

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2636

Wednesday, October 17, 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	VanValkenburgh, Legal
Dix		Fernandez	Tohlen, COT
Edwards		Huntsinger	
Leighty		Miller	
Liotta		Wilkerson	
Midget			
Perkins			
Shivel			
Stirling			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, October 15, 2012 at 10:35 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

REPORTS:

Chairman's Report:

Mr. Walker reported that he dispatched an email to Legal requesting an informal legal opinion on the order of consideration for the Pearl District question.

Director's Report:

Ms. Miller reported that staff has mapped the four areas that the Planning Commission drew on the maps at the October 3rd, 2012 work session. Staff will be meeting in the morning to generate two maps and bring it back to the Planning Commission on November 28, 2012 at a work session.

Ms. Miller reported that staff has responded back to the applicant regarding the request for amendments to the 6th Street Infill Plan. In order for staff to know how to respond to the items there needs to be more clarity and specifics of what they are requesting. The original request was general in nature and staff needs more information and is communicating with the applicant. Possibly by the November 28th work session staff will have something to bring to the Planning Commission regarding this issue.

Ms. Miller stated that staff received an appeal for Marcus Makar, Z-7210, trapeze facility located on 1918 South Boston. Once the minutes are drafted the case will be forwarded to City Council.

Ms. Miller reported on the City Council agenda.

In response to Mr. Perkins, Ms. Miller stated that he is correct that there are no procedures in place for an applicant or individual to request an amendment to the Comprehensive Plan and staff is drafting some of those issues now and drafting recommendations. Staff is working closely with Dawn Warrick, City Planning Director and trying to establish some type of procedure. Ms. Miller indicated that once these procedures are drafted it will come before the Planning Commission to work out the details. Mr. Perkins asked if staff has a timeframe they are shooting for to make recommendations or suggested procedures. Ms. Miller stated that at this point staff is waiting on a better understanding from the applicant as to what their request is. Some of the items are so general in nature that it would be hard for staff to know if it is actually an amendment to the Infill Plan, the Form-Based Code or where it falls. Staff has had enough discussions to know how we want to proceed with Comprehensive Plan amendments in a general way and believes we will be able to act on something quickly once we get some specifics.

Mr. Leighty stated that he understands that a member of the Pearl District Association had approached staff about the possibility of the Pearl District Association submitting an application to revisit the 6th Street Infill Plan and there are several issues that were contested during the Form-Based Code public hearings based on what was or what wasn't in the 6th Street Infill Plan. He understood that the Association also has issues that they would like revisited as well. Mr. Leighty indicated that he understood that the Pearl District Association was actually discouraged from doing so at this point and he is not really sure of the reason other than the fact that it was rather vague and that staff didn't know enough about the existing application at this time. Ms. Miller stated that she believes that the Pearl District Association contacted Ms. Back. Ms. Miller further stated that at this point in time, since staff is having the bigger discussion about processing amendments and since we know so little about the specifics about the Comprehensive Plan amendment that has been submitted to staff, they would want to see those specifics before this other party drafted something. Ms. Miller stated that staff didn't discourage them from doing it, or it wasn't our intent,

just not at this point in time because of other pending items. Mr. Leighty asked Ms. Miller if the existing application is of public record. Ms. Miller answered affirmatively. Mr. Leighty asked where one would find that. Ms. Miller stated that anyone can get a copy from the INCOG office. Mr. Leighty requested that the application be emailed to the Planning Commissioners. Ms. Miller agreed.

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

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-20552** (Lot-Split) (CD-9) - Location: West of the southwest corner of South Quincy Avenue and East 35th Street South
2. **LS-20553** (Lot-Split) (CD-9) - Location: West of the northwest corner of South Quincy Avenue and East 35th Place South
3. **LC-433** (Lot-Combination) (*CD-3) - Location: Southeast corner of North Rockford Avenue and East Newton Place
4. **Fire Safety Training Center Addition – Final Plat**, Location: North and east of the northeast corner of North New Haven and East Apache (0321) (CD-3)

STAFF RECOMMENDATION:

This plat consists of one lot, one block on 35 acres.

Staff has received release letters for this plat and can recommend approval of the final plat.

5. **Charles L. Hardt Maintenance and Operations Facility – Final Plat**, Location: Southeast of Intersection of North Harvard Avenue and Mohawk Boulevard (0316) (CD-3)

STAFF RECOMMENDATION:

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

Staff has received release letters for this plat and can recommend approval of the final plat.

6. **PUD-595-B-5 – LEW Land Investments LLC/Michael Joyce** – Location: Southeast corner of South 105th East Avenue and East 67th Street, Requesting a **Minor Amendment** to increase the maximum land coverage of buildings upon the site from 30% to 33%, **CO/PUD-595-B**, (CD-8)

STAFF RECOMMENDATION:

The applicant is requesting a minor amendment to increase the maximum land coverage of buildings upon the site from 30% to 33%. The original Planned Unit Development (PUD) was prepared as an overlay to (Corridor District) CO zoning which also limits the maximum land coverage to 30%.

The underlying Corridor Plan will not be changed for this site. In Section 1107.H.9 of the Zoning Code the Planning Commission is provided authority to make minor amendments for “changes in structure heights, building setbacks, yards, open spaces, *building coverage* and lot widths or frontages, provided the approved Development Plan, the approved PUD standards and the character of the development are not substantially altered.”

Staff has reviewed the original PUD and has determined that the additional 3% requested by the applicant does not substantially alter the PUD and is consistent with the spirit and intent of the PUD.

Therefore, Staff recommends **APPROVAL** of the request for additional land coverage from the original 30% to the requested 33%.

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

7. **PUD-619-C – Kinslow, Keith & Todd** – Location: West of South Memorial Avenue, near South 106th East Avenue, Requesting a **Detail Site Plan** for a Children’s Learning Center in Development Area A, (CD-8)

STAFF RECOMMENDATION:

CONCEPT STATEMENT:

The applicant is requesting approval of a detail site plan for a Children’s Learning Center in of PUD-619-C. The site has been previously platted but not developed and is also being replatted for a complete re-configuration of the original project. All uses permitted in the CS zoning district with the exception of Use Unit 12-A (Adult Entertainment Establishments) are permitted in this development area.

PERMITTED USES:

The Site Plan illustrates a new Children's Learning Center (Use Unit 5) which is permitted by right in Development Area A of PUD-619.

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. The original PUD defined or subsequent amendments have not allocated floor area quantities for each tract however the total floor area allowed is significantly greater than what has been constructed to date, the PUD allows distribution of the floor area during minor amendments and through detailed site plan approval.

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 all light fixtures in this development area was previously defined as 25'. All fixtures illustrated on the lighting plan including building lighting and parking area lighting is below the 25' height limit allowed. The photometric plan attached to this report shows zero foot candles at the property perimeter and is consistent with the lighting concept in the Planned Unit Development.

SIGNAGE:

The site plan does not illustrate sign location. 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 exceeds the minimum screening standards defined in the PUD and is located appropriately on this site.

PEDESTRIAN ACCESS AND CIRCULATION:

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 applicant’s submittal of the site plan as it relates to the approved Planned Unit Development 619-C. 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 619-C, 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; 10 members present:

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes "absent") to **APPROVE** the consent agenda Items 1 through 7 per staff recommendation.

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PUBLIC HEARINGS:

- 8. **LS-20554** (Lot-Split) (County) - Location: West of the southwest corner of North Harvard Avenue and East 100th Street North

STAFF RECOMMENDATION:

The Lot-split proposal is to split an existing RE (Residential Estate) tract into two tracts. Both of the resulting tracts will exceed the Bulk and Area Requirements of the Tulsa County Zoning Code.

One of the resulting tracts will have more than three-side lot lines as required by the *Subdivision Regulations*. The applicant is requesting a waiver of the *Subdivision Regulations* that no tract have more than three-side lot lines.

The Technical Advisory Committee met on October 4, 2012. Rural Water District # 3 is requiring that a water line extension be done to serve any future residences. The applicant is aware of this requirement and has been in contact with the Rural Water District/Rural Water District Board. Deeds will not be released until the applicant provides a release letter from the Rural Water District that service can be provided.

The proposed lot-split would not have an adverse affect on the surrounding properties and staff recommends **APPROVAL** of the waiver of *Subdivision Regulations* and of the lot-split.

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **10-0-0** (Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes "absent") to **APPROVE** the waiver of Subdivision Regulations and of the lot-split for LS-20554 per staff recommendation.

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9. **The Station at 41st Street** – Minor Subdivision Plat, Location: South of East 41st Street, west of South Sheridan Road (9327) (CD-5)

STAFF RECOMMENDATION:

This plat consists of one lot, one block, on one acre.

