

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2079

Wednesday, August 21, 1996, 1:30 p.m.

City Council Room, Plaza Level, Tulsa Civic Center

Members Present

Boyle
Carnes, Chairman
Doherty, 1st Vice Chairman
Gray
Horner
Ledford
Midget, Mayor's Designee
Pace, Secretary

Members Absent

Ballard
Dick
Edwards

Staff Present

Almy
Gardner
Jones
Matthews
Stump

Others Present

Linker, Legal
Counsel

The notice and agenda of said meeting were posted in the Office of the City Clerk on Tuesday, August 20, 1996 at 9:27 a.m., in the office of the County Clerk at 8:10 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Carnes called the meeting to order at 1:37 p.m.

Minutes:

Approval of the minutes of August 7, 1996, Meeting No. 2077:

On **MOTION** of **HORNER**, the TMAPC voted **5-0-2** (Carnes, Doherty, Gray, Horner, Pace "aye"; no "nays"; Boyle, Ledford "abstaining"; Ballard, Dick, Edwards, Midget "absent") to **APPROVE** the minutes of the meeting of August 7, 1996 Meeting No. 2077.

REPORTS:

Chairman's Report:

Chairman Carnes stated that the Commissioners have received copies of a letter and reports in regards to the locations of multifamily residential developments. Chairman Carnes requested the Commissioners review the information at their convenience and forward any questions or comments to staff.

Committee Reports:

Comprehensive Plan Committee

Mr. Ledford informed the Commission that the Comprehensive Plan Committee will meet today following the TMAPC meeting.

Rules and Regulations Committee

Mr. Doherty informed the Commission that the Rules and Regulations Committee will meet today following the Comprehensive Plan Committee meeting to distribute a summary of the proposals on outdoor advertising signs.

Director's Report:

Mr. Gardner stated the Amendments to the Major Street and Highway Plan are to be heard by the City Council at their meeting on August 22, 1996. Mr. Gardner informed the Commission that Ms. Dane Matthews will be attending on staff's behalf.

SUBDIVISIONS:

Preliminary Plat:

Penix Place II (PUD 364-C)(1984)

(PD-18)(CD-8)

Northeast corner of East 97th Street South and South Mingo Road

(NOTE: This item was considered after the Public Hearing on the major amendment PUD 364-C was completed)

TAC Comments:

Jones presented the plat with Ted Sack and Henry Penix present.

Sack distributed a site plan with proposed building location and parking.

French submitted a list of six conditions to be incorporated into the PUD site plan.

Considerable discussion was given in regards to access, with the final recommendation being that all access must be approved by Traffic Engineering.

McGill stated that any drive over 150' in length would require a turn-around for emergency vehicles.

Penix Place II is a one lot commercial subdivision plat which contains 3.47 acres. There is a pending major amendment application, PUD 364-C, to permit a children's day care on the subject tract.

Staff would offer the following comments and/or recommendations:

1. Waiver of Subdivision Regulations required to permit the plat to be drawn at a scale of 1" = 50' (1" = 100' required).
2. All conditions of PUD-364-C shall be met prior to release of final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to Section 1100-1107 of the Zoning Code in the covenants.
3. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
4. Water and sanitary sewer plans shall be approved by the Department of Public Works (Water & Sewer) prior to release of final plat. (Include language for W/S facilities in covenants.)
5. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).
6. A request for creation of a Sewer Improvement District shall be submitted to the Department of Public Works (Water & Sewer) prior to release of final plat.
7. Paving and/or drainage plans shall be approved by the Department of Public Works (Stormwater and/or Engineering) including storm drainage, detention design, and Watershed Development Permit application subject to criteria approved by the City of Tulsa.
8. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Department of Public Works (Engineering).
9. Street names shall be approved by the Department of Public Works and shown on plat.

10. All curve data, including corner radii, shall be shown on final plat as applicable.
11. City of Tulsa Floodplain determinations shall be valid for a period of one year from the date of issuance and shall not be transferred.
12. Bearings, or true N/S etc., shall be shown on perimeter of land being platted or other bearings as directed by the Department of Public Works.
13. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
14. Limits of Access or LNA as applicable shall be shown on plat as approved by the Department of Public Works (Traffic). Include applicable language in covenants.
15. It is recommended that the Developer coordinate with the Department of Public Works (Traffic) during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
16. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
17. All lots, streets, building lines, easements, etc. shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells officially plugged. If plugged, provide plugging records.)
20. The restrictive covenants and/or deed of dedication shall be submitted for review with the preliminary plat. (Include subsurface provisions, dedications for storm water facilities, and PUD information as applicable.)
21. This plat has been referred to Bixby and Broken Arrow because of its location near or inside a "fence line" of that municipality. Additional requirements may be made by the applicable municipality. Otherwise only the conditions listed apply.
22. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)

23. All other Subdivision Regulations shall be met prior to release of final plat.

On the motion of Miller, the Technical Advisory Committee voted unanimously to recommend Approval of the Preliminary Plat of Penix Place II, subject to all conditions listed above.

Staff Comments:

Mr. Jones requested this item be passed to the end of the agenda.

Mr. Jones stated since PUD-364-C has been approved, the Commission can consider the Preliminary Subdivision Plat for Penix Place II.

TMAPC Comments:

Mr. Boyle questioned whether the Commission should approve the preliminary plat without the limits of no access on the plat or would it be better to have the applicant submit another plat that is consistent with what the Commission approved on PUD 364-C. Mr. Jones replied that in the past, the location of the access point is left to the discretion of Traffic Engineer. The access point will be shown on the final plat, which will require approval of the Commission.

Mr. Doherty stated he would not ordinarily vote approval of a preliminary plat that did not include the condition of limits of no access where it abuts 97th Street. However, with this being the preliminary plat and the applicant, staff and everyone is aware of the PUD proceeding requiring the condition of limits of no access on 97th Street. The final plat will show the access point located one-half block or more north.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-0-0** (Boyle, Carnes, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Edwards "absent ") to **APPROVE** the Preliminary Subdivision Plat for Penix Place II subject to Waiver of Subdivision Regulations required to permit the plat to be drawn at a scale of 1" = 50' in lieu of the 1" = 100' required and the conditions as recommended by TAC and that the limits of no access are required on all the 97th Street frontage and the only access is to be from Mingo Road at a location in accordance with Traffic Engineering's recommendation.

TTCU South (PUD 531) (784)

(PD-18)(CD-8)

East of the northeast corner of East 81st Street South and South Mingo Road

TAC Comments:

Jones presented the plat with Ted Sack in attendance.

Jones and French stated that mutual access is required in the PUD and may be required on this plat.

TTCU South is a one-lot office subdivision plat which contains 4.49 acres. The property is development area "B" of PUD 531 which was approved by the City in 1995. The engineer has submitted a site plat for a bank facility with drive-in lanes which must be approved by the TMAPC.

Staff would offer the following comments and/or recommendations:

1. Waiver of Subdivision Regulations required to permit the plat to be drawn at a scale of 1" = 40' (1" = 100' required).
2. Condition 5 of the PUD required all lots in Development Areas A and B be mutually accessible to each abutting lot. Show mutual access on face of plat.
3. All conditions of PUD-531 shall be met prior to release of final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to Section 1100-1107 of the Zoning Code in the covenants.
4. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
5. Water and sanitary sewer plans shall be approved by the Department of Public Works (Water & Sewer) prior to release of final plat. (Include language for W/S facilities in covenants.)
6. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).
7. A request for creation of a Sewer Improvement District shall be submitted to the Department of Public Works (Water & Sewer) prior to release of final plat.

