INTRODUCTION AND NOTICE TO THE PUBLIC
At this meeting the TMAPC, in accordance with and pursuant to applicable TMAPC Policies and Procedures, will review, consider, discuss, and may take action on, approve, recommend for approval, amend or modify, recommend for approval with modifications, deny, reject, recommend for denial, or defer action on any item listed on the agenda.

Call to Order:

REPORTS:

Chairman's Report:
Work session Report:
Director's Report:

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.

Review and possible approval, approval with modifications, denial, or deferral of the following:

1. **PUD-221-A-3 Deborah Broome** (CD 7) Location: Northwest corner of East 46th Street South and South 134th East Avenue requesting a **PUD Minor Amendment** to increase allowable driveway width in the street setback.

2. **PUD-579-B/Z-6333-SP-4c Ronald G. Tracy** (CD 7) Location: Northwest corner of Highway 169 and East 81st Street South requesting a **PUD Minor Amendment** to change the minimum lot width requirement from 150' to 90' to allow for a lot split, and establish development standards for the newly created lots.

PUBLIC HEARING-REZONING
Review and possible recommendation of approval, approval with modifications, denial, or deferral of the following:

3. **Z-7730 Ryan Strode** (CD 2) Location: Northeast corner of Highway 75 and West 41st Street South requesting rezoning from CS and IL to IL (Staff requests a continuance to August 16, 2023)

4. **CZ-547 Ronald D. & Gary D. Richardson** (County) Location: Southeast corner of West 41st Street South and South 61st West Ave requesting rezoning from RS to CS

5. **CZ-548 Theron Martin** (County) Location: East of the Southeast corner of East 116th Street North and North Garnett Road requesting rezoning from AG to CG

6. **Z-7718 Gary Conroy** (CD 5) Location: North of the northwest corner of South Garnett Road and East 31st Street South requesting rezoning from RS-3 and CS to CS

7. **Z-7726 Tim Waltherbach** (CD 4) Location: Northwest corner of North Santa Fe Avenue and West Newton Street requesting rezoning from RS-3 to RM-2

8. **Z-7727 Bell Land Use, LLC** (CD 4) Location: South of the southeast corner of East 21st Street South and South Harvard Avenue requesting rezoning from OM and RS-3 to RM-2

9. **Z-7728 Justin Debruijn** (CD 4) Location: West of the southwest corner of East 21st Street South and South Yale Avenue requesting rezoning from RS-3 to CS

10. **Z-7729 Lou Reynolds** (CD 4) Location: Northwest corner of South Utica Avenue and East 13th Place South requesting rezoning from RM-2/NIO to CS/NIO (Related to PUD-772-A)

11. **PUD-772-A Lou Reynolds** (CD 4) Location: Northwest corner of South Utica Avenue and East 13th Place South requesting a PUD Major Amendment to establish two development areas (Related to Z-7729)

12. **Z-7725 Paloma Jonsson** (CD 5) Location: South of the southeast corner of South Memorial Drive and East 23rd Street South requesting rezoning from RS-3 to CS with an optional development plan (Related to CPA-104)

13. **Z-7731 Nathan Cross** (CD 1) Location: South of the southwest corner of East 5th Street South and South Victor Avenue requesting rezoning
from RS-4 and IL to CG with an optional development plan (Related to CPA-105) (Staff requests a continuance to August 2, 2023)

PUBLIC HEARING-COMPREHENSIVE PLAN AMENDMENTS
Review and possible adoption, adoption with modifications, denial, or deferral of the following:

14. **CPA-104 Paloma Jonsson** (CD 5) Location: South of the southeast corner of South Memorial Drive and East 23rd Street South requesting to amend the Land Use Map designation from *Existing Neighborhood* to *Multiple Use* (Related to Z-7725)

15. **CPA-105 Nathan Cross** (CD 1) Location: South of the southwest corner of East 5th Street South and South Victor Avenue requesting to amend the Land Use Map designation from *Existing Neighborhood* to *Employment* (Related to Z-7731) (Staff requests a continuance to August 2, 2023)

PUBLIC HEARING-PLATS
Review and possible approval, approval with modifications, denial, or deferral of the following:

16. **Cooper Valley Estates** (County) Minor Subdivision Plat, Location: South and West of East 181st Street South and South Memorial Drive

OTHER BUSINESS

17. Commissioners’ Comments

ADJOURN

CD = Council District

**NOTE:** If you require special accommodation pursuant to the Americans with Disabilities Act, please notify the Tulsa Planning Office at 918-584-7526. Exhibits, petitions, pictures, etc., presented to the Planning Commission may be received and deposited in case files to be maintained Tulsa Planning Office at INCOG. All electronic devices must be silenced during the Planning Commission meeting.

Visit our website at [tulsaplanning.org](http://tulsaplanning.org) email address: esubmit@incog.org
TMAPC Mission Statement: The Mission of the Tulsa Metropolitan Area Planning Commission (TMAPC) is to provide unbiased advice to the City Council and the County Commissioners on development and zoning matters, to provide a public forum that fosters public participation and transparency in land development and planning, to adopt and maintain a comprehensive plan for the metropolitan area, and to provide other planning, zoning and land division services that promote the harmonious development of the Tulsa Metropolitan Area and enhance and preserve the quality of life for the region’s current and future residents.
**Case Report Prepared by:**  
Dylan Siers

**Owner and Applicant Information:**  
**Applicant:** Deborah Broome  
**Property Owner:** Deborah Broome

**Location Map:**  
(shown with City Council Districts)

**Applicant Proposal:**  
Concept summary: PUD minor amendment to increase allowable driveway width in the street setback.

**Gross Land Area:** 0.29 Acres

**Location:** Northwest corner of East 46th Street South and South 134th East Avenue

Lot 10 Block 4, Quail Ridge

**Zoning:**  
**Existing Zoning:** RS-3/PUD-221-A  
**Proposed Zoning:** No Change

**Comprehensive Plan:**  
**Land Use Map:** Neighborhood

**Staff Data:**  
**TRS:** 9428

**Staff Recommendation:**  
Staff recommends approval.

**City Council District:** 7  
**Councillor Name:** Lori Decter Wright

**County Commission District:** 3  
**Commissioner Name:** Kelly Dunkerley

July 19, 2023
SECTION I: PUD-221-A-3 Minor Amendment

Amendment Request: Revise the PUD Development Standards to clarify the allowable driveway width within the street setback.

PUD 221 was approved in 1979 and is silent regarding driveway widths. The 1979 zoning code provided guidance that allowed up to 34% of the front yard to be used for parking but did not limit width.

The current zoning code says driveways in RS zoned lots with street frontage of 75’+ feet cannot exceed 50% of the lot frontage or 30 ft of driveway width in within the street setback and 27’ within the right of way, whichever is less. The applicant is proposing a new driveway on 134th East Avenue that is 33.5’ wide within the right of way and 33.5’ in the street setback. Staff supports allowing 34’ maximum driveway width within the street setback and the right of way to allow the proposed drive.

Staff Comment: This request is 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, driveway coverage measured by width, square footage or percentage of the yard, open spaces, building coverage and lot widths or frontages, provided the approved PUD development plan, the approved PUD standards and the character of the development are not substantially altered."

Staff has reviewed the request and determined:

1) PUD-221-A-3 does not represent a significant departure from the approved development standards in the PUD and is considered a minor amendment to PUD-221-A.

2) All remaining development standards defined in PUD-221-A and subsequent amendments shall remain in effect.

Exhibits included with staff report:
- INCOG zoning case map
- INCOG aerial photo
- Applicant Site Plan

With considerations listed above, staff recommends approval of the PUD minor amendment to increase allowable driveway width in the street setback.
<table>
<thead>
<tr>
<th><strong>Case Report Prepared by:</strong></th>
<th><strong>Owner and Applicant Information:</strong></th>
</tr>
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<tbody>
<tr>
<td>Dylan Siers</td>
<td>Applicant: Ronald G. Tracy</td>
</tr>
<tr>
<td></td>
<td>Property Owner: Premium Hotel, LLC</td>
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| **Location Map:**          | **Applicant Proposal:** |
| (shown with City Council Districts) | Concept summary: PUD minor amendment to change the minimum lot width requirement from 150' to 90' to allow for a lot split, and establish development standards for the newly created lots. |

| **Gross Land Area:**       | **Location:** Northwest corner of South Highway 169 and East 81st Street South |
| 3.08                        |                                     |

| **Zoning:**                | **Staff Recommendation:** |
| Existing Zoning: PUD-579-B-3/Z-6333-SP-4c | Staff recommends approval. |
| Proposed Zoning: No Change  |                                     |

| **Comprehensive Plan:**    | **City Council District:** 7 |
| Land Use Map: Regional Center | Councilor Name: Lori Decter Wright |

| **Staff Data:**            | **County Commission District:** 3 |
| TRS: 8407                  | Commissioner Name: Kelly Dunkerley |
SECTION I: CONCEPT STATEMENT
PUD-579-B-3 and Z-6333-SP-4c and Minor Amendment

Amendment Request: PUD minor amendment to lower the minimum lot width requirement from 150' to 90' to allow for a lot split.

Amendment PUD-579-B was approved in 2006 and established development standards for Lot 4 Block 1 of the Tall Grass Subdivision. The applicant has submitted a lot split to divide a part of the lot into two parcels, the north tract being .79 acres and the south tract being 2.29 acres. The lot split proposed would put the north tract out of compliance with the development standards of PUD-579-B. To correct this the applicant has requested that the PUD be amended to allow for the lot width of these lots be 90'. The area included in this minor amendment will be designated as development area D.

DEVELOPMENT AREA D STANDARDS

NET LAND AREA: 3.08 AC

PERMITTED USES:
Those allowed in PUD-579-B.

MINIMUM BUILDING HEIGHT:
Hotels and Motels 120 FT
Multi-Family Dwellings, other dwellings, offices and other uses as permitted by Development Standards for Area B of PUD-579-A.

MINIMUM BUILDING SETBACKS:
From North boundary abutting Dev Area B 10 FT
From the South Common boundary with lots 1-3, Block 1 (Dev Area C) 20 FT
From South 101st East Ave 75 FT
From East boundary or Mingo Valley Expressway r-o-w 50 FT
From internal boundaries of the Dev area D 10 FT

MINIMUM LOT WIDTH: 90 FT

MAXIMUM BUILDING FLOOR AREA RATIO PER LOT: .75

MAXIMUM LAND COVERAGE PER LOT: 30%

Staff Comment: This request is considered a Minor Amendment as outlined by Section 30.010.1.2.c(1)(9)(10) and by Section 25.040.E.5 of the City of Tulsa Zoning Code.
“Adjustment of internal development area boundaries, provided the allocation of land to particular uses and the relationship of uses within the project are not substantially altered.”

“Lot splits that have been reviewed and approved in accordance with the subdivision and development regulations.”

“The planning commission is authorized to approve minor amendments to an approved development plan as long as substantial compliance is maintained with the approved development plan.”

Staff has reviewed the request and determined:

1) PUD-579-B-3 is consistent with the provisions for administration and procedures of a PUD in section 30.010-H.

2) PUD-579-B-3 and Z-6333-SP-4c does not represent a significant departure from the approved development standards in the PUD and is considered a minor amendment to PUD-579-B-3 and Z-6333-SP-4c.

3) All remaining development standards defined in PUD-579-B and subsequent amendments shall remain in effect.

Exhibits included with staff report:
   INCOG zoning case map
   INCOG aerial photo
   Applicant Exhibit A (Survey showing lot split)

With considerations listed above, staff recommends approval of the minor amendment to change the minimum lot width requirement from 150' to 90' to allow for a lot split, and establish development standards for the newly created lots.
Kim,

Please continue Z-7730 to the August 16th 2023 meeting.

Dylan Siers | Planner
Tulsa Planning Office
Department of City Experience
175 E. 2nd Street, Suite 480
Tulsa, OK 74103-3216
T: 918-596-7584
E: dsiers@cityoftulsa.org
www.tulsaplanning.org
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<th><strong>Case Number:</strong></th>
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<td><strong>Hearing Date:</strong></td>
<td>July 19th, 2023</td>
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</table>

**Case Report Prepared by:**
Jay Hoyt

**Owner and Applicant Information:**
**Applicant:** Ronald D. & Gary D. Richardson
**Property Owner:** RICHARDSON, RONALD D & GARY D

**Location Map:**
(shown with County Commission Districts)

![Map Image]

**Applicant Proposal:**
**Present Use:** RS
**Proposed Use:** Commercial
**Concept summary:** Rezone from RS to CS to permit commercial development.
**Tract Size:** 0.85 ± acres
**Location:** Southeast corner of West 41st St South & South 61st West Ave

**Zoning:**
**Existing Zoning:** RS
**Proposed Zoning:** CS

**Comprehensive Plan:**
**Land Use Map:** Multiple Use

**Staff Recommendation:**
Staff recommends approval.

**Staff Data:**
**TRS:** 9229
**CZM:** 45

**County Commission District:** 2
**Commissioner Name:** Karen Keith
SECTION I: CZ-547

DEVELOPMENT CONCEPT: The applicant has requested to rezone from RS to CS to permit commercial uses on the subject lot. Currently the site contains a vacant single-family home. The applicant intends to permit commercial development on the lot. The applicant did not specify the type of commercial development intended at this time. The site is located within the Multiple Use designation of the City of Tulsa Comprehensive Plan, which has been adopted as part of the Tulsa County Comprehensive Plan. This proposal would be compatible with this designation.

EXHIBITS:
- INCOG Case map
- INCOG Aerial
- INCOG Aerial (enlarged)
- Comprehensive Plan Land Use Map

DETAILED STAFF RECOMMENDATION:

CZ-547 is non-injurious to surrounding proximate properties and consistent with the Tulsa County Comprehensive Plan,

CZ-547 is consistent with the anticipated future development pattern of the surrounding property therefore,

Staff recommends Approval of CZ-547 to rezone property from RS to CS.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The site is located within the Multiple Use land use designation of the Tulsa County Comprehensive Plan as identified in the Unincorporated Tulsa County Land Use Designations (Berryhill) portion of the Comprehensive Plan which was adopted as part of the Tulsa County Comprehensive Plan on January 14, 2019.

Land Use Vision:

Land Use Plan map designation: Multiple Use

Multiple Use areas are “Mostly Commercial or Retail Uses” which include restaurants, shops, services, and smaller format employment uses. This land use designation is most common in areas of the city from earlier development patterns, with Local Centers being more commonplace in newer parts of the city. For single properties that are commercial but surrounded by Neighborhood, Multiple Use is the preferred designation.

Transportation Vision:

Major Street and Highway Plan: W 41st St S is designated as a Primary Arterial.

Trail System Master Plan Considerations: The GO Plan shows a sidewalk gap along W 41st St S.
Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: The site currently contains Berryhill Baptist Church and the surrounding associated property.

Environmental Considerations: None

Streets:

<table>
<thead>
<tr>
<th>Existing Access</th>
<th>MSHP Design</th>
<th>MSHP R/W</th>
<th>Exist. # Lanes</th>
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<tbody>
<tr>
<td>W 41st St S</td>
<td>Primary Arterial</td>
<td>120 Feet</td>
<td>4</td>
</tr>
</tbody>
</table>

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

Surrounding Properties:

<table>
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<tr>
<th>Location</th>
<th>Existing Zoning</th>
<th>Existing Land Use Designation</th>
<th>Area of Stability or Growth</th>
<th>Existing Use</th>
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</thead>
<tbody>
<tr>
<td>North</td>
<td>AG (CS pending BOCC approval)</td>
<td>Multiple Use</td>
<td>N/A</td>
<td>Church</td>
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<td>South</td>
<td>RS</td>
<td>Neighborhood</td>
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<td>Single-Family Residential</td>
</tr>
<tr>
<td>East</td>
<td>RS</td>
<td>Multiple Use</td>
<td>N/A</td>
<td>Single-Family Residential</td>
</tr>
<tr>
<td>West</td>
<td>CS</td>
<td>Multiple Use</td>
<td>N/A</td>
<td>Commercial</td>
</tr>
</tbody>
</table>

SECTION III: Relevant Zoning History

History: CZ-547

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

Subject Property:

CZ-545 Withdrawn May 2023: Request to rezone a 6.85+ acre tract of land from AG to CS on property located NE/c of W. 41st Street South & South 61st W. Ave., was withdrawn.

Surrounding Property:

CBOA-2752 May 2019: The Board of Adjustment approved a Modification to permit a previously approved Special Exception (CBOA-2752) to extend the time limitation to permit fireworks stand in an AG district and a Variance from the all-weather parking surface requirement, on property located at 6035 West 40th Street South.
CBOA-2500 May 2014: The Board of Adjustment approved a Special Exception to permit fireworks stand (Use Unit 2) in an AG district for a time period from June 15th to July 5th and December 15th to January 1st, on property located at 6035 West 40th Street South.

CBOA-2104 April 2004: The Board of Adjustment approved a Variance to permit street frontage form 150’ to 88.80’ and 135.67’ to permit a lot-split, on property located at 6130 West 41st Street.

CBOA-2027 January 2003: The Board of Adjustment approved a Special Exception to permit a previous condition of approval of a home school facility in an RS district to allow the proposed building to be larger than approved, on property located at South of SE/c West 41st Street & 61st West Avenue.

CBOA-2015 November 2002: The Board of Adjustment approved a Special Exception to permit a home school facility in a RS district, on property located at South of SE/c West 41st Street and South 61st Avenue.

CBOA-2021 January 2003: The Board of Adjustment approved a Special Exception to permit auto repair and retail tire and accessory sales in a CS zoned district, on property located at 4110 S. 61st W. Ave.

CBOA-1989 July 2002: The Board of Adjustment approved a Special Exception to permit a car wash in a CS district, on property located at W. 41st Street & 63rd W. Ave.

CBOA-1830 April 2001: The Board of Adjustment approved a Special Exception to permit a 220’ monopole wireless telephone transmission tower in AG zoned area within 242’ of property zoned RS and OL., on property located at 6035 W. 40th Street.

