

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
Minutes of Meeting No. 1694  
Wednesday, April 27, 1988, 1:30 p.m.  
City Commission Room, Plaza Level, Tulsa Civic Center

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Carnes	Crawford	Frank	Linker, Legal
Coutant, Secretary	Harris	Gardner	Counsel
Doherty	Kempe	Jones	Jackere, Legal
Draughon	Parmelee	Lasker	Counsel
Paddock, 2nd Vice- Chairman		Kane	Hubbard, Prot.
Selph, (County Designee)		Pendergrass	Inspections
Wilson		Pinc	
Woodard		Setters	
		Young	

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, April 26, 1988 at 9:30 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, 2nd Vice-Chairman Paddock called the meeting to order at 1:35 p.m.

**MINUTES:**

**Approval of the Minutes of April 13, 1988, Meeting #1692:**

On **MOTION** of **WOODARD**, the TMAPC voted **8-0-0** (Carnes, Coutant, Doherty, Draughon, Paddock, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Crawford, Harris, Kempe, Parmelee, "absent") to **APPROVE** the **Minutes of April 13, 1988, Meeting #1692**.

**REPORTS:**

**Report of Receipts & Deposits for the Month Ended March 31, 1988:**

On **MOTION** of **WILSON**, the TMAPC voted **8-0-0** (Carnes, Coutant, Doherty, Draughon, Paddock, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Crawford, Harris, Kempe, Parmelee, "absent") to **APPROVE** the **Report of Receipts & Deposits for the Month Ended March 31, 1988**, as verified by Staff to be in order.

REPORTS - Cont'd

Committee Reports:

Mr. Doherty advised that the **Rules & Regulations Committee** had met this date to discuss changes to the Zoning Code regarding manufactured housing and related items, and would be meeting next Wednesday, May 4th. Mr. Doherty reported that the Committee had met last week to consider amendments to the City and County Zoning Codes regarding sexually-oriented businesses, specifically clarification of the spacing requirements and regulation in general. The Committee made no formal recommendation to the TMAPC.

Ms. Wilson announced the **Budget & Work Program Committee** had requested a joint TMAPC Committees work session to review the FY 88-89 budget and submit work program ideas. This is scheduled for Wednesday, May 4th, upon adjournment of the regular TMAPC meeting.

Director's Report:

Staff briefing on positions papers prepared by various task forces for the Goals for Tomorrow Citizen's Congress. Mr. Jerry Lasker introduced the following INCOG Staff members who reviewed the reports of the various task forces involving INCOG and/or TMAPC:

- Mr. Irving Frank - Design of the Area Task Force
- Mr. Tom Kane - Transportation Task Force
- Mr. Gaylon Pinc - Environmental Task Force
- Mr. Bob Pendergrass - Housing Task Force
- Ms. Susan Young - Government Coordination Task Force

The Staff answered general questions from the TMAPC members as related to the work and objectives of each task force.

## ZONING PUBLIC HEARING:

Application No.: Z-6194 Present Zoning: AG  
Applicant: Jenks Proposed Zoning: CO  
Location: East of the SE/c of East 91st Street & South Mingo Road  
Date of Hearing: April 27, 1988  
Presentation to TMAPC by: Loren H. Jenks, 4823 Imogene, Houston, TX  
Phone: (713/668-7540)

### Relationship to the Comprehensive Plan:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity - Corridor.

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

### Staff Recommendation:

**Site Analysis:** The subject tract is approximately four acres in size and located east of the southeast corner of South Mingo Road and East 91st Street. It is partially wooded, gently sloping, contains a single-family dwelling and large detached accessory building, and is zoned AG.

**Surrounding Area Analysis:** The tract is abutted on the north across East 91st Street by vacant property zoned CO; on the east by a landscape nursery zoned CO and AG; on the south by vacant property zoned AG; and on the west by vacant property zoned CS.

**Zoning and BOA Historical Summary:** Corridor zoning, as well as CS zoning, has been approved in the immediate area.

**Conclusion:** Based on the Comprehensive Plan and existing zoning patterns in the area, Staff can support the requested CO rezoning. The type of use and corresponding intensity of use is subject to the Corridor Site Plan review and approval process as specified in the Zoning Code. No use is permitted as a matter of right in the CO District.

