

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2766

Wednesday, March 21, 2018, 1:30 p.m.

City Council Chamber

One Technology Center – 175 E. 2<sup>nd</sup> Street, 2<sup>nd</sup> Floor

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Adams	Reeds	Chapman	Ling, COT
Covey		Hoyt	VanValkenburgh, Legal
Dix		Miller	Westbrook, COT
Doctor		Sawyer	
Fretz		Ulmer	
Krug		Wilkerson	
Millikin			
Ritchey			
Shivel			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, March 15, 2018 at 11:43 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:**

#### **Chairman's Report:**

Mr. Covey wished Mr. Shivel a happy belated birthday.

#### **Director's Report:**

Ms. Miller stated the TMAPC receipts for the month of February 2018 were consistent but that plan reviews and zoning cases were a little lower. Ms. Miller reported that a work session may be needed before the April 4, 2018 meeting but there are a few topics still pending. Ms. Miller reported on City Council and Board of County Commission actions taken and other special projects.

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**1. Minutes:**

**Approval of the minutes of March 7, 2018 Meeting No. 2765**

On **MOTION** of **DIX**, the TMAPC voted 9-0-1 (Adams, Covey, Doctor, Fretz, Krug, Millikin, Ritchey, Shivel, Walker, “aye”; no “nays”; Dix, “abstaining”; Reeds, “absent”) to **APPROVE** the minutes of the meeting of March 7, 2018, Meeting No. 2765.

**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-21105** (Lot-Split) (County) – Location: East of the southeast corner of South 47<sup>th</sup> West Avenue and West 41<sup>st</sup> Street South
3. **LS-21115** (Lot-Split) (CD 2) – Location: Northwest corner of East 67<sup>th</sup> Street South and South Birmingham Avenue
4. **LS-21120** (Lot-Split) (CD 6) – Location: Northwest corner of East 61<sup>st</sup> Street South and South Garnett Road
5. **LC-993** (Lot-Combination) (CD 4) – Location: Northwest corner of East 1<sup>st</sup> Street South and South Atlanta Avenue
6. **LS-21122** (Lot-Split) (County) – Location: South of the southeast corner of North Yale Avenue and East 66<sup>th</sup> Street North (Related to LC-1002)
7. **LC-1002** (Lot-Combination) (County) – Location: South of the southeast corner of North Yale Avenue and East 66<sup>th</sup> Street North (Related to LS-21122)

**TMAPC Action; 10 members present:**

On **MOTION** of **DIX**, TMAPC voted **10-0-0** (Adams, Covey, Dix, Doctor, Fretz, Krug, Millikin, Ritchey, Shivel, Walker, “aye”; no “nays”; none “abstaining”; Reeds, “absent”) to **APPROVE** Items 2 through 7 per staff recommendation.

**CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA:**

None

Ms. Millikin read the opening statement and rules of conduct for the TMAPC meeting.

## PUBLIC HEARINGS:

8. **PUD-554-5 Jim Austin** (CD 8) Location: North and west of the northwest corner of East 101<sup>st</sup> Street South and South Memorial Drive requesting a **PUD Minor Amendment** to reduce the rear yard setback

### **STAFF RECOMMENDATION:**

**SECTION I:** PUD-554-5 Minor Amendment

### **STAFF RECOMMENDATION**

Amendment Request: Revise the PUD Development Standards to reduce the rear yard setback in order to permit the construction of an addition to the existing home.

Currently, the development standards of the PUD call for a rear yard setback of 15 feet. The applicant is proposing to reduce the rear yard to 11 feet to permit the proposed addition.

Staff Comment: *This request can be considered a Minor Amendment as outlined by Section 30.010.1.2.c(9) 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 PUD development plan, the approved 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-554 and subsequent amendments shall remain in effect.

With considerations listed above, staff recommends **approval** of the minor amendment request to reduce the rear yard setback from 15 feet to 11 feet.

**The applicant indicated his agreement with staff's recommendation.**

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

**TMAPC Action; 10 members present:**

On **MOTION** of **DIX**, TMAPC voted **10-0-0** (Adams, Covey, Dix, Doctor, Fretz, Krug, Millikin, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Reeds, "absent") to **APPROVE** PUD Minor Amendment to reduce rear yard setback per staff recommendation.

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**9. Z-7435 Tana Parks** (CD 9) Location: South of the southeast corner of South Peoria Avenue and East 44<sup>th</sup> Place South requesting rezoning from **CS to MX1-V-55**

**STAFF RECOMMENDATION:**  
**SECTION I: Z-7435**

**DEVELOPMENT CONCEPT:** This request for rezoning is responsive to a City Council initiative to encourage mixed-use development along the proposed bus rapid transit system route. The current zoning on the site is CS.

**DETAILED STAFF RECOMMENDATION:**

Case Z-7435 request MX1-V-55 is consistent with the expected development pattern in the area and,

MX1-V-55 is not injurious to the surrounding property owners and,

The MX1 requested is considered a neighborhood Mixed-Use district intended to accommodate small scale retail, service and dining uses that serve nearby residential neighborhoods. MX1 zoning supports the anticipated uses in this area location along South Peoria. The rezoning request is consistent with the Bus Rapid Transit System study and its land use recommendations and,

MX1-V-55 is consistent with the Brookside Infill Plan and,

MX1-V-55 is consistent with the Mixed-Use Corridor land use vision in the Tulsa Comprehensive Plan therefore

**Staff recommends Approval of Z-7435 to rezone property from CS to MX1-V-55.**

## **SECTION II: Supporting Documentation**

### RELATIONSHIP TO THE COMPREHENSIVE PLAN:

*Staff Summary: MX1-V-55 is consistent with the land use vision in the Tulsa Comprehensive Plan and is also consistent with the goals, objectives and strategies of the Brookside Infill Plan.*

### Land Use Vision:

#### *Land Use Plan map designation: Mixed-Use Corridor*

A Mixed-Use Corridor is a plan category used in areas surrounding Tulsa's modern thoroughfares that pair high capacity transportation facilities with housing, commercial, and employment uses. The streets usually have four or more travel lanes, and sometimes additional lanes dedicated for transit and bicycle use. The pedestrian realm includes sidewalks separated from traffic by street trees, medians, and parallel parking strips. Pedestrian crossings are designed so they are highly visible and make use of the shortest path across a street. Buildings along Mixed-Use Corridors include windows and storefronts along the sidewalk, with automobile parking generally located on the side or behind. Off the main travel route, land uses include multifamily housing, small lot, and townhouse developments, which step down intensities to integrate with single family neighborhoods.

#### *Areas of Stability and Growth designation: Area of Growth*

The purpose of Areas 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 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:*

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

#### *Trail System Master Plan Considerations:*

The trail system along the Riverside Drive is approximately ½ mile from this site. Pedestrian and bicycle connectivity should be an important concept with any new redevelopment opportunity.

