

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2625

Wednesday, May 2, 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		Alberty	Edmiston, Legal
Covey		Bates	Steele, Sr. Eng.
Dix		Fernandez	
Edwards		Huntsinger	
Leighty		Matthews	
Liotta		Sansone	
Midget			
Perkins			
Shivel			
Stirling			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, April 26, 2012 at 1:28 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

REPORTS:

Work Session Report:

Mr. Walker reported that there will be a work session on May 16, 2012 for the Form-Based Code Regulating Plan. The meeting will be held after the regular TMAPC meeting.

Director's Report:

Mr. Alberty reported on the Board of County Commissioners' agenda and the City Council agenda.

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Minutes:

Approval of the minutes of April 4, 2012 Meeting No. 2623

On **MOTION** of **CARNES**, the TMAPC voted 10-0-1 (Carnes, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker “aye”; no “nays”; Covey “abstaining”; none “absent”) to **APPROVE** the minutes of the meeting of April 4, 2012, Meeting No. 2623.

Minutes:

Approval of the minutes of April 18, 2012 Meeting No. 2624

On **MOTION** of **CARNES**, the TMAPC voted 11-0-0 (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker “aye”; no “nays”; none “abstaining”; none “absent”) to **APPROVE** the minutes of the meeting of April 18, 2012, Meeting No. 2624.

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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. **LS-20509** (Lot-Split) (CD-8), Location: East of the southeast corner of South Marion Avenue and East 101st Street South
4. **LS-20510** (Lot-Split) (CD-4), Location: Southwest corner of East 11th Street South and South Erie Avenue
5. **LC-397** (Lot-Combination) (CD-5), Location: North of East 49th Street South and East of South Yale Avenue
6. **LC-398** (Lot-Combination) (County), Location: South of the southwest corner of East 66th Street North and North Erie Avenue
7. **LC-399** (Lot-Combination) (CD-5), Location: West of the southwest corner of South Fulton Avenue and East 46th Street South
8. **LC-400** (Lot-Combination) (County), Location: East of South 214th West Avenue and South of West 13th Place South
9. **Change of Access – (8333)** (CD 8) Lot 2, Block 1, Toms Kids Addition, Location: North of East 121st Street, west of South Yale Avenue

10. **PUD-595-B-4 – Sisemore, Weisz & Assoc., Inc./Mathis Brothers**, Location: North of the northeast corner of 71st Street South and South 101st East Avenue, Requesting **Minor Amendment** to increase the maximum lot coverage for a building in a Corridor District from 30 percent to 45 percent to allow for the expansion of the existing Mathis Brothers Furniture showroom and warehouse, **CO**, (CD-7)
11. **PUD-559-2/Z-5888-SP-1b – Sack & Associates/Eric Sack**, Location: Northeast corner of South Mingo Road and East 88th Street South, Requesting **Minor Amendment** to increase the permitted building height for two- and three-story apartment buildings within Development Area B of PUD-599, **CO** (CD-7)
12. **PUD-304-1 – Ken Klein**, Location: Southeast corner of East 71st Street South and South Trenton Avenue, Requesting **Minor Amendment** to add Children’s Nursery within Use Unit 5 – Community and Similar uses as a permitted use in PUD-304, **OL/CS** (CD-2)
13. **PUD-619-C-3 – Robert Skeith/The Vineyard**, Location: North of the northwest corner of 111th Street South and South Memorial Drive, Requesting **Minor Amendment** to reconfigure internal boundary lines and an access drive, provide parking relief and modify permitted ground signage, **AG/RS-3/CS**, (CD-8)
14. **PUD-766-3 – Sunny Investment Properties, Inc./Kum-N-Go**, Location: Southwest corner of Skelly Drive and South Yale Avenue, Requesting **Minor Amendment** to permit three lot-splits, two lot-combinations and to reallocate existing floor area to the three lots, **CS/CH** (CD-9)

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:

PUBLIC HEARINGS:

15. **Charles L. Hardt Operations and Maintenance and Engineering Center – (6013)** (CD 1) Preliminary Plat, Location: Southeast of intersection of North Harvard Avenue and Mohawk Boulevard (Continued from April 18, 2012 agenda) (Request continuance to 5/16/2017 for revisions to plans.)
16. **Z-7204 – Harley Hollan Companies**, Location: North of northwest corner East 61st Street South and South 107th East Avenue, Requesting from **RS-3 to IL**, (CD-7)
17. **CZ-413 – Eddie James**, Location: Northeast corner of East 122nd Street North and North 139th East Avenue, Requesting from **AG to CG**, (County)

18. **CZ-414 – Sisemore, Weisz & Assoc., Inc.**, Location: North of northeast corner of South 209th West Avenue and Highway 51 West, Requesting from **AG to CS**, (County)
19. **Z-7205/PUD-566-A – TMAPC**, Location: Northwest corner of West 41st Street and South 57th West Avenue, Requesting from **AG to AG/OL/CS/PUD-566-A and PUD Major Amendment**, (CD-2)

OTHER BUSINESS

20. Commissioners' Comments

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

MINUTES:

CONSENT AGENDA

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

4. **LS-20510** (Lot-Split) (CD-4), Location: Southwest corner of East 11th Street South and South Erie Avenue
5. **LC-397** (Lot-Combination) (CD-5), Location: North of East 49th Street South and East of South Yale Avenue
6. **LC-398** (Lot-Combination) (County), Location: South of the southwest corner of East 66th Street North and North Erie Avenue
7. **LC-399** (Lot-Combination) (CD-5), Location: West of the southwest corner of South Fulton Avenue and East 46th Street South
8. **LC-400** (Lot-Combination) (County), Location: East of South 214th West Avenue and South of West 13th Place South
9. **Change of Access – (8333)** (CD 8) Lot 2, Block 1, Toms Kids Addition, Location: North of East 121st Street, west of South Yale Avenue

STAFF RECOMMENDATION:

This application is made to allow a change of access to include an additional access along South Yale Avenue. The property is zoned PUD-399.

Staff recommends approval of the change of access. The Traffic Engineer has reviewed and approved the request. Staff recommends **APPROVAL** of the change of access as submitted.

10. **PUD-595-B-4 – Sisemore, Weisz & Assoc., Inc./Mathis Brothers,**

Location: North of the northeast corner of 71st Street South and South 101st East Avenue, Requesting **Minor Amendment** to increase the maximum lot coverage for a building in a Corridor District from 30 percent to 45 percent to allow for the expansion of the existing Mathis Brothers Furniture showroom and warehouse, **CO**, (CD-7)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to increase the maximum lot coverage for a building in a Corridor District from 30% to 45% to allow for the expansion of the existing Mathis Brothers Furniture showroom and warehouse per the attached plan.

There is no request to increase the permitted floor area within this development area of the PUD which allows a total of 468,703 square feet (SF) of floor area. After completion, the total floor area for the expanded Mathis Brothers showroom and warehouse would be 333,000 SF.

On April 10, 2012 in case number BOA-21412, the City of Tulsa Board of Adjustment (BOA) granted a Variance from the requirement of section 803 of the code limiting the maximum lot coverage by a building in the Corridor District to 30%. The BOA granted the variance to 45% and as a condition of approval limited the height of the building to a single story. The approval was also granted per the attached conceptual site plan.

