

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1682
Wednesday, **January 27, 1988**, 1:30 p.m.
City Commission Room, Plaza Level, Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Carnes	Crawford	Frank	Linker, Legal
Doherty, 2nd Vice- Chairman	Kempe	Gardner	Counsel
Draughon	Parmele	Setters	Birkes, City Development
Harris		Matthews	Connelly, City Development
Paddock, 1st Vice- Chairman			
VanFossen, Secretary			
Wilson			
Woodard			

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, January 26, 1988 at 9:50 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, First Vice-Chairman Paddock called the meeting to order at 1:35 p.m.

MINUTES:

Approval of Minutes of January 13, 1988, Meeting #1680:

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Carnes, Draughon, Doherty, Harris, Paddock, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Crawford, Kempe, Parmele, "absent") to **APPROVE** the **Minutes of January 13, 1988, Meeting #1680**.

REPORTS:

Committee Reports:

Mr. Paddock advised the Rules & Regulations Committee had voted at its last meeting to recommend approval of the January 15th draft of the Historic Preservation Ordinance, and suggested an amendment submitted by Mr. VanFossen (1/18/88) be transmitted without a recommendation.

RESOLUTIONS:

- a) **Resolution No. 1675:657** Amending the **District 11** Plan Map & Text to designate two 5 acre (Type One) Medium Intensity Nodes, one each at the northeast and northwest corners of Pine Street and Union Avenue.
- b) **Resolution No. 1675:658** Amending the **District 18** Plan Map & Text to delete the Corridor designation from the District 18 Plan Map from that area between the Riverside Parkway and South Peoria Avenue, which is north of East 71st Street and south of the I-44 Skelly Bypass; and to delete the Corridor designation from that area between the Riverside Parkway and South Lewis Avenue which is north of East 91st Street and south of East 81st Street.
- c) **Resolution No. 1677:659** Amending the **District 17** Plan Map & Text to designate the Eastland Shopping Mall, located at the southwest corner of East 21st Street and South 145th East Avenue, as a Special District.

Comments & Discussion:

Ms. Dane Matthews reviewed the resolutions under consideration, the topics of which have previously been discussed at a public hearing and approved by the TMAPC.

TMAPC ACTION: 8 members present

On **MOTION** of **VANFOSSEN**, the TMAPC voted **8-0-0** (Carnes, Doherty, Draughon, Harris, Paddock, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Crawford, Kempe, Parmele, "absent") to **ADOPT** the Resolutions as Listed Above to amend the District 11, the District 18 and the District 17 Plan Maps and Text, as outlined and as recommended by Staff.

ZONING PUBLIC HEARING:

Application No.: **Z-6184** Present Zoning: AG
Applicant: **Lemons** Proposed Zoning: RS-2
Location: South of the SE/c of South Yale Avenue & East 105th Street
Date of Hearing: January 27, 1988 (cont'd from 1/13/88)
Presentation to TMAPC by: Mr. E.O. Sumner, 8173 East 31st Place (627-4442)

Relationship to the Comprehensive Plan:

The District 26 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Special District 2, Low Intensity - Residential (RS-1), "Sump Area".

According to the "Zoning Matrix", the requested RS-2 District may be found in accordance with the Plan Map for the Special District description, but is not in accordance with the "Sump Area" designation.

Staff Recommendation:

Site Analysis: The subject tract is approximately 40 acres in size and is located south of the southeast corner of South Yale Avenue and East 105th Street South. It is partially wooded, gently sloping, vacant, and is zoned AG.

Surrounding Area Analysis: The tract is abutted on the north by both vacant property and single-family dwellings on large lots zoned RS-1; on the east by vacant property zoned AG; on the south by single-family dwellings on an acreage zoned AG; and on the west across South Yale by a developing single-family subdivision zoned RS-2.

Zoning and BOA Historical Summary: Low intensity residential uses have been approved in the immediate area; however, RS-2 zoning has been granted in the "Sump Area" only with the filing of a PUD as for PUD 420-A.