8. Paving and/or drainage plans shall be approved by the Department of Public Works (Stormwater and/or Engineering) including storm drainage, detention design, and Watershed Development Permit application subject to criteria approved by the City of Tulsa.
9. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Department of Public Works (Engineering).
10. Street names shall be approved by the Department of Public Works and shown on plat.
11. All curve data, including corner radii, shall be shown on final plat as applicable.
12. City of Tulsa Floodplain determinations shall be valid for a period of one year from the date of issuance and shall not be transferred.
13. Bearings, or true N/S etc., shall be shown on perimeter of land being platted or other bearings as directed by the Department of Public Works.
14. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
15. Limits of Access or LNA as applicable shall be shown on plat as approved by the Department of Public Works (Traffic). Include applicable language in covenants.
16. It is recommended that the Developer coordinate with the Department of Public Works (Traffic) during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
17. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
18. All lots, streets, building lines, easements, etc. shall be completely dimensioned.
19. The key or location map shall be complete.
20. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)

21. The restrictive covenants and/or deed of dedication shall be submitted for review with the preliminary plat. (Include subsurface provisions, dedications for storm water facilities, and PUD information as applicable.)
22. This plat has been referred to Bixby and Broken Arrow because of its location near or inside a "fence line" of that municipality. Additional requirements may be made by the applicable municipality. Otherwise only the conditions listed apply.
23. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
24. All other Subdivision Regulations shall be met prior to release

On the motion of French, the Technical Advisory Committee voted unanimously to recommend Approval of the Preliminary Plat of TTCU South, subject to all conditions listed above.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **7-0-1** (Boyle, Carnes, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; Doherty "abstaining"; Ballard, Dick, Edwards "absent ") to **APPROVE** the Preliminary Plat of TTCU South subject to the conditions recommended by TAC and Waiver of Subdivision Regulations to permit the plat to be drawn at a scale of 1" = 40' (1" = 100' required).

* * * * *

Beth & J. R.'s Addition(2993)

(PD-9)(CD-6)

Southwest corner of East 45th Street South and South Harvard Avenue

TAC Comments:

Jones presented the plat with M. Arand present.

Herbert stated that an overland drainage easement may be required.

Discussion was given to access to South Harvard with Jones recommending that an access point be shown to Harvard.

Beth and J. R.'s addition is a replat of an existing lot which contains .531 acres and was recently rezoned to OL, office light. The proposed plat provides for no access to South Harvard and all access would be from East 45th Street.

Staff would offer the following comments and/or recommendations:

1. Since the property is a replat, it shall be subject to Oklahoma Statutes, 42-106. The developer is advised to take the appropriate measures.
2. Staff would recommend the underlying plat be vacated in accordance with accepted legal procedures. (Advisory only, not a condition of plat approval.)
3. Staff would suggest the applicant consider a plat waiver instead of the replat.
4. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
5. Water and sanitary sewer plans shall be approved by the Department of Public Works (Water & Sewer) prior to release of final plat. (Include language for W/S facilities in covenants.)
6. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).
7. A request for creation of a Sewer Improvement District shall be submitted to the Department of Public Works (Water & Sewer) prior to release of final plat.
8. Paving and/or drainage plans shall be approved by the Department of Public Works (Stormwater and/or Engineering) including storm drainage, detention design, and Watershed Development Permit application subject to criteria approved by the City of Tulsa.
9. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Department of Public Works (Engineering).
10. Street names shall be approved by the Department of Public Works and shown on plat.
11. All curve data, including corner radii, shall be shown on final plat as applicable.
12. City of Tulsa Floodplain determinations shall be valid for a period of one year from the date of issuance and shall not be transferred.

13. Bearings, or true N/S etc., shall be shown on perimeter of land being platted or other bearings as directed by the Department of Public Works.
14. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
15. Limits of Access or LNA as applicable shall be shown on plat as approved by the Department of Public Works (Traffic). Include applicable language in covenants.
16. It is recommended that the Developer coordinate with the Department of Public Works (Traffic) during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
17. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
18. All lots, streets, building lines, easements, etc. shall be completely dimensioned.
19. The key or location map shall be complete.
20. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
21. The restrictive covenants and/or deed of dedication shall be submitted for review with the preliminary plat. (Include subsurface provisions, dedications for storm water facilities, and PUD information as applicable.)
22. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
23. All other Subdivision Regulations shall be met prior to release of final plat.

On the motion of McGill, the Technical Advisory Committee voted unanimously to recommend Approval of the Preliminary Plat of Beth & J. R.'s Addition, subject to all conditions listed above.

TMAPC Comments:

Mr. Doherty questioned if staff is prepared to state where the limit of no access would be located. Mr. Jones replied in the negative and stated the location will have to be reviewed and approved by Traffic Engineering.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-0-0** (Boyle, Carnes, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Ballard, Dick, Edwards "absent ") to **APPROVE** the Preliminary Plat of Beth & J. R.'s Addition subject to the conditions as recommended by TAC and Waiver of Subdivision Regulations to permit the plat to be drawn at a scale of 1" = 20' (1" = 100' required).

Plat Waiver:

BOA-17454 (Unplatted)(2302)

(PD-25)(CD-1)

2750 North Cincinnati Avenue

TAC Comments:

Jones presented the plat waiver with no representative present.

Somdecerrf recommended that if existing right-of-way for North Cincinnati Avenue does not meet the Major Street Plan, that additional right-of-way be dedicated.

Board of Adjustment case 17454 approved a children's day care in an existing church facility. Although the property is unplatted, no new construction is planned.

Based on the Board of Adjustment approval and no new construction, staff is supportive of the requested plat waiver. Staff feels that any additional easements or dedications could be made by separate instrument.

Staff recommends APPROVAL of the plat waiver for BOA 17454 subject to the following conditions:

1. Grading and/or drainage plan approval by the Department of Public Works in the permit process.
2. Utility extensions and/or easements if needed.

On the motion of Somdecerrf, the Technical Advisory Committee voted unanimously to recommend Approval of the Plat Waiver for BOA-17454, subject to all conditions listed above.

TMAPC Action; 8 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **8-0-0** (Boyle, Carnes, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Ballard, Dick, Edwards "absent ") to **APPROVE** the Plat Waiver for BOA-17454 subject to the grading and/or drainage plan being approved by the Department of Public Works in the permit process and providing of any utility extensions and/or easements if needed as recommended by TAC.

PUD 221-E (Observation Point) (2894)

(PD-17)(CD-6)

East of the southeast corner of East 41st Street South and South 129th East Avenue

TAC Comments:

Jones presented the application with Linda Martin present.

Pierce stated that an easement by separate instrument would be required for electrical service and Martin agreed.

PUD 221-E is a major amendment to an existing Planned Unit Development to permit a cellular tower. The property is located within an existing subdivision plat and as the submitted site plan shows, a small equipment building is planned.

Based on the nature of the use and the existing subdivision plat, staff is supportive of the plat waiver. Staff can see no benefit to the city in requiring a replat. Staff recommends APPROVAL of the plat waiver for PUD 221-E subject to the following conditions:

1. Grading and/or drainage plan approval by the Department of Public Works in the permit process.

2. Utility company access to serve the proposed site with utilities.

On the motion of Pierce, the Technical Advisory Committee voted unanimously to recommend Approval of the Plat Waiver for PUD 221-E, subject to all conditions listed above.

