

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2634

Wednesday, September 19, 2012, 1:30 p.m.

City Council Chamber

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

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Covey	Carnes	Bates	Steele, Sr. Eng.
Dix	Edwards	Fernandez	VanValkenburgh, Legal
Leighty		Huntsinger	
Liotta		Miller	
Midget		Wilkerson	
Perkins			
Shivel			
Stirling			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, September 14, 2012 at 2:36 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:**

Update on disposition of action taken on Item Number 15 of the September 5, 2012 agenda of the TMAPC (Form-Based Code Regulating Plan for the Pearl District.)

Mr. Walker reported that this will be moved to the end of today's hearing.

#### **Director's Report:**

Mr. Walker introduced Ann Domin, Deputy Director of INCOG. Ms. Domin introduced Susan Miller, Manager of Land Development Services and will be the Manager of the staff that serves the Planning Commission, as well as the City and County Board of Adjustments. Ms. Domin cited Ms. Miller's background and experience.

Mr. Walker thanked Ms. Domin for the introduction and welcomed Ms. Miller to the TMAPC. Mr. Walker stated that the Planning Commission looks forward to working with her.

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**Minutes:**

**Approval of the minutes of August 1, 2012 Meeting No. 2631**

On **MOTION** of **SHIVEL** the 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 minutes of the meeting of August 1, 2012, Meeting No. 2631.

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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.**

2. **LS-20542** (Lot-Split) (CD-3), Location: South of East Latimer Street and East of North 105th East Avenue (Related to LC-423)
3. **LC-423** (Lot-Combination) (CD-3), Location: South of the intersection of East Latimer Street and North 105th East Avenue (Related to LS-20542)
4. **LS-20545** (Lot-Split) (CD-4), Location: East of the Northeast corner of East 27th Place South and South Lewis Avenue (Related to LC-425)
5. **LC-425** (Lot-Combination) (CD-4), Location: North of Northeast corner of East 27th Place South and South Lewis Avenue (Related to LS-20545)
6. **LS-20546** (Lot-Split) (CD-1), Location: Northeast corner of North Madison Avenue and East 54th Street North
7. **LC-426** (Lot-Combination) (County), Location: East of the Southeast corner of North Trenton Avenue and East 73rd Street North
8. **LC-427** (Lot-Combination) (CD-4), Location: West of the Northwest corner of East 13th Place South and South Columbia Avenue
9. **LS-20547** (Lot-Split) (County), Location: North of the Northwest corner of North Yale Avenue and East Pine Street

10. **PUD-644-1 – Sack & Associates, Inc./Mark Capron** – Location: West and south of the southwest corner of East 56th Street North and North Peoria Avenue, Requesting a **Minor Amendment** to reallocate the maximum floor area into three parcels, **RS-3** (CD-1)

**STAFF RECOMMENDATION:**

The applicant is requesting a minor amendment to reallocate the maximum floor area into three parcels. The original Planned Unit Development was prepared with three tracts which defined a maximum floor area allowed for the total development area a 100,000 square feet for Use Unit 5 (Community Services and Similar Uses).

When the original PUD was prepared and approved in February 2001 and later platted as Lot 1, Block 1 Greater Grace Apostolic Temple of Tulsa.

The applicant is planning to split the property into three lots which requires the allocation of the floor area. The applicant has requested floor area allocation as follows:

Tract A: 78,000 square feet  
Tract B: 15,000 square feet  
Tract C: 7,000 square feet

This request still meets the underlying RS-3 Zoning guidelines and is consistent with the intent and purpose of the Planned Unit Development.

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.*

11. **Z-7008-SP-1 – Cedar Creek Consulting/Jason Emmett**, Location: North of West 81st Street South on the west side of South Olympia Avenue, Requesting a **Corridor Detail Site Plan** for a restaurant site in Development Area F of the Tulsa Hills Shopping Center Project, **CO**, (CD-2)

**STAFF RECOMMENDATION:**

**CONCEPT STATEMENT:**

The applicant is requesting approval of a detail site plan for a Restaurant site in development area F of The Tulsa Hills Shopping Center Project. The site has been previously platted but not developed. All uses permitted by right in the CO zoning district are allowed in this development area.

**PERMITTED USES:**

The Site Plan provided as an attachment to this staff report illustrates a new restaurant site (Use Unit 12) which is permitted by right in Development Area F of the Corridor District Plan.

**DIMENSIONAL REQUIREMENTS:**

The submitted site plan meets all applicable building floor area, density, open space, and setback limitations. No modifications of the previously approved Corridor Plan guidelines are required for approval of this site 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 the photometric plan provides data that illustrates the lighting concept with no spillage onto adjacent properties.

**SIGNAGE:**

The site plan illustrates sign location along South Olympia and is placed 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 Corridor Section of the Zoning Code.