Conclusion: According to the Comprehensive Plan, the uses allowed in the Special District, "Sump Area", shall be limited to RS-1 if conventional zoning is requested. Approval of RS-2 requires the filing of a companion Planned Unit Development in which the design of the development gives special consideration in providing for the on-site drainage and detention of stormwater run-off such that the historic run-off rates are not exceeded. Staff can not support the requested RS-2 zoning without the filing of a companion PUD as it would not be in accordance with the Comprehensive Plan for District 26.

Therefore, Staff recommends **DENIAL** of the requested RS-2 zoning and **APPROVAL** of RS-1 zoning in the alternative.

Comments & Discussion:

Mr. Gardner advised that, upon further discussion with the applicant prior to this meeting, the applicant was agreeable to Staff's recommendation for RS-1 zoning.

Applicant's Comments:

Mr. E.O. Sumner, representing the applicant, advised they were still waiting on an approval for the sanitary sewer, and upon getting this approval, he stated they could live with the RS-1 zoning now, provided that a PUD application could be submitted at a later time. Mr. Sumner reiterated that the applicant would, more than likely, be coming back before the Commission with a PUD, should they get the sanitary sewer.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Carnes, Doherty, Draughon, Harris, Paddock, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Crawford, Kempe, Parmele, "absent") to **APPROVE Z-6184 Lemons for RS-1 Zoning**, as recommended by Staff.

Legal Description:

The NW/4 of the SW/4 of Section 27, T-18-N, R-13-E, Tulsa County, Oklahoma.

* * * * *

Application No.: **Z-6186** Present Zoning: **RS-3**
Applicant: **HILL** Proposed Zoning: **IL/CG**
Location: West of the NW/c of East 36th Street North & North Sheridan Road
Date of Hearing: January 27, 1988
Continuance Requested to: February 24, 1988 (by Staff)

Comments & Discussion:

Staff advised that, due to matters of notice, a continuance was needed. Mr. Gardner explained that the zoning sign was not properly posted on the subject tract.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Carnes, Doherty, Draughon, Harris, Paddock, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Crawford, Kempe, Parmele, "absent") to **CONTINUE Consideration of Z-6186 HILL** until Wednesday, **February 24, 1988** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

OTHER BUSINESS:

PUD 215-A-1: Lots 1-14, Block 1, Hampshire Lane Addition

Staff Recommendation: **Minor Amendment & Detail Site Plan**

The subject tract has underlying zoning of RS-3/PUD 215-A and is described as Lots 1-14, Block 1, Hampshire Lane Addition. The property has been platted for single-family residential development and is located along the west side of South 80th East Avenue between East 87th Street and East 87th Court. Approval is being requested by minor amendment per PUD 215-A-1 to delete the rear drive concept as approved for PUD 215-A and which has been developed immediately across the street to the east for Block 2 of the Hampshire Lane Addition. The mutual access rear drive has been constructed east of South 80th East Avenue and nine residences are in place. No vehicle parking area has been provided for on the lots which face the east side of South 80th East Avenue, and a 20' front building line is permitted. The internal lots on both east and west sides of the street are 50' wide.

PUD 215-A is abutted to the west by conventionally developed single-family detached homes built on much larger lots. To delete the rear entry drive from the west boundary of PUD 215-A would improve the compatibility and land use relationship to the west, while at the same time, permitting front drives on the west side of South 80th East Avenue would introduce a measure of inconsistency within this one block development. The later impact may be somewhat overcome by permitting the requested more conventional development in Block 1 which should allow and encourage a more rapid build-out of the presently vacant lots.

If the rear mutual access drive is deleted, the front building line along the west side of South 80th East Avenue should be increased from 20' to 25' minimum and the mutual access easement along the west side of Block 1 should be vacated. It would also seem reasonable that if an obligation of a homeowner's association related to Blocks 1 and 2 of Hampshire Lane initially included maintenance of the rear mutual access drives, no such obligation should continue in effect for Block 1 if this amendment is approved. A serious test of the purposes section of the PUD Chapter of the Zoning Code is that of achieving a continuity of function and design within the development. Perhaps this test can best be answered by concerns of homeowner's which might be expressed at the public hearing on PUD 215-A-1. Notice has been given these properties and other abutting property owners, plus interested parties of record regarding PUD 215-A.