Section 805-G of the code permits the TMAPC to grant minor amendments to existing Corridor District Plans so long as substantial compliance is maintained with the approved site plan and the purposes and standards of Chapter 8 of the Code. Staff does not view the 15% increase in lot coverage as a substantial deviation from the originally approved Corridor District Plan since all other requirements of the PUD/Corridor District will be maintained. Most importantly the Development Area will maintain the required open space on the lot.

Staff recommends **APPROVAL** of minor amendment PUD-595-B-4.

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

12. **PUD-304-1 – Ken Klein**, Location: Southeast corner of East 71st Street South and South Trenton Avenue, Requesting **Minor Amendment** to add Children’s Nursery within Use Unit 5 – Community and Similar uses as a permitted use in PUD-304, **OL/CS** (CD-2)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to add Children’s Nursery within Use Unit 5 – Community Services and Similar uses as a permitted use in PUD-304.

The PUD currently permits Use Unit 11 – Office Studios and Support Services; Use Unit 12 – Eating Establishments Other than Drive-ins; Use Unit 13 – Convenience Goods and Services and Use Unit 14 – Shopping Goods and Services.

Section 1107.H.15 of the Zoning Code allows by minor amendment changes/additions in an approved use, provided the underlying zoning on the particular site within the PUD would otherwise permit such use by right and the proposed use will not result in any increase of incompatibility with the present and future use of the proximate properties. With the CS zoning present on the site, Children’s Nursery within Use Unit 5 is a use permitted by right.

Staff believes the high density of apartments, duplexes, and commercially used properties in the immediate vicinity warrants a Children’s Nursery/commercial day care use within the PUD to serve the surrounding neighborhoods. Staff also contends that the additional use will not increase incompatibility with the present and future use of the proximate properties.

Therefore staff recommends **APPROVAL** of minor amendment PUD-304-1.

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

13. **PUD-619-C-3 – Robert Skeith/The Vineyard**, Location: North of the northwest corner of 111th Street South and South Memorial Drive, Requesting **Minor Amendment** to reconfigure internal boundary lines and an access drive, provide parking relief and modify permitted ground signage, **AG/RS-3/CS**, (CD-8)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to reconfigure internal boundary lines and an access drive, provide parking relief and modify permitted ground signage. The amendments are being requested in conjunction with a re-plat of the existing Memorial Commons (plat #6219 – attached). The reconfiguration and re-plat will result in a change from a nine (9) lot mixed use subdivision to a ten-lot mixed use subdivision. There is no request to increase the existing

permitted floor area, change permitted uses, or relax any of the existing bulk and area requirements of PUD-619-C.

Section 1107.H.1 allows by minor amendment adjustment of internal development area boundaries, provided the allocation of land to particular uses and the relationship of uses within the project are not substantially altered. Please refer to the attached plat of Memorial Commons, the originally approved concept plan and access/circulation plan (Exhibits A-1, A-2 and A-3), as well as Exhibit A, the proposed reconfiguration. The existing floor area allocation for the PUD permits a total of 333,433.65 square feet (SF) of commercial floor area distributed to nine lots; the largest being Lot 1, Block 1 and the site of Lifetime Fitness (see attached photographs). In evaluating the approved concept plan, plat of the property and the proposed reconfiguration the following changes are proposed:

- i. Shift the largest mixed use building from Lot 2, Block 3 to Lot 1, Block 2 situated more at the center of the development, creating a more dense configuration;
- ii. Move the southern access road/Reserve C slightly to the south to allow for clear, distinct vehicular access from Memorial Drive through the development to Lifetime Fitness (as currently configured, the access travels through the parking lots); and
- iii. Create an additional out-parcel along Memorial Drive.

Floor area allocation is proposed to retain the existing 333,433.65 SF of permitted floor area and reallocate it as follows:

Lot 1, Block 1 (Lifetime Fitness):	116,000 SF
Lot 1, Block 2:	60,500 SF
Lot 2, Block 3:	61,650 SF

The remaining 95,283.65 SF will be distributed among the remaining lots as the lots develop.

Staff believes the reconfiguration will not substantially alter the relationship of uses within the development and should improve access and internal vehicular and pedestrian circulation.

Section 1106 of the Zoning Code allows the Planning Commission to provide parking relief within PUDs and permit shared parking. Without knowing the exact tenant mix on Lot 1, Block 2 the applicant estimates a required parking count of 375 upon the completion of both buildings on the lot (based on 20,875 SF of restaurant space and 35,022 SF of retail space). In order to provide for open space requirements, landscaping and attempt to improve vehicular, pedestrian and bicycle circulation within the development, the applicant proposes 304 parking spaces on Lot 1, Block 2; a reduction of 71 spaces (see page 2 of the

attached letter from the applicant and Exhibit C). Upon detail site plan review for the lots fronting Memorial Drive, staff will require direct pedestrian connection from the storefronts to the Memorial Drive sidewalk. With the balance of restaurant and retail square footage proposed on the lot, the reduction can be supported. The principal is held that retail traffic is generally heavier during the daytime and on weekends, while the restaurant traffic tends to be heavier in the evenings. Also, once the development is entirely built out, staff believes parking will be provided for all uses on a development wide basis. For example, there are 577 spaces required for Lifetime Fitness with 603 provided, a gain of 26 spaces. Staff believes that when complete the entire development will have the over-all required parking.

Finally, section 1107.H.12 permits modification to approved signage so long as size, location, number and character (type) of the sign(s) are not substantially altered. The applicant is seeking one additional ground sign along the Memorial Drive frontage to allow for the extra parcel along Memorial Drive to be identified per the attached Exhibit E. The PUD currently allows:

Four (4) ground signs along Memorial Drive not to exceed ten feet in height with 80 square feet of display area.

The applicant proposes:

Five (5) ground signs along Memorial Drive not to exceed ten feet in height with 80 square feet of display area per the attached Exhibit E.

Staff contends the addition of one monument-style sign along Memorial Drive will not substantially alter the size, location, number and character (type) of the sign(s) permitted within the PUD. The CS zoning on the property would allow for each lot to have its own sign up to 40' tall with two square feet of display area permitted per each linear foot of street frontage. The additional sign will not be out of character with signage on proximate properties.

Staff recommends **APPROVAL** of minor amendment PUD-619-C-3 subject to the following:

- 1) Reconfiguration of internal development area boundaries and Reserve C in substantial conformance with the attached Exhibit A;
- 2) Floor Area allocation as follows:

Lot 1, Block 1 (Lifetime Fitness):	116,000 SF
Lot 1, Block 2:	60,500 SF
Lot 2, Block 3:	61,650 SF

The remaining 95,283.65 SF will be distributed among the remaining lots as the lots develop.

- 3) A Minimum of 304 parking spaces provided on Lot 1, Block 2; and

- 4) Allow each lot fronting Memorial Drive one monument style sign each not to exceed ten feet in height with no more than 80 SF of display area.
- 5) All other terms and conditions approved as part of PUD-619-C shall remain effective.