CBOA-1397 January 1996: The Board of Adjustment approved a Special Exception to permit church use day care and gymnasium on a ten-acre tract in an AG zoned district, on property located at 6035 West 40th Street.

CBOA-1320 January 1995: The Board of Adjustment approved a Variance to permit the maximum 750 sq. ft. for a detached accessory building, on property located at 6110 W. 41st Street.

CBOA-846 October 1988: The Board of Adjustment approved a Special Exception to permit a daycare center in an existing church in an AG zoned district, on property located at 6033 West 40th Street.

CBOA-518 November 1984: The Board of Adjustment approved a Special Exception to permit a daycare center with sign, at an existing church building in an AG zoned district, under the provision of Section 1680, on property located at Northeast of 40th Street and west 60th Avenue.
**Case Number:** CZ-548  
**Hearing Date:** July 19th, 2023

**Case Report Prepared by:**  
Jay Hoyt

**Owner and Applicant Information:**  
*Applicant:* Theron Martin  
*Property Owner:* MARTIN, THERON

**Location Map:**  
(shown with County Commission Districts)

**Applicant Proposal:**  
*Present Use:* Residential  
*Proposed Use:* Commercial  
*Concept summary:* Rezone from AG to CG to permit commercial development.  
*Tract Size:* 3.82 ± acres  
*Location:* East of the Southeast corner of East 116th St North & North Garnett Rd

**Zoning:**  
*Existing Zoning:* AG  
*Proposed Zoning:* CG

**Comprehensive Plan:**  
*Land Use Map:* Commercial

**Staff Recommendation:**  
Staff recommends approval.

**Staff Data:**  
*TRS:* 1408  
*CZM:* 12

**County Commission District:** 1  
*Commissioner Name:* Stan Sallee
SECTION I: CZ-548

DEVELOPMENT CONCEPT: The applicant has requested to rezone from AG to CG to permit commercial uses on the subject lot. Currently the site contains a vacant single-family home. The applicant intends to permit commercial development on the lot. The applicant has stated he is considering self-storage at this location but did not have a definite plan other than commercial development intended at this time. The site is located within the Commercial designation of the City of Owasso Comprehensive Plan, which has been adopted as part of the Tulsa County Comprehensive Plan. This proposal would be compatible with this designation.

Staff has spoken with the City of Owasso regarding the proposed rezoning and stated that they do not have any objections and that the proposal is compatible with the land use designation.

EXHIBITS:
- INCOG Case map
- INCOG Aerial
- INCOG Aerial (enlarged)
- Comprehensive Plan Land Use Map

DETAILED STAFF RECOMMENDATION:

CZ-548 is non-injurious to surrounding proximate properties and consistent with the Tulsa County Comprehensive Plan,

CZ-548 is consistent with the anticipated future development pattern of the surrounding property therefore,

Staff recommends Approval of CZ-548 to rezone property from AG to CG.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The subject property is located within the fenceline of Owasso. The Tulsa County Comprehensive Land Use Plan (adopted July 2019) and the Owasso Comprehensive Plan (adopted in 2014 and amended in 2016 and 2018) designates the land use as Commercial.

Land Use Vision:

Land Use Plan map designation: Commercial

The Commercial Land Use District represents areas of retail trade and services. Typically, these areas are located around nodes of arterial street intersections or in some cases, at intersections of collectors and arterials. Commercial Districts can also be found in corridors that have an established commercial use pattern, such as the Smith Farm area, or highly visible areas, such as along US-169, SH-20, and 116th St. N. west of US-169. The Commercial District includes uses that range from small neighborhood convenience shopping areas, single free-standing buildings, big box retailers, restaurants, automotive services centers, and other similar retail uses.
Transportation Vision:

Major Street and Highway Plan: E 116th St N is designated as a Primary Arterial.

Trail System Master Plan Considerations: The GO Plan recommends a bike lane along E 116th St N.

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: The site currently contains a single-family residence.

Environmental Considerations: None

Streets:

<table>
<thead>
<tr>
<th>Existing Access</th>
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</table>

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

Surrounding Properties:

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<tr>
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<td>AG/CS</td>
<td>Commercial</td>
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<td>Vacant/Commercial</td>
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<td>West</td>
<td>AG</td>
<td>Commercial</td>
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<td>Commercial</td>
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SECTION III: Relevant Zoning History

History: CZ-548

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

Subject Property:

CBOA-2688 October 2018: The Board of Adjustment denied a Special Exception to permit fireworks stand (Use Unit 2) in an AG district, on property located at 11508 East 116th Street North.
Surrounding Property:

**CZ-445 March 2016:** All concurred in withdrawal of a request for rezoning a 0.52+ acre tract of land from AG to CG on property located E. of NE/c N. Garnett Rd. & E. 116th St. N.

**CBOA-2517 October 2014:** The Board of Adjustment approved a Special Exception to permit a temporary firework’s stand (Use Unit 2) in an AG district, on property located at 11400 East 116th Street North.

**CBOA-2464 May 2013:** The Board of Adjustment approved a Special Exception to permit a firework’s stand (Use Unit 2) in an AG district, on property located at 11400 East 116th Street North.

**CBOA-2221 July 2006:** The Board of Adjustment denied a Special Exception to permit (Use Unit 15) a fencing company in a CS district; & a variance of the screening requirement abutting an R district, on property located at 11425 East 116th street North.

**CBOA-1045 October 1991:** The Board of Adjustment denied a Special Exception to permit a resale shop with outdoor storage, on property located at 11409 north 113th East Avenue.
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<th><strong>Case Number:</strong></th>
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<tr>
<td><strong>Hearing Date:</strong></td>
<td>July 19, 2023</td>
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</tbody>
</table>

| **Case Report Prepared by:** | Dylan Siers |

| **Owner and Applicant Information:** | **Applicant:** Gary Conroy  
**Property Owner:** North Cincinnati Assembly of God Church |

| **Location Map:** | (shown with City Council Districts) |

| **Applicant Proposal:** | **Present Use:** Church  
**Proposed Use:** Large Assembly and Entertainment  
**Concept summary:** Rezone to allow for a small (<250) assembly and entertainment use.  
**Tract Size:** 5.26 ± acres  
**Location:** North of the northwest corner of South Garnett Road and East 31st Street South |

| **Zoning:** | **Existing Zoning:** RS-3, CS  
**Proposed Zoning:** CS |

| **Comprehensive Plan:** | **Land Use Map:** Local Center |

| **Staff Recommendation:** | Staff recommends approval. |

| **Staff Data:** | **TRS:** 9418  
**CZM:** 39 |

| **City Council District:** | 5 |
| **Councilor Name:** | Grant Miller |
| **County Commission District:** | 1 |
| **Commissioner Name:** | Stan Sallee |

---

*REVISED 7/13/2023*
SECTION I: Z-7718

DEVELOPMENT CONCEPT: The applicant has a goal to convert the existing church into an assembly and entertainment use. That use is currently not allowed in the existing RS-3 zoning. In order to achieve what they are wanting to do they must rezone to CS to support their proposed use. This would be permitted if it stays under a 250-person occupancy. If it exceeds this, they will have to seek a special exception at the Board of Adjustment.

EXHIBITS:
  INCOG Case map
  INCOG Aerial (small scale)
  INCOG Aerial (large scale)
  Tulsa Comprehensive Plan Land Use Map

DETAILED STAFF RECOMMENDATION:

The uses along with the lot and building regulations are consistent with the Tulsa Comprehensive Plan for a Local Center land use designation and,

CS zoning is primarily intended to accommodate convenience, neighborhood, subcommunity, community, and regional shopping centers providing a range of retail and personal service uses.

The applicants proposed use would be allowed by right in CS, as long as it remains within the small entertainment and assembly use category.

Staff recommends approval of Z-7718 to rezone the property from RS-3 & CS to CS.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: Uses and building types allowed in the CS district are consistent with the goals outlined in the Local Center land use designation.

Land Use Vision:

Land Use Plan map designation: Local Center

Local Centers serve the daily needs of those in the surrounding neighborhoods. This designation implies that the center generally does not serve an area beyond the nearby neighborhoods. Typical uses include commercial, or retail uses that serve the daily needs of nearby residents. In order to introduce a regional trip generator, the entire local center designation should be amended to be Regional Center with significant input from all affected properties and nearby neighborhoods.

Transportation Vision:

Major Street and Highway Plan: Secondary Arterial

Trail System Master Plan Considerations: None
Small Area Plan: None

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: The current use on the site is a church, facing South Garnett Road. The applicant's intent is that the church be converted to a small entertainment and assembly use.

Environmental Considerations: None

Streets:

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<tr>
<th>Existing Access</th>
<th>MSHP Design</th>
<th>MSHP R/W</th>
<th>Exist. # Lanes</th>
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<tr>
<td>South Garnett Road</td>
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Utilities:
The subject tract has municipal water and sewer available.

Surrounding Properties:

<table>
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<tr>
<th>Location</th>
<th>Existing Zoning</th>
<th>Existing Land Use Designation</th>
<th>Existing Use</th>
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<tr>
<td>North</td>
<td>RS-3</td>
<td>Neighborhood</td>
<td>Single Family Housing</td>
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<td>East</td>
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<td>Local Center</td>
<td>Office Buildings</td>
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<td>South</td>
<td>CS</td>
<td>Local Center</td>
<td>Stores</td>
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<tr>
<td>West</td>
<td>RS-3</td>
<td>Neighborhood</td>
<td>Single Family Housing</td>
</tr>
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</table>

SECTION III: Relevant Zoning History

ZONING ORDINANCE: Ordinance number 11817 dated June 26th, 1970, established zoning for the subject property.
**TMAPC**

**Tulsa Metropolitan Area Planning Commission**

Case Number: Z-7726

Hearing Date: July 19, 2023

**Case Report Prepared by:**

Nathan Foster

**Owner and Applicant Information:**

Applicant: Tim Waltherbach

Property Owner: S&P Realty LLC

---

**Location Map:**

(shown with City Council Districts)

![Location Map](image)

---

**Applicant Proposal:**

Present Use: Vacant

Proposed Use: Townhouses

Concept summary: Rezone property from RS-3 to RM-2 to permit the construction of townhouses

Tract Size: 1 ± acres

Location: Northwest corner of North Santa Fe Avenue and West Newton Street

---

**Zoning:**

Existing Zoning: RS-3

Proposed Zoning: RM-2

---

**Comprehensive Plan:**

Land Use Map: Neighborhood

---

**Staff Recommendation:**

Staff recommends approval.

---

**Staff Data:**

TRS: 9203

CZM: 36

---

**City Council District:** 4

Councilor Name: Laura Bellis

**County Commission District:** 2

Commissioner Name: Karen Keith
SECTION I: Z-7726

DEVELOPMENT CONCEPT:

EXHIBITS:
INCOG Case map
INCOG Aerial (small scale)
INCOG Aerial (large scale)
Tulsa Comprehensive Plan Land Use Map
Applicant Exhibits: None Provided

DETAILED STAFF RECOMMENDATION:

The subject property is currently zoned RS-3. The applicant is seeking to rezone the property to RM-2 to permit the construction of townhouses. RM-2 zoning is consistent with the Neighborhood designation of the City’s comprehensive plan and allows for a variety of residential building types.

The subject property is located along West Newton Street which serves as the “Residential Collector” street for surrounding neighborhood. Collector streets require wider right-of-way in anticipation of higher traffic areas and serve as appropriate locations for higher density infill projects.

Immediately west of the subject site, there have been two recent approvals for duplex developments. There is also an existing multi-unit housing development located on the north side of West Newton Street one block west of the subject tract.

Staff recommends approval of Z-7726 as outlined in Section I above.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: RM-2 zoning is consistent with the “Neighborhood” land use designation of the City’s comprehensive plan which calls for the addition of appropriate infill projects including the addition of multi-unit housing developments.

Land Use Vision:

Land Use Plan map designation: Neighborhood

Neighborhoods are “Mostly Residential Uses” which includes detached, missing middle, and multi-dwelling unit housing types. Churches, schools, and other low-intensity uses that support residents’ daily needs are often acceptable, particularly for properties abutting Multiple Use, Local Center, or Regional Center land use areas. Multi-dwelling unit housing that takes access off of an arterial is considered Multiple Use, Local Center, or Regional Center. If a multi-dwelling unit housing property takes access off of a lower-order street separated from the arterial, then it would be considered Neighborhood.

Transportation Vision:

Major Street and Highway Plan: The Tulsa Major Street and Highway Plan designates West Newton Street as a Residential Collector. Residential Collectors are anticipated as higher traffic corridors
through neighborhood areas that require wider rights-of-way. Residential Collectors are appropriate locations for multi-unit housing developments within existing neighborhood areas.

**Trail System Master Plan Considerations:** None adjacent to the subject property; however North Union Avenue, two blocks to the west, is planned as a signed bicycle route in the City's GO Plan. Connecting appropriate residential development to bicycle facilities is a priority of both the GO Plan and the City's Comprehensive Plan.

**Small Area Plan:** None

**Special District Considerations:** None

**Historic Preservation Overlay:** None

**DESCRIPTION OF EXISTING CONDITIONS:**

**Staff Summary:** The subject property is currently vacant. It is roughly 1 acre in size. There are existing single-family detached houses to the west and north. There are two newly approved duplexes to the west and an existing multi-unit housing development one block west. The applicant is proposing the construction of townhouses on the subject property.

**Environmental Considerations:** None that would impact site development.

**Streets:**

<table>
<thead>
<tr>
<th>Existing Access</th>
<th>MSHP Design</th>
<th>MSHP R/W</th>
<th>Exist. # Lanes</th>
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<tbody>
<tr>
<td>North Santa Fe Avenue</td>
<td>None</td>
<td>50’</td>
<td>2</td>
</tr>
<tr>
<td>West Newton Street</td>
<td>Residential Collector</td>
<td>60’</td>
<td>2</td>
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**Utilities:**
The subject tract has municipal water and sewer available.

**Surrounding Properties:**

<table>
<thead>
<tr>
<th>Location</th>
<th>Existing Zoning</th>
<th>Existing Land Use</th>
<th>Existing Use</th>
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<tbody>
<tr>
<td>North</td>
<td>RS-3</td>
<td>Neighborhood</td>
<td>Single-Family Residential</td>
</tr>
<tr>
<td>East</td>
<td>RS-3</td>
<td>Neighborhood</td>
<td>Single-Family Residential</td>
</tr>
<tr>
<td>South</td>
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<tr>
<td>West</td>
<td>RS-3</td>
<td>Neighborhood</td>
<td>Duplexes</td>
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**SECTION III: Relevant Zoning History**

**ZONING ORDINANCE:** Ordinance number 11917 dated September 1, 1970, established zoning for the subject property.
Z-7726
20-12 27

0 200 400 Feet

SUBJECT TRACT
<table>
<thead>
<tr>
<th><strong>Case Report Prepared by:</strong></th>
<th><strong>Owner and Applicant Information:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Nathan Foster</td>
<td>Applicant: Bell Land Use, LLC</td>
</tr>
<tr>
<td></td>
<td>Property Owner: Brooks Harvard, LLC</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Location Map:</strong>&lt;br&gt;(shown with City Council Districts)</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="map-image" alt="Map of Tulsa Metropolitan Area" /></td>
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</table>

<table>
<thead>
<tr>
<th><strong>Applicant Proposal:</strong></th>
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</thead>
<tbody>
<tr>
<td>Present Use: Medical Facility</td>
</tr>
<tr>
<td>Proposed Use: Apartments</td>
</tr>
<tr>
<td>Concept summary: Rezone the subject property from OM and RS-3 to RM-2 to permit apartments.</td>
</tr>
<tr>
<td>Tract Size: 6.6 ± acres</td>
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<tr>
<td>Location: South of the southeast corner of East 21st Street South and South Harvard Avenue</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th><strong>Zoning:</strong>&lt;br&gt;<strong>Existing Zoning:</strong> OM, RS-3&lt;br&gt;<strong>Proposed Zoning:</strong> RM-2</th>
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</thead>
<tbody>
<tr>
<td><strong>Comprehensive Plan:</strong>&lt;br&gt;<strong>Land Use Map:</strong> Multiple Use</td>
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</tbody>
</table>

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<tr>
<th><strong>Staff Data:</strong>&lt;br&gt;TRS: 9316&lt;br&gt;CZM: 37</th>
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<table>
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<tr>
<th><strong>City Council District:</strong> 4&lt;br&gt;<strong>Councilor Name:</strong> Laura Bellis</th>
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</thead>
</table>

<table>
<thead>
<tr>
<th><strong>County Commission District:</strong> 2&lt;br&gt;<strong>Commissioner Name:</strong> Karen Keith</th>
</tr>
</thead>
</table>

**Case Number:** Z-7727

**Hearing Date:** July 19, 2023
SECTION I: Z-7727

DEVELOPMENT CONCEPT: The applicant is proposing to rezone the subject property from OM & RS-3 to RM-2 to permit use of the existing building as apartments. RM-2 zoning would permit the development of apartments on the site either in the existing building or as a redevelopment of the property. The existing structure is currently used as the Tulsa Center for Behavioral Health. There are existing apartments, zoned RM-2, to the south of the subject property.

EXHIBITS:
- INCOG Case map
- INCOG Aerial (small scale)
- INCOG Aerial (large scale)
- Tulsa Comprehensive Plan Land Use Map
- Tulsa Comprehensive Plan Areas of Stability and Growth Map
- Applicant Exhibits

DETAILED STAFF RECOMMENDATION:

The applicant is proposing to rezone a 6.6-acre site from OM & RS-3 to RM-2 to permit a redevelopment of the existing structure as apartments. The property is currently used as the Tulsa Center for Behavioral Health.

The subject property is located on South Harvard Avenue which is considered a secondary arterial under the adopted Major Street and Highway Plan. Secondary arterials include many of the City's main thoroughfares and can support higher density development and larger traffic volumes.