#### Small Area Plan: Brookside Infill Design Recommendations (Completed 2002)

Concept statement: “As Tulsa continues to mature as a city, infill development will become more important as land on the perimeter is no longer available for development. Infill will no longer be the exception; it will be the rule in terms of predominant types of development. Support and encouragement of infill development are strongly recommended and should be implemented through City regulations, policies and philosophies in order to ensure quality and consistency in future development”.

*Staff comment: This was a statement from the infill task force prepared by the Mayor’s office and the Planning Commission in 1999 and continues to be more relevant today with implementation of the Bus Rapid Transit system and the construction of the Gathering Place. It has taken almost 20 years for the City to adopt zoning categories to support infill development strategies that will encourage design standards and building placement strategies to help create an urban fabric along Peoria from East 36<sup>th</sup> South street to I-44. Many design recommendations were restricted*

*to the street right of way. Some of that has been implemented from 41<sup>st</sup> Street to Crow Creek.*

Peoria from 38<sup>th</sup> Street South to 51<sup>st</sup> Street South (Skelly Drive) Goals:

- A. It is intended that the physical environment and services in the business areas are maintained and enhanced to benefit existing business, as well as to promote and encourage revitalization, redevelopment and reuse of undervalued, vacant lots and obsolete buildings.
- B. Improvements in the area will be made to help provide a continuity of image and to foster an improved emphasis on pedestrians. This is to be accomplished in part by providing sidewalk design and replacement crosswalks at selected locations, streetscape elements and other features will link this area and connect with the other portions of Brookside
- C. The historical context of business development patterns in this area is encouraged to continue, but with the additional emphasis of accommodating pedestrians and linking with the overall Brookside marketplace.
- D. Business in this area along Peoria Avenue and those streets intersecting with Peoria Avenue may develop with buildings constructed nearer to the abutting street property line. Developments with storefront parking should provide no more than one or two rows of double-loaded parking in the front of buildings. Zero-setback from the front property lines is encouraged.
- E. Sufficient parking for all business land uses is intended to be provided for all new development and redevelopment.

Special District Consideration: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

*Staff Summary: The site is currently occupied by a single-story office building. The building placement is consistent with the building placement requirements for MX1-V-55.*

Environmental Considerations: No known environmental considerations that would affect rezoning decisions or redevelopment opportunities.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South Peoria Avenue	Secondary Arterial with Multi Modal Corridor	100 feet	4 lanes with a center turn lane this site also has access to two lanes of a South Peoria Avenue frontage road.

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

<b>Location</b>	<b>Existing Zoning</b>	<b>Existing Land Use Designation</b>	<b>Area of Stability or Growth</b>	<b>Existing Use</b>
North	MX1-U-U	Mixed Use Corridor	Growth	Office
East	RS-3	Mixed Use Corridor	Stability	Single Family Residential
South	CS	Mixed Use Corridor	Growth	Multi Family
West (across Peoria)	CS	Mixed Use Corridor	Growth	Commercial

**SECTION III: Relevant Zoning History**

**ZONING ORDINANCE:**

- Ordinance number 18950 dated March 24, 1997, (Z-6581), amended zoning; (RM-2 to CS)
- Ordinance number 11823 dated June 26, 1970, established (RM-2) zoning for the subject property.

***Subject Property:***

**BOA-21279 July 2011:** The Board of Adjustment **approved** a *variance* of the parking requirement for an office use (Section 1211.D) in a CS district from 8 spaces to 3 spaces to permit an addition to an existing building, subject to site plan submitted, on the subject property.



**BOA-19988 September 2004:** The Board of Adjustment **approved** a *variance* of the required 25 ft. building setback to 10 ft. along South Peoria Avenue for Lot 14 and along South Peoria Avenue for Lot 13 to allow for the construction of an office building, on the subject property.

**BOA-18897 November 2000:** The Board of Adjustment **approved** a *special exception* to allow multifamily in a CS zoned district, subject to submitting a detail site plan to the BOA for approval on property located on the southeast corner of East 44<sup>th</sup> Place South and South Peoria Avenue, including the subject property.

**Z-6581 January 1997:** All concurred in **approval** of a request for rezoning a .69± acre tract of land from RM-2 to CS on property located on the southeast corner of East 44<sup>th</sup> Place South and South Peoria Avenue.

***Surrounding Property:***

**Z-7428 December 2017:** All concurred in **approval** of a request for rezoning a .21± acre tract of land from CS to MX1-V-U on property located on the southeast corner of East 44<sup>th</sup> Place South and South Peoria Avenue and abuts the subject property to the north.

**BOA-20608 November 2007:** The Board of Adjustment **approved** a *variance* of the setback requirement for a commercial parking lot within 50 ft. of an R district from 50' to 33' from the centerline of an abutting street (Section 1302.B) per plan, on property located south of South Peoria Avenue and East 43<sup>rd</sup> Court South.

**BOA-19916 September 2004:** The Board of Adjustment **approved** a *variance* to reduce the off-street parking requirement from 117 spaces to 111 spaces to permit the enclosure of 400 square feet of outdoor dining space and deletion of two rear parking spaces, on property located on the northeast corner of South Peoria Avenue and East 44<sup>th</sup> Place South.

**PUD-541-B July 1998:** All concurred in **approval** of a proposed Major Amendment to PUD-541 permit an auto repair use subject to modifications on property located on the northeast corner of East 44<sup>th</sup> Place and South Peoria Avenue.

**PUD-541-A October 1996:** All concurred in **approval** of a proposed Major Amendment to PUD-541 to increase the PUD area by adding a 74.6 x 140' lot for off-street parking on property located on the northwest corner of East 44<sup>th</sup> Place and South Quaker Avenue.

**PUD-541 January 1996:** All concurred in **approval** of a proposed Planned Unit Development on a 16.8± acre tract of land from IM, CH, CS, PK and RS-3 to IM, CH, CS, PK, RS-3/PUD-541 for mixed use with commercial and office uses on property located on the east side of South Peoria between East 43<sup>rd</sup> Street South and West 44<sup>th</sup> Street South.

**The applicant indicated her agreement with staff's recommendation.**

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

**TMAPC Action; 10 members present:**

On **MOTION** of **DIX**, TMAPC voted **10-0-0** (Adams, Covey, Dix, Doctor, Fretz, Krug, Millikin, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Reeds, "absent") to **APPROVE** Z-7435 rezoning from **CS** to **MX1-V-55** per staff recommendation.

**Legal Description of Z-7435:**

LT 13 BLK 5, WILDER ADDN, City of Tulsa, Tulsa County, State of Oklahoma

\* \* \* \* \*

**10. Z-7436 David Charney** (CD 4) Location: East of the southeast corner of South Lewis Avenue and East 6<sup>th</sup> Street South requesting rezoning from **RM-2** to **MX1-U-45**

**STAFF RECOMMENDATION:**

**SECTION I: Z-7436**

**DEVELOPMENT CONCEPT:**

**DETAILED STAFF RECOMMENDATION:**

Case Z-7436 requesting MX1-U-45 zoning is consistent with the expected development pattern in the and,

MX1-U-45 zoning is non-injurious to the surrounding property owners and,

MX1-U-45 zoning is consistent with the Existing Neighborhood land use vision identified the Tulsa Comprehensive Plan and,

MX1-U-45 zoning is consistent with the Kendall Whittier Small Area Plan therefore,

**Staff recommends Approval of Z-7436 to rezone property from RM-2/ to MX1-U-45.**

## **SECTION II: Supporting Documentation**

### RELATIONSHIP TO THE COMPREHENSIVE PLAN:

*Staff Summary: The mixed-use zoning requested for is consistent with the expected small scale infill project and mixed residential components of the Kendall Whittier Small area plan and the Tulsa Comprehensive Plan.*

### Land Use Vision:

#### *Land Use Plan map designation:* Existing Neighborhood

The Existing 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.

