

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2623

Wednesday, April 4, 2012, 1:30 p.m.

City Council Chamber

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

Members Present	Members Absent	Staff Present	Others Present
Carnes	Cantrell	Alberty	Edmiston, Legal
Dix		Bates	Steele, Sr. Eng.
Edwards		Fernandez	Warrick, COT
Leighty		Huntsinger	Warlick, COT
Liotta		Matthews	
Midget		Sansone	
Perkins			
Shivel			
Stirling			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, April 2, 2012 at 9:15 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 1:35 p.m.

REPORTS:

Director's Report:

Mr. Alberty reported on the BOCC and City Council agendas. Mr. Alberty further reported that Mr. Covey is on the City Council agenda for Thursday night as a replacement for Michelle Cantrell.

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Minutes:

Approval of the minutes of March 7, 2012 Meeting No. 2621

On **MOTION** of **CARNES**, the TMAPC voted 9-0-0 (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Perkins "absent") to **APPROVE** the minutes of the meeting of March 7, 2012, Meeting No. 2621.

Minutes:

Approval of the minutes of March 21, 2012 Meeting No. 2622

On **MOTION** of **CARNES**, the TMAPC voted 8-0-1 (Carnes, Dix, Edwards, Leighty, Midget, Shivel, Stirling, Walker “aye”; no “nays”; Liotta “abstaining”; Cantrell, Perkins “absent”) to **APPROVE** the minutes of the meeting of March 21, 2012, Meeting No. 2622.

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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.

3. **LC-392** (Lot-Combo) (CD-9), Location: North of West 5th Street South and West of South 33rd West Avenue (Related to LS-20498)
4. **LS-20498** (Lot-Split) (CD-9), Location: North of West 5th Street South and West of South 33rd West Avenue (Related to LC-392)
5. **LS-20500** (Lot-Split) (CD-1), Location: North of East Pine Street South and West of North Mingo Road
6. **Amendment of Deed of Dedication –** Olympia Medical Park, Olympia Medical Park II, Location: Northeast corner of Highway 75 and West 71st Street South (8202) (CD 2)
7. **Vacation of Plat –** Arrowhead Ridge, Location: Northeast corner of East 91st Street South and South Highway 169 (8418) (CD 7)

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:

FORM-BASED CODE REGULATING PLAN PUBLIC HEARING:

8. **Public Hearing to consider adopting a Form-Based Code Regulating Plan for the Pearl District within the City of Tulsa, Oklahoma.**

PUBLIC HEARINGS:

9. **LS-20499** (Lot-Split) (County), Location: West of North Garnett Road and South of East 126th Street North (Withdrawn)
10. **Plaza 41 Neighborhood Center** – Preliminary Plat, Location: Northwest corner of West 41st Street and South 57th West Avenue (CD 2)
11. **41st Street Retail** – Minor Subdivision Plat, South of 41st Street, West of South Sheridan Road (CD 5)
12. **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**, to allow an electronic message center in a PUD designated for office use, (CD-7) (Continued from 12/21/2011, 1/18/2012, 02/01/2012 and 2/15/12)
13. **Z-7203 – Tulsa Airport Improvement Trust**, Location: East and south of southeast corner of North Mingo Road and East 46th Street North, Requesting rezoning from **AG/RMH TO IM**, (CD-3)
14. **Z-7196 – Tulsa Airport Improvement Trust**, Location: Northwest corner Highway 169 and 36th Street North, Requesting rezoning from **AG TO IM**, (CD-3)
15. **Z-7197 – Tulsa Airport Improvement Trust**, Location: Southeast corner North Mingo Road and 46th Street North, Requesting rezoning from **RS-3 TO IM**, (CD-3)
16. **CZ-412 – Jason Page**, Location: Southwest corner of Southwest Boulevard and South 63rd West Avenue, Requesting rezoning from **RS/CG TO CG**, (County)
17. **Z-7199 – Sisemore, Weisz & Associates**, Location: East of northeast corner of North Mingo Road and East Pine Street North, Requesting rezoning from **CS TO IL**, (CD-3)
18. **Z-7201 – Crafton Tull/Jason Mohler**, Location: Southwest corner of East 41st Street and I-44, Requesting rezoning from **RS-2/CS TO CS**, (CD-5)
19. **Z-7190 – Sajid S. Salimi**, Location: South of southwest corner of South 33rd West Avenue and West Skelly Drive, Requesting rezoning from **RS-3 to CS**, (CD-2) (Continued from 1/4/12) (Related to Z-7200 and PUD-791)
20. **Z-7200 – Sisemore, Weisz & Associates**, Location: Southwest corner of West Skelly Drive and South 33rd West Avenue, Requesting rezoning from **PK TO CS**, (CD-2) (Related to Z-7190 and PUD-791)

21. **PUD-791 – Sisemore, Weisz & Associates,** Location: Southwest corner of West Skelly Drive and South 33rd West Avenue, Requesting **PUD**, to permit 4,000 square feet of retail/office space to be added south of existing convenience store, (CD-2) (Related to Z-7190 and Z-7200)
22. **Z-7202 – Tanner Consulting/KJRH Channel 2,** Location: East of northeast corner South Peoria Avenue and East 37th Place, Requesting rezoning from **RS-3 TO PK**, (CD-9) (Related to PUD-789-A)
23. **PUD-789-A – Tanner Consulting/KJRH Channel 2,** Location: East of South Peoria Avenue, between East 37th Street and East 37th Place, Requesting a **Major Amendment , RS-3/PK/PUD-789 TO PK/PUD-789-A**, to allow a parking lot expansion, (CD-9) (Related to Z-7202)

OTHER BUSINESS

Commissioners' Comments

ADJOURN

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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.

3. **LC-392** (Lot-Combination) (CD-9), Location: North of West 5th Street South and West of South 33rd West Avenue (Related to LS-20498)
4. **LS-20498** (Lot-Split) (CD-9), Location: North of West 5th Street South and West of South 33rd West Avenue (Related to LC-392)
5. **LS-20500** (Lot-Split) (CD-1), Location: North of East Pine Street South and West of North Mingo Road
6. **Amendment of Deed of Dedication –** Olympia Medical Park, Olympia Medical Park II, Location: Northeast corner of Highway 75 and West 71st Street South (8202) (CD 2)

7. **Vacation of Plat** – Arrowhead Ridge, Location: Northeast corner of East 91st Street South and South Highway 169 (8418) (CD 7)

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Perkins "absent") to **APPROVE** the consent agenda Items 3 through 7 per staff recommendation.

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Mr. Walker announced that Item 8 will be moved to the bottom of the agenda. Mr. Walker asked Mr. Edmiston to weigh-in on this decision. Mr. Edmiston stated that it is the prerogative of the Chair and he has the authority to do so.

TMAPC Action; 9 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Perkins "absent") to **MOVE** Item 8 to the end of the TMAPC agenda public hearing.

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Mr. Perkins in at 1:40 p.m.

PUBLIC HEARING

PUBLIC HEARINGS:

9. **LS-20499** (Lot-Split) (County), Location: West of North Garnett Road and South of East 126th Street North (Withdrawn)

STAFF RECOMMENDATION:

Applicant has withdrawn this application.

WITHDRAWN.

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10. **Plaza 41 Neighborhood Center** – Preliminary Plat, Location: Northwest corner of West 41st Street and South 57th West Avenue (CD 2)

STAFF RECOMMENDATION:

This plat consists of five lots, one block, on 2.07 acres.

The following issues were discussed May 1, 2008 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned PUD-749. All PUD standards need to be shown in the covenants and PUD requirements followed. Setbacks need to match PUD requirements. A turnaround may be required at the end of the private street. Sidewalks are required.
2. **Streets:** Show a mutual access easement on Lot 1 to legally provide for the turnaround shown on the conceptual plan. Change the LNA dimension from 90.10 to 90.91. Show a five-foot sidewalk easement on both sides of the private street. Correct the language regarding the vacated right-of-way in the legal. Add note on face of plat for sidewalk along 41st and Wheeling Avenue. Include standard sidewalk language for sidewalk along 41st Street. Show sidewalk along 41st Street and Wheeling Avenue.
3. **Sewer:** Increase the 11-foot utility easement, located in the southern portion of Lot 1, to a minimum of 15 feet, change it to a sanitary sewer easement, and extend it all the way to the west property line. If there is an existing utility easement along the eastern boundary of Highland Park Estates, then the proposed one-foot perimeter easement is sufficient. If so, then show the existing offsite easement. If not, then the perimeter easement must be increased to a 17.5-foot utility easement. The same comment applies to the eastern boundary of the plat where it abuts the Essex subdivision. Add a 17.5-foot utility easement along the south boundary line of the plat. Change Section 1 C 2, to the standard language restricting changes of grade, without reference to the three-foot limit. Extend the proposed sanitary sewer mainline extension to the west perimeter utility easement of the plat, in order to serve Lot 5 from the rear.
4. **Water:** A ten-foot wide restrictive waterline easement adjacent to the proposed right-of-way will be required across Lot 4 for the existing six-inch water line. Show a restrictive water line easement for the existing six-inch water main line crossing Lot 4.

5. **Storm Drainage:** Add “stormwater detention easement” to the Reserve B label. The easements, running east/west on the northeast side of Wheeling, 11-foot utility easement and ten-foot side, should not have a space between them. Please add “SDE” and stormwater detention easement to the legend. Standard language must be used for Section IC especially for Item 2; and Section IE which should be “Reserve B” – stormwater detention easement”. The last line of Section IE 3d should say “1/5”th, not “1/30th”. Add standard language for “roof drain requirements”, so that all roof drains will be designed and constructed to discharge stormwater runoff to Reserve A.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** PSO will coordinate easements with design.
7. **Other: Fire:** No comment.

GIS: Location Map needs north arrow and scale, and “R 13 E” text should be moved up a bit. Owner’s phone number should have a dash rather than an equal sign. Add SDE, POC and POB to legend. Basis of Bearing for the plat should be clearly described and stated in degrees, minutes, and seconds. Label the point of Beginning and Commencement on the face of the plat. Description of point of commencement and point of beginning should be identical between plat and covenants. Subdivision statistics should read “subdivision contains five lots and two reserves in one block”. Remove elevation contours from the preliminary plat. In the heading, if Lots 9 and 10 of Royal Oak Heights are from Block 1, please state so. Scale bar should be 1 inch = 30 feet. Limits of no access measurements at the bottom of the plat (90.00’ – 40.00’ – 90.10’) are not consistent with same nearby measurements, and do not total to 220.01’ (southern boundary). “Right-of-way dedicated...” should read “Right-of-way dedicated...” at the bottom of the plat. Description of point of commencement and point of beginning should be identical between plat and covenants. Add a metes and bounds description after the aliquot legal description.

Staff recommends **APPROVAL** of the Preliminary 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 therefore 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 therefore 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.

Mrs. Fernandez explained the steps taken regarding the annexation of the subject property into the City of Tulsa. Mrs. Fernandez stated that a waiver of the right-of-way requirement for the Major Street and Highway Plan can be approved with this application.

Mr. Liotta stated that he would like to hear from Mr. Rains.

Mr. Rains, County Engineer, indicated that the City and County are working together on this application are in agreement. Mr. Rains explained that the street with the right-of-way requirements is already four lanes and will not be widened to six lanes due to drainage issues.

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to **APPROVE** the waiver for the ten-foot requirement of right-of-way of the Major Street and Highway Plan and **APPROVE** the preliminary plat for Plaza 41 Neighborhood Center, subject to special conditions and standard conditions per staff recommendation.

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11. 41st Street Retail – Minor Subdivision Plat, south of 41st Street, west of South Sheridan Road (CD 5)

STAFF RECOMMENDATION:

This plat consists of one lot, one block, on 1.1 acres.

The following issues were discussed March 15, 2012, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned CS (commercial shopping) and RS-2 (residential single family).
2. **Streets:** Access is limited to 36 foot maximum. Please indicate what the permanent easement at the entrance is for? Sidewalk section: this is one lot one block subdivision; please delete reference to reserve area, each lot abutting lots, etc. Delete the last sentence: "Where sidewalks...the required sidewalk".
3. **Sewer:** According to the sewer atlas, there is an existing lamp hole extending to the northwest out of the existing manhole that you show on your conceptual plan. This run of pipe is where you should make your service line connection to the main. If the main is in need of repair, you should coordinate that with the sanitary sewer maintenance division. Contact Mark Rogers at 918-669-6117 if there is a problem with the main. Your proposed service line also needs to be relocated so it enters the 17.5 foot perimeter easement at more of a perpendicular angle, so it will not conflict

with utility lines located within the easement.

4. **Water:** Domestic and irrigation meter connection permits are required.
5. **Storm Drainage:** Storm sewer easements may be required. Unusual covenant set-up. Standard language for lot surface drainage is required. Increased drainage flow, additional concentration of drainage flow, or increases in the velocity of the drainage flowing onto ODOT (Oklahoma Department of Transportation) property will require their approval. Many lines and symbols were not included in the legend nor were they labeled. There is no outlet pipe shown from the area inlet to the public drainage system.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** Release letters from the utilities have been received.
7. **Other: Fire:** No comment.

GIS: Label all subdivisions within the mile section of the location map. Provide a written scale for the location map and for the plat under the graphic scale bars. The basis of bearing should be clearly described and stated in degrees, minutes, and seconds. Please make note on the face of the plat any benchmarks and the size, location, description and identification of all monuments to be set or found in making the survey, shown to assure the re-establishment of any point or line of the survey. Show a pin symbol at each point of intersection on the traverse around the property. Submit a subdivision control data form (Appendix D), last page of the Subdivision Regulations for the Tulsa Metropolitan Area, in which the first point shall be the point of beginning with two other points on or near the plats' boundary.

Staff recommends **APPROVAL** of the minor subdivision plat with the TAC recommendations and the special and standard conditions listed below. Releases have been received.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. The concerns of the Public Works staff and Development Services 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.

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to **APPROVE** the minor subdivision plat for 41st Street Retail, subject to special conditions and standard conditions per staff recommendation.

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12. **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**, to allow an electronic message center in a PUD designated for office use, (CD-7) (Continued from 12/21/2011, 1/18/2012, 02/01/2012 and 2/15/12)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to permit a small electronic message center to be added to an existing sign in a PUD dedicated to office uses per the attached plan. The underlying zoning of the property is RM-1.

Existing sign standards for PUD-397-B are as permitted in the OL District requiring signs to be lit by constant light/constant illumination. The addition of an electronic message center does not conform to this requirement. In order to allow the addition of the message center the applicant has been required to first secure a variance from the City of Tulsa Board of Adjustment (BOA) and then receive approval of this minor amendment from the TMAPC.

On March 27, 2012 in case number 21357, the BOA approved a Variance from the requirement that a sign in the Residential Multifamily (RM-1) District be lit by constant light for an existing sign to accommodate for an electronic message center; approved a Variance to reduce setback from 20 feet to 18 feet from the drive surface of South 91st East Avenue and reduce the setback from 20 feet to 19-feet from driving surface of East 61st Street to allow for the overhang of an Electronic Message Center added to an existing sign (see attached Exhibits).

Section 1107.H of the Code allows the TMAPC by minor amendment, to approve modifications to approved signage provided the size, location, number and character (type) of the sign(s) is not substantially altered.

Staff contends the addition of this relatively small electronic message center to an existing sign along an arterial street will not substantially alter the approved signage within the PUD. The number of permitted signs is not being altered, the location of the existing sign is not changing and the sign will remain within the permitted display surface area allowed the length of the street frontage (.2 of a square foot of display area permitted per each lineal foot of street frontage allowed).

Therefore recommends **APPROVAL** of minor amendment PUD-397-B-1.

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

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to **APPROVE** the minor amendment for PUD-397-B-1 per staff recommendation.

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13. **Z-7203 – Tulsa Airport Improvement Trust**, Location: East and south of southeast corner of North Mingo Road and East 46th Street North, Requesting rezoning from **AG/RMH TO IM**, (CD-3)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11804 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

BOA-18388 April 27, 1999: The Board of Adjustment approved a Special Exception to permit a convenience store (Use Unit 13) in an IL district, on property located at the southeast corner of East 46th Street and North Mingo Road.

Z-6596 July 1997: All concurred in approval of a request for rezoning a 7.5± acre tract of land from RS-3 to IL by the City of Tulsa, Tulsa Airport Authority for indoor recreation, on property located on the southwest corner of East 46th Street North and North Mingo Road and northwest of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 28.15± acres in size and is located south and east of the southeast corner of North Mingo Road and East 46th Street North. The property appears to be vacant and is zoned AG/RMH.

SURROUNDING AREA: The subject tract is abutted on the east by vacant land, zoned IL; on the north by industrial and related uses, zoned IM; on the south by vacant land, zoned IL; and on the west by vacant and industrial/related uses, zoned IL.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates this portion of East 46th Street North as a Primary Arterial and North Mingo Road as a Secondary Arterial. Each of these are seen as major carriers of traffic

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 46th Street North	Primary arterial	120'	4
North Mingo Road	Secondary arterial	100'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan designates this as an Employment Area and as an Area of Growth. These designations are to encourage further employment opportunities and investment in related infrastructure to support that growth, according to the types of development that occur. In this case, aviation uses are in the industrial category and also generate employment opportunities.

STAFF RECOMMENDATION:

Based on the Plan and surrounding existing and proposed land uses, staff can support the proposed IM zoning on this property. Therefore, staff recommends **APPROVAL** of IM zoning for Z-7203.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 10 members present:

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to recommend **APPROVAL** of the IM zoning for Z-7203 per staff recommendation.

Legal Description for Z-7203:

BG 100 N & 146 E SWC NW NW TH E 60 N 230 W 60 S 230 POB SEC 18 20 14 (0.3098 AC.); BEG 100 N SWC NW NW TH E 146 N 230 W 146 S 230 POB SEC 18 20 14 (0.7677 AC.); PRT NW NW BEG SWC S/2 NW NW NW TH E 150 N 70 W 150 S 70 POB LESS W 40 THEREOF RD SEC 18 20 14 (0.1768 AC.); S/2 NW NW NW LESS W 40 THEREOF FOR RD & LESS BEG SWC S/2 NW NW NW TH E 150 N 70 W 150 S 70 POB SEC 18 20 14 (4.5202 AC.); W/2 NE NW NW LES N 70 THEREOF SEC 18 20 14 (4.4697 AC.); W 160 OF N 408.38 NE NW SEC 18 20 14 (1.5 AC.); N/2 NW NW NW LESS W 198 THEREOF & LESS N 50 THEREOF & LESS S 10 N 60 W 409.93 THEREOF, SEC 18 20 14 (2.8696 AC.) LT 1 BLK HIGHLAND MOBILE HOME PARK ADDITION (4.4815 ac.); AND LT 1 BLK 1 LESS 132 W SECR E/2 E/2 N/2 NW NW TH S 10 TH CRV RT 39.07 W 160.51 N 34.80 TO N BDRY MINGO PARK EXTENSION L1 BLK 1 TH E 185.36 POB (9.062 ac.)

