

TULSA METROPOLITAN AREA PLANNING COMMISSION
MINUTES of Public Hearing Meeting No. 1361A
Monday, June 15, 1981, 7:00 p.m., City Hall,
Langenheim Auditorium, Tulsa Civic Center

| MEMBERS PRESENT | MEMBERS ABSENT | STAFF PRESENT | OTHERS PRESENT |
|---|-------------------|------------------------------|-----------------------------|
| Eller Freeman Higgins Holliday, Secretary Kempe, 2nd Vice- Chairman Parmele, 1st Vice- Chairman Petty C. Young, Chairman T. Young | Gardner Inhofe | Alberty Gardner Howell | Linker, Legal Department |

The notice and agenda of said meeting were posted in the Office of the City Auditor, Room 919, City Hall, on Wednesday, June 10, 1981, at 1:20 p.m., as well as in the Reception Area of the INCOG Offices.

Chairman C. Young called the meeting to order at 7:10 p.m. and declared a quorum present.

PUBLIC HEARING TO CONSIDER AMENDING THE OFFICIAL COMPREHENSIVE MASTER PLAN FOR DEVELOPMENT OF THE TULSA METROPOLITAN AREA BY ADDING THERETO POLICIES AND STANDARDS FOR PROCESSING AND EVALUATING DOWNZONING REQUESTS.

Chairman C. Young opened the Public Hearing on policies and standards for processing and evaluating downzoning requests and asked Bob Gardner to summarize the Downzoning Report (Exhibit "A-1") prepared by the Staff. The TMAPC has been involved in three major comprehensive zoning mappings beginning in 1956, 1970 and 1980. Advertised Public Hearings were held in all three instances and the Comprehensive Zoning Maps were published in the Tulsa Daily Legal News. A review of the records since 1970, revealed that TMAPC has initiated 34 rezoning applications primarily for the purpose of correcting mapping errors.

In regard to the area of Birmingham Place, Mr. Gardner advised that the size of lots and number of structural nonconformities, as relates to front yard setbacks, was the primary basis for assigning this area of the City U-1B zoning in 1956. There were no special studies completed for the comprehensive zoning mapping in 1970; an area that was designated U-1B was assigned the comparable zoning of RS-2.

The Staff emphasized that the amendment of Zoning Maps, whether the amendment results in downzoning or upzoning, hinges on the physical facts and circumstances surrounding each individual application. Each rezoning application, downzoning or upzoning, should be decided on its own merits. The following criteria are recommended by Staff for the evaluation of holding a public hearing to consider the downzoning of private property:

PUBLIC HEARING: (continued)

1. Comprehensive Plan Designation,
2. Development Guidelines,
3. Surrounding Physical Facts (including, but not limited to):
 - (a) Existing Zoning (when zoned);
 - (b) existing land use (type and intensity or density);
 - (c) existing Bulk and Area Requirements (Zoning Code);
 - (d) drainage Characteristics;
 - (e) topography; and
 - (f) size of area.
4. Indication of Support or Opposition to (both in numbers and in area),
5. Demonstrate that there is a Legitimate Community Purpose to be served.

Mr. Gardner noted that the Staff had legitimate concerns as to who will supply legal notice (names and addresses of all property owners within 300 feet of the property to be zoned, as well as all properties within area to be zoned) to be used in such hearings.

Commissioner T. Young questioned who would alert the Staff to the possibility that there might be a problem with the zoning in a particular area. Mr. Gardner advised that a petition would be presented either to the TMAPC or to the City Commission.

Commissioner Petty, noting that Section 1730.2 of the Zoning Code gives the Planning Commission authority to, upon its own motion, initiate upzoning as well as downzoning, asked if the Public Hearing would then include discussion of development of criteria for upzoning as well as downzoning. Mr. Gardner stated he felt it would work both ways.

Commissioner T. Young stated that he was of the opinion that the issue to be discussed was rezoning on the motion of the Planning Commission, with or without, the permission of the property owner.

