

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 473**

Tuesday, September 17, 2019, 1:30 p.m.
Ray Jordan Tulsa County Administration Building
500 South Denver, Room 119
Tulsa, Oklahoma

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Hutchinson, V.Chair	Charney, Chair	Miller	Canavan, County
Crall, Secretary		R. Jones	
Dillard		Sparger	
Johnston			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 12th day of September, 2019 at 9:56 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Hutchinson called the meeting to order at 1:30 p.m.

MINUTES

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the Minutes of August 17, 2019 (No. 472).

Mr. Hutchinson explained to the applicants and interested parties that there were only four board members present at this meeting. If an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two board members voted no today the application fails. Mr. Hutchinson asked if anyone would like to continue their case and if they understood. Everybody nodded in understanding and no one requested a continuance.

Mr. Hutchinson informed the audience that since there are quite a large number of people in attendance today, he is going to keep the applicant to 15 minutes for a

presentation and each interested party five minutes. The applicant will be allowed a rebuttal to all interested parties concerns.

* * * * *

Ms. Jones read the rules and procedures for the Board of Adjustment Public Hearing.

* * * * *

UNFINISHED BUSINESS

None.

* * * * *

NEW APPLICATIONS

2764—Scott Robbins

Action Requested:

Variance of the maximum size permitted for an accessory building in an RS District from 750 square feet to 1,200 square feet (Section 240.2-E). **LOCATION:** 5606 South 85th Avenue West

Presentation:

Scott Robbins, 5606 South 85th West Avenue, Tulsa, OK; stated he would like to build a 30'-0" x 40'-0" pole barn to store his tractor, tractor attachments, a boat and other personal items.

Mr. Hutchinson asked Mr. Robbins if he had any other buildings on his property. Mr. Robbins stated that he did not.

Mr. Hutchinson asked Mr. Robbins if he had five acres. Mr. Robbins answered affirmatively.

Mr. Hutchinson asked Mr. Robbins if he had spoken with any of his neighbors. Mr. Robbins stated that he had not.

Interested Parties:

Jacquelyn Allen, 5602 South 85th West Avenue, Tulsa, OK; stated she lives adjacent to the subject property. Ms. Allen stated that it appears Mr. Robbins wants to build the proposed building right by her fence, and there is another entrance to the subject property where he could place the building. Ms. Allen suggested if Mr. Allen did not want to move the building, he could build a privacy fence between her property and his property so she would not have to look at the building. She does not want a building in front of her property, because the pasture used to be beautiful.

Rebuttal:

Scott Robbins came forward and stated that he is not placing the building right at Ms. Allen's property line, it will be 40 feet off the property line, and he does not think the other neighbors would appreciate a pole barn being built in their front yard.

Mr. Hutchinson asked staff about the spacing between the proposed building and the property line. Ms. Jones stated the spacing in an RS zoning is 5'-0" in the side yard and 20'-0" in the rear yard.

Mr. Johnston asked Mr. Robbins how tall the building would be. Mr. Robbins stated the building would have a 10'-0" ceiling on the inside with a pitched roof.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a **Variance** of the maximum size permitted for an accessory building in an RS District from 750 square feet to 1,200 square feet (Section 240.2-E), subject to conceptual plan 2.12 of the agenda packet. The Board has found the hardship to be the size of the lot and the applicant is not requesting a great deal of additional space for the building. In granting a Variance, the Board must find that by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

S/2 NE NW SE LESS E 25 FOR ST SEC 36-19-11, OF TULSA COUNTY, STATE OF OKLAHOMA

2765—Lisa Lewis

Action Requested:

Variance of the minimum frontage requirement on a public street/dedicated right-of-way from 30 feet to 0 feet in the AG District (Section 207). **LOCATION:** 16034 North 97th East Avenue

Presentation:

