

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2708

Wednesday, October 21, 2015, 1:30 p.m.

City Council Chamber

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

Members Present	Members Absent	Staff Present	Others Present
Covey	Carnes	Fernandez	VanValkenburgh, Legal
Dix	Millikin	Hoyt	Southern, COT
Fretz		Huntsinger	
Midget		Miller	
Reeds		White	
Shivel		Wilkerson	
Stirling			
Walker			
Willis			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, October 19, 2015 at 9:33 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Covey 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 September 2015, which are fairly consistent with the same time last year.

Ms. Miller reported on progress of the new zoning code update and meeting with the City Council. Ms. Miller cited the issues that are still being discussed and language that needs to be refined.

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1. **Minutes:**

Approval of the minutes of September 28, 2015 Special Meeting

On **MOTION** of **DIX**, the TMAPC voted 9-0-0 (Covey, Dix, Fretz, Midget, Reeds, Shivel, Stirling, Walker, Willis "aye"; no "nays"; none "abstaining"; Carnes, Millikin "absent") to **APPROVE** the minutes of the meeting of September 28, 2015, TMAPC Special Meeting.

CONSENT AGENDA

All matters under "Consent" are considered by the Planning Commission to be routine and will be enacted by one motion. Any Planning Commission member may, however, remove an item by request.

2. **LS-20805** (Lot-Split) (CD 9) – Location: Southwest corner of East 39th Street South and South Evanston Avenue (Applicant has requested a continuance to 11/4/15) (This Item was removed from the Consent Agenda)
3. **LC-710** (Lot-Combination) (CD 4) – Location: Northwest corner of East 7th Street South and South Owasso Avenue
4. **LC-711** (Lot-Combination) (County) – Location: Southwest corner of West 41st Street South and South 47th West Avenue
5. **LS-20816** (Lot-Split) (CD 9) – Location: East of the northeast corner of East 71st Street South and South Canton Avenue
6. **LC-712** (Lot-Combination) (CD 8) – Location: Southwest corner of East 64th Place South and South Oswego Avenue
7. **LS-20817** (Lot-Split) (CD 8) – Location: Southeast corner of East 119th Street South and South Norwood Avenue
8. **LS-20818** (Lot-Split) (CD 8) – Location: West of the southwest corner of East 106th Street South and South 77th East Avenue
9. **LS-20819** (Lot-Split) (CD4) – Location: Northeast corner of East 3rd Street South and South Greenwood Avenue
10. **LC-713** (Lot-Combination) (CD 3) – Location: North of the northeast corner of East Admiral Place and North 121st East Avenue

11. **Cypress Creek Estates – Final Plat**, Location: West of South 193rd East Avenue, North of East 51st Street South, (CD 6) (This item was removed from the Consent Agenda.)
12. **PUD-426-8 – Darren and April Rager**, Location: Northwest corner of South Knoxville Avenue and East 103rd Street South, requesting a **PUD Minor Amendment** to increase the allowable building height from 35 feet to 40 feet, (CD 8)

STAFF RECOMMENDATION:

Amendment Request: Modify the PUD to increase the allowable building height from 35 feet to 40 feet.

Staff Comment: This request can be considered a Minor Amendment as outlined by Section 1107.H.9 PUD Section of the City of Tulsa Zoning Code.

“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 request and determined:

- 1) The requested amendment does not represent a significant departure from the approved development standards in the PUD.
- 2) All remaining development standards defined in PUD-426 and subsequent minor amendments shall remain in effect.

With considerations listed above, staff recommends **approval** of the minor amendment request to increase the allowable building height from 35 feet to 40 feet.

13. **PUD-521 – Cedar Creek Consulting/Jason Emmett**, Location: East of the southeast corner of South 101st East Avenue and East 71st Street South, Requesting a **PUD Detail Site Plan** for a new retail building with in the PUD, (CD 7)

STAFF RECOMMENDATION:

CONCEPT STATEMENT:

The applicant is requesting detail site plan approval on a 0.97 Acre site in a Planned Unit Development for a new retail building including one, one story building.

PERMITTED USES:

Use Units 11, 12, 13, 14 and vehicular repair and service except body repair or painting and customary accessory uses. The retail building proposed for this project is allowed by right.

DIMENSIONAL REQUIREMENTS:

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

ARCHITECTURAL GUIDELINES:

The new building meets all applicable architectural guidelines in the Planned Unit Development.

OFF-STREET PARKING AND VEHICULAR CIRCULATION:

The site plan meets the minimum parking defined in the Tulsa Zoning Code and the Planned Unit Development.

LIGHTING:

Site lighting plans provided. All parking lot lighting shall be directed downward and away from adjacent residential areas.

