

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2638

Wednesday, November 28, 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	
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 Wednesday, November 21, 2012 at 4:20 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

REPORTS:

Zoning Code Update Report:

Kurt Bishop, Duncan Associates, Project Manager for the Zoning Code Update Project. Mr. Bishop presented a PowerPoint Presentation. Mr. Bishop introduced Mr. Jim Duncan, of Duncan Associates. Mr. Bishop indicated that there will be regular check-ins and status updates with the Planning Commission.

Mr. Shivel stated that he is pleased to have Mr. Bishop aboard. Mr. Shivel stated that the visibility is very important.

Director's Report:

Ms. Miller reported on the TMAPC Receipts for the month of October 2012. Ms. Miller further reported that the main difference, from last month and a year ago in October it seems that the applications and numbers for PUDs and plan reviews are down. Other numbers remain consistent.

Ms. Miller reported on the BOCC and City Council agendas.

* * * * *

Minutes:

Approval of the minutes of October 17, 2012 Meeting No. 2636

On **MOTION** of **SHIVEL** the 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 minutes of the meeting of October 17, 2012, Meeting No. 2636.

* * * * *

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.

- 2. **LC-438** (Lot-Combination) (CD-8) - Location: Southwest corner of East 67th Street South and South 105th East Avenue
- 3. **LC-439** (Lot-Combination) (CD-8) - Location: South 101st East Avenue and East 67th Street South
- 4. **LC-440** (Lot-Combination) (CD-9) - Location: West of the northwest corner of East 31st Street South and South Sandusky Avenue
- 5. **LC-441** (Lot-Combination) (County) - Location: East of the southeast corner of West 41st Street South and South 69th West Avenue
- 6. **LC-442** (Lot-Combination) (CD-4) - Location: East of the southeast corner of East 15th Street South and South Victor Avenue
- 7. **LS-20520** (Lot-Split) (CD-8) - Location: North of the northwest corner of East 91st Street South and South Garnett Road

8. **LS-20521** (Lot-Split) (CD-8) - Location: Northwest corner of East 91st Street South and South Garnett Road
9. **LC-404** (Lot-Combination) (CD-8) - Location: Northwest corner of East 91st Street South and South Garnett Road
10. **LC-405** (Lot-Combination) (CD-8) - Location: North of the northeast corner of East 91st Street South and US Highway 169 (related to LS-20520 and LS-20521)
11. **Change of Access –** PUD-766, Lot 7, Block 1, 51 Yale Addition, Location: North of 51st Street, west of South Yale Avenue

STAFF RECOMMENDATION:

This application is made to allow a change of access to add an access along South Yale Avenue. The property is zoned PUD-766 (CH underlying zoning).

The Traffic Engineer has reviewed and approved the request. Staff recommends **APPROVAL** of the change of access as submitted.

12. **PUD-747-A-2 – 89th & Yale Properties, LLC**, Location: North of the northeast corner of the intersection of East 91st Street South and South Yale Avenue, Requesting a **Minor Amendment** requesting additional display surface area for wall signs and a clarification for a monument sign, **CS/PUD-747-A**, (CD-8)

STAFF RECOMMENDATION:

“Tuscana on Yale” is a 6.53 acre tract that was originally approved for a multi use Planned Unit Development including commercial and office development in 2009. This minor amendment is limited to Lots 1 and 2 all contained in Development Area B in the Planned Unit Development. The amendment request is limited to the signage section of the Planned Unit Development:

The proposed signage request is as follows:

Lot 1:

Signs shall be limited to one monument sign, not exceeding eight feet in height or 48 feet of display surface area and wall or canopy signs not exceeding one and one-half (1-1/2) square feet of display surface area per lineal foot of the main building wall to which affixed, provided however, the aggregate length of wall signs shall not exceed 75% of the wall or canopy to which affixed.

Lot 2:

Signs shall be limited to wall or canopy signs not exceeding one and one-half (1-1/2) square feet of display surface area per lineal foot of the main building wall to which affixed, provided however, the aggregate length of wall signs shall not exceed 75% of the wall or canopy to which affixed; and one monument sign, not exceeding eight feet in height nor 64 feet of display surface area, provided however that an additional monument sign identifying the development and/or the uses within Lots 3,4,5,6 and/or 7 may be located along the South Yale Avenue frontage within the north 70 feet of Lot 2 (the Project Business Sign as defined in PUD 747-A).

In staff's opinion this signage request does not substantially alter the original PUD; therefore staff recommends **APPROVAL** of the request outlined above.

