

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2642

Wednesday, January 23, 2013, 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	Midget	Bates	Tohlen, COT
Carnes	Perkins	Huntsinger	VanValkenburgh, Legal
Dix		Miller	
Edwards		White	
Leighty		Wilkerson	
Liotta			
Shivel			
Stirling			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, January 17, 2013 at 2:47 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 that the TMAPC Receipts are slightly up for the Month of December 2012.

Ms. Miller reported on the Form-Based Code Workshops that will be held in the conference room at Children's and Family Services, 650 South Peoria Avenue, on January 29th, February 6th, and February 11th from 6:00 p.m. to 7:30 p.m.

Ms. Miller reported on the City Council agenda and the BOCC agenda. Ms. Miller further reported that Tuesday, January 22, 2013, the Board of County Commissioners reappointed Mr. Dix to the TMAPC.

Mr. Walker stated that Commissioner Perkins submitted an alternative Code for FBC and he wanted to get some comments from the Planning Commissioners.

Mr. Walker further stated that he would like to get a consensus from the Planning Commissioners to direct staff to report on this for the Planning Commission.

Mr. Leighty stated that he doesn't believe it is appropriate at this point to consider anything other than what is currently before the Planning Commission. This would open up a new can of worms and it doesn't make any sense at all to ask staff to look at this and report back to the Planning Commission. An enormous amount of work has gone into the FBC and the Planning Commission has vetted it thoroughly.

Ms. VanValkenburgh stated that this item isn't on the agenda and she doesn't believe there should be a discussion on this. Mr. Walker asked if this discussion should be moved to Commissioner's Comments at the end of the agenda. Ms. VanValkenburgh stated that if the Planning Commission is not taking any action it could be moved to Commissioner's Comments. Mr. Walker asked for the confirmation that the Planning Commission can direct staff to do something that isn't on the agenda. Ms. VanValkenburgh stated that staff can be directed to do something as long as the Planning Commission isn't taking a vote on it.

* * * * *

Minutes:

Approval of the minutes of December 19, 2012 Meeting No. 2640

On **MOTION** of **LEIGHTY** the TMAPC voted 9-0-0 (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Midget, Perkins "absent") to **APPROVE** the minutes of the meeting of December 19, 2012, Meeting No. 2640.

Minutes:

Approval of the minutes of January 9, 2013 Meeting No. 2641

On **MOTION** of **LEIGHTY** the TMAPC voted 8-0-1 (Carnes, Covey, Edwards, Leighty, Liotta, Shivel, Stirling, Walker "aye"; no "nays"; Dix "abstain"; Midget, Perkins "absent") to **APPROVE** the minutes of the meeting of January 9, 2013, Meeting No. 2641.

* * * * *

Mr. Covey 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. **LS-20570** – (Lot-Split) (CD 4) Location: East of the northeast corner of South Utica and 31st Street South, **Withdrawn**.
4. **LC-453** – (Lot-Combination) (CD-4) Location: Northwest corner of South Lewis Avenue and East 13th Street South
5. **PUD-582-8 – Jerry Hall**, Location: North of northeast corner of South Atlanta Place and East 66th Place, Requesting a **Minor Amendment** to modify the green space requirement in a front yard, **RS-3/PUD-582**, (CD-2)

STAFF RECOMMENDATION:

Concept Statement:

The applicant is requesting a minor amendment to modify the green space requirement in a front yard. The platted configuration of this property provides a very small front yard. The driveway access exceeds the permitted hardscape in a front yard. The completed site will meet all other livability space and dimensional requirements.

Minor Amendment Summary:

- The underlying zoning classification in the PUD is RS-3. Maximum pavement surface allowed in an RS-3 district shall not exceed 34% as outlined in section 1303.D of the Tulsa Zoning Code.
- The requested minor amendment will allow 67% of the front yard coverage as defined on the attached site plan.

Staff Recommendation:

Within the City of Tulsa Zoning Code, PUD Section 1107.K.9, a minor amendment may be permitted when ... "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 applicants request for the front yard coverage revision on this property. We have determined that this request does not substantially alter the original character of the PUD and will not result in any increase incompatibility with the present and anticipated future use of the proximate properties.

Staff recommends **APPROVAL** of the minor amendment request PUD-582-B as outlined in the Minor Amendment Summary above.

The Planning Commission considered the consent agenda.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Midget, Perkins "absent") to **APPROVE** the consent agenda Items 4 and 5 per staff recommendation.

* * * * *

PUBLIC HEARINGS:

6. **Z-7214 - Kinslow, Keith & Todd/Nicole Watts**, Location: South of southwest corner of South 85th East Avenue and East 21st Street, Requesting rezoning from **RD to PK**, (CD-5) (Related to PUD-794)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 14693 dated March 4, 1980, established zoning for the subject property.

RELEVANT ZONING HISTORY:

BOA-16447 September 28, 1993: The Board of Adjustment approved a Special Exception to permit a nursing home and related parking in a CS, RS-1 and RS-3 zoned district; a Variance of the FAR from 50% to 72%, a Variance of the required 100' of frontage; a Variance of the required 25' setback from abutting R district, a Variance to permit required parking on a lot other than the lot containing the principal use and a Variance of the screening requirements; per plot plan, and subject to the execution of the tie contract; finding that the property has three zoning classifications, on property located at 2130 South 85th East Avenue and north of subject property.

