

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1892
Wednesday, July 15, 1992, 1:30 p.m.
City Council Room, Plaza Level, Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Office of the City Clerk on Tuesday, July 14, 1992 at 11:26 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Doherty called the meeting to order at 1:43 p.m.

Minutes:

Approval of the minutes of July 1, 1992, Meeting No. 1890:

On **MOTION** of **CARNES**, the TMAPC voted **7-0-0** (Buerge, Carnes, Doherty, Horner, Midget, Neely, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Parmele, Selph "absent") to **APPROVE** the minutes of the meeting of July 1, 1992 Meeting No. 1890.

REPORTS:

Report of Receipts and Deposits

Mr. Gardner presented the Report of Receipts and Deposits and advised that all items were in order.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, the TMAPC voted **7-0-0** (Buerge, Carnes, Doherty, Horner, Midget, Neely, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Parmele, Selph "absent") to **APPROVE** the Report of Receipts and Deposits for the month ended June, 1992.

* * * * *

Chairman's Report

Mr. Doherty announced the FY-1993 budget will be reported to the City Council, July 16, 1992, when TMAPC presents the Quarterly Report. TMAPC will also present a progress report over the Work Program. Mr. Doherty disclosed the Sign Advisory Board has completed their work and are scheduled to appear before the Development Committee, July 23, 1992, to begin the process of review. Mr. Doherty does not anticipate this to be on the City Council agenda before August.

Committee Reports

Budget and Work Program Committee

Ms. Wilson announced that four items will be carried over from last fiscal year, Adult Entertainment, Use Units, Transportation Outer Loop, and Census Facts for Business. Ms. Wilson announced the Budget and Work Program Committee unanimously recommended approval of the FY-1993 budget.

TMAPC Action; 7 members present:

On MOTION of WILSON, the TMAPC voted 7-0-0 (Buerge, Carnes, Doherty, Horner, Midget, Neely, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Parmele, Selph "absent") to APPROVE the FY-1993 budget.

Comprehensive Plan Committee

Mr. Neely announced there had been a meeting between Districts 18 and 26 concerning the Harvard extension. Staff will provide the Comprehensive Plan Committee with a summary of the results of that meeting for the continued public hearing scheduled for July 22, 1992.

Rules and Regulations Committee

Mr. Midget reported the Rules and Regulations Committee discussed the proposed amendments to the Zoning Code pertaining to off-street parking for the landscaping of parking lots. Ricky Jones reviewed the proposed amendments and advised that he will be drafting language changes to the Study. Mr. Jones will make his presentation at the August 5, 1992 public hearing.

SUBDIVISIONS

FINAL APPROVAL AND RELEASE

Shadow Ridge Estates II (PUD-298) (1383) (PD-18) (CD-8)
East 86th Street and South 91st East Avenue

RS-3

Staff Comments

Mr. Wilmoth advised that all releases have been received and staff was recommending approval.

TMAPC Action; 7 members present:

On MOTION of HORNER, the TMAPC voted 7-0-0 (Buerge, Carnes, Doherty, Horner, Midget, Neely, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Parmele, Selph "absent") to APPROVE the Final Plat of Shadow Ridge Estates II and RELEASE same as having met all conditions of approval as recommended by staff.

* * * * *

WAIVER REQUEST; Section 1107-E:(Including PUD Documentation

Forest Meadows (PUD-486) (2783) (PD-26) (CD-8)
East 101st Street & South Irvington Avenue

RS-2

This plat was recently approved as a PUD to permit thirty reduced side yards of 5' + 5' with the thirty lots to be selected by the Developer. The lots selected are shown on the attached map, as well as specified in the PUD documents to be filed of record. Those lots selected are:

- Block 1: Lots 3, 4, 6, 7, 13, 14, 16, and 21
- Block 2: Lots 2, 4, 12, 13, and 14
- Block 3: Lots 7, 10, 12, 15, 17, 18, 19, 23, 24, 25, 26, 29, 31, 35, 37, 40, and 41.

Since this is a new plat, recently processed and filed of record, all conditions have been met by the existing plat except the PUD documentation. That document will be filed of record by separate instrument.

It is recommended that the waiver request be APPROVED, noting that the provisions of Section 1107-E will be met by filing the PUD documentation by separate instrument.

It is further recommended that the documentation, also submitted for approval. be APPROVED, subject to approval of format by City Legal Department.

Staff Recommendation

Mr. Wilmoth advised that the applicant was present and has expressed agreement with staff recommendation. Mr. Wilmoth reported that documentation has been reviewed by the Legal Staff. Mr. Wilmoth explained since the tract is already platted, staff recommends the plat be waived and the documentation be approved subject to approval of format by the Legal Department.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, the TMAPC voted **7-0-0** (Buerge, Carnes, Doherty, Horner, Midget, Neely, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Parmele, Selph "absent") to recommend **APPROVAL** of the Waiver of Plat and PUD Documentation for Forest Meadows.

* * * * *

LOT SPLITS FOR WAIVER

L-17558 Coleman (Tulsa Abstract) (PC 15) (County)
9709 North 113th E. Avenue

AG

This application is being made to clear title to an almost 3-acre tract. A deed describing the tract as requested under this application was filed of record November, 1987. However, in July of 1991 a deed erroneously describing the tract was filed omitting the west 36' of the tract. No lot split approvals were obtained since the tract was over 2.5 acres. (A 5-acre minimum now exists for splits made after 4-8-92.)

Applicant is requesting waiver of the Street Plan requirements of right-of-way on 96th Street North and North Garnett Road. Applicant feels since this process is merely to clear the title on an existing house and not a redevelopment, waiver is appropriate.

The Owasso City Limits extend along the west line of Garnett in this area. Right-of-way has been obtained along most of the west line of Garnett from 96th Street to 101st Street North. PUD 469 has been approved just north of this property and additional dedication along Garnett will be obtained when platted.

This tract is zoned AG, as are the SE corner and SW corner of the intersection. The NW corner is zoned CS. Since this tract has the potential for CS zoning, if approved, a platting requirement will be imposed at that time. The TAC is not in favor of waiving the right-of-way requirements of the Subdivision Regulations and Major Street Plan. However, should the Planning Commission waive the right-of-way requirements on this application, the TAC will expect to see the property platted upon rezoning, with no waiver of right-of-way. (This includes right-of-way required for turn lanes and 45° angle at the corner.)

The applicant was not present, nor were interested parties.

Staff Recommendation

Mr. Wilmoth pointed out TAC is not recommending waiver of plat; however, should the Planning Commission waive the plat TAC expects it to be platted, right-of-way dedicated and all requirements met at this point.

TMAPC Action; 7 members present:

On **MOTION** of **NEELY**, the TMAPC voted 7-0-0 (Buerge, Carnes, Doherty, Horner, Midget, Neely, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Parmele, Selph "absent") to recommend **APPROVAL** of L-17228, waiving the Subdivision Regulations requiring conformance with the Street Plan per staff recommendation.

* * * * *

L-17557 Lawrence (Ellison) (1793) (PD-6) (CD-9) RS-2
2561 and 2553 E. 22nd Street [Harters 5th, L. 5&6, B.1]

Applicant is requesting to adjust the lot lines on two existing lots. No additional lots are being created. The existing house will be removed and two new structures built. One lot is 65' wide and does not meet the current zoning requirements of RS-2. The other is 75'. The lots are oriented toward Birmingham Court facing the side yard of the house across the street. Birmingham Court is a cul-de-sac platted at 40' and has narrow asphalt paving leading to 5 duplex units.

All the lots along 22nd Street have houses oriented to 22nd Street. It is proposed to split the lots so that both lots will front 22nd Street. The applicant has purchased 4' from the adjoining lot to increase the lot width. The resulting lots will be 64.5' wide by 140' deep. Both lots will meet the land area requirements. Board of Adjustment approval is being requested for variance of lot width. There are other lots along 22nd Street that do not meet the lot width requirements.

Applicant requests waiver of additional right-of-way on 22nd Street. To increase the right-of-way to 25' from centerline would require 1 foot dedication. The north R/W line of 22nd Street is currently consistent from Lewis to Delaware Avenue. Birmingham Court is a cul-de-sac and was platted at 40'. These conditions justify the request for waiver. TAC noted that the Planning Commission had already waived the minimum right-of-way requirement on Birmingham in its approval of Harters 5th Subdivision.