Therefore, Staff recommends APPROVAL of CO zoning as applied for in Z-6194.

### Comments & Discussion:

In reply to the Chairman, the applicant stated agreement to the Staff recommendation. In reply to Mr. Doherty, Mr. Gardner commented that the primary basis for the Staff's recommendation for approval was the physical fact of extensive CO zoning. He added that the Comprehensive Plan called for CO zoning, and confirmed Mr. Doherty's statement that the policy of not granting CO prior to the purchase of right-of-way was superceded, in this case, by the mentioned physical facts of the other CO zoning on the adjacent tracts.

**TMAPC ACTION: 8 members present**

On **MOTION** of **CARNES**, the TMAPC voted **8-0-0** (Carnes, Coutant, Doherty, Draughon, Paddock, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Crawford, Harris, Kempe, Parmele, "absent") to **APPROVE Z-6194 Jenks for CO zoning**, as recommended by Staff.

**Legal Description:**

The north 330' of Lot 1, Section 19, T-18-N, R-14-E, Tulsa County, Oklahoma, except the east 302' thereof, and less the west 467' thereof.

\* \* \* \* \*

Application No.: **Z-6183** Present Zoning: RS-2  
Applicant: **Boswell** Proposed Zoning: OL  
Location: NE/c of East 22nd Street and South Main Street  
Size of Tract: .78 acres, approximate  
Date of Hearing: April 27, 1988  
Presentation to TMAPC by: Mr. Robert Boswell, 401 So. Boston, #730 (582-7834)

**NOTE:** OL zoning was approved on this tract by the TMAPC on 12/23/87 and by the City Commission on 1/19/88. It has been determined that the applicant provided an incomplete/incorrect legal description and the case must be reheard.

**Relationship to the Comprehensive Plan:**

The District 7 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Medium Intensity - No Specific Land Use.

According to the "Zoning Matrix" the requested OL District is in accordance with the Plan Map.

**Staff Recommendation:**

**Site Analysis:** The subject tract is .78 acres in size and is located at the northeast corner of East 22nd Street South and South Main Street. It is partially wooded, flat, contains a large single-family dwelling, and is zoned RS-2.

**Surrounding Area Analysis:** The tract is abutted on the north by the parking lot for the Akdar Shrine Temple, zoned OM; on the east by a single-family dwelling on a large lot, zoned RM-2; on the south across East 22nd Street by a condominium complex, zoned RM-2; and on the west across South Main Street by an office building, zoned OH.

**Zoning and BOA Historical Summary:** Both medium intensity and high intensity office zoning has been approved in the immediate area of the subject tract.

**Conclusion:** Based on the Comprehensive Plan, and existing office zoning to the north and west, Staff can support the requested OL rezoning. The OL zoning will serve as a buffer from the higher intensity OM zoning to the north and for the residential area to the southeast.

Therefore, Staff recommends **APPROVAL** of Z-6183 and the OL zoning as requested.

Comments & Discussion:

Mr. Coutant advised that due to a conflict, he would be abstaining on this case. In response to Mr. Carnes, Staff reviewed the previous hearing on this application, and explained the applicant had submitted an incorrect legal which has required this rehearing.

TMAPC ACTION: 8 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-1** (Carnes, Doherty, Draughon, Paddock, Selph, Wilson, Woodard, "aye"; no "nays"; Coutant, "abstaining"; Crawford, Harris, Kempe, Parmele, "absent") to **APPROVE Z-6183 Boswell for OL**, as recommended by Staff.

Amended Legal Description:

Lots 8, 9 and 10, Block 2, 3rd AMENDED PLAT OF THE RIVERSIDE DRIVE ADDITION, to the City of Tulsa, Tulsa County, Oklahoma.

