that the American Legion Post would get a green light. The Post has a lot of sympathy in the City of Tulsa and she understands his concerns, but other people may take advantage of not having some oversight. Mr. Dodd stated that he understands Ms. Cantrell's concerns and he appreciates the sympathy, although he would prefer respect. What the Post has is a unique organization and unique function in the City of Tulsa. It is the oldest American Legion Post continuously operating except for the one in Paris France, which was the first one. The American Legion Post 1 has served veterans and their families for over 90 years and do not intend to change. If that special nature entitles the Post to some special look by City bodies, then he appreciates that and that is wonderful. However, the problem is, it is a Code that applies to everyone and the broader pictures has to be looked at.

**Kaye Price**, 5815 South 31st West Avenue, 74107, stated that she doesn't like the Form-Based Code and hasn't liked it from the very beginning. She believes it can be appropriate for a place like the Pearl District and didn't oppose the pilot

program for the Pearl. Ms. Price expressed concerns of what will happen when this is expanded beyond the pilot area. Ms. Price stated that the issue regarding insurance will affect every property under Form-Based Code if they ever had to rebuild. Ms. Price further stated that she believes the Planning Commission and City Council could find a way to designate this special place somehow. There are no guarantees in the future that Board members will remember this discussion. Ms. Price stated that she has a problem with Form-Based Code because it tells people what they can do and how they can live on their own property. There has to be some constraints and that is why there needs to be zoning and zoning codes, but she is really concerned about all the potential issues with this code. She would like to see the American Legion building protected in some way and perhaps the State could give them some special historical recognition that sets them apart and protects them. She doesn't want to see them put at risk. Ms. Price stated that she doesn't have a problem with the pilot program because the people within the pilot program have stated that they are for it and if that is what they want, but she is concerned about the greater picture. It is huge that if one's home burned down that they can't build it back like it was originally built.

#### **TMAPC COMMENTS:**

Mr. Shivel stated that he lost a home during the ice storm in 2007 in Midtown and had he had to comply with a code change the sum total of insurance would have been \$20,000.00, which is 5% of what one insures the structure for. The insurance companies are not going to change it around just for Tulsa or the Pearl District. Anybody and everybody who chooses to live in an area where the Code has changed needs to be aware of how the insurance companies deal with this.

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

**Chip Atkins**, 1638 East 17th Place, 74120, stated that he has been against the Form-Based Code for economic reasons for businesses and homeowners. The Form-Based Code has been ill-conceived and there have not been exact rules and regulations of what a person will have to go through when they purchase property in the subject area. Mr. Atkins described the procedure for Historic Preservation as an example of what one can expect when purchasing property in an HP district. The property owners didn't have a choice or vote on what they wanted to have done to their property so far in the subject area. Mr. Atkins commented on how difficult the Form-Based Code is to understand. The American Legion needs to be protected somehow in case political views change or Board of Adjustment (BOA) changes. What would happen to this Post when it is deemed more economical to tear it down because the property values are higher and who will tell the BOA about this meeting 15 or 20 years later.

**Dee Ann Paisley**, 1530 South Trenton, 74120, expressed concerns about the Form-Based Code and didn't feel she had the right to tell the Pearl District what they wanted to do. She commented that it is interesting that there are already problems with the Form-Based Code. Ms. Paisley is concerned about the

expansion of the Form-Based Code when it isn't clear what the Code states and there being no definite answers for the issues that have been raised. Ms. Paisley stated that she is south of the subject area in a HP district and the Pearl district and she is concerned about what will happen to any historic buildings in the City of Tulsa. Ms. Paisley commented that if the Planning Commission really wanted the public to be involved why are they having meetings at 1:30 p.m. on a Wednesday afternoon.