The Department of Public Works (Stormwater) expressed concern regarding the drainage ditch at the southwest corner of the west lot. Detailed plans will be required and possibly a PFPI.

Staff and TAC recommended the application be forwarded to the Planning Commission subject to the following conditions:

1. Board of Adjustment approval of #16078 for variance of the required 75' lot width to 64.5'.
2. Verification from DPW of access to water and sewer connections.
3. Granting of any additional utility easements.
4. Grading and drainage plan approval through the permit process, including PFPI and drainage easements if necessary.
5. Waiver of right-of-way requirements of 1' on 22nd Street and noting TMAPC had previously approved the 40' right-of-way on S. Birmingham Court.

Staff Comments

Mr. Wilmoth advised the applicant was aware of staff recommendation and this application received Board of Adjustment approval July 14, 1992 for variance of the lot width. Mr. Wilmoth noted there is a waiver request of the right-of-way requirements of the Major Street and Highway Plan because Birmingham Court is platted at 40'.

TMAPC Action; 7 members present:

On MOTION of BUERGE, the TMAPC voted 7-0-0 (Buerge, Carnes, Doherty, Horner, Midget, Neely, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Parmele, Selph "absent") to recommend APPROVAL of the Waiver of the Subdivision Regulations requiring conformance with the and Major Street Plan for L-17557 as recommended by staff.

* * * * *

LOT SPLITS FOR RATIFICATION OF PRIOR APPROVAL

L-17566 1ST City Bank 3101 South Yale (PD-6) (CD-7)

CS

Staff Comments

Mr. Wilmoth advised the above listed lot split meets all regulations and staff recommends approval.

TMAPC Action; 7 members present:

On MOTION of MIDGET, the TMAPC voted 7-0-0 (Buerge, Carnes, Doherty, Horner, Midget, Neely, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Parmele, Selph "absent") to RATIFY the above listed lot split having received prior approval.

* * * * *

OTHER BUSINESS

PUD 379-A Okla. Neon (PD-18) (CD-8)

6746 S Memorial

Minor Amendment for Sign (Lot4, Blk2, Village at Woodland Hills)

Chairman Doherty announced the Board of Adjustment denied this request; therefore, the Planning Commission will strike it from the agenda. Chairman Doherty noted that should the City Council approve the provisions recommended by the Planning Commission regarding the Sign Ordinance this application would then become moot and this use would be a use by right under the revised Zoning Code.

ZONING PUBLIC HEARING

Public Hearing on Zoning Code Amendments Concerning Adult Entertainment Businesses

Chairman Doherty announced the procedure for today's public hearing. Chairman Doherty disclosed that he does not anticipate the Planning Commission will take any action on the proposed changes today. After hearing from interested parties, it is his intention to refer this study to the Rules and Regulations Committee for further work and to continue the public hearing to a date to be determined at the end of this meeting. The Planning Commission will then return to public hearing and review any revisions made to the proposal, obtain additional public comments, and only then make a recommendation to the City Council. Chairman Doherty clarified a comment made in a newspaper article which stated the public would decide this issue. He noted the public would decide, but through the vehicle of their elected officials. The City Council will ultimately decide any changes made to the Zoning Code. Chairman Doherty advised that it is appropriate to make written comments to the Planning Commission and explained how to do this. Chairman Doherty reiterated the Planning Commission will be listening very carefully.

Mr. Gardner stated the City Council gave TMAPC, in the beginning of the 1992 fiscal year, the assignment of looking into regulations of adult entertainment businesses. Staff then researched this area of zoning. Mr. Gardner pointed out this subject goes back several years and the Planning Commission has been considering this study because of complaints and concerns by neighborhoods. However, only this year was it made a work item. Mr. Gardner advised that staff has attempted to devise regulations that will serve all concerned, the owners and operators of bars and the residents who have an interest in this situation. Mr. Gardner then highlighted the following study.

Adult Entertainment Business Study

The Tulsa Metropolitan Area Planning Commission (TMAPC) approved, in their FY 1992 Work Program, a study of adult entertainment businesses and their impact on nearby residential neighborhoods and upon other protected uses, such as churches, parks and schools. The study included bars, dance halls, nightclubs, private clubs, and similar uses, as well as all sexually-oriented businesses as enumerated in Section 705 of the Tulsa Zoning Code. (Title 42, Tulsa Revised Ordinances). Incompatibility between certain land uses is the principal reason this study was undertaken.

Study Purpose

The primary purposes of the Adult Entertainment Business Study are:

- 1) to identify the negative secondary effects on nearby single-family residential neighborhoods and other protected uses from all forms of adult entertainment businesses, including bars, taverns, nightclubs and dance halls, in addition to sexually-oriented businesses; and
- 2) to develop zoning regulations which will alleviate, or at least minimize, these negative secondary effects on nearby single-family residential neighborhoods, and other protected uses.

Study Scope

Staff relied heavily on precedents and experiences of Tulsa and other cities in the development of this study. Sources of information included the American Planning Association (APA); *Zoning and Land Use Controls* by Rohon, a research service; and several individual cities who were known to have undertaken similar studies.

The APA provided copies of other cities' studies of adult entertainment businesses, as well as copies of zoning ordinances regulating such activities. Staff consulted *Zoning and Land Use Controls* for information on the latest zoning techniques and Court decisions regarding adult entertainment businesses throughout the country. Staff also relied on Tulsa's experiences, and compared those experiences with other cities which have studied this specific land use issue. Those studies and reports which were applicable to Tulsa's situation are listed in the bibliography.

Many studies have been conducted and volumes written concerning sexually-oriented businesses. That specific area of Tulsa's current zoning regulations appears to be working properly. Adult bookstores, however, still present problems of enforcement, primarily because of the definition in the Zoning Code. Bars, taverns, nightclubs and dance halls present spacing problems, and

relevant portions of the State Statutes will be examined for possible inclusion in Tulsa's zoning regulations.

Only St. Paul, Minnesota, of the reports reviewed, included bars, taverns, nightclubs, and dance halls in their study of the negative secondary effects on surrounding areas. By definition they included all businesses which serve alcoholic beverages, as well as all sexually-oriented businesses. This study, "Effects on Surrounding Areas of Adult Entertainment Business in St. Paul" completed in July 1985, was conducted by the Department of Planning and Economic Development and by the Minnesota Crime Control Planning Board. They concluded, as did we, that not all businesses which serve alcoholic beverages cause negative secondary effects on neighboring residential areas, churches, parks, and schools. This is true if the serving of alcohol is accessory to a principal business, such as a restaurant. However, most principal use bars, taverns, nightclubs, and dance halls which are open until 2:00 A.M. do have negative secondary effects on single-family residential areas and other protected uses. Dance halls for teens, which may not stay open until 2:00 A.M., also present problems of noise for nearby residential areas. The reasons for this are discussed later in this study.

The St. Paul adult business study results and conclusions are as follows:

- Adult entertainment businesses are more apt to locate in older neighborhoods and in poorer neighborhoods.
- A marked decline in these neighborhoods takes place, especially if there are two or more such businesses in proximity.
- Two or more such businesses in the same area result in increased instances of crime.
- More than two such businesses in the same area result in a decrease in residential property value nearby.
- Property values decrease in nearby residential areas, although this may occur gradually as compared to increases in crime which often occur soon after the business is opened.
- Sexually-oriented businesses tend to locate near bars.
- Bars which are accessory to a principal use, such as a restaurant, do not have the same adverse impact on the neighborhood as the principal use bar or sexually-oriented business.
- Results of the study are not applicable to the Central Business District, since downtown is not a typical neighborhood.

In 1986, professional real estate appraisers in the Oklahoma City area were surveyed by the Community Development Department, Planning Division, as to the adverse secondary effects of adult entertainment business on residential areas and other businesses in Oklahoma City. Their survey concluded:

- The majority of appraisers said there would be a loss of property value and other negative secondary effects on residential neighborhoods located within one block (300 feet) or less of adult businesses.
- The negative impacts diminish as the distance from the site increases. The negative secondary effects at three blocks away (900 feet) are substantially less or nonexistent.

In addition to staff's latest research effort, an earlier special study and locations survey for Tulsa (*Sexually Oriented Business Survey December, 1988*) was utilized. This Survey included a copy of the *Oklahoma City Real Estate Appraisers' Survey Questionnaire* and survey results.