PUBLIC HEARING:

TO CONSIDER AMENDMENTS TO TITLE 42, TULSA REVISED ORDINANCES (TULSA ZONING CODE), AND THE TULSA COUNTY ZONING CODE, PERTAINING TO SPACING REQUIREMENTS AND THE REGULATIONS OF SEXUALLY-ORIENTED BUSINESSES

Comments & Discussion:

Mr. Bob Gardner presented the draft alternatives as submitted by the Rules and Regulations Committee and the INCOG Staff for the City and County Zoning Codes as relates to sexually-oriented businesses; specifically the measurement of distance from a sexually-oriented business.

Commissioner Selph commented that the proposed amendments extended from a case in Tulsa County (near Hissom Memorial Center) with some ambiguity in the County Zoning Code, as the Code did not present a clear determination on how to measure distances. Therefore, he had asked the Rules and Regulations Committee to review the Code. He reiterated Mr. Gardner's comments that the question regarding measurement was, do you measure from the wall of the sexually-oriented businesses to the building wall of the

**PUBLIC HEARING: Zoning Codes (Section 750.2) - Cont'd**

protected property (church, school, park), or do you measure to property line of the protected property? In regard to the issue with Hissom, Commissioner Selph stated that the County Inspector made a determination, based on a legal ruling in Tulsa District Court, that the measurement should be from the wall of the sexually-oriented business to the property line of Hissom. He added that this was a significant factor with this particular case, in that the measurement to the property line, Hissom would fall within the 500' as outlined in the Code. Had the measurement been from building wall to building wall, then Hissom would have fallen outside the 500' measurement and the County Inspector would have had to issue the zoning clearance permit; however, based on their research, the measurement was from the building wall to the property line. Commissioner Selph commented that he felt it important to remember that the intent and purpose of this section of the Code was to provide some sort of reasonable protection for schools, churches, parks, etc. He added that he felt the entire property should be protected; further, that the children on the school grounds should be afforded the same protection as the children in the classrooms. Commissioner Selph submitted a request that the TMAPC also consider increasing the distance in the County Code from 300' to 500' in regard to spacing from residentially zoned areas.

Mr. Doherty, as a member of the Rules and Regulations Committee, acknowledged Staff's attempts to satisfy the Committee members requests, and inquired if the Staff recommendation offering a 750' measurement from building wall to building wall took into consideration the children on the school grounds as well as those in classrooms. Mr. Gardner stated that the 750' measurement on school grounds would protect elementary schools, but may not cover the 40 acre high school site or church site. Mr. Doherty stated his principal concern was protecting school children, with a close second to church property. His reasoning being that children on church property were afforded a little closer supervision, and school children were on the school property on a mandatory basis and for longer periods of time than the children on church property.

Interested Parties:

Address:

Ms. Shirley Hoppes	1226 South Fulton, Tulsa	74112
Mr. Wendell Sharpton	15 Saddlerock Rd., Sand Springs	74063
Ms. Julia L. Teska	1543 Swan Drive, Tulsa	74120
Mr. Joe Traynham	4825 Bermuda Ave., Sand Springs	74063
Ms. Fran Pace	1326 South Florence	74104
Rev. Douglas Cate	2800 South Yale	74114
Mr. T.J. Davis	Sand Springs City Hall	74063
Mr. Blake K. Champlin	1211 South Canton, Tulsa	74112
Mr. Thomas A. Litteer	1630 N. McKinley, Sand Springs	74063
Mr. Ron Heinsoth	3103 Bahama Dr., Sand Springs	74063
Ms. Elaine Porter	1859 So. 147th W. Ave, S.S.	74063
Ms. Evelyn Fulkerson	2331 East 5th Place	74104

**Ms. Shirley Hoppes, representing the Mid-Tulsa Neighborhood Association,** read a statement protesting sexually-oriented businesses, and commented that the impact of these businesses on the entire city should be considered, as well as the impact on the individual neighborhoods. Ms. Hoppes asked that the measurement be amended to the property line of the protected property, not the building wall.

