

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2626

Wednesday, May 16, 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	Warrick, COT
Edwards		Huntsinger	Warlick, COT
Leighty		Sansone	
Liotta		Wilkerson	
Midget			
Perkins			
Shivel			
Stirling			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, May 10, 2012 at 1:13 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 would be a TMAPC Work Session immediately following today's meeting.

Director's Report:

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

Dawn Warrick, Director, City of Tulsa Planning Department, reported on small area plans and updated the Planning Commission regarding their status. Ms. Warrick further reported that in June or July she would like to present a quarterly report on the implementation of the Comprehensive Plan.

TMAPC COMMENTS:

In response to Mr. Leighty, Ms. Warrick explained the process for prioritizing the small area plans.

In response to Mr. Covey, Ms. Warrick stated that monthly meetings are posted on the City of Tulsa website www.planitulsa.org/smallareaplans. Ms. Warrick further stated that staff works with the Councilors for the affected districts and asks them to produce a list of names for the Citizen’s Advisory Teams. Staff guides the Councilors to ensure that the list is as inclusive as possible, hit all of the key stakeholders within the area and have even representation.

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Minutes:

Approval of the minutes of May 2, 2012 Meeting No. 2625

On **MOTION** of **MIDGET**, 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 May 2, 2012, Meeting No. 2625.

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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.

- 2. **LS-20505** (Lot-Split) (CD-9), Location: West of the southwest corner of East 36th Street South and South Rockford Avenue
- 3. **LS-20506** (Lot-Split) (CD-5), Location: Northeast corner of East 27th Street South and South Memorial Drive
- 4. **LS-20511** (Lot-Split) (CD-8), Location: Northeast corner of South 74th East Avenue and East 109th Street South
- 5. **LS-20512** (Lot-Split) (CD-8), Location: West corner of South 74th East Avenue and East 110th Street South
- 6. **LS-20513** (Lot-Split) (CD-8), Location: West of South 74th East Avenue between East 110th Street South and South 109th Street South

7. **LS-20514** (Lot-Split) (CD-8), Location: Northwest corner of South 74th East Avenue and East 109th Street South
8. **LS-20515** (Lot-Split) (CD-8), Location: South of the northwest corner of South 74th East Avenue and East 109th Street South
9. **LS-20516** (Lot-Split) (CD-8), Location: North of the northeast corner of East 110th Street South and South 74th East Avenue
10. **LS-20522** (Lot-Split) (CD-8), Location: North of the northeast corner of East 110th Street South and South 74th East Avenue
11. **LC-403** (Lot-Combination) (CD-1), Location: West of the northwest corner of East 38th Street North and North Lansing Avenue
12. **LS-20517** (Lot-Split) (CD-9), Location: South of I-44 and north of East 50th Street South between South Yale Avenue and South Urbana Avenue (Related to LC-401)
13. **LS-20518** (Lot-Split) (CD-9), Location: South of I-44 and north of East 50th Street South between South Yale Avenue and South Urbana Avenue (Related to LC-402)
14. **LS-20519** (Lot-Split) (CD-9), Location: South of I-44 and north of East 50th Street South between South Yale Avenue and South Urbana Avenue (Related to LC-402)
15. **LC-401** (Lot-Combination) (CD-9), Location: South of I-44 and north of East 50th Street South between South Yale Avenue and South Urbana Avenue (Related to LS-20517)
16. **LC-402** (Lot-Combination) (CD-9), Location: South of I-44 and north of East 50th Street South between South Yale Avenue and South Urbana Avenue (Related to LS-20518 and LS-20519)
17. **PUD-460-7 – Kevin Kirby**, Location: Northwest of the northwest corner of 81st Street South and South Mingo Road, Requesting **Minor Amendment** to reduce the required front setback on this residential lot from 25 feet to 21 feet to allow for a garage expansion at an existing residence, **RS-3/RM-0/CS**, (CD-7)
18. **PUD-370-A-1 – R. Blake Hooper/American Tower**, Location: North of the northwest corner of 111th Street South and South Memorial Drive, Requesting a **Minor Amendment** to increase the height of an existing cell tower from 100 feet to 110 feet to allow for the collocation of antenna on the tower, **RS-2/RM-1/OL/CS**, (CD-8)

19. **PUD-639-A-5 – Roy D. Johnsen/The Tudors**, Location: Southeast corner of East 21st Street and South Main Street, Requesting **Minor Amendment** to allow a split of Lot 11, Block 1 of PUD-639-A (The Tudors) into four lots and to return office use as permitted use to the western 201 feet of the tract, **RM-2/OL/OM/CS**, (CD-4)

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:

PUBLIC HEARINGS:

QuikTrip No. 0017 – Preliminary Plat, Location: Southeast corner of Southwest Boulevard and West 23rd Street South (9214) (CD 2)

Charles L. Hardt Operations and Maintenance and Engineering Center – Preliminary Plat, Location: Southeast of intersection of North Harvard Avenue and Mohawk Boulevard (Continued from April 18, 2012 and May 2, 2012) (6013) (CD 1)

Z-7202/PUD-789-A – Plat Waiver, Location: East of South Peoria between East 37th Street And East 37th Place (9319) (CD 9)

Shindel Properties – Plat Waiver, Location: South of South 41st West Avenue, west of 162nd West Avenue

Davis Village – Preliminary Plat, Location: North of East 91st Street South, East of South Mingo Road (8418) (CD 7) (Related to Items 25 & 26)

PUD-599-2/Z-5888-SP-1b – Sack & Associates/Eric Sack/Davis Apartments, 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) (Continued from May 2, 2012) (Related to Items 24 & 26)

PUD-599-2/Z-5888-SP-1b – Sack & Associates/Eric Sack/Davis Apartments, Location: Northeast corner of South Mingo Road and East 88th Street South, Requesting **Detail Site Plan** for a 289-unit, two- and three-story apartment complex, **CO** (CD-7) (Related to Items 24 & 25)

OTHER BUSINESS

Urban Renewal Plan Updates Extensions for the Neighborhood Development Program Area, finding them accord with the Comprehensive Plan.

