

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2799

Wednesday, August 7, 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	Walker	Davis	Jordan, COT
Doctor		Foster	Silman, COT
Fothergill		Hoyt	Stephens, Legal
Kimbrel		Miller	
McArtor		Sawyer	
Ray		Wilkerson	
Reeds			
Ritchey			
Shivel			
Van Cleave			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, August 1, 2019 at 2:40p.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:

Director's Report:

Ms. Miller reported on City Council and Board of County Commissioner actions and other special projects. Ms. Miller introduced Kendal Davis and Robi Jones from the Tulsa Planning Office to TMAPC.

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1. Minutes:

Approval of the minutes of July 17, 2019 Meeting No. 2798

On **MOTION** of **REEDS**, the TMAPC voted 8-0-2 (Doctor, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Van Cleave, "aye"; no "nays"; Covey, Shivel, "abstaining"; Walker, "absent") to **APPROVE** the minutes of the meeting of July 17, 2019, Meeting No. 2798.

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. **PUD-355-A-1/PUD-355-B-5 Justin Ridener** (CD 8) Location: West of the northwest corner of East 91st Street South and South Yale Avenue requesting a **PUD Minor Amendment** to allow CS uses by right

STAFF RECOMMENDATION:

SECTION I: PUD-355-A-1/PUD-355-B-5 Minor Amendment

STAFF RECOMMENDATION

Amendment Request: Revise the development standards to allow CS uses by right.

This site lies on the boundary between PUD-355-A and B. Currently, the development standards limit the uses for the subject lot to those allowed by right in the OM district, within PUD-355-A and OL in PUD-355-B. The underlying zoning for the lot is CS. The applicant proposes to add those uses allowed by right in the underlying, CS, district so that they may have more options for the uses of their property and future development of the lot. No other development standards are proposed to be changed, at this time.

Staff Comment: *This request can be considered a Minor Amendment as outlined by Section 30.010.1.2.c(15) of the City of Tulsa Zoning Code.*

“Changes in an approved use to another use may be permitted, provided the underlying zoning on the particular site within the PUD would otherwise permit such use as of right and the proposed use will not result in any increase of incompatibility with the present and future use of nearby properties.”

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-355-A and PUD-355-B and subsequent amendments shall remain in effect.

With considerations listed above, staff recommends **approval** of the minor amendment request to allow CS uses by right on the subject lot.

Legal Description CZ-488:

Lot 2, Block 1 Southern Woods Park

4785 E 91st St S

3. **Change of Access – Ryan McCarty** (CD 3) Location: West of the southwest corner of East 36th Street North and North Sheridan Road

TMAPC Action; 10 members present:

On **MOTION** of **McARTOR**, the TMAPC voted 10-0-0 (Covey, Doctor, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, “aye”; no “nays”; none “abstaining”; Walker, “absent”) to **APPROVE** Items 2 and 3 per staff recommendation.

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

PUBLIC HEARINGS:

Mr. Covey stated items 10, 11 and 12 have requested a continuance until August 21st, 2019

10. Z-7493 Richard Barnard (CD 3) Location: South of the southwest corner of East 4th Place South and South Memorial Drive requesting rezoning from **OL to CG**

On **MOTION** of **SHIVEL**, the TMAPC voted 10-0-0 (Covey, Doctor, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, “aye”; no “nays”; none “abstaining”; Walker, “absent”) to **CONTINUE** Z-7493 to August 21, 2019.

11. PUD-796-A Mark Capron (CD 2) Location: Southeast corner of Southwest Boulevard and West 21st Street South requesting a **PUD Major Amendment** to abandon PUD-796-A (**Related to Z-7494**) (**Applicant requests continuance to August 21, 2019**)

TMAPC Action; 10 members present:

On **MOTION** of **SHIVEL**, the TMAPC voted 10-0-0 (Covey, Doctor, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, “aye”; no “nays”; none “abstaining”; Walker, “absent”) to **CONTINUE** PUD-796-A to August 21, 2019.

12. Z-7494 Mark Capron (CD 2) Location: Southeast corner of Southwest Boulevard and West 21st Street South requesting rezoning from **RM-1, RM-2, CS and CH to MX1-U-45 (Related to PUD-796-A)**(**Applicant requests continuance to August 21, 2019**)

TMAPC Action; 10 members present:

On **MOTION** of **SHIVEL**, the TMAPC voted 10-0-0 (Covey, Doctor, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, “aye”; no “nays”; none “abstaining”; Walker, “absent”) to **CONTINUE** Z-7494 to August 21, 2019.

Mr. Covey stated item 8 has requested a continuance until September 4, 2019

8. Z-7491 Michael Carr (CD 4) Location: Northwest corner of East 12th Place South and South Lewis Avenue requesting rezoning from **RS-3 and OM to MX1-U-U**

TMAPC Action; 10 members present:

On **MOTION** of **REEDS**, the TMAPC voted 10-0-0 (Covey, Doctor, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, “aye”; no “nays”;

none “abstaining”; Walker, “absent”) to **CONTINUE** Z-7491 to September 4, 2019.

