

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2632

Wednesday, August 15, 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        |
|-----------------|----------------|---------------|-----------------------|
| Covey           | Carnes         | Bates         | Steele, Sr. Eng.      |
| Dix             | Edwards        | Fernandez     | VanValkenburgh, Legal |
| Leighty         |                | Huntsinger    |                       |
| 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, August 9, 2012 at 3:56 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:

#### Chairman's Report:

Mr. Walker reported that Gene Edwards and Gail Carnes both underwent major surgery and they are doing well. The Planning Commission is thinking of them and wishing them well.

\* \* \* \* \*

### Minutes:

#### Approval of the minutes of July 11, 2012 Meeting No. 2629

On **MOTION** of **SHIVEL** the TMAPC voted 7-0-0 (Covey, Dix, Leighty, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Liotta, Midget "absent") to **APPROVE** the minutes of the meeting of July 11, 2012, Meeting No. 2629.

**Minutes:**

**Approval of the minutes of July 25, 2012 Meeting No. 2630**

On **MOTION** of **SHIVEL** the TMAPC voted 6-0-1 (Covey, Dix, Leighty, Shivel, Stirling, Walker “aye”; no “nays”; Perkins “abstain”; Carnes, Edwards, Liotta, Midget “absent”) to **APPROVE** the minutes of the meeting of July 25, 2012, Meeting No. 2630.

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Mr. Liotta in at 1:31 p.m.

Mr. Midget in at 1:31 p.m.

**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-20534** (Lot-Split) (CD-5), Location: Southeast corner of South Sheridan Road and State Highway 51
4. **LC-416** (Lot-Combination) (CD-2), Location: North of the Northeast corner of East 71st Street South and South Utica Avenue
5. **LC-421** (Lot-Combination) (CD-4), Location: North of East 6th Street South and East of South Victor Avenue
6. **LS-20539** (Lot-Split) (CD-2), Location: East of the Northeast corner of South 33rd West Avenue and West 78th Street South
7. **LS-20536** (Lot-Split) (CD-8), Location: East of South 76th East Avenue at the intersection with East 83rd Street South (Related to LC-417)
8. **LC-417** (Lot-Combination) (CD-8), Location: East of South 76th East Avenue at the intersection with East 83rd Street South (Related to LS-20536)
9. **LC-419** (Lot-Combination) (CD-3), Location: Southeast corner of North Sheridan Road and East Latimer Place
10. **LS-20537** (Lot-Split) (CD-8), Location: East of the Northeast corner of South Sheridan Road and East 46th Street South (Related to LC-418 and LC-420)

11. **LS-20538** (Lot-Split) (CD-8), Location: North of the Northeast corner of South Sheridan Road and East 46th Street South (Related to LC-418 and LC-420)
12. **LC-418** (Lot-Combination) (CD-8), Location: North of the Northeast corner of South Sheridan Road and East 46th Street South (Related to LS-20537 and LS-20538)
13. **LC-420** (Lot-Combination) (CD-8), Location: East of the Northeast corner of South Sheridan Road and East 46th Street South (Related to LS-20537 and LS-20538)
14. **PUD-230-9 – A-Max Sign Co**, Location: 3845 South 103rd, Suite 102, Minor Amendment, (CD-7) (Continue to 9/5/12 for new notice due to incorrect legal description.) (Pulled from the consent agenda)
15. **PUD-168-9 – Brandon Moll**, Location: 8121 South Harvard Avenue, Requesting a Minor Amendment to add Use Unit 5 (Community Services & Similar Uses) in Development Area B to the existing Planned Unit Development, **CS/RS-2/PUD-168**, (CD-8)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to add Use Unit 5 (Community Services & Similar Uses) in Development Area B to the existing Planned Unit Development.

**Minor Amendment Summary:**

The underlying zoning at the existing building location is CS and allows Use Unit 5 by right. Original development guidelines prepared for Development Area B in the PUD, approved in 1975, did not make provisions for this use.

**Staff Summary:**

Within the City of Tulsa Zoning Code, PUD Section 1107.K.15 a minor amendment may be permitted ....“Changes in an approved use to another use may be permitted, 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”.

Staff has reviewed the site and had determined that location will not result in any increase of incompatibility with the present and future use of the proximate properties.

Staff recommends **APPROVAL** of the minor amendment request PUD-168-9 as outlined above.

- 16 **PUD-397-B – Rosenbaum Consultants/Wagner Dental**, Location: Northwest corner of South 91st East Avenue at East 62nd Street South, Requesting a Detail Site Plan for a new dental office on a vacant lot, (CD-7) (Related to Item 17.)

**STAFF RECOMMENDATION:**

**Concept Statement:**

The applicant is requesting approval of a detail site plan for a new dental office on a vacant lot.

**Permitted Uses:**

The proposed use: Use Unit 11-Offices, Studios and Support Services, is a permitted use in PUD 397-B

**PUD Dimensional Standards:**

The submitted site plan meets all applicable building floor area, open space, building height and setback limitations with one exception. The parking setback along the south lot line does not meet the minimum standards that have been in Section 1002.A.2 of the zoning code. That section of the code requires a 5' green space between the lot-line and parking area, the minimum dimension shown on the plans is 2.08'.

*Alternative Compliance Landscape plan is required.*

**Site Lighting:**

No parking lot lighting will be provided with this project.

**Signage:**

The site plan does not indicate business ground signage. Building signage will require a separate submittal for staff approval.

**Site Screening and Landscaping:**

The applicant has submitted an Alternative Compliance Landscape Plan to compensate for the loss less than 30 square feet of required green space in the 5' landscape strip. Approval of this site plan is contingent on the approval of the Alternative Compliance Landscape Plan.

A 6' tall masonry enclosure has been provided for a trash enclosure.

**Pedestrian Access and Circulation:**

Pedestrian access has been provided on-site adjacent to the parking areas and building. A sidewalk is required in the street right of way around the perimeter of the site.

Vehicular Access and Parking:

Vehicular access is provided from public streets. The site exceeds the minimum parking quantity. All parking spaces meet the minimum dimensional standards as defined in the Zoning Code.

Summary:

With regard to the Site Plan the staff has reviewed the applicants submittal as it relates to the approved PUD-397-B except as noted above.

Therefore, staff recommends **APPROVAL** of the detail site plan for Wagner Dental in PUD-397-B as attached and with the condition that the Alternative Compliance Landscape Plan is approved by the Planning Commission.