Richard Lewis, 7056 East 149th Place North, Collinsville, OK; stated this request is for his mother and father-in-law who are elderly who own the property; they have had the property since 1960. The property was originally ten acres and they built a house on the northeast 2 ½ acres in 1964. They sold the southeast 2 ½ acres and in 1990 had

septic and water installed on the west remaining five acres that they own. There is a 20'-0" wide driveway that leads to the property. Later his in-laws sold the 2 ½ acres with the house which is on the northeast portion of the property in question; they kept the five acres on the west rear portion and placed a travel trailer on it so they could stay in it when they visited. Now that the in-laws are in their 80's they would like to move back to Collinsville to be close to family. After purchasing a mobile home and applying for a permit they discovered that the easement requirement is 30'-0", so they would like approval for the existing 20'-0" easement.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Dillard stated that he has no problem with the request because 20 feet is wide enough to get in and out of the property. It is when the family goes to sell the property the vendor is going to want a 30-foot easement.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a Variance of the minimum frontage requirement on a public street/dedicated right-of-way from 30 feet to 0 feet in the AG District (Section 207). The Board has found the hardship to be that the property is five acres and the 20-foot easement has been in existence for numerous years. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

S/2 NW NE SE SEC 13 22 13 5.00ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2766—Michael Parrish

Action Requested:

Use Variance to permit Use Unit 3, Agriculture, in a Residential District (Chapter 4, Table 1). **LOCATION:** 451 South 74th West Avenue

Presentation:

Michael Parrish, 449 South 74th West Avenue, Tulsa, OK; stated the house he lives in and the structure next to it were built in 1955. The building next door was a casino in the 1950s and the 1960s. Last year he received a permit to raze a portion of the old

casino and to use the remaining structure for a greenhouse; the remaining portion is a concrete block walled structure.

Mr. Hutchinson asked Mr. Parrish if he stated that he had a house on the property. Mr. Parrish answered affirmatively; his house address is 449 and the concrete block structure is 451.

Mr. Hutchinson asked Mr. Parrish if he wanted to have a greenhouse in the subject building. Mr. Parrish answered affirmatively and stated he has a permit for that and has had the permit for over a year.

Mr. Parrish stated that he has the only house on the street. Mr. Parrish presented photographs of the subject property showing what it looked like before he razed a portion of the subject building.

Mr. Hutchinson asked Mr. Parrish if the greenhouse would be for commercial operation. Mr. Parrish answered affirmatively.

Mr. Hutchinson asked Mr. Parrish about the utilities. Mr. Parrish stated there is a septic tank, there is a water meter for his house that is located 3 ½ blocks away on 73rd Street and he has repaired it several times. In order to have the greenhouse he will need to drill a well.

Interested Parties:

Amy McAllister, 416 South 73rd West Avenue, Tulsa, OK; stated she is representing her family and the property that Mr. Parrish labeled as the place with a lot of junk; she takes offense to that because it is her livelihood. Her family owns a lot of property in the area and have for many years, so there are plans for the property for family. Ms. McAllister stated that the main issue with this request is the water. The water meters provide very low pressure and having a greenhouse would make it difficult for the City to provide water. Ms. McAllister stated she is a custom home builder and she has built two houses about a mile north of the subject property, and she has installed two water wells, and both have collapsed. Her concern over water is warranted over this type of project. She is also concerned about the resell value of the property within a ten-mile radius because there is a school and very expensive houses in the area and having a commercial greenhouse in the area is a concern. Ms. McAllister stated she is in strong opposition to this request.

Mr. Hutchinson asked Ms. McAllister how close the school is to the subject property. Ms. McAllister stated that it is two miles northwest of the subject property.

Rebuttal:

Michael Parrish came forward and stated water is a problem for the area; he has the last water meter on the line, and he has had to repair leaks three times. Mr. Parrish stated there is an operating commercial greenhouse that is on the west side of his property.

Comments and Questions:

Mr. Crall stated that he has concerns about the request being inside a residentially zoned district.

Mr. Hutchinson stated that he has a concern with the project being on a piece of property that is zoned RS.

Mr. Dillard stated his concerns are that there is no water, no sewer, no public utilities, the property has been neglected, and he cannot see changing the zoning when the applicant has not been in compliance with the RS zoning, so he cannot support this request.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Charney “absent”) to **DENY** the request for a Use Variance to permit Use Unit 3, Agriculture, in a Residential District (Chapter 4, Table 1) finding this would be injurious to the neighborhood; for the following property:

PRT SW BEG 1710S & 931.76W NEC SW TH N109 E345 S109 W345 POB LESS BEG 1710S & 741.76W NEC SW TH E155 N109 W155 S109 POB SEC 6 19 12 .47AC; PRT SW BEG 1710S & 741.76W NEC SW TH E155 N109 W155 S109 POB SEC 6 19 12 .38AC, OF TULSA COUNTY, STATE OF OKLAHOMA

