

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2633

Wednesday, September 5, 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	Warrick, COT
Liotta		Wilkerson	Edmiston, Legal
Midget			
Perkins			
Shivel			
Stirling			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, August 31, 2012 at 10:20 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:

None.

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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.

1. **LS-20540** (Lot-Split) (County), Location: South side of 161st Street South and west of South 161st East Ave.
2. **PUD-747-A – Khoury Engineering, Inc.**, Location: North of the northeast corner of East 91st Street South and Yale Avenue, Requesting a **Detail Site Plan** for a new restaurant located in Development Area B, **CS/PUD-747**, (CD-8)

STAFF RECOMMENDATION:

CONCEPT STATEMENT:

The applicant is requesting approval of a detail site plan for a new Restaurant located in Development Area B PUD-747-A. The proposed use, Eating Establishments other than Drive-Ins (Use Unit 12), is a permissible use within this Planned Unit Development. The planned unit development was approved by the Tulsa Metropolitan Area Planning Commission in February 2009 and City Council in July 2009. This site has not been previously developed.

PERMITTED USES:

The Site Plan provided as an attachment to this staff report illustrates a new single-story restaurant site which is permitted by right in the Planned Unit Development. The Planned Unit Development allows uses permitted by right in CS, Commercial Shopping Districts under the Tulsa Zoning Code and uses customarily accessory to permitted principal uses.

DIMENSIONAL REQUIREMENTS:

The Site Plan provided is smaller than the all maximum building area allowed, is further from the street than defined in the minimum building setback lines established and is shorter than building height restrictions defined in the approved PUD.

OFF-STREET PARKING:

The Site Plan provides more parking spaces than the required minimum defined in the Tulsa Zoning Code.

LIGHTING:

Proposed Site lighting is 18' or less in height and meets the minimum requirements defined in the Planned Unit Development. The Kennebunk formula was not provided as required in the PUD however a photometric plan has been provided that illustrates a more accurate representation of the lighting system.

SIGNAGE:

The site plan illustrates location appropriately for site plan review. This staff report does not remove the requirement for a separate sign plan review process.

SITE SCREENING AND LANDSCAPING:

The landscape plan will be submitted to staff for separate review as allowed in the PUD section of the zoning code. The trash screening enclosure is masonry and exceeds the minimum standards defined in the PUD.

PEDESTRIAN ACCESS AND CIRCULATION:

Existing sidewalks are in place along S. Yale Avenue. Appropriate sidewalk plans have been provided on the site plan.

SUMMARY:

Staff has reviewed applicants submittal of the Site Plan as it relates to the approved PUD 747-A. The applicant site plan submittal meets or exceeds the minimum requirements of the PUD.

Therefore, staff recommends **APPROVAL** of the detail site plan for the proposed restaurant site on Lot-1 Block 1 of Tuscana on Yale.

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

3. **PUD-531 – Russell McDaris**, Location: North of the northeast corner of East 81st Street South at South Mingo Road, Requesting a **Detail Site Plan** for a 286 unit, two-story and three-story apartments, **CO/PUD-531**, (CD-7) (Related to Item 13)

STAFF RECOMMENDATION:

CONCEPT STATEMENT:

The applicant is requesting approval of a detail site plan for a 286-unit, two- and three-story apartment. The site plan also illustrates a leasing office / club house and swimming pool. The proposed use, Multifamily & Similar Uses (Use Unit 8), is a permissible use within Development Area C of this Planned Unit Development. The planned unit development was approved by the Tulsa Metropolitan Area Planning Commission in March 1995 and then the City Council in April 1995. This site has not been previously developed. A subdivision plat is required and currently being routed through the Plat process.

PERMITTED USES:

The Site Plan provided as an attachment to this staff report illustrates a new apartment project named Cascata which is permitted by right in this Planned Unit Development.

The Planned Unit Development allows all uses permitted by right in CS, Commercial Shopping Districts under the Tulsa Zoning Code and uses customarily accessory to permitted principal uses.

DIMENSIONAL REQUIREMENTS:

The submitted site plan meets all applicable building floor area, density, open space, and setback limitations. No modifications of the previously approved PUD guidelines are required for approval of this plan.

OFF-STREET PARKING AND VEHICULAR CIRCULATION:

The Site Plan provides more parking spaces than the required minimum defined in the Tulsa Zoning Code.

The site will be a gated property for added security for its residence. The Gated Entry system has been approved by the City of Tulsa Traffic Engineering staff and the Fire Marshalls office.

LIGHTING:

As required in the PUD, parking lot lighting will be directed down and away from adjoining properties. All lighting will be mounted below the 24' maximum height limitation permitted in the PUD. The photometric plan provides data that illustrates the lighting concept with no spillage onto adjacent properties.

SIGNAGE:

The site plan illustrates location appropriately for site plan review. This staff report does not remove the requirement for a separate sign plan review process.

SITE SCREENING AND LANDSCAPING:

The landscape plan will be submitted to staff for separate review as allowed in the PUD section of the Zoning Code. The trash screening enclosure meets the minimum standards defined in the PUD.

PEDESTRIAN ACCESS AND CIRCULATION:

Existing sidewalks are in place along East 79th Street South. Appropriate sidewalk plans have been provided on the site plan.

MISCELLANEOUS SITE CONSIDERATIONS:

The site is a gently sloping toward the north. Staff has been provided a site grading plan that is part of the IDP plans submitted to the City of Tulsa

Development Services. There are no areas of concern regarding adjacent property and its relationship to the grading plan.

There are no single family residential properties adjacent to this site plan.

SUMMARY:

Staff has reviewed applicants' submittal of the Site Plan as it relates to the approved PUD 531. The applicant site plan submittal meets or exceeds the minimum requirements of the PUD. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved PUD-531 and the stated purposes of the PUD chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of the detail site plan for the proposed new apartment project.

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

4. **PUD-663 – Tulsa Engineering & Planning/Tim Terrell**, Location: North of the northeast corner of East 81st Street South at Highway 169, Requesting a **Detail Site Plan** for Tulsa General Veterinary Hospital, **CO/PUD-663**, (CD-7)

STAFF RECOMMENDATION:

CONCEPT STATEMENT:

The applicant is requesting approval of a detail site plan for Tulsa General Veterinary Hospital. The site is a 1.54 acre site and inside development area "Tract 3" in PUD 663. The building is a one story structure with 6,000 square feet of floor area. The Veterinary Hospital is classified as a Use Unit 14 by the Tulsa Zoning Code.

PERMITTED USES:

The Site Plan provided by the applicant illustrates a new Veterinary Hospital with a covered dog run attached to the building which is permitted by right in this Planned Unit Development. Exterior dog runs are not allowed in this district. Staff opinion regarding this element of the project is that the dog run is an integral part of the architectural style of the building. In this instance the area which is covered by a roof and enclosed with a privacy wall / fence is not considered an "exterior" dog run.

The Planned Unit Development allows "those uses included within Use Unit 14, Shopping Goods and Services".

DIMENSIONAL REQUIREMENTS:

The submitted site plan meets all applicable building floor area, density, open space, and setback limitations. No modifications of the previously approved PUD guidelines are required for approval of this plan.

OFF-STREET PARKING AND VEHICULAR CIRCULATION:

The Site Plan provides more parking spaces than the required minimum defined in the Tulsa Zoning Code.

LIGHTING:

As required in the PUD, "lighting used to illuminate the subject tract shall be so arranged as to shield and direct the light away from properties abutting the PUD. Shielding of such light shall be designed so as to prevent the light producing element or reflector of the light fixture from being visible to a person standing in properties abutting the PUD. No light standard nor building mounted light shall exceed 40 feet in height".

SIGNAGE:

The site plan illustrates location appropriately for site plan review. A license agreement will be required by the City of Tulsa to allow the monument sign to be placed in an easement area. This staff report does not remove the requirement for a separate sign plan review process.

SITE SCREENING AND LANDSCAPING:

The landscape plan will be submitted to staff for separate review as allowed in the PUD section of the Zoning Code.

The trash screening enclosure meets the minimum standards defined in the PUD.

PEDESTRIAN ACCESS AND CIRCULATION:

A sidewalk will be installed along the west side of South 107th East Avenue. Appropriate internal sidewalk plans have been provided on the site plan.

SUMMARY:

Staff has reviewed applicants' submittal of the Site Plan as it relates to the approved planned unit development. The applicant site plan submittal meets or exceeds the minimum requirements of the PUD. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved PUD-663 and the stated purposes of the PUD chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of the detail site plan for the proposed new veterinary hospital.

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

5. **PUD-230-9 – A-Max Sign Company**, Location: 3845 South 103rd, Suite 102, Requesting a Minor Amendment, (CD-7)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to increase the size and height of the ground signs allowed in the original PUD 230. The sign standard approved in the original PUD for this development area is as follows.

Item 3.h “That one (1) ground identification sign be permitted not to exceed four (4) feet in height or 32 square feet of display surface area.

Over the last several years eight previous amendments to the PUD have been approved. Many of those approvals have been to modify the sign standards, including the most recent monument sign constructed by Rowland Group just north of this property.

When the original PUD was prepared and approved in 1980 the intent was to provide few large lots on an 18 acres site for large construction sites. The concept at that time was to allow small signs on the internal collector street for each of the large office type buildings. Over time the continued development of the site has been for smaller lots with smaller footprints especially along highway 169 frontages.

In some instances staff has recommended denial because of the clear intent of the PUD however the planning commission has approved the request for individual signage expansions in minor revisions 230-1,2,4,6, and 7. It is staff opinion, at this point in the development of the property, that the original intent has changed significantly and the planning commission has consistently provided input that a monument style sign is appropriate for this location.

In this instance the applicant is requesting additional display surface area and additional height from the original and amended sign standards in PUD 230. The current display surface area allowed by previous minor amendment #7 is 27.44 square feet and the height is limited to four (4) feet this request still meets the underlying OL Zoning guidelines for business signage along an expressway and is consistent with similar sign projects that have been previously allowed in this PUD.

Therefore, Staff recommends **approval** of one monument sign not exceeding 32 square feet of display surface area and not exceeding 20’ in height.

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

6. **PUD-600-A – Kyle Ray**, Location: West of the southwest corner of East 91st Street South at South Yale Avenue, Requesting a **Detail Site Plan** for a building expansion project in Ashton Creek Office Park, **OL/PUD-600**, (CD-8)

STAFF RECOMMENDATION:

CONCEPT STATEMENT:

The applicant is requesting approval of a detail site plan for a building expansion project in Ashton Creek Office Park. This site is surrounding by public streets on all sides. The original building is 2,293 square feet; the expansion area adds 1,664 square feet for a total of 3,957.00 square feet.

PERMITTED USES:

The site plan provided as an attachment to this staff report illustrates an addition to an existing physician's office building which is permitted by right in Development Area A of this Planned Unit Development.

Development Area A of the Planned Unit Development allows all uses permitted by right in the OL zoning district.

DIMENSIONAL REQUIREMENTS:

The submitted site plan meets all applicable building floor area, building height, open space, and setback limitations. No modifications of the previously approved PUD guidelines are required for approval of this plan.

OFF-STREET PARKING AND VEHICULAR CIRCULATION:

The site plan provides more parking spaces than the required minimum defined in the Tulsa Zoning Code. The unusual circumstance of this site provides required off street parking however, access to the parking area on the west side of the property is from public street right of way. The lot is inside Toledo Court and the effects of backing into traffic way are minimal. This parking arrangement will have the look of on-street parking but all the parking spaces will be on private property. Normally this would not be allowed but in this circumstance staff supports the applicant request.

LIGHTING:

On this site the PUD requires "all non residential parking lot lighting to be hooded and directed downward and away from adjacent residential areas. No light standard nor building-mounted light shall exceed 25 feet in height". At this time there is no additional lighting proposed for this building expansion.

SIGNAGE:

There is no new signage proposed for this project. This staff report does not remove the requirement for a separate sign plan review process.

SITE SCREENING AND LANDSCAPING:

The landscape plan will be submitted to staff for separate review as allowed in the PUD section of the Zoning Code. Trash removal is similar to a residential style no dumpster will be placed on the site.

PEDESTRIAN ACCESS AND CIRCULATION:

Existing sidewalks are in place South Toledo Avenue. Appropriate sidewalk plans have been provided on the site plan.

SUMMARY:

Staff has reviewed applicants' submittal of the Site Plan as it relates to the approved PUD 663. The applicant site plan submittal meets or exceeds the minimum requirements of the PUD. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved PUD-663 and the stated purposes of the PUD chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of the detail site plan for the proposed expansion to the physician's office building.

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

7. **Z-6344-SP-6 – Danny Mitchell**, Location: South of southeast corner of East 61st Street South and South 107th East Avenue, Requesting a **Corridor Detail Site Plan** for an addition to an existing warehouse area, **CO**, (CD-8)

STAFF RECOMMENDATION:

CONCEPT STATEMENT:

The applicant is requesting approval of a detail site plan for an addition to an existing warehouse area. The proposed use, Warehousing and Wholesaling (Use Unit 123), is a permissible use within this Corridor District. The corridor site plan was originally approved by the Tulsa Metropolitan Area Planning Commission and City Council in August of 1996.

PERMITTED USES:

The Site Plan provided as an attachment to this staff report illustrates a new single story warehouse addition which is permitted by right in this corridor district.

DIMENSIONAL REQUIREMENTS:

The Site Plan provided is smaller than the all maximum building area allowed, is further from the street than defined in the minimum building setback lines established. There are no building height limitations in this district.

OFF-STREET PARKING:

The Site Plan provides more parking spaces than the required minimum defined in the Tulsa Zoning Code.

LIGHTING:

No additional parking lot lighting has been proposed for this expansion. External wall packs will be placed on the building. A lighting plan has been provided illustrating that the lighting will be contained within the property boundary.

SIGNAGE:

No signage is shown on this expansion plan. This staff report does not remove the requirement for a separate sign plan review process.

SITE SCREENING AND LANDSCAPING:

The landscape plan will be submitted to staff for separate review as allowed in the Corridor section of the zoning code. The site plan provides adequate detail to assure that the landscape plan can be implemented successfully.

SUMMARY:

Staff has reviewed applicants' submittal of the Site Plan as it relates to the approved Corridor Plan Z-6344-SP-6. The applicant site plan submittal meets or exceeds the minimum requirements of the Corridor Plan.

Therefore, staff recommends **APPROVAL** of the detail site plan for the proposed restaurant site on Lot-1 Block 1 of Tuscana on Yale.

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

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Covey, Dix, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining";

Carnes, Edwards, Midget "absent") to **APPROVE** the consent agenda Items 1 through 7 per staff recommendation.

