

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1903
Tuesday, October 13, 1992, 7:00 p.m.
City Council Room, Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Ballard	Selph	Gardner	Linker, Legal
Broussard		Hester	Counsel
Secretary		Stump	
Buerge			
2nd Vice			
Chairman			
Carnes			
Doherty, Chairman			
Horner			
Midget, Mayor's			
Designee			
Neely			
Parmeale, 1st Vice			
Chairman			
Wilson			

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, October 12, 1992 at 3:39 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Doherty called the meeting to order at 7:07 p.m.

REPORTS:

Chairman's Report:

Chairman Doherty reported the City Council Development Committee has not acted on the recommendation on signage provisions to the Zoning Code. The Committee will take it up again on October 27, 1992 at 11:00 a.m.

CONTINUED ZONING TEXT AMENDMENT PUBLIC HEARING

Zoning Code Amendments Concerning Adult Entertainment Businesses

Chairman Doherty announced the City Council requested the Planning Commission review the area of adult entertainment businesses. He stated Staff will present a recommendation for land use considerations on how bars and dance halls might be accommodated.

Staff Comments

Mr. Gardner reported that after the first public hearing on this matter, July 15, 1992, an Ad Hoc Committee, was formed by the Mayor's office. Because of comments made by the business community at that public hearing and the study made by the Ad Hoc Committee a

summary of proposed revised amendments was formulated. This summary has been distributed to those in attendance. Mr. Gardner proceeded to review the following:

Summary of Proposed Adult Business Regulations

A. All principal use bars, taverns, night clubs, pool halls and private clubs*:

1. Shall meet the parking requirements within one year from the approval date of this ordinance, if located within 300 feet of a residentially zoned area. This requirement does not apply for businesses located more than 300 feet from a residentially zoned area.

The Board of Adjustment may modify this requirement by special exception.

2. All public access doors shall be located at least 50 feet from residentially zoned areas. Doors which can only be opened from the inside and only for emergency purposes (activates an emergency alarm if opened by a customer) or for delivery of merchandise can be located nearer than 50 feet.

The Board of Adjustment may modify this requirement by special exception.

3. All new adult businesses shall be spaced 300 feet from an existing adult business.

This requirement does not apply in the Central Business District or to any existing business.

Principal use restaurants, hotels, motels and not-for-profit, bona fide lodges, clubs, fraternal, benevolent or charitable organizations which contain accessory use bars are exempt from this ordinance.

B. All principal use bars, taverns, nightclubs, pool halls and private clubs*:

1. Shall be located 300 feet from a church or school. This is already the law in Oklahoma.
2. Shall be located 300 feet from a public park.

*These requirements do not apply to Sexually Oriented Businesses.

C. All Dance Halls (Teen and Adult):

1. Shall be located at least 300 feet from a residentially zoned area within one year from the approval date of this ordinance.
2. Shall meet parking requirements within one year from the approval date of this ordinance.

These requirements do not apply to dance floors which are necessary to not-for-profit, bona fide lodges, clubs, fraternal, benevolent or charitable organizations.

The Board of Adjustment may modify these requirements by special exception.

Mr. Gardner then made the following statement summarizing exactly what is being recommended and the reasons for it.

The Tulsa Metropolitan Area Planning Commission (TMAPC), at the request of the City Council recently completed the Adult Entertainment Business Study which was one of several planning studies in the 1992 work program. The problems associated with these businesses, however, have been around a long time and have been studied in some form since 1978.

Most of the problems are related to land use and, therefore, need to be addressed in the Tulsa Zoning Code. We cannot solve all of the problems with these proposed amendments, but they go a long way toward providing the necessary solutions to many if not most of the problems. We also recommend that the City Council consider adopting a noise ordinance, but not as part of the Zoning Code. We believe the enforcement of such an Ordinance would have to come from the Tulsa Police Department and we do not see this approach costing a lot of money to implement. We also believe that the type of noise, such as loud music, could be regulated without being concerned with other types of noises. The nuisance laws are not a panacea. They have not been effective in solving the problems over these many years. A business shut down under the nuisance laws merely reopens under new management.