SIGNAGE:

The site plan does not illustrate signage. Any new signage will require a separate permit. All signage will be required to meet the Planned Unit Development Standards. Any ground or monument signs placed in an easement will require a license agreement with the City prior to receiving a sign permit. This staff report does not remove the requirement for a separate sign plan review process.

SITE SCREENING AND LANDSCAPING:

The open space, landscape area and screening are consistent with the Planned Unit Development requirements and meet the minimum standards of the Landscape portion of the Tulsa Zoning Code. This staff report does not remove the requirement for a separate landscape plan review process.

PEDESTRIAN ACCESS AND CIRCULATION:

The plan displays pedestrian paths adjacent to the proposed building.

MISCELLANEOUS SITE CONSIDERATIONS:

There are no concerns regarding the development of this area.

SUMMARY:

Staff has reviewed the applicant’s submittal of the site plan as it relates to the approved **PUD-521**. The site plan submittal meets or exceeds the minimum requirements of the Planned Unit Development. Staff finds that the uses and intensities proposed with this site plan are consistent with the approved Planned Unit Development, and the stated purposes of the Planned Unit Development section of the Zoning Code.

Staff recommends **APPROVAL** of the detail site plan for the proposed new retail building.

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

Mr. Covey stated that Items 2 and 11 will be removed from the consent agenda and added to the public hearing.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **DIX**, TMAPC voted **9-0-0** (Covey, Dix, Fretz, Midget, Reeds, Shivel, Stirling, Walker, Willis “aye”; no “nays”; none “abstaining”; Carnes, Millikin “absent”) to **APPROVE** Items 3 through 10 and Items 12 and 13 per staff recommendation.

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

PUBLIC HEARINGS:

- 11. **Cypress Creek Estates – Final Plat**, Location: West of South 193rd East Avenue, North of East 51st Street South, (CD 6)

STAFF RECOMMENDATION:

This plat consists of 119 lots, eight blocks on 40 acres.

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

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 **DIX**, TMAPC voted **8-0-1** (Covey, Dix, Midget, Reeds, Shivel, Stirling, Walker, Willis "aye"; no "nays"; Fretz "abstaining"; Carnes, Millikin "absent") to **APPROVE** the final plat for Cypress Creek Estates per staff recommendation.

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2. **LS-20805** (Lot-Split) (CD 9) – Location: Southwest corner of East 39th Street South and South Evanston Avenue (Applicant has requested a continuance to 11/4/15)

16. **Cadent Park - Minor Subdivision Plat**, Location: West of the northwest corner of East 91st Street South and South Yale Avenue, (CD 8) (Continued from October 7, 2015 meeting) (**Staff requests a continuance to the November 4, 2015 meeting.**)

17. **PUD-221-H –Michael Joyce**, Location: Southeast corner of South 129th East Avenue and East 43rd Place South, requesting a **PUD Major Amendment** to allow an assisted living center, **RS-3/PUD-221-D to RS-3/PUD-221-H**, (CD 6) (Continued from 9/2/15 and 10/7/15)

18. **PUD 221 H – Plat Waiver**, Location: Southeast corner of South 129th East Avenue and 43rd Place South, (CD 6)

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **DIX**, TMAPC voted **9-0-0** (Covey, Dix, Fretz, Midget, Reeds, Shivel, Stirling, Walker, Willis "aye"; no "nays"; none "abstaining"; Carnes, Millikin "absent") to **CONTINUE** Items 2, 16, 17 and 18 to November 4, 2015.

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14. **LS-20821** (Lot-Split) (County) – Location: West of the northwest corner of West 25th Street South and South 65th West Avenue

STAFF RECOMMENDATION:

The Lot-Split proposal is to split an existing RS (Residential Single Family) tract into two tracts. Both of the resulting tracts exceed the Bulk and Area requirements of the Tulsa County Zoning Code.

Technical Advisory Committee met on September 30, 2015. The County Engineer is requiring 30 feet of right-of way on West 25th Street South.

The proposed lot-split would not have an adverse affect on the surrounding properties and staff recommends **APPROVAL** of the lot-split and the waiver of the Subdivision Regulations that no lot have more than three side lot lines.

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 **WALKER**, TMAPC voted **9-0-0** (Covey, Dix, Fretz, Midget, Reeds, Shivel, Stirling, Walker, Willis "aye"; no "nays"; none "abstaining"; Carnes, Millikin "absent") to **APPROVE** LS-20821 per staff recommendation.

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15. **Meadow Creek – Preliminary Plat**, Location: South of southeast corner of West 111th Street South and 33rd West Avenue (County)

STAFF RECOMMENDATION:

The plat consists of 8 lots, 1 block, on 5 acres.