TMAPC Comments:

Ms. Gray questioned if Mr. Coutant's client understands the landscaping requirements and that the property will be maintained to the 41st Street right-of-way. Ms. Gray expressed that Mr. Coutant needs to meet with the Homeowners Association to receive their input on the landscaping. Mr. Coutant stated there have been meetings with Don White, representative of the Homeowners Association, to discuss the movement of the landscaping away from the base of the tower out to the perimeter of the property where the property starts to slope downward to the street.

Ms. Gray questioned if the client understands the landscape plan will come before the Planning Commission. Mr. Coutant replied he understood the landscape plans will be submitted to the TMAPC staff. Ms. Gray stated the previous recommendation required the landscaping plan to come before the Commission. Ms. Pace stated there was discussion on the landscaping and she believes that part of the recommendation was to require the landscaping and detail site plan to come before the Commission. Chairman Carnes concurs with Ms. Pace. Mr. Doherty stated there were no protestants at the City Council meeting.

Mr. Coutant stated he believes the resolution that the Commission came to was that the landscape plan needed to go through the staff review process like any landscape plan for a PUD. However, the Commission required Mr. Coutant and his client to work with the Homeowners Association, specifically Mr. White or any other representative, on the landscaping and that has been done. Mr. Coutant stated he would bring the landscape plan back to the Commission if necessary. However, Mr. Coutant feels it was not the original decision of the Planning Commission as he recalls; and it is a timing issue. Chairman Carnes stated that members of the Commission feel that it was a requirement and asked staff to expedite the landscape plan to avoid creating a delay to the developer.

Mr. Stump replied in the affirmative and stated that the Detail Site Plan will also have to come before the Commission as a normal procedure and will include the Landscape Plan at that time. However, Mr. Stump stated that neither plan has been submitted at this time. Mr. Coutant stated he feels the Site Plan issue was addressed at the time of the hearing when he specifically asked the question if this constituted the approval of the Site Plan as submitted to the Planning Commission. Mr. Coutant stated the question was answered in the affirmative.

Ms. Pace stated this Site Plan is for a tower, landscaping, small equipment building and fencing. Ms. Pace stated some of the neighbors expressed concern that there would be an area between this site and 41st Street that would be a "no-man's land" that no one would take care of. Mr. Coutant stated that is the right-of-way.

Mr. Carnes asked Mr. Gardner to read the minutes. Mr. Gardner replied that the motion was made by Ballard and there was a unanimous vote for approval of a Major Amendment to allow additional uses in a portion of Development Area A of PUD 221-A, with the new use subject to standard conditions of Site Plan and Landscape Plan approval, with a minimum setback of the tower of 150' from the apartment building.

Mr. Coutant stated there is right-of-way that is wider than the pavement area, and he needs to understand whether United States Cellular is to maintain the street right-of-way or the private property to the south of the street right-of-way that would be a part of the PUD. Mr. Carnes stated he does not believe the Planning Commission can tell anyone to maintain the public right-of-way.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, the TMAPC voted **8-0-0** (Boyle, Carnes, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Ballard, Dick, Edwards "absent ") to **APPROVE** the Plat Waiver for PUD 221-E subject to grading and/or drainage plan approval by the Department of Public Works in the permit process and utility company access to serve the proposed site with utilities.

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Z-6518 (Third Oak Grove Addition) (1292)

(PD-7)(CD-4)

North of the northwest corner of East 15th Street and South Cincinnati Avenue

TAC Comments:

Jones presented the request with Jerry Ledford and Bruce Bolzle present.

In regard to right-of-way, Bolzle agreed to dedicate an additional 4-5 feet for 15th Street if there was no landscape requirement. Jones stated he would check the zoning code to determine landscaping.

Z-6518 rezoned the subject tract from RM-2 to CS in March of 1996. The proposed use is a Luby's Cafeteria for which the applicant has submitted a site plan. The development proposes the closing of South Cincinnati Avenue and utilizes a leased property owned by the City of Tulsa.

Based on the existing subdivision plat, staff is supportive of the requested waiver subject to the following conditions:

1. Grading and/or drainage plan approval by the Department of Public Works in the permit process.
2. Utility extensions and/or easements if needed.

On the motion of French, the Technical Advisory Committee voted unanimously to recommend Approval of the Plat Waiver for Z-6518, subject to all conditions listed above.

TMAPC Comments:

Mr. Doherty reminded the Commission that this is the plat that the developer had requested the Commission to take a "leap of faith" with him when the Commission was rezoning some City property. At that time there was considerable discussion and hopes that it would turn out all right. Mr. Doherty feels it has turned out very well and is fully supportive of the project.

Chairman Carnes asked Mr. Bolzle if he is in agreement with staff's recommendation. Mr. Bolzle replied in the affirmative.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, the TMAPC voted **7-0-1** (Boyle, Carnes, Doherty, Gray, Horner, Midget, Pace "aye"; no "nays"; Ledford "abstaining"; Ballard, Dick, Edwards "absent ") to **APPROVE** the Plat Waiver for Z-6518 subject to grading and/or drainage plan approval by the Department of Public Works in the permit process and utility extensions and/or the granting of easements if needed as recommended by TAC.

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Lot-Split for Waiver of Subdivision Regulations:

L-18314 Christine Davison (1094)

(PD-17)(CD-6)

Southwest corner East 13th Street and 153rd East Avenue

TAC Comments:

Jones presented the application with Christine Davison, Terri and Tim McClure in attendance. Jeff Tuttle was present to represent the seller.

Jones and French explained the need and rationale for the right-of-way.

Tuttle presented an aerial photograph which shows development in the area.

French recommended that 153rd East Ave. is not a residential collector and only 25' of dedication is needed.

L-18314 is a request to split a tract approximately 5.71 acres in size into a tract 200' x 630' = 2.89 acres and a tract approximately 195' x 630' = 2.82 acres. Tract B will front along East 13th Street and Tract A will front along 153rd East Avenue, which gives each tract the required minimum lot width of 200' in an AG-zoned district.

The applicant has requested waiver of the required street right-of-way dedication along 153rd East Avenue of 30'.

Staff recommends denial of this request since 153rd East Avenue is a residential collector street and this would set a precedent in the area.

On the motion of Somdecerff, the Technical Advisory Committee voted unanimously to Approve Lot Split L-18314 only with the 25' of dedication for South 153rd East Avenue.

TMAPC Action; 8 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Boyle, Carnes, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Ballard, Dick, Edwards "absent ") to **APPROVE** the Lot-split L-18314 subject to the conditions and Waiver of the Subdivision Regulations to only require street right-of-way dedication along 153rd East Avenue of 25' in lieu of 30' required by the Major Street and Highway Plan, as recommended by TAC.

* * * * *

L-18324 Don Kentner (2492)

(PD-6)(CD-9)

908 East 36th Street

TAC Comments:

Jones presented the request with no representative present.

L-18324 is a request to remove a strip of land 6.28 feet by 67.69 feet from Lot 18 (Tract 1) and attach it to Lot 17 (Tract 2), Block 2, Peoria Park Addition. Both tracts contain single-family dwellings and the dwelling on Tract 2 has a carport which extends to the present property line. The owner (who owns both tracts) is asking to attach 6.28 feet to Lot 17, so Tract 2 will meet the minimum sideyard requirement of five feet. This will clear the title requirements so Tract 2 may be sold.

Staff has determined each lot will meet the bulk and area requirements for the RS-3 district; however, due to the configuration of the splits, the lots will have more than three side lot lines. Therefore these lots will not comply with Tulsa Subdivision Regulations.

Approving this lot-split will not change density or create problems for the surrounding area.