The following issues were discussed October 4, 2012, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned CS.
2. **Streets:** Who owns the roadway easement to the north? What are the limits of that easement (there are two dashed lines which could be the limit of the easement)? Identify all the dashed lines along the north boundary. Does right-of-way exist along the entire northern property line? If so, provide reference for right-of-way such as a plat number or book and page number. Spell out "access" at access location.

3. **Sewer:** Locate the building line at the same distance from the property line as the utility easement along the west, south, and east boundary of the plat. Along the south boundary line where the 17.5-foot perimeter easement changes direction, provide dimensions so the point can be located.
4. **Water:** Show service connections. Irrigation, domestic and a possible fire sprinkler connections permits are required to be issued for installation.
5. **Storm Drainage:** Reference to the regulatory floodplain in the lower left corner should read “panel Number 48 of the Tulsa Regulatory Floodplain Map Atlas dated May 2011” classifies the property described here on as not within a City of Tulsa regulated floodplain. Storm sewer across the north side appears to be private and therefore cannot be within the utility easement.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** PSO has a transformer in an easement where a sign for the development may be requested. There needs to be an agreement for signs or lights to be located within the easement. A ten-foot clearance is needed to work under light poles and personnel need to be certified for this work.
7. **Other: Fire:** No comment.

GIS: Add Fairfield Center Addition (west of Witt Center) to the Location Map. The Certificate of Authorization for the Engineer/Surveyor has expired. On the face of the plat label the Point of Commencement. Submit a Subdivision Control Data Form.

Staff can recommend **APPROVAL** of the minor subdivision plat with the TAC recommendations and the special and standard conditions listed below. Release letters must be received before the TMAPC meeting for this project.

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; 10 members present:

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes "absent") to **APPROVE** the minor subdivision plat for The Station at 41st Street per staff recommendation, subject to special conditions and standard conditions.

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10. **Z-4900-SP-7 – Roy D. Johnsen** - Location: Northeast corner of East 73rd Street and South Mingo Road, Requesting **Corridor Plan** to extend permitted uses to include Use Unit 17, Automotive and Allied Activities, **CO**, (CD-7)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 14040 dated February 7, 1978, established zoning for the subject property.

RELEVANT ZONING HISTORY:

Z-4900-SP-5 August 2006: The TMAPC and Staff concurred in approval of a request for rezoning a 3.2 ± acre tract of land for a Corridor Site Plan to add Use Unit 4, for a communications tower, on property located at Northeast corner of East 73rd Street and South Mingo Road and is the subject property.

Z-4900-SP-3 November 1985: All concurred in approval of a Corridor Site Plan and detail landscape plan to permit a courier/mail service with a 37,400 square foot building per conditions on property located at Northeast corner of East 73rd Street and South Mingo Road and is the subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 3.2± acres in size and is located northeast corner of East 73rd Street and South Mingo Road. The property was originally developed as a distribution facility for Federal Express but is now vacant. The entire site is zoned CO. The site has two access points on East 73rd Street South and one access on South Mingo Road.

SURROUNDING AREA: The subject property is abutted on the north by a retail strip center zoned CO and a big-box home improvement store site

which is in PUD 498-A with underlying zoning of CS and OM; on the east by multifamily residential uses, zoned CO; on the south by multifamily residential uses, zoned CO; and on the west by South Mingo Road, across which are retail uses within PUD 342 and PUD 342-A with underlying OL zoning.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates South Mingo as a Secondary Arterial without any designation as a multimodal or commuter street.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South Mingo Road	Secondary Arterial	100 feet	two
East 73rd Street	Collector	60 feet	two

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

This site is classified as an Area of Growth and included in a Regional Center in the Comprehensive Plan. As a result of the land use plan and the growth and area map classifications the proposed amendment to the corridor plan can be supported by the comprehensive plan. This site is bordered on the south by East 73rd Street which also defines the southern edge of the Regional Center in this area of Tulsa.

LAND USE CONTEXT:

Historically, land use restrictions have been included in the development of this site because to its proximity to the adjacent multifamily neighborhood across East 73rd Street South. It is important to continue the sensitive development of this established edge therefore the current Corridor Plan request has been restricted to protect the adjacent neighborhood to the south which is classified as an existing neighborhood.

One of the significant concepts of this request is to continue the previous restriction that all allowed uses be conducted within the existing enclosed building and that all materials associated with permitted uses shall be stored within an enclosed building.

STAFF RECOMMENDATION:

The existing building exterior will not be altered except for cosmetic and maintenance purposes on the existing structure. Building changes will not be allowed without corridor site plan approval or minor site plan approval as determined by the zoning code. The existing fence and gate on the north side of the property will be moved 80 feet to the east to permit more accessible entry to an existing overhead door.

Development Standards:

1. Permitted Uses:

As established by Corridor Site Plan Z-4900-SP-3 and Z-4900-SP-3-A, permitted uses are as follows:

Courier/mail service, Use Unit 11. Offices, Studios, And Support Services, Use Unit 12. Eating Establishments Other Than Drive-Ins, Use Unit 13. Convenience Goods and Services, Use Unit 14. Shopping Goods And Services, Use Unit 15. Other Trades And Services (excluding air conditioning and heating, bait shops, bottled gas, fence, fuel oil, ice plant, lumber yard, model homes, portable storage buildings/sales, plumbing shop and kennel, subject to the condition that the permitted uses shall be conducted within existing enclosed buildings and materials associated with permitted uses shall be stored within an enclosed building).

It is proposed that the permitted uses be extended to include Use Unit 17. Automotive And Allied Activities but limited to the selling of automotive parts, off-road equipment and accessories and the installation and repair thereof, and restoration and storage of classic cars, subject to the enclosure requirements above set forth.

2. Signs:

Wall signs shall be limited to location on the west building wall and shall be limited to 1 square foot of display surface area per lineal foot of the wall to which affixed.

Ground signs shall be limited to one monument sign not exceeding 100 square feet of display surface area nor exceeding 12 feet in height. The ground sign shall be placed along the Mingo Ave. frontage.

3. Existing Development Standards:

Except as modified above, the development standards previously established shall remain applicable.

With the provisions stated above, staff recommends **APPROVAL** of the requested Corridor Plan to allow some uses defined in Use Unit 17 as defined above and to further define the sign standards.

(Note: Corridor Plan approval does not constitute site plan, sign plan or landscape plan approval)

Applicant's Comments:

Roy Johnsen, 201 West 5th Street, Suite 501, 74103, stated that the subject building was constructed in 1986 specifically for Fed-X Courier Mail Service. In 2005 Fed-X left the premises and it has been vacant. His client purchased the property in 2007 and it remained vacant. There is a new use proposed that is unique. It will be for automobile parts and accessories designed for four-wheel vehicles. It will be a truck and jeep accessory super store. Mr. Johnsen indicated that this wouldn't be a car lot or a typical repair place. All activity will be occurring within a closed building. There is space in the subject building and his client would also like approval to store and restore classic cars for his own personal use.

TMAPC COMMENTS:

Mr. Dix asked if there would be any type of storage of vehicles in the process of being worked on or restored in the exterior. Mr. Johnsen stated that everything would be inside.

Mr. Perkins asked if his client plans on keeping the overhead doors closed to reduce the noise. Mr. Johnsen stated that as a practical matter they wouldn't, but they are also away from anything. The bays are inside and they are directional at the east end. There will be no impact on any affected parties, if they should leave the doors open.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **COVEY**, TMAPC voted **10-0-0** (Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes "absent") to recommend **APPROVAL** of the Corridor Plan for Z-4900-SP-7 per staff recommendation.

Legal Description for Z-4900-SP-7:

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

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- 11. **PUD-761-B – Lou Reynolds** - Location: Southeast corner of East 41st Street and South Harvard Avenue, Requesting a **Major Amendment** to permit the development of a specialty grocery store accompanied by a retail development, and a fast food restaurant with a drive-through in a separate building next to proposed grocery store, from **RS-1/OL/CS/PUD-761-A to RS-1/OL/CS/PUD-761-B**, (CD-9) (*Related to Item 12)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 22302 dated September 17, 2010, established zoning for the subject property.

RELEVANT ZONING HISTORY:

PUD-761-A September 2010: All concurred in approval of a Major Amendment to Planned Unit Development on a 6.87± acre tract of land to permit dry cleaner use on Lot 4 and amend some development standards, on property located Southeast corner of East 41st Street South and South Harvard Avenue and the subject property.

PUD-761 December 2008: All concurred in approval of a proposed Planned Unit Development a 6.87± acre tract of land for a neighborhood shopping center (Harvard Square) on property located on the southeast corner of East 41st Street and South Harvard Avenue and the subject property.