4. **MR-13** (CD 4) Modification to the Subdivision & Development Regulations to remove the sidewalk requirement for a new single-family residence, Location: West of the northwest corner of East 29th Street South and South Evanston Avenue (Continued from July 17, 2019)

STAFF RECOMMENDATION:

MR-13 – 2819 E. 29th St. S - (CD 4)

West of the northwest corner of East 29th Street South and South Evanston Avenue

The applicant has requested that the Planning Commission remove the requirement that the property owner construct a sidewalk as part of the construction of a new home. The newly adopted Subdivision and Development Regulations require sidewalks to be constructed on any new development requiring both new construction building permits and a certificate of occupancy.

As alternative solutions for sidewalks are explored, staff will begin evaluating each request for modification based on a set of criteria. Any future program would utilize similar criteria when making eligibility determinations for alternatives. Examples of criteria include the following:

1. Proximity to major pedestrian destinations such as parks, schools, public amenities, and retail areas.
2. Presence of existing pedestrian infrastructure within a walkable area of the subject property
3. Funded capital improvement projects that will impact property under application
4. Proximity and ability to connect to collector or arterial streets
5. Topographical or environmental challenges that make sidewalk installation impossible or impractical

Based on the selected criteria, staff finds the following facts to be **favorable** to the modification request:

1. The subject property is located in the middle of an established neighborhood with no existing sidewalks.
2. Subject property is located in the middle of a block.
3. East 29th Street does not provide connections to vital destinations within the neighborhood.

4. Planning Commission has approved requests for modification on three other properties within the same neighborhood with similar circumstances.

Staff recommends **approval** of the modification of the Subdivision and Development Regulations to remove the requirement for sidewalk construction on this property.

Applicant Comments:

The applicant stated he appreciates the forum and would like to talk about this sidewalk policy. He stated he didn't realize sidewalks were that contentious and thought he would use this opportunity to provide some feedback to the Commission. The applicant stated there were three areas he wanted to cover. The circumstances of his waiver, practical application as it relates to comments that have been made by the Commissioners and other applicants. He also wants to talk briefly about the regulations themselves. The applicant stated he wants to provide clarity as to what's required for infills because the regulations to an infill seems to cause a lot of confusion. The applicant stated he has worked on his house for about a year and he really wanted an old neighborhood in Midtown with trees and found it in this neighborhood. He stated the street itself is a dead-end street with no traffic. The applicant stated he doesn't see either now or in the future, any practical application of a sidewalk in this neighborhood and particularly on this street. He stated he doesn't necessarily mind putting in a sidewalk if he thought it would be a benefit to the neighborhood or to the public but in this scenario, it doesn't seem to be very practical at all. The applicant stated he talked with his neighbors and explained to them what was going on with the application and most of them were surprised and as equally upset about the requirement as he was. He stated the neighbors didn't understand the requirement to have an isolated sidewalk and didn't want sidewalks in the neighborhood. The applicant stated the point he wanted to make was he thinks this is a bigger issue than what's published in regulation. He thinks the neighborhood input is really important on the sidewalk issue and it meant a lot to his neighbors. The applicant stated he has listened to the comments and thinks the planning team has done a good job of setting out an agenda to strategically or surgically implement sidewalks where they best fit in Tulsa. The applicant stated he did a Google Earth survey and in these 16 square miles around the subject property you would have to go all the way down to 55th Street to find a sidewalk. The applicant stated this is a big problem and it needs to have a thoughtful approach. The applicant stated he has support letters from his neighbors. He stated given the duration of the infill rate in midtown Tulsa he doesn't think there's any practical argument to say that it is the sidewalk to somewhere he thinks in fact, its a sidewalk to nowhere. The applicant stated he thinks there's some secondary considerations related to what the cost to the city is going to be if these random sidewalks are required. The applicant stated will they be placed over the utilities, what happens to water and sewer lines if they

break and other things in the city budget. The applicant stated installing a sidewalk is a hardship for him, the cost is three, four or \$5,000 dollars that he could invest in his new home or furnishings. He stated to have a sidewalk that is sitting out there and not connected to anything for the next 20 years is not a pleasant thought. The applicant stated there are consequences with randomly allocating sidewalks and he thinks as a city, we want to avoid those consequences, while we still are able to implement and proactive plan. The applicant stated he thinks the subdivision policy is working well. If you do the math 99.2% are not having any issues, the issues are all related to the infills. The applicant stated not having a definitive policy he thinks is not a good idea and certainly not a harmonious way to approach development in Tulsa. The applicant stated he would suggest a more applicant friendly approach, if there's an existing sidewalk in the neighborhood, it's fine to require sidewalk. If there's a sidewalk that is planned, funded and has a design it's okay to require sidewalk. He stated if you don't have a definitive plan, he doesn't think it's appropriate to just require random allocation of sidewalks based on infills. The applicant stated he read the sidewalk regulations in the Zoning Code to make sure he understood it and an argument could be made that the sidewalk requirement at least from his understanding, is not applicable to infills. The applicant stated the residential section of the Zoning Code does not reference section 70.080 at all in the document, the only sections that reference section 70.080 has to do with plan communities, plan development and where there's division of property or there's development of land there's a requirement for infrastructure. The applicant stated if you read the title section of the purpose of 70.080 B it clearly states that this is for proposed developments. The applicant stated he is not a developer, he is not dividing land he is getting a building permit on an infill. The applicant stated he wants to make sure people understand not to confuse the difference. He stated the development regulations are for developers and developments. The applicant stated 70.080 B doesn't seem to apply to a residential infill building permit. The applicant stated he thinks this is just his interpretation and that the reason it was put in the Zoning Code was to make sure that the developers actually put the sidewalks that they committed to do in their development plans and that would explain why the occupancy certificate is in that section. The applicant stated it would also explain why developers are not going to get an occupancy certificate unless the sidewalk is put in as planned. The applicant stated he thinks more thought or at least clarity should be given to infill situation so that there's no confusion on this topic going forward and he thinks there's a way to go about doing that to make it really clear for everybody. The applicant stated the Subdivision Regulations in section 5.010 it states it's applicable to land divisions or as expressly defined in 70.080 B in the Zoning Code or as referenced in Section 260 all of which have to do with developments and land division, none of that has to do with in the middle of an infill situation. The applicant stated he finds it difficult to see how the sidewalk regulation is really being applied to infill and