Commissioners' Comments

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

MINUTES:

CONSENT AGENDA

2. **LS-20505** (Lot-Split) (CD-9), Location: West of the southwest corner of East 36th Street South and South Rockford Avenue
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7. **LS-20514** (Lot-Split) (CD-8), Location: Northwest corner of South 74th East Avenue and East 109th Street South
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18. **PUD-370-A-1 – R. Blake Hooper/American Tower**, Location: North of the northwest corner of 111th Street South and South Memorial Drive, Requesting a **Minor Amendment** to increase the height of an existing cell tower from 100 feet to 110 feet to allow for the collocation of antenna on the tower, **RS-2/RM-1/OL/CS**, (CD-8)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to increase the height of an existing cell tower from 100 feet to 110 feet to allow for the collocation of antenna on the tower. The applicant cites improved and expanded coverage for the area, while not seeking to construct a new tower, as the impetus for the request.

Section 1204.C of the Zoning Code establishes certain goals and use conditions for cell towers within the City. Sections 1204.C.3 and 1204.C.4 specifically seek to minimize the total number of towers throughout the community and strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.

Section 1107.H.9 permits, by minor amendment, changes in structure heights provided the approved Development Plan, the approved PUD standards and the character of the development are not substantially altered.

The Code also establishes a setback distance from R-, O- and AG-zoned property of 110% of the height of the tower. At 110 feet tall the tower is required to set back a minimum of 121 feet from the O District to the east and the AG District to the north. Referring to the attached site plan, the tower sits approximately 150 feet from the O District and 220 feet from the AG District.

Please refer to the attached photographs which attempt to show the tower in the context of the surrounding area. After viewing the existing tower from many different angles and distances, staff believes the addition of ten feet to the height of the tower will not substantially alter the approved Development Plan, the approved PUD standards or the character of the development. Staff supports the collocation of antenna versus construction of new towers.

Staff recommends **APPROVAL** of minor amendment PPUD-370-A-1.

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

Mr. Walker stated that Item 17 has been withdrawn and Mr. Leighty would like to pull Item 19 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 **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 **APPROVE** the consent agenda Items 2 through 16 and Item 18 per staff recommendation.

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:

17. **PUD-460-7 – Kevin Kirby**, Location: Northwest of the northwest corner of 81st Street South and South Mingo Road, Requesting **Minor Amendment** to reduce the required front setback on this residential lot from 25 feet to 21 feet to allow for a garage expansion at an existing residence, **RS-3/RM-0/CS**, (CD-7)

Withdrawn by applicant.

19. **PUD-639-A-5 – Roy D. Johnsen/The Tudors**, Location: Southeast corner of East 21st Street and South Main Street, Requesting **Minor Amendment** to allow a split of Lot 11, Block 1 of PUD-639-A (The Tudors) into four lots and to return office use as permitted use to the western 201 feet of the tract, **RM-2/OL/OM/CS**, (CD-4)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to allow a split of Lot 11, Block 1 of PUD-639-A (The Tudors – see Exhibit A) into four (4) lots and to return office use as a permitted use to the western 201 feet of the tract per the attached plan Exhibit B. The request is to allow for the construction of four, two-story office buildings.

Adopted in 2003, Lot 11/Tract 2 of the PUD was approved permitting Use Unit 8 – Multifamily and Similar Uses; 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.

In 2008, a minor amendment to the PUD was approved effectively eliminating all uses excepting multifamily/condominium uses and office uses from Lot 11/Tract 2. The condominium use was limited to the west 201 feet of the tract and office uses restricted to the east 120 feet of the tract (see Exhibit C). The condominium project never materialized due to a change in market conditions for that type of residential development in the area. The applicant now cites a demand for more office space in the vicinity.

The 2008 minor amendment limited the office uses on Lot 11/Tract 2 to 24,850 square feet (SF) of floor area. This request does not seek to increase the permitted office floor area on the tract, but to spread that floor area out over the entire tract by returning the office use to the western 201 feet of the tract.

The existing OL/OM/CS zoning on the property would permit approximately 32,900 SF of office floor area. The proposed concept plan shows a total of 23,100 SF of office floor area which is within the existing allotted floor area. In dividing the tract and constructing four smaller sized office buildings the density of the development is greatly reduced.

Referring to Exhibit A, the applicant proposes to construct the buildings within ten feet of the 21st Street right-of-way line (ROW) and place the parking behind the buildings. This design element is in keeping with the property's "Main Street" designation within the Tulsa Comprehensive Plan.

Staff recommends **APPROVAL** of minor amendment PUD-639-A-5 permitting the area to be divided and returning office uses to the entire Lot 11, Block 1 – The Tudors.

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

TMAPC COMMENTS:

Mr. Leighty stated that he is curious about the notice for the minor amendment. Mr. Sansone stated that notice is given to properties within the 300-foot radius. In response, Mr. Sansone explained that the proposal is to return the office use to the entire tract, but it is not deleting any uses. Mr. Leighty stated that this looks like a great project with the buildings brought up to the street and parking in the rear.

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

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 **APPROVE** the minor amendment for PUD-639-A-5 per staff recommendation.

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PUBLIC HEARING

20. **QuikTrip No. 0017** – Preliminary Plat, Location: Southeast corner of Southwest Boulevard and West 23rd Street South (9214) (CD 2)

STAFF RECOMMENDATION:

This plat consists of one lot, one block, of 1.74 acres.