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

17 **AC-116 – Rosenbaum Consultants/Wagner Dental**, Location:

Northwest corner of South 91st East Avenue at East 62nd Street South, Requesting a Landscape Alternative Compliance for reduction in required 5-foot green space to 2-foot and provide three additional trees above the minimum required for the street yard, (CD-7) (Related to Item 16.)

**STAFF RECOMMENDATION:**

The applicant is requesting TMAPC approval of an Alternative Compliance Landscape Plan for Wagner Dental at 9035 East 62nd Street.

**Staff Recommendation:**

The landscape plan submitted does not meet the technical requirements of Chapter 10 of the Tulsa Zoning Code. The required 5' green space as outlined by section 1002.A.2 of the Code is shown to be 2' at the minimum dimension.

The applicant has proposed to provide 3 additional trees above the minimum required for the street yard requirement. The trees are placed in groupings around the site in larger landscaped areas providing more meaningful green space and a healthier environment for the trees to thrive.

The proposed alternative compliance plan meets or exceeds the minimum standards outlined in Chapter 10 of the Zoning Code in all other areas.

Staff contends the applicant has met the requirement that the submitted Alternative Compliance Landscape Plan “ be equivalent or better than” the technical requirements of Chapter 10 of the code and recommends **APPROVAL** of Alternative Compliance Landscape Plan AC-116

Mr. Walker stated that Item 14 is requesting a continuance and will be pulled from the Consent Agenda.

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Covey, Dix, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards "absent") to **APPROVE** the consent agenda Items 3 through 13 and 15 through 17 per staff recommendation.

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

- 14. **PUD-230-9 – A-Max Sign Co**, Location: 3845 South 103rd, Suite 102, Minor Amendment, (CD-7) (Continue to 9/5/12 for new notice due to incorrect legal description.)

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

**TMAPC Action; 9 members present:**

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Covey, Dix, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, "absent") to **CONTINUE** Item 14, minor amendment for PUD-230-9 to September 5, 2012.

\* \* \* \* \*

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

**COMPREHENSIVE PLAN PUBLIC HEARINGS:**

- 18. Consider Amending the Comprehensive Plan for the City and County of Tulsa, Oklahoma by adopting the Tulsa Zoo Master Plan as part of the Comprehensive Plan**

**TMAPC COMMENTS:**

Mr. Walker asked if there have been any changes in the Plan since the presentation at the work session. Ms. Correll answered negatively.

Mr. Midget requested that Ms. Correll give her presentation again since this is the public hearing and it is being aired on TGOV.

**Applicant's Comments:**

**Terrie Correll**, Tulsa Zoo, 6421 East 36th Street North, 74115, presented a PowerPoint presentation and opened the floor for questions and answers. Ms. Correll submitted the executive summary (Exhibit A-1).

**TMAPC COMMENTS:**

Mr. Walker asked if the Master Plan will be done within the current acreage and size or have the opportunity to expand. Ms. Correll stated that currently it is within the current footprint of the fence and within the perimeter fence.

Mr. Leighty asked who worked on the Master Plan. Ms. Correll stated that staff, representing all of the Departments of the Zoo, the Board and the Long Range Planning Committee. Mr. Leighty asked if anyone from the City of Tulsa Planning Department was included. In response, Ms. Correll answered negatively. Mr. Leighty asked if there was anyone from the INCOG staff involved. In response, Ms. Correll answered negatively. Mr. Leighty asked if there was a paid consultant. In response, Ms. Correll stated it was PGAV Destinations of St. Louis, Missouri, which is an architectural and design firm. Their specialty is attractions, both in zoos, museums and other amusement attractions. This was part of an operating agreement with the City of Tulsa to develop a Master Plan. Ms. Correll stated that a representative from the Mayor's office is on their Board. In response to Mr. Leighty, Ms. Correll indicated that Mr. Midget is the representative from the Mayor's Office. Mr. Leighty asked if the meetings were publicized and opened to the public. Ms. Correll stated that they were not and that the Zoo is a private non-profit organization. Mr. Leighty asked if it would have been a good idea to engage the public. Mr. Leighty commented that engaging the public and getting them involved might have been a good idea. Mr. Leighty stated that this seems like a sound plan, but he is curious how the Tulsa Zoo compares with Oklahoma City, St. Louis, etc. Ms. Correll stated that the Tulsa Zoo is behind the curve. Ms. Correll stated that she has 30 years plus experience in the Zoo industry and that is one of the stark things that she noticed when she came to Tulsa three years ago.

Mr. Midget stated that the participation process has been very extensive and exhaustive. Information that the committee gathered came from visitors of the zoo and there were numerous surveys. Ms. Correll stated that there were online surveys from members regarding what they would like to see.

Mr. Perkins stated that a couple of years ago the Millennium Center Group made a proposal to the Tulsa Zoo to donate 1.7 million dollar endowment facility for an interactive children's museum that focused on environmental science. Mr. Perkins explained that his group was told that the proposal didn't fit within the Master Plan of the Zoo. Mr. Perkins asked Ms. Correll if she worked with that group, which kind of entailed Tulsa Partners, Homeowners Association, etc., in designing this Master Plan. Ms. Correll stated that she worked with staff and Board in designing the Master Plan along with the architects that were hired. The Zoo went through an RFP process to higher the architects. Ms. Correll stated that she first came to the Zoo as a City of Tulsa employee and was on the tail-end of the proposal from the Millennium Center Group and she recalls that that particular project, at the time, did not fit what the Zoo had in its Master Plan, which was outdated at that time. Mr. Perkins stated that he doesn't have sour grapes over the proposal, but with the new Master Plan and one of the missions being to educate students in the importance of environmental science, possibly it might make sense to incorporate that group at this time. Ms. Correll stated that there is an education department that has developed a formal and informal program and we do outreach as well.

Mr. Shivel stated that he is delighted to see the Plan and he likes the concept of it. An attractive facility will garner a more participation and revenues. Mr. Shivel concluded that he is delighted to see the Tulsa Zoo moving forward with the Master Plan.

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Covey, Dix, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards "absent") to recommend **APPROVAL** of Amending the Comprehensive Plan for the City and County of Tulsa, Oklahoma by adopting the Tulsa Zoo Master Plan as part of the Comprehensive Plan.