The following issues were discussed October 1, 2015, at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned PUD 839 (pending) (AG existing). The County Inspector will need to be shown schematics of site plans for development.
2. **Streets:** City – no comment. County Engineer will need to see proof of adequate access through previous lot split. Cul-de-sac design will need to be approved through County Engineer. Creek County will accept some right-of-way dedication. Right of way dedication documents will need to be provided to County Engineer.
3. **Sewer:** City – out of service area – no comment.
4. **Water:** City – no comment. Inside RWD #2 service area. An 8 inch water line will need to be looped.

5. **Storm Drainage:** The County Engineer will require a drainage study and will need to approve drainage plans.
6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:**
7. **Other: Fire:** City – out of City Limits. A release letter from fire department serving site will be required. This is believed to be the Sapulpa fire department.
8. **Other: GIS:** Identify all subdivisions on location map. Provide owner surveyor/engineer email addresses. Need addresses caveat. Provide all boundary line dimensions. Need addresses for all lots. Submit control data sheet. Show area of plat in 100 year floodplain area. Correct legal description. Show site in location map. Correct street names in location map. Define basis of bearing between two known points. Provide bearing from point of commencement to point of beginning. Provide symbol for pins set for plat.

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 County Engineer must be taken care of to his 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.

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 **WALKER**, TMAPC voted **9-0-0** (Covey, Dix, Fretz, Midget, Reeds, Shivel, Stirling, Walker, Willis "aye"; no "nays"; none "abstaining"; Carnes, Millikin "absent") to **APPROVE** the minor subdivision plat for Meadow Creek per staff recommendation.

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19. **Z-7319 – Situs of Sound LLC/Bruce Robbins, Jr.**, Location: East and south of southeast corner of East 11th Street and South 177th East Avenue, requesting rezoning from **AG to IL**, (CD 6)

STAFF RECOMMENDATION:

DEVELOPMENT CONCEPT:

The property defined in Z-7319 is owned by the same entity that owns land immediately east of this site. The east parcel is zoned IL and the

owner is currently working through the site engineering and design process for a new industrial fabrication facility.

It has been determined that the fire code requires a secondary point of access to serve that facility. An existing stub street (East 12th Street South) is available at the west end of the site and would satisfy that requirement. The rezoning request anticipates future expansion opportunities for the property owner.

The connection to the stub street will be gated and locked with a locking system approved by the fire department. The adjacent property east of this site provides normal business access to East 11th Street.

DETAILED STAFF RECOMMENDATION:

IL zoning is consistent with the comprehensive plan on portion of the application north of an existing flood plain area and included in an Employment land use designation in the Comprehensive Plan and,

The south portion of the requested area is considered a New Neighborhood. The comprehensive plan recognizes the flood plain as a buffer area between Employment Areas and New Neighborhood Land Use designations. Rezoning the area south of the floodplain into the New Neighborhood area is not consistent with the comprehensive plan and,

Generally this part of Tulsa is undeveloped except for large lot residential, agricultural and small business. The expected development pattern has not been established except in the comprehensive plan land use designation therefore,

Staff recommends Approval of Z-7319 to rezone property from AG to IL but limited to the land area north of the currently mapped 100 year FEMA floodplain.

Staff recommends Denial of IL zoning south of the north edge of the 100 year FEMA floodplain boundary.

