

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
**Meeting No. 2890**

**May 17, 2023, 1:00 PM**  
**175 East 2nd Street, 2nd Level, One Technology Center**  
**Tulsa City Council Chamber**

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Carr	Bayles	Foster	Jordan, COT
Craddock	Covey	Hoyt	Ling, COT
Hood	Krug	Miller	Silman, COT
Humphrey		Sawyer	VanValkenburgh, Legal
Shivel		Siers	
Walker		Wilkerson	
Whitlock			
Zalk			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday May 15, 2023 at 1:43 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Covey called the meeting to order at 1:00 p.m.

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

**REPORTS:**

**Chairman's Report:**

Mr. Walker recognized Dwayne Wilkerson, who is retiring at the end of May, for all of his hard work and professionalism.

Mr. Walker read a statement from Mr. Covey congratulating Mr. Wilkerson. The letter stated that Mr. Wilkerson has changed the Tulsa Community for the better in so many ways.

Mr. Craddock thanked Mr. Wilkerson for all his hard work and dedication.

Mr. Whitlock agreed with all the comments and thanked Mr. Wilkerson for his service.

**Director's Report:**

None

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**Minutes:**

- 1. Minutes of April 19, 2023 Meeting No. 2888

Approval of the Minutes of **April 19, 2023 Meeting No. 2888**

**TMAPC Action; 7 members present:**

On **MOTION** of **SHIVEL**, the TMAPC voted 7-0-0 (Craddock, Hood, Humphrey, Shivel, Walker, Whitlock, Zalk, "aye"; no "nays"; none "abstaining"; Bayles, Carr, Covey, Krug, "absent") to **APPROVE** the minutes of **April 19, 2023 Meeting No. 2888**

- 2. Minutes of May 3, 2023 Meeting No. 2889

Approval of the Minutes of **May 3, 2023 Meeting No. 2889**

**TMAPC Action; 7 members present:**

On **MOTION** of **SHIVEL**, the TMAPC voted 7-0-0 (Craddock, Hood, Humphrey, Shivel, Walker, Whitlock, Zalk, "aye"; no "nays"; none "abstaining"; Bayles, Carr, Covey, Krug, "absent") to **APPROVE** the minutes of **May 3, 2023 Meeting No. 2889**

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**CONSENT AGENDA**

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

- 3. **PUD-647-2 Jeffrey K. Lord** (CD 3) Location: South of I-244 between North Garnett and North 129<sup>th</sup> East Avenue requesting a **PUD Minor Amendment** to decrease the dwelling setback from I-244 ROW and from existing outdoor advertising signs

**STAFF RECOMMENDATION:**

**SECTION I:** PUD-647-2 Minor Amendment

Amendment Request: Minor amendment to decrease the dwelling setbacks from I-244 to 15' and from existing outdoor advertising signs to 25'

Currently the PUD requires a dwelling have 75' setback from I-244 Right of way and a 200' from existing outdoor advertising signs. This minor amendment would reduce the setback from I-244 right of way to 15' and 25' from the existing outdoor advertising signs.

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-647-2 is consistent with the provisions for administration and procedures of a PUD in section 30.010-H.
- 2) PUD-647-2 does not represent a significant departure from the approved development standards in the PUD and is considered a minor amendment to PUD-647.
- 3) All remaining development standards defined in PUD-647-2 and subsequent amendments shall remain in effect.

With considerations listed above, staff recommends **approval** of Minor amendment to decrease the dwelling setbacks from I-244 to 15' and from existing outdoor advertising signs to 25'.

**Legal Description for PUD-647-2:**

Part of the W/2, SE/4, lying South of the highway right-of-way beginning at the southwest corner of the SE/4, thence N 920', SE460.64', S 449.82', SE 181.02', thence on a curve to the right 233.79', SE 68.641, E 150', SE 211.2', E 203.50', thence North to the South line of the highway, thence West along the right-of-way to the West line of the W/2, SE/4, thence South to POB, Section 32, T-20-N, R-14-E, and part of the E/2, SW/4, beginning 980' N of the Southeast corner SE/4, SW/4, thence N 404.15', W 1,316.51', S 517.62', E 740.75', N 83.66', E 250', N 60', E 300', to POB, Section 32, T-20-N, R-14-E and located on the south side of I-244 between North Garnett Road and North 129<sup>th</sup> East Avenue, Tulsa, Oklahoma,

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4. **PUD-347-8 Glenn Edwards** (CD 2) Location: Southwest of the southwest corner of West 61<sup>st</sup> Street South and South Union Avenue requesting a **PUD Minor Amendment** to increase allowable driveway width in the street setback

**STAFF RECOMMENDATION:**

**SECTION I:** PUD-347-8 Minor Amendment

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

PUD 347 was approved in 1983 and is silent regarding driveway widths. The 1983 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 30'-45' feet cannot exceed 50% of the lot frontage or 20 ft of driveway width in within the street setback, whichever is less. The applicant is proposing a new driveway on West 66<sup>th</sup> Circle South 23' wide within the right of way and 23' in the street setback. Staff supports allowing 23' maximum driveway width within the street setback 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:

- 4) PUD-347-8 does not represent a significant departure from the approved development standards in the PUD and is considered a minor amendment to PUD-347.
- 5) All remaining development standards defined in PUD-347 and subsequent amendments shall remain in effect.

With considerations listed above, staff recommends **approval** of the minor amendment to clarify the total allowable driveway width of 23 ft within the street setback as shown on the concept plan attached.

**Legal Description for PUD-347-8:**

Lot 58 Block 1, Fairway Park

**TMAPC Action; 7 members present:**

On **MOTION** of **ZALK**, the TMAPC voted 7-0-0 (Craddock, Hood, Humphrey, Shivel, Walker, Whitlock, Zalk, “aye”; no “nays”; none “abstaining”; Bayles, Carr, Covey, Krug, “absent”) to **APPROVE** Consent Items 3 and 4 per staff recommendation.

**PUBLIC HEARING - PLATS**

5. **Project Blue** (CD 3) Preliminary Plat, Location: North of the northwest corner of East 36<sup>th</sup> Street North and North 129<sup>th</sup> East Avenue

**STAFF RECOMMENDATION:**

**PRELIMINARY SUBDIVISION PLAT**

**Project Blue** - (CD 3)

North of the northwest corner of East 36<sup>th</sup> Street North and North 129<sup>th</sup> East Avenue

This plat consists of 1 lot, 1 block on 34.25 ± acres.

The Technical Advisory Committee (TAC) met on May 4, 2023 and provided the following conditions:

1. **Zoning:** The property is currently zoned IH. Proposed lots conform to the requirements of the IH district.
2. **Addressing:** City of Tulsa addresses and street names must be assigned and affixed to the face of the final plat along with the address disclaimer.
3. **Transportation & Traffic:** Sidewalks and appropriate ADA compliant ramps are required along all street frontages adjacent to the property and proposed street. Right-of-way permits will be required for driveways connecting to public streets. IDP approval is required prior to final plat approval. Label and dimension all street right-of-way adjacent to the site with either recording information or “dedicated by plat”. Provide limits of access/no access along public street frontages.
4. **Sewer/Water:** IDP approval for sewer and water main extension is required prior to final plat approval. Label and dimension all required or existing easements. Any required offsite easements are required to be recorded and recording information must be provided on the final plat.

5. **Engineering Graphics:** Submit subdivision control data sheet with final plat. In the plat subtitle, add "City of Tulsa" before Tulsa County. Remove contours from final plat submittal. Label the point of beginning on the face of the plat. Graphically show all property pins found or set associated with this plat. Update location map to reflect all platted boundaries and label all other areas as unplatted. Under the basis of bearing information include the coordinate system used. Provide a bearing angle shown on the face of the plat. Provide the date of the last site visit by the surveyor.
6. **Stormwater, Drainage, & Floodplain:** IDP approval for storm sewer improvements is required prior to final plat approval. City of Tulsa Regulatory Floodplain must be plotted by elevation and contained within an overland drainage easement. Development in the floodplain must conform to Title 11-A Stormwater Management and Hazard Mitigation.
7. **Utilities: Telephone, Electric, Gas, Cable, Pipeline, Others:** All utilities indicated to serve the site must provide a release prior to final plat approval. Provide a Certificate of Records Search from the Oklahoma Corporation Commission to verify no oil & gas activity on the site.

Staff recommends **APPROVAL** of the preliminary subdivision plat subject to the conditions provided by TAC and all other requirements of the Subdivision and Development Regulations. City of Tulsa release letter is required prior to final plat approval.

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

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

**TMAPC Action; 7 members present:**

On **MOTION** of **WHITLOCK**, the TMAPC voted 7-0-0 (Craddock, Hood, Humphrey, Shivel, Walker, Whitlock, Zalk, "aye"; no "nays"; none "abstaining"; Bayles, Carr, Covey, Krug, "absent") to **APPROVE** the Preliminary Subdivision Plat for Project Blue per staff recommendation.

\* \* \* \* \*

Ms. Carr arrived at 1:07 pm.

**PUBLIC HEARING - REZONING**

6. **Z-7713 Steve Benge** (CD 5) Location: North of the northwest corner of East 31<sup>st</sup> Street South and South Sheridan Road requesting rezoning from **OL to RM-0**

**STAFF RECOMMENDATION:**

**SECTION I: Z-7713**

**DEVELOPMENT CONCEPT:** The applicant has requested rezoning for a single story multifamily development that will be marketed for senior living.

**DETAILED STAFF RECOMMENDATION:**

Uses and building types allowed in the RM-0 zoning are consistent with the infill development pattern expected in the Town Center land use designation of the Comprehensive Plan and,

RM-0 zoning is consistent with the anticipated future zoning pattern on this block and,

Rezoning will require conformance with the subdivision regulations prior to receiving permits for construction. The subject property will be required to finish the dead-end street at the northeast edge of the subject property helping complete the Major Street and Highway Plan vision on this location and,

RM-0 supplemental regulations provide guidance for development similar to the abutting properties therefore,

Staff recommends Approval of Z-7713 to rezone property from OL to RM-0.

**SECTION II: Supporting Documentation**

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

**Staff Summary:** *The proposed multifamily development is consistent with the expected development pattern identified in the Town Center land use designation.*

**Land Use Vision:**

***Land Use Plan map designation: Town Center***

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.

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

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

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

### **Transportation Vision:**

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

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

***Trail System Master Plan Considerations:*** None



**Small Area Plan:** None

**Special District Considerations:** None

**Historic Preservation Overlay:** None

**DESCRIPTION OF EXISTING CONDITIONS:**

**Staff Summary:** The subject tract is empty with access to all the city infrastructure. *The parcel does not have vehicular access to South Sheridan Road. Staff recognizes that the stub street from the South Sheridan Road access drive ends at the north boundary and recommends completing vehicular turnaround to meet subdivision regulations design standards or connect the dead end street to South Sheridan Road or East 28<sup>th</sup> Street South.*

**Environmental Considerations:** None that affect site development.

**Streets:**

Existing Access	MSHP Design	MSHP R/W	Exist. # Lanes
South Sheridan Road and South Sheridan Road Access Drive	Secondary Arterial with multi modal corridor designation	100 feet	4 on South Sheridan 2 on South Sheridan Access Drive
East 28 <sup>th</sup> Street South	none	50 feet	2

**Utilities:**

The subject tract has municipal water and sewer available.

**Surrounding Properties:**

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	RS-3	Existing Neighborhood	Stability	Detached single family
East	RS-3 and OL	Town Center	Growth	Emergency and protective shelter
South	OL	Town Center	Growth	Fraternal Organization

West	RS-3	Existing Neighborhood	Stability	Detached single family
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### SECTION III: Relevant Zoning History

**History: Z-7713**

***Subject Property:***

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

**BOA-19127 July 2001:** The Board of Adjustment **approved** a *Special Exception* to permit a private lodge/club on an OL and CS zoned property, on property located at 2808 S. Sheridan.

**BOA-10532 June 1979:** The Board of Adjustment **denied** a *Special Exception* to permit apartments in an office district, on property located at NW corner of 28<sup>th</sup> street and Sheridan Road.

***Surrounding Property:***

**BOA-23160 July 2021:** The Board of Adjustment **approved** a *Special Exception* to permit a Public, Civic & Institutional/Governmental Service or Similar Functions use for a family justice center in an RS-3/OL/IL/CH District, on property located at 2821 south Sheridan Road East.

**BOA-19127 July 2001:** The Board of Adjustment **approved** a *Special Exception* to permit a private lodge/club on an OL and CS zoned property, on property located at 2808 S. Sheridan.

**BOA-15761 June 1991:** The Board of Adjustment **approved** a *Special Exception* to permit an amendment to the previously approved site plan to permit the construction, use and occupancy of the Justice Center, which will specialize in the examination, evaluation and prescription for treatment of abused children, on property located at SE/c East 28<sup>th</sup> Street and South Sheridan Road.

**BOA-15599 December 1990:** The Board of Adjustment **approved** a *Variance* to permit the front yard requirement from 25' to 18', measured from the front property line, to allow a 7' addition to an existing attached garage, on property located at 2710 South Sheridan.

**BOA-15440 May 1990:** The Board of Adjustment **approved** a *Special Exception* to permit an amendment to the site plan to permit the construction, use and occupancy of two additional buildings, on property located at SE/c East 28<sup>th</sup> Street and South Sheridan.

**BOA-11760 February 1982:** The Board of Adjustment **approved** a *Variance* to permit the size of a sign from 32 square feet to 48 square feet in an OL District, on property located at 2808 S. Sheridan Road.

**BOA-11360 February 1981:** The Board of Adjustment **approved** a *Special Exception* to permit the construction of a new ambulatory care teaching facility to be utilized by the University of Oklahoma Tulsa Medical College, on property located at 2815 South Sheridan.

**BOA-11293 December 1980:** The Board of Adjustment **approved** a *Special Exception* to permit a home occupation which will consist of a wood working shop leather crafts, health care distributorship, and pocket secretary distributorship, on property located at 6510 East 27<sup>th</sup> Place.

**BOA-11212 October 1980:** The Board of Adjustment **approved** a *Variance* to permit a mobile home for security purposes in a CH District at 2837 South Sheridan Road, on property located at 2837 S. Sheridan Road.

**BOA-9777 December 1977:** The Board of Adjustment **approved** a *Special Exception* to permit home beauty shop in an RS-3 District, on property located at 6210 East 28<sup>th</sup> Street.

**BOA-8370 October 1974:** The Board of Adjustment **approved** a *Special Exception* to permit a variance of the 50' setback requirement to permit parking per plan; and a *Variance* of the screening requirement on lot lines in common with an RS District, in an RS-3, OL and IL District, on property located at southeast of 28<sup>th</sup> Street and Sheridan Road.

**BOA-7675 October 1972:** The Board of Adjustment **approved** a *Special Exception* to permit to erect a cafeteria, fieldhouse, FM radio broadcasting facility and public relations offices for college use in RS-3, OL, and IL district, on property located at 2800 S. Sheridan Road.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **SHIVEL**, the TMAPC voted 8-0-0 (Carr, Craddock, Hood, Humphrey, Shivel, Walker, Whitlock, Zalk, "aye"; no "nays"; none "abstaining"; Bayles, Covey, Krug, "absent") to recommend **APPROVAL** of the RM-0 zoning for Z-7713 per staff recommendation.

**Legal Description for Z-7713:**

A TRACT OF LAND THAT IS LOTS ONE (1), TWO (2), AND THREE (3), BLOCK ONE (1), "BOMAN ACRES SECOND ADDITION", PLAT NO. 1969, A SUBDIVISION IN THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (SE/4 SE/4) OF SECTION 15, T-19-N, R-13-E, OF THE INDIAN BASE AND MERIDIAN, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, AND PART OF THE ADJACENT STREET RIGHTS-OF-WAY, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TOWIT:

"BEGINNING AT A POINT" THAT IS THE NORTHWEST CORNER OF SAID LOT THREE (3) IN BLOCK ONE (1); THENCE N 89°57'09" E ALONG THE NORTH LINE OF SAID BLOCK ONE (1) AND EASTERLY EXTENSION THEREOF FOR 276.00' TO THE NORTHEAST CORNER OF SAID SE/4 SE/4; THENCE S 00°12'52" W ALONG THE EASTERLY LINE OF THE SE/4 SE/4 FOR 145.00' TO A POINT ON AN EASTERLY EXTENSION OF THE CENTERLINE OF EAST 28TH STREET; THENCE S 89°57'09" W ALONG SAID EASTERLY EXTENSION AND SAID CENTERLINE FOR 276.00' TO A POINT ON A SOUTHERLY EXTENSION OF THE WESTERLY LINE OF SAID LOT THREE (3); THENCE N 00°12'52" E ALONG SAID SOUTHERLY EXTENSION AND SAID WESTERLY LINE FOR 145.00' TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 40,020 SQUARE FEET OR 0.9187 ACRES, MORE OR LESS.

THE BEARINGS USED IN THE ABOVE LEGAL DESCRIPTION ARE BASED ON THE RECORDED PLAT OF "BOMAN ACRES SECOND ADDITION", PLAT NO. 1969.

THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY OKLAHOMA LICENSED PROFESSIONAL LAND SURVEYOR APRIL 22, 2021. (CA NO. 1783)

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**7. CZ-545 Berryhill Baptist Church (County) Location: Northeast corner of West 41<sup>st</sup> Street and South 61<sup>st</sup> West Avenue requesting rezoning from **AG to CS** to permit commercial uses**

**STAFF RECOMMENDATION:**

**DEVELOPMENT CONCEPT:** The applicant has requested to rezone from AG to CS to permit commercial uses on the subject lot. Currently the site contains Berryhill Baptist Church, which will remain on the lot. The applicant intends to permit retail development on the portion of the lot that does not contain the church. The site is located within the Neighborhood Center 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.

**DETAILED STAFF RECOMMENDATION:**

CZ-545 is non-injurious to surrounding proximate properties and consistent with the Tulsa County Comprehensive Plan,

CZ-545 is consistent with the anticipated future development pattern of the surrounding property therefore,

**Staff recommends Approval of CZ-545 to rezone property from AG to CS.**

## **SECTION II: Supporting Documentation**

### **RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

***Staff Summary:*** *The site is located within the Neighborhood Center 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:*** Neighborhood Center

Neighborhood Centers are small-scale, one to three story mixed-use areas intended to serve nearby neighborhoods with retail, dining, and services. They can include apartments, condominiums, and townhouses, with small lot single family homes at the edges. These are pedestrian-oriented places served by transit, and visitors who drive can park once and walk to a number of destinations.

***Areas of Stability and Growth designation:*** N/A

### **Transportation Vision:**

***Major Street and Highway Plan:*** W 41<sup>st</sup> St S is designated as a Primary Arterial. S 61<sup>st</sup> W Ave is designated as a Residential Collector.

***Trail System Master Plan Considerations:*** The GO Plan shows a sidewalk gap along W 41<sup>st</sup> St S.

**Small Area Plan:** None

**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:**

Existing Access	MSHP Design	MSHP R/W	Exist. # Lanes
W 41 <sup>st</sup> St S	Primary Arterial	120 Feet	4
S 61 <sup>st</sup> W Ave	Residential Collector	60 Feet	2

**Utilities:**

The subject tract has municipal water and sewer available.