Staff knew that the original draft ordinance was too restrictive, but provided a starting point for these discussions. The Staff along with the Mayor's Ad Hoc Committee came to the conclusion that lack of off-street, on-site parking presented the greatest threat to the residential neighborhoods along with the location of the public access doors. Adult Businesses which have adequate parking in front of their building along the major streets will minimize most of the problems by closing the back door to patrons which is located next to the residential area. We also concluded that adult businesses which have inadequate parking, but are not within 300 feet of a residential area need not provide the required off-street parking.

The Staff researched what effect the revised zoning amendments would have on existing adult business since our last public hearing. The Alcoholic Beverage Laws Enforcement Commission (ABLE) furnished the Staff with a list of 285 mixed drink establishments in Tulsa County of which 168 were restaurants, hotels, and non-profit organizations. A review of the yellow pages along with a field check of the commercial areas revealed a total of 211 principal use bars, night clubs, and billiard parlors selling beer

and/or mixed drinks. Of these 211 adult establishments, only 20 adult businesses (attached) or less than 10% did not meet the proposed Zoning Code amendments as revised. A few of these 20 may be candidates for Board of Adjustment relief in our opinion. Fifteen of the 20 establishments are located in Council District 4, two in District 1, 2 in District 3, and 1 in District 9. There are also a few (5) dance facilities which are located within 300 feet of residentially zoned areas.

We believe the proposed amendments to the Zoning Code, as revised, should be adopted. We believe that the small number of adult businesses which would have to relocate is a very reasonable solution to the problem considering the relief afforded several hundred residents and the protection of their property values.

In response to a question from Mr. Parmele, Mr. Gardner reviewed the parking requirements and noted that, to date, those have only affected the new bars being constructed. Under the proposal being considered it would affect all bars. Those bars unable to comply would have one year to comply, apply for relief through the Board of Adjustment, or relocate. Dance hall facilities must meet the same requirements.

Chairman Doherty read the following:

TMAPC ADULT ENTERTAINMENT STUDY

The following list of bars, taverns, night clubs and billiard parlors do not meet the off-street parking requirements set forth in the Tulsa Zoning Code:

	<u>Council District</u>		
1)	4	Achreon	2405 E. Admiral Blvd.
2)	4	Anchor	2630 E. 15th St.
3)	4	Arnies	1546 E. 15th St.
4)	4	Beehive	557 S. Zunis Ave.
5)	4	Booze's	302 S. Phoenix Ave.
6)	4	Buccaneer	1120 S. Harvard Ave.
7)	4	Doll House	2409 E. Admiral Blvd.
8)	4	Factory, The	1902 E. 11th St.
9)	4	Force, The	3202 E. 15th St.
10)	9	Ikon	3415 S. Peoria
11)	1	Jack & Mikes	1811 N. Cincinnati Ave.
12)	3	Johnny Ray's	1807 N. Lewis Ave.
13)	3	MaMa T's	424 S. Memorial Dr.

14)	4	Phil's	110 S. Rockford Ave.
15)	4	Miss Vickie's	3609 E. 11th St.
16)	4	Pirates Den	4002 E. 11th St.
17)	1	734 Lounge	734 N. Peoria Ave.
18)	4	Tap Room	3020 E. 15th St.
19)	4	Thelma's	2008 E. Admiral Blvd.
20)	4	Tulsa Billiard Palace	1134 S. Harvard Ave.