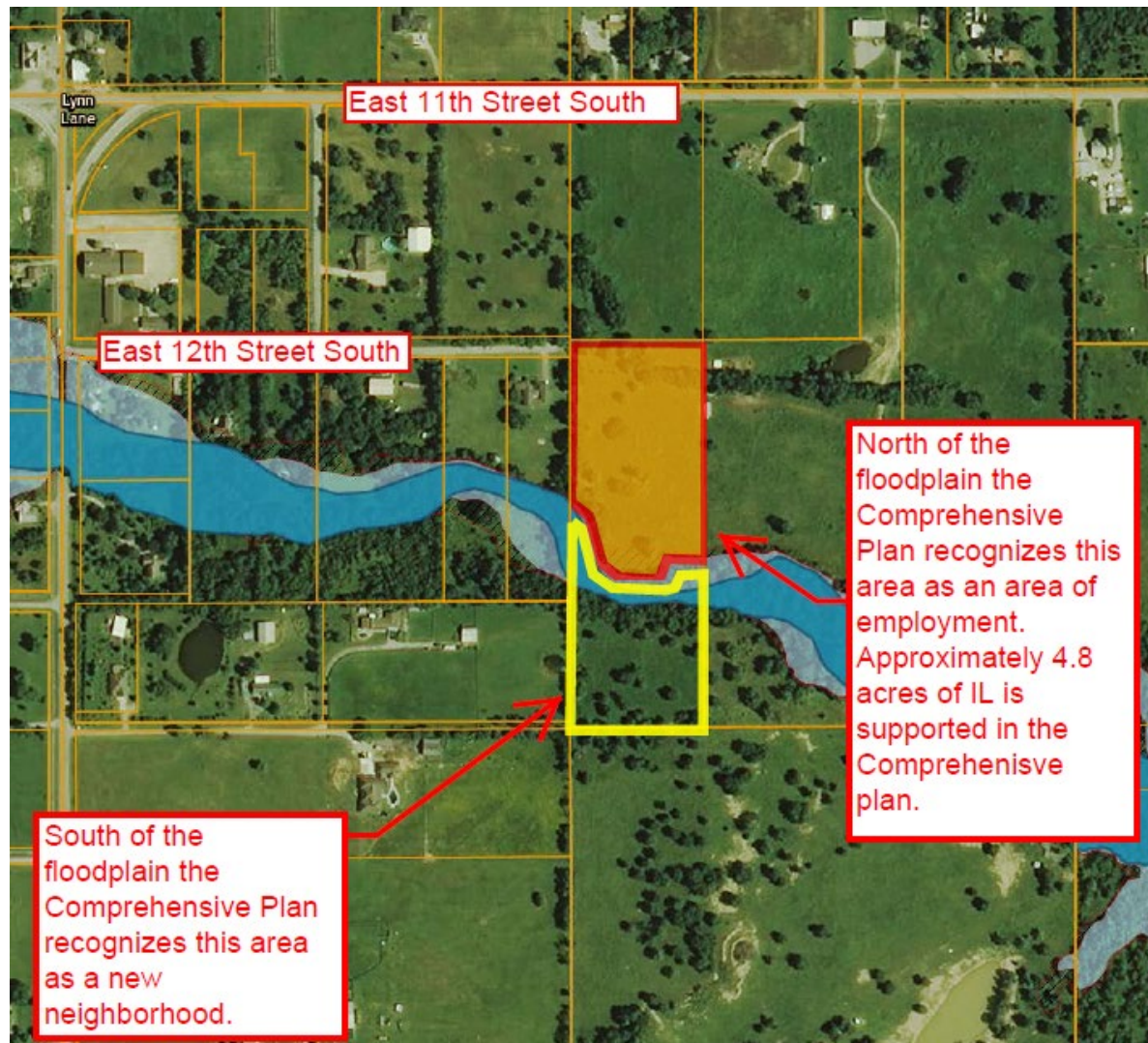
SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary:

The portion of the property north of the floodplain is included in the Employment Area land use designation of the comprehensive plan.

Approximately 4.8 acres of land is north of the flood plan and is illustrated below.



Land Use Vision:

Land Use Plan map designation: New Neighborhood, Employment,

Employment areas contain office, warehousing, light manufacturing and high tech uses such as clean manufacturing or information technology. Sometimes big-box retail or warehouse retail clubs are found in these areas. These areas are distinguished from mixed-use centers in that they have few residences and typically have more extensive commercial activity.

Employment areas require access to major arterials or interstates. Those areas, with manufacturing and warehousing uses must be

able to accommodate extensive truck traffic, and rail in some instances. Due to the special transportation requirements of these districts, attention to design, screening and open space buffering is necessary when employment districts are near other districts that include moderate residential use

The New Neighborhood is intended for new communities developed on vacant land. These neighborhoods are comprised primarily of single-family homes on a range of lot sizes, but can include townhouses and low-rise apartments or condominiums. These areas should be designed to meet high standards of internal and external connectivity, and shall be paired with an existing or new Neighborhood or Town Center.

Areas of Stability and Growth designation: Area of Growth

The purpose of an Area of Growth is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Areas of Growth are found throughout Tulsa. These areas have many different characteristics but some of the more common traits are in close proximity to or abutting an arterial street, major employment and industrial areas, or areas of the city with an abundance of vacant land. Also, several of the Areas of Growth are in or near downtown. Areas of Growth provide Tulsa with the opportunity to focus growth in a way that benefits the City as a whole. Development in these areas will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile.

Transportation Vision:

Major Street and Highway Plan: None

Trail System Master Plan Considerations: None

Small Area Plan: None

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: The site is gently sloping grassland with some wooded area. The wooded area is concentrated around the flood plain area that bisects the southern part of site. Vehicular and pedestrian access is limited to the existing street right of way that ends at the west edge of the property being considered in this application. The floodplain area includes a floodway that can only be modified through the FEMA process.

The image below is a street view image illustrating the proposed fire code connection point at the east end of East 12th Street South. The view is facing east.