The following issues were discussed May 3, 2012, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned CH (commercial heavy).
2. **Streets:** Right-of-way issues along Southwest Boulevard need to be resolved. Where is the centerline of the road and how much additional right-of-way including turn lane, must be dedicated? Limits of No Access and access outside the plat boundary are not part of this plat. If access is not already established or if it must be moved, get approval from the City of Tulsa Traffic Engineer. Any access shared with adjoining properties must be designated a mutual access easement.
3. **Sewer:** Section I A "Pavement or Landscape Repair..." Use standard language and place this statement in its own paragraph. Section I C Omit "In excess of 3 feet" or, even better, use standard language. Section II, "Landscape Easement" I did not find one of these on the face of the plat, which makes the restriction confusing.
4. **Water:** Existing 8 inch line along east side of Southwest Boulevard and existing 16 inch line along West 23rd Street. Preference is water services on the 8 inch line.

5. **Storm Drainage:** Additional storm easement will be required for the South Public Storm Sewer. In Section IC: Please use the City of Tulsa Standard Language for “Water, Sanitary Sewer, and Storm Sewer Service”. Section I.I if Overland Drainage Easements are not shown on the face of plat, then this covenant should be removed. Section I H: Use City of Tulsa Standard Language for this covenant. Please add the City of Tulsa standard language for “Roof Drain Requirements”.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comment.
7. **Other: Fire:** No comment.

GIS: Label all subdivisions within the mile section of the location map. Tie the plat from a section corner using bearings and distances from a labeled point of commencement (POC) to the labeled point of beginning (POB). Add a leading zero to all single digit degree descriptions on the face of the plat to match what is shown in the legal description. The basis of bearing should be clearly described and stated in degree, minutes, and seconds. Submit a subdivision control data form. **General:** All easements and right-of-way being vacated and/or closed must have the vacation and/or Ordinance Closure number on the plat. All easements being created by separate instrument must have their filed document number in their label. (Please remove “To be closed” notes.)

Staff recommends **APPROVAL** of the Preliminary Plat with the TAC recommendations and the special and standard conditions listed below.

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.

Mrs. Fernandez stated that there was a request through Transportation Planning that there be a bus shelter and bike racks provided. This is not typical for straight zoning, but QuikTrip is working with the Transportation Department and MTTA to provide those requests. Mrs. Fernandez reminded the Planning Commission that these requests are not requirements.

Mr. Carnes moved to approve the preliminary plat. Mr. Midget seconded.

TMAPC COMMENTS:

Mr. Leighty requested to have discussion and stated that he would be the minority on this item. He indicated that he would be voting against this preliminary plat. He believes that the Planning Commission and the City Council had a short-sighted view of this and he doesn't believe it should have been

approved because it is contrary to the Comprehensive Plan, the 6th Street Infill Plan and it sets a very bad and dangerous precedent.

Mr. Carnes informed Mr. Leighty that this item is for a QuikTrip on West 23rd Street. Mr. Leighty stated "how embarrassing is that?" Mr. Leighty stated that he is on the wrong item and apologized.

Applicant indicated his agreement with the staff recommendation.

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 **APPROVE** preliminary plat for QuikTrip No. 0017, subject to special conditions and standard conditions per staff recommendation.

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21. Charles L. Hardt Operations and Maintenance and Engineering

Center – Preliminary Plat, Location: Southeast of intersection of North Harvard Avenue and Mohawk Boulevard (Continued from April 18, 2012 and May 2, 2012) (6013) (CD 1)

STAFF RECOMMENDATION:

This plat consists of two lots, one block, on 40 acres.

The following issues were discussed April 5, 2012, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned RS-3 and Board of Adjustment # 21346 which approved the government use of the maintenance and engineering center. The plat was continued on the agenda as decisions about the size of the platted area were determined. Lots and Blocks were refined.
2. **Streets:** Provide 30 foot corner radius or equivalent clip at the intersection of Harvard Avenue and Mohawk Boulevard. Call out centerline of Mohawk Boulevard, show right-of-way with dimension lines and provide reference such as plat number or book and page number. It is unclear where Mohawk Boulevard diverges from the property line. Call out center line of Harvard Avenue. Provide reference for right-of-way. Show sidewalk easement. Do not show the Limit of No Access along Mohawk (only on Arterials). Please note that accesses are limited to 40 feet. Modify sidewalk language to omit reference to common areas, multiple lots, etc. This is a one lot, one block subdivision. In the Limits of No Access section remove reference to Mohawk

Boulevard. Any portion of the sidewalk that is located inside the property line must be placed in a sidewalk easement.

3. **Sewer:** The Conceptual Improvements Plan shows a 457.05' x 425.00' City of Tulsa General Easement in the vicinity of the northeast corner of the plat. This should be included on the face of the proposed plat as well. Also describe the easement as either existing, including the document numbers, or to be dedicated by this plat. The plat notes that the northeast boundary corner was not set due to a building encroachment. How can the plat be approved with unresolved encroachments into the platted area?
4. **Water:** The north segment of the proposed waterline easement must be rerouted outside of the 50 foot PSO easement. Move to south side of existing easement. The waterline easement can be parallel the PSO easement on the south side. Add standard waterline easement language. Reroute the proposed 6 inch line tying to the north. A 3 inch line is shown. Field verification will be required.
5. **Storm Drainage:** C/L and FM (flood area) are not included in the legend and substantial drainage flows onto this site from the area bounded by the south boundary of the plat, 36th Street North, Harvard Avenue and Louisville Avenue. This off-site drainage must be collected at the south property line and conveyed across the site in an overland drainage easement and/or a storm sewer easement. Add the City of Tulsa covenant for Overland Drainage Easements. Move the Deed of Dedication and the Covenants to a separate sheet. Include section on "Water, Sanitary Sewer, and Storm Sewer Service".
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** General utility easement needs to be resolved.
7. **Other: Fire:** Fire hydrant placement is okay if building is fire sprinkled. If not, provide fire hydrant within 400 feet of any portion of the building. Hammerhead shall meet detail in appendix D of the International Fire Code with an end dimension of 120 feet.

