

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 364
Tuesday, September 21, 2010, 1:30 p.m.
County Commission Room
County Administration Building, Room 119
500 South Denver

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair
Osborne, Secretary
Tyndall
Walker, Vice Chair
Dillard

Alberty
Cuthbertson
Sparger

West, Co. Inspector

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 10th day, August, 2010 at 8:33 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Charney called the meeting to order at 1:35 p.m.

Mr. Cuthbertson read the rules and procedures for the County Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Charney, Dillard, Tyndall, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Minutes of August 17, 2010 (No. 363).

Mr. Bryan Osborne entered the meeting at 1:33 P.M.

NEW APPLICATIONS

Case No. 2229-A-Avalon Family Services of Oklahoma

Action Requested:

Amendment of a condition of a previous approval (CBOA-2229) to permit the treatment of a co-ed (female and male) population at the existing treatment center.

Location: 6101 North Cincinnati Avenue

Presentation:

Eric Gray, 13401 Railway Drive, Oklahoma City, Oklahoma; stated he is the Vice President and Corporate Counsel for Avalon Family Services of Oklahoma, LLC which is a wholly owned subsidiary of Avalon Correctional Services. Avalon Family Services is presenting this application to have a condition removed that was contained in a prior approval of an existing correctional facility at 6101 North Cincinnati, called the Turley Facility. The previously obtained approval limited the Turley Facility to a single sex, male or female but not both. Today Avalon is asking that condition be removed.

In 1997 a subsidiary of Avalon purchased the property known as the Turley facility on North Cincinnati from a group called the Freedom Ranch. At that time there were a group of cottages over the 35 acres that housed a variety of correctional population, male and female. After the purchase the cottages were torn down and Avalon built a single facility to house female offenders coming from the Department of Corrections. Avalon has a contract and has operated the facility since 1999 at the location on North Cincinnati in that manner. Oklahoma has the reputation as having the highest incarceration rate for females in the country per capita. The Turley facility is the only all female half-way house in the state.

These females are sent to Avalon by the Department of Corrections shortly before their release. Avalon helps them to obtain jobs, force them to save money so they will have money when they exit the facility, and there are a variety of programs, i.e., methods of reintegration into society. While these women are at Avalon they are given periodic drug testing and alcohol testing; they go out and work during the day and come back so there is a constant temptation and opportunity for the women but they are monitored to make sure the women are doing what they are supposed to do and where they are supposed to be.

The facility is staff secure. The staff is on duty 24 hours a day, seven days a week. Violations of the rules mean the women go back into the prison system and they do not get the opportunity to go out into the community. The advantage of half-way houses, for males and females, is it greatly reduces the recidivism rate. The biggest determinate of people who do not recidivate is they have a job, it is that simple. Although it is low tech, getting a person a job means they are less likely to go back to prison and that is what Avalon does.

Over the course of the last 15 years there have been several hearings before the Board of Adjustment concerning modifications and amendments to the Special Exception for the use of this facility. The last application was made in 2006. It was Avalon's request to increase the population to the Fire Marshall's capacity of 289; the allowed capacity was 150 by this Board's earlier use exception. Avalon asked for the increase to 289 so Avalon had the flexibility to take additional females into the Department of Corrections center. This Board granted that request in 2006, and at that time they placed the condition on the facility to be a single sex facility not co-ed.

Because of an increase in other Avalon facilities, the facility downtown, male offenders there, Avalon wants to take a wing of the Turley facility and house a population of males. This is a little different in the fact that it is our private pay program. The private pay program is essentially people who can pay for their own incarceration, who are being diverted from the prison system; they are not people who have a DOC number, they are people who have committed a DUI offense or something that was not serious enough for the judge to send them into the DOC system. The person has made a deal with the D.A. and the court, to be allowed to come to an Avalon facility allowing them to continue their employment, pay for their own incarceration which save the County and State money, and if they successfully complete the program they satisfy the court in that fashion. They are a very unique population and that is the population Avalon would like to place in the Turley facility because the DOC is sending more males to the other Avalon facilities.

Mr. Charney asked Mr. Gray how many beds for males would be in the wing of this facility, and Mr. Gray stated there would be approximately 60 males.

Between the dorms is the control room, the cafeteria, and our staffing so these populations would never co-mingle; they would be completely separated at all times. The populations would eat at separate times; they would never mingle in the outside yard in any fashion. Avalon has other co-ed facilities, larger and smaller, and operates them all successfully. Avalon would take a wing of the existing facility and make it an all male dorm wing. Avalon takes great pains to keep the populations separate and has been very successful in doing so.