There are existing apartments to the immediate south of the subject property, located within existing RM-2 zoning.

RM-2 zoning is consistent with the Multiple Use land use designation of the City of Tulsa Comprehensive Plan and would allow for a variety of residential housing types.

Staff recommends approval of Z-7727 as outlined in Section I above.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The subject property is located within the “Multiple Use” land use designation of the City’s Comprehensive Plan. Prior to the adoption of the 2023 plan update, the property was designated as a “Town Center”. The requested RM-2 zoning is consistent with the Multiple Use land use designation.

Land Use Vision:

Land Use Plan map designation: Multiple Use

Multiple Use areas are “Mostly Commercial or Retail Uses” which include restaurants, shops, services, and smaller format employment uses. This land use designation is most common in areas of the city from earlier development patterns, with Local Centers being more commonplace in newer parts of the city. For single properties that are commercial but surrounded by Neighborhood, Multiple Use is the preferred designation.
Transportation Vision:

**Major Street and Highway Plan:** South Harvard Avenue is designated as a secondary arterial on the Tulsa Major Street and Highway Plan.

**Trail System Master Plan Considerations:** The City’s GO Plan recommends a bike corridor along South Harvard Avenue in this location. East 25th Street, which is adjacent to the site on the south, is recommended as a signed bicycle route. The planned/existing bicycle infrastructure adjacent to the site would support the proposal for new multi-unit residential development.

**Small Area Plan:** None

**Special District Considerations:** None

**Historic Preservation Overlay:** None

**DESCRIPTION OF EXISTING CONDITIONS:**

**Staff Summary:** The site is currently the location of the Tulsa Center for Behavioral Health operated by the State of Oklahoma. There are single-family residential neighborhoods to the east and north of the subject property with additional single-family residential across South Harvard Avenue. There are apartments to the south across East 25th Street South. The proposal is to use the existing buildings as apartments. RM-2 zoning would permit apartments on the site either in the existing structure or as a part of any redevelopment.

**Environmental Considerations:** None

**Streets:**

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<tr>
<th>Existing Access</th>
<th>MSHP Design</th>
<th>MSHP R/W</th>
<th>Exist. # Lanes</th>
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<tbody>
<tr>
<td>South Harvard Avenue</td>
<td>Secondary Arterial</td>
<td>100'</td>
<td>4</td>
</tr>
<tr>
<td>East 25th Street South</td>
<td>None</td>
<td>50'</td>
<td>2</td>
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</table>

**Utilities:**
The subject tract has municipal water and sewer available.

**Surrounding Properties:**

<table>
<thead>
<tr>
<th>Location</th>
<th>Existing Zoning</th>
<th>Existing Land Use Designation</th>
<th>Existing Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>RS-3</td>
<td>Neighborhood</td>
<td>Single-Family Residential</td>
</tr>
<tr>
<td>East</td>
<td>RS-3</td>
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<tr>
<td>South</td>
<td>RM-2</td>
<td>Neighborhood/Multiple Use</td>
<td>Apartments</td>
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<tr>
<td>West</td>
<td>RS-3</td>
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**SECTION III: Relevant Zoning History**

**ZONING ORDINANCE:** Ordinance number 11815 dated June 26, 1970, established zoning for the subject property.
2323 W Harvard
Findings of Fact
Zone Change to RM-2

The Subject Property.

The Comprehensive Plan for this site is designated Town Center.
Town Centers

Town Centers are medium-scale, one to five story mixed-use areas intended to serve a larger area of neighborhoods than Neighborhood centers, with retail, dining, and services and employment. They can include apartments, condominiums, and townhouses with small lot single family homes at the edges. A Town Center also may contain offices that employ nearby residents. Town centers also serve as the main transit hub for surrounding neighborhoods and can include plazas and squares for markets and events. These are pedestrian-oriented centers designed so visitors can park once and walk to a number of destinations.

The current zoning of the property is OM (Medium Office) and RS3 (Single Family Residential). The majority of the tract is currently zoned Single Family Residential.

The current use of the property is a hospital that was constructed in 1965 and is recognized as a pre-existing use. The use of the hospital has been changed through the years and is now recognized as a Mental Health Facility operated by the State of Oklahoma. It is believed that the State of Oklahoma will discontinue their use of the facility in the near future. The Residential Zones could allow the hospital use through a special use permit, and it is currently authorized as a pre-existing use. The Zone Change to RM-2 will allow the current owner the ability to initiate the extensive review and the necessary redevelopment plan while allowing the State of Oklahoma to continue to provide Mental Health Services to the community.
The Zoning Map of the area identifies that there is an RM2 tract immediately to the south of the subject property and a smaller tract of RM2 to the west of Harvard Avenue. A small tract of RM1 is also located to the east along 21st Street. Brooks Harvard LLC or, subsidiaries of the ownership, owns 7 of the residences that abut to the roads adjacent to the facility.

Without knowing the exact date, the Hospital will discontinue use and we don't want to send the wrong message with full development plans. It is therefore the intention to work on the design once the RM2 zoning is in place and then bring the required Subdivision Plat and Site/Development Plan at the appropriate time to move the proposed development forward.
### General Information

**Account Number:** 89316891620410  
**Site Address:** 2023 SHARON AVE TULSA 741160000  
**Owner Name:** BROOKS HARVARD LLC  
**Owner Mailing Address:** 2 W 5TH ST APT 701  TULSA, OK 741191231  
**Land Area:** 6,692 sq ft  
**Market Value:** $27,765,000  
**Last Year's Taxes:** $37,438.80  
**Legal Description:** Subdivision: UNPLATTED (1921)  
**Section:** 18  
**Township:** 19  
**Range:** 13  

### Tax Information

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### Improvements

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### Recent Sales

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<th>Grantee</th>
<th>Sale Price</th>
<th>Doc Type</th>
<th>Book/Page/Doc #</th>
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<td>BROOKS HARVARD LLC ROBERT</td>
<td>$35,000,000</td>
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<td>11/18/2021</td>
<td>HILLCREST HARVARD INC</td>
<td>BROOKS HARVARD LLC</td>
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<td>7/23/2011</td>
<td>EPIC PROPERTIES INC</td>
<td>HILLCREST HOSPITAL OF OKLAHOMA</td>
<td>$3,678,000</td>
<td>Deed of Trust</td>
<td>1991197204</td>
</tr>
</tbody>
</table>
EXHIBIT “A”

Legal Description

A tract of land that is part of the South Half (S/2) of the Northwest Quarter (NW/4) of Section Sixteen (16), Township Nineteen (19) North, Range Thirteen (13) East of the Indian Base and Meridian, City of Tulsa, Tulsa County, State of Oklahoma, according to the U.S. Government survey thereof, being more particularly described as follows, to-wit:

Commencing at the Northwest corner of said S/2 of the NW/4; thence S 89°57’24” E along the Northerly line thereof for 50.00 feet to a point on the Easterly right-of-way line of South Harvard Avenue and the "Point of Beginning" of said tract of land, Thence South 406.16 feet, East 77 feet, Southeast 70.65 feet, Southeast 64.72 feet, Northeast 51.66 feet, East 130 feet, Southeast 35.45 feet, Southeast 56 feet, East 29 feet, South 168 feet, East 132.12 feet, North 628.50 feet, West 618.50 feet to the point of beginning, being 6.60 acres.
<table>
<thead>
<tr>
<th><strong>Case Report Prepared by:</strong></th>
<th><strong>Owner and Applicant Information:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Nathan Foster</td>
<td><strong>Applicant:</strong> Justin DeBruin</td>
</tr>
<tr>
<td></td>
<td><strong>Property Owner:</strong> Nidiffer Shopping Centers Inc</td>
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</table>

<table>
<thead>
<tr>
<th><strong>Location Map:</strong> (shown with City Council Districts)</th>
<th><strong>Applicant Proposal:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>[Image of Tulsa Metropolitan Area Planning Commission map]</td>
<td><strong>Present Use:</strong> Vacant</td>
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<tr>
<td></td>
<td><strong>Proposed Use:</strong> Coffee Shop</td>
</tr>
<tr>
<td></td>
<td><strong>Concept summary:</strong> Rezone small portion of existing lot from RS-3 to CS.</td>
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<tr>
<td></td>
<td><strong>Tract Size:</strong> 0.19 ± acres</td>
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<td></td>
<td><strong>Location:</strong> West of the southwest corner of South Yale Avenue and East 21st Street South</td>
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<table>
<thead>
<tr>
<th><strong>Zoning:</strong></th>
<th><strong>Staff Recommendation:</strong></th>
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<tbody>
<tr>
<td><strong>Existing Zoning:</strong> RS-3</td>
<td><strong>Staff recommends approval.</strong></td>
</tr>
<tr>
<td><strong>Proposed Zoning:</strong> CS</td>
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<table>
<thead>
<tr>
<th><strong>Comprehensive Plan:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Use Map:</strong> Regional Center</td>
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</table>

<table>
<thead>
<tr>
<th><strong>Staff Data:</strong></th>
<th><strong>City Council District:</strong> 4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TRS:</strong> 9316</td>
<td><strong>Councilor Name:</strong> Laura Bellis</td>
</tr>
<tr>
<td><strong>CZM:</strong> 37</td>
<td><strong>County Commission District:</strong> 2</td>
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<tr>
<td></td>
<td><strong>Commissioner Name:</strong> Karen Keith</td>
</tr>
</tbody>
</table>
SECTION I: Z-7728

DEVELOPMENT CONCEPT:

EXHIBITS:
INCOG Case map
INCOG Aerial (small scale)
INCOG Aerial (large scale)
Tulsa Comprehensive Plan Land Use Map
Applicant Exhibits: None

DETAILED STAFF RECOMMENDATION:

The subject property includes half of a vacated right-of-way formerly dedicated as East 21st Place South by the Mayo Meadow Extended subdivision plat. Following vacation of the right-of-way, the property previously included was conveyed to the property owner of Lot 1 Block 1, Mayo Meadow Extended. The Mayo Meadow Extended subdivision was filed in January of 1953, zoning was applied to the property in 1970.

The CS zoning is consistent with the surrounding zoning pattern.

CS zoning is consistent with the Regional Center land use designation.

Staff recommends approval of Z-7728 to rezone property from RS-3 to CS.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: CS zoning is consistent with the Regional Center land use designation of the City’s Comprehensive Plan.

Land Use Vision:

Land Use Plan map designation: Regional Center

Existing regional trip generators define the Regional Centers in contrast to Local Centers. These centers should be the most connected land use pockets outside of downtown for public transit access and high-capacity arterial streets. New regional trip generators should be permitted in the area with special consideration given to the transportation access and circulation. Regional trip generators include universities, malls, large medical campuses, casinos, big-box shopping centers, and very large churches.

Transportation Vision:

Major Street and Highway Plan: East 21st Street South is designated as a secondary arterial by the Major Street and Highway Plan. Secondary arterials are considered main thoroughfares which anticipate high traffic volume and larger right-of-way widths.

Trail System Master Plan Considerations: None.
**Small Area Plan:** None

**Special District Considerations:** None

**Historic Preservation Overlay:** None

**DESCRIPTION OF EXISTING CONDITIONS:**

**Staff Summary:** The area under application is a minor portion of a larger commercial tract located at the southwest corner of East 21st Street South and South Yale Avenue. The area was included in a previously dedicated right-of-way that has since been vacated. There are commercial developments to the north and east of the larger subject property with single-family residential development to the south and west.

**Environmental Considerations:** None related to the area under application.

**Streets:**

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<tr>
<td>South Vandalia Avenue</td>
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**Utilities:**
The subject tract has municipal water and sewer available.

**Surrounding Properties:**

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<tr>
<th>Location</th>
<th>Existing Zoning</th>
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<tr>
<td>West</td>
<td>RS-3</td>
<td>Neighborhood</td>
<td>Single-Family Residential</td>
</tr>
</tbody>
</table>

**SECTION III: Relevant Zoning History**

**ZONING ORDINANCE:** Ordinance number 11815 dated June 26, 1970, established zoning for the subject property.
**Case Number:** Z-7729 (Related to PUD-772-A)  
**Hearing Date:** July 19, 2023

**Case Report Prepared by:**  
Nathan Foster

**Owner and Applicant Information:**  
*Applicant:* Lou Reynolds  
*Property Owner:* Mandalay Bay Investments LLC

**Location Map:**  
(shown with City Council Districts) ![Map Image]

**Applicant Proposal:**  
*Present Use:* Vacant  
*Proposed Use:* Commercial

*Concept summary:* Rezoning of the subject property from RM-2 to CS with an associated major amendment to PUD-772 to establish development standards for two development areas.  
*Tract Size:* 3.5 ± acres  
*Location:* Northwest corner of South Utica Avenue and East 13th Place South

**Zoning:**  
*Existing Zoning:* RM-2/PUD-772/NIO  
*Proposed Zoning:* CS/PUD-772-A/NIO

**Comprehensive Plan:**  
*Land Use Map:* Regional Center and Neighborhood

**Staff Recommendation:**  
Staff recommends approval of the rezoning with the Planned Unit Development standards outlined in PUD-772-A.

**Staff Data:**  
*TRS:* 9307  
*CZM:* 37

**City Council District:** 4  
*Councilor Name:* Laura Bellis

**County Commission District:** 2  
*Commissioner Name:* Karen Keith
SECTION I: Z-7729

DEVELOPMENT CONCEPT: Rezoning of the subject property from RM-2 to CS with a PUD major amendment to establish development standards for two development areas.

EXHIBITS:
- INCOG Case map
- INCOG Aerial (small scale)
- INCOG Aerial (large scale)
- Tulsa Comprehensive Plan Land Use Map
- Applicant Exhibits: See PUD-772-A

DETAILED STAFF RECOMMENDATION:

The applicant is proposing to rezone the subject tract from CS to RM-2 with a PUD Major Amendment to establish two separate development areas.

The development standards outlined in PUD-772-A are consistent with the “Regional Center” and “Neighborhood” land use designations of the City’s comprehensive plan by limiting commercial uses to the areas included within “Regional Center” and allowing only residential uses within the “Neighborhood” designation.

Staff recommends approval of Z-7729 as outlined in Section I only with the approval of the associated PUD major amendment, PUD-772-A.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: CS zoning is consistent with the “Regional Center” designation and, with the proposed development standards of PUD-772-A, consistent with the “Neighborhood” designation. Commercial uses will be limited to the eastern development area.

Land Use Vision:

Land Use Plan map designation: Regional Center and Neighborhood

Existing regional trip generators define the Regional Centers in contrast to Local Centers. These centers should be the most connected land use pockets outside of downtown for public transit access and high-capacity arterial streets. New regional trip generators should be permitted in the area with special consideration given to the transportation access and circulation. Regional trip generators include universities, malls, large medical campuses, casinos, big-box shopping centers, and very large churches.

Neighborhoods are “Mostly Residential Uses” which includes detached, missing middle, and multidwelling unit housing types. Churches, schools, and other low intensity uses that support residents’ daily needs are often acceptable, particularly for properties abutting Multiple Use, Local Center, or Regional Center land use areas. Multidwelling unit housing that takes access off of an arterial is considered Multiple Use, Local Center, or Regional Center. If a multidwelling unit housing property takes access off of a lowerorder street separated from the arterial, then it would be considered Neighborhood.

Transportation Vision:
**Major Street and Highway Plan:** South Utica Avenue is considered an Urban Arterial by the Major Street and Highway Plan. East 13th Place is considered a freeway access road. Both classifications are adequate to support the proposed uses of PUD-772-A. East 13th Street South is not classified by the Major Street and Highway Plan.

**Trail System Master Plan Considerations:** East 13th Street South is designated for on-street bicycle lanes by the GO Plan. East 13th Place South is designated as a “Signed Route” by the GO Plan. Site development should consider bicycle access and parking to support the planned bicycle network adjacent to the site.

**Small Area Plan:** Utica Midtown Corridor Small Area Plan

The subject property is located within the Utica Midtown Corridor Small Area Plan. The proposed development areas included in PUD-772-A align with the recommendations of the small area plan for commercial development adjacent to South Utica Avenue with a transition to neighborhood development west of South Troost Avenue.

**Special District Considerations:** None

**Historic Preservation Overlay:** None

**DESCRIPTION OF EXISTING CONDITIONS:**

**Staff Summary:** The subject property is currently vacant. There is an existing religious assembly and a medical facility north of the subject property. The site is adjacent to the Broken Arrow Expressway to the south. There are existing single-family residences to the west of the subject property.

**Environmental Considerations:** None

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<td>Freeway</td>
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<td>East 13th Street South</td>
<td>None</td>
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</tr>
<tr>
<td>South Trenton Avenue</td>
<td>None</td>
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**Utilities:**
The subject tract has municipal water and sewer available.

**Surrounding Properties:**

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<tr>
<td>West</td>
<td>RM-2</td>
<td>Neighborhood</td>
<td>Single-Family Residential</td>
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SECTION III: Relevant Zoning History

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

PUD-772 – Ordinance number 22131 dated October 14, 2009 established PUD-772 on the subject property.
Your comments will be forwarded to the planning commission.

Thanks,

Dylan Siers | Planner
Tulsa Planning Office
Department of City Experience
175 E. 2nd Street, Suite 480
Tulsa, OK 74103-3216
T: 918-596-7584
E: dsiers@cityoftulsa.org
www.tulsaoffice.org

From: Aaron LaBounty <aaron.labounty@gmail.com>
Sent: Thursday, July 13, 2023 9:06 AM
To: esubmit@incog.org; Tulsa Planning Office <Planning@cityoftulsa.org>
Subject: Public Comment for Case Z-7729

I would like to say that I **strongly** oppose this zoning change, for a variety of reasons.

First I'd like to point out that based on the supporting documents filed with the application only 4 residents of the area were contacted and invited to a meeting to discuss this change, all others were representatives from business in the area, and they do not live in the area. I think this shows a complete lack of willingness to engage the people that will be most affected by this change in the conversation.

