

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
Minutes of Meeting No.1818  
Wednesday, December 12, 1990, 1:30 p.m.  
City Council Room, Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Carnes, 1st Vice Chairman	Horner Parmele	Jones Russell	Linker, Legal Counsel
Coutant	Rice	Wilmoth	
Doherty, Secretary		Matthews	
Draughon, 2nd Vice Chairman			
Midget, Mayor's Designee			
Neely			
Wilson			
Woodard			

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, December 11, 1990 at 11:40 a.m., as well as in the Reception Area of the INCOG offices.

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

**Minutes:**

Approval of the minutes of November 28, 1990, Meeting No. 1816 :

On MOTION of WOODARD, the TMAPC voted 6-0-1 (Carnes, Doherty, Draughon, Neely, Wilson, Woodard, "aye"; no "nays"; Coutant "abstaining"; Horner, Midget, Parmele, Rice, "absent") to **APPROVE** the minutes of the meeting of November 28, 1990 Meeting No. 1815.

**REPORTS:**

Staff presented the Report of Receipts and Deposits for the month ended November 30, 1990 and advised all items were in order. Mr. Doherty inquired how the report compared with last year. Mr. Jones responded that it was down slightly. He advised that in the next agenda packet he would provide some historical background regarding how TMAPC is doing.

**TMAPC ACTION, 7 members present:**

On MOTION of DOHERTY, the TMAPC voted 7-0-0 (Carnes, Coutant, Doherty, Draughon, Neely, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Horner, Midget, Parmele, Rice, "absent") to **APPROVE** the Report of Receipts and Deposits for the month ended November 30, 1990.

**Committee Reports:**

Mr. Doherty reported that the Rules and Regulations Committee would be meeting December 19, 1990 at 11:30 in the INCOG Conference Room to discuss the group home study. The Rules and Regulations Committee would also meet after the December 19, 1990 TMAPC meeting to discuss the changes to the zoning code regarding signs. It is the intent of the

Committee to finish their work on the sign provisions at this meeting and forward it to the planning commission with a recommendation.

Ms. Wilson advised that the Budget and Work Program Committee met on December 5, 1990 and added one item to this year's work program at that meeting. The item to be added is a study of the 11th Street area. This was a request from Councilor Gary Watts. The Committee approved the addition to the work program.

PUBLIC HEARING  
TO CONSIDER AMENDING THE DISTRICT 16 PLAN  
MAP AND TEXT AS A RESULT OF Z-6293 AND SUBSEQUENT STUDY

Ms. Dane Matthews, INCOG, advised this study was recommended by Councilor DeWitty several months ago. The Comprehensive Plan Committee had been briefed on the amendments. The area involved is north of 36th Street North from the Cherokee Expressway to Mohawk Boulevard. This area appears to be in transition to some type of industrial uses. It is adjoined on several sides by residential; therefore, there are provisions in the proposed amendments addressing such items as access, buffering, and screening.

Mr. Coutant reiterated Ms. Matthews' comments that the Comprehensive Plan Committee had considered the study and was recommending it unanimously to the TMAPC.

TMAPC ACTION, 8 members present:

On MOTION of COUTANT, the TMAPC voted 8-0-0 (Coutant, Carnes, Doherty, Draughon, Neely, Midget, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Horner, Parmele, Rice, "absent") to close the public hearing and to APPROVE the Amendments to the District 16 Plan Map and Text.

ZONING PUBLIC HEARING

Application No. Z-6303 Present Zoning: RS-3  
Applicant: Ray Pfaff Proposed Zoning: OL  
Location: West of the SW/c of South Pittsburg Avenue and East 31st St. South  
Date of Hearing: December 12, 1990  
Presented to TMAPC by: Ray Pfaff, 2921 East 56th Place (742-8730)

Relationship to the Comprehensive Plan:

The District 6 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity -- No Specific Land Use and Linear Development Area (low intensity).

According to the Zoning Matrix, the requested OL District may be found in accordance with the plan map.

**Staff Recommendation:**

**Site Analysis:** The subject tract is approximately 50' x 120' in size and is located west of the southwest corner of South Pittsburg Avenue and East 31st Street South. It is nonwooded, flat, contains a single-family dwelling and is zoned RS-3.

