

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
**Minutes of Meeting No. 2640**

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

City Council Chamber

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

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

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, December 17, 2012 at 4:57 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:**

**Director's Report:**

Ms. Miller reported on the TMAPC receipts for the month of November 2012.  
Ms. Miller further reported on the BOCC and City Council agendas.

Ms. Miller reported on the timeframe for the Form-Based Code meetings and workshops.

Ms. Miller introduced Nikki White and explained that she will be moving into the roles that were originally Mr. Bates. Mr. Bates was promoted about one month ago.

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**Minutes:**

**Approval of the minutes of November 28, 2012 Meeting No. 2638**

On **MOTION** of **SHIVEL** the TMAPC voted 8-0-0 (Covey, Dix, Leighty, Midget Perkins, Shivel, Stirling, Walker “aye”; no “nays”; none “abstaining”; Carnes, Edwards, Liotta, “absent”) to **APPROVE** the minutes of the meeting of November 28, 2012, Meeting No. 2638.

**Approval of the minutes of December 5, 2012 Meeting No. 2639**

On **MOTION** of **SHIVEL** the TMAPC voted 8-0-0 (Covey, Dix, Leighty, Midget Perkins, Shivel, Stirling, Walker “aye”; no “nays”; none “abstaining”; Carnes, Edwards, Liotta, “absent”) to **APPROVE** the minutes of the meeting of December 5, 2012, Meeting No. 2639.

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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.

3. **LC-445** (Lot-Combination) (CD-2) - Location: North of the northwest corner of East 65th Street South and South Harvard Avenue

**LC-445 was stricken from the agenda.**

4. **Amendment to Covenants** - Lots 11, 12, Block 1, Tulsa Hills Addition, South of West 71st Street, east of U.S. 75
5. **Northwind Estates** – Final Plat, Location: Northeast corner of Gilcrease Expressway and North Cincinnati Avenue, (0224) (CD 1)

**STAFF RECOMMENDATION:**

This plat consists of two lots, one block on 17.95 acres.

Staff has reviewed release letters for this plat and can recommend **APPROVAL** of the final plat.

6. **Change of Access** – Location: West of southwest corner of East 51st Street South and South Harvard Avenue, Block 1, Heatherwood Addition (9332) (CD 9)

**STAFF RECOMMENDATION:**

This application is made to allow a change of access to shift a 30-foot access and add one access along East 51st Street South. The property is zoned CS (Commercial Shopping) and RM-2 (Residential Multifamily).

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

7. **PUD-766-5 – Tanner Consulting, LLC**, Location: West of Yale on the north side of 51st at 4717 East 51st Street South, Requesting a **Minor Amendment** to define floor area allocation after a lot-split, **CS/PUD-766**, (CD-9)

**STAFF RECOMMENDATION:**

*Concept Statement:*

The applicant is requesting a minor amendment to define floor area allocation after a lot-split. Lot 1, Block 1 of 51 Yale is being split into two tracts. Tract 2 is a small portion of Lot 1 and is being sold to an existing Braum's restaurant. All 10,638 square feet of floor area allowed in said Lot 1 will remain in Tract 1 as defined in the lot split.

*Minor Amendment Summary:*

Existing Floor Area Allocation:

- Platted Lot 1 (42,555\* SF) is allowed 10,638 square feet of floor area with a FAR = 0.25
- Lot-split Tract 1 (37,235.60 SF) is allowed 9309 square feet of floor area with a FAR = 0.25 Lot-split
- Tract 2 (5,317.995 SF) is allowed 1,329.50 square feet of floor area with a FAR = .25

Minor Amendment Floor Area Allocation

- Lot-split Tract 1 (37.235.180 SF) is allowed 10,638 square feet of floor area with a FAR of 0.286
- Lot-split Tract 2 (5,317.995 SF) is allowed 0 square feet of floor area.

*Staff Summary:*

The platted total land area was shown as 42,555\* square feet which does not match the sum of the total land area calculations for each tract; however, the difference is insignificant within the context of this request.

Within the City of Tulsa Zoning Code, PUD Section 1107.K.4, a minor amendment may be permitted .... *“Increases in permitted non-residential floor area, provided the increase floor area is permitted by the underlying zoning and the floor area of a development area is not increased more than 15%.”*

Staff has reviewed the application and has determined that the increased floor area in Tract 2 is less than the 15% increase allowed in the Zoning Code.

*Staff Recommendation:*

Staff recommends **APPROVAL** of the minor amendment request PUD-766-5 as outlined above.

*Note: Minor amendment approval does not constitute sign plan approval.*

8. **PUD-754-1 – Steve Wright**, Location: West side of Yale, south of East 106th Street, Requesting a **Minor Amendment** to reduce the rear yard building setback along an arterial street, **RS-1/PUD-754**, (CD-8)

**STAFF RECOMMENDATION:**

*Concept Statement:*

The applicant is requesting a minor amendment to reduce the rear yard building setback along an arterial street. A cabana is planned in the rear yard and will be placed 10' closer to the east lot line than currently allowed. The subdivision plat illustrates a 35' building setback as required in the Zoning Code for this residential area. The requested building setback for the cabana is 25'.

*Minor Amendment Summary:*

The normal building setback along an arterial street for this residential district is 35'. The Plat and PUD originally honored that requirement without reference to accessory use buildings. In this instance a cabana will actually help screen the residence from the arterial street activity.

The lot is currently screened from South Yale with a stucco and stone wall that was constructed as part of the subdivision infrastructure. The fence buffers the visual impact of the cabana from the street.

*Staff Summary:*

Within the City of Tulsa Zoning Code, PUD Section 1107.K.9, a minor amendment may be considered 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 application and has determined that the requested reduction in the building setback for a cabana does not substantially alter the PUD standards or the character of the proposed development.

*Staff Recommendation:*

Staff recommends **APPROVAL** of the minor amendment request PUD-754-1 as outlined above.

9. **PUD-759-7 – 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, **CS/PUD-759**, (CD-7)

**STAFF RECOMMENDATION:**

*Concept Statement:*

“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-B (0.279 acres) and Remaining Tract 1-C (1.83 acres), 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 current construction trends in the area and is summarized below. The overall floor area for the project has not changed from the original 40,250 square feet allowed in minor amendment #3 and further defined in minor amendments #4, #5 and #6.

*Minor Amendment Summary:*

- 1) Reallocation of floor area: The floor area re-allocation does not modify the total floor area allowed in Development Area 1-D or 1-A
  - Add floor area to Tract 1-B (.0.279ac) from current 3100 square feet to 4300 square feet.
  - Reduce the allowed floor area in Tract 1-C from 26,750 square feet to 25,550 square feet.