PUD-642 February 2001: All concurred in approval of a proposed Planned Unit Development on a 1.89± acre tract of land for office development on property located south of the southeast corner East 41st Street South and South Harvard Avenue and abutting south of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 4.5± acres in size and is located southeast corner of East 41st Street and South Harvard Avenue. The property appears to be partially developed and vacant, and is zoned RS-1/OL/CS/PUD-761-A.

SURROUNDING AREA: The subject tract is abutted on the east by Villa Grove a single family residential subdivision, zoned RS-1; on the north by 41st Street and then "41st Place" a commercial parcel, zoned CS/OL/RS-3/ PUD-592-C; on the south by Peachtree Square Replat L5-6 Block 1 Villa Grove Heights No. 1, zoned OL/ RS-1/PUD-642; and on the west by Harvard Avenue and then Charles Teel Addition and Quadrangle Addition, zoned CS/OL respectively.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates South Harvard Ave and East 41st Street South as multi-modal street. Provisions will be made on this site for a bus shelter on South Harvard Ave.

STREETS:

Exist. Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Harvard Avenue	Secondary Arterial	100'	4
East 41st Street South	Secondary Arterial	100'	4

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The entire PUD development has been the subject of zoning and PUD applications several years ago and was approved for commercial use. The neighborhood has been heavily involved during the re-development of this site which has resulted in significant improvements over standard screening and landscape requirements provided in the Zoning Code. Those screening and buffer requirements have been installed and will remain in place with this new expansion area. The underlying zoning will not be changed as part of this project and is still consistent with the Comprehensive Plan. Staff has historically supported the commercial development of this Neighborhood Center and continues to support that use.

The entire site is considered a Neighborhood Center and an Area of Growth in the Comprehensive Plan. The Neighborhood Center is defined by the Comprehensive Plan as “small-scale, one to three story mixed-use areas intended to serve nearby neighborhoods with retail, dining, and services. They can include apartments, condominiums, and townhouses, with small lot single family homes at the edges. These are pedestrian-oriented places served by transit, and visitors who drive can park once and walk to a number of destinations”.

While this project does not include any residential uses and all buildings are limited to single story construction, the remainder of the development aligns with the vision defined in the Comprehensive Plan. Interior pedestrian links will be provided which encourage pedestrian movement within the PUD. The transit stop on Harvard will also provide a strong transit use opportunity for future users.

The proposal in this major amendment to the PUD is supported by the Comprehensive Plan.

STAFF RECOMMENDATION:

DEVELOPMENT CONCEPT

Harvard Square South Amended has been planned as a Major Amendment to the Harvard Square development concept approved in PUD 761 to permit the development of a specialty grocery store accompanied by a retail development, in a separate building, next to such grocery store (on proposed Lot 2) and a fast food restaurant with a drive-

through (on proposed Lot 1) in the yet to be developed portion of Harvard Square South.

Harvard Square South Amended retains the prohibition against gasoline service stations which eliminates a possible convenience store use of the property and limits the hours of operation of the businesses in order to assure a compatible relationship with the nearby neighborhoods.

In addition, except for a minor amendment request for one (1) drive-through restaurant, Harvard Square South Amended retains the original exclusion on uses set forth in PUD 761-A (see Permitted Uses, page 9). Harvard Square South Amended increases the allowable building size and amends the building heights which were kept unusually low in the original Harvard Square development concept to permit a 26,000 SF specialty grocery and a separate 7,200 SF multi-tenant retail building adjoining such grocery use. Harvard Square South Amended proposes within one hundred feet (100') of the east boundary a building height exclusive of parapet not to exceed 25 FT (with up to 29 FT for unoccupied architectural features) in height and in the remainder of the Project a 32 FT (with up to 39 FT for unoccupied architectural features) height restriction applies.

The Concept Plan for Harvard Square South Amended is shown on *Exhibit "A"*, and *Exhibit "B"* is an Aerial Photograph indicating area land uses and the Harvard Square South Amended site. Mutual access easements will provide access between Harvard Square South and Harvard Square South Amended. Through such mutual access easements, the two (2) lots in Harvard Square South Amended will have access to and from East 41st Street through Harvard Square South. Additionally, through such mutual access easements, the lots within Harvard Square South will have access to and from South Harvard Avenue as well as Harvard Square South Amended. The Project does not require and/or propose any additional access points off either South Harvard Avenue or East 41st Street.

The Project will be connected to South Harvard Avenue and East 41st Street by sidewalks. Additionally, sidewalks within the Project will provide pedestrian connectivity within the Project as well as to and from Harvard Square South. Also, a public transportation transit stop is proposed along South Harvard Avenue.

The Applicant will re-plat all such remaining undeveloped land as Harvard Square South Amended (i.e., Development Area "C") into two (2) lots in order to facilitate the development of Property in accordance with PUD No. 761-B.

No zoning change is necessary to support PUD 761-B.

In order to reduce the likelihood of any ambiguity created by the proposed development, PUD 761-B divides Harvard Square South into three (3) Development Areas.

Development Area "A" has been developed as a CVS pharmacy and Development Area "B" has been developed as a Yale Cleaners. Development Area "C" will be developed as proposed herein. No changes are proposed to the development standards for Development Area "A" and Development Area "B" but PUD 761-B will allocate the Building Floor Area within Development Area "A" and Development Area "B" as provided on page 7 and page 8 below.

Development Area "A" is comprised of all of Lot 1, Block 1, HARVARD SQUARE SOUTH. Development Area "B" is comprised of the northerly 225 FT (more or less) of Lot 4, Block 1, HARVARD SQUARE SOUTH. The southerly 137 FT (more or less) of Lot 4, Block 1, HARVARD SQUARE SOUTH, is included in Development Area "C" and will be lot split from Lot 4, Block 1, HARVARD SQUARE SOUTH, and replatted as a part of HARVARD SQUARE SOUTH AMENDED.

The concept illustrated and detailed in the applicants PUD text shall be made a condition of approval and is consistent with the spirit and intent of the Code. Staff finds PUD-761-B to be: Consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site; (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code and (5) consistent with the overall guiding principles of the original PUD that was approved for the site.

Therefore, staff recommends **APPROVAL** of PUD-761-B subject to the development standards defined below:

In order to develop the project as proposed in PUD 761-B, the Applicant requests that the following development standards within Development Area "C" be amended:

DEVELOPMENT CONCEPT FOR DEVELOPMENT AREA C

MAJOR AMENDMENTS

1. Maximum Building Floor Area of any single building:
To 26,000 SF from 22,500 SF.
2. Maximum Building Height:

Within 100 FT of the east boundary: To 25 FT from 17 FT.
Unoccupied architectural features: To 29 FT from 23 FT.
Remainder of Harvard Square South Amended:
To 32 FT from 23 FT.
Unoccupied architectural features: To 39 FT from 29 FT.

MINOR AMENDMENTS

1. Permitted Uses: To permit one (1) drive-through restaurant site with lot frontage on Harvard.
2. Off-Street Parking: Off-street parking within PUD 761-B will be met, in the aggregate, based on the number of parking spaces within the project rather than on a lot by lot basis.
3. Intentionally omitted.
4. Lot-Split: Lot 4, Block 1, HARVARD SQUARE SOUTH, will be split and all of the property within PUD 761-B will be replatted as Harvard Square South Amended.
5. Site Landscaping: Instead of landscaping along the front or sides of buildings, landscaping will be installed in the parking islands in accordance with the detailed landscape plan.
6. Internal Minimum Building Setbacks: Will be reduced but the Building Setbacks for the east boundary, west boundary (i.e., centerline of South Harvard) and south boundary of the Project will **not** be changed and will remain the same as originally established in PUD 761-A.
7. Architectural Theme: The Prairie-style architecture of the commercial buildings will utilize basic geometric shapes in combination with design elements such as horizontal roof planes capped by sloping roof features, natural colors and materials. The brick veneer wainscot and pilasters provide a natural anchor and massing effect that represents strength and stability of the architecture. The basic geometric forms, when combined with the natural colors and materials, evoke the symbolism of the prairie and spirit of mid-western culture.
8. Building Materials: Although not a “development standard”, the building materials will consist of a direct-applied, texture-coated, naturally colored, paint finish over concrete tilt panel walls that will comprise approximately 70% of the building exterior complimented by brick veneer wainscot and pilasters. The parapet walls will be capped with a horizontal, crown molding cornice to emphasis the

flat-roof building forms and the sloping roof features will be capped by naturally colored standing seam metal roof material placed at the wainscot and pilasters.

**Development Area Standards as modified in PUD 761-B
(Previous standards shall remain in effect)**

Development Area “A”

Land Area:

Gross:	2.234 acres	97,295 SF
Net Land Area:	1.516 acres	66,047 SF

Maximum Building Floor Area: 17,400 SF

There are no other changes to the Development Standards for Development Area “A”.