#### *Areas of Stability and Growth designation:* Area of Growth

The purpose of Areas 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 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 affecting site redevelopment

*Trail System Master Plan Considerations:* None affecting site redevelopment

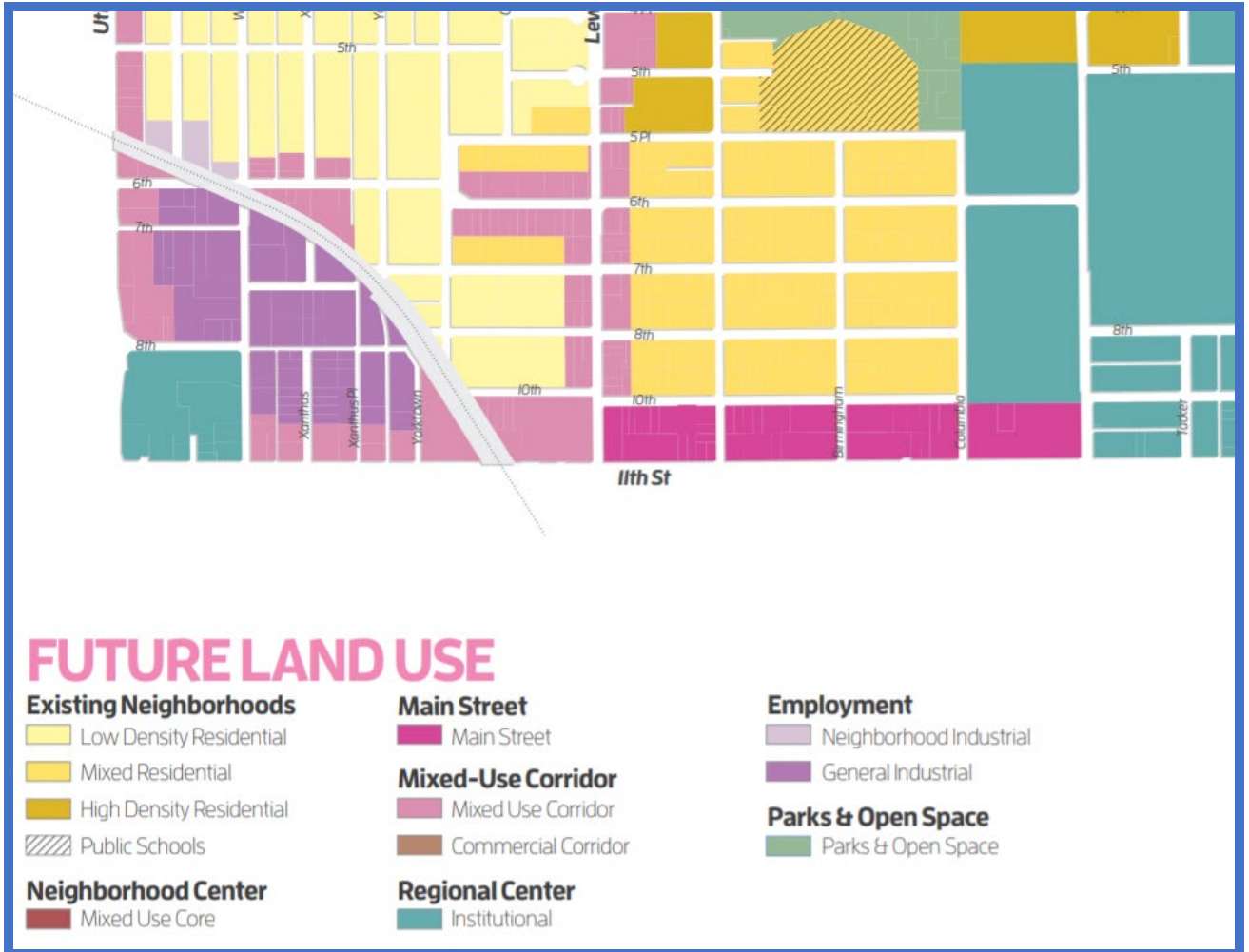
Sector Plan: This area is included in the Kendall-Whittier Sector Plan that was adopted November of 2016.

The small area plan provides a land use table demonstrating the relationship between the sector plan and the Tulsa Comprehensive plan. In this instance the existing neighborhood anticipated low, medium and high density residential uses. This mixed-use development is expected to be a medium density residential with some possible commercial or office component. At least two goals in the recognize the importance of high quality redevelopment opportunities in this area

Goal 1 in the plan recommends supporting the development of quality high-density residential development that appeals to a broad spectrum of potential tenants including students, seniors, young professionals and families of mixed incomes around the University of Tulsa.

Goal 4.2 specifically recognizes that senior and multifamily housing should be assessed on and approved on a case by case basis, especially in areas where it is expected to increase housing choice within Kendall Whittier and supports nearby commercial or public uses.

KENDALL WHITTIER SECTOR PLAN  
LAND USE MAP: (see next page)



Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

***Staff Summary:** The site is vacant land with a single family residential homes on south east corner. The site was originally platted with small lots. The surrounding properties have been developed with a mix of small scale multifamily and single family residential.*

Environmental Considerations: None that would affect site redevelopment

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
6 <sup>th</sup> Street South	Residential Collector	60 feet	2 with additional lanes for on street parking
7 <sup>th</sup> Street South	None	50 feet	2 lanes

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

<b>Location</b>	<b>Existing Zoning</b>	<b>Existing Land Use Designation</b>	<b>Area of Stability or Growth</b>	<b>Existing Use</b>
North across 6 <sup>th</sup> street	RM-2	Existing Neighborhood	Growth	Empty land and single family residential
East	RM-2	Existing Neighborhood	Growth	Multifamily and single family residential
South across 7 <sup>th</sup> Street	RM-2	Existing Neighborhood	Growth	Single family residential
West	RM-2 and CS	Mixed Use Corridor and Existing Neighborhood	Growth	Office and multi family

**SECTION III: Relevant Zoning History**

**History: Z-7436**

**ZONING ORDINANCE:** Ordinance number 11815 dated June 26, 1970, established zoning for the subject property.

**Subject Property:** No relevant history.

**Surrounding Property:**

**BOA-19914 September 2004:** The Board of Adjustment approved a variance of required parking spaces from fourteen to ten, per plan, on property located at the southeast corner of South Lewis Avenue and East 6<sup>th</sup> Street South.