The trash screening enclosure meets the minimum masonry standards defined in the Corridor Plan.

**PEDESTRIAN ACCESS AND CIRCULATION:**

Existing sidewalks will be installed internally and on the South Olympia frontage. Appropriate sidewalk plans have been provided on the site plan.

**MISCELLANEOUS SITE CONSIDERATIONS:**

The site slopes significantly from west to east toward the Olympia street right of way. 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 concerns regarding the development of this area as it relates to the terrain modifications.

**SUMMARY:**

Staff has reviewed applicants' submittal of the Site Plan as it relates to the approved Corridor Plan Z-7008-SP-1. The applicant site plan submittal meets or exceeds the minimum requirements of the Corridor Plan. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved Corridor Plan Z-7008-SP-1 and the stated purposes of the Corridor 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.)*

12. **PUD-790 – TUL ALF #2, LLC**, Location: North of West 71st Street South and East of South Olympia Avenue, Requesting a **Detail Site Plan** for a Life Care Retirement Center and Assisted Living Facility, **CO/OL/CS**, (CD-2)

**STAFF RECOMMENDATION:**  
**CONCEPT STATEMENT:**

The applicant is requesting approval of a detail site plan for a Life Care Retirement Center and Assisted Living Facility in PUD 790. The site is currently working through the final plat process. The only use permitted in the PUD is Use Unit 8 (Multifamily & Similar Uses) and further limited to a Life Care Retirement Center and Assisted Living Facility.

**PERMITTED USES:**

The Site Plan provided as an attachment to this staff report illustrates a new Retirement Community (Use Unit 8) which is the only use permitted by right in Development Area A of PUD 579-A.

**DIMENSIONAL REQUIREMENTS:**

The submitted site plan meets all applicable, building height, floor area, density, open space, and setback limitations. No modifications of the previously approved PUD guidelines are required for approval of this site 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 and away from adjacent property to help prevent light trespass. Maximum height of light fixtures is 16' and below the 25' height limit allowed. The photometric plan provides sufficient

data to ensure that artificial light sources are arranged in a way that prohibits light trespass from this site.

**SIGNAGE:**

The site plan does not illustrate a sign location. 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 Planned Unit Development Section of the Zoning Code.

The trash screening enclosure meets the minimum masonry standards defined in the Corridor Plan.

**PEDESTRIAN ACCESS AND CIRCULATION:**

Sidewalks will be installed internally and connected to the existing sidewalks on the West 71st Street frontage. Appropriate sidewalk plans have been provided on the site plan.

**MISCELLANEOUS SITE CONSIDERATIONS:**

There are no concerns regarding the development of this area as it relates to the terrain modifications. The site slopes from the west toward the east and a retaining wall will be placed parallel to the west property line. The building floor elevation will be below the existing ground elevation and partially hidden from the west property line as a result of the excavation east of the wall.

**SUMMARY:**

Staff has reviewed applicants' submittal of the Site Plan as it relates to the approved Planned Unit Development 790. The applicant site plan submittal meets or exceeds the minimum requirements of the Planned Unit Development. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved Planned Unit Development 790 and the stated purposes of the Planned Unit Development 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.)*

13. **PUD-579-A – Madison Investments VI, LLC**, Location: North of East 81st Street South on the west side of South 101st East Avenue, Requesting a **Detail Site Plan** for a doctor’s office in Development Area A of the PUD, **CO**, (CD-7)

**STAFF RECOMMENDATION:**

**CONCEPT STATEMENT:**

The applicant is requesting approval of a detail site plan for a doctor’s office in Development Area “A” of PUD 579-A. The site has been previously platted but not developed. All uses permitted by in Use Unit 11 (Offices, Studio and Support Services) are permitted in this development area.

**PERMITTED USES:**

The submitted site plan illustrates a new Doctors Office (Use Unit 11) which is permitted by right in Development Area A of PUD 579-A.

**DIMENSIONAL REQUIREMENTS:**

The submitted site plan meets all applicable, building height, floor area, density, open space, and setback limitations. No modifications of the previously approved PUD guidelines are required for approval of this site 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. Maximum height of light fixtures is 18’ and below the 25’ height limit allowed.

**SIGNAGE:**

The site plan illustrates sign location along East 80th Street South and is placed appropriately for site plan review. This staff report does not remove the requirement for a separate sign plan review process. One ground sign is shown inside an existing easement and will require a license agreement with the City.

**SITE SCREENING AND LANDSCAPING:**

The landscape plan will be submitted to staff for separate review as allowed in the Planned Unit Development Section of the Zoning Code.

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

**PEDESTRIAN ACCESS AND CIRCULATION:**

Sidewalks will be installed internally and on the East 80th Street South frontage. Appropriate sidewalk plans have been provided on the site plan connecting to the building entrances.