**Mr. Wendell Sharpton, Superintendent of the Sand Springs Schools,** spoke in support of measuring from the property line of school grounds at the greatest distance possible. His reasons for removing these kinds of businesses from school/church areas were: (1) Children cannot be kept in the schoolrooms all day; (2) schools are also used for night activities; and (3) schools from time to time expand their facilities, therefore, they need to protect the entire school grounds. He added that, from a community standpoint, the atmosphere or environment associated with a sexually-oriented business was such that school age children should be protected from exposure to these businesses. Mr. Sharpton pointed out that there were three schools in close proximity to the proposed sexually-oriented business in the Sand Springs area. He commented that it was his feeling that the Sand Springs residents were more concerned for the welfare of the children than for the operation of a sexually-oriented business. He reiterated that, on behalf of children, he thought action should be taken to prevent any kind of situation in close proximity to schools that could possibly expose children to such things as illicit types of activity, drug pushing, immoral and improper behavior, etc.

**Ms. Julia Teska, Superintendent of the Hissom Memorial Center,** spoke in support of the position taken by Mr. Sharpton and others in the Sand Springs area protesting the operation of a sexually-oriented business in close proximity to Hissom. Ms. Teska commented that some of the residents at Hissom were there due to severe behavioral problems, and the location of such a business near Hissom, would be in the nature of an "attractive nuisance". Ms. Teska pointed out that some of the residents at Hissom, although high functioning and ambulatory, were mentally retarded. Therefore, she had concerns that, should this business open across the street from Hissom, it might encourage the participation of these young people at Hissom in ways that would be very unhealthy and potentially lethal to them, since the facility was adjacent to Highway 51, a very busy highway. For these reasons, Ms. Teska reiterated support of measuring to the property line. In response to Commissioner Selph, Ms. Teska confirmed the entire grounds at Hissom were used for various Hissom activities.

**Mr. Joe Traynham, representing the Fisher Baptist Church,** agreed that the measurement should be taken from the sexually-oriented business to the property line of the school, church, park, etc. Mr. Traynham advised of his six year experience as Executive Director of the Tulsa Police & Fire Dept. Chaplaincy, which provided him an opportunity to obtain information and accounts from uniformed and undercover police officers dealing with sexually-oriented business. He commented that there was a lot more going on in and around sexually-oriented businesses than the average citizen was aware of.

**PUBLIC HEARING: Zoning Codes (Section 750.2) - Cont'd**

**Ms. Fran Pace, District 4 Planning Team Chairman,** commented that her concern was a little different than the residents in Sand Springs, as she lived in an older part of Tulsa. Ms. Pace stated concerns as to the distance protection offered to residents, and suggested the guidelines recently developed for Linear Development Areas might be offer a standard. She suggested 750' spacing from a residential, school and/or church area in order to make the Code more restrictive, without totally denying sexually-oriented businesses, as she felt the Code should accommodate citizen needs, and not necessarily these businesses.

**Rev. Douglas Cate of Memorial Baptist Church** requested the ordinance be interpreted to measure to the property line of a church, school or parks. He added that his church was in close proximity to a sexually-oriented business and the problems with its exposure to children on the church playground. In reply to Mr. Paddock, he confirmed the Broken Arrow Expressway did offer some type of barrier, but people coming to the church must pass by a sexually-oriented business.

**Mr. T.J. Davis, Community Development Director for Sand Springs,** presented a letter to the TMAPC from Mr. Loy Calhoun, City Manager. Mr. Calhoun's letter offered two options with regard to spacing, one option being to measure from property line to property line. The second option suggested measuring from "use area to use area, i.e. parking lot, play grounds, parks, etc.". In this regard, Mr. Calhoun suggested a uniform 1,000' separation distance between all other uses, i.e. other sexually-oriented business, parks, churches, schools and residential areas.

**Mr. Blake Champlin** requested the Commission consider placing a notification provision in Section 750.2 of the Code to require notice at the time of a permit application so as to advise the neighborhoods and citizens. Mr. Champlin agreed with the suggested 500' spacing from a residential area as the 300' spacing was not adequate. He stated concern in regard to the elimination of reference to private parks in the Code. Mr. Doherty and Commissioner Selph commented as to the problems of defining "private park" so that Legal Counsel could support it. Therefore, rather than jeopardize the entire ordinance at this time, it was agreed to address the issue of this particular definition at a later time.