In the absence of serious objections raised by existing property owners along the east side of South 80th East Avenue and considering the issues discussed above, Staff recommends **APPROVAL** of PUD 215-A-1 Minor Amendment/Detail Site Plan subject to the following conditions:

PUD 215-A-1 Minor Amendment - Cont'd

1. Increase the front building line from 20' to 25' for all lots in Block 1.
2. Vacate the 20' mutual access easement that presently exists.
3. Exempt the property owners in Block 1 from any expense of maintenance of common facilities related to mutual access easements and rear drives which remain in place in the Hampshire Lane Addition.
4. That all other conditions and requirements of PUD 215-A remain in full force and effect unless revised herein.

Comments & Discussion:

In reply to First Vice-Chairman Paddock, the applicant stated agreement to the listed conditions.

TMAPC ACTION: 8 members present

On **MOTION** of **VANFOSSEN**, the TMAPC voted **8-0-0** (Carnes, Doherty, Draughon, Harris, Paddock, VanFossen, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Crawford, Kempe, Parmele, "absent") to **APPROVE** the **Minor Amendment and Detail Site Plan for PUD 215-A-1**, as recommended by Staff.

PUBLIC HEARING:

TO AMEND THE CITY OF TULSA ZONING CODE TO ESTABLISH A HISTORIC PRESERVATION (HP) ZONING DISTRICT, DESIGN GUIDELINES AND RELATED MATTERS.

Comments & Discussion:

Mr. Irving Frank of the **INCOG Staff** reviewed the work done over the past several months, and the involvement by City agencies, TMAPC Commission members, and interested citizens to establish a Historic Preservation (HP) Ordinance and the Design Guidelines. Mr. Frank then reviewed highlights of the January 15, 1988 draft under consideration that incorporated suggestions and recommendations of the Rules & Regulations Committee of the TMAPC. He pointed out that the Design Guidelines were currently drafted for residential properties only and stipulated that Design Guidelines would have to be developed for non-residential properties before the HP ordinance could apply to these areas.

Mr. Mike Birkes, **Department of City Development**, advised receipt of a letter from the Tulsa Chapter of American Institute of Architects (AIA) (Government Affairs Committee) stating support of the HP ordinance. Mr. Birkes submitted the letter to the Commission, pointing out the AIA's

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concern that "this ordinance might cause a time delay in the building permit procedure if the review process does not happen concurrently with building permitting". Mr. Birkes commented that these processes could take place simultaneously.

Mr. Frank read and submitted a letter received from the Tulsa Arts Commission endorsing the January 15th HP ordinance and Design Guidelines draft.

Mr. Doherty advised that Representative Russ Roach, who was unable to attend this meeting, had called and asked that the following statement be read into the record: "The proposed Historic Preservation Ordinance is of greatest interest to me as I live in a potentially impacted neighborhood. Also, in the course of my business in the last few years, I would have been subject to provisions of this ordinance. Because of that interest I have attended committee meetings, read the ordinance carefully and kept in contact with my neighborhoods. The process of developing any important legislation is always difficult, time consuming, and rarely results in a unanimous conclusion. However, I am convinced that Tulsa can and should benefit from this ordinance, and that the fragile nature of any of our older neighborhoods requires some form of carefully crafted protection. I believe it is time to get this ordinance on the books, and respectfully ask the Planning Commission recommend the ordinance as presently proposed."

Mr. VanFossen commented that he had updated his previously proposed amendment from that submitted to the Rules & Regulations Committee, as follows: "that paragraph D (page 1) be changed to require the submission of evidence that at least 26% of owners of property within the area proposed as an HP District agree or approve such zoning change." Mr. VanFossen stated he would submit his commentary on this matter during the TMAPC review session.