BOA-15572 October 18, 1990: The Board of Adjustment approved a Special exception to remove the screening requirement along South 85th East Avenue, which is adjacent to an R District; finding that only 1/3 of the 350' of street frontage requires screening, and that the installation of the fencing at this location would create a safety hazard for motorists entering 85th East Avenue; on property located at 2154 South 85th East Avenue and abutting north of subject property.

BOA-15295 November 2, 1989: The Board of Adjustment approved a Variance of the maximum .5 to .52 floor area ratio for an assisted care facility; per plot plan submitted, on property located at 2154 South 85th East Avenue and abutting north of subject property.

BOA-14982 November 17, 1988: The Board of Adjustment approved a Special Exception to permit for the expansion of an existing nursing home into residential zoned districts; per plot plan submitted, on property located south of southwest corner of East 21st Street and South 85th East Avenue and north of subject property.

BOA-5012 April 13, 1966: The Board of Adjustment approved a Special Exception to erect a convalescent hospital, subject to placing off-street parking on the rear of lot and hard surfacing the lot, on property located south of southwest corner of East 21st Street and South 85th East Avenue and abutting north of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.5± acres in size and is located south of southwest corner of South 85th East Avenue and East 21st Street. The property is vacant and was previously used as a single family residence is currently zoned RD.

SURROUNDING AREA: The subject tract is abutted on the east by single family residences, zoned RS-1/RS-3; on the north by the Senior Housing and Health Care system who happens to be the applicant for this request, and is zoned RS-3. The Board of Adjustment has allowed this senior care facility; on the south by single family residential property, zoned RS-1; and on the west by single family residential property, zoned RS-3.

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

TRANSPORTATION VISION:

South 85th Street is a two lane residential street with bar ditches. There is no identified transportation vision for this street.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South 85 th East Avenue	NA	50'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The existing site is considered an existing residential neighborhood in the Comprehensive plan.

The Existing Residential Neighborhood category is intended to preserve and enhance Tulsa's existing single family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code. In cooperation with the existing community, the city should make improvements to sidewalks, bicycle routes, and transit so residents can better access parks, schools, churches, and other civic amenities.

The PK zoning request is in conjunction with PUD-794 otherwise and would not be consistent with the intent of the comprehensive plan.

STAFF RECOMMENDATION:

Staff finds the requested PK zoning in conjunction with PUD-794 to be: 1) Consistent with the Comprehensive Plan; 2) in harmony with the existing and expected development of surrounding areas; and 3) a unified treatment of the development possibilities of the site and adjacent properties north of the site.

Therefore, staff recommends **APPROVAL** of Z-7214 for PK zoning.

Mr. Wilkerson stated that the east portion of the subject property is proposed to be rezoned to PK zoning from the existing RD zoning.

Applicant's Comments:

Nicole Watts, Kinslow, Keith & Todd, 2200 South Utica Place, 74114, stated that Gold Medallion owns the medical facilities on the northeast property and would like to build a park and walking path for their residents. There will be a small parking lot that will be screened with berms, trees and fencing along the south. The PUD requires a photometric of the lights to be zero on the south property line and the west property line.

INTERESTED PARTIES COMMENTS:

Gerald Buckley, 2205 South 84th East Avenue, 74124, stated that his property backs up to the subject property. Mr. Buckley requested a privacy fence be erected to prevent his dogs from barking at the walkers.

Mr. Dix asked why a screening fence wasn't required on the west side of the subject property.

Mr. Wilkerson stated that the retaining wall is not on the subject property and to place a screening wall at the bottom of the wall wouldn't accomplish anything. Mr. Wilkerson explained that he visited the site and there is 150 feet of green space that will be left on the subject site and to place a fence there didn't seem to accomplish an appropriate screening.

Mr. Dix asked Mr. Buckley if there is a fence on his property. Mr. Buckley stated that on the east side of his property there is a chain-linked fence. Mr. Dix stated that if there is a chain-linked fence, then Mr. Buckley's dogs couldn't bother anyone on the subject property. Mr. Buckley stated that his dogs couldn't bother anyone on the subject property, but they will see people and bark. Mr. Buckley stated that the park is a good idea, but he is concerned about his dogs being disturbed.

Mr. Dix asked Mr. Wilkerson if there is a screening requirement with the new zoning. In response, Mr. Wilkerson stated that on the south side it makes sense to screen, but on the west side it didn't because of the elevation change.

Mr. Walker asked Ms. Watts if her client is opposed to screening the west side with a six-foot screening fence. Ms. Watts provided pictures that showed the difference in the elevations from the parking lot and the houses. She explained that all of the large trees will be staying and will act as a buffer. One of the biggest issues is that on the west property line there is a retaining wall and it isn't on the subject property. To construct a six-foot privacy fence would do no good because the existing properties will be higher than the screening fence. Mr. Walker stated that if the applicant put the six-foot screening fence it would be in front of the wall and the screening fence would only screen about two feet past the chain link.

TMAPC COMMENTS:

Mr. Leighty stated that he is not convinced that a screening fence will do anything to change the habits of a barking dog. Over the years selling real estate he has found that sometimes dogs bark more at what they can't see, than what they can see. If a privacy fence is installed they can still hear everything and see through the pickets and he doesn't believe that there is that much to be gained by installing the privacy fence to control a dog barking.

Mr. Buckley stated that he wouldn't be living in a fish bowl if there was a privacy fence installed.