On the motion of Miller, the Technical Advisory Committee voted unanimously to recommend Approval of the Lot-split L-18324 with no conditions.

TMAPC Action; 8 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **8-0-0** (Boyle, Carnes, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Ballard, Dick, Edwards "absent ") to **APPROVE** Lot-split L-18324 as recommended by TAC.

CONTINUED ZONING PUBLIC HEARING:

Application No.: PUD 364-C (PD-26)(CD-8)

(Major Amendment to add a children's nursery use to the permitted uses)

Applicant: Henry Penix

Location: Northeast corner 97th Street South and South Mingo Road

Presented to TMAPC: Henry Penix

Staff Recommendation:

The applicant is proposing a major amendment to PUD 364 to allow a children's nursery as a permitted use in Office Area "B" of the original PUD. This area contains approximately 4 acres and is permitted up to 31,800 sf of office buildings which cannot be over two stories in height. Current building setbacks are 50' from Mingo Road, 25' from 97th St. and 10' from the abutting single-family lots.

It is staff's belief that a children's nursery is as compatible a use as the currently approved office is proper development standards are applied.

Therefore, staff recommends **APPROVAL** of PUD 364-C subject to the following standards:

1. Development Standards
 - Land Area: 4 acres
 - Permitted Uses: Use permitted by right in an OL district and children's nursery

Maximum Building Floor Area:*	
Office Uses:	31,800 sf
Children's Nursery:	12,000 sf
Minimum Building Setbacks	
From R/W of Mingo Rd	50'
From R/W of 97th E. Ave.	25'
From other boundaries	20'
Maximum Building Height	
Offices	2 stories
Children's Nursery	1 story
Children's Playground Setbacks	To be determined by TMAPC during Site Plan review.
Minimum Open Space	40% of lot
Signs:	Shall comply with the requirement of the PUD Chapter for office use.

*This area included within PUD 364-C shall be developed as either office uses or a children's nursery but not both.

2. Vehicular access to PUD 364-C shall be allowed only from Mingo Road and only in a location approved by the City Traffic Engineer. Adequate drop-off vehicle storage shall be provided.
3. The exterior building materials and architectural style of all building shall be reviewed and approved by the TMAPC at the time of Site Plan approval.
4. No Zoning Clearance Permit shall be issued for a development area within the PUD until a Detail Site Plan for the development area, which includes all buildings and required parking, has been submitted to the TMAPC and approved as being in compliance with the approved PD Development Standards.
5. A Detail Landscape Plan for each development area shall be submitted to the TMAPC for review and approval. A landscape architect registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences have been installed in accordance with the approved Landscape Plan for that development area prior to issuance of an Occupancy Permit. The landscaping materials required under the approved Plan shall be maintained and replaced as needed, as a continuing condition of the granting of an Occupancy Permit.
6. No sign permits shall be issued for erection of a sign within a development area of the PUD until a Detail Sign Plan for that development area has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
7. All trash, mechanical and equipment areas shall be screened from public view by persons standing at ground level.

8. All parking lot lighting shall be directed downward and away from adjacent residential areas. Light standards shall be limited to a maximum height of 8 feet.

9. The Department of Public Works or a Professional Engineer registered in the State of Oklahoma shall certify to the zoning officer that all required stormwater drainage structures and detention areas serving a development area have been installed in accordance with the approved plans prior to issuance of an Occupancy Permit.

10. No Building Permit shall be issued until the requirements of Section 1107E of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the restrictive covenants the PUD conditions of approval and making the City/County beneficiary to said covenants.

11. Subject to conditions recommended by the Technical Advisory Committee during the subdivision platting process which are approved by TMAPC.

Applicant's Comments:

Henry Penix, P. O. Box 8010, 74101, stated he is in total agreement with staff's recommendation.

Interested Parties Comments:

Jim Sturk, 9940 East 97th Street, stated he is the president of the Woodbine Homeowners Association and as such represents the association members in his comments today. Mr. Sturk informed the Commission that the association is well represented today by members of the neighborhood and asked for a "show-of-hands" of Woodbine residents to confirm his statement. Mr. Sturk stated the Commission may find there are many opinions as there are hands; however, he represents the Board and the Association.

Mr. Sturk stated the Association recognized the work staff has performed. Mr. Sturk asked the Commission to recognize that some of the comments and concerns were made prior to changes on the proposal. Mr. Sturk expressed appreciation to the Commission for continuing this item due to another zoning issue and school session on the same day.

Mr. Sturk indicated there are two issues to be addressed. The first is the utilization of the property in question. Obviously that is Mr. Penix and his nursery. The second issue has to do with traffic and traffic safety on 97th Street, Mingo and the general area. Mr. Sturk feels that there is unanimous agreement to avoid 97th Street, which is what the recommendation is.

From the property-use point of view, the Commissioners have a petition from the Woodbine Association that gave everyone an opportunity to voice their view as to whether the proposal should be approved or not be approved. Due to the time limit, the petition was written such that if one opposed this utilization then he/she signed. The petition represents the views of approximately 117 of the 143 homes, with 106 opposing the change in utilization.

The reasons for opposition varies from the impact on traffic volume, traffic speed, traffic flow within the neighborhood proper and at the 97th and Mingo intersection, the effect on the property value and the impact on the homes adjacent or across the street from the proposed facility and possible increase in crime or other reasons the individuals may inform the Commission about. Mr. Sturk stated that there is a very distinct difference between any kind of commercial facility being adjacent to the neighborhood or in the neighborhood. Originally, the proposed facility was to be accessed on 97th Street, and that would place the facility in the neighborhood. The Mingo access would place the facility adjacent to the neighborhood. Mr. Sturk stated this is a very distinct difference if one lives and drives in the neighborhood.

The Association feels that that any utilization of the property should not ever access 97th Street because there are very valid and very good reasons not to, based on traffic. Mr. Sturk indicated there is a traffic study included as a part of the Association's submittal. Again, the reason for the opposition is the traffic, traffic safety and pedestrian safety in the neighborhood.

Mr. Sturk indicated that serious problems exist at this location and will impact neighborhood. The maps indicate that 97th Street proper looks nice; however, when driven there are hills, a very restrictive sight line and cars approaching each other from the opposite sides have to zigzag. That is concurrent with a sidewalk that has been installed to allow access for the children from Woodbine area to Cedar Ridge School and is also within 100-120 feet of where any access on would have to be on 97th Street for any facility. Mr. Sturk emphasized that the area is already congested, dangerous and not a good place to install a road.

If the access is placed on Mingo, which is staff's recommendation, Mr. Sturk feels it must be done with due regard to traffic and traffic safety issues. There is an existing problem accessing Mingo from the neighborhood due to the hills to the north and south which limits the sight, Highway 169 junction exit and high rate of speeding traffic. Mr. Sturk indicated that most of the neighborhood, while stopping in either direction of Mingo, are routinely checking the rearview mirror because of what might happen behind them. Mr. Sturk confirmed the traffic safety issue by informing the Commission that while he was out taking pictures, a car swerved off the road to avoid hitting another car from behind. The following day, a traffic collision had occurred.

In summary, Mr. Sturk that the Association is opposed to any development, now or in the future, that would access off of 97th Street. This would allow protection of the neighborhood interior. If the proposed facility is approved with the Mingo access, the Association asks that due care be taken to reduce the risk in the area. If approved, he asked that use of the property be limited from the point of approval on. Also, if approved, the Association would like to be represented, at some point in time, during the site plan review.