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

COMPREHENSIVE PLAN PUBLIC HEARINGS:

8. **Resolution Adopting the Tulsa Zoo Master Plan as part of the Comprehensive Plan for the City of Tulsa, Resolution No. 2633:905**

STAFF RECOMMENDATION:
RESOLUTION

TULSA METROPOLITAN AREA PLANNING COMMISSION

Resolution No. 2633:905

A RESOLUTION OF THE TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC), PURSUANT TO TITLE 19 OKLAHOMA STATUTES, SECTION 863.7; ADOPTING AN AMENDMENT TO THE "COMPREHENSIVE PLAN OF THE TULSA METROPOLITAN AREA", ORIGINALLY ADOPTED ON JUNE 29, 1960 AND AS SUBSEQUENTLY AMENDED; AMENDING THE COMPREHENSIVE PLAN FOR PORTIONS OF THE TULSA METROPOLITAN AREA WITHIN THE INCORPORATED CITY LIMITS OF THE CITY OF TULSA, SITUATED WITHIN TULSA, OSAGE, AND WAGONER COUNTIES, IN THE STATE OF OKLAHOMA; ADOPTING THE "TULSA ZOO MASTER PLAN" AS PART OF THE COMPREHENSIVE PLAN OF THE TULSA METROPOLITAN AREA.

WHEREAS, the Tulsa Metropolitan Area Planning Commission ("Planning Commission") is required to prepare, adopt and amend, as needed, a master plan, also known as a comprehensive plan, for the Tulsa metropolitan area, in accord with Title 19 Oklahoma Statutes, Section 863.7; and

WHEREAS, the purpose of such a comprehensive plan is to bring about coordinated physical development of an area in accord with present and future needs and is developed so as to conserve the natural resources of an area, to insure the efficient expenditure of public funds, and to promote the health, safety, convenience, prosperity, and general welfare of the people of the area; and

WHEREAS, pursuant to Title 19 Oklahoma Statutes, Section 863.7, the Tulsa Metropolitan Area Planning Commission (TMAPC) did, by Resolution on the 29th day of June 1960, adopt a Comprehensive Plan for the Tulsa Metropolitan Area, which was subsequently approved by the Mayor and Board of Commissioners of the City of Tulsa, Oklahoma, and by the Board of County Commissioners of Tulsa County, Oklahoma, and was filed of record in the Office of the County Clerk, Tulsa, Oklahoma, all according to law, which has been subsequently amended; and

WHEREAS, a public hearing was held on the 15th of August 2012 and after due study and deliberation, this Commission deems it advisable and in keeping with the purpose of this Commission, as set forth in Title 19 Oklahoma Statutes, Section 863.7, to adopt the "Tulsa Zoo Master Plan", as part of the Tulsa Comprehensive Plan of the Tulsa Metropolitan Area, as contained in the attached plan maps and text.

NOW THEREFORE, BE IT RESOLVED, by the Tulsa Metropolitan Area Planning Commission:

Section 1. That the Comprehensive Plan of the Tulsa Metropolitan Area, as originally adopted by the Tulsa Metropolitan Area Planning Commission on June 29, 1960 and as amended from time to time, shall be and is hereby amended, regarding portions of the Tulsa metropolitan area within the incorporated city limits of the City of Tulsa, situated within Tulsa, Osage, and Wagoner Counties, to adopt and include the "Tulsa Zoo Master Plan" map and text, as part of the Comprehensive Plan of the Tulsa Metropolitan Area.

Section 2. That a true and correct copy of the "Tulsa Zoo Master Plan" map and text identified in the foregoing Section One is attached to this Resolution and incorporated by reference as if fully written herein.

Section 3. That upon adoption by the Tulsa Metropolitan Area Planning Commission, this Resolution shall be transmitted and submitted to the City Council of the City of Tulsa for its consideration, action and requested approval within forty-five (45) days of its submission.

Section 4. That upon approval by the Tulsa City Council, or should the City Council fail to act upon this amendment to the Comprehensive Plan of the Tulsa Metropolitan Area within forty-five (45) days of its submission, it shall be approved with the status of an official plan and immediately have full force and effect.

ADOPTED on this 5th day of September 2012, by a majority of the full membership of the Tulsa Metropolitan Area Planning Commission, including its *ex officio* members.

Joshua Walker, Acting Chairman
Tulsa Metropolitan Area Planning
Commission

ATTEST:

John Dix, Acting Secretary
Tulsa Metropolitan Area Planning Commission

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Covey, Dix, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Midget "absent") to recommend **APPROVAL** of the Resolution adopting the Tulsa Zoo Master Plan as part of the Comprehensive Plan for the City of Tulsa, Resolution No. 2633:905.

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PUBLIC HEARINGS:

9. **Sunset Hills** - Preliminary Plat, Location: South of East 41st Street South, West of South 177th East Avenue, (9426) (CD 6)

STAFF RECOMMENDATION:

This plat consists of 232 lots, 12 blocks, on 82.06 acres.

The following issues were discussed August 2, 2012, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned Planned Unit Development 793. All PUD conditions must be followed and listed in restrictive covenants.
2. **Streets:** Show street names on the face of plat. Call out right-of-way of each street. Provide 25 foot radius corner curve at intersection with 41st Street. Show existing right-of-way on 41st Street and provide reference. Provide a chart with curve data. (Is a median proposed at the intersection with 41st Street? Why has the street been widened to 65 feet?)
3. **Sewer:** If the Reserve areas are not allowed to be utility easements, then additional utility easements must be platted to provide adequate easement widths adjacent to the Reserves, and for perimeter easements. What is the vacant area that separates Lot 3, Block 7, from Lots 4-6, Block 7? The legend does not include the dashed lines used to separate this area from Reserve D. What is the width of Reserve D and Reserve C along the west boundary line of the plat? Does Reserve C continue north of the public street into Block 1? Do these Reserves extend all the way to the west boundary of the plat, or is there a gap denoted by the dashed line? How wide is the distance between the western boundary and the dashed line? Shouldn't these dashed lines be defined in the legend? According to the adopted plan for providing sanitary sewer service to this area, the entire development will be served through the Stone Creek Farms lift station. Therefore, the entire acreage will be assessed the following fees: Broken Arrow Excess Capacity Fees of \$700 per acre, and a 2.5% charge from the City of Tulsa for processing the fees. There is a \$640 per acre Trinity Creek Sanitary Sewer Payback Contract that will be assessed. There is a Lift Station Use Fee of \$3,936 per acre which will be paid to the builders of the Lift Station. Then there is a Lift Station Relief Fee of \$150 per acre paid to the City of Tulsa to cover future costs associated with taking the lift station out of service, when a gravity flow sewer main becomes available.
4. **Water:** A looped water main extension line is required to serve the development.
5. **Storm Drainage:** The Adams Creek Tulsa Regulatory Floodplain must be

shown and labeled as such on the face of plat. The limits of this floodplain must be placed on the plat by plotting the 100 Year Water surface elevation, from the Master Drainage Plan Profiles on the existing grades on this site. This floodplain, plus an additional 20 feet adjacent to it must be placed in an overland drainage easement in a Reserve. Drainage flowing onto the site from the north, northwest, and west must be collected at the property line, and thence be conveyed in a public overland drainage easement and/or storm drainage easement. Use separate Reserve Areas for floodplain and detention. It is acceptable to place storm sewers in these Reserves; however, the sanitary sewers should be in sanitary sewer easements. Reserves for floodplains and detention are not allowed to be blanket utility easements. There must be bearings and distances or curve data on all lines bounding easements and Reserve areas.

6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** Additional easements may be required.
7. **Other: Fire:** Provide fire hydrants per the spacing requirements of Appendix B and C of the International Fire Code.

GIS: Label Oxford Court and show The Boulevard and correct location map. Show Point of Beginning on the face of plat. Correct traverse around property with legal description. Show a pin symbol at each point of intersection on the traverse around the property. Add correct degree descriptions. Provide basis of bearing and benchmark information. Submit a subdivision control data sheet.

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.

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Covey, Dix, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Midget "absent") to **APPROVE** preliminary plat for Sunset Hills, subject to special conditions and standard conditions per staff recommendation.

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10. **Yale Village** – Preliminary Plat, Location: Southwest corner of 91st Street and Yale Avenue, (8323) (CD 8) (Related to Items 11 and 12)

STAFF RECOMMENDATION:

This plat consists of one lot, one block, on 11.3 acres.

The following issues were discussed August 16, 2012, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned Planned Unit Development 275. PUD standards must be listed in covenants. Allocated floor area must be as approved in PUD.
2. **Streets:** Amend to reflect additional right-of-way granted due to corner clip change with a 42.43 foot or 30 foot radius.
3. **Sewer:** No comments.
4. **Water:** Add a “Caution” note for the existing 36 inch and 12 inch water main lines along East 91st Street South.
5. **Storm Drainage:** Show and label the existing Vensel Creek floodplain on the face of plat. If the existing floodplain is located in an overland drainage easement, and it will be placed in a 10’ x 5’ reinforced concrete box (rcb); then the overland drainage easement must be vacated. All roof drainage must be conveyed to the on-site public drainage system. Paragraph I E, surface drainage, should be edited to fit a property with only one lot.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** Additional easements may be needed.
7. **Other: Fire:** Provide fire hydrant protection per the International Fire Code. Within 400 feet of any portion of non-sprinkled buildings and within 600 feet of any portion of sprinkled buildings. If buildings exceed 30 feet in height provide aerial fire apparatus access per appendix D105 of the International Fire Code.

GIS: Provide the certification numbers and expiration date for the engineer/surveyor. Add the word “scale” before 1” = 50’ on the face of plat. Make sure bearings and distances around the property being platted are legible. The basis of bearing should be clearly described and stated in degrees, minutes, and seconds. Submit a subdivision control data form.

Add standard language for Certificate of Occupancy restrictions and utility easement dedication.

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.

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Covey, Dix, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Midget "absent") to **APPROVE** preliminary plat for Yale Village, subject to special conditions and standard conditions per staff recommendation.

* * * * *

11. **PUD-275 – Sack & Associates, Inc./Mark Capron**, Location: Southwest corner of East 91st Street South and South Yale Avenue, Requesting Detail Site Plan for a commercial shopping center in Development Area A, **CS/RM-2/RM-0/PUD-275**, (CD-8) (Related to Items 10 and 12)

STAFF RECOMMENDATION:

CONCEPT STATEMENT:

The applicant is requesting approval of a detail site plan for a Commercial Shopping Center in Development Area A of PUD 275. The site has not been previously developed. A subdivision plat is required and currently being routed through the Plat process. The Planned unit Development was originally approved at Planning Commission in December of 1981 then by City Council in January of 1982. All uses permitted as a matter of right in the CS zoning district are allowed in this development area.

PERMITTED USES:

The Site Plan provided as an attachment to this staff report illustrates a new commercial shopping center (Use Unit 14) which is permitted by right in Development Area A of the Planned Unit Development.

DIMENSIONAL REQUIREMENTS:

The submitted site plan meets all applicable building floor area, density, open space, and setback limitations. No modifications of the previously approved PUD guidelines are required for approval of this plan.

OFF-STREET PARKING AND VEHICULAR CIRCULATION:

The Site Plan provides more parking spaces than the required minimum defined in the Tulsa Zoning Code.

LIGHTING:

Parking lot lighting will be directed down to help prevent light trespass into the adjacent properties. There is no specific requirement regarding lighting inside the PUD or subsequent amendments... The photometric plan provides data that illustrates the lighting concept with no spillage onto adjacent properties.

SIGNAGE:

The site plan illustrates location along South Yale appropriately for site plan review. This staff report does not remove the requirement for a separate sign plan review process.

SITE SCREENING AND LANDSCAPING:

The landscape plan will be submitted to staff for separate review as allowed in the PUD section of the Zoning Code. The trash screening enclosure meets the minimum standards defined in the PUD.

The development of the property will require a significant retaining wall raising the parking area and building on top of the wall. In places the top of the wall be up to 14' above the existing ground on the west side of the property. An 8' masonry fence will be placed on top of the wall providing effective screening as required in the PUD.

A significant green space with larger than normal trees will be provided as agreed between the neighbors and the developer. To help mitigate the terrain issues in this area.

PEDESTRIAN ACCESS AND CIRCULATION:

Existing sidewalks will be installed internally and on the 91st and Yale frontage. Appropriate sidewalk plans have been provided on the site plan.

MISCELLANEOUS SITE CONSIDERATIONS:

The site slopes significantly from east to west toward the adjacent condominium property. Staff has been provided a site grading plan that is part of the IDP plans submitted to the City of Tulsa Development Services. There is some concern regarding the development of this area as it relates to the terrain modifications.

The finished floor of the building where Whole Foods will be constructed is approximately 22 feet taller than the adjacent ground elevations. At that location there is no existing structure west of the property line. At that

location the top of the building will be an additional 32 feet in height. From the absolute lowest elevation at the west property line the top of the building will be 54 feet from adjacent property ground elevation.

Nothing in the PUD restricts this development.

There are no single family residential properties adjacent to this site plan. However there is a condominium development that was part of the original PUD 275. The applicant has been in contact with that property owners association regarding all of the terrain issue, landscaping, retaining walls, and masonry screening fences.

SUMMARY:

Staff has reviewed applicants' submittal of the Site Plan as it relates to the approved PUD 275. The applicant site plan submittal meets or exceeds the minimum requirements of the PUD. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved PUD-275 and the stated purposes of the PUD chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of the detail site plan for the proposed new commercial project.

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

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **SHIVEL**, TMAPC voted **8-0-0** (Covey, Dix, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards, Midget "absent") to **APPROVE** the detail site plan for PUD-275 per staff recommendation.

* * * * *

- 12. **Yale Village** - Authorization for Release of Accelerated Building Permit, Location: Southwest corner of 91st Street and Yale Avenue, (8323) (CD 8) (Related to Items 10 and 11)

STAFF RECOMMENDATION:

The property is zoned PUD 275. Permits through the shell phase only are requested. A preliminary subdivision plat is on this TMAPC agenda for the site.

Review of this application must focus on the extraordinary or exceptional circumstances that extend the normal processing schedule and on the benefits and protections to the City that may be forfeited by releasing the Building Permit prior to filing of the final plat and must comply in all respects with the requirements of the approved preliminary plats per Section 2.5 of the Subdivision Regulations.

The applicant offers the following explanation of the extraordinary and exceptional circumstances that serve as the basis for this request: The request is to allow construction of building shells and site walls prior to filing final plat. Site retaining walls along/near west boundary requires a permit and building shells can be underway while site work is performed.

The following information was provided by the Technical Advisory Committee in its meeting August 16, 2012.

ZONING:

TMAPC Staff: Permits through the shell phase are requested.

STREETS:

Transportation: No comments.

SEWER:

Public Works, Waste Water: No comments.

WATER:

Public Works, Water: No comments.

STORM DRAIN:

Public Works, Storm Water: No comments.

FIRE:

Public Works, Fire: No comments.

UTILITIES:

Franchise Utilities: No comments.

The accelerated building permits were originally designed to accommodate large campus style type of developments and should concentrate upon “the benefits and protections to the City that may be forfeited by releasing the building permit prior to the filing of the plat”. These requested permits could adhere to this ideal.

The TAC (Technical Advisory Committee) did not object to the accelerated building permit.