**The applicant indicated his agreement with staff's recommendation.**

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

**TMAPC Action; 10 members present:**

On **MOTION** of **DIX**, TMAPC voted **10-0-0** (Adams, Covey, Dix, Doctor, Fretz, Krug, Millikin, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Reeds, "absent") to **APPROVE** Z-7436 rezoning from **RM-2 to MX1-U-45** per staff recommendation.

**Legal Description of Z-7436:**

Lots Fifteen (15) and Sixteen (16), Block Ten (10) COLLEGE VIEW ADDITION AMENDED, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof; [Parcel # 09175-93-05-05840]

The North 61 feet of the East Half (E/2) of Lot Two (2), Block One (1), HIGHLANDS ADDITION, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof; [Parcel # 18550-93-05-11490]

The West 75 feet of the North 61 feet of Lot Three (3), Block One (1), HIGHLANDS ADDITION, and the West Half (W/2) of Lot Seven (7) AND all of Lot Eight (8), Block Ten (10) COLLEGE VIEW ADDITION AMENDED, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof; [Parcel # 09175-93-05-05820]

The West Half (W/2) of Lot Six (6) and the East Half (E/2) of Lot Seven (7) Block Ten (10), COLLEGE VIEW ADDITION AMENDED, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof; [Parcel # 09175-93-05-05810]

The West 25 feet of the North 61 feet of Lot Four (4) and the East 25 feet of the North 61 feet of Lot Three (3) Block One (1), HIGHLANDS ADDITION, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof; [Parcel # 18550-93-05-11570]

The East 75 feet of the North 61 feet of Lot Four (4), Block One (1), HIGHLANDS ADDITION AND All of Lot Five (5), and the East Half (E/2) of Lot Six (6), Block Ten (10) COLLEGE VIEW ADDITION AMENDED, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof; [Parcel # 09175-93-05-05800]

The West Half (W/2) of the South 150 feet of Lot Four (4) Block One (1), HIGHLANDS ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof; [Parcel # 18550-93-05-11560]

The East Half (E/2) of the South 150 feet of Lot Four (4) Block One (1), HIGHLANDS ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof; [Parcel # 18550-93-05-11550]

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Items 11 and 12 were presented together

**11. ZCA-7, Tulsa City Council, Amendment to the City of Tulsa Zoning Code to add Section 20.060 establishing the regulations of a Special Area (SA) overlay district (**Healthy Neighborhoods Overlay**); to amend Section 10.020 Table 10-**

2, Section 15.020 Table 15-2, and Section 25.060 Table 25-7 to include Small Box Discount Stores and Grocery Stores as specific uses; to amend Section 10.020-G, Section 15.020-G and Section 25.060-B.3 to include Table Notes for Small Box Discount Stores; to amend Section 35.050-L to include Small Box Discount Stores and Grocery Stores as specific retail use types; and to amend Section 55.020 Table 55-1 to establish minimum motor vehicle parking ratios for Small Box Discount Stores and Grocery Stores. (related to SA-3)

**STAFF RECOMMENDATION:**

**Item:** Public hearing to provide a recommendation to the City Council regarding amending the City of Tulsa Zoning Code to add Section 20.060 establishing the regulations of a Special Area (SA) overlay district (**Healthy Neighborhoods Overlay**); to amend Section 10.020 Table 10-2, Section 15.020 Table 15-2, and Section 25.060 Table 25-7 to include Small Box Discount Stores and Grocery Stores as specific uses; to amend Section 10.020-G, Section 15.020-G and Section 25.060-B.3 to include Table Notes for Small Box Discount Stores; to amend Section 35.050-L to include Small Box Discount Stores and Grocery Stores as specific retail use types; and to amend Section 55.020 Table 55-1 to establish minimum motor vehicle parking ratios for Small Box Discount Stores and Grocery Stores. **[See Attachment I]**

**A. Background:** This proposed overlay was initiated by Tulsa City Council on December 20, 2017 to make permanent the spacing requirements for Small Box Discount Stores, as established and defined in **Moratorium, Ordinance No. 23783**, as adopted by City Council on September 20, 2017. The City Council motion to initiate the overlay also included a provision “to consider imposing other requirements and restrictions, as developed in the public hearing process”.

As initiated by City Council, the proposed overlay would apply only within the boundaries of following plan areas:

- Greenwood Heritage Neighborhoods Sector Plan (also known as the Unity Heritage Neighborhoods Plan);
- The 36th Street North Corridor Small Area Plan; and
- The Crutchfield Neighborhood Revitalization Master Plan.

**[See Attachment II]**

Since Council initiation, INCOG and City of Tulsa planners facilitated two community input meetings, on January 29th at Rudisill Library and on February 5th at 36<sup>th</sup> Street North Event Center. Numerous public comments were received at the community input meetings and on FeedbackTulsa.org. After reviewing the comments, staff is proposing a Healthy Neighborhoods Overlay in response to the input received from the community. The purpose



of the Healthy Neighborhoods Overlay is to modify and supplement regulations in the plan areas listed above where there is a desire for greater diversity in retail options and convenient access to fresh meats, fruits and vegetables.

These regulations are intended to:

- Avoid and reduce over-concentration of small box discount stores in the area.
- Encourage and streamline grassroots access to fresh produce.
- Encourage a greater diversity of retail activity and purchasing options within the area.
- Allow for a more community-based approach to distributing and purchasing fresh meats, fruits and vegetables options in a specified area.
- Promote investment and development in a community where change is desired.

Comments were made at the meeting regarding the need for exceptions from the spacing requirement for certain situations – as a result, the spacing requirement can be reduced through the special exception process (Board of Adjustment) and two additional exceptions were added to the definition of a Small Box Discount Store: 1) uses that dedicate a minimum floor area of 500 square feet to the sale of fresh meat, fruits and vegetables and 2) uses that meet the definition of a Grocery Store. In addition to the spacing requirement for Small Box Discount Stores, the overlay includes other zoning incentives to facilitate healthy neighborhoods, specifically: allowances for on-site sale of community garden products by right in all zoning districts within the boundaries of the overlay; and a 50% reduction in minimum parking ratios for grocery store within the boundaries of the overlay.

## **B. Healthy Neighborhoods Overlay Conformance with the Comprehensive Plan**

### *Tulsa Comprehensive Plan*

*The Comprehension Plan states, “Tulsans want to encourage healthy lifestyles for our children and families...with access to grocery stores with healthy food choices.” (page10)*

*The proposed HNO district will enable innovative parking solutions for grocery stores that want to locate within the plan area. This is a proposed strategy for economic development as recommended in the Comprehension Plan, page 40.*

### *36<sup>th</sup> Street North Corridor Plan*

*Land Use Priority 2 – Encourage new development and redevelopment to contribute to the vibrancy of the plan area.*

- *Goal 2 Promote a mix of uses in new development and redevelopment.*

*2.2 Zoning changes should support neighborhood-level amenities and retail services (e.g., grocery stores, restaurants, shops) which are close to both single-family and multi-family residential units.*

#### *Greenwood Heritage Neighborhoods Sector Plan*

- Goal 7 Enhance local commerce and access to important goods and services.  
7.4 Provide municipal incentives for healthy food stores, pharmacies, medical services, and other uses that enhance access to critical goods and services.
- 7.7 Support collaboration among the Tulsa Regional Chamber of Commerce, Greenwood Chamber, and other business development advocates to market commercial development opportunities in the area.