*Staff Summary:*

Within the City of Tulsa Zoning Code, PUD Section 1107.K.4, a minor amendment may be considered for... *“Increases in permitted non-residential floor area, provided the increase floor area is permitted by the underlying zoning and the floor area of a development area is not increased more than 15%.”* and in Section 1107.K.9 *“Changes in structure heights, building setbacks, yards, open spaces, building coverage and lots 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 application and has determined that the increased floor area in Tract 1-B is greater than the allowed 15%. However, there is not an increase in the overall floor area allowed in the PUD. The original PUD concept is still in place and the original Development plan has not been substantially altered.

- Please note the following summary for the floor area allocation as it stands with acceptance of this minor amendment.

Tract 1-A	3,100 square feet allowed
Tract 1-B	4,300 square feet allowed
Tract 1-D	7,300 square feet allowed
Tract 1-C	25,550 square feet allowed

**Total: 40,250 square feet allowed (no change from PUD-759-3)**

*Staff Recommendation:*

Staff recommends **APPROVAL** of the applicants request as outlined in the Minor Amendment Summary above.

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

10. **AC-117 – AAB Engineering, LLC/Alan Betchan**, Location: West side of North Mingo Avenue near Archer, 120 North Mingo, Requesting **Alternative Compliance Landscape Plan** for a new auto sales and storage business, **CH**, (CD-3)

**STAFF RECOMMENDATION:**

The applicant is requesting TMAPC approval for an Alternative Compliance Landscape Plan for a new auto sales and, auto storage business.

The landscape plan submitted does not meet the technical requirements of Chapter 10 of the Zoning Code because many of the parking spaces for the storage lot will not be within 75 feet of a required landscaped area, as required by Section 1002.B.1 of the Code.

In exchange for allowing large areas with storage spaces greater than 75 feet from a landscaped area, the applicant proposes to voluntarily landscape the street yard and areas surrounding the buildings with shrubs

and provide more trees than the parking and storage area would require. The overall landscape plan and street yard, including shrubs, is part of the application.

The Code allows the Planning Commission to approve Alternative Compliance Landscape Plans that do not meet the technical requirements of Chapter 10 of the Code, so long as the submitted plan is, "equivalent to or better than" the requirements of Chapter 10.

The subject property is zoned CH. Chapter 10 of the Code states that 15% of the street yard on non-residential lots shall be landscaped. However, Chapter 10 further states where no street yard exists landscaping will not be required. Section 1800 of the Code defines "street yard" as the area encompassed by the right-of-way line (ROW)/property line along the street and the building setback line. Since there is no building setback requirement in the CH District, technically there is no street yard and therefore no street yard landscaping required on CH zoned lots.

Staff contends the applicant has met the requirement that the submitted Alternative Compliance Landscape Plan "be equivalent or better than" the technical requirements of Chapter 10 of the Code and recommends **APPROVAL** of Alternative Compliance Landscape Plan AC-117.

11. **Z-7008-SP-5 – Cedar Creek Consulting**, Location: North side of West 81st Street South, west of South Olympia Avenue, Requesting a **Detail Site Plan** for a drive-in restaurant site in Development Area F, **CO/Z-7008-SP-5**, (CD-2)

**STAFF RECOMMENDATION:**

**CONCEPT STATEMENT:**

The applicant is requesting approval of a detailed site plan for a Drive-In Restaurant site in Development Area F of The Tulsa Hills Shopping Center Project. The site has been previously platted and subsequently split but not developed.

**PERMITTED USES:**

The Site Plan provided illustrates a new drive-in restaurant site (Use Unit 18) which is permitted by an amendment to the original Corridor Plan for this area.

#### DIMENSIONAL REQUIREMENTS:

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

#### OFF-STREET PARKING AND VEHICULAR CIRCULATION:

Off street parking is not required in this Use Unit designation however this site plan provides accessible spaces and employee parking in addition to the drive in dining area.

#### LIGHTING:

Parking lot lighting will be shorter than the maximum 35' height allowed and directed down to help prevent light trespass into the adjacent properties. The photometric plan provides data that illustrates the lighting concept with no spillage onto adjacent properties.

#### SIGNAGE:

The site plan does illustrate ground signage for site plan review. The staff report does not remove the requirement for a separate sign plan review process.

#### SITE SCREENING AND LANDSCAPING:

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

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

#### PEDESTRIAN ACCESS AND CIRCULATION:

Sidewalks will be installed internally. Existing sidewalks are located along the north curb line of West 81st Street South.

#### MISCELLANEOUS SITE CONSIDERATIONS:

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

#### SUMMARY:

Staff has reviewed applicants' submittal of the Site Plan as it relates to the approved Corridor Plan Z-7008-SP-5 in Development Area F. The applicant site plan submittal meets or exceeds the minimum requirements of the Corridor Plan. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved Corridor Plan Z-7008-SP-5 and the stated purposes of the Corridor chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of the detail site plan as noted above for the proposed new restaurant project.

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

12. **Z-7008-SP-1 – Panda Restaurant Group, Inc./David Greer**, Location: North West 81st Street South, west side of South Olympia Avenue, Requesting a **Detail Site Plan** for a restaurant site in Development Area D, **CO/Z-7008-SP-1**, (CD-2)

**STAFF RECOMMENDATION:**

**CONCEPT STATEMENT:**

The applicant is requesting approval of a detail site plan for a restaurant site in Development Area D of The Tulsa Hills Shopping Center Project. The site has been previously platted but not developed.

**PERMITTED USES:**

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

**DIMENSIONAL REQUIREMENTS:**

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

**OFF-STREET PARKING AND VEHICULAR CIRCULATION:**

The parking count exceeds the minimum required parking in the corridor district plan and meets the dimensional requirements of the Tulsa Zoning Code.

**LIGHTING:**

Parking lot lighting is defined to meet maximum 35' height allowed and directed down to help prevent light trespass into the adjacent properties. The photometric plan provides data that illustrates the lighting concept with no significant spillage onto adjacent properties and there is no adjacent residential property.

**SIGNAGE:**

The site plan illustrates signage along South Olympia and is placed appropriately for site plan review. This staff report does not remove the requirement for a separate sign plan review process.