GIS: Under the graphic scale bar on the face of the plat state the scale of the drawing Tie the plat from a section corner using bearings and distances from a labeled point of commencement to a labeled point of beginning. The Basis of Bearing should be clearly described and stated in degrees, minutes and seconds. Submit a subdivision control data form (Appendix D). Using bearings and distances, give a metes and bounds legal description of the property, starting from a labeled point of commencement at a section corner, to a point of beginning on the corner of the property, with a traverse around the perimeter back to the point of beginning.

Staff recommends **APPROVAL** of the Preliminary subdivision plat with the TAC recommendations and the special and standard conditions listed below.

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.

TMAPC COMMENTS:

Mr. Leighty read the staff recommendation on page 22.2 of the agenda packet. Mrs. Fernandez reminded Mr. Leighty that she is presenting Item 21 of the agenda. Mr. Leighty apologized and stated that he might as well go home.

Mr. Carnes moved to approve the staff recommendation. Mr. Leighty asked for Mr. Carnes to wait.

Mr. Leighty asked if there is someone from the City of Tulsa present today. Mr. Leighty asked why this proposal is coming forward to the Planning Commission now because from what he understands this is not funded or has not been sent through for a CIP approval.

Mr. Walker requested Mr. Brown to come forward.

Mark Brown, 3340 North Delaware, City of Tulsa Traffic Operations Manager, stated that this proposal was funded during the 2006 program with five million dollars.

Mr. Leighty stated that something that came through on the last CIP proposals last month was for the relocation of the facility on 23rd and Jackson to this area. There were also acquisition costs for the concrete plant included in the recent CIP proposals. Mr. Leighty further stated that there is more expense to the development of this North Tulsa site than just five million dollars. Mr. Brown stated that the CIP proposal that Mr. Leighty is talking about would be independent of what this was set out to do. Five million dollars was approved in the 2006 sales tax for the subject proposal. There is an effort looking subsequent to the approval of this that the west yard would be developed at some point and time, but that is independent of this particular project.

Applicant indicated his agreement with the staff recommendation.

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 **APPROVE** the preliminary plat for the Charles L. Hardt Operations and Maintenance and Engineering Center, subject to special conditions and standard conditions per staff recommendation.

* * * * *

22. **Z-7202/PUD-789-A** – Plat Waiver, Location: East of South Peoria between East 37th Street And East 37th Place (9319) (CD 9)

STAFF RECOMMENDATION:

The platting requirement is being triggered by a rezoning for an additional parking area (KJRH).

Staff provides the following information from TAC for their May 3, 2012 meeting:

ZONING: TMAPC Staff: The property has previously been platted.

STREETS: Sidewalk required.

SEWER: The existing sanitary sewer line, from manhole # 272 to manhole # 276, must be replaced with ductile iron pipe. A 15 foot wide utility easement, with the pipe centered within the easement, must be provided as well.

WATER: Caution during construction along East 37th Street, existing 6 inch line runs along south side of street.

STORMWATER: This is located in the Perryman Ditch Tulsa Regulatory Floodplain.

FIRE: No comment.

UTILITIES: No comment.

Staff recommends **APPROVAL** of the plat waiver for the previously platted property,

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

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

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

	YES	NO
4. Is right-of-way dedication required to comply with Major Street and Highway Plan?		X
5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived?		X
6. Infrastructure requirements:		
a) Water		X
i. Is a main line water extension required?		
ii. Is an internal system or fire line required?		X
iii. Are additional easements required?	X	
b) Sanitary Sewer		
i. Is a main line extension required?		X
ii. Is an internal system required?		X
iii. Are additional easements required?		X
c) Storm Sewer		
i. Is a P.F.P.I. required?	X	
ii. Is an Overland Drainage Easement required?	X	
iii. Is on site detention required?		X
iv. Are additional easements required?	X	
7. Floodplain		
a) Does the property contain a City of Tulsa (Regulatory) Floodplain?	X	
b) Does the property contain a F.E.M.A. (Federal) Floodplain?		X
8. Change of Access		
a) Are revisions to existing access locations necessary?		X
9. Is the property in a P.U.D.?	X	
a) If yes, was plat recorded for the original P.U.D.	X	
10. Is this a Major Amendment to a P.U.D.?	X	
a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?		X
11. Are mutual access easements needed to assure adequate access to the site?		X
12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations?		X

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

Applicant indicated his agreement with the staff recommendation.

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 **APPROVE** the plat waiver for Z-7202/PUD-789-A per staff recommendation.

* * * * *

23. Shindel Properties – Plat Waiver, Location: South of South 41st West Avenue, west of 162nd West Avenue

STAFF RECOMMENDATION:

The platting requirement is being triggered by the number of lot-splits created on the property. Tulsa County has stopped issuing permits on the properties at this time so that either a plat or plat waiver can be obtained.

Staff provides the following information from TAC for their May 3, 2012 meeting:

ZONING: TMAPC Staff: Lots were sold with a subdivision being created without subdivision standards being met. The County Inspectors just realized this and are holding up a building permit until the Planning Commission action.

STREETS: No comment.

SEWER: No comment.

WATER: No comment.

STORMWATER: No comment.

FIRE: Get with responding Fire Department. Sand Springs Fire Department responds to this area. It appears fire hydrants may be required for new structures.

UTILITIES: No comments.

The existing situation on the properties is that lots have been sold over time and permits issued. The County Inspectors have now required a plat or plat waiver before other building permits can be issued due to the number of lots being created. The lots have been sold and the owners cannot obtain permits without a

plat waiver or plat. The lots created are over five acres in size, zoned Agricultural (AG) and most are irregular shapes. Planning staff does not approve of the lots as created because of the shapes, and type of access provided. Letters are attached from the City of Sand Springs showing access to water and fire service. The situation is such that it would be difficult not to grant a plat waiver due to the existing condition and circumstance of housing already having been built and lots already having been sold to individuals.