**Surrounding Area Analysis:** The tract is abutted on the north by Tulsa Public School's Service Center zoned RS-3; on the east by a single-family dwelling zoned OL; on the south by a single-family dwelling zoned RS-3; and on the west by offices zoned OL.

**Zoning and BOA Historical Summary:** Light office zoning has been approved on both the east and west sides of the subject tract.

**Conclusion:** Based on the Comprehensive Plan and existing light office zoning on both sides of the subject tract, Staff is supportive of the requested rezoning.

Therefore, Staff recommends **APPROVAL** of OL zoning for Z-6303 as requested.

**TMAPC ACTION, 8 members present:**

On **MOTION** of **DOHERTY**, the TMAPC voted **6-0-2** (Carnes, Coutant, Doherty, Neely, Wilson, Woodard, "aye"; no "nays"; Draughon, Midget, "abstaining"; Horner, Parmele, Rice, "absent") to **APPROVE** Z-6303 Pfaff for OL zoning as recommended by Staff.

**Legal Description**

OL Zoning: Lot 7, Block 1, Dartmoor Subdivision of Blocks 1, 2, 7 and 8 of Albert Pike, City of Tulsa, Tulsa County, Oklahoma.

\* \* \* \* \*

Application No.: Z-6304 Present Zoning: RS-3  
Applicant: Hird (Hale) Proposed Zoning: CG or IL  
Location: South of the SW/c of East 55th Place South and South Mingo Road  
Date of Hearing: December 12, 1990  
Presented to TMAPC by: Ken Hird, 427 South Boston, Suite 1802 582-7888

**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 -- Residential.

According to the Zoning Matrix, the requested CG or IL Districts are not in accordance with the plan map.

**Staff Recommendation:**

**Site Analysis:** The subject tract is approximately 100' x 200' in size and is located at 5618 South Mingo Road. It is partially wooded, flat, contains a single-family dwelling and is zoned RS-3.

**Surrounding Area Analysis:** The tract is abutted on the north by a tax office and copy business zoned OL; on the east across South Mingo Road by various businesses zoned IL; and on the east and south by single-family dwellings zoned RS-3.

**Zoning and BOA Historical Summary:** Nonresidential zonings have been approved in the immediate area of the subject tract.

**Conclusion:** Although the Comprehensive Plan does not support any zoning designation other than residential, Staff would note the area is in transition from residential to a higher land use. Staff does not consider the request to be an orderly transition due to its location abutting the office tract to the north and residential to the south. Staff is supportive of OL zoning due to the office zoning to the north and cannot support commercial or industrial zoning based on the tract's location away from the node, surrounding land use and the Comprehensive Plan. If OL is approved staff would recommend an amendment to the District 18 Plan.

Therefore, Staff recommends **DENIAL** of CG and IL zoning and **APPROVAL** of OL zoning for Z-6304.

**Applicant's Comments:**

Mr. Kenneth L. Hird, 427 South Boston, Suite 1802, attorney for the applicant, stated that the applicants were wishing to sell the property to their daughter and son-in-law. They own Air Assurance Company, a heating and air conditioning company, which repairs heating and air conditioning units. Mr. Hird commented that the property was abutted by a variety of businesses. He stated that this area was clearly in transition and that the only residential area left was behind the property.

He commented that the property had no value as a residential property and presented an artist's rendering of what they were proposing, but stated that this was not binding. They were proposing putting a building in the back to be used as a storage for air conditioners and heaters. There would be no manufacturing conducted on the premises. An 8' fence would be built around the property. This proposal would work under CG zoning but would not be possible under IL zoning because of the setback requirements. Therefore the applicant was requesting CG zoning.

Mr. Hird stated if IL zoning was given, the applicant would request a special exception to allow them to build the building.

Ms. Wilson inquired how deep into the property the applicant would build their building. Mr. Hird stated that under CG zoning the building would be built back about 175'-180', leaving a buffer of 20'-25'. Under IL zoning it would go back about 170'.

In response to Mr. Doherty, Mr. Hird stated he was not sure how close they were to the next CG zoning. He commented that it might be farther north at the corner of 51st Street and Mingo Road; therefore, it would be a little less than 1/2 mile. He then stated that there was storefront property in the next block which contained a bar, and therefore he assumed it was zoned CG, although he was not certain.