**SITE SCREENING AND LANDSCAPING:**

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

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

**PEDESTRIAN ACCESS AND CIRCULATION:**

Sidewalks will be installed internally and along South Olympia Avenue street frontage. Appropriate sidewalk plans have been provided on the site plan and provide pedestrian access to the restaurant from South Olympia.

**MISCELLANEOUS SITE CONSIDERATIONS:**

The site slopes significantly from west to east toward the Olympia street right-of-way. 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 Corridor Plan Z-7008-SP-1 in Development Area D. The applicant site plan submittal meets or exceeds the minimum requirements of the Corridor Plan. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved Corridor Plan Z-7008-SP-1 and the stated purposes of the Corridor Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of the detail site plan as noted above for the proposed new restaurant project.

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

**TMAPC COMMENTS:**

Mr. Covey stated that he had ex parte communication regarding Item 4, but doesn't believe it will affect his voting.

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

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

**TMAPC Action; 11 members present:**

On **MOTION of CARNES**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the consent agenda Items 4 through 12 per staff recommendation.

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**PUBLIC HEARINGS:**

13. **LS-20566** (Lot-Split) (County) - Location: East of the southeast corner of North Memorial Drive and East 80th Street North

**STAFF RECOMMENDATION:**

The lot-split proposal is to split an existing AG (Agricultural) tract into two tracts. One of the resulting tracts will exceed the Bulk and Area Requirements of the Tulsa County Zoning Code.

The other is a 1.3-acre tract that is proposed to be split, not complying with the Bulk and Area Requirements of the Tulsa County Zoning Code. The applicant has filed a County Board of Adjustment application requesting a variance to be considered on 12/18/2012.

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 December 6, 2012. PSO expressed the need to maintain their existing easement that is approximately 660' South of 80th Street North. The applicant has been made aware of the requirement and is agreeable to leaving the easement undisturbed.

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 the lot-split, pending approval by County Board of Adjustment.

Mr. Bates indicated that the Board of Adjustment approved a variance to allow the 1.3-acre tract to exist.

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

**TMAPC Action; 11 members present:**

On **MOTION of CARNES**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the waiver of *Subdivision Regulations* and the lot-split for LS-20566 per staff recommendation.

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14. **LS-20567** (Lot-Split) (County) - Location: South of the southwest corner of South 65th West Avenue and West Skyline Drive (Related to LC-444)

**STAFF RECOMMENDATION:**

The lot-split proposal is to split an existing RS (Residential Single-Family) 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 December 6, 2012. PSO expressed the need to maintain their existing easement along South 65th West Avenue. Fire made the comment that there should be a fire hydrant within 600' of a single-family home. The applicant has been made aware of these requirements.

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 the lot-split.

**Applicant indicated his agreement with the staff recommendation.**

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

**TMAPC Action; 11 members present:**

On **MOTION of CARNES**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the waiver of *Subdivision Regulations* and the lot-split for LS-20567 per staff recommendation.

\* \* \* \* \*

15. **LC-444** (Lot-Combination) (County) - Location: South of the southwest corner of South 65th West Avenue and West Skyline Drive (Related to LS-20567)

**Applicant indicated his agreement with the staff recommendation.**

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

**TMAPC Action; 11 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the lot combination for LC-444 per staff recommendation.

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16. **Country Hollow West Block 2 –** Minor Subdivision Plat, Location: West of northwest corner of East 81st Street South and South Yale Avenue (8309) (CD 8)

**STAFF RECOMMENDATION:**

This plat consists of 1 Lot, 1 Block, on 2.87 acres.

The following issues were discussed December 6, 2012, at the Technical Advisory Committee (TAC) meetings:

1. **Zoning:** The property is zoned Planned Unit Development # 657. The conditions of the PUD must be shown in the covenants.
2. **Streets:** The mutual access by plat # 5636 is not clearly defined. Section on sidewalks must be included. If mutual access does not touch property line of proposed plat, there is no need to show it.
3. **Sewer:** Continue the proposed 11-foot utility easement along the east boundary line all the way through the 19-inch storm sewer easement until it intersects the 11-foot utility easement along the north boundary.
4. **Water:** An existing 12-inch waterline is located on the south side of East 81st Street.
5. **Storm Drainage:** Rename "Storm Sewer Easement" to "Drainage Easement" and add that section to the covenants.

6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** PSO may have difficulty putting in underground due to storm drain. There is existing underground that serves a single phase transformer on the east side of the property. This will need to be coordinated further.
7. **Other: Fire:** No comments until buildings are proposed for site.

**GIS:** Scale the location map and state what the scale is. Provide the expiration date for the CA number of the Engineer/Surveyor. Under the graphic scale bar on the face of the plat state the scale of the drawing. On the face of the plat replace phrases like "Due South", "Due West" and "Due East" with actual bearings. For the basis of bearing, state the bearing in degrees, minutes and seconds instead of "Due West". Submit a subdivision control data form (Appendix D), last page of the Subdivision Regulations, in which the first point shall be the point of beginning with two other points on or near the plats boundary. In describing the plat, replace phrase with actual bearings. Existing easements along the property lines need to be identified by their type. Provide a legend. Add the sections entitled Certificate of Occupancy Restrictions and Utility Easement Dedication. Remove the word "General" from the title of Section I.A. Reword each section to reflect the existence of a single lot e.g. section I.E. "The property shall receive and drain, in an unobstructed manner, the stormwater from drainage areas of higher elevation. The owner shall not construct..." Use standard language.

Staff recommends **APPROVAL** of the preliminary subdivision plat with the TAC recommendations and the special and standard conditions listed below.

**Waivers of Subdivision Regulations:**

1. None requested.

**Special Conditions:**

1. The concerns of the Public Works staff and Development Services staff must be taken care of to their satisfaction.

**Standard Conditions:**

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.

2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type,

size and general location. (This information to be included in restrictive covenants on plat.)

16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

**Applicant indicated his agreement with the staff recommendation.**

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

**TMAPC Action; 11 members present:**

On **MOTION of MIDGET**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the minor subdivision plat for Country Hollow West Block 2 per staff recommendation, subject to special conditions and standard conditions.

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17. **CZ-420 – Jeff Potter**, Location: Southwest corner of East 116th Street North and North 129th East Avenue, Requesting rezoning from **AG to CS**, (County)

**STAFF RECOMMENDATION:**

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

**RELEVANT ZONING HISTORY:**

No relevant history.

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 6.5+ acres in size and is located at the southwest corner of East 116th Street North and North 129th East Avenue. The property appears to be a large lot rural residential area and is zoned AG.