believes it's being interpreted incorrectly and if it is, he would ask the Commission to think about modifying the Code to make them clearer. The applicant stated if you read 5-070.1 of the Subdivision and Development Regulations it states the applicant would be required to put sidewalks on both sides of the streets if he complied with the Code. The applicant stated he thinks there's some work that needs to be done but the planning team has done a good job of trying to address this. The applicant stated he would ask that Planning Commission take that into consideration and grant his waiver request.

Mr. McArtor asked the applicant if he had started building yet.

The applicant stated "no", permits were issued yesterday.

Mr. McArtor stated so you're a little way away from building a sidewalk.

The applicant stated "yes", about 6 months.

Mr. McArtor asked the applicant if it was absolutely essential that he receive a waiver today

The applicant stated, "yes", he has gone through the process and followed the instructions of the Planning Commission and he doesn't want to have to come back and do it again.

Mr. McArtor stated he appreciates that but what he is asking is would the applicant be willing to continue the application. Mr. McArtor stated he is asking because he will vote against your request and everyone on this Commission knows why. Mr. McArtor stated however, he believes the applicant makes one argument that is interesting and maybe compelling and that's the one saying, according to the Subdivision Requirements sidewalks may not be required in infill areas. Mr. McArtor stated its kind of a textual, contextual argument of the Subdivision Regulations. Mr. McArtor stated he doesn't have his subdivision regulations with him today and he wants to look at that up. Mr. McArtor stated that's why he asked if the applicant would consider the possibility of a continuance just so that some of the Commissioners could clarify this.

The applicant stated he preferred not to continue to another meeting. He stated he would be happy to come back and talk about the regulations and provide some additional feedback individually or to the Commission. But a lot of effort and energy was used to put this all together and he would like to get it wrapped up.

Mr. McArtor stated he understands, he is just wanting a little help from the applicant because you never know what a little time might mean.

Mr. Covey asked staff if they wanted to address any of Mr. McArtor' s questions.

Staff stated both the Subdivision Regulations, as well as the associated Zoning Code amendments were adopted it was the zoning code amendment that subjected all properties not subject to the platting requirement that's found in 70.080 to the requirement for installation of sidewalks. Staff stated the Zoning Code really uses the prescription of the Subdivision Regulations as a guiding document and it states you are subject to the sidewalk rules as if you are going through a platting process. Staff stated the Subdivision and Development Regulations document itself applicability prescribes land divisions, and those activities described in 70.080 B. Staff stated it's that Zoning Code provision that subjects all other properties to that sidewalk requirement. A letter was issued by then Director of Planning, Dawn Warrick as to how that was to be interpreted and enforced and then included any property that was going to require both a permit and an occupancy certificate. Staff stated that is how that was determined to apply to infill residential. He stated there was a discussion around that interpretation and how it was written into the Subdivision Regulations and ultimately an interpretation was made by the Director on how this was to be enforced.

Mr. Covey asked if Mr. McArtor if he would like to question that?

Mr. McArtor stated "no". That's good enough for him.

Ms. Kimbrel asked staff in light of our very spirited discussion today, and to provide a little bit of community awareness and engagement about the process and the hard work that staff along with the City is doing could in this area could staff inform us using this case, as an example of what might be seen in the future in terms of interpreting the policy or changes in the implementation of the policy?

Staff stated the interpretation would remain the same based on what we talked about at the work session, the changing factor would be that there would be an option for people in situations like the applicant. Staff stated this is a very good example of someone, without a doubt who would be eligible for what we've considered as a fee in lieu program. He stated this program allows the applicant to pay a fee in lieu of to the city instead of building a sidewalk. The city could then comprehensively plan for a sidewalk in the vicinity of that property. Staff stated the concept zones in the city were created that were proportionate to a walkable area and a designated area that the money would be collected and then be spent in defined areas where priority sidewalk projects could be undertaken to help improve mobility and walkability in those areas. Staff stated when reviewing these requests for waivers, they are looked at to see if they would be eligible for the fee in lieu as staff conceptualized it to be and this was definitely an example of one that would be eligible for the fee in lieu that could be paid at the permit application and later used as a collection of funds to do more comprehensive sidewalk implementation in the neighborhood.

Ms. Kimbrel asked if the applicant's neighborhood would not be a critical sidewalk area.