Mr. Leighty informed Mr. Buckley that there is nothing stopping him from fencing his own property if he wants privacy.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Midget, Perkins "absent") to recommend **APPROVAL** of the

PK zoning on the east portion of the subject property per staff recommendation.

Legal Description for Z-7214 for PK Zoning:

The East 175' of the North 210.95' of Lot 3, O'Connor Park 2nd, City of Tulsa, State of Oklahoma.

Z-7214 is related to PUD-794:

7. **PUD-794 – Kinslow, Keith & Todd/Nicole Watts**, Location: South of southwest corner of South 85th East Avenue and East 21st Street, Requesting a **PUD** to build a park and a parking lot, **RD**, (CD-5) (Related to Z-7214)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 14693 dated March 4, 1980, established zoning for the subject property.

RELEVANT ZONING HISTORY:

BOA-16447 September 28, 1993: The Board of Adjustment approved a Special Exception to permit a nursing home and related parking in a CS, RS-1 and RS-3 zoned district; a Variance of the FAR from 50% to 72%, a Variance of the required 100' of frontage; a Variance of the required 25' setback from abutting R district, a Variance to permit required parking on a lot other than the lot containing the principal use and a Variance of the screening requirements; per plot plan, and subject to the execution of the tie contract; finding that the property has three zoning classifications, on property located at 2130 South 85th East Avenue and north of subject property.

BOA-15572 October 18, 1990: The Board of Adjustment approved a Special exception to remove the screening requirement along South 85th East Avenue, which is adjacent to an R District; finding that only 1/3 of the 350' of street frontage requires screening, and that the installation of the fencing at this location would create a safety hazard for motorists entering 85th East Avenue; on property located at 2154 South 85th East Avenue and abutting north of subject property.

BOA-15295 November 2, 1989: The Board of Adjustment approved a Variance of the maximum .5 to .52 floor area ratio for an assisted care facility; per plot plan submitted, on property located at 2154 South 85th East Avenue and abutting north of subject property.

BOA-14982 November 17, 1988: The Board of Adjustment approved a Special Exception to permit for the expansion of an existing nursing home into residential zoned districts; per plot plan submitted, on property located

south of southwest corner of East 21st Street and South 85th East Avenue and north of subject property.

BOA-5012 April 13, 1966: The Board of Adjustment approved a Special Exception to erect a convalescent hospital, subject to placing off-street parking on the rear of lot and hard surfacing the lot, on property located south of southwest corner of East 21st Street and South 85th East Avenue and abutting north of subject property.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.5± acres in size and is located south of southwest corner of South 85th East Avenue and East 21st Street. The property is vacant and was previously used as a single family residence is currently zoned RD.

SURROUNDING AREA: The subject tract is abutted on the east by single family residences, zoned RS-1/RS-3; on the north by the Senior Housing and Health Care system who happens to be the applicant for this request, and is zoned RS-3. The Board of Adjustment has allowed this senior care facility; on the south by single family residential property, zoned RS-1; and on the west by single family residential property, zoned RS-3.

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

TRANSPORTATION VISION:

South 85th Street is a two lane residential street with bar ditches. There is no identified transportation vision for this street.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South 85 th East Avenue	NA	50'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The existing site is considered an existing residential neighborhood in the Comprehensive plan.

The Existing Residential Neighborhood category is intended to preserve and enhance Tulsa's existing single family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code. In cooperation with the existing community, the city should make improvements to sidewalks,

bicycle routes, and transit so residents can better access parks, schools, churches, and other civic amenities.

The proposed use does not meet the primary definition in preserving an existing neighborhood however this site is isolated from adjacent subdivision development and is not likely to develop into a single family residential lot. The proposal will provide a small private park and parking area which can be used by the neighbors. The park space will be an asset to the neighborhood and does enhance the neighborhood by providing a meaningful open space.

PLANNED UNIT DEVELOPMENT:

DEVELOPMENT CONCEPT:

Gold Medallion Senior Housing and Health Care owns Leisure Village, a nursing community, located at 2154 S. 85th East Avenue, Heatheridge, an assisted living and residential care community, located at 2130 South 85th East Avenue and The Broadmoor, a retirement center, located at 8205 East 22nd Street. These three businesses are located on a small campus on the south side of 21st Street and west of South Memorial Drive. Gold Medallion has purchased a 1.50 acre tract that abuts this campus on the south side, see Exhibit A. The plan is to develop this existing wooded tract into an overflow parking lot and a park area for the residents with a walking trail and gazebo.

This parking lot will act for a parking location for workers of Leisure Village and for overflow parking when there are activities at The Broadmoor. An access ramp will be provided at the property line to provide access from the existing parking lot to the north to the walking trail. The walking trail is roughly 750 feet in length and will provide the Residents a safe location for walks instead of walking on South 85th East Avenue that is a narrow two lane road with bar ditches and no room for sidewalks. The property will also act as a gathering location for residents with a gazebo and park benches.

The existing property is heavily wooded, especially along the western boundary of the property, and this Project proposes to maintain the majority of the trees to provide shade and screening. Additional trees will be provided along the front in conjunction with the parking lot to provide a softer appearance from the street. The parking lot will be set 50 feet off of the property line and with existing and proposed trees to be located between the parking lot and street, the light from the headlights to the street will be reduced.

DEVELOPMENT STANDARDS

AREA:

Net	71,740 SF	1.65 AC
Gross	65,410 SF	1.50 AC

PERMITTED USES:

Use Unit 10 as allowed by right in the PK – Parking District, and uses customarily accessory to permitted uses.

