

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1735
Wednesday, **March 1, 1989**, 1:30 p.m.
City Commission Room, Plaza Level, Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Coutant, Secretary	Carnes	Frank	Linker, Legal
Doherty	Kempe	Gardner	Counsel
Draughon	Randle	Matthews	Jackere, Legal
Paddock, 2nd Vice		Setters	Counsel
Chairman		Stump	Miller, DSM
Parmeale, 1st Vice			Page, DSM
Chairman			
Selph			
Wilson			
Woodard			

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, February 28, 1989 at 10:00 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Vice Chairman Parmele called the meeting to order at 1:30 p.m.

MINUTES:

Approval of the Minutes of February 15, 1989, Meeting #1733:

On **MOTION** of **WOODARD**, the TMAPC voted **8-0-0** (Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to **APPROVE** the **Minutes of February 15, 1989, Meeting #1733.**

REPORTS:

Chairman's Report:

Mr. Parmele announced a TMAPC Joint Committees meeting on Wednesday, March 15, 1989 in regard to the Infill Development Study.

Committee Reports:

Mr. Paddock advised of a meeting this date of the **Rules & Regulations Committee** to consider enforcement of the Zoning Code as relates to signs. He stated the Committee voted unanimously to endorse the concept of submitting a letter from the TMAPC to the Mayor and City Commission with a strong recommendation that the staff of the Protective Inspections Department be increased. Further that a policy statement be forthcoming from the City endorsing the efforts to enforce the Code in order to clean up the visual clutter of illegal signs.

In regard to the signage issue, Mr. Irving Frank of INCOG briefed the Commission on the status of the Sign Advisory Board's work in areas of the Zoning Code which relate to signage; i.e. portable and vehicular signs, backlit awnings, etc.

TMAPC ACTION: 8 members present

On **MOTION** of **PADDOCK**, the TMAPC voted **7-0-1** (Coutant, Doherty, Draughon, Paddock, Parmele, Wilson, Woodard, "aye"; no "nays"; Selph, "abstaining"; Carnes, Kempe, Randle, "absent") to **APPROVE** the Rules & Regulations Committee recommendation endorsing the concept of a letter from the TMAPC to the Mayor requesting additional staff for the Protective Inspections Department in order to enforce the Zoning Code as relates to signs; and to suggest that full publicity be given by the City to indicate the city administration's support for enforcement of the Sign Code standards.

Mr. Parmele announced the **Budget & Work Program Committee** and the TMAPC Joint Committees will be meeting the evening of March 6th to begin work on the FY 89-90 TMAPC work program.

Director's Report:

Ms. Dane Matthews, INCOG, provided an update on the progress of the Drainage Basin Master Drainage Plans. Mr. Ward Miller and Mr. Jack Page of the Department of Stormwater Management (DSM) were available to answer questions from the Commission members. In response to Mr. Draughon, they explained the the process used by FEMA regarding the flood maps used to determine policy rates for flood insurance. Commissioner Selph obtained information on the northwest drainage basins. The DSM representatives verified, in reply to Ms. Wilson, that it was the intent of DSM that the city-wide Master Drainage Plan be a part of the Comprehensive Plan.

CONTINUANCE(S):

PRELIMINARY PLAT APPROVAL:

Riverfield Country Day School (PUD 375-A)(3492) (RM-1, RS-3)

N/side of West 61st Street, West of Union Avenue

On **MOTION** of **PADDOCK**, the TMAPC voted **8-0-0** (Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to **CONTINUE Consideration of Riverfield Country Day School** until Wednesday, **March 15, 1989** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

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FINAL PLAT APPROVAL & RELEASE:

Fairway Park Amended (PUD 347-2)(382) W 65th St & S 27th W Ave (RS-3, RT)

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to **CONTINUE Consideration of Fairway Park Amended** until Wednesday, **March 8, 1989** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

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COMPREHENSIVE PLAN PUBLIC HEARING:

District 18 Comprehensive Plan Amendments

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to **CONTINUE Consideration of Public Hearing on the District 18 Plan Amendments** until Wednesday, **April 5, 1989** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

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PUD 179-R: Detail Site Plan & Detail Landscape Plan - Development Area A
SE/c of East 71st Street & South 92nd East Avenue

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-1** (Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; Coutant, "abstaining"; Carnes, Kempe, Randle, "absent") to **CONTINUE Consideration of PUD 179-R (Quik Trip)** until Wednesday, **March 8, 1989** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

SUBDIVISIONS:

PRELIMINARY PLAT:

Oklahoma Junior College (PUD 446)(1183) 7370 East 71st Street (OL, RS-3)

This PUD was reviewed by the TAC as a "PUD Review" on 12/01/88 and subsequently approved by the TMAPC on 12/14/88 and by the City Commission on 1/20/89. Some changes were made since the original TAC review. A site plan as approved by the City Commission was NOT submitted with the preliminary plat, so Staff review covered only that information available as of 2/20/89. Applicant was advised to submit a site plan as approved by the City Commission for the TAC review on 2/23/89.