Zoning History

The City of Tulsa first adopted a Zoning Ordinance regulating sexually-oriented businesses on August 4, 1980, Ordinance No. 14823. This Ordinance was subsequently amended by Ordinance No. 17022 on July 18, 1988 and by Ordinance No. 17161 on April 26, 1989. Ordinance No. 17022 increased the spacing distance from 300 feet to 500 feet between residentially zoned areas and sexually-oriented businesses, and set forth the method of measurement. Ordinance No. 17161 included a two (2) year amortization provision, a revised definition of adult bookstore, and a reaffirmation of the 500-foot spacing requirement from residential zoned areas.

The Board of Adjustment (BOA) in 1991 granted approval of variances of the 500-foot spacing requirement from residential districts for three sexually-oriented businesses, two existing businesses and one new business. Lady Godiva's, located at 1850 South Sheridan Road, lacked 26 feet being the required 500 feet from a residentially zoned area, at 474 feet away. The Board took into consideration the following three issues.

- 1) That the business purchased the subject site and relocated to that address in order to meet the City's 300-foot spacing requirement at the time;
- 2) The residential area was 30 feet higher in elevation, and
- 3) There were no roads entering into the residential area from Sheridan Road, which was the only access for the sexually oriented business.

The City Council appealed the Board's decision to District Court. The Court upheld the Board's decision and allowed the business to remain at this location.

The second business receiving a variance of the spacing requirement was Toppers, located at 4807 East 31st Street. Only a small portion of the back yards of two single-family properties south of 31st Street were within 500 feet of this establishment. These two yards were totally screened from view of Toppers by an intervening commercial building, and were further separated by a major arterial street. The owner of Toppers also purchased this site and met the original 300-foot spacing requirement from a residential area.

A third sexually-oriented business, Scarlet's, was granted a spacing variance from a residentially zoned area (RM-2) on the basis that the area had actually developed as the Tulsa Scottish Rite, a non-residential use, and was physically separated from the adult business by an expressway (I-44).

Two other sexually oriented businesses, The Bunny Club, 3119 West 61st Street and Lacy Ladies, 12925 East 21st Street, began operations without meeting the 500-foot spacing requirement. Both of these businesses were denied any relief through the BOA and both were appealed to District Court. The Court upheld the Board's decision in both instances. The newest sexually-oriented business is located in the 1800 block of South Yale Avenue, across from Expo Square and the County horse racing track and it meets all spacing requirements.

The longest-running problems with adult businesses in Tulsa have been with the adult bookstores. At least two adult bookstores in the city do not meet, and have never met, adopted spacing standards. Yet, they remain open for business due to the nature of the enforcement process and the code definition of adult bookstore.

These bookstores follow a cycle to remain open. The BOA has denied these businesses in the recent past on more than one occasion. Following denial, the businesses rearrange their respective inventories and percentage of adult explicit materials. Code Enforcement then surveys each bookstore, determines each is a sexually oriented business, and gives a written notice to come into compliance with the Zoning Code. At that time, the bookstores again appeal to the BOA for a ruling. A revision of the definition of adult bookstores is needed to break this cycle. In addition, other City Ordinances may be needed to close these businesses at their present locations. The City Legal Department is currently addressing this problem.

Other types of adult businesses, such as bars, taverns, dance halls, and private clubs also adversely affect nearby single-family residential neighborhoods in Tulsa because of the noise, late hour operations, litter, and lack of adequate off-street parking. Bars which are accessory to restaurants catering to families have not created the same problems for the City as the principal use bars catering only to adults which often specialize in live entertainment, such as a band or exotic dancers. With the exception of the portion relating to adult bookstores, staff believes the Tulsa zoning regulations relating to sexually

oriented businesses are accomplishing their intended purpose. Staff further believes that ample viable sites are available to the industry, in fact, the study area maps from the 1988 *Sexually-Oriented Business Survey* are often used by the industry when new sites are evaluated and selected. At the same time, the spacing standards and dispersion of such businesses are protecting residential areas, churches, parks, and schools. This is a very important finding, since many adult entertainment ordinances around the country have been struck down by the Courts as being exclusionary and a violation of freedom of speech and expression.

Tulsa's Codes are much less effective in regulating bars, taverns, nightclubs, and dance halls in their negative secondary effects on nearby single-family residential areas. The Oklahoma Statutes (O.S. Title 37, Sections 163.24 and 518.2) require businesses selling nonintoxicating and intoxicating alcoholic beverages to be located 300 feet from churches and schools. However, at this time only the state can enforce these laws. The 300-foot spacing standard between such facilities and nearby schools and churches is measured differently by Oklahoma Statutes than our spacing standards between sexually oriented businesses and churches and schools. Oklahoma Statutes measure the distance from a church or school property boundary to the nearest public entrance of the adult business. Tulsa's Zoning Code measures the distance from a church or school property boundary to the nearest building wall of the adult business. In any event, the 300-foot spacing requirement between adult businesses and schools and churches should be combined with similar spacing from parks and residential areas, and included in Tulsa Zoning Codes. Unfortunately, Oklahoma Statutes do not permit spacing requirements or other zoning regulations between bars and public parks or residential zoned areas if only nonintoxicating beverages (beer bars) are sold and consumed on the premises. Therefore, the staff cannot address this particular issue at this time other than to say we see no valid planning distinction between the negative secondary effects of a beer bar and a mixed drink bar on the nearby residential neighborhood or public park. Section 528.2, Title 37, O.S. does give cities and counties the authority to regulate other adult businesses serving intoxicating beverages on the premises. Section 528.2 states:

"Municipalities and counties are hereby authorized to create a new zoning classification to regulate the location of establishments that sell, serve, mix, dispense, or allow consumption of alcoholic beverages on the premises. Such zoning classification may include but shall not be limited to reasonable parking, access regulations, and other such zoning regulations as the local authorities may deem necessary for local control."

Common Characteristics

One common characteristic of adult entertainment businesses is the serving of alcoholic beverages on or near the premises. Since Oklahoma Statutes prohibit the sale of alcoholic beverages within any sexually-oriented business, experience shows that in Tulsa, a bar will be located next to a sexually oriented business or nearby.

That does not mean, as previously stated, that all businesses that serve alcoholic beverages adversely affect neighboring residential areas or other businesses. Some adult businesses do a better job of managing their facilities which can lessen substantially the negative secondary effects on nearby residences and other protected uses. However, the most significant tool for regulating such activities is the Tulsa City/County Zoning Codes which deal with land use relationships and compatibility of uses.

Another common characteristic of adult entertainment businesses is the late hour activities. Most of these businesses are open until 2:00 A.M. or later. This characteristic is the main reason that people living near such businesses often call the police department complaining of loud noises which disturb their sleep.

Higher crime rates are another common characteristic of adult entertainment businesses. The crime rate also increases if adult entertainment businesses are allowed to concentrate. The police use the term "crowd psychology" to explain this behavior, a phenomenon associated with large numbers of people congregating at a local nightclub, dance hall, nude dancing establishment or similar use. Rowdy behavior can and often does end in criminal or deviant behavior of some type, either on the premises or nearby. Rowdy behavior is an excellent reason or justification for spacing adult uses apart from each other and from nearby residential areas, churches, parks, and schools.

Another common land use characteristic of adult entertainment businesses is the lack of adequate on site, off-street parking. Almost without exception, bars located in the older strip commercial-zoned areas do not have adequate on site parking, and therefore, customers park on the streets in the abutting single-family neighborhoods. Lack of adequate parking also causes litter problems for the nearby residential areas. Broken beer bottles and tossed beer cans are common occurrences. Loud noises such as shouting and car doors slamming are common, as are trampled shrubs and tire tracks on the lawns.

Many of the older business buildings in these strip centers not only lack adequate parking, but are structurally deficient in other areas and would not meet today's building codes. Inadequate restroom facilities often are the main reason for customers "relieving themselves" in residential yards near their parked vehicles. Because of such structural deficiencies, these older commercial structures are often difficult to lease. However, the adult entertainment businesses which have trouble locating in newer areas due to the nature of their business are willing to lease the less desirable commercial space, and may even pay more than other potential commercial users.