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**PUBLIC HEARINGS:**

19. **CZ-415 – Patricia Evans**, Location: Northeast corner East 56th Street North and North Utica Avenue, Requesting rezoning from **AG/RS to CS**, (County) (Continued from 7/25/12)

**STAFF RECOMMENDATION:**

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

**RELEVANT ZONING HISTORY:**

**CBOA-2399-A December 20, 2011:** The Board of Adjustment approved the Reconsideration of case CBOA-2399, a Special Exception to allow a Home Occupation (Beauty Salon with 2 chairs) to permit 4 chairs total in the salon, with only members living on the premises as part of the home occupation business, on the subject property.

**CBOA-2399 August 16, 2011** The Board of Adjustment approved a *Special Exception* to allow a Home Occupation (Beauty Salon). The exception was granted limiting the home occupation to two (2) salon chairs on the subject property.

**CBOA-652 April 15, 1986:** The Board of Adjustment denied a *Special Exception* to allow a home occupation (excavating company) in an RS district; and denied a *Variance* to allow a detached accessory building in the rear yard to exceed 750 sq. ft. to 1,440 sq. ft.; finding that the excavating company would not be compatible with the residential neighborhood; and finding that a hardship was not demonstrated by the applicant that would justify the variance requested; located at 1641 E. 56th St. and is abutting to the west of the subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 4.5+ acres in size and is located northeast corner of East 56th Street North and North Utica Avenue. The property appears to be vacant and is zoned RS/AG.

**SURROUNDING AREA:** The subject tract is abutted on the east by vacant property, structures, zoned RS, CS; on the north by vacant property, zoned AG; on the south by residential uses, zoned RS; and on the west by residential and vacant property, zoned RS and AG.

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

**TRANSPORTATION VISION:**

The Comprehensive Plan designates 56th Street North as a Secondary Arterial.

**STREETS:**

East 56th Street North, North Utica Avenue

| <b><u>Exist. Access</u></b> | <b><u>MSHP Design</u></b> | <b><u>MSHP R/W</u></b> | <b><u>Exist. # Lanes</u></b> |
|-----------------------------|---------------------------|------------------------|------------------------------|
| East 56th Street North      | 4 lanes                   | 100 feet               | 2 lanes                      |
| North Utica Avenue          | Residential<br>Collector  | 60 feet                |                              |

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The North Tulsa County Plan does not designate a planned use for the property. The old Comprehensive Plan for District 24 viewed this area as Low Intensity and CS zoning would not be in conformance with the plan. (All plans for the area are very old and need to be revisited and updated.)

**STAFF RECOMMENDATION:**

There have been several Board of Adjustment cases to allow the beauty salon use and additional beauty “chairs” on the site. There is a small CS commercial zoning located east of the site, and there is a property in between the requested rezoning and this existing CS zoning. The property is surrounded by RS residential zoning and a subdivision plat. Without the use of a Planned Unit Development overlay or perhaps revising the request to a smaller sized parcel, the request represents a case for spot zoning at the current time. There is a lot of vacant property in the area and further north an IL zoned industrial property. Staff recommends **DENIAL** of the request as presently proposed.

The applicant has revised her legal description as shown on the new case maps provided per the planning commissions’ directive. The parcel is smaller than the previous request and more compatible with the existing CS zoning to the east.

**TMAPC COMMENTS:**

Mr. Midget stated that he noticed that staff’s recommendation is denial, even though staff has indicated that they are in agreement with the revised size of the lot to be rezoned. In response, Mrs. Fernandez stated that staff doesn’t have any objection because of the revised size of the parcel. Mrs. Fernandez reminded the Planning Commission that this is an area that the Comprehensive Plan doesn’t speak. This is an area in transition.

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

**The applicant indicated his/her agreement with staff’s recommendation.**

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Covey, Dix, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards "absent") to recommend **APPROVAL** of the CS zoning for CZ-415 with the revised size of the parcel.

**Legal Description for CZ-415:**

W220 S200 SW SE LESS W30 & S50 THEREOF FOR RD SEC 6-20-13, Tulsa County, State of Oklahoma.

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20. **Z-7209 – Lou Reynolds**, Location: West of southwest corner of South Utica Avenue and East 7th Street, Requesting rezoning from **RM-2 to CS**, (CD-4)

**STAFF RECOMMENDATION:**

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

**RELEVANT ZONING HISTORY:**

**BOA-21222 March 8, 2011:** The Board of Adjustment **approved** a Special Exception to permit a principal use off-street parking lot (Use Unit 10) in an RM-2 district; subject to conceptual plan on page 2.7 and a 6'-0" wood screening fence along the south, east and west perimeter, and inside the fence shall be a solid hedge to lessen the impact on the streetscape. Landscape shall be according to code; and all lighting according to code will be shielded down and away from abutting properties, on property located at 1640 and 1644 East 7th Street which is the subject property.

**BOA-21124 August 10, 2010:** The Board **approved** a *Variance* of the parking requirement to permit an addition to an existing furniture design company. This approval is limited to the furniture design industry only, and is per conceptual plan 10.6. The Board finds the Tulsa Comprehensive Plan designates this area an area of growth and part of the Pearl District where a general agreement exists; that development is beneficial. The Board finds this furniture design company's expansion is in accordance with Tulsa's Comprehensive Plan and that these circumstances are peculiar to the land, structure, or building involved, located at 702 South Utica Avenue and abutting east of subject property.

**BOA-15956 March 10, 1992:** The Board **approved** a *Special Exception* to permit off-street parking in an RM-2 district, subject to all setback and screening requirements being met; finding that office use is located to the

south of the property, and a parking lot would be compatible with the surrounding area; located south of the southeast corner of East 7th Street and South Troost Avenue and abutting south of subject property.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 10,346± square feet in size and is located west of southwest corner of South Utica Avenue and East 7th Street. The property appears to be residential and is zoned RM-2.

**SURROUNDING AREA:** The subject tract is abutted on the east by a furniture and design business, zoned CH; on the north by a Dentist and Industrial use, zoned IM-; on the south by commercial, vacant, residential use, zoned OL, CH and RM-2; and on the west by residential, zoned RM-2, IL.

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

**TRANSPORTATION VISION:**

The Comprehensive Plan does not designate 7th Street in particular.

**STREETS:** East 7th Street

| <b><u>Exist. Access</u></b> | <b><u>MSHP Design</u></b> | <b><u>MSHP R/W</u></b> | <b><u>Exist. # Lanes</u></b> |
|-----------------------------|---------------------------|------------------------|------------------------------|
| East 7th Street             | N/A                       | N/A                    | 2                            |

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The Comprehensive Plan designates the site as a Downtown Neighborhood and in an Area of Growth.