Tom Baines, Vice President of Community Development for the Metropolitan Tulsa Chamber of Commerce, 616 South Boston Avenue, advised that members considered the issue of downzoning sufficiently important to the community that a special session of the joint task force on orderly development within the Chamber was called in order to make a recommendation to the Board of the Chamber for a possible development of a policy statement to the TMAPC. Mr. Baines presented a statement from the Chamber Board (Exhibit "A-2") which advised that the Metropolitan Tulsa Chamber of Commerce believes that the existing process for application and hearing for the reclassification of land is sufficient. The present policies, in existence since 1970, should be continued. The Comprehensive Planning Process, together with the existing procedure for public hearing and subsequent zoning, provides adequate safeguards for both public and private interests.

Those instances historically recognized for the initiation of rezoning:

- a) Corrections to the zoning map,
- b) area restrictions for the public interest, and
- c) reclassification of public lands,

PUBLIC HEARING: (continued)

and a public hearing was held. In 1964 an application was filed by N. D. Alexander, Jr., and others requesting that the area be downzoned from a U-1C to U-1B. Part of the reason for that application was the fact that there had been some duplexes developed on a cul-de-sac at Birmingham Avenue, north side of 22nd Street. There were three interested parties at that hearing; an attorney representing two property owners who did not wish to have their property zoned U-1B, and a property owner who did not want to be a part of the petition and have her property rezoned. In the past the Planning Commission as a matter of routine, as has the City, dropped out the property where the owner did not want it zoned.

Commissioner T. Young noted that there was a new Zoning Code adopted with zoning district classifications in 1956 and it could be assumed that the intersection at 21st and Lewis included these higher zoning categories which, when discovered by some of the people in the area, was called to the attention of the Planning Commission.

Robert G. Walker, 3855 South Birmingham Place, a resident in the area of 31st-41st, Harvard to Lewis, advised that the homeowners in that area are seeking a correction of zoning in an area which has been miszoned. He proposed that a policy be set up which would allow the TMAPC and the City Commission to administer what amounts to a wholesale rezoning effort. This procedure should be accomplished without burdensome work which would come to the TMAPC Staff, but still leave the opportunity to correct unrecognized errors that might come before the group. There should be hearings in which all existing landowners can be heard and landowners that have objections to the zoning change should be given individual consideration based on the merits of the area and the merits of their own situation. Mr. Walker pointed out that 700 of the approximately 900 property owners in the area have signed the petition requesting that their property be upgraded to an RS-1 designation. The remaining 200 residents are those who have not been at home or have not been approached.

Commissioner Petty advised Mr. Walker that his neighborhood was a very beautiful area and he appreciated the reason he was there and the Commission was ready to rezone all of that property; however, he did not want to be in the position of rezoning everyone in that square mile in a blanket application.

Mr. Walker noted that very few people really understand that they are living in an RS-1 community classified as RS-2. The residents have a problem understanding the mechanics of acquiring a zoning change.

Commissioner Petty stated that an individual or as property owners altogether have the right to come to the Commission and have their property rezoned. The Commissioner stated he was trying to prevent government from getting power and he expressed concern that the Commission was getting too much power.

Noting that part of the problem might be a misunderstanding, Mr. Walker advised that the homeowner's initial concept was to try to gather information to provide to the TMAPC seeking guidance or direction on how to have this rezoning accomplished.

Commissioner T. Young questioned whose initiative it should be to cause a public hearing to occur when residents want to call attention to a possible error that has occurred in zoning.

PUBLIC HEARING: (continued)

Caroline Denny, 7344 East Newton Street, Chairman of District 16, advised that the Steering Committee had voted against the amendment for downgrading through the Comprehensive Plan because it could be accomplished without the property owner's consent. It was the Committee's opinion that anything concerning rezoning should be instigated with the property owners themselves.