The occurrence of violent crime is another common characteristic related to these businesses. Tulsa's rate of violent crimes increased in the vicinities of 15th Street and Sheridan Road, and 21st Street and the Mingo Valley Expressway when adult

entertainment businesses were allowed to concentrate at these two locations in the late 1970's and early 1980's. The adult businesses at both of these locations were declared public nuisances and ultimately closed. However, two murders occurred at the 15th and Sheridan location within a short period of each other before they were closed.

Tulsa Police also reported that numerous drug-related items were found behind the buildings and on the rooftops of the buildings housing sexually oriented bars on Sheridan Road. Numerous instances of property damage, excessive amounts of litter and loud noises at late hours of the night were reported to the Tulsa Police Department by the neighbors abutting the 21st and Mingo Valley Shopping Center.

More recently (1990-91) two murders occurred at the same bar located near 15th Street and Harvard Avenue within 6 months of each other. Numerous complaints from these immediate neighbors, as well as from other families living near 15th Street, have been filed with the Tulsa Police Department listing such things as excessive litter, loud noises at late hours (2:00 A.M.), property damage, etc.

Neighbors living near three dance halls, one in east Tulsa and two in south central Tulsa, have complained of loud music during the late evening and extending until 2:00 A.M. Numerous complaints have been made to the Tulsa Police Department, as well as to City Councilors for those districts. Councilor John Benjamin, District 7, chaired a committee in the fall of 1991 on this very subject. The committee concluded that:

- 1) Dance halls containing dance floors in excess of 200 square feet were considered adult businesses that require additional regulation.
- 2) Dance halls should be set back (spaced) 300 feet from a church, school or residentially zoned area.
- 3) A noise ordinance should also be approved by the Tulsa City Council to help the Tulsa Police Department (this would apply to any type of loud noise which disturbs the peace and quiet of a neighborhood).
- 4) Dance Halls should be required to obtain a city license.

The idea for the 300-foot spacing standard came from the Oklahoma Statutes which require establishments that sell packaged liquor, mixed drinks and/or 3.2 beer to be setback 300 feet from churches and schools. The Committee also wanted to protect residential neighborhoods from the negative secondary effects of dance halls and similar uses. The Committee requested that TMAPC amend the Tulsa Zoning Code by including their Committee recommendations. TMAPC deferred any action on this request pending the outcome of the Adult Entertainment Business Study, a comprehensive approach to regulating all types of adult businesses.

Study Recommendations

In order to eliminate or substantially reduce the negative secondary effects of adult entertainment businesses on nearby residential areas, churches, parks and schools, the following recommendations should be adopted and the corresponding Tulsa City/County Zoning Code text amendments approved:

- Separate the adult entertainment businesses from residentially zoned areas (especially single family neighborhoods) and from churches, parks, and schools which need the protection.
- Separate adult entertainment businesses from each other, thereby prohibiting the clustering of such businesses.
- Require adequate off-street parking for such uses.
- Require that buildings used to house adult entertainment businesses meet current building code standards (BOCA) for plumbing, electrical and safety (especially adequate restroom facilities).
- Provide for a reasonable amortization period to comply with the new regulations. In the event that a business cannot meet these new requirements, the business would have to relocate to a site which meets the new standards. Staff recommends a maximum of two (2) years to comply.
- Deny any required city or state licenses (renewals) necessary to conduct an adult entertainment business if the business does not meet the new requirements after two years.
- Re-define "Adult Bookstore" under Section 705 of the Tulsa Zoning Code and Section 750 of the Tulsa County Zoning Code in order to enforce current spacing standards.
- Make a distinction in the Zoning Codes between accessory use bars and principal use bars. (Live entertainment or lack of it could also be made a distinction and regulated accordingly.)
- Make a distinction in the Zoning Codes between the traditional billiard/pool hall and family oriented billiard centers in which no alcoholic beverages are served.
- Make no distinction in the Zoning Codes between adult dance halls and teen dance halls in which no alcoholic beverages are served.
- Do not make any changes in the standards set forth in Sections 705 or 750. *Location of Sexually Oriented Businesses*, in

the City/County Zoning Codes other than the definition of an adult bookstore.

- Develop a City noise ordinance with an accurate system of measurement.
- Staff recommends that the 1993 Legislative Consortium Program look into the possibility of sponsoring an amendment to the Oklahoma Statutes that would give Cities and Counties the same zoning authority for regulating beer bars as mixed drink bars.
- Staff considered creating a new zoning district for adult entertainment businesses while permitting the BOA to grant a special exception to allow such a use in all commercial and industrial zoning districts. However, after due consideration we do not recommend this approach.

BIBLIOGRAPHY

City Planning Department, "Relation of Criminal Activity and Adult Business"; Phoenix, Arizona; May, 1979.

Department of City Planning, "Study of the Effects of the Concentration of Adult Entertainment Establishments"; Los Angeles, California; June, 1977.

Division of Planning, Department of Planning and Economic Development, and Minnesota Crime Control Planning Board, "Effects on Surrounding Area of Adult Entertainment Businesses in St. Paul"; St. Paul, Minnesota; June, 1978.

Indian Nations Council of Governments, "Sexually Oriented Businesses Survey"; Tulsa, Oklahoma; December, 1988.

McClendon, Bruce W., "Documentation of Secondary Effects of Sexually Oriented Business" (Interoffice memo); Ft. Worth, Texas; October, 1986.

McClendon, Bruce W., "Zoning for Adults Only", Zoning News; August, 1985; pp. 1-3.

New Hanover County Planning Department, "Regulation of Adult Entertainment Establishments in New Hanover County"; New Hanover County, STATE; July, 1989.

Rohan, Patrick J., Zoning and Land Use Controls (New York: Matthew Bender and Co., 1992), Vol. 2, Chapter 11.

Toner, William, "Regulating Sex Businesses", American Society of Planning Officials PAS Report No. 327 (Chicago: American Society of Planning Officials, May, 1977).

TMAPC Questions

Ms. Wilson inquired the outcome of the *St. Paul Study* and its success.

Mr. Gardner replied he is unable to say how well it is working. St. Paul was one city that addressed the full problem and not just the sexually oriented businesses part of the study. Most of the ordinances around the country deal only with sexually oriented businesses. In considering this particular area of land use, Tulsa is on the leading edge. Since Tulsa has allowed bars, taverns, dance halls, etc. to go in any zoning classification, Tulsa may be different from other areas.

Mr. Midget referred to the suggested development of a noise ordinance. He asked if any consideration was given to the application or strengthening the application of the existing nuisance ordinance.

Mr. Gardner explained the recommendation came from a committee Councilor Benjamin had pertaining to dance halls and the issue of the problem with noise. Spacing was recommended from that study to the TMAPC. TMAPC then took a comprehensive approach to consider all adult uses and not just dance halls.

Ms. Wilson inquired if Board of Adjustment could not review this topic on a case-by-case basis, reviewing specific facts, and make a determination. She asked why this was dropped.

Mr. Gardner advised being unsure of the rationale in 1970, in changing from requiring a very intense zoning classification to allowing adult businesses to go into any commercial classification. Mr. Gardner advised that part of staff's experience is that this has not worked as well as intended.

Mr. Carnes asked if any cities put a time limit on hours of operation.

Mr. Gardner advised the basic reason all bars cannot be grandfathered in is that then nothing can ever be done about the problem. The only way to address the problem is through zoning. He has stated the single most significant aspect is lack of off-street parking. Mr. Gardner cited instances where off-street parking is of major concern and problems caused from this.