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

- 13. **PUD-759-6 – Crestwood at the River, LLC**, Location: West of the northwest corner of the intersection of East 121st Street South at South Yale Avenue, Requesting a **Minor Amendment** for reallocation of floor area, modify the parking ratio required for General Office Space, modify the parking ratio required for Medical Office Space, and decrease north building line on Tract 1-D from the current 35 feet to 32.5 feet, **CS/RS-3/PUD-759**, (CD-7) (Pulled from the Consent Agenda)

Mr. Perkins requested that Item 13 be pulled from the consent agenda.

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 2 through 12 per staff recommendation.

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:

- 13. **PUD-759-6 – Crestwood at the River, LLC**, Location: West of the northwest corner of the intersection of East 121st Street South at South

Yale Avenue, Requesting a **Minor Amendment** for reallocation of floor area, modify the parking ratio required for General Office Space, modify the parking ratio required for Medical Office Space, and decrease north building line on Tract 1-D from the current 35 feet to 32.5 feet, **CS/RS-3/PUD-759**, (CD-7)

STAFF RECOMMENDATION:

“Crestwood Village” is a 6.53 acre tract that was originally approved for a multi use Planned Unit Development including commercial and office development in 2009. This minor amendment is limited to Tract 1-D which is part of Lot 1, Block 1 all inside Development Area B in the Planned Unit Development.

The amendment request is in response to a lot split and covers several items as listed below:

- 1) **Reallocation of floor area:** The floor area re-allocation does not modify the total floor area allowed in Development Area B:
 - Add floor area to Tract 1-D (.3787 ac) from current 5300 square feet to 7300 square feet.
 - Reduce the allowed floor area in Tract 1-C from 28,750 square feet to 26,750 square feet.
- 2) ***Modify the parking ratio required for GENERAL OFFICE SPACE:***
FROM: 1 required parking space for each 300 square feet
TO: 1 required parking space for each 400 square feet
- 2.a) ***Modify the parking ratio required for MEDICAL OFFICE SPACE:***
FROM: 1 required parking space for each 250 square feet
TO: 1 required parking space for each 350 square feet
- 3) Decrease north building line on Tract 1-D from the current 35' to 32.5'

All of Development Area B is included an “Easement for Mutual Access and Shared Parking” and has been platted. The Easement specifically encourages shared parking and pedestrian access for the benefit of tenants, and guest.

The request for reallocation of floor area and parking reduction is consistent with the Tulsa Comprehensive Plan and its goals of reducing overall parking requirements, encouraging shared parking, increasing density and providing options for multi story buildings inside this Neighborhood Center.

In staff's opinion this request does not substantially alter the original PUD; therefore staff recommends **APPROVAL** of the request outlined above.

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

TMAPC COMMENTS:

Mr. Perkins asked if the property to the north is going to buy this entity or has it been sold. Mr. Perkins expressed concerns with the reduction of the easement. Mr. Wilkerson stated that the applicant actually owns the property to the north of the subject site. Mr. Perkins stated that answered his question.

Applicant indicated his agreement with the staff recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **PERKINS**, 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 amendment for PUD-759-6 per staff recommendation.

* * * * *

PUBLIC HEARINGS:

- 14. **LS-20563** (Lot-Split) (CD-6) - Location: North of the northwest corner of East 11th Street South and South Lynn Lane Road

STAFF RECOMMENDATION:

The Lot-split proposal is to split an existing AG (Agricultural) 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.

Additionally, the applicant is requesting a waiver of the Major Street and Highway Plan (MSHP) which calls for 30' of right-of-way to be dedicated along the north boundary of the subject property for a collector street (East 2nd Street). Traffic Engineering has reviewed the request and has no objection to the waiver of the Major Street and Highway Plan.

The Technical Advisory Committee met on November 15, 2012. Development Services is requesting that 50' of Right-of-Way be dedicated along South Lynn Lane Road (South 177th East Avenue) and 30' of Right-of-Way along the North boundary of the subject property (future site of East 2nd Street). The applicant is aware of this requirement and is currently preparing the documents for the dedication along South Lynn Lane.

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

TMAPC COMMENTS:

Mr. Leighty asked what the Technical Advisory Committee's reason for wanting to have the 30-foot right-of-way. In response, Mr. Bates stated that by a matter of policy the reviewer points out any potential problems with dedication of right-of-way to the Major Street and Highway Plan. Since no right-of-way had been dedicated in this instance, she noted that it needed to be dedicated. The applicant has requested a waiver from the Traffic Engineer and he has reviewed it and has no objections at this time. Mr. Bates explained that the Major Street and Highway Plan actually calls for the collector street to run through on the subject property; however, it could vary and possibly further north or south depending on who dedicates right-of-way at any given time. At this time the Traffic Engineer doesn't believe that in the foreseeable future that this street will be developed as a collector. Most of the property to the east and to the west is all agricultural-large pieces of property that have no plan for development at this time. Mr. Leighty asked what the objection is to giving the requested right-of-way. Mr. Bates stated that the applicant is present and could address the issue. Mr. Bates further stated that he understands that it would be a deal-breaker with his lenders because it would take out a certain amount of property that would basically go against what the applicant has obtained a mortgage on. He would own less property and have some setback issues as well.