**SURROUNDING AREA:** The subject tract is abutted on the east by the City of Owasso, zoned AG/ PUD-02-02; on the north by an assisted living center, zoned AG-R; on the south by large lot residential, zoned AG-R; and on the west by large lot residential, zoned AG-R.

**UTILITIES:** Water service for the subject tract is provided by Rural Water District 3. Sanitary sewer service is not presently available however a sewer extension from the City of Owasso will provide service if zoning is approved.

The City of Owasso will require an annexation agreement prior to connection with their system.

**STREETS:**

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 116th Street North	Primary Arterial	120'	2
North 129th East Avenue	Secondary Arterial	60'	2

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

Tulsa County does not include this tract inside a Comprehensive Plan.

The City of Owasso includes the entire 6.5-acre tract within in their fence line and also illustrates this area as a commercial node in their Comprehensive Plan.

Staff at INCOG, in conjunction with City of Owasso Planning, have discussed this zoning request with the applicant and have agreed that the 6.5-acre parcel originally requested may be appropriate for CS zoning; however, there are several items important to the City of Owasso and surrounding property owners that have been considered in ultimately suggesting approval for a smaller CS area. Those items are listed as follows:

- 1) Sanitary sewer service is not available except through the City of Owasso and ultimately the City will require annexation in the larger context surrounding this site.
- 2) Adjacent surrounding properties are residential. The standard buffer between residential and a larger commercial activity should be enhanced through a PUD process or through annexation into the City of Owasso.
- 3) The City of Owasso standards for future development include details that are more consistent with their goals in the larger commercial area which begin at this intersection.

**STAFF SUMMARY:**

This request was continued from the 12.5.2012 Planning Commission meeting. At the time of this staff report there has been no additional information provided to the INCOG staff from the applicant. Our recommendation has not changed.

**STAFF RECOMMENDATION:**

As a result of a cooperative effort between INCOG staff, the City of Owasso and the applicant to address the items listed above, **INCOG staff recommends approval for a smaller CS tract (2.69 acres) than was originally included in the application.**

**Applicant's Comments:**

**Steve Schuller**, 100 West 5th Street, Suite 1100, 7 41 03, representing the applicant, stated that his client is requesting that the entire parcel be rezoned to CS. It is outside the municipal corporate limits of the City of Owasso, but city limits are across 129th East Avenue to the east of the subject property. Mr. Schuller indicated that the subject property is entirely within the City of Owasso's fence line. It is identified as commercial property on the City's 2025 Land Use Map, which was adopted by the City of Owasso about five years ago. All four intersection corners of the subject area are shown on the land use land map as commercial.

Mr. Schuller stated that the City of Owasso expressed at the hearing two weeks ago that they concurred and supported the application for CS zoning on the entire subject property. The City of Owasso indicated that they plan to update their land use plan to include the entire subject property as a commercial area. The City of Owasso also indicated that they are prepared to supply sanitary sewer service to the subject property and he believes that may already be in place. The City of Owasso further plans to preserve the CS zoning for the subject property when it is annexed by the City. In the City of Owasso's view there is no longer the necessity for limiting the area to be rezoned CS. The size of the parcel will naturally limit the scope of commercial development. The County's Zoning Code, which presently applies, and the City of Owasso's zoning ordinance will sufficiently address the relationship of this commercial development with the surrounding uses in the subject area. Mr. Schuller stated that the City of Owasso's Zoning Code is quite a bit more comprehensive or stringent than the County Zoning Code. The City Community Development Director expressed at the last meeting that they are already preparing to annex the subject property and then it will be subject to the City of Owasso's Zoning Code. Mr. Schuller requested that the Planning Commission concur with his applicant and the City of Owasso and rezone the entire subject property to CS.

**TMAPC COMMENTS:**

Mr. Leighty asked what the emergency was to have the whole property rezoned and are there any development plans for the balance of the subject property. Mr. Schuller stated that it is mostly to eliminate having to duplicate efforts to do this. The City of Owasso has indicated that they want the entire property commercial and his client wants it to be entirely zoned commercial. It makes sense from the City's Land Use Plan, which his client is preparing to adhere to and make it commercial. Mr. Schuller stated that he understands where staff is coming from; however, this isn't that large of a parcel, it is only 6.5 acres and when it is annexed into the City of Owasso the planning process will more than adequately address any concerns that anyone else would have. The City of Owasso's Land Use Plan indicates that all four corners are to be commercial and has been on the books for almost five years. Mr. Leighty expressed concerns with connectivity. Mr. Schuller stated that he understands Mr. Leighty's concerns and he believes that the City of Owasso's Zoning Code will provide that type of protection.

Mr. Carnes asked if the traffic light issues have been addressed. In response, Mr. Schuller stated that the City of Owasso is in the process of reviewing its Capital Improvements Program. Once the subject property is annexed into the City of Owasso, it will give them an opportunity to address the traffic light issue. Mr. Schuller stated that he discussed this with Tulsa County and they do not have any present funding or plans to make any intersection improvements at this time. Mr. Schuller further

stated that he has met with the City of Owasso regarding this and will have an additional conference call regarding this tomorrow. Right now there aren't any plans to improve the intersection at this time. Mr. Schuller reminded the Planning Commission that the subject property will have to go through the platting process and will be required to give right-of-way dedications. He believes that it will be the first steps taken toward any type of signaling or intersection improvements. Once the zoning is in place, development usually drives the improvements for traffic signalization and so forth.

Mr. Covey asked Mr. Schuller how far the annexation process has progressed. Mr. Schuller stated that the City of Owasso stated that they cannot start their annexation until March of 2013 due to municipal elections. Mr. Covey asked Mr. Schuller if his client has done everything necessary for the annexation process. Mr. Schuller stated that his client hasn't filled out any paperwork, but the current owner of the subject property has executed consent to annexation.

**INTERESTED PARTIES COMMENTS:**

**Bronce Stephenson**, City Planner for the City of Owasso, 111 North Main Street, Owasso, 7 4055, stated that he is here to answer any questions.

In response to Mr. Midget, Mr. Stephenson stated that he current owner of the subject property has executed a consent to annex form. The annexation form has been recorded with the County and will transfer with the subject property regardless of ownership. In return for the consent to annex form, the City of Owasso has agreed to serve the subject site with sanitary sewer. Mr. Stephenson stated that there can't be any new annexations come through the City of Owasso until March due to an upcoming election. The annexation will be taken to the Technical Advisory Committee and the Annexation Committee. After the March date, the annexation can be processed.

