

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1801
Wednesday, August 1, 1990, 1:30 p.m.
City Commission Room, Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Carnes, 1st Vice Chairman	Draughon	Gardner	Linker, Legal
Coutant	Randle	Setters	Counsel
Doherty, Secretary		Stump	
Horner		Wilmoth	
Paddock			
Parmelee, Chairman			
Rice			
Wilson			
Woodard			

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, July 31, 1990 at 9:30 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Parmelee called the meeting to order at 1:32 p.m.

MINUTES:

Approval of the Minutes of July 18, 1990, Meeting #1799:

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-2** (Carnes, Coutant, Doherty, Horner, Parmelee, Rice, Wilson, "aye"; no "nays"; Neely, Woodard, "abstaining"; Draughon, Randle, "absent") to **APPROVE** the **Minutes of July 18, 1990, Meeting #1799**.

REPORTS:

Chairman's Report:

Chairman Parmelee announced that Marilyn Wilson would now serve as the TMAPC appointment to the Historic Preservation Commission, as Kevin Coutant had resigned that position.

Committee Reports:

Mr. Doherty advised the **Rules & Regulations Committee** had met this date and had resolved the remaining issue(s) on proposed amendments relating to signs in preparation of the August 15th public hearing on this matter.

Ms. Wilson announced the **Budget & Work Program Committee** would be meeting soon to discuss the FY90 4th quarter budget and work program.

Director's Report:

Mr. Jerry Lasker advised the City Council approved the Park and Open Space Plan, as recommended by the TMAPC. The Council also approved the amendments to the Zoning Code relating to detached accessory buildings.

Mr. Lasker commented that it was time to begin thinking about the legislative program for the upcoming year, and requested input from the TMAPC as to their ideas for any legislative changes. He announced an a workshop had been scheduled for September 14 and 15th especially for planning commissioners and board of adjustment members.

RESOLUTION(S):

Resolution No. 1799:698

Adopting the Community Cultural Plan as a part of the Comprehensive Plan

Comments & Discussion:

Based on the July 18th public hearing whereby the TMAPC approved the adoption of Community Cultural Plan: A Comprehensive Plan for the Growth of the Cultural Resources for the City of Tulsa, Mr. Coutant moved for approval of the related resolution on this matter.

TMAPC ACTION: 9 members present

On **MOTION** of **COUTANT**, the TMAPC voted **8-0-1** (Carnes, Coutant, Doherty, Parmele, Horner, Rice, Wilson, Woodard, "aye"; no "nays"; Neely, "abstaining"; Draughon, Randle, "absent") to **APPROVE Resolution No. 1799:698 Adopting the Community Cultural Plan as a part of the Comprehensive Plan.**

SUBDIVISIONS:

PRELIMINARY APPROVAL:

Swan Lake (PUD 463)(793)

1586 Swan Lake Drive

(RS-3,0M)

The Staff presented the plat with the applicant represented by Adrian Smith, Phil Smith and R. Braselton.

The TAC had reviewed this PUD on 5/21/90 and made a number of comments at that time that would be applicable to a plat. A copy of the minutes of that meeting was provided for reference. Staff noted that many of the comments from the previous meeting had already been addressed by this plat. The PUD was approved by the Planning Commission 6/13/90 and is pending City Council approval. (Since City Council will not review this until 7/31/90, the TMAPC review on this plat will be after that meeting, or at the earliest, the August 1st TMAPC meeting.)

Even though the Planning Commission has approved the PUD, a waiver of the Subdivision Regulations requiring conformance with the Major Street Plan is formally requested at this time. South Utica is still on the Street Plan as a secondary arterial requiring 50' of right-of-way from centerline, whereas only 30' exists. The front of the building is approximately 55' from centerline and the brick porch appears to be about 51' from centerline. Consideration for some additional right-of-way and/or utility easements should be a concern. Traffic and City Engineering noted that they were not supportive of a waiver of the Major Street Plan requirements, but further noted that very little additional right-of-way (if any) had been obtained in this area along Utica. It was also recognized that the buildings shown were already existing. The TAC was aware that applicant would seek waiver of the additional right-of-way.

The TAC voted unanimously to recommend **approval** of the PRELIMINARY plat of Swan Lake, subject to the following conditions and noting the previous comments regarding the Major Street Plan requirements.

1. Applicant is formally requesting waiver of the Subdivision Regulations requiring conformance with the Major Street Plan since the PUD has been approved as submitted and full compliance with the Plan would encroach on existing buildings.
2. Waiver of Subdivision Regulations as to scale is recommended due to the small size of the plat. (1"=20' shown, whereas 1"=50' is required.)
3. Grading and/or drainage plan approval subject to Department of Stormwater Management. Fees can be paid for any net increase in imperviousness. Drainage from parking lot must be taken to an approved discharge system, such as street or storm sewer. Commercial parking lots cannot drain overland to residential houses. PFPI will be required.
4. A 6' utility easement is of record through the middle of the residential part of this PUD, which the existing house sits across. A provision of the lot split would have required vacating that

easement in order to provide the middle building site. This may not be necessary with only two lots fronting Swan Drive. If the easement is not to be vacated, care should be taken not to encroach on it or any other easements of record with the new structures.