**Surrounding Properties:**

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	RS	Existing Neighborhood	N/A	Single-Family Residential
South	RS/AG	Neighborhood Center	N/A	Fire Department/Single-Family Residential
East	OL/CS/PUD-566	Neighborhood Center	N/A	Commercial
West	RS	Existing Neighborhood/Neighborhood Center	N/A	Single-Family Residential

**SECTION III: Relevant Zoning History**

**History: CZ-545**

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

***Subject Property:***

**BOA-7959 July 1973:** The Board of Adjustment **approved** a *Special Exception* to permit a church in an AG district, on property located northeast of 40<sup>th</sup> Street and 60<sup>th</sup> west Avenue.

**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 15<sup>th</sup> to July 5<sup>th</sup> and December 15<sup>th</sup> to January 1st, on property located at 6035 West 40<sup>th</sup> Street South.

**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 40<sup>th</sup> Street South.

**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. 40<sup>th</sup> 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 40<sup>th</sup> Street.

**CBOA-846 September 1988:** The Board of Adjustment **approved** a *Special Exception* to permit a day care center in an existing church in an AG zoned district, on property located at 6035 West 40<sup>th</sup> 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 provisions of Section 1680, on property located at Northeast of 40<sup>th</sup> Street and West 60<sup>th</sup> Avenue.

***Surrounding Property:***

**PUD-566-B July 2017:** All concurred in **approval** of a proposed *Planned Unit Development* on a 9± acre tract of land, on property located Northwest corner of West 41<sup>st</sup> Street and South 57<sup>th</sup> West Avenue.

**PUD-566-A May 2012:** All concurred in **approval** of a proposed *Planned Unit Development* on a 11.69± acre tract of land, on property located Northwest corner of West 41<sup>st</sup> street and South 57<sup>th</sup> West Avenue.

**PUD-566 December 1997:** All concurred in **approval** of a proposed *Planned Unit Development* on a 10.1± acre tract of land, on property located Northwest corner of West 41<sup>st</sup> Street South and South 57 West Avenue.

**CBOA-2330 May 2009:** The Board of Adjustment **denied** a *Variance* to permit maximum permitted floor area for a detached accessory building in an RS district from 750 sq. ft. to 1500 sq. ft., on property located at 3765 S. 61<sup>st</sup> Ave.

**CBOA-2303 August 2008:** The Board of Adjustment **approved** a *Variance* to permit the maximum floor area permitted for detached accessory buildings located in an RS district from 750 sq. ft. to 1,360 sq. ft., on property located at 6026 W. 39<sup>th</sup> Street South.

**CBOA-1320 January 1995:** The Board of Adjustment **approved** a *Variance* to permit maximum 750 sq. ft. for a detached accessory building, on property located at 6110 West 41<sup>st</sup> Street South.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **SHIVEL**, the TMAPC voted 8-0-0 (Carr, Craddock, Hood, Humphrey, Shivel, Walker, Whitlock, Zalk, "aye"; no "nays"; none "abstaining"; Bayles, Covey, Krug, "absent") to recommend **APPROVAL** of the CS zoning for CZ-545 per staff recommendation.

**Legal Description for CZ-545:**

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER (SW 1/4 SE/4 SW/4) OF SECTION TWENTY (20), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF; LESS AND EXCEPT THE SOUTH 50.00 FEET THEREOF MORE PARTICULARLY DESCRIBED AS FOLLOWS

TRACT 2: A TRACT OF LAND IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SE/4 SW/4) OF SECTION 20, TOWNSHIP 19 NORTH, RANGE 12 EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE

U.S. GOVERNMENT SURVEY THEREOF; SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF



SAID SW/4 SE/4 SW/4; THENCE NORTH 01 DEGREES 01'37" WEST ALONG THE EAST LINE THEREOF FOR 50.00 FEET; THENCE SOUTH 89 DEGREES 06'47" WEST PARALLEL WITH AND 50.00 FEET NORTH OF THE SOUTH LINE THEREOF FOR 338.00 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND. THENCE NORTH 01 DEGREES 01 '37" WEST FOR 268.00 FEET; THENCE NORTH 89 DEGREES 06'47" EAST FOR 283.00 FEET; THENCE SOUTH 01 DEGREES 01 '37" EAST FOR 60.00 FEET; THENCE NORTH 89 DEGREES 06'47" EAST FOR 55.00 FEET TO A POINT ON THE EAST LINE THEREOF; THENCE NORTH 01 DEGREES 01 '37" WEST FOR 402.08 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 89 DEGREES 07'58" WEST ALONG THE NORTH LINE THEREOF FOR 632.36 FEET; THENCE SOUTH 01 DEGREES 02'03" EAST PARALLEL WITH AND 30.00 FEET EAST OF THE WEST LINE THEREOF FOR 610.30 FEET; THENCE N 89 DEGREE 06'47" EAST PARALLEL WITH AND 50.00 FEET NORTH OF THE SOUTH LINE THEREOF FOR 294.28 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND.

\* \* \* \* \*

Items 8 and 9 were presented together.

8. **Z-7714 Illuminate Real Estate LLC** (CD 1) Location: Southwest corner of East Pine Street and North Peoria Avenue requesting rezoning from **CS** and **OL** to **CS (Related to PUD-722-A)**

**STAFF RECOMMENDATION:**  
**SECTION I: Z-7714**

**DEVELOPMENT CONCEPT:** Abandon a portion of PUD 722 and rezone the entire subject tract to CS. The PUD included CS zoning and some OL however the PUD only allowed a single use and limited redevelopment opportunities. The rezoning will support redevelopment that is consistent with the Town Center Land use designation in the comprehensive plan. It is likely that the existing unique building will be removed.

**DETAILED STAFF RECOMMENDATION:**

The existing building and uses were permitted with PUD-722 in development area D and only allowed Use Unit 5, "Community Services and Similar Uses and accessory uses" and off-street parking areas. The supplemental regulations referenced in the PUD are no longer relevant within the context of the current zoning code and,

Abandonment of Development Area D in PUD 722 and rezoning the subject property does not affect the remainder of the PUD and,

The uses allowed in a CS zoning district are consistent with the Town Center Land Use Designation and are consistent with the expected development pattern in the surrounding area therefore,

**Staff recommends approval of Z-7714** to rezone property from CS and OL w/PUD-722 to CS but only with concurrent approval of PUD-722-A that will abandon Development Area D in PUD-722.

## **SECTION II: Supporting Documentation**

### **RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

***Staff Summary:*** CS zoning is consistent with the Town Center Land use designation and also allows the development contemplated in the Main Street designation of East Pine. The CS district does not require building placement as outlined in the Main Street designation.

### **Land Use Vision:**

#### ***Land Use Plan map designation: Town Center***

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.

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

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

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

will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile.”

### **Transportation Vision:**

#### ***Major Street and Highway Plan:***

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

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

**East Pine Street** is considered a Main Street. Main Streets are Tulsa’s classic linear centers. They are comprised of residential, commercial, and entertainment uses along a transit-rich street usually two to four lanes wide and includes much lower intensity residential neighborhoods situated behind. Main Streets are pedestrian-oriented places with generous sidewalks, storefronts on the ground floor of buildings, and street trees and other amenities. Visitors from outside the surrounding neighborhoods can travel to Main Streets by bike, transit, or car. Parking is provided on the street, small private off-street lots, or in shared lots or structures.

***Trail System Master Plan Considerations:*** None

#### **Small Area Plan:** Unity Heritage Neighborhoods Sector plan

The Unity Heritage Neighborhoods Sector plan was adopted in November of 2016.

The plan “is an update to a series of previous sector plans that was originally adopted by the Tulsa Development Authority and Planning Commission that establishes how citizens would like land to be developed in the future”. Its designation will allow the City and various partners to utilize policies, strategies and funding sources to implement the vision it articulates.

The Pine Street corridor is envisioned as having a series of neighborhood centers at key intersections, with a transition into a major Town Center at the Pine Street Interchange with US 75.

The subject tract is included in the Town Center Land use designation identified in the small area plan.

**Special District Considerations:**

Healthy neighborhood overlay

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

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

Neighborhood Infill Overlay

The Neighborhood Infill Overlay (NIO) establishes zoning regulations that are intended to promote the development of alternative infill housing in established neighborhoods. The overlay allows for a variety of residential housing types in a manner that is compatible, in mass and scale, with the character of surrounding properties. The regulations are also intended to promote housing types that accommodate households of varying sizes and income levels and provide for a more efficient use of residential land.

**Historic Preservation Overlay:** None

**DESCRIPTION OF EXISTING CONDITIONS:**

The subject property is developed with an architecturally significant structure. The existing access to the site is from Owasso Avenue. The building placement is consistent, and use is consistent with the anticipated Main Street designation along East Pine.

Street view from northwest corner looking south. (See next page)



Street View from southwest looking north.



**Environmental Considerations:** None that affect site redevelopment.

**Streets:**

Existing Access and Frontage	MSHP Design	MSHP R/W	Exist. # Lanes
East Pine Street	Secondary Arterial Main Street Designation	100 feet	6 Two west bound Four east bound
South Peoria Avenue	Urban Arterial with Multi Modal Corridor Designation	70 feet	5 Two north bound Two south bound Center Turn Lane
South Owasso	None	None	2

**Utilities:**

The subject tract has municipal water and sewer available.

**Surrounding Properties:**

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	CS	Town Center	Growth	Restaurant with drive thru
East	IM	Town Center	Growth	Restaurant with drive through
South	RM-1 and CS	Town Center	Growth	Electrical Transformer Station (major utility)
West	PUD-722 (development area A) with CS and OL underlying zoning	Town Center	Growth	YMCA

**SECTION III: Relevant Zoning History**

**History: Z-7714 Rel. PUD-722-A**

**ZONING ORDINANCE:** Ordinance number 11918 dated September 1, 1970, established zoning for the subject property.

***Subject Property:***

**SA-5 (Neighborhood Infill Overlay) August 2021:** All concurred in **approval** of a request for a Special Area Overlay on multiple properties along the multiple properties located within certain neighborhoods adjacent to downtown to establishes zoning regulations that are intended to promote the development of alternative infill housing in established neighborhoods. The overlay allows for a variety of residential housing types in a manner that is compatible, in mass and scale, with the character of surrounding properties. The regulations are also intended to promote housing types that accommodate households of varying sizes and income levels and provide for a more efficient use of residential land and available public infrastructure.

**SA-3 April 2018:** All concurred in **approval** at city council (TMPAC recommended **denial**) to apply supplemental zoning, HNO (Healthy Neighborhoods Overlay), to multiple properties within the plan area boundaries of Greenwood Heritage Neighborhoods Sector Plan (also known as the Unity Heritage Neighborhoods Plan), 36th Street North Corridor Small Area Plan, and The Crutchfield Neighborhood Revitalization Master Plan (related to ZCA-7).

**PUD-722 January 2006:** All concurred in **approval** of a proposed *Planned Unit Development* on a 6.964± acre tract of land on property located Southwest corner East Pine Street and North Peoria Avenue.

***Surrounding Property:***

**SA-5 (Neighborhood Infill Overlay) August 2021:** All concurred in **approval** of a request for a Special Area Overlay on multiple properties along the multiple properties located within certain neighborhoods adjacent to downtown to establishes zoning regulations that are intended to promote the development of alternative infill housing in established neighborhoods. The overlay allows for a variety of residential housing types in a manner that is compatible, in mass and scale, with the character of surrounding properties. The regulations are also intended to promote housing types that accommodate households of varying sizes and income levels and provide for a more efficient use of residential land and available public infrastructure.

**SA-3 April 2018:** All concurred in **approval** at city council (TMPAC recommended **denial**) to apply supplemental zoning, HNO (Healthy Neighborhoods Overlay), to multiple properties within the plan area boundaries of Greenwood Heritage Neighborhoods Sector Plan (also known as the Unity Heritage Neighborhoods Plan), 36th Street North Corridor Small Area Plan, and The Crutchfield Neighborhood Revitalization Master Plan (related to ZCA-7).

**BOA-22825 January 2020:** The Board of Adjustment **approved** a *Variance* to permit restaurant drive-through facilities to be located on the street facing side of the property & a *Variance* to reduce the required number of stacking spaces for a restaurant drive-through, on property located at E. Pine Street N.

**BOA-16518 December 1993:** The Board of Adjustment **approved** a *Special Exception* to permit required setback from the centerline of N. Peoria from 100' to 64', on property located at 1441 N. Peoria.

**BOA-13403 December 1984:** The Board of Adjustment **approved** a *Special Exception* to permit drive-in restaurant in an IM zoned district, on property located at SE/c of Pine and Peoria.

**BOA-10394 March 1979:** The Board of Adjustment **approved** a *Variance* to permit setback requirements from 50' to 44' from the centerline of Pine Street to permit a sign, on property located at 1449 North Peoria Avenue.

**BOA-8422 November 1974:** The Board of Adjustment **approved** a *Special Exception* to permit an electric distribution station in an RM-1 and OL District, on property located at South and East of Pine Street and Owasso Avenue.

**BOA-7860 April 1973:** The Board of Adjustment **approved** a *Special Exception* to permit operate an eating establishment in an IM District, & a *Variance* for a modification of setback requirements to permit lining up with existing building in an IM District, on property located at 1449 North Peoria.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **SHIVEL**, the TMAPC voted 8-0-0 (Carr, Craddock, Hood, Humphrey, Shivel, Walker, Whitlock, Zalk, "aye"; no "nays"; none "abstaining"; Bayles, Covey, Krug, "absent") to recommend **APPROVAL** of the CS zoning for Z-7714 per staff recommendation.

**Legal Description for Z-7714:**

LT 1 BLK 4, SUNNYBROOK ADDN, HUTCHERSON YMCA RESUB PRT B1-2&3 SUNNYBROOK ADD, City of Tulsa, Tulsa County, State of Oklahoma

\* \* \* \* \*

**9. PUD-722-A Illuminate Real Estate LLC (CD 1) Location: Southwest corner of East Pine Street and North Peoria Avenue requesting a **PUD Major Amendment** to abandon Development Area D (**Related to Z-7714**)**



**STAFF RECOMMENDATION:**  
**SECTION I: PUD-722-A**

**DEVELOPMENT CONCEPT:** Abandon a portion of PUD 722 and rezone the subject tract to allow more uses than were allowed in the PUD. PUD-722-A will abandon all of development area D. The remainder of PUD 722 will not be affected. The subject tract includes CS zoning and some OL however the PUD only allowed a single use and limited redevelopment opportunities. The rezoning will support redevelopment that is consistent with the Town Center Land use designation in the comprehensive plan. It is likely that the existing unique building will be removed.

**DETAILED STAFF RECOMMENDATION:**

The existing building and uses were permitted with PUD-722 in development area D and only allowed Use Unit 5, “Community Services and Similar Uses and accessory uses” and off-street parking areas. The supplemental regulations referenced in the PUD are no longer relevant within the context of the current zoning code and,

Abandonment of Development Area D in PUD 722 and rezoning the subject property does not affect the remainder of the PUD and,

The uses allowed in a CS zoning district are consistent with the Town Center Land Use Designation and are consistent with the expected development pattern in the surrounding area therefore,

Staff recommends approval approval of PUD-722-A that will abandon Development Area D in PUD-722 but only with concurrent approval of Z-7714 to rezone property from CS and OL w/PUD-722 to CS.

**SECTION II: Supporting Documentation**

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

***Staff Summary:*** CS zoning is consistent with the Town Center Land use designation and also allows the development contemplated in the Main Street designation of East Pine. The CS district does not require building placement as outlined in the Main Street designation.

**Land Use Vision:**

***Land Use Plan map designation:* Town Center**

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.

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

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

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

### **Transportation Vision:**

#### ***Major Street and Highway Plan:***

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

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

**East Pine Street** is considered a Main Street. Main Streets are Tulsa's classic linear centers. They are comprised of residential, commercial, and entertainment uses along a transit-rich street usually two to four lanes wide and includes much lower intensity residential neighborhoods situated behind. Main Streets are pedestrian-oriented places with generous sidewalks, storefronts on the ground floor of buildings, and street trees and other amenities. Visitors from outside the surrounding neighborhoods can travel to Main Streets by bike, transit, or car. Parking is provided on the street, small private off-street lots, or in shared lots or structures.

***Trail System Master Plan Considerations:*** None

**Small Area Plan:** Unity Heritage Neighborhoods Sector plan

The Unity Heritage Neighborhoods Sector plan was adopted in November of 2016.

The plan "is an update to a series of previous sector plans that was originally adopted by the Tulsa Development Authority and Planning Commission that establishes how citizens would like land to be developed in the future". Its designation will allow the City and various partners to utilize policies, strategies and funding sources to implement the vision it articulates.

The Pine Street corridor is envisioned as having a series of neighborhood centers at key intersections, with a transition into a major Town Center at the Pine Street Interchange with US 75.

The subject tract is included in the Town Center Land use designation identified in the small area plan.

**Special District Considerations:**

Healthy neighborhood overlay

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

- a. Avoid and reduce the over-concentration of small box discount stores in the area.
- b. Encourage and streamline grassroots access to fresh meats, fruits, and vegetables.
- c. Encourage a greater diversity of retail activity and purchasing options within the area.

- d. Allow for a more community-based approach to distributing and purchasing fresh meats, fruits, and vegetables in a specified area.
- e. Promote investment and development in a community where change is desired.

#### Neighborhood Infill Overlay

The Neighborhood Infill Overlay (NIO) establishes zoning regulations that are intended to promote the development of alternative infill housing in established neighborhoods. The overlay allows for a variety of residential housing types in a manner that is compatible, in mass and scale, with the character of surrounding properties. The regulations are also intended to promote housing types that accommodate households of varying sizes and income levels and provide for a more efficient use of residential land.

**Historic Preservation Overlay:** None

#### **DESCRIPTION OF EXISTING CONDITIONS:**

The subject property is developed with an architecturally significant structure. The existing access to the site is from Owasso Avenue. The building placement is consistent, and use is consistent with the anticipated Main Street designation along East Pine.

Street view from northwest corner looking south. (See next page)



Street View from southwest looking north.



**Environmental Considerations:** None that affect site redevelopment.

**Streets:**

Existing Access and Frontage	MSHP Design	MSHP R/W	Exist. # Lanes
East Pine Street	Secondary Arterial Main Street Designation	100 feet	6 Two west bound Four east bound
South Peoria Avenue	Urban Arterial with Multi Modal Corridor Designation	70 feet	5 Two north bound Two south bound Center Turn Lane
South Owasso	None	None	2

**Utilities:**

The subject tract has municipal water and sewer available.

**Surrounding Properties:**

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	CS	Town Center	Growth	Restaurant with drive thru
East	IM	Town Center	Growth	Restaurant with drive through
South	RM-1 and CS	Town Center	Growth	Electrical Transformer Station (major utility)
West	PUD-722 (development area A) with CS and OL underlying zoning	Town Center	Growth	YMCA

**SECTION III: Relevant Zoning History**

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

**History: PUD-722-A Rel. Z-7714**

**ZONING ORDINANCE:** Ordinance number 11918 dated September 1, 1970, established zoning for the subject property.

***Subject Property:***

**SA-5 (Neighborhood Infill Overlay) August 2021:** All concurred in **approval** of a request for a Special Area Overlay on multiple properties along the multiple properties located within certain neighborhoods adjacent to downtown to establishes zoning regulations that are intended to promote the development of alternative infill housing in established neighborhoods. The overlay allows for a variety of residential housing types in a manner that is compatible, in mass and scale, with the character of surrounding properties. The regulations are also intended to promote housing types that accommodate households of varying sizes and income levels and provide for a more efficient use of residential land and available public infrastructure.