Development Area “B”

Development Area “B”

Land Area:

Gross:	1.459 acres	63,555 SF
Net Land Area:	1.194 acres	52,000 SF

Maximum Building Floor Area: 5,000 SF

There are no other changes to the Development Standards for Development Area “B”.

Development Area “C”

Land Area:

Gross:	4.565 acres	198,855 SF
Net Land Area:	4.157 acres	181,091 SF

Permitted Uses:

Uses permitted as a matter of right in Use Units 10, Off-Street Parking; 11, Office, Studios and Support Services; 12, Eating Establishments, Other Than Drive-Ins (but permitting one (1) Drive-Through Restaurant on proposed Lot 1 only); 13, Convenience Goods and Services; 14, Shopping Goods and Services and Uses Customarily Accessory to Permitted Principal Uses,

Excluding however, the following uses:

Pawn Shops, Pay Day Loan Offices, Tobacco Stores, Tattoo Parlors, Body Piercing Parlors, Self-Serve Laundromats, More Than One (1) Drive-Through Restaurant, Apartments, Auto Alarms Installation, Auto Parts and Accessories, Auto Radio and Stereo Installation, Auto Window Tinting, Bail Bond Office, Bars, Building Materials, Dance Halls, Day Labor Hiring, Electrical Supply, Gasoline Service Station, Gunsmith, Locksmith, Massage Parlor, Multi-Family Dwellings, Nightclubs, Oil & Lubrication Service, Plumbing Fixtures, Pool Halls, Second Hand Store, Shoe Repair, Taverns, Tune-Up Service and Video Rentals.

Business Hours:

The opening of any business shall not occur before 6:00 a.m. and the businesses shall close by 11:00 p.m.

Truck Delivery Hours:

Truck delivery hours will be restricted to 7:00 a.m. to 9:00 p.m. No idling of trucks or trash dumpster service shall be allowed between the hours of 9:00 p.m. and 7:00 a.m.

Maximum Building Floor Area:

Harvard Square South Amended	37,600 SF
Lot One:	4,200 SF
Lot Two:	33,400 SF
	26,000 SF – grocery store
	7,400 SF - retail center

*The maximum gross building floor area of any single building on a lot with Harvard Square South Amended shall not exceed 26,000 FT.

Maximum Building Height:

Lot One:	29 FT
Lot Two:	
Within 100 FT of east boundary	25 FT*
Remainder of Lot Two	32 FT**

*Architectural Elements (elements extending above building roof line) up to 29 FT for unoccupied architectural features shall be subject to Detailed Site Plan approval.

**Architectural Elements (elements extending above building roof line) up to 39 FT for unoccupied architectural features shall be subject to Detailed Site Plan approval.

Off-Street Parking:

Pursuant to Section 1106., *Off-Street Parking and Loading.*, of the Tulsa Zoning Code, off-street parking on the lots in Harvard Square South Amended will be in common and when calculated in the aggregate will provide at least the minimum number of off-street parking spaces as required by the applicable Use Units of the Tulsa Zoning Code for all of the lots in Harvard Square South Amended. Provisions for the ownership and maintenance of the off-street parking will be incorporated into the subdivision plat in compliance with Sub-Section 1107.F., *Planned Unit Development Subdivision Plat.*, of the Tulsa Zoning Code.

Minimum Building Setbacks:

Lot One:

From the north boundary	10 FT
From the east boundary	10 FT
From the south boundary	10 FT

From the centerline of South Harvard Avenue	125 FT
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Lot Two:

From the north boundary	0 FT
From the east boundary	75 FT
From the south boundary	45 FT

From the centerline of South Harvard Avenue	125 FT
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For purposes of calculating the street yard, the building setback on South Harvard Avenue shall be considered to be 100 FT.

Landscape Area:

A minimum of 18% of the total net area of the Project shall be improved as internal landscape open space in accordance with the provisions of the Landscape Chapter of the Tulsa Zoning Code. The minimum landscaped area of each lot shall be established at Detailed Site Plan review.

Signs:

1. One ground sign shall be permitted on each lot with frontage on South Harvard Avenue with a maximum 60 SF of display surface area and 12 FT in height.
2. Wall signs are permitted not to exceed 1.5 SF of display surface area per lineal foot of building wall to which

attached. The length of a wall sign shall not exceed 75% of the frontage of the building. No east facing wall sign shall be permitted.

3. One monument sign at the southeast corner of South Harvard Avenue and East 41st Street South identifying businesses within the Project with a maximum height of six feet and a maximum length of 16 FT.
4. LED signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with moving parts shall be prohibited.
5. Pole signs shall be prohibited. Additionally, if any ground sign has twenty-four (24) inches or more of open space between the bottom of the sign facing the ground such open space between the bottom of the sign facing the ground shall be landscaped. The primary building materials of the monument-type ground sign structure shall be brick or stone.

Lighting:

Within the east 150 FT of the Project, light standards shall not exceed 12 FT in height; within the remainder of the Project, light standards shall not exceed 25 FT in height. All light standards including building mounted shall be hooded and directed downward and away from the boundaries of the Project. Shielding of outdoor lighting shall be designed so as to prevent the light producing element or reflector of the light fixture from being visible to a person standing at ground level in adjacent residential areas. Compliance with these standards shall be verified by application of the Kennebunkport Formula or other Illuminating Engineering Society of North America (IESNA) recommended practice which will verify compliance with the Tulsa Zoning Code lighting standards. Consideration of topography must be considered in the calculations.

Trash and Mechanical Areas:

All trash, mechanical and equipment areas (excluding utility service transformers, pedestals or other equipment provided by franchise utility providers), including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level.

Additional Development Standards:

1. No access shall be permitted to or from the Project to or from South Jamestown Avenue.
2. The principal building materials used on the front of a building shall be used on all other sides of the building, although the design and details may vary.

Minor Amendments:

In addition to the requirements outlined for Minor Amendments in Section 1107-H of the Tulsa Zoning Code, all amendments to PUD 761-B, whether major or minor, shall in addition to TMAPC approval also require City Council approval, except for the following amendments which shall continue to be treated as Minor Amendments under the Tulsa Zoning Code and require only TMAPC approval:

1. Limitation or elimination of previously approved uses provided the character of the development is not substantially altered.
2. Transfers of permitted floor area between lots; provided that no floor area of any lot shall exceed the Development Standard maximum of 33,400 SF, and, provided, further, that the maximum gross building floor area of any single building on a lot within Harvard Square South Amended shall not exceed 26,000 SF.
3. Changes in points of access provided the traffic design and capacity are not substantially altered; provided, further, that the total number of access points is not increased.
4. Changes in yards, open spaces, building coverage and lot widths or frontages, provided that the approved Development Plan, the approved PUD standards and the character of the development are not substantially altered, provided that no floor area in any lot shall exceed the Development Standard maximum of 33,400 SF, and, provided, further, that the maximum gross building floor area of any single building on a lot within Harvard Square South Amended shall not exceed 26,000 SF.
5. Lot splits which modify the recorded plat and have been reviewed and approved by the Technical Advisory Committee.

6. Modification to approved screening and landscaping plans provided the modification is not a substantial deviation from the original approved plan; provided, further, that there is no reduction in the number of trees or overall landscaping.
7. Any change in the Permitted Uses to allow more than one (1) drive-through restaurant in the PUD.

LANDSCAPING AND SCREENING CONCEPT

Development Area “C”

The Project landscaping and screening concept will comply with the requirements of the Tulsa Zoning Code for street frontage and parking area landscape and establish a 35 FT wide landscape buffer separating the Project from the existing residences on South Jamestown Avenue adjacent to the Project on the east (See “Exhibit C” – Landscape Concept).

EAST AND SOUTH BOUNDARY SCREENING:

An eight-foot high pre-cast masonry screening wall is in place along the east boundary of the Project. An eight-foot pre-cast masonry screening wall transitioning to six-foot in height is in place along the south boundary of the Project.

EAST BOUNDARY LANDSCAPING:

Much of the east boundary landscaping shown Exhibit “C” is in place today; however, three (3) trees will be added as shown on *“Exhibit C”*, Landscape Concept. Finally, as illustrated on *Exhibit “C”* a dense mix of flowering, deciduous and evergreen trees will be installed along the south boundary of the Project.

SOUTH BOUNDARY LANDSCAPING:

Where parking lots and drives are parallel to the street right-of-way, a minimum of three (3) shrubs for every ten (10) lineal feet of abutment to the right-of-way will be provided. The shrubs will be placed adjacent to and along the entire width of paving adjacent to the right-of-way, which shrubs are in addition to the required landscaping under Chapter 10 of the Tulsa Zoning Code. The shrubs will be a minimum of five (5) gallons and twenty-four (24) inches tall at the time of planting.