#### *Crutchfield Neighborhood Revitalization Master Plan*

- *Goal 2 Modify current land use practices to more closely reflect the existing uses and conditions within the neighborhood to infill on small lots and ensure compatible infill development in the future. Modify design and land use standards to support improved design as a means of protecting residential areas from incompatible commercial/industrial uses.*  
*Objective 1.D Flexibility in parking requirements to encourage and support the reuse of existing commercial properties and existing, smaller commercial lots.*

The Healthy Foods Overlay (HNO) will provide an incentive to grocery stores by decreasing the minimum parking ratios for grocery stores in the plan area by 50% (Section 55.020, Table 55-1). Community gardens within the HNO will allow for the on-site sales of community garden products which encourages greater diversity of retail activity and purchasing options within the area. Therefore, the Neighborhoods Overlay is consistent with the Comprehensive Plans and applicable small area plans.

#### **C. Staff Recommendation**

Staff recommends **approval** of Zoning Code amendments to establish the regulations of a Special Area (SA) overlay district (**Healthy Neighborhoods Overlay**) and amend other relevant sections as shown in Attachment I.

**Attachment I:** Proposed draft of the Healthy Neighborhoods Overlay

**Attachment II:** Boundary maps of the area subject to the overlay

**TMAPC Action; 10 members present:**

On **MOTION** of **DIX**, TMAPC voted **7-3-0** (Adams, Covey, Dix, Fretz, Millikin, Shivel, Walker, “aye”; Doctor, Krug, Ritchey, “nays”; none “abstaining”; Reeds, “absent”) to **DENY** ZCA-7.

\* \* \* \* \*

**SA-3, Healthy Neighborhoods Overlay, Tulsa City Council** (CD 1) Location: multiple properties that are within the plan area boundaries of Greenwood Heritage Neighborhoods Sector Plan (also known as the Unity Heritage Neighborhoods Plan); 36<sup>th</sup> Street North Corridor Small Area Plan; and The Crutchfield Neighborhood Revitalization Master Plan (related to ZCA-7)

**STAFF RECOMMENDATION:**

**SECTION I: SA-3**

Healthy Neighborhoods Overlay (HNO)

The HNO is a Special Area (SA) overlay. Overlay districts “over-lay” applicable base zoning district classifications to alter some or all of the base zoning district regulations that apply to particular sites.

**HNO Purpose**

The purpose of the healthy neighborhoods overlay (HNO) is to modify and supplement regulations in a specified area where there is a desire for greater diversity in retail options and convenient access to fresh meats, fruits and vegetables.

These regulations are intended to:

Avoid and reduce over-concentration of small box discount stores in the area.

Encourage and streamline grassroots access to fresh meats, fruits and vegetables

Encourage a greater diversity of retail activity and purchasing options within the area.

Allow for a more community-based approach to distributing and purchasing fresh meats, fruits and vegetables in a specified area.

Promote investment and development in a community where change is desired.

## **HNO Background**

The initial overlay proposal began as a way to limit the number of small box discount stores in areas of North Tulsa. The initial proposed overlay was called the Small Box Discount Store Overlay and it called for all new small box discount stores opening in the overlay area to meet a minimum separation distance of 5,280 feet from other small box discount stores within or outside the overlay area.

This proposed overlay was initiated by Tulsa City Council on December 20, 2017 to make permanent the spacing requirements for Small Box Discount Stores, as established and defined in Moratorium, Ordinance No. 23783, as adopted by City Council on September 20, 2017. The City Council motion to initiate the overlay also included a provision “to consider imposing other requirements and restrictions, as developed in the public hearing process”.

As initiated by City Council, the proposed overlay would apply only within the boundaries of following plan areas:

Greenwood Heritage Neighborhoods Sector Plan (also known as the Unity Heritage Neighborhoods Plan);

The 36th Street North Corridor Small Area Plan; and

The Crutchfield Neighborhood Revitalization Master Plan.

## **HNO Public Process Summary**

During the adoption process of the new code, provisions were incorporated to ensure that any future overlays “be based on an adopted plan or be prepared following an inclusive, transparent, and equitable planning and public involvement process that includes opportunities for affected property owners and residents to participate in the formulation of the district regulations or otherwise offer recommendations and provide input.” The following section outlines the public process to date.

On January 17, 2017, approximately 6,100 notices were mailed to property owners and those within 300’ of the affected area. The notices let property owners know when and where the community input meetings would be held and notice was given for the public meeting to be held on March 21, 2018. It also included a map of the proposed overlay area.

### **Community Input Meeting #1**

Monday January 29, 2018, 6:00 p.m.

Rudisill Library – Ancestral Hall

1520 N. Hartford Avenue

Tulsa, OK 74106

Community Input Meeting #2  
Monday February 5, 2018, 6:00 p.m.  
36<sup>th</sup> Street North Event Center – Conference Room  
1125 E. 36<sup>th</sup> Street North  
Tulsa, OK 74106

On February 28, 2018, a public notice was published in the Tulsa World and 10 signs were posted in the main intersections of the affected area to notify people.

INCOG and The City of Tulsa planners associated with the case kept a log of all phone calls and emails from the property owners inquiring about the proposed overlay. In addition, a public input website was initiated by the City of Tulsa, feedbacktulsa.org. The public was asked to give their thoughts on the Healthy Neighborhoods Overlay (formally called the Small Box Discount Store Overlay). None of the property owners specifically requested to be removed from the boundaries of the proposed overlay. Section 20.0010-D.3.d of the Zoning Code requires, “A map showing the boundaries of the proposed overlay, including all lots included within the boundaries and identifying those owners of property within the proposed overlay who have indicated, in writing, their support or opposition to the overlay district text or map amendment.”

#### **DETAILED STAFF RECOMMENDATION:**

**Staff recommends Approval of SA-3** to apply supplemental HNO (Healthy Neighborhoods Overlay) zoning to properties within the 36<sup>th</sup> Street North Corridor Small Area Plan, Greenwood (Unity) Heritage Neighborhoods Sector Plan, and the Crutchfield Neighborhood Revitalization Master Plan.

During the public input process, the people living in the area repeatedly expressed the need for grocery stores and/or access to healthy food choices. The needs of the community were taken into consideration and the Small Box Discount Store Overlay evolved into the Healthy Neighborhoods Overlay. The revision keeps the spacing requirement and adds additional language to provide incentives for grocery stores to locate in the area by reducing the parking ratios by 50%, allowing on-site sales in community gardens, and expanding the definition of a grocery store so that small box discount store will qualify if they agree to maintain a minimum floor area of 500 square feet dedicated to the sale of fresh meat, fruits or vegetables.