Ms. Wilson asked if there was an extensive tree line on the western boundary. He commented that there was not but that they intended to plant trees.

TMAPC Review Session:

Mr. Doherty commented that at first glance, before field checking the area, it appears that granting any zoning other than OL zoning would be spot zoning and poor planning. However, after looking at the tract from Mingo and realizing that this is a developing industrial area, this may be a time when the exception proves the rule. He did not see a problem with Industrial Light zoning for this tract as the area is in transition. At some point in the near future, Mingo would be going to commercial or industrial for the entire mile and he did not see any benefit to the area by delaying the industrial zoning on this tract.

Mr. Carnes stated that he had also field checked the area and reiterated Mr. Doherty's comments. Ms. Wilson questioned staff what the setbacks from the residential areas would be in IL zoning. Mr. Jones advised that there is a 75' setback and it would apply to both the west and south sides since they are both zoned residential. That would be as close as a building could be built, although the 75' may still be used for outdoor storage. He commented that if the Commission was looking at a zoning other than OL, Staff would favor the IL zoning based on the types of uses that could go in an IL zoned area. The applicant's requested use is permitted in both the IL and CG zoning.

Mr. Draughon inquired of Staff the difference in the setbacks for IL and OL. Mr. Jones advised that the applicant could build up to 10' from the south and west if OL or CG zoning is granted. Only the IL designation requires the 75' setback. In all circumstances, a screening fence would be required. Mr. Draughon inquired whether he would have enough room to build when the 75' setback on the west and the south was met. Mr. Jones advised that the Board of Adjustment would have to grant some relief in order to make it a useable lot.

Mr. Midget stated concern regarding screening. He inquired whether it would be possible to limit or restrict outside storage. Mr. Jones stated that it was not possible for TMAPC to impose this condition but the minutes could reflect the concern and the Board of Adjustment would be aware of this concern of the Commission.

Mr. Neely inquired whether the intended use was allowed under OL zoning. Mr. Jones responded that it was not allowed by right or by special exception. Therefore, if OL zoning was granted the applicant would not be able to use the lot for his intended purpose.

Mr. Coutant advised he was in favor of the motion to rezone this area to IL zoning. He asked that the Commission learn from the decision when the first lot was rezoned. That first application was the beginning of a rezoning of the area that would eventually take place.

Ms. Wilson reiterated Mr. Midget's comments regarding screening. She remarked that she was also very concerned with there being screening, buffering and trees because although no protestants were present it did not mean that no one was concerned. She felt many people work and are not able to attend the hearings. She advised that she did not object to the IL zoning, but would like to emphasize her concern regarding screening.

Mr. Draughon confirmed with Staff that everyone within 300' had been notified. Mr. Jones advised that notice was given in three ways as required by law. Those ways being posting a yellow rezoning sign on the property, notifying property owners within a 300' radius in writing and advertising the case in the paper including showing a map of the subject area.

**TMAPC ACTION, 8 members present:**

On MOTION of DOHERTY, the TMAPC voted 8-0-0 (Carnes, Coutant, Doherty, Draughon, Midget, Neely, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Horner, Parmele, Rice, "absent") to APPROVE Z-6304 Hird (Hale) for IL zoning.

**Legal Description**

OL ZONING: Lot 2, Block 1, Anderson Addition to the City of Tulsa, Tulsa County, Oklahoma.

**OTHER BUSINESS:**

PUD 340: Detail Sign Plan Review. Located north of the northeast corner of South Yale Avenue and Allegheny Avenue.

PUD 340 is a .93 acre development approved for use unit 11 uses with a maximum floor area of 12,500 square feet. The PUD was approved by the TMAPC and City Commission in 1983. The applicant is requesting detail sign plan approval to permit a ground sign 110' from the centerline of South Yale which is 6' x 5' in size. A variance to permit a sign within 150' of a residentially zoned district was approved by the Tulsa Board of Adjustment at the December 6, 1990 meeting for the proposed location.

Review of the applicant's submitted sign location and elevation show the request consistent with the PUD and other signage along South Yale. Staff points out that the existing office building will shield the sign from any residential area.