Interested Parties:

Address:

Mr. Ed Kaplan	1639 South Pecan, BA	74012
Ms. Barbara Day	1521 South Quaker	74120
Mr. William Packard	752 North Denver	74106
Mr. Roy Johnsen	324 Main Mall	74103
Mr. Grant Hall	1202 East 18th	74120
Ms. Sharry White	1522 South Gillette	74114
Ms. Pat Cowan	4233 South Pittsburg	74135
Mr. Paul Coury	2750 East 22nd Street	74114
Mr. Steve Childers	c/o DTU, 201 West 5th	74103
Mr. Jerry Eisner	11545 East 43rd Street	74146

Mr. Ed Kaplan, Chairman of the Neighborhood Conservation Commission (NCC), submitted a letter advising the NCC had voted unanimously to endorse the January 15th HP ordinance draft and Design Guidelines.

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Ms. Barbara Day, Secretary of the NCC, commented that she had worked very closely with the TMAPC Rules & Regulations Committee members, the Ad Hoc Committee, and the INCOG and City Development Staffs in providing input on this HP ordinance. Ms. Day reiterated the NCC's support of this ordinance and the process involving the public and city government agencies.

Mr. William Packard, past president of the Brady Heights Association, spoke in favor of the ordinance as now written. Mr. Packard pointed out that the new ordinance presented a significant change from the original ordinance approved by the City Commission, which established two major objectives: (1) historic preservation; and (2) neighborhood revitalization and conservation, primarily aimed at older neighborhoods. He stated concern that, since the new ordinance would totally replace the previous ordinance, the new ordinance might do away with the second function dealing with neighborhood revitalization and conservation.

Mr. Roy Johnsen, Attorney representing the Metropolitan Tulsa Board of Realtors (MTBR) - Urban Affairs Committee, reiterated comments on the cooperative efforts in this HP ordinance drafting process and the amount of work done over these past several months. Mr. Johnsen spoke on the MTBR's position during this process regarding the need for a consent percentage, as the MTBR felt that regulations of this nature should have strong underlying neighborhood support. He reviewed the work of Ad Hoc Committee during the seven drafts of this ordinance. Mr. Johnsen stated that the MTBR felt the current draft satisfactorily addressed such issues as: (a) the notice requirement question; (b) the Design Guidelines being adopted in a similar process as other regulatory documents of the City of Tulsa; and (c) "grandfathering" provisions to protect future purchasers of property.

Mr. Johnsen commented that the Urban Affairs Committee of the MTBR has been, and is, very supportive of historic preservation, and supports the adoption of an ordinance. However, Mr. Johnsen stated that one issue still to be reasonably addressed involved the consent issue, as the MTBR felt the concept of consent provided the best, most uniform method of identifying neighborhood support for historic preservation. He acknowledged the concerns of the City Legal Department as to a consent provision, but he added that there was no clear precedent indicating whether a consent percentage could or could not be required. Mr. Johnsen remarked that, as a practical matter, it appeared to be more workable to have a uniform requirement at the beginning of the process that applied to everyone, rather than get into a hearing and try to determine neighborhood support. He added that the MTBR felt much more strongly about the need for a consent requirement in regard to commercial properties, as opposed to residential properties. Mr. Johnsen stated the he supported the concept of staying with two districts, i.e. historic preservation for residential properties, and historic preservation for non-residential properties. Therefore, a consent requirement for the two separate districts could be established, as well as the substantive difference in the kinds of uses, and the real practical problems associated with commercial properties in controlling aesthetics, expansion of drives, off-street parking, etc.

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In conclusion, Mr. Johnsen stated the MTBR felt the HP ordinance has been much improved over these past months. As authorized by the MTBR, Mr. Johnsen advised the Metropolitan Board of Realtors would support the current HP ordinance, with or without the consent requirement.