Environmental Considerations:

Floodplain designations previously discussed provide a natural edge between the land use categories in the Comprehensive Plan. The zoning boundary should be respectful of that edge which is

reflected in the Land Use Plan. This area is well known for shallow limestone deposits. Those deposits are a consideration for future development but do not prohibit new construction activities.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 12 th Street South	None	50 feet	2

Utilities:

The subject tract has municipal water service. Sanitary sewer is not available at this time. A private septic system will be required.

Surrounding Properties: The subject tract is abutted on the east by undeveloped property, zoned IL; on the north by undeveloped property, zoned AG; on the south by undeveloped property, zoned AG; and on the west by large lot single family residential property, zoned RS-1.

SECTION III: Relevant Zoning History

ZONING ORDINANCE: Ordinance number 11818 dated June 26, 1970, established zoning for the subject property.

Subject Property:

n/a

Surrounding Property:

Z-7250 October 2014: All concurred in approval of a request for rezoning a 13± acre tract of land from AG to IL for a fabrication shop, on property located east and south of southeast corner of East 11th Street and South 177th East Avenue and abutting east of the subject property.

Mr. Wilkerson stated that that the subject property is owned by the same property owner for the adjacent property that was recently rezoned to IL for a fabrication shop. Mr. Wilkerson further stated that if the Planning Commission chooses to accept staff's recommendation, staff doesn't have a specific legal description for where the line is and staff roughly measured 4.8 acres through the GIS database.

TMAPC COMMENTS:

Mr. Covey asked if the "all concurred" is the City Council or TMAPC. Mr. Wilkerson stated that it is referring to the City Council vote. Mr. Wilkerson explained that the original staff recommendation was for denial on Z-7250 and then it was appealed. Mr. Wilkerson further explained that the Comprehensive Plan was amended before Z-7250 was approved by the City Council.

Mr. Dix stated that he recalls that the Planning Commission didn't deny Z-7250. [INCOG's agenda log indicates that the Planning Commission denied Z-7250 and the applicant appealed to the City Council.]

Applicant's Comments:

Bruce Robbins, Situs of Sound, LLC, 1203 Southwest 22nd Street, Wagoner 74467, stated that Mr. Wilkerson presented his request well and although it is not consistent with Comprehensive Plan from an ownership land map standpoint, for it to be uniformed he would like it zoned IL for both parcels. Mr. Robbins stated that not knowing right now the future plans for expansion and what the land would be used for, but he definitely wants to rezone to IL for the entire parcel.

TMAPC COMMENTS:

Mr. Covey asked Mr. Robbins what his client would use the subject property for. Mr. Robbins stated that his client will be using the east property for fabrication, he does welding for the oil and gas industry. Mr. Covey asked what the west side of the subject property would be used for. Mr. Robbins stated that the reason or the purchase of the subject property was because one of the requirements for the building height, the Fire Marshal required two points of access. Mr. Robbins explained that his client purchased the subject property in case of an emergency 12th and 11th Streets could be used for emergency access. Mr. Covey asked Mr. Robbins if his client has any plans to use the west portion. Mr. Robbins stated that the building is on the north side (Mr. Robbins demonstrated on the zoning map where the building is located and where the access points would be located.) Mr. Covey asked if his client has any plans to use the property south of the creek. In response Mr. Robbins answered negatively.

Mr. Dix asked if there would need to be a Comprehensive Plan change requested. Mr. Wilkerson stated that it would have to be done annually or semi-annually. Mr. Dix asked if it is not something that would have to precede this action today. Mr. Wilkerson answered negatively.

INTERESTED PARTIES COMMENTS:

John Starr, 17810 East 13th Street, 74108, stated that he is in opposition to the zoning change. Mr. Starr further stated that he wasn't aware of the zoning change that took place on the east property. Mr. Starr described the surrounding land to be all small single-family ranches, except for a church that sits on the corner of 11th and Lynn Lane and the water treatment plant on the corner of 21st and County Line. There is no current light industrial going on in the subject area and he is not sure if any other parcels to the east are zoned that way. Mr. Starr stated that this would be a change in the land use and he considers it a loss in the value to his

home. Mr. Starr stated that it wouldn't be good to have trucks hauling in fabrication equipment in and out on the subject roads built for single-family homes. Mr. Starr stated that one of his neighbors is present today, but he didn't sign up to speak; however, he has some concerns about the creek and some industrial waste coming off of the facility and into the creek.