STREET YARD LANDSCAPING:

At least five (5) of the street yard trees along South Harvard Avenue shall be evergreen; provided, all of the trees in the street yard shall comply with the applicable PSO guidelines. These

evergreen trees shall be in addition to the ornamental trees shown on the concept illustration.

Any parking lot tree planted within five (5) of the internal boundary of a lot within PUD 761-B may be counted as one (1) tree for either lot, but not both lots; provided, that in no event shall the total number of parking lot trees within PUD 761-B be less than forty-five (45) trees.

BUILDING AND PARKING LOT LANDSCAPING:

In lieu of building landscaping, landscaping will be installed in the parking islands in Harvard Square South Amended as required in Chapter 10 of the Tulsa Zoning Code.

ACCESS AND CIRCULATION

Although designed for neighborhood shops, the Project has excellent regional access to the Broken Arrow Expressway approximately 1-½ miles to the north and from the Skelly Expressway less than 1 mile to the south.

At the intersection of East 41st Street and South Harvard Avenue, the Project is well located for neighborhood convenience over the Tulsa arterial street system.

Sidewalks will provide pedestrian access with good connectivity throughout the Project. Internally, mutual access and parking easements will provide for appropriate and convenient parking for visitors to more than one store or restaurant within Harvard Square South Amended as shown on "*Exhibit H*", Access and Circulation Plan.

ENVIRONMENTAL ANALYSIS

Development Area "C":

The Project is located south of the southeast corner of East 41st Street and South Harvard Avenue. "*Exhibit I*" indicates the Site Map Boundaries, Topography and Drainage Concept.

Topography:

The Project site dimensions and topography are shown on Exhibit "I", Topography and Drainage Concept. The 4.157 acre tract falls generally from the northeast to the south and west toward an existing underground detention facility at the southwest corner of the Project along South Harvard Avenue. The site topography rises from approximately 716 FT above mean sea level at the lowest

point about 110 FT north of the southwest corner to an elevation of 719 FT above mean sea level at the northwest corner and 722 FT above the mean sea level in the northeast corner, and 721 FT above mean sea level in the southeast corner.

Utilities:

An existing six-inch water line lies along the east side of South Harvard Avenue and connects with an existing 12-inch water line that runs along the south side of East 41st Street. A new eight-inch water line will be extended from Harvard Avenue into the westerly portion of proposed Lot 2, and then routed north and back west to Harvard Avenue to form a looped water line. Fire hydrants will be installed on this loop line for fire protection to the proposed buildings to be constructed upon proposed Lot 2.

An existing eight-inch sanitary sewer line is located along the east side of South Harvard Avenue and has sufficient depth to allow Lots 1 and 2 to be served. Another eight-inch sanitary sewer line enters the site from the east approximately 315 FT south of East 41st Street. A portion of this line will be abandoned due to conflicts with the proposed retail building.

The Existing and Proposed Utilities are shown on *Exhibit "J"*.

Other utilities, including electricity, gas, telephone and cable television are currently available for the site.

ENVIRONMENTAL ANALYSIS

Development Area "C"

Drainage:

An existing underground stormwater detention facility on Lot 2 has the capacity to detain the increased and run-off created by the Project.

Soils:

The site soils are comprised entirely of Coweta Urban Land – Eram Complex. The soil complex is characterized by shallow bedrock and a high shrink/swell potential. The strength of the soil is considered low and will need to be stabilized before parking lot and building construction begins.

Area Zoning:

The Area Zoning Map is shown on "*Exhibit L*", Zoning Map.

Development Area “C”
SITE PLAN REVIEW

No building permit shall be issued for any building within the Project until a Planned Unit Development Detailed Site Plan and Detailed Landscape Plan for that lot or parcel had been submitted to Tulsa Metropolitan Area Planning Commission and approved as being in compliance with the approved planned unit development standards

TMAPC COMMENTS:

Mr. Leighty asked how a neighbor from the neighborhood would walk to the proposed new grocery store. Mr. Wilkerson stated that part of the development standards of the original PUD was to provide a masonry fence around the entire perimeter of the project. That is not proposed to change and if one would like to walk from the neighborhood it would require going to the arterial streets and then walk to the subject property. Mr. Wilkerson explained that there is no connection allowed along the entire perimeter to the neighborhood. Mr. Wilkerson stated that there are sidewalks proposed internally and will be better addressed during the detail site plan process. Mr. Leighty stated that when this PUD was first proposed there was a case made that it would be like a mini Utica Square and there isn't much here that reminds him of Utica Square from a pedestrian circulation point. Mr. Leighty read the Comprehensive Plan, Land Use Chapter, Part 6, Urban Design Concepts and Principles. Mr. Leighty asked Mr. Wilkerson why this project has to sit so far off of Harvard. Mr. Wilkerson stated that in this particular instance the area that is in front of Sprouts has underground stormwater detention that has already been provided and installed before the new Comprehensive Plan was adopted. There is an actual physical restraint to prevent the store from moving closer to Harvard. Mr. Wilkerson reminded Mr. Leighty that all of the decisions made for the subject PUD were made prior to the adoption of the updated Comprehensive Plan. Mr. Wilkerson stated that the Comprehensive Plan does mention that a Neighborhood Center is an area where people are expected to drive to and provide pedestrian opportunity to access multiple uses within that site. From that perspective this PUD does conform to the purpose of the Neighborhood Center. Mr. Leighty stated that he understood that walkability was also to be encouraged and that was by bringing the buildings up to the street rather than pushing everything back and that it is regrettable that there is no choice here.

Harold Tohlen, Infrastructure Development Manager, Development Services, 175 East 2nd Street, City of Tulsa, stated that the subject site has underground detention. It was in an area where there were some flooding structures downstream and therefore, the City of Tulsa would not have authorized fees-in-lieu. It would have to be either above ground or

underground and the development opted to place it underground to allow for parking to be there.

Mr. Walker informed Mr. Reynolds that a new letter was received this morning from the property owner to the south. Mr. Reynolds stated that he didn't see the letter, but there is no need for a continuance, he has met with the neighbors before filing the subject application. There has been some discussion with various members since the filing and he believes that there are some things addressed, but of course not everyone is going to be in agreement. Mr. Reynolds stated that he did learn of the request from the property owner to the south and has agreed to amend the sign standards and not have a sign on the south wall of the building on Lot 2.

Applicant's Comments:

Lou Reynolds, 2727 East 21st Street, Suite 200, 74114, stated that the purpose of this PUD is to permit a Sprout Specialty Grocery Store and to allow a drive-through window on a restaurant use, which the restaurant use has already been permitted.

Mr. Reynolds submitted photographs of the subject site (Exhibit A-8). He explained that one of the original negotiations with the neighbors in the original PUD was no access from the east. The landscaping has been in place for two years and there is an eight-foot wall. Some of the trees exceed 20 feet in height, which is what was wanted.

TMAPC COMMENTS:

Mr. Leighty asked if there would be a sidewalk along the fence line. Mr. Reynolds stated that there will be a sidewalk added inside the landscaped area. Mr. Reynolds demonstrated the location of the sidewalks and how they will tie in to 41st Street and Harvard or to the various stores.

Mr. Reynolds discussed the building heights and setbacks. Mr. Reynolds explained that his client has adjusted one of the building heights from 29 feet of building height to 27 feet and the other building was adjusted from 26 feet to 24 feet. Mr. Reynolds explained that his client is trying to fit this proposal in and not disturb the neighbors.

Mr. Reynolds stated that restaurant use is allowed and his client is requesting a drive-through window. Mr. Reynolds described the parking for both uses as being on one lot and described the landscaping. He further described the building materials proposed. Mr. Reynolds stated that none of this will be visible from someone's house.

Mr. Reynolds stated that there will be a compactor/trash container, which will be located behind and tucked into the building. The trash container is

water proof and air tight. There will be no odors and the reason for using a trash compactor is to reduce the amount of trips it takes to empty it.

Mr. Reynolds submitted and explained his amendments for the subject property.

TMAPC COMMENTS:

Mr. Midget asked Mr. Reynolds what type of restaurant this would be with the pickup window. Mr. Reynolds stated that it could be a McDonald's but it can't be a Sonic. This could be a drive-through restaurant or a restaurant with a pickup window. Mr. Reynolds described the proposal as a restaurant with a drive-through window like McDonald's or Arby's. The restaurant site is 350 feet from the property line and behind a retail building, 35 feet of landscaping and eight feet of masonry wall. This will not be in anyone's back yard.

Mr. Midget asked Mr. Reynolds about the noise from the trash compactor. Mr. Reynolds stated that it doesn't make a lot of noise. Mr. Reynolds explained that he has another customer with the same trash compactor and there haven't been any noise complaints from the neighbors.