Commissioner Harris stated he had a problem placing controls (or additional controls) on private property when these controls, in fact, may not be necessary in the course of daily living. Based on Mr. Johnsen's experience in planning and zoning matters, Commissioner Harris asked Mr. Johnsen to comment on this, either from a legal standpoint or a philosophical standpoint. Mr. Johnsen, admitting this was a difficult matter, commented that the "general welfare" question was what raised the issue of historic preservation. He added that, due to the subjective nature of this, he felt that a consent requirement had merit. Commissioner Harris agreed that an evident problem appeared to be imposing additional controls and restrictions on a minority group of property owners, i.e. the 10% or 20% not consenting to an HP district.

Mr. Grant Hall, a member of the Inner-City Council of Neighborhoods and the Mapleridge Association, spoke in support of the HP ordinance. Mr. Hall stated he felt this was a vital need in the City of Tulsa, and the neighborhoods under consideration for the National Register did merit recognition for their uniqueness. He pointed out that there were seven cities in Oklahoma that already had some form of historic preservation ordinance. In reply to Mr. Doherty, Mr. Hall advised the Inner-City Council was unanimous in their vote of support for this ordinance. He further commented that, although the neighborhoods have not conducted a formal poll, very strong comments were made at their meetings and functions as to the need for this type of protection.

Ms. Sharry White, representing the Gillette Historic District Association, submitted a letter from the Association's president asking for support and approval of the proposed HP ordinance. Ms. White also submitted petitions endorsing the ordinance, which represented 85% of the property owners in the Gillette District. She commented that the remaining 15% were not opposed, but were unavailable for comment. Ms. White emphasized that the Gillette District has been seeking local protection as a historic district since 1979, and she requested the Commission's approval of the ordinance and guidelines.

Ms. Pat Cowen commented she was not in a historic district, but was part of a company called Special Arrangements which worked with people visiting the Tulsa area for convention purposes, and they also worked with charter groups providing tours. Ms. Cowen stated she became involved in historic preservation this past summer when two of the major items on their tours were destroyed (Union Bus Depot and the Aaronson Mansion). She pointed out that, due to the economy, there was currently a strong promotion by State and City officials for tourism, and one of the main drawing points to the City of Tulsa was its unique history, i.e. Indian and oil history. Ms. Cowen advised that during February and March their company would have 32 busloads of people being brought in by an Illinois company. Therefore,

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she had concerns that other historic sites, structures, etc. would be destroyed, which not only affected their contracts, but affected the entire City's economy. Ms. Cowen urged the Commission to favorably consider this important document for preserving Tulsa's history.

Mr. Paul Coury, representing the National Association of Industrial Office Parks, stated he was also involved in the restoration of the Mayo Hotel, and was a land/building owner in downtown Tulsa. Mr. Coury stated he, personally and professionally, supported historic preservation and felt it was critical to the City of Tulsa. However, he felt there must also be incentives, in addition to creating bureaucratic levels of zoning and compliance. He commented that the proposed ordinance did nothing to provide tax relief to create economic incentives for a homeowner. Mr. Coury stated he felt that when the City infringed upon a citizen's ownership rights, there should be a majority consent, which was also a concern shared by the Association. Another concern was the inclusion of commercial districts as a part of the HP ordinance. Mr. Coury stated their concern was based on the issue of demolition, as there was a tremendous amount of functionally obsolescent properties in the downtown area, which would obviously be the area most impacted by HP restrictions on commercial properties. He expanded on the problem of "red tape" involved in demolition of these buildings that, while possessing historical significance, were not serving an economic purpose, and in today's market, additional burdens to developers should be a strong consideration. Mr. Coury suggested excluding commercial properties from this ordinance until a better or more workable solution can be found. He also requested further consideration be given to incorporating consent requirements.

Discussion followed among Staff and the Commission clarifying the language of the ordinance as to demolition, and that while commercial properties could be a part of the HP ordinance in the future, nothing could be enacted until such time as the Design Guidelines were developed for commercial (non-residential) properties.

Ms. Wilson asked Mr. Coury what alternatives might be proposed in regard to demolition. He commented that, if a building was already on the National Register, then there might be some recapture, but why should the TMAPC or City Commission be able to dictate to an individual, without his consent, whether or not he could tear a building down. Mr. Doherty stated that it would be highly unlikely that a building would ever be on there as a single site without the owner's application and consent. Further, Mr. Doherty stated that he could not envision this Commission placing these restrictions on any building without the owners application and consent. Mr. Doherty confirmed that, legally, the Commission had that right, as they currently could do with downzoning; however, the TMAPC, as a policy, has not and does not do so.