**Jamie Jamieson**, 754 South Norfolk Avenue, 74120, Chair of the Urban Design Committee for the Pearl District, stated that he is a developer in the Pearl District. Mr. Jamieson cited the history of the Form-Based Code and how long it has been in the planning and stated that this isn't a surprise and nothing has been barreled through. He indicated that a large number of Pearl District members worked on the Form-Based Code. He believes that this is a deliberate strategy to wear out volunteers who want to collaborate with the City, INCOG, businesses, developers, each other, etc., only to be shot down at the last minute. It is pretty galling to hear some of the critical comments that are made or implied that this has been ill thought out and done in a rush. He has heard that this was done behind closed doors and they are gross exaggerations and extortions of the process that has actually taken place. Mr. Jamieson stated that he agrees with Mr. Atkins that there has been some disorganization and he is not impressed by the way these comparatively minor amendment items that the Council picked up have been dealt with and should have been out of the way a couple of months ago in his view. These issues have been allowed to conflate and to fester and that hasn't helped anybody. Mr. Jamieson stated that the Form-Based Code is less intrusive than the current Zoning Code into what property owners do within the walls of their building. This Code focuses on the interface between buildings and the public realm. Taxpayers have a right to have an interest in buildings and the relationship of value of the public realm. The implications are that the Form-Based Code is difficult to read, it is a lot shorter than the current Zoning Code and a great deal more readable. Mr. Alberty commented a few minutes ago that this is actually a very clear code and a very well written code. It is graphically illustrated so that one can see what the code is trying to say. Mr. Jamieson disagrees with Mr. Atkins about the economic development. The Pearl District members are not a bunch of "NIMBYS", but are predominately business owners, property owners and residents. We worked with INCOG who managed the whole process since the beginning and wouldn't work on devaluing our own properties or the neighborhood. This will code will foster locally owned retail businesses and commercial businesses. It will make possible for a compact walkable, healthy, livable neighborhood that can compete in the 21st Century.

**TMAPC COMMENTS:**

Ms. Cantrell asked Mr. Jamieson what his thoughts were regarding Option A and Option B. Ms. Cantrell asked Mr. Jamieson if he agreed that buildings that are destroyed by storm or fire shouldn't have to be built back if they can't afford it. Mr. Jamieson stated that he doesn't feel very strongly about it. His instinct is to

favor equitable treatment of all property owners in the City of Tulsa rather than to favor people in the Pearl District. The intent was always to default to the underlying Zoning Code in various areas like spacing between certain kinds of use and so on. Mr. Jamieson indicated that he would defer to the Planning Commission's wisdom on this issue.

Mr. Stirling out at 3:00 p.m.

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

**Joe Westervelt**, 1630 South Boston Avenue, 74119, stated that he is in agreement with a lot of the same issues that Mr. Atkins and Ms. Price discussed. He expressed concerns about insurance provisions. Mr. Westervelt stated that he isn't currently in the Form-Based Code district, but if it is expanded it will affect his property. There is a problem with the insurance provision and will affect his property if his property is made a legal nonconforming use. This will also cause problems for mortgage holders, FHA mortgages, commercial mortgages, and the insurance provisions. Mr. Westervelt stated that there is something very simple that can be done for the American Legion Post and that is to remove them from the Form-Based Code. They haven't changed since they have been there and they won't ever change and it doesn't take anything complicated to do it. Mr. Westervelt stated that regarding the 51% issue, going to the Board of Adjustment is not a good solution for all of the reasons already mentioned. Mr. Westervelt cited a case where the BOA made so many conditions due to the Pearl District Design Team's request that the property owner is unable to develop the land due to the cost. He suggested that the BOA is not a good solution before the Form-Based Code or Regulating Plan. It is still enough to cause the BOA to condition property owners and then they can't use their property. He suggested that the Planning Commission find a better solution for those properties in the first pilot project that have issues and simply take them out.

#### **TMAPC COMMENTS:**

Mr. Walker asked staff for guidance on where to go from here. He indicated that he has about eight unanswered questions. Mr. Alberty advised the Planning Commission that there are several options and staff would need direction on how the Planning Commission would like to proceed. Mr. Alberty cited the various options to the Planning Commission.

