

AGENDA
Regularly Scheduled Meeting
Tulsa County Board of Adjustment
Tuesday, January 21, 2020, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room

Meeting No. 478

CONSIDER, DISCUSS AND/OR TAKE ACTION ON:

1. Approval of **Minutes** of December 17, 2019 (Meeting No. 477).

UNFINISHED BUSINESS

2. **2786—Tanner Bemies**
Special Exception to permit Use Unit 24, Mining and Mineral Processing, to allow native soils to be mined (Section 1224) in an AG District (Section 310, Table 1).
LOCATION: East of the NE/c of East 161st Street South & South Mingo Road

NEW APPLICATIONS

3. **2789—Michael Abboud**
Use Variance to allow an overnight campground for recreational vehicles, Use Unit 17, in an AG District (Section 310); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 19301 West Wekiwa Rd
4. **2790—Charles Burgess**
Variance of the street frontage requirements in an AG District from 30 feet to 0 feet (Section 207). **LOCATION:** 17300 North Cincinnati Avenue
5. **2791—Melissa Torkelson**
Special Exception to allow Use Unit 20, Commercial Recreation, to allow indoor and outdoor amusement activities not elsewhere classified (NEC) in a CS District (Section 1220); Special Exception to allow Use Unit 2, Area-Wide Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS District (Section 1202); Variance from the all-weather parking surface requirement (Section 1340.D).
LOCATION: 17516 West 8th Street, Sand Springs
6. **2792—Melissa Torkelson**
Special Exception to allow Use Unit 2, Area-Wide Special Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS District (Section 1202); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 17902 South Highway 75, Glenpool

7. **2793—Landon McJilton**
Use Variance to permit Use Unit 3, Agriculture, for a horticulture nursery in a residential district (Section 410, Table 1). **LOCATION:** 13115 East 73rd Street North
8. **2794—Duit Construction – Martin Benson**
Special Exception to permit Use Unit 2, Area-Wide Special Exception Uses, for a temporary construction facility in the AG District (Section 1202). **LOCATION:** SW/c of West 26th Street South & South 57th West Avenue
9. **2795—Kevin Watkins**
Use Variance to allow overnight campground for recreational vehicles, Use Unit 17, in an AG District (Section 310); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 1145 East 71st Street North
10. **2796—Kevin Watkins**
Use Variance to permit Use Unit 3, Agriculture, for a horticulture nursery in a CG District (Section 710, Table 1). **LOCATION:** 6606 North Peoria Avenue East
11. **2797—Jordan Graham**
Special Exception for Use Unit 2, Area-Wide Special Exception Uses, for a wedding and events center (Section 1202); Variance from the all-weather parking surface requirement (Section 1340.D); 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:** North & East of the NE/c of East 76th Street North & North 129th East Avenue
12. **2798—Hanford Jenkins**
Use Variance to permit Use Unit 3, Agriculture, for a horticulture nursery in a residential district (Section 410, Table 1). **LOCATION:** 560 East 62nd Street North

OTHER BUSINESS
NEW BUSINESS
BOARD MEMBER COMMENTS
ADJOURNMENT

Website: www.tulsaplanning.org

E-mail: esubmit@incog.org

If you require special accommodations pursuant to the Americans with Disabilities Act, please call (918) 584-7526.

NOTE: Exhibits, Petitions, Pictures, etc., presented to the Board of Adjustment may be received and deposited in case files to be maintained at the Tulsa Planning Office at INCOG. Ringing/sound on **all electronic devices must be turned off** during the Board of Adjustment meeting.

NOTE: This agenda is for informational purposes only and is not an official posting. Please contact the Tulsa Planning Office at (918) 584-7526, if you require an official posted agenda.

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LEGEND

 Bixby Corporate Limits



CBOA-2786

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BOARD OF ADJUSTMENT CASE REPORT

STR:7419

CZM:68

PD:

Case Number: CBOA-2786

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Tanner Bemies

ACTION REQUESTED: Special Exception to permit Use Unit 24, Mining and Mineral Processing, to allow native soils to be mined (Sec. 1224) in an AG District (Sec. 310, Table 1).

LOCATION: E. of the NE/c of E. 161st St. S. & S. Mingo Rd. **ZONED:** AG

PRESENT USE: Agriculture **TRACT SIZE:** 68.99 acres

LEGAL DESCRIPTION: E/2 SW LESS BEG 378.63N SECR SW TH SW42.76 SW114.71 SW357.80 SW366.16 W298.35 NW244.12 N285.31 E120.93 SE164.88 SE113.29 ELY117.49 NE124.84 NE62.80 E105.02 NE547.81 NLY483.99 NE25.40 S833.78 TO POB SEC 19 17 14 68.990ACS,

RELEVANT PREVIOUS ACTIONS:

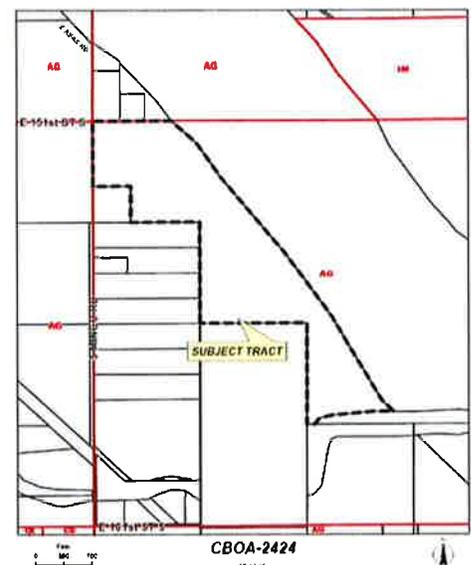
Subject Property: None relevant

Surrounding Property:

CBOA-2424 May 2012: The Board **approved** a *Special Exception* to permit sand extraction within Use Unit 24, Mining & Mineral Processing, in an AG district (Section 310) with the following conditions:

- Statements contained in the letter from Mr. Frazier dated April 25, 2012 will be applicable. (See Exhibit A, pages 3.5 and 3.6.)
- No more than 100 loads of sand to be exported from this mining operation per year.
- The applicant will ensure that the road used to access the property, 151st Street, shall be maintained, whether it is through private efforts or through efforts with Tulsa County, for reasonable and appropriate use for truck and suitable for standard automobile traffic.
- This special exception will have a time limit of one year from today's date, May 15, 2012.
- The debris on the property is to be depleted or removed.

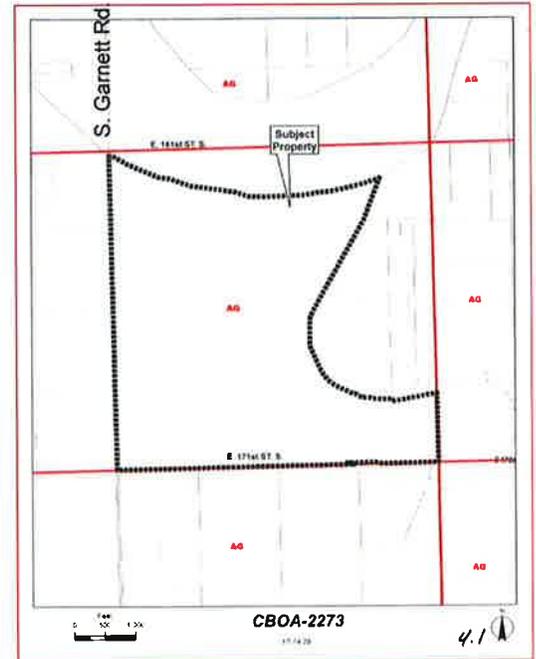
on property located at the southeast corner of 151st Street South and South Mingo Road.



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CBOA-2273 July 2007: The Board **approved** a *Special Exception* to permit sand and gravel mining in the AG district (Section 301), with the following conditions:

- As submitted by the applicant, in accordance with the data submitted, and the plan of operation
- Subject to all of the permitting required, including environmental and quality, mining
- Hours of operation: truck traffic and pit operations from 7:00 a.m. to 7:00 p.m. and dredging as needed
- With conditions provided by the applicant to stay away from the banks in excavation
- To take necessary steps to minimize erosion, specifically, dredging no closer than 50 ft. from the shore except when the equipment is moved to the working site
- Placement of rip rap in areas that appear to be adversely affected from erosion by the operation
- The applicant to contribute to the cost and upkeep of Garnett Road South to Highway 164
- A watering plan that is consistently administered, authored by the applicant and posted for the inspector should they wish to see it
- The applicant to provide a \$250,000 bond to be posted in the event that certain remedial cure to public works is deemed necessary by the inspector's office for actions inconsistent with various permits on property located southeast of 161st Street and South Garnett Road.



ANALYSIS OF SURROUNDING AREA: The subject tract is located in an agricultural area just west of the Arkansas River. The abutting property to the west appears to be a sod farm. There are limited residential uses on nearby properties. Bixby Creek runs through the property on the south side which separates the parcel. The City of Bixby manages Bixby Creek.

CURRENT STAFF COMMENTS:

The request was heard by the Board at the 12.17.19 hearing. After some discussion, the Board continued the case to the 01.21.20 hearing to give the applicant additional time to meet with the neighboring property owners and protestants and put together a "Good Neighbor Policy" for the truck drivers that will be servicing the soil excavation business if the case is approved.

PREVIOUS STAFF COMMENTS:

The applicant is before the Board requesting a **Special Exception** to permit Use Unit 24, Mining and Mineral Processing, to allow native soils to be mined (Section 1224) in an AG District (Section 310, Table 1).

A special exception is required as the proposed soil mining operation is a use which is not permitted by right in the AG district because of potential adverse affect, but which if controlled in the particular instance as to its relationship to the surrounding area and to the general welfare, may be permitted. The use must be found to be compatible with the surrounding area.

The applicant contacted the City of Bixby and included a statement from Jason C Mohler, P.E., Development Services Director, in the application. In summary, the statement says "The existing low water crossing provides access (to) the agricultural land north of the creek. I am not aware of any limitations on that access."

The Tulsa County Land Use Plan and the Bixby Comprehensive Plan designate this area as Rural Residential. Rural Residential is defined below:

The Rural Agriculture designation denotes areas within the City of Bixby's fenceline, but not within the City limits, that have large tracts of land for agricultural purposes. Agricultural uses may also include large-lot detached residential, accessory agricultural uses and structures to support agricultural uses. Improvements in this designation should be low impact and retain the rural character of the area.

The portion of the parcel north of Bixby Creek is located in the 100 Year Floodplain.

The Board of Adjustment, in granting a mining and mineral processing use by Special Exception, should consider potential environment influences, such as dust and vibration. If inclined to approve, the Board may consider establishing appropriate protective conditions such as setbacks, screening, and hours of operation, as will mitigate the adverse affect on proximate land uses.

The applicant will be required to obtain all relevant permits including those from the Tulsa County Inspectors Office/Building Permits Department and the Oklahoma Department of Mines.

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure the proposed soil mining operation is compatible with and non-injurious to the surrounding area.

Sample Motion:

"Move to _____ (approve/deny) a Special Exception to permit Use Unit 24, Mining and Mineral Processing, to allow native soils to be mined (Sec. 1224) in an AG District (Sec. 310, Table 1).

Approved per conceptual plan on page(s) _____ of the agenda packet.

Subject to the following condition(s) (if any): _____.

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."

protect the animals that are around the property. The track is for everyone, and if they want to play on the track they must sign a waiver. It was designed for everyone to have a safe place to play. There is nothing in Sperry for the children to do other than sports and not all children are interested in sports.

Mr. Draper stated that according to the plan that was presented to the Board, there is a general admission parking area with an overflow parking area designated. What is the count for these proposed areas? Ms. Weathers stated there is plenty of pasture to park in. There is ten acres and the track utilizes about a quarter of an acre. Mr. Draper asked how many vehicles is the general admission parking designed to hold. Ms. Weathers stated that parking would hold about 100 vehicles but there would probably only be about 50 vehicles in the lot. Ms. Weathers stated that she has no intention of making the area a concrete world. Once the club house is built it would only be used as a concession with bathrooms for participants.

Mr. Draper asked how many people were anticipated in the four hour racing window. Mr. Huff stated there would probably be about 75 people, because it depends on people's schedules. Sometimes there would a few more, other times a few less.

Comments and Questions:

Mr. Charney stated that he respects and appreciates the alternative means to get children off the couch and away from the video games. He thinks that the entire Board is respectful of the mission of Ms. Weathers and Mr. Huff for young people. However, the Board's focus is confined to land use planning. Whether the request is of the most noble of causes or a cause the Board may not agree with, the Board must determine and analyze the request in terms of land usage. The Board must determine that there is no adverse or injurious effect to the neighborhood.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker "aye"; no "nays"; no "abstentions") to **DENY** the request for a Special Exception to permit a Go-Kart Track within Use Unit 20 in an AG district, finding that the proposed use does not fit into the agricultural zoning. The use would not be harmony and spirit of the code, and it would be injurious and detrimental to the neighborhood; for the following property:

TR BEG SECR SE SE TH W326.7 N333.5 W229.2 N TO PT ON NL S/2 SE SE E555.9 S POB SEC 17 21 13 6.668ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2424—Phil Frazier

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Action Requested:

Special Exception to permit sand extraction within Use Unit 24 – Mining & Mineral Processing – in an AG District (Section 310). **Location:** SE/c of 151st Street South and South Mingo Road

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CBDA-2424

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Mr. Sansone stated that this case is a continuation from the last Board of Adjustment meeting on April 17th. Since that continuation a letter has been received from the applicant that changes the operation. In the letter it was stated that there is not enough sand located in the river at the point of extraction to allow the sale of the sand to the public. The applicant will address this change today.

Presentation:

Phil Frazier, 1424 Terrace Drive, Tulsa, OK; after the hearing on the 17th of April there were four issues that the protestants raised and that the Board had questions about. The original application was filed to extract sand, and at that time he had advised the Board that the sand is a special type of sand; there are only a few places where this type of sand can be found. The sand is used in the growing and the placement of sod. The Easton family has operated the sod farm for the past 35 years, and since they have been growing the Patriot Sod they have been buying their sand. The purchase of that sand meant there were trucks hauling in sand and leaving empty, thus increasing traffic on the road. Since the last meeting it has been discovered that there is not the depth of sand that was anticipated, so no sand will be sold to public entities. The only sand trucks hauling sand will be when the sand is being hauled out because it is required for a specific job.

Mr. Frazier went on to address issues that were raised in the last meeting. As to the road condition, Mr. Easton has already improved the road by installing an asphalt composition on the road. As to the traffic and dust, the asphalt composition will curtail the dust significantly. The traffic will be reduced because there will no longer be trucks hauling in sand nor will there be commercial sand trucks leaving. Noise was also a concern raised at the last meeting. The reduction of traffic will reduce the noise, and there will not be diesel powered barge equipment used for the sand extraction as planned. There will be a drag and the drag line will be used when the river is low; when the river is up there will be no mining. In regards to the debris, Mr. Easton allowed the City of Tulsa and Tulsa County to dump massive amounts tree limbs that had been broken out of trees during the ice storm a few years ago. Most of the tree debris will be ground up or burned, but most of it will be ground into mulch. Mr. Easton will continue to deplete the tree debris regardless of the decision on his application. Mr. Frazier believes this operation will enhance the neighborhood, as opposed to the last previous plan presented, with less truck traffic, the road improvements, and debris removal.

John Easton, 11225 South 90th East Avenue, Bixby, OK; stated that is not that sand will be hauled out to other projects; this business venture is getting into athletic turf business. Athletic turf fields have sub-drains installed underneath the fields and they want a sand based sod. He will be building sand based fields and growing the sod on that field. There will be a few instances where the sand will be required to be brought in, because some people like to keep the sand the same as what was originally installed, and he does not anticipate but 100 loads or less a year leaving his property. This process is done a football field at a time.

CBOA-2424

Mr. Draper asked Mr. Frazier if the applicant was proposing to improve the road with the same type of materials as it is currently built with. Mr. Frazier stated the road is an asphalt composition.

Mr. Osborne asked what an asphalt composition consisted of, i. e., black top, granular, or something else. Mr. Easton stated that the composition was made from asphalt that has recycled. Most of the road had an asphalt surface but there was an area that the road had eroded and it was gravel. But he has taken the recycled asphalt, rolled it, and blended it in to the existing road and looks good. There is no dust.

Interested Parties:

Gloria Cravens, 9723 East 151st Street South, Bixby, OK; stated she lives at the corner of 151st Street and Mingo about 50 feet from the road. The road has large black top composition clumps right up to her yard. She believes that Mr. Easton will be using the road for more than he is saying today; for example, when the elementary school was built he supplied sand to the contractors for the school. Then Mr. Easton allows dumping on his land; for example, when the tennis court was taken out the tennis court debris was hauled onto his land by large trucks. All of those trucks were using that road. Today the traffic has been reduced but she does not believe it will last.