Avalon has the support of the community which is represented by several letters. There are a number of entities that come to Avalon to put on programs. A number of churches come to the facility and offer religious services at Avalon. There are letters from the Sheriff's office, two public schools which are across the street from the Avalon facility on North Cincinnati, and a letter from the Girl Scouts who run a program in the facility.

The Board asked what the population number is today with just the females in the facility, and Mr. Gray stated there are approximately 200 females within the facility which is at its highest number. Avalon has never reached the allowed 289 population.

Mr. Osborne asked for clarification on the statement regarding the best reason to go co-ed at the facility is recidivism. Mr. Gray stated recidivism is the best reason to use a

half-way house not necessarily co-ed. Avalon is trying not to eliminate a population. There is the private pays and there is the Department of Corrections, and Avalon has limitation on their facilities and their space so Avalon is trying to find a place for everyone in a meaningful way. It is important to the State and important to the public that the system does not allow a person to walk out of prison with \$50 and a bus ticket home. Then if that person does not have a job, they have to go back to what they were doing before they were put into prison. When that person exits the Avalon facility they have a job, they have been forced to save a couple thousand dollars out of their wages and they have been given various opportunities. Those opportunities consist of GED opportunities, to attend A.A. meetings, various treatments for drug and alcohol addictions, gambling addiction, whatever the addiction should be. All these things are all part of reintegrating this population back into society. For the females, another big part of reintegration is with their families and that is what the Girl Scouts deal with. That is why it is very important the females continue to reside in the Avalon Turley facility. But since the all beds have not been used in the Turley facility, a good solution would be to take the isolated wing and use it for the males in the private pay program.

The Board asked if there were other companies in the area that perform the same service as Avalon, and Mr. Gray stated he did not think there were any. He thought Avalon was the only company that had a private pay program.

Mr. Osborne asked if there were any sexual offenders housed at the facility, and Mr. Gray stated no, not at this facility for any population due to the proximity to the local school. There can be people that have been arrested for possession of drugs, DUI, petit larceny, a wide range of crimes. It is left up to the discretion of the judge, the DA, the Public Defender, or the private attorney in making their deal with the court system, whether the person being incarcerated is appropriate for the private pay system like Avalon.

Mr. Charney asked if the facility on Archer was full and Mr. Gray stated that the facility on Archer is quickly approaching maximum capacity.

Interested Parties:

Louis K. Rooks, 220 East 61st Street North, Tulsa, OK; stated he objects to this facility becoming co-ed because this will increase the traffic flow to the facility. The Avalon facility vehicles and the visitor vehicles speed up and down 61st Street. Mr. Rooks stated he has called the Mayor's Action Line attempting to have speed bumps installed in the area. There is late night noise, so much so that he has called the police.

Mr. Osborne asked Mr. Rooks what were his thought on making the Turley facility a co-ed facility. Mr. Rooks stated he did not think it was a good idea because the women at the facility have propositioned him in the past and if men are brought into the facility, no matter how tight Avalon thinks they have made security women and men will find a way to be together.

Rebuttal:

Mr. Gray stated if there were a speeding issue he thought the local school would have brought that issue forward in the letter they wrote supporting the facility, but he knows the sheriff has not been called out regarding a speeding issue. There are eleven checks a day; it is not a facility where the residents roam free so we do know where the people are. This facility is accredited by the American Correctional Association which is a very rigorous process with many standards to meet, and there are internal quality controls that are maintained. Avalon typically houses non-violent offenders and the new residents will be private pay residents.

Mr. Charney asked if there was a way to route traffic to Cincinnati on visitation day and what are the visitation times, and Mr. Gray deferred to Ms. Alice Johnson.

Alice Johnson, Facility Administrator, 6101 North Cincinnati Avenue, Tulsa, OK; she stated there is a gate at the rear of the facility that could be utilized in an attempt to keep the traffic flow down in the residential area, and there is a parking lot at that gate also. Visitation is Saturday and Sunday, from 8:00 A.M. to 4:00 P.M.

Comments and Questions:

Mr. Charney asked Mr. Alberty if procedurally the Board can only address the request to remove the no co-ed condition was correct, and Mr. Alberty stated the Board can do anything in their motion that is related to the action under consideration.