John Knecht, 1533 South 181st East Avenue, 74108, stated that he owns 30 acres and the creek comes about 50 feet through his property. Mr. Knecht further stated that he has 29 head of cattle and they drink from the creek. Mr. Knecht explained that the subject property slopes down into the creek and he is worried about waste and industrial waste. Mr. Knecht stated that there is a lot of wild life in the subject area. Mr. Knecht cited the topography of the surrounding properties, the creek and where his neighbor has cattle. Mr. Knecht stated that if the subject property installs septic sewer system it will leach into the creek.

Mr. Dix asked Mr. Knecht if the creek runs east or west. Mr. Knecht stated that it runs from the west to the east.

Terry Duke, 17802 East 12th Street, 74108, stated that he opposes this because he doesn't want the traffic coming down his street. Mr. Duke further stated that the roads are not equipped to handle industrial light traffic and can barely handle the residential traffic. Mr. Duke explained that there is no City sewer system and everyone has septic sewer systems.

Brandon Johnson, 1121 South 179th East Avenue, 74108, stated that he is in opposition to this application. He doesn't see any value to the homeowners in the subject area to have this rezoned industrial. Mr. Johnson stated that he works industrial, but he doesn't build his properties in AG zoned areas. If they need an industrial building they should build it in an industrial park and leave the AG alone. Mr. Johnson explained that there are single-family dwellings around the subject property and would like to keep it that way.

Richard Turner, 18002 East 12th Street, 74108, stated that he is in the first house west of the subject property. Mr. Turner further stated he has deer feeders in his yard and the deer drink out of the creek. He indicated that his family has owned property in the subject area for over 40 years. Mr. Turner stated that the subject property needs to remain zoned AG.

Applicant's Rebuttal:

Mr. Robbins stated that 12th Street is not going to be used for industrial traffic. Mr. Robbins explained that 12th Street access is to satisfy the Fire Marshal's requirements to have two accesses, one on 11th and one on 12th. Mr. Robbins stated that his client welds and the only waste may be

the paint, which is done outside. Mr. Robbins indicated that the shop is nowhere close to the homes and all of the work is done inside the shop. Mr. Robbins stated that the semi-trucks will use 11th Street to pick up the tanks. Mr. Robbins indicated that there are no immediate plans for the subject property. Mr. Robbins commented that his client is in an essence performing "CPR" to the subject neighborhood and paying taxes. Mr. Robbins stated that his client is currently located at Apache and Lewis and he doesn't have any complaints from the neighbors in that area. Mr. Robbins stated that his client is trying to zone his four parcels the same zoning and two of the four have already been rezoned. Mr. Robbins commented that hearing today's opposition is new to him. Mr. Robbins stated that his client welds steel and then it is set outside until it is loaded and hauled away. Mr. Robbins reiterated that 12th Street would be used for an emergency access only.

Mr. Midget asked Mr. Robbins if 12th Street is strictly for emergency access and if so it will be gated to keep anyone from using the access unless it is City emergency vehicles. Mr. Midget stated that he saw a picture of 12th Street and it is certainly not able to handle heavy trucks. Mr. Robbins stated that it would be gated and locked. Mr. Midget asked Mr. Robbins if the only reason his client is interested in rezoning this is for the access and not that there are plans to do anything on the subject property. Mr. Robbins stated that 12th Street would be used for emergency access only and at this time there are no plans for developing the subject property.

Mr. Reeds asked Mr. Robbins how many acres are with the previous site. Mr. Robbins stated that his client purchased 14 acres and they use the northern 9 acres. In response to Mr. Reeds, Mr. Robbins stated that his client purchased the subject property in order to have a 2nd access point, which is required by the Fire Marshal and the seller didn't want to sell only a portion of the subject property. Mr. Robbins explained that his client wanted to rezone all four parcels to IL so that it would be uniform and if he every chose to sell it, it would be zoned IL. Mr. Reeds stated that in his opinion the applicant should rezone the lower portion back to residential and have more value.

Mr. Dix asked if there will be any changes to the gate on 12th Street and is it the gate that will remain for the emergency access. Mr. Robbins stated that he doesn't believe that gate will suffice as keeping people in or out. Mr. Robbins further stated that the gate would have to be upgraded.

Mr. Dix asked staff why this is being rezoned since there is no use being changed on the subject property other than an emergency access. Mr. Dix asked if the subject property needed to be rezoned for the emergency access. Mr. Wilkerson stated that the applicant could have an emergency

access across the subject property without rezoning. Mr. Wilkerson explained that the request came in to keep consistent with the property that was already zoned IL and from that perspective it makes sense and it is consistent with the Comprehensive Plan on the north side of the creek. Mr. Wilkerson stated that this is straight zoning and staff hasn't seen any plans for the subject property and he doesn't believe that there are any plans. Mr. Wilkerson further stated that this application is in anticipation of future expansion that might happen at some point.