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14. **Z-7196 – Tulsa Airport Improvement Trust**, Location: Northwest corner Highway 169 and 36th Street North, Requesting rezoning from **AG TO IM**, (CD-3)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11804 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-4511 October 1973: All concurred in approval of a request for rezoning a tract of land from AG to IL on property located north of the northwest corner of East 36th Street North and North Mingo Valley Expressway and abutting the subject property to the east.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 36.44± acres in size and is located west of the northwest corner East 36th Street North and Highway 169 North. The property appears to be vacant and is zoned AG.

SURROUNDING AREA: The subject tract is abutted on the east by vacant land and an expressway, zoned IL and AG, respectively; on the north by industrial and vacant land, zoned IL; on the south by vacant land and a portion of the expressway zoned IL, RS-3 and AG; and on the west by vacant land, zoned IM. Much of this area was bought out through past noise abatement programs (ANCLUC and FAR Part 150).

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

TRANSPORTATION VISION:

The Comprehensive Plan designates East 36th Street North as a secondary arterial, which leads into the North Mingo Valley Expressway.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 36th Street North	Secondary arterial	100'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan designates this as an Area of Employment and an Area of Growth. It is intended that employment opportunities and infrastructure to support the industries and related transportation needs would be provided, either publicly or privately, for the planned growth in this area. The requested IM zoning **is in accord** with the Plan. The expressed use, for aviation and related uses will support and possibly enhance current airport uses.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, which foresees this as an area of Employment and an Area of Growth, and that the TAIT already owns this property and has plans for aviation and related uses on these 36.44 acres. As noted above, it is in accord with the Plan. Staff therefore recommends **APPROVAL** of IM zoning for Z-7196.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to recommend **APPROVAL** of the IM zoning for Z-7196 per staff recommendation.

Legal Description for Z-7196:

NE SW SE SEC 18 20 14 (10.0 ac); NW SW SE SEC 18 20 14 (10.0 ac); SW SW SE LESS E 228.43 S 150 & LESS S 50 W 431.04 FOR RD SEC 18 20 14 (8.71 ac); SE SW SE LESS S 150 FOR HWY SEC 18 20 14 (7.73 ac)

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15. **Z-7197 – Tulsa Airport Improvement Trust**, Location: Southeast corner North Mingo Road and 46th Street North, Requesting rezoning from **RS-3 TO IM**, (CD-3)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11804 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-6596 July 1997: All concurred in approval of a request for rezoning a 7.5± acre tract of land from RS-3 to IL by the City of Tulsa, Tulsa Airport Authority for indoor recreation, on property located on the southwest corner of East 46th Street North and North Mingo Road and northwest of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 120± acres in size and is located south of southeast corner of North Mingo Road and East 46th Street. The property appears to be vacant and is zoned RS-3. This is the former Mingo School/neighborhood area that was since purchased in part with noise abatement funding.

SURROUNDING AREA: The subject tract is abutted on the east by vacant land, zoned IL; on the north by vacant land, zoned IL; on the south by vacant land, zoned IM and industrial and related uses, zoned IL; and on the west by a former residential area, zoned RS-3 and industrial uses, zoned RS-3 and IL.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates North Mingo Road as a secondary arterial. The Plan envisions that most of the through-traffic will continue to use the Mingo Valley Expressway9/ (Highway 169).

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
North Mingo Road	Secondary arterial	100'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan designates this as an Employment Area and an Area of Growth. These are to be areas in which public or private money is to be invested in infrastructure (water, sewer, streets, for example) to support the added employment and development that is anticipated to be developed here.

STAFF RECOMMENDATION:

Based on the Plan and trends/uses in the area, staff can support the requested IM zoning. It has been the airport's and the City's plan for many years to develop aviation and related uses on land nearby as they were able to acquire it. Therefore, staff recommends **APPROVAL** of IM zoning for Z-7197.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to recommend **APPROVAL** of the IM zoning for Z-7197 per staff recommendation.

Legal Description for Z-7197:

SW, NE and S/2 NW Sect 18, T20N, R14E.

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16. **CZ-412 – Jason Page**, Location: Southwest corner of Southwest Boulevard and South 63rd West Avenue, Requesting rezoning from **RS/CG TO CG**, (County)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11821 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

CZ-408 July 2011: All concurred in approval of a request for rezoning a .36± acre tract of land from RS to CG for commercial use, on property located south of the southeast corner of Southwest Blvd and South 68th West Avenue.

CBOA-2111 August 17, 2004: The Board of Adjustment denied an Appeal and uphold the decision of the County Inspector of noncompliance to the County Zoning Code to permit, on property located at 5912 South 63rd West Avenue and one of the lots of the subject property.

CZ-265 April 2000: All concurred in approval of a request for rezoning a .25± acre tract of land from RS to CG for a tire store and truck repair, on property located southwest corner of Southwest Boulevard and South 67th West Avenue.

CZ-261 February 2000: All concurred in approval of a request for rezoning a tract from RS to CG located on the southeast corner of Southwest Boulevard and South 68th West Avenue.

CZ-221 October 1995: All concurred in approval of a request for rezoning on Lot 22 and denial of the remainder of land from RS to CG, for used car lot and auto repair on property located on the southeast corner of South 61st West Avenue and Southwest Blvd.

CZ-184 September 1990: A request to rezone a tract located on the southeast corner of Highway 66 West and South 67th West Avenue, from RS to CG. Staff recommended denial of CG zoning and the Board of County Commissioners approved CS zoning of the property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately .85± acres in size and is located at the southwest corner of Southwest Boulevard and South 63rd West Avenue. The property appears to be an auto repair business and vacant-and is zoned RS/CG.

SURROUNDING AREA: The subject tract is abutted on the east by scattered single-family residential uses and out-buildings, zoned RS; on the north by Southwest Boulevard, zoned CG; on the south by scattered single-family residential uses, zoned RS; and on the west by a large-lot single-family residential property and outbuildings, zoned RS and CG.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates this as Special District 6 in the Planning District 9 Comprehensive Plan. Policies in this Plan call for this to be an industrial area. Therefore, the requested CG zoning **is in accord** with the Plan.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South 63rd West Avenue	N/A	N/A	2
Southwest Boulevard	Secondary arterial	100'	4

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

As noted above, the proposed CG zoning **is in accord** with the Plan. Industrial areas, particularly Special Districts, are envisioned as concentrations of heavier types of traffic, industrial collector streets and buffering from adjacent R districts (here, to the east, west and south).

STAFF RECOMMENDATION:

Based on the Comprehensive Plan, staff can support the requested rezoning and recommends **APPROVAL** of CG zoning for CZ-412.

Applicant's Comments:

Samuel Page, P.O. Box 791, Oakhurst, OK 74050, stated that he is in agreement with the staff recommendation.

TMAPC COMMENTS:

In response to Mr. Midget, Mr. Page stated that his shop is in the middle and there will be no cars on the entire property under application. The site has been cleaned and cars have been hauled away. He would like to put a full sized fence around the entire shop.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to recommend **APPROVAL** of the CG zoning for CZ-412 per staff recommendation.

Legal Description for CZ-412:

Lots 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29, New Taneha Addition, an addition Tulsa County, State of Oklahoma, according to the recorded plat thereof.

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17. **Z-7199 – Sisemore, Weisz & Associates**, Location: East of northeast corner of North Mingo Road and East Pine Street North, Requesting rezoning from **CS TO IL**, (CD-3)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11811 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-7127 May 2009: All concurred in approval of a request for rezoning a 5.89± acre tract of land from AG to IL for light manufacturing on property located, south of southeast corner East Pine Street and North Mingo Road and south of subject property.

Z-6998 September 2005: All concurred in approval of a request for rezoning a 38.03± acre tract of land from RM-2 to IL for light industrial park use, on property located south and west of southwest corner of East Pine Street North and Highway 169 North and southeast of subject property.

Z-6946 July 2004: All concurred in approval of a request for rezoning a 5± acre tract of land from OL to IL for light manufacturing and warehouse use, on property located east of northeast corner of East Pine Street and North Mingo Road and abutting west of subject property.

BOA-14525 June 25, 1987: The Board of Adjustment approved a Use Variance to permit a plating business in a CS district finding the area to be industrial in nature and subject to Stormwater Management approval, on property located north and east of the northeast corner of East Pine Street and North Mingo Road and a part of the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 3± acres in size and is located east of northeast corner of North Mingo Road and East Pine Street. The property appears to be vacant and is zoned CS.

SURROUNDING AREA: The subject tract is abutted on the east by an industrial use, zoned IL; on the north by industrial uses, zoned IL; on the south by agricultural uses and a large-lot residential use, zoned AG; and on the west by commercial uses, zoned CS.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates East Pine Street as a Secondary Arterial.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East Pine Street North	Secondary arterial	100'	4

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan calls for this to be an Employment Area and an Area of Growth. The proposed future industrial use will likely be a source of employment and growth, and access to the site is good. The Plan calls for such areas to be publicly or privately funded for the infrastructure improvements needed to support future development for this proposed type of zoning. The applicant's representative has said that this use will be an expansion of the existing business to the north and east.

STAFF RECOMMENDATION:

Based on the Plan, existing land uses and zoning patterns, staff can support IL zoning for Z-7199 and therefore recommends **APPROVAL** of IL zoning on the site.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to recommend **APPROVAL** of the IL zoning for Z-7199 per staff recommendation.

Legal Description for Z-7199:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SW/4 SW/4) OF SECTION 30, TOWNSHIP 20 NORTH, RANGE 14 EAST OF THE INDIAN BASE AND MERIDIAN; THENCE WEST 425 FEET; THENCE NORTH 210 FEET; THENCE EAST 70 FEET; THENCE NORTH 120 FEET; THENCE EAST 355 FEET; THENCE SOUTH 330 FEET TO THE POINT OF BEGINNING.

* * * * *

18. **Z-7201 – Crafton Tull/Jason Mohler**, Location: Southwest corner of East 41st Street and I-44, Requesting rezoning from **RS-2/CS TO CS**, (CD-5)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11824 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

No relevant history

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.2± acres in size and is located at the southwest corner of East 41st Street and I-44. The property appears to be vacant and is zoned RS-2/CS.

SURROUNDING AREA: The subject tract is abutted on the east by East Skelly Drive and I-44, zoned RS-2; on the north by a commercial development zoned CS; on the south by the expressway zoned RS-2; and on the west by commercial development, zoned CS.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates East 41st Street as a Secondary Arterial. These are higher volume roadways serving, in part, the commercial, office and industrial uses on each side.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 41st Street	Secondary arterial	100'	4

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The westernmost part is designated as a Regional Center. The eastern triangular-shaped portion of the property, as well as some/all of the former gas station, was used as a roadway staging facility during some roadway improvement projects. They have since been owned by the current owner of record. The area is also designated as an Area of Growth, no doubt owing to its location along a busy expressway and a secondary arterial street. The requested CS zoning **is in accord** with the Comprehensive Plan. Moreover, the zoning, if approved, will line up with the CS and OM to the north, across East 41st Street.

STAFF RECOMMENDATION:

The property in question was deeded to the current owner in exchange for its use during roadway improvement, when it was used as a staging facility. Since the proposal before the Planning Commission is in accord with the Comprehensive Plan, existing and expected trends in the area, staff can support the request and therefore recommends **APPROVAL** of CS zoning for Z-7201.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 10 members present:

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to recommend **APPROVAL** of the CS zoning for Z-7201 per staff recommendation.

Legal Description for Z-7201:

A TRACT OF LAND IN THE NORTHEAST QUARTER (NE/4) OF SECTION 27, TOWNSHIP 19 NORTH, RANGE 13 EAST OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF. MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE NORTHWEST CORNER OF THE NE/4 OF SECTION 27. THENCE N 88°31'21" E ALONG THE NORTH LINE OF SAID NE/4 A DISTANCE OF 657.98 FEET TO THE NORTHEAST CORNER OF THE EAST HALF OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION. THENCE S 01°33'57" E A DISTANCE OF 50.0 FEET THE POINT OF BEGINNING. THENCE N 88°31'21" E A DISTANCE OF 165.19 FEET. THENCE S 01°28'40" E A DISTANCE OF 16.0 FEET. THENCE S 47°39'23" W A DISTANCE OF 113.60 FEET. THENCE S 52°40'35" W A DISTANCE OF 281.86 FEET. THENCE N 11°46'03" W A DISTANCE OF 259.56 FEET. THENCE N 88°31'21" E A DISTANCE OF 195.55 FEET TO THE POINT OF BEGINNING. CONTAINING 49980.01 SQUARE FEET OR 1.147 ACRES, MORE OR LESS.

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19. **Z-7190 – Sajid S. Salimi**, Location: South of southwest corner of South 33rd West Avenue and West Skelly Drive, Requesting rezoning from **RS-3 to CS**, (CD-2) (Continued from 1/4/12) (Related to Z-7200 and PUD-791)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11821 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-7128 May 2009: All concurred in approval of a request for rezoning a .25± acre tract of land from RS-2 to CS for accessory parking on property located on southeast corner of South 33rd West Avenue and I-44 West.

Z-7076 December 2007: All concurred in approval of a request for rezoning a 1.5± acre tract of land from RS-2 to CS for financial services and commercial shopping, on property located southeast of the southeast corner of South 33rd West Avenue and West Skelly Drive.

Z-7073 September 2007: All concurred in approval of rezoning a 2± acre tract of land from RS-2 to CS for a financial services and commercial shopping center, on property located south of the southeast corner of South 33rd West Avenue and West Skelly Drive.

Z-6321 October 1991: All concurred in approval of a request for rezoning a tract of land from RS-3 to CS/PK on property located south of the southwest corner of

West Skelly Drive and South 33rd West Avenue and abutting north of the subject property.

Z-4037 January 1972: Staff recommended for denial of a request for rezoning a tract of land from RS-3 to CS on property located the southwest corner of South 33rd West Avenue and West Skelly Drive.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 12,600± square feet in size and is located south of southwest corner of South 33rd West Avenue and West Skelly Drive. The property appears to be used residentially and is zoned RS-3.

SURROUNDING AREA: The subject tract is abutted on the east by a commercial business (bank), zoned CS; on the north by a commercial use and its parking lot, zoned CS and PK; on the south by residential uses, zoned RS-3; and on the west by residential uses, zoned RS-3.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates 33rd West Avenue south of West Skelly Drive (I-44) as a secondary arterial. The Comprehensive Plan encourages multiple modes of transportation, offering the public a choice in means of travel, from automobile to bus to bicycling and pedestrian.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South 33rd West Avenue	Secondary arterial	100'	4

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan designates this property as an Existing Neighborhood and an area of Stability. Both of these designations seem erroneous, since the CS/PK lots adjacent to the north are also shown as Existing Neighborhood. That zoning has been in place since 1991. The convenience store itself is designated as a Growth Area, but the parking lot south of it is not. Similarly, the properties east of the subject property, across South 33rd West Avenue, are designated as Employment areas and Areas of Growth. It seems poor planning to expect single-family residential use to continue adjacent to these uses. The proposed CS zoning **is not in accord** with the Comprehensive Plan.

STAFF RECOMMENDATION:

Staff believes this is another case in which the Comprehensive Plan is in error. This area should be examined when another small area plan is contemplated. Staff can support the requested CS zoning, pointing out that screening will be required where it abuts R zoned properties and the developer must meet or exceed the landscaping requirements of the Zoning Code. The requested CS zoning on the subject tract would align with the CS zoning on the east of the tract at 33rd West Avenue. Therefore, this is a logical extension of the CS/PK zoning and development to the north and staff recommends **APPROVAL** of CS zoning for Z-7190.

TMAPC Action; 10 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to recommend **DENIAL** of the CS zoning for Z-7190.

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20. **Z-7200 – Sisemore, Weisz & Associates**, Location: Southwest corner of West Skelly Drive and South 33rd West Avenue, Requesting rezoning from **PK TO CS**, (CD-2) (Related to Z-7190 and PUD-791)

Staff Recommendation:

ZONING ORDINANCE: Ordinance number 17586 dated October 3, 1991, established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-7128 May 2009: All concurred in approval of a request for rezoning a .25± acre tract of land from RS-2 to CS for accessory parking on property located on southeast corner of South 33rd West Avenue and I-44 West.

Z-7076 December 2007: All concurred in approval of a request for rezoning a 1.5± acre tract of land from RS-2 to CS for financial services and commercial shopping, on property located southeast of the southeast corner of South 33rd West Avenue and West Skelly Drive.

Z-7073 September 2007: All concurred in approval of rezoning a 2± acre tract of land from RS-2 to CS for a financial services and commercial shopping center, on property located south of the southeast corner of South 33rd West Avenue and West Skelly Drive.

Z-6321 October 1991: All concurred in approval of a request for rezoning a tract of land from RS-3 to CS/PK on property located south of the southwest corner of West Skelly Drive and South 33rd West Avenue and a part of the subject property.

Z-4037 January 1972: Staff recommended for denial of a request for rezoning a tract of land from RS-3 to CS on property located the southwest corner of South 33rd West Avenue and West Skelly Drive.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 12,600± square feet in size and is located southwest corner of West Skelly Drive and South 33rd West Avenue. The property appears to be a part of an existing convenience store and is zoned PK.

SURROUNDING AREA: The subject tract is abutted on the east by a bank use, zoned CS; on the north by I-44 zoned RS-3; on the south by residential uses, zoned RS-3; and on the west by residential uses, zoned RS-3.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates South 33rd West Avenue as a Secondary Arterial and does not designate West Skelly Drive. However, I-44, just north of the subject property is envisions, and is in fact, a freeway, which carries much of the east-west traffic (freight and passenger), through and into the area.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South 33rd West Avenue	Secondary arterial	100'	4

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

This is shown as an Existing Neighborhood and an Area of Stability. The proposed rezoning to CS **is not in accord** with the Plan.