George Creekmire, 2706 East 39th Place, advised that as a homeowner in the Lewis and Harvard Avenue area RS-1 and RS-2 zoning had very little meaning to him at all. He surveyed the neighborhood, liked what he saw and purchased his property. A few months ago a plan was presented that would put 11 units on an adjacent property -- this was objectionable to Dr. Creekmire. Some of the neighbors decided to look into this matter and found that most of the homes in this area were qualified for an RS-1 designation. Dr. Creekmire stated that he has a very nice stable neighborhood and would like to continue to keep it in this character.

Ken McGranahan, 3823 South Birmingham Place, purchased his home in 1972, is very proud of the neighborhood and enjoys living there. He stated that he wanted the neighborhood to maintain the same character as it has had the past nine years. In that event that there has been an error in zoning designation, Mr. McGranahan asked that the error be corrected.

Roy Johnsen, 324 Main Mall, admonished the Commission that their basic charge from the City Commission was to discuss the subject matter of downzoning generally. It was Mr. Johnsen's opinion that, although there are some semantic complexities of upzoning or downzoning considerations, the basic issue before the Commission is the question of downzoning which is to impose greater restrictions than presently exist and to impose them at the insistence of persons who do not own the subject property. He felt it was appropriate for the Commission to say, "it is our policy on downzoning, which is to add restrictions, that we are not going to undertake it as a general matter" -- "it is an extraordinary remedy." Referring to the criteria, as recommended by the Staff, Mr. Johnsen felt that two of these which are quite important are the Comprehensive Plan Designation and the Development Guidelines. He noted that it would be appropriate for the TMAPC to adopt a policy that, if the present zoning of the property in question is in conformity with the Comprehensive Plan Designation and the Development Guidelines, a public hearing will not be held. To depart from that policy in an instance would require a very strong showing that there was a legitimate community interest to be served -- not just a neighborhood interest.

Indication of support or opposition to, as listed in the recommended Staff criteria, was viewed as a hazard by Mr. Johnsen. He noted that the hazard of imposing this type of standard is that it becomes a "numbers game," and this should not be the issue. This is public regulation of private property and is a question of what is directly related to the public interest and what meets the standards and guidelines. Numbers should not be considered in the proposed policy.

What generates the request? Mr. Johnsen was of the opinion that the Commission should include within their policy that if there is a pending development, zoning application, Board of Adjustment application, PUD, Subdivision, or whatever the pending development is, that downzoning should not be entertained until the hearing on that particular application has been considered. He noted that over a period of years, a very orderly process

PUBLIC HEARING: (continued)

provide an adequate basis for a case-by-case consideration of reclassification requests whenever they occur.

Mr. Baines advised that the Chamber recommends that no new policies, with regard to reclassification, are presently warranted.

Suzette Birch, 2687 South Utica Avenue, Secretary of the District 6 Steering Committee, advised that the Committee had discussed the subject of downzoning and many suggestions and comments were made. The Steering Committee plans to have a policy statement available for the City Commission hearing. The procedures and policies for rezoning are already set forth in the Zoning Code; however, there are certain instances when downzoning should be considered; i.e., when a mapping error or other miszoning is alleged, when the physical facts support it, when a property is developed to a lesser intensity than the underlying zoning permits (if the development has not matched the zoning within a 5-year time period it should be rezoned to the zoning classification that most closely corresponds with the actual development on the property and when a property has been zoned but remains undeveloped for a certain period of time--5 years) the property should revert to its original zoning.

The Committee agreed that infill can be beneficial in light of soaring property, development and transportation costs. Ms. Birch, noting that it is important to distinguish between infill and redevelopment, pointed out that infill means development of raw land that was passed over in the development of the City; redevelopment is raising something and then doing it over again. Neither term implies that a heavier density or intensity is necessary. Two points which must be considered when addressing infill or redevelopment are: 1) If the infill or redevelopment is compatible with the existing neighborhood; and 2) to not overburden the existing infrastructure. Reiterating a statement made at the previous hearing, Ms. Birch noted that a neighborhood should never enhance a development, a development should enhance a neighborhood. The neighborhoods in Tulsa are too valuable to risk losing their character through unfortunate redevelopment or infill. Speaking to a suggestion which was made at the previous public hearing, Ms. Birch stated, "it would be a grievous error to recommend that the Commission never consider downzoning." Mapping and other errors are made and to not allow the citizens of Tulsa redress through a legislative procedure would be a very serious mistake. Each case should be considered and decided on its own merits.