The proposed Healthy Neighborhoods Overlay is consistent with the vision set forth in the 36<sup>th</sup> Street North Corridor Small Area Plan, Greenwood (Unity) Heritage Neighborhoods Sector Plan, Crutchfield Neighborhood Revitalization Master Plan, and the Tulsa Comprehensive Plan.

#### **SECTION II: Supporting Documentation**

## RELATIONSHIP TO THE COMPREHENSIVE PLAN:

*Staff Summary: The proposed HNO district will enable innovative parking solutions for grocery stores that want to locate within the plan area. This is a proposed strategy for economic development as recommended in the Comprehension Plan, page 40.*

*The Comprehension Plan states, "Tulsans want to encourage healthy lifestyles for our children and families...with access to grocery stores with healthy food choices." (page10) The Healthy Neighborhoods Overlay is a big step in helping Tulsans reach this goal.*

### Small Area Plans:

*The Healthy Neighborhood Overlay is for properties within the boundaries of three small areas plans in North Tulsa: Greenwood (Unity) Heritage Neighborhoods Sector Plan, Crutchfield Neighborhood Revitalization Master Plan, and 36<sup>th</sup> Street North Corridor Small Area Plan. The Healthy Neighborhood Overlay is consistent with the following recommendations.*

#### *36<sup>th</sup> Street North Corridor Plan*

*Land Use Priority 2 – Encourage new development and redevelopment to contribute to the vibrancy of the plan area.*

- *Goal 2 Promote a mix of uses in new development and redevelopment.*

*2.2 Zoning changes should support neighborhood-level amenities and retail services (e.g., grocery stores, restaurants, shops) which are close to both single-family and multi-family residential units.*

#### *Greenwood Heritage Neighborhoods Sector Plan*

- *Goal 7 Enhance local commerce and access to important goods and services.*
  - 7.4 Provide municipal incentives for healthy food stores, pharmacies, medical services, and other uses that enhance access to critical goods and services.*
- *7.7 Support collaboration among the Tulsa Regional Chamber of Commerce, Greenwood Chamber, and other business development advocates to market commercial development opportunities in the area.*

#### *Crutchfield Neighborhood Revitalization Master Plan*

- *Goal 2 Modify current land use practices to more closely reflect the existing uses and conditions within the neighborhood to infill on*

*small lots and ensure compatible infill development in the future.  
Modify design and land use standards to support improved design  
as a means of protecting residential areas from incompatible  
commercial/industrial uses.*

*Objective 1.D Flexibility in parking requirements to encourage and  
support the reuse of existing commercial properties and existing,  
smaller commercial lots.*

The Healthy Foods Overlay (HNO) will provide an incentive to grocery stores by decreasing the minimum parking ratios for grocery stores in the plan area by 50% (Section 55.020, Table 55-1). Community gardens within the HNO will allow for the on-site sales of community garden products which encourages greater diversity of retail activity and purchasing options within the area.

### **SECTION III: Relevant Zoning History**

There are 9,828 properties within the boundaries of the proposed Healthy Neighborhood Overlay with various zoning designations. Within the boundary are 5 existing Planned Unit Developments (PUDs), all at various stages of development (not built with no approved site plan, not built with an approved site plans, partially built and fully built out).

### **INTERESTED PARTIES:**

**Michael McCann** 8211 East Regal Place, STE 100, Tulsa, OK 74133

Mr. McCann stated he is here to talk about something positive. Mr. McCann stated if you look at food insecurities it's a lagging indicator of other broken community systems. Mr. McCann stated if the community garden zoning ordinance could be changed to merge community gardens with urban gardens, churches and school properties could be utilized to grow food and teach to create entrepreneurial opportunities. Mr. McCann has presented a presentation and asked for it to be part of the record and TMAPC can review that at their convenience.

### **TMAPC COMMENTS:**

Mr. Fretz stated when the temporary ordinance was passed by City Council he wondered if that was legal or could someone sue the City. Mr. Fretz asked staff if the legal was consulted about the ordinance.

Ms. Miller stated that Ms. VanValkenburgh was present at all the meetings and yes it was a concern.

Mr. Fretz stated 30 to 40 years ago there were grocery stores everywhere in North Tulsa and has any studies been done to determine why those closed.

Ms. Miller stated City Councilor Hall-Harper has spoken to lot of grocery stores and the food desert task force will be considering what the barriers are that prevent grocery stores from locating in those areas. Ms. Miller stated the typical large grocery store was not worked in North Tulsa and a smaller grocery store is going to be constructed in front of The Shops at Peoria.

Ms. Millikin stated to staff, the definition in 35.0.50-L for Grocery Store is drafted very broadly but she believes the purpose of that is to encourage fresh foods in these HNO districts. Ms. Millikin asked a 7-11, QuikTrip or a Braum's that has a fresh market could qualify as a grocery store and be exempt from the disbursal requirements.

Ms. Miller answered, the stores could either qualify for a grocery store if they meet the square footage requirement or they could ask for an exemption from the Small Box Discount Store because they are offering over 500 square feet of fresh meats, fruits or vegetables. Ms. Miller stated 7-11 and QuikTrip would be exempt because they sell gasoline.

Ms. Millikin stated she is concerned about the definition of a Small Box Discount Store she is trying to apply it in life to see what stores would fall into that category.

Ms. Miller stated it was hard to come up with a definition and staff would need to work with the permitting office to help with determining if the applicant met the definition of a Small Box Discount Store.

Ms. Millikin asked Ms. Miller if a Claire's or a Hallmark Store would be allowed.

Ms. Miller answered those don't provide a variety of goods, so they would not be considered a Small Box Discount Store.

Mr. Covey asked Ms. Miller who would decide if a store met the definition of a Small Box Discount Store.

Ms. Miller answered that has not been decided yet but maybe it is an affidavit that the applicant signs when they submit for a permit saying they do or don't meet the definition of a Small Box Discount Store. Ms. Miller stated it would have to be part of the permitting discussion.

Mr. Covey asked what happens if the applicant lies on the affidavit, who is going to police this.



Ms. Miller stated it would be like any other enforcement, it will be complaint based and code enforcement would have to act.

Mr. Covey asked what city enacted a similar process.

Ms. Miller stated Wyandotte County in Kansas.

Mr. Covey asked if they were one of Tulsa's peer cities.

Ms. Miller stated no they are a county.

Mr. Covey stated he hears all the time the City Council travels all over the nation to peer cities because Tulsa wants to be more like peer cities.

Ms. Miller stated she doesn't know if Kansas City is considered a peer city.

Mr. Covey asked if staff has come up with any evidence that enacting this overlay would create these diverse retail opportunities.

Ms. Miller stated considering everything in the overlay it could, if people want to establish community gardens. Ms. Miller stated if you are only talking about the Small Box Discount Store component she is unsure. Ms. Miller stated she spent a lot of time researching on the internet and there were a lot of different opinions. Ms. Miller stated but put in context with the other components of the overlay she felt it had a better chance of success.

Mr. Covey asked staff if this started as a Small Box Discount Store moratorium.

Ms. Miller stated "yes".

Mr. Covey asked: and staff could not support that alone?