Staff stated "no", the applicant is not on collector street and he's not within the vicinity of a major pedestrian generator. Staff stated the applicant's street doesn't even flow through to an arterial street to provide any connections to other destinations. He stated in his opinion that would be one where staff would say you're eligible, you pay the fee instead of building a sidewalk, and the City will take that money and use it somewhere they think it would be more beneficial. Staff stated he thinks that's in line with what the applicant spoke about. A lot of people are supportive of the idea of sidewalks but would like to see a practical application of those funds and those resources than creating a massive scattered pattern of sidewalks throughout the neighborhood.

Mr. McArtor asked how many sidewalk waiver applications Planning Commission has heard from this area?

Staff answered there has been 5.

Mr. McArtor asked how many were granted.

Staff stated this one would be 5.

Mr. McArtor stated so if Planning Commission had not approved those waivers, there would be potentially 5 new sidewalks in this neighborhood.

Staff stated that is correct and each would be detached from one another instead of any alternative where the City could collect those resources and create one avenue which seems to be the more practical approach to sidewalk planning.

Ms. Kimbrel stated if they paid the fee it may not be going back to their particular street but will go to their zone.

Staff stated that is correct. He stated many would prefer a sidewalk network somewhere in the neighborhood or even adjacent to the neighborhood that would provide a benefit versus a segment in front of their house that doesn't connect to anything, so maybe people are more comfortable walking on neighborhood streets and they'd like to see arterial streets be improved with that network or areas around pedestrian generators.

Mr. Reeds stated on page 4.13 of the packet the applicant stated providing infill waivers should be the default not the exception which is in line with what was discussed at the work session. He stated we should put efforts towards where it's needed.

TMAPC Action; 10 members present:

On **MOTION** of **REEDS**, the TMAPC voted 7-3-0 (Covey, Doctor, Fothergill, Reeds, Ritchey, Shivel, Van Cleave, “aye”; Kimbrel, McArtor, Ray, “nays”; none “abstaining”; Walker, “absent”) to **APPROVE** MR-13 Modification of the Subdivision and Development Regulations to remove sidewalk requirement per staff recommendation.

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5. **MR-16** (CD 8) Modification to the Subdivision & Development Regulations to remove the sidewalk requirement for a new single-family residence, Location: North of the northeast corner of East 77th Street South and South Joplin Avenue

STAFF RECOMMENDATION:

MR-16 – 7647 S. Joplin Ave. - (CD 8)

North of the northeast corner of East 77th Street South and South Joplin Avenue

The applicant has requested that the Planning Commission remove the requirement that the property owner construct a sidewalk as part of the construction of a new home. The newly adopted Subdivision and Development Regulations require sidewalks to be constructed on any new development requiring both new construction building permits and a certificate of occupancy.

As alternative solutions for sidewalks are explored, staff will begin evaluating each request for modification based on a set of criteria. Any future program would utilize similar criteria when making eligibility determinations for alternatives. Examples of criteria include the following:

1. Proximity to major pedestrian destinations such as parks, schools, public amenities, and retail areas.
2. Presence of existing pedestrian infrastructure within a walkable area of the subject property
3. Funded capital improvement projects that will impact property under application
4. Proximity and ability to connect to collector or arterial streets
5. Topographical or environmental challenges that make sidewalk installation impossible or impractical

Based on the selected criteria, staff finds the following facts to be **favorable** to the modification request:

1. The subject property is located in the middle of an established neighborhood with no existing sidewalks.
2. Subject property is located in the middle of a block.

3. There are no planned capital improvements to South Joplin Avenue to provide connecting sidewalks
4. Most lots in the neighborhood were developed in the early 1980's with no sidewalk requirement.

Staff recommends **approval** of the modification of the Subdivision and Development Regulations to remove the requirement for sidewalk construction on this property.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

Applicant Comments:

The applicant stated she bought the last lot on Joplin Avenue of Mitchell Park subdivision that was developed back in the late 70s. She stated the home is complete and her driveway is installed and she is asking for a waiver because out of the four phases in Mitchell Park there are approximately 700 single family residences in the neighborhood that have no city sidewalks. Mitchell Park also has a city park that has no city sidewalks. The applicant stated If she was required to put in a city sidewalk and grade the driveway per city code, it would not tie it in correctly with my neighbor's driveways. The applicant stated the speaker from the previous case covered a lot of the points she was going to discuss.

Commissioner Fothergill asked if this was a financial decision or an aesthetic decision.

The applicant answered "both".

TMAPC Action; 10 members present:

On **MOTION** of **REEDS**, the TMAPC voted 7-3-0 (Covey, Doctor, Fothergill, Reeds, Ritchey, Shivel, Van Cleave, "aye"; Kimbrel, McArtor, Ray, "nays"; none "abstaining"; Walker, "absent") to **APPROVE** MR-16 Modification of the Subdivision and Development Regulations to remove sidewalk requirement per staff recommendation.

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6. **66th Street North Truck Stop – Phase II** (County) Preliminary Plat & Modification to the Subdivision & Development Regulations to extend the allowable length for new cul-de-sacs, Location: North of the northeast corner of East 66th Street North and North Quebec Avenue

STAFF RECOMMENDATION:

66th Street North Truck Stop – Phase II - (County)

North of the northeast corner of East 66th Street North and North Quebec Avenue

This plat consists of 9 lots, 2 blocks on 8.45 ± acres.