Second, based on the current housing inventory and historic price jumps over the last couple of years, and the increase in people experiencing homelessness, Tulsa does not need more commercial property, it needs its residential properties to stay as residential, and someone to build dense housing on them. That combined with the influx of people from places like California, DC, and Colorado, houses cost more and more every day, and redfin has good data showing this ([https://www.redfin.com/city/35765/OK/Tulsa/housing-market#demand](https://www.redfin.com/city/35765/OK/Tulsa/housing-market#demand)).

I have two friends that are currently trying to buy their first house, and have been trying for over 6 months. They both work, have a combined income well above the median, but have struggled to find one they can afford, that isn't getting multiple offers over asking, and waiving things like inspections.

Third, I personally don't want to see a fast food chain restaurant in this area. There are already 3 within .5 miles, and 8 within 1.5 miles including...you guessed it, a Chick-fil-a ([map attached for reference, link: https://www.google.com/maps/d/u/0/edit?mid=1rhnKnRabTANA-T_NrXu9LvcR_kq\WYY&usp=sharing](https://www.google.com/maps/d/u/0/edit?mid=1rhnKnRabTANA-T_NrXu9LvcR_kq\WYY&usp=sharing)).
**Case Report**

**Case Number**: PUD-772-A (Related to Z-7729)

**Hearing Date**: July 19, 2023

**Case Report Prepared by**: Nathan Foster

**Owner and Applicant Information**:
- **Applicant**: Lou Reynolds
- **Property Owner**: Mandalay Bay Investments LLC

**Location Map**

*(shown with City Council Districts)*

**Applicant Proposal**:
- **Present Use**: Vacant
- **Proposed Use**: Commercial

*Concept summary*: Major amendment to establish two development areas. Development Area A will consist of commercial development along South Utica Avenue. Development Area B consists of residential uses.
- **Tract Size**: 3.5 ± acres
- **Location**: Northwest corner of South Utica Avenue and East 13th Place South

**Zoning**:
- **Existing Zoning**: RM-2/NPUD-772/NIO
- **Proposed Zoning**: CS/PUD-772-A/NIO

**Comprehensive Plan**:
- **Land Use Map**: Regional Center and Neighborhood

**Staff Recommendation**:
- Staff recommends approval with the development standards outlined in Section II.

**Staff Data**:
- **TRS**: 9307
- **CZM**: 37

**City Council District**: 4
- **Councilor Name**: Laura Bellis

**County Commission District**: 2
- **Commissioner Name**: Karen Keith
SECTION I: PUD-772-A

DEVELOPMENT CONCEPT: Major amendment to PUD-772 to establish development standards for two development areas. Development Area A will consist of commercial uses customarily found in the CS district. Development Area B will consist of residential and group living uses that would be consistent with the "Neighborhood" land use designation of the City's comprehensive plan.

EXHIBITS:
INCOG Case map
INCOG Aerial (small scale)
INCOG Aerial (large scale)
Tulsa Comprehensive Plan Land Use Map
Applicant Exhibits:
Exhibit 1 – Development Plan
Exhibit A – Development Area A Conceptual Site Plan
Exhibit B – Development Area Map
Exhibit C – Development Area A Landscape and Screening Concept
Exhibit D – Development Area A Existing Utilities
Exhibit E – Development Area A Grading and Drainage Plan
Exhibit F – Legal Description

DETAILED STAFF RECOMMENDATION:

PUD-772-A is a major amendment to an existing planned unit development to divide the existing development area into two development areas and establish standards for development. Development Area A, which is adjacent to South Utica Avenue, will permit a range of commercial and residential uses which are consistent with the “Regional Center” designation of the City’s comprehensive plan. Development Area B will permit residential and group living uses that are consistent with the “Neighborhood” designation of the City’s comprehensive plan.

The major amendment application is related to a rezoning request to change the underlying zoning on the subject property from RM-2 to CS. The CS zoning district will permit the commercial uses desired for Development Area A while adjusting lot and building regulations to align with the desired use of Development Area B.

Staff recommends approval of PUD-772-A with the development standards outlined in Section II below.

SECTION II: PUD-772-A DEVELOPMENT STANDARDS:

GROSS LAND AREA OF PROJECT: 5.892 AC

NET LAND AREA OF PROJECT: 3.582 AC

Development Area “A”
(Tract 1)

PERMITTED USE CATEGORIES:
RESIDENTIAL (IF IN ALLOWED BUILDING TYPE LISTED BELOW)
Household Living
  Single household
  Two households on a single lot
Three or more households on a single lot

Group Living
- Assisted living facility
- Community group home
- Convent/monastery/novitiate
- Elderly/retirement center
- Life care retirement center
- Residential treatment center
- Rooming/boarding house
- Shelter, emergency and protective
- Transitional living center

PUBLIC, CIVIC, AND INSTITUTIONAL
- College or University
- Day Care
- Governmental Service or Similar Functions
- Hospital
- Library or Cultural Exhibit
- Parks and Recreation
- Religious Assembly
- Safety Service
- Religious Assembly
- School
- Utilities and Public Service Facility
  - Minor
- Wireless Communication Facility
  - Freestanding tower
  - Building or tower-mounted antenna

COMMERCIAL
- Animal service
  - Grooming
  - Veterinary
- Broadcast or Recording Studio
- Commercial Service
  - Building service
  - Business support service
  - Consumer maintenance/repair service
  - Personal improvement service
  - Research service
- Financial Services (except personal credit establishment is prohibited)
- Funeral or Mortuary Service
- Lodging
  - Bed & Breakfast
  - Short-term rental
  - Hotel/motel
- Office
  - Business or professional office
  - Medical, dental or health practitioner office
- Parking, Non-accessory
- Restaurants and Bars
  - Restaurant
  - Bar
- Retail Sales
Building supplies and equipment
Consumer shopping goods
Convenience goods
Grocery Store
Studio, Artist or Instructional Service
Trade School
Vehicle Sales and Service
Fueling station

AGRICULTURAL
Community Garden

OTHER
Drive-in or Drive-through Facility (as a component of an allowed principal use)
Off-Premise Outdoor Advertising Sign

PERMITTED RESIDENTIAL BUILDING TYPES
Household living
Single household
Detached House
Townhouse
Patio House
Mixed-Use building
Vertical mixed-use building
Two households on a single lot
Mixed-use building
Vertical-mixed use building
Three or more households on a single lot
Multi-unit House
Apartment/Condo
Mixed-use building
Vertical-mixed use building

MAXIMUM BUILDING FLOOR AREA: 35,190 SF

MINIMUM BUILDING SETBACKS:

From South Utica Avenue 0 FT
From East 13th Place 5 FT
From South Troost Avenue 10 FT
From East 13th Street 10 FT

MINIMUM PARKING SETBACKS:

From North boundary 5 FT
From South boundary 5 FT
From West boundary 10 FT
From East boundary 5 FT

OFF-STREET PARKING:

Minimum parking ratios shall be as provided in Chapter 55 of the Tulsa Zoning Code for the applicable Use Category.
DRIVE-THROUGH:

Drive-through facilities, including drive-through signs, stacking lanes, trash receptacles, loudspeakers and service windows may be located on the street-facing side(s) of Development Area A.

SIGNS:

Signage shall conform to the provisions of the Tulsa Zoning Code in the CS District, except as provided below:

DRIVE-THROUGH SIGNS:

Drive-through signs and menu boards shall be set back a minimum of 7.5 feet from the southern boundary of Development Area A.

LIGHTING:

All pole mounted lights shall be limited to a maximum height of twenty (20) feet. Drive-through canopy lights and building mounted light fixtures shall be mounted no higher than fifteen (15) feet high and shall be shielded from adjacent residential properties and directed downward.

TRASH AND MECHANICAL EQUIPMENT AREAS:

All trash and mechanical equipment areas (excluding utility service transformers, pedestals or equipment provided by franchise utility providers) including building mounted, shall be screened from public view in such a manner that the same cannot be seen by a person standing on any part of the property line at ground level.

Dumpsters shall be screened from view from all street rights-of-way and R-zoned property. Dumpster screening shall be of masonry construction with steel frame doors. The doors shall be covered with appropriate covering containing a minimum of ninety-five percent (95%) opacity.

NO OUTSIDE STORAGE:

There shall be no outside storage or recycling material, trash or similar materials outside of a screened receptacle, nor shall trucks or trailer trucks be parked unless they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage.

ACCESS AND CIRCULATION:

No vehicular access shall be permitted from Utica Avenue.

LANDSCAPED AREA:

A minimum of ten percent (10%) of the Net Land Area of Development Area A shall be improved as internal landscaped open space.

LANDSCAPING AND SCREENING DETAILS:

The Project landscaping and screening details will comply with the requirements of the Tulsa Zoning Code for street frontage and parking area landscape.
The landscape boundaries of Development Area A will be landscaped as shown on the Landscape and Screening Concept attached hereto as Exhibit "C".

Development Area “B”
(Tract 2)

PERMITTED USE CATEGORIES:

RESIDENTIAL (IF IN ALLOWED BUILDING TYPE LISTED BELOW)
Household Living
  Single household
  Two households on a single lot
  Three or more households on a single lot
Group Living
  Assisted living facility
  Community group home
  Convent/monastery/novitiate
  Elderly/retirement center
  Life care retirement center
  Residential treatment center
  Rooming/boarding house
  Shelter, emergency and protective
  Transitional living center

PUBLIC, CIVIC, AND INSTITUTIONAL
  College or University
  Day Care
  Governmental Service or Similar Functions
  Hospital
  Library or Cultural Exhibit
  Parks and Recreation
  Religious Assembly
  Safety Service
  School
  Utilities and Public Service Facility
    Minor
  Wireless Communication Facility
    Building or tower-mounted antenna

COMMERCIAL
Lodging
  Bed & Breakfast
  Short-term rental
  Hotel/motel
Office
  Business or professional office
  Medical, dental or health practitioner office

AGRICULTURAL
  Community Garden

PERMITTED RESIDENTIAL BUILDING TYPES
Household living
Single household
Detached House
Townhouse
Patio House
Mixed-Use building
Vertical mixed-use building

Two households on a single lot
Mixed-use building
Vertical-mixed use building

Three or more households on a single lot
Multi-unit House
Apartment/Condo
Mixed-use building
Vertical-mixed use building

MAXIMUM BUILDING FLOOR AREA: 31,366 SF

MINIMUM BUILDING SETBACKS:

From East 13th Place 5 FT
From South Troost Avenue 10 FT
From South Trenton Avenue 10 FT
From East 13th Street 10 FT
From internal Development Area boundaries 0 FT
From Lot 1, Block 8, Forrest Park Addition 10 FT

MINIMUM PARKING SETBACKS:

From North boundary 5 FT
From South boundary 5 FT
From West boundary 10 FT
From East boundary 5 FT
From internal Development Area boundaries 5 FT
From Lot 1, Block 8, Forrest Park Addition 5 FT

OFF-STREET PARKING:

Minimum parking ratios shall be as provided in Chapter 55 of the Tulsa Zoning Code for the applicable Use Category.

SIGNS:

Signage shall conform to the provisions of the Tulsa Zoning Code in the CS District.

LIGHTING:

All pole mounted lights shall be limited to a maximum height of twenty (20) feet. Building mounted light fixtures shall be mounted no higher than fifteen (15) feet high and shall be shielded from adjacent residential properties and directed downward.
TRASH AND MECHANICAL EQUIPMENT AREAS:

All trash and mechanical equipment areas (excluding utility service transformers, pedestals or equipment provided by franchise utility providers) including building mounted, shall be screened from public view in such a manner that the same cannot be seen by a person standing on any part of the property line at ground level.

Dumpsters shall be screened from view from all street rights-of-way and R-zoned property. Dumpster screening shall be of masonry construction with steel frame doors. The doors shall be covered with appropriate covering containing a minimum of ninety-five percent (95%) opacity.

NO OUTSIDE STORAGE:

There shall be no outside storage or recycling material, trash or similar materials outside of a screened receptacle, nor shall trucks or trailer trucks be parked unless they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage.

LANDSCAPING AND SCREENING DETAILS:

The Project landscaping and screening details will comply with the requirements of the Tulsa Zoning Code for street frontage and parking area landscape.

SECTION III: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: CS zoning is consistent with the “Regional Center” designation and, with the proposed development standards of PUD-772-A, consistent with the “Neighborhood” designation. Commercial uses will be limited to the eastern development area.

Land Use Vision:

Land Use Plan map designation: Regional Center and Neighborhood

Existing regional trip generators define the Regional Centers in contrast to Local Centers. These centers should be the most connected land use pockets outside of downtown for public transit access and high-capacity arterial streets. New regional trip generators should be permitted in the area with special consideration given to the transportation access and circulation. Regional trip generators include universities, malls, large medical campuses, casinos, big-box shopping centers, and very large churches.

Neighborhoods are “Mostly Residential Uses” which includes detached, missing middle, and multi-dwelling unit housing types. Churches, schools, and other low intensity uses that support residents’ daily needs are often acceptable, particularly for properties abutting Multiple Use, Local Center, or Regional Center land use areas. Multi-dwelling unit housing that takes access off of an arterial is considered Multiple Use, Local Center, or Regional Center. If a multi-dwelling unit housing property takes access off of a lower-order street separated from the arterial, then it would be considered Neighborhood.

11/8

REVISED 7/13/2023
Transportation Vision:

Major Street and Highway Plan: South Utica Avenue is considered an Urban Arterial by the Major Street and Highway Plan. East 13th Place is considered a freeway access road. Both classifications are adequate to support the proposed uses of PUD-772-A. East 13th Street South is not classified by the Major Street and Highway Plan.

Trail System Master Plan Considerations: East 13th Street South is designated for on-street bicycle lanes by the GO Plan. East 13th Place South is designated as a “Signed Route” by the GO Plan. Site development should consider bicycle access and parking to support the planned bicycle network adjacent to the site.

Small Area Plan: Utica Midtown Corridor Small Area Plan

The subject property is located within the Utica Midtown Corridor Small Area Plan. The proposed development areas included in PUD-772-A align with the recommendations of the small area plan for commercial development adjacent to South Utica Avenue with a transition to neighborhood development west of South Troost Avenue.

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: The subject property is currently vacant. There is an existing religious assembly and a medical facility north of the subject property. The site is adjacent to the Broken Arrow Expressway to the south. There are existing single-family residences to the west of the subject property.

Environmental Considerations: None

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

Surrounding Properties:

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SECTION III: Relevant Zoning History

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

**PUD-772** – Ordinance number 22131 dated October 14, 2009 established PUD-772 on the subject property.
EXHIBIT “I”

PUD 772-A

The purpose of PUD Major Amendment No. PUD 772-A (“PUD 772-A”) is to establish commercial development standards for a long-dormant area originally planned as a multi-family elderly/retirement project. The subject property is located at the northwest corner of South Utica Avenue and East 13th Place (the “Property”), just north of the Broken Arrow Expressway.

PUD-772 was established in 2009 for the development of a three-story, retirement housing assisted living and memory care facility. The site was never developed as such and the owner/developer Trinity Ministries (affiliated with the Lutheran Church located just north of the Property) ultimately sold the property in 2014. The current property owner demolished the previously existing and dilapidated single-family houses shortly thereafter and the site has remained vacant ever since.

The Property is bounded by streets on all sides: South Utica Avenue (Urban Arterial) to the east; East 13th Place (Freeway – Broken Arrow Expressway access road) to the south; South Trenton Avenue to the west; and East 13th Street to the north. The Property is comprised of two tracts of land separated by South Troost Avenue, which runs north/south and divides the Property in half. The tract to the east of Troost is referred to herein as “Tract 1” and the tract to the west of Troost is referred to herein as “Tract 2”. The Property will be divided into two (2) PUD Development Areas: Development Area “A” corresponding with the boundaries of Tract 1 and Development Area “B” corresponding with the boundaries of Tract 2. Development Area A (Tract 1) is intended to be developed as a restaurant with drive-through facilities and Development Area B (Tract 2) is intended to be developed as a healthcare hospitality house, which provides home-like lodging for families and caregivers of inpatients at area hospitals.

A Conceptual Site Plan for Development Area A is attached hereto Exhibit “A”. An Aerial Photograph of the Property and surrounding area is attached hereto as Exhibit “B”. As shown on the Conceptual Site Plan, in the event Development Area A is developed as a restaurant with a drive-through, the site will be oriented to circulate traffic using Troost and 13th Street for ingress and egress to mitigate any potential traffic impacts on Utica and 13th Place.

The Landscape and Screening Concept for Development Area A is attached hereto as Exhibit “C”.

All public utilities necessary for the development of the Property are available. The existing utilities for Development Area A are shown on Exhibit “D” attached hereto.

While Tract 2 of the Property gently slopes downward from its north boundary to its south boundary, Tract 1 of the Property has more significant topography, with approximately eighteen (18) feet of grade change from its eastern boundary along Utica Avenue heading westerly toward Troost. The grade change will be a factor in the ultimate location of a building within Development Area A and restricts the ability of any development to occur at the street level of Utica Avenue. The Grading and Drainage Plan for Development Area A is attached hereto as Exhibit “E”.

The Legal Description of the Property is attached hereto as Exhibit “F”.