Jeannie McDaniel

Ms. McDaniel gave a review of the make-up of the Ad Hoc Committee. Ms. McDaniel disclosed the Committee identified the problem as one that impacted certain neighborhoods where zoning and the adult entertainment industry has changed over the years. Ms. McDaniel cited instances where bar owners, in some areas, have met with area residents in an attempt to alleviate the problem with excessive noise. However, there have been a few that, no matter what else was tried, i.e. nuisance, noise ordinances, could only be addressed through zoning. Ms. McDaniel believes the 50 ft. requirement will eliminate the back door nuisance, focusing the noise going out the front as a public entrance. It was determined that patrons parking near the back door along residential streets are a contributing factor to the noise nuisance. The Committee did not want to limit residential parking areas, so the idea to study parking was conceived. The Committee stayed away from nuisance and noise; much of the noise being reported by neighborhoods was often coming from patrons themselves and not the establishment. Most owners were very cooperative by turning down the volume or closing a door. However, there is no control over the patron. A noise ordinance, the Committee felt, would be difficult to enforce because by the time the enforcer arrived, the violator would be gone. The Committee could not see how applicable a noise ordinance would be in this case. The Committee studied the nuisance ordinance very closely; however, they did not want to legislate simply for legislative reasons to impact just a few. The Committee reviewed whether licensing, code enforcement, and the Police Department could do a better job in eliminating the need for this ordinance. It was discovered that it is very difficult and time-consuming, and often the offending business would merely reopen later. A noise ordinance would only affect the business and not the location. The location is the problem. Ms. McDaniel asked the Planning Commission to seriously consider this proposal and asked for their guidance and expertise in allowing businesses and neighborhoods to coexist. This situation is unique in that the part of the city it most impacts, District 4, is a part of the city that hosts areas susceptible to slum and blight. These are areas that are fighting, with CBDG funds, to hold the economic value and to keep people living there. It is not desirable to see the neighborhoods become empty because of a problem like this, which can be taken care of through good zoning.

TMAPC Questions

In response to a question from Ms. Wilson, Ms. McDaniel replied that the committee did not feel a noise ordinance would solve the problem here. It may be necessary to enact a noise ordinance for the City of Tulsa at some point to address another issue; however, it has been found that disturbing of the peace does work. It puts the burden of filing on the citizen. However, when the noise is from the patron, the business owner should not be held responsible for his patrons, as they are two blocks away getting into their cars.

Mr. Parmele asked for statistics on trouble spots that continually appear to create problems.

Ms. McDaniel advised that some of the names on the list read earlier are very familiar. Some locations have been chronic problems for 20 or more years. Ms. McDaniel pointed out that Arnie's Bar is one establishment that has been no problem to the neighborhood, and community and residents have voiced their support of this business. Ms. McDaniel cited instances where nuisances have been zealously pursued and closed down, just to have the business reopen under a new name. Ms. McDaniel conceded there should be a place where businesses can coexist with the environment around them. These businesses are wanted in Tulsa if there is a clientele for it. A different type crowd is now being catered to, one that enjoys loud amplified music.

In response to a question from Mr. Broussard, Ms. McDaniel advised there were three business owners who participated in the Ad Hoc Committee, Vickie Bruckeen, Kenny Teague, and Chip Owens.

Chairman Doherty asked that, should this proposal be approved and the eighteen establishments listed be unable to obtain the required parking requirements and forced to the BOA, would Ms. McDaniel be prepared, in those instances where there is no problem, to appear before the BOA and so advise them.

Ms. McDaniel advised that police reports would have to be reviewed and she would look to the area residents for support. With that support, she would voice support of the establishment before the BOA.

Ms. McDaniel advised she has heard no opposition from the Committee participants to the proposal.

Chairman Doherty advised the original proposal was to space these establishments 300 feet from the nearest wall. The current proposal is to space the nearest public-access door of the establishments 50 feet from the nearest residence.

Ms. Wilson asked whether in some instances it would be possible for minor construction to change a front door to accommodate the proposed requirement.

Ms. McDaniel advised there have been bar owners who have done remodeling to accommodate a nearby neighborhood already.

Interested Parties

Councilor Gary Watts

Councilor Watts agreed with Ms. McDaniel's analysis of the reason this problem exists and is focused on the older neighborhoods. Councilor Watts declared there is definitely a zoning problem with this type of establishment since it seems to be focused in the older parts of Tulsa. The problem is being experienced where development preceded zoning. It is not being experienced in neighborhoods where spacing is proper, and inappropriate uses are separated from each other, but where incompatible uses are next to each other. Councilor Watts expressed his hope that the Planning Commission will rise to the challenge and give relief to the many neighborhoods that have been affected. Councilor Watts added that, of the list of fifteen establishments in his district, he recognizes at least ten that have been subjects of complaints while he has been an elected official.

Councilor John Benjamin

Councilor Benjamin acknowledged that District 7 is not affected by adult entertainment businesses, but the proposed Use Unit changes do relate to his district's problems with dance halls. Councilor Benjamin feels this proposal will have a positive impact on the quality of life in area neighborhoods, and will maintain and enhance residential property values. Councilor Benjamin voiced that this will provide a safer community, and expressed that he considered this proposal to be fair by providing an exception process before the BOA and giving businesses up to one year to comply.