A Downtown Neighborhood is defined as areas “located outside but are tightly integrated with the Downtown Core. These areas are comprised of university and higher educational campuses and their attendant housing and retail districts, former warehousing and manufacturing areas that are evolving into areas where people both live and work, and medium to high-rise mixed –use residential areas. Downtown Neighborhoods are primarily pedestrian oriented and are well connected to the Downtown Core via local transit. They feature parks and open space, typically at the neighborhood scale.”

The 6th Street Infill Plan designates the site to be in a Redevelopment Subarea.

Included in goals for the Redevelopment Subareas is to “create high-density housing and mixed-use development that complements and enhances the existing neighborhood. Walkable neighborhoods have

certain physical and contextual traits. Infill development in these kinds of neighborhoods needs to reflect these traits.”

Included in the objectives for the subareas are the following:

16.6.1.2.7 Building setbacks: Zero setback in most areas. Up to 10-foot setback may be appropriate to allow for consistency with flanking buildings, wider sidewalks, cafes, street vending, etc. Off-street parking behind the sidewalk is not permitted.

16.6.1.2.8 Screening: Landscaping and fencing shall be used to screen dumpsters, loading docks, and off-street parking areas from abutting residential areas.

16.6.1.2.9 Parking: Off-street parking to be located behind structures. The City should become an active partner in the development of well-designed parking areas. Shared off-street parking and adjacent on-street parking can be counted to meet parking requirements of the zoning code.

This site is located in the proposed expansion area for a Form-Based Code in the Pearl District/6th Street Infill area.

**STAFF RECOMMENDATION:**

The CS zoning requested appears to be in accord with the Comprehensive Plan for the area. The 6th Street Infill Plan for the area has specific objectives for the subarea. The CS zone requested does not meet the objectives of the particular subarea. The existing zoning in the area is a mixture of commercial, office, residential and industrial. There are two existing dwellings abutting the site to the west. A screening fence would be required next to the residential uses and zoning.

The applicant has stated that the intended use is a parking lot (the application lists commercial use). The parking lot use can also be accommodated by PK or office zoning. Section 1703 C 2 of the Zoning Code allows the planning commission to consider and act upon the PK or office zoning under the notification for the rezoning request.

The plans for the area encourage retail commercial uses and a mix of infill uses. The area has an existing mixture of industrial, commercial and residential zonings and uses. The parking lot could also be accommodated with the PK zoning district. The PK zone would require a screening fence or wall along the zoned residential boundary and a minimum ten percent of the lot would be required to remain pervious and be landscaped. Additional design standards for parking lots are found in Section 1303 of the Zoning Code. A Planned Unit Development could also

be used to assure buffering to the existing dwellings. Staff is favorable to either of these alternatives to the requested CS zoning.

Mrs. Fernandez stated that after talking with the applicant it was discovered that she intends to use the subject property for a parking and lot and she didn't mind that the staff dealt with it as a parking lot.

Mrs. Fernandez stated that the Board of Adjustment had previously approved a special exception to permit a principal use, off-street parking lot, with conditions. Mrs. Fernandez further stated that she needs to make a point about the Board of Adjustment. The Board of Adjustment is a separate Board from the Planning Commission. The BOA has a lot of power and they have the power to make conditions. BOA cases can be appealed directly to District Court, whereas the Planning Commission's recommendations go through the Planning Commission recommendation, City Council and then District Court. The BOA grants variances to the rules and grants things that are special, special exceptions for certain types of parcels. As we go through this discussion about this case, she doesn't want the Planning Commission to be confused about what the BOA has done and what the TMAPC is about to do. The powers between the TMAPC and BOA are very different. Board of Adjustment deemed that a parking lot could be a special use on the subject site in 2011. The BOA did put conditions on the subject site.

Mrs. Fernandez stated that the TMAPC is being requested to make a decision on straight zoning. The Planning Commission needs to keep in mind the surrounding property zonings and uses. The existing uses are complex in the subject area and will make the decision more difficult. Add to the complexity, there are a few plans in the subject area, the Comprehensive Plan, Pearl District 6th Street Infill Plan, and a proposal for an expanded Form-Based Code Regulating Plan. The issues that the Planning Commission should be looking at while making a straight zoning decision are: the Plans for the subject area, the history of the area and is the area in transition at this time, is there a circumstance that is causing this area to be different than what the Plan states at this time.

Mrs. Fernandez informed the Planning Commissioners that staff has been receiving letters and emails from interested parties, some are in the packet and some have been received up to the last minute. All of these letters have been delivered to the Planning Commission and made part of the record. The staff recommendation is to try and accommodate the Pearl District Plan with the PK zoning district, but also look at the overall goal of the Comprehensive Plan and some of the transitions in the subject area. The Planning Commission's decision needs to be reasonable and not arbitrary or capricious in any fashion.

**TMAPC COMMENTS:**

Mr. Covey asked Mrs. Fernandez if the staff recommendation changed since the publishing of the agenda packet. In response, Mrs. Fernandez answered affirmatively. Mr. Covey asked Mrs. Fernandez to explain the differences. Mrs. Fernandez stated it was from old-age and poor eye sight.

Mr. Leighty asked Mrs. Fernandez if she considered the 6th Street Infill Plan as a part of the Comprehensive Plan. In response, Mrs. Fernandez answered affirmatively. Mr. Leighty stated that the staff recommendation appears that staff is saying that the request appears to be in accord with the Comprehensive Plan, but not in accord with the 6th Street Infill Plan. Mrs. Fernandez stated that she will paraphrase what she thinks Mr. Leighty stated. Mr. Leighty read the first staff recommendation to Mrs. Fernandez. Mrs. Fernandez reminded Mr. Leighty that staff submitted a revised staff recommendation and he is reading from the first staff recommendation. Mrs. Fernandez stated that the staff recommendation states “doesn’t appear to meet those objectives” and an objective is a goal as a planning guideline. Mr. Leighty stated that he is having a hard time seeing how this can be consistent with the Comprehensive Plan, but inconsistent with the subarea plan. Mrs. Fernandez stated that often the Comprehensive Plan is going to be broader in scope and will consider things in a big picture and certainly some of the small area plans, even if they are out of date or haven’t been looked at in several years, will be more specific.