5. Require extension of utility easement and/or easements as needed, subject to approval of utilities. Fire Department recommends that applicant assure that adequate fire protection (hydrants) be provided along Swan Drive. (Hydrant exists on Swan Drive to satisfy this requirement.)
6. Access point shall meet the approval of Traffic Engineering. (OK as shown on plat) (No additional access to Utica would be recommended.)
7. The underlying plat of Swan Park within the bounds of this resubdivision may need to be vacated in accordance with current legal practices. (Not a condition for approval of plat since vacation actions are through other agencies.)
8. All conditions of PUD 463 shall be met prior to release of final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to Section 1100-1107 of the Zoning Code, in the covenants.
9. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements should be tied to or related to property lines and/or lot lines.
10. Water plans shall be approved by the Water and Sewer Department prior to release of final plat (if required).
11. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).
12. A request for creation of a Sewer Improvement District shall be submitted to the Water and Sewer Department prior to release of final plat. (If required) Provide a minimum of 5' clearance from existing sewer to edge of easement.
13. Paving and/or drainage plans shall be approved by Stormwater Management and/or City Engineer, including storm drainage, detention design and Watershed Development Permit application subject to criteria approved by City Commission. (See #3 above.)
14. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the City Engineer.
15. A topo map shall be submitted for review by the Technical Advisory Committee (Subdivision Regulations). Submit with drainage plans as directed. (Topo pending removal of existing structures in Development Area A.)

Swan Lake - cont

16. Bearings, or true north-south, etc., shall be shown on perimeter of land being platted or other bearings as directed by City Engineer.
17. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City-County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
18. A "Letter of Assurance" regarding installation of improvements shall be submitted prior to release of final plat, including documents required under Section 3.6-5 of Subdivision Regulations.
19. All (other) Subdivision Regulations shall be met prior to release of final plat.

Comments & Discussion:

In reply to Mr. Doherty, Mr. Wilmoth reviewed the conditions above which addressed water run-off, drainage, etc.

TMAPC ACTION: 9 members present

On **MOTION** of **CARNES**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Parmele, Horner, Neely, Rice, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Randle, "absent") to **APPROVE** the **Preliminary Plat for Swan Lake**, subject to the conditions as recommended by the TAC and Staff.

LOT SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

L-17338 (2593) Purity Oil

L-17340 (883) Walters/Halstead

TMAPC ACTION: 9 members present

On **MOTION** of **CARNES**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Parmele, Horner, Neely, Rice, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Randle, "absent") to **RATIFY** the Above Listed Lot Splits which have received Prior Approval, as recommended by Staff.

ZONING PUBLIC HEARING:

Application No.: Z-6294 Present Zoning: RM-1
Applicant: Sullivan (Trans Voc. Inc.) Proposed Zoning: CG
Location: N/side of Easton Street between North Atlanta Pl & North Birmingham
Date of Hearing: August 1, 1990
Continuance Requested to: August 15, 1990 (timely request by the applicant)

TMAPC ACTION: 9 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Parmele, Horner, Neely, Rice, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Randle, "absent") to **CONTINUE Consideration of Z-6294 Sullivan (Trans Voc. Inc.)** until Wednesday, **August 15, 1990** at 1:30 p.m. In the City Commission Room, City Hall, Tulsa Civic Center.

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Application No.: Z-6295 Present Zoning: RS-3
Applicant: Deidre Associates Proposed Zoning: OL
Location: NE/c of East 79th Street & South Sheridan Road
Date of Hearing: August 1, 1990
Presented to TMAPC by: Jody Winkle, 6924 South Knoxville, 74136 (827-6489)

Relationship to the Comprehensive Plan:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity - No Specific Land Use.

According to the Zoning Matrix, the requested OL District may be found in accordance with the Plan Map.

Staff Recommendation:

Site Analysis: The subject tract is approximately .55 acres in size and is located at the northeast corner of South Sheridan Road and East 79th Street South. It is nonwooded, flat, contains a single-family dwelling (which appears to be used as a resale shop), a storage shed, and is zoned RS-3.

Surrounding Area Analysis: The tract is abutted on the north by single-family dwellings zoned RS-3; on the east by duplex dwellings zoned RS-3; on the south by an office building zoned OL; and on the west by a dental office and apartment complex zoned RM-0 and PUD 171.

Zoning and BOA Historical Summary: OM and OL zoning categories have been denied on the subject tract, as well as a use variance to permit retail uses.

Z-6295 Deidre Associates - Cont

Conclusion: Based on the existing zoning patterns and previous cases, Staff cannot support any higher intensity zoning than RD, which would require additional notice. There has been no change in the physical facts of the area that would support the rezoning since the previous cases

Therefore, Staff recommends **DENIAL** of OL zoning for Z-6295.

Comments & Discussion:

Ms. Jody Winkle, representing the applicant, advised there was no business operating out of the structure on the property at this time. Ms. Winkle explained the property was for sale, and interest had been indicated for use as a veterinary office.

Ms. Wilson obtained clarification that the property fronted on Sheridan Road and had, at one time, contained a business operation. Mr. Doherty commented that he would not vote to deny the request and pointed out that, with the property fronting a highly traveled street, it would be very unlikely to expect a residential use. Therefore, he felt some relief should be given to the property owner.