Mr. Steve Childers, Vice President of Downtown Tulsa Unlimited (DTU), commented their Staff has reviewed the HP ordinance and requests the TMAPC and City Commission approval of the proposed ordinance. Mr. Childers complimented those who have worked over the last several months preparing the draft of the ordinance. He commented that DTU shared some of the same concerns expressed by Mr. Coury regarding the downtown area and older central city neighborhoods. Mr. Childers stated DTU, while supporting the general intent of the ordinance, viewed it as similar to other zoning requirements established to preserve the integrity and environmental qualities of existing areas. He further stated that, where these matters usually break down, was in implementation. In regard to a consent percentage, Mr. Childers remarked that he was under the impression that this might be in conflict with state statutes. However, if not in conflict, DTU would support a consent percentage requirement. Mr. Childers stated a possible problem area existed with the Certificate of Appropriateness (COA), as DTU was also concerned with time delays, and he suggested research be initiated on an actual field inspection process to determine that a particular construction action was in line with the COA, instead of leaving this up to the Building Inspector.

Mr. Jerry Eisner, representing the Tulsa Builders Association, stated support of the ordinance with two exceptions. First, due to their concern about property rights, they feel the consent requirement should be established at a 60% - 75% level. Secondly, they agree with the Board of Realtors regarding commercial properties, as the citizens and property owners should have something more detailed to review before including commercial properties in the ordinance.

Mr. Doherty asked Mr. Eisner if his Association would be opposed to including commercial in this draft of the ordinance, but leaving it inactive until such time as the Design Guidelines were approved through the proper process. Mr. Eisner stated he would be in favor of this approach, as their main concern was that they did not have the detailed guidelines available at this time for review of commercial. Otherwise, they were in favor of the ordinance.

Review Session:

Mr. Frank clarified that references to "consent" involved the consent to file the application, not the consent to zone, as the option to zone was totally up to the TMAPC and/or City Commission, in accordance with state statutes. Therefore, a consent requirement in the ordinance would only address how the process would be initiated.

In response to Mr. Draughon, Mr. VanFossen commented that his initial amendment suggested that, if 30% opposed, then it could not be heard at the City Commission level. However, it was brought to his attention by Legal Counsel that this would not meet the state law. Mr. VanFossen clarified that his current suggested amendment, dealing with 26% owner consent, was primarily for the purpose of not being able to impose this on individual parcels, particularly in very small districts.

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Mr. Alan Jackere, City Legal Department, advised that Legal's objection was with any proposal impacting the legislative process, i.e. requiring consent from property owners before the TMAPC or City Commission could even consider calling a public hearing. Mr. Jackere reviewed the current process, which was also included in the proposed ordinance, that allowed rezonings to occur in two ways: (1) If the property owners wishes rezoning, he may initiate an application for rezoning; or, (2) if others (the City, TMAPC, or the private community) want to zone someone else's property, then they can come before the Planning and/or City Commission to request a public hearing be called. Mr. Jackere reiterated that he had a problem with any process removing the City's right to call a public hearing to zone someone's property, be it downzoning, historic preservation zoning, etc. He commented that both of Mr. VanFossen's suggested amendments removed the City's power to legislate in the area of zoning. Mr. Jackere clarified, in response to Mr. VanFossen, that he knew of no cases in Oklahoma that set a precedent or decided this issue. He commented that there were cases around the country that would support one type of consent or protest. However, the great weight of authority in consent and protest cases was that the cases that addressed types of removal of the legislative providence, and the delegation to the populace of a legislative function, held the delegation to be improper.

In reply to Mr. Draughon, Mr. Jackere verified that a homeowner currently residing in an HP district would not have to do anything unless he (the homeowner) initiated the building permit process. Mr. Jackere added that the Design Guidelines did make concessions for a structure that might be within an HP district that had no historical significance.