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

14. **PUD-766-3 – Sunny Investment Properties, Inc./Kum-N-Go**, Location: Southwest corner of Skelly Drive and South Yale Avenue, Requesting **Minor Amendment** to permit three lot-splits, two lot-combinations and to reallocate existing floor area to the three lots, **CS/CH** (CD-9)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to permit three lot-splits, two lot-combinations and to re-allocate existing floor area to the three lots per the attached exhibits. There is no request to increase permitted floor area for any of the lots or to relax any other existing development standard of PUD-766. The splits and combinations as well as the reallocation of floor area are to allow for the construction of a gas station/convenience store on Lot 6.

Also appearing on the May 2nd agenda of the TMAPC are associated lot-split applications LS-20517, 20518, and 20519 as well as lot-combination applications LC-401 and LC-402.

Section 1107.H.1 of the code permits by minor amendment the adjustment of internal development area boundaries provided the allocation of land to particular uses and the relationship of uses within the project are not substantially altered.

Existing lot area and allocation of floor for the three lots are as follows:

Lot	Lot Area	Permitted Floor Area
5	1.82 acres	19,820 SF
6	1.21 acres	13,177 SF
7	1.59 acres	17,315 SF
Total:		50,312 SF

Proposed lot area and re-allocation of floor for the three lots are as follows:

Lot	Lot Area	Permitted Floor Area	Change
5	1.67 acres	18,154 SF	-1,666 SF
6	1.39 acres	15,028 SF	+1,851 SF

7	1.57 acres	17,130 SF	-185 SF
Total:		50,312 SF	

Staff contends that the proposed changes are minor in nature and will not substantially alter the allocation of land to particular uses and the relationship of the uses within the project since there are no use changes being requested and there a shift of just 3,702 SF of existing floor area

Therefore staff recommends **APPROVAL** of minor amendment PUD-766-3.

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

TMAPC COMMENTS:

Mr. Walker stated that Item 3 will be stricken from the agenda and there is a request for a continuance for Item 11; therefore, it will be removed from the consent agenda.

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the consent agenda Items 4 through 10 and 12 through 14 per staff recommendation.

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:

3. **LS-20509** (Lot-Split) (CD-8), Location: East of the southeast corner of South Marion Avenue and East 101st Street South

STRICKEN.

11. **PUD-559-2/Z-5888-SP-1b – Sack & Associates/Eric Sack**, Location: Northeast corner of South Mingo Road and East 88th Street South, Requesting **Minor Amendment** to increase the permitted building height for two- and three-story apartment buildings within Development Area B of PUD-599, **CO** (CD-7)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to increase the permitted building height for two- and three-story apartment buildings within Development Area B of PUD-559. There is no request to amend any other standard of PUD-559.

Section 1107.H.9 of the Code allows the TMAPC to modify building heights by minor amendment so long as the approved development plan, the approved PUD standards and the character of the development are not substantially altered.

Approved in 1997, PUD-559 is a multi-use PUD permitting College University within Use Unit 2, Hospital within Use Unit 5, Multi-family dwellings as permitted in Use Unit 8, Use Unit 11 (office uses) and Outdoor Advertising as permitted within Use Unit 21, within three development areas as identified on the attached Exhibit B.

PUD-559 has an established building height for multi-family dwellings in Development Area B as follows:

Within 150 feet of the northern boundary
of Area B abutting South Towne Square: Two stories not to exceed 30 feet

Remainder of Area B: Three stories not to exceed 43 feet.

The applicant proposes height increases as follows:

Within 150 feet of the northern boundary of Area B abutting South Towne
Square:

Two stories, not to exceed 39 feet, nor a top plate height of 27 feet.

Remainder of Area B: Three-stories, not to exceed 52
feet nor a top plate height of 37
feet.

The applicant has indicated that the finished floor elevation for all buildings will not be increased. The height increase is strictly for uninhabitable portions of the buildings to allow for a greater roof pitch giving the buildings a more residential appearance to blend with the surrounding neighborhood. The existing building height would require a much less pitched roof, creating a more institutionalized aesthetic.

The 90-foot setback from South Towne Square (the northern boundary of the PUD) for two-story or less buildings and the 150-foot setback for three story buildings as required by PUD-559 remain effective.

Staff recommends **APPROVAL** of minor amendment PUD-559-2/Z-5888-SP-1b.

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

Mr. Sansone stated that the merits of a continuance is before the Planning Commission at this time.

Mr. Walker stated that the request is from the homeowners association. Mr. Walker indicated that there are three speakers signed up to speak.

TMAPC COMMENTS:

Mr. Leighty stated if the Planning Commission is going to consider this in a public hearing, then the staff report and recommendation is needed first and then have the interested parties. He would be supportive, based on what he has heard so far, for a continuance. There needs to be a discussion about this and hear the staff report before deciding whether or not to continue it.

Mr. Walker stated that if this application is going to be continued, then the staff recommendation will not be heard.

Mr. Leighty stated that the Planning Commission doesn't know if they are going to continue it until we actually hear the report. Mr. Leighty further stated that he believes that there are some important things on here that he would like to discuss. If this is to be continued, then the Planning Commission needs to talk with staff and question staff about some of the things we might like to have if it comes back to us.

Mr. Walker asked staff what the normal procedure would be regarding consideration of a continuance.

Mr. Sansone stated that policy has been that when a continuance has been requested the Planning Commission discusses the merits of the continuance first and if it isn't continued, then the case is heard, but if it is continued then the staff recommendation is heard at the next public hearing.

Mr. Walker stated that the Planning Commission will hear from Mr. Sack and then the speakers on the continuance first.

Applicant's Comments:

Eric Sack, Sack & Associates, 3530 East 31st Street, 74135, representing Davis Development, stated that he received notice this morning for the request of a

continuance. Mr. Sack further stated that he is prepared to present his request today if needed. He indicated that he had a public meeting with the neighborhood one week ago and the notice for it went out one week prior to the meeting. A number of issues were brought up during the neighborhood meeting that was primarily with the site plan, which is not a part of the minor amendment before the Planning Commission today. Mr. Sack indicated that he would be willing to work through the concerns of the neighbors and try to accommodate some of their requests, but that is through the detail site plan and not this amendment. Mr. Sacks stated that he doesn't object to a continuance, but the developer would like to move the project along and 30 days is a little excessive. Mr. Sack requested that if it is continued that it would be for two weeks.

INTERESTED PARTIES COMMENTS:

Jeff Harjo, 10018 East 85th Place, 74133, stated that he is requesting the continuance of the minor amendment because he just received the development plan a week ago. Mr. Harjo further stated that the meeting Mr. Sack mentioned was to discuss the minor amendment and the development plan was not discussed in detail. The residents feel that it is important to put those two together and the neighbors haven't had time to study the amendment, the original PUD or consult with an attorney. The HOA hasn't had any board meetings or taken any action on this application.

TMAPC COMMENTS:

Mr. Midget stated that personally he would be in favor of a continuance to allow the residents an opportunity to meet with Sack & Associates and pull everything together. Mr. Midget further stated that the timeframe needs to be narrowed because he believes 30 days is excessive. Mr. Midget suggested continuing this application to the next meeting on May 16, 2012.