Mr. Sturk stated as a resident of Woodbine, he personally believes this is a reasonable approach to the use of the property. Mr. Sturk stated he respects his neighbors and their points of view, but he feels this is a very reasonable approach. Mr. Sturk complimented Mr. Penix and staff for their efforts in trying to resolve the problem.

Brute Wolfe, 9915 East 97th Street South, stated that at the meeting the Association completely opposed to the amendment. Mr. Wolfe stated the Association is opposed to any commercial development of this property whether it is access from 97th Street or Mingo Road.

Kurt Sparkman, 9922 East 97th Street, 74133, stated he wanted to clarify the numbers quoted as traffic counts. Mr. Sparkman stated that Mr. Penix informed the Association that he would have 195 children at the daycare. That means that, unless some are carpooling, there would be over 400 trips into the facility per day and this traffic would not be dispersed throughout the day like a doctor's office or dentist. The traffic will be concentrated in the first two hours of the day, when the residents will be leaving the subdivision to go to work or school, and at the last two hours of the day when the residents will be returning. This will concentrate the traffic and cause more of a traffic hazard.

Steve Burden, 9843 East 96th Place South, stated he concurs with Mr. Sparkman. Mr. Burden stated there will also be twenty-five employees at the facility and four vans for transportation. The patrons will be transported across 97th Street to and from the school as part of the services allowed in the daycare facility. This more than extends the traffic and trip projections of the staff and feels it needs to be reevaluated. Secondly, Mr. Burden stated with the use of the child care facility, the Mingo access is definitely preferable than to 97th. However, it does not eliminate the traffic problems that are present.

Mr. Burden stated he was the Chair on the Petition Committee and there are 185 signatures opposing the change in utilization to include the daycare facility. The petition did not oppose access to the property. The access is the property owner's right. Mr. Burden stated that a 31,000 square foot office building is a possibility that has been on the books since 1984 and the Association is willing to take the risk of the office building.

Jeff Linton, 9624 South 98th East Place, 74133, stated his property is directly adjacent to Mr. Penix's proposal and he is in favor of the amendment. Mr. Linton stated he is willing to give some with the zoning change as opposed to having a 31,000 square foot office building directly behind his home. Mr. Linton stated that a petition was circulated among the owners within three hundred feet of the property and he believes five or six of the eight or nine houses directly affected voted to approve the amendment. Mr. Linton stated he is also sensitive to the traffic issues of all the neighbors; however, he feels his property is directly affected and he does not want a two-story office building behind his home. He was assured by Mr. Penix that a quality facility will be installed and Mr. Penix has given him every indication that he is willing to work with the Association to provide whatever relief and assistance the Association may need to limit any traffic problems.

Jerry Zimmerman, 10118 East 98th Street, 74133, stated he was one of the individuals who signed the petition opposing the daycare center. However, upon listening to the discussion over the last hour he has changed his mind. Mr. Zimmerman believed the point of access was to be on 97th and it has become clear to Mr. Zimmerman that that will not happen. Mr. Zimmerman stated he was not willing to support the change when the health and safety of his three children are involved. Mr. Zimmerman stated he prefers the 12,000 square foot daycare center with reports that indicate the traffic will be three to five times less likely or less intense than a 31,000 square foot office park.

Steve Milam, 9959 East 97th Street, stated he opposes the daycare center. He stated his concern is in regard to safety and the safety of children. Mr. Milam stated there are probably rules established at the school and daycare in regards to crossing the street. However, with approximately 200 children at the daycare there are bound to be brothers and sisters at the elementary school and whether there are rules or not, the children will attempt to cross the busy streets. Mr. Milam feels this will cause a hazard to the school and the daycare center. Again, Mr. Milam stated he does not know the procedures for the children to be transported to the school, but the children crossing the street at 97th will be a hazard.

Gerald R. Saucerman, 9820 East 96th Place South, stated he has lived at this location for five years and have seen the traffic increase over the years. Mr. Saucerman stated he owns five businesses and every time he performs a business site selection, he takes into account the safety of the people, including employees and customers, and the community. Mr. Saucerman feels that people are not in their right mind to put a business that is going to access either 97th Street or Mingo at this location. Mr. Saucerman stated he and his wife were gone during the time the petition circulated and requested that their names be added as opposing the change.

Mr. Saucerman stated there is another piece of commercial property within a half-mile of this location. This property has good access. Mr. Saucerman stated he would take the chance on the office building because he feels no one will invest money to put property at this location.

In regards to the sidewalk, Mr. Saucerman stated there is traffic coming in from outside of Woodbine coming up to the sidewalk and dropping off children, making the circle and driving back out. By putting the sidewalk in, the traffic has increased in side 97th Street. With the addition of the daycare, Mr. Saucerman feels there will be cross-traffic with no guards, which and makes a very dangerous situations.

Mr. Saucerman feels that three mistakes have been already made and there does not need to be another one. The first was when the developer was allowed to put the entrance and exit at the bottom of the draw. The other was when the Cedar Ridge School was allowed to be built without taking down the hill. The third was when Highway 169 was installed and the hill to the north had to be built higher to accommodate it. Mr. Saucerman feels there is no need to compound the area further and suggested moving the facility farther down the road.

Dale Hebron, 9728 East 97th Street, 74133, stated he lives directly across from the proposed facility. Mr. Hebron indicated on the map the location of his property and the path walkway. Mr. Hebron stated the path walkway is located on his property and not public property, which was something that had been negotiated with the school. Mr. Hebron stated that there are approximately 35 children per day that utilize the path. The original plan showed a sidewalk directly opposite of the existing path.

Mr. Hebron feels this is a bad situation. This is the only entrance for the 143 homes in the subdivision, plus the traffic for the approximate 200 children from the daycare and approximately 500 students from the school. Mr. Hebron expressed that the current site distance is not enough to prevent accidents and when the traffic is increased, there is a potential for a terrific accident. Mr. Hebron stated he does not want the increase of noise generated from the traffic.

Steve Roll, 9837 East 96th Place South, stated he agrees with the arguments that were given in opposition to the amendments. Mr. Roll mentioned that the applicant told him he performed a demographic study of where he would draw his clients from. Cedar Ridge is across from Woodbine and is full of young families, Mr. Roll knows the study was for business purposes. Mr. Roll feels this area is a disaster and there is no way to tolerate the crossing from Woodbine and Cedar Ridge.

Mr. Roll also feels that Mingo is an accident waiting to happen. The high speed of traffic on Mingo will make it impossible to stop for people are coming in and out on Mingo. Mr. Roll stated he does not believe the book on traffic counts and feels there will be 500 or more trips per day. Mr. Roll informed the Commission that they do not live there and get out every day and fear for their lives. Mr. Roll is amazed that there have not been major traffic accidents; however, he feels it will happen and this will only increase the potential.

Mr. Roll stated there are not any plans on the books to widen Mingo, and they are at least five years away from 101st and Mingo having traffic signals and the school. Mr. Roll stated it is not a safe place. He emphasized that he is opposed to anyone coming in and will do anything he can to deal with it.

Tom Baddley, 9944 East 97th Street, stated that the change Mr. Penix has proposed in that the access be on Mingo in lieu of 97th makes his request more tenable than it was previously. However, the continuation of the traffic problem creates severe jeopardy as far as Mr. Baddley is concerned. Mr. Baddley is concerned that Item No. 6 was passed or delayed until after this item was heard that refers to the same property, and if there is any way that he might be given some indication as what that might be as far as a plat. This information might have some implications as to their particular stance at this point.