The Staff presented the plat with the applicant represented by Greg Weisz.

The concept site plan was submitted as requested and it was reviewed along with the plat. Staff noted that additional information needs to be shown on plat in accordance with the PUD. Those items were listed in the agenda.

Commissioner J. D. Metcalfe was present and reminded applicant and TAC that certain additional conditions were required by the City Commission including, no parking on 71st Court, elimination of the 6' fence on the south and west, but requiring landscaping in those areas. Also, only 60 parking spaces will be permitted off 71st Place. For access from 71st Court, the existing service drive may be used as long as it is used for school purposes and an access drive with one-way access to South 73rd East Avenue would be permitted.

Since the TAC had not had an opportunity to review the site plan until this date, it would be recommended that applicant submit the Detailed Site Plan to the TAC for review and comment prior to its review by the TMAPC.

Oklahoma Jr. College - Cont

The TAC voted unanimously to recommend **approval** of the PRELIMINARY plat of Oklahoma Junior College, subject to the following conditions:

1. On face of plat show abutting streets in dashed lines for information. Identify same. The north half of 71st Court and the east half of South 73rd East Avenue were apparently dedicated by separate instrument. Show book/page references on face of plat. Also show dedication information for 71st Street as applicable.
2. Show limits of no access as recommended by Traffic/City Engineering and in accordance with the site plan reviewed by the City Commission. This applies to all abutting streets. (Note: Any physical improvements in access and/or additional lanes or widening shall be included in the PFPI if same is required by Traffic Engineering or City Engineering.) Also locate and show South 77th East Avenue for reference. The east access on Lot 1 will be "right turn only". On Lot 2 show a Mutual Access Easement between the building line and easement parallel to 71st.
3. Covenants:
Section I: Paragraphs 1.1.4, 1.2.3, and 1.3.5 could be combined into one paragraph relating to repair of landscaping etc. within the utility easements.
Section II: (2) Change to read: "Only those uses in Use Unit 5 (including public park) and Use Unit 11 submitted by application."
(4) Omit the phrase "and 6' security fence". This was eliminated and/or modified at Public Hearings.
(8) (c): Add..."...to S. 73rd E. Avenue"
(d): Check with Traffic Engineer. This paragraph is a directive relating to a recommendation to be made by Traffic Engineer. Showing access as approved by Traffic Engineering and City Engineering on face of plat should cover this condition.
4. All conditions of PUD 446 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 1100-1170 of the Zoning Code, in the covenants.
5. 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.
6. Water plans shall be approved by the Water and Sewer Department prior to release of final plat (if required).
7. 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).

Oklahoma Jr. College - Cont

8. 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).
9. 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. On-site detention required. Must be shown on plat as a reserve or separate lot.
10. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the City Engineer.
11. 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.
12. A Corporation Commission letter (or Certificate of Nondevelopment) shall be submitted concerning any oil and/or gas wells before plat is released. A building line shall be shown on plat on any wells not officially plugged.
13. Submit detail site plan for review by TAC prior to approval of same by the TMAPC.
14. 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.
15. All (other) Subdivision Regulations shall be met prior to release of final plat.

Comments & Discussion:

In response to Mr. Doherty, Staff reviewed the City Commission's action on this case and the status of the PFPI. Mr. Paddock initiated discussion on the TAC review regarding the one-way access to South 73rd East Avenue. In reply to Ms. Wilson, Mr. Wilmoth commented that the concerns of the TMAPC had been addressed through the TAC and TMAPC conditions of approval, and the site plan review offered additional controls for assuring the conditions would be met.

TMAPC ACTION: 8 members present

On **MOTION** of **PADDOCK**, the TMAPC voted **8-0-0** (Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to **APPROVE** the **Preliminary Plat for Oklahoma Junior College**, subject to the conditions as recommended by the TAC and Staff.