Commissioner Freeman asked if Ms. Birch would agree to a party unknown to her rezoning her personal property. If so, should there be limits on it and what should those limits be. Ms. Birch advised that no party unknown could rezone her property without her knowledge and if it could be done in a way that is not arbitrary, capricious or unreasonable and would hold up in court she could not object.

Commissioner Petty questioned if Ms. Birch would feel that her rights had been violated in the event that her property was rezoned without legal notice or her knowledge of the change. Ms. Birch stated that in every case, whether downzoning or upzoning, the Commission would need to consider due process which includes proper notification and public hearing.

PUBLIC HEARING: (continued)

Commissioner T. Young asked Ms. Birch if, in the protection question, a public hearing on a zoning change, not initiated by the property owner, should itself not be held until all opportunities to contact the property owner have been exhausted and perhaps a criteria established which would cause the hearing to be delayed somewhat from the normal course of the calling of public hearings. Ms. Birch advised that this might be an interesting possibility.

Commissioner Higgins expressed concern that even though notices are mailed and public hearings are held there are still people who say they were not informed about the rezoning of property. She pointed out that the Commission must be very careful in the development of criteria for downzoning so no property owner's rights are taken away from them without their knowledge of the action.

Ms. Birch was of the opinion that Commissioner Higgins was making the assumption that a person has the inherent right to do anything he wishes with his property -- that is not true.

Commissioner Higgins stated that she was not making that assumption -- a property owner can do anything he wishes with his property as long as it does not harm anyone else.

Ms. Birch advised that she did not know of any of the criteria which have been proposed so far that would take away the property owner's rights.

Coy Montgomery, 3164 East 33rd Street, stated that he grew up in Tulsa and has watched areas which have been etched away by poor zoning practices and did not want to see his neighborhood eroded away. The City of Tulsa has been voted the most beautiful city -- it has taken blood, sweat and tears to accomplish this feat. He noted that downzoning would increase restrictions on development and that is exactly what he would like. Speaking of the neighborhood in which he resides, 31st-41st and Harvard to Lewis, Mr. Montgomery noted that many of the residents are the original homeowners. Stability is the cornerstone for the City of Tulsa and Mr. Montgomery urged the Commission to add their cornerstone to this stability and downzone the entire square mile of his neighborhood from RS-2 to RS-1.

Robert B. Paddock, 4143 East 31st Street, presented a copy of the TMAPC Special Study of December 1962, (Exhibit "A-3") which the Commission had requested at the June 3, 1981, public hearing. He noted that the final page of the Study deals with "Zoning Case Histories within the Area." Under item 5, it is stated that, after a public hearing, the study area "dezoned" several properties in the vicinity of 21st Street and South Lewis Avenue. These dezoning were, in fact, instances of "downzoning" initiated by the TMAPC and approved by the City Commission on May 24, 1957. Mr. Paddock noted that these situations occurred prior to July 1, 1970. He stated he did not know if this action was taken with or without the consent of the property owners.

Bob Gardner advised that he reviewed the TMAPC records for the past 15 years and found that only a few downzoning applications have been initiated by property owners during those years. A neighborhood petition for downzoning was presented in 1964. At that time there was no prohibition in the Zoning Ordinance that said that property owners had to own the property that they were downzoning -- they could file an application, pay the fee

PUBLIC HEARING: (continued)

has been established for the review of a new development in an area. Mr. Johnsen cautioned that downzoning lends itself to such abuse that the issue could surface anytime there is an announced development in a particular area. Notices are posted, area residents are notified and the public is not denied their forum in the event of a zoning change for any development.