APPENDIX

CHAPTER 12

USE UNITS

1200.	Introduction of Use Units
1201.	Use Unit 1. Area-Wide Uses By Right
1202.	Use Unit 2. Area-Wide Special Exception Uses
1203.	Use Unit 3. Agriculture
1204.	Use Unit 4. Public Protection & Utility Facilities
1205.	Use Unit 5. Community Services & Similar Uses
1206.	Use Unit 6. Single-Family Dwelling
1207.	Use Unit 7. Duplex Dwelling
1207a.	Use Unit 7a. Townhouse Dwelling
1208.	Use Unit 8. Multifamily Dwelling and Similar Uses
1209.	Use Unit 9. Manufactured Home Dwelling
1210.	Use Unit 10. Off-Street Parking Areas
1211.	Use Unit 11. Offices and Studios
1212.	Use Unit 12. Eating Establishments, Other Than Drive-Ins
1212	Use Unit 12.a Adult Entertainment Establishments
1213.	Use Unit 13. Convenience Goods and Services
1214.	Use Unit 14. Shopping Goods and Services
1215.	Use Unit 15. Other Trades and Services
1216.	Use Unit 16. Gasoline Service Stations
1217.	Use Unit 17. Automotive and Allied Activities
1218.	Use Unit 18. Drive-In Restaurants
1219.	Use Unit 19. Hotel, Motel and Recreation Facilities
1220.	Use Unit 20. Commercial Recreation: Intensive
1221.	Use Unit 21. Business Signs and Outdoor Advertising
1222.	Use Unit 22. Scientific Research and Development
1223.	Use Unit 23. Warehousing and Wholesaling
1224.	Use Unit 24. Mining and Mineral Processing
1225.	Use Unit 25. Light Manufacturing and Industry
1226.	Use Unit 26. Moderate Manufacturing and Industry
1227.	Use Unit 27. Heavy Manufacturing and Industry
1228.	Use Unit 28. Junk and Salvage Yards

SECTION 1200. INTRODUCTION OF THE USE UNITS

A. General

The Use Unit is a grouping of individual uses having similarities in characteristics of function and/or performance which enable systematic consideration of location and other regulation. Within each zoning district, the permitted uses are the included uses of the designated use unit. The use units, herein established, are identified by number and name. Set forth in each use unit is a descriptive statement, and alphabetical listing of the included uses, use conditions, and off-street parking and loading requirements.

C. Use Conditions

The uses included in Use Unit 11, when located on a lot which is abutting an R District, shall be screened from the abutting R District by the erection and maintenance of a screening wall or fence along the lot line or lines in common with the R District.

D. Off-Street Parking and Loading Requirements

<u>Uses</u>	<u>Parking Spaces</u>	<u>Loading Berths</u>
Funeral Home	1 per 40 SF of assembly floor area plus 1 per 300 SF of nonassembly floor area	1 per 10,000 to 100,000 SF plus 1 per each addn'l 100,000 SF of floor area
Other Uses	1 per 300 SF of floor area	1 per 10,000 to 100,000 SF plus 1 per each addn'l 100,000 SF of floor area
Medical & Dental Offices, Clinics & Laboratories	1 per 250 SF of floor area	Same as above

SECTION 1212. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS

A. Description

Eating establishments; including carry out eating establishments, except drive-in restaurants permitting in car consumption of food or drink.

B. Included Uses:

- Cafeteria
- Coffee shop
- Delicatessen
- Restaurant, and other similar eating establishments*

*An accessory use bar which is incident and subordinate to a principal use restaurant is included in this use unit.

C. Use Conditions

The uses included in Use Unit 12, when located within a district other than an R District and located on a lot which is abutting an R District, shall be screened from the abutting R District by the erection and maintenance of a screening wall or fence along the lot line or lines in common with the R District.

D. Off-Street Parking and Loading Requirements

<u>Uses</u>	<u>Parking Spaces</u>	<u>Loading Berths</u>
Cafeteria Coffee Shop, Delicatessen and, Restaurant	1 per 100 SF of floor area	1 per 5,000 to 10,000 SF plus 1 per each addn'l 15,000 SF of floor area

SECTION 1212a. ADULT ENTERTAINMENT ESTABLISHMENTS

A. Description

Businesses which cater to adults 21 years of age and above and which sell, and serve intoxicating and nonintoxicating alcoholic beverages (as defined by Oklahoma Statutes) on the premises and all sexually oriented businesses.

B. Included Uses:

Bar/Tavern
Beer Bar
Night Club
Private Club
Sexually Oriented Business

C. Use Conditions:

1. Sexually Oriented Businesses shall meet the conditions setforth in Section 705 of this Code.
2. Spacing for beer bars is regulated by the laws of the State of Oklahoma.
3. All other Adult Entertainment Businesses shall meet the following spacing standards; provided, however, that the spacing standards shall not apply in the Central Business District (CBD) nor to accessory use bars as defined in this Code.
 - a. Shall be located a minimum of 300 feet from an R district. The 300 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which said business is conducted, to the nearest point on a residential zoning district boundary line (not including residentially zoned expressway right-of-way).
 - b. Shall be located a minimum of 300 feet from a public park, school, or church. The 300 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which said business is conducted to the nearest point on the property of a park, school, or church.

Church, as used herein, shall mean all contiguous property owned or leased by a church upon which is located the principal church building or structure, irrespective of any interior lot lines.

School, of the type which offers a compulsory education curriculum, as used herein, shall mean all contiguous property owned or leased by a school upon which is located the principal school building(s) irrespective of any interior lot lines.

- c. Shall be spaced 300 feet from any other adult entertainment business listed in Use Unit 1212a. The 300 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which said business is conducted, to the nearest point of the wall of the portion of the building in which another adult entertainment business is conducted.

D. Off-Street Parking and Loading Requirements

<u>Uses</u>	<u>Parking Spaces</u>	<u>Loading Berths</u>
Bar, Tavern, Night Club, Private Club	1 per 75 SF of floor area	1 per 5,000 to 10,000 SF plus 1 for each add'n'l 15,000 SF of floor area

Sexually Oriented Business:

Motel	1 per room plus 1 for manager	1 per 5,000 to 10,000 SF plus 1 for each add'n'l 15,000 SF of floor area
Theater	1 per 4 seats or 1 per booth plus for manager	1 per 5,000 to 10,000 SF plus 1 for each add'n'l 15,000 SF of floor area
All other uses	1 per 225 SF of floor area	1 per 5,000 to 10,000 SF plus 1 for each add'n'l 15,000 SF of floor area

SECTION 1213. USE UNIT 13. CONVENIENCE GOODS AND SERVICES

A. Description

Retail trade and service establishments which are desirable conveniences in certain residential and office districts. Use Unit 13 is established to permit the location of convenience goods and services in certain environments in which commercial facilities of a higher use intensity would be objectionable.

SECTION 1219. USE UNIT 19. HOTEL, MOTEL AND RECREATION FACILITIES

A. Description

Commercial amusement establishments ordinarily not requiring large sites and which have use characteristics permitting their location in or near developed commercial trade areas.

B. Included Uses:

Billiard Center, Family
Bowling Alley
Enclosed Commercial Recreation Establishments, NEC
Dance Hall
Gymnasium
Health Club
Hotel*
Motel*
Motion Picture Theater (enclosed)
Racquetball Club
Rifle Range (enclosed)
Skating Rink (enclosed)
Slot Car Track
Swimming Pool (enclosed)
Tennis Club
Video Games

*An accessory use bar which is incident and subordinate to a principal use hotel or motel is included in this use unit.

C. Use Conditions

1. The uses included in Use Unit 19, when located on a lot which is abutting an R district, shall be screened from the abutting R District by the erection and maintenance of a screening wall or fence along the lot line or lot lines in common with the R District.
2. Dance halls shall require a 300 foot setback from an R district; provided, however, that dance facilities which are accessory to not for profit, bona fide lodges, posts, clubs, fraternal, benevolent or charitable organizations shall be exempt from this setback requirement. The 300 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which said business is conducted to the nearest point on a residential zoning district boundary line (not including residentially zoned expressway right-of-way).

D. Off-Street Parking and Loading Requirements

<u>Uses</u>	<u>Parking Spaces</u>	<u>Loading Berths</u>
Dance Hall,	1 per 100 SF of floor area.	1 per 5,000 to 10,000 SF plus 1 per each addn'l 15,000 SF of floor area.
Hotel, Motel	1 per sleeping room plus 1 per 225 SF of accessory facilities such as card shop, flower shop, barber and beauty shops, etc., and 1 per 100 SF for accessory facilities such as restaurants, and taverns.	1 per 40,000 to 150,000 SF plus 1 per each addn'l 150,000 SF of floor area, plus 1 per 5,000 to 25,000 SF, plus 1 per each addn'l 25,000 SF of accessory facilities.
Motion Picture Theater	1 per 4 seats	1 per 5,000 to 10,000 SF plus 1 per each addn'l 15,000 SF of floor area.
All Other Uses	1 per 225 SF of floor area.	1 per 5,000 to 25,000 SF plus 1 per each addn'l 25,000 SF of floor area.