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

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

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

	YES	NO
4. Is right-of-way dedication required to comply with Major Street and Highway Plan?		X
5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived?		X
6. Infrastructure requirements:		
a) Water		X
i. Is a main line water extension required?		
ii. Is an internal system or fire line required?		X
iii. Are additional easements required?		X
b) Sanitary Sewer		
i. Is a main line extension required?		X
ii. Is an internal system required?		X
iii. Are additional easements required?		X
c) Storm Sewer		
i. Is a P.F.P.I. required?		X
ii. Is an Overland Drainage Easement required?		X
iii. Is on site detention required?		X
iv. Are additional easements required?		X
7. Floodplain		
a) Does the property contain a City of Tulsa (Regulatory) Floodplain?		X
b) Does the property contain a F.E.M.A. (Federal) Floodplain?		X
8. Change of Access		
a) Are revisions to existing access locations necessary?		X
9. Is the property in a P.U.D.?		
a) If yes, was plat recorded for the original P.U.D.		X

10. Is this a Major Amendment to a P.U.D.?
 - a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?
11. Are mutual access easements needed to assure adequate access to the site? X
12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations? X

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

TMAPC COMMENTS:

Mr. Walker asked if this is atypical for these permits to be denied. Mrs. Fernandez stated that she believes that the County staff was at the point that they wanted to make sure they were doing things correctly. It is her understanding that an LLC was formed with the applicant and he states that his attorney told him that this would be okay. State Statutes and the Subdivision Regulations state that after splitting four lots there has to be a subdivision of the same owner. The County is concerned about any future lot-splits without some sort of approval. There is a building permit being held at this time.

Applicant's Comments:

Paul Shindel, 4603 South Spruce Drive, Sand Springs, 74063, stated that there is a building permit being held up. There was never intent to form a subdivision, but it sort of evolved over a period of years when people would ask him to do it. Mr. Shindel indicated that he talked with his attorney at the Title Company and was told it was all right. The properties were over five acres and it was indicated to him that the LLC was its own entity and has its own tax number. He understood that what he was doing was legitimate and legal. There have been building permits issued all along and he doesn't know why the current building permit is being held up. Water is available and hydrants are available on the main roads. Mr. Shindel indicated that he has letter from the Sand Springs Fire Department that there is no requirements for other hydrants. Mr. Shindel stated that there is electricity available and everything is there, on the main roads. Mr. Shindel further stated that this is a little unusual as he has seen the same type of thing in West Tulsa. Mr. Shindel indicated that he sells real estate for a living and this is not uncommon to see.

INTERESTED PARTIES COMMENTS:

Sam Remmert, 211 East Saddlerock Road, Sand Springs, 74063, stated that he is one of the property owners and his building permit is being held at the County. He explained that he sold his home a month ago and intended to build on the subject property. Mr. Remmert stated that he is in limbo and having to live with

his parents and requested that the Planning Commission approve the plat waiver.

TMAPC COMMENTS:

Mr. Liotta asked Mrs. Fernandez if she foresees any problems that this would cause. Mrs. Fernandez stated that there is a letter in the file stating that there is fire service available and water service available. She further stated that she doesn't know if the water pressure will be good because it is not in a subdivision. This is a difficult situation because the properties have been sold. Mrs. Fernandez reiterated that this is not the type of development that staff encourages. The Subdivision Regulations cover both the City and the County with the same standards. Mrs. Fernandez concluded that she can't predict if there will be any major problems.

Mr. Leighty read Mr. Shindel's letter where he indicated that he visited the INCOG offices and spoke with a gentlemen in the lobby who told him a lot-split was not required if the parcels to be sold were of at least five acres and that he wasn't required to do a pinned type survey and only needed a written legal description to achieve the desired goals. Mr. Leighty asked Mrs. Fernandez if she knew who the staff member was that Mr. Shindel talked with. Mrs. Fernandez stated that she doesn't know who he talked with, but she can assure the Planning Commission that the Lot-Split Administrator is well versed in the State Statute and also in how staff operates by policy. Mrs. Fernandez further stated that she doesn't know who this refers to and it is hearsay.

Mr. Leighty asked Mrs. Fernandez what the downside of this would be and if the Planning Commission denies the plat waiver what would happen.

Mr. Alberty stated that he would like to take this opportunity to editorialize on this situation. In 1980 the County was inundated with requests to improve streets that were in what is called "wildcat subdivisions". The County decided that many victims had purchased properties from either uninformed or unscrupulous land developers. That is when the County became involved in zoning and Subdivision Regulations that involved the unincorporated area of the County. Today's application is a situation where if one wants to beat the system there are ways to do it. The County finally realized what was happening here after a number of land transfers. This was clearly a subdivision that had been set out to avoid having to meet all of the strict requirements of the Subdivision Regulations and that is plainly what has happened here. The problem is that there are a number of permits that have already been issued and one or two lots left. Under the circumstances he doesn't see anything that can be done, other than the fact to point out that this was not done properly. This has been done in the past numerous times and the full intent is to avoid having to build streets based on County standards, providing sufficient infrastructure, water, sewer or septic tank systems that meet DEQ. This is a very unfortunate situation and he believes it needs to be pointed out that this is an example of what we don't want.

Mr. Leighty asked if the recommendation is to deny the plat waiver. Mr. Alberty stated that staff doesn't have a recommendation, and this puts staff in a very awkward position. Mr. Leighty stated that this puts the Planning Commission in an awkward position. Mr. Alberty stated that it certainly does, but unfortunately staff doesn't make the decision. The victims in this case are those who purchased property in good faith. Mr. Alberty explained that this is probably fully developed and most of the lots do have some access to a major street and they are all over five acres so they do not require a lot-split.