**Mr. Thomas Litter, Pastor of the First Presbyterian Church,** commented on the moral issues involved, and the fact that he felt these issues should not be sacrificed for monetary gain of some within the community.

**Mr. Ron Heinsoth, Pastor of St. Andrew Lutheran Church,** echoed comments made by others in support of measurement from building wall to the property line, which offered more protection for churches, schools, etc.

**Ms. Elaine Porter** submitted a petition supporting the request for measurement from property line to property line. Ms. Porter commented the petition also stated that the people utilizing church or school grounds should be as well protected as the people inside the structure. She further pointed out that the distance in rural areas had a greater impact than the same distance in the city due to the sparse population.

Ms. Evelyn Fulkerson, Director of Kendall-Whittier Ministry, submitted and read a statement requesting measurement be taken from property line to property line. Ms. Fulkerson further pointed out that there currently was a sexually-oriented business in her neighborhood (Whittier Adult Book Store), and the structure and its parking lot was exposed to children who had to walk to and from schools, libraries, parks, etc. Therefore, she requested the entire concept of 300' spacing be reconsidered. In reply to Ms. Wilson, Ms. Fulkerson pointed out that 500' spacing would still not protect the school age children in this area as the only route available for the children who lived north of the I-244 Expressway to the Second Street Library was the overpass next to the adult bookstore.

Review Session:

Mr. Doherty called on Ms. Paula Hubbard of Protective Inspections, and inquired if, under current interpretations, the Broken Arrow Expressway has been considered a buffer in determining distances for the sexually-oriented businesses. Ms. Hubbard stated she did not recall the expressways ever being considered as buffers, and she has been advised by the City Legal Department that they would not be considered under spacing limitations. Mr. Alan Jackere, City Legal Department, clarified that distance was measured from point to point regardless of what might lay in between, i.e. high-rise, expressway. Mr. Doherty further inquired, if the amendment was approved for measuring to the property line, and the sexually-oriented business in close proximity to the church then fell within the 300' measurement, thereby making the distance nonconforming, what would be the legal position of the sexually-oriented business. Mr. Jackere explained that they would have five years to comply with the new regulation if they were nonconforming.

In regard to the appeal process, Mr. Doherty inquired as to whom the appeal was made; Mr. Jackere advised it would be to the BOA. Ms. Hubbard confirmed that no notice was given to property owners at the time of permitting, and Mr. Jackere clarified that Legal has taken the position of "constructive notice" which means that when a property owner becomes aware, or should have become aware, they then have ten days in which to appeal.

Ms. Wilson inquired as to the number of permits issued in the City for sexually-oriented businesses. Ms. Hubbard stated there were approximately 11 permits issued. Mr. Gardner advised Staff had a map available which indicated about 15 sexually-oriented businesses within the City, some of which were under appeal as not meeting the Code. Mr. Ricky Jones reviewed the map survey prepared by INCOG of the sexually-oriented business locations in the City, as well as the protected properties (churches, schools, parks) in these areas. Mr. Jones explained that the base map survey was not an official document, but was based on information gained from the phone books, personal knowledge, past BOA cases, and Staff field checks. Mr. Woodard inquired as to the hours of operation permitted for the types of businesses. Ms. Hubbard advised they were permitted to be open 24 hours a day, seven days a week.

**PUBLIC HEARING: Zoning Codes (Section 750.2) - Cont'd**

After reviewing the draft alternatives, Mr. Doherty commented that the wording suggested by the City Legal Department was essentially the suggested wording of the Rules and Regulations Committee, and offered a clearer definition. Therefore, he suggested proceeding with the County Code amendments first, and then go to the City Code amendments, since the most critical issue appeared to be within the County. There was no objection from the Commission.