STAFF RECOMMENDATION:

A PUD has also been submitted on this property. It appears the applicant has adequate floor area to accommodate the proposed uses and does not need this rezoning. Therefore, staff recommends **DENIAL** of CS zoning on Z-7200.

TMAPC Action; 10 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to recommend **DENIAL** of the CS zoning for Z-7200 per staff recommendation.

21. **PUD-791 – Sisemore, Weisz & Associates,** Location: Southwest corner of West Skelly Drive and South 33rd West Avenue, Requesting **PUD**, to permit 4,000 square feet of retail/office space to be added south of existing convenience store, (CD-2) (Related to Z-7190 and Z-7200)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 17586 dated October 3, 1991, and 12335 dated January 17, 1972, and 11821 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-7128 May 2009: All concurred in approval of a request for rezoning a .25± acre tract of land from RS-2 to CS for accessory parking on property located on southeast corner of South 33rd West Avenue and I-44 West.

Z-7076 December 2007: All concurred in approval of a request for rezoning a 1.5± acre tract of land from RS-2 to CS for financial services and commercial shopping, on property located southeast of the southeast corner of South 33rd West Avenue and West Skelly Drive.

Z-7073 September 2007: All concurred in approval of rezoning a 2± acre tract of land from RS-2 to CS for a financial services and commercial shopping center, on property located south of the southeast corner of South 33rd West Avenue and West Skelly Drive.

Z-6321 October 1991: All concurred in approval of a request for rezoning a tract of land from RS-3 to CS/PK on property located south of the southwest corner of West Skelly Drive and South 33rd West Avenue and a part of the subject property.

Z-4037 January 1972: Staff recommended for denial of a request for rezoning a tract of land from RS-3 to CS on property located the southwest corner of South 33rd West Avenue and West Skelly Drive and a part of the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 40,146± square feet in size and is located at the southwest corner of West Skelly Drive/Interstate 44 and South 33rd West Avenue. The property is developed with a gas station and convenience store and one residential structure to the south of the store. The property is currently zoned CS/PK/RS-3.

SURROUNDING AREA: The subject tract is abutted on the east by 33rd West Avenue and then ODOT owned property, zoned RS-2. The property is also bordered on the east by Peoples Bank Carbondale, zoned CS/RS-2 and being used as a bank. To the north is Interstate 44, zoned RS-3. To the south and west

is Valley Homes Addition, a single-family subdivision zoned RS-3. Also to the west is Anderson's Resub. Prt of Block 1 and all of Block 2 Richmond Acres, a single-family subdivision zoned RS-3.

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

TRANSPORTATION VISION:

The Tulsa Comprehensive Plan does not classify 33rd West Avenue or Skelly Drive. Interstate 44 is classified as an Existing/Planned Freeway.

STREETS:

The Tulsa Metropolitan Area Major Street and Highway Plan designates 33rd West Avenue as a Secondary Arterial; does not designate Skelly Drive; and classifies Interstate 44 as a Freeway.

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South 33rd West Avenue	Secondary Arterial	50'	4
West Skelly Drive	N/A	50'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Tulsa Comprehensive Plan designates the existing gas station/convenience store as an "Area of Growth". The associated parking lot on the south side of the gas station/convenience store (the area zoned PK) and the residential lot to the south (also the subject of the PUD/rezone application) is designated as an "Area of Stability".

The Comprehensive Plan designates the entire property that is subject of this PUD application as an "Existing Neighborhood".

The purpose of **Areas of Growth** is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Areas of Growth are found throughout Tulsa. These areas have many different characteristics but some of the more common traits are close proximity to or abutting an arterial street, major employment and industrial areas, or areas of the city with an abundance of vacant land. Also, several of the Areas of Growth are in or near downtown. Areas of Growth provide Tulsa with the opportunity to focus growth in a way that benefits the City as a whole. Development in these areas

will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile.

The **Areas of Stability** includes approximately 75% of the city's total parcels. Existing residential neighborhoods, where change is expected to be minimal, make up a large proportion of the Areas of Stability. The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation, improvement or replacement of existing homes, and small scale infill projects. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life.

STAFF RECOMMENDATION:

The purpose of PUD-791 is to allow the existing commercial property at the southwest corner of I-44/West Skelly Drive and South 33rd West Avenue to expand 75-feet to the south to allow for the addition of 4,000 square feet (SF) of retail and office uses. This in-fill development proposes a 75-foot expansion to the south and includes a request to rezone a 75-foot wide by 168-foot lot zoned RS-3 to CS. The rezone is the subject of application Z-7200, also appearing on the April 4th agenda of the TMAPC.

As noted in the case report for application Z-7200, staff does not support the rezone request and has recommended denial. The existing commercial zoning on the property would allow for 9,730 SF of commercial floor area. The maximum commercial floor area proposed for PUD-791 is 7,000 SF (3,000 SF for the existing convenient store and 4,000 SF of additional retail/office space).

Situated at the hard-corner of an arterial street and a freeway access road at a traditional four-way freeway interchange, the subject property is flat and has been developed commercially and residentially. In addition to the aforementioned, the property is bordered on the west and south by single-family residential uses, necessitating the need for careful and deliberate site planning in relation to the existing neighborhood the development seeks to serve.

With sensitive site planning, a pronounced level of building/site development standards, limits being placed on the type of land uses that may occur (see below) and regular and continued site maintenance and upkeep, PUD-791 should prove to be a valuable, convenient retail & office center designed to serve the surrounding community.

In keeping with the Comprehensive Plan and the goals of more dense, pedestrian-friendly urban development, staff could support direct pedestrian and bicycle connection(s) to the neighborhood to the west. This would allow residents

of the adjacent lots quick and easy access to the services offered without walking/bicycling north on 34th West Avenue to Skelly Drive and eventually into the PUD. However, staff contends it should be the choice of those living nearest the development weather direct connection would be beneficial. This could be determined prior to detail site plan review.

Letters of opposition are attached.

Should this connection be desired by the residents to the west, excepting at points of access along the west boundary, staff would recommend a minimum six-foot, masonry style screening wall and excessive landscaping in substantial conformance with the attached Exhibit C to protect the residences to the west.

Staff has carefully reviewed this proposal, conducted several site visits and finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Zoning Code. Staff finds PUD-791 to be: (1) in harmony with the existing and expected development of surrounding areas; (2) a unified treatment of the development possibilities of the site; and (3) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-791 subject to the following conditions:

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

DEVELOPMENT AREA A (Existing Convenience Store)

LAND AREA: 0.37 Ac. (16,084 SF)

PERMITTED USES:

Gasoline Service Station and Convenience Store only within Use Unit 14 – Shopping Goods and Services and uses customarily incidental to the principal permitted use.

MINIMUM LOT FRONTAGE: 140 feet

MAXIMUM BUILDING HEIGHT: 1 story not to exceed 20 feet

MINIMUM BUILDING SETBACKS:

From the easterly boundary of Development Area “A”: 70 feet
From the northerly boundary of Development Area “A”: 50 feet

From the westerly boundary of Development Area "A": 10 feet
From the southerly boundary of Development Area "A": 5 feet

MINIMUM LANDSCAPED AREA:

Per Chapter 10 of the Tulsa Zoning Code.

SCREENING / BUFFERING:

A six (6) foot high wooden solid screened fence shall be provided along the rear (west) boundary of the existing store site.

LIGHTING:

Per Section 1303.C of the Tulsa Zoning Code.

OFF-STREET PARKING:

Per the applicable Use Unit within the City of Tulsa Zoning Code. A cross-parking and cross-access agreement with the proposed retail center land use within Development Area "B" may be executed as part of the proposed development project.

SIGNAGE:

Per the requirements of Chapter 11 of the Tulsa Zoning Code.

SIDEWALKS:

Upon expansion or future development within Development Area A, sidewalks shall be constructed where not existing and/or maintained where existing in accordance with subdivision regulations along 33rd West Avenue and Skelly Drive. Direct pedestrian access from 33rd West Avenue and Skelly Drive to the storefront shall be provided in any future development.

TRASH ENCLOSURES:

All dumpsters shall be fully screened from the view of a person standing at ground level in any residentially zoned area.

NOTE: *The Development Area "A" boundaries shown on Exhibit "B" of this report are conceptual in nature and minor modifications to such boundaries may be permitted pursuant to final platting; however, the acreage of Development Area "A" shall not be altered by more than 10% unless approved as a PUD Minor Amendment by the Tulsa Metropolitan Area Planning Commission.*

DEVELOPMENT AREA B

LAND AREA:

0.552 Ac. (24,062 SF)

PERMITTED USES:

Use Unit 11 - Offices, Studios & Support Services; Use Unit 12 - Eating Establishments other than Drive-Ins; Use Unit 13 - Convenience Goods and Services; Use Unit 14 - Shopping Goods and Services, and uses customarily accessory to the permitted principle uses.

USES EXPRESSLY FORBIDDEN:

Use Unit 9 – Mobile Home Dwelling; any use within Use Unit 12a – Adult Entertainment Establishments; Liquor Store within Use Unit 13; Pawn Shop within Use Unit 14 and Use Units 15 through 28.

MINIMUM LOT FRONTAGE:

90 feet

MAXIMUM BUILDING HEIGHT:

1-story, not to
exceed 20 feet

MINIMUM BUILDING SETBACKS:

From the easterly boundary of Development Area “B”:	70 feet
From the northerly boundary of Development Area “B”:	15 feet
From the westerly boundary of Development Area “B”:	35 feet
From the southerly boundary of Development Area “B”:	35 feet

MINIMUM LANDSCAPED AREA:

Per landscaping requirements listed under the City of Tulsa zoning code. Additionally, along the southerly and westerly boundaries of Development Area “B”, evergreen trees with a narrow-growth pattern shall be planted at a spacing distance of no greater than 10’ apart. Such evergreen trees shall have a minimum 1.5” caliper and 6’ height at the time of planting, and have a minimum 12’ mature height.

SCREENING & BUILDING AESTHETIC REQUIREMENTS:

A six (6) foot high masonry style screening wall shall be required along the full length of the westerly and southerly property lines of Development Area B.

Within Development Area B, the entire building facade shall be fully constructed of masonry or masonry style finishing, Exterior Insulated Finished Systems (EIFS), stucco, or a combination thereof, with the exception of window or door openings.

LIGHTING:

All exterior lighting within Development Area B, including building mounted, shall be directed down and away from adjacent residential properties in a manner that the light producing element and/or reflector shall not be visible to a person standing at ground level in any residential area. Additionally, within the westerly 30 feet and the southerly 20 feet of the site, only bollard-style lighting units with a downward-directed lighting pattern shall be allowed, with such lighting units having a maximum height of three (3) feet. There shall be no building mounted lighting on the west or south building walls except security lighting which has full cut-off capability. Placement of freestanding light poles, if any, shall be limited to the easterly 25 feet of Development Area "B" (less the southerly 20 feet thereof), and shall not exceed a total of 12 feet in height as measured from the top of the lighting unit to grade level. Verification of such shall be through the submittal and approval by the TMAPC of a photometric plan and manufacturer's cut-sheets for the light fixtures showing all sight lighting to have full cut-off capability.

OFF-STREET PARKING:

As required by the applicable use unit within the City of Tulsa Zoning Code. A cross-parking and cross-access agreement with the existing convenience store/gas station within Development Area A may be executed as part of the retail center development project so long as overall parking requirements are met within both development areas.

PEDESTRIAN ACCESS AND CIRCULATION:

Sidewalks shall be constructed along 33rd West Avenue in accordance with subdivision regulations. Direct pedestrian access shall be provided from the 33rd West Avenue sidewalk to the storefront. Where vehicular circulation paths and pedestrian access intersect, the pedestrian way shall be distinguished by the use of raised pavement or high contrast stripping.

At the detail site plan review phase of development, consideration should be given to providing direct pedestrian access through the required six foot screening wall on the western boundary to allow those adjacent residential units a direct pathway into the development. Prior to development consultation with the neighbors shall be completed to determine the wishes of the neighbors.

SIGNAGE:

One monument style sign shall be allowed along the 33rd West Avenue frontage to identify the tenant or tenants within Development Area B. Such sign shall not exceed a total height of 12 feet with a maximum of 80 square feet of display area.

Wall signs shall be limited to 1.5 square feet per lineal foot of building wall/tenant space to which the sign is affixed. Wall signs shall not exceed 75% of the wall width/lease space width. There shall be no wall signs on the western or southern facing building walls.

TRASH and MECHANICAL EQUIPMENT AREAS:

All dumpsters and mechanical equipment areas, including building mounted shall be fully screened from the view of a person standing at ground level at the perimeter of the property. Such dumpster shall be located a minimum of 100 feet from the westerly boundary limits of Development Area "B". This shall not include franchise utility equipment areas.

NOTE: *The Development Area "B" boundaries shown on Exhibit "B" of this report are conceptual in nature and minor modifications to such boundaries may be permitted pursuant to final platting; however, the acreage of Development Area "B" shall not be altered by more than 10% unless approved as a PUD Minor Amendment by the Tulsa Metropolitan Area Planning Commission.*

3. No zoning clearance permit shall be issued until a detail site plan for the development area, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
4. A detail landscape plan for the development area shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening will be installed by a specific date in accordance with the approved landscape plan, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
5. No sign permits shall be issued for erection of a sign on a lot within the PUD until a detail sign plan for that lot 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 or existing stormwater drainage structures and detention areas serving the development area 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 platting 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. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.
10. 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.
11. There shall be no outside storage of recyclable material, trash or similar material outside a screened receptacle. Receptacle screening shall be constructed of materials having an appearance similar to the buildings themselves and be of complementary color. Trucks or truck trailers may not be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

TAC Comments:

General: No comments.

Water: The proposed water service line for serving Tract "B" cannot cross Tract "A's" lot line. The proposed water service line can only be allowed to leave the meter to enter into the tract being served only from the street right of way.

Fire: Canopy over entrance drive, if not being removed, shall be a minimum of 13' 6" high to allow fire truck access. All fuel tanks and fuel dispensers shall comply with the International Fire Code and NFPA 30.

Stormwater: 42" Storm Sewer does not have enough easement, and Off-site drainage flowing onto this PUD from the West and the South will have to be collected at the Property Lines and conveyed in a Public Drainage System and related Easements. If multiple lots are included in the Plat, then onsite drainage systems crossing lot lines are also Public Drainage Systems, and must be placed in the appropriate Public Easements.

Wastewater: Where the existing sanitary sewer line will be placed under a paved driving surface, the existing pipe must be replaced by Ductile Iron Pipe from Manhole to Manhole.

Transportation: No comments.

INCOG Transportation:

- **MSHP:** 33rd West Ave. is a designated secondary arterial.
- **LRTP:** 33rd West Avenue, between W. 61st Street South and West 51st Street S., existing 4 lanes. Per TMAPC subdivision regulations, sidewalks should be constructed if non-existing or maintained if existing.
- **TMP:** No comments
- **Transit:** Currently, Tulsa Transit operates existing routes on 33rd West Avenue, between W. 61st Street South and West 51st Street S. 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.
- **Fast Forward Regional Transit Plan:** No comments.

Traffic: No comments.

GIS: No comments.

Street Addressing: No comments.

Inspection Services: No comments.

County Engineer: No comments.

TMAPC COMMENTS:

Mr. Walker stated that with the PUD and the denial of the zoning would the applicant be accommodated with what they plan to do. In response, Mr. Sansone stated that they would. The PUD allows uses to be moved around irrespective to the underlying zoning. This is why the expansion of CS zoning is not necessary because they have enough existing CS square footage to give them the floor area needed.

Mr. Liotta asked Mr. Sansone if he has discussed the lack of the need for the zoning change and if so why is the applicant not withdrawing the zoning request. In response, Mr. Sansone stated that he discussed this with the Engineer of the proposal. Since the rezoning was advertised he didn't think there was enough time to withdraw the applications. Mr. Liotta stated that he is concerned that if the Planning Commission act on the denial it would possibly limit the applicant in the future. Mr. Sansone stated that the PUD limits by development standards that are proposed today.

Mr. Edwards asked if the recommendation for denial for the zoning requests been explained to the neighbors. In response, Mr. Sansone stated that he doesn't believe it has been explained to the neighborhood. This issue came up after the neighborhood meetings.

In response to Mr. Leighty, Mr. Sansone stated that he didn't have any direct contact with the neighbors and he doesn't know who the applicant met with. Staff has received some letters and understands their concerns. Mr. Sansone concluded that he doesn't believe the neighbors understand that the zoning denial would not prevent development.

Applicant's Comments:

Darin Akerman, Sisemore Weisz & Associates, 6111 East 32nd Place, 74135; explained the boundaries of the proposed zoning and the alignment with the bank across the street. Mr. Akerman stated that he did meet with the neighbors on March 23rd and they expressed concerns with the expansion of the commercial site, noise, lighting issues and trash debris. These items have been addressed in the PUD that is proposed.

Mr. Akerman stated that the PK zoned property is not under the ownership of his client and was not included in the application. That is actually owned by one of the residential owners.

Mr. Akerman explained that the neighbors had concerns about the possible uses that could go in and many uses have been deleted. His client owns the existing convenience store and would like to expand. He is proposing a 4,000 SF building and could be used by one business for divide it up between several businesses. Mr. Akerman commented that his client's current place of business is very clean with operational hours of 6:00 a.m. to 11:00 p.m. Mr. Akerman explained the orientation of the proposal and parking. He stated that an access gate is understandable from a connectivity standpoint, but there is a drainage-way, utilities and overhead lines that would prevent a connection. The subject property abuts single-family owners to the west and to extend a sidewalk it would require tearing down fences all the way to 53rd Street and reset the fences and utilities. Mr. Akerman stated that is not sure this could be done on this particular project.

TMAPC COMMENTS:

Mr. Walker asked Mr. Akerman if he understands the staff's recommendation regarding the straight zoning. In response, Mr. Akerman stated that he does understand it and if the Planning Commission is so inclined to approve the PUD the zoning wouldn't be necessary and he could provide a written withdrawal request.

In response to Mr. Leighty, Mr. Akerman stated that he is agreeable and understands that the two straight zoning applications would be either denied or withdrawn.