2768—Madison Freeman

Action Requested:

Variance of the side setback from 15 feet to 10 feet in an AG District (Section 330, Table 3). **LOCATION:** 5710 East 96th Street North

Presentation:

Madison Freeman, 4021 Old Shawnee Road, Muskogee, OK; stated there was an old, old existing building on the property that was close to the ten feet from the setback. There is a portion that sticks out on the north side of the building and sticks out too far into the backyard. That portion cannot be moved forward because it would not allow enough space between the house and the building, and there is a huge tree that does not allow it to be moved backward.

Mr. Hutchinson asked Mr. Freeman if the old building had been razed. Mr. Freeman answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Charney “absent”) to **APPROVE** the request for a **Variance** of the side setback from 15 feet to 10 feet in an AG District (Section 330, Table 3). In granting a Variance, the Board must find that by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

PRT W/2 NW NE BEG 50S NWC THEREOF TH S1270 E660 N482.93 W260 S251.93 W200 N1039 W200 POB SEC 22 21 13 9.774ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2769—Holliday Sand & Gravel

Action Requested:

Special Exception to permit Use Unit 24, Mining and Mineral Processing, (Section 1224) in an AG District (Section 310, Table 1). **LOCATION:** SW/c of East 141st Street South and South 129th East Avenue

Presentation:

Michael O’Dell, 9660 Legler Road, Lenexa, KS; stated the site for the project is 200 acres of existing AG property. The project will consist of two phases of 89 acres and 36 acres. There will be a sand processing facility on site, the northwest corner of the subject property involving 16 acres to classify. The overburden would be removed and sold. The material and sand would be hydraulically dredged down to bedrock which is a depth of about 30 feet. This would result in a lake of approximately 125 acres that would be about 13 feet deep. Excavation and the lakeshore would result in a distance from the property lines and the right-of-way lines would be 120 feet. Surrounding the lake would be 55 acres of conservation grass land with a two-acre wetland. The site is in the flood plain and flood way of Haikey Creek. This is needed as an alternative to river sand dredging plants which most of the sand plants in the area are river dredging. There is a large amount of construction going on and there is a problem with keeping up with the demand. The hours of operation would be 7:00 A.M. to 4:00 P.M. weekdays for truck loading, and production hours would be 7:00 A.M. to 7:00 P.M. weekdays. Saturdays the trucks would be loaded from 8:00 A.M. to 12:00 noon if needed, and the production would be from 8:00 A.M. to 5:00 P.M. on Saturdays when needed. Mr. O’Dell stated that his firm co-operates a site across the street with Watkins Sand at

South 129th East Avenue. Watkins has been there since 1990 and they excavate dirt for pad sand. In 2011 his firm moved there from the Garnett operation, which was depleted. In 2013 Anchor Stone moved in south of the facility; there are two active sand plants and three operators. Directly west there are two depleted pits that were operated by Watkins prior to 2010. The life of the operation would be 12 years and that is based on 50 trucks a day, but he thinks it would be less than that or it could last longer than that.

Mr. Crall asked Mr. O'Dell if he was saying there would be an additional 50 trucks a day in the area. Mr. O'Dell answered affirmatively.

The traffic count on 129th, according to the County records, is 6,700 vehicles per day; on Garnett the traffic count is 2,400 vehicles per day. The reason the site is being proposed is because the site would allow the firm to truck up Garnett and not use 129th. Mr. O'Dell explained the route the trucks would be taking in and out of the area. As for the residences in the area, there are no residences within a 1/3-mile radius of the proposed processing plant. There are 40 residences within 1/2 mile radius and 80 residences within a mile radius. There are no schools located on the proposed truck route, but there is one bus stop located on 121st Street. All the haulers for his plant are designated haulers; they all have GPS devices for monitoring the trucks. Other studies that were completed was a wetland and a wildlife determination; there was no endangered species or eagles located on the site; the wetland will not be disturbed. There was a research study completed for Tribe and Environmental Research for antiquities and burial grounds, and it was determined there would be no impact. The other issue is noise and the potential impact. That would be mitigated with sound deadening equipment as needed. Dust control would be watering the roads. There would be no crushing or blasting and there would be nothing that had an odor. The drivers have all committed to the good neighbor trucking policy and his crew monitors that, and there is a log of driver's habits which has resulted in drivers being terminated. Mr. Harnden follows up on any complaints and he also follows up with the other two companies, Watkins Sand and Anchor Stone. This will not increase traffic on 129th which is a critical area.