Mr. Perkins asked Mr. Alberty how many acres were under the general ownership of this original property owner that turned into the LLC. Mr. Alberty stated that he believes that it originally started out as 70 acres, which is part of the dilemma. In the past, as long as staff knew that a parcel existed under one ownership and when the intent was to split it up and start selling off portions and creating an LLC, there are ways to get around the Subdivision Regulations, which is clearly evident here. It is unfortunate that this was not caught until a later time and right now most of the lots have already been developed and permits have been issued. There is one particular owner who is being held up. Mr. Alberty commented that he wanted to make his point and it wasn't to influence the Planning Commission's vote, but just to take the opportunity to reestablish why Subdivisions are required. It isn't always necessarily how many lots that are created, but if a lot is created without access to a public street, it doesn't meet the Subdivision Regulations. Title Attorneys will allow a transfer of a lot, and one can be created if it is greater than five acres. That is no guarantee that one will get a building permit, but one can own a piece of property that doesn't qualify for a building permit, which is another reason why Subdivision Regulations are necessary to protect the public. Mr. Perkins asked if it was 70 acres with four lot-splits and how many additional splits happened prior to this application. Mr. Perkins indicated that he is trying to determine how clear the intent was. In response, Mr. Alberty stated that it was split at least eight times.

Mr. Midget asked if there are two lots remaining in the subject area that have building permits being held. Mr. Shindel stated that there are four lots left and there was a nine lots altogether on the 75 acres that was originally purchased by the LLC.

Mrs. Fernandez stated that staff always recommends to applicants that one can split the property, but that they should go to County Inspections to make sure that the access appropriate and that water and sewer are provided and that they will give them a permit. She explained that this is routine for staff to do with anyone that comes into the office at INCOG. Staff knows the rule that if anything is over five acres it doesn't require a lot-split up to four tracts of land.

Applicant's Rebuttal:

Mr. Shindel stated that the property started out as 75 acres and the intent was to sell the top two properties and possibly one more and he and his wife would build a home on the balance. The 75 acres was purchased in the Shindel Enterprises originally as an LLC, which would make it the first owner of the property. He explained that the land was purchased that way to save on taxes. He explained that his now ex-wife was an accountant and that was her suggestion. The LLC was for the purpose of buying and remodeling homes.

Mr. Shindel stated that Mr. Alberty is of the opinion that this was a deliberate attempt to circumvent the system and he has to disagree with that. Mr. Shindel stated that he is on the Planning Commission in Sand Springs and has been for about six years. Mr. Shindel further stated that he is the Co-Chair of the Planning Commission in Sand Springs and he sees all of the cases that come through. He knows that the Planning Commission has the ability to look at each case individually and he didn't bring that up before but he sees the need to bring this up now. He reiterated that he did not purposely circumvent the system. The system is in place and his thought on the process is that the Legislature developed a Statute that states one is allowed to do four splits that are five acres or more. This is what he discussed with his attorney a few days ago. The LLC is its own entity and the infinite wisdom of the Legislature, have they not wanted or had the wanted to define this down any closer to put any other restrictions on it, then they would have put something to the effect that if one has the majority in an LLC or any controlling interest in the property that you would put that in there and they did not do that. So whether it is a loop-hole or whatever it was not an intent to use it in that manner; this evolved over a period of years. Mr. Shindel reiterated that this wasn't something he set out to do and there was no need for roads. Mr. Shindel indicated that he was assisted by someone at the permit department to create the panhandle. Mr. Shindel commented that he had never done panhandles before and didn't know it could be done. Mr. Shindel stated that his understood that properties had to have 300 plus feet of road frontage and he was informed that that is not true and that all he had to have is 30 feet on the County road. With this knowledge and talking with someone at INCOG's lobby several years ago he took this new knowledge and went with it. He indicated that he had visited the INCOG office several years ago about doing a lot-split. Mr. Shindel reiterated that there was never any intent to do this in the manner that would be illegal or not proper. There are homes built on all of the properties, except for four and one of those property owners is from the original three lots that he sold. There can be no further splits on these properties because they only have a 30-foot access for a driveway. There are deed restrictions on the property and it specifically states that any further splits of the property of any kind of way would have to be done through the Tulsa County Planning Commission or through the Board of Adjustment if necessary. Mr. Shindel requested the plat waiver to allow the homes to be built.

TMAPC COMMENTS:

Mr. Walker asked Mr. Shindel if he has ever developed a subdivision and filed a plat of record. In response, Mr. Shindel indicated that he hadn't.

Mr. Leighty asked Mr. Shindel if he was aware of the Subdivision Regulations during this time period and the requirements. In response, Mr. Shindel stated that he thought about taking that at one time and putting a road in there. Mr. Shindel further stated that he decided that it was too expensive and it wasn't what he and his wife had originally set out to do. Mr. Shindel indicated that it was a conceptual idea that he had talked to someone about and looked at and decided he couldn't afford to do it, so he didn't bother with it. Mr. Shindel stated that he doesn't mean that in a way that he tried to circumvent the system, because this happened over a period of years. Mr. Shindel further stated that he built his house in the center and had all of the property around him.

Mr. Leighty stated that this is a tough ruling for staff and the Planning Commission. This is so far along and he doesn't see any way that the Planning Commission could deny this without hurting some people and it will not help anyone by denying it. This isn't the right kind of project one wants to see, but who is the winner and who is the loser if it is denied. Mr. Leighty indicated that he will have to support this application, but it doesn't look very good for Mr. Shindel.

Mr. Walker asked Mrs. Fernandez how the applicant would go about doing a subdivision plat now with the lots having changed hands already. Mrs. Fernandez stated that it would be difficult and all of the owners would have to be included in a new plat and agree to the subdivision. There may be some things already in place that wouldn't meet the Zoning Code requirements.

Mr. Liotta stated that regardless of Mr. Shindel's intent, and the Planning Commission can't know his intent. Mr. Shindel did nothing illegal or improper and the buyers did nothing illegal or improper and they are the ones that will be damaged by not going forward. Mr. Liotta commented that he asked and he doesn't see any major problems created and he intends to support this application.