Mr. Charney stated that there are a couple of things the interested parties and the Board need to keep in mind with this case. What is being examined today is a request to mine sand from the river, and that is the special exception that is before the Board today. There are means by which an interested party can complain about wrongful uses or for noxious activity on a piece of property, and that is to contact the County. Today the Board is here to only examine the ability to extract sand from the river, and the sand that will be exported. Some of the complaints in this case cannot be addressed by this Board.

Ms. Cravens stated that the residents of the area have tried. There have been calls to the County and even calls to the EPA. There is nothing done.

Mr. Walker asked Ms. Cravens about the trucks she has seen hauling sand out, where does she think the sand is coming from since Mr. Easton has stated that he does not have enough sand. Ms. Cravens stated that she assumed it was coming from the river because that is the direction the trucks are coming from when they are using that road.

Mr. Frazier asked Ms. Cravens if she understood that Mr. Easton could haul out sod from his property if he chose to do so. Ms. Cravens nodded in affirmation, and stated that the trucking of sod is fine.

Mr. Osborne asked Ms. Cravens if she had seen sand trucks coming into the property and leaving the property. Are they loaded when they are coming in or going out? Ms. Cravens stated that the trucks are usually loaded with junk or trash when they are coming in. Mr. Osborne asked if she had seen sand being brought into the property.

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Ms. Cravens stated that she had not seen sand brought in lately, but the sand is leaving the property.

Rebuttal:

Mr. Frazier came forward for a rebuttal.

Mr. Charney stated that the Board has heard some concern that there has been a fair amount of sand extraction thus far and that is the current operation. Mr. Charney asked Mr. Frazier to present his client's prospective on that view. Mr. Frazier stated that there has been one instance where there was a composite of sand that was removed from the property, not the river. That composite was not mined, there was a hole dug and the composite was hauled out. In regards to the debris from the elementary school, that was a one-time episode and that was in conjunction with the composite material. The rock was brought in and it was used for riffraff along the riverbank to keep the bank from washing away. The EPA did come to investigate that incident, and they gave Mr. Easton a "clean bill of health".

Mr. Charney stated that if the Board were to approve this less intrusive mining application, if volume were an important factor in that decision and based on the roadway that exists, would his client understand a restriction on the volume of sand extraction. Mr. Easton stood and stated that he did not have a problem with a volume restriction because there is not enough sand available at his spot on the river to operate a commercial business.

Mr. Draper asked staff if the proposals being voted on today need to have criteria added to them by the Board, i.e., limiting it to what has been presented today or has the application been revised. Mr. Alberty stated that when a presentation has been made, and an applicant offers conditions, if the Board agrees to those conditions they need to be stated in the motion. Of course, there is always the possibility of making the motion more restrictive or adjust the conditions to the Board's motion. Mr. Draper asked if the application before the Board is based on Mr. Frazier's last letter, the letter contents should be included in the motion. Mr. Alberty gave affirmation.

Comments and Questions:

Mr. Walker stated that he is pleased with the reduced intensity of the application. He believes Mr. Easton has shown good faith by attempting to address some of the complaints prior to this meeting.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker "aye"; no "nays"; no "abstentions") to **APPROVE** the request for a **Special Exception** to permit sand extraction within Use Unit 24 – Mining & Mineral Processing – in an AG District (Section 310), with the following conditions. Statements contained in the letter from Mr. Frazier dated April 25, 2012 will be applicable, see attached Exhibit A, pages 3.5 and 3.6. No more than 100 loads of sand to be exported from this mining operation per year. The applicant will ensure the road that is used to access the

CSOA-2424

property, 151st Street, shall be maintained, whether it is through private efforts or through efforts with Tulsa County, for reasonable and appropriate use for truck and suitable for standard automobile traffic. This special exception will have a time limit of one year from today's date, May 15, 2012. The debris on the property is to be depleted or removed. Finding that the approval of the special exception, 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; for the following property:

GOV LTS 3 4 6 & 8 & 27AC ACCRETED LAND LESS BEG SWC GOV LT 4 TH N466.69 E466.69 S466.69 W466.69 POB & LESS BEG 1322.52N & 92.15E SWC SE TH NE103.37 NE163.69 E280.39 E255.57 E501.27 ELY572.66 SE157.78 S154.42 W1991.50 TO POB SEC 19 17 14 119.08ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

Case No. 2429—Ronnie VanLandingham

Action Requested:

Variance to permit a detached accessory structure in an RS District larger than 750 square feet (Section 240.2.E); Variance to permit a detached accessory structure in the side yard (Section 420.2.A.s). **Location:** 1325 South 214th West Avenue

Presentation:

Ronnie VanLandingham, 13255 South 214th West Avenue, Sand Springs, OK; stated he has joined two lots together. He has visited with all the neighbors and explained to them what he wants to do and why he wants to do it. The side yard variance request is because he has a GRDA non-active power line in the back yard with a 145'-0" easement so he cannot build anything in the back yard. The reason he wants to build a larger building, larger than 750 square feet, the building will have the appearance of a house in the middle of the lot instead of a small out-building in the middle of the lot. The building will be a steel building on a steel frame, with a four foot brick wall around three sides. There will also be vinyl siding across the front of the building. Eleven out of the twelve neighbors within the 300'-0" radius are in favor of his request being approved, and the twelfth neighbor lives about 250'-0" away from the subject property. The home owners association has also seen his proposed plan and they have given their approval for the building pending the approval from the Board of Adjustment.

Mr. Walker asked what Mr. VanLandingham planned to do with the carport and the additional storage building in the backyard. Mr. VanLandingham stated that he had installed the carport to protect his boat but they are still deteriorating, and that is one of the reasons for the proposed building. The additional storage building was on the property when he purchased the house and he plans to demolish that building.

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UNFINISHED BUSINESS

Case No. 2424—Phil Frazier

Action Requested:

Special Exception to permit sand extraction within Use Unit 24 – Mining & Mineral Processing – in an AG District (Section 310). Location: SE/c of 151st Street South and South Mingo Road

Presentation:

Phil Frazier, Attorney, 1424 Terrace Drive, Tulsa, OK; stated he represents Mr. John Easton, the property owner. The property is bounded on the north side by 151st Street, bounded on the south side by 161st Street, bounded on the east side by the Arkansas River, and bounded on the west side by Mingo Road. The location is approximately a half mile from East 151st Street, approximately a half mile from 161st Street and a half mile east of Mingo Road. The interest in this special exception is that Easton Sod is a sod farm that has been on this land for years. In recent years they have developed a particular type of sod which is called Patriot Sod. Easton Sod is one of five sod companies in the world that has developed this particular sod and producing this sod, thus creating a commercial necessity to continue with the operation. Patriot sod requires a five to six inch sand base. Up to this point the sand has been purchased to produce this sod. Mr. Easton would like to utilize his property on the river, which is presently a sod farm, to mine his own sand and use it in his sod farm operation. This is the basis for the special exception request before the Board of Adjustment today.

Mr. Charney stated that there have been several letters received from surrounding people of the neighborhood stating that if the request were approved, it would be injurious to the neighborhood and not consistent with the agricultural use. They see the sand extraction and mining as a different venue from the sod farming. Mr. Frazier was asked to express his thoughts on that matter and whether he thought there was a distinction between sand extraction and sod farming.

Mr. Frazier stated there is no distinction because it is two different operations but the sand is used as a part of the agricultural use of the sod farming. Sod farming is an agricultural use and the sand is utilized in the production of the sod. This operation will be at least a half mile from any residence. Any reference to the detriment of the neighborhood would not be accelerated because the requirements the sand extraction will have placed upon them will be far more stringent than what exists today. There are several licensing authorities that would be involved, and their regulations are very strict. The roadway would be the only contact with the neighborhood, and there are only a couple of houses in the immediate vicinity. There would be no dust raised from the obtaining of the sand from the river because the sand would be wet. Mr. Frazier stated that he believed there would no adverse effect on the neighborhood.

CBOA-02424

Mr. Walker asked Mr. Frazier if the half mile distance was measured from the dredging point. Mr. Frazier stated the operation would be a half mile from the residences, because the closest residences are on 151st Street and Mingo. The operation is half mile away from 151st Street and a half mile away from Mingo Road.

Mr. Osborne asked Mr. Frazier if the subject tract was owned by the same person who wants to operate and utilize the sand extraction. Mr. Frazier confirmed that statement. Mr. Osborne asked if the sand would be dredged from the river and taken to the sod plot locations. Mr. Frazier confirmed that was exactly what would happen in the operation.

Mr. Charney stated that he understood the sand extraction operation would be largely in the center of the section, half mile from 151st and 161st Streets, and he wanted to know if the dredging process limited the operation to that particular area or if it will be a broader application allowing it anywhere along the property. Mr. Charney also asked if the Board were inclined to approve this request if the client would be willing to limit the dredging operation to center section not allowing the operation to spread. Mr. Frazier stated that if the Board were to approve this request his client would certainly be willing to operate under the limitation that the operation would be in that particular area, because he does not want to be farther away from the river than necessary. The closer the operation can stay the better, and it will also be necessary to receive approval by the Bureau of Mines and the Corp of Engineers.

Mr. Charney stated that the Board has been provided many pieces of information from the opponents of the application. There was significant theme among the many objections and that is the poor condition of the roadway of 151st Street along where the trucks will need to exit in front of the homes. Even though the mining operation will be a half mile away from homes the truck traffic will be increased significantly, and the already decimated road will have even more traffic. That traffic is what the neighbors are saying would be detrimental to the neighborhood.

Mr. Frazier stated there would be more traffic but not much more, than and not as many as the sod farm has because there will not be very much sand trucked off the property. Mr. Frazier showed Mr. Charney on a case map where a road could be located. It would be a road that would turn west out of the property and located farther south than 151st Street by a few hundred feet. This proposed road would not impact East 151st Street residences. Mr. Frazier stated that in the one mile section of Mingo Road between 151st and 161st Streets there is only one residence and one office.

Mr. Charney asked Mr. Frazier if there was activity on the property today, i.e., dumping or other non-agricultural uses. Mr. Frazier stated that over the years that his client's father has left broken down equipment on the property. The client is working with his father to clear the property of the useless equipment. Also there has been top soil sold from the property.

CBOA-02424

Interested Parties:

Yolanda Hiatt, 9723 East 151st Street South, Bixby, OK; stated she lives on the corner of 151st Street and Mingo Road. She is opposed to the special exception request because of the heavy traffic that currently exists. The truck traffic delivers a variety of items to the area and has been heavy for approximately the last five years. The 151st road was once paved and now it is pothole infested due to the heavy traffic. The traffic also creates a large amount of dust. The trucks start at 7:00 A.M., especially the construction trucks for the Bixby Public Schools. Ms. Hiatt stated that recently the truck traffic has been so heavy that her in-ground pool has started cracking. A few years ago a horse was hit by a truck and had to be euthanized because the truck was traveling so fast that it could not stop for the animal. All the trucks travel faster than they should, and this is a dead end street. Ms. Hiatt does not want to have this request approved.

Melinda Stone, 9909 East 151st Street South, Bixby, OK; stated that she is strongly opposed to this request. Ms. Stone stated that she lives in the very last house on a dead end street. Mr. Charney asked Ms. Stone to come forward and point out her house on the case map provided the Board in their agenda packet. She is not against the sod trucks or the sod farm because it is agriculture, but this is more than a sod farm. Since the ice storm of 2007, when the destroyed trees were being hauled away in Tulsa, those trees were dumped on Mr. Easton's property. The large trucks drove up and down the street, 24 hours a day, two and a half minutes apart; she stated timed the trucks. For three weeks the dust was horrendous and they sped up and down the road. The drivers did not care if they hit a pothole. There are pets and children in the area. Ms. Stone stated that she stopped many of the truck drivers and asked them to slow down, and when she did not receive any help from the drivers she called several supervisors to no avail. There are several acres of tree debris, still today, and those huge tree debris mounds catch fire due to instantaneous combustion. They are smoldering today. Last year the fire spread toward her property line, and she was prepared to evacuate her home because the fire was up to her property line. It was that close. Ms. Stone stated that her husband is in very poor health. She also stated that because of the smoldering fires he has developed emphysema, which she can document with medical records. If this request is approved the residents of the neighborhood will not be able to spend time outside and they won't be able to open the windows of their homes due to the dust. She does not object to the sod farm because she enjoys agriculture, but what is proposed today is not agriculture. There is more than tree debris dumped on Mr. Easton's property, and that is his business, but the truck traffic is horrific. Also no one wants to repair the road, not the city, not the county and not Mr. Easton. Ms. Stone stated that if the sand extraction is allowed to go in, the property values will plummet, because no one wants to buy a house across the street from a sandpit. The other sand extraction companies in the area do not have anyone living close to the operation, i.e., Holiday Sand.

Gloria Cravens, 9723 East 151st Street South, Bixby, OK; stated that she opposes the approval of this special exception. There is sand in the air all the time, because once the wet sand extracted it dries out and blows in the wind. The cement is breaking off her house and around her pool because of the shaking the truck traffic causes. She

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has been awakened early in the morning because her house is shaking so much from the uncovered dump trucks going up and down the street so fast. A supervisor from one of the trucking companies came to speak to her about her complaints and he told her to call her county commissioner. The reason she bought her home is because it is located on a dead-end road in what used to be a peaceful area.

Mr. Osborne asked Ms. Cravens to describe what type of trucks leaving the area other than the empty dump trucks. For the past two years there have been trucks with sand using the road to leave. Mr. Osborne asked Ms. Cravens where the blowing sand that has been referred to be coming from; he wanted to know, in particular, if the blowing sand was coming from the sod farm. Ms. Cravens stated that the sand was not coming from the sod farm because they water the sod to keep it moist so it will grow. The blowing sand is coming from the road that the uncovered dump trucks, the cars, and the pickups pulling trailers that are speeding up and down the road.

Rebuttal:

Mr. Frazier stated that the opponents are correct, in that there have been some fires in the area. The City of Bixby, the City of Tulsa, and the County of Tulsa did not have enough space to dispose of all the tree debris from the 2007 ice storm, and Mr. Easton allowed them bring the debris to his property and dump it. Most of the debris has been burned and has burned over the years. There are still some times when the debris mounds flare up, and Mr. Easton is in the process of extinguishing or smothering the fires as best as he can. Mr. Easton intends to grind the debris into mulch to use in his agricultural use. As to the concrete, there have been loads of broken concrete brought in which has been used along the river to alleviate the erosion. As to the dust, it is coming from the river. Because of the extremely dry year last year, the wind picked up dry sand and dirt distributing it everywhere. As to the road repair, Mr. Easton has brought in gravel for the road in an attempt to fix the pothole problem because the city nor the county would do anything about the road. Mr. Easton is willing to move the road down and away from 151st Street in order to receive approval for his special exception request.

John Easton, 11225 South 90th East Avenue, Bixby, OK; stated that if he is allowed to have his mining operation it will be mandated by the State of Oklahoma. The road in front of the homes used to be a good road until the massive amount of timber was hauled in by the City of Tulsa. There was so much timber hauled in that it covered 16 acres and was approximately eight feet deep. Mr. Easton stated that one of the reasons he allowed the tree debris to be dumped on his property was because he wanted the debris to create compost, mix that with sand creating top soil. That was a long-term goal. The people who were hauling in the timber were contracted to repair the road after they were done, but it was not done. Spontaneous combustion does start fires in the area, and there is a man constantly digging out the fires and dousing them with water, especially in the summer.

Mr. Charney asked Mr. Easton if the Board decided it was important to provide an ingress and egress point from his property to the south, would he be willing to provide

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that. Also, if the Board decided that it was important to have the area watered for dust control, as part of the mining operation program, would he be willing to do that. Mr. Easton stated that he would, and that it would be mandated by the state.

Mr. Charney stated that it would be important for Mr. Easton and his counsel to hear the Board's standard of review. In granting such an operation, or use by special exception, the Board should consider the environmental influences, such as dust or vibration. The Board should establish, when appropriate, protective conditions such as setbacks, screening, dust control as will mitigate the adverse effects of the nearby uses. This is something the Board is charged to do at this level, given that the roadway operation is one of significant truck traffic immediately in front of their homes is an adverse use.