Use Unit 5 as allowed by right in the RD district but limited to the public park shown in concept on the site exhibit included.

MINIMUM PARKING LOT SETBACKS:

From South 85 th East Avenue street right of way line	25'
From the North Boundary	10'
From the West Boundary	100'
From the South Boundary	15'

OFF-STREET PARKING

35 Parking spaces are being provided, with the possibility of adding up to 35 spaces in the future.

LANDSCAPE, SCREENING AND OPEN SPACE:

1. A minimum of 30% of the net land area shall be improved in accord with the Landscape Chapter of the Tulsa Zoning Code as internal landscaped open space, which shall include at least 25 feet of public street frontage landscaped area.
2. A landscaped open space not less than 100 feet in width shall be located along the west boundary of the planned unit development.
3. Parking lot screening adjacent to the South 85th street right of way will be accomplished with a berm roughly parallel to the parking lot. The berm may vary in height however the minimum height is 36" as measured from the pavement surface to the top of the berm and creating an effective screen from property owners east of 85th street.
4. Provide a six (6) foot privacy fence along the south boundary of the site except the east 25' of the south lot line.
5. In addition to the standards referenced above all landscaping shall conform to Chapter 10, Landscape Requirements, in the Zoning Code.

SIGNS:

1. One monument sign not to exceed 5 feet in height and 520 square feet of display surface area may be located at the driveway for identification purposes.
2. LED signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs with moving parts shall be prohibited.
3. 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.
4. The primary building materials of the monument-type ground sign structure shall be brick or stone.

LIGHTING:

Light standards shall not exceed 12 feet in height above the ground or pavement surface. No outdoor lighting shall be permitted within the west 100 feet of the planned unit development. All lights 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. A photometric plan shall be provided illustrating zero foot candles at the east, south and west boundary of the site. The lighting on the north boundary shall be limited to 5 foot candles.

TRASH AND MECHANICAL AREAS:

All trash, mechanical and equipment areas shall be screened from the adjacent single family residential property owners as viewed from residential windows.

STAFF RECOMMENDATION:

Staff finds PUD-794 to be: 1) 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 and adjacent properties north of the site; and 4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, staff recommends **APPROVAL** of PUD-794 subject to the development standards defined in the staff recommendation above along with the exhibits attached.

There were no interested parties wishing to speak.

The applicant indicated his agreement with staff's recommendation.

TMAPC Action; 9 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **9-0-0** (Carnes, Covey, Dix, Edwards, Leighty, Liotta, Midget, Perkins, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; none "absent") to recommend **APPROVAL** of PUD-794 per staff recommendation.

Legal Description for PUD-794:

E310' N210.95' of Lot 3, O'Connor Park 2nd, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

* * * * *

8. **Z-7215 - Sisemore, Weisz & Associates, Inc./Darin Akerman**, Location: Southeast corner of East 41st Street and South 134th East Avenue, Requesting rezoning from **RS-3 to CS**, (CD-6) (Related to PUD-221-G)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 19534 dated May 11, 1999, established zoning for the subject property.

RELEVANT ZONING HISTORY:

PUD-221-F May 1999: All concurred in approval of a proposed Major Amendment to PUD on a 38± acre tract of land, to add church, school and accessory uses; to amend development standards and to reallocate floor area in development areas, on property located south and east of the southeast corner of East 41st Street and South 129th East Avenue.

PUD-221-E August 1996: All concurred in approval of a Major Amendment to PUD on a .22± acre tract, to allow a monopole tower for a cellular telephone service, and located east of the southeast corner of East 41st Street South and South 129th East Avenue.

PUD-221-D May 1990: All concurred in approval of a request for a Major Amendment to PUD, on a 180' x 200' tract, to allow a day care center, located on the southeast corner of East 43rd Place South and South 129th East Avenue.

PUD-221-C October 1985: A request was made for a Major Amendment develop a 3.2± acre tract, for office and commercial uses and was *denied*, on property located on the southeast corner of East 43rd Place South and South 129th East Avenue.

PUD-221-B November 1983: All concurred in approval of a Major Amendment to PUD on a 69± acre tract to increase the density and types of residential uses previously allowed under the original PUD conditions located south and east of the southeast corner of East 41st Street South and South 129th East Avenue and including the subject tract.

PUD-221-A December 1981: All concurred in approval of a Major Amendment to PUD convert the commercial portion of the CS floor area to multifamily purposes on a tract located on the southeast corner of East 41st Street South and South 129th East Avenue.

PUD-221 October 1979: All concurred in approval of a proposed Planned Unit Development, on a 160± acre tract of land, to develop for commercial, office, multifamily, single-family and industrial uses subject to conditions, located at the southeast corner of East 41st Street and South 129th East Avenue and including the subject tract.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.77± acres in size and is located Southeast corner of East 41st Street and South 134th East Avenue. The property appears to be undeveloped and is zoned RS-3/PUD-221-F.

SURROUNDING AREA: The subject tract is abutted on the east by vacant land, zoned RS-3/PUD-221-F; on the north by a residential development, zoned RS-3; on the south by a significant floodplain green space, across the floodplain area is a single family residential area, zoned RS-3/PUD-221-F; and on the west by vacant land, zoned RS-3/PUD-221-F.