11.15
EXHIBIT “1”

PUD 772-A

The Property will be rezoned from RM-2 to CS and PUD-772-A, amended as set forth herein in order to permit commercial development within Development Area A. Except as provided in the Development Standards below, the standards of the CS District shall apply.
EXHIBIT “I”

PUD 772-A

I. DEVELOPMENT STANDARDS

GROSS LAND AREA OF PROJECT: 5.892 AC

NET LAND AREA OF PROJECT: 3.582 AC

DEVELOPMENT AREA “A”
(TRACT 1)

PERMITTED USE CATEGORIES:

RESIDENTIAL
Household Living
  Single household
  Two households on a single lot
  Three or more households on a single lot
Group Living
  Assisted living facility
  Community group home
  Convent/monastery/novitiate
  Elderly/retirement center
  Life care retirement center
  Residential treatment center
  Rooming/boarding house
  Shelter, emergency and protective
  Transitional living center

PUBLIC, CIVIC, AND INSTITUTIONAL
College or University
Day Care
Governmental Service or Similar Functions
Hospital
Library or Cultural Exhibit
Parks and Recreation
Religious Assembly
Safety Service
Religious Assembly
School
Utilities and Public Service Facility
  Minor
Wireless Communication Facility
  Freestanding tower
  Building or tower-mounted antenna

COMMERCIAL
Animal service

11.17
EXHIBIT “1”

PUD 772-A

Grooming
Veterinary
Broadcast or Recording Studio
Commercial Service
  Building service
  Business support service
  Consumer maintenance/repair service
  Personal improvement service
  Research service
Financial Services (except personal credit establishment is prohibited)
Funeral or Mortuary Service
Lodging
  Bed & Breakfast
  Short-term rental
  Hotel/motel
Office
  Business or professional office
  Medical, dental or health practitioner office
Parking, Non-accessory
Restaurants and Bars
  Restaurant
  Bar
Retail Sales
  Building supplies and equipment
  Consumer shopping goods
  Convenience goods
  Grocery Store
Studio, Artist or Instructional Service
Trade School
Vehicle Sales and Service
  Fueling station
AGRICULTURAL
  Community Garden
OTHER
  Drive-in or Drive-through Facility (as a component of an allowed principal use)
  Off-Premise Outdoor Advertising Sign

PERMITTED RESIDENTIAL BUILDING TYPES
Household living
  Single household
    Detached House
    Townhouse
    Patio House
  Mixed-Use building
  Vertical mixed-use building

4

11.18
EXHIBIT "1"

PUD 772-A

Two households on a single lot
Mixed-use building
Vertical-mixed use building
Three or more households on a single lot
Multi-unit House
Apartment/Condo
Mixed-use building
Vertical-mixed use building

MAXIMUM BUILDING FLOOR AREA: 35,190 SF

MINIMUM BUILDING SETBACKS:

| From South Utica Avenue | 0 FT |
| From East 13th Place | 5 FT |
| From South Troost Avenue | 10 FT |
| From East 13th Street | 10 FT |
| From internal Development Area boundaries | 0 FT |

MINIMUM PARKING SETBACKS:

| From North boundary | 5 FT |
| From South boundary | 5 FT |
| From West boundary | 10 FT |
| From East boundary | 5 FT |
| From internal Development Area boundaries | 5 FT |

OFF-STREET PARKING:

Minimum parking ratios shall be as provided in Chapter 55 of the Tulsa Zoning Code for the applicable Use Category.

DRIVE-THROUGH:

Drive-through facilities, including drive-through signs, stacking lanes, trash receptacles, loudspeakers and service windows may be located on the street-facing side(s) of Development Area A.

SIGNS:

Signage shall conform to the provisions of the Tulsa Zoning Code in the CS District, except as provided below:

DRIVE-THROUGH SIGNS:

Drive-through signs and menu boards shall be set back a minimum of 7.5 feet from the southern boundary of Development Area A.

11.19
EXHIBIT "1"

PUD 772-A

LIGHTING:

All pole mounted lights shall be limited to a maximum height of twenty (20) feet. Drive-through canopy lights and building mounted light fixtures shall be mounted no higher than fifteen (15) feet high and shall be shielded from adjacent residential properties and directed downward.

TRASH AND MECHANICAL EQUIPMENT AREAS:

All trash and mechanical equipment areas (excluding utility service transformers, pedestals or equipment provided by franchise utility providers) including building mounted, shall be screened from public view in such a manner that the same cannot be seen by a person standing on any part of the property line at ground level.

Dumpsters shall be screened from view from all street rights-of-way and R-zoned property. Dumpster screening shall be of masonry construction with steel frame doors. The doors shall be covered with appropriate covering containing a minimum of ninety-five percent (95%) opacity.

NO OUTSIDE STORAGE:

There shall be no outside storage or recycling material, trash or similar materials outside of a screened receptacle, nor shall trucks or trailer trucks be parked unless they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage.

ACCESS AND CIRCULATION:

No vehicular access shall be permitted from Utica Avenue.

LANDSCAPED AREA:

A minimum of ten percent (10%) of the Net Land Area of Development Area A shall be improved as internal landscaped open space.

LANDSCAPING AND SCREENING DETAILS:

The Project landscaping and screening details will comply with the requirements of the Tulsa Zoning Code for street frontage and parking area landscape.

The landscape boundaries of Development Area A will be landscaped as shown on the Landscape and Screening Concept attached hereto as Exhibit "C".
EXHIBIT “1”

PUD 772-A

DEVELOPMENT AREA “B”
(TRACT 2)

PERMITTED USE CATEGORIES:

RESIDENTIAL
  Household Living
    Single household
    Two households on a single lot
    Three or more households on a single lot
  Group Living
    Assisted living facility
    Community group home
    Convent/monastery/novitiate
    Elderly/retirement center
    Life care retirement center
    Residential treatment center
    Rooming/boarding house
    Shelter, emergency and protective
    Transitional living center

PUBLIC, CIVIC, AND INSTITUTIONAL
  College or University
  Day Care
  Governmental Service or Similar Functions
  Hospital
  Library or Cultural Exhibit
  Parks and Recreation
  Religious Assembly
  Safety Service
  School
  Utilities and Public Service Facility
    Minor
  Wireless Communication Facility
    Building or tower-mounted antenna

COMMERCIAL
  Lodging
    Bed & Breakfast
    Short-term rental
    Hotel/motel
  Office
    Business or professional office
    Medical, dental or health practitioner office

AGRICULTURAL
  Community Garden
EXHIBIT “1”

PUD 772-A

PERMITTED RESIDENTIAL BUILDING TYPES

Household living
- Single household
  - Detached House
  - Townhouse
  - Patio House
  - Mixed-Use building
  - Vertical mixed-use building

Two households on a single lot
- Mixed-use building
- Vertical-mixed use building

Three or more households on a single lot
- Multi-unit House
- Apartment/Condo
- Mixed-use building
- Vertical-mixed use building

MAXIMUM BUILDING FLOOR AREA: 31,366 SF

MINIMUM BUILDING SETBACKS:

- From East 13th Place: 5 FT
- From South Troost Avenue: 10 FT
- From South Trenton Avenue: 10 FT
- From East 13th Street: 10 FT
- From internal Development Area boundaries: 0 FT
- From Lot 1, Block 8, Forrest Park Addition: 10 FT

MINIMUM PARKING SETBACKS:

- From North boundary: 5 FT
- From South boundary: 5 FT
- From West boundary: 10 FT
- From East boundary: 5 FT
- From internal Development Area boundaries: 5 FT
- From Lot 1, Block 8, Forrest Park Addition: 5 FT

OFF-STREET PARKING:

Minimum parking ratios shall be as provided in Chapter 55 of the Tulsa Zoning Code for the applicable Use Category.

SIGNS:

Signage shall conform to the provisions of the Tulsa Zoning Code in the CS District.
EXHIBIT “1”

PUD 772-A

LIGHTING:

All pole mounted lights shall be limited to a maximum height of twenty (20) feet. Building mounted light fixtures shall be mounted no higher than fifteen (15) feet high and shall be shielded from adjacent residential properties and directed downward.

TRASH AND MECHANICAL EQUIPMENT AREAS:

All trash and mechanical equipment areas (excluding utility service transformers, pedestals or equipment provided by franchise utility providers) including building mounted, shall be screened from public view in such a manner that the same cannot be seen by a person standing on any part of the property line at ground level.

Dumpsters shall be screened from view from all street rights-of-way and R-zoned property. Dumpster screening shall be of masonry construction with steel frame doors. The doors shall be covered with appropriate covering containing a minimum of ninety-five percent (95%) opacity.

NO OUTSIDE STORAGE:

There shall be no outside storage or recycling material, trash or similar materials outside of a screened receptacle, nor shall trucks or trailer trucks be parked unless they are actively being loaded or unloaded. Truck trailers and shipping containers shall not be used for storage.

LANDSCAPING AND SCREENING DETAILS:

The Project landscaping and screening details will comply with the requirements of the Tulsa Zoning Code for street frontage and parking area landscape.
Exhibit "B"
Aerial Photograph

- Project Boundary
- Development Area "B" Boundary
- Development Area "A" Boundary
Exhibit "E"
Tract 1 Grading and Drainage Plan
EXHIBIT "F"

LEGAL DESCRIPTION OF THE PROPERTY

TRACT 1

LOT ONE (1), BLOCK ONE (1), AND THE EAST 10 FEET OF VACATED ALLEY ADJOINING ON THE WEST, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 82, LESS AND EXCEPT A STRIP, PIECE OR PARCEL OF LAND LYING IN LOT ONE (1), BLOCK ONE (1), LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, SAID PARCEL OF LAND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE WEST 40 FEET ALONG THE NORTH BOUNDARY OF LOT 1; THENCE SOUTH 42°24'38" EAST A DISTANCE OF 32.40 FEET; THENCE SOUTH 0°04'13" EAST A DISTANCE OF 24.88 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 1; THENCE EAST ALONG THE SOUTH LINE A DISTANCE OF 20.04 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

AND

LOT TWO (2), BLOCK ONE (1), AND THE EAST 10 FEET OF VACATED ALLEY ADJOINING ON WEST, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 82, LESS AND EXCEPT A STRIP, PIECE OR PARCEL OF LAND LYING IN LOT 2, BLOCK 1, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, SAID PARCEL OF LAND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 2 A DISTANCE OF 20.04 FEET; THENCE S 0°04'13" EAST A DISTANCE OF 50.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 21.05 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 2 A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

AND
LOT THREE (3), BLOCK ONE (1), AND THE EAST 10 FEET OF VACATED ALLEY ADJOINING ON WEST, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT NO. 82, LESS AND EXCEPT A STRIP, PIECE OR PARCEL OF LAND LYING IN LOT THREE (3), BLOCK ONE (1), LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, SAID PARCEL OF LAND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 3; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 3 A DISTANCE OF 21.05 FEET; THENCE SOUTH 0°04'13" EAST A DISTANCE OF 50.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 3; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 22.07 FEET TO THE SOUTHEAST CORNER OF SAID LOT 3; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 3 A DISTANCE OF 50.00 FEET TO A POINT OF BEGINNING AND ALSO COVERING THE EAST 10 FEET OF THE VACATED ALLEY ADJACENT ON THE WEST.

AND

LOTS FOUR (4) AND FIVE (5), BLOCK ONE (1), AND THE EAST 10 FEET OF VACATED ALLEY ADJOINING ON WEST, LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT NO. 82, LESS AND EXCEPT A STRIP, PIECE OR PARCEL OF LAND LYING IN LOTS FOUR (4) AND FIVE (5), BLOCK ONE (1), LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, SAID PARCEL OF LAND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 4 A DISTANCE OF 22.07 FEET; THENCE SOUTH 0°04'13" EAST A DISTANCE OF 45.72 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 4; THENCE WEST ALONG THE SOUTH LINE A DISTANCE OF 11.50 FEET; THENCE SOUTH 01°37'37" WEST A DISTANCE OF 50.06 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 5; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 37.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5, THENCE NORTH ALONG THE EAST LINE OF SAID LOT 5 AND LOT 4 A DISTANCE OF 95.71 FEET TO THE POINT OF BEGINNING.

AND

LOTS TWENTY (20), TWENTY-ONE (21), TWENTY-TWO (22), TWENTY-THREE (23) AND TWENTY-FOUR (24), BLOCK ONE (1), AND THE WEST TEN (10) FEET OF THE CLOSED ALLEY LYING EAST AND ADJACENT TO THE FOREMENTIONED LOTS IN BLOCK ONE (1), LAKE VIEW ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

11.30
TRACT 2

Lots Four (4), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16) and Seventeen (17), Block Eight (8), FOREST PARK ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Re-Amended Recorded Plat No. 49, AND the West Ten (10) feet of the Closed Alley lying East and adjoining said Lots AND the East ten (10) feet of the Closed Trenton Avenue lying West and adjoining said Lots.

AND

Lots One (1), Two (2), Three (3), Four (4) and Five (5), Block Two (2), and the East Ten (10) feet of the Closed Alley lying West and adjacent to said Lots in Block Two (2), and the Closed South Troost Avenue lying adjacent to Lots Twenty (20) through Twenty-four (24), Block One (1), and Lots One (1) through Five (5), Block Two (2), all in LAKE VIEW ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof.
SIGN-IN

CHICK-FIL-A/13TH & UTICA NEIGHBORHOOD MEETING
MAY 30, 2023  6:00 P.M.

NAME                         ADDRESS                      E-MAIL

LOU REYNOLDS  8727 E 21ST ST                      erikr@detnclan.com
Lauren Liebmann  1120 S Utica                      lauren.liebmann@hillcrest.com
Cathy Otey  4008 E 45th St                       Office@felctulsa.org
Kathy Seymour  Tulsa  74134                        kseymour3@cox.net
George Otey  4008 E 45th St                      guotey@sbeglobal.net
Bob Mood  1126 S Evanston Ave                      bmood@smithmood.com
Tim C. Chik SR  4125 S Peoria                     Che-20 74103
Getra Sanders  5200 Buffett Rd.                    Chick-fil-A Inc.
Todd Rogers  11
Shannon Malcolm  ""                                  Chick-fil-A Development Consultant
Stephen Mamula  16041 E 13th St                    S_mamula@yahoo.com

11:32
May 23, 2023

Travis E. Dust & Sara L. Short
1720 East 13th Street
Tulsa, Oklahoma 74104

Re: Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Mr. Dust and Ms. Short:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

We intend to file applications to rezone the property from RM-2 (Residential Multi-family 2) to CS (Commercial Shopping) and amend the existing Planned Unit Development PUD-772 in order to redevelop the eastern portion of the property as a Chick-fil-A restaurant.

I am writing to you to invite you to a meeting with the Chick-fil-A team on Tuesday, May 30, 2022, at the First Lutheran Church, located at 1244 S. Utica Ave., Tulsa, Oklahoma 74104, at 6:00 p.m.
May 23, 2023
Page 2

On behalf of Chick-fil-A, we hope to see you at the meeting and will make every effort to answer any questions you may have about the project. Again, we look forward to seeing you at the May 30th meeting.

Sincerely,

ELLER AND DETRICH
A Professional Corporation

[Signature]

R. Louis Reynolds
May 23, 2023

First Evangelical Lutheran Church
1244 S. Utica
Tulsa, Oklahoma 74104-4213

Re: Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Sir or Madam:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

We intend to file applications to rezone the property from RM-2 (Residential Multi-family 2) to CS (Commercial Shopping) and amend the existing Planned Unit Development PUD-772 in order to redevelop the eastern portion of the property as a Chick-fil-A restaurant.

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On behalf of Chick-fil-A, we hope to see you at the meeting and will make every effort to answer any questions you may have about the project. Again, we look forward to seeing you at the May 30th meeting.

Sincerely,

ELLER AND DETRICH
A Professional Corporation

[Signature]

R. Louis Reynolds
Gary & Sharon Gould & Allison Gould  
2506 S. Evanston Avenue  
Tulsa, Oklahoma 74114

Re: Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Mr. and Mses. Gould:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

We intend to file applications to rezone the property from RM-2 (Residential Multi-family 2) to CS (Commercial Shopping) and amend the existing Planned Unit Development PUD-772 in order to redevelop the eastern portion of the property as a Chick-fil-A restaurant.

I am writing to you to invite you to a meeting with the Chick-fil-A team on Tuesday, May 30, 2022, at the First Lutheran Church, located at 1244 S. Utica Ave., Tulsa, Oklahoma 74104, at 6:00 p.m.
May 23, 2023
Page 2

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Sincerely,

ELLER AND DETRICH
A Professional Corporation

[Signature]

R. Louis Reynolds
JSM Management LLC  
6440 South 221st East Avenue  
Broken Arrow, OK 74014-2021

Re: Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Sir or Madam:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

We intend to file applications to rezone the property from RM-2 (Residential Multi-family 2) to CS (Commercial Shopping) and amend the existing Planned Unit Development PUD-772 in order to redevelop the eastern portion of the property as a Chick-fil-A restaurant.

I am writing to you to invite you to a meeting with the Chick-fil-A team on **Tuesday, May 30, 2022**, at the First Lutheran Church, located at 1244 S. Utica Ave., Tulsa, Oklahoma 74104, at **6:00 p.m.**
May 23, 2023
Page 2

On behalf of Chick-fil-A, we hope to see you at the meeting and will make every effort to answer any questions you may have about the project. Again, we look forward to seeing you at the May 30th meeting.

Sincerely,

ELLER AND DETRICH
A Professional Corporation

[Signature]

R. Louis Reynolds
JSM Management LLC
6440 S. 221st East Ave
Broken Arrow, Oklahoma 74014-2021
May 23, 2023

Glenda Rae and Gary Wayne Rust
1715 East 13th Place
Tulsa, Oklahoma 74104

Re:  Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Mr. and Ms. Rust:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

We intend to file applications to rezone the property from RM-2 (Residential Multi-family 2) to CS (Commercial Shopping) and amend the existing Planned Unit Development PUD-772 in order to redevelop the eastern portion of the property as a Chick-fil-A restaurant.

I am writing to you to invite you to a meeting with the Chick-fil-A team on Tuesday, May 30, 2022, at the First Lutheran Church, located at 1244 S. Utica Ave., Tulsa, Oklahoma 74104, at 6:00 p.m.
May 23, 2023
Page 2

On behalf of Chick-fil-A, we hope to see you at the meeting and will make every effort to answer any questions you may have about the project. Again, we look forward to seeing you at the May 30th meeting.