Applicant's Comments:

Eric Sack, Sack & Associates, 3530 East 31st, 74135, stated that there are actually six buildings on the subject site and a retaining wall along the west boundary. The drainage run across the subject property and will require a construction of concrete box and the outflow of the box is integral of the retaining wall along the west boundary. The retaining wall requires a building permit and he has requested a shell building permit only. The five of the six buildings have already filed for a building permit and they have been filed as shell only.

Mr. Leighty stated that he will make a motion to approve the application, but noted that the Planning Commission has been slow to approve these things. In this case it is for shell only and it gives him so comfort that there will not be any exceptional risk.

Mr. Dix stated that he agrees with Mr. Leighty's comments and this is for shell only.

Mr. Midget in at 1:43 p.m.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-1** (Covey, Dix, Leighty, Liotta, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; Midget "abstaining"; Carnes, Edwards "absent") to recommend **APPROVAL** the Authorization for Release of Accelerated Building Permit for Yale Village per staff recommendation.

* * * * *

- 13. **Meadowbrook Chase** - Authorization for Release of Accelerated Building Permit, Location: North of Northeast corner of 81st Street South and South Mingo Road (8407) (CD 7) (Related to Item 3)

STAFF RECOMMENDATION:

The property is zoned PUD 531/Corridor (CS underlying zone). Full permits are requested. A preliminary subdivision plat was approved on June 20, 2012 for the site.

Review of this application must focus on the extraordinary or exceptional circumstances that extend the normal processing schedule and on the benefits and protections to the City that may be forfeited by releasing the Building Permit prior to filing of the final plat and must comply in all

respects with the requirements of the approved preliminary plats per Section 2.5 of the Subdivision Regulations.

The applicant offers the following explanation of the extraordinary and exceptional circumstances that serve as the basis for this request: Construction sequence and timing, draft final will be filed for review before TAC review of accelerated release. Accelerates jobs and completion of a significant project withholding occupancy permit provides assurance that platting will be completed.

The following information was provided by the Technical Advisory Committee in its meeting August 16, 2012.

ZONING:

TMAPC Staff: Full permits are requested.

STREETS:

Transportation: Increase corner clip at 81st and Mingo to 42.43 feet or 30 foot radius.

SEWER:

Public Works, Waste Water: No comments.

WATER:

Public Works, Water: No comments.

STORM DRAIN:

Public Works, Storm Water: No comments.

FIRE:

Public Works, Fire: No comments.

UTILITIES:

Franchise Utilities: No comments.

The accelerated building permits were originally designed to accommodate large campus style type of developments and should concentrate upon “the benefits and protections to the City that may be forfeited by releasing the building permit prior to the filing of the plat”. These requested permits could adhere to this ideal.

The TAC (Technical Advisory Committee) did not object to the accelerated building permit.

Applicant's Comments:

Roy Johnsen, Williams Center Tower One, One West 3rd Street, Suite 1010, 74103, stated that he represents Mr. Mike Case. Timing is very important to Mr. Case and he is ready to pour the slabs. The infrastructure has been approved and the plans have been approved. The City is fully protected in this project.

TMAPC COMMENTS:

Mr. Leighty referred to Mr. Case's letter and stated that these are not routinely approved. The rules are in place for a reason and to protect the City of Tulsa. He is sorry if a previous denial cost the applicant some additional cost, but the Planning Commission's job is to represent the citizens of the City and can't take these things lightly and routinely approve them. Mr. Johnsen stated that if one looks at the statistics the Planning Commission will have approved at least 90 percent of them. Mr. Leighty stated it is a matter of definition what is routine and if Mr. Johnsen thinks that people get the implication that it is a done deal that is not correct, because each application is examined carefully. Mr. Leighty further stated that he doesn't believe that Mr. Johnsen's characterization of routine is necessarily accurate in his estimation.

INTERESTED PARTIES COMMENTS:

Jeff Harjo, 10018 East 85th Place, 74133, representing South Town Square Neighborhood Association, stated that he doesn't have any objections to this particular application. Mr. Harjo stated that he would like to make two points, 1) that this doesn't become habit forming, and 2) the City needs to deal with traffic issues and how these types of developments impacts the neighborhood.

TMAPC Action; 9 members present:

On **MOTION** of **WALKER**, 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** the Authorization for Release of Accelerated Building Permit for Meadowbrook Chase per staff recommendation.

* * * * *

- 14. **CZ-418 – Randy Frailey**, Location: North of northwest corner of North Peoria Avenue and East 66th Street North, Requesting rezoning from **RS to IL**, (County)

STAFF RECOMMENDATION:

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

RELEVANT ZONING HISTORY:

Surrounding Properties:

CZ-331 February 2004: All concurred in approval of a request for rezoning a 12,000± square foot tract of land from RS to CS, for a small barbeque restaurant on property located on the southeast corner of East 67th Street North and North Peoria Avenue.

CZ-287 October 2001: All concurred in approval of a request for rezoning a 1.27± acre tract of land from RS to CS for commercial use on property located on the southeast corner of East 67th Street North and North Peoria Avenue.

CZ-213 November 1994: All concurred in approval of a request for rezoning a 2.3± acre tract of land from RS to CG for commercial use on property located on the northwest corner of East 66th Street North and North Peoria Avenue.

CBOA-1141 March 16, 1993: The Board of Adjustment approved a Use Variance to permit a mobile auto crusher (Use Unit 25) in an IL district for a period of one year only, subject to the hours of operation for the automobile crusher being from 8am to 5pm, Monday through Friday, and the salvage yard operating 8 a.m. to 5 p.m., Monday through Saturday; subject to a solid screening fence being installed around the entire salvage yard; subject to a maximum of 30 cars on the lot at any given time; and to the driveways being covered with a dust-free surface; and to all materials and equipment being contained inside the screening fence; finding that the one-year temporary approval will be sufficient time for the applicant to clean up his property and to prove compatibility with the neighborhood, on property located at 7002 North Peoria.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 4± acres in size and is located north of northwest corner of North Peoria Avenue and East 66th Street North. The property appears to be used for salvage/industrial use and is zoned RS.

SURROUNDING AREA: The subject tract is abutted on the east by commercial use, restaurant, zoned CS; on the north by industrial and commercial uses, zoned IL; on the south by commercial, restaurant, recycling business, zoned RS and CG; and on the west by the Osage Trail, residential, zoned RS.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates a Secondary Arterial for North Peoria Avenue.

STREETS:

The site is accessed through North Peoria Avenue.

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
North Peoria Avenue	Secondary Arterial	100 feet	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The property is located north of the City of Tulsa Fence line. The North Tulsa County Comprehensive Plan does not designate the site for any land use intensity.

STAFF RECOMMENDATION:

The site is being used for industrial types of uses at this time. There are commercial and industrial uses to the east, north, and south of the subject site. The Osage Trail runs along the west side of the property and buffers the site from an existing residential neighborhood.

Staff can recommend **APPROVAL** of the extension of IL zoning on the property because of the existing uses nearby, the location on the arterial roadway, and existing zoning abutting the site.

There were no interested parties wishing to speak.

The applicant indicated his 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 IL zoning for CZ-418 per staff recommendation.

Legal Description for CZ-418:

BEG 444.5NE ALG E R/W MIDLAND VALLEY RR & CTR BRITTON AVE TH E270 S111.5 POB S EC 36 21 12 0.729ACS, AND BEG 440N & 148.5W SECR SE TH W224.6 NE110.7 T O PT 356.65W EL SEC TH E TO WL ST SWY 11 SWLY TO PT 228.9SWLY FROM PT ON WL R/W 660N & 72W SECR SE TH NWLY10 SWLY5.7 POB SEC 36 21 12 0.618ACS, AND BEG SECR W/2 NE SE SE TH N220 W266.5 TO E LN RR R/W TH SWLY ALONG RR R/W 222.5 TO SL NE SE SE TH E TO POB LESS S15 THEREOF FOR ST SEC 3 6 21 12 1.327ACS, AND BEG 550N & 347.65W SECR SE TH W299 TO E R/W RR TH NELY ALG R/W 111 E279.3 TO PT 660N & 350.2W SECR

SE TH SELY111 POB SEC 36 21 12 0.726ACS, AND BEG 550N & 347.65W
SECR SE TH NWLY111 TO PT 350.2W & 660N SECR SE TH E258.2 TO WL
HWY SWLY TO PT 550N SL SEC W POB SEC 36 21 12 0.669ACS

* * * * *

Mr. Walker stated that the following Item is a continuation of a public hearing and there will be a lot of speakers today. Mr. Walker reminded everyone to only bring new material and keep it short. Please refrain from any outbursts that he has seen in the past. Mr. Walker stated that Officer Pate is present and if there is any outburst or personal attacks you will be asked to leave.

FORM-BASED CODE REGULATING PLAN PUBLIC HEARING:

15. **Public Hearing to consider adopting a Form-Based Code Regulating Plan for the Pearl District within the City of Tulsa, Oklahoma.**
(Continued from 4/4/12, 6/6/12, and 8/1/12)

STAFF RECOMMENDATION:

Today, the Form-Based Code **REGULATING PLAN** is before the Planning Commission for adoption. Any future rezoning application for the implementation of the Regulating Plan, when and if directed by the Planning Commission, could be anticipated to be on the TMAPC Agenda in November of this year, 2012, following public notice pursuant to law. Based on input from the **06.06.12** TMAPC hearing, City staff re-designed the Regulating Plan to align with the long-range planning document for The Pearl District; the 6th Street Infill Plan.

On **06.20.12 and 07.11.12**, City Planning Staff presented the TMAPC a scaled-back Regulating Plan that aligned with the 6th Street Infill Plan, supporting the corridors, floodplain elements, and the environmental constraints.

On **August 1, 2012**, TMAPC requested that City Planning and INCOG staffs address some additional matters and continued the public hearing to September 5, 2012. Those matters are addressed within this Staff Recommendation and the boundaries on the Regulating Plan have been further modified.

Staff reminded the Planning Commissioners the actual written Form-Based Code (Title 42-B), which sets out the guidelines for Form-Based Code development, has already been through the application and public process, as outlined below:

The **TMAPC RECOMMENDED APPROVAL** of the Form-Based Code, including the Regulating Plan for the pilot area in The Pearl District, on **03.02.11**.

The **City Council APPROVED** the Form-Based Code as Title 42-B including the Regulating Plan for the Pilot Area in The Pearl District, on **04.29.11**.

The **City Council ADOPTED** (Ordinance 22473) Title 42-B as an amendment to the existing Title 42, Tulsa Zoning code, on **07.14.11**.

The **TMAPC RECOMMENDED APPROVAL** of the FBC District Zoning for the Pilot Area of The Pearl District, on **08.03.11**.

The **City Council APPROVED** the FBC District Zoning for the Pilot Area of The Pearl District, on **10.20.11**.

The proposed action before you today is the **adoption** of a ***Form-Based Code Regulating Plan*** for The Pearl District dated September 5, 2012.

Additional Information Requested by the Planning Commission

Issues considered in the development of the proposed *Form-Based Code Regulating Plan* include the following:

1 Reduced Size of Regulating Plan vs. Phased Rezoning Implementation Area

It is necessary to clearly align the Pearl District Form-Based Code Regulating Plan with the content of the 6th Street Infill Plan. Staff has completed that task and now the plan before you is consistent with the 6th Street Infill Plan. The Form-Based Code Regulating Plan for The Pearl District supports the corridors, floodplain elements, and the environmental constraints depicted within the 6th Street Infill Plan.

The Form-Based Code Regulating Plan for The Pearl District is a document that will guide future development as directed by the long-range planning document known as the 6th Street Infill Plan for the area known as The Pearl District.

Staff believes the rezoning process will be an appropriate platform for the TMAPC and City Council to utilize for recommending a phased implementation of the Form-Based Code per the adopted regulating plan. *If that is so desired, staff recommends adopting the Regulating Plan based on the alignment with the 6th Street Infill*

Plan and addressing possible phasing implementation during the rezoning process.

- 2 Opt-in/Opt-out** – This option has been suggested as a permanent solution to offer the choice of utilizing the existing Tulsa Zoning Code (TZC) (Title 42-A) or the existing Form-Based Code (FBC) (Title 42-B).

This would be an option through an applicant applying for a site specific FBC rezoning if a regulating plan has been adopted for that area. However, it is not consistent with the Comprehensive Plan and offers temporary opportunities to stray from the purpose of the Comprehensive Plan.

Staff believes that an Opt-in/Opt-out solution discourages compatible development patterns and could cause some challenges with the interpretation of the code. It is believed that it would present a long-term inconsistent spot zoning development pattern.

Even with an Opt-in/Opt-out solution, there couldn't be a "cherry-pick" opportunity offered to combine the code requirements from either code to best suit the development, as it would be a logistical nightmare for staff reviewing the submittals.

If the two codes were allowed to be intertwined, there would be conflicting guidance to prospective applicants and no guidelines in place to guide staff on how to clearly administer the intermingled codes. *Staff does not recommend an Opt-in/Opt-out option.*

- 3 Boundaries and East 11th Street South/South Utica Avenue**
Concerns have been raised about the 6th Street Infill Plan text and mapping inconsistencies, specifically, if property owners with properties located on the south side of East 11th Street South and the east side of South Utica Avenue were properly notified to the fact that they were being considered a part of the 6th Street Infill Plan and the proposed FBC Regulating Plan for The Pearl District?

In speaking with City Staff, it is believed that the intent of the code was to include both sides of 11th and Utica, but it is not completely clear if all the abutting neighbors involved east of Utica and south of 11th were completely aware of their inclusion when the 6th Street Infill Plan was being drafted and eventually adopted. Currently, there is an ongoing Small Area Plan on the south of East 11th Street and a professional planning design consultant is in the process of preparing a Master Planned Development for the area.

Staff is comfortable the consultant will be cognizant to work with the City and that blending of the zoning edges will benefit the community as a whole.

Legal guidance also suggests that it is generally held that when there are questions, written text is more controlling than illustrative maps.

East 11th Street South/South Utica Avenue - Staff recommends the boundaries of the proposed FBC Regulating Plan for the area commonly known as The Pearl District be as follows:

North (I-244) Boundary

The south boundary of the right-of-way of I-244

East (South Utica Avenue) Boundary

The west boundary of the right-of-way of South Utica Avenue

South (East 11th Street South) Boundary

The north boundary of the right-of-way of East 11th Street South

West (US Hwy 75) Boundary

The east boundary of the right-of-way of US Hwy 75.

Staff also recommends TMAPC direct City Staff to revise and update of the 6th Street Infill Plan to align mapping with the text, addressing both scrivener's errors and possible other modifications, as needed, to be completed by April 30, 2013.

- 4 Code Language** – The Planning Commission had mentioned some concerns about the possibility of modifying and changing the Form-Based Code, after it was adopted. The current codes, Title 42-A and 42-B, as mentioned previously, are already approved and are fluid documents that may be updated, modified, and amended at any time, if warranted and deemed necessary.