In response to a question from Councilor Benjamin, Mr. Gardner advised the BOA would be reviewing the physical facts and circumstances around a particular business, not who manages it, because while there may not be problems at present, problems may occur if the business changes management. If the business has inadequate parking, patrons will park in nearby residential areas, and the BOA can make additional parking a condition of approval.

Ms. Wilson questioned whether Councilor Benjamin believed there would be a need in the future for the City Council to pursue a noise ordinance, or if proposals being considered tonight attack the entire problem.

Councilor Benjamin deems the Police Department is pursuing the disturbing the peace problem very diligently. The City Council did provide a provision that after multiple violations, the owner could face 30 days in jail. He concurred that the noise situation needs to continue to be studied.

Interested Parties

Curtis Parks, Attorney	1736 S. Carson	74119
Kerry Tunnell, bar owner	6711 S. Marion	74136
Wayne Bagby, bar owner, Flamingo's	3819 S. Rockford	74105
John Willis, bar owner	P.O. Box 702324	74170
David Sauders, bar owner, Ikon	P.O. Box	52770
Thomas Wiley, bar owner,	736 E. 36th St. N.	74106
Shawn Hays, bar owner, Flamingo	3136 S. 88th E. Pl.	74145
Cliff Boese, bar owner, Booze's	302 S Phoenix	74127
Pat Jonstone	1147 S Florence Pl.	74104
Mark Hopkins	3020 E. 15th St.	74104
David Bauery		

The above-listed individuals spoke against the proposal and made the following comments:

Support was voiced to grandfather existing businesses that do not meet proposed requirements to keep from closing them.

The Planning Commission was cautioned to consider business owners' investments and the threat of taking away their livelihood before adopting a proposal that threatens this.

Enforce existing ordinances to give neighborhoods relief from excessive noise, trespassing, and nuisance.

Concern was expressed over forcing businesses to close.

Proposed ordinances are deemed to be discriminatory.

Attack the problem bars at the public hearing, during the relicensing procedure, when a bar changes hands.

The Planning Commission was cautioned against restricting economic and capitalistic freedom.

Bar owners recounted disadvantages of the bar business and asked for consideration to not make additional restrictions. Already, mixed beverage retailers are subject to unreasonable rules, taxes, and fees no other retailer must endure.

Some bar owners cited actions they are taking to alleviate the problem i.e., hiring a security company to monitor their parking lots.

Some of the bar owners encouraged area residents to communicate to them the problems being experienced so business owners can take steps to solve the problem.

Concern was expressed over changing the rules, causing bars to not be in compliance now, when at the time they purchased their business, they did comply.

Concerns were expressed over possible loss of jobs and income should this proposal be adopted.

It was suggested that the Planning Commission reconsider allowing adult entertainment business establishments to locate in industrial areas by right rather than by exception.

Most bar owners believe they should maintain as good a working relationship as possible with residents and other businesses in the area.

Bar owners cited instances where some of the problems are occurring from outside elements gathering on nearby vacant parking lots for parties, having nothing to do with their particular bars.

One club owner presented a copy of a letter sent to area residents announcing the club has hired a security service to patrol its parking lot. Residents are invited to call the officer's pager number should they have complaints regarding noise or other disturbances. The letter states the officer will arrest the offender and he will be prosecuted by the club to the fullest extent of the law. To date there have been no complaints filed since mailing of the letter. (The letter is dated October 7, 1992.) The owner remarked that complaints have been lodged against area residents for egging the establishment and vehicles in the parking lot along with breaking outdoor lights.

Bar owners complained that more of them were not invited to be part of the Ad Hoc Committee.

It was recommended to increase the penalty provisions to provide greater protection from nuisance and loitering.

Bar owners asked the Planning Commission to keep in mind that they have no control over patrons' activities after they leave the establishments.

One speaker suggested as an automatic exemption the option of installing a privacy barrier, a fence, a screening device of some sort, the specifics of which would be delegated by the Planning Commission or the Board of Adjustment. It was also suggested that those bar owners of property adjacent to the bar can apply for an exception so they would not be forced to construct a screening fence between the bar and their own adjacent property.