Mr. Walker asked Mr. Easton about his plans for the mulch or tree limbs. Mr. Easton stated there were a couple of ideas that he would like to implement. One is the mulch that has been composted. He wants to manufacture that and bag it. His business is drifting more into the athletic field with the sod, and it requires 75% to 90% sand base. There is a small amount of mulch mixed with the sand base to grow this specific athletic grass on clay or anything else. Mr. Easton stated that if he cannot grow and harvest his own sod he finds it necessary to bring in sand from an outside supplier. Mr. Walker asked Mr. Easton where the burning tree debris was located and how close it is to the neighbor's property. Mr. Easton stated that he thought there was a portion of the debris that does touch a neighbor's property on one end at the north, but most of the debris is in the center. The drivers who were dumping the debris extended a little beyond their parameters, and it was hard to control because there were approximately 50 trucks an hour coming and going.

Mr. Charney called each of the opponents to the head table to ask them a question. Ms. Melinda Stone was called forward. Mr. Charney stated that currently the egress for the truck traffic is right in front of her home. There has been an offer made to move the egress about a quarter mile to the south. Mr. Charney asked if she would see that as having less of a negative impact on her home. Ms. Stone the proposed egress site is not a quarter of a mile away, and there are several houses in the immediate area of the proposed site. Ms. Yolanda Hiatt and Ms. Gloria Cravens were called forward and asked the same question as was asked of Ms. Stone regarding the proposed egress site. Ms. Hiatt stated there are at least six houses in the immediate vicinity of the egress site, and Ms. Craven concurred.

Mr. Charney asked Mr. Easton to come forward. Mr. Charney stated that the Board has been looking at the case map provided them, and have asked the opponents to locate their properties and explain the area around the proposed egress site. The Board has now been told there are several houses in the proposal site. Mr. Easton stated that he knew there were several houses in the proposed area but the house that would be right on the corner of Mingo is not protesting the project. There are five houses within an eighth of a mile south of the proposed site. The proposed egress site would be closer to one house and about the same distance as it is to the opponent's houses.

Comments and Questions:

Mr. Ron Walker stated that he could support the special exception request if there could be a good relocation of the ingress and egress to the sod farm. If he were to make a motion it would be contingent upon the restoration of 151st Street and the moving of the tree debris away from the neighboring property.

Mr. Gene Dillard stated that Mr. Easton should have been building a relationship with his neighbors before he appeared before the Board, but he could support this request with the condition that the land be cleaned of the "collectibles" that have been allowed to lay deteriorating for years.

Mr. Osborne stated that this is a very difficult case, because he likes to be and wants to be an advocate for the individual to use their property as they wish. But when the individual fails to be a good neighbor that is when it becomes an issue. The Board is being asked if sand extraction is a good use and permitted by-right in an AG district because of potential adverse effect. If the sand extraction is controlled, it is one thing, but when it is not controlled then the sand extraction affects the general welfare; that is something that no longer follows the guidelines of being a good use, and falls outside the spirit of the code. That is why the code exists. Mr. Osborne stated that today he could not support this request because he sees it is a detriment by Mr. Easton's actions.

Mr. Charney stated that the increased truck traffic makes this a difficult request to consider. Mr. Charney stated that he would like to find a way for the land owner to do with their land within the spirit of co-operative efforts, but he does not see a way of arriving to that conclusion so he could not support an approval of this request.

Mr. Charney asked staff if it would be wise to ask the applicant and his counsel to bring the Board a plan on the location of the ingress and egress point, and continue this case to the next meeting in May. There are various issues to be considered in this case. Those issues are past actions, clean up, the mulch that is still burning, and the ingress and egress; but if there were a plan brought to the Board to address those issues a motion could be made to continue this case.

Mr. Alberty agreed with Mr. Charney. There has been a lot of abstract discussion today. Typically whenever there is a request of this magnitude before the Board, there are more specifics presented, not only specifics on how the sand operation is going to operate, but is the sand operation only going to provide sand for Mr. Easton's use or will it be sold and trucked out. The Board can make a motion on one or the other, if the motion for support the Board can list a series of conditions that Mr. Easton would need to comply with. Mr. Alberty thinks Mr. Easton would be better served, because he heard concerns of nearby neighbors and the Board, if the applicant were allowed to come back with a specific plan. The plan should stipulate how the issues will be addressed. If the applicant is not willing to come back then the Board can definitely take action today.

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FILE COPY

Mr. Walker stated that he could support the sand operation because it will not be a problem on the river; the problem is the trucking. That is why he would like to see the ingress and egress moved and 151st Street be restored. Mr. Easton is in the business so he will be trucking the sand in from an outside entity, so by granting the use of his own sand plant it helps the situation by possibly lowering the truck traffic.

Mr. Charney asked Mr. Frazier if he would like to continue this matter to the meeting in May, as opposed to taking a vote today. Mr. Frazier stated that he has not heard anyone complain about the mining proposition but has heard many complaints about the truck traffic. Mr. Frazier welcomed the opportunity to present an alternative to the Board in regards to the truck traffic, but he does have concerns over the conversation regarding restoring 151st Street to its original condition. That street was not in very good condition prior to this, and Mr. Easton has attempted to fix the road a couple of times but it still keeps deteriorating. Mr. Easton would be glad to help in some of the restoration of 151st Street.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Walker "aye"; no "nays"; no "abstentions") to **CONTINUE** the request for a Special Exception to permit sand extraction within Use Unit 24 – Mining & Mineral Processing – in an AG District (Section 310), to the meeting of May 15, 2012; for the following property:

GOV LTS 3 4 6 & 8 & 27AC ACCRETED LAND LESS BEG SWC GOV LT 4 TH N466.69 E466.69 S466.69 W466.69 POB & LESS BEG 1322.52N & 92.15E SWC SE TH NE103.37 NE163.69 E280.39 E255.57 E501.27 ELY572.66 SE157.78 S154.42 W1991.50 TO POB SEC 19 17 14 119.08ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

Case No. 2428—Billy Frazier

Action Requested:

Special Exception to permit dirt extraction (borrow fill pit) within Use Unit 24 – Mining & Mineral Processing – in an AG District. **Location:** South of the SE/c of West 51st Street South & South 85th West Avenue

Presentation:

Billy Frazier, 7798 West 51st Street, Tulsa, OK; stated he wants to develop the property; this is not just a mining proposition. Mr. Frazier stated that he had a meeting with Mr. Terry West about two years ago, because Mr. West had seen him digging out an existing pond to make it deeper and working on the property. At that time Mr. West informed Mr. Frazier that he needed to obtain a development permit, which Mr. Frazier

Mr. Walker explained to the applicants that there were only three board members present at this meeting, and if an applicant 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 all three board members to constitute a majority and if one board member voted no today the application would be denied. Mr. Walker asked the applicants if they understood and asked the applicants what they would like to do. Two of the applicants stated that they would like to continue their cases to another meeting.

NEW APPLICATIONS

Case No. 2425—Zelda Weathers

Action Requested:

Special Exception to permit a Go-Kart Track within Use Unit 20 in an AG District.

Location: 9600 North Harvard Avenue

Presentation:

Zelda Weathers, 10210 North Harvard, Sperry, OK; requested to have her hearing rescheduled to the May 15th meeting.

Interested Parties:

There was one interested party present; he agreed to the rescheduling of the hearing.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Walker "aye"; no "nays"; no "abstentions") to **CONTINUE** the request for a Special Exception to permit a Go-Kart Track within Use Unit 20 in an AG District, to the meeting of May 15, 2012; for the following property:

**TR BEG SECR SE SE TH W326.7 N333.5 W229.2 N TO PT ON NL S/2 SE SE E555.9
S POB SEC 17 21 13 6.668ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

Case No. 2424—Phil Frazier

FILE COPY

Action Requested:

Special Exception to permit sand extraction within Use Unit 24 - Mining & Mineral Processing - in an AG District (Section 310). **Location:** SE of the SE/c 151st Street South and South Mingo Road

FILE COPY

Presentation:

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Phil Frazier, 1424 Terrace Drive, Tulsa, OK; requested to have his hearing rescheduled to the April 17, 2012 meeting.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Osborne, Walker "aye"; no "nays"; no "abstentions") to **CONTINUE** the request for a Special Exception to permit sand extraction within Use Unit 24 - Mining & Mineral Processing - in an AG District (Section 310), to the meeting of April 17, 2012; for the following property:

GOV LTS 3 4 6 & 8 & 27AC ACCRETED LAND LESS BEG SWC GOV LT 4 TH N466.69 E466.69 S466.69 W466.69 POB & LESS BEG 1322.52N & 92.15E SWC SE TH NE103.37 NE163.69 E280.39 E255.57 E501.27 ELY572.66 SE157.78 S154.42 W1991.50 TO POB SEC 19 17 14 119.08ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2416—Ronald L. Hall

Action Requested:

Variance to permit a second dwelling unit on one lot of record (Section 208); and a

Variance of the minimum required land area per dwelling unit (Section 330).

Location: 12612 North 143rd Avenue East

Presentation:

Ronald L. Hall, 12612 North 143rd East Avenue, Collinsville, OK; would like to move a second mobile home onto his acreage for his step-daughter to live in. There have been two mobile homes on the land since 1973 until March 2010, when the second mobile home was removed. The new mobile home will have a separate legal address, its own private utilities, and a separate septic system.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

PHIL FRAZIER
pfrazlaw@swbell.net

Frazier & Phillips
Attorneys at Law
A Professional Association

SHARON PHILLIPS
sharon.phillips@swbell.net

1424 Terrace Drive • Tulsa, Oklahoma 74104-4626
Phone (918) 744-7200 • FAX (918) 744-7210

April 25, 2012



Mr. Chris Sansone
Senior Planner
Board of Adjustment
2 West 2, Suite 800
Tulsa, OK 74103

Dear Chris:

Re: Case No. CBOA-2424

This will confirm my telephone conversation with you April 25, 2012, regarding the Special Exception case now pending before the Board of Adjustment.

Mr. Easton has discovered that although the sand is ideal for the intended use, unfortunately, the sand base is not near as deep as it had been expected. Accordingly, there will not be enough sand for a commercial operation. The original plan to use the sand for the growth and placing of the sod as well as a commercial sand operation is no longer feasible.

If granted the Special Exception, Easton Sod Farms will remove sand from the river for their own use. That use will include the growth of sod on site as well as the use of sand for placement of sod.

There will be a reduction in truck traffic which was the main concern of the protestants. The mining of sand on site will curtail use of the sand trucks coming in and out.

With the reduction of truck traffic, Mr. Easton proposes to leave the road where it is; however, he has already made arrangements to place an asphalt composite on the road to improve the surface.

The sand will be removed from the river by a scraper near the Bixby Creek site. It will not be necessary to utilize the barge and there will be no noise, odor or vibration from the extraction of sand. Sand will be extracted when the river is low and stockpiled for spreading during the planting and growing season.

Exhibit A

2.19

Mr. Chris Sansone
Senior Planner
Board of Adjustment
April 25, 2012
Page Two

Some concern was expressed regarding the presence of tree limbs and other storm debris which Mr. Easton allowed the City of Bixby as well as Tulsa County to place on his property during cleanup of the ice storm. Mr. Easton will utilize the material for mulch and it will be mixed with the sand during the preparation process. He will begin at the north end which is nearest 151st Street and continue to monitor the area for any spontaneous combustion.

In summary, if the Special Exception request is allowed, it will result in less truck traffic, a reduction of the dust and debris problem the protestants mentioned, and improvement of the road (151st Street) which the protestants requested. This substantial lessening in the scope of sand mining activity and the corresponding decrease in truck traffic should satisfy the concerns expressed by the protestants at our previous meeting.

As always, we appreciate your cooperation and assistance in this matter and invite you to contact me should you have any further questions regarding this matter.

Yours truly,



Phil Frazier
Attorney at Law

aal

Copy to John Easton

Case No. 2273

Action Requested:

Special Exception to permit sand and gravel mining in the AG district (Section 301), located: Southeast of 161st Street and South Garnett Road.

Presentation:

Mike O'Dell, 9660 Lakewood Road, Lenexa, Kansas, submitted applicant exhibits (Exhibit B-1). They proposed to mine sand and gravel from the Arkansas river and the adjacent floodplain at the location indicated by the submitted plans. He informed the Board that the demand is growing and the local supply has diminished. The site has not been earmarked for any development in the county land use plan; it has been identified as an agricultural reserve.

Comments and Questions:

Mr. Charney asked for clarification of Mr. O'Dell's last statement. Mr. Cuthbertson responded that he is probably referring to the Arkansas River Corridor Master Plan, which was provided to the Board. He added it covers the river from the Keystone Dam all the way to Wagner County.

Mr. O'Dell continued, stating the site is close to the existing users, within a mile to the main haul-route, Highway 64 to the south on Garnett Road. They have a written agreement and some verbal agreements with the County that Holliday Sand & Gravel would supply the materials and the County would supply the labor. It would be a cost share for the Garnett Road widening and improvements. He explained that the property cannot be developed for other uses than AG because the bulk of the property is in the floodplain. There would be a minimal clearing of habitat vegetation. They propose the operation to run from 7:00 a.m. to 7:00 p.m., Monday through Friday and 8:00 a.m. to 12:00 p.m. on Saturdays, mainly during construction season. The projected life of the project is 15 years. Environmental impacts are supplied in the exhibits. There are about five homes nearby, one within ¼ mile west of the Garnett frontage of the subject property and four within ½ mile west off of 161st Street. There are approximately another 24 residences about one mile away. Local schools are 1 ½ to 2 miles away and not on the haul-route. They estimate 100 trucks per day but there could be up to 200 trucks per day equaling 400 trips per day. They would contract for a traffic study. They are planning for dust control of the plant roads with recycled asphalt. The primary operation would be river dredging on approximately 105 acres. They would use silencers on the dredgers. Mr. O'Dell stated the plant would be on twelve acres in the northwest corner and screened to the east and south by the treed corridors on Snake Creek and Snake Creek tributary. They would agree to plant evergreens along Garnett. He submitted photographs (Exhibit B-2). They talked with the neighbor across the street and he did not have any objection. They would direct

lighting down. They plan for a hydrology study for the project and permits. The sand pond and pit is on about eighty-three acres.

Mr. Hutson asked how many permits they must obtain before they build a plant and begin operations. Mr. O'Dell estimated there are about six permits from DEQ, State of Oklahoma, the County, and Corp of Engineers. Mr. Hutson wanted the interested parties to understand they have to meet many requirements for these permits. Mr. Cuthbertson also mentioned that once this project is over it does not open up the way for commercial development, as the land is zoned agricultural.

Interested Parties:

Joe Davidson, P.O. Box 686, Bixby, Oklahoma, stated his land adjoins on the east side along Snake Creek. He owns 50 acres with a residence. He asked if the trucks run seven to seven or are those hours for the dredging or is that 24 hours per day. He expressed concern about the widening of Garnett and the bridge as a big project. He added this is a school bus route. Mr. Davidson stated he made phone calls randomly to 15 of the 27 sand supply companies listed in the phonebook and everyone of them informed him they had excess capacity in sand at that time. He indicated that the Department of Mining does not do a lot of engineering review once the County gives approval. The Army Corp of Engineers informed him today that because of a Supreme Court ruling they no longer have authority to issue a 404 Permit.

Teresa McLain, 16614 South 128th East Avenue, stated a family member owns property on east Snake Creek. She opposed because before the 1986 flood the creek was cutting off the family property. She informed the Board that if the flow of the river is changed it would take out a small wood culvert at 129th that would cut off eight people from their properties. She also asked if the culvert washes out, who would they call. She asked if they planned to use the cutterhead in the river or on the banks.

Jerry Martin, 12926 East 161st Street South, expressed concern of the river washing out the banks and culvert. He complained of dust and truck traffic from such a plant.

George Roberts, P.O. Box 905, Bixby, Oklahoma, stated he owns property east of the subject property. He was concerned that not all of the neighbors were notified of this case. He also mentioned that it would devalue their property.

Glenn Koenig, 16312 South 128th East Avenue, stated opposition of such a project on the river that could cause loss of land.

Ray Bowen, Mayor of the City of Bixby, stated that Holliday Sand and Gravel has been a good corporate citizen.

(name inaudible), 12925 East 161st Street South, opposed the application for the noise of the proposed plant.

Teresa McLain-Bean, asked if this plant would mine silica sand, which is a very fine sand.