Mr. Leighty stated that there are two things proposed today that he doesn't believe anyone has a problem with, which is deleting the Land Use Table and adding paragraph E, and it would seem that the Planning Commission could vote on these two items today. Options A and B need a considerable amount of clarification. He had hoped that staff would have provided some text amendments to address these issues. Ms. Cantrell presented to staff, back on November 16, 2011, a number of concerns that were brought up here today regarding damage and the 51% issue. He believes that the Planning Commission should request staff to take Ms. Cantrell's November 16 memo and



any other discussion up to this time or anything else that was raised today in terms of dealing with catastrophic loss and bring it back to the next public hearing with recommendations and text to deal with these issues.

Ms. Cantrell stated that she wouldn't have a problem with that, but she had hoped referring back to Title 42 would be the solution to this. She doesn't believe that Options A or B would be necessary if it were diverted back to Title 42. Title 42 has a process and procedure for the issues. Ms. Cantrell suggested that Paragraph C is confusing and probably should be deleted along with the Table. Mr. Warlick stated he is in agreement with Ms. Cantrell regarding Section 102.C and the Table being deleted.

Mr. Carnes stated that Mr. Westervelt brought something up that would be a simple solution. He asked staff if the Planning Commission could omit the American Legion Post from this section at this time. Mr. Alberty stated that it couldn't be done at this time. The American Legion has been rezoned to Form-Based Code and it would require advertising to another district.

In response to Mr. Walker, Mr. Alberty stated that it is necessary to keep the public hearing notice alive and advised that the hearing be continued with some instructions.

Mr. Edwards asked if there should be some clarification by having a definition of what a damaged building is and what a destroyed building is and discuss the 51% issue in both definitions and add it to the Zoning Code. Mr. Alberty stated that Section 1505 in the Zoning Code clarifies the 51% issue, but it doesn't explain who determines the 51%. Mr. Alberty stated that the notice is broad enough that Title 42 can be amended as it applies to what is being discussed today.

Ms. Cantrell asked if this is continued can the Planning Commission close the public comment portion and review the proposed changes and comments taken today. In response, Mr. Alberty stated that it can be done.

Mr. Leighty moved to delete Section 102 C. Table: Land Use Zoning District to Street Frontage Type and delete Section 102.C paragraph from the Form-Based Code. Ms. Cantrell seconded.

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; no "nays"; none "abstaining"; Midget, Stirling "absent") to recommend **APPROVAL** of the deletion of Section 102.C. and Section 102.C. Table: Land Use Zoning District to Street Frontage Type of the Form-Based Code. (Language underlined has been added and language with a strike-through has been deleted.)

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; no "nays"; none "abstaining"; Midget, Stirling "absent") to recommend **APPROVAL** of the following proposed language "E. Where this Title (42-B) is silent applicable provisions of Title 42 shall control" as an addition to Section 102, which will become "D" with the deletion of Paragraph "C". (Language underlined has been added and language with a strike-through has been deleted.)

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Cantrell, Carnes, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; no "nays"; none "abstaining"; Midget, Stirling "absent") to **CONTINUE** review session of the Zoning Code and Form-Based Code Public Hearing for the Tulsa Revised Ordinances, Title 42 and Title 42-B, City of Tulsa to February 1, 2012 with instructions for staff to clarify 51%, further define damage and destroy and who determines the 51% issue.

Planning Commission requested that staff frame up the options being proposed and to collect information regarding insurance issue.

\* \* \* \* \*

Mr. Carnes out at 3:20 p.m.

**PUBLIC HEARING**

14. **LC-377** - (Lot-Combination) (County), Location: West of the southwest corner of South 129th East Avenue and East 191st Street South (Related to Item 15, LS-20842)

15. **LS-20482** - (Lot-Split) (County), Location: West of the southwest corner of South 129th East Avenue and East 191st Street South (Related to Item 14, LC-377)

**STAFF RECOMMENDATION:**

The Lot-split proposal is to split an existing AG (Agricultural) tract into three tracts. All the Tracts will exceed the Bulk and Area Requirements of the Tulsa County Zoning Code.

Two of the resulting tracts would have more than three side lot lines as required by the Subdivision Regulations. The applicant is requesting a waiver of the *Subdivision Regulations* that no tract have more than three side lot lines.

The County Engineer is requiring an additional 20' easement along the North boundary of the original tract of land. The County Engineer has no problems with the Lot-Split and is in favor of the application.