In reply to Mr. Parmele, Mr. Gardner confirmed that access could be restricted to 79th Street. In reply to Mr. Coutant, Mr. Gardner advised that the OL zoning across from the subject tract had access to 79th Street and Sheridan Road. He commented that, if OL was restricted to the most westerly lot, a PUD could be used to spread the use across both lots. Mr. Stump commented the current maps should indicate that one large structure was on the existing OL lot, and not two smaller structures as indicated on the map presented in the packet.

TMAPC ACTION: 9 members present

On **MOTION** of **COUTANT**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Parmele, Horner, Neely, Rice, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Randle, "absent") to **APPROVE Z-6295 Deidre Associates for OL Zoning**, as requested.

Legal Description:

Lots 1 and 2, Block 1, Deer Hollow Estates Addition to the City and County of Tulsa, Oklahoma.

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Application No.: Z-6296 Present Zoning: AG
Applicant: Norman (Zink Tract) Proposed Zoning: IM
Location: East of the SE/c of East Apache Street & US Highway 169
Date of Hearing: August 1, 1990
Presentation to TMAPC by: Charles Norman, 2900 Mid-Continent Tower (583-7571)

Relationship to the Comprehensive Plan:

The District 16 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Special District 2 and Development Sensitive.

According to the Zoning Matrix, the requested IM District is in accordance with the Plan Map.

Staff Recommendation:

Site Analysis: The subject tract is 85.7 (approx.) acres in size and is located east of the southeast corner of East Apache Street and US Highway 169. It is partially wooded, gently sloping, contains a single-family dwelling in the northeast corner of the tract, and is zoned AG.

Surrounding Area Analysis: The tract is abutted on the south by the Burlington Northern Railroad and vacant property zoned IM; on the west, east and north by vacant property zoned IM.

Zoning and BOA Historical Summary: Previous rezoning applications have been approved for IM zoning in the immediate area.

Conclusion: Based on the Comprehensive Plan and existing zoning in the area, Staff is supportive of the rezoning request.

Therefore, Staff recommends **APPROVAL** of IM zoning for Z-6296 as requested.

Comments & Discussion:

Mr. Charles Norman, representing the applicant, stated agreement with the Staff recommendation. (There were no interested parties in attendance.)

TMAPC ACTION: 9 members present

On **MOTION** of **CARNES**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Horner, Neely, Parmele, Rice, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughton, Randle, "absent") to **APPROVE Z-6296 Norman (Zink Tract) for IM Zoning**, as recommended by Staff.

Legal Description:

The NE/4 of the NW/4, all that part of the N/2 of the SE/4 of the NW/4 and the SW/4 of the SE/4 of the NW/4 lying north of the St. Louis and San Francisco Railroad. The SW/4 of the NW/4 of the NE/4 and all that part of the N/2 of the SW/4 of the NE/4 lying north of the St. Louis and San Francisco Railroad all in Section 29, T-20-N, R-14-E of the IBM, City and County of Tulsa, Oklahoma.

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Application No.: **CZ-185** Present Zoning: RS
Applicant: **Webster** Proposed Zoning: AG
Location: SW/c of East 73rd Street North & North Zunis Avenue
Date of Hearing: August 1, 1990
Presented to TMAPC by: Bob Webster, 2110 East 73rd Street North (428-7263)

Relationship to the Comprehensive Plan:

The District 2 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity - Residential, Low Intensity - No Specific Land Use and Development Sensitive.

According to the Zoning Matrix, the requested AG District is in accordance with the Plan Map.

Staff Recommendation:

Site Analysis: The subject tract is approximately ten acres in size and is located on the south side of East 73rd Street North, west of what would be North Zunis Avenue. It is partially wooded, flat and contains a single-family dwelling.

Surrounding Area Analysis: The tract is abutted on the north and west by single-family dwellings on large tracts zoned RS; on the east and south by vacant property zoned AG.

Zoning and BOA Historical Summary: On 5/24/89 the TMAPC approved Z-6251 for the rezoning of RS-3 zoned property to AG, located south of the southwest corner of West 71st Street South and South Elwood Avenue.

Conclusion: Although there is residential development in the area, it is larger tract agricultural in nature. Staff is supportive of the rezoning application based on the Comprehensive Plan and the existing development and zoning patterns.

Therefore, Staff recommends **APPROVAL** of AG zoning for CZ-185 as requested.

Comments & Discussion:

Mr. Bob Webster, applicant, stated agreement with the Staff recommendation.

Mr. Jeff Kirkham (1727 East 73rd Street), who lives west of the subject tract, advised there was a mobile home on the property. Mr. Kirkham stated he felt RS zoning would be more appropriate. He reviewed the history of residential development in this area and submitted photographs, commenting that he felt AG zoning would create a "loophole" allowing additional mobile homes to be placed on the tract. Mr. Kirkham also reviewed previous BOA actions in regard to the mobile home and requested denial of the rezoning. He submitted a letter from Ms. Maxine Eberhardt (7407 North Victor) advising, "the only reason I would object to the rezoning is they could have trailers added to the acreage."

CZ-185 Webster - Cont

In rebuttal, Mr. Webster stated the subject tract was a full ten acres and was quite a distance away from Mr. Kirkham's property. Mr. Webster commented that he did not feel the other mobile homes in this area to be a concern of his since he only wanted to raise cattle on his acreage. In reply to Ms. Wilson, he confirmed that his desire to raise cattle was the prime reason for the rezoning request.