Applicant Rebuttal:

Mr. O'Dell stated that Holliday Sand and Gravel is an employee-owned property. He responded to neighbor's concerns that they plan do a hydrology study. They will not proceed if they believe it will do damage to streets or anyone's property downstream. Mr. Charney asked about the hours of operation mentioned, if that was for the trucking and/or the mining. Mr. O'Dell replied that the hours of seven to seven would be the hours they would be open, loading trucks. He added there will be times when they would need to dredge 24 hours per day. Mr. Charney asked if they could agree to the Board imposing certain hours of operation. He replied that they could if they built a larger production rate plan. Mr. Hutson assumed that would mean more noise and larger equipment. Mr. O'Dell replied that he did not know that it would be noisier, but a little more of a presence. He stated they are aware a bus goes by the proposed plant, but the trucks would not haul past the school on residential streets. He informed the Board that river dredging is not regulated if there is only incidental fall-back into the river, with an EPA 404 permit. The Corp. of Engineers are very involved with this site and have jurisdiction there. He commented that the dredge is about 20 ft. x 40 ft. in size and might be used in the pit if there was enough water. The cutter-head is about 24 inches in diameter and is like a rotating head with teeth on it that loosens the sand. They would not want to dredge within 50-100 ft. of the bank and cave the bank. They could post a quarter million dollar bond payable to a homeowners' association or the county, in the case of unforeseen erosion. Mr. Charney asked if other Departments and/or agencies that do more technical studies and reviews after a Board of Adjustment approval.

Janet Meshack, with Meshack Associates, replied that Holliday Sand and Gravel contacted them in advance to see if this was even possible. It is nearly all in a floodway. She stated Snake Creek actually overflows around 181st Street. They advised the Holliday company that they would have to lower some of the areas affected in order to have compensatory floodplain storage and conveyance not to cause any rise in the water surface or floodway. Mr. Charney asked if there is a process to follow to prevent erosion of the bank. She did not think there was any real process that would eliminate the possibility of erosion. The Keystone Dam has a big impact on the water level.

Mr. Hutson asked how they selected this site. Mr. O'Dell replied they selected this site because it is convenient, close to the market. Less transportation time decreases the cost of delivery. The distance from residential homes makes this a good site and they will not be hauling past houses.

David Iski, Assistant District Attorney, encouraged the Board to address the concerns within Section 1224.3 and Section 1680.3 in their findings.

In discussion, Mr. Walker had concerns for possible occurrences of erosion. Mr. Charney was relieved to know that the dredging site, which might be around the clock, is farther away from residences. Mr. Hutson noted that sod farms are all over the area and recognized dust as a characteristic of a farming area during certain seasons. Mr. Tyndall found the proposal to be appropriate subject to the hours and road usage. Mr. Charney stated the Board has considered dust, vibration, traffic and the applicant's offer to do watering to control dust. The road improvement plan would assist the vibration. The haul route seems to be the best and shortest distance to users. The applicant would have significant setbacks and berming. They have addressed the hours of operations.

Board Action:

On **Motion of Hutson**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit sand and gravel mining in the AG district (Section 301), as submitted by the applicant, in accordance with the data submitted and the plan of operation, subject to all of the permitting required, including environmental and quality, mining; hours of operation: truck traffic and pit operations from 7:00 a.m. to 7:00 p.m. and dredging as needed; with conditions provided by the applicant to stay away from the banks in excavation; to take necessary steps to minimize erosion, specifically, dredging no closer than 50 ft. from the shore, except when the equipment is moved to the working site; placement of rip rap in areas that appear to be adversely affected from erosion by the operation; the applicant to contribute to the cost and upkeep of Garnett Road south to Highway 164; a watering plan that is consistently administered, authored by the applicant and posted for the inspector should they wish to see it; and the applicant to provide a \$250,000 bond to be posted in the event that certain remedial cure to public works is deemed necessary by the inspector's office for actions inconsistent with various permits; finding it 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; finding the Board has made an effort to address the issues raised in Section 1608; on the following described property:

"That portion of the Arkansas River lying South of the centerline, upstream of the confluence of Snake Creek, in the South ½ of Section 20, and in the North ½ of Section 29 all in Township 17N, Range 14E of the Indian Base and Meridian, in Tulsa County, Oklahoma, and more particularly the South half of the Arkansas River, beginning at the extension of S. Garnett Road, easterly and downstream along the south bank of the Arkansas River approximately 4600 feet to the mouth of Snake Creek, containing 105 acres more or less; AND certain real property in Tulsa County, Oklahoma, in the North ½ of Section 29, Township 17 North, Range 14 East of the Indian Base and Meridian and lying north of Little Snake

Creek, less the south 1000 feet (containing 23.6 acres), containing 160 acres, more or less."

NEW BUSINESS

There was no new business.

OTHER BUSINESS

Interpretation of the Zoning Code to determine the classification of a pond in a platted residential district.

BOARD ACTION:

On **Motion** of Charney, the Board voted 5-0-0 (Waiker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** this business to the meeting on August 21, 2007.

There being no further business, the meeting adjourned at 3:49 p.m.

Date approved: 8/21/07

Daniel E. Charney
Chair



Looking north at subject property entrance from E. 161st St. S.



Looking north toward the creek crossing on the subject property



Looking east across property near entrance on E. 161st St. S.



Looking west across property near entrance on E. 161st St. S.



Looking northeast at Bixby Creek crossing



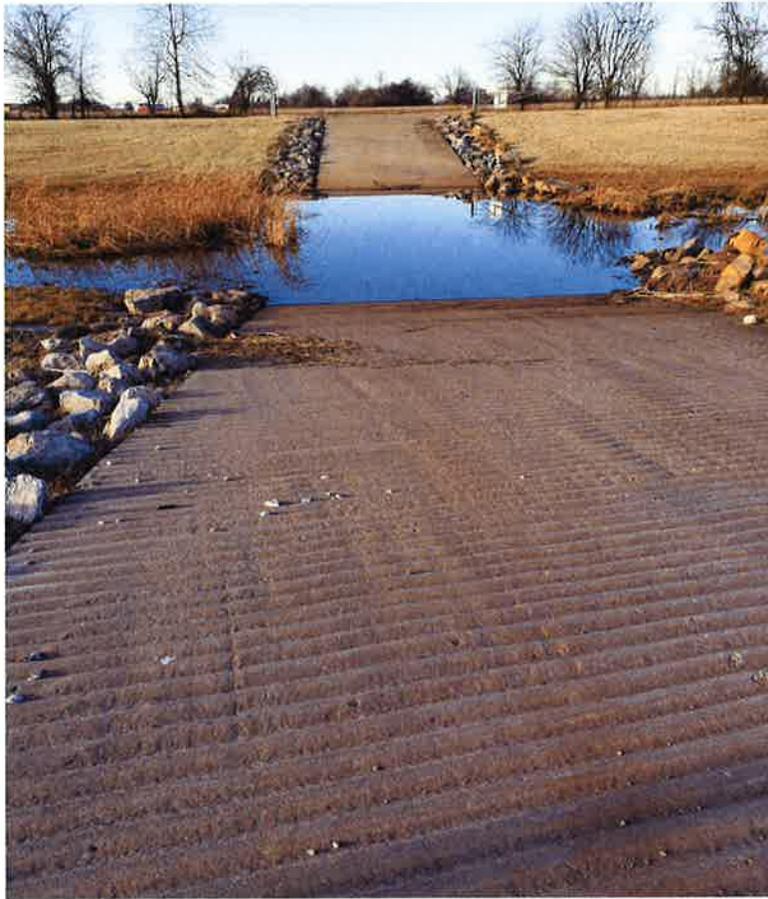
Looking northwest at Bixby Creek crossing



Looking south across E. 161st St. S.



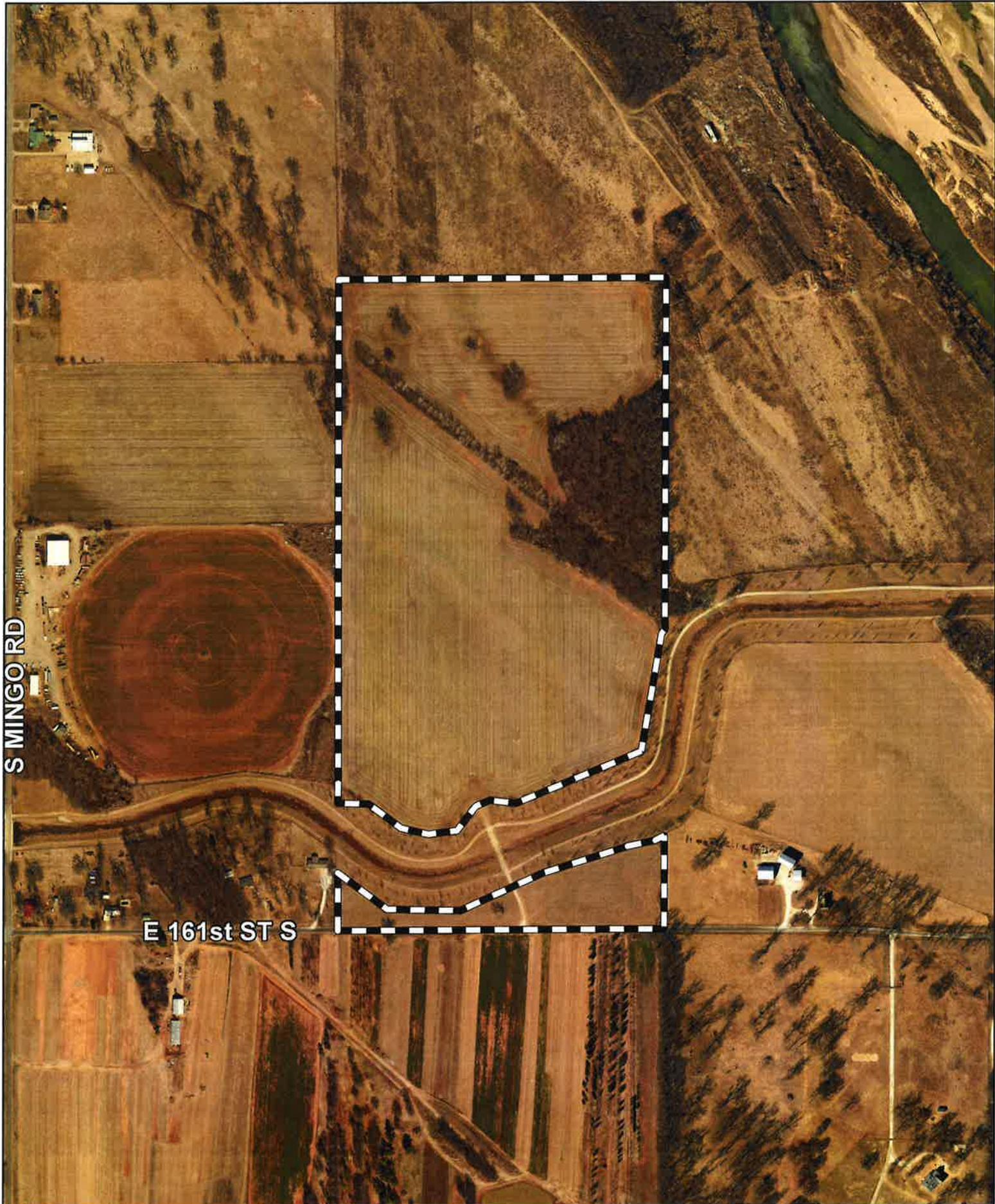
Looking west down E. 161st St. S.



Close-up of creek crossing



Real Estate sign on subject property



S MINGO RD

E 161st ST S



Subject Tract

CBOA-2786

17-14 19

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018



2.31

8/20/2019

Gmail - RE: [Non-DoD Source] Tanner Bemies - 10335 E 161st St, Bixby, OK (UNCLASSIFIED)



Tanner Bemies <tbermies@gmail.com>

RE: [Non-DoD Source] Tanner Bemies - 10335 E 161st St, Bixby, OK (UNCLASSIFIED)

1 message

Holmes, Jordan L CIV USARMY CESWT (USA) <Jordan.L.Holmes@usace.army.mil>
To: "tbermies@gmail.com" <tbermies@gmail.com>
Cc: "jcottle@bixby.com" <jcottle@bixby.com>

Mon, Aug 5, 2019 at 2:13 PM

CLASSIFICATION: UNCLASSIFIED

Mr. Bemies,

Good afternoon, The Bixby Creek Channel project is a federally constructed project but is locally operated and maintained by the City of Bixby. You would need to coordinate with the City on access to this property. As a suggestion, I would verify that the low water crossing is rated for the loads the trucks would potential carry.

The contact for the local sponsor is listed below for your information.

Mr. Jarrod Cottle, P.E.
City of Bixby
City Engineer
jcottle@bixby.com

If you have any additional questions or concerns, please let me know.

Very respectfully,

Jordan Holmes, P.E.
Levee Safety Program Manager
USACE, Tulsa District
jordan.l.holmes@usace.army.mil
918-689-7338 (Office)
918-438-9352 (Mobile)

-----Original Message-----

From: Tanner Bemies [mailto:tbermies@gmail.com]
Sent: Thursday, July 25, 2019 4:25 PM
To: CESWT-RO SWT <ceswt-ro@usace.army.mil>
Subject: [Non-DoD Source] Tanner Bemies - 10335 E 161st St, Bixby, OK

Hello,

My name is Tanner Bemies, I am inquiring into the low water access located at 10335 E 161st St in Bixby, OK.

I currently am in the process of purchasing the property and would like to ascertain some form of confirmation that I will be allowed to move my trucks through the low water access to the property because with out such access the property will be land locked preventing me from being able to reach the land.

my phone # is 918-688-2058

Thank you,
Tanner Bemies
918-688-2058

CLASSIFICATION: UNCLASSIFIED
CLASSIFICATION: UNCLASSIFIED
CLASSIFICATION: UNCLASSIFIED
CLASSIFICATION: UNCLASSIFIED



Tanner Bemies <tbemies@gmail.com>

Tanner Bemies - Inquiry into 10335 E 161st St

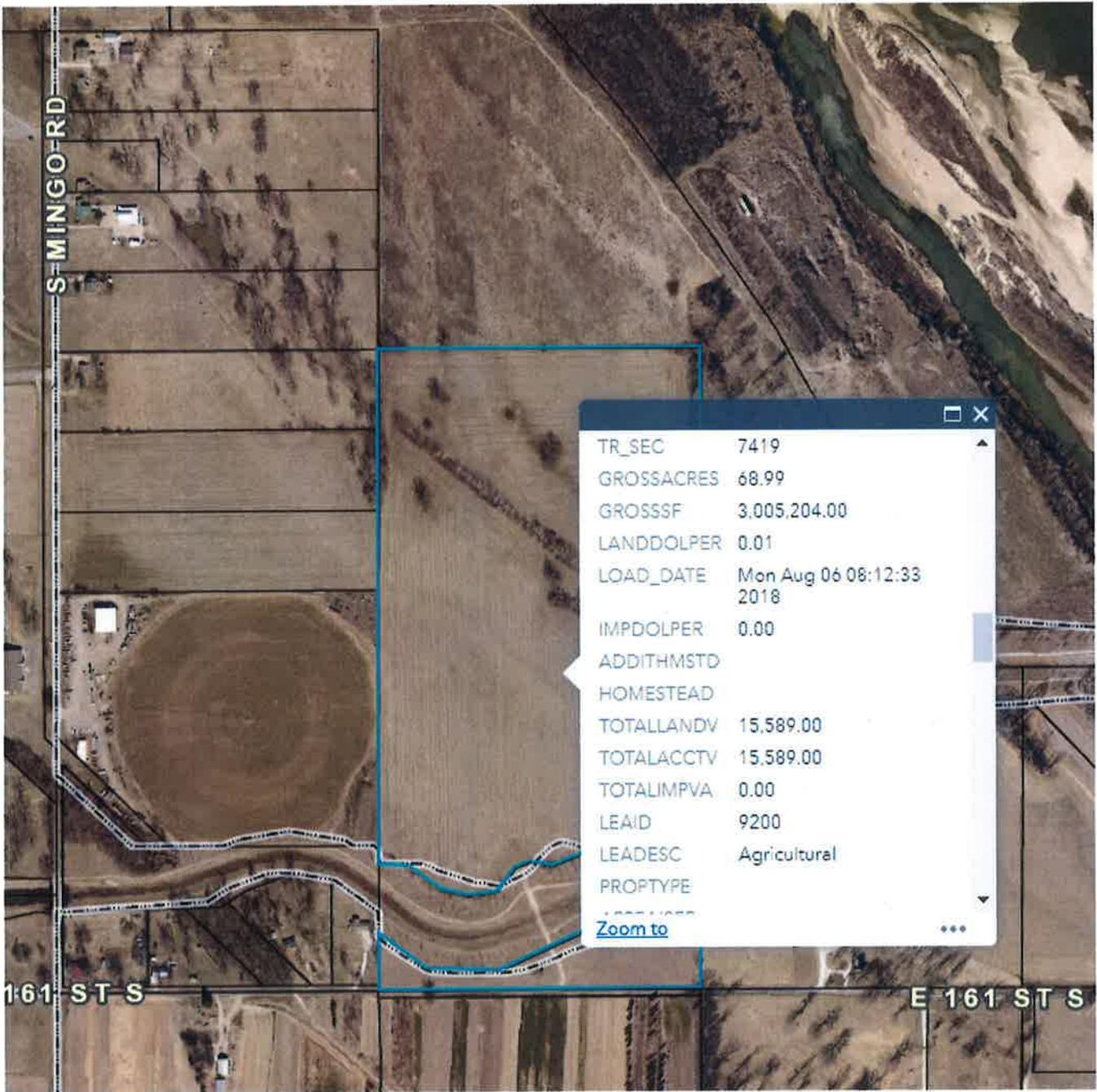
Jason Mohler <jmohler@bixbyok.gov>
To: Tanner Bemies <tbemies@gmail.com>

Wed, Jul 31, 2019 at 10:00 AM

10355 E 161st St lies within Tulsa County jurisdiction. Below is clip from the GIS map.

Attached are a few sheets from the Record Drawings for Bixby Creek. As discussed on the phone, Bixby Creek was a Corp of Engineers project. The City of Bixby owns and maintains Bixby Creek. The site does lie within the City fenceline. However, annexation is typically requested by property owners or developers (i.e. the City would not pursue annexation of this property unless requested or some other reason develops).