Carl Wagner, 9842 East 96th Place South, stated that he is opposed the major amendment. Mr. Wagner expressed he wanted to correct a statement made earlier in regards to the homes immediately within the 300-foot distance of the proposed site. Mr. Wagner feels that was not true that a majority favored it, in that the majority were opposed to the facility. Mr. Wagner stated that 3 out of 8 were in favor of and 5 out of 8 were opposed.

Mark Reents, 9820 South 100th East Place, stated he is a residence of Woodbine and is opposed to the development of the daycare center and this particular facility; however, he is not opposed to development. Mr. Reents understands that something will go there some day. In the event that this Commission decides that this use is appropriate and approves the major amendment to the PUD, Mr. Reents requested that certain conditions, that have not been taken into consideration as yet by the Planning Commission, be adopted. Mr. Reents directed the conditions to Mr. Doherty, believing that Mr. Doherty is the Planning Commission Liaison.

Mr. Reents requested that a condition be placed to require, if the property is platted, a limits of no access to be placed on the plat on 97th Street to prevent any future access from that tract of land onto 97th Street. In the event that a limits of no access is placed on the plat, it would take the City of Tulsa approval and two-thirds majority of the owners in the Woodbine Subdivision to amend it. Mr. Reents stated he is not aware of the requirement, but that is his proposal.

Mr. Reents stated the entrance in to Woodbine is a park-serene like area and is one of the reasons he bought in the subdivision. It has a country atmosphere and would like to keep it that way. To that extent, Mr. Reents offered some compromise in the event that the Commission approves the amendment.

Mr. Reents pointed out the screening issue. Mr. Reents believes staff has recommended screening and he believes that is with post oak trees. Mr. Reents requested that shrubbery be used. Mr. Reents stated he does not want gray fences that will be located along the serene-like area.

The next issue is trash and mechanical equipment. Mr. Reents requested that a condition be placed on the screening of the trash and mechanical such that the location of the screening cannot be seen from 97th Street. Mr. Reents feels the northeasterly edge of the building might be the better place.

Finally, Mr. Reents asked that a restriction be placed on the building that the building materials be no less than those standards already in the Woodbine Subdivision. Mr. Reents stated that he is opposed to the proposal; however, in the event that the Commission decides to approve the proposal, he requested that the mentioned conditions be placed on the subdivision plat in addition to those requirements set forth by the Planning Commission.

Thad Forrester, 9953 East 97th Street, pointed out all the development that is occurring to the south of Woodbine. In regard to the traffic issues, this area is the conduit to Highway 169. Mr. Forrester stated that every day everybody to the south travels up Mingo to access Highway 169. There is also development occurring on 101st just to the west of Mingo, indicated by AG on the map. Just below Woodbine Subdivision, an area indicated as RM-O on the map has just filled up. The areas indicated by RM-1 and RM-2 are currently under construction. Mr. Forrester feels the traffic count is going to be so great that he does not feel the traffic engineers, three years from now, would permit any commercial operation or additional commercial operation on Mingo. Mr. Forrester stated

he feels that, looking at this situation at a longer view, three to four years from now, the traffic will be so great on Mingo that it will not support any commercial enterprises or would be a safe circumstance for the one proposed today. Mr. Forrester stated that he is against the proposal.

The following persons signed up as interested parties but did not speak:

Marilyn Hebron, 9728 East 9th Street, 74133; W. B. Sheehan, 9831 East 96th Place, 74133; Kathy Horn, 10208 East 98th, 74133; Susan Oare, 9726 South 102nd East Avenue, 74133; Nancy Lowery, 10226 East 98th Street, 74133; Cindy Gill, 10010 East 98th Place, 74133; Sheila Mason, 10021 East 98th Place, 74133; Cathy Tipton, 10028 East 98th Place South, 74133; Brian Tipton, 10028 East 98th Place South, 74133; Tommy Wilson, 9925 East 97th Street, 74133; Jim Crowe, 9702 South 101st East Avenue, 74133; 74133; R. G. Lowry, 10226 East 98th Street, 74133; Jerry Emanuel, Sack and Associates, 111 South Elgin, 74130; Barrick Rosenbam, 11002 East 51st Street, Suite A, 74146; Larry and Sharon McDonald, 9910 East 97th Street, 74133; Jennifer Wolf, 9917 East 97th Street, 74133; Richard Bordelon, 10022 East 98th, 74133; Kim Minihan, 10037 East 98th, 74133; Sondra Lyman, 9827 East 96th, 74133; Anna Niles, 9814 East 96th Place, 74133; Bill K. Haynes, 9824 South 100th East Place, 74133; Denise E. Haynes, 9824 South 100th East Place, 74133; Shirley A. Sellers, 10020 East 98th, 74133; Natoma Stephens, 10003 East 98th Place, 74133; Tracey Swain, 9701 South 101st East Avenue, 74133; Sarah J. Been, 9710 South 101st East Avenue, 74133; Judy Forrester, 9953 East 97th Street, 74133; Guy Dvirinck, 9632 South 98th East Place, 74135; Teri Griffin, 9826 East 96th Place, 74133; Annette Birt, 9805 East 96th Place, 74133; Pam and Ed Uyttebroek, 9818 South 99th East Avenue, 74133; Nancy and Gerald Hatfield, 9812 South 99th East Avenue, 74133; Kevin Wylie, 9821 East 96th Place, 74133; Mark Ramsey, 9956 East 97th Street, 74133; Donna Wooten, 9637 South 102nd East Avenue, 74133; Stephanie Patton, 9631 South 102nd East Avenue, 74133; Kimberly Knapp, 10204 East 98th Street, 74133; Ken Blount, 9928 East 97th Street South, 74133; Ernesto Armendariz, 10106 East 98th Street, 74133; S. T. Thar, 9931 East 97th Street, 74133; U. T. Le, 9943 East 97th Street, 74133; Ronald Phillips, 9828 South 100th East Place, 74133; John A. Sellers, 10020 East 98th Street, 74133; Patty Costner, 10101 East 98th Street, 74133; Terri Wilson, 9849 East 96th Place, 74133; Jon Wagnor, 9842 East 91st, 74133; Donna Wylie, 9821 East 96th Place, 74133; Gerald K. Pollard, 9725 South 99th East Avenue, 74133; Donna Chapman, 9856 East 96th Place, 74133; Sheffa Stauder, 9712 South 99th East Avenue, 74133; Tim Minihan, 10037 East 98th Place, 74133; Dan McKean, 9623 South 98th East Place, 74133; Sandy Kile, 10102 East 98th Street South, 74133; Debbie Woodruff, 9907 South 100th East Place, 74133; Margaret Barth, 10016 East 98th Place, 74133; and Suzanne Penni, 9719 South 102nd East Avenue, 74133.

Applicant's Rebuttal:

Henry Penix stated that his wife and he own Koala Care Preschool and Learning Centers and have been serving the Tulsa area for over ten years. Mr. Penix feels if the Commissioners have seen some of the projects that he has undertaken, the Commission

would see that he stands for an upper-quality type facility. The facility are typically full-brick and he proposed that this facility will be full-brick as well. Asphalt shingles will also be used to match the neighborhood. This particular facility will be a dark brick with white trim and the dark asphalt shingles to blend in with and accent the neighborhood.

Mr. Penix feels that most of the people are opposed to this particular development were unaware that this piece of property was already zoned OL. Mr. Penix has been through this process several times and he feels the property owners were not aware of the OL zoning at the time of purchase. However, when he takes on a business venture, he looks at these items before he purchases and finds out what should and could go in.