Staff believes this lot-split would not have an adverse effect on the surrounding properties and recommends **APPROVAL** of the waiver of *Subdivision Regulations* and of the lot-split.

**INTERESTED PARTIES COMMENTS:**

**David Johnson**, 8544 East 33rd Place, 74145, stated that his parents live at 12314 East 57th Street, 74135. He asked if there would be something built on the subject property.

**Applicant's Comments:**

**Todd Hourez**, 2916 North 21st Street, Broken Arrow, 74012, stated that his client wants to split the property between the father and daughter so that his daughter can move in next to her sister and help her take care of her family. There will be a home on the subject property.

Mr. Walker recognized Mr. Johnson. Mr. Johnson stated that the current structure on the subject property looks like a modular home versus a trailer home. Mr. Johnson expressed concerns about property value and wanted to know if there would be several mobile homes or a trailer park being built.

Mr. Bates stated that the zoning is AG and there is only one dwelling allowed per 2.1 acres. He understands that the plan is to give each daughter equal amounts of property.

**TMAPC COMMENTS:**

Ms. Cantrell asked Mr. Bates if there would be one house on each lot. In response, Mr. Bates answered affirmatively.

**TMAPC Action; 8 members present:**

On **MOTION** of **CANTRELL**, TMAPC voted **8-0-0** (Cantrell, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Stirling "absent") to **APPROVE** the Lot-Combination for LC-377 and **APPROVE** the waiver of *Subdivision Regulations* and of the lot-split for LS-20482 per staff recommendation.

\* \* \* \* \*

16. **PUD-397-B-1 – Andrew A. Shank/61 MM, LTD**, Location: Southwest corner of East 61st Street and South 91st East Avenue, Requesting a **Minor Amendment**, (CD-7) (Continued from 12/21/2011) (Staff requests a continuance to February 1, 2012 in order for this item to be heard before the BOA 1/24/2012)

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

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Stirling "absent") to **CONTINUE** the minor amendment for PUD-397-B-1 to February 1, 2012.

\* \* \* \* \*

17. **CBOA-2408** – Plat Waiver, Location: 7250 West 50th Street South, north of West 51st Street, east of West 73rd West Avenue (County) (Request for a continuance to February 1, 2012)

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

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Stirling "absent") to **CONTINUE** the plat waiver for CBOA-2408 to February 1, 2012.

\* \* \* \* \*

18. **Z-7159** – Plat Waiver, Location: Saint Francis Hospital, Southeast corner of East 61st Street and South Yale Avenue (CD 9)

**STAFF RECOMMENDATION:**

The platting requirement is being triggered by a rezoning for hospital expanded uses.

**Staff provides the following information from TAC for their January 4, 2012 meeting:**

**ZONING:**

TMAPC Staff: The hospital use has long been established on site. Easements are existing.

**STREETS:**

No comment.

**SEWER:**

No comment.

**WATER:**

No comment.

**STORMWATER:**

No comment.

**FIRE:**

No comment.

**UTILITIES:**

No comment.

Staff does not object to the plat waiver. The use is long established. Further future expansion may warrant platting.

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

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

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

	<b>YES</b>	<b>NO</b>
4. Is right-of-way dedication required to comply with Major Street and Highway Plan?		X
5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived?		X
6. Infrastructure requirements:		
a) Water		
i. Is a main line water extension required?		X
ii. Is an internal system or fire line required?		X
iii. Are additional easements required?		X
b) Sanitary Sewer		
i. Is a main line extension required?		X
ii. Is an internal system required?		X
iii. Are additional easements required?		X

- |   |   |
|---|---|
| c) Storm Sewer  |   |
| i. Is a P.F.P.I. required?  | X |
| ii. Is an Overland Drainage Easement required?  | X |
| iii. Is on site detention required?   | X |
| iv. Are additional easements required?  | X |
| 7. Floodplain   |   |
| a) Does the property contain a City of Tulsa (Regulatory) Floodplain?   | X |
| b) Does the property contain a F.E.M.A. (Federal) Floodplain?   | X |
| 8. Change of Access   |   |
| a) Are revisions to existing access locations necessary?  | X |
| 9. Is the property in a P.U.D.?   | X |
| a) If yes, was plat recorded for the original P.U.D.  | X |
| 10. Is this a Major Amendment to a P.U.D.?  | X |
| a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?  | X |
| 11. Are mutual access easements needed to assure adequate access to the site?   | X |
| 12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? | X |