Mr. Midget asked Mr. Stephenson if the City of Owasso is in full support of the CS zoning on the 6.5 acres. Mr. Stephenson stated that upon annexation it would be brought in under the same CS zoning if it were to be approved by the County. Mr. Stephenson commented that Owasso's present Zoning Code would address the screening, parking and landscaping and ensure this is a quality development. This is a very important future corridor for the City of Owasso. Mr. Stephenson indicated that he has visited with some of the surrounding property owners with AG properties and they will more than likely become commercial in the future. Mr. Dix stated that he uses the intersection in question on a daily basis and he is interested in what the plans are for the intersection. Mr. Stephenson stated that the City of Owasso has a Capital Improvements

Program and the intersection is on the list. The more the intersection develops the higher it will move up on the CIP list. Mr. Stephenson commented that he believes five to ten years the subject intersection will be addressed.

**Traci Conley**, 12602 East 116th Street North, Collinsville, 74021, stated that she lives two houses away from the future development. She is concerned about the lack of a signalized intersection. She commented that if the City of Owasso is going to annex the subject site within the next year they need to have a signal at the subject intersection within the next years as well. Ms. Conley stated that it is a very dangerous intersection and she tries to avoid it when possible. Ms. Conley indicated that she is not here to stop commercial development, but she is here for public safety and would like the intersection addressed.

**Applicant's Rebuttal:**

Mr. Schuller stated that certainly intersection improvements and signalization would be a good idea and rezoning with commercial development usually moves these issues to the top of the list.

Mr. Liotta stated that he understands that the subject section of road is a County Road and it would be the County's responsibility to put in any signalization that might go in there. Mr. Liotta stated that the County Engineer and the Highway Superintendent happened to be here today and he would like to hear from them regarding this intersection.

**Tom Rains**, Tulsa County Engineer, 500 South Denver, 74103, stated that the subject intersection has been on the County's radar for a while, but there are no plans to improve it. Last week Commissioner Smaligo discussed it with him and asked that the County and City of Owasso get together and see if it can be worked on cooperatively. Mr. Rains stated that that meeting hasn't happened at this time. Mr. Liotta asked Mr. Rains what type of timeframe one would be looking at if the improvements were to be done. Mr. Rains stated that it would depend on how it is approved. If it is done in-house it could be relatively soon and if it relied upon State or Federal funds it could be stretched out four to six years. Mr. Liotta asked what the cost would be with turn-lanes. Mr. Rains stated that he just put in an application for the intersection of 86th Street North and Sheridan for a Federal project and the estimate was a little over one million dollars. Mr. Liotta stated that the reason he asked that question is because the County doesn't have a million dollars laying around to use for this intersection.

Mr. Dix asked if the first step would be to test for warrants and how long would it take. Mr. Rains stated that it would be a good first step. He indicated that the testing can done within 30 to 60 days.

Mr. Schuller stated that he realizes that presently it is a County Road and it is an area under consideration for annexation by the City of Owasso. He believes that as the subject property is developed and the subject area becomes urbanized, the County and City of Owasso will need to work together to make something happen.

Mr. Dix stated that he brought up the traffic issues because he felt it was important for the developer of the subject site to understand what the plans for the road are. When he gets open and doing business there is a possibility that the road will get closed at a certain time. Mr. Dix explained that he is familiar with not building until the road is complete.

Mr. Walker asked Mr. Wilkerson if staff feels that it is too reckless to rezone without the protections of a PUD. Mr. Wilkerson stated that in the context of the timeline and how this evolved that was the thought in the beginning. Mr. Wilkerson further stated that staff believes that the use and the CS request is acceptable, but are trying to be sensitive to the City of Owasso because we knew what their plans were generally in the subject area. The City of Owasso's Comprehensive Plan just shows a portion of the 6.5 acres as being a commercial area and so staff was looking at that. The other concerns were the context with the surrounding area as it exists today. The boundaries and how one deals with those types of details is very important when one is establishing a new use in an existing area. Mr. Wilkerson cited that staff knew that the City of Owasso was considering annexation and that would require the City supplying sanitary sewer, but if that didn't happen staff didn't want to get too much CS in the subject area if that didn't occur and have to start thinking about lagoons to provide sanitary sewer. Staff knew that at the time the City of Owasso had grand visions for the subject area and staff thought a smaller CS or something larger with a PUD would ensure the City's concerns. Mr. Wilkerson stated that there are a lot of promises and agreements that have been made and it sounds like it headed down a path that might be okay. The City of Owasso seems to be okay with it and staff is more comfortable with this proposal than previously; however, if all of the verbal agreements fall apart for some reason, then there is a CS tract of land that doesn't accomplish the goals that the City of Owasso has. Mr. Wilkerson stated that staff is not against the ACE Hardware being located on the subject property, it is a perfect site, but staff was trying to protect the subject area and the City of Owasso.

Mr. Walker asked Mr. Schuller if his client is opposed to a PUD or if he feels that it isn't necessary. Mr. Schuller stated that he doesn't believe the PUD is necessary from an economic standpoint and time standpoint. It is a level of regulation that he believes will be satisfied and served well by the City of Owasso's own Zoning Code. When the City of Owasso annexes this property he believes that the development standards and

restrictions that one would also look for in a PUD.

Mr. Dix asked if the site plan is taking the widening of the road into consideration. (Mr. Dix indicated that he sees head shaking yes.) Mr. Leighty stated that he will support this application, but he would caution the City of Owasso to avoid what a lot of Cities, like the City of Tulsa did by getting too aggressive with their annexation policies. In 1966 the City of Tulsa had 260,000 in population and it was the 19th most densely populated City in the United States and then one day the City of Tulsa tripled their land area by annexing 150 plus miles additionally and now the City can't afford to maintain that infrastructure that we have. The City of Tulsa is so far behind in trying to get our pavement condition index up to speed and we are sacrificing investments in parks and recreation and of other quality of life matters in order to support this infrastructure. Mr. Leighty concluded that looking back the City of Tulsa is asking why. Mr. Leighty commented that some of these things seem to be a little ahead of themselves and he thinks the City of Owasso needs to think about densifying their own areas inside their City Limits right now before expanding into these areas that will cause them to build infrastructure and depending on the County to come up with the money to partner with them on the deal. Mr. Leighty indicated that he would support this since it is something that the City of Owasso wants to do.