Mr. Dix stated that he was going to ask Counsel the same questions that Mr. Liotta just answered, which is where do we stand. He would like to hear from Counsel before making a motion.

Bob Edmiston, City Legal, stated that he wished he had all of the documents that reflect the exchange of titles to various lots and properties. He doesn't know if there were contracts involved or representation was made. He does believe that Commissioner Liotta's observations are fair observations from today. If the documentation were available and he was asked to give the opinion that the documents perhaps reflect statements or representations made that were perhaps in error, it would be a private matter between those parties. If there is

the possibility of a private Tort, misrepresentation or breach of contract among those parties, the action to bring can come later regardless of what the Planning Commission does today. Clearly, if the Planning Commission were to deny this plat waiver, then the party who is left trying to build a home would be looking for some remedy. Whether or not his documents of title will give him a remedy, he can't say.

Mr. Edwards stated that though he doesn't like this and he believes by denying this plat waiver it will put the land owner and Mr. Shindel, who he sincerely believes was not trying to be sneaky, in a situation where he can't continue. Mr. Edwards further stated that he doesn't like this and he has seen it many times in the Counties. To deny this at this point is unfair to the property owner and Mr. Shindel.

Mr. Perkins stated that development is expensive. Doing developments correctly is very difficult, although it does save the public safety and saves the individuals who are in contractual obligations with each other. Mr. Perkins further stated that he doesn't know what the intent was, but he doesn't like it and he will be voting against it.

TMAPC Action; 11 members present:

On **MOTION** of **CARNES**, TMAPC voted **10-1-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Shivel, Stirling, Walker "aye"; Perkins "nay"; none "abstaining"; none "absent") to **APPROVE** the plat waiver for Shindel Properties.

* * * * *

25. **PUD-599-2/Z-5888-SP-1b – Sack & Associates/Eric Sack/Davis Apartments**, 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) (Continued from May 2, 2012) (Related to Items 24 & 26)

STAFF RECOMMENDATION:

The applicant has withdrawn this application.

WITHDRAWN.

* * * * *

24. **Davis Village – Preliminary Plat**, Location: North of East 91st Street South, East of South Mingo Road (8418) (CD 7) (Related to Items 25 & 26)

STAFF COMMENTS:

Mrs. Fernandez reminded Mr. Walker that a few weeks ago there was a letter requesting a continuance to June 6, 2012.

Mr. Walker stated that the planning Commission will address the continuance request first.

INTERESTED PARTIES COMMENTS:

Jeff Harjo, 10018 East 85th Place, 74133, representing the Homeowners Association, stated that he would like to have Item 24 and 26 together and revise their continuance request. He understands that the applicant has withdrawn Item 25, the minor amendment. He would like to request a continuance to June 20, 2012 if the HOA's recommendation or denial of Items 24 and 26 are not approved by the Planning Commission. Mr. Harjo indicated that there are some technical issues that he is concerned with.

TMAPC COMMENTS:

Mr. Leighty asked if everyone in the South Towne Square Neighborhood got a notice before the last meeting. Mr. Harjo stated that notice was received on the minor amendment and for the plat waiver. Mr. Harjo indicated that the property owners along 85th Place South received notice as far as he knows. Mr. Harjo stated that he is not disputing the notice.

Mr. Covey stated that the last time there was a continuance for two weeks. Mr. Walker stated that the last continuance was for the minor amendment, which has been withdrawn. Mr. Covey stated that he understands, but with regard to that continuance, the applicant and homeowners were supposed to get together. Mr. Covey asked Mr. Harjo if the two parties were able to get together. Mr. Covey stated that the applicant has not contacted him until yesterday.

Mr. Liotta stated that in the interest of transparency he needs to disclose, he knows that it is hard to believe, but if you look at Mr. Harjo, he looks so much older than I and that he went to Junior High School together. Mr. Liotta further stated that he has answered some questions of Mr. Harjo as to process, but he cautioned him that he could not talk to him about the merits of the case.

Mr. Walker requested Mr. Sack to come forward.

Eric Sack, Sack & Associates, representing Davis Development, 3530 East 31st Street, 74135, stated that he was told, following the last Planning Commission Meeting on May 2, 2012, that his communication was to go through the President of the Association. He had a conversation with him and left a couple of phone messages and did speak on Friday, May 4, 2012. The Association President advised him that there would be a Board Meeting on May 7, 2012 and then a neighborhood meeting on May 8, 2012, which he may have an opportunity to speak at that time. This didn't occur and he reached out to the District 7 Councilor and met with him on Friday. Monday or Tuesday he made a last attempt to reach out to the President of the Association and he was informed that they formed a committee to work on this project and to work on their response and that he should contact Jeff Harjo. Emails and phone calls were exchanged between Mr. Harjo and Mr. Sack. Mr. Sack stated that he is prepared to discuss the plat and the detail site plan today.

Mr. Walker asked Mr. Sack if he is okay with the continuance request to June 20, 2012. Mr. Sack stated that he would prefer not to and there appears to be a lot people present today from the neighborhood. Davis Development flew in a representative from Georgia and he is present today as well.

Mr. Walker asked Councilor Mansur if he would like to speak on this before the Planning Commission makes a ruling on the continuance.

Councilor Mansur, City of Tulsa District 7, stated that he is present today due to three items within this particular PUD that are personal concerns to him. They are public safety issues and they are issues that the Planning Commission is qualified to address. Councilor Mansur further stated that he wanted to ensure that the neighbors are fairly heard and that they are able to come to some sort of agreement. Mr. Mansur expressed concerns with access, preserving environmental features and pipeline safety.