Mr. Penix stated there is only one access to the subdivision. There was another access granted to the subdivision, but the Association come before the Board and requested to barricade it. Again, Mr. Penix stated he does not know if the owners fully understand the extent that these types of changes bring.

Mr. Penix presented the petition with the majority of the homeowners whose property is directly against the proposed facility and in favor of the facility. Mr. Penix presented a picture that was passed around at a meeting with the homeowners association, pointing out that the color is not that of the proposed facility, which will be presented during the site plan review phase. Mr. Penix feels that the Association was opposed due to the access on 97th. Mr. Penix stated that he has worked and added \$30,000 to the development cost to change the access to Mingo. The Mingo access was previously approved approximately eight years ago. Mr. Penix stated that the access will have to cross a drainage ditch and will have to be built up and in turn increase the development cost.

Mr. Penix stated he has changed the access to Mingo not only for the Association but for his clients as well, because he does not want his clients to try to access 97th Street and there be congestion. Mr. Penix stated he has met with Traffic Engineering and worked with the President of the Homeowners Association and Mr. Stump to come up with the best plan possible. Mr. Penix feels he has done everything possible to put a quality facility on the property and develop the use to one-third the intensity of what is already granted to be there, and to make it a service to the community like he has in the other facilities.

TMAPC Comments:

Mr. Horner questioned whether there were studies or reports made in regards to the traffic counts as they exist today and if the daycare existed. Mr. Gardner replied in the affirmative and asked Mr. Stump to provide the information.

Mr. Stump reported that staff used the International Traffic Engineer Handbook on Traffic Generation. Mr. Stump stated there are ranges for all the uses; however, in using the figure for medical offices for the 31, 800 square feet it would generate about five times as many trips per day as the daycare center. The figure for general offices, if developed to the maximum of the 31, 800 square feet allowed, it would generate approximately three times as many trips per day as the proposed daycare center.

Mr. Stump informed the Commission that staff used the high-end for the estimate on the daycare in the ranges listed, which was 228 trips per day for a 12,000 square foot structure. For medical offices, staff used the average trip generation, which would produce 1,088 trips per day and for general office using the average would produce 647.

Mr. Doherty questioned if all access will be on Mingo and not any on the street that accesses Woodbine. Mr. Penix replied in the affirmative.

Chairman Carnes stated that all letters and persons signed in will be included as part of the record.

Chairman Carnes reminded the Association that the land owner has the right now, without coming before the Commission or the City Council, to build 31,000 square feet of office development. The persons signed in as interested parties will be notified of the site plan review.

Mr. Midget questioned whether there is a way to limit the use or type of development as a protection to the neighborhood in the future.

Mr. Doherty informed Mr. Sturk that the best protection in this case is that any change of use would require a change in the detail site plan. Mr. Doherty stated that the Commission has review authority over the detail site plan. Mr. Doherty stated that the Association is very clearly and for very good reason on record as not wanting non-residential access to 97th Street. Any change in the future of the site plan would require Planning Commission review and notice of interested parties. Mr. Stump stated that another assurance would be that besides the limits of no access on the plat, on the north side of the 97th and adjacent to this property, there is a requirement to record a subdivision plat of this four-acre tract and if that becomes a condition of the PUD, there would also be a requirement to show the limits of no access along 97th on the land owner's plat as well. Any time the land owner wants to get access beside the revised site plan, the land owner would have to come back before the Planning Commission to amend the plat to allow access.

Mr. Boyle questioned whether the Association was opposed, but due to the change of access on Mingo, the Association is now in support of the facility. Mr. Sturk stated that the petition is in opposition of the facility. Mr. Sturk believes that if the traffic issue is resolved, the neighborhood would support the development. Mr. Boyle questioned if the resolution is that the access be on Mingo than on 97th. Mr. Sturk replied that access on Mingo is satisfactory. Mr. Doherty stated that the access on Mingo should be placed as thoughtfully as possible to avoid conflict with the school.

Mr. Carnes questioned the Commissioners if they would vote to not to have any access on 97th Street. Mr. Midget stated that it is important to protect the integrity of the neighborhood, and if a proper motion was called he would vote. Mr. Boyle agrees with Mr. Midget that the Commission should not be voting on pieces of the proposed facility. However, Mr. Boyle questioned if the access is placed in a reasonably chosen place on Mingo, whether the Association would support the project. The Association replied in the negative.

Mr. Doherty questioned again whether the Association understands that a 31,000 square foot, two-story office building could be put on the property and there is nothing legally that can be done to stop it. Mr. Boyle stated that if the Commission continues to poll the audience, it will only become a riot. Mr. Doherty stated he addressed his question to Mr. Sturk.

Mr. Boyle questioned Mr. Sturk if this proposed daycare would increase the likelihood of crime. Mr. Sturk replied anything that increases the volume of traffic in the neighborhood would increase the likelihood of crime. Mr. Boyle questioned Mr. Sturk if he believes that this proposed use would increase the traffic over the office building. Mr. Sturk replied in the negative and that the comment was made in regard to the access being on 97th Street.

Mr. Doherty questioned whether Mr. Wolfe understood that an office building is currently allowed. Mr. Wolfe indicated that he understands that an office building is currently allowed; however, he is prepared to deal with that issue if and when it comes up. Mr. Carnes stated that by right, if someone wants to come in and building a 31,000 square foot office building it is allowed. Mr. Boyle stated he wants the Association to understand that if the Commission denies this request, one of the very likely possibilities will be a much more intense use. Mr. Wolfe stated he is not qualified to reply but perhaps one of the other neighbors would be. Mr. Boyle questioned Mr. Wolfe if he would be willing to take the chance that the Commission denies the daycare and tomorrow the construction begins on the larger facility. Mr. Wolfe replied he does feel this is a chance or gamble. Mr. Midget stated it is.

Mr. Doherty stated that the hazard Mr. Milam described is a concern and questioned as to how the children from the northern part of Woodbine get to the school. Mr. Milam replied there is a fenced area with a small walkway. Mr. Doherty stated there are children already walking in the street and there is an existing hazard. Mr. Milam replied in the affirmative; however, he is concerned that when school is let out the children coming over to meet the other family members.

In regards to Mr. Wagner's statement, Mr. Doherty stated the signatures in favor of the facility were Charles Collins, Tom Birt, Dick McEly and Jeff Linton and two that were blank or in the position of opposing.

Mr. Doherty replied to Mr. Reents' statement that he is the Planning District Liaison for Woodbine. Mr. Doherty asked Mr. Linker, legal staff, to comment on what is legally possible in regards to the condition on limits of no access. Mr. Linker commented that it would be the same as changing zoning by consensus vote out in the neighborhood. This is done by action of the City Council and Planning Commission recommendation. Mr. Linker feels it would not be proper to put it to a vote of the neighborhood as to where limits of no access should be changed. Mr. Reents stated it could be done by agreement of the property owner. Mr. Linker stated that the property owner can agree to restrictive covenants on the property that are not a part of the consideration here or as to what the City could do. Mr. Reents said that if the property owner wanted to, he or she could put a restriction on himself limiting access to that land, in its current use and future use. Mr. Linker replied if the owner wants to agree to something like that, it is a different situation.