Applicant's Comments:

Matt Edwards, 4918 South 165th East Avenue, Tulsa, stated that the entire parcel is ten acres. The smaller tract created would be 3.5 acres and the other tract would be 6.5 acres. Mr. Edwards stated that the property is 1,320 feet in depth. Mr. Edwards explained that before he purchased the property he checked with INCOG about any potential street or anything that would cause issues and it came back negative at the time. So he closed on the property, then the right-of-way issue that came up. Mr. Edwards stated that the property is narrow and if 30 feet of the north

side is taken it comes to almost one acre of property. If the 30 feet are taken and then there is a setback from that it creates a situation where the house can't be built on the first tract and he already has the financing to build the home. Mr. Edwards explained that he is willing to grant the 50 feet at the front of the subject property and that would only be 1/3 of an acre, but when 30 feet is taken on the whole side of the subject property he would lose 1/10th of his land and now he will be in a jam with the bank for his financing. Mr. Edwards explained that he owns both parcels, but the lender will not allow him to build two homes on one piece of property. Mr. Edwards stated that he has remodeled the smaller existing home that was on the subject property and now he would like to build another home for himself on the other tract and that is the reason for splitting the property.

TMAPC COMMENTS:

Mr. Perkins stated that this seems to be at the mid-mile and the right thing to do is to get the 30 feet.

Mr. Midget asked if the 30 feet was needed in the future, would the governing body have the right to do a condemnation and take it. (Response inaudible.) Mr. Midget stated that if that is the case he wouldn't mind waiving it at this point and then whenever it is decided that the road would be built, then they can condemn it. Mr. Midget indicated that he would support the waiver.

Mr. Leighty stated that once the right-of-way is waived it will never come back and once the house is built it could be within that 30 feet. Circumstances can change, but he will probably support this application, but in some point in the future people may say "what was that Planning Commission thinking to give that up". Mr. Leighty indicated that he is sympathetic to the situation, but to start giving these up is a tough call.

Mr. Edwards stated that he has lived in Tulsa almost 50 years and the subject area hasn't been developed to this point and he doesn't believe it will develop in the future. Mr. Edwards explained that he will build his house with the setback and the 30 feet so that he will be prepared for the future possibility. Mr. Edwards stated that he doesn't believe the road will be built and neither does the Traffic Engineer, but he will prepare himself for the possibility. Mr. Edwards commented that he really tried to do his homework before purchasing the subject property.

Mr. Dix stated that he has been told by attorneys in the past that there is case law in Oklahoma that if there is no reason for the use and there is no planned use for the property, then it is really questionable whether it can be legally taken or not. Mr. Dix stated that if the roadway is not going to be used and if it is after the planning horizon, then there is no justification for

taking the properties for road use. Mr. Dix indicated that if they take it in the future they would have to pay for it.

Mr. Perkins stated that we are talking about future condemnation and that price is going up significantly. When a property owner is asking for a plat, the Planning Commission has the right to take that and it is a mid-mile street. There will be some sort of street built at some point and he thinks now is the time to requiring the right-of-way.

Mr. Edwards stated that he understands Mr. Perkins's comments, but if that does happen there is enough property to the north to handle it. Mr. Edwards further stated that everyone he has talked to in the City has stated that it is a road that will never exist and he believes it is a hardship to take an acre off of a ten-acre property and keep it from being developed into a nice home site. Mr. Edwards commented that today the subject property is nothing but land with overgrown vegetation. Mr. Edwards stated that this isn't 91st and Sheridan; it is Admiral and Lynn Lane that sits on solid limestone. Mr. Edwards further stated that the two-square mile is all limestone and is difficult to develop and that is another reason he doesn't believe the road will ever be built.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **DIX**, TMAPC voted **9-1-0** (Covey, Dix, Edwards, Leighty, Liotta, Midget, Shivel, Stirling, Walker "aye"; Perkins "nay"; none "abstaining"; Carnes "absent") to **APPROVE** of the lot-split for LS-20563 and waiver of Subdivision Regulations and the Major Street and Highway Plan per staff recommendation.

* * * * *

OTHER BUSINESS:

Commissioners' Comments

None.

* * * * *

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 **ADJOURN** TMAPC meeting No. 2638.

* * * * *

There being no further business, the Chair declared the meeting adjourned at 2:04 p.m.

Date Approved:

12-19-12

Joshua C. Wall

Chairman

ATTEST:



Secretary