The Technical Advisory Committee (TAC) met on July 18, 2019 and provided the following conditions:

1. **Zoning:** All property included within the subdivision is zoned IM (Industrial – Moderate). All proposed lots must conform to the requirements of the IM district in the Tulsa County Zoning Code.
2. **Addressing:** Label all lots with assigned addresses on final plat submittal. Addresses will be assigned by INCOG.
3. **Transportation & Traffic:** As shown, cul-de-sac length exceeds allowable 750 feet and will require a modification of the Subdivision & Development Regulations. Cul-de-sac radius and ROW dedication must meet all requirements of the County Engineer and City of Tulsa Development Services.
4. **Sewer/Water:** Water and sewer to be provided by the City of Tulsa. IDP approval for main line extensions will be required prior to final plat approval. Easements and right-of-way dedications must be approved by City of Tulsa and Tulsa County.
6. **Engineering Graphics:** Submit subdivision data control sheet with final plat submittal. Update location map with all platted subdivision boundaries and label all other property “unplatted”. Graphically show all pins found or set associated with this plat. Ensure accuracy and consistency of the legal description with the face of the plat. Graphically label the point of beginning. Provide a date of preparation.
7. **Stormwater, Drainage, & Floodplain:** All drainage plans must comply with Tulsa County drainage standards and must be approved prior to the approval of the final plat. Any easements required for drainage must be shown on the final plat.
8. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** All utilities indicated to serve the site must provide a release prior to final plat approval. Provide a Certificate of Records Search from the Oklahoma Corporation Commission to verify no oil & gas activity on the site.

Modification of Subdivision and Development Regulations:

1. Section 5.060.5.B.2 – Permanent dead-end streets may not exceed 750 feet in length measured from the centerline of the intersecting street to the center of the turnaround.

Staff recommends **APPROVAL** of the modification to the Subdivision & Development Regulations finding the property to be uniquely isolated with

several challenges to external connectivity due to highway right-of-way and an existing cemetery. The proposed dead-end street aligns with the prescribed collector street on the Major Street and Highway Plan and could be connected in the future to new development. County Engineering had no objections to the length of the dead-end given the location of the property.

Staff recommends **APPROVAL** of the preliminary subdivision plat subject to the conditions provided by TAC and all other requirements of the Subdivision and Development Regulations.

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 **REEDS**, TMAPC voted **10-0-0** (Covey, Doctor, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, "aye"; no "nays"; none "abstaining"; Walker, "absent") to **APPROVE** the Preliminary Subdivision Plat and the modification to the Subdivision & Development Regulations for 66th Street North Truck Stop – Phase II per staff recommendation.

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7. **CZ-488 Ashley Hacker** (County) Location: Southeast corner of West Wekiwa Road and West Long Street requesting rezoning from **RS to CS** to permit a law office

STAFF RECOMMENDATION:

SECTION I: CZ-488

DEVELOPMENT CONCEPT: The applicant is proposing to rezone from RS to CS to permit a law office on the subject lot.

Typically, rezoning from RS to CS would not be encouraged in a primarily RS zoned area, however, the City of Sand Springs 2030 Comprehensive Plan designates this lot and the surrounding neighborhood as a Commercial Land Use to encourage the future development of this area to commercial uses. CS would be the least intense commercial zone that is available in Tulsa County zoning and would be compatible with the Land Use designation given to this property by the City of Sand Springs.

DETAILED STAFF RECOMMENDATION:

CZ-488 is consistent with the City of Sand Springs Comprehensive Plan;

CZ-488 is non-injurious to surrounding proximate properties;

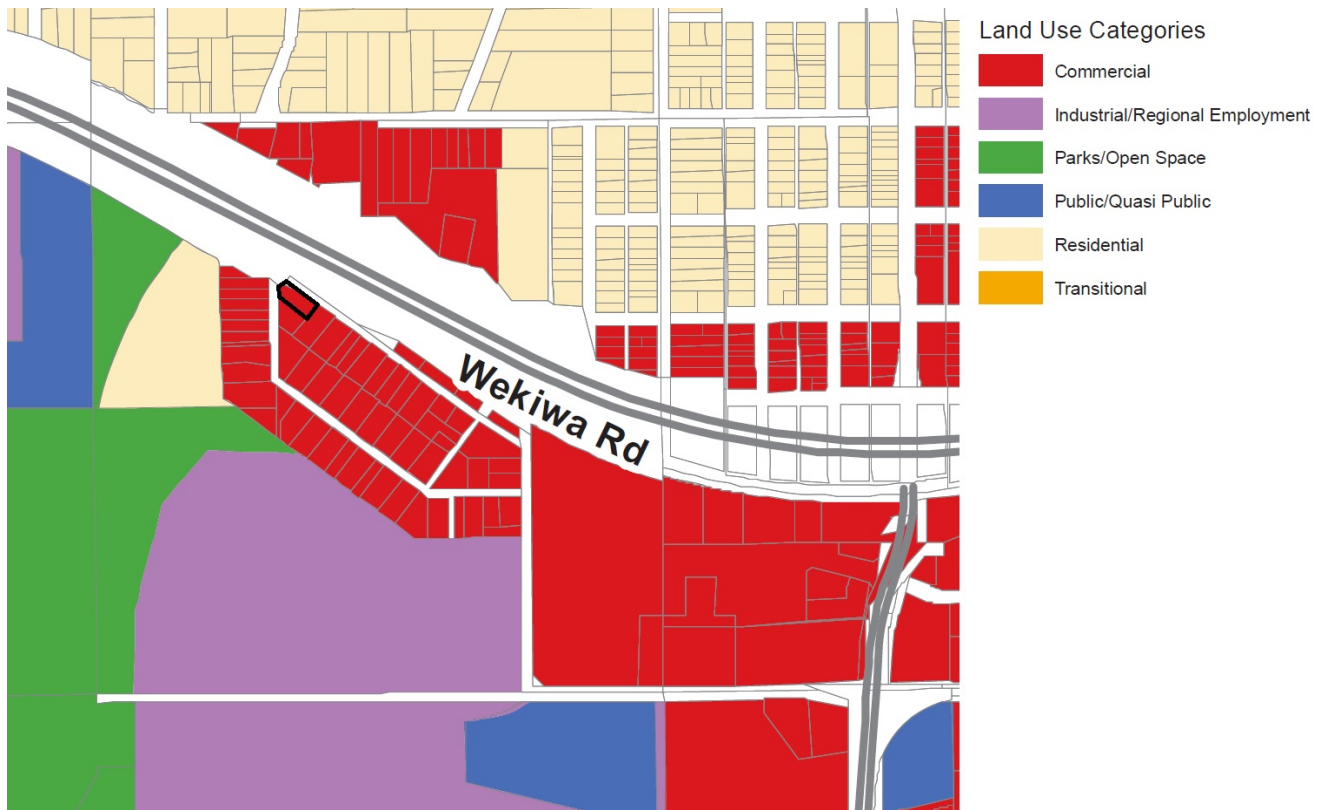
CZ-488 is consistent with the anticipated future development pattern of the surrounding property therefore;