Mr. Draughon inquired if this process would require hiring additional staff, in light of the current financial condition of the City. Mr. Birkes advised that he was hired to administer and staff the NCC, and take care of the responsibilities involved in the ordinance, which included COA's, and he would be doing the same under the proposed ordinance. Further, it was his understanding there would not be any increase in staff, as this was a part of his present duties.

Mr. VanFossen reiterated his reasons for suggesting an amendment, and read his submitted commentary: "I strongly support the preservation of our historical resources and have spent many hours in assisting with the development of the details of this proposed ordinance. I believe it is now quite appropriate for the areas of interest first considered, those being the residential districts such as Mapleridge, Gillette, Brady Heights, Tracy Park, and future such districts. The criteria, however, for an 'HP' district has been expanded to include individual sites, with such designation possible with or without the owner's approval. Although I desire to see such individual sites preserved, I believe the imposition of these restrictions is appropriate on such small districts only with the owner's approval. In the development of the ordinance in committee, it was decided that a requirement for a percentage consent of property owners was somewhat cumbersome to instigate. Yet, when I requested the consideration of an amendment not permitting consideration of the zoning

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if over 30% of property owners opposed, I was told by our Legal Counsel that the state law might be violated by such amendment. I, therefore, am returning to the consent requirement as the better legal measure to place some reasonable limit on the authority of our commissions on this matter."

In reply to Mr. Paddock, Mr. VanFossen stated his intent on suggesting a percentage was part of the consideration to hold a public hearing, whether by the application of property owners, by imposition of the City Commission, or by choice of the TMAPC.

Mr. Doherty asked Legal Counsel if Mr. VanFossen's suggestion for consent would preclude the rights of the Commissioners to move to hold a public hearing on this subject for any neighborhood until that consent was presented as evidence. Mr. Jackere confirmed this to be correct. Mr. VanFossen stated this was his intent.

Ms. Wilson stated she would be opposed to any suggestion that restricted the TMAPC's ability to hold public hearings. She added that she was concerned this might be interpreted that the TMAPC was "sending a signal" into the community that the Commission really did not want historic preservation, which could put an applicant into a position of having to present "high numbers", fearing their request might not be approved otherwise. Ms. Wilson commented that she did not think that, as far as planning, this would be a good position for the Commission. Mr. VanFossen responded by citing the Union Bus Depot as an example of a particular property where it might have been a very inappropriate demand on that property owner to have kept and/or maintained it for historic purposes.

Mr. Doherty agreed with Mr. VanFossen's aim as to a single site or small district. But he felt the Commission needed to keep in mind that there were two different issues; consent for application and consent for zoning. Mr. Doherty commented that the Commission should have the right to hear anything they wished in order to review all the facts. Mr. Doherty stressed he did not think that there was a member on this Commission that would impose zoning against an owner's wishes, and he could not envision any future Commission doing so. Discussion continued among the Commission members and Legal as to the various views on the consent and percentage issue and related processes.

Mr. Paddock commented that it was suggested the principle of uniformity could be preserved by having two designated HP districts, and he asked Legal's input as to the Commission having the constitutional right to do this. Mr. Jackere advised that the uniformity requirement pertained to the substantive regulations that the TMAPC imposed on people within the districts, i.e. three different office districts to impose different regulations as to height, etc. Mr. Jackere defined the suggested percentage requirements as "procedural", and having nothing to do with uniformity.

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Mr. Jackere concurred with Ms. Wilson's interpretation of demolition that allows the private property owner to ultimately determine a "reasonable" alternative as to what to do with his property. The first sixty day time allowance offers the public sector an opportunity to raise funds, should they consider the property to be a great Tulsa resource, and one that should not be demolished. Mr. Jackere commented that he saw sixty days as the limit, even though a second sixty days was available through the City Commission. Ms. Wilson agreed and added that the ordinance was structured to favor the property owners rights regarding demolition.