Mr. Leighty stated that he would support the continuance for two weeks. Mr. Leighty further stated that he would have liked to have heard the staff report on this because he thinks when this does come back, he is sure there are differences, but it sounds eerily like our Sonoma Grande situation and with all due respect to staff, he can't believe that it is on the consent agenda. This is a pretty sensitive matter and he believes that it is something that really needs to have a full vetting. Mr. Leighty commented that when he served on the Land Use Task Force, one of the criticisms due to Sonoma Grande was that one thing was originally planned and then it went into something else and people really didn't understand it. He understands the neighborhood's concern on this. One of the things of the recommendation that was made on the Land Use Task Force was that when we have these cases that the Planning Commission would be given an opportunity to see in some graphic way how this was going to impact the neighborhood. That begins with establishing the elevations of the property that is being considered for the minor amendment and the adjoining properties. A site line be given to show where the roof tops would be and he doesn't see that can be done without a detail site plan. How can a minor amendment be approved for

the height of these buildings without knowing a whole lot more about how they would affect the adjoining properties. Mr. Leighty stated that he believes it would be more appropriate to have a minor amendment that might be in conjunction with a detail site plan at that time so people can really see exactly what kind of impact this would have on the adjoining properties.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the minor amendment for PUD-599-2/Z-5888-SP-1b to May 16, 2012.

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PUBLIC HEARING

- 15. **Charles L. Hardt Operations and Maintenance and Engineering Center** – (6013) (CD 1) Preliminary Plat, Location: Southeast of intersection of North Harvard Avenue and Mohawk Boulevard (Continued from April 18, 2012 agenda) (Request continuance to 5/16/2017 for revisions to plans.)

STAFF RECOMMENDATION:

Ms. Fernandez stated that there is a request for a continuance to May 16, 2012 in order to revise plans.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the preliminary plat for Charles L. Hardt Operations and Maintenance and Engineering Center to May 16, 2012.

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16. **Z-7204 – Harley Hollan Companies**, Location: North of northwest corner East 61st Street South and South 107th East Avenue, Requesting from **RS-3 to IL**, (CD-7)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 11825 dated June 26, 1970, established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-7021 June 2006: All concurred in approval of a request for rezoning a 1± acre tract of land from RS-3 to IL for an enclosed equipment building on property located at 5705 South 107th East Avenue.

Z-6877 February 2003: All concurred in approval of a request for rezoning a 1.16± acre tract of land from RS-3 to IL for a landscape service, on property located at 5845 S. 107th East Avenue.

Z-6762 June 2000: All concurred in approval of a request for rezoning a 1± acre tract of land from RS-3 to IL for a warehouse, located at 5629 South 107th East Avenue.

Z-6662 December 1998: All concurred in approval of a request for rezoning a 1.1± acre tract of land from RS-3 to IL, on property located at 5809 South 107th East Avenue.

Z-6609 December 1997: All concurred in approval of a request for rezoning a 1± acre tract of land from RS-3 to IL for light industry, located at 5705 South 107th East Avenue.

Z-6233 April 1989: All concurred in approval of a request for rezoning a 1.8± acre tract of land from RS-3 to IL, on property located at 5700 South 107th East Avenue and abutting south of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.23± acres in size and is located north of northwest corner of East 61st Street and South 107th East Avenue. The property appears to be used as storage and is zoned RS-3.

SURROUNDING AREA: The subject tract is abutted on the east by industrial uses, zoned IL; on the north by industrial uses, zoned IL; on the south by industrial uses, zoned IL; and on the west by US 169, zoned RS-3.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates South 107th East Avenue as a Secondary Arterial.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South 107th East Avenue	Secondary Arterial	100'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

This is in accord with the Comprehensive Plan, which designates this as an Area of Employment and an Area of Growth.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan and surrounding industrially-zoned property, staff can recommend **APPROVAL** of IL zoning for Z-7204.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 11 members present:

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to recommend **APPROVAL** of the IL zoning for Z-7204 per staff recommendation.

Legal Description for Z-7204:

Lot 7, Block 2, Golden Valley Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

TMAPC COMMENTS:

Mr. Dix stated that he would like to disclose that he visited the site and had ex parte communication with the residents.

- 17. **CZ-413 – Eddie James**, Location: Northeast corner of East 122nd Street North and North 139th East Avenue, Requesting from **AG to CG**, (County)

STAFF RECOMMENDATION:

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

RELEVANT ZONING HISTORY:

No relevant history.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 3.10+ acres in size and is located northeast corner of East 122nd Street and North 139th East Avenue. The property is a steel yard and is zoned AG. It appears to be flat and non-wooded.

SURROUNDING AREA: The subject tract is abutted on the east by large lot single-family residential uses (with a large accessory use) zoned AG; on the north by a former welding shop, zoned AG; on the south by large lot residential uses, zoned AG; and on the west by US 169, zoned AG.

UTILITIES: The subject tract has water from Rural Water District 3 and septic on property.

TRANSPORTATION VISION:

The Comprehensive Plan does not designate either 122nd Street North or North 139th East Avenue. US 169 is a highway with no ready access to the property in question.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
North 139th East Avenue	N/A	N/A	2
East 122nd Street North	N/A	N/A	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The subject property is not part of any adopted plan for North Tulsa County. It is covered by the Owasso Plan (see submitted comments from Owasso Community Development Director), which recommends this be compatible with surrounding designated residential uses. As the Owasso letter indicates, the proposed use would **not be in accord** with their Plan.

STAFF RECOMMENDATION:

Staff has conferred with the Owasso Planning Department Director regarding details of this proposed rezoning. We have also enclosed the letter from the Owasso Community Development Director. Based on their comments and the adjacent single-family residential uses, as well as Owasso's plans for the area, staff recommends **DENIAL** of the proposed CG zoning for CZ-413.

TMAPC COMMENTS:

Mr. Covey asked staff if the City of Owasso has any jurisdiction over the subject property. Ms. Matthews stated that technically it does not, but it is a piece of property that they hope to annex.

Applicant's Comments:

Eddie James, P.O. Box 606, Collinsville, 74021, representing Green Country Land Company, stated that he purchased the property earlier in the year and it was a steel yard that was blighted. He indicated that he has cleaned up the subject property and hauled off the trash. He commented that he wants to be transparent with the neighbors and he went beyond the required notification distance and had a letter handed out to some of the neighbors with his intent to rezone the subject property.

Mr. James stated that one of the tenants that would like to have tractor sales, but it may not go through at this time. Mr. James recognized that the area around the subject property is residential. Mr. James stated that he went to the surrounding neighbors and introduced himself. He further stated that he never heard from anyone regarding his application. Mr. James commented that he had signatures from two property owners to the south who are not opposed to this application. [Mr. James did not submit the letters.] Mr. James indicated that the subject property is the only property at this time along the corridor that is not zoned CG and he believes it is because the current use is residential. The houses were built in the 1970s and there was no highway in place at that time. The highway is now there and there is noise from the highway and he doesn't believe anyone will want to live in the subject area. Mr. James stated that the highest and best use is to sell the property for commercial uses. Mr. James further stated that he doesn't know how the subject property would be used at this time because he doesn't know if the tractor sales deal is going to happen. Mr. James explained that he is in the automobile business in Collinsville. Mr. James responded to comments made in the Owasso letter regarding commercial uses within the subject area, neighbors being against the proposal, and the infrastructure. He explained that he is requesting the CG zoning so that he will not have to go before the County Board of Adjustment. Mr. James commented that many of the comments made in the Owasso letter would be addressed in the site plan. Mr. James stated that the previous use was a nonconforming use and he is proposing a less intense use.