Therefore, Staff recommends APPROVAL of the Detail Sign Plan per the applicant's submitted plans.

**TMAPC ACTION, 8 members present:**

On MOTION of DOHERTY, the TMAPC voted 8-0-0 (Carnes, Coutant, Doherty, Draughon, Midget, Neely, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Horner, Parmele, Rice, "absent") to APPROVE the Detail Sign Plan for PUD 340 as recommended by staff.

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**Z-4789-SP-2-1:** Minor amendment of the 25' yard requirement, measured from the north property line, to permit an existing encroachment. Located at the northwest corner of East 74th Street South and South 111th East Avenue

**Staff Recommendation:**

The subject tract, located at 7404 South 111th East Avenue, is in a typical residential subdivision with an underlying zoning of corridor. The applicant is requesting a minor amendment to the approved corridor site plan, which is the subdivision plat, to permit an existing encroachment into the north yard to within 16.8' of the property line. After review of the original corridor site plan document and the subdivision plat, it should be noted selected corner lots within the subdivision were approved with modified yard abutting a street requirements from 25' and 25' to 25' and 15'. Other corner lots which abut two residential lots were left with the 25' and 25' requirements to avoid a dwelling from being constructed 10' in front of an abutting lot, and thus breaking the continuity of setback.

Staff finds the request to be minor in nature and consistent with the original corridor site plan. Therefore, Staff recommends APPROVAL of corridor site plan minor amendment Z-4789-SP-2-1 subject to the applicant's submitted plat of survey.

Note: If approved, this minor amendment would release the applicant from the public requirement of setback, but since this requirement is also a private agreement via the subdivision restrictive covenants, the applicant is also seeking to amend this private agreement.

**Comments and Discussion:**

Staff advised that this was a corner lot that does not have any intervening or abutting residential lots. There exists a corner lot, two residential tracts that front to the north and then subject tract. The reason that these two corner lots were not granted the 25' and 15' setback is due to the fact that would allow these lots to build within 15' of the other lots. The other lots would have to meet the 25' setback and therefore there would be the possibility that these neighbors could look out their side windows and see houses 10' in front of them. There were selected lots that weren't given that approval.

The plat of survey was given to the TMAPC showing the encroachment on the north property line. This 25' property line is correct but the house does encroach over that property line. Based on that, since the

house is existing, it is consistent with the original corridor site plan approval, and staff recommended approval. The applicant had submitted a document and the City legal department had approved the document which would amend the restrictive covenants, thus releasing him from any private agreement he might have. The City can grant the minor amendment releasing him from the 25' setback requirement but since the subdivision plat and the restrictive covenants also make that a condition, then that is a private agreement and that document officially amends that.

Mr. Doherty inquired of Staff if residences existed on the two lots fronting 74th Street. He asked about the houses that front onto 74th Street and what their setbacks were. Staff replied that two houses exist and they would have to meet the 25' setback. Mr. Doherty commented that it appeared from the streetscape on 74th Street a house exists that sticks way out in front of the other two. Mr. Jones commented that it was not certain how the house was built with the wrong setbacks. He advised that Staff had gone back to see how this "dropped through the cracks". Someone, either INCOG or the City, erred in releasing the building permit with the 25' and 15' setbacks. The applicant is trying to sell the property and the mistake came up on the title opinion.

Ms. Wilson confirmed with Mr. Jones that a building permit was issued from the City with the wrong setbacks. Mr. Jones advised that INCOG was back-tracking the error to see where it should have been caught. He stated if this were a typical RS-3 subdivision you could build this house as it was. His assumption is that someone assumed the subdivision was residential, because it is a typical single-family subdivision. Ms. Wilson reiterated Mr. Jones in saying that it may have been processed wrong because it is in Corridor rather than RS-3. She asked that Staff advise TMAPC when it is determined how this occurred.

Mr. Doherty commented that typically in this type of situation, a corner lot with a side yard setback, there are two residences backing up to each other, one fronting a north-south street and the other a north-south on the other. This subdivision design provides for the two lots fronting 74th Street, and therefore, the reduced side yard setback on the corner lot does put a house out in front of them. He could see where someone just checking off a building permit and looking at only a layout of a house on a lot would see it as a corner lot, and without looking at the entire subdivision design, and release it with the normal 25' and 15' setback for corner lots. He commented that the house is built and would suggest that TMAPC approve the amendment.