The existing PUD-221-F allowed a commercial component in the PUD that was never constructed. The typical commercial area would have been at the southeast corner of East 129th street south at East 41st Street South.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates East 41st Street as a multi modal secondary arterial street however at this time the street is only a two lane arterial street and does not meet the vision identified in the Comprehensive Plan.

Multi-modal streets emphasize plenty of travel choices such as pedestrian, bicycle and transit use. Multimodal streets are located in high intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity. These streets are attractive for pedestrians and bicyclists because of landscaped medians and tree lawns. Multi-modal streets can have on-street parking and wide sidewalks depending on the type and intensity of adjacent commercial land uses. Transit dedicated lanes, bicycle lanes, landscaping and sidewalk width are higher priorities than the number of travel lanes on this type of street. To complete the street, frontages are required that address the street and provide comfortable and safe refuge for pedestrians while accommodating vehicles with efficient circulation and consolidated-shared parking.

Streets on the Transportation Vision that indicate a transit improvement should use the multi-modal street cross sections and priority elements during roadway planning and design.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 41 st Street	Secondary arterial	100'	2
South 134 th East Avenue	No Designation	50'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

This site is currently mapped as an Open Space on the land use map in the Comprehensive Plan. It is staff understanding that the area was considered to be in a flood plain during the mapping process but could easily be considered a new neighborhood area when determining the exact limits of the 100-year water surface on the site.

There is no reason to believe that the property would ever be considered a retail area as the comprehensive plan is currently shown. The existing Planned Unit Development over the area does not show this area as a retail opportunity.

The site is not considered an area of growth because of the open space designation on the growth and stability map.

The proposed retail use does not conform to the vision identified in the Comprehensive Plan.

STAFF RECOMMENDATION:

The proposed re-zoning from RS-3 to CS is considered spot zoning and is not in conformance with the Comprehensive Plan. The site is also

surrounded by a stable residential area north and south of the site. The existing PUD-221-F defined this area for townhomes and patio homes as permitted in Use Unit 5. As outlined above, the requested CS zoning is not consistent with any of the previous planning efforts therefore staff recommends **DENIAL** for the requested Z-7215 CS Zoning.

Z-7215 is related to PUD-221-G:

9. **PUD-221-G – Sisemore, Weisz & Associates, Inc./Darin Akerman,**
Location: Southeast corner of East 41st Street and South 134th East Avenue, Requesting a **PUD** for proposed retail use, from **RS-3/PUD-221-F to CS/PUD-221-G**, (CD-6) (Related to 7215)

STAFF RECOMMENDATION:

ZONING ORDINANCE: Ordinance number 19534 dated May 11, 1999, established zoning for the subject property.

RELEVANT ZONING HISTORY:

PUD-221-F May 1999: All concurred in approval of a proposed Major Amendment to PUD on a 38± acre tract of land, to add church, school and accessory uses; to amend development standards and to reallocate floor area in development areas, on property located south and east of the southeast corner of East 41st Street and South 129th East Avenue.

PUD-221-E August 1996: All concurred in approval of a Major Amendment to PUD on a .22± acre tract, to allow a monopole tower for a cellular telephone service, and located east of the southeast corner of East 41st Street South and South 129th East Avenue.

PUD-221-D May 1990: All concurred in approval of a request for a Major Amendment to PUD, on a 180' x 200' tract, to allow a day care center, located on the southeast corner of East 43rd Place South and South 129th East Avenue.

PUD-221-C October 1985: A request was made for a Major Amendment develop a 3.2± acre tract, for office and commercial uses and was *denied*, on property located on the southeast corner of East 43rd Place South and South 129th East Avenue.

PUD-221-B November 1983: All concurred in approval of a Major Amendment to PUD on a 69± acre tract to increase the density and types of residential uses previously allowed under the original PUD conditions located south and east of the southeast corner of East 41st Street South and South 129th East Avenue and including the subject tract.

PUD-221-A December 1981: All concurred in approval of a Major Amendment to PUD convert the commercial portion of the CS floor area to multifamily purposes on a tract located on the southeast corner of East 41st Street South and South 129th East Avenue.

PUD-221 October 1979: All concurred in approval of a proposed Planned Unit Development, on a 160± acre tract of land, to develop for commercial, office, multifamily, single-family and industrial uses subject to conditions, located at the southeast corner of East 41st Street and South 129th East Avenue and including the subject tract.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 1.77± acres in size and is located Southeast corner of East 41st Street and South 134th East Avenue. The property appears to be undeveloped and is zoned RS-3/PUD-221-F.

SURROUNDING AREA: The subject tract is abutted on the east by vacant land, zoned RS-3/PUD-221-F; on the north by a residential development, zoned RS-3; on the south by a significant floodplain green space, across the floodplain area is a single family residential area, zoned RS-3/PUD-221-F; and on the west by vacant land, zoned RS-3/PUD-221-F.

The existing PUD-221-F allowed a commercial component in the PUD that was never constructed. The typical commercial area would have been at the southeast corner of East 129th street south at East 41st Street South.

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

TRANSPORTATION VISION:

The Comprehensive Plan designates East 41st Street as a multi modal secondary arterial street however at this time the street is only a two lane arterial street and does not meet the vision identified in the Comprehensive Plan.