TMAPC COMMENTS:

Mr. Leighty asked Mr. James if he currently owns the subject property. In response, Mr. James answered affirmatively. Mr. Leighty asked if it would be correct to say that Mr. James purchased the subject property on a speculative basis for development. Mr. James answered affirmatively. Mr. Leighty asked Mr. James if he considered at the time of purchase to put a contingency on the zoning. Mr. James stated that he considered it; however, the offer he placed on the subject property was a cash offer and it was lower than the seller wanted for the property and wouldn't accept contingency of any kind. Mr. James further stated that with the current use, he felt that a lower intense use would be acceptable. Mr. Leighty asked Mr. James if he knew he was taking a risk and that he might not get the zoning he was hoping for. Mr. James stated that is correct. Mr. James indicated that he did visit with Mr. Fritschen, Community

Development Director, and showed him the location of the subject property and his proposal to use the property as a tractor dealership. He explained that he would be removing the existing buildings and putting a new steel building in place. Mr. James stated that Mr. Fritschen indicated that the subject property was far enough north and far enough away from the Vocational Center.

Mr. Dix asked Mr. James if he could give the name of the tractor dealer out of Vinita who is interested in the subject property. Mr. Dix asked if it is John's Tractor Works. In response, Mr. James answered affirmatively.

Mr. Covey asked Mr. James if he planned to lease the property. In response, Mr. James stated that he would be leasing the subject property. Mr. James commented that he would like to use the land now rather than letting it sit vacant until a big development comes in.

INTERESTED PARTIES COMMENTS:

Sharon Yeary, 14000 East 126th Street North, Collinsville, 74021, stated that she totally disagrees with how Mr. James sees things. Ms. Yeary stated that the previous use was not an intense use and eventually contributed to the blight that Mr. James spoke of. Ms. Yeary submitted a petition with 22 signatures of residents within 30 acres of the subject property that area opposed to the rezoning (Exhibit A-1). She suggested that Mr. James purchase property that is properly zoned rather than trying to put the cart before the horse. Mr. James indicated at first that a car lot would be on the subject property, but now it is a tractor and supply business. The access road will not support that type of traffic because it is too narrow and there is no turnaround. Ms. Yeary stated that she doesn't believe the highway has any detrimental effect to the existing homes. The existing homes are zoned AG and provide the lifestyle that that everyone intended to have when they purchased their property. Ms. Yeary expressed concerns for the existing roads being damaged with heavy traffic if the subject property is rezoned to CG.

Ms. Yeary stated that Mr. James mentioned the Sam's development and that everything was coordinated and within agreement. She said that in Owasso and with their new plan, things are done so that whatever Owasso wants they get. The property that is now going to be Sam's was condemned and then they did an acquisition. The property owner didn't want to sell to Sam's development. Hopefully someone is listening today and realizes that the subject property is not a good location for any type of tractor or used car lot use.

Bronce Stephenson, City of Owasso, 111 North Main Street, 74055, stated that he is present today to answer any questions the Planning Commission may have to clarify a few issues. The subject property is currently outside of the Owasso City Limits and falls under the Tulsa County jurisdiction. Within Owasso's Land Use Master Plan, 2025 Master Plan, the subject area is called out as residential and is essentially Owasso's guide for their future development. Mr. Stephenson

stated that he had contact from other property owners who have expressed concerns about this proposal. Opening the subject tract up to CG zoning has a lot of uses that can be detrimental on the surrounding property owners. The City of Owasso is very reluctant to offer CG zoning to any property. Owasso feels that the commercial shopping zoning allows for the development of retail and commercial success that we have had. The subject area is where Owasso knows development is coming and there are a number of plans happening. Once the Tulsa Technology Center is completed, it will spur a great deal of development. The US 169 overlay was put in place to offer protections so that people making investments will know that there is an additional layer of protection. A tractor dealership and metal buildings are not allowed in the US 169 overlay

TMAPC COMMENTS:

In response to Mr. Leighty, Mr. Stephenson stated that he is present today on behalf of Owasso. Mr. Leighty asked Mr. Stephenson if he could speak about the Sam's property Ms. Yearly referred to. Mr. Stephenson stated that it was a private development and remained in private hands until they came in front of the City of Owasso and then Owasso worked with a development team in order to develop the subject property. It was zoned for Commercial Shopping and has been zoned for CS since early 2000. Mr. Stephenson further stated that to his knowledge there was no condemnation of any property. He doesn't believe that is the type of business the City of Owasso would want to be in.

Mr. Edwards asked Mr. Stephenson what the chances would be for the subject property to develop residentially when there are no services available. Mr. Stephenson stated that it would have to progress up that way and have utilities extended. The subject area is not within Owasso's plans to extend utilities. A development would have to move to the north as it has for a number of years before utilities could be extended. Mr. Edwards asked Mr. Stephenson how many years, realistically, would that be. In response, Mr. Stephenson stated that Owasso hopes it would be next year, but realistically it could be five years down the line but it is hard to say. Mr. Edwards stated that Mr. James would be in a holding pattern until Owasso decides what they want to do. Mr. Stephenson stated that right now, according to Owasso's latest Master Plan, the subject area will be developed residentially. Until that changes or the Master Plan is updated, it may be decided at that time that the subject area would be better suited for transitional use such as office or commercial. It is difficult to predict at this time.

Mr. Liotta asked how Mr. James's proposal would impede what Owasso wants to do down the road. In response, Mr. Stephenson stated that the applicant doesn't know if he is going to pave it and it would have to be paved within the City of Owasso. Metal buildings are not allowed in the US 169 overlay and neither are tractor dealerships. Mr. Liotta asked Mr. Stephenson if these conditions already exist on the subject property. Mr. Stephenson stated that it is a nonconforming use at this time and there is no doubt the applicant has made great

improvements to the subject property. It just isn't something that would be in conformance with the vision the City of Owasso has for the subject area.

Applicant's Rebuttal:

Mr. James stated that he doesn't believe there is a big disagreement with the use of the subject property. Mr. James further stated that he has been transparent and he is an investor and wants to make money with it. He doesn't feel that making money is a bad thing.

Mr. James stated that the existing road is adequate to serve the subject property. Mr. James reiterated that he spoke with adjacent neighbors and they signed letters in support. (Mr. James did not submit letters).

TMAPC COMMENTS:

Mr. Carnes stated that the rezoning shouldn't be approved without a PUD and he supports staff recommendation for denial.