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-1-0 (Charney, Osborne, Tyndall, Walker "aye"; Dillard "nay"; no "abstentions") to **DENY** the Amendment of a condition of a previous approval (CBOA-2229) to permit the treatment of a co-ed (female and male) population at the existing treatment center; finding that to remove the restriction would be detrimental and injurious to the neighborhood; for the following property:

SW NW LESS W/2 NW SW NW & LESS W50 THEREOF & LESS S30 THEREOF FOR RD SEC 1 20 12

Case No. 2384-Teresa Tosh

Action Requested:

Special Exception to permit a mini-storage facility and boat and RV storage (Use Unit 16) in a CS district (Section 710); a Special Exception to permit a single family dwelling, or apartment in conjunction with the mini-storage facility (Section 710) in a CS district; a Variance to permit open air storage visible at ground level from a public street (US HWY 64) (Section 1216.3.B); and a Variance of the requirement of an all-weather surface for off-street parking areas (Section 1340.D). **Location:** NE/c of West 9th Street and South 174th West Avenue

Presentation:

Teresa Tosh, 2959 West 58th Street, Tulsa, OK; she stated the property originally consisted of 13 acres. In 2008 eight acres were rezoned from AG to CS. The long range plan for the eight acres was to establish a boat/RV/mini storage facility. Ms. Tosh stated when she rezoned to CS she knew she could have rezoned to CG, but she chose not to because if something would have happened that prevented her from establishing the boat/RV/mini storage, then having the CG would have allowed for a more intense commercial use next to the abutting neighborhood and she did not want that to happen because she has lived in the neighborhood and she wanted to protect the neighborhood. By rezoning to CS she knew she could come before the Board to ask for a Special Exception and it would limit the intensity that comes along with CG rezoning. The land to the north has an AG buffer between the RE and CS that was rezoned. This is a strip of land that contains many trees and huge boulders and they act as a natural buffer for the CS zoning and the neighborhood. The east side also has forestry and ravines that lead into the eight acres which involves the drainage, and this forestry and the ravines also act as a natural barrier for the east side. Ms. Tosh continued, to the south is the Highway 412 and the highway is at a much higher elevation than the property, and it would be impossible to build a fence tall enough for proper screening, which she planned to use the storage buildings as a screening. She stated the reason she is asking for a Variance on the hard surface areas is because of the elevations of the area everything runs down into the area and she wants the area to act as a natural recharge of the drainage. There is a drainage culvert for Highway 412 that leads to a pond and then flows down to the river. She allowed Tulsa County to have an easement on the west side of the property to also allow a drainage culvert. Ms. Tosh plans on gravel or something that is penetrable for the water so there will be no sheet flow issues in the area, though the drives into the area and between the buildings will be hard surface.

Mr. Charney asked if the buildings would be accessed from the interior or would they be accessed from other directions, and Ms. Tosh stated the plan is to have access from the interior and the area that faces the bluffs would be the place for outside storage.

Ms. Tosh stated she is also requesting permission to have a single family apartment or dwelling on the property to have a security person to reside on site.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dillard, Osborne, Tyndall, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit a mini-storage facility and boat and RV storage (Use Unit 16) in a CS district (Section 710); and to **APPROVE** the Special Exception to permit a single family dwelling, or apartment in conjunction with the mini-storage facility (Section 710) in a CS district;

finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dillard, Osborne, Tyndall, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance to permit open air storage visible at ground level from a public street (US HWY 64) (Section 1216.3.B); finding the hardship being the general topography of the land, the screening that exists, the significant tree covering on the north boundary coupled with the commitment from the landowner the Board make the Variance conditioned upon that such open air storage be located on the north side of the actual buildings constructed on the site.

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dillard, Osborne, Tyndall, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the requirement of an all-weather surface for off-street parking areas (Section 1340.D); with the hardship being the nature of this piece of ground is at the bottom of a valley with the commitment there be hard surface driving between the buildings for access with the perimeter left in a natural state for stormwater absorption; all for the following property:

BEG 1195 S NEC NE NW TH S833.54 TO SECR SE NW TH S397.25 TO N R/W HWY 64 TH WLY ALG R/W 343.8 SW 226.40 WLY 430.50 TO EL WEKIWAHILLS TH NLY ALG EL SUB 355.68 TH NWLY ON CRV LF 73.87 TO SECR LT 25 BLK 4 WOODSTONEEST TH NELY ALG SLY BDR YSUB 319.43 SE 138.27 ELY 288 TO SECR LT 17 BLK 4 TH NE ALG ELY BDRY 878.78 POB SEC6191

NEW BUSINESS:

None.

OTHER BUSINESS:

Election of officers: Chair, Vice Chair, and Secretary.

On **MOTION** of **DILLARD**, the Board voted 5-0-0 (Charney, Dillard, Osborne, Tyndall, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the positions of the Board as they currently stand for one year, for the year of September 2010 through September 2011. The Chair is and will be David Charney. The Vice Chair is and will be Roland Walker. The Secretary is and will be Bryan Osborne.

Proposed 2011 Meeting Schedule for Approval.

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Charney, Dillard, Osborne, Tyndall, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the proposed 2011 Meeting Schedule.

There being no further business, the meeting adjourned at 2:35 p.m.

Date approved: October 19, 2010

David E. Charney
Chair