**SA-3 April 2018:** All concurred in **approval** at city council (TMPAC recommended **denial**) to apply supplemental zoning, HNO (Healthy Neighborhoods Overlay), to multiple properties within the plan area boundaries of Greenwood Heritage Neighborhoods Sector Plan (also known as the Unity Heritage Neighborhoods Plan), 36th Street North Corridor Small Area Plan, and The Crutchfield Neighborhood Revitalization Master Plan (related to ZCA-7).

**PUD-722 January 2006:** All concurred in **approval** of a proposed *Planned Unit Development* on a 6.964± acre tract of land on property located Southwest corner East Pine Street and North Peoria Avenue.

***Surrounding Property:***

**SA-5 (Neighborhood Infill Overlay) August 2021:** All concurred in **approval** of a request for a Special Area Overlay on multiple properties along the multiple properties located within certain neighborhoods adjacent to downtown to establishes zoning regulations that are intended to promote the development of alternative infill housing in established neighborhoods. The overlay allows for a variety of residential housing types in a manner that is compatible, in mass and scale, with the character of surrounding properties. The regulations are also intended to promote housing types that accommodate households of varying sizes and income levels and provide for a more efficient use of residential land and available public infrastructure.

**SA-3 April 2018:** All concurred in **approval** at city council (TMPAC recommended **denial**) to apply supplemental zoning, HNO (Healthy Neighborhoods Overlay), to multiple properties within the plan area boundaries of Greenwood Heritage Neighborhoods Sector Plan (also known as the Unity Heritage Neighborhoods Plan), 36th Street North Corridor Small Area Plan, and The Crutchfield Neighborhood Revitalization Master Plan (related to ZCA-7).

**BOA-22825 January 2020:** The Board of Adjustment **approved** a *Variance* to permit restaurant drive-through facilities to be located on the street facing side of the property & a *Variance* to reduce the required number of stacking spaces for a restaurant drive-through, on property located at E. Pine Street N.

**BOA-16518 December 1993:** The Board of Adjustment **approved** a *Special Exception* to permit required setback from the centerline of N. Peoria from 100' to 64', on property located at 1441 N. Peoria.

**BOA-13403 December 1984:** The Board of Adjustment **approved** a *Special Exception* to permit drive-in restaurant in an IM zoned district, on property located at SE/c of Pine and Peoria.

**BOA-10394 March 1979:** The Board of Adjustment **approved** a *Variance* to permit setback requirements from 50’ to 44’ from the centerline of Pine Street to permit a sign, on property located at 1449 North Peoria Avenue.

**BOA-8422 November 1974:** The Board of Adjustment **approved** a *Special Exception* to permit an electric distribution station in an RM-1 and OL District, on property located at South and East of Pine Street and Owasso Avenue.

**BOA-7860 April 1973:** The Board of Adjustment **approved** a *Special Exception* to permit operate an eating establishment in an IM District, & a *Variance* for a modification of setback requirements to permit lining up with existing building in an IM District, on property located at 1449 North Peoria.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **SHIVEL**, the TMAPC voted 8-0-0 (Carr, Craddock, Hood, Humphrey, Shivel, Walker, Whitlock, Zalk, “aye”; no “nays”; none “abstaining”; Bayles, Covey, Krug, “absent”) to recommend **APPROVAL** of the PUD major amendment for PUD-722-A per staff recommendation.

**Legal Description for PUD-722-A:**

LT 1 BLK 4, SUNNYBROOK ADDN, HUTCHERSON YMCA RESUB PRT B1-2&3 SUNNYBROOK ADD, City of Tulsa, Tulsa County, State of Oklahoma

\* \* \* \* \*

Items 10, 11, 12, 15, and 16 were presented together. Mr. Zalk recused himself and left the room for all 5 of those items. Interested Parties did not specify whether they were speaking on the County items or the City items, so the comments were copied to item 10 and item 11 to cover both City and County.

**10.Z-7705 Nathan Cross** (CD 3) Location: South of the southeast corner of Highway 169 and East 56<sup>th</sup> Street North requesting rezoning from **AG to IM (Related to CPA-102)** (Continued from April 19, 2023)

**STAFF RECOMMENDATION:**

**SECTION I: Z-7705**



## **APPLICANTS DEVELOPMENT CONCEPT:**

### History

The property at issue in this request (the “Subject Property”) is part of the small remaining undeveloped property in north Tulsa that has been primarily vacant since the creation of the City of Tulsa. For 50 years, the Subject Property has been a working ranch owned by the Oxley family. No Significant development has occurred on the Subject Property.

### Mining

At some point in the distant past, a rich vein of limestone was discovered in and around the Subject Property and in parts of northern Tulsa County. After that discovery, mining operations began to grow in the area. Currently, there are 3 active mining operations within roughly a two-mile radius of the Subject Property. As such, this portion of Tulsa has become a significant source of regional limestone for use in construction. These mining activities have been further bolstered by increased demand due to depletion of other mining resources in the area to the point that this area of Tulsa is now the primary provider of limestone for construction in Tulsa and Oklahoma City as well as other places within the region.

### Rezoning Request

As stated above, mining is one of the largest uses of land in this area of Tulsa. In addition to the rich limestone in the area, the Subject Property fronts onto Highway 169. The east side of Highway 169 in this area has rapidly developed into an industrial/warehousing corridor ripe for continued development with large-scale commercial activities. The owner of the Subject Property proposes to rezone the Subject Property to IM to accommodate 68 acres of future commercial use along the Highway 169 corridor as well as establish underlying zoning to accommodate 97 acres of mining operations on the balance of the Subject Property.

## **DETAILED STAFF RECOMMENDATION:**

The Tulsa Metropolitan Area Planning Commission unanimously adopted an update to the Tulsa Comprehensive Plan May 3<sup>rd</sup>, 2023. The public meetings notices, maps, and references in this report were completed before Planning Commission adoption of the plan update. As of the writing of this staff report (3/11/2023), the City Council has not approved the updated plan, but this request is consistent with the existing and the amended comprehensive plan. The City Council is expected to vote on the updated Comprehensive Plan after this zoning has been reviewed at the Planning Commission.

The update to the Comprehensive Plan illustrates this area as a Regional Center and an area of Employment. The site is not included in an area that is most suitable for industrial development, however the land use maps support the proposed industrial development and,

The uses allowed in the IM district are consistent with the land use maps as proposed in CPA-102 and the expected land use recommendations of the pending Comprehensive Plan update.

IM zoning allows uses at a scale that is appropriate with the existing transportation infrastructure and

The uses allowed in an IM district are consistent with the expected surrounding development area therefore,

Staff recommends Approval of Z-7705 to rezone property from AG to IM.

## **SECTION II: Supporting Documentation**

### **RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

#### **Staff Summary:**

*IM zoning as requested with Z-7705 requesting is consistent with the proposed land use designation associated with CPA-102. Z-7705 is also consistent with the anticipated Employment and Regional Center land use designation that has been approved at the Planning Commission with the plan update.*

*The expected mining special exception should be limited to the area shown as Employment in the updated plan land use designation.*

### **Land Use Vision:**

#### **Existing Land Use and Growth Designations**

A *Regional Center* land use designation was assigned to the area subject to the amendment request at the time of the adoption of the Tulsa Comprehensive Plan in 2010:

The *Regional Center* designation is defined in the Tulsa Comprehensive Plan as mid-rise mixed-use areas for large scale employment, retail, and civic or educational uses. These areas attract workers and visitors from around the region and are key transit hubs; station areas can include housing, retail, entertainment, and other amenities. Automobile parking is provided on-street and in shared lots.

## **Proposed Land Use and Growth Designations (Tulsa Comprehensive Plan)**

The applicant is proposing the *Employment* land use designation for the entirety of the subject property:

The *Employment* designation is defined in the Tulsa Comprehensive Plan as areas containing office, warehousing, light manufacturing, and high tech uses such as clean manufacturing or information technology. Sometimes big-box retail or warehouse retail clubs are found in these areas. These areas are distinguished from mixed-use centers in that they have few residences and typically have more extensive commercial activity. Employment areas require access to major arterials or interstates. Those areas, with manufacturing and warehousing uses must be able to accommodate extensive truck traffic, and rail in some instances.

The area surrounding the subject property to the south, west and east has largely industrial or agricultural zoning with an *Employment* or *Regional Center* land use designations. The subject property (along with the concurrent rezoning in North Tulsa County) would extend the industrial zones from the south and west along Highway 169. Rezoning the subject area to *Industrial* with a land use designation of *Employment* would not be inconsistent with the development already occurring in the vicinity.

### **Transportation Vision:**

***Major Street and Highway Plan:*** The major street and highway plan does not illustrate a collector street or frontage road west of highway 75. Street connectivity from East 46<sup>th</sup> Street North to East 56<sup>th</sup> street North is an essential component of industrial and commercial development opportunities east of highway 75. Staff will recommend public street construction with future development in this area.

***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 part of an agricultural farm operation. The east boundary of the site is in the Bird Creek flood plain and limestone is close to the surface and accessible to mining operations similar to the existing quarry operations southeast of Z-7705.*

**Environmental Considerations:**

**Streets:**

Existing Access	MSHP Design	MSHP R/W	Exist. # Lanes
56 <sup>th</sup> Street North	Secondary Arterial	100 feet	2

**Utilities:**

The subject tract has municipal water and sewer available except where mining is anticipated. The commercial corridor anticipated adjacent to Highway 169 will require significant utility extensions to serve the area.

**Surrounding Properties:**

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North (Unincorporated Tulsa County)	AG	Agricultural / Rural Residential Refer to pending case TCCP-12	NA	Undeveloped / agricultural Refer to pending case CZ-543/PUD 867
East	AG	Employment	Growth	Undeveloped / agricultural
South	AG/ IM/ IH	Employment	Growth	
West	IL	Employment	Growth	Undeveloped / agricultural

**SECTION III: Relevant Zoning History**

**History: Z-7705**

***Subject Property:***

**ZONING ORDINANCE:** Ordinance number 11804 dated June 26, 1970, established zoning for the subject property.

**BOA-20800 October 2008:** The Board of Adjustment **approved** a *Special Exception* to permit a Rock Quarry in an AG district, on property located at NW of the intersection of 129<sup>th</sup> E. Ave. and 46<sup>th</sup> St. N.

**BOA-19674 September 2003:** The Board of Adjustment **approved** a *Special Exception* to permit within an 80-acre tract in the IH and AG zoning districts the

mining, quarrying and extraction of stone, sand and gravel, including processing, crushing, washing, sale and loading of crushed rock, sand and gravel for utilization off the premises, on property located at E. 46<sup>th</sup> Street North ½ mile East of N. Garnett Road.

***Surrounding Property:***

**Z-7385 July 2017:** All concurred in **approval** of a request for *rezoning* a 97.28+ acre tract of land from AG to IM on property located Northeast corner of E. 46<sup>th</sup> street North and Highway 169.

**BOA-20800 October 2008:** The Board of Adjustment **approved** a *Special Exception* to permit a Rock Quarry in an AG district, on property located at NW of the intersection of 129<sup>th</sup> E. Ave. and 46<sup>th</sup> St. N.

**BOA-19674 September 2003:** The Board of Adjustment **approved** a *Special Exception* to permit within an 80 acre tract in the IH and AG zoning districts the mining, quarrying and extraction of stone, sand and gravel, including processing, crushing, washing, sale and loading of crushed rock, sand and gravel for utilization off the premises, on property located at E. 46<sup>th</sup> Street North ½ mile East of N. Garnett Road.

**Applicant Comments:**

**David Charney** 200 Cedar Center, Owasso, OK 74055

Mr. Charney stated he and Mr. Cross are representing the applicant. He stated he is not playing attorney here today. Mr. Charney stated luck, or whatever the case may be, has found him at the epicenter of this effort, both because of his long deep Owasso roots that he and his family have, or because of his very strong professional groups that he has with the City of Tulsa and in this particular corridor. He stated he does not want to shy away from it, the Amazon facility, the QuikTrip kitchens facility, the Costco facility, are all on land that his company owned and that they were able to bring to this region. Mr. Charney stated he cares greatly about the City of Owasso and wants things to unfold in the proper way, in a way that is that is consistent with good growth. He stated there are 3 mining operations that exist in the Tulsa area today and they are all 3 located in the subject area because that is where the limestone is. Mr. Charney stated throughout his entire life, there have been applications brought before this board or like boards, whether it is Tulsa County, City of Tulsa or Rogers County to change the zoning on small tracts but there has not been a real holistic planning effort at the mining concept as there probably should have been many years ago. He stated that what has happened over time is the quarry operations have been encroached upon by residential development and other types of development. Mr. Charney stated that the effort today is to try and bring some future planning that allows them to do wonderful recruitment of good operations, like a Costco or

an Amazon and say, here is where the mining is, here is where the mining is not; here is where the mining will grow, here is where it will not grow. He stated he does not have any interest in this application, and he is not an owner. Mr. Charney stated he is here because he is the quarry's largest neighbor. Mr. Charney stated he cares immensely about the corridor along 169 and having good growth in that area and he thinks it is working beautifully with these facilities that are already there and the ones they are recruiting. He stated the question has been asked, will there be increased mining activity as a result of this application. Mr. Charney stated they have all the mining activity that they want. He stated the demand is what the demand is and there is a fixed number of turnings produced every year. Mr. Charney stated they are trying to plan for the future and make certain that mining occurs where it is supposed to. He stated in every quarry operation they would say there is not going to be increased trucks or be increased blast shots. But the market only requests a certain amount of limestone and that is what is produced. So, he disagrees with the thinking that there will be an additional progression of the amount of blasting that is occurring every day because what is occurring now is occurring because the market demands it and that has not fluctuated significantly. Mr. Charney stated the most compelling point from his perspective was when he looked at the means by which they would invest in Stone Canyon and the Patriot golf course right next to a quarry and he was concerned. He stated he empathized that with the folks that were concerned. He stated he did not understand anything about mining but began to learn that it is highly regulated and is subject to a great deal of technological advancements that were not there 40 and 50 years ago. Mr. Charney stated after studying to make probably the biggest investment in his company's history in a region adjacent to mining operations the development has flourished. He stated whenever the QuikTrip Kitchens distribution plant was underway there were concerns about the mining of the area, he gave them tons of data and their engineers expended the seismology, they studied the Department of Mines regulations, and they looked at it and said they are not bothered by this. Mr. Charney stated Amazon comes along and same question and came to the same conclusion. He stated a Tulsa County District Judge was asked to look at the data before the northernly quarry was to expand. He looked at all the seismometers, looked at the technology, studied the noise surveys and ground vibration surveys and the bottom line was the evidence presented establishes that residential development has voluntarily moved toward the quarries. Mr. Charney stated an independent arbitrator said, the uncontroverted empirical evidence, including seismic readings, decibel level surveys, and the Department of Mines regulations all support the applicant's position that the expansion of the quarry will not be injurious to the neighborhood, or detrimental to public.

**Nathan Cross** 2 W 2<sup>nd</sup> Street, Suite 700, Tulsa, OK 74103

Mr. Cross stated he represents the applicant. He stated as the lawyer in the group, it was his job to keep them on task. Mr. Cross stated what is currently before this Commission on item 10, Z-7705 and item 15, CPA-102, both of which

are City of Tulsa applications. It is important that Commissioners understand the staff recommendation in item 15 matches what has already been approved in the Comprehensive Plan. He stated this body does not have the authority to approve mining today on the city applications. Mr. Cross stated that has to go through the Board of Adjustment. He stated the request before this Commission on the city applications is to approve the industrial zoning and the associated Comprehensive Plan Amendment land use change.

### **Interested Parties:**

**Kenny Brewster** 6910 N 123 East Avenue, Owasso, OK 74055

Mr. Brewster stated he lives approximately two miles from one of the quarries, and two and a half miles from another. He stated he has invested a lot of time and money in his house that he built 15 years ago. Mr. Brewster stated there is extensive damage to his house from the quarry blasts. He stated as the previous speaker stated the residential area did start moving towards the quarry but that is not the case with today's application, the quarry is moving towards the residential area. Mr. Brewster stated although the quarry wants to expand it and they have that right, they do not have the right to damage the houses and the residents' investment in their houses. He stated he has submitted documents for the Planning Commission to look at seismic activities from January of this year where the blasts register at 39th and Peoria and measures as a 1.4 magnitude earthquake. Mr. Brewster stated but that is not what it has registered at his house. He stated he does not think that the quarry should be expanding and that if they are going to expand then they should be paying for property damages or buying out in this area.

**John Houston** 15416 E 87<sup>th</sup> Street North, Owasso, OK 74055

Mr. Houston stated he manages the Homeowners Associations and has been speaking with a lot of people around the area. He stated one of the biggest problems he sees is the blasting. There are alternatives to dynamite he has found in his research that are more efficient. Mr. Houston asked what happens to the property when they are done blasting. He stated they keep saying there is going to be lakes, but one of the quarries has been there for 50 years so when is that supposed to happen. Is it 100 years from now or 150 years from now. Mr. Houston stated there needs to be more parameters set up about what they are doing and how they are doing it. He stated before this Commission makes a final decision about changing this zoning, they need to really consider that properties that are not going to have the same value that they should have based upon what is going on in the area.

**Pamela Kirk** 12107 E 70<sup>th</sup> Street North, Owasso, OK 74055

Ms. Kirk thanked the Commission for hearing her concerns and the concerns of her neighbors regarding the quarry expansion application for rezoning and the mining permit for industrial and mining usage. She stated it is a quarry expansion that affects existing homes and existing neighborhoods that are already there.

Ms. Kirk stated the hazards posed by rock quarries located in close proximity to residential neighborhoods are well documented by the scientific community as well as the loss of residents. These hazards affect the safety and wellbeing of the community. She stated rock quarries have become a growing concern as they bring about a range of potential dangers both immediate and long term that threaten the health, environment and overall quality of life for those living nearby. Ms. Kirk stated she lives less than three quarters of a mile from a quarry and can personally attest to many of these hazards. She stated they have to acknowledge that there are immediate dangers the quarries pose to the neighborhoods. Ms. Kirk stated operations involve heavy machinery, explosions, and excavation activities, that generate dust, noise, shock waves and vibrations. Explosions can impact home structures as they can lead to cracks in walls foundation ceilings, the vibrations can affect the stability of home foundations resulting in uneven floors, cracked walls or structural failure. She stated the pressure waves can cause windows and doors to rattle or shatter and all of this can be very disruptive to residents within their homes. Ms. Kirk stated it is important to note that the closer a home is to a quarry, the more significant the structural damage is. She stated her home, and the homes of her neighbors are less than three quarters of a mile from an existing quarry and their homes have already experienced impacts. Ms. Kirk stated they shudder to think both literally and figuratively, what will happen if a new quarry is felt less than a half a mile from them or in the backyards of their homes. She stated other issues of concern are the release of harmful dust particles in the air and the excavation and blasting activities disrupt the natural landscape causing irreversible damage to ecosystems and local habitats. Ms. Kirk stated there are existing nesting bald eagles in the area that are located next to this expansion and there are a lot of state and local regulations designated to protect these nesting eagles. She stated runoff from quarries can contaminate nearby water sources and there is increased traffic from heavy trucks carrying rocks and materials that contribute to air pollution and poses road safety hazards for residents. Ms. Kirk stated equally important is the long-term impact on property values and economic growth. The precedent of rock quarries in residential areas can lead to a decline in property values, making it harder for homeowners to sell their properties or acquire fair prices and this in turn affects the local economy. She stated it is crucial for local governments and regulatory bodies to prioritize the safety and well-being of their citizens and it is essential for communities to come together to advocate for their safety to raise awareness and engage in open dialogue with local authorities and quarry operators. Ms. Kirk stated in this case since the residential areas are already in place, new quarries should not be located in these residential areas. She stated therefore the rezoning application needs to be denied and all other associated applications also need to be denied.