Mr. Liotta asked Mr. Sack if he is prepared to go to the neighborhood and fully discuss this issue and possibly have a neighborhood meeting. This is one of the things the Planning Commission likes to see happen before these issues come before the Commission and hopefully have the issues fixed before the public meeting. Mr. Sack stated that he understands and apologized for not bringing that up. He indicated that on April 24, 2012 there was a neighborhood meeting and he spent two hours with them. There were approximately 40 people in attendance. There were 25 to 30 lots represented at that meeting and he spent one hour going through item by item the development standards of the approved PUD and comparing it to the site plan. They spent the next hour talking about the detail site plan and their concerns, as well as at that time, the PUD height amendment that was being requested on May 2, 2012. The height amendment has

been withdrawn and it is something that was an esthetic change and not something pertinent to the development. Following the meeting he provided the site plan, elevations and site line sections electronically to the neighborhood. He has been available to meet with them since that time. At the April 24th neighborhood meeting he was given a number of items that were concerns of the neighborhood. The same items that were brought up at the April 24th neighborhood meeting are part of the letter sent to INCOG May 15th. Mr. Sack stated that he hasn't seen any new concerns and he is prepared to discuss those items mentioned and how they have been addressed today.

Mr. Midget asked Mr. Sack if he discussed those same items before with the neighborhood. Mr. Sack stated that he heard their comments, but he has not addressed or discussed the solutions to those with the neighborhood and have not had that opportunity. The detail site plan before the Planning Commission today has either addressed or taken those concerns into account for those that can be addressed. He has shared this verbally with the neighborhood, but they haven't seen the plan.

In response to Mr. Leighty, Mr. Sack stated that they sent notice for the neighborhood meeting for people within 300 feet of the north boundary. Mr. Sack further stated that he also provided the letter to the homeowners association that was distributed throughout the neighborhood. There were people attending, who lived on 85th Place and stated that they never received the letter, but had received the notice from the HOA. There were people attending from outside the 300-foot radius at the April 24th meeting.

Mr. Carnes moved to continue the plat waiver and detail site plan, but questioned the length of the continuance.

Mr. Harjo stated that the purpose of the April 24th meeting was to discuss the building height amendment. When objections were brought to the site plan there was a mixed response from the neighbors on how well the developer responded to those matters.

Mr. Leighty stated that he believes it could be continued, but possibly hear from the people that are in attendance today.

Mr. Carnes stated that he doesn't believe that is something the Planning Commission would want to start doing. Mr. Carnes suggested continuing the applications to let the neighbors meet with the developers.

Mr. Covey seconded Mr. Carnes's motion to continue.

Mr. Harjo stated that there are some residents who can't make the June 6th meeting and requested that the June 20th date.

Mr. Dix asked if there is a possibility that there will a resolution to the issues before the June 20th meeting. Mr. Harjo stated that he can't speak for the residents on any matters that might come up from now until June 20th. Mr. Harjo indicated that they are willing to sit down and talk with the applicant and developer.

Mr. Leighty asked who the applicant should meet with from the homeowners association. Mr. Harjo stated that the Board formed a special committee and they have elected him to represent the committee.

Mr. Sack cited the process that this development has gone through and stated that it has been through more process than most of the other developments he has done. The technical aspects are covered and the items that were asked and raised at the neighborhood meeting on April 24th have largely been addressed or things he can talk about. Mr. Sack stated that he doesn't agree with the continuance.

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 Davis Village to June 20, 2012.

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- 26. **PUD-599-2/Z-5888-SP-1b – Sack & Associates/Eric Sack/Davis Apartments**, Location: Northeast corner of South Mingo Road and East 88th Street South, Requesting **Detail Site Plan** for a 289-unit, two- and three-story apartment complex, **CO** (CD-7) (Related to Items 24 & 25)

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 detail site plan for PUD-599-2/Z-5888-SP-1b to June 20, 2012.

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OTHER BUSINESS:

27. Urban Renewal Plan Updates Extensions for the Neighborhood Development Program Area, finding them accord with the Comprehensive Plan.

STAFF RECOMMENDATION:

Dawn Warrick, Planning Director for the City of Tulsa, stated that the request is for the Planning Commission approval of amendment to multiple Urban Renewal Plans and the purpose of the amendment is solely to extend the expirations of these plans. Ms. Warrick requested that the plans be extended to June 2014. Ms. Warrick explained that each of these plans needs to go through an update and it can be accomplished within two years.

There were no interested parties wishing to speak.

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 Urban Renewal Plan Updates Extensions to June 2014 for the Neighborhood Development Program Area, finding them accord with the Comprehensive Plan.

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Commissioners' Comments

Mr. Walker asked Mr. Sansone to come forward. Mr. Walker stated that is Mr. Sansone's last TMAPC meeting. Mr. Walker thanked Mr. Sansone and stated that he will be missed. Mr. Walker stated that Mr. Sansone conducted himself very professionally and made his job as a Planning Commissioner easier. Mr. Walker wished Mr. Sansone the best of luck.

Mr. Sansone stated that he appreciates Mr. Walker's comments and it comes with great regret that he is leaving. Mr. Sansone commented that he was thrilled when Mr. Alberty hired him and he loves what he does. Mr. Sansone stated that he believes that the composition of the Planning Commission today is the best it has ever been since he has been in Tulsa. The Planning Commission has treated him with great respect. Mr. Sansone thanked the Planning Commission for the opportunity to serve as their staff. He stated that Mr. Wilkerson will be replacing him and he is very confident that he will serve the Planning Commission well. [Applause]

Mr. Walker welcomed Dwayne Wilkerson to the Planning Commission staff and stated that he looks forward to working with him.

Mr. Liotta stated that as a fellow Italian he was excited to have Chris here because they had each other's back. Mr. Liotta further stated that he is glad to see that he finally got a haircut.

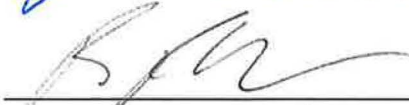
TMAPC Action; 11 members present:

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 **ADJOURN** TMAPC meeting No. 2626.

There being no further business, the Chair declared the meeting adjourned at 2:55 p.m.

Date Approved:

June 4, 2012



AS VC Chairman

ATTEST:


Secretary