Mr. Paddock asked Mr. Jackere if there would be a legal problem should the TMAPC adopt its own policy, as opposed to a requirement in the ordinance, to require evidence of consent be submitted by the Preservation Commission at the time of the public hearing on an HP zoning application. Mr. Jackere stated he could see a problem if the TMAPC attempted to impose their policy(s) on the City Commission, as the City should develop their own policies.

Mr. VanFossen commented that the policy issue would not satisfy his concern. Therefore, he moved to recommend adoption of the HP Ordinance and Design Guidelines draft to the City, subject to the amendment as he submitted. Discussion followed on this motion, with Mr. Doherty suggesting an amended motion. The Commission was informed they would first have to vote on Mr. VanFossen's motion, which had already been seconded.

TMAPC ACTION: 7 members present

On **MOTION** of **VANFOSSEN**, the TMAPC voted **1-6-0** (VanFossen, "aye"; Carnes, Doherty, Draughon, Harris, Paddock, Wilson, "nay"; no "abstentions"; Crawford, Kempe, Parmele, Woodard, "absent") to **APPROVE** the 1/15/88 Draft of the Historic Preservation Ordinance and Design Guidelines, and recommend adoption to the City Commission, subject to an amendment regarding consent percentage as recommended by Mr. VanFossen.

Additional Comments and Discussion:

That motion failing, Mr. Doherty moved to recommend to the City Commission adoption of the Historic Preservation ordinance and Design Guidelines as drafted 1/15/88. Ms. Wilson suggested the following modifications to the draft, with Mr. Doherty amending his motion to include these modifications (as underlined):

Page 6, item G - Add verbiage indicating or stating: The Secretary shall file, or cause to be filed, with the office of the County Clerk, copies of the Historic Preservation Zoning Ordinance and Map.

Page 7, item N.2 - Amend to read: Prepare, or cause to be prepared proposed Historic Preservation zoning map amendments or other amendments to the Tulsa Historic Preservation Plan to be recommended to the Planning Commission for public hearing and adoption as part of the Comprehensive Plan for the City of Tulsa.

Page 12, item 3(b) - Amend to read: "...the present zoning of the property and the supplemental zoning sought by the applicant."

Page 15, item 1 - Amend to read: The degree to which the proposed work is consistent with the Design Guidelines which have been approved and adopted by the City Commission.

Mr. VanFossen stated that, as much as he has been in favor of historic zoning, he was strongly opposed to this lack of a consent requirement on individual tracts and would, reluctantly, be voting against the motion. In reply to Mr. Carnes, Mr. Doherty commented that Mr. VanFossen's concerns regarding a consent requirement would be transmitted to the City Commission in these minutes. Discussion followed as to the TMAPC initiating its own policy, in lieu of imposing a requirement in the ordinance regarding consent.

Mr. Paddock commented that the TMAPC and the City Commission should give themselves the maximum flexibility in considering these matters, and they would be in a better position if stringent provisions were not included in the ordinance at this point. Therefore, the Commission members could then gain from the experience of the first HP district applications, and then make adjustments to policy(s) as necessary. Mr. Paddock stated he was in favor of the draft as submitted.

TMAPC ACTION: 7 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **6-1-0** (Carnes, Doherty, Draughon, Harris, Paddock, Wilson, "aye"; VanFossen, "nay"; no "abstentions"; Crawford, Kempe, Parmele, Woodard, "absent") to **APPROVE** a Recommendation to the City Commission for Adoption of the Historic Preservation Ordinance and Design Guidelines, as drafted 1/15/88 and herein modified.

NOTE: Ms. Wilson suggested that Mr. VanFossen's proposal be forwarded to the City Commission as a minority report, with the TMAPC concurring in a unanimous vote. Therefore, Mr. VanFossen's proposal and commentary are incorporated in these minutes as discussed on pages 12 and 13.

There being no further business, the Chairman declared the meeting adjourned at 3:40 p.m.

Date Approved 2/10/88
James R. Doherty
Acting Chairman

ATTEST:
Marilyn A. Wilson
Acting Secretary