CHAPTER 14

NONCONFORMITIES

- 1400. General
- 1401. Nonconforming Uses of Unimproved Land
- 1402. Nonconforming Uses of Buildings
- 1403. Nonconforming Signs
- 1404. Nonconforming Lots
- 1405. Structural Nonconformities
- 1406. Repairs
- 1407. Parking, Loading and Screening Nonconformities
- 1408. Adult Entertainment Establishments
- 1409. Dance Hall Establishments

SECTION 1400. GENERAL

Within the districts established by this Code or amendments that may later be adopted there exists uses, structures, and lots which were lawful before this Code was adopted or amended, but which would be prohibited under the terms of this Code or future amendment to this Code. These uses, structures, and lots, herein referred to as "nonconformities" may continue as regulated by this Chapter. A use lawfully existing prior to the effective date of this Code, or amendment thereto, which does not comply with a parking, loading, screening, bulk and area, sign, or enclosure requirement or requirements, but which is otherwise

lawful shall be deemed nonconforming and may continue as regulated by Sections 1403, 1404, 1405, 1406 and 1407 of this Chapter.

SECTION 1401. NONCONFORMING USES OF UNIMPROVED LAND

A. When at the effective date of this Code or amendment thereto a lawful use of land exists, which would not be permitted by the terms of this Code or amendments thereto, and the only structures employed in connection with such uses are all accessory or incidental to such use and in the aggregate do not cover more than 10% of the lot area devoted to the nonconforming use, such use shall be deemed a nonconforming use of unimproved land and shall terminate as follows:

1. If the replacement cost of the accessory structures (other than fences) is less than \$1,000.00, the nonconforming use shall terminate within five years from the effective date of this Code or from the date the use became nonconforming, whichever is later.
2. If the replacement cost of the structures (other than fences) is \$1,000.00 or more, the nonconforming use shall be terminated on the basis of amortization of the replacement cost of the accessory structures at a rate of \$200.00 per year from the effective date of this Code or from the date the use became nonconforming, whichever is later.

SECTION 1408. ADULT ENTERTAINMENT ESTABLISHMENT

Adult entertainment businesses, which are nonconforming as to off-street parking and loading requirements set forth in Section 1212.a.D or which are nonconforming as to setback (spacing) standards set forth in Section 1212a.C.3.a and 1212a.C.3.b of this Code, shall meet said requirements and standards within two (2) years from the approval date of this provision.

SECTION 1409. DANCE HALL ESTABLISHMENT

Dance hall businesses which are non-conforming as to off-street parking and loading requirements and/or setback (spacing) standards from R districts shall meet said requirements and standards within two (2) years from the approval date of this provision.

CHAPTER 18
DEFINITIONS

Accessory Use Bar

A commercial establishment open to the public which sells and serves intoxicating beverages (as defined herein) for consumption on the premises, but which is incidental and subordinate to a principal use restaurant, hotel or motel, and bars which are accessory to not for profit, bona fide lodges, posts, clubs, fraternal, benevolent or charitable organizations which are included in Use Unit 5.

Bar/Tavern

A commercial establishment open to the general public which sells and serves intoxicating beverages (as defined herein) for consumption on the premises.

Beer Bar

A commercial establishment open to the general public which sells and serves only nonintoxicating beverages (as defined herein) for consumption on the premises.

Billiard Center, Family

A principal use billiard facility which caters to families and which excludes the sale and consumption of intoxicating beverages (as defined herein) on the premises.

Dance Hall

A principal use dance facility.

Intoxicating Beverages

All beverages containing more than three and two-tenths percent (3.2%) alcohol by weight and all mixed beverage coolers, as defined in Section 506 of Title 37, Oklahoma Statutes, regardless of percent of alcohol content.

Nonintoxicating Beverages

All beverages containing more than one-half of one percent ($\frac{1}{2}$ of 1%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight.

Principal Use Restaurant

An eating establishment which has a menu, a full kitchen for cooking and preparation of meals and which occupies at least 75% of the total floor area of the business.

Private Club

A private commercial establishment, not open to the general public, but which is operated for profit and which sells and serves intoxicating beverages (as defined herein) for consumption on the premises.

Mr. Gardner reviewed the preceding definitions and the proposed regulations within the above Use Units.

Interested Parties

Councilor Gary Watts

1564 S. Gillette 74104

Councilor Watts, District 4, advised he is one of the Councilors initiating this study. Councilor Watts detailed situations in which residents have issued complaints because of problems with clientele from adjoining neighborhood bars. In each case complaints were due to overflow parking, noise problems due to proximity to the establishment, and at closing, problems with litter, gunfire, fights, and club patrons urinating in neighbors' yards. Councilor Watts declared these are problems that occur on a regular basis. He noted this activity is at its peak at a time when residents want to be asleep to prepare for the next day's work. Councilor Watts reported that, to attempt to solve the problem, the police were involved; however, response is not as quick as higher priority calls. Also, Councilor Watts addressed the problems residents have in filing a police report. After residents do not get results, they give up and do not try anymore. Councilor Watts determined part of the problem is a policing problem, but it is also partly a zoning problem. He reported strip commercial zoning adjacent to residential areas are suffering the most complaints. Councilor Watts noted that due to buffering required in newer developed areas, following current development guidelines, there are not as many problems as now exist in older neighborhoods. Parking availability for these establishments in the older areas comes nowhere near meeting current standards necessary to keep the commercial activity from being a burden to adjoining residential area. Councilor Watts acknowledged this particular ordinance may not be the final determination; however, he encouraged the Planning Commission to continue the process.

John Benjamin

6030 S Lakewood 74135

Councilor Benjamin, District 7, announced experiencing problems in his district with the large dance halls. He feels staff has done a diligent and professional job in seeking out the information necessary to give the public a good start on the ordinance process. Councilor Benjamin noted that, in the case of large dance halls, spacing should possibly be farther than 300'. Councilor Benjamin referred to instances where commercial space was converted to clubs or large dance halls that generate many more customers. These establishments are open until 2:00 A.M. and are within 300' of residential homes. Councilor Benjamin questioned the wisdom of this. Councilor Benjamin advised it is not the intent to put the clubs out of business, but to do what is right for the general public. Councilor Benjamin encouraged the Planning Commission to put in place within the ordinance an exception process through the Board of Adjustment.

Commissioner Selph asked if Councilor Benjamin had suggestions for the type of criteria to establish for this type of exception process.

Councilor Benjamin replied the process is set out in the ordinance.

Ms. Wilson pointed out that if the proposal for the 300' setback were to be adopted without a noise ordinance and enforcement, it would not take care of the full spectrum of the problem.

Councilor Benjamin declared the City Council would move in concert with the adopted ordinance, and advised the City Council is gathering information on noise situations and what ordinances are in place in other cities. Councilor Benjamin noted that, in terms of spacing and zoning, these are the right steps to take.

Commissioner Selph explained the City/County Health Department has the ability to conduct decibel readings. He acknowledged that noise in general is a problem, not just noise associated with club type establishments.

Terry Wilson, District 5 Chair

6121 E. 32nd St 74135

Mr. Wilson detailed that burglaries and stolen vehicles have increased since an adult entertainment establishment moved into the 31st Street and Sheridan Avenue area. He cited problems with litter, urination in public doorways of public businesses, and a generally upset commercial establishment around the area. Mr. Wilson noted that in a clustering of about six bars in the immediate area, five had never been a problem. They are neighborhood bars and cater to an older group of customers. However, when a dance hall moved in, an immediate problem resulted. Mr. Wilson explained that it is impossible for club owners to control the actions of their patrons after they leave the club. Mr. Wilson asked the Planning Commission to consider a noise ordinance that can be enforced.

Pam Deatherage, District 6 Chair

1516 E. 36th St. 74105

Ms. Deatherage advised that District 6 includes three Special Districts, Brookside, Utica Square and Cherry Street. These have been self-policing in their adult entertainment and could be adversely affected by the proposed ordinance changes. She proposed the following:

Incorporate the 300' setback for all new construction and existing structures except those in Special Districts.

Provide special exemptions for existing structures in Special Districts as follows:

trade adult entertainment zoning use for a down-grade in existing CH zoning for landowners.

require additional landscaping be added within the 2-year limit.

require parking with a decorative masonry separation between residential and commercial zoning within the 2-year limit.

set sound level limits immediately.

set as hours of operation 2:00 A.M. on Thursday, Friday, and Saturday, and 12:00 P.M. on Sunday through Wednesday immediately.