**Applicant’s Comments:**

**Lou Reynolds**, 2727 East 21st Street, 74114, representing Charles and Nancy Keithline, owners of the Pediatric Dental Group in the Pearl District, stated that Mr. Keithline relocated his practice to the subject area in 2009. This was after the 6th Street Infill Plan was passed. In this facility alone, Mr. Keithline invested a half million dollars and built 900 square feet of medical office space and with the expectation of practice growth. Originally the practice started with one doctor and eleven employees and today there are seven doctors and forty-five employees. The site has 39 parking spaces and exceeds the Code, but the practice needs every parking space available. Many of their employees park across the street (Photographs of subject are Exhibit B-2). Mr. Reynolds pointed out that the subject practice has sidewalks, landscaping and has been a good neighbor without any rules or having someone telling them to be that way. Mr. Reynolds indicated the various sites where employees currently park and indicated that the employees have received parking tickets from the Tulsa Police Department. Some of the patients have to park on the street as well. This is a very successful business in the subject area. Mr. Reynolds stated that within the entire Pearl District, the subject business is one of the highly accessed properties for tax purposes.

Mr. Reynolds pointed out various uses within the subject area and explained that Joe Jackson owns a home adjacent to the subject site and he wrote a letter in support of the subject application. Mr. Reynolds indicated that there are two lots to the north and west of the subject site and his client has recently purchased the two lots. One of the lots recently purchased has a building on it and one is vacant. His client intends to expand and have more growth in the subject area. Mr. Reynolds pointed out where the Hawley Furniture Company is located and they are adjacent to the subject property. Hawley Furniture is on property zoned CH. Mr. Reynolds submitted a site plan (Exhibit B-1) and explained that it is the proposed site plan for the parking lot, which follows the Zoning Code and standards that are currently in place. There would be a six-foot screening fence on the west boundary and six-foot screening fence along the south boundary. There will be 20 parking spaces and comply with the Zoning Code. Mr. Reynolds indicated that his client assured Mr. Jackson that the tree wouldn't be cut down and it will be left in place. Mr. Reynolds stated that every parking space is important to the practice. He believes that every parking space is important to the Pearl District. Throughout the 6th Street Infill Plan it is consistent that there is a parking problem and there is a need for more parking for commercial businesses. The common theme is that there isn't enough parking. The Plan talks about walkability and this parking lot is a walkable parking lot with only 20 spaces, it isn't a suburban parking lot. This parking lot will look much like the few nice parks in the Pearl District. This will be a nice amenity to the Pearl District, just like the Keithline's practice to the north. The subject area was heavily industrial and the Keithlines converted it into an office/medical type of use with density, 50 plus employees. These are new employees to the Pearl District and the practice pays better than minimum wage, with insurance and benefits for their employees. This is the kind of jobs wanted in the Pearl District. It attracts people from all over town to the Pearl District. This is one of the most positive things that has happened to the subject area. The Keithlines are not popular because they didn't build their building out to the street and they didn't even know that was an issue. Mr. Reynolds stated that his clients are known as pariahs in the subject neighborhood because their building isn't some kind of urban type building. Many people mistake it, but they are the little guy, they aren't Hillcrest, Sonic, or QuikTrip. The Keithlines have bet their life savings on this business. Mr. Reynolds stated that his clients scoped the subject area out before relocating. Mr. Reynolds asked who is really the neighborhood, there are seven letters from people within 300 feet of the subject area that are in support of the application and there are about 45 more letters from people throughout the neighborhood that also stated that they support the subject application. None of these letters are from the Pearl District Association, but the neighborhood has sent the letters. When a business does the right thing and makes a difference, then they will get the support of the neighbors. But if one wants to get the tightly-narrowly focused "my view,



my way”, then we are not going to get that support. That is what this is all about. The BOA meeting showed the message to the public that one should deal with these people with caution because they are treacherous and will not get their support, but you will get burdens. Mr. Reynolds stated that his client was asked and he thinks through conflict of interest and promoting their own self advantage...

Mr. Midget requested the floor from the Chairman. Mr. Walker gave Mr. Midget the floor. Mr. Midget addressed Mr. Reynolds and stated that he understands passion, but he would like to stay on the specifics of the subject zoning request and not the other stuff. Mr. Reynolds stated that he would be happy to, but because it came up in the staff report, he can stay with it. Mr. Midget stated that he doesn't see it in the staff report and he would like to stay with the zoning request. Mr. Reynolds stated that he would like to stay with the zoning request too, but because it was brought up he wanted to respond to it. Mr. Reynolds further stated that he believes that there has been a lot of self-deeds. Mr. Midget stated that he doesn't want to get into a discussion he would like Mr. Reynolds to stay with the zoning request. Mr. Reynolds stated that he would be happy to.

Mr. Reynolds indicated the two lots currently purchased by his clients and stated that his clients intend to move their practice there. The parking lot will look a lot like the parking at Family and Children's Services. Mr. Reynolds stated that one has to come down Troost Street to enter the subject property and it is through industrial property to the proposed parking lot. Mr. Reynolds reiterated that his client needs every parking space allowed and at the BOA they were allowed 16 parking spaces and with straight zoning his client can have 20 parking spaces. His clients need the four extra spaces and that is why they are here. There is no need for his clients to be burden with decorative types of things coming through IM-zoned property and coming off of their own properties. The Keithline's parking lots look first class and nice as parking facility in the City of Tulsa.

**TMAPC COMMENTS:**

Mr. Midget stated that what he heard Mr. Reynolds say is that his client is here today because the decision by the BOA only allows 16 spaces and his clients actually need 20 spaces and that can be achieved through straight zoning. There will still be landscaping requirements. Mr. Reynolds stated agreed with Mr. Midget's statement and indicated that he is in agreement with staff's recommendation for CS, OL or PK.

**INTERESTED PARTIES COMMENTS:**

**Lorenda Stetler**, 2440 South St. Louis Avenue, 74114, stated that the Pearl District is for on-street parking and in fact lobbied the City of Tulsa to remove no parking signs so that cars can park on the streets. She doesn't

know why the employees would get a ticket for parking on the street. Ms. Stetler read a letter in opposition. She asked why the subject property is requesting a rezoning for a parking lot that has already been approved by the BOA. Ms. Stetler stated that the Keithline's agreed to the BOA approval and conditions for the proposed parking lot. Ms. Stetler commented that she believes that the applicant wants to get straight zoning and not be required to do landscaping and requirements that were made by the BOA. Ms. Stetler stated that she doesn't believe the rezoning is applicable because the parking lot is all ready to go. If the Keithlines couldn't afford to build the parking lot as conditioned, the Pearl District would have agreed to allow them to build it in stages.