Mr. Hutchinson asked Mr. O'Dell if the subject tract of land was under water during the recent flooding. Mr. O'Dell stated that it was not. Mr. Hutchinson asked Mr. O'Dell if the surrounding areas around the creek was flooded but not the tract being discussed. Mr. O'Dell answered affirmatively.

Mr. Hutchinson asked Mr. O'Dell if they would be using electric motors or diesel motors. Mr. O'Dell stated that he could have electric motors, but he does not feel that it is necessary since he is not asking to run a night shift, but he can do an electric dredge. Mr. Hutchinson asked if the electric dredge would cut down on the noise level. Mr. O'Dell stated there would be almost no noise.

Mr. Hutchinson stated the Board has a letter that states that Holliday Sand had trucks arriving at the site at 11:49 P.M. last night, and Mr. Hutchinson asked Mr. O'Dell about

the incident. Mr. O'Dell deferred to Mr. Mike Green stating that he was not at the site last night.

Mike Green, P. O. Box 1507, Pittsburg, KS; presented poster board photos to accompany Mr. O'Dell's presentation.

Mike Harnden, Holliday Sand & Gravel, 14900 South Garnett, Broken Arrow, OK; stated that the site was operating at 11:49 P.M. last night, and he asked the Board about the noise that was mentioned in the letter.

Mr. Hutchinson asked Mr. Harnden to tell the Board the hours of operation the permit for the operation allows. Mr. Harnden stated that he is allowed to run 24 hours a day.

Mr. Hutchinson stated that when Holliday Sand came before the Board before there was concern about the backup alarms and the diesel motor, and he asked Mr. Harnden for an explanation. Mr. Harnden stated that ended being a sod farm across the river that had a V-8 engine lifted off a dam and he was supplying water around the clock for the sod. Once that was figured out someone took it upon themselves to dismantle the engine, and he has had no complaints about the firm's dredge since that time.

Mr. Hutchinson asked Mr. Harnden about the backup lights on the vehicles. Mr. Harnden stated the backup lights were installed and a strobe is used instead of the noise. It is not to say that it is not forgotten once in a while, but it is not intentional.

Mr. Hutchinson asked Mr. Harnden about his speaking to the drivers. Mr. Harnden stated that is part of the problem, everything is getting dumped on Holliday. About 80% of the drivers for Holliday have GPS on their trucks, because he has had complaints in the past that he has had to verify. The other trucks in the area do not have the GPS system, and he has tried to communicate with Watkins and Anchor, he thinks they listen but not a lot gets done. Mr. Harnden stated he does follow up on all complaints because Holliday does care.

Mr. Crall asked Mr. Harnden how many times he has had to document incidents, because the Board has no statistics to review. Mr. Harnden stated that the incidents are not Holliday trucks, but he likes working with the other two firms.

Mr. Hutchinson asked Mr. O'Dell if he had a meeting with the local homeowners for this request like he has done in the past. Mr. O'Dell stated that he did not. He already had a quite a number of complaints that were passed along through INCOG, so he knew what the issues were. He would not even consider of proposing another sand plant to haul on 129th.

Mr. Hutchinson stated that the neighborhood could have one spokesperson so that everyone did not need to speak if they would like.

Interested Parties:

Yvette Martinez, 4113 South Winston Avenue, Broken Arrow, OK; stated there is a new neighborhood on 121st between Garnett and 129th, and that neighborhood is slated to have a total of 313 homes built with 100 homes already built and 100 more under construction. This new neighborhood is not addressed at all in the Holliday application. Additionally, that intersection cannot support that level of trucks. The houses in the new addition will sale from \$300,00 to \$500,000 and she feels this will impact the sale of houses in the neighborhood. Pre-2016 there were no houses in the area and that was Holliday's first application, 2016. The bridge the trucks will have to drive over is a very aged bridge. There is a school bus stop on 121st with children ranging in age from five years to eighteen years, and they have to cross 121st to embark and disembark so this is a significant concern.