TMAPC Review Session:

Commissioner Rice moved for approval of AG zoning as recommended by Staff. Mr. Doherty obtained confirmation that a mobile home was allowed by right in an AG district. Mr. Neely asked how much of the subject property was in a floodplain. Mr. Gardner stated it was obvious from the maps that the southern portion of the tract was in a floodplain. Commissioner Rice noted that during his 10 - 15 year tenure on the County Commission, they have never allowed construction in a designated floodplain area.

TMAPC ACTION: 9 members present

On **MOTION** of **RICE**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Parmele, Horner, Neely, Rice, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Randle, "absent") to **APPROVE CZ-185 Webster for AG Zoning**, as recommended by Staff.

Legal Description:

The NE/4 of the SW/4 of the NE/4, Section 31, T-21-N, R-13-E, Tulsa County, Oklahoma.

Additional Comments & Discussion:

In regard to the above rezoning, Mr. Wilmoth presented a Plat Waiver Request (Section 260), advising the request is made by the owner since the property is not to be developed and the zoning, if approved, will be a downgrade from RS to AG. Staff recommends that the platting requirement be waived. Mr. Wilmoth remarked that, should the owner decide to develop the property in the future, a new zoning application and plat would be required.

TMAPC ACTION: 9 members present

On **MOTION** of **CARNES**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Parmele, Horner, Neely, Rice, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Randle, "absent") to **APPROVE the Waiver Request for CZ-185 (Unplatted)**, as recommended by Staff.

OTHER BUSINESS:

Z-5970-SP-1: Corridor Site Plan for an Outdoor Advertising Sign
NW/c of US Highway 169 & East 71st Street South

Staff Recommendation:

The applicant is requesting Detail Site Plan approval for two outdoor advertising signs on an unplatted 73 acre tract adjacent to the Mingo Valley Expressway, north of East 71st Street South.

After review of the Corridor Site Plan, Staff finds the northern sign to be located approximately 10 feet south of an approved billboard site (Z-6277-SP-1, 4/17/90). This location does not meet the required 1,200 foot spacing between outdoor advertising signs. Staff finds the southern sign to be in compliance with all requirements. Since the type of development in this area has not been determined, Staff cannot support approval of any billboard on a permanent basis.

Therefore, Staff recommends DENIAL of the Corridor Site Plan as submitted, and APPROVAL of a modified plan which excludes the northern sign and permits the southern sign in it's present location for a period not to exceed five years from the date of final approval.

Comments & Discussion:

Mr. Roger Lister, Donrey Outdoor Advertising (7777 East 38th Street) commented that he felt the requested location to the north would be qualified due to the fact that, as recent as yesterday, Protective Inspections was in the process of denying the Building Permit for the outdoor advertising sign previously approved in the Corridor Site Plan for the lot immediately north of this tract.

Mr. Gardner reviewed the Staff recommendation in regard to the previously approved billboard site (Z-6277-SP-1, 4/17/90). Discussion followed on the right-of-way widths along 66th Street.

Mr. Bill Stokely, Stokely Outdoor Advertising, (10111 East 45th Place) reiterated the TMAPC did permit the existing sign to be built on the tract north of this tract. He noted his sign would meet the required setbacks from 105th Street and 66th Street. Mr. Stokely advised he had the required state permit, and when he requested a city permit from Protective Inspections, he was informed that he would get the permit once calculations were completed on the sign and this was in process.

Mr. Lister suggested a continuance until such time as the situation on the northern sign was resolved. Therefore, Mr. Doherty moved for approval of the southern sign as requested, with a continuance of the northern sign until September 5th to allow time to resolve the issue of the permits.

TMAPC ACTION: 9 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Parmele, Horner, Neely, Rice, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Randle, "absent") to **APPROVE Z-5970-SP-1 Lister (Donrey) for the southern sign** as recommended by Staff, and **CONTINUE consideration of the northern sign** until Wednesday, **September 5, 1990** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

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PUD 358: Detail Sign Plan (Temporary Construction Sign)
North of the NE/c of East 121st Street South & South Yale Avenue

Staff Recommendation:

The applicant is proposing a 4' X 15' (60 square feet) temporary construction sign in the right-of-way of South Yale Avenue advertising lots and homes in Hunter's Hills Subdivision. The subdivision is allowed a 15' high (241 square feet) temporary sign on South Yale Avenue, which is required to be set back sufficiently to be out of the street right-of-way.

Staff recommends **APPROVAL** of the Sign Plan conditioned upon the sign being placed out of the right-of-way of South Yale Avenue, and removal within 18 months of the date of issuance of a sign permit. Illumination, if any, shall be by constant light.

Comments & Discussion:

The applicant (who did not give his name or address on the record) confirmed the sign was already in place setback 50' from the centerline of Yale Avenue, and he was requesting a 15' variance to move the sign to 35' which would be on city property (right-of-way). He submitted photos of the area to support his feeling that a clear view of the sign was blocked by landscaping.

Mr. Linker confirmed that, if the applicant wanted to place the sign on city property, it would require additional approvals. The applicant stated he was already on the BOA's agenda for one of these approvals.

Mr. Gardner verified that the sign currently met the Code, but the applicant was requesting a variance of the Code. A few of the Commissioners mentioned they had driven by the sign and felt it was visible from any direction. Mr. Carnes stated he felt that, if permitted, it would set a precedence. Therefore, he moved for approval per Staff which would not allow the variance into city property.