Mr. Dix stated that he has a long history with the subject property. J.R. McClure was the owner and used the subject property as a reusable steel yard. Mr. McClure passed away and his son took over the subject property and there were questionable uses. Mr. Dix commented that he believes the subject property ended up being a meth lab and he doesn't know if remediation has been done on the subject buildings. The subject property was an eyesore and it is still an eyesore today. It would be nice to see the rest of the subject property cleaned up. Mr. Dix indicated that he did speak with the neighbors and there were two ladies against it and one not sure what she thought about the rezoning. One neighbor has some fears of water dumping onto her property. Mr. Dix explained that he lives 2.5 miles from the subject property and he believes that this is the epitome of spot zoning. He can't support the CG zoning. Mr. Dix stated that he has visited Mr. John's Tractor Works in Vinita and it is not a pleasant site for people to see from the highway. The Owasso City Manager, Rodney Ray, came before the Planning Commission requesting our cooperation in these types of zoning matters. Mr. Dix indicated that he would be supporting staff's recommendation for denial.

Mr. Leighty stated that he would agree with Commissioner Dix on this application. The applicant took a risk and no one is condemning anyone for trying to make money, but this is not in conformance with the City of Owasso's Plan and he can't support this application.

Mr. Edwards stated that the Planning Commission has been asked to respect the City of Owasso's Master Plan and we should do so and expect the same back. Mr. Edwards stated that he supports staff's recommendation for denial.

Mr. Perkins stated that it doesn't sit completely well with him when hears that the highest and best use for the subject property in the long term is residential.

There are power lines on the west side of the subject property and it will never be residential. This needs to be addressed by Owasso in their future plans. Mr. Perkins indicated that he would agree with the Planning Commissioners; however, Owasso needs to look at this again.

Mr. Dix stated that part of his reasoning for supporting the City of Owasso and their Plan is that most of these homes are not stick-built homes; they are mobile homes or moveable homes. The possibility that someone could come in there and acquire the properties at a reasonable cost to justify development in its current state is very high. If the subject property was rezoned and permanent buildings were built, the cost would become much higher. It is much further in the future for the Owasso Plan to be realized.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 11 members present:

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to recommend **DENIAL** of the CG zoning for CZ-413 per staff recommendation.

* * * * *

18. CZ-414 – Sisemore, Weisz & Assoc., Inc., Location: North of northeast corner of South 209th West Avenue and Highway 51 West, Requesting from **AG to CS**, (County)

STAFF RECOMMENDATION:

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

RELEVANT ZONING HISTORY:

CZ-179 May 1990: Staff recommended approval of a request for rezoning a 2.5+ acre tract of land from AG to CG on property located west of the northwest corner of South 209th West Avenue and Highway 51 West. TMAPC and County Commissioners concurred in denying CG zoning and approving CS.

CZ-133 April 1985: Staff and TMAPC recommended denial of a request for rezoning a 5+ acre tract of land from AG to CS, on property located north of northwest corner of South 209th West Avenue and Highway 51 West. The County Commissioners approved the request based on a recommendation made by the Sand Spring Planning Commission.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 2.7+ acres in size and is located north of the northeast corner of South 209th West Avenue and Highway 51 West. The property appears to be vacant and wooded, and is zoned AG.

SURROUNDING AREA: The subject tract is abutted on the east by Country Meadows Estates, zoned RE; on the north by Country Meadows Estates zoned RE; on the south by a commercial use, zoned CG; and on the west by a commercial use (Western Market Trading Company), zoned CS.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates South 209th West Avenue as a Secondary Arterial.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South 209th East Avenue	Secondary arterial	100'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

This is not part of any of City’s Comprehensive plans, nor of the District Plans. It is adjacent to Commercial zoning on the west (CS) and south (CG). Residential Estate (large-lot single-family residential) zoning lies to the north and east.

STAFF RECOMMENDATION:

Due to the proximity of other Commercial zoning to the south and west, as well as its location on an arterial road, staff can support the proposed rezoning. Therefore, staff recommends **APPROVAL** of CS zoning for CZ-414.

INTERESTED PARTIES COMMENTS:

Waseem Bari, 20911 West 8th Street, Sand Springs, 74063, expressed concerns that the applicant would be developing a gas station across from his Conoco gas station. Mr. Bari requested that the Planning Commission take into consideration when approving rezoning that they are hurting existing businesses. Mr. Bari explained that he owns 15 plus gas stations in Oklahoma and when rezoning is allowed for commercial businesses adjacent to his, it hurts his business.

TMAPC COMMENTS:

Mr. Dix stated that as a past site selector for the QuikTrip Corporation, he can assure him that this will not be a gas station or liquor store. This site is too far

from the off-ramp and it is far too big a site not to develop it correctly. It is not the TMAPC's job to protect Mr. Bari's business. Mr. Dix explained that he doesn't know what the use will be for the subject site, but he is sure it will not be a gas station.

Mr. Midget asked Mr. Bari if he is opposed to the rezoning. Mr. Bari stated that he is not opposed to the rezoning and he just wanted to know what would be going in.

Mr. Leighty explained that the TMAPC can't guarantee use and the use is unknown on straight zoning.

Mr. Dix reiterated that he was giving his opinion regarding the possible use on the subject property.

Mr. Walker explained that the TMAPC can't protect his businesses.

Applicant's Rebuttal:

Darin Akerman, Sisemore, Weisz & Assoc., Inc., 6111 E 32nd Place, 74135, stated that the proposal is not something that would be in direct competition with Mr. Bari. It will be a general retail store and there are no fuel pumps or canopy in front of the store.

Mr. Midget asked Mr. Akerman if he accepts staff's recommendation. In response, Mr. Akerman answered affirmatively.

TMAPC Action; 11 members present:

On **MOTION** of **MIDGET**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to recommend **APPROVAL** of the CS zoning for CZ-414 per staff recommendation.

Legal Description for CZ-414:

A TRACT OF LAND THAT IS PART OF THE SOUTHWEST QUARTER (SW/4) OF SECTION TWO (2), TOWNSHIP NINETEEN (19) NORTH, RANGE TEN (10) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAD SW/4; THENCE SOUTH 00°52'45" EAST ALONG THE WESTERLY LINE OF SAID SW/4 FOR 385.70 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE NORTH 88°57'15" EAST 601.12 FEET TO A POINT ON THE WESTERLY LINE OF SAND SPRINGS CITY PARK, BEING A PART OF COUNTRY MEADOWS ESTATES I, AN ADDITION TO TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE SOUTH 01°02'45" EAST ALONG SAID WESTERLY LINE FOR 196.30 FEET; THENCE SOUTH 88°57'15" WEST FOR 601.69 FEET TO A POINT ON THE WESTERLY LINE OF SAID SW/4; THENCE NORTH 00°52'45" WEST ALONG SAID WESTERLY LINE FOR 196.30

FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND. SAID TRACT OF LAND CONTAINS 118,056 SQUARE FEET OR 2.710 ACRES, MORE OR LESS.

* * * * *

19. **Z-7205/PUD-566-A – TMAPC**, Location: Northwest corner of West 41st Street and South 57th West Avenue, Requesting from **AG to OL/CS/PUD-566-A and PUD Major Amendment**, (CD-2)

STAFF RECOMMENDATION:

ZONING RESOLUTION: Resolution number 222844 dated November 9, 2011, established zoning for the subject property.

RELEVANT ZONING HISTORY:

CZ-407/ PUD-566-A November 2011: All concurred in denial of a request for rezoning a 11.69+ acre tract of land from AG/RS/OL/CS to OL/CS and a Major Amendment to a PUD for office and commercial use, on property located Northwest corner of West 41st Street and South 57th West Avenue and is the subject property. It was appealed to the Board of County Commissioners and they overturned both cases to approve them with conditions.