The proprietor of one of the bars, which residents noted as a trouble spot, expressed empathy toward the residents' cause. This proprietor stated that his business has solved, to the satisfaction of the Tulsa Police Department and some Florence Park residents, the problems of noise being emitted from the bar, litter, and to some extent, parking.

The Planning Commission was urged to allow the current nuisance laws to handle problem bars.

Interested Parties

Jean McGilbra	1604 S Delaware Pl.	74104
Kay Quay	4816 S. Sheridan	74145
Esther Severs	1444 S. Florence	74104
Teresa L. Scott	1515 S Florence	74104
Fred Narrin	6230 E. 49th St.	74135
Lisa Calcamuggio	S. Florence	74134
Kay Long	3225 S. Winston	74135
David Jehlicka	1623 S College	74104
Bonnie Willet	1727 S. Gary Pl.	74104
Patricia Brashear		
Richard Langenheim	1731 S. College Ave.	74104
Richard Phillips	1635 S. College	74104
Rollie Scott		
William Barber		
Latina Ward		
Mrs. Oscar Payne		

The above-listed individuals spoke in favor of the proposal and voiced the following:

It is not the proprietors, bar owners, and bartenders that are the problem, but rather the product of their enterprise.

A lack of police manpower to adequately patrol each bar that is an affront to the neighborhoods is part of the problem.

There is a lack of enforceable laws to alleviate the situation.

The only solution is to move the cause of disturbance far enough away to cut down on the problem.

Speakers support a distance of greater than 50' from the bar's front door to the nearest residence.

Area residents cited instances of drunk patrons urinating in front lawns and on porches; couples engaging in sexual activity in residents' yards and leaving used condoms strewn about; finding used syringe needles, broken bottles, and litter.

The investments of the homeowners should be given serious consideration.

A representative from a Senior Citizens Retirement Home, Versailles Apartment, expressed concern over The Shark, a teen dance hall, which causes noise problems. Petitions were presented to the Planning Commission containing 125 signatures in support of the ordinance. Instances were cited of loss of revenue due to residents moving out because of the noise problems. Additional expenses are being incurred in an attempt to soundproof the apartment building.

Support of a 300' distance or more from the establishment's front door to the nearest residence was voiced.

Residents cited instances where complaints of disturbing the peace were filed and the clubs turned the music down for a brief period of time.

Residents who followed through with disturbing the peace complaints advised that the judges are handing down small fines, having no effect on the problem.

One area resident presented pictures of a bird bath and her wood privacy fence after being vandalized.

Residents cited instances of problems with drunken bar patrons and the crime that occurs around these bars. Instances of threats against residents who speak out against problems with bars in their area were also reported.

Problems were cited with traffic leaving bars at late hours causing disruption of sleep because of headlights shining into bedroom windows and excessive noise from car radios.

Residents of Florence Park pointed out that bars are not permitted in most other residential areas, and they are asking for the same consideration.

Residents voiced support of balance between the bar owners and area residents.

Residents voiced disappointment that, when complaints are filed against bar owners, they are fined and nothing is changed. Bars have been shut down only to be reopened under another name.

One resident recounted meeting with an area club owner to no avail. He cited disturbances of excessive noise from an amplifier system.

Residents disclosed instances where they have taken time off from work to testify in court about disturbing the peace complaints to no avail.

Residents cited instances where one bar owner holds barbecues during the summer for patrons, with approximately 30-40 individuals gathering outside the back door drinking beer and causing disturbances.

One resident advised that semi-trucks parking on residential streets cause a hazardous situation for both drivers and pedestrians.

One resident gave an example of placing a log at the base of her driveway to keep vehicles from turning around there only to find her front door barricaded with that log the next morning.

Residents fear for their safety and cannot leave their homes at night without being verbally harassed.

Residents are not trying to put anyone out of business, but need relief by moving the bars located from residential areas where there is inadequate parking for patrons.

Residents suspect some bar owners have invested in police scanners because after a complaint is phoned in to the police the bar shuts the back door, music volume is turned down, and illegally parked cars are moved.