Mr. Liotta stated that he wants to make sure everything is clear regarding the cost and the timeframe involves and the fact that it is the County's responsibility. Mr. Liotta further stated that he doesn't want to negate the idea that there couldn't be some kind of agreement between the City of Owasso and Tulsa County in some type of participation for the road improvement. Mr. Liotta indicated that this is done quite frequently and there are ways to work these issues out and he wanted to make sure everyone is aware that it is a possibility. Mr. Liotta stated that it seems that the property owner and the City of Owasso have seemed to work this out and it takes away any concerns he has and he plans to support this application.

Mr. Covey asked what would happen if the subject property is not annexed. Mr. Covey stated that he would vote in favor of the entire 6.5-acre tract being rezoned to commercial.

Mr. Midget indicated that he will be supporting this application.

Mr. Stephenson stated that the City of Owasso has already taken the application to annex to the Annexation Committee and to the Technical Committee; the City of Owasso is committed to the annexation. The actual seller of the property has agreed to the annexation and if the hardware

store were not to go through the City of Owasso would still annex the subject property. Mr. Stephenson thanked the INCOG staff for working with them on this application.

**TMAPC Action; 11 members present:**

On **MOTION** of **CARNES**, TMAPC voted **11-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to recommend **APPROVAL** of the CS zoning for the entire 6.5 acres for CZ-420.

**Legal Description for CZ-420:**

A TR 420 X 420 in NE NE NE BEG AT NEC SEC TH S 420 W 420 N 420 E 420 TO POB AND E 519 S 210 N 630 NE NE SEC 8-21-14, Tulsa County, State of Oklahoma.

\* \* \* \* \*

Mr. Liotta recused himself from CZ-421 and left the room at 2:24p.m.

18. **CZ-421 – Tulsa County**, Location: South of southwest corner of North Yale Avenue and East 116th Street North, Requesting rezoning from **AG TO IL**, (County)

**STAFF RECOMMENDATION:**

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

**RELEVANT ZONING HISTORY:**

**CZ-386 August 2007:** The staff and TMAPC recommended for denial of a request for rezoning a 10± acre tract of land from AG to IL for farm equipment sales on property located south of the southeast corner of East 116th Street North and North Yale Avenue and abutting south of subject property. The applicant appealed it to the County Commissioners and they approved the application for IL zoning.

**PUD-717 August 2005:** All concurred in approval of a proposed Planned Unit Development on a 22± acre tract of land for commercial and storage use, per conditions, on property located on the southwest corner of East 116th Street North and U.S. Highway 75.

**CZ-351 April 2005:** Staff and TMAPC concurred in denial of a request for rezoning a 12.49± acre tract of land from AG to IH, but approval of IL on property located on the southeast corner of U.S. Highway 75 and East

116th Street North. The Board of County Commissioner's however, approved IH zoning.

**CZ-335 April 2004:** A request to rezone a 21+ acre tract from AG to IL or CG for a metal fabricating business located on the southeast corner of East 116th Street North and North Yale Avenue was approved for IL on the west half of the tract. The balance of the property remained AG.

**CZ-333 January 2004:** A request to rezone a tract of land from AG to IL or CG was filed. Staff recommended denial of both the IL and the CG as the property was designated as a Corridor Intensity- Agricultural district. The request was amended by the applicant and all concurred in approval to rezone the north 660 feet to IL, leaving the southern portion of the tract AG on property located on the southwest corner of East 116th Street North and U.S. Highway 75. (Related to PUD-717)

**AREA DESCRIPTION:**

**SITE ANALYSIS:** The subject property is approximately 6.51+ acres in size and is located south of southwest corner of North Yale Avenue and East 116th Street North. The property appears to be vacant and is zoned AG.

**SURROUNDING AREA:** The subject tract is abutted on the east by undeveloped land, zoned AG; on the north by a salvage yard, zoned IH; on the south by vacant land with an outdoor advertising sign, zoned IL; and on the west by Highway 75 North, zoned AG. On the west side of Highway 75 a large tract is also zoned IL

**UTILITIES:** The subject tract no municipal sewer available, water will be provided by Rural Water District #3

**TRANSPORTATION VISION:**

The Master Street and highway plan designates North Yale Avenue as a Secondary Arterial. There are no multi modal street designations in this area.

**STREETS:**

<b><u>Exist. Access</u></b>	<b><u>MSHP Design</u></b>	<b><u>MSHP R/W</u></b>	<b><u>Exist. # Lanes</u></b>
North Yale Avenue	Secondary arterial	100'	2

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

The North Tulsa County Plan, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area, designates this area as being within a Corridor. According to the Zoning Matrix, the requested IL zoning **may be found** in accord with the Plan.

**STAFF SUMMARY and RECOMMENDATION:**

Much of the surrounding property has been previously zoned IL. The site north of this proposed zoning area is being used as an auto salvage facility and zoned IH. Property northeast of the site appears to be vacant however it is also zoned IL.

The requested IL zoning is consistent with the current zoning pattern surrounding the site.

The proposed IL zoning is consistent with the previously approved zoning patterns and in conformance with the vision of the area identified by the County Commissioners.

Therefore, staff recommends **APPROVAL** of the zoning request from AG to IL.

**INTERESTED PARTIES COMMENTS:**

**Malea Hall**, 11308 North Yale, Sperry, Oklahoma, 74073, stated that she is directly next to the subject property. Ms. Hall stated that she is opposed to the maintenance facility. She explained that there are three homes in the subject area and two have been built since the salvage yard came in. She doesn't believe that IL zoning will help her property value.

**TMAPC COMMENTS:**

Mr. Leighty asked Ms. Hall to indicate on the zoning map where her property is located. Ms. Hall indicated that her home is in front of the subject site. Ms. Hall commented that she is sure that none of the Planning Commissioners would want trucks in their backyards. Mr. Leighty asked Ms. Hall how much property she owns. Ms. Hall stated that she owns 3.9 acres. She explained that she did sell the property right behind her. She has lived on the subject property about 12 years.

Mr. Midget asked Ms. Hall if her property is currently zoned IL. In response, Ms. Hall answered affirmatively. Mr. Midget explained that Ms. Hall's property is already zoned IL and she is not living in a residentially zoned area. Mr. Midget stated that he was curious to know if Ms. Hall knew she was actually living in the IL district. He explained that she needs to come in and get the zoning straightened out.

**INTERESTED PARTIES COMMENTS:**

**Delbert Mayberry**, 11280 North Yale, Sperry, Oklahoma, 74073, stated that he is concerned about the proposal. He was hoping for a home development to come in rather than a maintenance facility. He was hoping for a residential development that would bring sewer and natural gas utilities in the subject area. Mr. Mayberry stated that his home is

south of Ms. Hall, about two homes. He expressed concerns with the trucks, dirt and gravel from the proposed facility. The strong winds will carry the sand, dirt and gravel from the facility and damage homes, cars and air conditioning units. Mr. Mayberry asked if he is just pleading his case for no reason and what are the chances of this place not going in.