**MISCELLANEOUS SITE CONSIDERATIONS:**

There are no concerns regarding the development of this area as it relates to the terrain modifications.

**SUMMARY:**

Staff has reviewed applicants' submittal of the Site Plan as it relates to the approved Planned Unit Development 579-A. The applicant site plan submittal meets or exceeds the minimum requirements of the Planned Unit Development. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved Planned Unit Development 579-A, and the stated purposes of the Planned Unit Development 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.)*

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

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

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Covey, Dix, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards "absent") to **APPROVE** the consent agenda Items 2 through 13 per staff recommendation.

\* \* \* \* \*

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

Mr. Covey indicated that he will have to recuse himself from Item 14. Mr. Covey out at 1:35 p.m.



## **PUBLIC HEARINGS:**

14. **South Mingo Plaza** – Preliminary Subdivision Plat, Location: 8165 South Mingo Road, South of the Southeast corner of East 81st Street South and South Mingo Road (8418) (CD 7)

### **STAFF RECOMMENDATION:**

This plat consists of four lots, one block, on 7.68 acres.

The following issues were discussed September 19, 2012, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned CO, Z-6051-SP-2 (Corridor District Site Plan). The plat for this addition was almost finished in 2008 and most infrastructures are in place. There will be a gated emergency access Knox box between the existing neighborhood and the development on East 82nd Place.
2. **Streets:** Provide reference for right-of-way. Include section on sidewalks. Section I.I is about private streets. Where is the private street on the plat? Mutual access easement must terminate at boundary of Lot 4. No connection will be allowed to East 82nd Place.
3. **Sewer:** Provide the document number for the 11-foot sanitary sewer easement shown on the face of the plat if it presently exists. Include the sanitary sewer easement in the legend. The 11-foot x 20-foot sanitary sewer easement scales at 11 feet x 25 feet. The off-site 11-foot utility easement located adjacent to Lot 4, Block 1, plat 5660, scales at 22 feet. Use standard language for the covenants, especially for Section 1-B. Ground elevations within easements containing City Utilities cannot be altered without prior approval from the City. Add Language restricting the use of the sanitary sewer easement. Include the existing sanitary sewer line located adjacent to the proposed plat, since that is what gives Lot 4 access to the main for service.
4. **Water:** Add bearings and distances to the proposed 20-foot restrictive waterline easement. Use standard covenant language for the waterline service section. Include the restrictive water line easement covenant language. An additional valve and hydrant may be required to be installed on the proposed water line.
5. **Storm Drainage:** Drainage easement is not included in the legend. It should be storm sewer easement. The D/E and restrictive water line easement should not overlap the Mutual Access Easement. Drainage runoff from multiple lots in the addition is conveyed to the stormwater detention facility; therefore that facility must be placed in a Reserve to be maintained by the Owners' Association. Replace Section 1.B with standard language for

“water, sanitary sewer and storm sewer service”. Replace Section 1.C with standard language for “Reserve – Stormwater Detention Easement”. In Section 1.F, use standard language for “Surface Drainage”. Add standard language for roof drainage to Section 1. Section 2 should contain language defining the Reserve Area, and the Maintenance Responsibilities for that Reserve Area. Add both existing and proposed contours to this plan.

6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** No comments.
7. **Other: Fire:** the conceptual drawing indicates the building on Lot 4 that will need fire department access along the east side due to the length of the building. The requirement is to provide fire department access within 150 feet of any portion of a non-sprinkled building or 200 feet of any portion of a sprinkled building. Also, if this building is not sprinkled an additional fire hydrant will be required. The requirement is to provide a fire hydrant within 400 feet of any portion of a non-sprinkled building or 600 feet of a sprinkled building.

**GIS:** Fix the numerous location map errors. Show proper sections. Use actual bearings. Submit a subdivision control data form.

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.

Mrs. Fernandez read a letter from Mr. Harjo, South Towne Neighborhood Association. Mr. Harjo indicated in his letter that there are no objections on the preliminary plat.

**TMAPC COMMENTS:**

Mr. Leighty asked if the prior approvals of 2008 are still in effect. Mrs. Fernandez answered affirmatively. She clarified that the uses do not affect the subdivision plat before the Planning Commission today.

Mr. Leighty questioned the three-foot walk gate request for removal. Mrs. Fernandez stated that the neighborhood didn't want the stub street to go into the new development and so there will be a Knox box and a gate there. She stated that this is better addressed during detail site planning process.

**Applicant's Comments:**

**Bill Lewis**, Lewis Engineering, 68420 South 221st East Avenue, Broken Arrow, 74014, stated that he is in agreement with the staff recommendation and stated that there will be a gate for fire access with a Knox box so that no one will have access except emergency services.