The proposed FBC Regulating Plan currently before the TMAPC is also a regulating tool that once adopted and implemented will be subject to updates and modifications, if warranted and deemed necessary. *Staff does not recommend modifying the Form-Based Code text at this time.*

- 5 Legal Non-conforming Issues** - Concerns about Legal Non-Conforming issues have been voiced within the public hearings. Staffs have spoken with legal counsel and real estate professionals

in the industries of banking, appraising, and planning regarding this issue.

Planning Commission and Staffs have listened to and worked with the American Legion pertaining to their concerns about legal non-conforming structures and from that dialogue, implemented a provision for the reconstruction of damaged or destroyed buildings, allowing them to be restored, without expanding the nonconformities that existed prior to sustaining damages. Staff believes, as with any rezoning action, legal non-conformities will occur, but this provision is in place to address reconstruction if the legal non-conforming structure is damaged or destroyed as defined in the Form-Based Code Section 204.C.

- 6 **Property Rights (Takings)** – Staff has researched and spoken with the City of Tulsa Legal Department and has concluded that the adoption of new zoning would not in and of itself constitute a compensable taking unless it were found to deprive a property owner of all economically viable use of his or her property.

The Courts have held that cities have the right to regulate the use of property by reasonable ordinances that are clearly necessary and that bear a rational relation to preserving the health, safety, and general welfare of the public. The proposed adoption of the FBC Regulating Plan, and any subsequent rezoning to Form-Based Code zoning, are believed to be in accordance with established zoning regulatory powers.

- 7 **Transition Period** - It has been suggested that there be a "transitional period" during which period an owner of property within the expanded area could opt to use his or her property under the provisions of either the existing, traditional zoning code, or under the provisions of the Form Based Code, for any area subsequently rezoned to Form-Based Code.

Suggestions as to the length of the transitional period have ranged from 12 to 24 months. *Staff recommends the Form Based Code will be an optional code from date of adoption until January 1, 2015, at which time it will become mandatory.*

NOTE: During the period through December 31, 2014, a property owner would have the option of applying for a building permit under either existing, traditional zoning, or under the provisions of the Form-Based Code.

- 8 **COT/INCOG** – INCOG and City Staff have worked closely on this recommendation and are in agreement with the recommended Pearl District Form-Based Code Regulating Plan dated 09.05.12. Please see attached Memorandum from the City of Tulsa

STAFF RECOMMENDATION:

*Staff recommends the Planning Commission make a **MOTION** for the **ADOPTION** of the Form-Based Code Regulating Plan dated 09.05.12.*

*Staff recommends the Planning Commission also **DIRECT** TMAPC staff to initiate the next step in moving forward with the implementation of the Form-Based Code Regulating Plan by processing a **REZONING APPLICATION** on behalf of the TMAPC to be on the 11.07.12 TMAPC Agenda.*

*Staff also recommends the Planning Commission **DIRECT** City Staff to **REVISE** and **UPDATE** the 6th Street Infill Plan to align mapping with the text, addressing both scrivener's errors and possible other modifications, as needed, to be completed by 04.30.13.*

Mr. Walker stated that he will ask Ms. Warrick to come forward and frame these recommendations and then hear from the speakers. This application could be adopted today, continued again, denied or altered today.

Dawn Warrick, City of Tulsa Planning and Economic Development, invited INCOG staff, Carolyn Back to come up since she drafted the staff report. Information that has been provided since the distribution of the agenda packet includes the formation of a new neighborhood group within the Pearl District. City staff would like to understand what kind of proposal that group has and how that may impact the recommendation that the Planning Commission may want to consider for this action.

Carolyn Back, INCOG Senior Planner and also the Form-Based Code Administrator for the City of Tulsa, stated that she is bringing forth the Form-Based Code Regulating Plan. Ms. Back presented a PowerPoint Presentation reflecting the redesign of the Regulating Plan to be consistent with the 6th Street Infill Plan. It excludes the auto-oriented and manufacturing and warehousing areas on the map designated as "out". Ms. Back stated that the staff recommendation covers key planned elements; corridors and redevelopment areas, and is similar to City's recommendation, but excludes the proposed south side of 11th Street and east side of Utica Avenue. When comparing Form-Based Code Regulating Plan and the adopted Form-Based Code to the mapping with the 6th

Street Infill Plan, the 6th Street Infill Plan states “between the streets”. Staff understood the intent erring on the side of caution by pulling the boundaries in. City staff accepts TMAPC staff finding and recommendation. The City of Tulsa adopted the Form-Based Code in 2011, TMAPC adopted it on March 2, 2011 and City Council adopted it on April 29, 2011. The City of Tulsa Form-Based Code rezoning was applied to the pilot area on October 20, 2011. This was intended to be a launching point for the expansion of the Form-Based Code around the Pearl District and it was not intended to be just a pilot area.

Ms. Back concluded that INCOG staff and the City of Tulsa staff have worked closely together and it has been a collaborative effort. Ms. Back commented that it has been a pleasant experience and everyone worked hard on this. The City staff submitted a memorandum, dated August 30, 2012, which indicates that the City staff supports the TMAPC staff recommendation and it is included in the agenda packet.

TMAPC COMMENTS:

Mr. Leighty asked Ms. Back what she meant by stating that she understood the intent regarding the street boundaries. In response, Ms. Back stated that staff has read and looked at the intent and believes that the intent was to have the boundaries to the other side of the right-of-way on 11th Street and Utica Avenue; however, staff also understands that written word trumps mapping and are erring on the side of caution, even though the intent was to have the boundaries on the other side for good planning practices. Staff recommends bringing the boundary to the opposite right-of-way to align with the word “between”. Mr. Leighty stated that if staff understands it to be both sides of the streets then what staff is saying is that they don’t believe most people understand it to be that way and that is why they are taking it out. Ms. Back stated that she wouldn’t word it that way and what she would say is that we as planners who work in this day-in and day-out understand what good planning practices are and we understand intent, but the law does not really follow intent, it follows the written word and the written word states “between”. Mr. Leighty asked where “in between” streets is there any indication whatsoever that part of the street is not to be included, where in the intent or where in the words does it imply that not all of the street should be included. In response, Ms. Back stated that the short answer is that it does not, but she reiterated that staff erred on the side of caution and pulled it to the interior right-of-way lines because it is between the streets. Mr. Leighty thanked staff for making it through one of the biggest transitions in staff that INCOG has ever had in its history. He noted that staff has plugged along and worked with the City staff and he appreciates all of the hard work that has been done. Mr. Leighty stated it looked like we have erred on the side of caution throughout this entire process and he speaks to the timeframe for the opting in of two years. With all of the time that has been

spent for the preparation and development of Regulating Plan, the 6th Street Infill Plan and the time the Planning Commission has been considering this going back to 18 months ago, why does one need two years to do something different. The whole idea of this, as it was explained to him, if somebody had they should have the right to go ahead and proceed. He questioned the need for a two year timeframe. Ms. Back stated that the two year timeframe came up by trying to anticipate this process, taking the Regulating Plan through the TMAPC and City Council, then going back through the process with the rezoning.

Mr. Liotta stated that the Planning Commission voted for the pilot area and there may have been some differences of opinion as to what the word "pilot" meant when voting for it. In today's staff presentation, it was very clear that it was not intended as a pilot project where one goes through development and see how it works and results and then potentially expand from there. Mr. Liotta stated if it was not intended to be a pilot project, then what was the point of bringing it to the Planning Commission and going through that process when it could have been left as part of the entire Pearl District and a part of this process. Ms. Back stated that she believes that the word "pilot area" was just improper use of wording. Ms. Back further stated that she knows that the development happened before the pilot area rezoning happened and she believes that Ms. Warrick could talk better to the timing on that and how it happened. Ms. Warrick stated that the piece of the Regulating Plan that accompanied the Title 42B language, which is the Zoning Code for Form-Based Code was developed through funding that was derived through the TIF District, which surrounds Home Depot and the other projects in that area. The funds could only be applied to the areas that were subject to the TIF District. That funding was utilized to engage the consultant that helped to develop the language for Title 42B and to develop the initial Regulating Plan for that area. Mr. Liotta stated that that is a very specific answer and possibly he missed it, but this is the first time he has ever heard that the Planning Commission took action on that area because it was a part of a TIF District. Ms. Warrick stated that it was seen as a starting point because the City had the funding to apply to development of a Form-Based Code. Mr. Liotta stated that he appreciates that information and he voted for that area with the understanding that it would be a pilot project. The use of the term "pilot" he believes influenced a lot of the Commissioners. Mr. Liotta stated the definition of a taking of someone's property given by Ms. Back seems to be an extreme definition and he thinks it would be valuable if there were some court decisions that would back that definition. Ms. VanValkenburgh stated that generally speaking something is upheld unless it is considered that it renders the property economically unviable, it survives taking challenges. In the case of the Form-Based Code, she can't find any cases that state it is a taking. Ms. Back asked if she could add to Ms. VanValkenburgh's comments. Ms. Back stated that staff discussed the

possibility of takings and the economical impact. Ms. Back further stated that a rezoning is a rezoning and she doesn't know if one can take Form-Based Code or the Euclidean Code and say one is different than another. Form-Based Code zoning is fairly new in the United States and she doesn't know if there would be any cases that would be more applicable than just rezoning cases. Mr. Liotta asked if he owned a piece of property, had a business plan and made investments to go into a particular direction with it and now the property is rezoned in such a way that he can't possibly do that, is that a taking. Ms. Back stated that he would go to his Legal Counsel and ask that question.

Mr. Dix stated that he thought Planning Commission was told that there was some case law in Miami, Florida. In response, Ms. VanValkenburgh stated that she has not seen that case. Theron Warlick, City Staff, stated that he did some research and talked to staff in Florida and there is a pending case and he understands that they were considering adding back the build back option much like Tulsa did. Mr. Warlick stated that in addition there were some height issues in a particular area, which was a two-block area within the entire City. Ms. Back stated that she recalls that it had to do with the build back and height.

Mr. Leighty stated that some of the existing zoning in the Pearl District today is from blanket zoning. Ms. Back answered affirmatively. Mr. Leighty stated that many of the existing non-conforming uses are able to continue to operate as they have in the past, just as they would in the Form-Based Code. Unless someone is going to do a major addition, over 50%, they will be able to continue to do business. This isn't oppressive in the sense that it would require someone to do something that they don't have to do right now. The community came together and had a vision and determined that this is the only path to get there.

Ms. VanValkenburgh stated that as she was discussing with Dawn Warrick and Carolyn Back ahead of time, she believes that there may be a little confusion about the nature of the Regulating Plan. In her understanding, is regulatory and when it is adopted it should be adopted in connection with changing the zoning map. When the Planning Commission votes on this they should be voting on both of those things at the same time, otherwise it leaves a gap. Under the terms of the Form-Based Code, as it now exists, it is a regulatory and has that affect. The Planning Commission might get in an awkward situation if they adopt the Regulating Plan and then subsequently do not adopt the Form-Based Code zoning. Carolyn Back and Dawn Warrick have tried to come up with some ideas that would be various options for the Planning Commission and she hasn't had a chance to study whether the Planning Commission can rewrite the Code or amend the Code in a way that states it can be done in a two step process.

Ms. Back stated that staff wouldn't want to go against City Legal advice. When the City Council adopted the Form-Based Code (FBC) in April, 2011, the actual rezoning was not put into place until October 20, 2011.

Mr. Walker asked Ms. Warrick if FBC zoning is considered, should Mr. Bishop be a part of that process since he is writing on the Zoning Code rewrite. In response, Ms. Warrick stated that the Zoning Code update, which is under contract with Duncan & Associates, is for an update of the core Zoning Code. The RFP and the scope of that work was completed prior to the Form-Based Code being adopted. The FBC is a new regulation and it was not incorporated into the contract language with Duncan & Associates and so it is not a part of the scope of work.

Mr. Covey stated that he is not looking for a legal answer, but a position. Everyone received a letter from Jeff Olsen, Omni Lighting, a property owner that has a 20 year plan, but doesn't have the funds to build within two years. This person has invested in his business and doesn't want to be governed by FBC. After looking at the prior minutes this question was raised by another entity that had a 20 year plan and is concerned about the FBC. Ms. Warrick stated that the first thing she would say is to sit down and do a side-by-side comparison and what the opportunities are under the current zoning structure and what the opportunities may be under the new proposed FBC. Many of the properties within the Pearl District are basically land-locked. There are large structures on small lots and there is not a lot of area for parking, accessory structures or circulation. There are relaxed provisions within the FBC that give people more latitude to place more square footage on their lots. Therefore, there is a greater opportunity to expand existing structures, as opposed to building large expanses of parking. Ms. Warrick stated that in most situations it would be a site-by-site evaluation to determine which zoning approach provides the best solution for a property owner. Regardless of what the outcome, there is relief in the FBC and the ability to seek relief small scale adjustments without having to go through a public process. It is much more advantageous than having to go through public hearings for variances, zone changes and PUD developments under the current scheme. Ms. Warrick stated that there are pros and cons and it really has to do with the expected outcome and how someone chooses to get there. If someone chooses to go through an administrative permitting process and seek relief on minor issues, they may find that the administrator doesn't have the ability to grant at that level. In such a case, the FBC is a faster and less costly process for the applicant. Mr. Covey asked Ms. Warrick if it is her opinion that the 6th Street Infill Plan calls for the FBC to be applied to the entire area. In response, Ms. Warrick stated that she believes that was the original intent. Ms. Warrick further stated that she believes that the Regulating Plan that has been presented today

represents the way that the FBC can best be applied to Pearl District in keeping with the policy directive of that plan. Mr. Covey asked Ms. Warrick if it is her opinion that imposing FBC onto the entire district in the best interest of the Pearl District and the City of Tulsa. Ms. Warrick stated that she believes it is and it gives a very good opportunity for this neighborhood to see the kind of redevelopment and revitalization that is envisioned in the Plan that our current regulatory structure cannot provide for these properties. The existing zoning has been in place for 40 years and the Pearl District has not seen the kind of revitalization and the kind of development that would really bring it to a place that people have envisioned that neighborhood to be and it is time to try something new.

Mr. Dix asked Legal if they could give an opinion on whether this Regulating Plan will really do what it is meant to do and can it be challenged. Ms. VanValkenburgh stated that she believes the question is how subject is it to successful challenge and she doesn't know how to answer that question until she sees the challenge. It would be the City's Legal Department to defend whatever decision the City has made. Mr. Dix asked Ms. VanValkenburgh if she could give the Planning Commission her Legal opinion regarding the document. Ms. VanValkenburgh stated that the Code is already enacted and she is sure that there are areas for improvement within this Code.