Chairman C. Young agreed with two very good points made by Mr. Johnsen: 1) Danger of downzoning issues being filed in the area of any announced new development, and 2) the concern that the owners of many of the lots in a particular area can petition to have the whole area rezoned. You should not be able to rezone someone else's property.

Commissioner T. Young was in support of Mr. Johnsen's suggestion that downzoning should not be entertained until the hearing on a pending development has occurred.

Noting that the Commission had adopted a lot of policies; i.e., the Development Guidelines, Comprehensive Plan, etc., Mr. Johnsen stated that a "policy" is an expression of what the general attitude on the subject matter is. It is our "policy" not to engage in downzoning -- he suggested that this policy could be expanded to say, "if the existing zoning of the property in question is consistent with the Comprehensive Plan designation, and consistent with the Development Guidelines, we are not going to set it for public hearing unless someone convinces us that there is some true and substantial threat to the public interest or benefit to the public interest -- to the community at large."

Commissioner T. Young asked Roy Johnsen if he would support the concept of providing, by policy, a formal opportunity for petitions to be received by the Planning Commission citing that there may be a problem, which would then be reviewed by the Staff before the conclusion would be made as to whether or not a hearing is needed. Mr. Johnsen stated that he would; however, he expressed concern about the work load of the Staff. Noting that he believed the law was very clear that the authority to zone or rezone exists, Commissioner Young asked Mr. Johnsen if he would agree that the Commission could not adopt a policy that would be contrary to the law, a policy stating that we will not downzone. Mr. Johnsen stated that the Commission could adopt a policy not to engage in downzoning. The Comprehensive Plan or policy wouldn't be defective; however, there might be some instance in applying that policy where the Commission would be arbitrary. This could be said about any policy which has been adopted. There is nothing inherently illegal or contrary to the enabling legislation on zoning and planning that would prevent the Commission from adopting a policy against downzoning.

Tom M. Adkinson, 3701 South Birmingham, advised that when a government unit adopts a policy that is based upon a precedent that exists, I think they are treading on very dangerous ground. Mr. Adkinson stated he could see some reasons why that policy should not be adopted. The policy shifts the burden upon the innocent and unwary, the nonparticipant in government, the citizen who is not liable to realize the danger until it is too late. The community integrity has been held together by independent ownership and the rights of the community constitute majority rule. He pointed out that there are over 700 signatures of homeowners in the Harvard-Lewis

PUBLIC HEARING: (continued)

Avenue area, constituting the majority rule, objecting to the proposed 11 unit development. In the event that the total area is downzoned to RS-1, the applicant for the proposed development will be allowed to construct six units -- that is all the ground the homeowners are willing to give. Mr. Adkinson noted that to tear down a beautiful home and construct 11 units would be a blasphemy upon what Tulsa holds very high in its proud traditions.

Mrs. Joan Adkinson, 3701 South Birmingham, agreed with Mr. Johnsen in that it is important to look at a legitimate community purpose -- to preserve a strong neighborhood, a beautiful Tulsa. Mrs. Adkinson stated she was not opposed to infilling and when the Harvard-Lewis Avenue area is upgraded to RS-1 zoning there will be six lots that can be filled by the developer. She felt this was a good compromise on the part of the homeowners in the area.

Robert J. Nichols, representing the Metropolitan Tulsa Board of Realtors, emphasized that the comments made at these hearings on behalf of the Board are not intended in any way to be taken as comments on the particular petition, but are instead, directed to the community-wide application of any type of policy which would encourage downzoning properties without the property owner's consent. Mr. Nichols suggested that the policy that has been in affect in the community for the past 35 years continue to be the policy. He advised that the initial position of the Metropolitan Tulsa Board of Realtors, as stated at the previous hearing, has not changed. A policy for downzoning a property without the consent of the property owner would inject undue uncertainty into the land use system.