TMAPC ACTION: 9 members present

On **MOTION** of **CARNES**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Parmele, Horner, Neely, Rice, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Randle, "absent") to **APPROVE** the **Detail Sign Plan for PUD 358**, as recommended by Staff, which stipulates placement of the sign out of the city right-of-way and removal within 18 months.

PUBLIC HEARING:

TO CONSIDER A PROPOSED POLICY FOR TMAPC
TO INITIATE REZONING FROM RM-1 & RM-2 TO RS-3 & RS-4
IN CERTAIN SINGLE-FAMILY RESIDENTIAL AREAS
BLANKET ZONED MULTIFAMILY RESIDENTIAL
(approximately 30 years ago)

Comments & Discussion:

Chairman Parmele commented that the question before the Commission implied a little more than that listed on the agenda. He explained that, after discussion in committee meetings, there appeared to be a difference of opinion among Commission members as to the general philosophy of the TMAPC position pertaining to initiation of zoning requests with or without owner consent.

Mr. Gardner explained the TMAPC requested Staff to look at several areas of the city that had been blanket zoned (zoned by zoning map) into multifamily categories which might now be suitable for reverting to single-family; i.e., areas where single-family uses developed or remained at a 90% or higher level, even though zoned for multifamily development. Mr. Gardner advised there were over 30 such areas considered in the study, and approximately six areas remained primarily single-family residential development with the RM zoning classification. He commented the issue before the Commission was, whether the multifamily classification should be left in these areas or whether they should be rezoned (downzoned) to match existing development and physical facts. If downzoned, these single-family neighborhoods could be protected and stabilized from future multifamily development. However, this also raises the question of whether the TMAPC and/or City Council should initiate a rezoning, possibly without all of the individual property owners' consent.

Chairman Parmele advised those in attendance that the TMAPC and City Council did have the authority to initiate zoning actions on their own behalf, with or without permission of the property owners. However, the TMAPC has historically taken the position that they would not do this without owner permission.

Mr. Linker clarified that the TMAPC would be required to give notice to each property owner on any blanket rezoning or downzoning action. Therefore, proper notification was not an issue since it would be required. He also advised that only the Planning Commission, City Council/County Commission or the individual property owner could initiate a rezoning request.

Mr. Doherty remarked that copies of the Blanket Zoned Areas Study had not been circulated as the Commission, at this point, was unsure as to how best to proceed. Further, it would have been premature to distribute copies until the basic internal and philosophical questions were addressed, which was the purpose of this hearing. Mr. Doherty explained

PUBLIC HEARING: Blanket Zoning - Cont

that, as Chairman of the Rules and Regulations Committee, he had referred this matter to the full Commission to determine, firstly, whether there were any circumstances under which this Commission might initiate zoning. Should these proceedings finalize in a decision whereby the TMAPC will not initiate rezoning, then the study and blanket zoning will be moot. However, should the Commission decide there were certain circumstances where TMAPC initiation of zoning was warranted, then the Commission would also have to determine the mechanics for such action.

Interested Parties:

Mr. William D. Packard

752 North Denver, 74106

Mr. Packard commented that he was speaking more for generic types of areas as opposed to specific geographic areas of the city. He stated he felt downzoning should be initiated in the urban renewal areas, such as those immediately in and surrounding the downtown area. Mr. Packard pointed out that urban renewal plans have already been approved for certain areas, and he felt the TMAPC should definitely proceed since guidelines and policy statements for physical development have already been determined in these plans.

Mr. Ralph E. Smith

2929 East 29th, 74114

Mr. Smith stated concern about the downzoning issue even being considered as he felt it would open up a "Pandora's Box". He added that he was further opposed to downzoning on the basis that it would present a burden on the real estate and development industry at a time when it was really not needed. Mr. Smith asked the TMAPC to NOT use their power to initiate downzoning or blanket zoning.

Ms. Norma Turnbo

1822 South Cheyenne, 74114

Ms. Turnbo, Planning District 7 Chairman, commented she felt the TMAPC should initiate a study to see if blanket zoning was feasible in certain areas. She stated there were definitely such areas in District 7 due to its proximity to downtown and the mixed uses which have developed in this District. Ms. Turnbo remarked that she felt with these existing multi-uses in District 7, have hindered the residents who enjoy living near downtown, and this might have been avoided if proper zoning designations for single-family development were in place.

Councillor Gary Watts, Dist. 4

1564 South Gillette, 74104

Mr. Watts stated he felt the TMAPC should consider initiation of rezoning pursuant to the appropriate guidelines. He agreed with Ms. Turnbo as to the problems experienced by those neighborhoods who were previously "up zoned" to multifamily but have single-family development. Mr. Watts commented that, if the TMAPC clearly and carefully defined the circumstances for downzoning (i.e., those areas blanket zoned 30 years ago), he felt concerns about impacts to the real estate industry could be greatly alleviated. At the same time, the TMAPC could retain a certain amount of flexibility to "correct that wrong that was done" several years ago. He added that downzoning, by itself, would not correct all of the problems in these areas, but it was an "important part of the solution".