**Danny Mitchell**, 5110 South Yale, Suite 510, 74135, stated that he is the Architect for the project and the developer. The gate that is referenced is shown on the approved detail site plan, adjacent to the crash gate requested by the Fire Marshal. There was a three-foot wide gate for pedestrian access at the end of the sidewalk. The neighbors have requested that the gate be removed and he has agreed to prepare an amendment to the detail site plan to show that removal.

Mr. Dix asked if the Fire Marshal has a problem with the gate being removed. Mr. Mitchell stated that the Fire Marshal's request was for access between the subdivision and the subject paving area for fire truck access.

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

**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 **APPROVE** the preliminary plat for South Mingo Plaza per staff recommendation, subject to special conditions and standard conditions.

\* \* \* \* \*

Mr. Covey in at 1:41 p.m.

15. **Z-7210 – Marcus Makar**, Location: North of the northwest corner of East 21st Street and South Boston Avenue, Requesting rezoning from **RM-2 to CS**, (CD-4)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11814 dated June 26, 1970, established zoning for the subject property.

***RELEVANT ZONING HISTORY:***

No relevant history.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 7992+ square feet in size and is located north of northwest corner of East 21st Street and South Boston Avenue. The property appears to be residentially used and is zoned RM-2. During the building life an office style addition has been added to the front of the original structure and may have been used as an office. The front yard is essentially covered in concrete and serves as a parking area and is a non conforming use in the current Zoning Code. The existing RM-2 zoning does not allow any commercial use.

**SURROUNDING AREA:** The subject tract is abutted on the east by South Boston Avenue and across the street to the east the property is zoned RM-2; on the North and South the site is abutted by small offices and are both zoned OL. The property abutting the site on the west is Veterans Park, and also zoned RM-2.

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

**TRANSPORTATION VISION:**

The Comprehensive Plan does not specifically identify Boston Avenue.

**STREETS:**

<b><u>Exist. Access</u></b>	<b><u>MSHP Design</u></b>	<b><u>MSHP R/W</u></b>	<b><u>Exist. # Lanes</u></b>
South Boston Avenue	n/a	60'	2

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The Comprehensive Plan designates the site as a Downtown Neighborhood and in an area of growth.

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

**STAFF RECOMMENDATION:**

This site is in a neighborhood which has been accurately identified in the comprehensive plan as an area which has evolved into a mixed use area where people live, work and play in a unique mix of multifamily and single-family residential uses, mixed with small offices, large office buildings, parks, and schools. This site is one of the most diverse use neighborhoods in the south side of the Central Business District Area and

is identified as an area of growth in the comprehensive plan. The Comprehensive Plan could support a retail/commercial use in this area if a larger more comprehensive development including urban neighborhood retail component.

In this particular instance there is no other commercial use in the immediate area and staff believes that the CS zoning request constitutes spot zoning and therefore **recommends DENIAL of the requested CS zoning.**

**Applicant's Comments:**

**Marcus Makar**, 1207 East 3rd 74101, stated that he has had the trapeze for a while and it is a healthy and fun activity. The subject property was previously a doctor's office and it was reverted back to residential. Mr. Makar stated that he canvassed the neighborhood and one person was against it. Mr. Makar cited the various activities that have been held at Veteran's Park, which is nearby the subject property. Mr. Makar stated that this would be a great location and hopes that the Planning Commission will grant this request.

**TMAPC COMMENTS:**

Mr. Walker asked Mr. Makar if he understands that the subject site and zoning change request violates our Comprehensive Plan and current zoning. Mr. Makar stated that in a sense yes he does understand.

Mr. Covey asked Mr. Makar if he currently owns the subject property. Mr. Makar answered affirmatively. Mr. Covey asked if there would be any demolition and is this an indoor or outdoor facility. Mr. Makar stated that it is outdoors and he has already installed some 45-foot telephone poles, which have to go in the ground ten feet. There is a nine-foot high net and it is 12 feet wide and 120 feet long from apron to apron. The reason for the telephone poles is for the lack of space for the guidelines at ground stage. Mr. Covey asked if the trapeze would be going east to west or north to south. Mr. Makar stated it would be going east to west. Mr. Covey asked Mr. Makar for his operating hours. Mr. Makar stated that maybe on Saturday from 9:00 a.m. to noon. He further stated that in the summer it would be more like 7:00 to 9:00 p.m. or 5:00 to 9:00 p.m. depending on how much interest there is. Mr. Makar indicated that he would like to donate lessons to the Boy Scouts and schools.

Mr. Midget asked Mr. Makar if the individuals that were in support actually own the property or leasing it. Mr. Makar stated that it was both. Mr. Midget asked Mr. Makar if this will be a full commercial operation. Mr. Makar stated that this is not a real money maker and it is not a busy day-to-day thing. There will typically be private parties by appointment with eight or nine people.