Ms. Miller stated "yes," she struggled with that.

Mr. Covey asked: so staff got creative and tried to come up with a plan that staff could support?

Ms. Miller stated, "yes" and something that would benefit the community and address the issues that were expressed at the public meetings.

Mr. Covey stated he personally had an issue with it being called the Healthy Neighborhood Overlay, why not include convenience stores that sell beer, tobacco and lottery tickets. None of those things are healthy. Why not limit the

number of liquor stores or fast food establishments. Mr. Covey stated he could go on and on but the focus is dollar stores being the cause of not having a full-scale grocery store in the area.

Ms. Miller stated she is not saying that is the cause but that is the core of what city council initiated and that is what staff brought forward to TMAPC. Ms. Miller stated the other items in the overlay are things staff thought would help the community.

Mr. Covey asked Ms. Miller to explain to him why establishments that sell fuel are exempt.

Ms. Miller stated that was a decision that was made with the moratorium that was carried forward with the council initiation. Ms. Miller stated she thought council didn't want to cast such a wide net and capture CVS, Walgreens or QuikTrip.

Mr. Covey stated as he drove around North Tulsa he saw a lot of convenience stores that had gas stations. Mr. Covey stated convenience stores were more abundant than dollar stores so it is interesting that those stores were carved out when they sell a lot of the same items and most items were under 10 dollars. Mr. Covey asked if a dollar store wanted to invest the capital to sell gasoline they would be allowed.

Ms. Miller answered, "yes" and in Stroud, OK a Dollar General has moved into a closed Walmart gas station and is offering gasoline and this would meet the exemption.

Mr. Covey asked if Dollar General or Family Dollar wanted to sell fuel, open a pharmacy or add one more square foot then what has been accomplished with this overlay. Mr. Covey stated this doesn't make sense to him.

Mr. Dix stated if he was a business man and opens a store and dedicates 500 square feet to fresh meat, vegetables and fruit then in 6 months he finds he is losing money and takes it out, what happens then?

Ms. Miller stated that becomes a code enforcement issue at that point.

Mr. Dix stated what does code enforcement do.

Ms. Miller stated if code enforcement decides you are no longer exempt then you would have to meet spacing verification or get a special exception to permit the store.

Mr. Dix stated this puts the City in the position of running my business.

Ms. Miller stated the City initiated this so they put themselves in this position.

Mr. Dix stated you are telling me I must sell something even though I may lose money doing it.

Ms. Miller stated "yes".

Mr. Walker asked Ms. Miller if the City Council was unanimous in this initiation.

Ms. Miller stated "no" it was a split vote.

Mr. Doctor stated he thinks Mr. Covey and Mr. Dix has raised fair questions. Mr. Doctor stated as he was thinking about where his support for this lies he thought about the charge the City Council gave to TMAPC in terms of the text change that was proposed to put the moratorium in place and target it around the Small Box Discount Store. Mr. Doctor stated in context of that charge Mr. Doctor thinks staff did a good job of navigating dynamics in that circumstance and building to a Healthy Neighborhood Overlay that provides a lot of additional framework to make it more positive. Mr. Doctor stated a lot of questions are still hanging out there and will be vetted again when it comes before City Council. Mr. Doctor stated he will be supporting this item.

Mr. Fretz stated when he saw this item in paper 6 months ago he cringed wondering if it was legal and what kind of perception would it give others who have a business or want to open a business in that area. Mr. Fretz thinks this is a bad ordinance for Tulsa and what is being presented today is about the same thing in a different package. Mr. Fretz stated he saw an editorial in the Tulsa World that came out strong against this item, the paper talked about this being the wrong solution for this issue. Mr. Fretz stated at the work session there were 3 pages of public comments against this idea and some of the comments made good points. Mr. Fretz stated he feels it is bad policy and gives a bad perception of Tulsa to over control business and he thinks it will hurt Tulsa. Mr. Fretz stated he is not against solving the food desert problem or the age disparity between north and south Tulsa but Mr. Fretz doesn't think this is the right solution because it will hurt Tulsa business.

Mr. Ritchey stated he understands what Mr. Fretz is saying but what has the free market done to help North Tulsa for the last 10 to 20 years. Mr. Ritchey stated if there is a way TMAPC can help even if we don't know if it will be successful or not, we should try something. Mr. Ritchey doesn't think this will harm overall business because everything is regulated. Mr. Ritchey stated he is opening a

brewery at 5<sup>th</sup> and Peoria and he can brew and sell his own beer but he can't sell anyone else's beer. Mr. Ritchey stated there are lots of distinctions of what can be done within 300 feet of a church. Mr. Ritchey stated he can't sell cigarettes in his brewery, so there are lots of things that are already regulated and Mr. Ritchey supports this item.

Ms. Millikin stated she understands and agrees with the overall goal of this item to encourage stores that sell healthy food throughout the city but Ms. Millikin has a concern with the definition of convenience goods and Small Box Discount Store. Ms. Millikin stated convenience goods are broadly defined and include sundry goods, products for personal grooming, food and beverages for offsite consumption, retail bakeries and include convenience store, drug stores, food stores and wine. Ms. Millikin stated the definition of Small Box Discount Store is anything that sells a combination and variety of convenience shopping goods or consumer shopping goods. Ms. Millikin stated she believes this could apply to stores that are not being discouraged from opening businesses in this region. Ms. Millikin stated for example she thinks it could apply to a Claire's or a Hallmark Store or maybe even a wine store. Ms. Millikin stated unless it's clear that those stores don't "offer a variety of convenience shopping goods", maybe they are focused on one type of product such as jewelry or wine. Ms. Millikin stated at this point it is not clear to her and she thinks it could have the unintended consequences of deterring desirable retail stores in these neighborhoods. Ms. Millikin stated she thinks the words need more work to narrowly tailor it to the shops that we want to encourage and not unintentionally discourage the types of shops that could benefit this neighborhood.

Mr. Shivel stated in the work session there was discussion of the previous grocery stores that for whatever reasons they were not successful. Mr. Shivel stated the comment that came up was that population density prevents large stores and Mr. Shivel suggested reaching out to medium sized stores such as Walmart Neighborhood Markets, they are much more than 12,000 square feet but Mr. Shivel believes in free enterprise and is reluctant to use it as a trial balloon and if it works great but if it doesn't then we are stuck with it. Mr. Shivel stated he can't support this item.

Mr. Ritchey asked Ms. Millikin if potential retailers in this area checking a box when they submit for a permit saying they do or don't meet the definition of a Small Box Discount Store would this alleviate any of her concerns.

Ms. Millikin answered as a business owner or legal counsel advising business owners they wouldn't know how to check that box so Ms. Millikin thinks the laws should be drafted so that the applicant knows how to check that box.

Mr. Covey stated he would not support this item and City Council has asked numerous times for TMAPC to very explicit in the reasoning. Mr. Covey stated this item came about by trying to limit the number of dollar stores in a specific area and if staff could have supported it that would have been the end of it. Mr. Covey stated staff created something that they could support and it took a long time for staff to get there. Mr. Covey stated what was asked for initially was to limit the number of dollar stores because it is believed they are preventing full scale grocery stores in this area. Mr. Covey stated his opinion is that is not true and here is his list of reasons for not supporting this item.