#### **TMAPC COMMENTS:**

Mr. Walker asked Ms. Stetler if she was okay with the parking lot, but she would like to see some landscaping and screening. In response, Ms. Stetler stated that she is not okay with the zoning because everything that has been shown could be thrown out and a piece of asphalt could be laid down instead. The Pearl District wants to see the landscaping, the setback, everything that was originally agreed upon at the BOA meeting.

Mr. Midget stated that he has what Ms. Stetler stated in front of him and he wishes he had a link to the BOA meeting and hear what was actually stated. Mr. Midget asked Ms. Stetler if her concern was the underlying zoning and the potential of possible doing away with some of the requirements that was stipulated at the BOA meeting. Mr. Midget asked Ms. Stetler if she had an issue with the additional four spaces, landscaping, lighting and fencing. Ms. Stetler stated that she believes that the additional four parking spaces will offset the setback that was originally planned. Ms. Stetler stated that she doesn't care that they have four additional spaces, but she cares about everything that was agreed upon at the BOA and that it comes to pass. Ms. Stetler further stated that she is concerned that the Keithlines will not do what they said they will do.

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

**Jamie Jamieson**, 754 South Norfolk Avenue, 74120, stated that this is a first for him to be accused of treachery and other things. He further stated that he takes great exception to that and he notes that the representative for the applicants stated that in public and in front of television before the Planning Commission. He commented that he hopes the Planning Commission makes for an earlier censure for that kind of attack. It is totally, extremely offensive and totally uncalled for and utterly untrue and he repudiates it. My two friends behind me were equally shocked and upset as indeed he is. This is absolutely outrageous.

Mr. Jamieson stated that this is not a complicated case as INCOG attempted to represent it. It is essentially very simple because there is

already an agreement for this before the BOA. A gentleman and ladylike agreement was reached with the current applicant and resolved to everyone's satisfaction. Mr. Jamieson stated that the applicant hasn't made any effort to build the BOA approved parking lot and at the time it seemed to be a rush.

Mr. Jamieson stated that the 6th Street Infill Plan is an adopted plan and is part of the Comprehensive Plan. There is no confusion over those two things. Mr. Jamieson pointed out that the parking lot at Family & Children's Services is a parking lot behind the building with a brick wall buffering the parking lot between the business and the residential development to its west, which he and his wife developed. Mr. Jamieson indicated that he collaborated with the CEO of Family & Children Services.

Mr. Jamieson stated that on-street parking is favored in the Comprehensive Plan and it is an obvious use of concrete and asphalt. He does have some sympathy with both the applicant and every other tax payer in the Pearl District in so far as the City has failed to maintain the system of sidewalks throughout the City. The City needs to invest in the City and infrastructure so that people will make good use of the on-street parking. There is no need to have more than necessary off-street parking. Mr. Jamieson stated that he heard INCOG state that the 6th Street Infill Plan disfavors parking and that is absolutely not the case. It is more to do with the placement with parking that is the concern. The Form-Based Code recommends the parking to be placed behind the buildings like the Family & Children Services parking is behind their building.

Mr. Jamieson stated that several years ago the Pearl District Association attempted to communicate with the Keithline's before they developed regarding building designs and the plans for Form-Based Code and never received a reply. This type of relation continued until the BOA application.

**TMAPC COMMENTS:**

Mr. Walker asked Mr. Jamieson if his opposition to the subject application is the screening, size or landscaping. Mr. Jamieson stated that his opposition is that an agreement has already been met with the Keithlines and he doesn't understand why we are revisiting this. What has happened in the last 17 months that is new or different? The requirement of the BOA sets the parking back and we made it consistent with the Form-Based Code, which is about 30 feet back from the right-of-way.

Mr. Shivel stated that two people have commented several times now as to why this application is before us since the BOA has already approved it with conditions. Mr. Shivel asked Mr. Jamieson if the applicant has the right to do this. Mr. Jamieson stated that Mr. Shivel would have to ask an attorney, but he believes that they do have the right to come to the TMAPC. Mr. Jamieson asked why are they shopping, they got one deal

and now they are trying to receive a better deal. Ms. VanValkenburgh stated that the applicant has the legal right to apply for the rezoning.

Mr. Liotta stated that when a business is successful and expands, how would they expand their parking if they are under the Form-Based Code. Mr. Jamieson stated that they make use of on-street parking. Mr. Jamieson further stated that tax payers have already paid for the parking. Mr. Liotta stated that if the business has parking in the rear and on-street parking, but is very successful and need additional parking, what are some ways that they can achieve this. Mr. Jamieson stated that there are various ways, one on-street parking and there are more efficient ways of doing that then we are currently doing here in Tulsa, next would be public parking or shared parking. Mr. Jamieson commented that Form-Based Codes favor shared parking.

**Christine Booth**, 2232 South Evanston, 74114, stated that she was a little knocked off of her balance by being called treacherous. She further stated that she hopes all of the Planning Commissioners are aware that over the last eleven to twelve years there has been a group of volunteers invited and became the Pearl District Association. She explained that Mayor Susan Savage put out a call to improve the subject area. There is an opportunity to improve the subject area and make it an urban living area. Ms. Booth commented that this is for the subject area and not for petty self-interest. This is a dream of a 50-year plan to build a spectacular neighborhood. Ms. Booth stated that she would like to set the record straight, the subject property did have two houses on it in 2010. Mr. Jackson ran out of his house at 6:00 a.m. with his gun because the wrecking ball has just hit the house next door to him. After the houses were removed there were 30 cars parking on the grass. The subject area is a gateway into the neighborhood and it is part of the 6th Street Infill Plan and is part of the Comprehensive Plan. She doesn't understand what is confusing about this information. Ms. Booth indicated that she has received a BOA variance request asking for a reduction in parking. When the Keithlines indicated that they have a parking problem, the Pearl District Association was sympathetic. Ms. Booth indicated that she told the City she would offer to rent them some parking and it was rejected. Ms. Booth stated that she thought there was an amicable solution through the BOA and she sees great acrimony that has developed through this entire process and now we are being called treacherous people.