In response to Mr. Liotta, Mr. Akerman stated that there was a meeting with the neighbors and he believes there were eleven people in attendance and City Councilor Cue was present as well.

INTERESTED PARTIES COMMENTS:

Kaye Price, 5815 South 31st West Avenue, 74107, stated that she has met with the neighbors several times and they have asked her to be their spokesperson. The neighborhood is a stable neighborhood and most of the neighbors have lived there for 40-plus years. The proposed rezoning is contrary to the Comprehensive Plan. Ms. Price stated that the neighborhood was vehemently against the bank being developed. She explained that she was not against the bank due to the commercial property to the east of the bank. That is not what is on the west side, it is residential. Ms. Price cited the various sites and uses surrounding the subject site. She indicated that the subject neighborhood is stable and not in transition. Ms. Price expressed concerns about the dumpster location and the masonry wall. Ms. Price stated that she requested information regarding the need for the subject proposal. She cited that there is a great deal of vacant commercial property in the subject area. She doesn't see the need to remove a viable, affordable residential home to put in commercial.

Roger Johnson, 5183 South 33rd West Avenue, 74107, stated that he lives across the street from the convenience store. Mr. Johnson expressed concerns regarding traffic and diesel sales. He requested that the rezoning applications be denied.

Julie Nichols, 5187 South 34th West Avenue, 74107, stated that she was not invited to the neighborhood meeting. Ms. Nichols stated that currently there are drug dealers, prostitutes and trash in the subject area. The applicant is not currently maintaining his fence and she has no reason to believe he will with the new development. She expressed concerns with the dumpster location, traffic, property taxes, etc.

Applicant's Rebuttal:

Mr. Walker asked Mr. Akerman if he would like to withdraw the two zoning items and hear the PUD only.

Mr. Akerman stated that approval of PUD-791 would be sufficient.

Mr. Edmiston stated that Mr. Akerman continues vying the idea of withdrawing the request with the approval of the PUD and he should understand that the Planning Commission hasn't approved the PUD. Mr. Edmiston stated that Mr. Akerman's withdrawing the two rezoning requests is being done on his own and doing it because he agrees with staff that it is not really necessary to rezone. He is not withdrawing them based upon some pledge by this body to approve the PUD. In response, Mr. Akerman agreed with Mr. Edmiston's comments. Mr. Edmiston stated that he wanted to make sure that, for the record, Mr. Akerman is not doing something relying upon what he perceives is that this body will approve the PUD and the Planning Commission may indeed not approve the PUD. Mr. Akerman stated that this is correct and the issue is that even if the zoning were approved for the two southerly property pieces and the PUD were denied, the

zoning wouldn't help anyway. Mr. Edmiston stated that bottom line is there are no conditions. If he would like to withdraw his requests for rezoning he may do so and it will be honored, but don't do it with the idea that this body is going to approve the PUD. Mr. Akerman stated that he fully understands.

Mr. Edwards stated that he would like to vote on the zoning request so that it can be on record for the residents.

Mr. Leighty stated that this seems to be a sensible solution. It may not be exactly in line with what the neighborhood is wanting, but he believes in the long-term this will be a piece of property that will see some development and the PUD does provide some protections. A detail site plan will come before the Planning Commission and will have an opportunity to make sure neighborhood concerns are met. Mr. Leighty thanked the applicant for making the investment in dollars, time and energy to have a professionals come before the Planning Commission.

Mr. Leighty moved to approve PUD-791 and seconded by Perkins.

Mr. Midget commended the applicant for coming back with a PUD. This is a hard decision for him and he is not in favor of it. Mr. Midget indicated that he will oppose the PUD.

Mr. Carnes stated that he will support this because it is PUD and request that a detail parking plan come back before the Planning Commission. This type of development has cleaned up bad situations before and it is for that reason he is supporting this application.

TMAPC Action; 10 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **9-1-0** (Carnes, Dix, Edwards, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; Midget "nay"; none "abstaining"; Cantrell "absent") to recommend **APPROVAL** of PUD-791 per staff recommendation.

Legal Description for PUD-791:

ALL OF LOTS ONE (1) AND TWO (2), BLOCK ONE (1), VALLEY HOMES ADDITION, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF; AND A TRACT OF LAND THAT IS PART OF LOTS TEN (10), ELEVEN (11) AND TWELVE (12), BLOCK ONE (1), RICHMOND ACRES, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, SAID TRACT BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 12, BLOCK 1, RICHMOND ACRES; THENCE NORTH 89°56'00" WEST ALONG THE SOUTHERLY LINE OF SAID LOT 12 FOR 25.00 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE CONTINUING NORTH 89°56'00" WEST ALONG SAID SOUTHERLY LINE FOR 125.00 FEET TO THE

SOUTHWEST CORNER OF SAID LOT 12; THENCE NORTH 00°00'00" EAST ALONG THE WESTERLY LINES OF LOTS 12, 11 AND 10, FOR 134.98 FEET TO A POINT THAT IS SOUTH 00°00'00" WEST A DISTANCE OF 24.02 FEET FROM THE NORTHWEST CORNER OF SAID LOT 10; THENCE SOUTH 76°05'17" EAST FOR 128.78 FEET TO A POINT THAT IS 25.00 FEET WESTERLY OF AS MEASURED PERPENDICULARLY TO THE EASTERLY LINE OF SAID LOT 11; THENCE SOUTH 00°00'00" WEST PARALLEL WITH THE EASTERLY LINES OF SAID LOT 11 AND LOT 12 FOR 104.16 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND. THE ABOVE DESCRIBED PROPERTY, TAKEN TOGETHER, CONTAINS 40,146 SQUARE FEET OR 0.922 ACRES, MORE OR LESS.

* * * * *

22. **Z-7202 – Tanner Consulting/KJRH Channel 2**, Location: East of northeast corner South Peoria Avenue and East 37th Place, Requesting rezoning from **RS-3 TO PK**, (CD-9) (Related to PUD-789-A)

STAFF RECOMMENDATION:

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

RELEVANT ZONING HISTORY:

Z-7185/ PUD-789 January 2012: All concurred in approval of a request for rezoning a 10,538± square foot tract of land from RS-3 to PK and a Planned Unit Development for off-street parking and screening for KJRH, on property located east of southeast corner of South Peoria Avenue and East 37th Street, and a part of the subject property.

Z-6749 February 2000: All concurred in approval of a request for rezoning a .84± acre tract of land from RS-3/RM-1 to PK for parking purposes on property located east of South Peoria Avenue fronting East 37th Place and East 38th Street and south of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 10,537± acres in size and is located east of the northeast corner of South Peoria Avenue and East 37th Place. The property appears to be residential and is zoned RS-3.

SURROUNDING AREA: The subject tract is abutted on the east by residential land uses, zoned RS-3; on the north by an off-street parking lot, zoned PK; on the south by an off-street parking lot, zoned PK and on the west by office and commercial uses, zoned OL and CH.

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

TRANSPORTATION VISION:

The Comprehensive Plan does not designate East 37th Place.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 37th Place	N/A	N/A	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan identifies this as being in an Existing Neighborhood within an Area of Stability. The Brookside Plan does not include this within the Brookside Business District boundaries because it was in single-family residential use at the time the plan was done. Conditions have changed, however, and the adjoining office uses (TV station) require more parking to accommodate their employees, which will thus reduce the current on-street parking congestion that results from employees who must park on-street, especially during shift changes. The requested PK rezoning **is not** in accord with the Comprehensive Plan.

STAFF RECOMMENDATION:

Staff has long recognized the need for more off-street parking in the Brookside area. Several approaches have been suggested, to no avail. The Zoning Code requires that the parking lot be screened against the residentially zoned property to the east and that lighting be according to the Kennebunkport formula, which should offer protection to the neighbors. If approved for PK zoning, the lot lines of this and the lots immediately north and south of it will line up. This will require an amendment to the Brookside Plan and possibly the Comprehensive Plan. Nevertheless, staff recommends **APPROVAL** of PK zoning for Z-7202.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, "absent") to recommend **APPROVAL** of the PK zoning for Z-7202 per staff recommendation.

Legal Description for Z-7202:

Lot 9, Block 2, Lee Dell, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

* * * * *

23. **PUD-789-A – Tanner Consulting/KJRH Channel 2**, Location: East of South Peoria Avenue, between East 37th Street and East 37th Place, Requesting a **Major Amendment , RS-3/PK/PUD-789 TO PK/PUD-789-A**, to allow a parking lot expansion, (CD-9) (Related to Z-7202)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 22595 dated January 3, 2012, and 11823 dated June 26, 1970 established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-7185/ PUD-789 January 2012: All concurred in approval of a request for rezoning a 10,538± square foot tract of land from RS-3 to PK and a Planned Unit Development for off-street parking and screening for KJRH, on property located east of southeast corner of South Peoria Avenue and East 37th Street, and a part of the subject property.

Z-6749 February 2000: All concurred in approval of a request for rezoning a .84± acre tract of land from RS-3/RM-1 to PK for parking purposes on property located east of South Peoria Avenue fronting East 37th Place and East 38th Street and south of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 21,075± acres in size and is located east of northeast corner of South Peoria Avenue and East 37th Place. The property appears to be residential and is zoned RS-3.

SURROUNDING AREA: The subject tract is abutted on the east by Lee Dell Addition zoned RS-3 being used residentially; on the north by 37th Street and then Lee Dell Addition, zoned CH/OL/RM-0 being used commercially; on the south by 37th Place and then Rochelle Addition zoned CH/PK being used commercially and as a parking lot; and on the west by Lee Del Addition zoned CH/OL being used as the KJRH studios.

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

TRANSPORTATION VISION:

The Tulsa Comprehensive Plan does not designate 37th Street South or 37th Place South.

STREETS:

The Tulsa Metropolitan Area Major Street and Highway Plan classifies 37th Street South as a residential collector and does not classify 37th Place South.

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 37th Place	N/A	N/A	2
East 37th Street	Residential Collector	50'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Tulsa Comprehensive Plan designates the subject property as an “Area of Growth” with a Land Use designation of “Existing Neighborhood”.

The purpose of **Areas of Growth** is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. “Areas of Growth” are parts of the city where a general agreement exists stating that development, or redevelopment, is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Areas of Growth are found throughout Tulsa. These areas have many different characteristics but some of the more common traits are close proximity to or abutting an arterial street, major employment and industrial areas, or areas of the city with an abundance of vacant land. Also, several of the Areas of Growth are in or near downtown. Areas of Growth provide Tulsa with the opportunity to focus growth in a way that benefits the City as a whole. Development in these areas will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile.

The **Existing Residential Neighborhood** land use category is intended to preserve and enhance Tulsa’s existing single family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code. In cooperation with the existing community, the city should make improvements to sidewalks, bicycle routes, and transit so residents can better access parks, schools, churches, and other civic amenities.

RELATIONSHIP TO THE BROOKSIDE INFILL NEIGHBORHOOD IMPLEMENTATION PLAN:

Comments provided City of Tulsa Planning Department.

OVERVIEW

The Brookside area is one of the most recognized, distinctive communities within the City of Tulsa. Guidance for zoning, development and land use issues is provided by the Tulsa Comprehensive Plan and the Brookside Infill Development Design Recommendations – A Component of the Brookside Infill Neighborhood Detailed Implementation Plan.

The Tulsa Comprehensive Plan recognizes this area as important to development and quality of life issues for Tulsa and the midtown area and provides guidance for land use, areas of growth and stability, and transportation. In particular, the Comprehensive Plan considered the recommendations of the Brookside Plan in defining the boundary of growth and stability in the area.

Guidance of development design is particularly important to the area and is expressed in detail in the Brookside Infill Development Design Recommendations. The overall design policies state that “the Brookside area is an urban village with its own special identity, sense of community, pattern of development and unique characteristics. The protection, preservation and enhancement of this urban village are of paramount importance.” Developed by a broad base of stakeholders over a two year study and adoption process, these policies continue to provide guidance to area development.

PLANNING CONSIDERATIONS

Careful consideration of these plans is important as redevelopment continues. Planning and development considerations regarding PUD789A and the PK rezoning are many and those of particular relevance include the following:

1. The vibrancy, quality and diversity of Brookside's living, shopping, learning, worship, work, and educational opportunities will continue to foster pressures for change. Some change may be appropriate and some will not be. However, pressure for change will continue and most likely along the boundary of stability and growth.
2. Extensive citizen stakeholders input (via the Brookside Infill Task Force) resulted in preparation and adoption of a neighborhood / small area plan that continues to provide design guidance that has aided infill development, protected and enhanced Brookside's quality of life, and assisted in stabilizing area neighborhoods, both residential and business.
3. A history of continued requests for and contentious challenges to extending businesses into residential areas served as one of the major catalysts for the Brookside Plan. Through the planning process, recognized areas of primarily residential and business were reaffirmed, boundaries between the areas were refined, and design guidelines within and along those areas were established. The updated Tulsa Comprehensive Plan incorporates recommendations of the Brookside Plan into the Comprehensive Plan's Areas of Growth and Stability maps. Any change in this boundary should not be readily made or viewed as perfunctory. Change should occur only after consensus is achieved that area-wide short and long term interests are protected.

4. The proposed design components presented in PUD789 and PUD789A meet many provisions in the Brookside plan including:
- a. Providing attractive, long term screening and buffering between the Residential and Business Areas;
 - b. Providing relief from on-street parking pressures in Northern Residential areas through provision of off-street parking, albeit through extension of the Northern Business Area;
 - c. Directing parking lot access from 37th Street and 37th Place South towards the S. Peoria Avenue away from the established residential area; and
 - d. Providing design elements that help establish a sense of entry in and out of the Residential and Business Areas, and which could be enhanced further via provision of identity plaques or related elements similar to those conceptually depicted in the Brookside plan (pages page 36-43).

PLAN GUIDELINES

Brookside Infill Development Design Recommendations which are particularly salient to PUD789A include:

"B. Residential Areas (Special Consideration Areas).

"(1) Continue support for and continuation of the established Northern Brookside and Southern Brookside Residential Areas (Special Consideration Areas) as viable, attractive residential neighborhoods The Northern Brookside Residential Area (Northern Brookside Special Consideration Area) will herein be referred to as the Northern Residential Area, and the Southern Brookside Residential Area (Southern Brookside Special Consideration Area) will herein be referred to as the Southern Residential Area. Refer to Exhibit 1.

"(2) Existing established, sound residential development is encouraged to continue and high quality infill residential development and redevelopment are encouraged at appropriate densities. Residential development or redevelopment along the boundary of the Residential Areas and Business Areas may be developed at higher densities if (a) appropriate design elements and improvements are provided in conformance with area design guidelines to enhance the value, image and function of area properties

"(3) Continue to buffer and separate residential land uses and nonresidential land uses as identified in the District 6 Plan.

"(5) Discourage nonresidential traffic and parking in the Northern and Southern Residential Areas;

"(6) Establish a strong sense of entry into and out from the Northern and Southern Residential Areas. Visual clues are to be provided which emphasize these "living areas," further establish their residential character and use, and discourage the entrance into or use of these areas by nonresidential pedestrian and vehicle traffic, parking and activity. These entry treatments are to be designed and provided in conjunction with screening, buffering and separation of residential and nonresidential land uses. Refer to Exhibits 22, 23 and 23"

“C. Business Areas (Special Districts).

“(1) Continue support for and continuation of the established Northern and Southern Brookside Business Areas (Special Districts) as viable, attractive destinations for commerce and enhance the sense of marketplace (refer to District 6 Plan). The Northern Brookside Business Area (Northern Brookside Special District) will herein be referred to as the Northern Business Area, and the Southern Brookside Business Area (Southern Brookside Special District) will herein be referred to as the Southern Business Area. Refer to Exhibit 1.”

“2. Crow Creek to 38th Street South Along S. Peoria Avenue Subarea

“This portion of Brookside is located between 32nd Place South and 38th Street South in the Northern Business Area and Northern Residential Area (Special Consideration Area). The business area is a village marketplace. . . . The adjoining residential areas are strong and vibrant, consisting generally of bungalows and cottages. Incursion of business traffic into the residential areas continues to occur and place stress on the residential uses.

“C. A clear sense of separation is to be provided between the residential areas and the business areas. Entry features are to be provided in and out from the residential areas into the business area to provide positive identity, attractive pedestrian features and visual clues defining entry into the different uses. These features are to be provided along the residential street entrances. Standards are depicted in Exhibits 22, 23 and 24.

“H. The boundary of the Northern Business Area (Special District) and the Northern Residential Area (Special Consideration Area) is to be clearly defined on a map depicting lots and block in the area. It is intended that the Tulsa Metropolitan Area Planning Commission, the Tulsa Board of Adjustment, and the Tulsa City Council continue the policy of separation of uses along this boundary line as depicted in Exhibit 25. No extension of commercial, office, or parking uses are to occur into the Northern Residential Area.”

SUMMARY

As indicated above and throughout the Brookside Plan, establishing a physical boundary and a City policy for protecting and enhancing the boundary between the Northern Residential and Business Area is most important and is crucial to “the protection, preservation and enhancement of this urban village”. The designated boundary has historically been and continues to be a matter of great importance. It was carefully studied and its location recommended by area stakeholders. TMAPC considered it so important that it added a detailed exhibit depicting this boundary which was included with the Plan at the time of adoption. (Refer to Exhibit B).

Compliance with this boundary has continued since with few exceptions. In those instances that TMAPC and the City allowed business uses into previously designated residential areas, it was determined that conditions warranted revision, and the Tulsa Comprehensive Plan reflects those changes.

Any change in the boundary between the Northern Residential and Business Areas in Brookside should not be readily made or viewed as perfunctory. Change should only occur after consensus is achieved that area goals and short and long term interests are protected and enhanced.

STAFF RECOMMENDATION:

The purpose of PUD-789-A is to allow the KJRH television studios to expand their existing parking lot. According to the applicant, construction of the new parking lot will allow KJRH employees to park in a secured lot rather than using on-street parking. The parking is designed in such a fashion as to attempt to minimize negative impact by using both screening and landscaping as buffering techniques. The applicant also attempts to minimize impact by providing no direct access to East 37th Street or 37th Place from the subject tracts.

In November of 2011 the TMAPC recommended approval of PUD-789 which was consequently approved by the Tulsa City Council in December 2011. That proposal was to convert the existing residential lot located adjacent to the KJRH studio property along 37th Street from a residential single-family lot to a parking lot. Considering the lot's location across the street from residential zoning and residential zoning located adjacent to the east in conjunction with the stated goals and objectives of the Tulsa Comprehensive Plan as well as the Brookside Neighborhood Infill Development Plan, staff recommended denial of the PUD.