INTERESTED PARTIES COMMENTS:

Jim Cameron, 5508 South Peoria, 74120, Vice President of Indian Health Care Resource Centers (IHCRC) Board of Trustees, located at 550 South Peoria Avenue, stated that he has served on the Board for more than 20 years. The 6th Street Infill Plan locates the IHCRC in a neighborhood commercial corridor and it is not a neighborhood business. The patients come from all over Tulsa County and in some cases the State of Oklahoma. The neighborhood commercial corridor designation ignores the opportunity for large scale development such as IHCRC. Indian Healthcare is a significant existing business with physical features that are completely ignored by the 6th Street Infill Plan and the proposed Form-Based Code. The IHCRC is a 50,000 square foot single-floor plate facility that we have invested more than twelve million dollars and have more than 150 employees. He stated that the 6th Street Infill Plan totally ignores Indian Health Care and the Form-Based Code goes even further because it hinders future development. Mr. Cameron stated that he believes that the IHCRC is consistent with some of the goals of the 6th Street Infill Plan. Mr. Cameron pointed out how IHCRC has changed the subject area in a positive way and how it complies with some of the 6th Street Infill Plan goals. Mr. Cameron stated that he personally finds the IHCRC to be the poster-child for the entire Pearl District of how people should be allowed to develop.

Mr. Cameron stated that IHCRC's near term goal is to have a 2nd shift and see patients beyond the normal hours and fully utilize the parking lots. He is concerned that if the Form-Based Code has no parking requirements the IHCRC will have issues with people wanting to use their parking lots. Mr. Cameron requested that the Planning Commission deny the proposed Form-Based Code and its Regulating Plan.

Mr. Leighty asked Mr. Cameron to be specific about how the Form-Based Code would hinder IHCRC's future development plans. Mr. Cameron stated that the wellness center that is planned will be 20,000 to 30,000 square foot area. We have to have parking and a lot of it, because two to three percent might use mass transit, but the rest arrive by automobile. The Form-Based Code only allows 70% of the lot to be used for parking. Mr. Leighty stated that they would have the right to have their parking, but is he understanding that the IHCRC would like it to be principle use and have it up to the street. Mr. Cameron stated that when IHCRC develops further they would like to have the right to have additional parking. Mr. Leighty asked if the IHCRC could plan ahead, why they would necessarily want to have it up there and accommodate the idea and vision of the Form-Based Code to put the parking in the rear. Mr. Cameron stated that his planners and consultants indicated that there would be challenges to do that under the Form-Based Code. Mr. Leighty stated that it would help to partner with the rest of the Pearl District and provide a walkable neighborhood and all of the other benefits that come with Form-Based Code, which would be worth a little bit of maneuvering and moving around, especially with IHCRC having a lot of time to put the plan in place. Mr. Cameron stated that he doesn't see where the Form-Based Code will allow that for IHCRC, although IHCRC has, from day-one, been the most cooperative people by building parking lots and allowing Central Park to use their parking for special events. The new Form-Based Code mandates a two-story structure and from a cost standpoint and the way the medical operation is done it wouldn't work well for them. Mr. Leighty stated that that is a bit surprising because we see two-story structures in medical communities throughout the City and other places and he doesn't know why it would be more difficult for IHCRC. Mr. Leighty asked Mr. Cameron to help him understand why that would be a problem. Mr. Cameron stated that cost is one factor. Mr. Leighty asked if it wouldn't be cheaper to have two-story rather than have a big floor plate and have less roof and foundation. Mr. Cameron stated that all of that has been examined and determined a single-floor plan would work best. Mr. Leighty stated that he appreciates what IHCRC does and doesn't want to sound argumentative, but he does think that stating that Form-Based Code will hinder future development is a little bit of a stretch, in his personal opinion. Mr. Cameron stated that he doesn't think it is a stretch at all and feels that what has been developed today under the existing Code has allowed them to develop and do well. Mr. Cameron further stated that the current

development satisfies their patients and all of their medical needs. Mr. Cameron commented that if they are allowed to continue to develop under the existing Zoning Code they would be delighted to do so. He assured the Planning Commission that, between now and the two year transitional plan proposed, there is no way that IHCRRC can get the plans and financing in place and go ahead with the expansion.

Jeff Harjo, 10018 East 85th Place, 74133, stated that considering dealing with PUDs that are 20 years old and how laborious process that is in order to protect the neighbor's interest, this is very time consuming and he believes that it did not serve his neighborhood well. He requested that as the Planning Commission is considering alternatives that they think about the PUDs and the existing Code for those that are more than five years old.

Michael Tidwell, 1225 East 2nd, 74120, Southern Sheet Metal, stated that he was studying the new map and part of his company's property is in old the Code and part is in the FBC. Mr. Tidwell asked how this would affect his company. Mr. Tidwell explained that his company owns the entire block. Ms. Back stated that this is something that staff could address and work with Mr. Tidwell on that issue. Ms. Back further stated that Mr. Tidwell could work with staff on whether his company would want to do regular zoning or Form-Based Code zoning, whatever benefits him. Ms. Back explained that staff could look and see if the Plan could be redesigned to include all of the property or take them out. Mr. Leighty asked to clarify that staff is talking about working with Mr. Tidwell on the subject area that is not included within the Plan. Ms. Back answered affirmatively. Ms. Back explained that a portion of the subject property is within the FBC, but if he would like expand, it would be under the existing Code as the way it stands right now with this Regulating Plan. Ms. Back further explained that there are mixed zonings throughout the City of Tulsa and staff will work with the owner as best as possible. Mr. Walker asked Mr. Tidwell what his preference would be. Mr. Tidwell stated that he is glad to see that they have taken so much out of the proposed Plan. He explained that his company has been there for 65 years and may have to move out totally. Mr. Tidwell commented that he doesn't have an opinion yet and is not sure what would be best. Ms. Back stated that Mr. Tidwell could always go before the Board of Adjustment for special exception or variances to align with the current Code.

Scott Vrooman, 618 East 3rd Street, 74120, stated that he is an architect in Tulsa and his practice is on 3rd Street, which is west of I-244. Mr. Vrooman indicated that he could be a potential expander in the subject area. Mr. Vrooman explained that he purchased his building and finished it out. He has a green roof; there is a patio area in front of the building, showers inside, and bike racks that are conducive to pedestrian friendly

businesses. There isn't a street in front of his building that is pedestrian friendly. Mr. Vrooman stated that he rented out 50% of his office and he could have rent it out ten times over. This made him a believer in the subject area. Mr. Vrooman further stated that he is support of the FBC Regulating Plan.

Jane Halliwell, 2235 South Rockford, 74114, stated that she is a life-long Tulsa and she appreciates the Planning Commission being so careful to hear all of the different sides of this item. She further stated that she hopes it comes to a quick vote. Mr. Leighty asked Ms. Halliwell if she is supportive of the FBC Regulating Plan. In response, Ms. Halliwell indicated that she is supportive. Mr. Leighty stated that he wanted that for the record.

William Franklin, 4332 South Canton Avenue, 74135, stated that he believes that Tulsa offers some of the finest suburban-style living anywhere, but what it doesn't offer is good quality, pedestrian-friendly type areas. We used to have one of the densest urban Cities this side of Mississippi. Some areas had populations over 20,000 people per square mile with pedestrian-friendly streets, but times changed and the desire changed, but something else changed, which was zoning. Times and desires are changing again and more people wanted to live in good quality pedestrian friendly urban areas. The current Code prevents this due to setbacks, parking requirements, etc. Mr. Franklin indicated that he is in support of the FBC Regulating Plan.

Max Tankersley, 1312 East 26th Street 74114, stated that he is representing the VFW, American Legion, his own property and his daughter and son-in-law's property. Mr. Tankersley stated that if this looked at in general terms, development is occurring in the Pearl District now and it is successful. There is no reason to be making too many rapid changes and he and all of the people that he represents are not in support of this Plan until there is more input from the new association.

Charles Stockholm, 1302 East 3rd Street, 74120, stated that he is opposed to the Regulating Plan and would like to remain with the current zoning.

Jason Wall, 1701 East 7th, 74104, stated that he is actually out of the Regulating Plan, but he is here for everyone. Everyone is very passionate about his issue. There seems to still be some disconnection and how do we make the industrial, residential and businesses work together. The industrial issue seems to be behind the feedback today. If they have made parking lots for their employees, they had to do that right now and in the future (30 years) maybe there will be enough residents around the subject area where it won't be needed anymore. There are a lot of resources

within this community that can bring a lot to the table and work these issues out, possibly by amending the 6th Street Infill Plan or amending the Regulating Plan. Mr. Wall indicated that he is opposed to the Regulating Plan that is proposed at this time.

May Armstrong, 1327 South Knoxville, 74112, stated that her Mother, Lola Dumas, owns property at 11th and Utica and she is representing her today. She is concerned about the Form-Based Code and the affect it will have on her Mother's property and the leases. Ms. Armstrong indicated that she is opposed to the Form-Based Code.

Katy Brown, 550 South Peoria, 74120, stated that she is with Indian Healthcare Resource Center. She explained that she has been working at the clinic for about ten years and the IHCRRC has a significant investment in the community. In 2010 the IHCRRC doubled their size from 26,000 SF to 53,000 SF. There are 10,000 people visiting the clinic every month and of those patients two to three percent take the bus and everyone else comes by cars. Patients come from all over Tulsa County and a lot of the patients for the behavioral health area come from all over the State. During the expansion process a drive-through pharmacy was added, a demonstration kitchen, fitness room and a multi-purpose room, which the community is allowed to use as well. Ms. Brown invited the public to come by for a tour of the facility. Ms. Brown stated that she is opposed to the Form-Based Code as presented.

Joe Westervelt, 1630 South Boston Avenue, 74110, stated that Lola Dumas is his partner's wife and his partner passed away. Mr. Westervelt further stated that not only does he worry about his own kid's education, but he worries about Troy's widow, Lola Dumas. Mr. Westervelt explained that this stuff gets very personal and he thinks it is really easy to talk about how all of this will be wonderful. Mr. Westervelt commented that he has a hard time when he listens to staff state that they had such a wonderful experience doing this, because he has had a miserable experience doing this. He further commented that he will be so thankful when this is over and he hopes that it is resolved and everyone is allowed to move forward. Mr. Westervelt submitted a map indicating properties that are supportive and properties that are not supportive of the FBC Regulating Plan. Mr. Westervelt commented that he is surprised that this something that the Planning Commission hasn't seen. Mr. Westervelt stated that he prepared this map by using all of the meeting minutes, the letters for and against. Mr. Westervelt further stated that he has no idea why neither staff thought this was important enough for the Planning Commission to see since it is incredibly compelling. The map indicates that there is very little support for the application that has been grinding through for the last couple of years. After one of the Planning Commission meetings, the City Planning Staff was instructed to hold some meetings and to reach out to the property

owners to find out what their problems and concerns were so that they could be addressed. Mr. Westervelt stated that he attended the meeting and listened to the Planning Staff make another presentation that he had heard twice before. Halfway through the meeting someone finally asked if the staff was going to take questions. The crowd started asking questions, which were listed and sent to the Planning Commission. The difference was that they weren't sent to the Planning Commission as our concerns and problems, but sent to the Planning Commission with another dash next to them with a paragraph invalidating everything asked for. There wasn't one thing expressed as a condition that seemed to not get diminished as it was sent to the Planning Commission. A number of the people that had been through this said maybe they need to form an association to be listened to. An association was formed, incorporated and lawful, registered with the Office of Neighborhoods and there are over 35 members in less than 14 days. Our concerns have been expressed and after looking at this he thought he would be coming today with a list of things that need to be done, but this is so complicated and complex with how it relates to the 6th Street Infill Plan, the current Code, the Form-Based Code and the Comprehensive Plan. After not getting a phone call from anyone in City Planning and after no one in the newly formed association receiving a request for any outreach, we are now in front of the Planning Commission to say that we are already invested here, to look at the map and that the group is really tired of having to fight the government and shouldn't have to. Mr. Westervelt requested that the Planning Commission send a message to the people that should be reaching out to us. Mr. Westervelt stated that the Form-Based Code should go back and be written by our consultant and it is the only piece of our Tulsa Zoning Code that is not being rewritten by our consultant and that in itself is foolish. Mr. Westervelt commented that the Planning Commission is a publicly appointed body and citizens that have nothing to gain from this and he requested that the Planning Commission help the property owners in opposition.

Mr. Covey asked Mr. Westervelt if he could give three objections to the Form-Based Code being applied to the proposed areas. Mr. Westervelt stated that they are inconsistent with the 6th Street Infill Plan. The 6th Street Infill Plan does need some refinement and that is why his organization filed a Comprehensive Plan Amendment with the Planning Commission. He noted that those things processed timely there will be a good foundation on which to write a decent Form-Based Code and Regulating Plan. In the FBC there is a lot of silliness, street walls that hide the parking lots from automobiles, which is pretty tough for a retailer. A retailer's first contact is usually that person in the car and from a pedestrian standpoint he doesn't know why any pedestrian would want to walk along a five-foot screening wall with gaps in it. Mr. Westervelt commented that he is concerned about what type of environment that

would produce for anyone. Putting parking lots in the back will be challenging, particularly when one puts their landscaping in the back parking lot that is hidden behind the structures.

Mr. Covey asked Mr. Westervelt if he acknowledges that the current 6th Street Infill Plan called for the area to be governed by some type of Form-Based Code. In response, Mr. Westervelt stated that it does and he wants to make this clear that he is not opposed to Form-Based Codes and they have a real place and can be well utilized. He can tell you personally and the new organization will tell you that if the Planning Commission turns this down for the simple reason that nobody has asked for their input and we are really a significant number of people and we are the majority of the entire neighborhood. There was no notice, no outreach was given even after being asked to do so, and the biggest problem is getting someone to listen. The new organization would like a seat at the table and help get a good Form-Based Code and get it applied to some of the subject areas with someone who is listening. Mr. Westervelt commented that they haven't listened to the property owners and they haven't listened to the Planning Commission either.

Mr. Covey pointed out that we now have the City Planning Department recommending the implementation of the Regulating Plan and now a staff recommendation recommending the implementation of the Regulating Plan. Mr. Covey wants to know what Mr. Westervelt thinks of this. Mr. Westervelt stated that he finds himself very fortunate to be standing before a board of citizen appointees and it is unfortunate that careers are so important that it drives many of the decisions that are made. Those harsh words, but he believes that it is truthful and he is glad he is standing before a group of appointed people. Mr. Westervelt requested that the Planning Commission deny this request and to send it back to be written by the consultant that the City of Tulsa has hired. It is the single piece of Legislation of our Zoning Code not being written by the consultant. To put this FBC over the entire area of the City of Tulsa as an example of Form-Based Code would be a tragic mistake because it is bad law.