Mr. Carnes advised receiving comments from residents in the Brookside area stating that they like living in this area because neighborhood bars are within walking distance and residents can frequent the area clubs without having to drive.

Ms. Deathrage advised having conversations with adjoining business owners of area clubs and they expressed support of the clubs because of the business they derive from the club patrons.

Interested Parties AGAINST

Jim Beckert, Attorney	810 S Cincinnati, Ste 400	74119
David Bauary	14th & College	
Fred Buxton, attorney representing club owner	4100 BOK Tower	
Charles Clotfelter	134 Robert S. Kerr, OKC	73115
Director of Liquor Store and Club Owners Assn.		
Anthony Coleman, resident near bar	2419 S Phoenix	74107
Rocky Frisco, resident near bar	1332 S Florence PL	74104-4811
Walter Jackson,	1455 E 11th St	74114
President of the League that represents clubs and liquor stores in OK		
Pat Johnstone, resident	1147 S Florence Pl	74104
Gerald Lovoi, resident	3905 S Norfolk	74105
Larry Miller, bar owner	6002 E Tecumseh	74115
Paul Moore, business owner in Brookside	3419 S Peoria	74105
Skip Owen, bar owner	5033 E Admiral Pl	
Curtis Parks, attorney representing club owners	1627 Carson	
Dave Strader,	812 S. Quincy	74120
President, Central Park Neighborhood Association		
Kerry Tunnell, bar owner	2809 S Harvard	74114
Rick Turley	3300 S. Peoria	
Brookside resident and employee of Brookside Bar		
Randy Vaughn, bar owner	9012 E 101th St	74133
Joe Williams, Mayorial Candidate	605 N. 28th West Pl.	74127
Thomas Wiley, bar owner	736 E. 36th St North	

The above-listed individuals addressed the Planning Commission and voiced the following concerns:

That the Planning Commission should proceed cautiously before making any final decisions.

People need these establishments to provide them opportunity for socializing in a responsible manner.

Patrons being entertained in the clubs are not out committing crimes.

Concerns were expressed for the employees, suppliers, and vendors supplying these businesses and the fact that employees could be in jeopardy of losing their jobs.

It was pointed out that business owners have no control over patrons after they leave their establishments.

Most club owners are responsible and act responsibly toward neighbors around them.

Enforce the existing laws on the books to deal with expressed problems.

Over 450 clubs in Tulsa are paying for beer licenses and other beverage licenses, and to comply with the proposed ordinance would put 80% of the existing bars out of business, thus reducing the tax base.

Concerns were expressed over the economic impact to the community should existing businesses be forced to close.

Concerns were expressed that should businesses be forced to close, an unwanted element may be able to move in.

It was suggested to leave existing bars as they are and require any new bars to be more than 300' away from residential uses.

Suggestions were made to approach the individual bar owner to work out problems, and to take each on a case-by-case basis.

Some bar owners expressed they felt the Planning Commission was attempting to legislate morality.

The Planning Commission was asked not to punish the many who are responsible club owners for the few who are irresponsible.

It was pointed out that all older neighborhoods where bars have located have not experienced decline, as the study reports, but rather some have improved, citing the Brookside and Cherry Street areas as examples.

It was noted that convenience stores or any business open at night will produce an increase in crime because more crime occurs at night.

Mr. Rick Turley, an employee of Brookside Bar, presented petitions signed by approximately 200 residents between 18th and 51st Streets and Riverside and Lewis Avenue. These individuals are experiencing no problems with area bars, and any past problems were worked out between the residents and bar owner.

Existing bars should be grandfathered.

Suggestion that maybe all the parking the study recommends is not really required due to the fact that patrons may be walking to area clubs.

Something must be done to address the problem residents are having with the bars, but it must be done without destroying the legitimate businesses.

It was suggested that the study should look to other cities which are dealing with night-life successfully, such as Nashville, Austin, or Branson, which are places that have profited greatly from the quality of the entertainment being offered there.

Institute a case-by-case complaint procedure to deal directly with the serious problems without destroying Tulsa's night-life.

It was estimated there are 476 clubs, 200 of which are beer bars. Employment of approximately 2,000 individuals is represented in these clubs and bars. A payroll of about \$25 million dollars is estimated. The Planning Commission was urged to consider the impact on the economy this ordinance would have.

Concerns were expressed for those whose businesses are properly zoned under today's laws, but under the new ordinance would be forced to close. Concerns were expressed for employees and their financial obligations.

Concerns were expressed over how the tax shortfalls would be compensated for, should this ordinance be adopted.

It was pointed out that, should this ordinance be approved, the tax short-fall this zoning would create will be something the citizens of Tulsa will have to pick up in the form of revenue taxation, sales tax, property tax, etc.

It was requested that the 300' proposed setback be reduced to 150'.

Concern was expressed over the lack of specifications that describes the restaurants and square footage area.

It was commented that much attention was given to the impact of the neighborhood and none on the economics of Tulsa or club owners.

It was voiced that the study should have determined the number of clubs which would be shut down if this ordinance were to be adopted.

The least restrictive means of taking care of many of these problems were addressed.

A business owner in the Brookside area stated the bars bring traffic to the area, and local merchants derive business from customers who saw merchandise when going to restaurants or clubs.

Business owners have approached club owners advising them of litter problems and found them to be very cooperative in taking care of the problem.

It was urged that existing laws be utilized, but they should be made more enforceable.

It was stated that there are legitimate complaints with ongoing problems in some neighborhoods, and that the problems need to be addressed. However, the ordinance as proposed does not address the problem.

It was suggested a committee of City Council members, homeowner associations members, bar owners and members of the Planning Commission be formed to discuss the problem and formulate solutions.

Food restaurants that serve liquor should be under the same restrictions as bars and clubs.

Concern was expressed as to whether the club owners' properties were being legislated out of existence.

Concern was expressed that the 300' setback would only move the problem elsewhere.

Interested Parties FOR

Christie Logan	1647 S College Ave	74104
Teresea Scott	1515 S Florence Ave	74104
Mary Thetford	6225 E. 49th	74135
Diana Walton	Florence Avenue	74104

The above-listed individuals spoke in support of the proposed zoning ordinance and voiced the following:

Residents living across the street from bars must daily pick up litter.

Residents are awakened nightly by gun shots.

Closing down all bars is not the answer.

Residents are asking for responsible ownership from bar owners.

Instances of murders were cited in the bars.

Residents feel that police should be able to handle the problem.

Instances of residents' cars being wrecked were cited.

Residents complained that their front yards are being used as a restroom facility.

Problems of being awakened by loud noises and fights were stated as occurring 2-3 times per week.

Residents complained of being verbally assaulted and threatened.

Residents feel their rights have been infringed upon.

Residents want these problem establishments to conform to current city codes as other responsible bar owners do.

Residents complain that club patrons prevent access to their homes due to lack of parking for the establishments.

It was noted that in newer neighborhoods, buffer zones are placed between commercial businesses and homes. Those residing in older neighborhoods deserve this same consideration.

It was pointed out that neighborhoods also pay taxes and it was questioned whether these taxes cover the cost of hiring police officers to respond to calls for illegal parking, indecent exposure, harassment, destruction of private property, theft and disturbance of peace.

Reduction of property values was cited as a result of living near the clubs.

The cost of rebuilding and renovating areas, such as the Kendall-Whittier area, due to adult entertainment establishments was discussed.

The citizens of Tulsa bear the brunt of increasing taxes when neighborhoods fall prey to the problems these establishments produce.

It was suggested the next public hearing be held in the evening so a fair representation could be received from those unable to attend a 1:30 P.M. meeting due to job restrictions.

One individual advised that she had to move from her residence in the Park Plaza area, 51st and Sheridan, due to the noise created from a nearby club.

Zoning allowing clubs to exist in commercially zoned areas should not be allowed.

Shopping centers have eased their requirements to accommodate clubs.

When clubs close, patrons roam the neighborhood causing disturbances.

Residents get to the point of not calling police about disturbances because nothing can be done.

Residents have money invested in their homes just as club owners do in their businesses and are concerned for their security.

Residents whose homes are in the center of the neighborhood also experience problems with neighborhood bars from traffic speeding along residential streets at closing.

It was pointed out that by placing restrictions on adult entertainment establishments it will not eliminate the demand for these types of services.

Older neighborhoods do not have the same protection as newer neighborhoods do in the zoning areas.