The existing low water crossing provides access the agricultural land north of the Creek. I am not aware of an limitations on that access.



Jason C. Mohler, P.E.
Development Services Director
City of Bixby

From: Tanner Bemies [mailto:tbemies@gmail.com]
Sent: Thursday, July 25, 2019 9:47 AM
To: Jason Mohler <jmohler@BixbyOK.gov>
Subject: Tanner Bemies - Inquiry into 10335 E 161st St

STATE OF OKLAHOMA
DEPARTMENT OF MINES
2915 N. CLASSEN, SUITE 213
OKLAHOMA CITY, OKLA. 73106

LEGAL ESTATE

Name of Legal Estate Owner: Francis, Jerry Calvin & Mary Ann
Address: 15625 S Harvard, Bixby, OK, 74008

Telephone Number: _____

Section(s) 19 Township 17N Range 14E County Tulsa

Is the permit application area owned _____ or leased X by the Applicant?

I, (Legal Estate Owner) Francis, Jerry Calvin & Mary Ann certify that I am the owner of the legal estate of the property being represented in this Application for a Non-Coal Mining Permit, and that the (Company, Corporation, Individual (s)) Tanner Bernies have the right to mine this property.

Signature of Legal Estate Owner *Mary Ann Francis*

Subscribed and sworn to before me this 10 day of September 2019

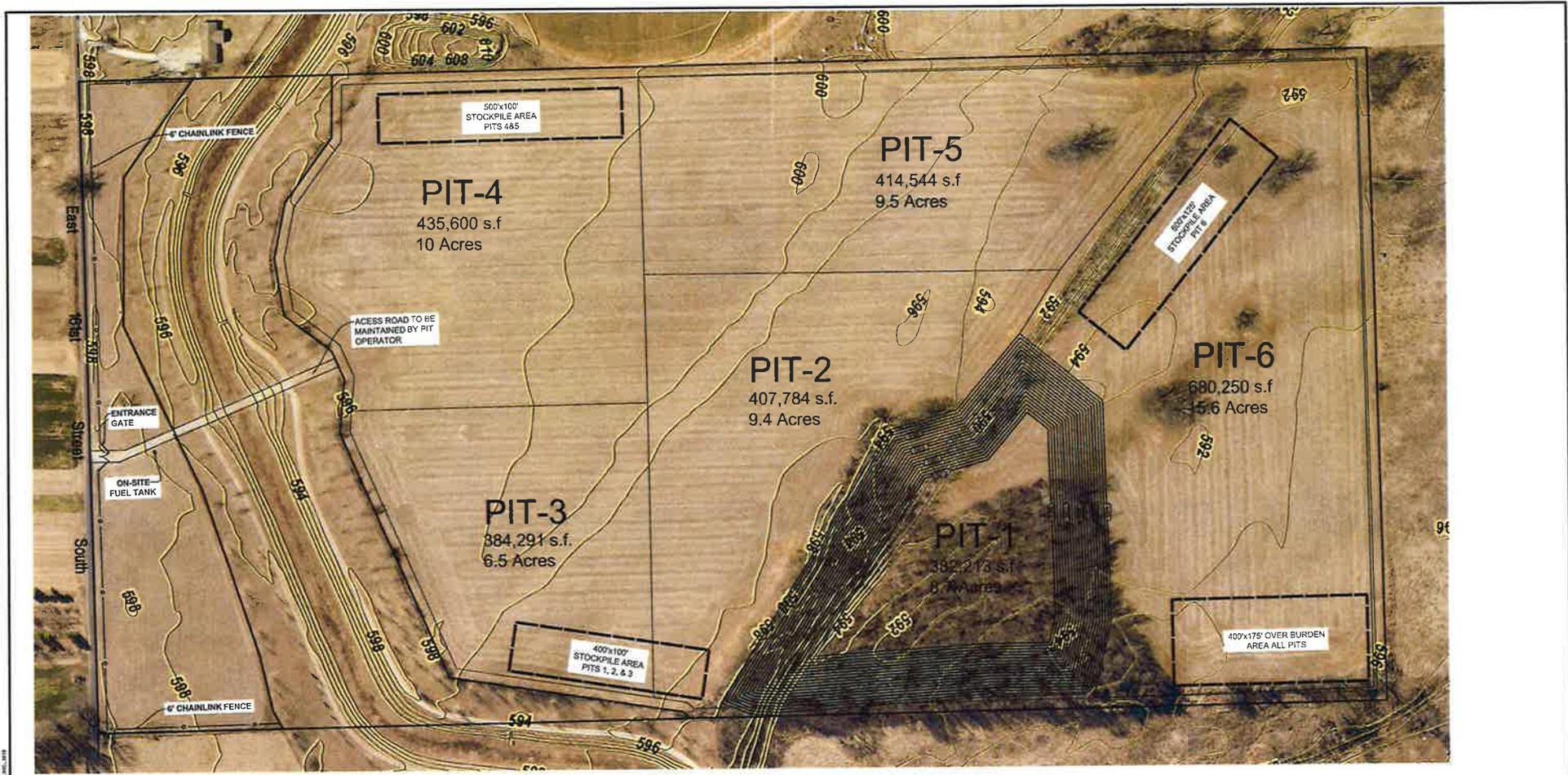
My Commission expires 10-5-2020

Notary Public *[Signature]*



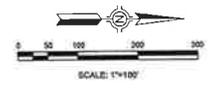
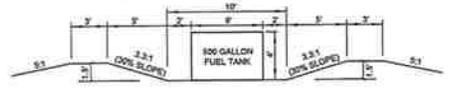
* IF THE OWNER OF THE LEGAL ESTATE OF THE PROPERTY CHANGES, A NEW LEGAL ESTATE FORM MUST BE SIGNED BY THE NEW OWNER OF THE LEGAL ESTATE. IF THERE ARE MULTIPLE OWNERS OF THE PROPERTY ON THIS APPLICATION, A SEPARATE LEGAL ESTATE FORM MUST BE EXECUTED FOR EACH OWNER.

NOTE: THE DEPARTMENT OF MINES DOES NOT HAVE THE AUTHORITY TO ADJUDICATE PROPERTY TITLE DISPUTES.



Pit Volumes

Pit #	Area (Sq Ft)	Ac.	Average Depth (ft)
PIT-1	382,273	8.77	16.80
PIT-2	407,784	9.36	17.50
PIT-3	384,291	8.82	17.80
PIT-4	435,600	10.00	16.30
PIT-5	414,544	9.52	17.20
PIT-6	680,250	15.62	16.90



ALL CONSTRUCTION TO BE IN STRICT ACCORDANCE WITH CURRENT TULSA COUNTY PUBLIC WORKS DEPARTMENT SPECIFICATIONS, INCLUDING C.D.01, 2008 EDITION SPECIFICATIONS CALL OKIE!

EXISTING UNDERGROUND LINES HAVE BEEN SHOWN TO THE EXTENT KNOWN AND PLANS HAVE BEEN SENT TO THE EFFECTED UTILITY OWNERS FOR VERIFICATION OF EXISTING LINES. BEFORE UTL/DIG, CONTACT OKLAHOMA ONE CALL: 1-800-522-6540.
 DUTHERMERN BELL TELEPHONE COMPANY
 CO COMMUNICATIONS
 OKLAHOMA NATURAL GAS COMPANY
 AMERICAN ELECTRIC POWER COMPANY



DATE	REVISIONS



County OF TULSA



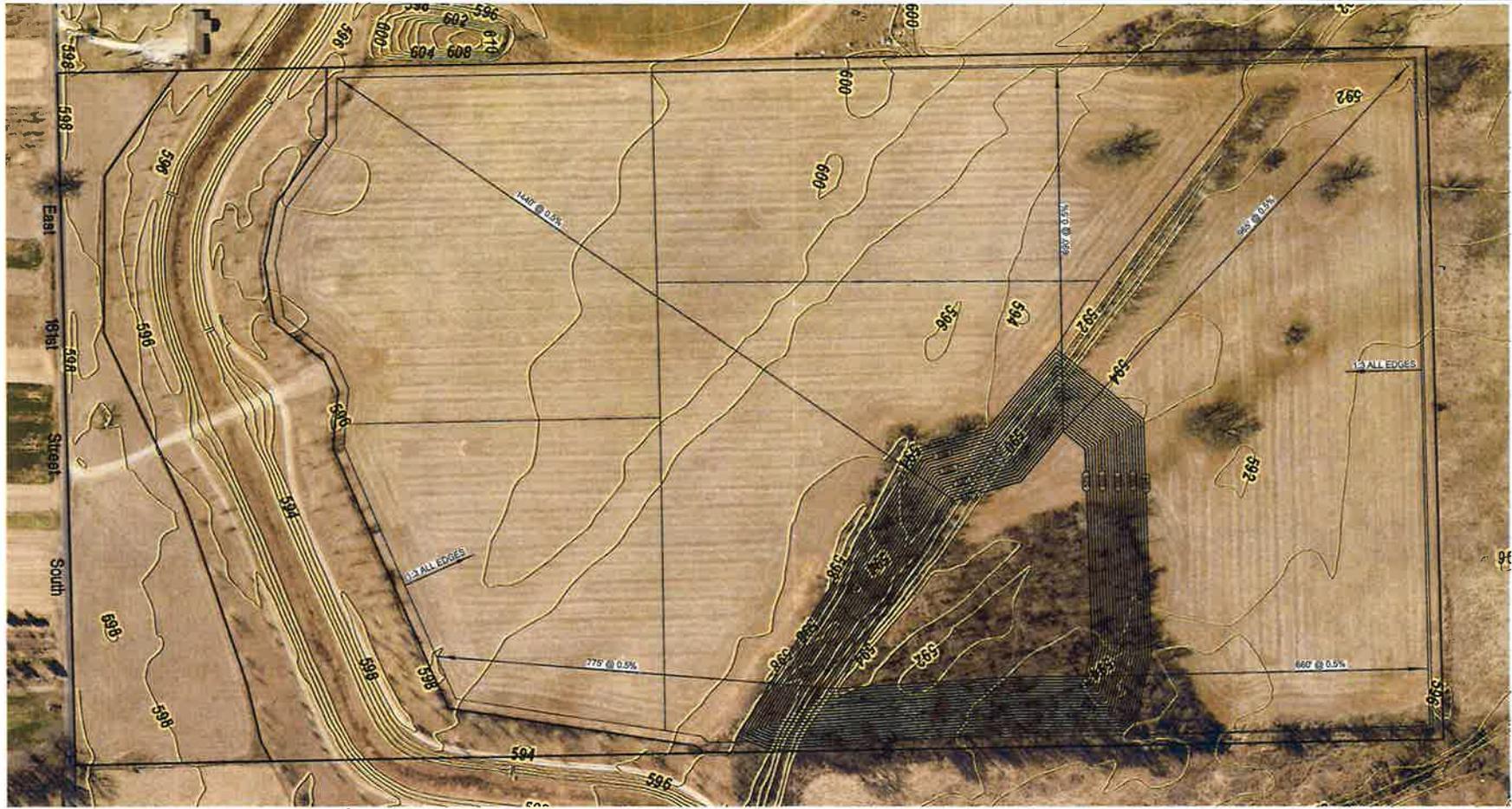
Skemore Welz & Associates, Inc.
 888 EAST 20th PLACE
 TULSA, OKLAHOMA 74108
 C.A. NO. 2481
 PHONE: 918 585-3900
 FAX: 918 585-3906
 EMP. DATE: 6/20/01

PLAN SCALE: 1"=100'	WORK ORDER NO. 18383	TYPE OF WORK: N/A	DATE: 10/15/19
PROFILE SCALE: HORIZ. NA VERT. NA	FILE: 1714.19	PHASE: N/A	DRAFTED BY: LAD
ATLAS PAGE NO.			SHEET OF 1 1

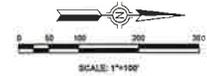
THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT A FINAL SIGNED AND SEALED DOCUMENT.

Bemies Mining Project
 SWP3 SITE PLAN

2.36



Location Map
SCALE: 1"=2000'



THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT A FINAL, SIGNED AND SEALED DOCUMENT.

ALL CONSTRUCTION TO BE IN STRICT ACCORDANCE WITH CURRENT TULSA COUNTY PUBLIC WORKS DEPARTMENT SPECIFICATIONS, INCLUDING O.S.D. 2008 EDITION SPECIFICATIONS. CALL OKIE!

EXISTING UNDERGROUND LINES HAVE BEEN SHOWN TO THE EXTENT KNOWN AND PLANS HAVE BEEN SENT TO THE EFFECTED UTILITY OWNERS FOR VERIFICATION OF EXISTING LINES. SEE NOTE U.D.G. CONTACT OKLAHOMA ONE-CALL: 1-800-522-6563.
 2744 WESTERN BELL TELEPHONE COMPANY
 1 COMMUNICATIONS
 JAYHORN NATURAL GAS COMPANY
 OKLAHOMA ELECTRIC POWER COMPANY



County of TULSA



Sommers Weitz & Associates, Inc.
 801 EAST 24th PLACE
 TULSA, OKLAHOMA 74106
 O.A. No. 1202
 PHONE: (918) 485-2000
 FAX: (918) 485-2008
 E-MAIL: SWEIT@S&A.COM

PLAN SCALE: 1"=100'	WORK ORDER NO. 15383	TYPE OF WORK N/A	DATE 10/15/19
PROFILE SCALE: HORIZ. N/A VERT. N/A	FILE: 1784.19	PHASE N/A	DRAFTED BY: LAD
ATLAS PAGE NO.			SHEET OF 1 1

Bemies Mining Project
RECLAMATION MAP

2.37



116 West Needles
P.O. Box 70
Bixby, OK 74008
www.BixbyOK.gov

December 10, 2019

Robi Jones
Tulsa County
Board of Adjustment
rjones@incog.org

RE: Case Number CBOA-2786

Board of Adjustment:

The City of Bixby has received the Notice of Hearing for Tulsa County Board of Adjustment Case Number CBOA-2786. We recognize that regulation of the allowable uses for that property lies with Tulsa County and do not object to the proposed Special Exception allowing Use Unit 24.

With that said, access to the property is somewhat unique. The US Army Corp of Engineers constructed the Bixby Creek Local Flood Protection Project and the City owns and maintains the completed project. A portion of the Special Exception property is south of Bixby Creek with the remainder being north of Bixby Creek. The Corp constructed a low water crossing for access to the north side of Bixby Creek. The City is not opposed to use of the low water crossing as part of the mining operation with an understanding that the Applicant is responsible of any crossing upgrades necessary to handling loading in excess of the original design and must repair any damages to the low water crossing resulting from the proposed Use.

Additionally, the City is concerned that the proposed Use may generate significant truck traffic on County and City streets. Damages to City streets caused by the mining operation must be repaired by the Applicant.

If you have any questions or need additional information, please reach out to me at 918-366-0417 or jmohler@bixbyok.gov. Thank you in advance for including this letter in the Case file for CBOA-2786.

Regards,

A handwritten signature in blue ink that reads "Jason C. Mohler".