PUBLIC HEARING: Blanket Zoning - Cont

Mr. Watts remarked that a concern which has not yet been clarified, would be a group of property owners who could, by right, petition for rezoning of property that they did not own. He added that it would be appropriate to have a group of property owners, by petition, come to the Planning Commission and ask the Commission to consider initiating a rezoning study. Therefore, with the interest expressed by a particular group presented to the TMAPC, the Commission would then have a good reason to exercise their authority to carry through the process of rezoning. Mr. Watts concluded by stating he was hopeful that, "because the zoning was done 30 years ago, and even though it has not been used, and even though we all know that clearly it is having an adverse impact in those areas, that because property rights are somehow sacred, even though they are adversely affecting others' property rights, that somehow we can try to undo that and correct it."

Mr. Merl Whitebook 2431 East 51st, Suite 200, 74105
Mr. Whitebook strongly stated support for the rights of ownership of land and development rights of that land's best use; therefore, he was opposed to downzoning. He stated there should be a clear and convincing need for the TMAPC to exercise downzoning powers, and unless there was also appropriate compensation, there should be no downzoning. Mr. Whitebook urged the Commission to "avoid a blanket issue or broad downzoning, even if it is to correct a previous mistake."

Councilor Dorothy DeWitty, Dist. 3 2415 North Wheeling Avenue, 74110
Ms. DeWitty urged the TMAPC to favorably consider exercising their powers to change multifamily zoning in specific areas to single-family zoning. She added that she has personally experienced adversities related to the previous blanket zoning action as well as notification. Ms. DeWitty stated her concern centered on the preservation and revitalization of those neighborhoods which have remained single-family even though zoned multifamily. She urged the TMAPC to consider changing, with design and direction, multifamily zoning to single-family zoning especially as it relates to economically depressed areas, which extended beyond just the urban renewal areas.

Mr. Ira Powell 3107 East 44th Place, 74105
Mr. Powell commented that, after hearing both sides, he felt there should be some "common ground". He stated that, if a property owner wants his property downzoned, either individually or as part of a neighborhood group, then the TMAPC should permit the request in order to stabilize the single-family use. However, if a property owner did not give consent as part of a group action, there should be a way to address this so that both sides can have their desires met. Mr. Powell also remarked on the problems with financial institutions and the downzoning issue.

Mr. John Alexander 7617 East 66th Street, 74133
Mr. Alexander stated he did not feel the Commission should "arbitrarily or capriciously" initiate downzoning and he did not support the concept.

PUBLIC HEARING: Blanket Zoning - Cont

Mr. John Houchen

8510 East 91st Place, 74133

Mr. Houchen advised he represented the Associated Builders & Contractors of Eastern Oklahoma. He stated opposition to the concept of rezoning without homeowner approval.

Mr. Bill Mizener

11010 East 51st, 74146

Mr. Mizener, Tulsa Properties, stated concern that, if a precedent was established, it might continue throughout other parts of the city. Further, he felt the zoning process should be exercised and the city should not take property without owner consent.

Ms. Barbara Ballard

1826 South Cheyenne, 74119

Ms. Ballard, Co-Chairman for Planning District 7, stated she was hopeful the TMAPC would go forward with this concept of initiating downzoning. She reiterated problems with higher zoning than the actual use or development in District 7. Ms. Ballard stated she felt this concept would offer stabilization for this particular area and others in the city.

Ms. Dana Sterling

920 North Cheyenne, 74106

Ms. Sterling, president of the Brady Heights Neighborhood Association, stated she felt that the previous blanket (up)zoning has been one of the factors adding to the deterioration of her neighborhood, which could be corrected by consideration of blanket (down)zoning. Further, she felt that, with input by staff, city and citizens, something could be done to "relieve the minds of the developers while allowing neighborhoods to preserve what is theirs." She urged the Commission to proceed with the study for downzoning.

Mr. Roy Johnsen

324 Main Mall, 74103

Mr. Johnsen, representing the Urban Affairs Committee of the Metropolitan Tulsa Board of Realtors (MTBR), commented that the MTBR has historically stated their opposition to downzoning. He agreed there might be some instances where downzoning could be warranted, but felt these were very rare. Further, he felt the cost of blanket zoning would far outweigh the benefit in those few instances. Mr. Johnsen suggested that, if downzoning was considered at all, it be limited only to those areas previously blanket zoned by prior Commission and City action. He spoke on the problems associated with nonconforming uses that would arise in blanket zoned areas. He further suggested that, should the TMAPC proceed with this concept, if 100% of owner consent was not required, that it be set high enough to be significant and substantial, and that this consent be required before a public hearing was called. Mr. Johnsen emphasized that his suggestions as to procedural matters should not be construed as support of downzoning or as a compromise by his client (MTBR). However, he added it was the feeling of the MTBR that "if this must be done," the following suggestions might be a way to proceed: (1) if the property has been the subject of an individual zoning application, then rezoning would not be done without consent of that specific property owner; or (2) if

PUBLIC HEARING: Blanket Zoning - Cont

the property, as zoned, meets the guidelines and the Comprehensive Plan, then it would not be rezoned without property owner consent. Mr. Johnsen added that if the downzoning concept was favorably considered that it not be done in a "piecemeal fashion". He compared this with the previous historic preservation process and urged the Commission to send out questionnaires to the property owners prior to a hearing to get an idea of the amount of neighborhood support. As to the question of notice and degree of notice, Mr. Johnsen commented that this notice should clearly state, "that if the zoning proposed is adopted, your permitted uses may be restricted." He mentioned a 1981 TMAPC written policy on downzoning.