The Florence Park residents pointed out that their neighborhood has three bars that do not meet off-street parking requirements.

A petition from Florence Park residents, containing over 200 signatures, was presented to the Planning Commission expressing support of the proposed ordinance.

One resident explained how her neighborhood became active in filing nuisance complaints. She stated that residents protested the bar's application for a beer license renewal. This caused the owner to meet with area residents in an attempt to make a positive difference in the situation. The owner sent patrols through the neighborhood to pick up litter and did all he could to work with residents. Another bar in the area has not been so amiable in working with the Neighborhood Association. It was declared that nuisance laws will not help. Bars not presenting a problem to neighborhoods can go the BOA for relief and this speaker expressed her support of one such bar which would not meet the proposed off-street parking requirements. She would be prepared to go before the BOA to support Arnie's.

Problems are being experienced with patrons parking their cars in the neighborhoods causing parking hazards.

One resident cited an instance where an ambulance was unable to access a home because bar patron's cars were blocking the driveway.

Property owners expressed concern over the adverse effect bars have on property values.

Councilor Mike Patrick

Councilor Patrick remarked that parking regulations begin to address the issue, but only deal with the symptom and not the problem. Councilor Patrick cited a lack of available manpower to prevent crime. He acknowledged that disturbing the peace is elusive since there is not a decibel level set to support such a charge. Councilor Patrick holds city government negligent in defining disturbing the peace, and has made it difficult to attack the problem. This proposal will address part of the problem, but he fails to see how it will address the main issue of what is too loud, when is too loud, and questioned why the police officers are

unable to take action without involving the citizens and creating an adversary relationship.

Chairman Doherty declared the public input portion of the public hearing closed.

Interested Parties

Glen Kaheneh	1631 S. College Ave.	74104
Bill Williams	3319 E. Newton	74115
Marc Bryant	12439 E. 36th St. S.	74146
Frank Garsa	743 S. Quebec	74112
Robert Queens	6117 E. 21st St.	74114
Rocky Frisco	1332 S. Florence Pl.	74104
Mark Hopkins	3020 E. 15th St.	74104
R.E. Scott	1515 S. Florence Ave.	74104
Helen Perrine	1924 S. College	74104
Barbara Gardner	1928 S. College	74104
Vernon Johnson	1516 S. Florence Ave.	74104
Rose Marie Garcia	3007 E. Admiral Pl.	74110
Mark & Julie Buchheim	1520 S. Florence Ave.	74104
Dawnett Watkins	1211 S. Gary Pl.	74104
Janey Raymond	1919 S. Evanston	74104
Betty Payne	1923 S. Evanston	74104
David McGilbra	1604 S. Delaware Pl.	74104
Diane Blume	1519 S. Florence Ave.	74104
Andy Lupardus	1524 S. Florence Ave.	74104
Karen & Ron Doerr	1539 S. Evanston	74104

The above-listed individuals were present, but did not wish to address the Planning Commission.

Review Session

There was discussion among the Planning Commission over making penalties for disturbing the peace more stringent and that a noise ordinance was essential to alleviate this problem.

Mr. Parmele expressed support of continuing to explore the noise ordinance. He declared that some of the problem bars and clubs would not be affected by the current proposal. Mr. Parmele stated that all of the problem areas need to be encompassed by an equal and fair ordinance. Mr. Parmele declared the proposal before them is not a complete answer and would like to see the Planning Commission return to one more committee meeting and continue this public hearing for 30 days. Within that 30 days, he would like to meet with the Ad Hoc Committee and have a representative from the Police Department present along with the Legal Department to explain the penalties and what needs to be done to increase penalties for loud noise, disturbing the peace, and public nuisance.

Chairman Doherty reminded the Planning Commission this is getting out of the area of land use. The Planning Commission's charge is to deal with the Zoning Code and the areas of land use, in particular parking.

Mr. Midget declared the issue of noise and nuisance was addressed by the Ad Hoc Committee. From his understanding of their work the proposal they brought before the Planning Commission is a first step toward solving the problem. Mr. Midget expressed agreement with comments being made by the Planning Commissioners, that this is not the panacea to the entire problem, but this is a first step toward addressing this problem. Mr. Midget urged the Planning Commission to move forward with the proposal. He added that while the Planning Commission may wish for further study on the noise and nuisance issue to strengthen fines or what revisions might be necessary, he feels they will be doing an injustice to the neighborhoods to hold them hostage by not acting upon the proposal.