Suzanne Rausch, 13125 South 121st East Avenue, Broken Arrow, OK; stated this proposal is wrong; there are no businesses in the area except for a childcare. None of the companies will take responsibility for the driver's actions unless a license plate number can be given. The subject site is an agricultural area currently and to the west of that is RS zoning. This is a mining business being taken into a neighborhood area. She would like to know who is going to enforce the good neighbor policy? She hopes the Board will take into consideration that these are people's homes and people do not want to live next to a mining operation. This affects property values.

Rebecca Davis, 12311 East 137th Street South, Broken Arrow, OK; stated she is a disabled vet and as a part time job she threw the newspaper in a four-square mile area of the neighborhood. The area that Holliday Sand has marked off on the map always floods every time it rains, and it was flooded this spring. Olive has a section that is very windy, and the trucks are constantly dumping their loads, or they tip over because they can't make curves. None of the roads are not designed for the heavy trucks and this past spring everything was so wet that the trucks sunk the road. Who will fix these roads? Currently the roads are narrow and there is no safety for the children or people trying to get out of the neighborhood.

Jacklyn Clouse, 12640 East 131st Street South, Broken Arrow, OK; stated that she lives five houses to the west of Olive and 131st. Generally, the trucks are over filled, and the dirt comes out over the top or out of the tailgate. Today when she left there seven trucks at the corner of 129th and 131st. Her concern is the water. A lot of the houses in the area are on well water, and it has been that way since the 1960s at least. She has an 80-foot artesian well on her property. The aquifer goes for miles; it goes across the subject property, Garnett, 129th, 145th, through Indian Springs, through The Manor, and through The Oaks. All through this area is an aquifer with hundreds of water wells. Holliday wants to come in behind the neighborhood and remove the dirt, they will be in the water aquifer. Holliday will fill their lakes with the neighborhood water. Once the aquifer is broken into it does not dry up, it just stays there and bubbles back and forth. This will pollute the neighborhood wells, and this neighborhood does not have City water. No one is considering the water in this equation.

Tiffany Clayton, 13717 South 125th East Avenue, Broken Arrow, OK; stated she lives within ½ mile of the subject site. Last year Haikey Creek was widened for flood management. The problem with this permit is tree line so there is no way to abate any noise that comes south. A person can stand in her front yard and listen to the backup beepers going 24/7. For the last couple of weeks, it has been almost every night and the neighbors cannot enjoy their backyards or their front yards because of the noise. She is not sure how Holliday can convince the neighborhood that they are not going to have any noise. This is AG zoned land for a reason; there is no better AG land than what butts up against a river basin. Holliday is proposing to dredge out 126 acres of currently productive AG land. She is not a global climate change person, but she is a common-sense person and dredging out the AG is stupid. You cannot get it back. The river is full of sand, and she does not understand the differences in the AG sand and the river sand. She appreciates the dredging of the river because it helps with flood management. There is no reason to destroy agricultural land. When is enough, enough? She had her house on the market over 100 days this summer and there was not one interested party; this quarry factored into this.

Fred Perry, 11404 East 133rd Street, Broken Arrow, OK; stated he has been in County government before and he would like to thank the Board for their volunteer service. Most of the comments have addressed the east part of the affected area, he would like to speak about the west side. The west side will start getting the 50 to 100 trucks going up Garnett, and he is representing that portion. His neighborhood is very concerned about 50 to 100 trucks coming north from 141st, the designated route, due to the truck noise and safety issues. The roads are not designed for these trucks. The roads are narrow, and in some places, there are no shoulders. When a person gets to 131st and Garnett, there are no streetlights and when school lets out, the roads will be an absolute nightmare. Hopefully the Board will not approve this application.

Steve Friebus, 2501 West Natchez Street, Broken Arrow, OK; stated this is agricultural land and mining is not part of agriculture. When Holliday was asked about their permit times, they were uncertain, but they should know that off the top of their head. The dredger noise sounds like there is a diesel train locomotive on the next block and it is all day and all night long, not just 7:00 to 7:00, and every Saturday it is needed. He wants this permanently revoked. There is so much talk but no action. This is no place for Holliday Sand to be, there are too many people and it is not designed for what they want. Holliday is abusing the permit as it is because he admitted to operating at 11:59 P.M. last night but yet they know they are to be done by 7:00 P.M. No body has ever held them accountable and Holliday does what they want. He would ask the permit to be scaled back or revoked completely.