PUD-789-A seeks to add one residentially-zoned lot to PUD-789. The lot is located to the east of the KJRH Studios along 37th Place, immediately adjacent to the south of PUD-789. This proposal would "square off" of the PK zoning located to the north (PUD-789) and to the south (Trinity Church parking lot) as shown on the attached zoning map.

The applicant contends that additional parking in Brookside will help reduce non-resident traffic parking on neighborhood streets. Meetings have been held with the Brookside Business Association and the Brookside Neighborhood Association and the proposal has received a favorable response from both organizations. Letters of support are attached as Exhibits G and H.

Please refer to the attached Exhibit F and the comments above from the City of Tulsa Planning Department. The exhibit is the Brookside Business/Residential Area boundary map which was adopted with the Brookside Infill Development Design Recommendations as well as being made part of the Tulsa Comprehensive Plan. The map serves as the official guide for the separation between business and residential areas in the Brookside community. This boundary has "held true" for many years as the demarcation between these different major areas of the Brookside neighborhood and assists in preserving a sense of stability for the residential areas.

Should there be a decision to support the PUD major amendment, it would seem most appropriate to incorporate the design guidelines from the Brookside Plan and amend this boundary to bring the decision in to conformance with the Plan. Modification of this boundary should be considered very carefully and take into consideration the potential impact on existing development patterns of the area

and the precedence that may be set for possible future requests to change the boundary.

Staff has carefully reviewed this proposal and sees the merits of the subject application. Concurrently, there are shortcomings to the proposal as it relates to planning principals for the area as outlined in both the Brookside Plan and the property's land use designation in the Tulsa Comprehensive Plan. There is general agreement about the significant parking-related issues in the Brookside area in addition to the safety concerns for many of the KJRH "on-air" personalities. Following the stated design recommendations of the Brookside Plan would give the proposal further value.

Given the previous approval of PUD-789, the support for this current proposal by the Brookside Neighborhood Association, the Brookside Business Association, and KJRH's willingness to adhere to the basic design principles outlined in the Brookside Plan, staff can support this request.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Staff finds PUD-789-A to be: (1) consistent with the design principals of the Brookside 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-789-A subject to the following conditions:

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

2. Development Standards:

Gross Land Area:	24,825 SF / .57 Acres
Net Land Area:	21,075 SF / .48 Acres

Permitted Uses:

Uses permitted as a matter of right in Use Unit 10, Off-Street Parking and similar uses and those uses customarily accessory to the permitted uses.

Minimum Parking Area Setbacks:

From North PUD Perimeter Boundary:	5 Feet
From West PUD Perimeter Boundary:	0 Feet
From East PUD Perimeter Boundary:	5 Feet
From South PUD Perimeter Boundary:	5 Feet

Minimum Landscaped Area:	10% of Net Land Area
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Landscaping and Screening:

A screening wall of no less than 6' in height shall be constructed along the entire east boundary of the PUD. The northern ½ of the wall shall be of masonry-like construction while the southern ½ of the wall/fence shall be a high quality, highly durable wooden fence as noted in the Brookside Plan design guidelines. Within the section of the screening wall/fence that "steps down" near the ROW line (see below and attached Exhibit I); the wall/fence shall be a masonry base with a four (4) foot wrought iron fence on top.

In order to achieve a strong sense of entry to the neighborhood, as outlined in the Brookside Plan for the Residential Areas (Special Consideration Areas), within approximately 14.5' of the street right of way landscaping and screening along the boundary in common with the residential district shall be in substantial conformance with the attached Exhibit I and section 1.B.6 of the Brookside Infill Neighborhood Plan.

Within the masonry column located at or near the two street ROW lines, an approximately 3 square foot area shall be dedicated to the installation of a plaque identifying the Brookside Neighborhood in conformance with Exhibit 23 – Detail Illustration – Pilasters and Screening Fence of the Brookside Plan (Attached as Exhibit J). Design of such sign shall be mutually agreed upon by KJRH and the Brookside Neighborhood Association.

An evergreen hedgerow shall be located inside portion of the wrought iron/aluminum fences. Trees shall be planted on the west side of the screening wall which will grow to a mature height exceeding the 6' tall wall/fence. This additional landscaping shall help buffer impacts from the parking lot to the abutting residential properties.

Conformance with the aforementioned will be established by the TMAPC at detail site and sign plan reviews.

Vehicular Access and Circulation:

Vehicular Access to the proposed parking lot shall be limited through the existing KJRH parking lot to the west. No access shall be permitted directly on to East 37th Street from lot 4 or directly on to East 37th Place from lot 9. Security gates (final location to be determined at the PUD Detail Site Plan review) shall be installed in order to restrict unauthorized parking.

Utilities:

All utilities are currently available to the subject tract. No additional services are anticipated other than the electric to service the light

poles and water to service the irrigation system. Stormwater runoff shall be collected in a method approved by the City of Tulsa.

Lighting:

Lighting used to illuminate an off-street parking area shall be so arranged as to shield and direct away from properties within an R District which do not contain uses for which the parking is being provided. Shielding of such light shall be designed so as to prevent the light-producing element of the light fixture from being visible to a person standing in an R District.

12. No zoning clearance permit shall be issued until a detail site plan for the lots, which includes all buildings, parking and landscaping areas, has been submitted to the TMAPC and approved as being in compliance with the approved PUD development standards.
13. A detail landscape plan shall be approved by the TMAPC prior to issuance of a building permit. A landscape architect, architect or engineer registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening will be installed by a specific date in accordance with the approved landscape plan, prior to issuance of an occupancy permit. The landscaping materials required under the approved plan shall be maintained and replaced as needed, as a continuing condition of the granting of an occupancy permit.
14. 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 or existing stormwater drainage structures and detention areas serving the development area have been installed in accordance with the approved plans prior to issuance of an occupancy permit on that lot.
15. No building permit shall be issued until the platting requirements of Section 1107.F of the Zoning Code have been satisfied or a plat waiver is approved by the TMAPC. Should the property be platted, the plat shall be 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.
16. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting/plat waiver process which are approved by TMAPC.

17. 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.
18. There shall be no outside storage of recyclable material, trash or similar material within this PUD. Trucks or truck trailers may not be parked in the PUD except while they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage in the PUD.

TAC Comments:

General: No comments.

Water: No comments.

Fire: No comments.

Stormwater: Stormwater Drainage and the Regulatory Floodplain should be addressed in the narrative. Additional drainage into the street may be a problem. The City of Tulsa Regulatory Floodplain Map Atlas, Panel 47, shows both of the additional lots to be located in the Perryman Ditch Regulatory Floodplain shallow flooding area.

Wastewater: Where the existing sanitary sewer line will be placed under a paved driving surface, the existing pipe must be replaced by Ductile Iron Pipe from Manhole to Manhole. No objection to the PUD Amendment.

Transportation: No comments.

INCOG Transportation:

- **MSHP:** No comments.
- **LRTP:** Per Subdivision regulations, sidewalks should be constructed if non-existing or maintained if existing.
- **TMP:** No comments
- **Transit:** No comments.
- **Fast Forward Regional Transit Plan:** No comments.

Traffic: No comments.

GIS: No comments.

Street Addressing: No comments.

Inspection Services: No comments.

County Engineer: No comments.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 10 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-0-0** (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell "absent") to recommend **APPROVAL** of PUD-789-A per staff recommendation.

Legal Description for PUD-789-A:

Lot 4 and 9, Block 2, Lee Dell, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

* * * * *

Planning Commission took a five minute break at 3:00 p.m.

Planning Commission resumed at 3:09 p.m.

FORM-BASED CODE REGULATING PLAN PUBLIC HEARING:

8. Public Hearing to consider adopting a Form-Based Code Regulating Plan for the Pearl District within the City of Tulsa, Oklahoma.

TMAPC COMMENTS:

Mr. Walker called the meeting back to order at 3:09 p.m. Mr. Walker stated that there have been three informational meetings, with 150 notices sent to businesses within 360-acre Pearl District. All residents have been noticed about today's hearing and every property owner within the proposed boundary, plus a 300-foot radius has been noticed and notified. There are approximately 1,100 parcels with estimated 700 property owners. This proposed plan could be very impactful to the City of Tulsa and the specific area.

Mr. Walker stated that there will be a five-minute speaking period for each speaker and at the three-minute mark each speaker will be asked to conclude their comments. There are three hours of speakers signed up today to speak. If the speakers hear something that someone else has already stated, please hold up your hand when your name is called and withdraw in order to save time. Mr. Walker indicated that the Planning Commission received a lot of correspondence from people in favor of the plan and a lot of correspondence from people opposed to the plan. This is a public hearing to hear both sides. Mr. Walker stated that the plan could be approved today as proposed, it can be denied, modified, or continued to allow the Design Team to make modifications.

STAFF RECOMMENDATION:

Mr. Alberty stated that this is the first public hearing on the Regulating Plan for the remainder of the Pearl District. The initial area was tagged the "Pilot Area" and that was by definition only and not intended to be a full pilot area. The initial

area was restricted by the funding received due to the fact that it was in the Central Park TIF District, approximately 60 acres. All of the steps to implement the Form-Based Code have been completed on the pilot area. This includes the drafting of the Form-Based Code, which is the ordinance or regulating document, approval of a regulating plan for the 60 acres and the rezoning of the property to FBC, which is the final step to implement the Form-Based Code on that area. This was all accomplished October 2011. Since that time staff has considered the Regulating Plan for the balance of the Pearl District. The Pearl District was initially planned as the 6th Street Infill Plan and was adopted in 2005 and by the Planning Commission in 2006. A part of the recommendation of the 6th Street Infill Plan was that there be an adopted Form-Based approach to development within the Pearl District. That is what is being accomplished today. There is a Pearl District Design team that has been working on this effort for over ten years. They have had the assistance of the City of Tulsa Planning Department and as of late our staff with regards to developing a Regulating Plan. The initial staff member who was involved is no longer with INCOG and he unfortunately holds a lot of answers to the questions; however, staff will try to be responsive as possible. Mr. Alberty cited the boundaries of the Regulating Plan as I-244 on the north, two lots deep of 11th Street on the south, IDL on the west and two lots deep on the east side of Utica. This product being proposed today is a product of the Pearl District Design Team. They were assisted by the City Planning Department staff, an INCOG staff member on a voluntary basis, which was not an assignment of INCOG, but we did have a staff member who was interested in the Form-Based Code and he volunteered for that project. Typically, plan development is done by the City Planning Department, but this was a little unusual in respect that INCOG allowed one of their staff members to participate in the development and assist the design team in the development of the Regulating Plan. Mr. Alberty emphasized that this is a long effort of the Pearl District Design Team and has been involved with this for over ten years, if one counts when they initially became involved to develop the 6th Street Infill Plan. Today will be the first step in making the Pearl District Regulating Plan effective for the balance. If this area goes forward and if this Regulating Plan or something similar to today's proposal is approved, then the next step would be to file a rezoning application to zone the properties that should be under the Regulating Plan for Form-Based Code. The Regulating Plan is an integral part to Title 42-B, which is the ordinance for Form-Based Code. It basically determines how properties will be developed by the frontage. There are four basic frontages, urban general, small apartment and townhouse, single-family detached and workshop. Within the urban general there is a further breakdown to urban general storefront. The plan also has specific spaces identified.

TMAPC COMMENTS:

Mr. Leighty stated that there have been some claims of misinformation being put out there and after serving on the Planning Commission for over three years, he would say that 99% of the cases and all matters that come before the Planning Commission have a staff report and staff recommendation. The report would have information with the issues framed with previous zoning cases that might have something to do with the matter. He explained that the staff reports would have conformance to the various plans and how they might relate to each other and then a staff recommendation to help the Planning Commission to understand this. Mr. Leighty asked Mr. Alberty to enlighten the Planning Commission why in this case that staff has elected to not provide a staff report and recommendation on this matter. Mr. Alberty stated that he believes that this is the hour and time for those who are interested to be heard and certainly staff plans to make a staff recommendation, but he believes in respect for all of the efforts that the Design Team put forward, he did not want to tarnish their opportunity to present their plan with staff's recommendation. Staff did include the 6th Street Infill Plan as part of the Planning Commission's information to help guide them. Mr. Alberty stated that in his opinion the 6th Street Infill Plan is what the Form-Based Code should be following and the Planning Commission can make their decision with regards to how close it follows the 6th Street Infill Plan. At the appropriate time there will be a recommendation. Mr. Leighty stated that the City Planning Department did submit a policy analysis and he asked Mr. Alberty how that came about and did he have anything to do with it or request them to do it. How did this come about to be presented to the Planning Commission? Mr. Alberty stated that it was volunteered and he has no problem with the report. As stated earlier, that where the policy and work comes from is from the City Planning Department, and the TMAPC staff's job is to write recommendations based upon those policies. We are a coordinated staff; the City Planning Department does the development and TMAPC staff does the implementation and recommendations. Mr. Alberty stated that he knew the City Planning Department was going to prepare the analysis and he believes it is a good job and they outlined the issues very clearly. Mr. Leighty commented that the Planning Commission could literally have a vote on this today and how could they have a recommendation from staff if it is brought to a vote today. Mr. Alberty stated that the Planning Commission could request it and staff could give a verbal recommendation, but he doesn't believe it will happen today.

Mr. Walker reminded the interested parties that they will be given five minutes to speak and at three minutes they will be asked to wrap up their comments. If someone before them has already stated their view there is no need to repeat it and it would save a lot of time if they withdrew their name.

INTERESTED PARTIES COMMENTS:

Max Tankersley, 1312 East 26th Street, 74114, stated that he owns property at 1323 East 3rd Street and his son and daughter own two other properties within the Pearl District. As a family they are deeply invested in the subject area and do not have an opposition to the concept of rezoning and redeveloping the whole Pearl District. One of the elements that have come to his mind relates to the ability to finance and insure under the current standards. There may need to be clarity on this to affect a better relationship with their lenders and appraisers. Mr. Tankersley indicated that he has been an appraiser and broker for the last 40 years. One of the issues that will be confronted with on this proposal is the underwriting ability for appraisers and lenders. When one changes the highest and best use it affects the value. Once this is done, if the note comes due and one wants to renew the note, the current banking regulations require that one gets a new appraisal and with the new appraisal it will also tell what it was before and what it is after, and as a result there will be some holes in the way it is being prepared now. Mr. Tankersley stated that he is not making any recommendations on how to fix it, but it is something that clearly needs to be addressed.

TMAPC COMMENTS:

Mr. Midget asked Mr. Tankersley if he believes that this can be fixed. In response, Mr. Tankersley stated that it can definitely be fixed, but there will be issues that relate to Federal Banking Rules and Uniform Standards of Appraisal Practice that he would have to do in his reporting formats and when that is done it will affect value. There is no easy answer to it being resolved, but it can be resolved.

Mr. Leighty asked Mr. Tankersley how he would characterize the values in the Pearl District at the present time. In response, Mr. Tankersley stated that would require taking each one in a case-by-case study. It is based on highest and best use theory and under those principles there is what is called "legally permissible" and legally permissible property as zoned today would be analyzed to determine its viability on its value or how it can be used. The issues of legally permissible and legally non-conforming could be an issue that may undermine the value of the property because it no longer be able to have the same use. If you shorten that time on your note and mortgages, then it is affecting the lenders ability to loan as well as the appraiser's ability to change. Right now a commercial property, under the new form, may not be able to state that it is pure commercial and may have to say that it falls under the guidelines of being an apartment and that could be a total different value consideration. Mr. Leighty asked Mr. Tankersley if he thinks there is plenty of room for growth and values in the Pearl District going forward. Mr. Tankersley stated that generally one will see that improvements always help, but dealing with immediate issues, people who have loans on the existing properties that may have 15 year amortization with a three-year note. Change the zoning and the bank may no longer loan on the property. The bank would be concerned about foreclosure and the ability to get their money back.

Douglas Waldman, 534 South Rockford, 74014, President and owner of Superior Linen Service, stated that he owns several lots south of 5th Street that are now parking areas. He indicated that his building has been in its location since the 1950s and the same use it has always been, industrial commercial laundry, and the entire block has historically been an industrial park. Along the same lines of the previous speaker, he is fortunate enough to actually own the property without a mortgage, but he does use it for collateral for several different business loans and every time he renews his business loan, he has to pay an appraiser to appraise his property. He indicated that he has the same concerns as the previous speaker regarding value. Mr. Waldman expressed concerns with being grandfathered in and that is fine if one doesn't ever change their business, but he is constantly changing and adding new equipment. Sometimes the new equipment requires that he put add-ons to the existing building and adds things to the roof. All these issues change the look and feel of the building and the biggest concern is fear or uncertainty of what the cost will be. Mr. Waldman commented that he hasn't gotten a clear understanding of what the Regulating Plan will require him to do. He explained that he had a similar building in Fayetteville, Arkansas that was over 100 years old and he is no longer in Fayetteville anymore due to the same type of situation and it became difficult to do routine evolutions. He indicated that his Arkansas business is now located in Springdale Arkansas. His business has 300 employees and 150 are located in the subject building. The annual payroll is ten million dollars. He would hate to see any kind of push to force him to look elsewhere.

Kaye Price, 5815 South 31st West Avenue, 74107, stated that she doesn't live in the subject area but since the entire City was invited to this meeting she is going to give her input on this subject. Ms. Price indicated that she believes that the Regulating Plan is too large and should be scaled down and tested before placing it over the entire Pearl District.