Jason C. Mohler, P.E.
Development Services Director

CC: Jared Cottle, City Manager
Marcae' Hilton, City Planner

Jones, Robi

From: Linda Burns <grannylb.41@gmail.com>
Sent: Monday, December 16, 2019 6:07 PM
To: Jones, Robi
Subject: Re: Mining of NativeSoils Hearing, #CBOA-2786

On Mon, Dec 16, 2019 at 6:05 PM Linda Burns <grannylb.41@gmail.com> wrote:

rjones@incog.com

EXTERNAL MSG

----- Forwarded message -----

From: Linda Burns <grannylb.41@gmail.com>
Date: Sun, Dec 15, 2019 at 9:05 PM
Subject: Mining of NativeSoils Hearing, #CBOA-2786

We have been informed of the proposal to change the zoning on an acreage just a half mile east of our property. The Core of Engineers purchased half our acreage to widen a drainage ditch in Bixby Creek that the City of Bixby was supposed to maintain! That was a fiasco since the drainage has filled in with cattails, weeds, etc! Nothing is ever done to keep it up! All along the creek flooded, our garden and yard were ruined along with lots of neighbors along this Bixby creek! I said all that to vent and now I wonder if this Mining Proposal will be any better! I live on the corner of 161st and Mingo so we will be bombarded with the huge trucks, mud, noise, etc! It will deteriorate our roads even further than the school buses, and all the other traffic we endure on a daily basis! Our roads should be upgraded for the safety of our school traffic!

Please reconsider this proposal!

Don and Linda Burns

Jones, Robi

From: Laura Bolton <LEBolton@benekeith.com>
Sent: Sunday, December 15, 2019 1:57 PM
To: Jones, Robi
Subject: FW: Mining of Native Soils Hearing #CBOA-2786
Attachments: 1..pdf; 2..pdf; 3..pdf; 4..pdf

Mr. Jones: My name is Laura Bolton. My family owns land and lives adjoining the partial of land listed on the attachments that is being considered to change the zoning to where they can mine the native soils. I am sending this e-mail to express concerns if this change were to take place.

We have many concerns. We're hearing that the trucks run 24/7, with that comes the noise, destruction and overload of roads (which will become solid mud), then once the removal is complete, the area becomes a land fill with dumping all over the property. There are safety concerns, in that two roads leading out of that property (161st and Mingo) pass Bixby Center Intermediate, Bixby Middle School and Bixby High School. Also the concern for diminishing land values for everyone in the area.

In brief, our quality of life, and that of all of our neighbors near this property, will drastically change for the worse.

Thank you
Laura Bolton

Laura Bolton
Ben E. Keith Foods – OKC
(918) 630-3405
Lebolton@Benekeith.com

CASE NUMBER COBA-2786

My name is Helen Bolton of Bolton Farms and I am responding to a notice of zoning change regarding Case Number COBA-2786 in Tulsa County.

I am extremely concerned about the possible rezoning from agriculture to allow native soils to be mined. My home and farm are adjacent to this property on the west fence line. We are famer/ranchers and have lived on and farmed this property for the past 58 years. My house is located only one quarter of a mile from where the trucks would enter and exit the proposed dirt removal venture.

In making the property next to me available for dirt mining it would be detrimental to my property and the surrounding properties and community. I see a decline in land value, noise from the continuous running of heavy equipment, dust issues and a traffic safety problem plus damaging an already less than great two-lane road (161st Street).

As a former school board member of 30 years for Bixby Public Schools, I am a devoted member of the Bixby community and its welfare. The continual daily use of heavy dump trucks will create a safety hazard and there are two Bixby schools within proximity of the proposed soil removal project. First on 161st street between Riverview and Mingo and secondly on Mingo. What about the safety of our children?

Finally, reclamation is a serious concern. What will happen at the end of this soil removal? Will the land be flooded and create more water issues for an already low area? Will this push water onto my property and others? Will it become a dump with its own issues?

I sincerely believe the quality of life that myself, my children and grandchildren have experienced these past 58 years will be ruined. Please vote against authorizing this change in zoning.

Sincerely,

Helen Bolton

Jones, Robi

From: Paul Allen <pallen210@gmail.com>
Sent: Monday, December 16, 2019 8:46 AM
To: Jones, Robi
Cc: rpeters@tulsacounty.org
Subject: Mining of Native Soils Hearing #CBOA-2786

Robi Jones,

I am contacting you regarding the hearing of #CBOA-2786, Mining of Native Soils. This proposal is deeply disturbing to my family and neighbors. My family and I own property that is adjacent to the proposed project. We have lived on this property for over 65 years. The land has always been used for agriculture needs (farming and cattle grazing) and was also heavily flooded this past May. In the past few years the land in the area has been developed for single and multi family dwelling. My son just built a brand new home that will be less than 500 yards from this project. His in laws just purchased land that is even closer to the project and are in the process of building a home. This land needs to remain agricultural or possibly single family homes. The destruction of this property by this project will have a devastating impact on the area and the City of Bixby, which is only a half mile away. I fear for the impact will have on our area when we have another flood. Not one of the properties adjacent to this project support it. Not one single supporter. Please reject this application.

Thank you,
Paul Allen
15515 S Mingo Rd
Bixby, OK 74008

--

Paul M. Allen
918-261-8448

Sparger, Janet

From: Jones, Robi
Sent: Friday, December 13, 2019 9:15 AM
To: David Charney; don.crall@tulsacc.edu; Don Hutchinson; gdillard@firstpriority.com; lwjslj@sbcglobal.net; ttosh@tulsacounty.org
Cc: Sparger, Janet; Miller, Susan
Subject: FW: Case Number CBOA-2786

This letter just arrived and was not included in the agenda packet for CBOA-2786.

Robi

Robi Jones
Community Planner
County Board of Adjustment Administrator
Tulsa Planning Office
2 W. 2nd St., 8th Floor | Tulsa, OK 74103
918.579.9472
rjones@incog.org



From: Rob Miller <rmiller@bixbyps.org>
Sent: Thursday, December 12, 2019 12:59 PM
To: Jones, Robi <rjones@incog.org>
Subject: Case Number CBOA-2786

Hi, Ms. Jones.

I am Rob Miller, the Superintendent of Bixby Schools. I am contacting you today to voice our concerns about the application referenced in the subject line. I am unable to attend the hearing on Tuesday, December 17th, but respectfully request to have this email presented to the CBOA prior to a final decision on the application.

The district's concern relative to soil mining from the property adjacent to East 161st Street South and South Mingo Road is not related to activity on that property itself. Rather, it revolves around

the potential impact to traffic patterns and increase in noise decibel level around two of our schools that are located within one mile of this location: Central Intermediate (CI) and Bixby Middle School (BMS). CI is located about 50 yards off the road (north) of 161st Street between Mingo and Riverview. BMS is located on Mingo Road between 151st and 161st Street.

Based on our experience with construction and soil mining projects near some of our other schools, we are worried about the potential of large vehicles co-mingling with school buses and parent traffic during the school day. The area around each of the schools is very congested at the start and end of each school day. Both Mingo and 161st Street are two lane roads through this area; therefore, having additional large vehicles on these roads will impair the ability of buses to run on time and for parents to drop-off and retrieve their children during the day.

Moreover, with the proximity of both of these schools to the main roads, there is potential for increased ambient noise in and around these campuses. Increased noise levels can be distracting to the learning environment and may interfere with critical learning activities at these schools, to include state-mandated testing.

Again, we ask that these potential impacts to the Bixby School District be strongly evaluated as part of your decision.

If there are additional questions, I can be reached at the number shown below. Thank you!

Respectfully,

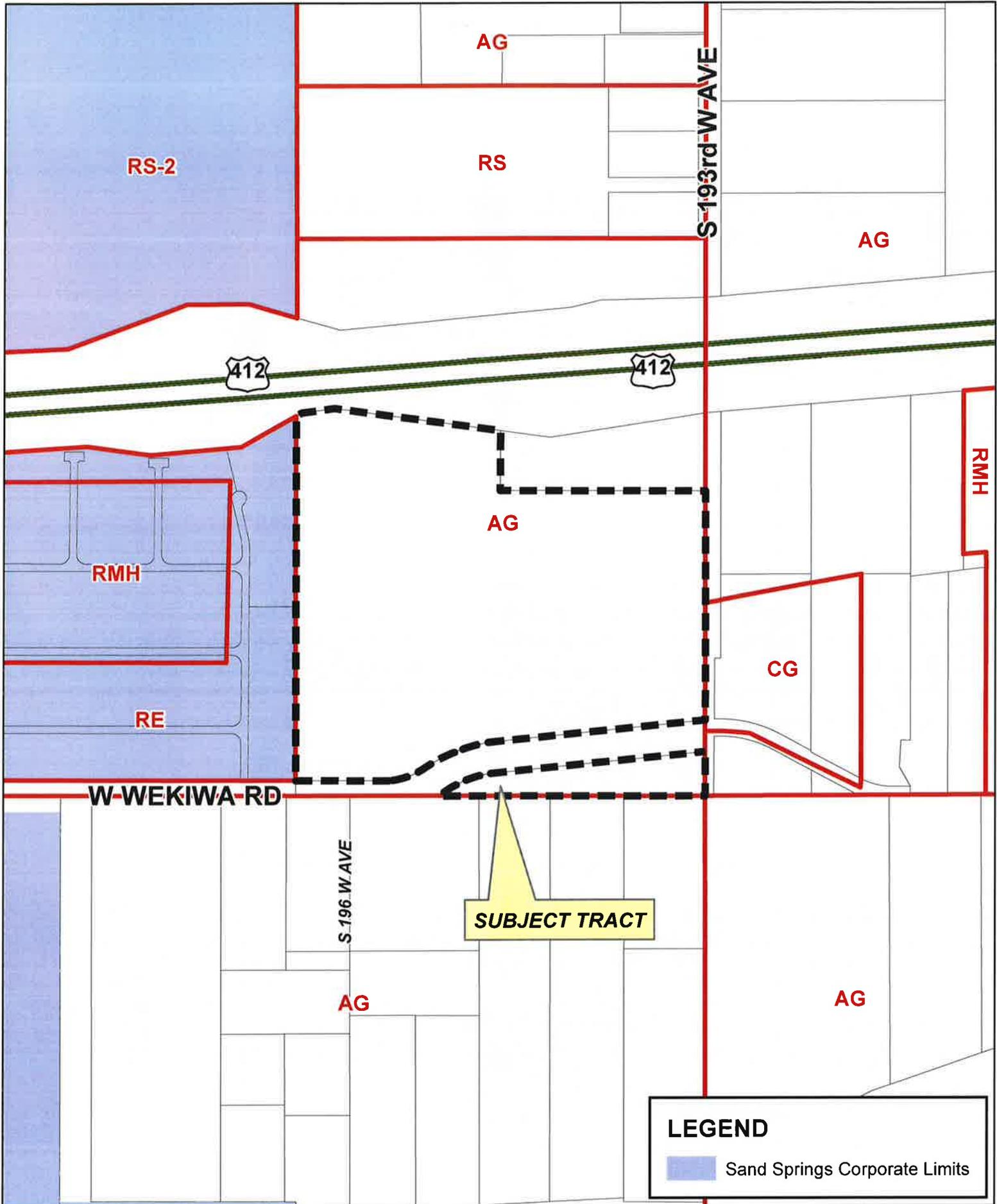
Rob



Rob Miller
Superintendent
Bixby Public Schools
918.366.2200



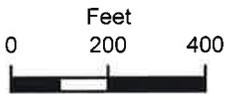
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SUBJECT TRACT

LEGEND

 Sand Springs Corporate Limits



CBOA-2789

3.1

19-10 02



BOARD OF ADJUSTMENT CASE REPORT

STR:9002

Case Number: CBOA-2789

CZM:33

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Michael Abbound

ACTION REQUESTED: Use Variance to allow Overnight Campground for Recreational Vehicles, Use Unit 17, in an AG district (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

LOCATION: 19301 W WEKIWA RD S

ZONED: AG

PRESENT USE: Vacant

TRACT SIZE: 33.55 acres

LEGAL DESCRIPTION: W/2 SE SE LESS 1.45AC TO HWY & S/2 NE SE SE & SE SE SE SEC 2
19 10, SANDEL MANUFACTURED HOME PARK

RELEVANT PREVIOUS ACTIONS:

Subject Property: None relevant

Surrounding Property:

CBOA-2778 November 2019: The Board voted to **APPROVE** the request for a **Use Variance** to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Commercial General District (Section 710, Table 1), on property located at 19271 West Wekiwa Road.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts the Sand Springs corporate limits on the west which is the site of a mobile home park with both RMH and RE zoning. Highway 412 abuts the northern portion of the parcel with the exception of one AG zoned parcel with a residential use. The CG zoned property to the east is a residential property with an AG Use Variance to permit a Horticulture Nursery. Properties to the south are zoned AG with residential uses.

STAFF COMMENTS:

The applicant is before the Board requesting a **Use Variance** to allow an Overnight Campground for Recreational Vehicles, Use Unit 17, in an AG district (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

The applicant provided the following statement: *"The primary utilization of the property shall continue to be for agricultural purposes. The intention is to preserve the properties existing wildlife habitat, as the property is one of the last remaining undeveloped tracts in the area, while allowing recreational visitors to experience the area in its natural state. This limited recreational use would not be injurious to the public good nor materially impair the purpose and intent of the existing zoning ordinance."*

3, 2

A **Use Variance** is required because an Overnight Campground for Recreational Vehicles, Use Unit 17, is not permitted in an AG zoning district due to potential adverse affect. The site plan provided by the applicant indicates that the Overnight Campground will be constructed in four phases and will contain 20 pad sites after the last phase is completed. The pads will be located on the western boundary of the property. The applicant lives in the residence located on the eastern border of the property.

The applicant proposes unpaved (gravel) parking spaces for each pad site. The Code requires all paving surfaces be paved to maintain a minimum level of aesthetics, but more importantly to control air-borne particles like dust and to control the tracking of dirt and mud onto public streets. The applicant is requesting a **Variance** of the all-weather parking surface requirement (Section 1340.D).

Sample Motion:

“Move to _____ (approve/deny) a Use Variance to allow Overnight Campground for Recreational Vehicles, Use Unit 17, in an AG district (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: _____.

Finding the hardship to be _____.

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.”

Mr. Charney agreed. Mr. Charney stated the legal test is if the Board believes it would be injurious to the neighborhood, and he does not think it will be.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-1 (Charney, Crall, Hutchinson, Johnston "aye"; no "nays"; Dillard "abstaining"; none "absent") to **APPROVE** the request for a Special Exception to permit Use Unit 13, Convenience Goods and Services, in an IM District to allow a Medical Marijuana Dispensary; Special Exception to permit Use Unit 27, Heavy Manufacturing and Industry, in an IM District to allow a Medical Marijuana Processing Facility that uses butane-based extraction methods (Section 910, Table 1), subject to conceptual plan 4.13 in the agenda packet. 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; for the following property:

All that part of East Half of the Northwest Quarter of the Northeast Quarter (E/2 NW/4 NE/4) of Section Seven (7), Township Nineteen (19) North, Range Twelve (12) East, all lying South of the MK & T Railroad Right-of-Way and LESS the Charles Page Boulevard Right-of-Way, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof.

AND

That part of the Northeast Quarter of the Northeast Quarter (NE/4 NE/4) of Section Seven (7), Township Nineteen (19) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows, to-wit:

BEGINNING at the Southwest corner of said NE/4 NE/4; thence North on the West line of said NE/4 NE/4 a distance of 556.90 feet to a point; thence Northeasterly at an angle of 110°15' to the left a distance of 70.57 feet to a point, said point being 581.70 feet North and 66.07 feet East of said Southwest corner; thence S 01°59'59" E a distance of 581.70 feet to a point on the South boundary line of said NE/4 NE/4; thence West on the South boundary line of said NE/4 NE/4 a distance of 86.36 feet to the POINT OF BEGINNING., OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Dillard re-entered the meeting at 2:10 P.M.

2778—Marc Najjar

Action Requested:

Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Commercial General District (Section 710, Table 1). LOCATION: 19271 West Wekiwa Road

Presentation:

Timothy Janak, P. O. Box 52707, Tulsa, OK; stated he represents Mr. Najjar and the property owner, Super Moon, LLC. The property is located in far western Tulsa County and it has been vacant for some time. There is a warehouse on the property and that is where the growing facility will be located; the warehouse is approximately 4,975 square feet. Most of the land is zoned CG, Commercial General, however, a small portion is zoned AG thus the Variance request. About 1/3 of a mile to the east of the subject property is a trucking company, Mohawk Materials, that operates 18-wheelers and is a sand or cement facility. There is also a trailer park east of the subject property another 1/3 mile. Mr. Najjar is purchasing the subject property from Super Moon, and the intention is to have the growing facility in the warehouse. There will be an eight-foot fence erected around the warehouse and the manager of the facility will live in the house that is west of the facility. From that standpoint it is believed there will be adequate security for the grow house. There will be no retail.

Mr. Charney asked Mr. Janak to share the scope of the process. Mr. Janak stated that the plants within the warehouse will be substantial because it is planned to use the entire square footage of the warehouse for growing.