Mr. Jones commented that it was staff's concern that there are a number of safeguards and check-offs built into the system and that this should not have occurred. It will be looked into to see if another check-off or safeguard is needed. This type of problem is typically caught before it gets this far.

Mr. Doherty commented that a problem exists in the subdivision regulations on this design of a subdivision. Normally, when one row of houses front one street and one fronts another where they back up to each other it is not a problem. He commented that subdivision



regulations do not catch the circumstances where there are intervening lots facing at a 90' angle to those corner lots, and it is in those cases some protection needs to be provided for those intervening lots in order that a house does not stick out in front of them. Mr. Jones commented that although this is not a unique subdivision, it is atypical and is not seen that often. Mr. Wilmoth and the INCOG staff are in the process of revising the subdivision regulations and this could be something to address.

Ms. Wilson commented that she would like to "red flag" for the record that TMAPC send correspondence to Protective Inspections notifying them of the problem that has been encountered and to ask that they carefully review future permit applications.

Mr. Draughon reiterated Ms. Wilson's comments about red flagging this problem. He questioned why staff could not determine who was at fault in this problem. He asked why they couldn't determine the builder or the building inspector was who signed the permit. In response Mr. Jones stated that INCOG had gone back to the very first contact, "square one", on this permit. They were trying to determine exactly where the problem began. He advised that when a permit is requested, Protective Inspections first requests a record search on the property from INCOG. Staff was trying to determine whether the requirements were erroneously sent or whether they were interpreted erroneously, or just what happened. Mr. Draughon inquired again regarding the name of the builder and the building inspector. Mr. Jones advised that they had not gotten that far in the investigation. He stated that Protective Inspections had been notified of the difference in zoning and to be on the lookout for more applications in Hampton South. Mr. Draughon was concerned that more of these permits with the wrong setbacks would be coming before the Commission. He was concerned that the same builder may continue to build within the wrong setbacks.

Mr. Neely inquired whether the adjacent property owners were notified of this proposed change. Mr. Jones confirmed that all property owners within a 300' radius were notified.

Applicant's Comments:

Mr. J. D. Harp, Classic Properties, commented in response to who would build and who would transgress against the side yard setbacks. He commented that he is in the subdivision daily and was familiar with all the builders. He advised that there was only one other corner lot in the subdivision that had not started building that could have the same problem which he incurred. He advised that builder had been notified of the potential problem. He stated that he had talked with the City Inspection office and it was determined that the corridor zoning was the problem in the allowance of his building permit. They told him they did not realize when the permit was issued that this was zoned corridor and therefore it was granted with the 15' side yard. He advised that he has had to delay the closing on the house twelve days due to the fact that the mistake was not determined until a survey was conducted to obtain title insurance.

Mr. Coutant asked whether Mr. Harp ever looked at the plat and whether he concerned himself with the setback lines that were displayed rather clearly on the plat. Mr. Harp stated that he had, but that usually you were allowed to choose which yard you will have as the front setback. Therefore if you choose to set your house facing a certain direction, you draw up a plot plan showing the building line on that side that you will hold within the 15' side yard.

Mr. Harp advised Mr. Draughon that a meeting had been held involving all of the builders in the addition notifying them of the problem; therefore they were all aware.

Comments and Discussion:

Mr. Doherty again commented that the reason this problem occurred was due to the fact that there were two lots intervening between these two corner lots facing at a 90° angle. Anytime, corridor zoning notwithstanding, this subdivision design exists there will be this problem. It is the result of the two lots facing north will be looking out the front at a potential bedroom window. The side yard for one is the same as the front yard of another. The problem is due the design of the subdivision.

Mr. Draughon inquired as to who reviews the subdivision plats. Mr. Jones advised that a subdivision plat is presented to the Technical Advisory Committee and before the TMAPC at least twice. Mr. Draughon commented that the expertise of the TAC needs to be relied upon to catch these types of problems. Mr. Jones commented that he felt it had been caught in the TAC because that was when it was requested that all corner lots be 25' and 15' and both INCOG and the TAC advised that that should not be done. TAC and TMAPC did everything they should have; the ball was dropped elsewhere.