The Builder's Association of Metropolitan Tulsa was represented by Georgina Landman who introduced Roger Reinhardt and Sam Hollinger, officers of that Association. She advised that they represented the unanimous vote of 1,000+ members of the organization in addition to 50,000 persons who are in allied industries related to the building industry. Ms. Landman presented a copy of the position paper (Exhibit "A-4") which was exhibited at the previous hearing and stated that the Association's position has not changed. The organization is unanimously opposed to any policies for downzoning. She commended Mrs. Denny on her report and advised that the Builder's Association supported her position entirely and wanted to adopt the position that there should be no change in zoning to any piece of property without the owner's consent. On behalf of the organization, Ms. Landman stated she would adopt the policies of the Metropolitan Tulsa Chamber of Commerce as presented by Tom Baines.

Speaking on behalf of the Builder's Association, Georgina Landman advised that their official legal position was that the Commission, as a body, has no right to downzone. She presented an article from the Tulsa Law Journal (Exhibit "A-5") entitled "Downzoning in Oklahoma: A Preview of Judicial Review," which was written in 1979. Quoting from the article, Ms. Landman stated: "Oklahoma courts have resolved upzoning disputes, but they have not yet been faced with the downzoning disputes." Therefore, until this question is addressed by the courts, there is no legal precedent in Oklahoma for a downzoning case. She further noted that the Commission has no specific authority that she can find anywhere that allows them to "downzone." The homeowners, whether developers, builders, or homeowners, are not holding the property in fee until the Commission decides on a policy to be used in terms of the property.

PUBLIC HEARING: (continued)

G. C. Spillers, 3836 South Birmingham, resident of the Harvard-Lewis Avenue area, advised that two-thirds of the homeowners in his established neighborhood are seeking approval of the downzoning issue. He noted they were not trying to change anything, but to keep it as it is. The bulk of this area is erroneously zoned. Mr. Spillers addressed the zoning history of his residential neighborhood, pointing out that either by mapping error or oversight, some of the properties were not zoned in accordance with the new coding classifications of the 1970 law. Citing Section 1710 of the Zoning Code, "...Amendments will be adopted to recognize changes in the Comprehensive Plan, to correct error, or to recognize changed or changing conditions in a particular area or in the jurisdictional area generally," Mr. Spillers noted that the Commission certainly had the right to correct this erroneous zoning which exists in his neighborhood at the present time.

Dick Sherry, 2247 East 24th Street, stated that he has been involved with many of the proceedings which have gone on before the Planning Commission in regard to zoning the past few years. Mr. Sherry was of the opinion that it is time to set a precedent and to establish the criteria. He noted that there is a very definite parallel between the growth and use of the PUD as a development tool and the need of people in a specific area to protect their homes. The PUD was initially designed for large tracts of land; what it is allowing is an avoidance of conventional restrictions. In the last few years the PUD has been applied to smaller and smaller tracts of land. Mr. Sherry pointed out that if the Commission was afraid of being overrun with petitions for downzoning, they might handle the situation by saying that a PUD, for residential use, could not be applied to a piece of land less than five or six acres in size. PUD's have created quite a problem and are going to continue to create a problem. The Commission needs to address either finding a mechanism for handling downzoning requests or restrict the use of PUD's in residential areas to larger tracts of land.

Commissioner T. Young was of the opinion that government was created in the beginning, in part, to have the capability to intercede on behalf of people with a commonality of interests -- to protect the public. This purpose of government has been manifested in what is called "police power." We must come to the point of reserving the option of the Planning Commission to intervene in the interest of preserving the essential character of a neighborhood. Downzoning does not deny the right of the property owner use of his or her land -- it does remove certain uses. Commissioner Young noted that the downzoning issue may be a classic illustration of what is the "police power," guaranteeing to the landowner the use of the property while restricting the uses of that property. He stated that the Commission needs to firmly recognize the statutory option to downzone based upon sound decisions which are not arbitrary; devise a policy which provides the opportunity for citizen petitions to the Planning Commission for a fact finding if there is reason to believe that some error exists; and get the Staff back to a full-scale review of actual land uses of every parcel within the jurisdiction of the TMAPC.