Mr. Hutchinson asked Mr. Janak if all 3-1/2 acres is zoned CG. Mr. Janak stated that parts of the property is zoned agriculture.

Interested Parties:

Michael Abboud, 19301 West Wekiwa Road, Sand Springs, OK; stated he owns 33 acres dues west of the subject property. As the request was presented by the applicant it sounds like the subject property is in the middle of an agricultural area but there are several residential properties near the site. Mr. Abboud stated that his back door is within 100 yards of the subject property and the neighbor across the street has property within 100 yards. Mr. Abboud stated he has several concerns and issues with the request. A concern is the decline of property values. The smell this type of facility will emit is best described as a skunk like smell. There are numerous chemicals involved in the cultivation of marijuana. Another concern is how the chemical runoff will be disposed of. He would like to know about the operating history of the applicant. The proposed ten-foot tall fence, not an eight-foot tall fence, will cause a blind spot on for traffic coming down 193rd pulling onto Wekiwa Road; Wekiwa is a heavily trafficked road. If this is such a good proposal, why is it necessary to erect a ten-foot tall fence around the facility? Mr. Abboud stated he has security concerns because the applicant had to file an application with OMMA and that it is on their website, so the site is published to the public and everyone will know it is there. Marijuana is not a normal agriculture crop due to the odor, the demand, and the need for high security. Mr. Abboud thinks this would also violate existing nuisance laws because of the odor alone. Mr. Janak stated the property is zoned CG and needs to be zoned heavy or medium industrial along the back. How will this be regulated and what is the recourse for the neighbors? This property is in the middle of a sleepy rural community with a lot of

homeowners in nice homes, not on the Sand Springs line in an industrial area. This request is not in the interest of the public good and is injurious to the neighborhood.

Mr. Charney stated the use being sought on the subject property is permitted as a matter of right in the AG District. This is not the manufacturing use like heard earlier; this is to allow the horticultural use not the manufacturing of the product.

Ms. Teresa Tosh stated that it is the Oklahoma Medical Marijuana Association (OMMA) that oversees the legislature. When the legislature was passed, they were behind and now they are trying to catch up. As they are putting into effect the rules that will govern the marijuana industry in all facets, the growing, the processing, and the dispensing, they now realize they need some way to improve their ability to make people comply. Now there is a letter of compliance which is filled out by a local jurisdiction which would be the County. The County will need to inspect facilities and so will OMMA make inspections once a year.

Mr. Nolan Fields stated that it is important to understand that the state's OMMA has the sole authority to regulate this industry. When it comes to compliance issues, that is the only facet the County has and that is similar to conforming compliance as for any commercial agricultural or other type of business that would have a new operation. The County really has nothing to do with the medical marijuana aspect of this industry, that is purely the State. If there are citizen concerns, it is important to follow up with the OMMA first and then Code compliance would fall under the County.

Roger Harrington, 19224 West Wekiwa Road, Sand Springs, OK; stated he lives directly across the street from the subject property and he has lived there 40 years. Mr. Harrington stated he has concerns with the ten-foot fence because his house would be about 65 feet from the fence. Another concern is the increase in traffic because there is a lot of traffic now. The site is about ¼ mile from the river and there is a creek on the subject property that dumps into the river, so he is concerned about water quality. There are children that use a school bus stop in the area and they also ride their bicycles up and down the road. Mr. Harrington stated the warehouse is a former truck repair shop, and the property has been run down for several years.

Rebuttal:

Timothy Janak came forward and stated that he is an attorney and Marc Najjar is his client, and he is the one with the license for the growing facility. Mr. Najjar is purchasing the subject property from Super Moon, LLC which is a real estate company. Mr. Janak stated he is before the Board today for the applicant but at the same time he represents Super Moon, LLC.

Mr. Charney stated that the site plan depicts a fence only on the front of the property, and he asked Mr. Janak if the Board is inclined to approve this request would the applicant object to having a fence around the entire facility. Mr. Janak stated that he and Mr. Najjar have discussed that and have decided to put a fence around the growing facility itself.

Mr. Crall asked Mr. Janak if the fence was just for aesthetic reasons or does it have a purpose? Mr. Janak stated the fence is for security.

Mr. Charney asked Janak if this was a growing only operation and if that was all he was before the Board today to ask for. Mr. Janak answered affirmatively.

Mr. Hutchinson asked Mr. Janak if there were security requirements necessary from OMMA. Mr. Janak answered affirmatively. Mr. Janak stated the fence is required and it is required to be covered, meaning that it can be a chain link fence with a covering through it so there is no visibility to the public.

Mr. Hutchinson asked Mr. Janak if there were security cameras required. Mr. Janak stated that there will be security cameras, but he cannot speak to the exact regulation.

Mr. Hutchinson asked Mr. Janak if there would be semi-trucks coming on to the property to haul out the harvested product. Mr. Janak answered no.

Mr. Johnston asked Mr. Janak about the odors that can be expected for just growing plants. Mr. Janak stated the plant growing will be inside the building; the temperature and lighting is regulated which enhances the growth of the plant. There is no issue of an odor going outside the building. Mr. Johnston asked if there would be any ventilation. Mr. Janak stated there has to be temperature control so to that extent there is ventilation for the plants.

Mr. Janak stated that there are numerous growing facilities on Charles Page Boulevard that are larger than what is being proposed, and a person cannot smell anything while on Charles Page Boulevard.

Mr. Hutchinson asked staff if there would be charcoal filters in the ventilation process. Ms. Tosh stated that there is a requirement for ventilation. Depending on what is used, like CO2 for growing, then the facility must be vented every day. There are filters in place that are part of the requirement for the very reason that there have been multiple complaints regarding odor.

Mr. Charney stated that the pictures of the facility it is an overgrown unsightly facility. Sometimes the Board has granted Variances with the condition that the facility be cleaned up and maintained. Mr. Charney asked Janak what will occur in regard to cleaning up the facility and the maintenance of the facility. Mr. Janak stated the intention is to clean up both the outside and the inside. The building has been abandoned for quite some time and it is believed this will improve the area. The outside grounds will be taken care of so that it no longer looks like a deserted auto repair shop.

Mr. Wilkerson stated the Code stipulates in Section 240 that only allows a 4'-0" tall fence in the street yard, so he is not sure where the street yard is in this context. The

applicant will be limited to 4'-0" in the front yard and eight feet beyond that. The provisions of the Code will not allow a ten-foot fence under any circumstance.

Michael Abboud came forward and stated the neighborhood wants to have the property cleaned up, but who will want to move next door to a mass scale marijuana growing facility in the country? The neighborhood will be better off with the property staying in the condition it is today than to allow this growing facility. This is a bomb being dropped on the property owners around the facility. The house that has been discussed is not right next door to the facility and people could get around whatever security there is. This facility is in the middle of a neighborhood and he asks the Board to deny this request.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Commercial General District (Section 710, Table 1), subject to conceptual plan 5.8 of the agenda packet. There must be an eight-foot security fence surrounding the grow facility and any such fencing is to be done in conformity with the Tulsa County Code. The property is to be cleaned up, both the grounds and the building, and it is to be continued after the clean-up in a commercially reasonable manner. The Board has found the hardship being the unusually sized configuration of the tract being surrounded by AG with a portion of the subject tract being AG as it exists today allowing the use being sought as a matter of right. There is to be a three-year time limit on the approval, November 2022. 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:

The West 348.56 feet of the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) of Section One (1), Township Nineteen (19) North, Range Ten (10) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof; LESS AND EXCEPT a tract beginning at a point 24.75 feet East of the Southwest corner of Section One (1); thence East on the South line a distance of 323.81 feet; thence North at right angles to last described course a distance of 112 feet to a point that is the center of Wekiwa Road; thence Westerly on the center line of said road to a point 220 feet North and 25.25 feet East of the Southwest corner of Section One (1); thence South on a line parallel to the West line of said Section One (1), a distance of 220 feet to the point of beginning, LESS AND EXCEPT a tract for highway, described as beginning at the

Northwest corner of the said Southwest Quarter of the Southwest quarter (SW/4 SW/4) thereof; thence East along the North line of the said Southwest Quarter of the Southwest Quarter (SW/4-SW/4) a distance of 348.6 feet thence South a distance of 52.1 feet; thence South 85°52' West a distance of 349.5 feet to a point on the West line of the said Southwest Quarter of the Southwest Quarter (SW/4 SW/4) thence North along the West line a distance of 77.8 feet to the Point of Beginning; AND LESS AND EXCEPT the North 25 feet of Wekiwa Road; AND LESS AND EXCEPT the West 50 feet of the North 797.67 feet, AND LESS AND EXCEPT the West 30 feet of the South 200.00 feet for road and the South 5 feet including any previously dedicated right of way; AND LESS AND EXCEPT the North 601.53 feet to the East 323.81 feet of the West 348.56 feet of the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) of Section One (1), Township Nineteen (19) North, Range Ten (10) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, LESS AND EXCEPT a tract of highway described as BEGINNING at the Northwest corner of the said Southwest Quarter of the Southwest Quarter (SW/4 SW/4) thereof; thence East along the North line of the said Southwest Quarter of the Southwest Quarter (SW/4 SW/4) a distance of 348.6 feet thence South a distance 52.1 feet; thence South 85°52' West a distance of 349.5 feet to a point on the West line of said Southwest Quarter of the Southwest Quarter (SW/4 SW/4); thence North along the West line a distance of 77.8 feet to the Point of beginning; AND LESS AND EXCEPT the West 50 feet for the road, commonly known as 19215 West Wekiwa Road, Sand Springs, OK 74063 (the "Property"), OF TULSA COUNTY, STATE OF OKLAHOMA

2779—Matt Blair

Action Requested:

Special Exception to permit Use Unit 5 (Community Service & Similar Uses) in the RS District (Section 410). LOCATION: 5323 South 65th Avenue West

Presentation:

Matt Blair, 3749 South 63rd West Avenue, Tulsa, OK; stated the subject Jane Adams school building is to be purchased and repurposed for a community hub location. The plans are to be put in a licensed family practice medical clinic, a counseling center, and an urban garden center. There are stipulations in the contract with Tulsa Public Schools that there will not be a public or private education facility. The plan is to also have a fitness center and potentially some life and trade skills for the community development. Hopefully, there will be a sports complex on the ten acres one day. This will offer the ability for people to have services for free, but it will not be a free clinic. This will be a community hub. The highest quality of care will be offered in a community location for anyone or everyone no matter what their socio demographics might be. Clean up on the inside of the building is currently being done and there are some issues with the building not being Code compliant, and this will probably be the most highly



412

412

S 193rd W AVE

W WEKIWA RD

S 196 W AVE



Subject Tract

CBOA-2789

19-10 02

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

3.10





CrossTimbers RV Retreat 20 Pad site Layout

Road (---)

Pad site 

Phase I - Pad sites 1 - 5

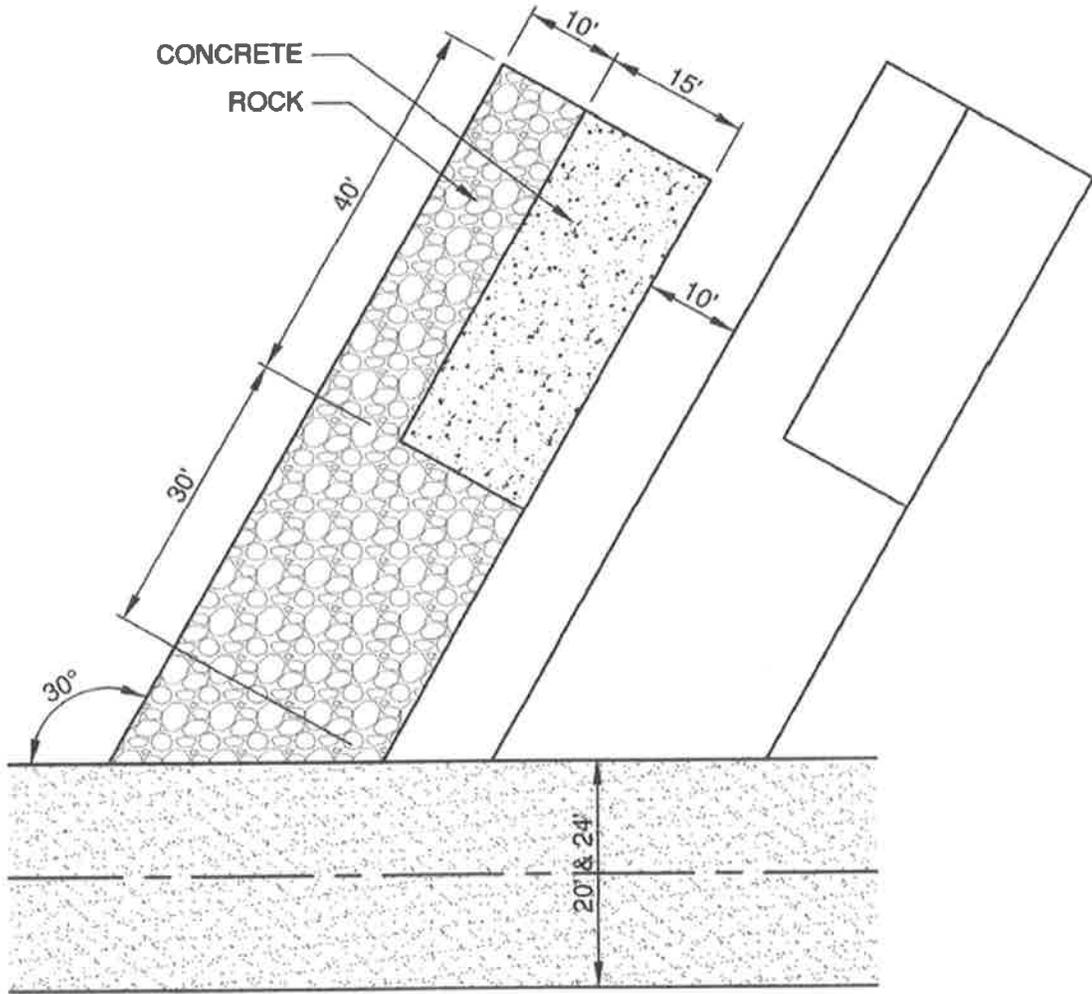
Phase II - Pad sites 6 - 10

Phase III - Pads sites 11 - 15

Phase IV - Pad sites 16 - 20

3.11

CrossTimbers RV Retreat: Padsite and Road Dimensions



SCALE: 1" = 20'

Jones, Robi

From: Michael Abboud, CFA <MAbboud@trustok.com>
Sent: Friday, January 3, 2020 10:13 AM
To: Jones, Robi
Subject: RE: Overnight Campground

Robi,
The property does have existing electrical and water on the property but for that portion of it, as it relates to the project, I've spoken with DEQ for septic, AEP on electric and plan to get a permit from the city of Sand Springs for a water tap. I have not moved forward just yet on applying for permits as I wanted to see how the variance hearing goes first. Just let me know if I need to do something otherwise.
Thank you,

Michael Abboud, CFA
Senior Vice President
(918) 744-0553 | Office
(918) 744-5088 | Fax
MAbboud@TrustOk.com
6120 S. Yale Ave., Suite 1900 | Tulsa, OK 74136 | Office
PO Box 3627 | Tulsa, OK 74101 | Mail
www.TrustOk.com