Mr. Carnes inquired of Legal Counsel if it might be easier to enforce if the City and the County had the same ordinance. Mr. Jackere stated that, since the Codes were enforced by two separate agencies, he did not see where it might be any easier with the same ordinance. Mr. Carnes commented he could see the County needing more spacing than 1,000', due to the amounts of open space involved that the City does not have. Commissioner Selph commented he would like to see some consistency, if possible, between the City and County Codes. However, as far as spacing was concerned, he commented he would like 1,320' spacing in the County, but he had been advised by Legal that this amount might get into prohibition by ordinance and he did not want to risk the entire ordinance for this one cause. In response to this issue, Mr. Jackere and Mr. Gardner agreed that there was a risk of losing the ordinance should there be too much of an increase in distance to potentially eliminate locations for sexually-oriented businesses.

Mr. Coutant commented that he preferred proceeding with both Codes today, and added that he did not think it was necessarily true that County Zoning Code was applicable to just a rural setting, or that the City Zoning Code was applicable to just an urban setting. Therefore, he felt inclined to make both Codes the same. Mr. Doherty agreed that there were some areas in the County developed to urban standards and small areas of the City still rural. However, he felt it a safe assertion that, by and large, County development was less dense than in the City, and for this reason, a negative impact from development was felt to a greater distance in the more sparsely populated areas than urban areas.

Mr. Doherty requested a legal interpretation as to the difference between property line and lot line. Mr. Jackere commented that he was not sure he could give a definition of property line, and suggested the TMAPC put a definition in the Code of what they mean by property line, i.e. all of the property owned by a church, irrespective of platted lot lines. Mr. Jackere stated that there could be different definitions as it could depend on the circumstances. Mr. Frank referred to the definition of "lot, lot line, and lots of record" presently in the Code, but noted there was no definition of property line. Mr. Frank concurred that, should the Commission proceed with using property line, then they would have to define it in the Code. Therefore, Mr. Doherty suggested the simplest approach would be to use the phrase "lot line". Discussion continued on how best to proceed with the issue of lot line(s).

Mr. Carnes made a motion, in regard to the County Zoning Code, for a 500' distance from the building line to the outer limits of the lots or property line, which would be defined at a later time. Mr. Doherty stated

**PUBLIC HEARING: Zoning Codes (Section 750.2) - Cont'd**

having a problem with the 500' distance in the County, as the County had different enforcement mechanisms. Therefore, he had no problem with having the spacing different; however, he stated a preference for having the text the same as the City Code. Mr. Doherty moved to amend Mr. Carnes' motion to approve the Staff recommendation for the County Zoning Code with the following modifications in Section 750.2: Paragraph A, the 1,000' be changed to 1,320' (spacing between sexually-oriented businesses); and 750' spacing for Paragraphs B - E (spacing from a sexually-oriented business to a church, school, park, or residential areas, respectively). Mr. Doherty's motion included references to property line be changed to lot line, in accordance to Staff's recommendation. Mr. Doherty commented the basis for his suggested spacing was that he was familiar with the unincorporated areas in the County, and the 1,320' spacing (1/4 mile) was a clean, concise measurement; the 750' feet could be, perhaps, arbitrary. Mr. Carnes stated he would be voting in favor of the amended motion.

Ms. Wilson pointed out that the 1,320' distance was also used in the Code for group homes, and she inquired as to any justification for this measurement in the City. Mr. Jackere advised that when the Commission makes a determination as to distances, this determination should be based on studies when dealing in the First Amendment area. He added that studies should be made to not only assure that the distance would, in fact, protect what the Commission was wanting to protect, but should also consider the impact of that distance on the availability of locations. Mr. Paddock inquired if the distances used in the present Code were based on the kinds of evidence or information referred to by Mr. Jackere. Mr. Jackere confirmed that the present Code was based on some study and/or evidence with which the Courts, apparently, have agreed so far.

Mr. Paddock remarked that present Code, when referring to distances from a park and/or residentially zoned area, appeared to be using the perimeter of a property line, but in cases referring to a building, it appeared to be from building to building. Commissioner Selph agreed the references should be consistent. Ms. Wilson suggested language be added to clarify where the measurement is to be made on a sexually-oriented business to a church, school, etc. Legal Counsel advised that the wording used should be consistent. Mr. Gardner suggested deleting the paragraph referencing measurement and repeating it each time in the categories for church, school, etc. Mr. Paddock stated a reluctance to changing the footage and he did not see a need to increase distance, and if the determination was to go to lot line(s) then that, in itself, would increase the distance. Therefore, he would be voting against the motion to amend.