Commissioner Petty stated that before this meeting started he was caught up in a philosophical shell, but had changed his mind at this point and would agree with Commissioner T. Young. He noted that it is distasteful to him to engage in such actions as "blanket" downzoning and upzoning; however, the people who have testified have proven that the Commission

PUBLIC HEARING: (continued)

needs to adopt a criteria for handling such applications.

Commissioner Higgins advised that she felt downzoning is an important process and the following criteria for downzoning would protect Tulsa's integrity as a City and insure developers and investors that their time, money and effort was invested in the proper place: Zoning Map corrections, blanket restrictions for public protection, reclassification of public owned or controlled properties, present property owner's request, and if an error in zoning has been made it should be corrected, but not at the expense of one property owner of the area. She stated that these are the only reasons that she would consider, at this time, in voting for any type of downzoning.

The basic question to Commissioner Parmele, was one of owner consent. He noted that the people in the neighborhood who brought the downzoning issue to question have a legitimate concern. It was his opinion, that those people who desire to have their property rezoned from RS-2 to RS-1 have the right to come in and make application.

Commissioner Freeman commented that in the consideration of the police powers of the state, what the Commission will be considering is where those police powers stop. The TMAPC power is only in recommendation, the City Commission has the actual police power.

Chairman C. Young noted that the Commission has the authority to downzone, but he was troubled with the problem of whether or not owner consent is necessary. He was in agreement with the Staff's recommended criteria and felt it should be included in the recommendation to the City; however, he noted that there should be some work in demonstrating that there is a legitimate community purpose to be served. Chairman C. Young stated he could not vote for a policy which would allow the neighbors to file for rezoning without the property owner's consent. He did not think the zoning in the Lewis-Harvard Avenue area was a mapping error, but rather an error in instructions from the City to the Staff in what their direction should have been in changing from one category to another.

Commissioner T. Young pointed out that it has taken years to get to the point of sophistication in our planning process in this City so that arbitrariness, to the extent possible, has been eliminated. If we continue to apply our principles developed in this City to zoning we will keep arbitrary zoning to a minimum even in cases such as this. He noted that the Commission should set out specific policy statements which provide for a forum for issues to be brought to their attention and a decision can be made, based upon the existing framework, as to any action that should be taken.

Assistant City Attorney, Russell Linker, stated that he would have a problem with anything that would abridge people's rights to petition the City Commission for anything.

Commissioner Petty made the point that whether or not the Commission has the authority to do this is not really a question -- the City Ordinance clearly provides that authority to the Planning Commission. Our consideration is whether or not we are going to formulate a policy.

PUBLIC HEARING: (continued)

Commissioner Kempe noted that more time was necessary to consider all of the opinions that have been presented in the hearings and offered a motion to close the Public Hearing and refer the item to the Comprehensive Steering Committee.

Commissioner T. Young advised that he was opposed to closing the Public Hearing at this time. In addition, he did not like sending items to Committee, but would agree with the motion if it was decided that the Commission would act as a Committee of the whole.

Chairman C. Young requested a legal opinion regarding the authority of the Commission to consider the downzoning issue. The legal opinion would be presented June 24, 1981.

Commissioner Petty stated he did not have a problem with the motion provided that all Committee business will be transacted under Robert's Rules of Order which would provide for minority reports to the Commission.

On MOTION of KEMPE, the Planning Commission voted 9-0-0 (Eller, Freeman, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Gardner, Inhofe "absent") to close the Public Hearing, request a legal opinion, regarding the authority of the Commission to consider the downzoning issue, to be presented June 24, 1981, and refer the question of non-owner petition-initiated zoning requests to the Comprehensive Plan Steering Committee for a recommendation to be received by the Commission on July 1, 1981.

There being no further business, the meeting adjourned at 10:00 p.m.

Date Approved _____

July 22, 1981

[Signature]

Chairman

ATTEST:

Marian E. Holliday
Secretary