Mr. Leighty asked Mr. Reynolds if it is correct that the neighborhood didn't want any penetrations through the neighborhood from the east side. Mr. Reynolds answered affirmatively. Mr. Leighty asked if there was a proposal in the beginning to have a connection to the neighborhood. Mr. Reynolds stated that Mr. Manly owned a residential lot that backed up to the subject project. Mr. Reynolds stated that by the time he became involved with the PUD the negotiation regarding the connectivity had been done and agreed to. Mr. Reynolds further stated that it is his understanding that the neighbors didn't want any access into the neighborhood. Mr. Leighty asked if the developers would have preferred some connectivity with the neighborhood. Mr. Reynolds stated that he can't speak to that because it wasn't involved in it at that time. Mr. Reynolds commented that he believes that it is fine the way it is. Mr. Reynolds explained that the connectivity would go through a lot that Mr. Manly recently sold to a lady that has built a brand new home. Mr. Reynolds stated that he can't speak for the homeowner, but he wouldn't want people crossing his yard to connect to the shopping center.

INTERESTED PARTIES COMMENTS:

David Roberson, 4137 South Harvard, Suite E, 74135, stated that he also homes a home that fronts Jamestown. Mr. Roberson further stated that originally he worked with Mr. Charles Norman when this came through and were able to make some changes with the landscaping buffer and some other items. Mr. Roberson indicated that he and his partners are developers and are pro development for the subject site. Mr.

Roberson stated that he didn't get notice of the hearing for today and that is why he is requesting a continuance. He first heard about this on October 16, 2012. The height being raised ten feet is not a minor amendment in his opinion. Mr. Roberson had several concerns with the height. Mr. Roberson stated that he doesn't want the marketability of his site to be diminished by having a bland looking side of a building towering over his lots. Mr. Roberson expressed concerns about the decimal level of the drive-through window. Mr. Roberson submitted a letter requesting a continuance (Exhibit A-3 along with a 2008 landscaping detail plan). Mr. Roberson was concerned about the signage, height of buildings, and landscaping.

Mr. Walker asked Mr. Roberson if there is anything specifically that the developer could do to satisfy his concerns. Mr. Roberson stated that the signage issue has been met, but he is concerned about the landscaping package because there is a significant difference between the existing and what is denoted on the renderings.

Mr. Leighty asked Mr. Roberson if a two-week continuance satisfy him. In response, Mr. Roberson stated that with the signage and the assurance that the landscaping will be the same as denoted in the renderings that he has been provided he would be happy with what is done. Mr. Leighty asked Mr. Roberson if he is retracting his request for a continuance. Mr. Roberson stated that he would retract the continuance request.

Mr. Dix asked Mr. Roberson if he is not concerned about the usability of his property, but is concerned about the sale ability of his property. Mr. Roberson stated that he is concerned about the height of the building and that is his primary concern. Mr. Roberson further stated that it has to do with the marketability of his property for lease or sale.

Mr. Perkins stated that Mr. Roberson is appraising a piece of his property and he will be abstaining from the discussion and vote.

Kay Claxton, 4122 South Jamestown, 74135, stated that she is directly behind the eight-foot wall. Ms. Claxton explained that when the original project was approached Mr. Norman came to her home with Mr. Manly to discuss the project. The main concern the neighbors had was an empty lot adjacent to the subject site would be used for traffic and for construction. The neighbors requested a no pass through at that time.

Mr. Leighty asked Ms. Claxton about connectivity from the neighborhood to the subject site. Ms. Claxton stated that the neighborhood didn't want the project and there were a lot of negotiations during the proposal. Ms. Claxton explained that she agreed to the neighborhood consensus, but she has some serious concerns with the subject development. When Yale

Cleaners was approved Mr. Midget mentioned that it was the second drive-through allowed. Ms. Claxton indicated that she has issues with the existing landscaping. There is a dead tree in the existing landscaping and the trash pickup for Yale Cleaners was about 4:30 a.m. and she has reported these issues and has never heard back. Ms. Claxton expressed concerns with the loading dock and dumpster backing up to the residences. Couldn't they turn the building to where it faces 41st Street and not have semi-trailers driving behind her property. Ms. Claxton stated that when she purchased her property in 1988 she was surrounded by residential properties. There were a lot of conditions placed on the PUD and she doesn't feel that the neighbors should have to absorb their changes after renegotiating for months. The applicant knew up front what the requirements were.

Michael Claxton, 4122 South Jamestown, 74135, stated that the trash bin area for Yale Cleaners is located right behind his swimming pool and his bedroom as well. That is why he knows what time the trash collection is occurring. In respect to access, there was access available and as far as he is concerned it was never stated that there couldn't be access from the neighborhood area. Mr. Claxton stated that the neighbors didn't want drive-through access. Mr. Manley could have utilized his property for pedestrian access. Mr. Claxton stated that the neighbors worked very hard to get an acceptable PUD with limitations, which included no fast food restaurants.

Nick Probst, 4144 East 34th Street, 74135, stated that he lives near Whiteside Park and spend a lot of time there in the evening with his daughter. Mr. Probst indicated that he offices at 3150 East 41st Street. This is a welcome development to those who live in the community with young families. He commented that he is anxious to have more opportunities to get more organic food in the neighborhood. This has been a long time in coming and a high demand use for this community. He explained that he took time off from work today because he was shocked that there had been so much delay in this project. This is something that is wanted and excited to see Sprouts is coming to Tulsa. He is surprised that the delays are caused by a few people whose property values will no doubt increase by this development because of the added amenities in the subject area. He commented that his wife is not interested in walking to the subject site because she has a three-year old she would be bringing with an infant in a stroller. He explained that his wife would need a close parking space and easy access to pull in her vehicle for the grocery store. The store will provide a welcomed, discounted organic product to the family. When a mother is out running her errands or volunteering a fast-food restaurant is a welcomed amenity to the subject area. The mother doesn't have to get out and get her kids out, but simply go through the drive-through. Mr. Probst stated that he is connected to the young families

in the subject area and they are very excited about this market and are tired of the delay.

Mr. Leighty stated that the Planning Commission is not suggesting lessening the amount of automobile traffic that might be accessing this site. Mr. Leighty further stated that the City of Tulsa has a new Comprehensive Plan and it encourages walkability and encourages mixed-use development, higher densities and that leaves options for people. While it may not be convenient for young mothers with children to walk to grocery stores, there are people that would like to take advantage of a pedestrian friendly realm. Mr. Probst stated that he does applaud the developer's efforts to make this as walkable as they have.

Steve Novick, 3843 South Florence Place, 74105, stated that he is the President of the Ranch Acres Home Owner's Association and came to speak on behalf of the neighborhood. He further stated that he would like to follow up on something Mr. Leighty stated earlier with regard to the misrepresentation that the subject property would be developed along the lines of a miniature Utica Square at first. Mr. Novick commented that the subject project was never designed to be walkable and it was never designed to look anything like Utica Square. It was designed to look like a 1960's shopping area and that is precisely what it is. The subject site is half developed and the direction will not be changed at this point. The objective during the negotiations was to be an urban shopping center and to make it a nice looking suburban shopping center. The subject site was promoted with greater landscaping and a certain type of building materials. The applicant today is proposing a different type of building material and it is stating that it isn't stucco, but it is because it is concrete slabs. In 2008, Mr. Reynolds promised that the subject development would require brick veneer for every building and now they are trying to change that promise. Mr. Novick requested that the Planning Commission not allow this to happen. Mr. Novick stated that PUDs bring a unified concept and it would make the development look better if the entire development has buildings with brick veneer.

Mr. Novick stated that he would like to address the drive-through restaurant proposal. There are two kinds of restaurants that involve automobiles under the City of Tulsa Zoning Code. There is the drive-in restaurant and then there is the drive-through restaurant. Sonic is a drive-in restaurant, one drives in and sits in their car to eat their food. The McDonald's, Arby's, Hardees's, etc. are drive-through restaurants and all are referred to as being a fast-food drive-through restaurant. Mr. Novick requested the Planning Commission to deny the requested minor amendment for a fast-food drive-through restaurant on the subject site. Mr. Novick listed the following reasons for denying a fast-food drive-through restaurant: 1) invitation to an intensity of use that is too high for

the subject site; 2) traffic situation is a prescription for grid lock with cars turning into the fast-food restaurant off of Harvard and turning left across two lanes of traffic and then the vehicle would have to turn right and go immediately around the building. The drive-through will backup and it will backup right into the street. Mr. Novick stated that he believes that a drive-through restaurant at the subject site cheapens the entire project. Mr. Novick described the existing businesses as having a few cars during the day and he hopes that the proposed grocery store is successful, but a drive-through restaurant will bring too many cars onto the subject site. The fast-food drive-through restaurant will be a mecca for childhood obesity and will be located between Patrick Henry Elementary and Edison High School within walking distance.