**TMAPC ACTION: 8 members present**

On **MOTION** of **DOHERTY**, the TMAPC voted **6-2-0** (Carnes, Coutant, Doherty, Draughon, Selph, Woodard, "aye"; Paddock, Wilson, "nay"; no "abstentions"; Crawford, Harris, Kempe, Parmele, "absent") to **AMEND** the the Motion as made by Mr. Carnes (500' distance from the building line to the outer limits of the lots or property line, which would be defined at a later time.)

**PUBLIC HEARING: Zoning Codes (Section 750.2) - Cont'd**

Discussion continued on the amended motion presented by Mr. Doherty. Mr. Jackere suggested that before the TMAPC vote, they make a clearer determination as to what they mean by lot line or lot lines. Mr. Carnes commented that his original motion, which was amended to Mr. Doherty's distance figures, was to vote only on the distance measurements in the County from the perimeter property line of the continuous lots, and the determination as to lot line/property line would be clarified at a later time. Mr. Coutant stated he felt that, if this issue was to be resolved today, then the Commission needed to deal with specific language for the proposed new ordinance. Mr. Doherty clarified that his motion was to present to the County the Staff Alternative dated 4/27/88, with modifications to the distance figures. He agreed that the substance of the spacing needed to be resolved and a specific draft and language should be decided. At this point, Mr. Carnes withdrew his motion; thereby making any amendments to that motion moot.

After further discussion, Mr. Doherty moved to recommend to the County Commission an amendment to Section 750.2 per Staff Alternative dated 4/27/88, with the following modifications: 1,320' spacing between sexually-oriented businesses; and 750' spacing for Paragraphs B - E (spacing from a sexually-oriented business to a church, school, park, or residential areas, respectively. Mr. Doherty also included in his motion adding the following language to clarify the methods of measurement:

- A) Distance limitation shall be measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the wall of a building or portion of a building in which another sexually-oriented business is conducted;
- B) Distance limitation shall be measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point on the lot line of a property containing a church;
- C) Distance limitation shall be measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point on the lot line of a property containing a school;
- D) Distance limitation shall be measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point on the lot line of a property containing a park;
- E) Distance limitation shall be measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point on the residentially zoned area.

**PUBLIC HEARING: Zoning Codes (Section 750.2) - Cont'd**

Mr. Doherty requested Staff's assistance in defining lot line. Mr. Gardner suggested the wording "...to the nearest point on the lot line or lot lines of contiguous lots containing a church, school, park, etc." Commissioner Selph pointed out that the original language suggested by the Rules and Regulations had in parentheses wording which designated abutting property utilized for the associated church or school functions, and suggested using this wording. After a legal determination that "abutting" and "contiguous" were synonymous as used in the Codes, Mr. Doherty amended his motion to include the wording mentioned by Commissioner Selph. Mr. Jackere stated he would review the final language proposed by the TMAPC to determine if the language was clear based on Court decisions.

Discussion continued on the motion as to property/lot line. Mr. Doherty confirmed that his motion included the reference to exclusion of expressway right-of-way in regard to the residential classification. Mr. Coutant commented as to his concern with the distances suggested by Mr. Doherty. Therefore, he moved to amend Mr. Doherty's motion to set the distance figures as originally recommended in Staff's alternative, except to increase 300' to 500' for residentially zoned areas in the County, i.e. 1,000' between sexually-oriented businesses, and 500' for church, school, park, and residential areas. The Commission continued discussion on amending the motion, and Mr. Jackere pointed out that setting the spacing for group homes did not involve a First Amendment issue, as does the suggestion for 1,320' for a sexually-oriented business in the County.

**TMAPC ACTION: 8 members present**

On **MOTION** of **COUTANT**, the TMAPC voted **5-2-0** (Coutant, Draughon, Paddock, Wilson, Woodard, "aye"; Doherty, Selph, "nay"; no "abstentions"; Carnes, Crawford, Harris, Kempe, Parmele, "absent") to **AMEND** the the Motion as made by Mr. Doherty (stated on the previous page).