Mr. Dix stated that he doesn't understand the philosophy behind this business. He asked Mr. Makar to explain what his business is. Mr. Makar stated that he has a circus regulation flying trapeze rig. He explained that a lot of people overcome heights, fear and make breakthroughs for their personal growth. Mr. Makar stated that it is exhilarating to fly the trapeze. Mr. Dix asked Mr. Makar if there would be any demolition. Mr. Makar stated that there would not be any demolition. Mr. Dix asked where clients would park. Mr. Makar stated that south of the old Knights of Columbus building has parking and they would have access to the park. Mr. Makar indicated that he would also have an access from the park. Mr. Dix stated that the park is not a parking lot. Mr. Makar stated that he is not talking about the park, it abuts the park. It is actually the bend of Baltimore from 18th Street. Mr. Makar stated that there is parking on the street as well. Mr. Dix asked how many people would be present at any given time. Mr. Makar stated that there are typically 15 people with five to ten cars. Mr. Makar further stated that the same parking issues come up during the various festivals held at the park. Mr. Dix stated that the Planning Commission is considering his application, not one regarding festivals. Mr. Dix further stated that looking at the aerial photograph it appears that the only parking available is directly in front of the building and in the street. Mr. Dix commented that he doesn't see any parking in the back. Mr. Makar stated that there is street parking in front of the subject property and his driveway and the spot where all of the soccer players use. Mr. Dix asked if there are residents all around the subject property. Mr. Makar stated that there is an apartment building across the street and there are two residents to the south. Mr. Dix asked if there are set hours of operation. Mr. Makar stated that he doesn't have set hours of operation, but he is not going past ten o'clock.

Mr. Leighty asked Mr. Makar to indicate on the map which property is opposed to the rezoning. Mr. Makar indicated that the opposition lives about two lots south of the subject property. Mr. Leighty asked Mr. Makar if he met with the property owner and explained what his proposal is. Mr. Makar answered affirmatively. Mr. Leighty asked Mr. Makar how the poles are already in place before rezoning the subject property. Mr. Makar stated that he came to the City of Tulsa on two occasions and talked with the Permitting Office and they informed him that they do not have any regulations for circus or flying trapeze rigs in the books and they told him to go ahead. Mr. Makar further stated that the neighbor that is opposed to it is no longer in the pictures, so he decided to do this as commercial rather than just for his friends and family. Mr. Leighty asked Mr. Makar if the Permitting Office told him he needed the zoning change or that he could do it. Mr. Makar stated that after his neighbor objected the City forced him to come down and iron this out. Mr. Makar further stated that he wants to be in compliance with the law and regulations. Mr. Leighty



asked Mr. Makar if there is an option could he please tell him what it is. In response, Mr. Makar stated that if he doesn't get the rezoning, then he doesn't open to the public and he simply has a flying trapeze rig in his back yard. Mr. Leighty asked Mr. Makar if the Permitting Office said that he could do that. Mr. Makar stated that they did because they said they didn't have anything on the books that says he can't and as long as he is less than 35 feet.

Mr. Midget stated that he wanted to point out that Mr. Kevin Cox, WIN Department, who has been working this case is present today. Mr. Midget further stated that between Mr. Cox and Mr. Wilkerson the Planning Commission should be able to get to a solution.

Mr. Perkins asked Mr. Makar if he had to have a special permit or zoning for the one in Jenks or his other locations. Mr. Makar stated that he only had one other location, but he flew with his friends in Jenks and other locations. Mr. Makar indicated that the location at 2nd and Peoria was never permitted and there was no need to. Mr. Perkins stated that he had his 40th Birthday there and had fun.

Mr. Wilkerson cited the various zonings in the subject area. Mr. Walker asked if there is any gray area here or is it a complete violation. Mr. Wilkerson stated that it is spot zoning. Mr. Wilkerson further stated that the applicant requested a permit at the City of Tulsa and the letter sent a letter that classified the use as a commercial use, Use Unit 20. The only place that can be allowed by exception is in some of the commercial districts and can be allowed by right in some industrial districts. In this particular application Mr. Makar would have to go to the Board of Adjustment should the Planning Commission rezone the subject property to CS.

Mr. Leighty asked Mr. Wilkerson what the highest use of the CS could be if the applicant should sell the property. Mr. Wilkerson stated that CS is Commercial Shopping and it could be used for a large number of commercial shopping uses. Mr. Wilkerson stated that a small grocery store could be in the CS district.

In response to Mr. Leighty, Mr. Wilkerson stated that if this was part of a larger and more comprehensive development, then he believes that this neighborhood use could potentially work there and be supported in the Comprehensive Plan. In this case he would expect it to be a PUD. Mr. Leighty stated that that would be unlikely with so many different property owners. Mr. Wilkerson agreed with Mr. Leighty.