**Joe Westervelt**, 1630 South Boston Avenue, 74119, stated that he is here to speak on behalf of Nancy Keithline and offer her support. The Keithlines have made a tremendous investment in the corridor and continue to grow. This is needed in the subject area because these singles and doubles are what power our economy. This is a hospital

corridor and transportation corridor. There is no better place to have this growth.

Mr. Westervelt stated that had Ms. Keithline been told by staff that they didn't need to go to the BOA to have a parking lot, they would have a parking lot they could afford to use and build. Once this got to the BOA it was conditioned so expensively that they couldn't afford to use the parking lot. This is a pediatric dental facility and is a good thing. Children are being brought in and getting dental care that they need. This is near other public facilities, the Indian Health Care Service and Hillcrest Hospital. Mr. Westervelt concluded that he commends them for their investment and he hopes that the Planning Commission will reward them so that they can continue doing the same.

**Applicant's Rebuttal:**

Mr. Reynolds stated that he doesn't believe that the subject property is in the middle of a neighborhood. The parking is practically behind the business and it looks very much like the parking behind Family & Children's Services. Yes they are more immediately behind their building, but the subject property is as well except that there is a street separating them. The Code has lighting standards, landscaping standards, setback standards and screening standards. His client will be complying with all of those standards. Mr. Reynolds stated that his client asked for a special exception and received a pile of conditions and the neighbor asked for a variance and gets no requirements. This seems that the Pearl District looks at one and not the other. The Hawleys are zoned CH and the proposed parking lot will face their loading dock. The subject property is zoned residential and there is supposed to be a screening fence there, but there isn't one. The Hawleys requested a variance and there is room for more parking spaces, but it is okay that they want less. There is not a two-way understanding here. Ms. Keithline came through this process very naively and very gullibly. Ms. Keithline thought she was getting something that was fair and made a lot of sense under the circumstances. As Ms. Keithline has learned about the Code she has found out that standards were imposed on her that didn't exist. The 30-foot setback doesn't exist and it took two parking spaces. The 30-foot setback is in the Form-Based Code, but only if the Form-Based Code is approved. There were burdens put on his client to have cross access with Ms. Hawley, but no cross access for his client. Mr. Reynolds stated that his client was being required to install a wall to screen a loading dock from the proposed parking. The parking is much less intense than the loading dock and much prettier. It seems like there are two standards.

**TMAPC COMMENTS:**

Mr. Liotta stated that he understands and appreciates Mr. Reynolds's passion for his client, but he would like to give Mr. Reynolds an opportunity to maybe retract potentially some specific words that he used earlier. Mr. Reynolds stated that he doesn't believe that they need to be retracted and they were accurate.

Mr. Midget stated being a little more familiar with the BOA action; he now understands now why Ms. Keithline went to the BOA because she didn't know about zoning. Mr. Midget stated that with the 30-foot setback he understands that the applicant lost two parking spaces. Mr. Reynolds stated that she actually lost four spaces, two on each side. Mr. Midget stated that if one looks at the subject site the condition imposed would make the parking lot align up with the existing residential structures. It looks like they were asking for the landscaping to keep it in line with the residential structure. Mr. Reynolds stated that the parking lot will be screened and Mr. Jackson is happy with the use and the proposal. Mr. Midget stated that some of the other speakers have expressed concerns about Mr. Reynolds's willingness to do the landscaping, screening and lighting. Mr. Midget further stated that he doesn't want to see another 11th Street again. Mr. Midget stated that 11th Street has asphalt all the way to the street and parking all the way up to the street. Mr. Reynolds stated that is not his proposal and per the Code that can't be done. There will be screening, lighting and landscaping per Code. Mr. Reynolds further stated that the screening will be around the residential property, but not to the CH property, which was imposed on his client at the BOA meeting. Mr. Reynolds asked why his client would have to screen CH zoning and someone else's loading dock, because that would be their duty. This is why his client feels a little mistreated here. Mr. Midget asked Mr. Reynolds if he would be in agreement with either CS, PK or PUD. Mr. Reynolds stated that he would accept PK zoning. Mr. Reynolds clarified that he applied for CS, but he would accept the PK zoning.

Mr. Leighty stated that he thought he heard Mr. Reynolds state that he didn't want his client to be saddled with a bunch of conditions. Mr. Reynolds answered affirmatively. Mr. Leighty asked Mr. Reynolds what he is referring to besides the 30-foot setback. Mr. Reynolds stated that there is a six-foot screening fence along the easterly boundary to screen the CH property, which shouldn't be a required. Mr. Reynolds indicated that there will be a six-foot fence, per his plan, that will screen from the residential property. There is no need for the landscaping requirements on his client because there is none on his neighbor's property to the west. There is no effort to beautify and do all of these things, but when his client came along they required it. Mr. Leighty stated that Mr. Reynolds's client was okay with the requirements at the BOA meetings. Mr. Leighty further stated that he watched the meeting and Ms. Keithline seemed perfectly satisfied to

take care of those things and glad to do it. Mr. Reynolds stated that Ms. Keithline didn't understand what she was getting into and that is why we are here today. Mr. Leighty asked Mr. Reynolds if he helped her understand. Mr. Reynolds stated that Ms. Keithline has learned about the Code throughout the process and she came to him. Mr. Reynolds pointed out that that the requirements that were imposed from the BOA meeting caused Ms. Keithline to lose four parking spaces. Mr. Reynolds reiterated that he has talked with the neighbor adjacent to the subject property and he is delighted with the new proposal. Mr. Leighty stated that his client doesn't want to do the landscaping and screening fence that was in there. Mr. Reynolds stated that his client will not have to have the easement across her property. His client doesn't have liability insurance coverage for other people to be parking on her lot when her business is closed, which he learned from the insurance agent. The BOA required cross easement, which came from the Pearl District Association. His client was loaded with requirements and their neighbor wasn't. His client didn't understand that at the time, but she has learned about these requirements throughout the process. Mr. Leighty stated that it basically boils down to that his client doesn't want to do the setback, screening, landscaping that was in the BOA decision. Mr. Reynolds stated that his client wants four more spaces and that is what is most important to her.

Mr. Dix asked Mr. Reynolds if his client will be locking the parking lot up at night. Mr. Reynolds stated that they will secure it if they have to. Mr. Reynolds stated that his client will be watching the property very closely. There was a BOA condition that his client would give their neighbor an easement across the subject property. In affect this is giving away his client's property rights.