Councilor Benjamin declared the issue of a noise ordinance is an active topic with the City Council and they have a draft of the ordinance that defines decibel ratings. The City Council is moving ahead with that, and he conveyed they have taken the Planning Commission's recommendation of that very seriously.

Ms. McDaniel noted that in the Ad Hoc Committee, Ray Bishop, Tulsa County Health Department, was included and brought forward the 1985 noise ordinance which was reviewed. The Ad Hoc Committee could not determine how to apply the patron's behavior back to the bar owner. The Committee could not determine how to make the bar owner responsible for sounds being emitted by patrons and people on the street. The bars, for the most part, have been worked with through disturbing the peace violations.

Mr. Linker explained that the Zoning Code provides a maximum fine of \$500, but when it goes to court the judge has discretion of setting the fine. Increasing the amount of fine available will not necessarily solve the problem.

In response to Mr. Broussard's suggestion of imposing a minimum fine, Mr. Linker replied that would have to be studied.

Ms. Wilson expressed sympathy for the residents who seem to have worked with the system and the system failed them. She commended the bar owners who act responsibly and work with their neighbors. Ms. Wilson perceives this revised proposal to be much improved and focuses more on the problem. Ms. Wilson feels the Planning Commission should move forward regarding the parking issue. She pointed out that all businesses need parking for their patrons and there is no need to overburden any owner. She expressed concern that the public nuisance and disturbing the peace problems should be studied, even though it may be outside their scope, to offer something in the line of enforcement to look at the full spectrum of the problem. Ms. Wilson voiced confidence that the City Council will move forward with the noise ordinance.

Ms. McDaniel advised the Ad Hoc Committee asked about the nuisance ordinance and the Police Department presented two cases where they worked diligently to close these clubs. One was O'Henry's Pub, on 15th Street. It took live sex acts to get an injunction from a

judge to close that club. It was open again in one week. This was in the last twenty years. Most recently, a club in west Tulsa, where many times they were reported for serving to minors and were penalized for that, only to open again shortly thereafter. They were then fined for serving alcoholic beverages to already-intoxicated people and were fined diligently. Finally, a patron left the club and in a head-on accident, killed two people. Lieutenant Walker went to the District Attorney and then to a judge to try to get an injunction to close the club and was unsuccessful. Ms. McDaniel stressed that proving nuisance is very difficult and time-consuming, and requires a lot of investigative tools. This is what the Police Department shared of their frustrations, because a judge is very reluctant to take away a person's right to do business.

Chairman Doherty advised understanding the problems with the nuisance ordinance, and the Planning Commission must focus on their responsibility to address land use. It is not the Planning Commission's decision whether an establishment should remain open or be closed. The Planning Commission's responsibility is to recommend amendments to the Zoning Code that will provide the best compatibility between the uses.

Mr. Neely voiced concern over the distinction between principal use and accessory use, because there are many circumstances where there is an accessory use bar that is as much a nuisance at times as principal use.

Chairman Doherty remarked that Staff was unable to find accessory use bars that created serious or long-term problems.

Mr. Neely acknowledged that parking is a way to solve some of the problems, but will not solve all of the problems. It is the only tool this Commission can use to regulate land use.

Ms. McDaniel declared whatever action the Planning Commission does, the Ad Hoc Committee has nothing further to discuss and no reason to meet based, on what the Mayor has instructed them to do.

Ms. Wilson declared the Planning Commission should move forward with the Zoning Code proposal. She suggested a cover letter to the City Council advising of the Planning Commission's encouragement of a noise ordinance.

Mr. Parmele declared that he is not prepared to vote in favor of the motion tonight, although he feels there are many good points in it. The Planning Commission must make a recommendation to the City Council, but he has heard too many things tonight that need to be reviewed. He has heard comments from both sides that they need to look at strengthening and enforcing existing ordinances and stiffer penalties. Some speakers have indicated that 50' spacing is not enough, and even 300' would not be enough. He expressed concern that there are areas being set up that would allow people to avoid the ordinance just by putting in a kitchen and designating 75% of

the club to be available for food. He feels more time needs to be spent studying this issue. There has been a request that IL be permitted by right, which is also a point that can be studied.