Staff recommends Approval of CZ-488 to rezone property from RS to CS.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The site is located within the City of Sand Springs 2030 Comprehensive Plan area and is designated as Commercial in their Land Use Categories.



Land Use Vision:

Land Use Plan map designation: Commercial per City of Sand Springs 2030 Comprehensive Plan

Areas of Stability and Growth designation: N/A

Transportation Vision:

Major Street and Highway Plan:

Trail System Master Plan Considerations:

Small Area Plan: None

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: The site is currently a single-family residence

Environmental Considerations: None

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
Katy St	Secondary Arterial	100 Feet	3

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	RS	None	N/A	Highway
South	RS	Commercial (Sand Springs)	N/A	Residential
East	RS	Commercial (Sand Springs)	N/A	Residential
West	RS	Commercial (Sand Springs)	N/A	Residential

SECTION III: Relevant Zoning History

ZONING ORDINANCE: Ordinance number 11848 dated June 26, 1970 established zoning for the subject property.

Subject Property: No relevant history

Surrounding Property: No relevant history

TMAPC Comments:

Mr. Covey asked when the Sand Springs 2030 Comprehensive Plan adopted.

Staff stated he didn't know exactly but it was pretty recent.

Applicant Comments:

The applicant stated the subject property is directly across the street from a major highway with commercial both east and west. He stated the current use is residential and he has trouble keeping tenants in this property and wants to take it to commercial. The applicant stated for the last couple of years he has tried to get the area cleaned. The applicant stated he is hoping this spark increases the value of properties along that frontage road. He stated there is a Walmart Super Center within 100 feet to the East and there is Riverwest Park west of the subject property, along with an industrial area. The applicant stated he is looking to rezone the subject property to get it cleaned up.

Mr. Covey asked if is this for a Law Office.

The applicant stated "yes", he had been approached by a few attorneys that want to put an office there.

Mr. McArtor asked if there was a house there now?

The applicant stated "yes".

Mr. McArtor asked if the house was going to be torn down.

The applicant stated "no", it will be used.

Ms. Kimbrel asked if the applicant thought he would have more success keeping tenants in this space as commercial versus residential.

The applicant stated, "that is correct".

Interested Parties:

Barbara Shockley 202 Broad Street, Sand Springs, OK 74063

Ms. Shockley stated she has lived in the neighborhood for 51 years. She stated this area is a donut hole which the City of Sand Springs has tried to get for several years and most of the people that live here have lived there for a long time. Ms. Shockley stated the residents do not want to be in annexed into the city and the applicant's father was on the City Board of Sand Springs and when he realized that there was an interest in making this area commercial, he bought up the homes in the area as they became available. Ms. Shockley stated the

applicant is just out to make money. Ms. Shockley stated she doesn't want this because it is going to be law offices so what kind of people are going to be coming in there. She stated you're going to have criminals and sex offenders and there's not enough space or any type of parking but single parking. Ms. Shockley stated this will cause more traffic and more trash. She stated that this will attract people that she doesn't want in her neighborhood. Ms. Shockley stated she would appreciate it if Planning Commission vetoed this application because it isn't something the neighbors want. Ms. Shockley stated Commissioners would not want your mother or your grandmother to be forced to live with someone of that caliber such as criminals or sex offenders. Ms. Shockley stated she thinks there is a law that states those type of people can't be near a daycare.

Ms. Kimbrel asked if Ms. Shockley opposed the commercial zoning or the use of the property?

Ms. Shockley stated she opposed the commercial zoning and the use.

Ms. Kimbrel asked if the applicant was to use the property for medical such as a dentist's office, would you equally be against that?

Ms. Shockley stated "yes".

Mr. McArtor stated the law Ms. Shockley is referring to has to do with residing within 1000 feet of a park or school or something like that. So, it wouldn't be illegal.