Mr. Midget asked Mr. Reynolds how his landscaping would look compared to the Keithline's property on 6th and Utica. Mr. Reynolds stated that the green space will be approximately the same. He further stated that the landscaping will be consistent throughout and is nicely done.

Mr. Walker recognized Ms. Stetler.

Ms. Stetler asked if there is a guarantee that this parking lot will be built to the specifications that they are showing or is it her understanding that with this zoning change a piece of asphalt parking lot can be put there with no restrictions.

Mrs. Fernandez stated that the PK zoning, which was recommended as an alternative choice, has ten percent landscaping requirement, a screening fence or wall requirement next to the residential property, and a ten percent pervious open-space requirement within the PK zone. CS zoning also requires screening, which would depend on the neighboring

zonings. The residential zoning and uses would have screening and landscaping near them no matter what.

Mr. Midget asked if in the CS zoning there could be potentially less landscaping frontage off of the street. In response, Mrs. Fernandez stated that in CS zoning there is a street yard requirement. Mr. Midget stated that he understands that PK zoning has more landscaping requirement than what CS zoning requires. Mrs. Fernandez stated that PK zoning has the landscaping requirement and the ten percent pervious open-space. Staff thought the PK zoning would be a better compromise.

Mr. Midget stated that he is concerned about everything in the Pearl District for a couple of reasons. Mr. Midget further stated that he has a long history with it. He would like to see it flourish and continue as a model for infill and urban growth. Mr. Midget also indicated that his concerned about the Form-Based Code due to the conflict and passion behind it. Mr. Midget stated that he almost had his mind made up because he thought this was a way to undermine what is proposed for the Pearl District. Mr. Midget further stated that he had to drive the subject area several times to see exactly what was happening. Mr. Midget indicated that he is opposed to CS zoning, but he can support the PK zoning. The landscaping, lighting and screening will be comparable and not injurious to the neighborhood.

Mr. Leighty stated that he wishes that it was that simple and Mr. Midget asked some really good questions and made some really good points. Mr. Leighty stated that he did watch the BOA meeting regarding the subject property and Ms. Keithline seemed very happy with the way things turned out. Mr. Leighty commented that if Mr. Reynolds didn't tell her, he doesn't know where she has learned that somehow she didn't have to do all of that. Mr. Leighty further commented that in spite of the fact whether Ms. Keithline had to or didn't have to; she was pleased and happy about it at the time. Mr. Leighty stated that it was a collaborative effort and everyone worked together for a reasonable solution, now all of sudden we are back here. Mr. Leighty further stated that he doesn't think it is advisable for the Planning Commission and the Board of Adjustment to be at odds with each other and we should support each other. Mr. Leighty commented that he doesn't think this is consistent with the infill plan and that setback should be reserved for future building at some point. Mr. Leighty indicated that he can't support any of these requests for rezoning. Mr. Leighty stated that the applicant spoke about the urgency of the parking situation back in March 2011 and now a year and half later nothing has been done and now it is another emergency again. If it were so urgent why didn't they proceed with building the parking lot when they received the approval from the BOA? Mr. Leighty stated that he appreciates Mr. Liotta giving Mr. Reynolds the opportunity to take back some of the things he has said. Mr. Leighty further stated that he has a problem with the way that went and we



won't get anywhere with that kind of personal attack. Mr. Leighty stated that the thing that he believes differentiates the Pearl District Association and the people who have come here today to make their case for this and the people who oppose or in opposition to the Form-Based Code and the people who were fighting over the QuikTrip PUD, is that they have a vision and they are not lining up for their own personal interest. We don't hear what is necessarily good for the neighborhood or community; it is about their own self-interest. One can't fault someone for looking out for themselves, but who is going to look out for the broader thing. He believes that the Planning Commission needs to take a stand here. They have a right to put a parking lot there with the conditions from the BOA and he doesn't think the Planning Commission should go back and make changes.

Mr. Dix stated that while he disagrees with Mr. Reynolds's comments, he thinks the gist of what he was trying to say is that Ms. Keithline was misled into believing that she had only the option of Board of Adjustment and it is unfortunate. After the BOA meeting she realized that she did have other options and pursuing those options are well within her right. The idea that Ms. Keithline should be happy with what she agreed to then and then finding out that she had other options is ludicrous. If she has other options to pursue then she should and that is what she is doing today. Mr. Dix stated that he favors the PK since it provides for more green space and allows for the spaces needed. The CS zoning has too many options that will stay with the property regardless of who owns it.

Mr. Liotta stated that at the core of deciding something the first thing we want to know is what the rules are for each of these situations. The Planning Commission is encumbered with the existing rules in a particular piece of property. The 6th Street Infill Plan seems to be what guides here, even though we know potentially things are going to change. Mr. Liotta further stated that one of his concerns when considering the Form-Based Code was what would happen to existing business plans and how are they treated. It was explained that there would be a transition period that would take these kinds of things into account. This is what we have here, an existing business plan. The applicant has the right to pursue this modification and the limitations that were put on by the BOA could be described as nice for the area, attractive, but they weren't required. The limitations were put on but weren't based in any legal requirement. Mr. Liotta commented that he believes that the applicant was agreeable to those because she didn't realize she had any other options. If the Planning Commission recommends any unnecessary limitations on this, then it has the potential to go to court eventually. Mr. Liotta stated that he agrees that if the PK zoning takes into account some modifications that would be agreeable to both sides than he will be supporting PK zoning.

Mr. Shivel stated that the applicant has the right to do this and they do. If this results in something more favorable for them and still within the legal purview of what we are doing, then he supports the possibility of doing that. He agrees that loss of control with the CS zoning would be detrimental to the subject area. Mr. Shivel indicated that he would support the PK zoning.

**TMAPC Action; 9 members present:**

On **MOTION** of **DIX**, TMAPC voted **8-1-0** (Covey, Dix, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; Leighty "nay"; none "abstaining"; Carnes, Edwards "absent") to recommend **APPROVAL** of the PK zoning for Z-7209.

**Legal Description for Z-7209:**

Lots 3 and 4, Block 1, Nichols Resub of Lots 1-6, Block 1, Park Dale Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

**OTHER BUSINESS:**

**Commissioners' Comments**

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Covey, Dix, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards "absent") to **ADJOURN** TMAPC meeting No. 2632.

\* \* \* \* \*

There being no further business, the Chair declared the meeting adjourned at 3:17 p.m.

Date Approved: 10-3-12

John G. Wall  
Chairman

ATTEST: [Signature]  
Secretary