**TMAPC COMMENTS:**

Mr. Walker stated that the difficulty is that, for whatever reason, the homes are in a non-residential area and that is a challenge with this proposal. Mr. Walker stated that this is a public hearing to hear this application and interested parties.

Mr. Dix asked Mr. Mayberry if he understands that the property behind Ms. Hall could be used as IL without rezoning. Mr. Mayberry answered affirmatively. Mr. Mayberry stated that he was told that the IL behind Ms. Hall was going to be for auto sales, which is totally different from the maintenance facility. Mr. Dix stated that IL is a zoning district and allows multiple uses. Mr. Dix further stated that Ms. Hall's property is zoned IL and could be used for light industrial as well as the property behind her. Mr. Dix explained that the salvage yard is zoned IH, which is heavy industrial and can have a heavy industrial use. Mr. Dix stated that he wanted everyone to understand that the subject property is surrounded by industrial zoning and it makes it difficult for the Planning Commission.

Mr. Midget stated that the likelihood of someone building homes next to a salvage yard is pretty remote. Mr. Mayberry stated that he built his home there and he believes that there is a possibility of a developer to come in across the street to build homes, but he may change his mind because of this maintenance facility. Mr. Midget stated that with a salvage yard abutting the proposed piece of property he doesn't know what the likelihood would be of a developer building houses. Mr. Midget further stated that he would urge Ms. Hall to come in and rezone her property from IL to have more protection. Mr. Mayberry stated that his property is zoned AG.

Mr. Perkins stated that he is a developer and he applauds the interested parties for coming today and taking an active role in the process. It does make a difference, but *it* may or may not, in this specific case, but he would recommend and encourage that all property owners get involved prior to the purchase of the house or even after and understand their zoning and what is surrounding them, because *it* could *mitigate* this scenario. Mr. Perkins stated that he doesn't see how a residential developer would come in and sandwich a residential development between two pieces of IH and IL.

### **INTERESTED PARTIES COMMENTS:**

**Jeff Davis**, 11330 North Yale Avenue, Sperry, Oklahoma 74073, stated that he is concerned because his back patio would be 100 feet from the fence of the subject property. The facility, in itself, will bring in a certain criminal element and he is concerned about being a target of convenience for someone who might want to break into the proposed facility. Mr. Davis stated that he opposes this application. Mr. Davis expressed concerns with traffic and an existing dangerous intersection.

Mr. Dix recognized Ms. Hall.

Ms. Hall stated that the reason for her property being rezoned to IL was because at one point in time she owned all of the property. She had an arrangement with the purchaser of the property behind her to have a billboard only. The billboard was the main purpose for rezoning to IL, but it was zoned AG prior.

Mr. Walker stated that without restrictive covenants on the sale and it being zoned with straight zoning they are entitled to all of the uses allowed within the IL district. Ms. Hall stated that she has had different talks with people who were interested in putting in more residential areas and she takes offense to how it was stated that no one would consider putting more residential next to a salvage and she would like that to go in the record.

Mr. Leighty asked Ms. Hall if at one time her entire tract of land was zoned AG and in order to put up some billboards she rezoned the entire tract to IL. Ms. Hall stated that she didn't and it will get rectified.

Mr. Carnes stated that he was on the Planning Commission when they did zone this for billboards and he couldn't understand why they rezoned so much. Ms. Hall got the aid from the sign people and rezoned.

Mr. Walker stated that the AG zoned property is completely zoned by IL and IH districts in the subject area. Mr. Walker further stated that he can't think of a positive solution for the homeowners in the subject area.

### **Applicant's Comments:**

**Tom Rains**, Tulsa County Engineer, 500 South Denver, 74103, stated that the County plans to have the property rezoned to build a maintenance facility, which would consist of a shop building to repair equipment plus offices. There will be some outbuildings to house equipment and materials stored on site. Being a government agency working for the public he intends to be good neighbors and work with the neighbors to reduce any effects on them.

**TMAPC COMMENTS:**

Mr. Leighty asked Mr. Rains where the building would be located. In response, Mr. Rains stated that this time he doesn't have a plot plan. Mr. Rains stated that the County also has an option for the adjacent property already zoned IL and the County intends to plat both properties and make it one property because the County needs more than five acres to run the facility. Mr. Rains indicated that the property the County has an option on is directly behind Ms. Hall, which she originally owned sold it to the man with the billboards. Mr. Rains stated that the access onto Yale is on the subject property the County is requesting to rezone. The shop building would be close to that access point. Mr. Leighty asked Mr. Rains if he has met with Ms. Hall. Mr. Rains answered negatively. Mr. Leighty asked Mr. Rains if he sees their concerns. Mr. Rains answered affirmatively. Mr. Leighty asked Mr. Rains if he could manage things to ease their concerns. Mr. Rains stated that he understands their concerns, and he believes that he could work with them.

Mr. Dix asked where the current maintenance facility is located. Mr. Rains stated that it is currently at 3801 North Harvard, between 36th Street North and Mohawk Boulevard.

Mr. Midget asked Mr. Rains what the County planned to do with their property on 38th and North Harvard. Mr. Rains stated that presently the City of Tulsa is building a maintenance facility adjacent to it and he hopes that he could talk to the City and see if they are interested in it. Mr. Rains indicated that at some point they will be vacating it to relocate at the proposed site. Mr. Rains stated that at this time the County has not identified funds to build the structures and it will come later. The County had the opportunity to purchase these properties now. Mr. Midget asked Mr. Rains if he is aware of the concerns from the citizens in the present site. Mr. Rains stated that somewhat he is aware of the concerns. Mr. Midget stated that he would have a problem with transferring the issues from one location to the other. Mr. Rains stated that part of the problem at the present facility is that it is too small and it is two miles within the City of Tulsa limits.

Mr. Rains addressed the dangerous intersection mentioned earlier and stated that ODOT has a project to build an interchange and it is due to start in the middle of January at 116th Street North.

Mr. Perkins asked Mr. Rains if he would consider a PUD with additional restrictions to help mitigate some of the problems the homeowners are concerned with. Mr. Rains stated that he would have to look into what that would entail, but he would consider it. Mr. Perkins stated that it seems that industrial use would be the correct thing for the proposed property,

but he would have a hard time with the neighbors that are surrounded by it. Mr. Perkins asked Mr. Rains if he would be willing to continue this application.