**Barbara Morrison** 14343 E 56<sup>th</sup> Street North, Owasso, OK 74055

Ms. Morrison stated the Morrison family has resided in this area for 53 years. We were there in that neighborhood long before the quarries. She stated they have remodeled and added on and improved our property to make our home a place



we can enjoy. Ms. Morrison stated they have dealt with problems created by mining activity on 46th Street North and 66th Street North for several years. She stated truck traffic keeps the roads in constant disrepair and high levels of limestone have damaged their home and property from the blasts and extensive car maintenance. Ms. Morrison stated their heat and air filters require constant changing because of the dust and those are just a few of the difficulties they deal with on a daily basis. She stated adding more mining activity to this area would be devastating not only to the residents who live in the immediate area, but also to the environment and to the City of Owasso. Ms. Morrison stated the new proposed mining areas, which are the subject of the rezoning applications, are in close proximity to residential home sites. There is a very narrow buffer between the homes and the mining site. She stated they are concerned about property values for the residents. Ms. Morrison stated mined property can never be used again for commercial or residential development, which does not benefit the future growth of the area. The application states of potential lakes that will be developed which is misleading. The mine area would be allowed to fill with water over time basically become a strip pit. She stated approval of this mining will only benefit the property owner and the mining operator. The area residents should not be subjected to hardships created by additional mines. Ms. Morrison asks that no additional mining be approved.

**Ashley Parks** 5220 N 145<sup>th</sup> East Ave, Owasso, OK 74055

Ms. Parks stated she is surrounded by 3 rock quarries. She stated if this application is approved that will make 4. Ms. Parks stated she bought her home in 2019 and now her forever home has cracks in the foundation in the walls and broken windows. She stated sometimes the blasts are so hard she holds her breath and waits for something to fall or crumble. Ms. Parks stated not only is this destroying her home, but it is also destroying the roads around her house to the point where you cannot go above 20 miles per hour without busting a tire and needing an alignment. She stated the constant form of dust in the air, on her vehicle and in her house is not good for her current or future health. Ms. Parks stated if this goes through what will it do to the surrounding wildlife. She stated she understands everything revolves around money but at what cost, more homes destroyed, more dust to breath, and more ugly rock quarries.

**Cindy Holt** 8322 N 124<sup>th</sup> East Place, Owasso, OK 74055

Ms. Holt stated she has lived in the area since 1987. She stated when coming into Owasso right now you see horses and green pastures and after this approval you will see a quarry. Ms. Holt stated the face of Owasso will be impacted as will the animals and the environment. She stated the extraction processes can contaminate air and water with sulfur dioxide and other pollutants, putting wildlife and local populations at risk. Blasting can have extensive adverse environmental impacts, like vibrations, noise, dust, and chemical contamination. She stated it is better to avoid blasting activities in urban areas to protect animal habitats, sensitive historic buildings, water protection zones, pipelines, etc. Ms. Holt stated she believes eventually the quarries will be turned into a landfill and residents will

be seeing and smelling that as you come into Owasso. She stated the dust can cause silicosis that is strongly associated with heart disease, stroke, infertility and pregnancy complications and it may cause cancer. Ms. Holt stated it has been said by some that we cannot possibly feel the blast where she lives but that is just not true. She stated she feels it and hears it. Ms. Holt stated she has cracks in her house from it. Ms. Holt stated she is not calling them a liar but come live in one of these houses they are talking about and then you can see it differently.

**Bruce Locke** 7814 N 144<sup>th</sup> East Avenue, Owasso, OK 74055

Mr. Locke stated he is concerned more with the health aspect even though there's property damage. He stated he has not heard anything about any studies regarding the health hazard from the fine dust. Mr. Locke stated he has lived in numerous places in Tulsa County and Rogers County and through his lifetime and have never had the fine grain dust that drifts down especially with prevailing south winds. He stated his grandkids will go out on the patio almost every other day and write their name on the solid surface tabletops and things they have in their backyard. Mr. Locke stated the dust is in their house and there is more dust here than any part of Oklahoma he has lived in. He stated the health hazards are more significant and there should be information presented to the Commission for consideration. Mr. Locke stated just because mining was preexisting before homes does not mean that they should continue. He stated there were people who lived around coal mining and once the hazard from coal mining was proven they stopped it near residents. Mr. Locke stated if we know there is a health hazard do we just turn a blind eye to that and say, oh well, that preexists and there's a big demand for the product. He stated he would like to know the name of the judge who passed judgment, on their health and homes. He stated what authority does he have to say this is okay unless he has lived here and exposed to the dust and blasting damage.

**Ralph Carpenter** 6244 N131 Street East Avenue, Owasso, OK 74055

Mr. Carpenter stated he is opposed to the proposed change. Most of the reasons have been covered already. He stated he wants to add that they do feel the shock blast and they considered that when they built their house seven years ago. Mr. Carpenter stated he also wanted to say that there is a big difference in the tolerance of businesses that have built close to the quarry and the residences that live close to the quarry. He stated the residences have moved closer to the quarry, but the quarry is also moving closer to the houses, and it proposes a lot of health issues and a lot of issues to the value of our property.

**Caiden Catcher** 424 South Delaware Avenue, Tulsa, OK

Mr. Catcher stated his grandparents live in the area. He stated his grandma needs a wheelchair scooter just to walk around and has an oxygen tank because she cannot produce her own oxygen and his grandpa just had heart surgery. Mr. Catcher stated they live close to the quarries. He stated like everyone has said the trucks from the quarry are destroying the roads. Mr. Catcher stated before this plan was updated, they were proposing a quarry 400 feet away from his

grandparents' house and they thought nothing about it until the residents opposed it. Mr. Catcher stated this Commission cannot let these quarries be annexed into a residential zoning area when there are people with health conditions that are hurt by these quarries. He stated and for what, more limestone, they already have enough they do not need anymore. Mr. Catcher stated what happens whenever a limestone quarry is finished; it is turned into a trash pile which will lead directly into Bird Creek and the Verdigris River.

**Avery Kelly** 13809 E 60<sup>th</sup> Place, Owasso, OK 74055

Ms. Kelly stated her nana was on oxygen and cannot breathe without it. She stated the dust is bad in her house. Ms. Kelly stated her nana did not require oxygen when she moved into her current house which is near the quarry. She stated also the trucks are making holes in the roads that make it hard to drive on.

**Carol Reeves** 14318 E 58<sup>th</sup> Street North, Owasso, OK 74055

Ms. Reeves stated it has been said that residents have moved closer to the mines, but she did not know about the mines when she bought her house back in 1984. She stated a new mine was put down the hill from her a few years ago in Rogers County that she can feel the blasts and shocks from the new one. The dust causes lots of respiratory issues and diseases. Ms. Reeves stated she does not understand why people do not think about the pollution that this is causing. She stated she is poor and has spent her whole life and money on her house just to have it destroyed more every year.

**Robert Jerome** 18921 E Redfox Trail, Owasso OK 74055

Mr. Jerome stated what is being discussed is rights and when the rights begin and end. He stated the classic definition from being in law enforcement is an individual's rights begin and end where a group's rights begin. He stated group rights end where individual's rights begin. Mr. Jerome stated the quarry wants to impose their right upon everybody else's rights. He stated the plat line that is on the map does not represent what the damage is to everyone's property. Mr. Jerome stated he lives in Nottingham Subdivision and can feel the blast, which is 5 miles away, it is like a small earthquake. He stated the time to expand the quarry was 50 years ago when they realized the value. Because now that people have moved in, their rights need to be considered. Mr. Jerome stated he would request that a study be done by an unbiased opinion to look at an evaluation and study what damage could be done by extending this quarry.

**Dianne Berryhill** 12525 East 84th Street North, Owasso Oklahoma 74055

Ms. Berryhill stated she lives by Owasso High School and has lived in Owasso for 61 years and grew up with Mr. Charney. She stated the things all the speakers have talked about are not just concerns but the reality of what is currently happening on these properties. Their homes are being damaged and therefore, the property will be depreciated in value. Ms. Berryhill stated the people who are in support of this application do not live in Owasso. Another concern is the veterans that suffer from PTSD daily. She stated she was told by

Mr. Cross that she could not feel the blasts at her house at by the high school which is 3.5 to 4 miles away from the existing quarry. Ms. Berryhill stated she is not calling him a liar, but he is not being truthful. She stated at 12:15 today, there was a big blast at her house, and it feels like an earthquake, but it is the quarry. The pictures provided by residents show damage done to homes, concrete, and roads. Ms. Berryhill stated there are cracks going up the wall and almost going to the floor at her house. She stated her foundation is cracked; her driveway is cracked. She stated she does not have the money to buy a new home and who is going to want her home. Ms. Berryhill stated on their Facebook page they have collected 505 signatures of people that are against this application and 769 signatures on a petition that was circulated by a resident that went door to door getting names and signatures of people that live in the area that are very much against this.

**Mark Penny** 14103 E 87<sup>th</sup> Street North, Owasso, OK 74055

Mr. Penny stated a few years ago there was a lot of fracking over winter, north of Oklahoma City, causing a lot of earthquakes and she could feel those at her house. He stated the shaking from the blasting is more noticeable than any of those earthquakes. Mr. Penny stated the shaking is very present about four miles away and it shakes the house a lot. He stated he has mortar damage on the outside bricks but cannot prove that it is from this or just normal settling, but he built the house in 2000 and between the time of construction, and the time he moved in a few months later, it was already damaged. Mr. Penny stated there was a comment about an increased employment opportunity and one about no increased volume because of the demand. These statements contradict each other. He stated if you have more employees, doing the digging and blasting new stuff that will need more trucks hauling the stuff. He stated therefore more volume and more business. Mr. Penny stated the trucks are bad enough and there is insufficient policing of the trucks because not a single one of them obeys the speed limits. He stated there are signs on the back of the trucks that say stay back 200 feet but that is impossible because they pass you and they do not have the covers over the loads, so things fall off trucks and crack windshields and leave a mess on roads. Mr. Penny stated the quarry will probably say it is not their problem, because those are independent contractors and that is why everybody gets away with not accepting responsibility. But they should be responsible for it. He stated when he moved into the area no one told him about these quarries. Mr. Penny stated the blasting occurs during the daytime, anytime.

**Applicant Rebuttal:**

Mr. Cross stated as sometimes happens in this room and at other levels of decision-making municipalities the people in this room are asking this Commission to correct things that are already happening that they are concerned about and that dovetails into the comment that Mr. Charney made about the increase in volume, and it is understandable. He stated the reality is that mining is going to continue to occur in this area for a number of years. This is where future mining is going to be. Mr. Cross stated there is a lot of talk about health

issues, drainage, and things of that nature but there is a permitting process, and this body does not govern mine permits, this body governs land use. He stated this is step one in that process that takes years to go through to get approval to do a mine. Mr. Cross stated this is only part of that process, but it does not represent an immediate increase in mining activity that is governed by the amount of demand for the rock that comes out of this area. The area will be mined when it is necessary, or when it is needed. He stated he does not want anyone to think that Mr. Charney was being disingenuous. He stated he thinks what he meant when he made a statement regarding employment was that it gets lost in this because the discussion understandably is about the mining use, but there is an industrial use along the highway frontage as well and that does include a lot of employment and economic development. Mr. Cross stated he wants to introduce Mr. Randy Wheeler, who is an expert in shocks and monitors the area.

**Randy Wheeler** 1206 S Schifferdecker Ave, Joplin, MO 64801

Mr. Wheeler stated he is the president of White Industrial Seismology in Joplin, Missouri. He stated one of the things he heard early on was somebody said there are more efficient ways to obtain this research and commercial explosives and he can say in 45 years there has not been more efficient ways to attain this resource, or the quarries would be using it. Mr. Wheeler stated if quarries did not have to blast, they probably would not. So that is the most efficient way to recover this resource. He stated as far as explosives go, most people do not realize that in the United States alone, there is approximately 5 billion pounds of commercial explosives used every year for all sorts of things not just for quarries. Mr. Wheeler stated they are used for coal mines and to get copper, gold, and lithium, and for construction projects. He stated explosives are used many times throughout the United States with no insurance whatsoever. And they are heavily regulated and so are the byproducts of the use of commercial explosives, byproducts being vibration and overpressure in the air. Mr. Wheeler stated make no mistake about it those can be felt and as they get farther and farther away from the source, they decrease in intensity by about two thirds for every doubling of the distance. Mr. Wheeler stated The Oklahoma Department of Mines regulates blasting in the state of Oklahoma and the state of Oklahoma has adopted limiting criteria based on the Office of Surface Mining, which is part of the Department of the Interior. He stated there is a huge chasm between what people can feel and what is being limited and when people feel their house vibrating, whether it is from blasting or whatever, they tend to have this feeling that there is damage being caused, and that is not the case. Correlation is not causation. Mr. Wheeler stated if anybody here believes they have damage from the blast the proper procedure is to contact the Oklahoma Department of Mines and have an investigation. The Oklahoma Department of Mines will review the blasting records, the seismograph records and decide when they are done. He stated they monitor every major quarry in this area, we have about 16 systems out monitoring the vibrations that are from blasting.

### **TMAPC Comments:**

Ms. Carr asked if the applicant would meet with the neighbors to discuss the neighbors' concerns.

Mr. Cross stated a few years ago he adopted a strategy of reaching out to everybody who gets notice individually with a letter and he sent them multiple letters initially introducing himself and the original application and then a second letter notifying them that they were amending the original application and the hearing date was changed. He stated he got several phone calls and spoke with several people individually. Mr. Cross stated he finds that neighborhood meetings are not super productive and that it is much more productive for him to be able to speak one on one with the person because what happens in the neighborhood meeting very often is it is a roomful of people who would just like me to change my mind. There is no actual question and answer, it is more about an emotional conversation about just do not doing this.

Ms. Carr asked if in your discussion with people and paperwork, there seems to be some that say they can feel the blasts and you say they cannot. She asked if there had been documents from your trusted team showing that information.

Mr. Cross stated he has a stack of documents he can show to everybody in this room, but they will not know what it says. He stated they have an expert, and he is telling you what it says, and this man is the only person in the room who knows what it says.

Mr. Cross stated he spoke with Ms. Berryhill, and she asked if they had the data and Mr. Cross told her they did but he believed that whatever he gave Ms. Berryhill that she would not believe the documentation. He stated Ms. Berryhill agreed with him.

Mr. Humphrey asked staff to explain the Comprehensive Plan changes.

Staff stated in the County Comprehensive Plan the change is from Rural Residential/Agricultural to Industrial. He stated in the city it is from Regional Center to Employment.

### **TMAPC Action; 8 members present:**

On **MOTION** of **WALKER**, the TMAPC voted 4-3-1 (Craddock, Shivel, Walker, Whitlock, "aye"; Carr, Hood, Humphrey, "nays"; Zalk, "recused"; Bayles, Covey, Krug, "absent") to recommend **APPROVAL** of the IM zoning for Z-7705 per staff recommendation.

### **Legal Description for Z-7705:**

A TRACT OF LAND IN THE NORTH HALF OF SECTION 8, TOWNSHIP 20 NORTH, RANGE 14 EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTH HALF OF SECTION 8; THENCE N88°44'10"E FOR A DISTANCE OF 2442.21 FEET; THENCE S01°15'41"E FOR A DISTANCE OF 59.85 FEET TO THE **POINT OF BEGINNING**; THENCE N88°45'00"E FOR A DISTANCE OF 198.03 FEET; THENCE N01°24' 14"W FOR A DISTANCE OF 10.00 FEET; THENCE N88°44' 11"E FOR A DISTANCE OF 1359.86 FEET; THENCE S88°23'58"E FOR A DISTANCE OF 400.50 FEET; THENCE N88°44'17"E FOR A DISTANCE OF 400.00 FEET; THENCE N77°25'41"E FOR A DISTANCE OF 101.98 FEET; THENCE N88°45'15"E FOR A DISTANCE OF 363.05 FEET TO A POINT ON THE EAST LINE OF THE NE/4 OF SAID SECTION 8; THENCE S01°21'40"E AND ALONG SAID QUARTER SECTION LINE FOR A DISTANCE OF 1802.95 FEET TO THE NORTHERLY LINE OF THE CITY OF TULSA SPAVINAW WATER LINE AND TO THE BEGINNING OF A NON-TANGENT CURVE, SAID CURVE TURNING TO THE LEFT, HAVING THE RADIUS OF 1809.31 FEET, A DISTANCE OF 393.84 FEET, AND WHOSE LONG CHORD BEARS N78°30'19"E FOR A DISTANCE OF 393.07 FEET; THENCE S81°41' 11"W FOR A DISTANCE OF 2398.95 FEET; THENCE S30°20'15"W FOR A DISTANCE OF 47.53 FEET; THENCE S88°39'25"W FOR A DISTANCE OF 2280.52 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF US HIGHWAY 169; THENCE N14°59'05"E AND ALONG SAID RIGHT OF-WAY FOR A DISTANCE OF 973.10 FEET; THENCE N23°13'40"E FOR A DISTANCE OF 334.10 FEET; THENCE N29°05'08"E FOR A DISTANCE OF 701.45 FEET; THENCE N49°12'34"E FOR A DISTANCE OF 470.36 FEET; THENCE N88°44'10"E FOR A DISTANCE OF 320.51 FEET; THENCE N84°09'45"E FOR A DISTANCE OF 501.60 FEET; THENCE N88°45'00"E FOR A DISTANCE OF 153.81 FEET TO THE **POINT OF BEGINNING**; SAID TRACT CONTAINING 213.063 ACRES, MORE OR LESS.

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**11. CZ-543 Nathan Cross** (County) Location: Northeast corner of Highway 169 and East 56<sup>th</sup> Street North requesting rezoning from **AG to IM** to permit Mining and Industrial development (**Related to PUD-867 and TCCP-12**) (Continued from April 19, 2023)

**STAFF RECOMMENDATION:**  
**SECTION I: CZ-543**

**DEVELOPMENT CONCEPT:** The applicant is proposing to rezone from AG to IM to permit mining and industrial development. The applicant is also proposing a PUD overlay to establish uses allowed. The site currently lies within the Rural Residential/Agricultural designation of the Tulsa County Comprehensive Plan. A concurrent application (TCCP-12) has been submitted to amend the Tulsa County Comprehensive Plan for the subject area to Industrial.

IM rezoning and uses should be limited to the portion of the site labeled as "Development Area A" in the attached Exhibit "C" provided by the applicant and limited to those uses permitted by the associated PUD (PUD-867), with the remainder of the subject area to remain AG.