M.C. Tomsen, 10006 South Braden Avenue, 74137, stated that he owns the property at 4th Street and Norfolk Avenue. He stated that his property includes several City blocks and is located in portions of three different subdivisions. The subject property has three structures and extensive parking areas. His principle tenant is Loomis Armored Car Company. There are 25 armored cars and they operate across Eastern Oklahoma, portions of Kansas and Arkansas. Loomis service businesses and banks throughout the area and all of the toll booths on all of the Oklahoma Turnpikes. Loomis has 75 employees and they work shifts 24/7. The parking facilities are furnished for these employees to preclude on-street parking, as envisioned by the Form-Based Code. The facilities are well-lighted 24/7 and highly secured with electronic doors and gates, high fencing with monitoring cameras and bullet-proof glass, steel vaults and man-traps, employees who carry firearms and know how to use them. Loomis is not an ordinary office, not an ordinary shop, or warehouse. This is an important business that provides a very necessary service to Tulsa and much of Oklahoma and the surrounding area. The proposed Form-Based Code will be in direct

conflict with the subject operation. Loomis requires onsite parking and they are purposely at the subject site, which precludes a dense pedestrian-oriented neighborhood as envisioned by the Form-Based Code. The subject location has not been an urban community for many years and not being a truly urban area has been essential and necessary to Loomis for this reason. Loomis has been the tenant for the subject location for 33 years. During that period a variety of changes have been made to the structures, fencing, lighting, access and parking to accommodate their changing needs. What started as a small building with windows is now a stucco covered building with no windows and has a large drive-through steel-framed facility adjoining with a couple of windows and bullet-proof glass. Two other buildings have been added, one for vehicle maintenance and one for offices. Mr. Tomsen indicated that he has purchased the adjacent vacant lots to provide additional parking for Loomis vehicles and employee parking. Mr. Tomsen stated that Loomis needed a wash-rack for their vehicles and he built it for them. These sorts of things could not be done under a Form-Based Code. Loomis needs change and they will change again in the future. Rebuilding the subject facilities either for them or others who may lease the subject property will not conform to the Form-Based Code. Mr. Tomsen suggested that the planners who dreamt up the Form-Based Code go back to their desks and pull down their green-eye shades and spend more time sharpening pencils and wearing out erasers on other poorly thought-out plans for our City. This area of Tulsa does not need their help. [Applause]

TMAPC COMMENTS:

Mr. Leighty stated that the Form-Based Code does not eliminate any onsite parking. The parking that Mr. Tomsen has would be allowed to continue.

INTERESTED PARTIES COMMENTS:

Lorenda Greer Stetler, 2440 South St. Louis, 74114, stated that she has lived in Tulsa her entire life and she is a retired owner of a successful business that has been in Tulsa for 75 years. Ms. Stetler indicated that she has no property in the Pearl District and she has no financial gain in the project. She explained that she is present today because she believes in the Pearl District and what it is trying to accomplish. This is an exciting project for the subject area and all businesses and property owners have a huge opportunity to reap benefits. The people opposing this are uninformed and sadly missing the mark. They should be embracing this project, as the Pearl District is trying to drive business their way, as well as raising property values. [Applause]

William A. Franklin, 4332 South Canton Avenue, 74135, stated that he is a local artist and a business owner. He is the President and founder of the New Tulsa Art Deco Museum in downtown Tulsa. Mr. Franklin stated that there seems to be a lot of misinformation regarding the Pearl District Regulating Plan. Mr. Franklin stated that Tulsa needs some good urban village-type living. He has watched many of his friends move away from the City and businesses moving away from the City because there is no good urban lifestyle that many people want today.

There is over 200 square miles of suburban living for people to live like they want and the subject area represents less than one percent of the City and he would like to change that one percent. Many cities have rezoned their entire city. Mr. Franklin cited the benefits of living an urban lifestyle.

Samantha Jupe, McDonald's Corporation, One McDonald's Plaza, Oakbrook, IL 60523, stated that McDonald's is opposed to the Regulatory Plan. Based on Mr. Alberty's comments this morning, the Planning Commission should follow their plan. She directed the Planning Commission to page 69 where it states that the area at 1st and Utica should not be included in the design or development plans. McDonald's is requesting that the Planning Commission consider that. Ms. Jupe explained that 70 percent of the sales at the subject McDonald's is from the drive-through and if that is taken away, it would take away business and it would be necessary to relocate the store. This would eliminate between 90 and 130 jobs. On Page 48 of the plan there are certain economic issues that should be satisfied and McDonald's either satisfies or doesn't belong in that category. The McDonald's is a restaurant and already established, there is no blight and there is plenty of parking for the subject location. McDonald's understands what the Pearl District is trying to do, but the proposal will kill the store.

TMAPC COMMENTS:

Mr. Leighty asked Ms. Jupe if she is aware that the Form-Based Code will not require McDonald's to change anything to their existing store. Ms. Jupe stated that if McDonald's decided to rebuild or remodel the existing store; it would. Mr. Leighty stated that is true. Ms. Jupe stated that the store has been at its current location for 34 years and in those 34 years it has been remodeled or rebuilt five times. Mr. Leighty asked Ms. Jupe if there are any McDonald's in urban areas that have conformed to Form-Based Code. In response, Ms. Jupe stated that there are several, downtown Manhattan, downtown Washington, D.C and downtown San Antonio. Most metroplexes where there is very limited parking or no parking and the store has to be built up versus out is how the McDonald's operates, but the reverse is where the 70 percent of the sales comes from pedestrian traffic and she can't see that happening in the Pearl District. There is not enough population and it has to be for convenience and drive-through. Mr. Leighty stated that it can work. Ms. Jupe stated that it can't in the subject area and that is why it isn't done today. Ms. Jupe explained that a local example is their store in Bricktown in Oklahoma City. It is a brand-new site and they conformed to this and the projected sales, when initially started the project, was supposed to be at a certain amount based upon pedestrian traffic and urban life center. McDonald's is now realizing that those numbers are wrong and is experiencing 45 percent less than what was projected based upon what they were told regarding pedestrian traffic. McDonald's is already looking for a relocation of the store in Oklahoma City.

Mr. Liotta stated that he would like to clear up that the Form-Based Code is not the Planning Commission's Plan. The Planning Commission is an independent recommending body who makes recommendations to the City Council.

Mr. Walker asked Ms. Jupe if she flew to Tulsa for this hearing. In response, Ms. Jupe answered affirmatively.

Mr. Carnes out at 3:30 p.m.

INTERESTED PARTIES COMMENTS:

David Strader, 535 South Quebec, 74112, 813-816 and 812 South Quincy, stated that he is a business owner in the Pearl District and he is the President of the Pearl District Association. He commented that the Form-Based Code would not stop McDonald's from having a drive-through on that building. Since that is identified in the 6th Street Infill Plan as an auto-oriented business, we will have discussion about that and that is not a hard answer of yes or no. There is discussion that can happen in that particular case. Mr. Strader commented that there have been some smear campaigns before, but this one is the best. Mr. Strader stated that many people believe that their property values will go down and the Pearl District is darn near slum as it is. He doesn't believe the property values will go down much more. This is the one reason this Code is so important because it can act as an important tool to help bring the property values up. Some people believe that their property taxes are going to go up and he hopes so. If the property taxes go up, that means something is being done right. Mr. Strader commented that he hopes the property taxes do go up and who could argue with that. Mr. Strader stated that people are concerned that if the Code is passed that bars can move into the Pearl District unabated and it is true that the Pearl District did ask to do away with the spacing requirements between bars. This has been done successfully all through the United States where entertainment districts have been planned. But to say bars would be able to open anywhere is simply not true. The spacing requirements for the Form-Based Code are the same as the existing City of Tulsa Zoning Code. The spacing between churches, social services, government buildings, and schools still apply. The ABLE Commission rules would still apply with regard to bars as well. Mr. Strader stated that people are stating if this passes insurance and financing will be difficult under the Code, but according to FHA that is not a problem. Mr. Strader admitted he doesn't know the details regarding this issue, but he would defer to the Planning Department on this because apparently they have already answered that question. Mr. Strader stated that people are stating that if they want to sell their property they are unable to unless it conforms to the Code and that is complete fallacy. Everyone's property is grandfathered in under the new Code and one can keep it, sell it or do anything one wants to with their property. They do not have to bring it up to Code. Mr. Strader further stated that another issue he has heard is that all of this has been done in private and not held public meetings and that the Pearl District has kept this from the public. That is not true, this has been in the works for twelve years and there have been interviews by

Tulsa Business Journal, Urban Tulsa and the Tulsa World. There has been three public meetings with the assistance of INCOG and they have done everything he knows how to do to let everyone know about this Code in the past. Mr. Strader stated that he has heard that INCOG is not a part of this Code and he wishes someone told Duane Cuthbertson because he was at one to two meetings a night for over a year with the rest of the Pearl District studying this land use code. He didn't know he was volunteering. He was there chugging right along with the rest of us.

Mr. Strader was warned that he had 30 seconds left. Mr. Strader commented that the Planning Commission always gives Mr. Westervelt extra time why don't they give him a minute.

Mr. Strader stated that this Code is very important and he requested the Planning Commission to support small area plans. Form-Based Code has a place in our plan.

TMAPC COMMENTS:

Mr. Perkins stated that he has a general comment. This is public hearing and please be careful about using inflammatory language such as "slums". Mr. Perkins stated that he doesn't think the Pearl District is a slum and he does believe that there is some room from improvement, but it is definitely not a slum. He would also say that talking about some gentlemen named Mr. Westervelt, we don't want to be inflammatory here. [Applause]

Mr. Midget asked Mr. Strader if he stated that the Code wouldn't impact the drive-through at McDonald's. Mr. Strader stated that they can have a drive-through. Mr. Midget stated that he wants to clarify this because McDonald's has rebuilt or remodeled five times in the past 34 years and if they were going to do that again, would they have to conform to the Form-Based Code being pedestrian or would they keep the drive-through. Mr. Strader stated that it would depend on the design and he would have to defer to the Planning Commission for exact details. As long as they go up 50%, they can develop like they have and anything over 50% they have to conform to the Code. Mr. Midget further asked Mr. Strader if he stated that the Pearl District Plan makes provisions for auto oriented businesses or there are areas where this would have to be worked out and made consistent. Mr. Strader stated that he didn't say that it had to be worked out, but the door is opened for discussion. The Plan is not perfect and we have been working on the plan for many years and he couldn't see all the instances of a Form-Based Code. It is difficult to predict the future 15 years down the road.

Mr. Perkins asked Mr. Strader who the Pearl District Association represents and how many people are members and how do you become a member. In response, Mr. Strader stated that the Pearl District Association represents the boundaries that were discussed earlier. One becomes a member by attending a

meeting and stating that they would like to become a member. The meetings are open to the general public and they are held the 2nd Tuesday of every month. The meetings are held at Central Center at Centennial Park.

Mr. Dix stated that he would like to ask Mr. Tankersley a quick question. Mr. Dix asked Mr. Tankersley how many FHA loans on commercial properties is he aware of or done appraisals. Mr. Tankersley stated that they do not do FHA loans on commercial properties. [Applause]

INTERESTED PARTIES COMMENTS:

Paul Kane, 11545 East 43rd Street, 74146, CEO of Homebuilders Association of Greater Tulsa (HBA), stated that the Homebuilders Association is in support of Form-Based Codes (FBC) and supportive of FBC in this part of town. This new way of zoning can open up opportunities and a new way of growing our City. The HBA participated in the PLANiTULSA process and understood that FBC and the mixed-use development that it brings would be an important part of our Comprehensive Plan going forward. He believes that 6th and Peoria is a great starting point for this and it is because HBA believes in this and support this that he comes today with some suggestions on how to enhance the success of this potential project. Mr. Kane indicated that HBA agrees with Kaye Price that this is too big. Many of the members are not only homebuilders but are land developers. Developers do not develop 500 hundred acres at once because the development would become spotty and look like a failure even if it is not. The idea is to roll things out in phases so that the first phase can develop energy and a concentration. In this particular instance, what the Pearl District wants is density. This Plan, as presented today, is half of a square mile and though that is a fraction of the land within the City of Tulsa, one looks at the size of the development. The first thing that should be done is to lower the footprint of this proposal to a smaller core area where it can really be developed with the density and excitement that this project deserves. The second thing is that Mr. Alberty noted that the area that is designated as a pilot is not really a pilot. The HBA would suggest that a pilot area might be a good idea and with that pilot one could develop empirical data that could be studied and determined whether not elements are successful and which elements are failures so when moving forward one could make wise decisions. The pilot could be designed with benchmarks and deadlines so that a certain period of time it could be looked at and studied to make good decisions. Lastly, there are property owners on the eastside who doesn't seem to be excited about being a part of this. In consideration of the people who have spent years and years putting this thing together, perhaps the best thing to do is to take them out of this plan and let the people who are truly passionate about this and what to make this work let it go forward. This Plan is not a bad idea and it isn't a bad time to do it, but it has to be very carefully crafted and carefully tailored. The Plan as presented, in many ways, is in conflict with the Comprehensive Plan. The auto-oriented use in the northeast quadrant has already been pointed out as something inconsistent with this Regulatory Plan. The original Comprehensive Plan had a pretty vast area of

residential revitalization and now known as the “detached frontage” is confined to one street on one block. Mr. Kane suggested that the Regulatory Plan be studied again and put back in conformance with the original 6th Street Infill Plan and apply it to a smaller pilot area with defined benchmarks and defined deadlines to get it done and allow this to move forward and allow people who have spent so much time and effort and compassion on this to allow this to become a reality. If this goes forward being too big and it fails, the idea of Form-Based Codes could be stigmatized for a long time.

TMAPC COMMENTS:

Mr. Leighty asked Mr. Kane if he had a map of what HBA would recommend for the size or boundaries of a proposed reduced Regulating Plan. Mr. Kane stated that he is not going to be so vain to suggest that he has that sort of knowledge. That is best left to the stakeholders who live in the subject area to find a more defined area that it would be suited for. Mr. Kane further stated he could draw a line but he doesn't own property in the subject area and it would be presumptuous of him to do so. Mr. Leighty asked Mr. Kane if he thought it should be 50 percent less or does he have any guidelines at all. Mr. Leighty asked Mr. Kane if it were ten percent less would that satisfy him or half of it. Mr. Leighty asked Mr. Kane to help him understand what he is talking about when he says smaller. Mr. Kane stated that most things north of the railroad tracks are a different world. It is very different at 11th and Peoria from what it is at 2nd and Utica. These two areas are separated by a mile in length and they have different histories, densities and uses. That becomes a physical barrier and a psychological barrier in terms of how properties all grow and develop. Another thing to consider is the number of auto-oriented businesses along the eastern boundary that have evolved differently from 6th and Peoria. This would be a great place to start, but it seems that many of the property owners along that area really don't want to be a part of this. Mr. Leighty asked Mr. Kane if he would limit it to the 6th Street Corridor. Mr. Kane answered negatively. Mr. Kane stated that 6th and Peoria is the epicenter and then work out from there a few blocks in every direction. It needs to be big enough that, if it is the pilot, it is capable of ending it with empirical data that can be studied and analyzed for some good results.

Mr. Leighty stated, regarding this idea about the pilot thing, there are a lot of people who do not believe that this should have been called a pilot area. The reason it was determined for that amount, which has been explained, is because of the funding that was available to pay the consultant. It has always been intended to be brought forward the bigger regulating area for the entire Pearl area. There are a lot of people in this room who would say that the Pearl District is a pilot.

INTERESTED PARTIES COMMENTS:

Brooke Hamilton, 325 South Quincy, and 1414 East 3rd Street, 74120, Nameplates Inc., Color View Digital, and Southwestern Process Company, stated that her companies are located at several addresses. Ms. Hamilton indicated that she was informed about the notice for this meeting one week prior to the meeting. In June 2010, she attended the Pearl District meeting and was informed that the proposal did not include their properties and therefore she never returned to future meetings. All three of her businesses are located between 3rd and 4th Street between Quincy and Rockford and there are nine buildings. The businesses have been in the subject area since the 1950's and the original building started on 4th Street. The businesses have continued to grow over the years and expanded as zoning has allowed. Ms. Hamilton stated that she is the third generation to own the small business with plans to grow further. All 80 employees are present today and will have to leave soon [applause]. Ms. Hamilton quoted Section 201.3 of the Form-Based Code, which would make her businesses non-conforming. She commented that it was her understanding that all zoning was supposed to be supported by the Comprehensive Plan, but the Form-Based Code is not consistent with and not supported by the 6th Street Infill Plan. The 6th Street Infill Plan recommends that her property not have any special development regulations. Ms. Hamilton explained that her businesses are manufacturing and not a small workshops and the workshop form standard building code imposes more regulations on her properties than she is presently subject to. The proposed Code makes her property a non-conforming use and this is not good for her business or her neighbors. Ms. Hamilton requested that this be denied. [Applause]

Mr. Leighty asked Ms. Hamilton if she had any idea of how many of her employees live in the Pearl District. Ms. Hamilton stated that she doesn't have exact numbers, but there are several and at least ten percent. Mr. Leighty asked Ms. Hamilton if she thought it would be helpful if more of them lived nearby. Ms. Hamilton stated that she would love that, but from what she understands this Form-Based Code and the housing that would be available would not allow her employees to be able to live near the business. Mr. Leighty asked Ms. Hamilton if she has read the Code. In response, Ms. Hamilton answered affirmatively. Mr. Leighty asked Ms. Hamilton if she has visited with anyone from the City of Tulsa Planning Department about it. Ms. Hamilton stated yes and no. Ms. Hamilton stated that she has spoken with someone from INCOG, but she didn't ask their opinion because she didn't want to put them in a precarious position. Mr. Leighty asked Ms. Hamilton if she has spoken with anyone from the Pearl District or Design Team. Ms. Hamilton stated that she hasn't been given the opportunity, since only learning about it one week ago. Mr. Leighty stated that this is his point and he knows that they would love to visit with her and work with her and try to help her understand what this is all about and is real, truthful and what is misinformation. Mr. Leighty encouraged Ms. Hamilton to visit with them.