Note: If, after consideration of the above criteria, a plat waiver is granted on unplatted properties, a current ALTA/ACSM/NSPS Land Title Survey (and as subsequently revised) shall be required. Said survey shall be prepared in a recordable format and filed at the County Clerk's office by the applicant.

**Applicant's Comments:**

**Roy Johnsen**, Williams Center Tower One, One West 3rd Street, Suite 1010, 74103 explained the history of the zoning for Saint Francis and the development. Mr. Johnsen explained that the rezoning to OH was done to permit hospital use by right, which triggered the platting requirement. There is one owner who has been there since 1958 and over time all the basic public issues have been resolved. There is no need for street dedication or extension of utilities and the entire infrastructure is in place. There is no purpose in requiring the hospital to plat. Mr. Johnsen requested the Planning Commission to approve the plat waiver.

**There were no interested parties wishing to speak on this case.**

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Stirling "absent") to **APPROVE** the plat waiver for Z-7159.

19. **Z-7191 – Robert Christie**, Location: South of the southwest corner of East 11th Street South and South Vandalia Avenue, Requesting rezoning from **RS-3 to PK**, (CD-4)

**STAFF RECOMMENDATION:**

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

**RELEVANT ZONING HISTORY:**

**Z-7165 April 14, 2011:** A request for rezoning an 11,400± square foot tract of land from RS-3 to PK was made on property located south of southwest corner of East 11th Street South and South Vandalia Avenue, also known as the subject property. The City Council voted 7-2-0 to deny a request for PK zoning on the subject property, despite the TMAPC recommendation (7-1-0) to approve the rezoning.

**PUD- 510 July 1994:** All concurred in approval of a proposed Planned Unit Development on a 5± acre tract of land for church and residential use, on property located south of southwest corner of East 11th Street and South Yale Avenue and southeast of subject property.

**BOA-14871 July 21, 1988:** The Board of Adjustment denied a Special Exception to allow for off-street parking in an RS-3 district; finding that the granting of the request would be an encroachment of business and detrimental to the neighborhood, on property located at 1116 South Vandalia Avenue and the subject property.

**BOA-5207 September 14, 1966:** The Board of Adjustment approved a request to permit off-street parking in residential zoning, on Lot 17, Block 1, Beverly Heights Addition, also known as south of southeast corner of East 11th Street and South Toledo Avenue and west of subject property.

**BOA-2417 May 13, 1953:** The Board of Adjustment approved a request to permit a dentist office in a residential zoning, on Lot 19, Block 1, Amended Blocks 1 & 2, Rose Marie Addition, also known as 1115 South Urbana Avenue and abutting west of the subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 11,400 square feet in size and is located south of the southwest corner of 11th Street and Vandalia Avenue. The property appears to be vacant and is zoned RS-3.

**SURROUNDING AREA:** The subject tract is abutted on the east by office uses, zoned OL and by a single-family residential use, zoned RS-3; on the north by commercial uses, zoned CH; on the south by single-family

residential uses, zoned RS-3; and on the west by single-family residential uses, also zoned RS-3.

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

**TRANSPORTATION VISION:**

The Comprehensive Plan does not designate South Vandalia Avenue. East 11th Street is designated as a multi-modal corridor, which is intended to accommodate transit, bicycle, pedestrian and auto traffic. The Major Street and Highway Plan designates East 11th Street (from which access is proposed to be provided, through the existing entry to the parking lot that now serves this business) as a secondary arterial, with 100' of right-of-way.