Mr. Covey asked if there was opposition during the zoning or Comprehensive Plan amendment for the first property that the applicant rezoned. Mr. Wilkerson answered negatively. Mr. Covey stated that this is unfortunate, from his standpoint, because this person has gone through all of the trouble to do this Comprehensive Plan amendment and no one showed up to oppose it. Mr. Wilkerson stated that he does remember that Mr. Robbins had to appeal the TMAPC rezoning decision at the City Council. Mr. Wilkerson agreed that the applicant did exactly what he was asked to do to amend the Comprehensive Plan. Mr. Wilkerson stated that everything west has changed in the Comprehensive Plan to be a mixed-use corridor and the future vision is evolving and the Comprehensive Plan amendment help solidify that future.

Ms. Miller stated that when the Planning Commission denied the rezoning and it was appealed to the City Council, the City Councilor who was in that district at that time got involved and discussed the area. Ms. Miller stated that originally the mixed-use designation didn't have the existing boundary and it was extended all the way to the floodplain. The Comprehensive Plan amendment was not just changing the employment area and actually expanded the mixed-use corridor. Ms. Miller explained that the changes were done by looking at the future development and other parts of the City that area similar. Ms. Miller stated that she knows that all of the "employment" was existing neighborhood. Mr. Covey asked if anyone was noticed about this amendment. Ms. Miller answered affirmatively. Ms. Miller stated that Mr. Robbins was able to get everyone's signature that was part of the property ownership for the Comprehensive Plan amendment and the only person he couldn't hunt down was one particular neighbor that he was unable to locate. Ms. Miller explained that the Planning Commission initiated the piece that Mr. Robbins couldn't locate the owner so that there wouldn't be a whole in the subject area and the land uses would be consistent. Mr. Covey asked if the reason Mr. Starr and Mr. Knecht didn't receive notice of the Comprehensive Plan amendment is because they were involved with the Comprehensive Plan amendment and their properties remained the same. Ms. Miller answered affirmatively. Mr. Covey asked what the notification for a Comprehensive Plan amendment. Ms. Miller stated that at the time of the first Comprehensive Plan amendment it was a notice in the paper, but today

with the change in TMAPC's policy it is everyone within 300 feet of the boundary. Mr. Covey stated that he believes that some of the speakers here today would be interested to know that they are in a mixed-use area now. Ms. Miller stated that the property owners that were subject to that change, were a part of the application, and so they should know if their land use was changed because they signed off for it.

In response to Mr. Covey, Ms. Miller stated that "employment" is actually a wide range of uses. It can be office, light office, medium and high office, all the way to heavy industrial. It is not intended for residential, retail or restaurants. It is a broad category that ranges from light office to heavy industrial. Ms. Miller explained that there is a quite a bit of "employment" on the map that is currently zoned AG, but in the long term it is anticipated to turn over to be something else in the future.

Mr. Midget stated that he remembers this property and working with it. Mr. Midget further stated that he can understand the applicant's desire to have it all zoned IL, but he is more concerned about the potential use of it right now. Mr. Midget stated that they do not have any plans to use the subject land for anything and he believes it is really premature, particularly if they are only using the subject property for an emergency access, which they can get without rezoning. Mr. Midget commented that this is like stirring a hornet's nest when it is not needed. Mr. Midget stated that he doesn't feel comfortable rezoning at this point. Mr. Midget commented that who is to know what will happen in five years from now. Mr. Midget further commented that he is concerned about the expense the applicant has spent for this process to get an emergency access, because if he can get it without rezoning he wouldn't have had the expense.

Mr. Dix stated that he has one more question. Mr. Dix asked if the applicant would have to improve the road for all-weather access. Mr. Wilkerson answered affirmatively. Mr. Wilkerson stated that it would have to meet the weight specifications for the Fire Department. Mr. Wilkerson stated that the emergency access itself doesn't have to be the same standard as a public street. Mr. Dix asked if the property, where the emergency access is located, have to be zoned the same as the property that it is going to. Mr. Wilkerson answered negatively.

Mr. Reeds stated that this is code issue and not a zoning issue.

Mr. Willis stated that we have a small business spending money to go through a process that seems like it is not necessary. Mr. Willis asked for someone to explain to him how that happened. Mr. Willis stated that at some point this small business owner had either been directed, asked or suggested to have a zoning change to affect the ultimate result, which is to have a 2nd access for emergencies. Mr. Willis asked if this was a

voluntary thing or did someone direct him to request IL for the access point. Mr. Wilkerson stated that he can speak for staff that zoning is not required for the emergency access if that is the only reason for rezoning the subject property. Mr. Wilkerson further stated that as part of the application process the applicant was told he could use the 2nd access point without rezoning, but it was staff's understanding that since the applicant owned the subject property and he was going to have to do something on the land anyway to satisfy the building permit requirements that it made sense to go ahead and ask for IL zoning since he was in the middle of the development process. Mr. Wilkerson commented that he doesn't know if the permit office advised him to rezone, but he doubts that happened. Mr. Wilkerson concluded that it was a voluntary action by the applicant.