**DETAILED STAFF RECOMMENDATION:**

CZ-543 is non-injurious to surrounding proximate properties if IM zoning is limited to the area designated as Development Area A of PUD-867;

CZ-543 is not consistent with the current land use designation, however the applicant has submitted an amendment to the Tulsa County Comprehensive Plan Amendment, TCCP-12. The applicant has requested revising the land use designation from Rural Residential to Industrial. Staff supports that request as outlined in TCCP-12 therefore,

**Staff recommends Approval of CZ-543 to rezone property from AG to IM as outlined above.**

## **SECTION II: Supporting Documentation**

### RELATIONSHIP TO THE COMPREHENSIVE PLAN:

*Staff Summary: The North Tulsa County area lies north of East 56th Street North and borders the Sperry and Skiatook fencelines on the west, the Collinsville fenceline on the north, and the Owasso Fenceline on the east. There is a separate portion the lies northeast of the Collinsville fenceline. The majority of the North Tulsa County Area was previously included in the North Tulsa County Comprehensive Plan (Cherokee Corridor) as a part of the Tulsa Metropolitan Comprehensive Plan. Public Input North Tulsa County is an area of about 2,100 people and roughly 750 households. The public process began with an area-wide survey which was shared throughout the area. An advisory team was formed and gave valuable information about the community and continued to submit feedback as the Future Land Use map was created for North Tulsa County.*

### Land Use Vision:

*Land Use Plan map designation:*

Rural Residential/Agricultural (Current)

*Land that is sparsely occupied and used primarily for farmland, agricultural uses, and single-family homes on large lots. Residential lots generally range from one-half acre or greater and may use on-site services where public utilities are not available.*

Industrial (proposed by designation in TCCP-12)



*This land use category is designed to accommodate industrial uses as well as wholesaling, warehousing, and distribution facilities, which tend to require large buildings and generate more large-truck traffic than other types of land uses.*

*Areas of Stability and Growth designation: N/A*

Transportation Vision:

*Major Street and Highway Plan: E 56<sup>th</sup> St N is designated as a Secondary Arterial*

*Trail System Master Plan Considerations: A shared path is proposed by the GO plan to be located along the railway that passes through the site. A sidewalk gap is shown along E 56<sup>th</sup> St N*

Small Area Plan: None

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: *The site is currently vacant agricultural land*

Environmental Considerations: A floodplain exists in the portion of the subject area south and east of Bird Creek.

Streets:

Existing Access	MSHP Design	MSHP R/W	Exist. # Lanes
E 56 <sup>th</sup> St N	Secondary Arterial	100 Feet	2

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	AG	Rural Residential/Agricultural	N/A	Vacant
South	AG	Regional	Growth	Vacant/Agricultural

		Center/Employment		
East	AG	Rural Residential/Agricultural	N/A	Vacant/Agricultural/Residential
West	IL/AG	Rural Residential/Agricultural Industrial	N/A	Vacant/Agricultural/Industrial

### SECTION III: Relevant Zoning History

**History: CZ-543 Rel. PUD-867**

**ZONING ORDINANCE:** Ordinance number 11804 dated June 26, 1970, established zoning for the subject property.

***Surrounding Property:***

**CBOA-2628 April 2017:** The Board of Adjustment **approved** a *Use Variance* to permit a dirt pit/mining operation (Use Unit 24) in an IL zoned district, on property located at N. of NW corner of HWY 169 and 56<sup>th</sup> Street N.

**CBOA-1743 June 2000:** The Board of Adjustment **approved** a *Special Exception* to permit a single-wide mobile home in an RS district, on property located at 13716 East 59<sup>th</sup> Street North.

**CBOA-1707 March 2000:** The Board of Adjustment **approved** a *Special Exception* to permit mining/dirt removal in an AG district, on property located at 6100 Block N. 115<sup>th</sup> E. Ave.

**CZ-495 December 2019:** All concurred in **approval** of a request for *rezoning* a 2.72± acre tract of land from RS to AG on property located Northwest of the Northwest corner of East 56<sup>th</sup> Street North & North 145<sup>th</sup> East Avenue.

**BOA-8706 August 1975:** The Board of Adjustment **approved** a *Variance* to permit frontage requirements from 300' to 224' in an AG district, on property located at 6207 North 129<sup>th</sup> East Avenue.

**CBOA-1461 October 1996:** The Board of Adjustment **approved** a *Variance* to permit two dwelling units on one lot of record, on property located at 6322 North 129<sup>th</sup> East Avenue.

**Applicant Comments:**

**David Charney** 200 Cedar Center, Owasso, OK 74055

Mr. Charney stated he and Mr. Cross are representing the applicant. He stated he is not playing attorney here today. Mr. Charney stated luck, or whatever the case may be, has found him at the epicenter of this effort, both because of his long deep Owasso roots that he and his family have, or because of his very strong professional groups that he has with the City of Tulsa and in this particular corridor. He stated he does not want to shy away from it, the Amazon facility, the QuikTrip kitchens facility, the Costco facility, are all on land that his company owned and that they were able to bring to this region. Mr. Charney stated he cares greatly about the City of Owasso and wants things to unfold in the proper way, in a way that is that is consistent with good growth. He stated there are 3 mining operations that exist in the Tulsa area today and they are all 3 located in the subject area because that is where the limestone is. Mr. Charney stated throughout his entire life, there have been applications brought before this board or like boards, whether it is Tulsa County, City of Tulsa, or Rogers County to change the zoning on small tracts but there has not been a real holistic planning effort at the mining concept as there probably should have been many years ago. He stated that what has happened over time is the quarry operations have been encroached upon by residential development and other types of development. Mr. Charney stated that the effort today is to try and bring some future planning that allows them to do wonderful recruitment of good operations, like a Costco or an Amazon and say, here is where the mining is, here is where the mining is not; here is where the mining will grow, here is where it will not grow. He stated he does not have any interest in this application, and he is not an owner. Mr. Charney stated he is here because he is the quarry's largest neighbor. Mr. Charney stated he cares immensely about the corridor along 169 and having good growth in that area and he thinks it is working beautifully with these facilities that are already there and the ones they are recruiting. He stated the question has been asked, will there be increased mining activity as a result of this application. Mr. Charney stated they have all the mining activity that they want. He stated the demand is what the demand is and there is a fixed number of turnings produced every year. Mr. Charney stated they are trying to plan for the future and make certain that mining occurs where it is supposed to. He stated in every quarry operation they would say there is not going to be increased trucks or be increased blast shots. But the market only requests a certain amount of limestone and that is what is produced. So, he disagrees with the thinking that there will be an additional progression of the amount of blasting that is occurring every day because what is occurring now is occurring because the market demands it and that has not fluctuated significantly. Mr. Charney stated the most compelling point from his perspective was when he looked at the means by which they would invest in Stone Canyon and the Patriot golf course right next to a quarry and he was concerned. He stated he empathized that with the folks that were concerned. He stated he did not understand anything about mining but began to learn that it is highly regulated and is subject to a great deal of technological advancements that were not there 40 and 50 years ago. Mr.

Charney stated after studying to make probably the biggest investment in his company's history in a region adjacent to mining operations the development has flourished. He stated whenever the QuikTrip Kitchens distribution plant was underway there were concerns about the mining of the area, he gave them tons of data and their engineers expended the seismology, they studied the Department of Mines regulations, and they looked at it and said they are not bothered by this. Mr. Charney stated Amazon comes along and same question and came to the same conclusion. He stated a Tulsa County District Judge was asked to look at the data before the northernly quarry was to expand. He looked at all the seismometers, looked at the technology, studied the noise surveys and ground vibration surveys and the bottom line was the evidence presented establishes that residential development has voluntarily moved toward the quarries. Mr. Charney stated an independent arbitrator said, the uncontroverted empirical evidence, including seismic readings, decibel level surveys, and the Department of Mines regulations all support the applicant's position that the expansion of the quarry will not be injurious to the neighborhood, or detrimental to public.

**Nathan Cross** 2 W 2<sup>nd</sup> Street, Suite 700, Tulsa, OK 74103

Mr. Cross stated he represents the applicant. He stated as the lawyer in the group, it was his job to keep them on task. Mr. Cross stated what is currently before this Commission on item 10, Z-7705 and item 15, CPA-102, both of which are City of Tulsa applications. It is important that Commissioners understand the staff recommendation in item 15 matches what has already been approved in the Comprehensive Plan. He stated this body does not have the authority to approve mining today on the city applications. Mr. Cross stated that has to go through the Board of Adjustment. He stated the request before this Commission on the city applications is to approve the industrial zoning and the associated Comprehensive Plan Amendment land use change.

**Interested Parties:**

**Kenny Brewster** 6910 N 123 East Avenue, Owasso, OK 74055

Mr. Brewster stated he lives approximately two miles from one of the quarries, and two and a half miles from another. He stated he has invested a lot of time and money in his house that he built 15 years ago. Mr. Brewster stated there is extensive damage to his house from the quarry blasts. He stated as the previous speaker stated the residential area did start moving towards the quarry but that is not the case with today's application, the quarry is moving towards the residential area. Mr. Brewster stated although the quarry wants to expand it and they have that right, they do not have the right to damage the houses and the residents' investment in their houses. He stated he has submitted documents for the Planning Commission to look at seismic activities from January of this year where the blasts register at 39th and Peoria and measures as a 1.4 magnitude earthquake. Mr. Brewster stated but that is not what it has registered at his house. He stated he does not think that the quarry should be expanding and that

if they are going to expand then they should be paying for property damages or buying out in this area.

**John Houston** 15416 E 87<sup>th</sup> Street North, Owasso, OK 74055

Mr. Houston stated he manages the Homeowners Associations and has been speaking with a lot of people around the area. He stated one of the biggest problems he sees is the blasting. There are alternatives to dynamite he has found in his research that are more efficient. Mr. Houston asked what happens to the property when they are done blasting. He stated they keep saying there is going to be lakes, but one of the quarries has been there for 50 years so when is that supposed to happen. Is it 100 years from now or 150 years from now. Mr. Houston stated there needs to be more parameters set up about what they are doing and how they are doing it. He stated before this Commission makes a final decision about changing this zoning, they need to really consider that properties that are not going to have the same value that they should have based upon what is going on in the area.

**Pamela Kirk** 12107 E 70<sup>th</sup> Street North, Owasso, OK 74055

Ms. Kirk thanked the Commission for hearing her concerns and the concerns of her neighbors regarding the quarry expansion application for rezoning and the mining permit for industrial and mining usage. She stated it is a quarry expansion that affects existing homes and existing neighborhoods that are already there. Ms. Kirk stated the hazards posed by rock quarries located in close proximity to residential neighborhoods are well documented by the scientific community as well as the loss of residents. These hazards affect the safety and wellbeing of the community. She stated rock quarries have become a growing concern as they bring about a range of potential dangers both immediate and long term that threaten the health, environment, and overall quality of life for those living nearby. Ms. Kirk stated she lives less than three quarters of a mile from a quarry and can personally attest to many of these hazards. She stated they have to acknowledge that there are immediate dangers the quarries pose to the neighborhoods. Ms. Kirk stated operations involve heavy machinery, explosions, and excavation activities, that generate dust, noise, shock waves and vibrations. Explosions can impact home structures as they can lead to cracks in walls foundation ceilings, the vibrations can affect the stability of home foundations resulting in uneven floors, cracked walls or structural failure. She stated the pressure waves can cause windows and doors to rattle or shatter and all of this can be very disruptive to residents within their homes. Ms. Kirk stated it is important to note that the closer a home is to a quarry, the more significant the structural damage is. She stated her home, and the homes of her neighbors are less than three quarters of a mile from an existing quarry and their homes have already experienced impacts. Ms. Kirk stated they shudder to think both literally and figuratively, what will happen if a new quarry is felt less than a half a mile from them or in the backyards of their homes. She stated other issues of concern are the release of harmful dust particles in the air and the excavation and blasting activities disrupt the natural landscape causing irreversible damage to

ecosystems and local habitats. Ms. Kirk stated there are existing nesting bald eagles in the area that are located next to this expansion and there are a lot of state and local regulations designated to protect these nesting eagles. She stated runoff from quarries can contaminate nearby water sources and there is increased traffic from heavy trucks carrying rocks and materials that contribute to air pollution and poses road safety hazards for residents. Ms. Kirk stated equally important is the long-term impact on property values and economic growth. The precedent of rock quarries in residential areas can lead to a decline in property values, making it harder for homeowners to sell their properties or acquire fair prices and this in turn affects the local economy. She stated it is crucial for local governments and regulatory bodies to prioritize the safety and well-being of their citizens and it is essential for communities to come together to advocate for their safety to raise awareness and engage in open dialogue with local authorities and quarry operators. Ms. Kirk stated in this case since the residential areas are already in place, new quarries should not be located in these residential areas. She stated therefore the rezoning application needs to be denied and all other associated applications also need to be denied.

**Barbara Morrison** 14343 E 56<sup>th</sup> Street North, Owasso, OK 74055

Ms. Morrison stated the Morrison family has resided in this area for 53 years. We were there in that neighborhood long before the quarries. She stated they have remodeled and added on and improved our property to make our home a place we can enjoy. Ms. Morrison stated they have dealt with problems created by mining activity on 46<sup>th</sup> Street North and 66<sup>th</sup> Street North for several years. She stated truck traffic keeps the roads in constant disrepair and high levels of limestone have damaged their home and property from the blasts and extensive car maintenance. Ms. Morrison stated their heat and air filters require constant changing because of the dust and those are just a few of the difficulties they deal with on a daily basis. She stated adding more mining activity to this area would be devastating not only to the residents who live in the immediate area, but also to the environment and to the City of Owasso. Ms. Morrison stated the new proposed mining areas, which are the subject of the rezoning applications, are in close proximity to residential home sites. There is a very narrow buffer between the homes and the mining site. She stated they are concerned about property values for the residents. Ms. Morrison stated mined property can never be used again for commercial or residential development, which does not benefit the future growth of the area. The application states of potential lakes that will be developed which is misleading. The mine area would be allowed to fill with water over time basically become a strip pit. She stated approval of this mining will only benefit the property owner and the mining operator. The area residents should not be subjected to hardships created by additional mines. Ms. Morrison asks that no additional mining be approved.

**Ashley Parks** 5220 N 145<sup>th</sup> East Ave, Owasso, OK 74055

Ms. Parks stated she is surrounded by 3 rock quarries. She stated if this application is approved that will make 4. Ms. Parks stated she bought her home

in 2019 and now her forever home has cracks in the foundation in the walls and broken windows. She stated sometimes the blasts are so hard she holds her breath and waits for something to fall or crumble. Ms. Parks stated not only is this destroying her home, but it is also destroying the roads around her house to the point where you cannot go above 20 miles per hour without busting a tire and needing an alignment. She stated the constant form of dust in the air, on her vehicle and in her house is not good for her current or future health. Ms. Parks stated if this goes through what will it do to the surrounding wildlife. She stated she understands everything revolves around money but at what cost, more homes destroyed, more dust to breathe, and more ugly rock quarries.

**Cindy Holt** 8322 N 124<sup>th</sup> East Place, Owasso, OK 74055

Ms. Holt stated she has lived in the area since 1987. She stated when coming into Owasso right now you see horses and green pastures and after this approval you will see a quarry. Ms. Holt stated the face of Owasso will be impacted as will the animals and the environment. She stated the extraction processes can contaminate air and water with sulfur dioxide and other pollutants, putting wildlife and local populations at risk. Blasting can have extensive adverse environmental impacts, like vibrations, noise, dust, and chemical contamination. She stated it is better to avoid blasting activities in urban areas to protect animal habitats, sensitive historic buildings, water protection zones, pipelines, etc. Ms. Holt stated she believes eventually the quarries will be turned into a landfill and residents will be seeing and smelling that as you come into Owasso. She stated the dust can cause silicosis that is strongly associated with heart disease, stroke, infertility and pregnancy complications and it may cause cancer. Ms. Holt stated it has been said by some that we cannot possibly feel the blast where she lives but that is just not true. She stated she feels it and hears it. Ms. Holt stated she has cracks in her house from it. Ms. Holt stated she is not calling them a liar but come live in one of these houses they are talking about and then you can see it differently.

**Bruce Locke** 7814 N 144<sup>th</sup> East Avenue, Owasso, OK 74055

Mr. Locke stated he is concerned more with the health aspect even though there's property damage. He stated he has not heard anything about any studies regarding the health hazard from the fine dust. Mr. Locke stated he has lived in numerous places in Tulsa County and Rogers County and through his lifetime and have never had the fine grain dust that drifts down especially with prevailing south winds. He stated his grandkids will go out on the patio almost every other day and write their name on the solid surface tabletops and things they have in their backyard. Mr. Locke stated the dust is in their house and there is more dust here than any part of Oklahoma he has lived in. He stated the health hazards are more significant and there should be information presented to the Commission for consideration. Mr. Locke stated that just because mining was preexisting before homes does not mean that they should continue. He stated there were people who lived around coal mining and once the hazard from coal mining was proven they stopped it near residents. Mr. Locke stated if we know there is a health hazard do, we just turn a blind eye to that and say, oh well, that preexists

and there is a big demand for the product. He stated he would like to know the name of the judge who passed judgment, on their health and homes. He stated what authority does he have to say this is okay unless he has lived here and exposed to the dust and blasting damage.

**Ralph Carpenter** 6244 N131 Street East Avenue, Owasso, OK 74055

Mr. Carpenter stated he is opposed to the proposed change. Most of the reasons have been covered already. He stated he wants to add that they do feel the shock blast and they considered that when they built their house seven years ago. Mr. Carpenter stated he also wanted to say that there is a big difference in the tolerance of businesses that have built close to the quarry and the residences that live close to the quarry. He stated the residences have moved closer to the quarry, but the quarry is also moving closer to the houses, and it proposes a lot of health issues and a lot of issues to the value of our property.

**Caiden Catcher** 424 South Delaware Avenue, Tulsa, OK

Mr. Catcher stated his grandparents live in the area. He stated his grandma needs a wheelchair scooter just to walk around and has an oxygen tank because she cannot produce her own oxygen and his grandpa just had heart surgery. Mr. Catcher stated they live close to the quarries. He stated like everyone has said the trucks from the quarry are destroying the roads. Mr. Catcher stated before this plan was updated, they were proposing a quarry 400 feet away from his grandparents' house and they thought nothing about it until the residents opposed it. Mr. Catcher stated this Commission cannot let these quarries be annexed into a residential zoning area when there are people with health conditions that are hurt by these quarries. He stated and for what, more limestone, they already have enough they do not need anymore. Mr. Catcher stated what happens whenever a limestone quarry is finished; it is turned into a trash pile which will lead directly into Bird Creek and the Verdigris River.

**Avery Kelly** 13809 E 60<sup>th</sup> Place, Owasso, OK 74055

Ms. Kelly stated her nana was on oxygen and cannot breathe without it. She stated the dust is bad in her house. Ms. Kelly stated her nana did not require oxygen when she moved into her current house which is near the quarry. She stated also the trucks are making holes in the roads that make it hard to drive on.

**Carol Reeves** 14318 E 58<sup>th</sup> Street North, Owasso, OK 74055

Ms. Reeves stated it has been said that residents have moved closer to the mines, but she did not know about the mines when she bought her house back in 1984. She stated a new mine was put down the hill from her a few years ago in Rogers County that she can feel the blasts and shocks from the new one. The dust causes lots of respiratory issues and diseases. Ms. Reeves stated she does not understand why people do not think about the pollution that this is causing. She stated she is poor and has spent her whole life and money on her house just to have it destroyed more every year.



**Robert Jerome** 18921 E Redfox Trail, Owasso OK 74055

Mr. Jerome stated what is being discussed is rights and when the rights begin and end. He stated the classic definition from being in law enforcement is an individual's rights begin and end where a groups rights begin. He stated group rights end where individual's rights begin. Mr. Jerome stated the quarry wants to impose their right upon everybody else's rights. He stated the plat line that is on the map does not represent what the damage is to everyone's property. Mr. Jerome stated he lives in Nottingham Subdivision and can feel the blast, which is 5 miles away, it is like a small earthquake. He stated the time to expand the quarry was 50 years ago when they realized the value. Because now that people have moved in, their rights need to be considered. Mr. Jerome stated he would request that a study be done by an unbiased opinion to look at an evaluation and study what damage could be done by extending this quarry.