Mr. Charles Norman

2900 Mid-Continent Tower, 74103

Mr. Norman reviewed previous blanket zoning in the City over the past several years, noting that not all have had an adverse impact. He commented that he does not want the impression to be that "blanket zoning" was necessarily erroneous or inaccurate zoning, as this has not always been the case. He suggested any policy on downzoning be formalized as a part of the Zoning Code. Mr. Norman advised that the major property owners he represented have large tracts of zoned but undeveloped property. He added that these property owners were not as concerned about correction of errors made many years ago, but they were concerned about a change in policy and the precedent which might come from this with respect to other multifamily zoned properties, as well as industrial, commercial or office zoned properties. Further, stability in the zoning process was extremely important to the investment and banking community, and any instability could adversely affect investment decisions made by those in and outside of the community. Mr. Norman stated he felt confident that the staff or Commission would never suggest to reinvestigate individual applications for rezoning, even though it might personally be felt that a mistake had been made. He concurred with those who suggested the Commission formally adopt a policy, preferably by amendment to the Zoning Code, with respect to this issue. Mr. Norman advised he could see three areas which were probably not offensive for review of downzoning: (1) those where the zoning was undertaken by blanket action; (2) those that might be initiated as a result of an urban redevelopment plan; and (3) historic zoning as a supplemental zone. Beyond these, he felt the policy should be stated to clarify that the TMAPC "would not undertake to reconsider any zoning on their own initiative that had been previously approved upon an individual application."

Mr. Craig Ferris

1437 South Main, 74119

Mr. Ferris stated he was not opposed to downzoning initiated by the property owner, but he did oppose blanket zoning initiated by the Commission.

Mr. Jon Ferris

3021 West 68th Place South

Mr. Ferris, Planning District 8 Chairman, read from a prepared statement indicating his views strongly opposing any rezoning without property owner consent or permission.

PUBLIC HEARING: Blanket Zoning - Cont

Mr. Jim Fehrle 1537 South Madison, 74120
Mr. Fehrle, president of the Maple Ridge Neighborhood Association, which is a historic neighborhood, stated agreement with comments made by Mr. Norman. He added that he felt there were instances where those RM blanket zoned areas should be reconsidered for downzoning, but probably not without the consent of the property owners.

Mr. Ron Henderson 1643 East 15th, 74120
Mr. Bill Mizener spoke on behalf of Mr. Henderson who had to leave the hearing. He read a statement from Mr. Henderson, president of the NAIOF, in opposition to blanket zoning or downzoning except in the most extreme circumstances.

Mr. Dallas Morrisett 3405 East 58th Place, 74135
Mr. Morrisett, Rooney Company, stated concern about unilateral downzoning without participation of the individual property owners.

Ms. Sharry White 1518 South Gillette, 74104
Ms. White left a written statement, read by Staff, as she had to leave the hearing. As Chairman of the City Board of Adjustment, her statement included comments by other BOA members, advising of the problems arising when an applicant requested a special exception in a neighborhood zoned RM but developed RS. She advised that many times this use was inappropriate but the argument was that "we could build a multi-story apartment by right". Ms. White stated that "in reality, the multi-story would be inappropriate and out of character with the area as would the proposed project, but legally and technically, the more intense use would be allowed. The neighborhood is in a 'Catch-22' situation and it makes for a difficult situation for the BOA and the area affected."

TMAPC Review Session:

Mr. Coutant, knowing he would be unable to remain for the entire hearing on this matter, submitted the following comments. He stated that notice should be given, in writing, to each property owner, which raises several questions as to the mechanics and costs involved. If the TMAPC was so inclined to consider the possibility of blanket zoning, Mr. Coutant felt that, at the very least, the TMAPC should also consider the "nuts and bolts" of due process to assure that every individual received notice. In considering the broader issue of downzoning, Mr. Coutant stated "the Commission should be very careful about coming to a conclusion that is very rigid." He stated examples of previous issues before the TMAPC where the Commission exercised flexibility in their decisions, and he felt that, regardless of today's decision, some flexibility should remain.

Mr. Parmele commented that his objections to downzoning were well known, as it was his contention that the Commission should not initiate any type of zoning request without owner permission. He stated that, as a general policy, the TMAPC should maintain its position that zoning not be initiated without owner consent. Mr. Parmele added that there were

PUBLIC HEARING: Blanket Zoning - Cont

remedies available for these areas under discussion and the Commission could assist and work with neighborhoods in applying for the desired zoning changes. Further, the Commission could also assist the District Planning Teams and neighborhood associations on amendments to the Comprehensive Plan to show that the Plan might be more desirable for low intensity residential (single-family).

Mr. Carnes stated that the problems with the older neighborhoods could be worked out, but as an individual on the Commission, he could not violate a property owner's right by rezoning without their consent.

Mr. Doherty remarked that he felt the first item to be resolved, as Commissioners, was whether there was a foreseeable circumstance under which this Commission would initiate a change in zoning on any property or group of properties. If the TMAPC was willing to state categorically that they were not willing to do this, then further discussion was moot.

Ms. Wilson suggested that Staff send the Blanket Zoned Areas Study to each City Councilor and each District Planning Team officer to see if there might be any interest generated for a specific area. If interest was indicated, then the TMAPC could pursue initiation in the identified area. Ms. Wilson stated concern about statements made at this hearing regarding "capricious and arbitrary action by the TMAPC", and she felt the Commission should, possibly through the Zoning Code, squelch this fear.