1. Mr. Covey doesn't think there is any evidence what so ever that enacting the Healthy Neighborhood Overlay would create a greater diversity of retail options or more access to fresh meats, fruits or vegetables. Mr. Covey does not see how limiting stores that sells merchandise under 10 dollars in a specific area has any impact on the development of a full-scale grocery store in the area.

2. Mr. Covey stated this item is labeled the Healthy Neighborhood Overlay and he doesn't agree this this name because if we want to get serious about it why not limit the number of convenience stores in the area. They are everywhere and they sell beer, tobacco and lottery tickets. Mr. Covey stated why not limit the number of liquor stores or fast foods, those are not heathy. Mr. Covey stated he thinks it's a joke that random variables such as they would be exempt if they sell gasoline or if they have a pharmacy or it its one foot over 12,000 square feet. Mr. Covey stated if you were doing this it makes no sense to him what so ever.

3. Mr. Covey stated he doesn't think this commission should be in the business of picking winners and losers via an overlay, the free market should decide. Mr. Covey stated if anyone thinks this overlay doesn't pick the winners and losers then why are QuikTrip, CVS and Walmart exempt? They sell beer and tobacco. What fresh meat, fruits and vegetables does QuikTrip sell?

4. Mr. Covey stated if we go down this path where does it end. Mr. Covey stated what about an overlay in this area for example, that says we are going to limit the homebuilders to those who do not build homes under 100,000 dollars? We don't want retailers that sell a majority items under 10 dollars and we don't want homebuilders who build homes under 100,000 dollars. Mr. Covey stated he is just throwing in a number it could be any number. Mr. Covey stated what about an Overlay that says we don't need attorneys that bill less than x amount of dollars per hour because those are not good. Mr. Covey stated he doesn't know where it ends.

5. Mr. Covey stated he has been on the Commission 7 years and all he has heard is how much economic activity this City needs. Everything we do is an

effort to increase the sales tax revenue of the City and Mr. Covey does not see how enacting an Overlay that prohibits competition does that. Mr. Covey stated he meant to ask how many people do these stores employ but those are paying jobs, sales tax and property tax for the City. Mr. Covey stated our City sales tax goes to Fire, Police and Parks, and the County property tax a portion of that goes to Schools. Mr. Covey stated for the City to not encourage competition and not to get the most economic development we can get to support sales tax and property tax which then goes to support Fire, Police and Public Schools is another reason why it does not support this item.

6. Mr. Covey stated if it is so good for this area why doesn't the City apply it to the entire City. Mr. Covey stated he can't imagine how that would go over.

7. Mr. Covey stated none of Tulsa's peer Cities have enacted anything related to this problem, is Tulsa the only City in the entire nation that has a problem with a number of discount stores in a particular area, surely not. Mr. Covey stated how do you deal with the situation, competition is the best way. Mr. Covey stated stores will not stay in business if they are not profitable.

8. Mr. Covey stated it's the unintended consequences that have not been thought of yet. Mr. Covey stated he had not thought of what Ms. Millikin had thought of and the unintended consequences is what scares him.

9. Mr. Covey stated he believes it will be a nightmare to comply. Mr. Covey stated he doesn't know who will make the decision of whether an applicant complies with the requirements but as Mr. Dix pointed out an applicant starts out as a store with 500 square feet of fruits and vegetables and its not profitable and does not comply with that requirement. Mr. Covey stated how will it be enforced.

Mr. Dix stated a lot of words are floating through his mind, unfair restraint of trade, municipal overreach and the simple one is fair trade, let the market dictate what happens. Mr. Dix stated there have been grocery stores in North Tulsa, Los Americas who was open 3 weeks and was robbed for 18,000 dollars and things like that make businesses not want to be in the area. Mr. Dix stated he was Operations Manager for QuikTrip for 4 years in 1979 to early 1980's and it was tough to get employee's to just to work there because of the pressure they were under as cashiers and to monitor shrinkage in all areas of the City but more so in this area. Mr. Dix stated the last 20 years he was with QuikTrip he did site selection, he worked with the St Louis market. In St. Louis County there are over 100 municipalities and St. Louis the City is not one of them, they would all try to limit someone, for example, you wanted to be the fire chief because if you were the fire chief your brother in law had all the liquor stores in town and if your brother in law had all the liquor stores in town he got a City Ordinance passed

because of his connection with the Fire Chief he got the Mayor to limit the number of liquor stores in town. Mr. Dix stated the brother in Law made a lot of money because no one else could come into town and Mr. Dix likens this item to that kind of thing. Mr. Dix stated he was a grocery store guy and doing site selection he would look at the competitors to see who their customers are and how much business are they doing. Mr. Dix stated to do that you count your own stores then count the competitors and that would tell you who was doing volume and who was not. Mr. Dix stated if there are 12 Dollar Stores in North Tulsa and I am a Competitor for a grocery store and I start studying volumes of stores, I will sit across the street and count the customers for a specific amount of time and based on these counts I can tell which ones are doing good and which ones aren't. Mr. Dix stated if they are all doing good volume then he is going to start looking for a location. Mr. Dix stated the more competitors there are in an area the better and he feels this item will do exactly the wrong thing, there needs to be more of them so a grocery store that comes in this area and looks at the volume the dollar stores are doing finds a location in the area. Mr. Dix stated that is how you do it in a free market you don't do it legislatively. As Mr. Covey said what do we limit next. Mr. Dix stated the City is trying to help the Northside and get the products there that people desperately need but this is not the answer and the City is opening itself up for lawsuits. Mr. Dix stated there were QuikTrip's in North Tulsa and they couldn't get anyone to work and couldn't make any money and as soon as the community solves that problem there will be grocery stores.

**TMAPC Action; 10 members present:**

On **MOTION** of **DIX**, TMAPC voted **7-3-0** (Adams, Covey, Dix, Fretz, Millikin, Shivel, Walker, "aye"; Doctor, Krug, Ritchey, "nays"; none "abstaining"; Reeds, "absent") to **DENY SA-3**.

**OTHER BUSINESS**

**12.Commissioners' Comments**

Mr. Covey stated it is nice that this commission can sit here and disagree with each other but not get disagreeable with each other. He stated this has not always been the case on this commission it's nice to be able to do that with this vote and any vote we have. We can respectfully state our opinions. This is something Mr. Covey enjoys about serving on this Commission.

\* \* \* \* \*

**ADJOURN**

**TMAPC Action; 10 members present:**

On **MOTION** of **DIX**, TMAPC voted **10-0-0** (Adams, Covey, Dix, Doctor, Fretz, Krug, Millikin, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Reeds "absent") to **ADJOURN** TMAPC meeting 2766.

**ADJOURN**

There being no further business, the Chair declared the meeting adjourned at 2:47 p.m.

Date Approved:

04-04-2018

  
Chairman

ATTEST:

  
Secretary