Ron Clayton, 13717 South 125th East Avenue, Broken Arrow, OK; stated he is a law enforcement officer and he has observed the trucks going 55 miles per hour. A person calls Holliday and the answer is that they are new and is not aware that backup beeper is not supposed to be on. This is a shell game because each company blames the other. Mr. Terry West stated that it was frustrating working with the quarries because when they are caught, they play the shell game. The noise abatement is not working

and has not worked. From 5:15 A.M. to 5:00 P.M. the average decimal rating is 88.1 at his residence on the front porch. A person cannot go outside at night to enjoy the quiet because if it is not the truck noise it is the dredger. The dredger is loud and disruptive, and it is not what Holliday says.

Steve Cox, 14503 South 129th East Avenue, Broken Arrow, OK; stated he lives right across the street from the subject site. Holliday has until 3:00 A.M. but they thought it was 7:00 A.M., and the rules are not worth the paper they are printed on. These people do whatever they want, and the system allows that because it is vague. This company is motivated by profits as with any business. This time the Board has a chance to really think things through because Holliday is going to keep asking and asking. This injures people's property values and injures their quality of life.

Susan Bevard-Bagwell, 13137 South 125th East Avenue, Broken Arrow, OK; stated she lives in the area and is also representing the property immediately to the south. She would very much like for the Board to deny this request for what it is going to do to property values in the area. The subject site is 120 acres and she has spoken to an Engineer that says the area can be taken out of the flood plain, and the neighbors would very much like to do that but with a sand plant there why bother? Property values will continue to deteriorate. Currently there are soybeans growing on the land and the property has been used for agriculture for years. Once the land is mined for sand it has no use. The culverts were so stopped up from the existing sand plants because they do not take care of them the subject property did flood. Holliday is not purchasing the land; they are just leasing it so they do not care what the land will be like once they are approved. She would ask the Board to consider denying this request for those that live in the area.

Jean Stoudt, 13606 South 128th East Avenue, Broken Arrow, OK; stated that Holliday Sand and Gravel is not a good neighbor. She feels the County and Holliday Sand tried to sneak this in on the neighborhood, because only one person was notified as far as the neighborhood knows. Everyone in this room is opposed to this request or they would not be here. Holliday already cause enough air, noise and traffic pollution and approving this request would only make it worse. The neighbors like their farms and green space, and so does the wildlife. Ms. Stoudt stated that the neighborhood does have eagles, contrary to what has been said. The trucks are dangerous, they speed and take up their half of the middle of the road. The residents do not want this in their neighborhood.

Virginia Raney, 12716 East 137th Street South, Broken Arrow, OK; stated she recently moved into the neighborhood because of the wildlife, it is a beautiful neighborhood, nice neighbors, and it is a good place to be. The applicant has a company in Lenexa, Kansas and lives in Texas, why does he want to disrupt this neighborhood? She is proud of the people that came to this meeting today and proud of the people that signed the petition. Ms. Raney turned in a petition that has 760 signatures against this proposal. She has been run off the road more than once and she thinks her life is just as valuable as the man sitting in the truck seat. He does not get her half of the road,

but that driver takes it and it is very scary. The neighborhood is fighting for their rights and she would hope the Board understands the neighborhood's rights and hears the things that the residents have to say.

Daniel King, 12700 South Garnett Road, Broken Arrow, OK; stated she is here in an official capacity for his company, The Institute For Excellence in Writing; he also lives in the neighborhood. The company has been in operation since April 2017. When the property was purchased, the City Council was very careful to make sure that the company would maintain a quiet, peaceful position in the community. Why was there such concern on the part of the citizens of Bixby? The community is a quiet one. The Institute sought their location out because of the quietness of the surroundings. Part of what the Institute does is audio production, and this would be a major impact on the Institute if 100 trucks a day were driving by. Mr. King asks the Board to continue to uphold the spirit and the harmony of the area by preventing a pristine setting being marred by the sand plant.