Mr. Dix asked what the cost to the applicant has been for this application. In response, Mr. Wilkerson stated that he doesn't have that information. Mr. Dix asked Mr. Wilkerson what a PUD application costs. In response,

Mr. Wilkerson stated that it depends on how many people have to be notified, but generally one can expect to spend around \$1,500.00 for the application.

Mr. Dix asked Mr. Makar what his costs has been so far for the commercial request. Mr. Makar stated that he has spent around \$1200.00.

**INTERESTED PARTIES COMMENTS:**

**Greg Hopeman**, 1907 South Boston Avenue, Unit E, 74119, stated that his home is across the street and three lots to the north of the subject property. Mr. Hopeman stated that he owns his condominium. Mr. Hopeman expressed concerns with lighting and how late at night lights would be on. This is a residential and office area. The offices are not a problem to the residential area because most of the offices are closed by 5:00 p.m. Mr. Hopeman stated that this is one block away from is known as the "So Bo District". There are bars, drinking and a few drunks. To the north of the subject area there is a large parking lot and every Saturday night it is quite wild. Mr. Hopeman expressed concerns that the trapeze rig is outside and possibly someone drinking too much might see it and possibly hurt themselves. Mr. Hopeman requested that the Planning Commission recognize the challenges of this type of business in what has primarily been an office and residential area. Since it will introduce a commercial trapeze and entertainment use Mr. Hopeman stated that there are some objections to this type of use in the neighborhood.

**TMAPC COMMENTS:**

Mr. Leighty stated that he has been to Mr. Makar's facility that he had on 2nd and Peoria and it is a lot of fun. Mr. Leighty further stated that he doesn't have any fears about this disrupting the neighborhood. Mr. Leighty indicated that he drove by the subject property and it is secluded. The poles are visible from the front of the subject property; it is a low-key operation with very little noise or have a lighting problem. The trend in the subject area is for mixed-use and he doesn't think it will be a threat to the neighborhood. Mr. Leighty indicated that he would be supporting this application.

Mr. Midget stated that he would be voting in favor of the staff recommendation to deny this application. This is not in conformance with the Comprehensive Plan. While he understands that it is a trapeze rig he believes that it is out of place for the subject area. If this was something that is more consistent with what is already in the subject area it wouldn't be troublesome to him. The request for CS is spot zoning and would be out of place for the subject location. Mr. Midget indicated that he would be voting against this application and voting in favor of the staff recommendation for denial.

Mr. Dix stated that he agrees with Mr. Leighty that this probably an innocuous use and not hurt the neighborhood to a great extent, but against spot zoning and agree with Mr. Midget on that point. Mr. Dix stated that he will have to support the staff recommendation for denial.

Mr. Walker agreed with all three Planning Commissioners and stated that he will have to support the staff recommendation for denial. Mr. Walker commented that it is too bad this proposal isn't on the "hard corner".

**TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **8-1-0** (Covey, Dix, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; Leighty "nay"; none "abstaining"; Carnes, Edwards "absent") to recommend **DENIAL** of the CS zoning for Z-7210 per staff recommendation.

**Legal Description for Z-7210:**

Lot 20, Block 1, Boston Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

\* \* \* \* \*

16. **Z-7211 – Sisemore, Weisz & Assoc.**, Location: South of southwest corner of East 46th Street North and North Peoria Avenue, Requesting rezoning from **CS/RS-3 TO CS**, (CD-1)

**STAFF RECOMMENDATION:**

**ZONING ORDINANCE:** Ordinance number 11914 dated September 1, 1970, established zoning for the subject property.

**RELEVANT ZONING HISTORY:**

**Z-6835 November 2001:** All concurred in approval of a request for rezoning a 6.6+ acre tract of land from AG/ RS-3/ CS to CS, for mini-storage, on property located south of southeast corner East 46th Street North and North Peoria Avenue.

**Z-6743 February 2000:** All concurred in approval of a request to rezone a 4+ acre tract of land from RS-3 to CS, located east of the southeast corner of East 46th Street North and North Peoria Avenue.

**Z-6575 February 1997:** All concurred in approval to rezone .4+ acre tract from OL to CS located south of the southeast corner of East 46th Street North and North Peoria Avenue.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 2.8+ acres in size and is located south of southwest corner of East 46th Street and North Peoria Avenue. The property appears to be vacant and is zoned RS-3/CS. The zoning line dividing the property between RS-3 and CS was apparently defined in the original zoning of the property in 1970 and no longer reflects the recommendations of the Comprehensive Plan. Changing the RS-3 section of the property will bring all of the site into a CS zoning classification and will provide a development opportunity consistent with the goals of the Comprehensive Plan for this area.