Cathy Krause 835 Katy Street, Sand Springs, OK 74063

Ms. Krause stated where the applicant wants to put offices is next door to her house and she has lived in that neighborhood for 66 years and really thinks it needs to stay a neighborhood. Ms. Krause stated it has enough traffic going down to the low water dam. Ms. Krause stated as far as cleaning up the neighborhood the applicant owns a lot of property in the area and Ms. Krause saw people in the last two days bringing stuff and putting it in the backyard of one of the applicant's empty homes. Ms. Krause stated so she doesn't see where the applicant is cleaning anything up. She stated he doesn't see where he does much to his homes as far as upkeep. Ms. Krause stated she would rather just keep it a neighborhood and not have any commercial at all, especially not right next door.

Mr. Covey asked if Ms. Krause was aware that the city of Sand Springs in their 2030 Comprehensive Plan and designated this land as being commercial.

Ms. Krause stated "no".

The applicant stated there are few things stored behind a house that he owns that is empty. The applicant stated he believes Ms. Krause moved into the house that she resides within the last two years so she hasn't lived in that house 61

years. The applicant stated he would have to expand the parking but that would be addressed with building permits from the county. The applicant stated Walmart brings thousands of people to the area just as Ms. Shockley described so the applicant doesn't think the rezoning would change the amount of traffic because the traffic's already there.

Mr. Doctor stated this application is for rezoning from residential use to commercial use and the applicant mentioned in opening comments that he plans on keeping the structure that is there and wasn't going to change the footprint but that you were planning on doing a kind of substantial expansion. Mr. Doctor stated the zoning change from residential to commercial is a permanent shift in terms of the entire uses allowed. Mr. Doctor asked if the applicant had considered or would he be open to a use variance that would allow you to use that same residential space for commercial use but wouldn't permanently change the underlying zoning category?

The applicant stated "no", he wanted to do what the Comprehensive Plan states and the City spent time to update. He stated he wanted to request commercial.

Ms. Kimbrel asked staff if there was any information of how Sand Springs developed its Comprehensive Plan? Do they have a Planning Department like Tulsa?

Staff stated "yes" Brad Bates is the Planner for Sand Springs.

Ms. Kimbrel asked if staff knew what the community engagement process was there?

Mr. Fothergill stated he was on the Sand Springs City Council, about two and a half years ago while the Comprehensive Plan was adopted. He stated they had public meetings but they weren't very well attended. Mr. Fothergill stated now that he works for the County, he knows there has been a clean-up in this area. He stated two years ago a bunch of dumpsters were placed in this area and were filled relatively quick. Mr. Fothergill stated this area is sandwiched between two commercial areas. It has Walmart on the east and heavy industrial on the west along with a park also. It is kind of a highway frontage road and there's no buffer between this house and the highway, other than a white plastic fence.

Mr. McArtor stated to the applicant that he thinks he has a public relations problem with your neighbors.

The applicant stated "yes" he would work on that.

Ms. Kimbrel stated this is why it's so important for community members to be engaged in public planning, and community planning processes. Because when it comes to Planning Commission a decision could be made that the public doesn't like. She stated if the residents are aware of these community planning

opportunities to help give input on the desires of the community and the desires of the land it would serve as a greater benefit to us.

Mr. Covey stated the city of Sand Springs Comprehensive Plan controls his vote and it says this area is to go commercial so that's where his vote goes and it's solely based on that fact alone.

TMAPC Action; 10 members present:

On **MOTION** of **REEDS**, TMAPC voted **10-0-0** (Covey, Doctor, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, "aye"; no "nays"; none "abstaining"; Walker, "absent") to recommend **APPROVAL** of the CS zoning for CZ-488 per staff recommendation.

Legal Description CZ-488:

LT 14 LESS BEG NWC LT 14 TH S53.65 NE45.85 NW49.59 POB FOR HWY & LESS BEG 49.59SE NWC LT 14 TH SE111.50 NW121.46 NE22.29 POB FOR HWY BLK 1, HALL'S GARDEN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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- 9. Z-7492 Mohamad Soukieh** (CD 5) Location: North of the northeast corner of South Hudson Avenue and East 11th Street South requesting rezoning from **CH to IM**

STAFF RECOMMENDATION:

SECTION I: Z-7492

DEVELOPMENT CONCEPT: Horticulture nursery uses are only allowed in AG, IL, IM and IH zoning districts. No options exist in the zoning code to use existing buildings in any of the commercially zoned districts for any indoor for a Horticulture Nursery. The rezoning request is to allow an indoor growing facility inside an existing building.

DETAILED STAFF RECOMMENDATION:

Z-7492 requesting IM zoning without a development plan may be consistent with the Employment Land Use designation in the comprehensive plan and,

Uses that may be allowed in an IM district without a development plan are not consistent with the expected development in the area and,

IM zoning allows low-impact manufacturing and industry uses that may be considered injurious to the surrounding properties therefore,

Staff recommends denial of Z-7492 to rezone property from CH to IM.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: IM zoning may be consistent with the employment land use designation in the comprehensive plan however there is no industrial zoning or industrial use opportunities in the area.

Land Use Vision:

Land Use Plan map designation is 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.

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

Trail System Master Plan Considerations: none

Small Area Plan: None

Special District Considerations: The south portion of this lot is included in the RT 66 overlay. That overlay does not provide use opportunities and is limited to allowing signage that cannot be implemented in the rest of the city.