Sincerely,

ELLER AND DETRICH
A Professional Corporation

[Signature]

R. Louis Reynolds
Glenda Rae & Gary Wayne Rust
1715 E. 13th Pl
Tulsa, Oklahoma 74104
May 23, 2023

The Short Revocable Trust  
c/o Donald L. & Deeanne Short, Trustees  
254 Paradise Drive  
Chouteau, Oklahoma 74337-2844

Re:  Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Mr. and Ms. Short:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

We intend to file applications to rezone the property from RM-2 (Residential Multi-family 2) to CS (Commercial Shopping) and amend the existing Planned Unit Development PUD-772 in order to redevelop the eastern portion of the property as a Chick-fil-A restaurant.

I am writing to you to invite you to a meeting with the Chick-fil-A team on Tuesday, May 30, 2022, at the First Lutheran Church, located at 1244 S. Utica Ave., Tulsa, Oklahoma 74104, at 6:00 p.m.
On behalf of Chick-fil-A, we hope to see you at the meeting and will make every effort to answer any questions you may have about the project. Again, we look forward to seeing you at the May 30th meeting.

Sincerely,

ELLER AND DETRICH
A Professional Corporation

R. Louis Reynolds
The Short Revocable Trust
c/o Donald L. & Deanne Short,
Trustees
254 Paradise Dr.
Chouteau, Ok. 74337-2844
May 23, 2023

Harry E. & Theresa Irene Stutzman
& Thomas Michael Stutzman
1711 East 13th Place
Tulsa, Oklahoma 74104-4423

Re: Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Messrs. and Ms. Stutzman:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

We intend to file applications to rezone the property from RM-2 (Residential Multi-family 2) to CS (Commercial Shopping) and amend the existing Planned Unit Development PUD-772 in order to redevelop the eastern portion of the property as a Chick-fil-A restaurant.

I am writing to you to invite you to a meeting with the Chick-fil-A team on Tuesday, May 30, 2022, at the First Lutheran Church, located at 1244 S. Utica Ave., Tulsa, Oklahoma 74104, at 6:00 p.m.
May 23, 2023
Page 2

On behalf of Chick-fil-A, we hope to see you at the meeting and will make every effort to answer any questions you may have about the project. Again, we look forward to seeing you at the May 30th meeting.

Sincerely,

ELLER AND DETRICH
A Professional Corporation

[Signature]

R. Louis Reynolds
Tulsa Psychiatric Center  
1620 East 12th Street  
Tulsa, Oklahoma 74120

Re: Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Sir or Madam:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

We intend to file applications to rezone the property from RM-2 (Residential Multi-family 2) to CS (Commercial Shopping) and amend the existing Planned Unit Development PUD-772 in order to redevelop the eastern portion of the property as a Chick-fil-A restaurant.

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May 23, 2023
Page 2

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Sincerely,

ELLER AND DETRICH
A Professional Corporation

\[ Signature \]

R. Louis Reynolds
May 23, 2023

Tulsa Psychiatric Center
1225 S. Saint Louis Avenue
Tulsa, Oklahoma 74120-5414

Re: Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Sir or Madam:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

We intend to file applications to rezone the property from RM-2 (Residential Multi-family 2) to CS (Commercial Shopping) and amend the existing Planned Unit Development PUD-772 in order to redevelop the eastern portion of the property as a Chick-fil-A restaurant.

I am writing to you to invite you to a meeting with the Chick-fil-A team on Tuesday, May 30, 2022, at the First Lutheran Church, located at 1244 S. Utica Ave., Tulsa, Oklahoma 74104, at 6:00 p.m.

www.EllerDetrich.com
2727 East 21st Street, Suite 200, Tulsa, Oklahoma 74114-3533
May 23, 2023
Page 2

On behalf of Chick-fil-A, we hope to see you at the meeting and will make every effort to answer any questions you may have about the project. Again, we look forward to seeing you at the May 30th meeting.

Sincerely,

ELLER AND DETRICH
A Professional Corporation

[Signature]
R. Louis Reynolds
May 23, 2023

Tulsa Psychiatric Foundation
1620 East 12th Street
Tulsa, Oklahoma 74120-5407

Re: Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Sir or Madam:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

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ELLER AND DETRICH
A Professional Corporation

R. Louis Reynolds
VTR Hillcrest MC Tulsa LLC
c/o AHS Mgmt Services of OK L.L.C
110 West 7th Street, Suite 2530
Tulsa, Oklahoma 74119-1104

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A Professional Corporation

R. Louis Reynolds
May 23, 2023

VTR Hillcrest MC Tulsa LLC
P. O. Box 71970
Phoenix, AZ 85050-1017

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Sincerely,

ELLER AND DETRICH
A Professional Corporation

[Signature]

R. Louis Reynolds
May 23, 2023

Yelle Properties LLC
2021 S. Lewis Avenue
Suite 150
Tulsa, OK 74104-5758

Re: Northwest Corner of E. 13th Street and S. Utica Avenue Neighborhood Meeting

Dear Sir or Madam:

This law firm represents Chick-fil-A in connection with the property at 1312 S. Utica Avenue, located at the northwest corner of East 13th Place South and South Utica Avenue, just north of the Broken Arrow Expressway.

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ELLER AND DETRICH
A Professional Corporation

R. Louis Reynolds
**Case Report Prepared by:**
Austin Chapman

**Owner and Applicant Information:**
Applicant: Paloma Jonsson
Property Owner: Jose Luis Duran & Evangelina Ruiz

**Location Map:**
(shown with City Council Districts)

<table>
<thead>
<tr>
<th>Case Number: Z-7725 (Related to CPA-104)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hearing Date: July 19, 2023</td>
</tr>
</tbody>
</table>

**Applicant Proposal:**
Present Use: Vacant
Proposed Use: Mixed-use

*Concept summary:* Rezone property to CS to allow for a mixed-use development accommodating a vertical mixed-use building. The optional development plan is proposed to limit some uses near the surrounding residential development and limit the height of new buildings. A concurrent Comprehensive Plan amendment (CPA-104) seeks to change the land use designation from Neighborhood to Multiple Use.

*Tract Size:* 0.54 ± acres
*Location:* S. of the SE/c of S. Memorial Dr. & E. 23rd St S

**Zoning:**
*Existing Zoning:* RS-3
*Proposed Zoning:* CS with optional development plan

**Comprehensive Plan:**
*Land Use Map:* Neighborhood (Proposed in CPA-104: Multiple Use)

**Staff Recommendation:**
Staff recommends approval.

**Staff Data:**
TRS: 9313
CZM: 38

**City Council District:** 5
*Councilor Name:* Grant Miller

**County Commission District:** 3
*Commissioner Name:* Kelly Dunkerley
SECTION I: Z-7725

DEVELOPMENT CONCEPT: The applicant is requesting to rezone property to CS to allow for a mixed-use development accommodating a vertical mixed-use building. An optional development plan is proposed to limit some uses near the surrounding residential development and limit the height of new buildings. An associated Comprehensive Plan amendment seeks to change the land use designation from Neighborhood to Multiple Use.

EXHIBITS:
- INCOG Case map
- INCOG Aerial (small scale)
- INCOG Aerial (large scale)
- Tulsa Comprehensive Plan Land Use Map

DETAILED STAFF RECOMMENDATION:

Staff recommends Approval of Z-7725 to rezone property from RS-3 to CS with the development plan standards included in Section II. The development plan restricts some uses that may not be compatible with the surrounding residential district including Vehicles Sales and Service Uses, Marijuana related uses and Drive-through facilities. Additionally, a height recommendation of 35-feet is recommended due to the topography of the property which sits higher than the surrounding residential property.

SECTION II:

DEVELOPMENT STANDARDS:

The standards will conform to the provisions of the Tulsa Zoning Code for development in the CS district with its supplemental regulations and accessory use provisions except as further refined below.

All uses categories, subcategories or specific uses and residential building types that are not listed in the following permitted uses categories are prohibited.

Those uses marked with a * require a Special Exception approved in accordance with Sec. 70.120 of the Tulsa Zoning Code.

PERMITTED Use Categories, Subcategories and Specific uses:

RESIDENTIAL Use Category:

Household Living Subcategory (if in allowed building type identified below):
Specific Use:
- Single household
- Two households on single lot
- Three or more households on single lot

Group Living Assisted living facility
Community group Home Convent/ monastery/novitiate Elderly/retirement center Fraternity/Sorority
Homeless center *
Life care retirement center Re-entry facility *
Residential Treatment center* Rooming/ Boarding house
Shelter, emergency and protective * Transitional Living Center*

PUBLIC, CIVIC, and INSTITUTIONAL Use Category:
- College or University
- Day Care
- Government Service or Similar Function*
- Hospital
- Library or Cultural Exhibit
- Natural Resource Preservation
- Parks and Recreation
- Postal Service*
- Religious Assembly

12.2
School
Utilities and Public Service Facility
  Minor
Wireless Communication Facility
  Freestanding tower
  Building or tower mounted antenna

COMMERCIAL Use Category:
Animal Service
  Boarding or shelter*
  Grooming
  Veterinary
Assembly and Entertainment (Gun Clubs, outdoor or indoor, are prohibited)
  Indoor:
    Small (up to 250-person capacity) * (Special Exception only required if serving alcohol within 150-feet of a residential district, see Sec. 15.020, Table 15-2 Table note [4])
Broadcast or Recording Studio
Commercial Service
  Building Service*
  Business Support Service
  Consumer Maintenance/Repair Service
  Personal Improvement Service
Financial Service
  Personal credit establishment
Lodging
  Bed & Breakfast
  Short-term rental
  Hotel / Motel
Office
  Business or professional office
  Medical, dental or Health practitioner office
Restaurants and Bars
  Restaurant
  Bar * (Special Exception only required if serving alcohol within 150-feet of a residential district, see Sec. 15.020, Table 15-2 Table note [4])
  Brewpub*
Retail Sales
  Building Supplies and Equipment
  Consumer shopping goods
  Convenience goods
  Grocery Store
  Small Box Discount Store
Self-service Storage Facility*
Studio, Artist or Instructional Service Trade School

WHOLESALE, DISTRIBUTION & STORAGE
Warehouse*

AGRICULTURAL
Community Garden
Farm, market- or Community Supported

RESIDENTIAL BUILDING TYPES
Single Household
  Detached House*
  Townhouse
  Patio House*
  Mixed-Use Building
  Vertical Mixed-Use Building
Two Households on Single Lot
  Duplex*
Mixed-Use Building
Vertical Mixed-Use Building
Three Households on Single Lot
Multi-unit House
Apartment/Condo
Mixed-Use Building
Vertical mixed-use building

SUPPLEMENTAL LOT AND AREA REQUIREMENTS:

The property will meet the lot and Area Requirements of the CS District except as further restricted below.

Maximum Building Height: 35-feet

ACCESS: Ingress and egress to the property will be limited to S. Memorial. Vehicular access onto S. 82nd E. Ave. is prohibited.

SECTION III:

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The proposed development as defined in section II above is consistent with the proposed Multiple Use land use designation.

Land Use Vision:

Land Use Plan map designation: Neighborhood

Neighborhoods are “Mostly Residential Uses” which includes detached, missing middle, and multi-dwelling unit housing types. Churches, schools, and other low-intensity uses that support residents’ daily needs are often acceptable, particularly for properties abutting Multiple Use, Local Center, or Regional Center land use areas. Multi-dwelling unit housing that takes access off of an arterial is considered Multiple Use, Local Center, or Regional Center. If a multi-dwelling unit housing property takes access off of a lower-order street separated from the arterial, then it would be considered Neighborhood.

Proposed Land Use Plan map designation: Multiple Use

Multiple Use areas are “Mostly Commercial or Retail Uses” which include restaurants, shops, services, and smaller format employment uses. This land use designation is most common in areas of the city from earlier development patterns, with Local Centers being more commonplace in newer parts of the city. For single properties that are commercial but surrounded by Neighborhood, Multiple Use is the preferred designation.

Transportation Vision:

Major Street and Highway Plan: S. Memorial Drive is classified as a Primary Arterial Street and designated a Commuter Corridor. S. 82nd E. Ave. is not a classified Street.

Trail System Master Plan Considerations: None.
Small Area Plan: None.

Special District Considerations: None.

Historic Preservation Overlay: None.

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: The subject property is adjacent to a residential subdivision and formerly contained a single-family home, staff is unsure when the home was demolished, though it appears that it has been vacant for at least a decade.

The property currently has frontage on two streets including S. Memorial Drive which is a Primary Arterial street on the City of Tulsa Major Street and Highway plan. The other street is the dead end of S. 82nd E. Ave. that currently lacks a curb-cut onto the street. The property is surrounded by Neighborhood land use designation though the use of the northern property is a medical office.

![Image used from Google Street view taken of the subject property from S. 82nd E. Ave. The elevation change between residential property and the subject property is shown here, as evidenced from the retaining wall along S. 82nd E. Ave.](image)

Environmental Considerations: None.

Streets:

<table>
<thead>
<tr>
<th>Existing Access</th>
<th>MSHP Design</th>
<th>MSHP R/W</th>
<th>Exist. # Lanes</th>
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</thead>
<tbody>
<tr>
<td>S. Memorial Dr.</td>
<td>Primary Arterial</td>
<td>120-feet</td>
<td>4 lanes</td>
</tr>
<tr>
<td>S. 82nd E. Ave.</td>
<td>Not Classified</td>
<td>50-feet</td>
<td>2 non-divided lanes</td>
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Utilities:
The subject tract has municipal water and sewer available.

Surrounding Properties:

<table>
<thead>
<tr>
<th>Location</th>
<th>Existing Zoning</th>
<th>Existing Land Use</th>
<th>Existing Use</th>
</tr>
</thead>
</table>

12.5

REVISED 7/12/2023
<table>
<thead>
<tr>
<th>Designation</th>
<th>Neighborhood</th>
<th>Medical Office</th>
</tr>
</thead>
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<td>North</td>
<td>RS-3</td>
<td>Neighborhood</td>
</tr>
<tr>
<td>South and East</td>
<td>RS-3</td>
<td>Single-family Residential</td>
</tr>
<tr>
<td>West</td>
<td>RS-1</td>
<td>Neighborhood</td>
</tr>
</tbody>
</table>

SECTION III: Relevant Zoning History

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

Subject Property:

BOA-6816; On 11.05.70 the Board approved an Exception to permit the operation of the Day Care Nursery on the subject property in the existing vacant house.
Kim,

Due to an incorrect sign posting, we will need to continue Z-7731 and CPA-105 to the August 2nd agenda.

Thanks!

Nathan Foster | Principal Planner
Tulsa Planning Office
Department of City Experience
175 E. 2nd Street, Suite 460
Tulsa, OK 74120-3218
T: 918-599-7500
E: nfoster@cityoftulsa.org
www.tulsaplanning.org

From: Cross, Nathan S. <ncross@dsda.com>
Sent: Wednesday, July 12, 2023 11:00 AM
To: Foster, Nathan <nfoster@cityoftulsa.org>; Chapman, Austin <achapman@cityoftulsa.org>
Subject: Z-7731/CPA-105 - Defective Notice [WDOV-ACTIVE.FDS34309]

Gentlemen:

My client sent me this picture of the notice today. As you can see, the request is backwards. It is currently RS/L, and we are going to CG. Can you confirm if the mailed notice has the same defect and when we can be heard on this case since we will at least have to repost signage? We would just as soon have the whole thing continued and have CPA 105 heard at the same time as well even if the notice for CPA-105 is not defective.
ZONING CHANGE REQUEST
SOLICITUD DE CAMBIO DE ZONIFICACIÓN

Case
Caso
Z-7731 & CPA-105

Property
Propiedad
South of the Southwest corner of
East 5th Street South and
South Victor Avenue

From
De
(CG)
Commercial General
Comercial – General

To
A
(RS-4, IL)
Residential
Singly-family 4,
Industrial – Light
Vivienda Unfamiliar
- Alta Intensidad
- Industrial - Baja Intensidad

Public Hearing
Reunión Pública
July 19, 2023, 1:00 p.m.
Tulsa City Hall
Palacio Municipal de Tulsa
175 E. 2nd St.

Watch Live
Ver en vivo
TV: Cox 24

Contact
Contacto
918.584.7526
esubmit@incog.org
tulsaPlanning.org

TMARC
Tulsa Metropolitan Area Planning Commission
**Case Number:** CPA-104 (Related to Z-7725)  
**Hearing Date:** July 19, 2023

**Owner and Applicant Information:**  
**Applicant:** Paloma Jonsson  
**Property Owner:** Jose Luis Duran & Evangelina Ruiz

**Applicant Proposal:**  
**Present Use:** Vacant  
**Proposed Use:** Mixed-use  
**Concept summary:** Rezone property to CS to allow for a mixed-use development accommodating a vertical mixed-use building. Optional Development Plan is proposed to limit some uses near the surrounding residential development and limit the height of new buildings. Comprehensive Plan amendment seeks to change the land use designation from Neighborhood to Multiple Use.  
**Tract Size:** 0.54 ± acres  
**Location:** S. of the SE/c of S. Memorial Dr. & E. 23rd St S

**Comprehensive Plan:**  
**Existing Land Use Map:** Neighborhood  
**Proposed Land Use:** Multiple Use  

**Zoning:**  
**Existing Zoning:** RS-3  
**Proposed Zoning (Z-7725):** CS with optional development plan

**Staff Recommendation:**  
Staff recommends approval.

**City Council District:** 5  
**Councilor Name:** Grant Miller  
**County Commission District:** 3  
**Commissioner Name:** Kelly Dunkerley
Property information and Land Use request:

The applicant has submitted this proposed Comprehensive Plan amendment (CPA-104) with a concurrent rezoning request (Z-7725) to request a change in the land use designation of the subject property from Neighborhood to Multiple Use. The concurrent zoning request proposes a change from RS-3 to CS with an optional development plan for redevelopment of the subject tract as a mixed-use development accommodating a vertical mixed-use building.