**SURROUNDING AREA:** The subject tract is abutted on the east by North Peoria, across the street the property is zoned CS; on the north and south the property is all zoned CS, the west boundary is defined by the trail system in Tulsa and further west the property is zoned RS-3, southwest of the site some land still zoned AG.

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

**TRANSPORTATION VISION:**

The Comprehensive Plan designates North Peoria as a frequent bus street and a multi-modal corridor

**STREETS:**

<b><u>Exist. Access</u></b>	<b><u>MSHP Design</u></b>	<b><u>MSHP R/W</u></b>	<b><u>Exist. # Lanes</u></b>
North Peoria Avenue	Secondary Arterial	100'	4

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The Comprehensive Plan designates the site as part of a Regional Center Area and is considered an area of growth. One of the primary goals of the areas of growth in the Comprehensive Plan is to focus large scale development without being detrimental to existing neighborhoods.

Regional Centers are mid-rise mixed-use areas for large scale employment, retail, and civic or educational uses. These areas attract workers and visitors from around the region and are key transit hubs; station areas can include housing, retail, entertainment, and other amenities. Automobile parking is provided on-street and in shared lots.

**STAFF RECOMMENDATION:**

In keeping with the Comprehensive Plan vision for the area it is important to continue to re-zone land to accommodate the Regional Center Concept. This requested small area of CS zoning will reinforce the opportunity to create a Regional Center for future large scale development and is consistent with the stated goals and objectives in the Comprehensive

Plan; therefore the **Staff recommends approval for the requested CS zoning** application Z-7211

**TMAPC COMMENTS:**

Mr. Midget asked Mr. Ackerman if he has anything in the works or can he say what will be going in. Mr. Ackerman, Sisemore, Weisz & Associates, stated that the proposed use for the subject property is for a retail store and Dollar General is looking at the subject 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 CS zoning for Z-7211 per staff recommendation.

**Legal Description for Z-7211:**

A TRACT OF LAND THAT IS PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER (NE/4 NE/4) OF SECTION THIRTEEN (13), TOWNSHIP TWENTY (20) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND DESCRIBED AS FOLLOWS: THAT PART OF THE SOUTH 210 FEET OF THE NORTH 420 FEET OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER (NE/4 NE/4) OF SECTION THIRTEEN (13), TOWNSHIP TWENTY (20) NORTH, RANGE TWELVE (12) EAST, LYING EAST OF THE MIDLAND VALLEY RAILROAD RIGHT-OF-WAY, CONTAINING 3 ACRES, MORE OR LESS.

\* \* \* \* \*

**OTHER BUSINESS:**

**Chairman's Report:**

Update on disposition of action taken on Item Number 15 of the September 5, 2012 agenda of the TMAPC (Form-Based Code Regulating Plan for the Pearl District.)

**STAFF RECOMMENDATION:**

**Janine VanValkenburgh**, Legal Department, stated that Form-Based Code (FBC) zoning is a very different approach to regulating the use of land. It is different what everyone is used to after all of these years. The FBC was adopted early of last year and currently only applies to the pilot area of the Pearl District. The City is in the early going of this FBC process and trying to figure out how the procedures work and what to do. The City

has the FBC and its regulations and Title 42, City of Tulsa Zoning Code that has FBC zoning district. Ms. VanValkenburgh stated that it is confusing and it is understandable that the staff gave notice and put the item on the agenda in the fashion that they did. However, the legal concept, in order to have a complete disposition of this matter the Planning Commission needs to have the consideration of the Regulating Plan under the FBC and the FBC zoning change considered in tandem. If the Planning Commission adopted a Regulating Plan alone, then it would establish land use regulations, but without changing the underlying zoning to FBC there would be great confusion as to what regulations apply. There would be no way of knowing by looking at the zoning map what the zoning truly is. At the September 5, 2012 TMAPC meeting the Regulating Plan was denied and the Planning Commission didn't have the FBC zoning before them. There has been some question whether this item is ready to go to the City Council and it is not because there wasn't a complete action. After such time the Planning Commission considers a Regulating Plan in tandem with the FBC zoning change, the complete proposal can be forwarded to the City Council.

Ms. VanValkenburgh stated that at this point the Planning Commission has a number of options before them. The Planning Commission could give new notice of the existing proposed Regulating Plan and notice of a companion FBC zoning change, or consider a further revised Regulating Plan with the companion FBC zoning change, or consider the revision of the small area plan. Ms. VanValkenburgh commented that she believes that the Planning Commission may want to consider discussing where to go from here in a work session.

**TMAPC COMMENTS:**

Mr. Leighty asked if the new proposal only go to the Council if it were only approved or would it go if it were denied. Ms. VanValkenburgh stated that she believes it would go to the City Council if it were denied as well.