Mr. Leighty stated that Mr. Westervelt has been at every public meeting, every work session and how can he possibly maintain that no one has listened to him. Mr. Westervelt stated that no one has listened to one word he or the other property owners have said. Mr. Westervelt further stated that there have been twelve months to two years of the same thing over and over. Mr. Leighty stated that Mr. Westervelt didn't get the answer he wanted. Mr. Leighty further stated that Mr. Westervelt has been listened to and everybody had listened to him. Mr. Westervelt asked Mr. Walker for a point of order and to direct Mr. Leighty ask him a question. Mr. Walker informed Mr. Leighty and Mr. Westervelt to play nice or he would call for the next speaker. Mr. Leighty stated that he believes it is incredulous for

Mr. Westervelt to maintain that he hasn't been listened to because he has had every opportunity and he comes down to the meetings and it is the same thing every time. Mr. Leighty further stated that the fact is maybe Mr. Westervelt isn't getting the response he wants, but he can't maintain truthfully that he has not been listened to because he has. Mr. Leighty commented that for Mr. Westervelt to state that the staff members are putting their careers ahead of doing the right thing is really not right. Mr. Westervelt addressed Mr. Leighty and asked him to look at the map he submitted showing the property owners opposing the Regulating Plan, doesn't that interest him at all. Mr. Leighty stated that he would like to get somebody to really look at this and really study. Mr. Leighty stated that this is something that Mr. Westervelt jotted out overnight and it looks pretty impressive on the surface of things, but he suspects that there is a little bit more to it than just this. The Pearl District is more than just about the business end of it. All of the opposition are people coming up to talk about this in regards to dollars and cents. The people that are talking about proposing this and the proponents of it are talking about a community and a vision for that community. This is one half of one percent of the City of Tulsa and that leaves 99.9% of Tulsa to allow anyone to go and develop as they wish. There is a demand for an urban/walkable environment. Mr. Westervelt stated that he is waiting for Mr. Leighty's question.

Mr. Midget thanked Mr. Westervelt for the map and it is impressive and he would be interested in it. Mr. Midget stated that he knows that Mr. Westervelt served on the Planning Commission once before when Historic Preservation was looked at and the Planning Commission would normally go in and identify the numbers of support and opposition when we do those types of zonings.

Mr. Midget stated that he would like to set a few things straight. The consultant that is looking at the current Zoning Code is not looking at any other sub-code. There may be some opportunity for the consultant to look at Form-Based Code and how it ties with the Zoning Code. The Form-Based Code was never included as part of the consultant's contract. Mr. Westervelt stated that he is stating that it should be. Mr. Midget stated that the City had a certain amount of money to work with at the time and he is sure that any consultant would charge more for additional review and the City is not there right now. Mr. Westervelt stated that the Regulating Plan should be denied because the Form-Based Code is such a poorly crafted law to put it on a group of people that has invested in the subject area already and without their support or involvement or any notice and that is not right. Mr. Westervelt stated that he has never in all of his years seen anything like this, done against so many people's will and with so little buy-in. Mr. Westervelt further stated that he shakes when he sits here and he is sorry if he has been here too long, but he has a responsibility to

continue to get rent from his property to support his partner's widow because she lives off of that rent. This makes him tremble when he thinks about what this does to real people and everybody says it has been a pleasant experience from the staff side. It has not been pleasant and it really needs to be over and he requests the Planning Commission to please turn this down and give everyone a chance to be at the table and really participate.

Mr. Midget stated that he appreciates the businesses organizing an association and he believes it will be helpful in the process and he wishes it had happened earlier so that everyone could have been at the table. Mr. Midget stated that this could be continued and get the group at the table with the homeowners in the subject area and the Pearl District Association and continue to work on this process and craft something that would be amenable to everyone involved. Mr. Westervelt stated that he would leave that to the Planning Commission's decision and he is simply telling the Planning Commission how the new organization feels and how long they have been at it and close this has become. Mr. Westervelt further stated that the new organization filed a well thought out Comprehensive Plan amendment and it is very minor. It is to recognize the auto centric businesses where they are. Mr. Westervelt explained that he owns a piece of property that the City of Tulsa is going to spend three hundred thousand dollars to bring back Route 66 to 11th Street and the Vision 3 money has five hundred thousand more dollars to bring more automobiles to 11th Street, but while we are spending money to bring autos we are going to zone it non-auto oriented. At some point the big issues should pop up and say it isn't common sense. Planning with no recognition of any context on the ground is not planning, it's dreaming. Planning is supposed to have some connection with something that exists there. One has to recognize the traffic in the subject area. Mr. Westervelt stated that the new organization wants some of the things the proposed Regulating Plan wants, the activity, the people around, but why at the expense of the automobile. There are some big things that can be changed in the 6th Street Infill Plan if it is set for a public meeting as soon as possible. Mr. Westervelt reiterated that the new organization would be happy to set at the table and work in a compromise. Mr. Westervelt stated that the new organization wants to be a part of the 6th Street Infill Plan and it needs to be revised first.

Mr. Midget asked Mr. Westervelt if the new organization would be willing to sit down and to continue to work on this process. In response, Mr. Westervelt answered affirmatively. Mr. Westervelt asked Mr. Midget if the Planning Commission has ever approved a zoning application over that many people's objections, notwithstanding that it is a blanket rezoning.

Mr. Covey asked Mr. Westervelt to indicate where his property is located. Mr. Westervelt stated that his property is at 11th and Utica where the QuikTrip has been located for approximately 20 years. Mr. Covey stated back to Mr. Westervelt's comment that that the 6th Street Infill Plan being non-auto oriented, but the 6th Street Infill Plan has been in effect since 2005. Mr. Westervelt stated that he was not given any written notice and if records are checked there will be no written notice sent to anyone and not one person indicated in red (map) has received written notice of that application. Mr. Westervelt further stated that he can state this because he knows it to be a fact. Mr. Westervelt commented that the property owners didn't get a chance and he has never seen anything like this in his 30 years of being around this Planning Commission.

Gail Runnels, 1317 East 5th Place, representing Skinner Brothers, stated that his property is located at 5th Place and Quaker. Mr. Runnels further stated that the Form-Based Code has applicability in the City of Tulsa in many places as one can find either of the following two items available: Sufficient stock of existing buildings that can be appropriately be converted into the kind of use that the Form-Based Code is trying to mandate or a place where Urban Renewal money can be spent to acquire the land that one wants to convert and make it public use then sell it to developers who will process it. This would work in the Blue Dome District, Cherry Street, Brookside, and perhaps other parts of Tulsa where there are existing buildings that have obsolete uses, but area available for conversion. It does not work in the areas of the manufacturing part of the Pearl District that were originally included and some of which are still included. Mr. Runnels submitted a map of his subject property and explained that his property is landlocked until his company is able to acquire the property to the north, which has been through three probates and two divorces, to expand his property. Mr. Runnels stated that if he does acquire the property he couldn't possibly attach it or use it as a part of the existing structure because his building is 42 inches off of the concrete making it a dock-high building. He explained that he can only be 18 inches off if he is under the Form-Based Code. His company is a single story and not a two story. The building is out to the sidewalk, but there is no room in the back for parking and so he doesn't comply there and he can't add on to it without conforming all of what he now has to match it. This gives his company the choices of abandoning the subject property and moving outside of the City limits or living with the constraints and continue to farm out contract work to other persons in other cities that his company doesn't have room to do on site. If he doesn't have either a stock of existing buildings or the money to buy property under Urban Renewal and convert it into a use that one wants to make for this particular purpose, the Form-Based Code isn't appropriate. His company is in a building that is a result of the Urban Renewal Acquisition of land 30 years ago that enable all of the property from Cincinnati to Boulder and from 1st

to 3rd to be cleared so that the Performing Arts Center, the hotel and the Williams tower, City Hall and other things. When one wants to massively overhaul an area, then buy it and do it, but don't do what the Committee did with our recommendation that the cross-hatched area also be excluded from the Plan. Mr. Runnels explained that at the public meeting he made some comments and the Committee came back with this statement: "The Comprehensive Plan for the subject area contemplates that the MTTA and areas south of the tracks will eventually be redeveloped as a transit-oriented development. The MTTA railroad remains a likely candidate for light rail, though this may not happen for some time." Mr. Runnels stated that he would give a written guarantee that it won't happen during his lifetime or the lifetime of anyone here. Mr. Runnels requested that his company be excluded from the Form-Based Code Regulating Plan so that his company can proceed under the present Code. His company has been able to do their business under the current Zoning Code. Mr. Runnels concluded that his company has been in business for 80 years and is a significant employer.

In response to Mr. Midget, Mr. Runnels indicated the property his company would like to acquire. He explained that it has been in probate and they want one million dollars for quarter block. He further stated that the property should be condemned by the City and make them remove the roofless building and all of the junk that is stored on it. Mr. Runnels stated that across Peoria there are 40 lots for sale and can be developed by Form-Based Code.

Nancy Keithline, 602 South Utica Avenue, representing Pediatric Dental Group, stated that her parking issues have been temporarily handled. She further stated that she is here today because she is opposed to the Form-Based Code Regulating Plan and requested that the Planning Commission to please consider adopting the new association's amendment to the 6th Street Infill Plan. If the Planning Commission is considering approving the Regulating Plan today to please add an amendment that would keep the parking requirements, which are currently in the present Zoning Code. She requested this amendment to remain until there is public parking available for the amount of traffic that comes into the subject neighborhood or there is mass transit available to be utilized by better than 50% of the people that come into the subject neighborhood. If this isn't done and the Regulating Plan is applied to the subject neighborhood it will create a mess that no one would be able to fix for years to come.

Brooke Hamilton, 325 South Quincy, 74120, representing Nameplates Incorporated, Southwestern Process Supply, Color View Digital, Quincy Square, and the Pearl Street Business Property Owners Association. Ms. Hamilton read the purpose of the new Association.

Ms. Hamilton stated that in 2011 when the Form-Based Code and Regulating Plan was adopted, she was notified by INCOG or the Pearl District Association. In March 2012, a new map of the overlay area was presented and a week later there was a meeting at the TMAPC. Ms. Hamilton stated that she spoke at that meeting and since that meeting she has educated herself by listening to various opinions regarding Form-Based Code. Ms. Hamilton stated that she sent money and her business card to the Pearl District Association to become a member and to this day she has never received text, email or a phone call from anyone acknowledging her membership or asking what issues were of her concern. Ms. Hamilton further stated that she has been to many meetings and handed out her business card to staff and requested the presentations sent to her after that meeting in writing and is still received nothing. Ms. Hamilton stated that she also attended the work sessions and no one has contacted her via email, text or phone to ask her about her concerns. Ms. Hamilton commented that she is not against Form-Based Codes, but she is against this particular Form-Based Code. It does not consider all of the businesses and property owners in the subject area that have already invested millions of dollars and employ thousands of people. This is why the Pearl District Business and Property Owners Association was formed. Within two weeks there have been over 35 members to the new association. Ms. Hamilton indicated that she doesn't feel that she has been heard and that no one will listen to her. Ms. Hamilton requested a seat at the table to work on the proposal.

Mr. Midget asked Ms. Hamilton if she would be opposed to a continuance to allow the new association to come to the table in order to work out something that would be amicable to all parties. In response, Ms. Hamilton stated that she would love that.

Claudia Hamilton, 1414 East 3rd Street, 74120, stated that she represents Quincy Square, which is part of Nameplates, and Southwestern Color View. Ms. Hamilton indicated that she owns 13 parcels of land in the industrial area. She commented that she is not against Form-Based Codes, but she is against the proposed Form-Based Code that is on the table today. She requested an opportunity to set down with staff and the TMAPC to work this out so that everyone benefits.

Lou Reynolds, 2727 East 21st Street, 74114, stated that he believes that there is a procedural issue, possibly being done backwards. He stated that there is no reason to be approving the Regulating Plan before we know what is going to be in the Form-Based Code. Mr. Reynolds stated that we have heard from a lot of people and they believe it ignores their investment in the subject area. He indicated that a lot of this is tied to a lot of mischaracterization in the 6th Street Infill Plan and the Comprehensive

Plan. Mr. Reynolds points out the differences between the Comprehensive Plan, the 6th Street Infill Plan and the Form-Based Code. The Form-Based Code has a lot of technical issues that are wholly un-reflected in the Comprehensive Plan. It seems that it would be bad planning to approve a Regulating Plan today without the understanding of what it is going to regulate. If there were to be a change in the Form-Based Code, then the Regulating Plan would have to be changed. Mr. Reynolds requested on behalf of Indian Health Care, Nameplates and the Pearl District Business and Property Owners Association that this Regulating Plan be denied in its entirety until we figure out what is in the Form-Based Code. Mr. Reynolds stated that if one looks at staff's packet, TMAPC approved the Regulating Plan and the Form-Based Code at the same time, but not today. Mr. Reynolds directed Planning Commissioners to page 15.1 of the TMAPC agenda packet and read where it states that the TMAPC recommended approval of the FBC, including the Regulating Plan for the pilot area in the Pearl District on 3/02/11. He further read where City Council approved the same.

Mr. Leighty stated that he doesn't know what this states, but he doesn't believe it is correct. Mr. Leighty further stated that the TMAPC approved the FBC and then later approved the Regulating Plan and imposed it. Mr. Reynolds stated that there is no reason for him to discuss this, because he believes that the Regulating Plan is not timely and the procedure is backwards. Mr. Leighty stated that it is known what is in the FBC and it was passed by the City Council and it is law of the land right now. Mr. Reynolds stated that it hasn't been applied to the subject area yet and there will be questions to change it.

Mr. Covey asked Mr. Reynolds who he is representing today. In response, Mr. Reynolds stated that he represents the Indian Health Care, Nameplates, Pearl Street Business Property Owners Association, and Hillcrest Hospital. Mr. Reynolds stated that Hillcrest owns property on the north side of 11th Street. Mr. Reynolds indicated that Nameplates are currently out of the FBC according to the new proposal. Mr. Covey asked Mr. Reynolds to give him one or two specific examples of his big issues with the current FBC. Mr. Reynolds stated that it is inconsistent substantially with the 6th Street Infill Plan. Mr. Covey stated that the 6th Street Infill Plan is a broad brush. Mr. Covey asked Mr. Reynolds which details in the current FBC are his clients' biggest objections. Mr. Reynolds stated that it is the building height issues, and lack of parking requirements. Mr. Reynolds reminded Mr. Covey that throughout the 6th Street Infill Plan it repeatedly found that there was insufficient parking and there was a need for more parking. The inability to use lots for principle use parking is a big objection. Mr. Covey stated that he struggles with the fact that the 6th Street Infill Plan wasn't created yesterday or even last year and why hasn't his clients brought this up before. Mr. Reynolds

stated that his clients didn't know to have objections to it and weren't aware of the details. Mr. Reynolds stated that an example is Hillcrest was told repeatedly that they were not in the 6th Street Infill Plan. Hillcrest didn't realize that they were in it until the FBC process started. Mr. Reynolds stated that it is difficult to ignore the many businesses that have made millions of dollars in investments and be looking at procedural technicalities when the substance is much different. Mr. Covey stated that the Planning Commission relies on staff recommendations because that is what they are trained in. Mr. Covey further stated that there is a staff recommendation and the City of Tulsa Planning Department stating that this is in the best interest of the Pearl District. Mr. Reynolds stated that when this application was filed it was to cover all of this area and the Regulating Plan showed all kinds of controls over these areas that are marked out now. Why try to impose use standards on these properties that the 6th Street Infill Plan stated that there is no change called for them. Now nine months later the City formerly states that the Plan may recommend no change so we are going to cut those properties out of the Regulating Plan. Mr. Reynolds stated that he told the TMAPC and staff that there were areas included in the Regulating Plan that the 6th Street Infill Plan stated there was no change planned for it. Mr. Reynolds further stated that he was admonished for being the only one in the room having that opinion. Mr. Reynolds commented that things are adjusted for the reality of the situation and he thinks the Form-Based Code should be adjusted to reflect the reality of the business in the subject area. The business people in the subject area are entitled to weigh-in and have their voice and concerns heard and work something out that works for everyone.