**Background:** The land use designation recognized that this property is adjacent to a residential subdivision and formerly contained a single-family home, staff is unsure when the home was demolished, though it appears it has been vacant for at least a decade.

The property currently has frontage on two streets including S. Memorial Drive which is a Primary Arterial street in the City of Tulsa Major Street and Highway Plan. The other street is the dead end of S. 82nd E. Ave. that currently lacks a curb-cut onto the street. The property is surrounded by Neighborhood land use designation though the use of the northern property is a medical office.

**Existing Land Use:** Neighborhood

![Map of Neighborhood and Multiple Use areas]

**Neighborhood**

Neighborhoods are “Mostly Residential Uses” which includes detached, missing middle, and multi-dwelling unit housing types. Churches, schools, and other low-intensity uses that support residents’ daily needs are often acceptable, particularly for properties abutting Multiple Use, Local Center, or Regional Center land use areas. Multi-dwelling unit housing that takes access off of an arterial is considered Multiple Use, Local Center, or Regional Center. If a multi-dwelling unit housing property takes access off of a lower-order street separated from the arterial, then it would be considered Neighborhood.

**Proposed Land Use:** Multiple Use
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Surrounding Zoning and Land Uses:

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Applicant's Justification:

How conditions of the subject area and its surrounding properties have changed.

Property is currently vacant, the previous residential house has been demolished and there has been little demand for single family residences fronting Memorial Drive. Memorial Drive is an arterial street that can accommodate the development.

How those changes have impacted the subject area to warrant the proposed amendment.

Currently the subject property is vacant land and previous to the current property owner the subject tract was poorly maintained. The current property is in the process of being cleaned up to prepare for future development, but the property still has access to the neighborhood which the property owner wishes to close. This has been to the detriment and eye sore of the neighborhood.

How the proposed change will enhance the surrounding area and the City of Tulsa.

The change will attract an attractive and vibrant mixed-use development that will serve as a complement to the residential neighborhood it abuts.
Staff Summary and Recommendation:
The subject property is unique in that it is surrounded by platted subdivisions, but it was not platted along with them. As evidenced by the length of time the property has sat vacant, a Neighborhood land use designation is no longer appropriate for this small, isolated single-family zoned property.

Staff recommends approval of the Multiple Use land use designation.
Kim,

Due to an incorrect sign posting, we will need to continue Z-7731 and CPA-105 to the August 2nd agenda.

Thanks!

Nathan Foster | Principal Planner
Tulsa Planning Office
Department of City Experience
170 E. 2nd Street, Suite 400
Tulsa, OK 74104-3218
T: 918-666-7600
E: nathan.foster@cityoftulsa.org
www.tulsaplanning.org

From: Cross, Nathan S. <ncross@dlda.com>
Sent: Wednesday, July 13, 2023 11:03 AM
To: Foster, Nathan <nfoster@cityoftulsa.org>; Chapman, Austin <achapman@cityoftulsa.org>

Subject: Z-7731/CPA - 105 - Defective Notice [W00-ACTIVE.RID534309]

Gentlemen:

My client sent me this picture of the notice today. As you can see, the request is backwards. It is currently RS-4/I, and we are going to CG. Can you confirm if the mailed notice has the same defect and when we can be heard on this case since we will at least have to repost signage? We would just as soon have the whole thing continued and have CPA 105 heard at the same time as well even if the notice for CPA-105 is not defective.
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esubmit@incog.org
tulsaplanning.org

TMAPC
Tulsa Metropolitan Area Planning Commission
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<th><strong>Owner and Applicant Information:</strong></th>
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<tr>
<td>Jay Hoyt</td>
<td><strong>Applicant:</strong> Drew Ary</td>
</tr>
<tr>
<td></td>
<td><strong>Owner:</strong> Drew &amp; Trish Ary – Ary Land, LLC</td>
</tr>
</tbody>
</table>

**Location Map:**  
(shown with County Commission Districts)

**Applicant Proposal:**
Minor Subdivision Plat
10 lots, 1 block, 76.96 ± acres
Location: South and West of East 181st Street
South and South Memorial Drive

**Zoning:** AG (Agriculture)

**Staff Recommendation:**
Staff recommends approval of the minor subdivision plat

**County Commission District:** 3
**Commissioner Name:** Kelly Dunkerley

**EXHIBITS:** Site Map, Aerial, Plat Submittal
MINOR SUBDIVISION PLAT

Cooper Valley Estates - (County)
South and west of East 181st Street South and South Memorial Drive

This plat consists of 10 lots, 1 block on 76.96 ± acres.

The Technical Advisory Committee (TAC) met on July 6, 2023 and provided the following comments:

1. **Zoning:** Proposed lots conform to the requirements of the AG district. Planning Services will provide comments prior to final plat release.

2. **Addressing:** Addresses provided by INCOG must be shown on face of the final plat.

3. **Transportation & Traffic:** Limits of no access not required on final plat per Tulsa County Engineering. Show MAE on the plat.

4. **Sewer/Water:** On-site sewage disposal. Water service to be provided by Rural Water District #6. Any improvements to existing water lines must be approved through the RWD.

5. **Stormwater, Drainage, & Floodplain:** Approved as submitted.

6. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** All release letters have been received. Oil & Gas certificate was submitted.

Staff recommends **APPROVAL** of the minor subdivision plat subject to the conditions provided by TAC and the requirements of the Subdivisions Regulations.
The Declaration of Covenants, Conditions and Restrictions

COOPER VALLEY ESTATES IS AN AREA OF DISTINCTIVE LANDSCAPE AND NATURAL BEAUTY. IT IS THE DESIRE AND INTENT OF ARY LAND, LLC, A LIMITED LIABILITY COMPANY ("THE DEVELOPER"), TO CREATE AN AGRICULTURAL COMMUNITY THAT CONFORMS WITH THE AREA IN WHICH SUCH BEAUTY SHALL BE SUBSTANTIALLY PRESERVED AND ENHANCED BY THE CREATION AND ENFORCEMENT OF DEVELOPMENT STANDARDS. SUCH STANDARDS SHALL APPLY TO ALL LOTS LOCATED IN THE SUBDIVISION DESCRIBED AS:

LEGAL DESCRIPTION GOES HERE

HAS CAUSED THE SAME TO BE ENGINEERED, SURVEYED, STAKED AND PLATTED INTO LOTS IN CONFORMITY TO THE ACCOMPANYING PLAT AND SURVEY THEREOF, WHICH PLAT IS MADE A PART HEREOF (THE "PLAT"), AND HAS CAUSED THE SAME TO BE NAMED COOPER VALLEY ESTATES, AN ADDITION TO TULSA COUNTY, STATE OF OKLAHOMA (THE "ADDITION").

THE DEVELOPER, BEING THE OWNER OF ALL LOTS WITHIN COOPER VALLEY ESTATES AND DESIRING TO ESTABLISH A COMPATIBLE SYSTEM OF DEVELOPMENT AND PRESERVE THE CHARACTER OF COOPER VALLEY ESTATES ("THE SUBDIVISION"), DOES HEREBY DECLARE AND ESTABLISH THE FOLLOWING PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS:

ARTICLE I

1.1 PRIVATE STREETS AND UTILITY EASEMENTS - THE DEVELOPER DEDICATES TO EACH OWNER BEING SERVICED BY THE EASEMENTS AND RIGHT-OF-WAYS AS SHOWN ON THE PLAT FOR THE SEVERAL PURPOSES OF CONSTRUCTING, MAINTAINING, OPERATING, REPAIRING AND REPLACING ANY AND ALL STREETS AND PUBLIC UTILITIES, INCLUDING BUT NOT LIMITED TO, STORM AND SANITARY SEWER LINES, COMMUNICATION LINES, ELECTRIC POWER LINES, CABLE TELEVISION LINES, TRANSFORMERS, PEDESTALS, GAS AND WATER LINES, TOGETHER WITH ALL FITTINGS AND EQUIPMENT FOR EACH SUCH FACILITY AND ANY OTHER APPURTENANCES THERETO, WITH THE RIGHT OF INGRESS AND EGRESS TO AND UPON SAID EASEMENTS AND RIGHT-OF-WAYS FOR THE USES AND PURPOSES THEREOF.

1.2 ELECTRIC AND COMMUNICATION SERVICE. IN CONNECTION WITH THE INSTALLATION OF ELECTRIC, TELEPHONE, AND CABLE TELEVISION SERVICES, ALL LOTS ARE SUBJECT TO THE FOLLOWING:

A. OVERHEAD POLE LINES FOR THE SUPPLY OF ELECTRIC SERVICE, TELEPHONE AND CABLE TELEVISION SERVICE MAY ONLY BE LOCATED IN THE
EASEMENT WAYS RESERVED FOR GENERAL UTILITIES AND STREETS SHOWN ON THE PLAT. SERVICE PEDESTALS AND TRANSFORMERS AS SOURCES OF SUPPLY AT SECONDARY VOLTAGES MAY BE ALSO LOCATED IN SUCH EASEMENT WAYS.

B. THE SUPPLIER OF ELECTRIC, TELEPHONE, AND CABLE TELEVISION SERVICE, THROUGH ITS PROPER AGENTS AND EMPLOYEES, SHALL AT ALL TIMES HAVE THE RIGHT OF ACCESS TO ALL SUCH EASEMENT WAYS SHOWN ON THE PLAT OR PROVIDED FOR IN THIS DEDICATION FOR THE PURPOSES OF INSTALLING, MAINTAINING, REMOVING, OR REPLACING ANY PORTION OF SAID ELECTRIC, TELEPHONE, OR CABLE TELEVISION SO INSTALLED BY IT.

C. THE OWNER OF EACH LOT SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE UNDERGROUND ELECTRIC, TELEPHONE, AND CABLE TELEVISION FACILITIES LOCATED ON SUCH OWNER'S PROPERTY AND SHALL PREVENT THE ALTERATION OF GRADE OR ANY CONSTRUCTION ACTIVITY WHICH MAY INTERFERE WITH SAID ELECTRIC, TELEPHONE OR CABLE TELEVISION FACILITIES. SUCH UTILITY COMPANY WILL BE RESPONSIBLE FOR ORDINARY MAINTENANCE OF ELECTRIC, TELEPHONE, OR CABLE TELEVISION FACILITIES, BUT THE OWNER WILL PAY FOR THE DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE OWNER, ITS AGENTS OR CONTRACTORS.

D. THE FOREGOING COVENANTS CONCERNING UNDERGROUND ELECTRIC, TELEPHONE, AND CABLE TELEVISION FACILITIES SHALL BE ENFORCEABLE BY THE SUPPLIER OF ELECTRIC, TELEPHONE OR CABLE TELEVISION SERVICE, AND THE OWNER OF EACH LOT AGREES TO BE BOUND THEREBY.

1.3 UNDERGROUND GAS SERVICE. UNDERGROUND SERVICE LINES TO ALL HOMES MAY BE RUN FROM THE NEAREST SERVICE CONNECTION TO THE POINT OF USAGE DETERMINED BY THE LOCATION AND CONSTRUCTION OF THE HOME; PROVIDED, THAT UPON THE INSTALLATION OF SUCH A SERVICE LINE TO A HOME, THE SUPPLIER OF GAS SERVICE SHALL THEREAFTER BE DEEMED TO HAVE A DEFINITIVE, PERMANENT, EFFECTIVE AND EXCLUSIVE RIGHT-OF-WAY EASEMENT ON SAID LOT, COVERING A FIVE FOOT (5') STRIP EXTENDING 2.5 FEET ON EACH SIDE OF SUCH SERVICE LINE, EXTENDING FROM THE SERVICE CONNECTION TO THE SERVICE ENTRANCE ON THE HOME. ALL GAS METERS SHALL BE PHYSICALLY LOCATED AT OR NEAR THE SERVICE ENTRANCE TO THE HOME.

A. THE SUPPLIER OF GAS SERVICE, THROUGH ITS PROPER AGENTS AND EMPLOYEES, SHALL AT ALL TIMES HAVE RIGHT OF ACCESS TO ALL SUCH EASEMENT WAYS SHOWN ON THE PLAT, OR PROVIDED FOR IN THIS DEDICATION, FOR THE PURPOSE OF INSTALLING, MAINTAINING, REMOVING OR
REPLACING ANY PORTION OF SAID UNDERGROUND GAS FACILITIES SO INSTALLED BY IT.

B. THE OWNER OF EACH LOT SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE UNDERGROUND GAS FACILITIES LOCATED ON ITS LOT AND SHALL PREVENT THE ALTERATION OF GRADE OR ANY CONSTRUCTION ACTIVITY WHICH MAY INTERFERE WITH SAID GAS FACILITIES. THE SUPPLIER OF GAS SERVICES WILL BE RESPONSIBLE FOR ORDINARY MAINTENANCE OF UNDERGROUND GAS FACILITIES, BUT SUCH OWNER WILL PAY FOR DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED BY ACTS OF SUCH OWNER OR ITS AGENTS OR CONTRACTORS.

C. THE FOREGOING COVENANTS CONCERNING UNDERGROUND GAS FACILITIES SHALL BE ENFORCEABLE BY THE SUPPLIER OF GAS SERVICE, AND THE OWNER OF EACH LOT AGREES TO BE BOUND HEREBY.

1.4 WATER AND SANITARY SEWER AND STORM SEWER. THE OWNER OF EACH LOT SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE PUBLIC WATER MAINS LOCATED ON SUCH OWNER'S LOT AND SHALL PREVENT THE ALTERATION OF GRADE FROM THE ORIGINAL CONTOURS OR ANY CONSTRUCTION ACTIVITY WHICH MAY INTERFERE WITH SAID FACILITIES. SAID ALTERATION OF GRADE RESTRICTIONS SHALL BE LIMITED TO EASEMENT AREAS.

A. RURAL WATER DISTRICT NO. 6, OKMULGEE COUNTY, OR AS THE CASE MAY BE, SHALL BE RESPONSIBLE FOR ORDINARY MAINTENANCE OF ITS PUBLIC WATER LINE MAINS, BUT THE OWNER OF EACH LOT WILL PAY FOR DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE OWNERS OR HIS AGENTS OR CONTRACTORS. RURAL WATER DISTRICT NO. 6, OKMULGEE COUNTY SHALL HAVE THE RIGHT OF ACCESS WITH ITS EQUIPMENT TO ALL EASEMENT WAYS SHOWN ON THE PLAT FOR INSTALLING, MAINTAINING, REMOVING OR REPLACING ANY PORTION OF ITS UNDERGROUND WATER LINE FACILITIES. THE FOREGOING COVENANTS CONCERNING WATER LINE FACILITIES SHALL BE ENFORCEABLE BY RURAL WATER DISTRICT NO. 6, OKMULGEE COUNTY, AND THE OWNER OF EACH LOT AGREES TO BE BOUND HEREBY.

B. SANITARY SEWER DISPOSAL: SEWAGE SHALL BE DISPOSED OF BY INDIVIDUAL ON-SITE DEQ APPROVED SEWAGE DISPOSAL SYSTEMS. NO OTHER ON-SITE INDIVIDUAL SEWAGE DISPOSAL SYSTEMS SHALL BE ALLOWED WITHOUT WRITTEN APPROVAL FROM THE DEVELOPER AND/OR HIS AGENTS. ALL SEWAGE DISPOSAL SYSTEMS SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH THE RULES AND REGULATIONS SET FORTH BY THE OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY.
1.5 LANDSCAPE AND PAVING REPAIR. THE OWNER OF EACH LOT SHALL BE RESPONSIBLE FOR THE REPAIR AND REPLACEMENT OF ANY LANDSCAPING, AND PAVING LOCATED WITHIN THE UTILITY EASEMENTS IN THE EVENT IT IS NECESSARY TO REPAIR ANY UNDERGROUND WATER, STORM SEWERS, ELECTRIC, NATURAL GAS, TELEPHONE, OR CABLE TELEVISION SERVICE NO LOT OWNER SHALL PLANT ANY TREES OR SHRUBBERY IN DEDICATED UTILITY EASEMENTS OR RIGHT-OF-WAYS WHICH WOULD POTENTIALLY ENDANGER, THREATEN, OR HARM ANY UTILITIES LOCATED WITHIN SAID EASEMENTS OR RIGHT-OF-WAYS. IF IT IS DETERMINED THAT ANY TREES OR SHRUBBERY LOCATED WITHIN SAID EASEMENTS OR RIGHT-OF-WAYS ARE DAMAGING OR ENDANGERING UTILITIES IN SAID EASEMENTS OR RIGHT-OF-WAYS, THE UTILITY PROVIDER SHALL HAVE THE RIGHT TO REMOVE SAID TREES OR SHRUBBERY UPON FIVE (5) DAYS NOTICE THEREOF AT THE LOT OWNER'S EXPENSE, OR WITHIN SUCH TIME THE LOT OWNER MAY REMOVE SAME.

ARTICLE II

RESIDENTIAL DWELLING AND LOT IMPROVEMENTS

2.1 DWELLINGS. UNLESS WAIVED BY THE DEVELOPER IN WRITING, THE FOLLOWING STANDARDS SHALL APPLY TO ALL DWELLINGS IN THE SUBDIVISION:

A. DWELLING SIZE. EACH LOT MAY BE USED FOR ONE SINGLE FAMILY RESIDENCE WITH A SQUARE FOOTAGE NOT LESS THAN 2,000 SQUARE FOOT EXCLUDING ALL PORCHES, PATIOS AND GARAGES. SQUARE FOOTAGE CALCULATED IS HEATED AND AIR-CONDITIONED USEABLE FLOOR SPACE. ADDITIONAL RESIDENCES ARE PROHIBITED.

B. DRIVEWAYS. ALL DRIVEWAYS INTO A LOT FROM ANY EASEMENT WAY OR STREET SHALL BE CONSTRUCTED OF CONCRETE, ASPHALT, COMPACTED GRAVEL AND/OR ASPHALT MILLINGS AND SHALL NOT BE LESS THAN FOURTEEN (14) FEET IN WIDTH AND SHALL EXTEND TO THE EDGE OF THE STREET SURFACE MATERIAL.