In response to Mr. Leighty, Ms. VanValkenburgh stated that it would require a re-noticing everyone and it would have to include the FBC zoning change. Mr. Walker stated that the vote taken on September 5th is not invalid because the TMAPC voted on the Regulating Plan. Ms. VanValkenburgh stated that the vote wasn't invalid, but it would have been cleaner if the FBC zoning change was included and that is how it needs to come back before the Planning Commission.

In response to Mr. Leighty, Ms. VanValkenburgh stated that the notice given for the Regulating Plan was given properly, but it was for the Regulating Plan only and didn't include the FBC zoning change. Mr. Leighty stated that his point is that all of the public meetings and public hearings held for the Regulating Plan were in vein. It was a process that

was flawed from day one. Ms. VanValkenburgh stated that she doesn't see it as being in vein. The Planning Commission made a lot of progress by learning what people thought. Mr. Leighty stated that with no disrespect, but he is trying to understand if this is her estimation or has the entire City Legal looked at this. Mr. Leighty further stated that nothing was stated about this before and so how is it that it is just now coming out. Ms. VanValkenburgh stated that it wasn't clear to her until shortly before the September 5th meeting that the plan was being perceived in a couple of different ways, which brought it to her attention. This is very new and not everyone has really known how to handle it and she would like to see the Planning Commission handle it in a way that is defensible. Mr. Leighty asked if there is a consensus in City Legal among the peers. Ms. VanValkenburgh answered affirmatively.

Mr. Midget thanked Ms. VanValkenburgh for her time reviewing this matter. Mr. Midget stated that at the last meeting he made it clear that he believes that there is some value in FBC and specifically in the subject area. Mr. Midget further stated that he would be interested in further examining this and move it forward. It would be to the Planning Commission's advantage to consider this further and direct staff to prepare this and schedule it for a work session. Mr. Midget suggested that the Planning Commission consider some further revisions on this matter and outline the scope, etc. After the work session it could be brought back to the Planning Commission to vote on and give staff clear instructions on how to proceed.

Mr. Liotta agreed with Mr. Midget's remarks and could support his suggestion.

Mr. Leighty stated that everyone is hearing some rumors regarding a movement to try to amend the 6th Street Infill Plan. Mr. Leighty asked where the Planning Commission stands on that.

Ms. Back stated that she understands that there is an application in the works. The people that might be the best to answer that are here. Ms. Back indicated that she is not privy to all of the information because they did not communicate with her and referencing what they are looking to amend. Staff had recommended that the 6th Street Infill Plan be updated during their staff report for the Regulating Plan. Mr. Dix stated that he personally believes that the 6th Street Infill Plan needs to be amended before adopting a Regulating Plan. Ms. Back stated that the Planning Commission could have continued the Form-Based Code Regulating Plan and instructed staff to move forward with the 6th Street Infill Plan update. Mr. Midget stated that there were a lot of options that could have been done at the last hearing, but we ended up denying that Regulating Plan.

Mr. Midget stated that what we have to do is figure out how to bring this back up and give staff some clear instructions on how to proceed.

Mr. Perkins agreed that a work session should be scheduled as early as practical.

Mr. Wilkerson stated that the word "staff" keeps getting used and he wants to make sure that everyone is aware that "staff" is INCOG staff.

After discussion, the Planning Commission directed staff to schedule a work session for October 3rd to consider the disposition of the action of the September 5th meeting and future action on the Regulating Plan, 6th Street Infill Plan and the FBC.

\* \* \* \* \*

### **Commissioners' Comments**

Mr. Dix stated that he would like to address something from a couple of meetings ago. Mr. Dix stated that he would like to acknowledge Mr. Lou Reynolds and apologize to hear that his father recently passed. Mr. Dix further stated that he went back and read the rezoning case for the parking lot and other cases that were similar and involved the same properties and adjacent property owners. Mr. Dix commented that he now fully understands why Mr. Reynolds used the words he did and the word in question was "treachery" and he forgives Mr. Reynolds for using it and apologizes to Mr. Reynolds for the reprimand that he gave him as a Commissioner. Mr. Dix stated that he wanted to acknowledge publicly and if anyone were to go back and read those cases from the BOA and TMAPC they would also understand. Mr. Dix believes that Mr. Reynolds was appropriate in his zeal and defending his client.

\* \* \* \* \*

### **TMAPC Action; 9 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **9-0-0** (Covey, Dix, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Edwards "absent") to **ADJOURN** TMAPC meeting No. 2634.

\* \* \* \* \*

There being no further business, the Chair declared the meeting adjourned at 2:29 p.m.



Date Approved:

Nov. 7, 2012

Joshua G. Wood

Chairman

ATTEST:

[Signature]

Secretary