Michael Joyce, 3521 South Columbia Place, 74114, stated that he and members of his family all own no fewer than ten residences in the subject area. Mr. Joyce further stated that he and his family totally support this project and applaud this project. He indicated that he has talked with many of his neighbors and they are in support of this project. Mr. Joyce stated that he was unaware of a Home Owners Association in Ranch Acres where his mother lives. He commented that there has been a Ranch Acres Garden Club for years and they totally support this proposal. Mr. Joyce stated that he use to purchase Christmas Trees on the subject property and was sad to see it go, but was glad to see what is happening on the subject property today. Tulsa needs to promote growth, development and redevelopment. This is a welcomed development for the entire area. If there isn't positive growth and positive development in the subject area then people will pass us by. Mr. Joyce stated that he is thrilled that Sprouts wants to come in and he is thrilled with a drive-through restaurant. Mr. Joyce expressed disappointment with the rest of the neighborhood around the subject site. He cited various businesses in the subject area that an eyesore. Mr. Joyce referred to the neighborhoods declining and crime coming into the subject area. Mr. Joyce stated that he mentioned to Mr. Wilkerson that the Comprehensive Plan needs to be amended so that areas like this can be addressed and keep them from decaying and promote development like we are seeing at 41st and Harvard.

Mr. Midget asked Mr. Joyce to point out where he lives and where his relatives live in the subject area. Mr. Joyce stated that there is a lot of crime in the 36th Street and 38th Street areas. Mr. Joyce further stated that the neighborhood is in decline in these areas and positive development is needed in the area. Mr. Joyce commented that if Tulsa doesn't adopt a pro-development attitude, then Bixby, Owasso, Broken Arrow, and other surrounding communities will continue to grow.

Mr. Leighty asked Mr. Joyce if he has any personal business or professional relationship with the developers or the owners of the property. Mr. Joyce stated that he does, but not on the subject project.

Elizabeth Alpert, 4130 South Jamestown, 74135, stated that her property was formerly owned by the Manly family. She further stated that a big box store project does not create a Utica Square environment. Ms. Alpert indicated that Sprouts has built all over the United States and all sorts of configurations and sizes so there is flexibility. Ms. Alpert stated that there is an empty Homeland at 33rd and Harvard and she would hope the Planning Commission would take that into consideration when thinking through means of development. The big box stores do not allow parking right up to the sidewalk like they do in Utica Square. Ms. Alpert indicated that she likes the comments made by Mr. Novick and finds the fast restaurant the paradox of a healthy environment. Ms. Alpert stated that she had 60 neighbors at her house for a meeting and they were not in favor of the proposal. Ms. Alpert further stated that she agrees with a Sprouts store coming, but she doesn't agree with the height, landscaping or the configuration and she doesn't agree with the fast food restaurant. Ms. Alpert requested the Planning Commission reject this proposed amendment. Ms. Alpert indicated that she would be amenable to allowing a sidewalk path to the neighborhood and using part of her land, but only if this plan is rejected. The buildings need to be smaller, brick and configured differently.

Toni Graber, 4562 South Jamestown, 74135, Vice President of the Patrick Henry Neighborhood Association, stated that Mr. Novick and several others have done a good job of expressing the feelings of the neighborhood. Ms. Graber stated that she is submitting a poll results (Exhibit A-2). She explained that the neighborhood is not specifically against the Sprouts, but there needs to be some changes. There is an overwhelming disapproval of the fast food restaurant. Ms. Graber stated that she was told by the developer's representative that it is to be a McDonalds. Ms. Graber commented that there has been gang activity around the 31st Street area and McDonalds are known for pulling in undesirables. The reason for not wanting the cut through into the neighborhood was to prevent undesirables from being able to cut through and the neighbors would prefer to walk around to enter the site. McDonalds would bring a tremendous amount of traffic. Utica Square doesn't have a McDonalds, but it does have a pharmacy and dry cleaners. Originally the neighbors were told that the drive-through would be for a sit down restaurant with a drive-through window. The neighbors specifically asked that no fast food restaurants be included in any PUD at anytime. Ms. Graber stated that she asked the developer to have another lane of parking in the back of the building and allow for more landscaping to make it more desirable. This would buffer the neighbors that are East of Sprouts.

Sarah Kobos, 3709 East 43rd Street, 74135, stated that she can see the roof top of CVS Pharmacy and the side of Yale Cleaners from her side yard. Ms. Kobos presented a modification of the proposal and reconfiguration (Exhibit A-6). Ms. Kobos requested that the applicant's proposal be rejected.

Archie Ratzleff, 4317 South Jamestown, 74135, stated that he has lived in the subject area for 48 years and has seen many changes. He further stated that the Planning Commission needs to listen to the neighbors.

Applicant's Rebuttal:

Mr. Reynolds stated that the building is not being pushed back any further, the building line is 75 feet and has always been agreed to. The proposed building is almost 100 feet from the property line and it is pushed back more than it is required to be. Mr. Reynolds further stated that his client set the building back, built a buffer, built an eight-foot fence knowing that something like this would happen. Mr. Reynolds commented that the intent was to buffer the neighborhood from the development and he believes that this was greatly succeeded. Mr. Reynolds stated that the eye level is at 5' 6" and it is measured at what someone would see if they looked up five degrees. It is unusual for people to walk around looking higher than five degrees. Mr. Reynolds stated that if one looks up past the eight-foot wall they will see a minor portion of the parapet wall, which is decorative. The PUD architectural theme calls for brick, cast and natural stone, stucco, horizontal bands of glass, etc. Mr. Reynolds stated that there has never been an all brick veneer in this PUD. Brick veneer is an acceptable use for a small building like the Yale Cleaners with 4,500 square feet.

Mr. Reynolds stated that during the negotiations with the neighbors for the original PUD, it was agreed that one fast-food with a drive-through window could be approved by minor amendment, but more than one would be a major amendment.

Mr. Reynolds requested the Planning Commission to approve PUD-761-B as submitted.

TMAPC COMMENTS:

Mr. Covey asked Mr. Reynolds if he could name what fast-food restaurant is going in. Mr. Reynolds stated that his client has had negotiations with several, McDonald's, Arby's, etc. There no specific tenant at this time. Mr. Reynolds reminded the Planning Commission that there are hours of operation restrictions in this PUD, which are as follows: the hours of operation can't go past the hours of 11:00 p.m. and can't start earlier than 6:00 a.m.

Mr. Midget asked Mr. Reynolds if the building line being set back 100 feet include the loading dock. Mr. Reynolds stated that the loading dock is at 75 feet and it will be about 25 feet wide and goes back to the back of the building, which is 99 feet. Mr. Reynolds further stated that the loading dock building line is at 75 feet and that is what was agreed upon during the original PUD and he isn't asking for an adjustment.

Mr. Walker recognized Ms. Claxton.

Ms. Claxton stated that the hours of operation for the PUD, except for CVS, is 7:00 a.m. to 11:00 p.m. for delivery times.

Mr. Dix stated that in his mind a deal is a deal and he was okay when Yale Cleaners came in and wanted a drive-through because it is a non-offensive. CVS Pharmacy's drive-through is also non-offensive. Mr. Dix stated that he is struggling with the fast-food restaurant with a drive-through. Mr. Dix expressed issues with the materials of the proposed building. Mr. Dix stated that he agrees with Mr. Novick that the building should be brick, like all of the other buildings.

Mr. Midget stated that he is not supportive of the fast-food restaurant with the drive-through. He also expressed concerns with the loading dock's location. Mr. Midget stated that he is concerned about the containers being so close to residential areas.

Mr. Edwards asked the neighbors that had the meeting with 60 residences present if they contacted Mr. Reynolds about the meeting. In response, a female voice stated that there was a meeting prior to that with Mr. Reynolds and the developer. She indicated that they agreed to have the neighborhood meeting after the meeting with Mr. Reynolds to discuss the issues and plan of action. Mr. Edwards asked if Mr. Reynolds was contacted after the neighbors had their meeting and inform him of their concerns. In response, Ms. Graber stated that after the meeting, Mr. Novick and the developer agreed to meet and go over all of the concerns. Ms. Graber asked that there be no fast food and move the building forward 16 feet to have a larger buffer. Ms. Graber indicated that she was told that without a McDonald's there would be no Sprouts. Mr. Edwards asked Ms. Graber if the poll is the results from her meeting. Ms. Graber stated that it is the result of sending out an email and their responses. Mr. Edwards asked Mr. Reynolds if he has seen the results. Ms. Graber stated that he hasn't seen them. Mr. Edwards stated that to him that is problematic, because he thinks that a great deal of time was put into this and if Mr. Reynolds hasn't had an opportunity to see this and make some evaluation of this. Mr. Edwards further stated that if Mr. Reynolds needs to see this, then he should consider delaying this application. Mr. Edwards

commented that this concerns him that this would be given to Mr. Reynolds and not act upon it. Mr. Reynolds stated that he hasn't seen it and wasn't aware that it was going to be done.