2.2

THE DEVELOPER SHALL NOT HAVE ANY RESPONSIBILITY FOR APPROVAL OF BUILDING METHODS, MATERIALS, PROCEDURES, STRUCTURAL DESIGN, GRADING, DRAINING, RESTRICTIVE COVENANT COMPLIANCE OR CODE COMPLIANCE. IT IS THE RESPONSIBILITY OF EACH LOT OWNER, AND NOT THE DEVELOPER, TO ENSURE THAT SUCH OWNER'S BUILDER HAS CAUSED THE SUBJECT LOT, AND ALL IMPROVEMENTS THERETO, TO BE IN FULL
COMPLIANCE WITH ALL RELEVANT COVENANTS AND RESTRICTIONS IMPOSED UPON THE SUBDIVISION.


2.3 SET-BACK LINES. NO BUILDINGS, OUTBUILDINGS, STRUCTURES, OR ANY PART THEREOF SHALL BE CONSTRUCTED OR MAINTAINED ON LOTS NEARER TO THE PROPERTY LINES THAN THE SET-BACK LINES PROVIDED HEREIN OR SHOWN ON THE ACCOMPANYING PLAT. UNLESS OTHERWISE PROVIDED BY EASEMENT OR SET-BACK LINES SHOWN ON THE ACCOMPANYING PLAT, THE MINIMUM BUILDING SET-BACK LINES FOR DWELLINGS OR OTHER OUTBUILDING STRUCTURES SHALL BE:

FRONT YARD: 30 FEET
SIDE YARD: 30 FEET
OTHER SIDE YARD: 30 FEET
BACK YARD: 30 FEET

2.4 FENCES. THE FOLLOWING RESTRICTIONS SHALL PERTAIN TO FENCING: NO FENCE OR WALL SHALL BE ERECTED, PLACED OR ALTERED ON ANY LOT NEARER S 73RD EAST AVE OR MEMORIAL DR THAN THE MINIMUM SET-BACK LINES ESTABLISHED HEREIN. NO FENCE SHALL BE ERECTED IN ANY EASEMENT AREA WITHOUT WRITTEN APPROVAL OF THE DEVELOPER AND THE EASEMENT HOLDER.

2.5 OUTBUILDINGS. ALL OUTBUILDINGS WILL HAVE A MINIMUM FLOOR AREA OF 200 SQUARE FEET. NO OUTBUILDINGS CONSTRUCTED ELSEWHERE SHALL BE MOVED INTO COOPER VALLEY ESTATES.

ARTICLE III
LOT USE AND RESTRICTIONS

3.1 LOT USE. LOTS SHALL BE USED ONLY FOR RESIDENTIAL SINGLE-FAMILY PURPOSES. NO RESIDENTIAL LOT MAY BE SUBDIVIDED TO ACCOMMODATE TWO OR MORE SEPARATE OWNERS OR DWELLINGS. NO EXISTING OR PREFABRICATED DWELLING MAY BE MOVED ONTO A RESIDENTIAL LOT. NO STRUCTURE OF TEMPORARY CHARACTER MAY BE USED AS A RESIDENCE. NO DWELLING CONSTRUCTED ELSEWHERE SHALL BE MOVED INTO COOPER VALLEY ESTATES. NO MOBILE OR MANUFACTURED HOME SHALL BE MOVED
ONTOS, LOCATED ON, OR BE UTILIZED FOR ANY PURPOSE IN COOPER VALLEY
ESTATES.

3.2 NOISE/NUISANCE. NO NOXIOUS OR OFFENSIVE ACTIVITY OF ANY SORT
SHALL BE PERMITTED NOR SHALL ANYTHING BE DONE ON ANY RESIDENTIAL
LOT WHICH MAY BE OR MAY BECOME AN ANNOYANCE OR NUISANCE TO THE
SUBDIVISION. ACTIVITIES EXPRESSLY PROHIBITED ON RESIDENTIAL LOTS ARE
THOSE WHICH MAY BE OFFENSIVE BY REASON OF ODOR, FUMES, DUST,
SMOKE, NOISE, VISION, VIBRATION OR POLLUTION, OR WHICH ARE
HAZARDOUS BY REASON OF EXCESSIVE DANGER, FIRE OR EXPLOSION.

3.3 ANIMALS. NO ANIMALS, LIVESTOCK OR POULTRY OF ANY KIND SHALL BE
KEPT, BRED OR MAINTAINED FOR ANY COMMERCIAL PURPOSES AND SHALL
NOT BE PERMITTED ON ANY LOT WHICH DOES NOT CONTAIN A DWELLING
BEING USED AS A RESIDENCE.

3.4 WASTE. NO RESIDENTIAL LOT SHALL BE USED OR MAINTAINED AS A
DUMPING GROUND FOR RUBBISH, TRASH, GARBAGE OR OTHER WASTES ALL
WASTE SHALL BE KEPT IN SANITARY CONTAINERS AND ALL EQUIPMENT FOR
STORAGE OR DISPOSAL OF SUCH MATERIAL AND ALL RESIDENTIAL LOTS
SHALL BE KEPT IN A CLEAN, NEAT AND ORDERLY MANNER. ALL RESIDENTIAL
LOTS AND ALL EASEMENTS THEREON SHALL BE KEPT CLEAN, NEAT AND
MOWED TO THE STREET.

3.5 WATER SERVICE. POTABLE WATER SHALL BE PURCHASED FROM RURAL
WATER DISTRICT NO.6, OKMULGEE COUNTY.

3.6 INTENTIONALLY OMITTED.

3.7 DRAINAGE. EACH LOT SHALL RECEIVE AND DRAIN IN AN UNOBSUCTED
MANNER THE STORM AND SURFACE WATERS FROM LOTS AND DRAINAGE
AREAS OF HIGHER ELEVATION AND FROM EASEMENT WAYS. NO LOT OWNER
SHALL CONSTRUCT OR PERMIT BE CONSTRUCTED ANY FENCING OR OTHER
OBSTRUCTIONS WHICH WOULD IMPAIR THE DRAINAGE OF STORM AND
SURFACE WATERS OVER AND ACROSS THEIR LOT.

3.8 COMPLIANCE WITH CODE. ALL RESIDENTIAL LOTS ARE SUBJECT TO THE
USES, RESTRICTIONS AND REQUIREMENTS OF THE OKLAHOMA DEPARTMENT
OF ENVIRONMENTAL QUALITY AND TULSA COUNTY.

ARTICLE IV

DRIVEWAY MAINTENANCE
ALL LOT OWNERS AGREE TO BUILD AND MAINTAIN THEIR OWN DRIVEWAY AND WILL BE RESPONSIBLE FOR ANY FUTURE REPAIR, CONSTRUCTION, AND MAINTENANCE OF THE DRIVEWAY. IT WILL BE THE LOT OWNERS' SOLE RESPONSIBILITY TO CONSTRUCT AND MAINTAIN UNOBSERVED, TRAVERSABLE ACCESS TO THEIR HOME.

ARTICLE V

ROADWAY MAINTENANCE

5.1 COST OF REPAIR AND MAINTENANCE. VEHICULAR ACCESS TO LOTS 1 THROUGH 7 OF COOPER VALLEY ESTATES IS BY A PRIVATE ROADWAY ON THE WEST BOUNDARY OF THOSE LOTS, DESIGNATED ON THE PLAT AS SOUTH 73rd EAST AVENUE. THE LOT OWNERS OF LOTS 1 THROUGH 7 OF COOPER VALLEY ESTATES SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF A ROAD EASEMENT AND MAINTENANCE AGREEMENT DATED OCTOBER _____, 2022, AND RECORDED ON OCTOBER _____, 2022, AS DOCUMENT #2022______, AND ARE BOUND BY THE PROVISIONS CONTAINED THEREIN FOR MAINTENANCE OF THE ROADWAY, INCLUDING, BUT NOT LIMITED TO, A PROPORTIONATE SHARE OF THE EXPENSE OF REPAIR AND MAINTENANCE OF THE ROAD.

5.2 REMEDIES. ANY OF THE OWNERS OF LOTS 1 THROUGH 7 OF COOPER VALLEY ESTATES SHALL HAVE STANDING TO PROSECUTE ANY PROCEEDINGS AT LAW OR IN EQUITY AGAINST THE PERSON BREACHING THE TERMS OF THE ROAD EASEMENT AND MAINTENANCE AGREEMENT REFERENCED IN SECTION 5.1, OR TO PREVENT THE VIOLATION OF SAID AGREEMENT OR TO RECOVER DAMAGES FOR VIOLATION OF THE TERMS OF SAID AGREEMENT. IN ANY ACTION BROUGHT TO ENFORCE ANY PROVISION OF SAID AGREEMENT, THE PREVAILING PARTY SHALL BE ENTITLED TO AN AWARD OF ATTORNEYS’ FEES TO BE TAXED AS COSTS.

ARTICLE VI

PRUDENTIAL CONSIDERATIONS

6.1 ENFORCEMENT. ENFORCEMENT TO RESTRAIN OR TO RECOVER DAMAGES FOR VIOLATION OF THE COVENANTS MAY BE BROUGHT BY THE DEVELOPER OR AN OWNER OF ANY LOT HAVING ANY INTEREST THEREIN, WHETHER ACTING JOINTLY OR SEVERALLY. THE DEVELOPER SHALL NOT BE OBLIGATED TO ENFORCE ANY COVENANT OR RESTRICTION THROUGH LEGAL PROCEEDINGS OR OTHERWISE.

6.2 REMEDIES. IF ANY PERSON SHALL VIOLATE OR ATTEMPT TO VIOLATE ANY OF THE COVENANTS, CONDITIONS OR RESTRICTIONS HEREIN, ANY PERSON OWNING ANY REAL PROPERTY IN THE ADDITION SHALL HAVE STANDING TO

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PROSECUTE ANY PROCEEDINGS AT LAW OR IN EQUITY AGAINST THE PERSON VIOLATING THE SAME TO PREVENT THE VIOLATION OR TO RECOVER DAMAGES FOR SUCH VIOLATION. IN ANY ACTION BROUGHT TO ENFORCE ANY PROVISION HEREOF, THE PREVAILING PARTY SHALL BE ENTITLED TO AN AWARD OF ATTORNEYS’ FEES TO BE TAXED AS COSTS.

6.3 INTENTIONALLY OMITTED.

6.4 NO WAIVER. THE FAILURE OF THE GRANTOR, OR ANY SUCCESSOR IN TITLE, TO ENFORCE ANY GIVEN RESTRICTION OR COVENANT, OR CONDITION AT ANY TIME, SHALL NOT BE DEEMED TO BE A WAIVER OR RELINQUISHMENT OF ANY RIGHT OR REMEDY, NOR A MODIFICATION OF THESE RESTRICTIONS AND PROTECTIVE COVENANTS.

6.5 WAIVER OF RIGHT OF RECOVERY. EACH OWNER SHALL BE RESPONSIBLE FOR OBTAINING INSURANCE COVERAGE FOR THE RISK OF BODILY INJURY OR PHYSICAL LOSS OR DAMAGES OF ANY KIND TO HIS AND HIS INVITEES’ PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY PERSONAL PROPERTY STORED OR LOCATED ON PROPERTY WITHIN THE SUBDIVISION AND WITH RESPECT TO HIS HOME. EACH OWNER HEREBY WAIVE AND RELEASE ANY AND ALL CLAIMS WHICH THEY MAY HAVE AGAINST ANY OWNER, THE DEVELOPER, THE MANAGING AGENT, IF ANY, AND THEIR RESPECTIVE EMPLOYEES AND AGENTS, FOR DAMAGE TO THE LOTS OR THE HOMES, OR TO ANY PERSONAL PROPERTY LOCATED IN THE LOTS, OR THE HOMES, CAUSED BY FIRE, FLOOD OR OTHER CASUALTY, TO THE EXTENT THAT SUCH DAMAGE IS INSURABLE BY FIRE, FLOOD OR OTHER FORMS OF CASUALTY INSURANCE, AND TO THE EXTENT POSSIBLE, ALL SUCH POLICIES SHALL CONTAIN WAIVERS OF THE INSURER’S RIGHTS TO SUBROGATION AGAINST ANY OWNER, THE DEVELOPER, THE MANAGING AGENT, IF ANY, AND THEIR RESPECTIVE EMPLOYEES AND AGENTS.

6.6 SERVICEABILITY. INVALIDATION OF ANY ONE OF THESE COVENANTS, RESTRICTIONS OR CONDITIONS SHALL NOT AFFECT ANY OF THE OTHER PROVISIONS, WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.

6.7 DISCLAIMER OF WARRANTY. EXCEPT AS EXPRESSLY PROVIDED IN WRITING, DEVELOPER MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE SUBDIVISION OR ANY IMPROVEMENT IN THE SUBDIVISION, THE SUFFICIENCY OF UTILITIES, CULVERTS, ROADS, THE STORMWATER MANAGEMENT DESIGN, THE WORKMANSHIP, DESIGN OR MATERIALS USED IN EVERY IMPROVEMENT, INCLUDING WITHOUT LIMITATION THE COMMON AREAS AND INCLUDING WITHOUT LIMITATION ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, LIABILITY, FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE OR USE OR ANY WARRANTY OF QUALITY.
6.8 BINDING EFFECT; AMENDMENTS. THESE COVENANTS, CONDITIONS AND RESTRICTIONS ARE TO RUN WITH THE LAND, AND SHALL BE BINDING UPON ALL PARTIES AND ALL PERSONS CLAIMING UNDER THEM, PROVIDED THAT THESE COVENANTS MAY BE AMENDED AS FOLLOWS:

A. THIS DECLARATION MAY BE AMENDED BY DEVELOPER ANY TIME (I) IF SUCH AMENDMENT IS NECESSARY TO BRING ANY PROVISION HEREOF INTO COMPLIANCE WITH ANY APPLICABLE GOVERNMENTAL STATUTE, RULE OR REGULATION OR JUDICIAL DETERMINATION WHICH SHALL BE IN CONFLICT THEREWITH; (II) IF SUCH AMENDMENT IS REQUIRED BY AN INSTITUTIONAL OR GOVERNMENTAL LENDER OR PURCHASER OF MORTGAGE LOANS, TO ENABLE SUCH LENDER OR PURCHASER TO MAKE OR PURCHASE MORTGAGE LOANS ON THE PROPERTY SUBJECT TO THIS DECLARATION; (III) IF SUCH AMENDMENT IS NECESSARY TO ENABLE ANY GOVERNMENTAL AGENCY OR REPUTABLE PRIVATE INSURANCE COMPANY TO INSURE MORTGAGE LOANS ON THE PROPERTY SUBJECT TO THIS DECLARATION; (IV) TO CORRECT ERRORS AND MAKE CLARIFICATIONS OR ADDITIONS IN THIS DECLARATION; OR (V) TO MODIFY OR ADD TO THE PROVISIONS OF THIS DECLARATION TO ADEQUATELY COVER SITUATIONS AND CIRCUMSTANCES WHICH DEVELOPER BELIEVES, IN ITS REASONABLE JUDGEMENT, HAVE NOT BEEN ADEQUATELY COVERED AND WOULD NOT HAVE A MATERIAL AND ADVERSE EFFECT ON THE MARKETABILITY OF LOTS. IN FURTHERANCE OF THE FOREGOING, A POWER COUPLED WITH AN INTEREST IS HEREBY RESERVED AND GRANTED TO DEVELOPER TO MAKE OR CONSENT TO ANY SUCH AMENDMENT ON BEHALF OF EACH OWNER. EACH DEED, MORTGAGE, OTHER EVIDENCE OF OBLIGATION OR OTHER INSTRUMENT AFFECTING A LOT AND THE ACCEPTANCE THEREOF SHALL BE DEEMED TO BE A GRANT AND ACKNOWLEDGEMENT OF, AND A CONSENT TO THE RESERVATION OF, THE POWER TO DEVELOPER TO MAKE, EXECUTED AND RECORD SUCH AMENDMENTS. THE RIGHT AND POWER TO MAKE SUCH AMENDMENTS HEREUNDER SHALL TERMINATE AT WHICH TIME DEVELOPER HAS NO FURTHER VESTED INTEREST / OWNERSHIP IN ANY REMAINING LOTS. THE DEVELOPER SHALL BE IN SOLE AND COMPLETE LEGAL CONTROL OF COOPER VALLEY ESTATES FROM THE INCEPTION THEREOF UNTIL SUCH TIME AS THE DEVELOPER HAS NO FURTHER VESTED INTEREST / OWNERSHIP IN ANY REMAINING LOTS.

B. IN GENERAL, AFTER THE DEVELOPER HAS NO FURTHER VESTED INTEREST / OWNERSHIP IN ANY REMAINING LOTS, THIS DECLARATION MAY BE AMENDED BY THE AFFIRMATIVE VOTE OF TWO-THIRDS (2/3RDS) OF THE TOTAL VOTES OR BY AN INSTRUMENT EXECUTED BY ONE OR MORE OWNERS OF AT LEAST TWO-THIRDS (2/3RDS) OF THE LOTS; EXCEPT THAT (I) THE PROVISIONS OF THIS PARAGRAPH MAY BE AMENDED ONLY BY AN INSTRUMENT EXECUTED BY ALL OF THE OWNERS; AND (II) ANY PROVISION RELATING TO THE RIGHTS OF DEVELOPER MAY BE AMENDED ONLY WITH THE WRITTEN CONSENT OF DEVELOPER. NO AMENDMENT SHALL BE EFFECTIVE
UNTIL PROPERLY RECORDED. "OWNERS" SHALL NOT BE DEEMED TO INCLUDE MORTGAGES OR OTHER PERSONS HOLDING LIENS ON ANY LOT AND SUCH MORTGAGES AND OTHER BEHOLDERS SHALL NOT BE REQUIRED TO JOIN IN ANY AMENDMENT TO THIS DECLARATION.