Kim Worthington, 13400 South Garnett Road, Broken Arrow, OK; stated she is one of the main houses that will be affected by the traffic on Garnett as her house is approximately 40 feet off Garnett. Her windows rattle, the doors shake, and she hears the trucks all day. The trucks cannot load before 7:00 A.M. but they can line up before that, so they travel the roads at 6:00 A.M. a lot of the times. She has called Tulsa County more times than she can count to get someone to patrol the speed. There is also a neighborhood preparing to go in at the corner of 121st and Garnett where the trucks will be traveling and turning right. Ms. Worthington would like to know about the noise ordinance that the trucks are breaking along with the dredgers. Ms. Worthington stated she received no notice of this request, but she did find out about it and she then went door to door to notify other people.

Susan Bagwell, 15088 South 129th East Avenue, Broken Arrow, OK; stated she is adjacent to the subject property, and her mother and father have been there for 73 years. She is against the plant that is being proposed. If they are dredging will this become a sink hole? For many years the neighborhood has tried to fight this, and there have been several wrecks. She feels that Holliday is invading the land.

Stan May, 3705 West Vicksburg Street, Broken Arrow, OK; stated he is on the north side of the turnpike, so he does not have to see the trucks all day long, but his children live on the other side. He has encountered eight trucks in a $\frac{3}{4}$ mile stretch in the middle of the day. There are no penalties in the good neighbor policy if the promises they make are broken; they will just blame it on the trucking company. There is no enforcement of traffic laws by the County, including speed laws, in the area. There is no commitment from the County or adjacent municipality to improve the roadway and make it capable of accommodating the current or increased traffic. The roadway is too narrow. There are no stop signs; nothing to slow the trucks down. Until there is a way to keep trucks from lining up at 4:00 A.M. they will park at the site. Mr. May asks the Board to deny this request.

Bob Everspaugh, 13616 South 125th East Avenue, Tulsa, OK; stated he lives in Hickory Hills and his addition is just over the crest of a hill. As the trucks come over the crest of the hill, he has found that he must sit there and wait until he does not see a truck on the top of the hill and shoot out to get onto the street as quickly as possible. There is a post that has flashing lights on it and a speed monitor, and when the trucks crest the hill the light comes on almost every single time. When he moved to the neighborhood 25 years ago, he had the realtor take him through the area, and there was a big dog laying in the middle of the road. That dog would not get up and he decided that is where he wants to live because if a dog could lay in the middle of the street and not be worried about getting run over, he would not need to worry about it. He knows the people say they are not responsible for the truck drivers, but they are responsible for the trucks being there. He would request the Board vote no on this proposal.

Bob Smith, 11841 East 121st Street South, Broken Arrow, OK; stated these are rural black top roads that when cars pass one another they are close to the center lane. There are more and more trucks using the street; they are not just sand trucks they are semis. He has followed the trucks to the turnpike doing 70 miles an hour; these are existing trucks and Holliday is talking about adding 50 to 100 more trucks. It is very dangerous and there are too many trucks already. He has lived in his house for 23 years and he has watched the area develop. There is a housing addition to the east that has children; there is 360 acres across the street that is proposed for new housing with 300 homes. Every person in this room has been affected by the existing dredging and it will only get worse. The property values will go down. The danger is only going to increase. This neighborhood needs help and that is why the Board is here. Holliday could move their operation to the other side of the river where there are no houses. He would ask the Board to revoke this request and would ask the Board to revoke the ones that are already there and move them out.

Leon Hicks, 13330 South 129th East Avenue, Broken Arrow, OK; stated the Board has heard people complain about living near the airport or having the train run by their back door; people know what is going to happen at an airport and they know what is going to happen on a train track. If it existed when they moved in, then they can't complain. He moved into his house in 1970 and none of this existed; the area was very quiet. In the last 49 years, three commercial sand plants have added into the agricultural residential area. He would like to see Holliday move back to Memorial where they were or back to the river instead of making this a commercial area.