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: *The subject tract is a parking lot and car repair facility.*

Environmental Considerations: None

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
South Hudson	Collector	60 feet	2

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	RM-2	Employment	Growth	Single family
East	CH	Employment	Growth	Transitional Housing
South	CH	Employment	Growth	Used Car Lot
West	CH	Employment	Growth	Car lot and auto repair

SECTION III: Relevant Zoning History

ZONING ORDINANCE: Ordinance number 11816 dated June 26, 1970 established zoning for the subject property.

Subject Property:

BOA-19647 August 2003: The Board of Adjustment **approved** a *special exception* for Use Unit 20 (Commercial Recreation: Intensive) for conducting Motorcycle Safety Foundation approved rider safety courses subject to conditions, located on subject property.

BOA-15586 November 1990: The Board of Adjustment **approved** a *special exception* to permit off-street parking in an RM-2 zoned district, per plan submitted, located on subject property.

Surrounding Property:

BOA-20815 January 2008: The Board of Adjustment **approved** a *special exception* to permit fixture assembly and manufacturing (Use Unit 25) in a CH District; a *special exception* to permit required parking on a lot other than the one containing the principal use, subject to conditions, on property located West of the Northwest corner of East 11th Street and South Hudson Avenue.

BOA-17761 July 1997: The Board of Adjustment **approved** a *special exception* to permit a lodge in an RM-1 District, per plan submitted, on property located at the Northeast corner of South Joplin Avenue and East 9th Street South.

BOA-6545 January 1970: The Board of Adjustment **approved** an *exception* to permit extending a nonconforming use (manufacturing of fixtures) in a U-3E district, subject to the plot plan, on property located North of the Northwest corner of East 11th Street South and South Hudson Avenue.

BOA-5911 May 1968: The Board of Adjustment **approved** an *exception* to permit a service station canopy to extend 12' 6" over into the major street setback requirements in a U-3E district, subject to the execution of a right-of-way removal agreement, on property located at the Southeast corner of East 11th Street South and South Hudson Avenue.

TMAPC COMMENTS:

Staff stated as late as this morning he has been trading phone calls with the applicant and they finally talked just before the meeting. Staff stated there is some interest in asking for continuance on this item to look at a development plan for proposed uses and how they might be able to integrate this into the neighborhood. Staff stated normally he wouldn't do this at this point but staff

would actually support a continuance request to explore whatever the applicant's business plan is for the future.

Mr. Covey asked if the applicant needs the IM zoning change.

Staff stated the he thinks the IM zoning was really more for some type of processing but if it was just going to be cultivation that it can be done in IL district. Staff stated it's similar to what we've looked at before in another location.

Mr. Covey asked if staff was open to some type of development plan?

Staff stated "yes", we need to learn a lot more but he thinks the possibility exists.

Mr. Covey asked staff how much time they needed.

Staff stated If this is going to move forward with a development plan, there needs to be 21 days so the continuance would have to go to the September 4, 2019 meeting.

Mr. Covey stated there are a lot of speakers. He stated the applicant has asked for continuance and usually the first continuance is granted whether it is to the applicant or sometimes the interested parties that are opposing the application. Mr. Covey stated he is going to call each person signed up to speak and would like for them to limit the comments to whether they are in support of the continuance or not.

All interested parties were in support of a continuance to September 4, 2019

Interested Parties:

Greg Hambric 4608 South Columbia Avenue, Tulsa, OK 74105

Steve Souleich 9902 South 93rd East Place, Tulsa, OK 74133

Mark Harwell 2116 South 34th Street, Tulsa, OK 74105

Michael Nelson 1214 South Joplin Avenue, Tulsa, OK 74112

TMAPC Action; 10 members present:

On **MOTION** of **REEDS**, the TMAPC voted 10-0-0 (Covey, Doctor, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Shivel, Van Cleave, "aye"; no "nays"; none "abstaining"; Walker, "absent") to **CONTINUE** Z-7492 to September 4, 2019.

OTHER BUSINESS

13. Commissioners' Comments

Mr. Reeds would like to thank staff, particularly Nathan, who has left the building, for putting together the work session today and for the continued positive

dialogue in this meeting concerning sidewalks. He stated he thinks we're on the right track and getting closer.

Mr. McArtor stated his intention was to attend the work session but was caught up in court this morning. He apologizes. Mr. McArtor stated he wants to echo what Mr. Reed said, thanks very much to the staff for all the good work they're doing.

ADJOURN

TMAPC Action; 10 members present:

On **MOTION** of **REEDS**, TMAPC voted **10-0-0**(Covey, Doctor, Fothergill, McArtor, Millikin, Ray, Reeds, Ritchey, Shivel, Van Cleave, "aye"; no "nays"; none "abstaining"; Walker, "absent") to **ADJOURN** TMAPC meeting of August 7, 2019 Meeting No. 2799.

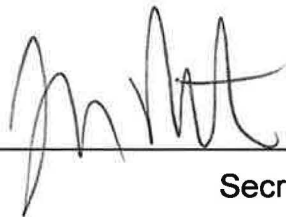
There being no further business, the Chair declared the meeting adjourned at 2:35 p.m.

Date Approved:

08-21-2019


Chairman

ATTEST:


Secretary