Mr. Covey stated that he remembers that the first time the other property came before the Planning Commission for IL zoning it was voted down because the Comprehensive Plan didn't support it. The applicant was then told to apply to amend the Comprehensive Plan in order to get his business located out there and he has done exactly that. Mr. Covey stated that he has been told that the TMAPC voted for the Comprehensive Plan Amendment with a vote of 10-0-0. Mr. Covey commented that he is torn on this application.

Mr. Willis stated that his question was answered that this application was voluntary. Mr. Willis further stated that he is also sensitive to what the applicant stating that the area does need jobs and not impede progress with opportunities for people to go to work. Mr. Willis commented that he hates that a lot of expense has been put into this application and it seems that it may not have been necessary to stir the hornet's nest at this time.

Mr. Dix stated that yes the applicant did do what he was asked to do for the first piece of property. Mr. Dix further stated that he doesn't know why this part of the subject property got the Comprehensive Plan amendment on it because he doesn't recall. Mr. Dix explained that he is having trouble supporting this because there is no change in use. What he did before was for the property that he owned at the time and for the use intended at the time. This is for access, which did not need a zoning change, but the applicant saw the opportunity to get a zoning change to enhance the value of the remainder property. Mr. Dix stated that he always would get the zoning changed before purchasing property. Mr. Dix further stated that the fact that the applicant closed on property on the bet that he could get the zoning change is not the TMAPC's problem and TMAPC's problem is the use of the property and what can be used on the subject property. The applicant could get the IL zoning and then sell it without any use on it, then someone could expand that to an onerous use that the neighbors are really dislike. Mr. Dix stated that he is having problems with supporting

this zoning change. Mr. Dix further stated that he is not faulting staff for this because it was a voluntary generating attempt to enhance his value. Mr. Dix stated that the real issue for the applicant is access and he has the access without rezoning and therefore, he is not going to support this application.

Mr. Midget stated that he believes that on the first property, the TMAPC recommended denial of the zoning change and then the applicant appealed to the City Council. The City Council voted for the zoning for IL and it didn't come back to the TMAPC for zoning. Mr. Midget stated that this is why the TMAPC is an advisory board and with the collective wisdom of the TMAPC it would have probably been recommended to not zone pass the creek with IL and keep it consistent.

Mr. Midget recognized an interested party [no name]. The interested party stated that he was told by the City that there could be no development on the subject land because it is in a floodplain. The interested party further stated that when the subject property went up for auction they were told it couldn't be developed because it was in the flood zone.

Mr. Reeds recognized an interested party [no name]. The interested party stated that Mr. Midget and Mr. Dix made a valid point that if this is zoned IL who is to say what is going to happen two or three years from now if the applicant decides to sell. There is no point in rezoning for the emergency access.

Mr. Willis asked the applicant if he or his client were given any direction by anyone to suggest the change in zoning. Mr. Robbins stated that it is correct that no one directed him to request a rezoning.

TMAPC Action; 9 members present:

On **MOTION** of **DIX**, TMAPC voted **8-1-0** (Covey, Dix, Fretz, Midget, Reeds, Shivel, Stirling, Willis "aye"; Walker "nays"; none "abstaining"; Carnes, Millikin "absent") to recommend **DENIAL** of the IL zoning for Z-7319.

Legal Description for Z-7319:

BEG 645S NWC NE NW TH S1005 NE350.80 N1005 SW350.96 POB SEC 12 19 14 8.095ACS, City of Tulsa, Tulsa County, State of Oklahoma.

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OTHER BUSINESS

20. **Commissioners' Comments:** Mr. Dix asked if the work session with the City Council on October 22, 2015, will be on TV. Mr. Midget stated that it should be on TGOV at 9:00 a.m.

ADJOURN

TMAPC Action; 9 members present:

On **MOTION** of **WILLIS**, TMAPC voted **9-0-0** (Covey, Dix, Fretz, Midget, Reeds, Shivel, Stirling, Walker, Willis "aye"; no "nays"; none "abstaining"; Carnes, Millikin none "absent") to **ADJOURN** TMAPC meeting 2708.

ADJOURN

There being no further business, the Chair declared the meeting adjourned at 2:49 p.m.

Date Approved:

11-18-2015


Chairman

ATTEST:


Secretary