**Dianne Berryhill** 12525 East 84th Street North, Owasso Oklahoma 74055

Ms. Berryhill stated she lives by Owasso High School and has lived in Owasso for 61 years and grew up with Mr. Charney. She stated the things all the speakers have talked about are not just concerns but the reality of what is currently happening on these properties. Their homes are being damaged and therefore, the property will be depreciated in value. Ms. Berryhill stated the people who are in support of this application do not live in Owasso. Another concern is the veterans that suffer from PTSD daily. She stated she was told by Mr. Cross that she could not feel the blasts at her house at by the high school which is 3.5 to 4 miles away from the existing quarry. Ms. Berryhill stated she is not calling him a liar, but he is not being truthful. She stated at 12:15 today, there was a big blast at her house, and it feels like an earthquake, but it is the quarry. The pictures provided by residents show damage done to homes, concrete, and roads. Ms. Berryhill stated there are cracks going up the wall and almost going to the floor at her house. She stated her foundation is cracked; her driveway is cracked. She stated she does not have the money to buy a new home and who is going to want her home. Ms. Berryhill stated on their Facebook page they have collected 505 signatures of people that are against this application and 769 signatures on a petition that was circulated by a resident that went door to door getting names and signatures of people that live in the area that are very much against this.

**Mark Penny** 14103 E 87<sup>th</sup> Street North, Owasso, OK 74055

Mr. Penny stated a few years ago there was a lot of fracking over winter, north of Oklahoma City, causing a lot of earthquakes and she could feel those at her house. He stated the shaking from the blasting is more noticeable than any of those earthquakes. Mr. Penny stated the shaking is very present about four miles away and it shakes the house a lot. He stated he has mortar damage on the outside bricks but cannot prove that it is from this or just normal settling, but he built the house in 2000 and between the time of construction, and the time he moved in a few months later, it was already damaged. Mr. Penny stated there was a comment about an increased employment opportunity and one about no

increased volume because of the demand. These statements contradict each other. He stated if you have more employees, doing the digging and blasting new stuff that will need more trucks hauling the stuff. He stated therefore more volume and more business. Mr. Penny stated the trucks are bad enough and there is insufficient policing of the trucks because not a single one of them obeys the speed limits. He stated there are signs on the back of the trucks that say stay back 200 feet but that is impossible because they pass you and they do not have the covers over the loads, so things fall off trucks and crack windshields and leave a mess on roads. Mr. Penny stated the quarry will probably say it is not their problem, because those are independent contractors and that is why everybody gets away with not accepting responsibility. But they should be responsible for it. He stated when he moved into the area no one told him about these quarries. Mr. Penny stated the blasting occurs during the daytime, anytime.

**Applicant Rebuttal:**

Mr. Cross stated as sometimes happens in this room and at other levels of decision-making municipalities the people in this room are asking this Commission to correct things that are already happening that they are concerned about and that dovetails into the comment that Mr. Charney made about the increase in volume, and it is understandable. He stated the reality is that mining is going to continue to occur in this area for a number of years. This is where future mining is going to be. Mr. Cross stated there is a lot of talk about health issues, drainage, and things of that nature but there is a permitting process, and this body does not govern mine permits, this body governs land use. He stated this is step one in that process that takes years to go through to get approval to do a mine. Mr. Cross stated this is only part of that process, but it does not represent an immediate increase in mining activity that is governed by the amount of demand for the rock that comes out of this area. The area will be mined when it is necessary, or when it is needed. He stated he does not want anyone to think that Mr. Charney was being disingenuous. He stated he thinks what he meant when he made a statement regarding employment was that it gets lost in this because the discussion understandably is about the mining use, but there is an industrial use along the highway frontage as well and that does include a lot of employment and economic development. Mr. Cross stated he wants to introduce Mr. Randy Wheeler, who is an expert in shocks and monitors the area.

**Randy Wheeler** 1206 S Schifferdecker Ave, Joplin, MO 64801

Mr. Wheeler stated he is the president of White Industrial Seismology in Joplin, Missouri. He stated one of the things he heard early on was somebody said there are more efficient ways to obtain this research and commercial explosives and he can say in 45 years there has not been more efficient ways to attain this resource, or the quarries would be using it. Mr. Wheeler stated if quarries did not have to blast, they probably would not. So that is the most efficient way to recover this resource. He stated as far as explosives go, most people do not realize that in the United States alone, there is approximately 5 billion pounds of

commercial explosives used every year for all sorts of things not just for quarries. Mr. Wheeler stated they are used for coal mines and to get copper, gold, and lithium, and for construction projects. He stated explosives are used many times throughout the United States with no insurance whatsoever. And they are heavily regulated and so are the byproducts of the use of commercial explosives, byproducts being vibration and overpressure in the air. Mr. Wheeler stated make no mistake about it those can be felt and as they get farther and farther away from the source, they decrease in intensity by about two thirds for every doubling of the distance. Mr. Wheeler stated The Oklahoma Department of Mines regulates blasting in the state of Oklahoma and the state of Oklahoma has adopted limiting criteria based on the Office of Surface Mining, which is part of the Department of the Interior. He stated there is a huge chasm between what people can feel and what is being limited and when people feel their house vibrating, whether it is from blasting or whatever, they tend to have this feeling that there is damage being caused, and that is not the case. Correlation is not causation. Mr. Wheeler stated if anybody here believes they have damage from the blast the proper procedure is to contact the Oklahoma Department of Mines and have an investigation. The Oklahoma Department of Mines will review the blasting records, the seismograph records and decide when they are done. He stated they monitor every major quarry in this area, we have about 16 systems out monitoring the vibrations that are from blasting.

### **TMAPC Comments:**

Ms. Carr asked if the applicant meet with the neighbors to discuss the neighbors' concerns.

Mr. Cross stated a few years ago he adopted a strategy of reaching out to everybody who gets notice individually with a letter and he sent them multiple letters initially introducing himself and the original application and then a second letter notifying them that they were amending the original application and the hearing date was changed. He stated he got several phone calls and spoke with several people individually. Mr. Cross stated he finds that neighborhood meetings are not super productive and that it is much more productive for him to be able to speak one on one with the person because what happens in the neighborhood meeting very often is it is a roomful of people who would just like me to change my mind. There is no actual question and answer, it is more about an emotional conversation about just do not doing this.

Ms. Carr asked if in your discussion with people and paperwork, there seems to be some that say they can feel the blasts and you say they cannot. She asked if there had been documents from your trusted team showing that information.

Mr. Cross stated he has a stack of documents he can show to everybody in this room, but they will not know what it says. He stated they have an expert, and he is telling you what it says, and this man is the only person in the room who knows what it says.

Mr. Cross stated he spoke with Ms. Berryhill, and she asked if they had data and Mr. Cross told her they did but he believed that whatever he gave Ms. Berryhill that she would not believe the documentation. He stated Ms. Berryhill agreed with him.

Mr. Humphrey asked staff to explain the Comprehensive Plan changes.

Staff stated in the County Comprehensive Plan the change is from Rural Residential/Agricultural to Industrial. He stated in the city it is from Regional Center to Employment.

**TMAPC Action; 8 members present:**

On **MOTION** of **WALKER**, the TMAPC voted 4-3-1 (Craddock, Shivel, Walker, Whitlock, "aye"; Carr, Hood, Humphrey, "nays"; Zalk, "recused"; Bayles, Covey, Krug, "absent") to recommend **APPROVAL** of the IM zoning for CZ-543 per staff recommendation.

**Legal Description for CZ-543:**

**PARCEL 1 EXHIBIT "A" LEGAL DESCRIPTION**

A TRACT OF LAND LYING IN THE SOUTHWEST QUARTER (SW/4) OF SECTION FIVE (5), TOWNSHIP TWENTY (20) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO-WIT:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION FIVE (5); THENCE N88°44'19"E AND ALONG THE SOUTH LINE OF SAID SECTION FIVE (5) FOR A DISTANCE OF 1415.51 FEET; THENCE N01°15'41"W FOR A DISTANCE OF 100.14 FEET TO THE POINT OF BEGINNING; THENCE N58°19'45"W FOR A DISTANCE OF 270.65 FEET; THENCE N12°54'57"W FOR A DISTANCE OF 731.52 FEET; THENCE N01°11'55"W FOR A DISTANCE OF 220.78 FEET; THENCE N88°44'19"E FOR A DISTANCE OF 34.52 FEET; THENCE N41°11'19"E FOR A DISTANCE OF 542.60 FEET; THENCE N49°26'19"E FOR A DISTANCE OF 192.90 FEET; THENCE S38°21'25"E FOR A DISTANCE OF 1157.54 FEET; THENCE S00°00'00"W FOR A DISTANCE OF 185.00 FEET; THENCE S25°22'56"E FOR A DISTANCE OF 382.02 FEET; THENCE S01°37'11"E FOR A DISTANCE OF 190.00 FEET; THENCE S88°45'01"W FOR A DISTANCE OF 153.84 FEET; THENCE N86°41'23"W FOR A DISTANCE OF 501.60 FEET; THENCE S88°44'09"W FOR A DISTANCE OF

372.89 FEET TO THE POINT OF BEGINNING; SAID TRACT CONTAINING 34.70 ACRES MORE OR LESS.

LEGAL DESCRIPTION WAS PREPARED ON JULY 01, 2021 BY CLIFF BENNETT, PLS #1815 WITH THE BEARINGS BASED ON THE SOUTH LINE OF SECTION FIVE (5) AS BEING N88°44' 19"E.

\* \* \* \* \*

**12. PUD-867 Nathan Cross** (County) Location: Northeast corner of Highway 169 and East 56<sup>th</sup> Street North requesting **PUD-867** to permit Mining and Industrial development (**Related to CZ-543 and TCCP-12**) (Continued from April 19, 2023)

**STAFF RECOMMENDATION:**  
**SECTION I: PUD-867**

**DEVELOPMENT CONCEPT:** The applicant is proposing to rezone a portion of the subject tracts from AG to IM with a PUD overlay to permit Industrial and Mining uses. They are proposing two Development Areas in the PUD. Development Area A, as shown on Exhibit C, provided by the applicant, is intended to be rezoned to IM to permit industrial uses in this area, with the exception that "Mining and Mineral Processing" would not be allowed in Development Area A. Development Area B is intended to remain AG zoning, but with the use of "Mining and Mineral Processing" included in the allowable uses. "Mining and Mineral Processing" is a Special Exception use in the AG district but may be allowed as part of a PUD.

Previously, the proposed PUD extended further to the east, beyond Bird Creek. The applicant has revised their request so that the PUD would lie within the area that is bounded to the north and east by Bird Creek.

**DETAILED STAFF RECOMMENDATION:**

PUD-867 is not consistent with the current land use designation, however the applicant has submitted an amendment to the Tulsa County Comprehensive Plan Amendment, TCCP-12. The applicant has requested revising the land use designation from Rural Residential to Industrial. Staff supports that request as outlined in TCCP-12,

PUD-867 is consistent with the anticipated future development pattern of the surrounding property if mining operations are limited as outlined above;

PUD-867 is consistent with the provisions of the PUD chapter of the Tulsa County Zoning Code, therefore;

**Staff recommends Approval of PUD-867.**

**DEVELOPMENT STANDARDS:**

Development Area A:

Permitted Uses: Those Uses allowed by right in the IM district, except Mining and Mineral Processing shall not be allowed.

Development Area B:

Permitted Uses: Those Uses allowed by right in the AG district as well as Mining and Mineral Processing, **limited to the area as illustrated on page 12.9 of this packet.**

All other standards shall be per the Tulsa County Zoning Code for the respective zoning districts.

**SECTION II: Supporting Documentation**

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:**

*Staff Summary: The North Tulsa County area lies north of East 56th Street North and borders the Sperry and Skiatook fencelines on the west, the Collinsville fenceline on the north, and the Owasso Fenceline on the east. There is a separate portion the lies northeast of the Collinsville fenceline. The majority of the North Tulsa County Area was previously included in the North Tulsa County Comprehensive Plan (Cherokee Corridor) as a part of the Tulsa Metropolitan Comprehensive Plan. Public Input North Tulsa County is an area of about 2,100 people and roughly 750 households. The public process began with an area-wide survey which was shared throughout the area. An advisory team was formed and gave valuable information about the community and continued to submit feedback as the Future Land Use map was created for North Tulsa County.*

**Land Use Vision:**

*Land Use Plan map designation:*

Rural Residential/Agricultural (Current)

*Land that is sparsely occupied and used primarily for farmland, agricultural uses, and single-family homes on large lots. Residential lots generally range from one-*

half acre or greater and may use on-site services where public utilities are not available.

Industrial (proposed designation in TCCP-12)

*This land use category is designed to accommodate industrial uses as well as wholesaling, warehousing, and distribution facilities, which tend to require large buildings and generate more large-truck traffic than other types of land uses.*

Areas of Stability and Growth designation: N/A

Transportation Vision:

*Major Street and Highway Plan:* E 56<sup>th</sup> St N is designated as a Secondary Arterial

*Trail System Master Plan Considerations:* A shared path is proposed by the GO plan to be located along the railway that passes through the site. A sidewalk gap is shown along E 56<sup>th</sup> St N

Small Area Plan: None

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: *The site is currently vacant agricultural land*

Environmental Considerations: A floodplain exists in the portion of the subject area south of Bird Creek.

Streets:

Existing Access	MSHP Design	MSHP R/W	Exist. # Lanes
E 56 <sup>th</sup> St N	Secondary Arterial	100 Feet	2

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
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North	AG	Rural Residential/Agricultural	N/A	Vacant/Agricultural/Residential
South	AG	Regional Center/Employment	Growth	Vacant/Agricultural
East	AG	Rural Residential/Agricultural	N/A	Vacant/Agricultural/Residential
West	IL/AG	Rural Residential/Agricultural Industrial	N/A	Vacant/Agricultural/Industrial

**SECTION III: Relevant Zoning History**

**History: CZ-543 Rel. PUD-867**

**ZONING ORDINANCE:** Ordinance number 11804 dated June 26, 1970, established zoning for the subject property.

***Surrounding Property:***

**CBOA-2628 April 2017:** The Board of Adjustment **approved** a *Use Variance* to permit a dirt pit/mining operation (Use Unit 24) in an IL zoned district, on property located at N. of NW corner of HWY 169 and 56<sup>th</sup> Street N.

**CBOA-1743 June 2000:** The Board of Adjustment **approved** a *Special Exception* to permit a single-wide mobile home in an RS district, on property located at 13716 East 59<sup>th</sup> Street North.

**CBOA-1707 March 2000:** The Board of Adjustment **approved** a *Special Exception* to permit mining/dirt removal in an AG district, on property located at 6100 Block N. 115<sup>th</sup> E. Ave.

**CZ-495 December 2019:** All concurred in **approval** of a request for *rezoning* a 2.72± acre tract of land from RS to AG on property located Northwest of the Northwest corner of East 56<sup>th</sup> Street North & North 145<sup>th</sup> East Avenue.

**BOA-8706 August 1975:** The Board of Adjustment **approved** a *Variance* to permit frontage requirements from 300' to 224' in an AG district, on property located at 6207 North 129<sup>th</sup> East Avenue.

**CBOA-1461 October 1996:** The Board of Adjustment **approved** a *Variance* to permit two dwelling units on one lot of record, on property located at 6322 North 129<sup>th</sup> East Avenue.

**TMAPC Action; 8 members present:**



On **MOTION** of **WALKER**, the TMAPC voted 4-3-1 (Craddock, Shivel, Walker, Whitlock, "aye"; Carr, Hood, Humphrey, "nays"; Zalk, "recused"; Bayles, Covey, Krug, "absent") to recommend **APPROVAL** of the PUD major amendment for PUD-867 per staff recommendation.

**Legal Description for PUD-867:**

A TRACT OF LAND LYING IN SECTION FIVE (5), TOWNSHIP TWENTY (20) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION FIVE (5); THENCE N88°44'19"E FOR A DISTANCE OF 1415.51 FEET; THENCE N01°15'41"W FOR A DISTANCE OF 100.14 FEET TO THE POINT OF BEGINNING; THENCE N58°19'45"W FOR A DISTANCE OF 270.65 FEET; THENCE N12°54'57"W FOR A DISTANCE OF 731.52 FEET; THENCE N01°11'55"W FOR A DISTANCE OF 588.20 FEET; THENCE N63°38'21"E FOR A DISTANCE OF 296.56 FEET; THENCE N01°34'43"W FOR A DISTANCE OF 957.27 FEET; THENCE N88°38'00"E FOR A DISTANCE OF 1449.94 FEET; THENCE S80°19'01"E FOR A DISTANCE OF 198.51 FEET; THENCE N63°06'49"E FOR A DISTANCE OF 388.02 FEET; THENCE N21°49'14"E FOR A DISTANCE OF 358.68 FEET; THENCE N03°35'20"W FOR A DISTANCE OF 641.95 FEET; THENCE N48°49'06"E FOR A DISTANCE OF 181.00 FEET; THENCE N87°18'36"E FOR A DISTANCE OF 213.84 FEET; THENCE S72°02'54"E FOR A DISTANCE OF 1191.12 FEET; THENCE S01°52'51"E FOR A DISTANCE OF 190.23 FEET; THENCE S31°26'07"E FOR A DISTANCE OF 735.90 FEET; THENCE S01°37'12"E FOR A DISTANCE OF 2592.18 FEET; THENCE S88°44'17"W FOR A DISTANCE OF 379.16 FEET; THENCE N85°33'05"W FOR A DISTANCE OF 100.50 FEET; THENCE S88°44'17"W FOR A DISTANCE OF 700.00 FEET; THENCE S85°52'32"W FOR A DISTANCE OF 100.12 FEET; THENCE S88°44'17"W FOR A DISTANCE OF 200.00 FEET; THENCE S85°52'32"W FOR A DISTANCE OF 100.12 FEET; THENCE S88°44'17"W FOR A DISTANCE OF 1060.29 FEET; THENCE N01°36'28"W FOR A DISTANCE OF 10.00 FEET; THENCE S88°45'01"W FOR A DISTANCE OF 351.33 FEET; THENCE N86°41'23"W FOR A DISTANCE OF 501.60 FEET; THENCE S88°44'09"W FOR A DISTANCE OF 372.89 FEET TO THE POINT OF BEGINNING; SAID TRACT CONTAINING 281.14 ACRES MORE OR LESS.