Mr. Doherty observed that County Commissioner Selph and he, as the county appointee to the TMAPC, had both voted against the motion to amend the distances to a lesser amount. He added that Mr. Carnes, the other county appointee to the Commission, had also voiced support of the greater distances in the County. Mr. Paddock confirmed this would be noted and reflected in the record so as to inform the County Commissioners. Commissioner Selph concurred that he would have preferred to see increased spacing in the County.

Mr. Paddock asked Staff as to their reasons for differentiating the spacing in their recommendations for residentially zoned areas (300' for the City; 500' for County). Mr. Gardner stated that when dealing with the urbanized setting in a city, you would eliminate most of the eligible sites if the distance was increased to 500', and this could be interpreted as exclusionary. After discussion as to the final language, per Mr. Doherty's suggested motion, Mr. Gardner stated that Staff would bring a final draft to the Rules and Regulations Committee next week for a quick review and then place on the TMAPC agenda for a final review.

TMAPC ACTION: 7 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Coutant, Doherty, Draughon, Paddock, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Crawford, Harris, Kempe, Parmele, "absent") to **APPROVE** the **Amendments to the Tulsa County Zoning Code, Section 750.2**, relating to sexually-oriented businesses, as recommended by Staff, and to include modifications to paragraphs A - E, as follows:

"No person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses as defined in Section 750.1, in an area zoned other than CS, CG, and/or CH. In addition, no person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses, as defined in Section 750.1, to be located closer than:

- A. 1,000 feet from any other sexually-oriented business, as measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the wall of a building or portion of a building in which another sexually-oriented business is conducted;
- B. 500 feet from a church which includes all abutting property utilized for church and associated church functions, as measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point on the lot line of a lot(s) containing the church;
- C. 500 feet from a school of the type which offers a compulsory education curriculum, which includes all abutting property utilized for school and associated school functions, as measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point on the lot line of a lot(s) containing the school;
- D. 500 feet from a public park, as measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point on the lot line of a lot(s) containing the park;
- E. 500 feet from a residential area, as measured from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point on an AG-R or R Zoning District boundary line, excluding expressway right-of-way zoned in a residential classification.

Provided further that the Board of Adjustment may permit by special exception sexually-oriented businesses, as defined in Section 750.1 in an IL, IM or IH District, subject to the distance limitations set forth herein.

The establishment of a sexually-oriented business shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area, or the conversion of an existing business location to any of the uses described in Section 750.1."

**PUBLIC HEARING: Zoning Codes (Section 750.2) - Cont'd**

Additional Comments & Discussion:

Mr. Paddock confirmed that this action also included the deletion of the definition of private parks. Mr. Doherty noted that his motion was for Staff's drafted alternative, which had already deleted private parks. The consensus of the TMAPC was to review the final drafted language of the County Code for the consideration of the Rules & Regulations Committee, and also to place on the TMAPC agenda for consideration.

Mr. Doherty made a motion to amend the Tulsa City Zoning Code as recommended in the Staff alternative #1, with the same modifications to the language so as to be identical to that of the County Code, just approved, except that the spacing for residentially zoned areas shall remain at 300', and include the proposed definition for public park.

TMAPC ACTION: 7 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Coutant, Doherty, Draughon, Paddock, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Crawford, Harris, Kempe, Parmele, "absent") to **APPROVE** the **Amendments to the City of Tulsa Zoning Code, Section 750.2**, relating to sexually-oriented businesses, as recommended by Staff, and amended to reflect the same basic language as just approved for the County Code, EXCEPT to maintain the 300' spacing measurement for residentially zoned areas.

The TMAPC also requested the same procedure for review of this final draft on May 4, 1988 as recommended for the draft of the County Code.

There being no further business, the Chairman declared the meeting adjourned at 5:02 p.m.

Date Approved May 11, 1988  
Cherry Kempe  
Chairman

ATTEST:

Doni Coutant  
Secretary