Nancy Keithline, 1348 East 43rd Court, stated that she is the owner of the property located at 602 South Utica, 74104, which is a dental group. She indicated that she also owns a vacant lot at 1640 East 7th, which was planned to be a parking lot. Ms. Keithline stated that she would like to echo Mr. Kane's comments. She is aware that this plan has been in the process for a very long time, but she believes that there are some holes in it that need to be addressed before it laid as a blanket over the entire subject area. She commented that there would be some unintended consequences that will cause a great deal of harm. The Plan does not provide for principal use parking lots that will be necessary if this area has a prayer of developing, an economic engine that it needs to grow. She doubts there is anyone in this room who doesn't want the Pearl District to develop, attract new business and have existing businesses growing, thriving and hiring more people and create new jobs. The hope for that future depends on bringing business into the subject area and customers. This is Tulsa and not metropolitan Manhattan or downtown Chicago and we will never get to be there because that is not what she believes we want. She does agree that urban areas are wanted, but if there isn't a mass transit system to bring people without their cars they will not come. There aren't enough who live in the subject neighborhood to provide the economic engine that it needs to grow and thrive. Ms. Keithline stated that she tried to move business into the subject area and did on 6th and Utica. Ms. Keithline explained that when she moved into the subject area she had 11 employees and now she has 50. She provided 39 new jobs in the Pearl District and she has a parking lot that has 39 spaces and she needed extra parking for her employees. Her patients are toddlers who come with their families and it is difficult for them to park several blocks away or on the street and walk with a bundle and a toddler and everything that comes with children to a dental office. She needs her clients to be able to park next to the building for safety reasons if nothing else. That requires that her 50 employees need to park somewhere else. She indicated that she rents a lot that is directly north of her building to park about 18 cars. The rest of her employees have to park on the lot. She stated that she petitioned the Traffic Engineer to allow her employees to park on the street and they now have eight more spaces on the street. Ms. Keithline stated that she went before the Board of Adjustment to obtain a variance to build a parking lot and collaborated with the Pearl District Association and INCOG to come to a consensus so that there wouldn't be a protest for a principal use parking lot in the Pearl District. She started with a 22-space parking lot and thought she could build it for around fifty or sixty thousand dollars. By the time meeting all of the Zoning Code requirements, she is down to 16 cars and it would cost over one hundred thousand dollars to build. That would be 16 cars that would cost over six thousand dollars each and she can't afford to build it. She now has vacant land sitting there doing absolutely nothing. If the Planning Commission does anything with this Plan, then they should build into it some way that there could be some parking in the neighborhood or people won't come. Employees do not have places to park and businesses will not grow.

Mr. Walker asked Ms. Keithline if she is for or against the Plan in general. Ms. Keithline indicated that she is against it in general. She believes that the comments made by HBA make more sense than anything she has heard all day. Putting the Regulatory Plan in a smaller area makes sense, and then everyone can get excited about it. She doesn't want to deny anyone the idea of pursuing a dream that they have, but to force everybody else into that mold is kind of crazy.

Malcolm Rosser, 321 South Boston, Suite 500, 74103, representing Sonic Restaurants, stated that Sonic owns the drive-in located at 120 South Utica, approximately 2nd Street and Utica in the far northeastern corner of the proposed area for the Regulating Plan. Mr. Rosser cited the traffic counts along Utica from I-244: from 11th Street at I-244 and Utica, it is 17,000 vehicles per day and south of 3rd and Utica there are over 23,000 vehicles per day and to the railroad tracks over 16,000 vehicles per day and at 11th Street where the QuikTrip store is located there are 17,000 vehicles per day. That is a lot of traffic and obviously a high vehicular area. There are several problems with this Plan from Sonic's standpoint. Sonic is completely dependent on vehicular access; all sales are made from vehicles. Under the proposed plan Sonic wouldn't be able to expand in any meaningful way. Sonic has been at this location for 38 years and any expansion more than 25% requires compliance for the expanding area with the Plan. The ability to tear down the store and rebuild is important and branding of the store is crucial to the Sonic businesses. If they aren't able to keep their store current they will lose business. It is often necessary to tear down the existing store and completely rebuild it with a new one that matches their current branding and corporate imaging plan. Under the terms that are proposed today that could not happen. The result would be that the existing building would eventually deteriorate and have to be shut down, which is not good for the area or the City of Tulsa. There would be the result of the loss of property tax revenue, sales tax revenue and lost jobs. This proposal is not consistent with the 6th Street Infill Plan and it is not consistent with the Comprehensive Plan. Mr. Rosser concluded that this proposal would be harmful to Sonic and other businesses in the subject area. There will be loss of tax revenue and cause harm to the City of Tulsa if it were to happen in the area where the Sonic store is located.

Mr. Midget asked Mr. Rosser if he or the Sonic Corporation took part in the 6th Street Infill Plan. Mr. Rosser stated that he doesn't believe that neither he nor Sonic knew about it.

Fred Kumpf, 1221 South Newport, 74120, stated that he lives south in a neighborhood called Tracy Park. He asked why the south boundary is in the middle of a park called Tracy Park. He doesn't understand why one would want to make half of a park zoned one thing and half of a park zoned another.

Mr. Leighty stated that as a point of clarification, the idea of the Form-Based Code covering both sides of the street is to create a public realm. It doesn't really work if only one side of the street is rezoned. The park will not be changing, but if some time in the future that use were to change or the park possible sold by the City, then it would have to conform to the Form-Based Code. As it stands right now it would continue to be a park. Mr. Kumpf stated that he was told the reason for the zoning going across 11th Street was because one needed to zone both sides of the street. Mr. Kumpf asked if there wasn't a choice of which zoning would apply or have an overlap. Mr. Leighty stated that if the Form-Based Code were approved and applied in a Regulating Plan, it would go two lots in on the south side of 11th Street and as it would go on the east side of Utica. It would be the same zoning over that entire area. Mr. Kumpf stated that he still fails to understand. Mr. Midget stated that Tracy Park could be left out of the Regulating Plan if necessary and retain its current zoning. Mr. Kumpf stated that he and his neighbors would be happy to keep the park out of the Form-Based Codes.

Gail Runnels, P.O. Box 4626, 74159, one of the owners of Skinner Brothers Company located at the corner of 5th Place and Quaker, one block off of Peoria and one block off of 6th Street. He stated that he has owned the company since 1969 and it has been in the same location for approximately 80 years. There is a collection of buildings that have been added over time and there are plans to expand, but the Plan before the Planning Commission today wouldn't allow for this expansion because it would become a nonconforming use. There are not enough windows in the existing building. Mr. Runnels stated that the reason he is against this proposal is because it is too encompassing. A couple of areas in the Plan indicate lakes for flood control and it is his understanding that those can only built after considerable funds are raised and they are probably a five- to 15-year plan. The only way these can successfully be done is that the land surrounding them would be acquired and made available for development into rather intense use of condominiums or apartments. Mr. Runnels questioned if one has one of the sites that is supposed to be a lake now and one wants to do something with it, what on earth is the possibility of getting any financing or other help in constructing a business or taking any steps to do it. Why would one blackmail a property for 15 years before it could be developed, when there is no money or plan and when the very plan one has requires the acquisition of a whole bunch of surrounding properties in order to make economic development itself? The second major objection is that the area is far too comprehensive to be included because it is so diverse in the various uses that are included. Mr. Runnels stated that the workshop rules that are proposed are totally inadequate for the development for an industrial district. The Plans and the specifications that area set forth in the FBC are even more severe than many PUDs and more severe than most industrial districts that are put together by a developer who owns the entire property and makes the rules for it and then builds it in accordance with his own money. To impose that kind of rules and regulations on other owners who already have operations going and cannot continue to function under those rules is unfair to say the least. Mr. Runnels stated that workshops

are far different from a manufacturing facility. Mr. Runnels cited the many manufacturing companies in the subject area that is designated as “Workshop”. Mr. Runnels stated that the opportunities that exist for manufacturing are not compatible with a residential district. The area between 6th Street and 3rd Street, between Utica and Peoria is almost exclusively manufacturing/industrial and heavy industry and is not compatible with any of the residential areas that are desired to be planted somewhere in the subject area. He asked to leave us out; we don’t belong there. The intent to impose development standards that would be used on properties that the development might own and build out on properties that are owned by the citizens when they never had to comply with them before they become nonconforming when they have to sell to someone else who wants to do differently. Mr. Runnels stated that he needs to double the size of his plant and he wouldn’t be able to do so under these rules. A ten-foot alley would not accommodate semi-trailer coming in to unload because they need a 150-foot turning radius. Shrink it down or throw it away or do something else, but don’t impose it on his property. [Applause]

Pat Treadway, 1732 South Evanston, 74104, stated that he offices downtown at 4th in the Beacon Building. Mr. Treadway read a statement to the Planning Commission. Mr. Treadway indicated his support of the Form-Based Code and indicated that it is a tool to implement PLANiTULSA and the citizens’ wishes.

Joe Westervelt, 1630 South Boston Avenue, 74104, stated that he would like to make it very clear that his comments today with regard to this application and the City Planning staff do not reflect the current small area planning processes that are underway with the City on the Hillcrest and St. John facilities, nor should they be viewed as any criticism of our new Planning Director, because she inherited this mess and wasn’t here when it occurred. The Design Team and the City Planning Department planned and created the small area plan called the 6th Street Infill Study without outreaching, inclusion or notice to the stakeholders, at least to this stakeholder. They expanded the boundaries of the Plan without outreach, inclusion or notice to stakeholders. They changed the Comprehensive Plan on his property and his neighbors’ properties with no outreach, inclusion or formal notice to any of us. They then wrote a new Zoning Code, FBC, also known as the Regulating Plan, to rezone his property with no outreach, inclusion or notice to the stakeholders until it was complete and ready for adoption and rolled the meetings out before Christmas. The process has some deficiencies and it is not what the PLANiTULSA calls a small area planning process. The Regulating Plan itself also has some deficiencies. The new plan as drafted is in conflict with the underlying small area plan, the 6th Street Corridor Study. They are contradictory in their intent and their content. They are in such conflict that if the Planning Commission adopted the Regulating Plan, it will actually gut the 6th Street Infill Study, the underlying small area plan. The 6th Street Infill Plan recognizes convenience services and the Regulating Plan does not. The 6th Street Infill Plan recognizes the industrial density on the north side and the Regulating Plan changes it to workshop. The Regulating Plan seems to be

written with ignoring the entire context of what is currently in place. Mr. Westervelt indicated that he has driven every inch of it and the Regulating Plan creates vast areas of nonconformity. This nonconformity makes it difficult to appraise, finance, expand, renovate and possibly to even sell your business. In the early Zoning Code review meeting, Kurt Bishop of the Duncan Associates, who was selected to rewrite the new Zoning Code, answered a tough question from a zoning attorney of how he would deal with nonconformity since he is writing a Zoning Code for a city that has been here a long time. Mr. Bishop stated that he doesn't have a good answer, but if any process or Zoning Code he works on creates a large amount of nonconformity it is an indication of failure. Additional items that were ignored in creation of this Plan were traffic, which starts at I-244 and they disappear at the railroad tracks somehow. The Regulating Plan suggests that Utica doesn't need to have the auto-oriented businesses. Industrial properties on the north side of the rail spur never should have been included in this plan to start with. The 6th Street Plan recognizes that and the only thing they need is assistance from Neighborhood Inspections, Police, Fire and Emergency Services. If we stay out of their way they will continue to thrive and grow. These jobs are the backbone of economies like Tulsa. This experiment Form-Based Code was promised to be a pilot project and the expansion of the existing area of Form-Based should be undertaken cautiously with strict matrix on performance provided to the TMAPC on an annual basis. However one describes this where there is a half-section, mile by half-mile, or 305 acres this is large. Mr. Westervelt concluded that this rezoning cast a shadow with businesses within this area and particularly those planning for expansion or new capital outlays. Mr. Westervelt stated that for this reason he requests that the Planning Commission deny the Regulating Plan in its entirety. It is troubling to him to have to be standing before the Planning Commission today and never expected to ask the Planning Commission to not zone his property against his wishes without his involvement. He doesn't think that is what anyone on the Planning Commission intended of PLANiTULSA and he doesn't think that is what the Comprehensive Plan says. Mr. Westervelt requested the Planning Commission to stop this overreaching his property rights because it has all of the hallmarks of a regulatory taking. [Applause]

DeeAnn Paisley, 1530 South Trenton, 74120, stated that she lives in the Swan Lake area and it is one block south of Cherry Street. She explained that she has a great deal of experience living in an area that is "Urban Life". She also lives two blocks from Utica. No one has mentioned preservation and she is a strict preservationist. There are historical buildings in the Pearl District and there are historical buildings all over town. Ms. Paisley stated that she is concerned about what will happen in the Pearl District and definitely supports that the Pearl District should be allowed to do what they want to do because they are the stakeholders and they should be saying what they want to do. However, she knows what will happen. She is south of the Pearl District and then they are going to come to Swan Lake. Swan Lake is a very eclectic neighborhood and would like to keep it that way. She doesn't want to see it all form-based and every house, building and

business looking the same. How will preservation be addressed and make sure that parts of the town that are historic are preserved.

Jamie Jamieson, 754 South Norfolk Avenue, 74120, stated that he is Chair of the Urban Design Committee that has been working on this since 2001. He commented that he wanted to do a presentation and he would be happy to oblige if the Planning Commission would like to see it. Mr. Jamieson stated that there is a lot of misinformation has been circulated about the Form-Based Code in recent days. He is worried that Tulsa is going to lose out on competitive ground while all of this takes place. Mr. Jamieson stated that it is staggering to hear INCOG deny that it was involved in this process. From the very beginning INCOG has been there and Duane Cuthbertson did not regard himself as a volunteer. Mr. Jamieson stated that he knows that Mr. Cuthbertson was consulting his boss on a regular basis because he told us. Wayne Alberty gave Mr. Cuthbertson good advice. Mr. Cuthbertson also consulted many other people and professionals including Lou Reynolds. Mr. Pat Boulden was a huge asset to this process as well and with Mr. Cuthbertson and Mr. Boulden leaving, it has left a lack of knowledge in this whole process. Mr. Jamieson stated that there was a consultant who worked with the Pearl District for the Form-Based Code. The consultant wrote the Code and the Pearl District tweaked it with guidance from Mr. Cuthbertson and other people he sought guidance from. Over 300 cities have provided all the test material needed in the world. Mr. Jamieson stated that it would take a minimum of ten years to test something like this. Mr. Jamieson commented that he disagrees with everything Mr. Westervelt stated. Mr. Jamieson commented that he is unimpressed by not being given much time to speak. Mr. Jamieson stated that he takes issue with Mr. Kane whom he stated that this is too large an area and in his view it is too small an area.

Mr. Perkins asked Mr. Jamieson who is or who was the Pearl District Urban Design Team. Mr. Jamieson stated that it was him, Dave Strader, Lorenda Stetler, Rachel Navarro, Shelby Navarro, Stacey Loeffler, and one or two other people. The numbers would dimension over the years. All of the members are business owners and none of us thinks it is anti-business.

Mr. Perkins asked Mr. Jamieson if he could have been on the design team or was it just whoever showed up. Mr. Jamieson stated that anyone could be a member of the Pearl District Association. Mr. Perkins asked how people would get notice to be on the Design Team. Mr. Jamieson stated that it would be from the monthly meetings and they were published. Mr. Perkins stated that so one would have to attend the Pearl District Association meeting and then would hear about the Design Team Meeting and go to that meeting. Mr. Jamieson answered affirmatively.

W.F. Callahan, 1109 East 2nd, 74120, representing the VFW, stated that he has talked to the members of the VFW and they are against the Regulating Plan. The VFW first became involved in this when they received a condemnation letter stating that they were located in a floodplain. The VFW spent money that they didn't have to be a good neighbor to the Pearl District. The VFW wanted to help and rebuild the district. The VFW was unaware of the fact that they were located in a slum and has been in the same location for 90 years. Mr. Callahan stated that he would like to see what was started to be finished regarding the flood management. He indicated that he was told that there is no money to build the other two lakes for flood management. In 2002 the City was going to buy property and create a canal that would produce a lot of pedestrian traffic from Utica to Central Park. The money the VFW spent to be a good neighbor could have gone for care packages for overseas. The money could have been spent at a soup kitchen and the VFW is not federally funded. The VFW's bloodline is playing BINGO with the community and they drive to the VFW and people also drive to the Centennial Park because they use the VFW parking spaces. There has to be people driving to the Indian Healthcare Clinic because they use the VFW parking lot. Mr. Callahan stated that the VFW sold two lots to the Indian Health Care Clinic so that they could expand. Mr. Callahan further stated that what was started to should be completed first.

Mr. Leighty asked Mr. Callahan if the VFW has any plans for rebuilding or remodeling. Mr. Callahan stated that the VFW has been talking about possibly building another floor and talking to DOD about some static displays and one would be a Schnook Helicopter, but right now, the VFW is trying to stay afloat. Mr. Callahan stated that he was talking to the Governor and she asked why PTSD claims were so high and traumatic injuries in Oklahoma. If she would look at New Mexico she would see that there is a parallel. Our Guardsmen are in infantry, military police (Mr. Callahan noted that Mr. Leighty was rolling his eyes). Mr. Leighty stated that he is just trying to figure out what this has to do with his question. Mr. Callahan stated that by having to help these people restricts how much money is available to improve the VFW. Mr. Callahan stated that they are not federally funded and have to get their money from grants. Mr. Leighty asked Mr. Callahan what he meant by the VFW spending money trying to be a good neighbor. Mr. Callahan stated that the VFW did some outside work on their building so that they could put on a better face. The VFW used to go to all of the meetings and was involved before the first lake went in and there were to be two more lakes, which would create a boom in pedestrian traffic and it hasn't happened.

Mr. Dix stated that he is also a veteran and thanked Mr. Callahan for his service.
[Applause]

Mr. Perkins stated "God Bless America" and thanked Mr. Callahan for his service.

Jane Halliwell, 2235 South Rockford, 74120, stated that she has lived in her home all of her life. Ms. Halliwell stated that she has read a huge amount of the paperwork that has been put forth and read the agenda packet information. Ms. Halliwell commented that there are a lot of things that are misinformation and she would like Jamie Jamieson to come back up to use her time to say it better than she can.

Mr. Walker stated that Mr. Jamieson has already had his time and encouraged Ms. Halliwell to speak on her own behalf.

Ms. Halliwell stated that her understanding that the businesses that are objecting to this proposal believe that they wouldn't be grandfathered in and they would be. Ms. Halliwell stated that in order to have pedestrian traffic there need to be businesses on the ground floor and living spaces above. Ms. Halliwell stated that she was very nervous and not very good at speaking.

Mr. Walker and Mr. Perkins encouraged Ms. Halliwell to continue that she was doing great.