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Howerton Acres (PUD 179-R)(1283) SE/c of E. 71st & S. 92nd E. Ave. (CS, RM-1)

This development was reviewed by the TAC in concept form on 1/12/89. The Planning Commission approved the application for rezoning and PUD on 1/25/89. In order not to get the plat process ahead of the zoning, Staff has no objection to reviewing the plat at the TAC on 1/26/89 but withholding transmittal to the Planning Commission until after the City Commission has approved the zoning and PUD.

The Staff presented the plat with the applicant represented by Dan Tanner and Joe Westervelt.

There was considerable discussion regarding easements, location of utilities therein, the width, and paving. No specific decisions were made and it was agreed to work out the details in the subsurface coordination meeting.

The TAC voted unanimously to recommend **approval** of the PRELIMINARY PLAT OF Howerton Acres, subject to the following conditions:

1. Revise Section II of the covenants to coincide with the PUD conditions as listed in the Staff recommendation (or as approved by TMAPC or City).
2. All conditions of PUD 179-R 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 1100-1170 of the Zoning Code, in the covenants.
3. 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.
4. 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).
5. A request for creation of a Sewer Improvement District shall be submitted to the Water and Sewer Department prior to release of final plat.
6. 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. "This tract is not located in the floodplain or flood hazard area. A watershed development permit will be required prior to development. On-site detention was provided in the original "El Paseo" development. The storm sewer system was sized for a "C" factor of 0.65, the increase will have to be addressed in proposed development plans."
7. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the City Engineer.

Howerton Acres - Cont

8. Limits of Access or (LNA) as applicable shall be shown on the plat as approved by City/Traffic Engineer. Include applicable language in covenants.
9. It is recommended that the developer coordinate with Traffic Engineer during the early stages of street construction concerning the ordering, purchase, and installation of street marker signs. (Advisory, not a condition for release of plat.)
10. 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.
11. The key or location map shall be complete. (Randall Plaza replaces Century Tower)
12. The zoning application (Z-6228) shall be approved and the ordinance or resolution therefore published before final plat is released. Plat shall conform to the applicable zoning approved.
13. 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.
14. All (other) Subdivision Regulations shall be met prior to release of final plat.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-1** (Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; Coutant, "abstaining"; Carnes, Kempe, Randle, "absent") to **APPROVE** the **Preliminary Plat for Howerton Acres**, subject to the conditions as recommended by the TAC and Staff.

CHANGE OF ACCESS:

Quail Creek Village (1183)

7334 South Memorial Drive

(RM-1)

The purpose of the change of access request is to move an access point 25' south to align with the center median cut for a new subdivision on the east side of Memorial Drive (Randall Plaza). The total number of access points will remain the same.

TMAPC ACTION: 8 members present

On **MOTION** of **PADDOCK**, the TMAPC voted **7-0-1** (Coutant, Doherty, Draughon, Paddock, Selph, Wilson, Woodard, "aye"; no "nays"; Parmele, "abstaining"; Carnes, Kempe, Randle, "absent") to **APPROVE** the **Change of Access** on Recorded Plat for **Quail Creek Village**, subject to the conditions as recommended by the TAC and Staff.

LOT SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

L-17142 (1894) Tiffany Bowl L-17144 (1693) Mathews L-17145 (3194) Landmark

On **MOTION** of **WOODARD**, the TMAPC voted **8-0-0** (Carnes, Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to **APPROVE** the Above Listed Lot Splits for Ratification of Prior Approval, as recommended by Staff.

PUBLIC HEARING:

**Amendments to the Tulsa Zoning Code,
Section 750, Sexually-Oriented Businesses**

Mr. Bob Gardner, INCOG, presented the specific items in Section 750 being considered for amendment, as presented to and reviewed by the TMAPC Rules and Regulations Committee:

"750.1 DEFINITIONS:

Existing Definition for Adult Bookstore: An establishment having as a significant portion of its stock in trade books, film, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas.

Proposed Definition for Adult Bookstore: An establishment having a significant or substantial portion of its stock in trade, or an establishment having as a significant or substantial aspect of its business, books, films, videos, magazines, periodicals, games, novelties or other materials which are distinguished or characterized by an emphasis depicting or describing Sexual Conduct or Specified Anatomical Areas; or an establishment with a significant or substantial section or segment devoted to the sale or display of such materials.

750.2 PROHIBITION (Reaffirm the existing language)

500 feet from areas zoned residential. The 500 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted, to the nearest point on a Residential Zoning District boundary line (not including residentially zoned expressway right-of-way).