Multi-modal streets emphasize plenty of travel choices such as pedestrian, bicycle and transit use. Multimodal streets are located in high intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity. These streets are attractive for pedestrians and bicyclists because of landscaped medians and tree lawns. Multi-modal streets can have on-street parking and wide sidewalks depending on the type and intensity of adjacent commercial land uses. Transit dedicated lanes, bicycle lanes, landscaping and sidewalk width are higher priorities than the number of travel lanes on this type of street. To complete the street,

frontages are required that address the street and provide comfortable and safe refuge for pedestrians while accommodating vehicles with efficient circulation and consolidated-shared parking.

Streets on the Transportation Vision that indicate a transit improvement should use the multi-modal street cross sections and priority elements during roadway planning and design.

STREETS:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 41 st Street	Secondary arterial	100'	2
South 134 th East Avenue	No Designation	50'	2

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

This site is currently mapped as an Open Space on the land use map in the Comprehensive Plan. Staff has met with City Planning and determined that this area was considered to be in a flood plain during the mapping process therefore the open space designation was applied. The site could easily be considered a new neighborhood area when determining the exact limits of the 100-year water surface as it relates to this area.

There is no reason to believe that the property would ever be considered a retail area as the Comprehensive Plan is currently shown. The existing Planned Unit Development over the area does not show this area as a retail opportunity.

The proposed retail use does not conform to the vision identified in the Comprehensive Plan.

STAFF SUMMARY:

The applicants Amended Outline Development text as submitted December 13, 2012 with additional sign and building information submitted January 15, 2013 shall be considered a part of the staff recommendation. The concept and development standards are summarized below:

Applicants Concept Statement:

41ST & 134TH Dollar General, the subject of this PUD Major Amendment application, is a proposed 1.771 acre commercial-use development project located at the southeast corner of E. 41st St. S. & S. 134th E. Ave. in east Tulsa. As reflected upon Exhibit "A" of this report, the property is bounded on the north by E. 41st St. S., on the south by a wide storm water drainage reserve area (Reserve Area "H" of the Crystal Creek subdivision), on the east by unplatted,

undeveloped property contained within PUD 221 Development Area “I”, and on the west by S. 134th E. Ave. As depicted upon Exhibit “A”, the 41ST & 134TH Dollar General site (proposed PUD Development Area “DG”) straddles the present PUD 221 Development Area “H” and “I” division line.

Since approval of the original 160-acre mixed-use PUD in 1979 (per PUD #221), several amendments to the PUD have occurred which have substantially reshaped, and redefined, the majority of the twelve different PUD development areas and development standards associated with PUD 221. One of the earliest and most significant modifications to the PUD (PUD 221-A) was approved in 1981, which effectively replaced 108,900 SF of allowable commercial-use floor area, and 102,000 SF of office-use area, with a 400-unit multifamily project platted as “Observation Point”, located at the southeast corner of E. 41st St. S. & S. 129th E. Ave. Another significant amendment to the PUD was approved in 2002, via PUD 221-F-1, which replaced an approximate 40-acre proposed church and private school use project with a single-family subdivision use, much of which was platted in 2004 as “Crystal Creek”. Also, in association with the “Crystal Creek” subdivision project, a previously approved 35,000 SF commercial-use area adjacent to S. 129th E. Ave. was removed to allow additional recreation, open space and stormwater drainage use for the Crystal Creek subdivision development.

With respect to the proposed 41ST & 134TH Dollar General store site identified upon Exhibits A – D of this report, the existing E. 41st St. S. roadway and a wide overland drainage easement area provide significant physical separation between the proposed store use and the existing single-family subdivisions located to the north (Park Plaza East IV) and to the south (Crystal Creek). To the east and west of the proposed store site (PUD 221 Development Areas “H” & “I”), the presently allowable land uses shall remain, including institutional land uses, such as churches and schools, as well as townhouses or patio homes. No modifications are proposed to any other land areas within PUD 221 beyond the proposed commercial use and commercial zoning necessary to support the 41ST & 134TH Dollar General store site (PUD 221-G / Development Area “DG”).

Applicant Development guidelines:

LAND AREA:	1.771 Ac. (77,161 SF)
EXISTING ZONING:	RS-3/PUD-221-F
PROPOSED ZONING:	CS/PUD-221-G

PERMITTED USES:

Use Unit 14 (Shopping Goods and Services), and uses customarily accessory thereto.

MAXIMUM FLOOR AREA RATIO: 0.30

MINIMUM LOT FRONTAGE: 150 feet

MINIMUM BUILDING SETBACKS:

- From E. 41st St. S. right-of-way: 50 feet*
- From S. 134th E. Ave. right-of-way: 25 feet*
- From the southerly boundary of PUD Dev'p. Area "DG":40 feet*
- From the easterly boundary of PUD Dev'p. Area "DG":17.50 feet*

*MAXIMUM BUILDING HEIGHT: 1-story / 25 feet**

**Architectural building elements and business logos may exceed the maximum building height with detail site plan approval.*

OFF-STREET PARKING: Per City of Tulsa zoning code requirements.

SIGNAGE: Per City of Tulsa zoning code requirements.

SCREENING AND LANDSCAPING: Per City of Tulsa zoning code requirements.

LIGHTING: No light standard, whether pole or building-mounted, shall exceed 25 feet in height.

OTHER BULK AND AREA REQUIREMENTS: Per City of Tulsa zoning code requirements.

STAFF RECOMMENDATION:

In summary, staff recommends **DENIAL** of the proposed PUD 221-G as outlined below.

- 1) The proposed commercial use is not consistent with the vision identified in the City of Tulsa Comprehensive Plan.
- 2) The commercial use request does not meet the spirit and intent of the original PUD in this area.