The nuisance ordinance presently does not have any teeth in it, citing an example of a bar that still operates where two murders have occurred, urination on residents' lawn and all the other problems stated here today.

It was suggested that, in regard to the percentage of floor area for the kitchen and dining room, it might be easier to determine if percentage of food sales versus percentage of liquor sales were considered.

Present but did not speak

Bill Addison	1309 E 38th St
Wayne Bagby	3819 S Rockford 74105
Edward J. Crossland	6737 S Peoria 74136
Sam Cox	Hustle 7 8 & the Break 74128
Tom Dittus	3400 Peoria
Mark Fuller	9760 D S 108th
Bill & Jean Holland	539 S. Sandusky 74112
Gary Howell	1737 S Memorial 74112
Pete Prudden	1323 E 71st St 74136
Jay Sweatman	1716 S Gary 74104
John Willis	Box 702324 74170
Linda Young	1708 W 63rd St 74132
Ralph Younger	1609 W Easton 74127

TMAPC Comments

Mr. Midget declared it is not the Planning Commission's intent to put anyone out of business. He reiterated that the purpose of the public hearing is to receive public comment and develop a balance to protect the integrity of the neighborhoods, but to also not adversely affect existing businesses.

In reply to interested parties alluding that the Planning Commission has already made up their minds, Mr. Buerge declared this is a proposal being presented to the Planning Commission and no one present has made a final decision. Those addressing the Planning Commission are addressing them as if the ordinance has already been determined, and Mr. Buerge expressed offense at this.

Commissioner Selph inquired whether input was solicited from club business owners into this process.

Mr. Gardner replied this has been strictly a staff study to this point. He explained this was the purpose of the public hearings, knowing that one public hearing would not be enough to seek a solution to the problem.

Ms. Wilson asked Mr. Randy Vaughn, club owner, if he felt club owners or landlords are responsible for taking care of the litter problem and other problems that take place outside of the club.

Mr. Vaughn replied that he felt the owner is responsible for policing the area. At his club the employees are responsible for picking up the parking lot at the end of each night.

Mr. Doherty asked Mr. Vaughn for suggestions as to what the Planning Commission should recommend to the City Council to deal with irresponsible club owners.

Mr. Vaughn declared the clubs should be dealt with on an individual basis. He suggested forming a committee to evaluate each of the problem clubs.

Jeannie McDaniel, Mayor's Office of Neighborhoods

Ms. McDaniel advised the Office of Neighborhoods approached Councilors Watts and Benjamin and others about neighborhood problems relating to real estate property values, etc. Ms. McDaniel reported receiving numerous phone calls from individuals expressing that they were unable to attend due to job obligations. She stated that she believes it is a minority who are impacting the majority and suggested working with them. Nuisance cases need to be addressed; some problems residents are experiencing are finding syringes and condoms, windows being shot out, and homicides occurring in their neighborhoods. Ms. McDaniel expressed understanding residents' reluctance to attend today's public hearing because they are frightened to do so. She acknowledged there needs to be a way through a nuisance or noise ordinance to move the ones which are out of compliance, or are disturbing the quality of life in their area, into another area. Ms. McDaniel affirmed that certain parts of the city inherited bad zoning. Ms. McDaniel stated the study is a beginning and asked the Planning Commission to work with the club owners to seek solutions and help monitor the minority who are creating the problems for the neighborhoods.

Ms. Wilson asked if there has been any evaluation of what the Police Department might do differently when dealing with these problems.

Ms. McDaniel reported working extensively with the Police Department in regard to disturbing the peace. Residents know that they do not need to file a complaint that night; they can come downtown the next morning and file a complaint. Ms. McDaniel

explained why disturbing the peace is difficult for police officers to ascertain. She added the Fire Marshall has been assisting in monitoring the number of people inside individual clubs. Ms. McDaniel explained the problem exists where there is shallow commercial zoning. Most of the bar owners she has communicated with have gone out of their way to correct the problem as best they can. When they are aware of the problem, they have been willing to work with residents. She stated that there are some who cannot because their location is too close to residential areas.

Commissioner Selph noted that the Planning Commission is aware of the problems faced by residents and bar owners. Commissioner Selph suggested that rather than hold additional public hearings, the Planning Commission should consider appointing an Ad Hoc Committee of interested parties on both sides of the issue to work with Jeannie McDaniel of the Mayor's Office of Neighborhoods and the Planning Commission to make recommendations for changes in the zoning code.

Mr. Horner expressed agreement with the formation of an Ad Hoc Committee. He asked Ms. McDaniel if the complaints received were isolated to only one council district.

Ms. McDaniel replied that complaints are not coming entirely from just one council district; she has received complaints from all council districts with the exception of District 2. She reported that some residents in the Brookside area have also lodged complaints against area clubs.

Mr. Midget voiced support of an Ad Hoc Committee and encouraged work to develop an ordinance to regulate bar-related uses in neighborhoods.

Ms. McDaniel revealed that these problems are also found at family recreation sites, and not only at establishments where intoxicating alcoholic beverages are served. She gave an example of where a recent homicide took place and reported the local neighborhood association had begged that something be done about the problems just three days earlier. Ms. McDaniels advised that some clubs lease out an area and patrons bring their own alcohol, and no licensing is involved in this instance.

Mr. Midget stated that he felt no headway could be made by continuing with things as they are unless industry people are brought in. The Planning Commission has been working with this ordinance for over a year. He noted that there are vehicles available to the Planning Commission under current ordinances in addition to developing a noise ordinance, to address this problem.

Councilor Vickie Cleveland

Councilor Cleveland voiced support of a committee composed of homeowner associations and bar owners to resolve this problem. Councilor Cleveland expressed her displeasure with the bar owners attempting to trivialize the difficulties property owners are

having. Council Cleveland advised wanting to see an ordinance that would prevent future construction of such uses going in neighborhood areas.

Mr. Carnes acknowledged that there is a nuisance problem; however, the only apparent zoning problem is with the parking situation and voiced support of an Ad Hoc Committee.

Mr. Doherty pointed out the City Council has charged the Planning Commission with making recommendations for amendments to the Zoning Code.

Mr. Doherty advised it might be better for the Mayor's Office to convene the Ad Hoc Committee, since it is not a zoning issue in many cases.

Mr. Neely agreed there were many issues besides zoning and land use. Noise and nuisance problems make this a more complicated issue, neither of which involves zoning or land use.

Mr. Doherty noted there are noncontroversial land use issues such as parking, which the Planning Commission could proceed to examine while the Ad Hoc Committee is working on their portion. These could be treated as a parallel process and not one dependent on the other.

It was the consensus of the Planning Commission to send a letter to the Mayor's Office recommending they form an Ad Hoc Committee and refer the zoning issues, such as setbacks, parking, etc., to Rules and Regulations Committee with the comments from this hearing.

Ms. Wilson voiced support of an Ad Hoc Committee and noted that their mission should be to find ways to reduce the negative impacts on neighborhoods and to modify the proposed ordinance.

Mr. Carnes suggested waiting until the new Police Chief takes office, since most complaints are related to enforcement of existing laws.

Mr. Gardner pointed out that experience has shown that trying to utilize the nuisance laws to resolve this problem won't work. The noise ordinance recommendation is one area that will address this problem. Years ago the Planning Commission and City made a land use decision to allow bars to go into our most restrictive commercial classifications. It has been determined that parking is extremely key to this process. Many bars have no parking or very little parking.

Mr. Doherty advised this is an issue Rules and Regulations Committee will need to address. There are other issues besides parking they will need to address and make a recommendation or make a firm decision not to make a recommendation.

It was the consensus of the Planning Commission for the study to be referred to the Rules and Regulations Committee for further study where appropriate and to report back to the Planning Commission with their findings.

It was noted that 25 interested parties spoke at today's hearing and that there were approximately 230 in attendance.

TMAPC Action; 7 members present:

On **MOTION** of **BUERGE**, the TMAPC voted **7-0-0** (Buerge, Carnes, Doherty, Horner, Neely, Selph, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Midget, Parmele "absent") to **CONTINUE** the Adult Entertainment Businesses Study public hearing to October 14, 1992.

* * * * *

There being no further business, the Chairman declared the meeting adjourned at 4:50 p.m.

Date Approved: 05-92


Chairman

ATTEST:


Secretary