Mr. Walker asked Mr. Reynolds if the elimination of the fast-food restaurant would cause this developer to walk away. Mr. Reynolds stated that he would like some time to review the neighborhood poll. Mr. Reynolds stated that the fast-food restaurant is important to the developers. Mr. Walker asked Mr. Reynolds if it would be possible to have 100 percent brick on the Sprouts development.

Pete Shimkus, Vice President of Armstrong Development, 2121 West Chandler Boulevard, Chandler, Arizona, 85224, stated that he understands that the building materials are a concern and would be willing to address it. The exhibit that Mr. Reynolds submitted was a departure from the previous submittal and that was to make it look better. Mr. Shimkus stated that he is not opposed to reviewing this concern and doing something differently.

Mr. Leighty asked Mr. Shimkus about moving the store and why it wouldn't be possible. Mr. Shimkus stated that just like the poll results, this is the first time we have seen a proposal regarding the location of the building. He further stated that he is looking at this project from a neighborhood and practicality standpoint with a specialty grocer who wants to be successful for a long term in the community. The comment that Sprouts goes into all different types of buildings throughout different communities may be a true statement partially. In some of these choices Sprouts chose to move into existing buildings and this isn't the case for the subject property. This is an opportunity in a brand new market to be successful. Sprouts has a great building and a great product that they would like to bring into the community. To do this Sprouts has a certain model that they know is successful and that model includes a parking design that people feel comfortable with. It is in a more conventional building orientation that one would see in neighborhood uses. Mr. Leighty asked Mr. Shimkus if he means a more traditional suburban style development. Mr. Shimkus stated that he would say that it would be more conventional in fitting in a neighborhood use. Mr. Shimkus explained that he doesn't know how to distinguish the difference between neighborhood and suburban style. Mr. Leighty stated that we might see it at 101st and South Tulsa. Mr. Leighty further stated that this is a prize mid-town location in the middle of a residential area. Mr. Leighty commented that he worked on the subject site 50 years ago selling Christmas Trees. Mr. Leighty stated that Mr. Manly held onto this property for 50 years and now there is an opportunity to do something really special here and he believes that the opportunity has been missed. Mr. Leighty asked Mr. Shimkus to explain why he can't be more creative and be more in line with the Comprehensive Plan. Mr.

Leighty read from the Comprehensive Plan. Mr. Shimkus stated that Sprouts is trying to be successful long term in a brand new market and they feel that this is the most successful orientation for them. Mr. Shimkus further stated that he doesn't feel that it is out of line with the existing uses that are currently there. Mr. Shimkus commented that CVS is not in a streetscape setting on Harvard. Mr. Shimkus stated that if one looks at the development as a whole, as it was proposed, he feels that it fits together well and the uses are oriented similarly and is cohesive.

Mr. Walker informed Mr. Leighty that they are unwilling to change their model, it has been engineered, it has been drawn and it is what works for Sprouts. Mr. Walker stated that he knows it is a philosophical difference, but one has to understand where the developer is coming from. Mr. Walker further stated that he knows Mr. Leighty doesn't agree with it, but that is where they are coming from.

Mr. Covey stated that the neighbors voted down the drive-through, they don't want the materials changed, they like the brick veneer and they didn't like the changes to the landscaping. This is going strictly on the majority vote of the 60 plus neighbors. Mr. Covey further stated everything has been discussed except the landscaping. Mr. Reynolds stated that he would have to read it to understand, but his client would certainly look at the landscaping. Mr. Reynolds commented that he had never heard anyone complain about the landscaping and everyone he spoke with liked it the way it was, but obviously his client could consider it. Mr. Covey asked Mr. Reynolds where his client would be if it comes down to the fast food restaurant and is it true that there is a contingency on McDonald's coming in. Mr. Reynolds stated that it is true. Mr. Covey asked Mr. Reynolds if there is no fast food restaurant, then there would be no Sprouts. Mr. Reynolds answered affirmatively. Mr. Covey commented that he finds it interesting that there is a health food store that is requiring a fast food restaurant. Mr. Reynolds stated that it isn't an odd mix and there are more around town. Mr. Reynolds cited the various health food stores that have fast food restaurants nearby. Mr. Covey asked if Sprouts has a contract for a fast food restaurant at this time. Mr. Reynolds stated that they do not have a contract at this time. Mr. Covey asked if there is a time limit. Mr. Shimkus stated that the statement was made earlier by Ms. Graber that this is a McDonald's deal and there is not deal cut with McDonald's and he can't state that they are the end-user. Mr. Shimkus stated it isn't determined that it will be a fast food restaurant. Mr. Shimkus further stated that it would be a clearer statement on his part would be that Sprouts needs a use there and a restaurant is allowed on the out-parcel. Mr. Shimkus explained that he is requesting a minor amendment for flexibility to have a drive-through as well, but he doesn't know what the user is at this time. Mr. Shimkus stated that from Sprouts standpoint, economically to make the entire development feasible, it is evaluated that

another user is needed and he wouldn't state it that it has to be McDonald's.

Mr. Covey asked Mr. Shimkus if there is a time limit on this, if the Planning Commission approves this today and there is no restaurant under contract will Sprouts not build. Mr. Shimkus stated that Sprouts doesn't have the restaurant or fast food user, or retail user for the out-parcel, but based upon who Sprouts has spoken to there are users who want to be there and they want to be in this community in a very short order. Mr. Shimkus indicated that Sprouts would like to be opened by 2013 and they do believe that it is reasonable to think it will be a restaurant. Mr. Shimkus stated his company is the landlord and developer for Sprouts and for the deal to work in its entirety is to have an out-parcel use, but it is not contingent upon that.

Mr. Midget stated that he can support the applicant, but he can't support a fast food restaurant. Mr. Midget further stated that he understands the desire to move that parcel to make the project work. Mr. Midget commented that the Planning Commission owes it to the neighborhood to honor what was originally agreed upon. Mr. Midget stated that he is sure that Sprouts would want to be a good neighbor for the longevity. The neighborhood agreed to no fast food and they meant McDonald's, Wendy's, etc.

Mr. Shimkus stated that given the fact that they weren't given the opportunity to review the poll results, it would make sense to request a continuance to respond and address any future concerns.

Mr. Walker recognized Ms. Graber.

Ms. Graber stated that all of the topics in the poll were discussed at the meeting with Mr. Reynolds, the developer and the realtor. There were 30 people at the initial meeting at Whiteside Park. Ms. Graber stated that they weren't trying to withhold any information or concerns because it was discussed at the meeting.

Mr. Midget asked Ms. Graber if she is opposed to the continuance. Ms. Graber stated that she thought a continuance is a great idea.

Mr. Edwards moved to continue PUD-761-B.

TMAPC Action; 10 members present:

On **MOTION** of **EDWARDS**, TMAPC voted **9-0-1** (Covey, Dix, Edwards, Leighty, Liotta, Midget, Shivel, Stirling, Walker "aye"; no "nays"; Perkins, "abstaining"; Carnes "absent") to **CONTINUE** the major amendment for PUD-761-B to November 7, 2012.

- 12. **Harvard Square South Amended – Preliminary Plat**, Location: South of Southeast corner of East 41st Street South and South Harvard Avenue (9328) (CD-9) (*Related to Item 11)

TMAPC Action; 10 members present:

On **MOTION** of **MIDGET**, TMAPC voted **9-0-1** (Covey, Dix, Edwards, Leighty, Liotta, Midget, Shivel, Stirling, Walker "aye"; no "nays"; Perkins, "abstaining"; Carnes "absent") to **CONTINUE** the preliminary plat for Harvard Square South Amended to November 7, 2012.

OTHER BUSINESS:

Commissioners' Comments

None.

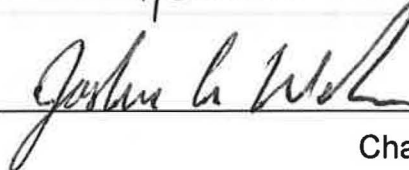
TMAPC Action; 10 members present:

On **MOTION** of **COVEY**, TMAPC voted **10-0-0** (Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes "absent") to **ADJOURN** TMAPC meeting No.

There being no further business, the Chair declared the meeting adjourned at 3:55 p.m.

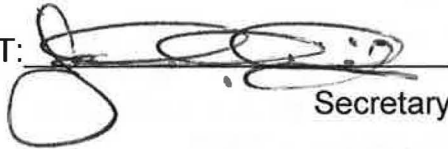
Date Approved:

11/28/12



Chairman

ATTEST:



Secretary