Mr. Midget stated that he feels they would be doing the neighborhood an injustice by holding it hostage to any ordinance outside of a zoning matter since that is not what they are here to address. Mr. Midget feels the Ad Hoc Committee and Staff have studied this proposal diligently, all the issues have been addressed and it is at a point where the Planning Commission can move forward. He urged the Planning Commission to do so by providing relief to a long-standing problem that neighborhoods have had to face.

Mr. Horner declared that he also felt unable to vote in favor of the ordinance.

Mr. Neely stated the Planning Commission is trying to solve a problem that requires a comprehensive solution, and this is one small piece of it. This may be placing certain restrictions on certain businesses without contemplating what could occur in the future, and he feels unprepared to vote for it, though he supports a lot of the concepts in principle.

Chairman Doherty disclosed that he has heard many things tonight that have helped him understand the problem, but when returning to the proposal, he has not heard anything that suggests a portion of it cannot be passed. He has heard that it is not restrictive enough, but sees nothing wrong with the parking requirements, and the sooner they are put in place, the more relief the neighborhoods would have. Chairman Doherty expressed being less comfortable with the 50', but since it is to the door and not the establishment, and measured by walking distance, he is less troubled by that. He has faith in the Board of Adjustment's ability to deal with this issue and pointed out only a maximum of 19 cases would be affected. The good faith of current owners cannot be relied on, since the ownership does change. These are land use and land use controls issues. He expressed support of Staff's proposal to place it in its own use unit.

Mr. Parmele responded to Ms. McDaniel's comment that one of the problems with enforcing the nuisance ordinance is the judge's reluctance to put people out of business. He pointed out that the Planning Commission is being asked to put 20 people out of business, and he is not prepared to vote to do so.

Mr. Midget pointed out the concerns and desperate situations the residents are being placed in. He feels there is the obligation to address that particular concern. He sees nothing in the proposal to prevent the Planning Commission moving on the land use issue. The parking will go a long way to solving the problem. It is not the entire solution but is something they can work with and should move forward on.

TMAPC Action; 8 members present:

On MOTION of WILSON, the TMAPC voted 3-4-1 (Doherty, Midget, Wilson "aye"; Ballard, Horner, Neely, Parmele, "nays"; Broussard "abstaining"; Buerge, Carnes, Selph "absent") to recommend APPROVAL of the Proposed Amendment to the Zoning regarding Adult Businesses as submitted by Staff.

MOTION FAILED.

Mr. Parmele asked that there be a Rules and Regulations Committee meeting to make a final review and recommendation on November 18, 1992.

Chairman Doherty stressed that the Rules and Regulations Committee meeting is a public meeting, but not a public hearing, and is for debate among the committee members only, although all Planning Commissioners and the public are invited to attend. That Committee will then make a recommendation to the full Commission, which will then consider the matter and vote.

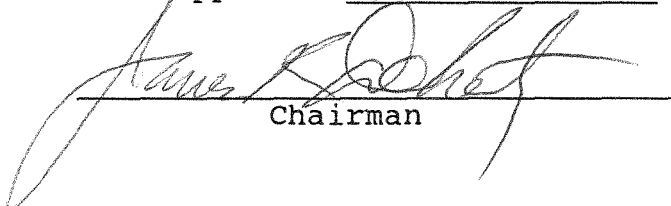
TMAPC Action; 8 members present:

On MOTION of PARMELE, the TMAPC voted 7-0-1 (Ballard, Doherty, Horner, Midget, Neely, Parmele, Wilson "aye"; no "nays"; Broussard "abstaining"; Buerge, Carnes, Selph "absent") to CONTINUE the Public Hearing to November 18, 1992.

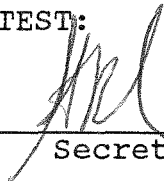
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There being no further business, the Chairman declared the meeting adjourned at 10:10 p.m.

Date Approved: 10-28-92


Chairman

ATTEST:


Secretary