Mr. Doherty stated that the request by Mr. Reents for shrubbery in lieu of trees and fences is understandable because it will create a tunnel going in to the subdivision. However, the landscaping would best be handled during the site plan and landscaping plan phase. As a condition of the PUD they could establish that screening will be accomplished by landscaping and not by fencing on the southern boundary. As for the eastern boundary where there are abutting property owners, it the Commission's custom to take the property owners' desires into account more strongly than others in the neighborhood, since they have to live with it and look out their back windows at it every day. Without all the adjacent property owners present, Mr. Doherty feels it would be inappropriate to put conditions on at this stage, but noted that during the site plan and plat and landscape plan phases, those conditions would be appropriate and subject to discussion. Again, there are no promises or guarantees, but it is this Commission's long-time tradition of accommodating the needs of the property owners who back up to a non-residential facility.

Mr. Doherty questioned Mr. Reents if he would, in this case, settle for review of the elevation by the Planning Commission for appropriateness and compatibility with the neighborhood. Mr. Reents replied he does not know what Mr. Doherty means. Mr. Doherty stated he hesitates to put residential language from residential covenants into a PUD condition. Mr. Doherty agreed that the facility needs to blend with the neighborhood and look like a part of it as much as possible. Mr. Doherty feels the best route would be to provide for an elevation review of the design by the Planning Commission for compatibility and allow comment at that time. Mr. Reents stated that since this particular facility will be located so close to the residences, he asked that it blend with the residences.

Mr. Midget expressed that this is a better development project compared to what could be constructed at this site by right. Mr. Midget stated that the conditions requested by Mr. Reents could be considered at the appropriate time. Mr. Midget stated he asked earlier what process the Commission could take to ensure that a higher intensity use would not be allowed in the future, and asked the Commission to take that into consideration.

Ms. Gray stated she is torn with the application because she is in the neighborhood often and knows there was a problem with the bridge at the crossing. However, Ms. Gray feels that if the neighborhood takes the chance on the office building, the neighborhood will pay for it later. Ms. Gray stated that the ones who lived in Woodbine or knew of Woodbine prior to the expressway going in would have never thought the expressway would go around the area. Ms. Gray expressed the need to look at the development of businesses, Albertson's, Wal-mart, and others, in the area. Ms. Gray stated businesses like these do not come in to an area unless there is potential for growth of other commercial.

Ms. Gray stated that light office is not restricted from 7 or 8:00 a.m. to 5:00 p.m. With the different uses that could go into light office, there could be doctor's offices that could be open until 9 or 10:00 p.m. and there is nothing the Commission can do about that. There are also other types of business that could come in because it is already zoned. Ms. Gray expressed that zoning cannot be fought. Ms. Gray feels that Mingo will be widened in the

future. Overall, Ms. Gray feels this is a quality daycare that will serve the neighborhood and not some social service that installs a light office or doctors office that will be open from 7:00 a.m. to 10:00 p.m., having people come in that the neighborhood has no say so about.

Ms. Gray acknowledged the traffic problem, but said if that is the only problem, that is what the Commission and staff is here for. Ms. Gray stated there is continuing growth in the area and used the golf course located at 51st and 145th as an example. Ms. Gray feels there will be continuing growth and the neighborhood will not be able to stop it. However, Ms. Gray feels that the lesser intensity use would be the daycare. Ms. Gray stated she is not for the daycare because it is accessed by only a two-lane street; however, development cannot be stopped and the daycare is the lesser intense.

Mr. Boyle stated that after reading the materials, petitions and information he assumed this would be, for him, an easy call because the entire neighborhood is opposed to the facility and he would follow the neighborhood. That is not the case. There are some who are for the facility. Mr. Boyle stated if there are four homeowners with immediate abutting property who are in favor, then that speaks volumes to him. Mr. Boyle stated that the Commission also has to weigh the rights that Mr. Penix has to develop his property. Mr. Penix owns the property and is entitled to develop within certain guidelines.

Mr. Boyle stated that the comment made that the Commissioners do not live in Woodbine and do not deal with the traffic problem is correct. That is why Mr. Boyle encourages people to come together and work out a solution that make everyone happy. However, that was obviously not possible in this case. Mr. Boyle stated given all the factors, he would have to support the application.

Mr. Doherty pointed out that the one argument in regards to taking the chance on another type of commercial adventure, that no one in their right minds would put money in this particular tract, may very well be true; the question that arises is what is an appropriate use for the tract. Mr. Doherty feels it is not fair to the community, general tax payer base or to anyone to require the tract to remain a green space forever. Mr. Doherty feels a more palatable use than the daycare.

Mr. Doherty knows the residents, by and large, are not going to be happy with the daycare, but Mr. Doherty is afraid the alternative would be worse. Mr. Doherty stated he supports, with some reservation, the application. Mr. Doherty feels the suggested conditions by Mr. Reents are good.

Mr. Doherty complimented the homeowners association for the way they have met and negotiated in a professional manner, and Mr. Sturk in particular for a very professional and thorough presentation, including the traffic study which was useful. He thinks it was very constructive. Mr. Doherty feels that working with the Association as the project progresses will shape this into as compatible a development as possible.

Mr. Midget questioned if the use could be protected. Mr. Doherty replied he thinks that legally there is not a concern because once the project is passed the site plan and plat, any change in use will require a major amendment to the Planning Commission for review and recommendation and final approval by the elected officials of City Council.

Mr. Carnes stated that when an application consists of a one-story building utilizing only one-third of the allotted space, he feels it is the best the neighborhood will get.

Mr. Gardner pointed out for future references that if one of the conditions for approval was that if the 12,00 square foot daycare fails, the building can be used for office. However, if the building is to be enlarged or removed, the TMAPC would have to review it as a major amendment.

TMAPC Action; 8 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Boyle, Carnes, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Ballard, Dick, Edwards "absent ") to recommend **APPROVAL** of the Major Amendment PUD 364-C to add a children's nursery as a permitted use subject to the conditions as recommended by staff and the following conditions by TMAPC. That limits of no access be placed on 97th Street, the screening required on 97th Street be of a landscaping nature and not a screening fence, that trash and mechanical be placed as unobtrusively as possible and screened by landscaping, fence or other appropriate means from view of the neighborhood and 97th Street, and in addition in the Site Plan review process, that an elevation sketch and detail be submitted to the Planning Commission for review and approval.

Legal Description for PUD 364-C:

A tract of land that is part of the SW/4 of Section 19, T-18-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma, said tract of land being described as follows, to-wit: starting at the Northwest corner of the SW/4 of said Section 19; thence S 89°52'13" E along the Northerly line of the SW/4 of Section 19 for 572.11'; thence S 30°00'00" for 476.53'; thence due West for 79.31'; thence N 56°00'00" W for 76.92' to a point of curve; thence Northwesterly and Westerly along a curve to the left, with a central angle of 34°00'00" and a radius of 128.62' for 76.32' to a point of tangency; thence due West along said tangency for 118.85' to a point on the Westerly line of Section 19; thence due North along said Westerly line for 348.98' to the point of beginning of said tract of land, and located on the northeast corner of East 97th Street South and South Mingo Road, Tulsa, Oklahoma.

ZONING PUBLIC HEARING:

Application No.: PUD 260-C-4

(PD-18)(CD-7)

(Minor Amendment to increase signage)

Applicant: Bruce Anderson

Location: East 71st Street and South Zurich

Presented to TMAPC: Bruce Anderson

TMAPC Action; 8 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **8-0-0** (Boyle, Carnes, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Ballard, Dick, Edwards "absent ") to **CONTINUE** the Zoning Public Hearing PUD 260-C-4 to September 4, 1996 to provide revised notice.

There being no further business, the Chairman declared the meeting adjourned at 3:15 p.m.

Date Approved: 9-4-96

 X
Chairman

ATTEST: 
Secretary