- 3) The proposed PUD application does not provide adequate site development standards to be considered a complementary use inside this residential neighborhood.

TMAPC COMMENTS:

Mr. Shivel stated that he has had some ex parte communication, but he doesn't believe it will impact his ability to make a judgment.

Applicant's Comments:

Steve Schuller, 1100 ONEOK Plaza, 100 West 5th Street, 74103-4217, stated that this is spot zoning, but in this instance it is not necessarily a bad thing. PUD-221-F, which was the last major amendment, was approved by the City Council in 1991. The subject property is within the development areas of H and I in the PUD. Part of Development Area H was going to be a private school and the rest of the Development H and I was to be designated to allow Use Unit 5, which are institutional uses. Mr. Schuller listed the various uses that would be allowed under Use Unit 5. Mr. Schuller stated that the Comprehensive Plan indicates the subject property as being open space, which is contrary to the zoning in place. Mr. Schuller further stated that the original PUD contemplated that ten acres would be used as commercial, but over the years through various changes to the PUD the corner was developed for multifamily. Mr. Schuller listed the various developments and locations within PUD-221. Mr. Schuller listed various examples of "spot zoning" within the City of Tulsa that is similar to today's request for CS zoning. Mr. Schuller explained that the small CS properties that he has listed could become a small neighborhood shopping center to serve the residential neighbors. Mr. Schuller listed several reasons why this could be considered the best use for the subject property.

Mr. Schuller stated that 41st Street is an arterial street and no one would build houses in there. The right-of-way for 41st Street and the floodplain boundaries make the subject site too shallow for development as a school or church, which is contemplated by the existing zoning. The location of the subject property has a special advantage with a substantial buffer created by the drainage channel. There would be approximately 300 feet between the store and the nearest resident to the south. With the flood plain, the creek and the detention pond area the separation for the subdivision from the subject property is 450 feet. There would be 225 feet between the subject property and the residents to the north. The proposal is in scale of the neighborhood. The building is only 9,100 SF building and has a .30 FAR, which is comparable to OL zoning rather than CS zoning. It is a small general retail store that this neighborhood currently doesn't have.

Mr. Schuller indicated that Councilor Steele has expressed support for the subject proposal and addressed this at his District 6 Town Hall Meeting. Notification was given to the area residents so that they could meet with the developer at the meeting and the consensus of the meeting is that they favored the proposal. There was one concern expressed by a HOA for Park Plaza regarding 41st Street being too narrow. Mr. Schuller commented that when development occurs, then the streets are widened.

Mr. Schuller stated that the proposal is unique because it is within a PUD and not straight zoning. With the PUD and the Zoning Code provisions the subject area is protected. Mr. Schuller further stated that today his client is requesting that the unutilized commercial acreage that was originally contemplated for the PUD be allowed on the subject property.

INTERESTED PARTIES COMMENTS:

John Zimmerman, 3844 South 135 East Avenue, 74134, Chairman of the Park Plaza Neighborhood Association and representing the Crystal Creek Addition, stated that he has a petition opposing this application (Exhibit B-1). Mr. Zimmerman expressed concerns with the narrowness of 41st Street and heavy traffic.

TMAPC COMMENTS:

Mr. Edwards asked Mr. Zimmerman if he has had any conversations with the developers. Mr. Zimmerman stated that he attended the meeting with Councilor Steele and opposed this project at that meeting. The people who were for the proposal do not live in the subject area they are from the Columbus area and are not aware of the heavy traffic the subject area deals with daily. Mr. Edwards asked Mr. Zimmerman if he has requested any additional meetings with the developer, Councilor or INCOG staff. Mr. Zimmerman stated that he hasn't because of the timeframe.

INTERESTED PARTIES COMMENTS:

Charles Bertalot, 13102 East 42nd Street, 74134, stated that he lives in Crystal Creek Addition. Mr. Bertalot expressed the same concerns as Mr. Zimmerman regarding traffic issues on 41st Street. He addressed the problems with stormwater drainage in the subject area. Mr. Bertalot cited the various retail and grocery stores in the subject area and doesn't feel the proposal is necessary to serve the neighborhood. Mr. Bertalot cited the various crime issues in the subject area.

Mr. Carnes out at 2:21 p.m.

Ken Raffensperger, 13519 East 38th Street, 74134, stated that the drainage in Crystal Creek is not improved as other drainage areas that were referred to. Mr. Raffensperger cited the other sites of the Dollar General Stores that are within the subject area. He indicated that the

subject area is not underserved. Mr. Raffensperger stated that safety is the biggest issue due to the traffic and narrowness of 41st Street (two-lane road). Mr. Raffensperger cited the planned developments in the subject area that will bring more traffic onto 41st Street.

Isidoo Vasquez, 4125 South 41st Street, 74134, expressed concerns for pedestrian safety and increased traffic. There are children playing in the neighborhood and he is worried about traffic cutting through the neighborhood.

Applicant's Rebuttal:

Mr. Schuller stated that the construction of the store at this location would have to meet the City's stringent requirements and restrictions for development of property along the floodplain. He doesn't see that the proposed development would be adding to any flooding problems that may already be experienced. The bulk of the speakers today were talking about 41st Street, which he anticipated. Obviously 41st Street would be developed as the traffic counts warrant. The cited developments to the east are exactly the kind of things that would hasten the City's attention to the street and see that it is adequately widened and improved. Mr. Schuller described the proposal as being a small area grocery store and serving the surrounding housing additions. He concluded that he sees this proposal helping the residents with their concerns regarding 41st Street.