Elizabeth Wright, 1546 South Harvard, 74102, stated that she was on the Planning Commission during the PLANiTULSA process. The Pearl District was the Pearl District Planning Process and she indicated that she visited the meetings early on and saw an exemplary example of citizen planning, vision, engagement with all types of ideas of what could be and how things might happen. Ms. Wright commented that she was welcomed to the meetings with opened arms and it was about six years ago. Ms. Wright stated that she has heard the phrase "old code" today and she isn't seeing any PLANiTULSA plans today and she would like to know what "old code" is being referenced. Ms. Wright asked if it is the Zoning Code that is being updated. She thinks citizens are a little confused by this. Ms. Wright stated that the PLANiTULSA process has been going on for years and the Pearl District Plan has been going on for years. The public hearings for PLANiTULSA have been going on for years and she hears the same claims of not being heard and she objects to this. She feels that they have been heard and listened to. She commented that she finds it insulting that people claim that they haven't been heard and personally find it offensive. Ms. Wright stated that the subject area has been lying dormant for years

and now all of sudden there is an uproar. Young people want an urban area to live in where they can walk to shops, restaurants, and entertainment.

Lisa McNulty, 406 South Boulder, 74103, stated that she is a long time advocate of revitalization of downtown and the older neighborhoods. Ms. McNulty further stated that she is an architect and a member of the Tulsa Foundation of Architecture. Ms. McNulty indicated that 15 years ago she worked with Mayor Susan Savage to put together some conferences on city design. These conferences focused on smart growth, which was the buzz word at that time for looking at how Cities are being developed at the result of land use planning and separation of uses. Separation of uses creates a higher dependency on the automobile and auto-oriented design. The Mayor put together the Infill Development Task Force. Ms. McNulty stated that during the Infill Development Task Force she wrote a paper on the impact of Codes on Infill Development. Primarily it was that with a land use type zoning there are setback requirements, parking requirements, side yard requirements and these things do not go well with Infill Development. Once one complies with all of the setbacks it leaves very little room to build. As a result of these studies there were three pilot neighborhoods and the Pearl District was one of those neighborhoods. Ms. McNulty indicated that she was on the 6th Street Task Force when it first started meeting and that group met for six years. Ms. McNulty stated that the main issue with the land use type zoning and auto-oriented design is that it disintegrates and doesn't work for inter-city neighborhoods with old main streets that have this type of dense, close to the street type of development, which the 6th Street Corridor and the Pearl District is that type of community. What destroys these things is actually designing for the car and designing these parking lots and meeting parking quotas. This destroys the older neighborhoods because they were not built during the time of the car and they have constraints that don't meet that. One issue is one either demolishes the fabric of the neighborhood or demolish a few buildings and put in some parking lots out in front and then they don't line up with anything else. Ms. McNulty stated that she was excited to see the City of Tulsa adopt the Form-Based Code. Ms. McNulty encouraged the Planning Commission to standby and up hold the Regulatory Plan.

Mr. Midget thanked Ms. McNulty for her earlier work on the various task forces. Mr. Midget asked Ms. McNulty if she is opposed to the Planning Commission continuing this and bringing the property owners to the table to address their concerns. Ms. McNulty stated that she is not in a position to state that she opposes a continuance and believes that everyone deserves to be heard. She is discouraged somewhat because this has been years in the making and a lot of people have invested years of their time to get to this point. Ms. McNulty expressed concerns that some compromise will be made and the auto-oriented corridors will be re-

designated in places like 6th Street and Peoria, or 3rd Street, which should be more pedestrian-oriented. She believes that the fabric of the neighborhood will be lost if they are allowed to design for the car. Mr. Midget stated that he never envisioned that the Martin Luther King Expressway (I-244) to be that wide or that much and it is not to say that wasn't a part of it, because it could have been, but he saw the corridor with all of the buildings close up and the potential for revitalization of some of the older buildings and complement the existing buildings, which is where he thought things were going with the 6th Street Corridor. Mr. Midget stated that it grew out because it is an old neighborhood and diverse neighborhood. Ms. McNulty stated that along the highway is designated as being more suitable for auto-oriented design. She believes that the neighborhood plan came along looking at the boundaries and what could work.

Mr. Dix stated that during the many meetings regarding the Form-Based Code and Regulating Plan he has never heard of 3rd Street or 6th Street as being designated as auto-oriented and does that give her some comfort. Ms. McNulty stated that it does give her some comfort, but she read an article that indicated that 6th Street should be designated as auto-oriented. She further stated that she is against designating pedestrian friendly streets as auto-oriented streets.

Lee Anne Zigler, 321 South Boston, 74103, stated that she comes with a background of smart growth and as the Executive Director of the Tulsa Foundation of Architecture. Ms. Zigler cited the many committees and commissions that she has been involved. Ms. Zigler read a letter that she previously emailed to the TMAPC. Ms. Zigler is in supportive of the Form-Based Code Regulating Plan.

Chip Atkins, 1638 East 17th Place, 74120, stated that he is in support for this project and he has heard Mr. Westervelt's concerns for this project. He further stated that the same thing the Pearl District is trying to achieve is working on Cherry Street. Mr. Atkins requested that the new association be heard because it is fair. Mr. Atkins stated that he doesn't have ownership in the subject area, but he has attended the meetings. Mr. Atkins stated that there have been two projects passed with Credit Unions and Banks with just as much red on the map as Mr. Westervelt's map indicates today. Mr. Atkins urged the Planning Commission to stay with PLANiTULSA.

Mr. Dix asked Mr. Atkins if he is aware that the Comprehensive Plan is not a Code and that the Cherry Street area has been successful without a Form-Based Code. Mr. Atkins answered that he understands that the Comprehensive Plan is not a code and cited the reasons that he believes

Cherry Street has been successful. Mr. Atkins understood that there is not Form-Based Code on Cherry Street.

Mr. Leighty stated that he wanted to make sure that he understood correctly that Mr. Atkins supports the expansion of the Regulating Plan as it has been presented. Mr. Atkins answered affirmatively. Mr. Leighty stated that Mr. Atkins has changed his mind from a several months ago. Mr. Atkins explained his reason for changing his mind by using Daisy Chaining Permit process. Mr. Atkins stated that by adding the 50% for rebuilding is what changed his mind. Mr. Leighty stated that PLANiTULSA has been mentioned many times today. Mr. Leighty further stated that Mr. Midget has asked several speakers if they would support a continuance to give everyone a chance to be heard, but they have been given a chance to be heard. Mr. Leighty commented that the people of the newly-formed association has been heard. Mr. Atkins stated that he fully read the Miami, Florida Form-Based Code and that helped change his mind as well.

David Cordell, 2300 Riverside Drive, #14H, 74114, stated that he supports the proposed amendment to the Comprehensive Plan and it is apparent that any further considerations should be continued until the association has had a chance to come to the table.

Mr. Leighty stated what a ploy that would be for any zoning matter that comes up that at the last moment a new association is formed and use it as reason to prolong the process. This has been publicized in all of the media and they have had a chance to have voice. Mr. Leighty asked Mr. Cordell to help him understand why there should be a continuance. Mr. Cordell stated that Mr. Westervelt made that clear and perhaps Mr. Leighty doesn't agree with Mr. Westervelt but there are many people who do agree with him. Mr. Leighty asked what more time would solve. Mr. Cordell stated that his family owns property in the Pearl District on the west side on 6th Street and it is not suitable to be included in this plan, it is an industrial area and Form- Based Code is not appropriate. The requirements would be inappropriate.

Jamie Jamieson, 754 South Norfolk Avenue, 74120, stated that he owns lots in the Pearl District area along Peoria. The properties that have Form-Based Code placed on them haven't come to an end. For the first time there is a professional report from the City of Tulsa Planning Department and the INCOG staff that proposes approval. Mr. Jamieson stated that this has been an open process that has been going on since May 2000. Mr. Jamieson believes that it is a mistake not to include both sides of the street. Mr. Jamieson expressed his displeasure with the new proposal and applying the FBC to only one side of the street. Mr. Jamieson feels that the new proposal will damage the Route 66 plans. Mr. Jamieson stated that if the land use policy is not in place than the subject area will not

redevelop. Mr. Jamieson commented that a continuance would be a victory for the property owners in opposition to the FBC Regulating Plan. Mr. Jamieson cited the various cities that have adopted or is considering adopting the Form-Based Code. Mr. Jamieson disagrees with the idea that the property owners have not been heard and feels it is offensive. Mr. Jamieson concluded that it is time to make a decision today. Mr. Jamieson stated that he would like to dispel some of the misinformation that has been stated today.

Mr. Midget asked Mr. Jamieson if he would prefer the proposed areas that are out to be included in the Form-Based Code Regulating Plan. Mr. Jamieson answered affirmatively.

Mr. Leighty asked Mr. Jamieson if he wanted an up or down vote today. Mr. Jamieson stated that he would like a vote that says yes unless it is the policy of the Planning Commission to wear people down. Mr. Leighty stated that the short answer is yes.

Mr. Walker requested that Ms. Warrick and Ms. Back come back up to the podium for questions and answers.

Mr. Walker asked if Ms. Warrick or Ms. Back have any comments after hearing the interested parties.

Ms. Warrick stated that City staff plans for the future and we are not here to plan and recognize every existing condition and keep everything in place just as it is today. The Comprehensive Plan doesn't see the subject area staying as it is and City staff is here to move forward and implement the Comprehensive Plan. City staff tries to put tools in place to make it easier for land owners to develop their land. City staff is looking toward the future and have the subject area become what it is envisioned in the 6th Street Infill Plan and Comprehensive Plan.

Mr. Walker stated that early on the interested parties were characterized as uninformed and now after many meetings he doesn't think that is valid. Mr. Walker acknowledged that there is support, but the opposition is very overwhelming. He inquired if a plan can be imposed in an area with this much opposition. Ms. Warrick stated that it is the City's right to do so through the planning process and through the legislative body. Ms. Warrick stated that the FBC was written by a Consultant and it was not a half-hearted attempt or effort to develop a Code. Ms. Warrick stated that the FBC was very deliberate in its planning.

Mr. Walker asked if it would best to sit down with the new association and work with them on a possible compromise. Ms. Warrick stated that the City Planning Department will work as the Planning Commission gives

them direction. If the Planning Commission feels that they do not have enough information, then the Planning Commission needs to give City staff direction on how to bring the Planning Commission that information. Our goal is to make sure that the Planning Commission has enough information to weigh-in for their decision.

Mr. Leighty stated that he is trying to imagine what objections remain that haven't already been addressed. Ms. Warrick stated that she had hoped that all of the meetings would have provided that opportunity. The association is new and she doesn't know if there is a document in place that presents their proposal holistically and that is at the Planning Commission's discretion of whether to continue today's hearing.

In response to Mr. Stirling, Ms. VanValkenburgh stated that she believes that the FBC and the Regulating Plan should be presented together and voted on together and not separately as it is today. It would be extremely awkward to adopt the Regulating Plan and then later adopt the zoning. Ms. VanValkenburgh stated if the Planning Commission would like to consider one of the options that Ms. Back and Ms. Warrick has presented today, then she would like to have an opportunity to look and see how that may have been done in other jurisdictions.

Mr. Leighty asked why the Planning Commission is just now hearing about this today. Ms. VanValkenburgh stated that this was a suggestion that in all earnestness the staff was trying to give the Planning Commission as many options as possible. Ms. Warrick stated that the presentation was packaged in a way that mirrored the previous actions. There was a Regulating Plan adopted and then a follow up action to impose the Form-Based Code zoning district that have been adopted previously. This is why it was put together in this fashion. Ms. Back stated that the Form-Based Code was adopted in 2011 by the City Council on April 29th, but the rezoning was not applied until October 20, 2011. This is the process that was followed before and that is the process staff followed now. Ms. VanValkenburgh stated that Ms. Back is correct and that is the process that was followed before, but she is not sure that was the right process. Ms. VanValkenburgh further stated that looking at the Code itself and it states "...we are adopting this Regulating Plan and it repeals all ordinances or parts thereof in conflict with". Mr. Leighty stated that it only became effective when the Regulating Plan was covering the area. Mr. Leighty further stated that FBC was adopted and then applied the Regulating Plan. Ms. VanValkenburgh stated that is not right, it was adopted at the same time. Perhaps later it was simply putting the FBC on the maps later, she doesn't know. This Regulating Plan was adopted at the time the Form-Based Code was adopted and then there was an application that applied the Form-Based Code district to the pilot area. At this time it repealed all ordinances in conflict and it is her opinion that they

need to be done both at the same time. If the Planning Commission (PC) would like Legal to do some research as to whether the PC can adopt the Regulating Plan and then only zone a portion of it she will do so.

Ms. Back stated that there is one thing she wanted to address. The map that was put up showing the proponents and opponents on the map that was colored with red or black. That map actually reflected multiple ownerships of parcels so it could have been one entity with multiple ownerships. The map also went outside of the area that is proposed. Ms. Back stated more letters were received recently in support of this application and those are not reflected on that map to her knowledge. Ms. Back concluded that she wanted to bring that to the Planning Commission's attention.

Mr. Midget asked Ms. Back if she is indicating that she will go back through and remap the proponents and opponents out for the Planning Commission. Ms. Back stated that staff was accused of not doing that and staff has looked at and mapped it out to see where opposition is. Mr. Dix stated that he knows that the submitted map is up to date because the letters are from people that have sent letters previously in support and opposition. Ms. Back stated that is something that staff would go through and look at as well. Mr. Midget stated that if staff is going to go in and map that he would be interested in seeing that. Ms. Back stated that staff can provide that for the Commissioners. Ms. Back explained that whenever they are preparing the Planning Commission's product, staff does do research and looks at maps. Mr. Midget stated that he didn't think about it earlier or he would have asked for a map.

Mr. Dix stated that the Planning Commission has been giving direction as to things that need to be adjusted in the Plan, such as reduction in size and auto-oriented businesses being taken off of 11th Street and Utica Avenue. The north side of 11th Street is still auto-oriented, the west side of Utica Avenue is still auto-oriented and the Planning Commission has made this request (Mr. Leighty stated that when Mr. Dix says "we" he is using..., Mr. Dix reminded Mr. Leighty that he has floor. Mr. Leighty stated that he may have the floor but he is incorrect when he says "we" and not "you", since the Planning Commission has not directed staff to take those areas out. Mr. Leighty asked Mr. Dix to be clear about it.) Mr. Walker asked Mr. Leighty to allow Mr. Dix to finish his statements and then he can reply to them.