Mr. Doherty commented that it would be "getting the cart before the horse" if the study was forwarded to these groups when the Commission had not decided their policy to initiate rezoning or not.

Commissioner Rice advised that he could not support the concept of blanket zoning without owner consent.

Mr. Horner submitted a motion "that a written general policy of this Commission not to consider any zoning changes unless an individual application is submitted by the owner or his agent in an appropriate manner." Mr. Linker raised the question of what the TMAPC would do if the city or county requested the Commission to act or make a recommendation for zoning; therefore, the wording of the motion should be made clearer. Mr. Horner amended his motion to include City/County as well as individual property owners.

Ms. Wilson commented that the Commission may not necessarily need a policy for the specific areas zoned 30 years ago. If the TMAPC decided "they legitimately want to look at pieces and fashions of this puzzle on a one-time basis, is this a policy or an action?" Therefore, she questioned if the Commission needed a written policy to take action for a one-time event.

PUBLIC HEARING: Blanket Zoning - Cont.

Mr. Doherty asked Mr. Horner if it was his intent to take the study presented to and reviewed by the Commission and "toss it in the trash can"? Mr. Horner replied "no", and Mr. Doherty commented that this was the effect of the motion. Mr. Parmele did not agree with Mr. Doherty's interpretation of the motion. Discussion followed on various scenarios involving rezoning to RS while some individual areas remained RM.

Mr. Neely commented that, if the TMAPC initiated zoning in certain neighborhoods, it would be putting a burden on those property owners who did not wish to be rezoned.

Mr. Doherty suggested that there might be a way to write a policy that would clarify the Commission's action by basing it on the three blanket zoned areas identified in the study. Mr. Parmele noted that the City (elected officials) could initiate the request for rezoning of the older neighborhoods. Mr. Doherty stated that the TMAPC policy could then indicate that the TMAPC would not initiate a zoning action, but would forward to the elected officials the results of the study for them to consider a direction to the TMAPC for initiation of rezoning in these areas. At Mr. Neely's suggestion, Chairman Parmele clarified that the TMAPC could waive filing fees, assist with joint applications, etc. for these areas. Ms. Wilson stated that she felt the TMAPC would be doing a disservice to the elected officials and public if property owners were required to first present their request to the elected officials in order to have their application submitted to the TMAPC for rezoning of these areas.

In regard to discussions about the TMAPC waiving policy, Mr. Linker advised that the Commission could, in fact, waive any of their adopted policies, but the problem in doing so "is that it is just one strike against us" if the action was ever contested. As to preference from a legal point of view, Mr. Linker commented that he "did not like to see you tie your own hands" as the Commission should keep their options open. He stated the Commission should determine this on the specific facts of the particular case and really scrutinize the application. Mr. Linker added that he was "concerned that the Commission was being arbitrary and capricious in saying right up front that we're not ever going to consider this (downzoning)." Commissioner Rice clarified that his belief in an individual property owner's right did not mean the Commission was not going to do everything possible to support the subdivision, neighborhood associations or individual property owners. He agreed with Mr. Linker's comments that it should be reviewed on a case by case basis whether for a neighborhood association or an individual. Mr. Doherty agreed with Mr. Coutant's statement that some flexibility was needed. Mr. Parmele suggested an amendment to the motion to prefix the policy with "as a general rule". Mr. Horner amended his motion accordingly.

PUBLIC HEARING: Blanket Zoning - Cont

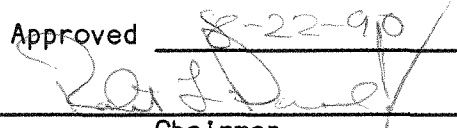
After continued discussion on the wording for the motion as to "initiate" or "consider", Mr. Doherty suggested this matter be forwarded to the Rules & Regulations Committee, with input by Legal Counsel, to draft final wording for a general TMAPC rule or policy indicating that, as a general rule, the TMAPC would not initiate/consider any rezoning without property owner consent, or words to this effect.

TMAPC ACTION: 9 members present

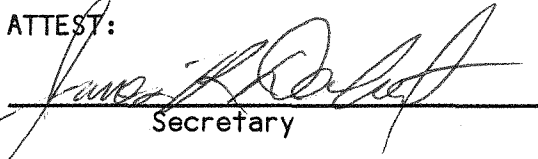
On **MOTION** of **HORNER**, the TMAPC voted 7-2-0 (Carnes, Coutant, Parmele, Horner, Neely, Rice, Woodard, "aye"; Doherty, Wilson, "nay"; no "abstentions"; Draughon, Randle, "absent") to **APPROVE** the concept of a written TMAPC policy stating that, as a general rule, this Commission will not consider any zoning changes unless an individual application is submitted by the owner, his agent or the City/County in an appropriate manner.

Chairman Parmele asked that the Rules & Regulations Committee review this to draft appropriate language for inclusion as a TMAPC policy. Mr. Doherty inquired if it was the wish of the Commission to abandon the effort of forwarding the study to specified groups. Mr. Parmele stated that Staff "has certainly heard the consensus of Commission and the study should come forward with suggested alternatives, as it was certainly not the intent to leave it lie, but move forward."

There being no further business, the Chairman declared the meeting adjourned at 5:28 p.m.

Date Approved 8-22-90


Chairman

ATTEST:


Secretary