Mr. Carnes that he felt that there was nothing for the Commission to do but to approve this amendment since the house was built and the builder did have a building permit.

Mr. Coutant urged the building community to take responsibility for detemining the proper setbacks and not to rely totally on the review process to make sure that it is correct. Mr. Jones commented that simply because the City issues a permit, even though it may be in error, the builder is not relinquished from meeting those requirements.

First Vice Chairman Carnes requested a letter be drafted for the builder's association conveying these feelings of the TMAPC.

TMAPC ACTION, 8 members present:

On MOTION of MIDGET, the TMAPC voted 7-0-1 (Carnes, Coutant, Doherty, Draughon, Midget, Wilson, Woodard, "aye"; no "nays"; Neely "abstaining"; Horner, Parmele, Rice, "absent") to APPROVE a Minor Amendment to the Corridor Site Plan amending the side yard setbacks from 25' to 15' for Lot 24, Block 3, Hampton South as recommended by Staff.

Mr. Jones advised that a motion was also needed to amend the restrictive covenants for Lot 24, Block 3 Hampton South, thus releasing the owner from the private agreement by filing an amendment to the subdivision plat. He reiterated that the City had already signed the amendment.

**TMAPC ACTION, 8 members present:**

On MOTION of MIDGET, the TMAPC voted 7-0-1 (Carnes, Coutant, Doherty, Draughon, Midget, Wilson, Woodard, "aye"; no "nays"; Neely "abstaining"; Horner, Parmele, Rice, "absent") to APPROVE an Amendment to the Restrictive Covenants for Lot 24, Block 3 Hampton South.

\* \* \* \* \*

PUD 360-A: Revised Detail Site Plan for Lot 1, Block 1, Homeland 0102 Addition. Located north of the northwest corner of East 91st Street South and South Memorial Drive.

Detail site plan approval was granted for Lot 1, Block 1 by the TMAPC on November 29, 1989. The applicant is now requesting to modify this detail site plan as it relates to landscaped parking lot islands. The modified plan relocates and increases the required landscape area. After review of the applicant's submitted detail site plan, Staff would note the relocated parking lot landscape will be more effective and separate the Homeland development and the out parcels to the south. Staff would also note the applicant has included 30% of the 40' green belt in his computation of the landscape area, which is acceptable. The modifications reduced the number of off-street parking spaces by 6, but they still have more spaces than required by the PUD.

Staff recommends APPROVAL of the Revised Detail Site Plan for Lot 1, Block 1 in PUD 360-A.

**TMAPC ACTION, 8 members present:**

On MOTION of WOODARD, the TMAPC voted 7-0-1 (Carnes, Coutant, Doherty, Midget, Wilson, Woodard, "aye"; no "nays"; Neely "abstaining"; Horner, Parmele, Rice, "absent") to APPROVE the Revised Detail Site Plan for Lot 1, Block 1 in PUD 360-A Homeland as recommended by Staff.

**SUBDIVISIONS:**

Holland Lakes (PUD 457) East 81st Street & South Darlington Avenue RS-3

Staff advised that all releases had been received and Staff recommended approval.

TMAPC ACTION, 8 members present:

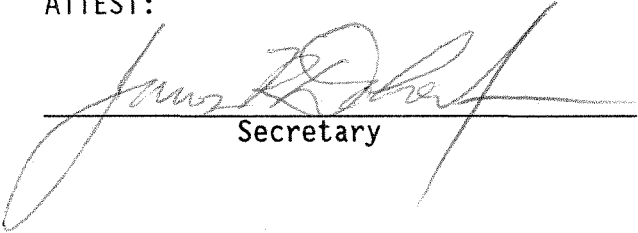
On MOTION of WOODARD, the TMAPC voted 7-0-1 (Carnes, Coutant, Doherty, Midget, Neely, Wilson, Woodard, "aye"; no "nays"; Draughon "abstaining"; Horner, Parmele, Rice, "absent") to APPROVE the Final Plat for Holland Lakes and RELEASE same as having met all conditions.

There being no further business, the Chairman declared the meeting adjourned at 2:50 p.m.

Date Approved: 11/9/91

  
Chairman

ATTEST:

  
Secretary