CBOA-2021 February 18, 2003: The Board of Adjustment approved a Special Exception to allow auto repair and retail tire and accessory sales (Use Unit 17) in a CS district, with condition of an eight-foot screening fence to the residential district, on property located at 4110 South 61st West Avenue and southwest of subject property.

CBOA-1830 May 15, 2001: The Board of Adjustment approved a Special Exception to permit communications tower, on property located at 6035 West 40th Street and abutting west of subject property.

CZ-237PUD-566 November 1997: A request to rezone a 10+ acre tract from AG to RS-3/RM-2/OL and CS with a PUD overlay for a mixed use development, on property located on the northwest corner of West 41st Street South and South 57th West Avenue. Staff recommended denial of the proposed zoning but approval of RS zoning. TMAPC and City Council approved RS/OL/CS zoning with the overlay PUD-566.

CBOA-1397 January 18, 1996: The Board of Adjustment approved a Special Exception to permit a church (Use Unit 5), day care and fellowship hall/gymnasium on a 10-acre in an AG district; per plan submitted, on property located at 6035 West 40th Street and abutting west of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 11.69+ acres in size and is located at the northwest corner of West 41st Street and South 57th West

Avenue. The property is mostly vacant and is zoned AG. The eastern 1/3 of the property contains a drainage way/floodplain (see attached aerial photo showing floodplain extent). The hard corner of the PUD (at West 41st Street South and South 57th West Avenue) contains a doughnut shop.

SURROUNDING AREA: The subject tract is abutted on the east by South 57th West Avenue and then a vacant portion of Walker Heights, a large-lot single-family residential use, zoned RS; on the north by unplatted vacant land, zoned AG; on the south by West 41st Street South and then unplatted property zoned RS with large lot single-family residential uses; and on the west by unplatted property zoned AG with a church and cell tower use. To the northwest of the subject property is Pleasure Acreage 3rd Addition a single-family residential subdivision zoned RS.

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

TRANSPORTATION VISION:

The Tulsa Comprehensive Plan designates West 41st Street as a primary arterial but only to an area just west of 33rd West Avenue within the City of Tulsa limits. The subject area has, until recently, been within the unincorporated portion of Tulsa County.

STREETS:

The Tulsa City-County Major Street and Highway Plan designates West 41st Street South as a primary arterial street and does not designate South 57th West Avenue.

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
West 41st Street	Primary arterial	120'	4
South 57th West Avenue	N/A	N/A	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The Comprehensive Plan for the Tulsa Metropolitan Area calls for this area to be Low Intensity – Development Sensitive. According to the Plan, the previously approved OL and CS zoning **is not** in accord with the Plan. This property was formerly within the unincorporated portion of Tulsa County and is therefore not included in the latest City of Tulsa Comprehensive Plan update. The property is within the Planning District 9 boundaries. This area has recently been annexed into the City of Tulsa, and by law, newly-annexed land is rezoned to AG, no matter what its previous zoning was.

STAFF RECOMMENDATION FOR ZONING:

Zoning for the subject property was approved by the Board of County Commissioners on October 17, 2011. The property has since been annexed into the City of Tulsa limits. At such a time that property is annexed into the corporate limits of a municipality the zoning on the subject property automatically reverts to AG regardless of previous zoning.

As part of the annexation an agreement was made between the County, the City of Tulsa and the applicant that application would be made by the TMAPC on the applicants behalf to return the OL and CS zoning to the property as previously approved by the Board of County Commissioners.

STAFF RECOMMENDATION FOR PUD:

Approved in 2011, PUD-566-A is a relatively flat 10.13 acre tract located at the northwest corner of West 41st Street South and South 57th West Avenue, formerly in the unincorporated portion of Tulsa County. The site is split by the presence of the floodplain contributing to the site's designation as "development sensitive" within the District 9 Plan (see attached aerial photograph showing the extent of the floodplain).

The subject property was part of the recent west side annexation completed by the City of Tulsa. As part of any annexation, when property is transferred from unincorporated portions of a county into incorporated municipalities, by law the zoning on the property automatically reverts to Agriculture (AG) zoning.

As part of the annexation an agreement was made between the County, the City of Tulsa and the applicant that an application would be made by the TMAPC on the applicant's behalf to return the zoning and PUD to the property that was approved by the Board of County Commissioners with the following conditions:

1. The applicant's Concept Development Plan and Text (attached) be made a condition of approval, unless modified herein.
2. Development Standards (as made part of the condition of approval by the Board of County Commissioners):

Any future development of any portion of the northern portion of the property intended for office development is subject to the procedural requirements of a PUD Minor Amendment. Specifically, the developer would have to notify by direct mail any property owner within 300 feet of the proposed development and send a detail site plan to TMAPC for public hearing at which any member of the public would be allowed to address the TMAPC about the development. TMAPC would then make a final decision about whether to approve that development plan and;

Any development of the "Office Zoning" portion of the property would be strictly limited to:

- a. Offices of single-story construction;
- b. No more than 22-feet in height;
- c. With pitched roofing;
- d. With heavy landscaping on the north and west borders;
- e. With a masonry-type wall at least eight feet in height;
- f. Without any exterior lighting which exceeds 15 feet in height.

This development will be contingent upon approval of DEQ of adequate septic systems.

The County Engineers will require that adequate detention ponds are included in any plan.

3. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.

General: No comments

Water: The extension of a looped water main line may be required to serve the tract.

Fire: Fire hydrant will be required within 400 feet of any part of a non-sprinkled building and within 600 feet of any part of a sprinkled building. Fire department access roads need to be 20 feet wide minimum. If fire access road is dead ended over 150 feet a turnaround will be required per International Fire Code 2006, Appendix D.

A water main extension with fire hydrants complying with the International Fire Code is required. They will need to meet fire department access when they determine building layout. They will still need to get with Berryhill Fire Department.

Stormwater:

There are both FEMA Floodway and Floodplain on this site. An Overland Drainage Easement is required for the Floodplain plus and additional 20 feet, above the BFE, on both sides of that FEMA Floodplain, and it must be placed in a Reserve.

Any Construction in the FEMA Floodplain will require a Certified Letter of Map Revision (CLOMR) and a LOMR.

If Floodplain Storage is affected, then a Compensatory Storage Easement is required.

Structures are being flooded in this Floodplain downstream of this site; therefore all additional runoff generated by this Development must be detained in a Stormwater Detention Facility, in a Stormwater Detention Easement.

Access to the west tract from 57th Street will require a bridge to be constructed across the FEMA Floodway and Floodplain, which must have one foot of freeboard.

Wastewater: No comment

Transportation: No comments

INCOG Transportation:

- **MSHP:** Gilcrease Expressway ROW is just east of this property and should not impact this plat. West 41st Street is a designated primary arterial west of 57th West Avenue.
- **L RTP:** West 41st Street South, between South 52nd West Avenue and South 65th West Avenue, planned four lanes. Per TMAPC subdivision regulations, sidewalks should be constructed if non-existing or maintained if existing.
- **TMP:** No comments.
- **Transit:** No comments.