750.3 NONCONFORMING USES (Reduce five years to two years)

Any business **lawfully** existing as of the effective date of this Ordinance that is in violation hereof shall be deemed a nonconforming use. Such a nonconforming use will be permitted to continue for a period not to exceed **two** years, unless sooner terminated for any reason whatsoever or voluntarily discontinued for a period of 30 days or more. Such

PUBLIC HEARING: Section 750 - Cont

nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. In the event that two or more sexually-oriented businesses are within 1,000 feet of one another and otherwise in a permissible zone, the first such sexually-oriented business licensed and continually operating at a particular location shall be the conforming use and the later established business(es) shall be nonconforming.

Nothing in this Ordinance is intended to make legal any business or activity that is expressly declared illegal under the provision of this Code or under any state or federal laws."

Comments & Discussion:

Mr. Gardner reviewed the various alternatives which had been suggested for amortization of the existing sexually-oriented businesses:

- A) A two year period from the date of the City's adoption, which would take affect in the summer of 1991. Three out of the 14 existing sexually-oriented businesses would meet the proposed 500' spacing from residential:
 - 1) Midtown Adult Bookstore/Twin Theater - 319 East 3rd Street
 - 2) Tulsa Show Place - 8271 East Admiral Place
 - 3) Passions - 6404 East 11th Street

- B) A two year amortization period plus grandfathering of those establishments meeting the 1980 ordinance requiring 300' spacing from residential:
 - 4) Lady Godiva - 1850 South Sheridan
 - 5) Fantasyland (East Side Video) - 5925 East 11th Street
 - 6) Toppers - 4807 East 31st Street

- C) Allow those businesses in item B a longer (more than two years) specified time period to relocate their establishments.

Mr. Alan Jackere, City Legal Department, commented that the situation in Tulsa was unique in that he could not locate any similar cases where businesses had complied with existing spacing requirements then became nonconforming when a new, more restrictive spacing requirement was adopted. He acknowledged that the Commission's decision would be to either grandfather the businesses meeting the 300' spacing, or to allow those businesses a longer amortization period than those that might not have ever complied. The 500' spacing requirement would put a number of these establishments out of businesses if not allowed a longer amortization or grandfathering. Therefore, it could be construed by the courts that the City was attempting to do away with sexually-oriented businesses, which was not the intent of the City. Mr. Jackere summarized by saying that the TMAPC's options included adopting a different amortization period, or a grandfather clause for businesses presently complying with the 300' spacing requirement.

PUBLIC HEARING: Section 750 - Cont

Mr. Paddock advised that the Rules & Regulations Committee voted to recommend to the TMAPC the 500' spacing from residential areas, and to amend the definition of Adult Bookstore as proposed above. He stated the Committee had no recommendation regarding the amortization question.

Interested Parties:

Address:

Ms. Shirley Hoppes	1226 South Fulton
Mr. David Hargrave	3012 South 86th East Avenue
Ms. Zettie Williams	1967 East Tecumseh
Mr. Jay Crabb	7510 South 69th Street

Ms. Shirley Hoppes, representing the Mid-Tulsa Neighborhood Association, stated support of the amendments as presented above; i.e., 500' spacing and a two year amortization period. She advised there were three sexually-oriented businesses in her area and spoke of the detrimental affect to the neighborhoods. Ms. Hoppes commented there were several other areas in the city where these businesses could relocate.

Mr. David Hargrave, Minister of the Memorial Baptist Church, supported Ms. Hoppes' comments. He asked that the TMAPC use good judgement in locating these businesses outside of residential areas, and that this be done with due haste.

Ms. Zettie Williams echoed Ms. Hoppes' comments in support of the proposed amendments.

Mr. Jay Crabb, owner of Toppers, stated that his business complied with the 1980 ordinance and he felt these businesses that did comply at that time should not be grouped with those that were never in compliance. He pointed out that the study presented by the INCOG staff indicated that 13 or 14 sexually-oriented businesses for a city the size of Tulsa was normal. He also pointed out that 90% of the available locations were in downtown Tulsa, and he questioned if this was what the city wanted. Mr. Crabb remarked that he felt the 500' spacing from residential would prolong the court battles on this issue. He stated his main request was for a special condition to grandfather those businesses that conformed to the 1980 Zoning Code requirements. Mr. Crabb answered questions from the Commission regarding his business location and operation. He spoke on the enforcement problems since these businesses were governed by state law, and events such as wet T-shirt contests, lingerie shows, etc. held at other clubs seem to fall outside of these laws. In response to Ms. Wilson regarding a three or five year amortization, Mr. Crabb stated five years should be the utmost minimum. He compared this to the seven years given to the billboard issue, and commented that the investment for a billboard was much less than for his type of business. In reply to Mr. Paddock, Mr. Crabb confirmed he did own his land and building, and he pointed out that a few of the other businesses also owned their property.