TMAPC COMMENTS:

Mr. Leighty complimented Mr. Schuller on his presentation and professionalism. One of the points Mr. Schuller made about spot zoning was the lack of opposition and it appears that there is a fairly formidable amount of opposition. There is a petition with 150 signatures opposing the subject development. Mr. Schuller stated that there was little opposition expressed at Councilor Steele's meeting. It is fairly clear that the opposition is centered on the problem of 41st Street, which is an age-old problem in Tulsa. Widening of streets does not happen unless the traffic counts are there to justify it. This kind of development will serve the neighborhood and if there is an increase in traffic from this development and the development to the east that will get the City's attention for 41st Street. Mr. Leighty stated that widening 41st Street would be very low on the list for a street widening in the foreseeable future. Today the City is putting together a package of street widening projects, costing a couple of million dollars. The traffic counts on the proposed widening are much higher than the counts on 41st Street.

Mr. Leighty asked Mr. Schuller if he thought his client would consider some type of legal action if the City doesn't grant this spot zoning because it has been granted in a few other places within the City. Mr. Schuller

stated that he hasn't discussed that possibility with his client. Mr. Leighty stated that the Planning Commission has been very reluctant to consider spot zoning. Mr. Leighty stated that he will not be able to support this request.

Mr. Schuller stated that he was attempting to show that there are examples throughout the Tulsa Metropolitan Area where this kind of small CS zoning has been implemented to serve the surrounding residential areas with some type of neighborhood oriented shopping center. This might be an example of where it might be appropriate. Mr. Leighty stated that the City Planning Department looked at this and wasn't supportive of the idea and INCOG staff doesn't feel that it is appropriate.

TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Covey, Dix, Edwards, Leighty, Liotta, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Perkins "absent") to recommend **DENIAL** of the CS zoning for Z-7215 per staff recommendation.

TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Covey, Dix, Edwards, Leighty, Liotta, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Perkins "absent") to recommend **DENIAL** of PUD-221-G per staff recommendation.

OTHER BUSINESS:

- 10. **LC-454 – Wallace Engineering, Request for Refund**, These lots were combined on a previous case.

STAFF RECOMMENDATION:

Ms. White stated that staff discovered that the lot-combination was approved previously in 2010. Staff recommends a full refund in the amount of \$100.00.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **DIX**, TMAPC voted **8-0-0** (Covey, Dix, Edwards, Leighty, Liotta, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Perkins "absent") to **APPROVE** the refund request in the amount of \$100.00 per staff recommendation for LC-454.

11. Commissioners' Comments

Mr. Walker stated that Commissioner Perkins submitted an alternative for review and consideration. There could be benefits in the Chicago Code regarding Form-Based Code. Mr. Walker asked staff to research this and give a report on it to see if it is worth pursuing.

Mr. Leighty stated that he does believe that this is out-of-line. Mr. Leighty expressed concerns that staff would be asked to study every Form-Based Code available. There was a well-known consultant hired to do the City of Tulsa's Form-Based Code with lengthy meetings and community input. This has been going on for two years and he thinks it is inappropriate to ask staff to review this.

Ms. Miller stated that she has looked at this and it is a little different in the approach. It is different that it is for the entire City and the example or small section that Mr. Perkins emailed was just for the Business and Office District portion of the Code. Ms. Miller suggested that the staff could look at some of the concepts of perhaps the pedestrian street section in the City of Chicago Code to help problem solve as we go through the workshops for Form-Based Code.

Ms. Miller stated that staff plans to report back to the TMAPC at a work session in late February once the meetings are done. At that point the Chicago Code could be looked at to help problem solve.

Mr. Dix stated that he would like staff to look at this and throughout all of the Form-Based Code meetings the Planning Commission was told that there are 300 other City's that have a Form-Based Code. Anything the Planning Commission could consider, even at this late date, that would improve our Code should be considered. Mr. Dix stated that he never heard once during the Form-Based Code meetings any comparison with any other Cities.

Ms. Miller suggested that staff look at the Chicago Code and various other Form-Based Codes for problem solving options and try to lay those out for the Planning Commission and presented at the February 20, 2013 work session.

* * * * *

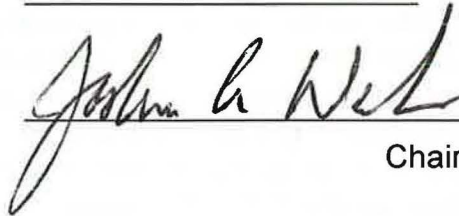
TMAPC Action; 8 members present:

On **MOTION** of **LEIGHTY**, TMAPC voted **8-0-0** (Covey, Dix, Edwards, Leighty, Liotta, Shivel, Stirling, Walker "aye"; no "nays"; none "abstaining"; Carnes, Midget, Perkins "absent") to **ADJOURN** TMAPC meeting No. 2642.

There being no further business, the Chair declared the meeting adjourned at 2:50 p.m.

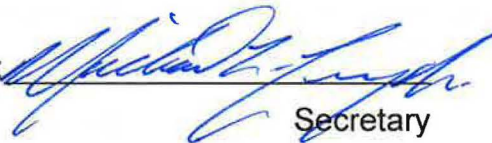
Date Approved:

2-6-13



Chairman

ATTEST:


Secretary