\*\*\*\*\*

**PUBLIC HEARING-ZONING CODE AMENDMENTS**

**13. ZCA-23** Consider proposed amendments to the City of Tulsa Zoning Code in the following sections: Chapter 5 Residential Districts: Section 5.030: Lot and Building Regulations-A Table Notes, Chapter 15 Office, Commercial and Industrial Districts: Table 15-2: O, C, and I District Use Regulations, Chapter 30 Legacy Districts: Section 30.010-I.2c, Amendments to Approved Plans, Chapter 35 Building Types and Use Categories: Sec. 35.040-D Day Cares, Chapter 40 Supplemental Use and Building Regulations: Section 40.120: Day Cares, Chapter 45 Accessory Uses and Structures: Sec. 45.070-C and

45.070-D: Family Child Care Homes, Chapter 70 Review and Approval Procedures: Sec. 70.040-I: Amendments to Approved Plans

**STAFF RECOMMENDATION:**

**Item**

**ZCA-23** Consider proposed amendments to the City of Tulsa Zoning Code in the following sections: Chapter 5 Residential Districts: Section 5.030: Lot and Building Regulations-A Table Notes, Chapter 15 Office, Commercial and Industrial Districts: Table 15-2: O, C, and I District Use Regulations, Chapter 30 Legacy Districts: Section 30.010-I.2c, Amendments to Approved Plans, Chapter 35 Building Types and Use Categories: Sec. 35.040-D Day Cares, Chapter 40 Supplemental Use and Building Regulations: Section 40.120: Day Cares, Chapter 45 Accessory Uses and Structures: Sec. 45.070-C and 45.070-D: Family Child Care Homes, Chapter 70 Review and Approval Procedures: Sec. 70.040-I: Amendments to Approved Plans

**Background**

Recently, the need to look more closely at regulations regarding Day Care uses has come to the attention of the Tulsa Planning Office and several City Councilors. The City of Tulsa Zoning Code currently has 3 classifications for Day Care uses:

1. Family Child Care Homes:
  - a. Accessory to an allowed household living use;
  - b. Limited to no more than 7 children;
  - c. Requires operator to reside in the home;
  - d. Must be properly licensed by the State of Oklahoma.
2. (Principal use) Day Cares
  - a. Principal use care of children or adults that requires a special exception in residentially zoned districts;
  - b. Not required to be used for household living (operator is not required to reside in the home);
  - c. Limit on the number of children being cared for is decided by state's formula;
  - d. Requires a minimum of 12,00 square feet of lot size, 100- feet of lot width, and 25-foot setback form abutting R properties.
3. Day Camps
  - a. Serves only schools age children;
  - b. Only operates during regular school vacations for no more than 12 hours a day;
  - c. Requires a minimum lot area one acre in AG, AG-R, RE, and RS zoning districts.

The larger lot requirements for principal use day cares create barriers to opening new day care facilities in repurposed single-family homes in that a variance from the Board of Adjustment (requiring a hardship) is required to vary the lot size requirement.

A proposed solution to this barrier would be an amendment to the Zoning Code to remove the larger lot requirements for principal use day cares while maintaining the requirement for a special exception to locate a principal use day care in a residential zone. (The larger lot size for other special exception uses in residential districts would not be affected.)

The City Council initiated the amendments on November 30, 2022, related to addressing the need for Day Care regulation reform. A community meeting was held at Rudisill Library in North Tulsa on February 9, 2023 and a virtual meeting was held to discuss this topic on March 23rd, 2023.

During the two public hearings and through communications received from day care operators there is overwhelming support for removing the Special Exception requirement for Principal Use Day Cares in R districts. The current draft removes lot and area requirement for day care uses to make it easier to get approved; however, the current draft does maintain a Special Exception requirement in residential zoning districts if no one lives on site. Day care uses that are not used a residence are encouraged to locate to a property with the appropriate zoning by right (Office, Commercial, Mixed-use etc.). In the event they would like to locate inside a Residential district the threshold for granting a Special Exception would be the following: the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to a lack of affordable childcare, the city also experiences a lack of affordable housing. The majority of these requests are approved at the Board of Adjustment; however, maintaining the need for a Special Exception balance those interests in so much as it preserves existing housing stock for residential purposes and allows a simplified path for day care operator to receive a Special Exception when appropriate without additional lot requirements.

Planning staff presented the proposal to Planning Commission at a March 22, 2023 TMAPC Work Session.

**Staff recommendation:**

Approval of proposed amendments to the City of Tulsa Zoning Code as shown in the attachment.

**Interested Parties:**

**Cindy Decker** 2216 E 26<sup>th</sup> Place, Tulsa, OK 74114

Ms. Decker stated she is Executive Director of Tulsa Educare and a Tulsa educator. She stated Tulsa Educare elevates the quality of early childhood

education. Ms. Decker stated they are most known for their early childhood schools for children under five that reside in under resourced communities which is Educare's focus. But they also partner with about 100 childcare providers across the city helping to lift up their quality and that is why she is here today, because she cares about the larger ecosystem in Tulsa of accessible, affordable, and quality childcare for children. Ms. Decker stated If we have childcare, people can go to work. And that is important for our community, but it also supports children and their development. She stated children in childcare are more likely to reach their developmental milestones and then be kindergarten ready. Ms. Decker stated it can decrease costs later because a child is less likely to need special education services or to be retained in grade. She stated Tulsa does not have enough childcare providers and is considered a childcare desert by a national group called the Center for American Progress. As staff mentioned, there is a state license and two types of providers. Ms. Decker stated the first type is center based so that's often-what people know the most about. But she is here today talking about family childcare homes. She stated there are 246 state licensed family childcare homes here in Tulsa, meeting all the state requirements, and there are a lot of requirements. Ms. Decker stated, along with the pages of requirements on family childcare homes via our state, each home is visited three times a year unexpectedly. She stated the City of Tulsa also regulates family childcare homes and she did not know that till recently and she has been working in childcare since 2006. Ms. Decker stated, as we know, regulations do limit a business's ability to operate because it takes time, it takes money, and it takes a lot of smarts to navigate the system. She stated many of the homes are not in compliance right now, for a variety of reasons and Tulsa Educare is working hard with all of their partners to professionalize this field. Ms. Decker stated they want them in compliance with city rules and they want to follow city rules and they are all working to figure out what makes sense. She stated the current city code is very restrictive to family childcare homes and as she already mentioned, many are not meeting these requirements. She stated very few are permitted. Ms. Decker stated she applauds the Tulsa Planning Office for working on this modification. She stated she also applauds the City Council for voting to allow the Planning Office to work on the proposal being presented today. Ms. Decker stated there is so much to celebrate in the proposal but there are two things Ms. Decker would like the Planning Commission to think about. She stated the first issue is when the owner does not live in the family childcare home. She stated this proposal today would require that the owner request a Special Exception to be considered a daycare and there are some lot size and lot requirements. Ms. Decker stated they estimate 26% of existing family childcare homes today fall into this category where the owner does not live there. She stated these are often small homes and that is why they do not live there and work. She stated these homes are often less than 2000 square feet, and they are often in areas where there is not a lot of housing demand, so they were not that expensive. Ms. Decker stated that is also why providers are able to own their own home and another home where they operate their business. She stated they are not impacting the housing availability in the city because where they are

located a lot of homes are empty and available for others who would want to live there. Ms. Decker stated she has a few questions for staff. She asked about how many of the homes where the owner does not live do not meet the lot size and lot width requirements. She stated she is concerned for them because they would have to ask for a variance in addition to the special exception and are at an exceedingly high risk of being denied and there is no pathway to being legally compliant in the city. Ms. Decker stated she also worries about the homes that are approved as special exception needing to meet the commercial building code. She stated that is a particularly important piece to clarify, because that is too expensive and very silly for a home that's 2000 square feet.

Mr. Walker asked if Ms. Decker worked with Staff on these amendments.

Ms. Decker stated "yes" she has been in communication with staff.

Mr. Walker asked if an owner does not live there is a renter the daycare provider.

Ms. Decker stated no one lives there. It is just a home that is a business during the day where they serve kids. She stated no one's sleeping there and there are questions about what it means to live there, because there are people there often for 12 hours of the day.

Mr. Walker asked if Ms. Decker supported the amendments.

Ms. Decker stated she is good with a lot of the plan except for the piece about needing a special exception if the provider does not live in the house and the rule that daycare homes cannot be within 300 feet of one another. She stated they estimate about 40 are within 300 feet of one another.

Mr. Zalk asked what Ms. Decker means when she said that homes are in areas that do not have a housing demand.

Ms. Decker stated there are a lot of vacancy in these areas. She stated most of these homes are in North Tulsa and there are a lot of boarded up homes all around the area where these family childcare homes are operated. Ms. Decker stated these providers are making the homes beautiful, safer and they care for the children, which is extremely important.

**Mattece Mason** 1945 East 26th Place North Tulsa, Oklahoma 74110

Ms. Mason stated she is the Director of a Daycare Center. She stated she is very thankful for the consideration of these amendments concerning family childcare homes in this city. She stated they appreciate our city supporting them thus far. Ms. Mason stated the City Council and this Commission have risen to the challenge and far exceeded our expectations. She stated in an effort to raise consciousness and remedy this issue they must be mindful and careful not to place further obstacles in the way of the ordinance changes. Ms. Mason stated it

is to halt the exacerbated situation of a childcare desert, the conditions that are plaguing our community, and ensuring fortification of this city's ability to care for its children and its future. She stated municipality's ability to care for and nurture each children are a mark of a great society. The state has already set very rigorous standards of care to maintain the safety and quality of childcare in our homes and other mandates pose a risk of being superfluous and burdensome. Ms. Mason stated she has been asking over and over what is the definition of living in a home. She stated the reason she asked that question is because the providers are there a minimum of 12 hours. Ms. Mason stated in most cases, the providers participate in revitalizing the area, and upgrading the property, making long term use of the homes that in many cases would have been vacant or dilapidated. She stated there are about 60, and that is on the lower end, childcare home providers that do not live overnight in the home. She stated that represents a potential of 12 children per site and that is over 720 children that have safe care. But that is being put at risk if we do not get this code rectified. Ms. Mason stated what is the rationale of the statute about having to live in the home. She stated a family childcare home is not a deterrent to anyone or any community. In fact, most laws prevent delinquency in the circumference of children. She stated normal circumstances that prevent the degradation in the community do not apply and should not apply to these homes because they do not qualify, and it is a moot point. Ms. Mason stated there will always be a restriction on the number of children allowed in a daycare therefore the 300-foot rule does not matter because it is not going to increase traffic, they are going to be restricted to 12 children. She stated the special exception process only limits the possibility of our community to be able to provide safe protected and private spaces for our children to be cared for. Ms. Mason stated that the process is restricted and quite honestly unevenly administered in a lot of cases. It is costly and unnecessary sometimes and since there does not seem to be a clear fair path of gaining special exceptions, they are requesting that it be removed for this situation.

Mr. Craddock asked what the location of Ms. Mason's facility was.

Ms. Mason said she is a Daycare Center in North Tulsa off of Apache between Peoria and Lewis.

Mr. Craddock stated one of the changes in this proposal is the outdoor play area not located in the street yard.

Ms. Mason stated they are happy with that change it was a good compromise and staff worked with them on that.

**Jacqueline Evans** 644 E Marshall St. Tulsa, Oklahoma 74116

Ms. Evans stated she does not have a fence in the front yard and does not agree with the fencing in the front because we have parents that need to come in and see their children. She stated she has been in childcare for over 43 years and

has been in a daycare home for over 23 years. Ms. Evans stated she has determined throughout these years family childcare matters. She stated because they are limited to 12 children some of the providers do live in the homes or buy another home. Ms. Evans stated if she had it to do again, she would have bought a home and had her daycare there. She stated she has her children in a 24 by 24 space with the bathroom but with a separate home there would be more space to do arts and crafts, yoga, and all kinds of things. Ms. Evans stated if they need to go back to the City Council to address this matter, they should do that.

Mr. Walker asked if staff looked at Ms. Decker's 2 concerns.

Staff stated the first item is that many of the homes do not currently conform to the lot area regulations. He stated in the Zoning Code that is called nonconformity. He stated that is when the zoning was applied on top of the residential districts, and they do not currently meet the new regulations. Staff stated that is already currently addressed. He stated in the Zoning Code you are allowed to use those buildings for an approved use so if they went through the special exception process, they would be able to use those houses without needing the variances. He stated it would only be an issue if they build a brand-new center. Staff stated he thinks that it would be pretty rare in those instances that they are going to build a new structure for a 12-person daycare but generally speaking, it is already covered, and they are nonconforming.

Mr. Zalk asked if the staff was aware of any special exceptions that have not been granted for that use.

Staff stated in terms of research going back to 2008 to the current there were eight cases for a daycare use in residential and only one of those did not get approved and that was because the applicant withdrew the case before a final decision was rendered. He stated most of those were not single-family homes but were churches or schools that just happen to be zoned residential or they were adding that use.

Mr. Zalk asked if the process for special exception is cumbersome or expensive, or confusing or anything else that would otherwise disenfranchised.

Staff stated that the question is subjective in the sense that if someone calls the Planning Office, they can easily walk an applicant through that process. He stated at the point that applicants are getting conflicting regulations from different organizations he would agree that it could be a process that can be confusing. Staff stated the other portion of that is any nonresidential use inside of a residential district such as a school, a church, a government organization is required to go through a special exception process. He stated as far as staff recommendation in this amendment the vast majority will be able to get through the process, with solely a special exception without the variances. Staff stated in the second part that Ms. Decker mentioned the 300-foot spacing requirement. He

stated in a block on the same side of the street it is not permitted to have a family childcare home within 300 feet of another. He stated they would have to look through on a case-by-case basis to see when licenses were actually granted as far as removing a special exception. Staff stated removing that requirement is outside the scope of what the City Council asked staff to do. He stated while it might be worthwhile to explore that, it really needs to be initiated by the City Council. They need to tell staff to get rid of the special exception requirement and redefine a family childcare home.

Ms. Carr asked if the 300 feet requirement is already in the zoning code if there's daycares operating, they are violating this requirement.

Staff stated he is reluctant to say that without looking at it on a case-by-case basis because he does not know what the licensing history is on each of those properties and there is a possibility that they had a license before there was a zoning code.

Mr. Hood would like to make a motion to approve but would also like to ask that staff look into some of the other issues that were brought up today.

Staff stated the City Council a lot of times initiates things for Staff, but Planning Commission also has that authority.

Mr. Hood stated he would make a recommendation for Staff to place on the agenda an initiation to revisit the proposal regarding the daycare homes going through the special exception process and to not live in your home to use it as a home daycare and the rule requiring the spacing between home daycares.

**TMAPC Action; 8 members present:**

On **MOTION** of **ZALK**, the TMAPC voted 8-0-0 (Carr, Craddock, Hood, Humphrey, Shivel, Walker, Whitlock, Zalk, "aye"; no "nays"; none "abstaining"; Bayles, Covey, Krug, "absent") to recommend **ADOPTION** of ZCA-23 per staff recommendation as shown in the attachment of the staff report.

Mr. Humphrey left at 3:48pm.

\* \* \* \* \*

**14. ZCA-24** Consider proposed amendment of Chapter 20 of the Zoning Code (Overlay Districts), adding Section 20.100, to establish the regulations of a special area overlay district to be titled "Neighborhood Infill Overlay-2" ("NIO-2"), for properties which may subsequently be supplementally rezoned to NIO-2.



## **STAFF RECOMMENDATION:**

### **Item**

**ZCA-24** Consider proposed amendment of Chapter 20 of the Zoning Code (Overlay Districts), adding Section 20.100, to establish the regulations of a special area overlay district to be titled “Neighborhood Infill Overlay-2” (“NIO-2”), for properties which may subsequently be supplementally rezoned to NIO-2.

### **Background**

In 2022, the City Council adopted a Neighborhood Infill Overlay for several neighborhoods near downtown in order to address the need for “Missing Middle” Housing typologies. Missing Middle housing typologies are often similar in size to a detached house but have additional units: duplexes, multi-unit houses, townhouses, and even small-scale apartments. Councilor Patrick has expressed the desire for a similar overlay in the Dawson Neighborhood with some modifications, most notably to allow manufactured homes by right and to preserve the current parking requirements of the zoning code.

City of Tulsa Zoning Code in Section 20.010 states: "As the name implies, overlay districts 'over-ly' applicable base zoning district classifications to alter some or all of the base zoning district regulations that apply to particular sites. Overlay zoning districts work to modify or supplement the regulations imposed by the base zoning district when necessary to address special situations or accomplish specific city goals. Overlay zoning is intended to be used when the base zoning district applied to an area remains generally appropriate, but when an additional, modified or eliminated requirement could help implement the city's planning goals or address an area-specific planning, design, or land use regulations issue."

The first step in adopting the overlay would be to amend the zoning code to establish the regulations of the overlay. Subsequently, to apply the overlay to the Dawson Neighborhood, a zoning map amendment would be adopted, establishing the boundaries of the overlay zoning.

City Council has initiated a text amendment to the City of Tulsa Zoning Code to establish the Neighborhood Infill Overlay and a zoning map amendment to apply the overlay to Dawson Neighborhood on February 22, 2023 (See attached maps). Planning staff presented the proposal to Planning Commission at a March 22, 2023 TMAPC Work Session.

A Dawson neighborhood meeting will be held on March 29, 2023 with Councilor Christa Patrick and members of the neighborhood at the Dawson Park Community Center to discuss the proposed overlay.

### **Staff recommendation**

Approval of proposed amendments to the City of Tulsa Zoning Code as shown in the attachment.

**TMAPC Comments:**

Mr. Craddock asked what the general consensus of the neighborhood meeting about manufactured housing was.

Staff stated the opposition came to the idea of RV's and that is not what the amendment was about. He stated it was manufactured homes. Staff stated the biggest concern was to make sure they were skirted and on a permanent foundation.

Mr. Humphrey asked how many people were at the meeting.

Staff stated about 40 to 50. She stated there were several people who had mobile homes that were not in parks. Staff stated that is the environment that exists in Dawson.

Mr. Shivel stated recently there was an application for City lights that prohibited manufactured homes. He asked if this was separate from that.

Staff stated "yes", that was a preliminary plat on a property already zoned residential multi-family 2. He stated the Planning Commission did not take any action on what type of housing would be allowed.

Mr. Humphrey left at 3:43 pm.

**TMAPC Action; 7 members present:**

On **MOTION** of **WALKER**, the TMAPC voted 5-2-0 (Carr, Hood, Shivel, Walker, Zalk, "aye"; Craddock, Whitlock, "nays"; none "abstaining"; Bayles, Covey, Humphrey, Krug, "absent") to recommend **ADOPTION** of ZCA-24 per staff recommendation as shown in the attachment of the staff report.

Items 15 and 16 require 6 affirmative votes for approval. Both motions failed.

**PUBLIC HEARING-COMPREHENSIVE PLAN AMENDMENTS**

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

- 15. CPA-102 Nathan Cross** (CD 3) Location: South of the southeast corner of Highway 169 and East 56<sup>th</sup> Street North requesting to amend the Land Use Map designation from **Regional Center** to **Employment (Related to Z-7705)** (Continued from April 19, 2023)

## **STAFF RECOMMENDATION:**

### **Property Information and Land Use Request**

The subject property is approximately 200.97± acres of unplatted land located southeast of the intersection of Highway 169 and East 56<sup>th</sup> Street North. The applicant has submitted the following Comprehensive Plan amendment request to amend the land use designation of the of the subject property from *Regional Center* to *Employment*. This request is accompanied by a concurrent rezoning request (Z-7705), which proposes a zoning change on the subject tract from AG to IM in order to allow all industrial uses that may be allowed in an IM district. The applicant has provided conceptual plans for a mining operation that will require board of adjustment approval of a special exception for that use. The zoning code and the comprehensive plan for the City of Tulsa does not currently identify specific locations for mining operations. However, the underlying limestone formation is being excavated, processed, and shipped east and south of the subject tract. It is reasonable to expect continued expansion of quarry operations where the stone is high quality and plentiful. The previous comprehensive plan did not recognize the location of the stone resource in its regional center land use designation.

### **Background**

The Land Use and Area of Stability or Growth designations for the subject property were made in 2010 with the adoption of the 2010 Tulsa Comprehensive Plan. At this time, the subject property was assigned a Land Use designation of *Regional Center* and an Area of Stability or Growth designation of *Area of Growth*. As there are no other plans that cover this area that offer land use recommendations, the 2010 Tulsa Comprehensive Plan solely provides guidance regarding land use for this area.