Rebuttal:

Mike O'Dell came forward and stated he has been with Holliday Sand since 1973 and the firm started in Bixby in 1990. There have been a lot of great comments today and he empathizes and respects the residents. He wishes he had a perfect solution for every plant. He cannot say that the firm has not failed to execute at times, but he does know that Holliday is the one sand company that is trying hard. No matter what happens today he hopes the residents continue to call. There is a reason the plant is located where it is located. To clarify the aquifer situation, the water is there, and all

Holliday is doing is uncovering it. There isn't any concern of the water boiling out because it is not that type of aquifer; the river is part of the aquifer. His experience is that sand pits are excellent lakes because they are clear and clean. The only potential contaminate would be diesel fuel. Technology is where Holliday can do electric dredging and that would eliminate the concern of diesel spills. The 7:00 A.M. to 7:00 P.M. is business hours, open for hauling. There is no truck hauling after 7:00 P.M. but at the existing plant there is dredging until 3:00 A.M. so he does not believe that Holliday is violation. There was a noise studying performed when the extended hours were approved, and it can be shown again. Strobes cannot be used on backup alarms during the day, but Holliday is not proposing to operate at night and do not intend to operate at night in the future. When the habitat study was performed there were no eagles on the property. Part of the property did flood but that is where the flood way and the wetland is located, and that is why Holliday is not touching that. Other permits for this operation are forthcoming and the spill plan will be done with that; it is required along with the stormwater plan. The penalty for violating a policy is termination; the truck driver is fired and that has happened with proof of the violation. He hopes that the firm and the neighborhood can work together to improve what is already permitted. The land is a floodway, and nothing can be done with the property. The firm is willing to limit truck traffic to 50 trucks per day because he does not think the firm needs more than 50 trucks per day. He has contacted the County Engineer and asked if the roads were suitable for truck traffic, and the Engineer stated the roads were suitable for truck traffic. The roads have been used for truck traffic for decades. Mr. O'Dell stated that he hopes the neighborhood will work with the firm because the firm does care and is trying. This plant is something that is needed and wants to work with the neighborhood to make things better and continue to make things better.

Comments and Questions:

Mr. Crall stated that he does not think this in harmony with the spirit and the intent of the Code and that it would be injurious to the neighborhood or that it is detrimental to the public welfare. He does not think this request meets any of the standards. He thinks if another site were added, he sees it as creating more problems so he cannot support this request.

Mr. Johnston stated that he has difficulty supporting this request when the Board hears about all the problems, and the safety concerns. He has heard that this will get better, but he wonders why things cannot be better now. Traffic is bad now, get it fixed before it is expanded to a new property. He understands the need for raw materials for construction, but now this site is in closer and civilization is creeping closer and closer. It is time to find another site that is farther out.

Mr. Dillard stated that as a businessperson he understands the reason because no one is going to be able to live in a house that does not have cement slab, doesn't have stem walls, etc. The residents have said they do not want the product in their neighborhood. The City of Broken Arrow has written a letter to the Board requesting a denial of this request with reasons for the denial, but Broken Arrow is proposing 1,400 more houses in their community and they will need sand. He cannot approve this request because

they have not obeyed the traffic laws, the City of Broken Arrow has said they do not want this plant in their fence line, it is not in compliance, it is not in harmony with the neighborhood so he will vote no on this request. If the Board does not approve this request, they are sending a message to the three companies. These three companies will need to sit down to work together instead of against each other. He could support this request very easily because the product is needed but he can go against the request because of how it was presented, and it is not in the spirit of harmony.

Mr. Hutchinson stated that he is torn; he could easily approve or deny the request. He could approve this request because it is a floodway and he thinks the site would be good for a sand plant. The biggest problem is that there are three companies and the residents don't know who is doing what. It would be nice if all three companies would work together, get rid of the motor dredge, and stop the finger pointing to each other. He would like to see the three facilities devise plan to make their operations more in harmony with the neighbors. A lot of the problems are with the traffic, but this Board has nothing to do with traffic; he would like for the County to consider a better road system in the area. He could support this request because the product is needed.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-1-0 (Crall, Dillard, Johnston "aye"; Hutchinson "nay"; no "abstentions"; Charney "absent") to **DENY** the request for a Special Exception to permit Use Unit 24, Mining and Mineral Processing, (Section 1224) in an AG District (Section 310, Table 1) as presented today finding that it is not in the spirit and harmony of what the property is to be used for; for the following property:

NE QTR. & NE SE SEC 17-17-14, OF TULSA COUNTY, STATE OF OKLAHOMA

.....

OTHER BUSINESS

None.

.....

NEW BUSINESS

None.

.....

BOARD COMMENTS

None.

.....

There being no further business, the meeting adjourned at 4:16 p.m.

Date approved: _____

Chair