**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>
South Vandalia Avenue	N/A	N/A	2
East 11th Street	Secondary arterial	100'	4

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

As noted in the previous case report for Z-7165, the Comprehensive Plan identifies this property as being within a Main Street, in conjunction with the adjacent property to the north that fronts onto 11th Street. According to provisions of the Plan, Main Streets are intended to serve the highest intensity retail and mixed land uses and are to be designed to promote walking, bicycling and transit uses within an attractive landscaped corridor. Main streets are to be designed to offer the ability to park once and walk to several destinations, with parking to be provided on the street or shared off-street among multiple entities. The PK zoning is therefore in accord with the provisions of the Plan.

The Comprehensive Plan also designates this as a Growth Area in order to direct allocation of resources and channel growth to best improve access to jobs, housing and services. Emphasis in Growth Areas is on provision of housing choices and alternate modes of transportation. The requested rezoning **is in accord** with the Comprehensive Plan.sa

**STAFF RECOMMENDATION:**

Conditions in the subject case have not changed materially since the earlier zoning case. The request is still in accord with the Comprehensive Plan. The applicant plans access to the property, should the rezoning be approved, through the existing parking lot that is entered off East 11th Street. The additional space should alleviate some of the traffic congestion and on-street parking in the adjacent neighborhoods. The applicant must comply with and meet drainage requirements, meaning



that improvements to the property cannot increase or cause drainage problems on adjacent properties; staff would note that the applicant would not be required to solve existing problems on the adjacent properties. Per Section 504 of the Zoning Code, a minimum of 10% of the lot shall remain pervious and be landscaped.

Also under Section 504, unenclosed parking areas that are contiguous to an R district must be screened by the erection of a six foot screening wall or fence on the lot line or lines in common with the R district(s). Parking lot layout and design standards are specified in Chapter 13 of the Zoning Code. The applicant is aware of all these requirements.

All requirements are subject to enforcement through the City of Tulsa.

Staff believes that the requirements are in place to ensure that this rezoning will meet the spirit and intent of the Code and not be injurious to the neighborhood. Indeed, by alleviating some of the existing traffic and parking problems, it should be an improvement. Therefore, staff recommends **APPROVAL** of PK zoning for Z-7191.

**TMAPC COMMENTS:**

Mr. Leighty asked Ms. Smith if basically this is before the Planning Commission again because there are new City Councilors and a new chance to get this approved. Ms. Smith stated that is part of it, but her client's need for parking has increased.

**Applicant's Comments:**

**Sara Smith**, 15 East 5th Street, Suite 3800, 74103, stated that her client did apply for this previously and was denied. The need has increased for the parking. Her client has lost some of his tenants due to the lack of parking. There are now two dance studios in the subject building and there are some vacancies in the building and parking is needed.

**TMAPC COMMENTS:**

Ms. Cantrell asked Ms. Smith if she attempted to meet with the neighbors. In response, Ms. Smith stated that she contacted Councilor Ewing and he suggested that since the residents are basically the same to send them a letter and have them contact him and that was done.

In response to Mr. Leighty, Ms. Smith stated that the sandwich shop ended up going elsewhere.

Ms. Cantrell stated that she will be opposing this application. It makes her very uncomfortable and if the City Council wants to overrule what the other City Council did that is fine.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **7-1-0** (Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; Cantrell "nay"; none "abstaining"; Carnes, Midget, Stirling "absent") to recommend **APPROVAL** of the PK zoning for Z-7191 per staff recommendation.

**Legal Description for Z-7191:**

Lot 4 & North half of Lot 5, Block 1, Rose Marie Addn Amd Lot 4-21, Block 1 & all Block 2, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

20. **Z-7192 – Roy D. Johnsen**, Location: Northwest corner of 49th Street South and South Harvard Avenue, Requesting rezoning from **OM to CS**, (CD-9)

**STAFF RECOMMENDATION:**

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

**RELEVANT ZONING HISTORY:**

**Z-7129 May 2009:** All concurred in approval of a request for rezoning a .52± acre tract of land from OMH to CS for a commercial development on property located east of the northeast corner of South Harvard Avenue and East 51st Street and southeast of subject property.

**BOA-10782 November 29, 1979:** The Board of Adjustment approved a Variance to allow an additional 32 square foot sign on Harvard Avenue (in addition to the existing Rooney sign) on the building, on property located at 4770 S. Harvard Avenue, which is the subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 1.9± acres in size and is located at the northwest corner of East 49th Street and South Harvard. The property appears to be a vacant office/museum site and is zoned OM.