PUBLIC HEARING: Section 750 - Cont

TMAPC Review Session:

Mr. Doherty submitted a motion that the TMAPC recommend to the City Commission adoption of the proposed amendment to the definition of Adult Bookstore in Section 750.1.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to **APPROVE** the Recommendation to the City Commission for Adoption of the following amendment to Section 750.1 (Definitions) of the Zoning Code:

Adult Bookstore: An establishment having a significant or substantial portion of its stock in trade, or an establishment having as a significant or substantial aspect of its business, books, films, videos, magazines, periodicals, games, novelties or other materials which are distinguished or characterized by an emphasis depicting or describing Sexual Conduct or Specified Anatomical Areas; or an establishment with a significant or substantial section or segment devoted to the sale or display of such materials.

Mr. Doherty moved that the City Commission be advised that the TMAPC reaffirms the existing language for 500' spacing from residential areas, as supported by the study conducted by the INCOG staff. Further that the study on sexually-oriented businesses, as kept on file at INCOG, be referenced formally as an exhibit to these minutes.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to **REAFFIRM** the existing language, as follows, in Section 750.2 (Prohibition) of the Zoning Code:

500 feet from areas zoned residential. The 500 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted, to the nearest point on a Residential Zoning District boundary line (not including residentially zoned expressway right-of-way).

Mr. Doherty moved that the TMAPC recommend to the City Commission the adoption of the proposed amendment to Section 750.3, with an amortization of two years, with the further provision that those sexually-oriented businesses lawfully established in compliance with the 1980 ordinance be granted a total amortization period of five years from the date of the amended ordinance. Mr. Paddock requested Legal Counsel to comment on the proposed motion, specifically, if it would cover the situation and/or if it would be difficult to enforce. Mr. Jackere suggested, in lieu of "in

PUBLIC HEARING: Section 750 - Cont

compliance with the 1980 ordinance", the wording "those further away than 300' from residential" be granted a total amortization period of five years; therefor, Mr. Doherty amended his motion. With regard to enforcement, Mr. Jackere stated he did not feel the suggested wording presented any greater difficulty of enforcing than any other type of a zoning ordinance. Mr. Gardner clarified that the suggested five years would be from the date of adoption by the City Commission of these proposed amendments.

Mr. Parmele stated support of the motion as he had sympathy for those three businesses that were legal at the time of the 1980 ordinance, and he understood the owners trying to recover their investments. Mr. Paddock stated he agreed with Mr. Parmele's comments. Mr. Coutant commented he felt a five year period was reasonable, uniformly applied to all businesses, regardless of when they were first established.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to **APPROVE** the Recommendation to the City Commission for adoption of the proposed amendment to Section 750.3 (Nonconforming Uses) of the Zoning Code, as follows:

Any business lawfully existing as of the effective date of this Ordinance that is in violation hereof shall be deemed a nonconforming use. Such a nonconforming use will be permitted to continue for a period not to exceed two years or, if located over 300' from a residentially zoned area, not to exceed five years, unless sooner terminated for any reason whatsoever or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. In the event that two or more sexually-oriented businesses are within 1,000 feet of one another and otherwise in a permissible zone, the first such sexually-oriented business licensed and continually operating at a particular location shall be the conforming use and the later established business(es) shall be nonconforming.

OTHER BUSINESS:

PUD 166-D: Detail Sign Plan
6520 East 91st Street; being Lot 1, Block 1 of Sheridan Square

Staff Recommendation:

The applicant is proposing to place wall signs on the front (facing northwest) and side (facing west) of the establishment. The signs on both locations are within the number and size limitations imposed by the PUD and are of a design which is compatible with the other signs in the shopping center.

Therefore, Staff recommends APPROVAL of the Detail Sign Plan for a store in PUD 166-D.

TMAPC ACTION: 8 members present

On MOTION of PADDOCK, the TMAPC voted 8-0-0 (Coutant, Doherty, Draughon, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, "absent") to APPROVE the Detail Sign Plan for PUD 166-D (Fritz), as recommended by Staff.

There being no further business, the Chairman declared the meeting adjourned at 2:40 p.m.

Date Approved

March 15, 1989

Cherry Kempe
Chairman

ATTEST:

William C. Coutant

Secretary