The parcel subject to this Comprehensive Plan amendment request is located within the area in the north of the City of Tulsa. The parcel abuts AG (Agricultural) zoning to the north and east. A concurrent rezoning and comprehensive plan amendment are being pursued by the same applicant and property owner on property zoned for Agricultural to the north of East 56<sup>th</sup> Street North (CZ-543, PUD-867, and TCCP-12). To the West is Highway 169 which has IL (Industrial) directly across from the subject property and IH (Industrial High) zoning further to the west. West across Highway 169, east adjacent to the subject property and southeast of the subject property has a Land Use designation of *Employment* and *Area of Growth*. Directly south of the subject property, below 50<sup>th</sup> Street North, is owned by the same property owner and is designated as *Regional Center*, and some of that property is already zoned for Moderate and High Industrial already. The Major Street and Highway Plan designates East 56<sup>th</sup> Street North as a Secondary Arterial. North 121<sup>st</sup> Avenue East and 50<sup>th</sup> Street North are not classified by the Major Street and Highway Plan.

### **Existing Land Use and Growth Designations**

A *Regional Center* land use designation was assigned to the area subject to the amendment request at the time of the adoption of the Tulsa Comprehensive Plan in 2010:

The *Regional Center* designation is defined in the Tulsa Comprehensive Plan as mid-rise mixed-use areas for large scale employment, retail, and civic or educational uses. These areas attract workers and visitors from around the region and are key transit hubs; station areas can include housing, retail, entertainment, and other amenities. Automobile parking is provided on-street and in shared lots.

### **Proposed Land Use and Growth Designations (Tulsa Comprehensive Plan)**

The applicant is proposing the *Employment* land use designation for the entirety of the subject property:

The *Employment* designation is defined in the Tulsa Comprehensive Plan as areas containing office, warehousing, light manufacturing, and high tech uses such as clean manufacturing or information technology. Sometimes big-box retail or warehouse retail clubs are found in these areas. These areas are distinguished from mixed-use centers in that they have few residences and typically have more extensive commercial activity. Employment areas require access to major arterials or interstates. Those areas, with manufacturing and warehousing uses must be able to accommodate extensive truck traffic, and rail in some instances.

The area surrounding the subject property to the south, west and east has largely industrial or agricultural zoning with an *Employment* or *Regional Center* land use designations. The subject property (along with the concurrent rezoning in North Tulsa County) would extend the industrial zones from the south and west along Highway 169. Rezoning the subject area to *Industrial* with a land use designation of *Employment* would not be inconsistent with the development already occurring in the vicinity.

### **Zoning and Surrounding Uses**

This application is concurrent with a county zoning map amendment (CZ-543 and PUD-867) and Tulsa County Comprehensive Plan amendment (TCCP-12) within the area of North Tulsa County on the property to the north by the same applicant and owner.

<b>Location</b>	<b>Existing Zoning</b>	<b>Existing Land Use Designation</b>	<b>Existing Use</b>
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N	AG	Agricultural/Rural Residential	Vacant/Agricultural
S	AG/IM/IH	Regional Center/Employment	Vacant/Agricultural/Industrial
E	AG	Employment	Vacant/Agricultural
W	IL	Employment	Vacant/Agricultural

### **Applicant’s Justification**

As part of the amendment application, the applicant is asked to justify their amendment request. Specifically, they are asked to provide a written justification to address:

1. How conditions on the subject site have changed, as well as those on adjacent properties and immediate area;
2. How changes have impacted the subject site to warrant the proposed amendment; and;
3. How the proposed change will enhance the surrounding area and the City of Tulsa.

The applicant submitted the following responses:

#### **History**

The property at issue in this request (the “Subject Property”) is part of the small remaining undeveloped property in north Tulsa that has been primarily vacant since statehood. For 50 years, the Subject Property has been a working ranch owned by the Oxley family. No significant development has occurred on the Subject Property.

#### **Mining**

At some point in the distant past, a rich vein of limestone was discovered in and around the Subject Property and in parts of northern Tulsa County. After that discovery, mining operations began to grow in the area. Currently, there are 3 active mining operations within roughly a two-mile radius of the Subject Property. As such, this portion of Tulsa County has become a significant source of regional limestone for use in construction. These mining activities have been further bolstered by increased demand due to depletion of other mining resources in the area to the point that this area of Tulsa is now the primary provider of limestone for construction in Tulsa and Oklahoma City as well as other places within the region.

## Comprehensive Plan

The Applicant believes that the history of agricultural use of the Subject Property combined with more general overall planning ideas led to the current land use classification of "Regional Center" being overlayed onto the Subject Property without detailed investigation of the uses in the area. As stated above, mining is one of the largest uses of land in this area of Tulsa. The limestone under the Subject Property and surrounding areas is a rare natural resource that is in high demand. Further, at no point has anyone approached the owner of the Subject Property with any questions about historical or future uses of the Subject Property or development patterns in the area for purposes of Comprehensive Plan designation identification or planning purposes. As such, the Applicant feels that the combination of the large amount of mining operations in the area and the location of a rare and necessary natural resource dictates that the Subject Property should be designated as an "Employment" land use consistent with the large swaths of adjacent property that contain mining operations. The Applicant proposes to follow this application with a request to rezone the Subject Property from AG to IM to accommodate mining as well as industrial uses along the frontage of Highway 169 for future commercial development of that highway corridor.

## Staff Summary & Recommendation

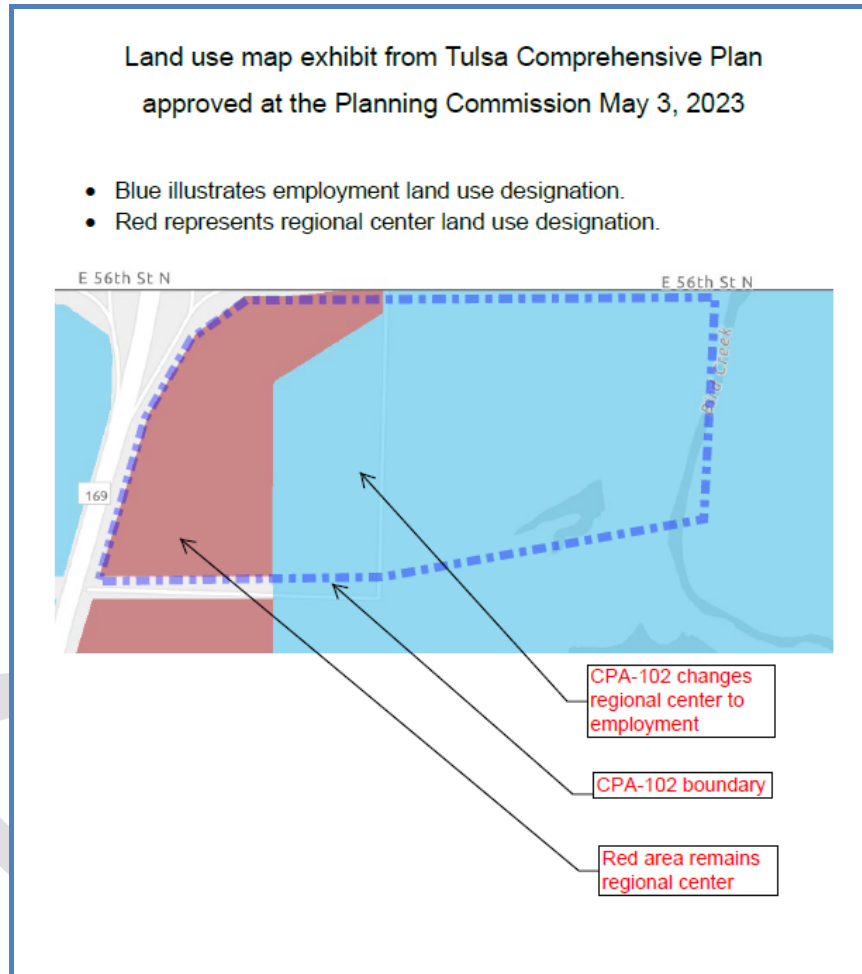
The applicant is requesting an amendment to the land use designation from *Regional Center* to *Employment*. *Employment* areas require access to major arterials or interstates. Those areas, with manufacturing and warehousing uses, must be able to accommodate extensive truck traffic and rail in some instances. The applicant has submitted a concurrent request to rezone the property from Agriculture (AG) to Industrial Moderate (IM). If approved, the proposed rezoning would allow for the utilization of this currently underutilized property for industrial and mining.

This site was included in the Tulsa Comprehensive Plan that was adopted in 2010 as *Regional Center*. Changing the land use designation to *Employment* will still provide new employment opportunities in this area of North Tulsa in a pattern that is consistent with development in the area. The proposed rezoning associated with this comprehensive plan amendment will increase an opportunity for industrial development with access along Highway 169 in an area where many such uses are already present. The existing industrial zone located on the east and west of Highway 169 extending several miles to the south has provided employment and manufacturing jobs for the north of the City of Tulsa and this land use change opens an opportunity to use the existing highway and utility infrastructure in the area for further industrial development.

The Tulsa Metropolitan Area Planning Commission unanimously adopted an update to the Tulsa Comprehensive Plan May 3rd, 2023. The public meetings notices, maps, and references in this report were completed before Planning Commission adoption of the

plan update. As of the writing of this staff report (3/11/2023), the City Council has not approved the updated plan, but this request is consistent with the existing and the amended comprehensive plan. The City Council is expected to vote on the updated Comprehensive Plan after this zoning has been reviewed at the Planning Commission.

Staff recommends **approval** of the *Employment* land use designation not as shown in CPA-102 but only as illustrated in the Land Use maps of the plan that was recently adopted by the Planning Commission. Refer to illustration below for staff recommendation.



The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

**TMAPC Action; 8 members present:**

On **MOTION** of **WALKER**, the TMAPC voted 4-3-1 (Craddock, Shivel, Walker, Whitlock, "aye"; Carr, Hood, Humphrey, "nays"; Zalk, "recused"; Bayles, Covey, Krug, "absent") to **ADOPT** CPA-102 as an amendment to the Tulsa

Comprehensive Plan per staff recommendation. Lacking the 6 affirmative votes required for approval, this item failed.

**16. TCCP-12 Nathan Cross** (County) Location: North of the northeast corner of Highway 169 and East 56<sup>th</sup> Street North requesting rezoning from **Rural Residential/Agricultural to Industrial (related to CZ-543 and PUD-867)**  
(Continued from April 19, 2023)

### **STAFF RECOMMENDATION:**

#### **Property Information and Land Use Request**

The subject property is approximately 225 +/- acre unplatted tract of land located northeast of the intersection of Highway 169 and East 56<sup>th</sup> Street North and in the Unincorporated area of Tulsa County. The applicant has submitted the following Comprehensive Plan amendment request to amend the land use designation of the of the subject property from *Rural Residential/ Agricultural to Industrial*. This request is accompanied by concurrent rezoning requests (CZ-543 and PUD-867), proposing a zoning change on a portion of the subject tract from AG to IM in order to allow industrial uses and an area for limestone mining.

#### **Background**

The parcels subject to this Comprehensive Plan amendment request are located within the area of North Tulsa County. The subject tract is irregular in shape and largely abut AG (Agricultural) zoning to the north, south, and west. To the West is Highway 169 which has a mix of Industrial and Agricultural zoning further to the west. The Major Street and Highway Plan designates East 56<sup>th</sup> Street North, East 66<sup>th</sup> Street North, and North 145<sup>th</sup> Avenue East as Secondary Arterials. The Major Street and Highway Plan calls for a north/south Residential Collector Street through the east side of the subject property with another Residential Collector extending from the above mentioned north/south collector going east to North 145<sup>th</sup> Avenue East.

The land use of the subject property was designated as Rural Residential/Agricultural in the Tulsa County Comprehensive Land Use Plan, which was adopted November 18, 2020, (Resolution 2830:1020) by Tulsa Metropolitan Area Planning Commission and approved by the Board of County Commissioners on December 7, 2020.

#### **Existing Land Use Designation (Tulsa County Comprehensive Land Use Plan)**

The **Rural Residential/ Agricultural** designation is defined in the Tulsa County Comprehensive Land Use Plan as follows: land that is sparsely occupied and used primarily for farmland, agricultural uses, and single-family homes on large



lots. Residential lots generally range from one-half acre or greater and may use on-site services where public utilities are not available.

**Proposed Land Use Designation (Tulsa County Comprehensive Land Use Plan)**

The applicant is proposing the **Industrial** land use designation for the entirety of the subject property:

The **Industrial** designation is defined in the Tulsa County Land Use Plan as follows: The Industrial land use category is designed to accommodate industrial uses as well as wholesaling, warehousing, and distribution facilities, which tend to require large buildings and generate more large-truck traffic than other types of land uses.

The area surrounding the subject property has only agricultural zoning with a Rural Residential/Agricultural land use designation. However, the parcels (along with the concurrent rezoning within the City of Tulsa to the south of the subject property) make up a significant chunk of that Agricultural zone between the fence line of the City of Owasso to the north and Industrial zoning that extends south for several miles on both the east and west sides of Highway 169. Rezoning of some portion of the subject area to Industrial would not be inconsistent with development already occurring in the vicinity.

**Zoning and Surrounding Uses**

This application is concurrent with a zoning map amendment (Z-7705) and comprehensive plan amendment (CPA-102) within the City of Tulsa on the property to the south by the same applicant.

Location	Existing Zoning	Existing Land Use Designation	Existing Use
N	AG	Agricultural/Rural Residential	Vacant/Agricultural/Residential
S	AG	Employment/Regional Center	Vacant/Agricultural
E	AG/RS	Agricultural	Vacant/Agricultural/Residential
W	AG/IL	Agricultural	Vacant/Agricultural/Industrial

**Applicant’s Justification**

As part of the amendment application, the applicant is asked to justify their amendment request. Specifically, they are asked to provide a written justification to address:

1. How conditions on the subject site have changed, as well as those on adjacent properties and immediate area.
2. How changes have impacted the subject site to warrant the proposed amendment.
3. How the proposed change will enhance the surrounding area and Tulsa County.

The applicant submitted the following responses:

### **History**

The property at issue in this request (the "Subject Property") is part of the small remaining undeveloped property in north Tulsa that has been primarily vacant since statehood. For 50 years, the Subject Property has been a working ranch owned by the Oxley family. No significant development has occurred on the Subject Property.

### **Mining**

At some point in the distant past, a rich vein of limestone was discovered in and around the Subject Property and in parts of northern Tulsa County. After that discovery, mining operations began to grow in the area. Currently, there are 3 active mining operations within roughly a two-mile radius of the Subject Property. As such, this portion of Tulsa County has become a significant source of regional limestone for use in construction. These mining activities have been further bolstered by increased demand due to depletion of other mining resources in the area to the point that this area of Tulsa is now the primary provider of limestone for construction in Tulsa and Oklahoma City as well as other places within the region.

### **Rezoning Request**

As stated above, mining is one of the largest uses of land in this area of Tulsa County. In addition to the rich limestone in the area, the Subject Property fronts onto Highway 169. The east side of Highway 169 in this area has rapidly developed into an industrial/warehousing corridor ripe for continued development with large-scale commercial activities. The owner of the Subject Property proposes to rezone the Subject Property to IM to accommodate future uses along the Highway 169 corridor as well as establish underlying zoning to accommodate mining operations on the balance of the Subject Property.

### **PUD Request**

The proposed mining use referenced above is allowed by right within IM, IH and AG Districts under the Tulsa County Zoning Code. As the Subject Property is to be partial used for moderate industrial uses along the Highway 169 corridor and

frontage, the Applicant proposes a PUD to allow the additional use of “Mining and Mineral Processing” in only the areas located within Development Area B depicted on Exhibit “C” with Development Area A limited to IM uses without the Mining and Mineral Processing use. All other portions of the Subject Property will remain zoned AG without any additional development standards. The applicant does not propose any other amendments to the allowed uses and development standards of the IM zoning district. This request represents the minimal amount of relief necessary to accomplish the proposed uses outlined in this application. As referenced above, the proposed PUD would allow for additional access to a vital natural resource that is necessary for construction in Oklahoma as well as continued warehouse and similar industrial uses along the Highway 169 frontage consistent with other developments already in progress and completed (such as Costco).

### **Staff Summary & Recommendation**

The applicant is requesting an amendment to the land use designation from Rural Residential Agricultural to Industrial for the entire site. It is staff’s recommendation to approve the change in land use to Industrial on a portion of the subject property and to respect the current land use designation of Rural Residential/Agricultural within a generous buffer separating proposed industrial uses from abutting residential property owners southeast and north of the subject property.

The zoning code allows two options to provide transition guidelines between the applicants request and abutting property owners. 1) Rezoning request could include a Planned Unit Development that provides use and design limitations between new industrial development and the existing agricultural properties. 2) The zoning boundary could be significantly set back in an effort to allow some level of confidence that industrial development would not significantly adversely affect abutting properties that are currently considered agricultural and residential uses.

The applicant has submitted concurrent requests to rezone a 35-acre portion of the west side of the property from Agricultural to Industrial Moderate (CZ-543 and PUD-867) in which exhibit “C” indicates a 400’ buffer between mining operations and residential properties to the north and southeast.

This site was included in the Tulsa County Land use map study that was adopted in 2020. The proposed rezoning associated with this comprehensive plan amendment will increase an opportunity for industrial employment to extend along Highway 169. The existing industrial zones located on the east and west of Highway 169 extending several miles to the south has provided employment and manufacturing jobs for Tulsa County and the north of the City of Tulsa and this land use change opens an opportunity to use the existing highway and utility infrastructure in the area for further industrial development. However, private residential properties exist abutting the subject property

to the North and Southeast, and an adequate buffer zone should be in place to mitigate harm to those properties.

Staff recommends **approval** of the Industrial land use designation only on the west side of the current course of Bird Creek with the recommendation that any mining operations be restricted to the southwest area of the subject property nearest the intersection of Highway 169 and 56 Street North. In this way the industrial uses will serve as a buffer between any mining operations and the existing residential uses, and the Bird Creek course will serve as a natural aesthetic buffer between the industrial uses and the existing residential uses to the north and southeast of the subject property.

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

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

**TMAPC Action; 8 members present:**

On **MOTION** of **WALKER**, the TMAPC voted 4-3-1 (Craddock, Shivel, Walker, Whitlock, "aye"; Carr, Hood, Humphrey, "nays"; Zalk, "recused"; Bayles, Covey, Krug, "absent") to **ADOPT** TCCP-12 as an amendment to the Comprehensive Plan of the Tulsa Metropolitan Area per staff recommendation. Lacking the 6 affirmative votes required for approval, this item failed.

## **OTHER BUSINESS**

### **17. Commissioners' Comments**

None

**ADJOURN**

**TMAPC Action; 7 members present:**

On **MOTION** of **WALKER**, the TMAPC voted 7-0-0(Carr, Craddock, Hood, Shivel, Walker, Whitlock, Zalk, “aye”; no “nays”; none “abstaining”; Bayles, Covey, Humphrey, Krug, “absent”) to **ADJOURN** TMAPC meeting of May 17, 2023, Meeting No. 2890.

**ADJOURN**

There being no further business, the Chair declared the meeting adjourned at 3:48 p.m.

Date Approved:

\_\_\_\_\_

\_\_\_\_\_

Chair

ATTEST: \_\_\_\_\_

Secretary