Mr. Dix continued that, to date, the considerations have not been addressed and they have not been answered sufficiently as to why they haven't been taken into consideration. The Plan has not been adjusted any further and it appears that there have been adjustments made to a point because of the verbiage within the Code, but the desires of the

Planning Commission have not been done. He asked why the Planning Commission think that a sit down with the association could result in something a majority of the Planning Commission could support? Ms. Warrick stated that the Regulating Plan is required to reflect the 6th Street Infill Plan. City staff feels that through various reviews and discussions and listening to people's concerns and going back into that policy document, which was adopted in 2005 and 2006, staff feels like that is what is reflected in today's proposal. City staff felt, as professionals, we could bring to the Planning Commission and say it is supported by the Comprehensive Plan and the 6th Street Infill Plan. The Planning Commission has the ability to do with that information whatever they feel is appropriate, based on the input received, the guidance that has been given and the public process that has led to this point. What the City staff can't do is take thumbs up/thumbs down vote on whether or not every facet meets everyone's personal opinion. City staff has to go back to the policy document and have something that gives us that direction. City staff is not trying to obfuscate the information that has been provided by the Planning Commission or not respond in the way the Planning Commission is asking. City staff is trying to, wherever there is a question, go back and review it against the policy that is staff's guide and bring a response back to the Planning Commission. City staff is trying to base those pieces of information in the facts of the policy that has been presented and staff has to use as a starting point. This is not a situation where City staff is given the latitude of just taking a public opinion poll and saying what staff thinks is the most desirable amongst everyone concerned. City staff has a policy document that has been adopted, approved and has to be found somewhere in the basis of our work. Mr. Dix stated that until the City staff starts listening to the Planning Commission who has stated they are uncomfortable with the subject area being covered and the area should be reduced, then we are not going to get there. Mr. Dix stated that if City staff wants an up or down vote today he would be happy to make a motion. Mr. Leighty stated that he would second it. Mr. Dix stated that if someone else would like to make a motion to continue this that is their option. Ms. Warrick stated that City staff will let the Planning Commission do their work. Mr. Dix stated that as it is presented today he has problems with it.

Mr. Midget stated that he believes that staff has done a wonderful job of tweaking this. He believes that staff has listened to some of the concerns and they have brought some areas of the original proposal. Staff has made some adjustments and they have heard us. Mr. Midget stated that he is still uncomfortable with the plan in its current form. He believes that it can be worked on to really try and address everyone's concern. Once this is adopted it will impact folks for generations to come and that is how one develops. One can't develop something and expect it to happen overnight, it takes time to get there. This started from the 6th Street Infill Plan and Ms. McNulty explained the corridors that would be better for Form-Based

Code. Mr. Midget commented that he believes in bringing people to the table and he doesn't like to exclude anyone. It may be that once everyone is brought to the table to discuss this, we find that it is unreasonable. Mr. Midget stated that he supports the Form-Based Code and he would like to see it adopted and feels that it will be adopted, but he wants it to be done right.

Mr. Walker asked Mr. Midget if he could adopt this proposal as it is presented today. Mr. Midget answered negatively.

Mr. Leighty stated that we need to call for an up or down vote on this and send it to City Council. There is a recommendation from our own staff and a recommendation from the City of Tulsa Planning Department. This has been going on for years and it is time to stop kicking the can down the street. Give it to the City Council and let them decide. That is only fair because these people have worked for years. Mr. Leighty informed Mr. Midget he had his say and let him talk a minute. It is time for the Planning Commission to vote on this. Everyone has come to the table and we have heard everyone double-time and triple-time. There have been concessions made already and what they are talking about now is whittling this down till there is nothing left. It is time to vote on it today. Let's find out where people stand and if the Planning Commission turns it down he believes that there is a chance that the City Council might not go with our recommendation. Mr. Leighty stated that he would like to make a motion to vote on this today. Mr. Leighty further stated that he is hereby making a formal motion to call of this for an up or down vote today.

Mr. Leighty moved to approve the Regulating Plan per the staff recommendation.

Mr. Dix asked if the Planning Commission voted to reject this today or approve what happens next. Ms. Huntsinger stated that if the Planning Commission votes to deny this application it goes nowhere. Mr. Dix asked if it could be resubmitted at some later time. Mr. Leighty stated that it would go to the City Council. Mr. Midget stated that it wouldn't go to the City Council. Ms. VanValkenburgh stated that there is a provision in the Zoning Code that if the Planning Commission denies an application, the applicant can go to the City Council; however, that is for a Zoning application. Mr. Dix asked who the applicant is in this case. Mr. VanValkenburgh stated that the Planning Commission is the applicant. Ms. VanValkenburgh further stated that she believes the intent is that somebody would have the right to take it to the City Council. Mr. Midget stated that this is a Regulating Plan and not zoning. Ms. VanValkenburgh stated that she believes that the Regulating Plan is zoning because the map will have to be amended to show Form-Based Code on these properties. This is another reason why they should both be done at the

same time (FBC and Regulating Plan). Mr. Leighty stated that the Planning Commission could instruct that it be sent to the City Council. Mr. Midget asked if this is a zoning or are we trying to make it zoning.

Mr. Leighty stated that he amends his motion to include the approval of the Form-Based Code and the Regulating Plan so that both are voted on in the same motion. Ms. VanValkenburgh informed Mr. Leighty that the Form-Based Code is not on the agenda.

Mr. Perkins asked for a point of order. There is a motion on the table and there has been discussion, but there needs to be a second or it needs to die for lack of second.

Mr. Walker asked Mr. Leighty restate his motion.

Mr. Leighty moved to adopt the Regulating Plan per the staff recommendation. Mr. Midget seconded.

Mr. Leighty read a statement regarding PLANiTULSA vision document and how the City's policy should be designed to create. Mr. Leighty described the process for PLANiTULSA. The conventional suburban Zoning Code that exist in the Pearl District today is a mismatch and does not prescribe by right the desired outcome of the Comprehensive Plan. Mr. Leighty listed the requirements of the existing Zoning Code that makes it difficult to develop the Pearl District as an Urban Area. Mr. Leighty spoke of the planning process for the Form-Based Code and the Regulating Plan. Mr. Leighty commented that the Planning Commission is delivering on the goals and the promise of the Comprehensive Plan. Today staff has recommended approval of this revised Regulating Plan, which has evolved from over a decade of integrated policies and strategies dedicated to the difficult task of restoring to the Pearl District a position of strength and vitality within our community. To date the City has invested millions in the Pearl District according to these plans and these plans will continue to guide future policy decisions, capital improvements and City operations. Land use and zoning are integral parts of these plans and the approval of this matter is critical today. Expanding the range of possible building types will enables us to meet the City's economic development and housing goals as defined in the vision of the Comprehensive Plan. The Pearl District neighborhood is a starting point and form-based approach based upon sound urban design will allow for an increased development density, walkable neighborhoods and a successful mass transit system. A true Form-Based Code is only half about zoning; just as important are the regulations over public property, such as streets, corridors, intersections, greens and plazas. The entire goal of a Form-Based Code is to create a high-value public realm. This would be impossible to do without extending the Code to cover the public property portion of any Regulating Plan and

extending to both sides of the street. Mr. Leighty requested that the Planning Commissioners to please consider adding the south side of 11th Street and the East side of Utica back into the Regulating Plan. If approved, the expanded Pearl District Regulating Plan for the Form-Based Code will add value by providing integrated place-making development tools and strategies and by removing uncertainty of the development process. This Form-Based Code offers enormous variety of very tangible benefits, but they can only be fully realized if one leaves the fear of the unknown behind and truly take a risk on something new and bold. Mr. Leighty requested that his fellow Planning Commissioners stand up with him and turn away from the tired old development practices of the past and embrace this next step in creating an energetic and revitalized inner-city neighborhood. Mr. Leighty stated that he is tired of putting this off.

Mr. Perkins asked Mr. Leighty if he wants to amend his motion to extend the Regulating Plan to the other side of 11th and Utica. Mr. Leighty stated that he is asking the Planning Commissioners to consider that, but he is making his motion to approve the Regulating Plan as it has been presented today.

Mr. Midget stated that though he seconded the motion, he doesn't support the Regulating Plan as it is presented today. He requested the Planning Commissioners take their time and be deliberate if they are considering adopting this. He wants to make sure that the Planning Commission has a comfort level that they have done all they could do to assure that everyone has had an opportunity to be a part and participate. Mr. Midget acknowledged that this proposal has been on the table for a while, but wants to continue this discussion to make sure it is right. Mr. Midget further stated that he hopes that the Planning Commission could continue to work on the Form-Based Code, because this is one way to help the subject area to redevelop.

Mr. Walker stated that if this is voted down he hopes that staff and INCOG can get together with the newly formed association and come up with something that will work.

Mr. Leighty asked Mr. Walker if the Planning Commission could instruct that this be sent on to the City Council regardless of the vote.

Mr. Midget stated that it would require a vote. Mr. Leighty asked if Mr. Midget meant that would be a separate vote from the motion. Mr. Midget answered affirmatively.

Mr. Stirling stated that he will be supporting the Regulating Plan as proposed today. There has been public involvement and he supports this in principle. Mr. Stirling further stated that arrangements can be made

down the road and it looks as though this will be defeated today, but he will support it.

Mr. Perkins stated that it is unfortunate that if we have spent ten or twelve years on this, why can't there be a few more minutes of discussion. Mr. Perkins expressed concern that there had to be such a hasty motion because it ties the Planning Commission's hands significantly. Mr. Perkins stated that he is supportive, in general, of the Regulating Plan as it looks now. Mr. Perkins commented that getting all sides together and working together as a team can move mountains. There might be some people that have some last ditch or thoughts, or last efforts or ideas, but they need to be brought in. Mr. Perkins indicated that he would have supported postponing this to allow for additional time to look into this and also he has a hard time going against Legal's recommendation.

Mr. Dix stated that he supports Form-Based Code and he likes it. Mr. Dix also stated he thinks it is a great tool to have if it is part of the Comprehensive Plan. If it is used correctly in areas that are "liked" architectural features he absolutely supports it and would vote for it. Mr. Dix commented that he has a real problem with the proposed Regulating Plan presented today. The only way this will be approved, he believes, is to get the City Planning staff to do what the Planning Commission's desires and something the Planning Commission can support. If the Planning Commission denies this Plan today, it is not going back to square one, it is going to the table and revising this Plan and bring it back forward in a form that can be supported. Mr. Dix indicated that he would not be supporting the motion.

Mr. Leighty asked if he withdrew his motion would it be possible to send to the City Council, whatever the Planning Commission decides. Mr. Walker stated that the motion has been seconded and we are going to vote on it.

Mr. Perkins stated that he believes that the person who seconded the motion can agree to withdraw the motion.

Mr. Midget stated that he would not withdraw his second of the motion.

Mr. Leighty stated that the only reason he would withdraw it is because the Planning Commission would vote first on the fact that PC would send whatever it decides on to City Council. What do we have to lose by giving the City Council a chance to see and hear this proposal? Mr. Leighty stated that he knows that there are some Council members that are ready to see this. The TMAPC is not the recommending body and are simply making a recommendation.

Mr. Midget requested the Chair to call the question.

Mr. Walker called the question.

Mr. Perkins advised Mr. Walker that there had to be a vote to call the question.

Mr. Covey stated that he is real disappointed that the motion was made so early before the Planning Commissioners really was able to talk among them. He is also disappointed that there was a second at the same time. For future benefit he believes it would have been helpful to have a lot of discussion. Mr. Leighty stated that Mr. Covey was ready to vote last week. Mr. Leighty further stated that the Planning Commission should go ahead and vote and see who is in and who is out here.

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 end the discussion and call for the question.

TMAPC Action; 9 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **3-6-0** (Leighty, Perkins, Stirling, "aye"; Covey, Dix, Liotta, Midget, Shivel, Walker "nays"; none "abstaining"; Carnes, Edwards "absent") to recommend **APPROVAL** of the Form-Based Code Regulating Plan for the Pearl District within the City of Tulsa, Oklahoma per staff recommendation.

Motion Fails.

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Mr. Leighty stated that he would like to make a motion that the Planning Commission forward their recommendation on to the City Council.

Mr. Walker asked Legal if that would be appropriate.

Ms. VanValkenburgh stated that if the Planning Commission is voting a zoning matter and the Planning Commission has denied it, then the applicant is entitled to go the City Council. Mr. Walker stated that he believes it is done.

Mr. Leighty moved that the Planning Commission is the applicant and has the authority to ask the City Council to review our recommendation. The City Council deserves a right to hear this.

Mr. Leighty's motion was not seconded.

Mr. Liotta stated that the Planning Commission voted to not to support this application and to vote to send it to the City Council would be the same as reconsidering the vote that the Planning Commission just made. Mr. Liotta further stated that he believes that to be moot. Mr. Leighty stated that the Planning Commission sends denials to the City Council and they have reversed us several times. Mr. Liotta stated that the Planning Commission is the applicant and the Planning Commission just voted as a body to not support this issue. Mr. Walker informed Mr. Leighty that there is no second for his motion and it has failed.

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OTHER BUSINESS:

16. Consider Proposed 2013 TMAPC Meeting Schedule

2013 SCHEDULE

**Tulsa Metropolitan Area Planning
Commission (TMAPC)**

Regular meetings of the TMAPC are held on the first and third Wednesday of each month at 1:30 p.m. in the One Technology Center, 175 E. 2nd Street, City Council Chambers, 2nd Level, Tulsa, Oklahoma.

Regular work sessions of the TMAPC are held on the third Wednesday of each month following regular TMAPC business in the One Technology Center, 175 E. 2nd Street, City Council Chambers, 2nd Level, Tulsa, Oklahoma.

***TMAPC Meetings for the months of January and July have been moved to the 2nd and 4th Wednesday at 1:30 p.m. in the**

One Technology Center, 175 E. 2nd Street, City Council Chambers,
2nd Level, Tulsa, Oklahoma due to the Holidays.

JANUARY	FEBRUARY	MARCH
9th*	6th	6th
23rd and work session*	20th and work session	20th and work session
APRIL	MAY	JUNE
3rd	1st	5th
17th and work session	15th and work session	19th and work session
JULY	AUGUST	SEPTEMBER
10th*	7th	4th
24th and work session*	21st and work session	18th and work session
OCTOBER	NOVEMBER	DECEMBER
2nd	6th	4th
16th and work session	20th meeting and work session	18th meeting and work session

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **PERKINS**, 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 TMAPC Meeting dates for 2013 per staff recommendation.

Commissioners' Comments

None.

TMAPC Action; 9 members present:

On **MOTION** of **PERKINS**, 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. 2633.

There being no further business, the Chair declared the meeting adjourned at 5:15 p.m.

Date Approved:

Nov 7, 2012

John L. Walker
Chairman

ATTEST:

[Signature]
Secretary