Mr. Walker asked Mr. Wilkerson if it would be appropriate to recommend a PUD on the subject property. Mr. Wilkerson stated that it is the edges that are important and a PUD could address that. Mr. Wilkerson stated that the piece of property under application is only a part of what Mr. Rains is talking about. If the Planning Commission chooses to consider a PUD it would also include property that is already zoned IL. Mr. Wilkerson expressed concerns that the IL is abutting neighbor's homes.

Mr. Leighty stated that the resident at one time owned the property and it was zoned AG and they rezoned it to IL and sold it. He doesn't think a lot of people will have a lot of sympathy with them. They are surrounded by IL and then they rezoned their own property to IL and now they want to undo it. They have had the benefit of the revenue from the billboard sign, but if one really wants to protect their interest and AG zoning, why would they rezone to IL.

In response to Mr. Covey, Mr. Wilkerson stated that since the existing zoning at the corner of Highway 75 and 116th Street is IH and being used as an IH use, IL would be an appropriate transition zoning to get to something more agricultural. Mr. Wilkerson further stated that he believes the staff recommendation would remain the same.

Mr. Edwards stated that zoning is not easy to understand and if someone didn't get it fully explained to them that IL allowed a lot of uses and not just the one to put up the billboard, then they could have agreed to something and accepted compensation under the idea that they were doing one thing to get a sign put up and that what is being proposed is not possible. Unfortunately, the Planning Commission is put in the position where there is a Zoning Code and it has certain allowances within zoning categories. This is viable use and unfortunately for the property owners they will have IL uses wrapped around their back yards. If it isn't the County it will be someone else coming in for IL zoning and the neighbors will go through this every time and eventually someone will get the zoning. There isn't a whole lot the Planning Commission can do with this except as to what is provided in direction by ordinance for the Planning Commission to do.

Mr. Dix stated that he would like to protect the homeowners, but they are surrounded by IL and IH and he is not sure how the Planning Commission can do that. Mr. Dix commented that he would like to see an agreement between the homeowners and the County to possibly take an option on their properties if they expand into the subject area. Mr. Leighty stated that the homeowners are the ones that rezoned their own property to IL.

Mr. Dix stated that he agrees with Mr. Edwards that the homeowners had some bad information. Mr. Leighty stated that property owners have a duty to understand their rezoning.

Mr. Midget stated that he would like to see the County work with the residents in the subject area. Mr. Midget further stated that his biggest concern is the IL right behind the resident's property and he is giving the property owner the benefit of the doubt because they may have been given bad information and now realizing what has happened. Mr. Midget recommended that the residents come in and correct their zoning. Mr. Midget commented that he has history with the County site on off of 38th. The County stated that they intend to expand at the proposed site because it isn't large enough.

Mr. Wilkerson reminded the Planning Commission that even though there is an existing problem with the IL behind the resident home, it is not under application. Mr. Midget stated that he understands that, but approving one lays the groundwork for the future development. Mr. Midget commented that he has a problem with the expansion being behind the resident's home.

Mr. Midget asked if the County has looked at any other sites. In response, Mr. Rains stated that the County looked at numerous sites around the subject area along Highway 75. Some were suitable, but weren't for sale. These two property owners were willing to work with the County and that is why the subject site was considered. Mr. Rains indicated that he is not sure he wants to go through the PUD process and he is not sure it is warranted. There will be a plat and could include some language in the plat for restrictions that the Planning Commission recommends. Mr. Rains stated that he would be happy to meet with the residents and Commissioner Smaligo and talk through this proposal.

Mr. Walker recognized Mr. Mayberry.

Mr. Mayberry stated that the reason for being here today is because of the IL located behind the neighbor's property. He doesn't have a problem with the subject property that the County is applying for today, but he does have a problem with expanding behind the residential homes. Mr. Mayberry stated that two miles down the road from the subject property is an abandoned truck stop that could be used and there are no homes in the vicinity.

Mr. Leighty asked Mr. Mayberry if he is objecting to the rezoning that is under application today. Mr. Mayberry stated that he objects to the whole process. Mr. Leighty informed Mr. Mayberry that the Planning Commission can only consider what is under application for today.

**TMAPC Action; 10 members present:**

On **MOTION** of **CARNES**, TMAPC voted **8-2-0** (Carnes, Covey, Dix, Edwards, Leighty, Shivel, Stirling, Walker "aye"; Midget, Perkins "nays"; none "abstaining"; Liotta "absent") to recommend **APPROVAL** of the IL zoning for CZ-421 per staff recommendation.

**Legal Description for CZ-421:**

Part of the North Half of the South Half of the Northeast Quarter of the Northeast Quarter (N/2 S/2 NE/4 NE/4) of Section 9, Township 21 North, Range 13 East of the Indian Meridian, Tulsa County, State of Oklahoma, more particularly described by metes and bounds as follows: Beginning at a point Six hundred fifty-seven and one tenth (657.1) feet South of the Northeast corner of Section Nine (9), Township Twenty-one (21) North, Range thirteen (13) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, and Extending South 1°15'22" East, a distance of Two hundred eighteen and seventy-five hundredths (218.75) feet, thence S 88°39'23" West a distance of Three hundred thirty (330.0) feet, thence South 1°15'22" East a distance of One hundred ten (110.0) feet, thence South 88°39'23" West a distance of Six hundred sixty-four and eight tenths (664.8) feet, thence Northeasterly on a curve to the right having a radius of Eleven hundred eighty-three and two tenths (1183.2) feet, a distance of Two hundred fifty-one and one tenth (251.1) feet, thence North 15°29'00" East a distance of Eighty-six and six tenths (86.6) feet, thence North 88°39'23" East a distance of Nine hundred twenty-six (926.0) feet, to the Northeast corner of the North Half of the South Half of the Northeast Quarter of the Northeast Quarter (N/2 S/2 NE/4 NE/4) and the point of beginning.

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**OTHER BUSINESS:**

**Commissioners' Comments**

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**TMAPC Action; 10 members present:**

On **MOTION** of **MIDGET**, TMAPC voted **10-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Liotta "absent") to **ADJOURN** TMAPC meeting No. 2640.

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There being no further business, the Chair declared the meeting adjourned at 3:05 p.m.

Date Approved:

1-23-13

Joshua A. Wick

Chairman

ATTEST:

Michelle J. Jorgensen

Secretary