Ms. Halliwell stated that she has two children who do not live in Tulsa because they don't have urban areas to live in. Ms. Halliwell indicated that one of her children lives in Austin and one lives in Boston. She stated that it is unfortunate that the young people don't have an area like the proposal to attract businesses and young people who want to see this happen. [Applause]

Shelby Navarro, 418 South Peoria, 74120, stated that he supports the Form-Based Codes. Mr. Navarro stated that he is an architect and has done some development. He owns 13 properties in the Pearl District and has been a part of developing the Form-Based Code. He has studied and spoken on Form-Based Codes in low-impact development conferences in Tulsa and Oklahoma City. He understands how Form-Based Codes work and how density affects the City, makes the infrastructure more effective and less costly. Mr. Navarro stated that he has worked with Form-Based Codes and the City of Tulsa's Zoning Code and it is always a challenge when developing and it is a challenge to make one code fit everything. He believes that the Form-Based Code and what it promotes allows more flexibility and have different uses next to each other that isn't allowed in the current Code. This proposal would create a great neighborhood and a walkable neighborhood. There are a lot of people who want this type of living here and it doesn't exist. The City is getting better on Cherry Street and Brookside and this is another opportunity for us to get a great area that will be a good example in the future. The Form-Based Code has been around for several years and a lot of the objections and concerns are valid, but there seems to be some misinformation regarding rebuilding. The legal nonconformance is not an issue when remodeling. He has done this for Blake Ewing and Elliot Nelson. Legal non-conforming simply means that the building can exist there and you can make some changes to it. Mr. Navarro stated that he doesn't want all of the

buildings to look the same, but it is just the way one feels on the street and feels safe because the lighting is good and the streetscaping is good. Mr. Navarro concluded that this is just a good way to do a good design in an urban area. He indicated that he is working on a historic building right now and he plans to design them to look like they always have. [Applause]

Mr. Liotta out at 4:00 p.m.

David Heath, 8906 East Newton Place, 74129, stated that he is the owner/operator of Tulsa Beef Company and he has been in the Pearl District for 75 years. He requested that this be set aside until he learns more about the Form-Based Code. He has attended the meetings and asked how this would affect him and he can't get a straight answer. Mr. Heath stated that he is caught between the Form-Based Code and the detention pond. If they do anything at all it could hinder his business. Mr. Heath further stated that he wants to be a good neighbor, but needs to know more about the Form-Based Code and how it will affect his business.

Mr. Leighty stated that Mr. Heath would have an opportunity to contact the City of Tulsa Planning Department and have them help answer the questions he has about it will affect his business. Mr. Heath stated that he looked at the plans they had for the detention pond and liked the plan, but he didn't see his company in there. Mr. Leighty stated that he is sure that the City Planning Department would be more than glad to talk with him and get him some answers.

Lou Reynolds, 2727 East 21st Street, 74114, representing Hillcrest Hospital and the QuikTrip Corporation, stated that there has been a lot of talk today about how this Plan and the FBC comply, but they are very inconsistent. Mr. Reynolds read the goals of the Plan for 11th and Utica where Hillcrest and QuikTrip are located. Making all of these properties nonconforming is not going to create a stable neighborhood and raising property values. Making the neighborhood nonconforming is not going to create a stable neighborhood or commercial area. Making properties nonconforming will not encourage the removal of blight through restoration. This Code doesn't provide adequate parking for commercial businesses and it actually discourages parking. Mr. Reynolds stated that it should be kept in plain English by stating "support traditional forms of development". Hillcrest has been in place since 1924 and QuikTrip has been in place since 1981, Nameplates have been in place since the 1950's, etc., and these are traditional forms of development. The proposal doesn't support these uses at all. Making businesses and buildings nonconforming will not accomplish the goal to make the process of restoring older buildings sensible and economically competitive. Mr. Reynolds cited the differences between the 6th Street Infill Plan and the FBC and how they are incompatible. Where are the four-story buildings running up and down Utica or 11th Street? The existing urban vernacular of 11th Street is Route 66, which is tremendously auto-eccentric? Another goal is to retain the established street wall and he would challenge

someone to show him the street wall on Utica or 11th Street. It doesn't exist and so it is requiring us to maintain something that isn't there. This is not good planning practice to put a big section of the City into nonconforming use. Then to hope, based on something that is not foreseen, something people can't even predict, it is going to be something negative, a catastrophe or something moving or forced change before one has a community plan. They seek to limit the hospital to six stories. The hospital is the existing vernacular and it has a seven-story parking garage. They want us to have doors that are operable public doors every 50 feet that would be a safety hazard for the hospital. Why should the hospital have a broken up façade. QuikTrip is another existing urban vernacular. There are three businesses in the district that are open 24 hours a day, which are Hillcrest Hospital, QuikTrip and McDonald's, and this plan ignores them. The Regulating Plan doesn't comply with the 6th Street Infill Plan, which makes it difficult on these businesses and they can't continue like that. Hillcrest is your number one ad valorem property tax payer in this City and QuikTrip pays huge sales tax, and they are valuable properties. It wouldn't be good to make them nonconforming.

Mr. Leighty asked Mr. Reynolds if he sees any merits to the Form-Based Code at all. Mr. Reynolds stated that he does and he indicated that neither of his clients are against the Form-Based Code and support them. However, they do not support this one as it is written. Mr. Leighty asked if they do not support the proposal because in their view it adversely affects their properties. Mr. Reynolds stated that it is not their view. It is a fact. Mr. Leighty stated that he doesn't think that has been determined yet. Mr. Reynolds stated that he doesn't think it is very difficult to determine. Mr. Leighty stated that Mr. Reynolds may have a crystal ball, but he doesn't. Mr. Reynolds stated that he doesn't need a crystal ball. Mr. Leighty asked Mr. Reynolds if he thought the FBC has any value to the overall regulating area. Mr. Reynolds stated that, like Mr. Kane, he believes that if it is selectively used it would, but they have painted too broad of an area. There is no reason for the hospital to ever be in this plan. It has never been an area that has been blighted, need renewal or rejuvenation. A Plan was written that is contrary to the 6th Street Infill Plan. Mr. Leighty asked Mr. Reynolds if he sees the value of having both sides of the street being subject to the same Zoning Code and a Form-Based Code. Mr. Reynolds stated that he doesn't where the FBC isn't applicable for the area. In certain places it would be appropriate, such as 6th Street and Peoria, but not at 11th and Utica. Mr. Reynolds stated that he is at a loss for words as to why the hospital is in the plan at all. It does not follow the 6th Street Infill Plan and it affects a lot of people. Mr. Leighty stated that the Planning Commission has an analysis from the City of Tulsa and very highly respected planning professionals who would take issue with that. It doesn't line up with every single thing, but don't say that it is completely opposed to it or diametrically opposed to it because it isn't true. Mr. Reynolds stated that it is and the City Planners have interpreted it that way, but common sense of this Planning Commission, he believes, will interpret it differently. Mr. Leighty stated that he will go with the professional planning staff of the City of Tulsa, thank you very much.

Councilor Blake Ewing, City Councilor, District 4, stated that he doesn't typically come down and talk with the Planning Commission at this point in the process and typically waits for the recommendation to be transmitted to the 4th floor. This being such a contentious issue with a lot of information flying around he wanted to come and address the Planning Commission at this point. Councilor Ewing disclosed that he is a business owner in the Pearl District and his project is currently under construction at the corner of 6th and Peoria, which will be a restaurant use. He commented that part of what brought him to the Pearl District was its potential. He feels that this neighborhood will be a crown jewel in the City for many reasons, mostly because of its diversity and he likes the mix of industrial, residential and commercial all being in one neighborhood. The idea of working, living and playing in one neighborhood is fantastic to him. There has been a ton of money invested into putting PLANiTULSA into place, hiring a Planning Director, hiring planning staff and countless hours and dollars have been spent with this idea that there is a different future ahead of us in how we deal with land use. When faced with opportunities to change land use or zoning, if every time that comes up, we are going to do the easy thing and say "no leave it like it is", then we have to acknowledge right now that we have wasted money. If there is going to be a Zoning Code update there will be nonconforming uses created and it is naïve to think it is not. It is necessary to start moving to the next step with this and he encourages the Planning Commission to do that. We need to be a grownup City and deal with things past to just the yes or no phase, which is where we are now and start addressing the second step, which is what do we do when we create all of this nonconformity. Mr. Navarro made the point that great things can be done to buildings that are nonconforming buildings. It doesn't invalidate the value of the building. Councilor Ewing stated that the projects he has done in nonconforming buildings haven't doubled the value, but tripled the value of the building. Councilor Ewing further stated that there is not one property that he owns that isn't worth more three times what he paid for it because of what he has done with it. The Pearl District is no different and FBC will create nonconformity and it doesn't devalue the property. It creates opportunity for new businesses to come in and that will raise the value. Councilor Ewing requested the Planning Commission to not make a ruling today, the Council is not ready for the Planning Commission's recommendation. Based on what he has seen today, he believes that the Planning Commission shouldn't be ready to make a recommendation. He requested the Planning Commission and Planning staff to work with the parties present today and hold more meetings to address the concerns. Councilor Ewing stated that it is okay with him if when he comes into this room and there are two different sides of an issue if both sides are fully informed. When there is an issue where there is a lack information or misinformation and people are basing their emotional opinions on lack of or misinformation it can't be evaluated by the Planning Commission and the City Council honestly. Councilor Ewing suggested that the industrial/manufacturing parties get with the City Planning Department and hold more workshops and meetings to discuss this. How this is done will

determine how the rest of the process with Zoning Code updates and implementation of PLANiTULSA is done.

Mr. Dix asked Councilor Ewing if it strikes him at all as totally inappropriate for him to be here doing this today. Councilor Ewing stated that it strikes him as no more inappropriate to do this as it does for Mr. Dix to make comments on what a QuikTrip does with their property. Mr. Dix stated that he doesn't follow that. Councilor Ewing stated that he doesn't follow Mr. Dix. Mr. Dix stated that Councilor Ewing is a City Councilor and it is inappropriate for him to be here and asking the Planning Commission (PC) to do anything at this point until the PC takes some sort of action. Councilor Ewing answered okay, noted and he disagrees.

Mr. Midget thanked Councilor Ewing for coming down and he appreciates his comments. He agrees with Councilor Ewing and he doesn't believe that the Planning Commission is ready to make a decision on this today. He would like to see further discussion and do some fine tuning on both plans with the City Planning Department. In their analysis they brought out that there are some inconsistencies with the Plan. Mr. Midget stated that there are some valid points on both sides and he would agree that more meetings are necessary.

Mr. Leighty read a statement about FBC. Mr. Leighty stated that he doesn't have any problem with the Councilor being present today and this will not be successful if there isn't some real partnering among everybody who is involved. This has been a team deal since the very beginning of the Pearl District Association, the INCOG staff, the TMAPC, the City of Tulsa Planning Department and there have been a lot of people involved. The City Council worked with us through the pilot district and if we can't work together, then there is something wrong here.

Mr. Leighty requested that the Planning Director, Dawn Warrick, to speak.

Ms. Warrick stated that she believes that this has been a good discussion for the important points for this community. Not just the Pearl District but in general. Ms. Warrick explained what planning is for and how actions from the Planning Commission help shape the built-form of the City. This action in particular is not a brand new out-of-the-box idea, but a continuation. Ms. Warrick stated that she believes it is important to make sure that one ties an understanding of the planning actions that are in front of the Planning Commission to what got them there. The TMAPC and the City Council have already embraced the concept of Form-Based Code and have adopted a zoning designation and applied it in an area of the Pearl District. The Form-Based Code Regulation that was adopted was done with an understanding that it could be applied in other areas that were deemed appropriate throughout the communities. It presents an opportunity for us to grow and to invite new types of development. Ms. Warrick indicated that the TMAPC and City Council have adopted no fewer than eight plans that directly

address the need for a new kind of development pattern and at least four of those plans have specifically called for Form-Based Code as a regulatory tool that would support the kind of development that would revitalize this particular neighborhood. Implementation of policies through zoning actions typically happens one at a time. When considering of the impact on a larger area it does take time and it takes thoughtful deliberation, which has been the focus of a lot of different groups of people. Form-Based Codes are used nationwide and other cities have experienced this and dealt with the issues and struggles that were discussed today and have done it very successfully. Ms. Warrick listed the following cities as examples that have implemented Form-Based Codes: Little Rock, Memphis, Albuquerque, Austin, Oklahoma City, Kansas City and Fort Worth. They all have active Form-Based Codes in place in their communities and it can be done and it can be successful. The City has to commit to the fact that the current Regulatory Structure for the Pearl District does not produce the kind of built environment that one desires and it is evident. It has been determined through all of these planning efforts, the 6th Street Infill Plan and others, that there is a better way for the Pearl District to move forward and the tools need to be in place in order to facilitate it. Ms. Warrick stated that change is difficult and it is a matter of how it is accomplished. Ms. Warrick further stated that the planning agencies in Tulsa are organized to support one another. There is a long-range neighborhood planning function that is facilitated by City Staff and implementation and development review that is commonly referred to as current planning, which is managed by INCOG and TMAPC staff. City of Tulsa staff planners work directly with neighborhoods, property owners, and interested parties to gather input to develop the policy documents, the plans and the proceed of particular implementation steps. Those steps are critical and if they are not taken and do not take the necessary actions to implement the plans that are adopted, then it demonstrates that the City is not committed to the policies that are felt strongly enough about to initiate through a planning process and to bring before the TMAPC and the City Council. In this regard it is extremely important that the policies that are held dear and important need be brought from policy to action and these are the steps. Taking these steps impacts everyone who owns property. This needs to be done right and it needs to be consistent with the policy and if it is not consistent with the policy, there needs to be justification as to why there is a change and how it impacts the policy that is adopted.

Ms. Warrick stated that with all of the input that was received today, there is still some work that can be done to make some changes and possibly bring back a modified Regulatory Plan for an expanded Regulatory Plan for the Pearl District. It seems that there are a lot of encampments and different opinions of what that might look like, but that is what the City Planning staff does. The City Planning staff needs to find a middle ground and make sure they are dealing with facts. Everyone needs to start with the same base and make sure everyone has a clear understanding of how these changes might affect them. Staff needs to make sure they are not dealing with compassions, assumptions or criticisms but factual

information. Ms. Warrick stated that the TMAPC deserves to be provided a full picture of the information needed to make a fully informed fact-based decision weighed against the policies that are already in place. It is important to keep going back to those policies because that is the guide. Policies are guides and one doesn't have any business going out to develop some tool or regulation without having a policy to respond to. In order for the TMAPC staff to bring a well-researched and thoughtful professional recommendation, it is necessary to continue this conversation and make sure that everyone is prepared to have all of the answers before them. This needs additional work on it, but she doesn't believe it can wait forever. Ms. Warrick stated that she would recommend that this is continued to a date certain so that everyone knows that we have specific timeframe which to work so that everyone has some expectations about what is being brought back. It would also help INCOG and the City Planning staff to understand what type of information the TMAPC would like brought back and if there is anything specific that the TMAPC feels strongly about.

Mr. Perkins out at 5:45 p.m.

TMAPC COMMENTS:

Mr. Walker stated that he believes that today's public hearing has exposed silent opposition that is now able to voice itself. He would like to address the opposition and possibly have them sit down with the Planning staff to see if there is a resolution. Ms. Warrick stated that since this meeting was noticed, there were three stakeholder meetings conducted and that went out to the entire district. She believes that the conversations could be continued.

Mr. Midget suggested that this be put on a work session. From that work session there could be an outline or better framework of what is expected to be structured and reported back to the TMAPC. During the work session it could be decided what parts of this the TMAPC believes that they could look at. Mr. Midget commented that he believes that people are going to have their divisions, regardless and it would be helpful if the TMAPC could give some direction to the Planning staff of what to look at. Mr. Midget stated that he is not opposed to narrowing it down if that is the best way to do it, but he thinks that discussion needs to take place before moving forward.

Mr. Leighty asked the Planning Department to determine if the Regulating Plan is more in-line with the 6th Street Infill Plan more than it is opposed. He further asked the Planning Department to help the Planning Commission determine the size of the area and what are the benefits of having a ½ mile square area and what would be the downside. Mr. Leighty commented that there isn't really an applicant that can defend for themselves. There is no application and no one wants to take responsibility for this. This is really important stuff here and he thinks it is about time that the TMAPC got some really good advice from their staff on why they should consider everything about it, including the size of the area.

Mr. Edwards expressed his concerns with the continual meetings. He suggested that everyone who will be involved and have been involved invited to a meeting to discuss the issues regarding size, scope, etc. He commented that having continual meetings with no decisions is wearing him out.

Mr. Leighty asked Ms. Warrick how interested parties can go about contacting the Planning Department to get answers to their questions about how this Code will affect them. In response, Ms. Warrick stated that they can call the Planning Department and they will provide a response to their questions with regard to the document that is currently pending. Ms. Warrick suggested that they can also contact INCOG and their planning staff is versed in this to the extent that the City Planning Department is and could likewise provide a response with regard to the impact on their property.

Mr. Leighty stated that he understands Mr. Edward's comments regarding multiple meetings and no action. Mr. Leighty further stated that he likes the idea of getting together in a work session and talking about it among themselves; however, he does think it would be important to have the Planning Department staff as well as INCOG staff there, too, to answer our questions since we are all working together on this.

Mr. Midget thanked Mr. Leighty for stating TMAPC staff, INCOG staff and the City because the TMAPC has to direct TMAPC staff and then they can work in coordination and collaborate with the City Planning staff and that is how that will be done so that it doesn't look like the TMAPC is directing the City staff to usurp our staff's responsibility.

After discussion the Planning Commission made the following motions:

TMAPC Action; 7 members present:

On **MOTION** of **DIX**, TMAPC voted **7-0-0** (Dix, Edwards, Leighty, Midget, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes, Liotta, Perkins "absent") to **schedule a work session** for May 16, 2012 and to invite Mr. Jamieson to present his PowerPoint Presentation and invite the property owners, stakeholders and legal representatives.

TMAPC Action; 7 members present:

On **MOTION** of **DIX**, TMAPC voted **7-0-0** (Dix, Edwards, Leighty, Midget, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes, Liotta, Perkins "absent") to **CONTINUE** the public hearing to consider adopting a Form-Based Code Regulating Plan for the Pearl District within the City of Tulsa, Oklahoma to June 6, 2012.

OTHER BUSINESS:

Commissioners' Comments

None.

TMAPC Action; 7 members present:

On **MOTION** of **MIDGET**, TMAPC voted **7-0-0** (Dix, Edwards, Leighty, Midget, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Cantrell, Carnes, Liotta, Perkins "absent") to **ADJOURN** TMAPC meeting No. 2623.

There being no further business, the Chair declared the meeting adjourned at 5:48 p.m.


Date Approved:

5-2-12



Chairman

ATTEST:


Secretary