Traffic: No comments

GIS: No comments

Street Addressing: No Comment

County Engineer:

AEP Transmission Line Engineering:

Minimum set back lines from 57th West Avenue will not be established or located within the boundaries of the existing PSO Transmission Easement which (roughly) parallels the section line roadway.

No signage, trash dumpsters, equipment or lighting structures may be placed or located within the bounds of the PSO Transmission Easement along the east side of the properties without prior PSO review and approval.

No landscaping, paving, fencing, screening walls or excavation within the bounds of the PSO Transmission Easement along the east side of the properties without prior PSO review and approval.

No mounding of dirt or spoil material within the bounds of the PSO Transmission Easement along the east side of the properties without prior PSO review and approval.

No part of any aerobic sanitary sewer system shall be located within the bounds of the PSO Transmission Easement along the east side of the properties without prior PSO review and approval.

Utility easements may be located within the PSO right-of-way ONLY with prior review and approval by PSO, if located within the extreme perimeter portions of the PSO easement. Any U/E granted that would encroach into the PSO easement must specifically be limited to underground utilities.

These restrictions are necessary to protect the public, construction workers, PSO line employees, to maintain land rights purchased by PSO via its right-of-way easement, and to protect and maintain the electrical facilities now existing within the right-of-way and any future modifications or additions to the electrical facilities. Further, these electrical (138kV) facilities were designed and installed to meet or exceed clearance requirements of the National Electrical Safety Code (NESC) in force at the time of the facility installation. Those clearances were based on land usage at the time of the circuit installation and changes to that use within the easement boundaries may require modification of the PSO facilities. Any cost thereof would be borne by the property owner or designee.

PSO:

Extend our overhead line North on 57th West Avenue; would need to build on the East side of 57th West Avenue due to the transmission line & easement on the west side. We would then need a 4" conduit under 57th West Avenue to Plaza 41's property.

Extend our overhead on the west side of property; would need a utility easement added to do this. This would keep us away from the transmission line & easement.

ONG

Will require a perimeter easement of 17.5, also include our standard language in the covenants, total customers and B.T.U. load required, and O.N.G. will not agree to release a plat if signs will be located in the utility easement, there is a distribution main line on the south side of West 41 Street.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 11 members present:

On **MOTION** of **MIDGET**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to recommend **APPROVAL** of the OL/CS zoning for Z-7205 per staff recommendation.

TMAPC Action; 11 members present:

On **MOTION** of **MIDGET**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to recommend **APPROVAL** of the major amendment for PUD-566-A per staff recommendation.

Legal Description for Z-7205:

Legal Description OL Zoning Area: A tract of land that is a part of the East Half of the East Half of the Southwest Quarter (E/2 E/2 SW/4) of Section 20, Township 19 North, Range 12 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof and being more particularly described as follows, to-wit: Commencing at the Southeast corner of said Southwest Quarter (SW/4); thence South 89°59'44" West along the South line of said Southwest Quarter (SW/4) for a distance of 40.00 feet; thence N 0°08'47" W and parallel to the East line of said Southwest Quarter (SW/4) a distance of 50.00 feet; thence South 89°59'44" West and parallel to the South line of said Southwest Quarter (SW/4) a distance of 622.27 feet; thence North 0°08'40" West along the West line of the East Half of the East Half of the Southwest Quarter (E/2 E/2 SW/4) a distance of 240.00 feet to the Point of Beginning of said tract of land; thence North 0°08'47" West along the West line of said East Half of the East Half of the Southwest Quarter (E/2 E/2 SW/4) a distance of 445.73 feet to a point, said point being 1244.51 feet Southerly of the Northwest corner of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter (SE/4 NE/4 SW/4) of said Section 20; thence South 89°56'41" East parallel with the North line of said SE/4 NE/4 SW/4 a distance of 622.25 feet to a point, said point being 40.00 feet West of the East line of said Southwest Quarter (SW/4); thence South 0°08'47" East and parallel to the East line of said Southwest Quarter (SW/4) a distance of 445.08 feet; thence South 89°59'44" West and parallel to the South line of said Southwest Quarter (SW/4) a distance of 622.26 feet to the Point of Beginning of said tract of land, containing 6.36 acres, more or less.

Legal Description CS Zoned Area: A tract of land that is a part of the East Half of the East Half of the Southwest Quarter (E/2 E/2 SW/4) of Section 20, Township 19 North, Range 12 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof and being more particularly described as follows, to-wit: Commencing at the Southeast corner of said Southwest Quarter (SW/4); thence South 89°59'44" West along the South line of said Southwest Quarter (SW/4) for a distance of 40.00 feet; thence N 0°08'47" W and parallel to the East line of said Southwest Quarter (SW/4) a distance of 50.00 feet to the Point of Beginning of said tract of land; thence South 89°59'44" West and parallel to the South line of said Southwest Quarter (SW/4) a distance of 622.27 feet; thence North 0°08'40" West along the West line of the East Half of the East Half of the Southwest Quarter (E/2 E/2 SW/4) a distance of 240.00; thence North 89°59'44" East parallel with the South line of said SW/4 a distance of 622.26 feet to a point, said point being 40.00 feet West of the East line of said Southwest Quarter (SW/4); thence South 0°08'47" East and parallel to the East line of said Southwest Quarter (SW/4) a distance of 240.00 feet to the Point of Beginning of said tract of land, containing 3.43 acres, more or less.

Legal Description for PUD-566-A: A tract of land that is a part of the East Half of the East Half of the Southwest Quarter (E/2 E/2 SW/4) of Section 20, Township 19 North, Range 12 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof and being more particularly described as follows, to-wit: Commencing at the Southeast corner of said Southwest Quarter (SW/4); thence South 89°59'44" West along the South line of said Southwest Quarter (SW/4) for a distance of 40.00 feet; thence N 0°08'47" W and parallel to the East line of said Southwest Quarter (SW/4) a distance of 50.00 feet to the Point of Beginning of said tract of land; thence South 89°59'44" West and parallel to the South line of said

Southwest Quarter (SW/4) a distance of 622.27 feet; thence North 0°08'40" West along the West line of the East Half of the East Half of the Southwest Quarter (E/2 E/2 SW/4) a distance of 685.73 feet to a point, said point being 1244.51 feet Southerly of the Northwest corner of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter (SE/4 NE/4 SW/4) of said Section 20; thence South 89°56'41" East parallel with the North line of said SE/4 NE/4 SW/4 a distance of 622.25 feet to a point, said point being 40.00 feet West of the East line of said Southwest Quarter (SW/4); thence South 0°08'47" East and parallel to the East line of said Southwest Quarter (SW/4) a distance of 685.08 feet to the Point of Beginning of said tract of land, containing 9.79 acres, more or less.

* * * * *

OTHER BUSINESS:

Commissioners' Comments

None.

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TMAPC Action; 11 members present:

On **MOTION** of **MIDGET**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **ADJOURN** TMAPC meeting No. 2625.

* * * * *

There being no further business, the Chair declared the meeting adjourned at 2:43 p.m.

Date Approved:

5-16-12

John A. Walsh

Chairman

ATTEST:

[Signature]

Secretary