**SURROUNDING AREA:** The subject tract is abutted on the east by multifamily residential uses, zoned RM-2 and a commercial/office

development, zoned CS; on the north by multifamily residential uses, zoned RM-2; on the south by land recently cleared for expressway improvements, zoned RM-4 and CO; and on the west by multifamily residential uses, zoned RM-2.

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

**TRANSPORTATION VISION:**

The Comprehensive Plan designates South Harvard as a multi-modal corridor, encouraging all types of vehicular access, including transit, automobile and bicycle, and accommodating pedestrian travel. The Major Street and Highway Plan designates Harvard Avenue as a secondary arterial and the portion of it north of I-44 has recently been improved as part of the widening of that expressway.

**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 49th Street South	N/A	N/A	2
South Harvard Avenue	Secondary arterial	100'	4

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The Comprehensive Plan designates this as a Mixed Use Corridor and an Area of Growth. Mixed Use Corridors are modern thoroughfares that pair high capacity transportation facilities with housing, commercial and employment uses. Off the main travel route, corridors may include multifamily residential, small lot and townhouse development, stepping down in intensities to integrate with single-family neighborhoods. The pedestrian component should include sidewalks that are separated from the roadway by street trees, medians and in some cases parallel parking strips. Buildings along Mixed Use Corridors include windows and storefronts along the sidewalks, with automobile parking located to the side or the rear of the building. The requested CS zoning **is in accord** with the Comprehensive Plan.

**STAFF RECOMMENDATION:**

The requested rezoning is in order to accommodate reuse of two now-vacant properties. If developed commercially, the property will face into a commercial/office center on the east and apartments on three other sides. The area to the south has been cleared during the improvements to I-44, and is zoned CO and CS.

With this in mind, staff therefore recommends **APPROVAL** of CS zoning for Z-7192.

Ms. Matthews stated that she received one call from the owner of a small apartment complex to the west and he didn't have any problems with the application. He was satisfied with the answers regarding lighting from the Zoning Code and where the trash dumpsters would be located.

**Applicant's Comments:**

**Roy Johnsen**, Williams Center Tower One, One West 3rd Street, Suite 1010, 74103, stated that there is a single-family neighborhood some distance to the east and to the north. The subject property is completely buffered by apartments and has been traditionally considered a buffer between commercial and residential. Across the street from the subject property is apartments and commercial businesses. Mr. Johnsen cited the history of the subject property and surrounding properties. Staff has recommended approval and to his knowledge there are no protestants. Mr. Johnsen concluded that the proposal will clean up the subject property and improve the existing building.

**TMAPC COMMENTS:**

Mr. Walker asked Mr. Johnsen what the intended uses will be. In response, Mr. Johnsen stated that it would probably be retail or office, but it is hard to tell at this point.

Ms. Cantrell stated that she doesn't have a problem with this and she realizes that this is not in a PUD and she can't require it, but it would be nice if there was some way to get from the sidewalks along Harvard to the actual building itself without having to squeeze between cars and crossing grass. Mr. Johnsen stated that he would pass that suggestion onto his client.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Cantrell, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Stirling "absent") to recommend **APPROVAL** of the CS zoning for Z-7192 per staff recommendation.

**Legal Description for Z-7192:**

Lot 1, Block 1, a Resubdivision of Lots 1, 2, 3 & 4, all in Block 1, Villa Grove Subdivision, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

**OTHER BUSINESS:**

**Commissioners' Comments**

None.

\*\*\*\*\*

**TMAPC Action; 8 members present:**

On **MOTION** of **CANTRELL**, TMAPC voted **8-0-0** (Cantrell, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget Stirling "absent") to **ADJOURN** TMAPC meeting No. 2618.

\*\*\*\*\*

There being no further business, the Chair declared the meeting adjourned at 3:40 p.m.

Date Approved:

Feb 15, 2012

Joshua L. Walker  
Chairman

ATTEST:

[Signature]  
Secretary