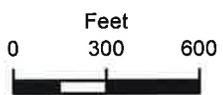
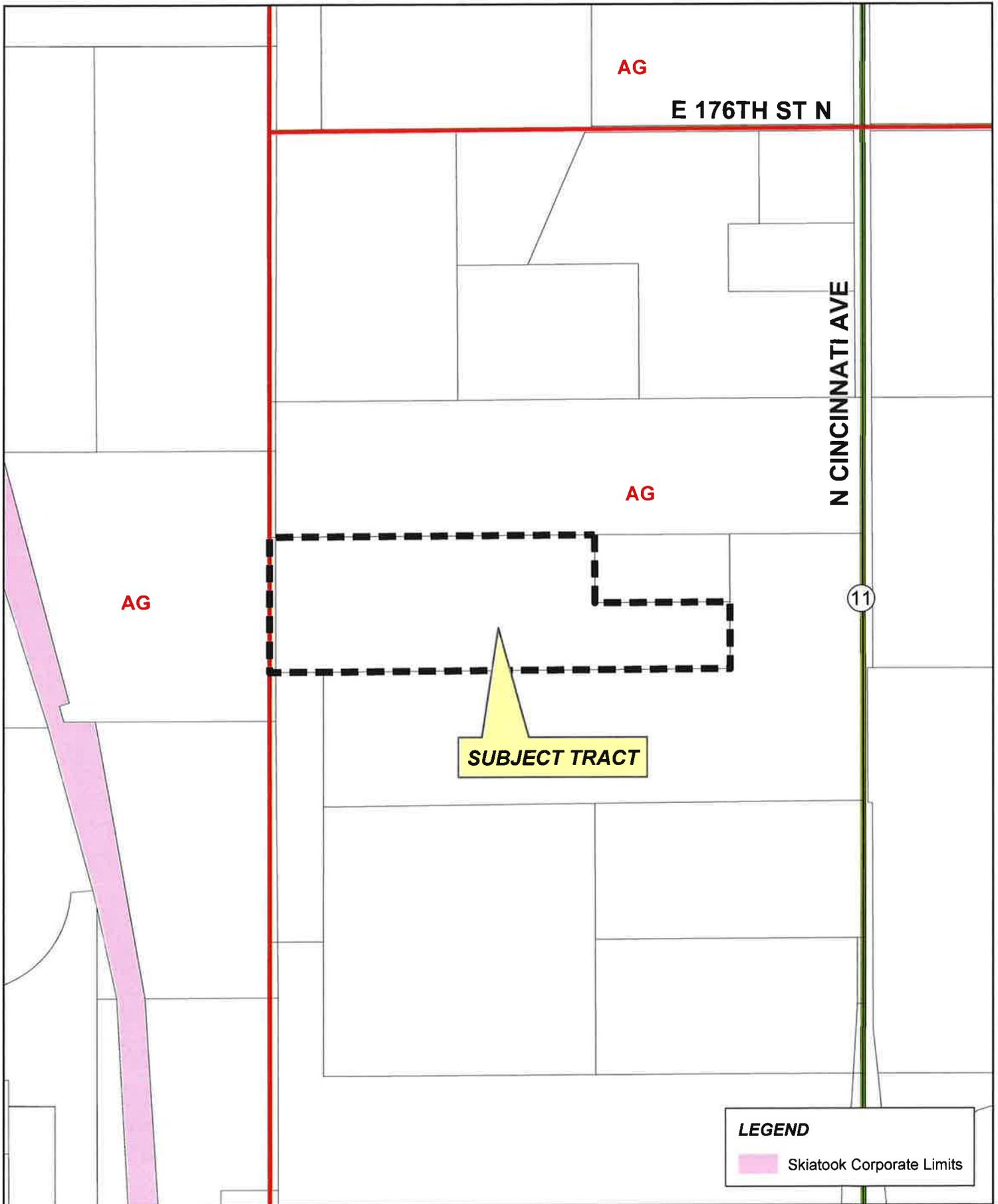
From: Jones, Robi <rjones@incog.org>
Sent: Thursday, January 2, 2020 3:55 PM
To: Michael Abboud, CFA <MAbboud@trustok.com>
Subject: FW: Overnight Campground

Michael,

I am working on your case. The following is from the permit department. If approved, it looks like you will need several permits. Do you already have electrical and water on the property?

Robi

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CBOA-2790

22-12 11

4.1



**BOARD OF ADJUSTMENT
CASE REPORT**

STR:2211

Case Number: CBOA-2790

CZM:1

PD:

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Charles Burgess

ACTION REQUESTED: Variance of the street frontage requirements in an AG district from 30' to 0' (Section 207).

LOCATION: 17300 N CINCINNATI AV E

ZONED: AG

PRESENT USE: Residential

TRACT SIZE: 28.9 acres

LEGAL DESCRIPTION: S/2 SW NE & S/2 SW SE NE & S/2 LOT 2 SEC 11 22 12,

RELEVANT PREVIOUS ACTIONS:

Subject Property: None relevant

Surrounding Property:

CBOA-2532 February 2015: The Board **approved** a *Special Exception* to permit a dirt mine (Use Unit 24) in an AG district, on property located west of the southwest corner of North Highway 11 and East 176th Street North, Skiatook.

CBOA-2495 April 2014: The Board **approved** a *special exception* to permit a mining operation in an AG district. LOCATED: West of the NW/c Hwy 11 and E 176th ST N

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by AG zoning with mainly agricultural uses and some residential uses on large acreages. The subject site is located within the Bird Creek floodplain/floodway; Bird Creek runs through the westernmost portion of the subject tract.

STAFF COMMENTS:

The applicant is before the Board requesting a **Variance** of the street frontage requirements in an AG district from 30' to 0' (Section 207). The applicant provided the attached hardship.

The submitted site plan indicates that the subject lot has access through an easement from North Cincinnati Avenue. The Code requires owners of land utilized for residential purposes to maintain 30 feet of frontage on a public street. The applicant has submitted a copy of an easement that provides access to the subject lot; the easement is attached to this case report for the Boards review.

If inclined to approve the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the proposed use and future development of the subject property is compatible with and non-injurious to the surrounding area.

4.2

Sample Motion:

“Move to _____ (approve/deny) a Variance to reduce the required 30 feet of frontage on a public road or public right of way to 0 feet in an AG District (Section 207).

Finding the hardship to be _____.

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.”

stated she asked her neighbor if they knew anything about it and they said they did not. Ms. Ellen stated that Mr. Younger only texted her husband last evening and it was a hostile text.

Mr. Walker stated the public portion of the meeting has been closed and the Board is not going to hear any more from the public. Mr. Walker asked the ladies to quit arguing amongst themselves. Mr. Walker stated the Board is going to make a decision. This case will either be continued or the Board will decide an outcome. Mr. Walker stated he would entertain a motion from a Board member.

Mr. Dillard stated that the neighbors need have some harmony and if that cannot be achieved the Board will make the decision whether the RV garage can or cannot be built. Mr. Dillard stated that maybe buying back the lot is an option. Mr. Dillard stated the developer is angry because he did not get to sell the lots, and that was messed up by the lot split which should not have been done. Mr. Dillard stated that is why he highly recommends everyone speaks to an attorney because everyone will see what happens to a piece of property when it is split improperly.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-1-0 (Crall, Dillard, Hutchinson "aye"; Walker "nay"; no "abstentions"; Charney "absent") to **CONTINUE** the request for a **Variance** of the allowed square footage for accessory buildings from 750 square feet to 2,400 square feet to allow for two detached accessory buildings (Section 240.2.E); **Variance** of the requirement that detached accessory buildings must be located in the rear yard (Section 420 2.A.2) to the May 19, 2015 Board of Adjustment meeting; for the following property:

LTS 2 & 3 LESS BEG SWC LT 2 TH NW215.31 E65 S180.66 CRV LF 30.25 POB BLK 4 & N315 W245 E905 N711.12 NE NE LESS N100 THEREOF SEC 30 19 12 1.209AC, STRATFORD ESTATES BLK 4, OF TULSA COUNTY, STATE OF OKLAHOMA

2532 – Ralph Manry

FILE COPY

Action Requested:

Special Exception to permit a dirt mine (Use Unit 24) in an AG District (Section 310, Table 1). **LOCATION:** West of the SW/c of North Highway 11 and East 176th Street North, Skiatook

Presentation:

Ralph Manry, 11908 North Cincinnati, Skiatook, OK; stated this is an existing dirt pit. The Department of Mines has approved everything and everything is legal.

Mr. Crall asked Mr. Manry how long he has been operating the dirt mine. Mr. Manry stated he started operating in December and he thought everything was approved.

CBOA-2532

FILE COPY

Mr. West stated that Mr. Manry did not have the approval for the Use Unit 24 in the AG District; even though the Department of Mines issued a permit Mr. Manry must have local or County approval.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a **Special Exception** to permit a dirt mine (Use Unit 24) in an AG District (Section 310, Table 1). It has been operating and there seems to be no problems. All the permits and necessary paperwork has been presented; for the following property:

W/2 NW NE & LT 1 SEC 11 22 12, OF TULSA COUNTY, STATE OF OKLAHOMA

2533—Dudley Hearn

Action Requested:

Variance of the required setback from the centerline of South 263rd West Avenue from 85 feet to 58 feet (Section 330, Table 3). **LOCATION:** 821 South 263rd West Avenue, Sand Springs

Presentation:

Dudley Hearn, 821 South 263rd West Avenue, Sand Springs, OK; stated that on the side of his house there is Indian Electric power lines and there is ten feet on either side of the lines that he cannot do anything on. If he has to adhere to the 85 feet that would be the middle of his driveway and the backyard slopes down to the lake. Mr. Hearn presented pictures of his property to the Board.

Mr. Crall asked Mr. West what the chances are of Coyote Trail being expanded. Mr. West stated that Coyote Trail will remain as it is, and he does not foresee any expansion.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

~~W/2 NE & E/2 NW & W/2 SW LESS APROX 7.10 ACRES FOR ROW & NE SW & NW SE LESS THAT PART LYING S & E CL SNAKE CREEK & NE NE LESS TR LYING E CL SNAKE CREEK & LESS APROX 7.253 ACS FOR RD SEC 32 17 14 302.09ACS, OF TULSA COUNTY, STATE OF OKLAHOMA~~

The next item was continued from the beginning of the agenda.

2495—Robert Myers

FILE COPY

Action Requested:

Special Exception to allow for a Mining operation (Use Unit 24) in an AG District (Section 310). LOCATION: West of NW/c of Highway 11 and East 176th Street North

Presentation:

Robert Myers, R & V Trucking, 15360 State Highway 20, Skiatook, OK; he apologized to the Board but he had been waiting in Room 119 because his notice cited that room number. Mr. Charney extended the Board's apologies.

Mr. Myers stated that he has applied to the Board of Adjustment and to the Mining Commission to be able have a dirt mining operation on his property to sell the dirt. The Mining Commission has approved his application to them, and it should be received this week. He keeps a well maintained site with sloped banks, keep the roads maintained, and keep the dust factor down. Before he started on the subject property he checked with the adjoining land owners and there was only one person that actually lived in the area and no one stated they had any concerns over his proposal. Mr. Myers presented

Mr. Charney asked if the dirt was loaded on site with third party haulers. Mr. Myers stated the dirt was loaded on site onto his trucks.

Mr. Charney asked if the dirt would be sold to independent third parties. Mr. Myers answered affirmatively.

Mr. Osborne asked Mr. Myers if he had already began his operation. Mr. Myers stated that he started digging in June 2013 under a one year permit received from the Mining Commission. When he filed for his permanent mining permit he was informed by Mr. West that he needed to file for a Special Exception.

Ms. Miller left the meeting at 4:36 P.M.

CSDA-02495

Interested Parties:

Karl Skalnik, 13901 North Cincinnati Avenue, Skiatook, OK; stated he and Mr. Robert Myers were in business together for a long time on land that he (Mr. Skalnik) owned, but Mr. Myers permitted. Mr. Myers then decided to go into business for himself and purchased the adjacent land. His concerns are the reclaiming of a mine that is now abandoned. Mr. Myers has not mentioned the criteria for reclaiming the land, and he is not interested in seeing him start another mining operation until his other one is settled and reclaimed. Mr. Skalnik thinks that if Mr. Myers has the ability and the equipment to meet the criteria that requires mined property to be cleaned up and sloped he should. Mr. Skalnik would also like to re-start his business and be able to mine his own property, which the land that he and Mr. Myers started together. It is very easy to receive a permit if the mining operation is not changed, the permit is just transferred to the new person. In order to that, he was asked to state in writing that Mr. Myers owes him (Mr. Skalnik) no money or restitution, and he rejected that request. Mr. Skalnik stated that Mr. Myers has a temporary mining certificate on a new mining location and he does not understand how that was obtained. He has had an excavator sitting in his pit for over six months because he was advised that if one truckload of dirt was removed from his pit it would be a \$20,000.00 fine. He does not think it is a good idea to have two mining operations next to each other for many factors.

Mr. Charney asked if this was because there was a transfer of a license that was taken from land that Mr. Skalnik owns to a new site. Mr. Skalnik answered affirmatively. Mr. Charney asked Mr. Skalnik if he understood him to say that this was done without his consent but yet it happened under a temporary mining permit. Mr. Skalnik stated that should be asked of Mr. Myers because he will not lie to a person.

Mr. Charney asked Mr. Skalnik if there had been a commitment from Mr. Myers to restore his land, or if it is a regulation that the land be restored. Mr. Skalnik stated it is a regulation, it is an Oklahoma statute. It has been put in place to stop erosion. The land is on Bird Creek and it was an oxbow. In the 1920s the land was diked thus eliminating the oxbow. He feels very vulnerable and unprotected. He has a business that can make a good profit and has been out of business for six months. No one has offered to come out and look at the site, even though he has been in touch with the Mining Commission, to see what he wants Mr. Myers to do for reclamation of the land to meet the statutes.

Mr. Osborne asked Mr. Skalnik if he were to continue the mining operations would there be a need for the reclamation that he wants to happen. Mr. Skalnik stated that it is his responsibility, because he is the one to pay for the reclamation if he chooses to take a new permit. He also would inherit Mr. Myers liability for Mr. Myers actions. He has walked the property and it will not pass as it is today. The land must be vegetatively growing and the slides must be sloped at such an angle as to catch the rain to allow the vegetative growth to stop any erosion problem.

Mr. Osborne asked if this meant he is looking for the area that has been worked to be reclaimed, and then he will start another mining operation. Mr. Skalnik stated that is exactly what he wants and then he would restart in another area on his 60 acres.

Mr. Charney asked staff does the Board need to see the actual permit from the Mining Commission. Mr. West stated that normally the applicant would receive permission from the Board to perform the mining, and the Oklahoma Department of Mines would issue the applicant a permit if the mining operation is approved by the Board of Adjustment.

Mr. Skalnik stated a permit is also secured by a bond. Mr. Skalnik stated if Mr. Myers would co-operate and put the land back in a required state then take his bond it would allow him (Mr. Skalnik) to start mining. Mr. Skalnik stated that Mr. Myers has refused to do that. Mr. Skalnik stated that he has asked Mr. Myers to transfer the permit from Mr. Myers name to Mr. Skalnik's name but Mr. Myers refused. Mr. Skalnik feels as if he has been abused by the Department of Mines because he has documentation of many, many long distance telephone calls and letters to Oklahoma City, but no one has visited his property for any sort of discussion.

Mr. Hutchinson asked Mr. Skalnik how far off the section was Mr. Myers operation. Mr. Skalnik stated that Mr. Myers will digging right up to 176th Street North which is Mr. Skalnik's property line, and Mr. Myers is proposing a 20 acre site.

Ralph Manor, 11908 North Cincinnati Avenue, Skiatook, OK; stated Mr. Myers had to put up a bond when he moves in and Mr. Skalnik must put up a bond when he moves in to do the same thing.

Rebuttal:

Mr. Myers came forward. Mr. Charney asked Mr. Myers to comment on Mr. Skalnik's statements. Mr. Myers stated that he was unaware there was a problem. He has always been very open with Mr. Skalnik. Before he moved off Mr. Skalnik's property he informed him so he would know what was going to happen. He had problems with some people that Mr. Skalnik had on the property who was running Mr. Myers equipment. That is one of the reasons he moved. Mr. Myers stated that in regards to the condition of Mr. Skalnik's property, it is all sloped except for where he had Mr. Manor move in digging dirt. He had to have Mr. Manor's digging stopped because he was liable for the property and the mining production every month. Mr. Myers stated that he has no problem with complying with the Mining Commission and doing what they say to do, he will do that but he thought the land was in good condition.

Mr. Myers stated that a mining inspector comes to his operation every month and pulls an inspection. He assures this Board that his dirt pit is in better condition than any other dirt pit.

C80A-02495

FILE COPY

Mr. Charney asked Mr. Myers if he would understand that if the Board were to give an approval to his request today, that it is important for him to reclaim Mr. Skalnik's land. Mr. Myers answered affirmatively.

Mr. Hutchinson stated that Mr. Skalnik has already stated that Mr. Myers is an honest man, and Mr. Myers has said he will perform the reclamation on Mr. Skalnik's land so he knows that Mr. Myers will perform the reclamation of Mr. Skalnik's land.

Comments and Questions:

None.

Board Action:

On **MOTION of HUTCHINSON**, the Board voted 4-0-0 (Dillard, Hutchinson, Osborne, Walker "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a **Special Exception** to allow for a Mining operation (Use Unit 24) in an AG District (Section 310). 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; for the following property:

S/2 SW SE SEC 2 22 12, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

OTHER BUSINESS

Ms. Sparger announced that this is Carolyn Back's last Board of Adjustment. She is leaving INCOG and going to Wallace Engineering. Mr. Charney stated on behalf of the Board that she will be missed and he congratulated her.

BOARD COMMENTS

None.

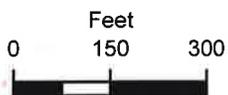
There being no further business, the meeting adjourned at 4:57 p.m.

Date approved:

May 20, 2014

David E. Charney
Chair

04/15/2014/#407 (23)



Subject
Tract

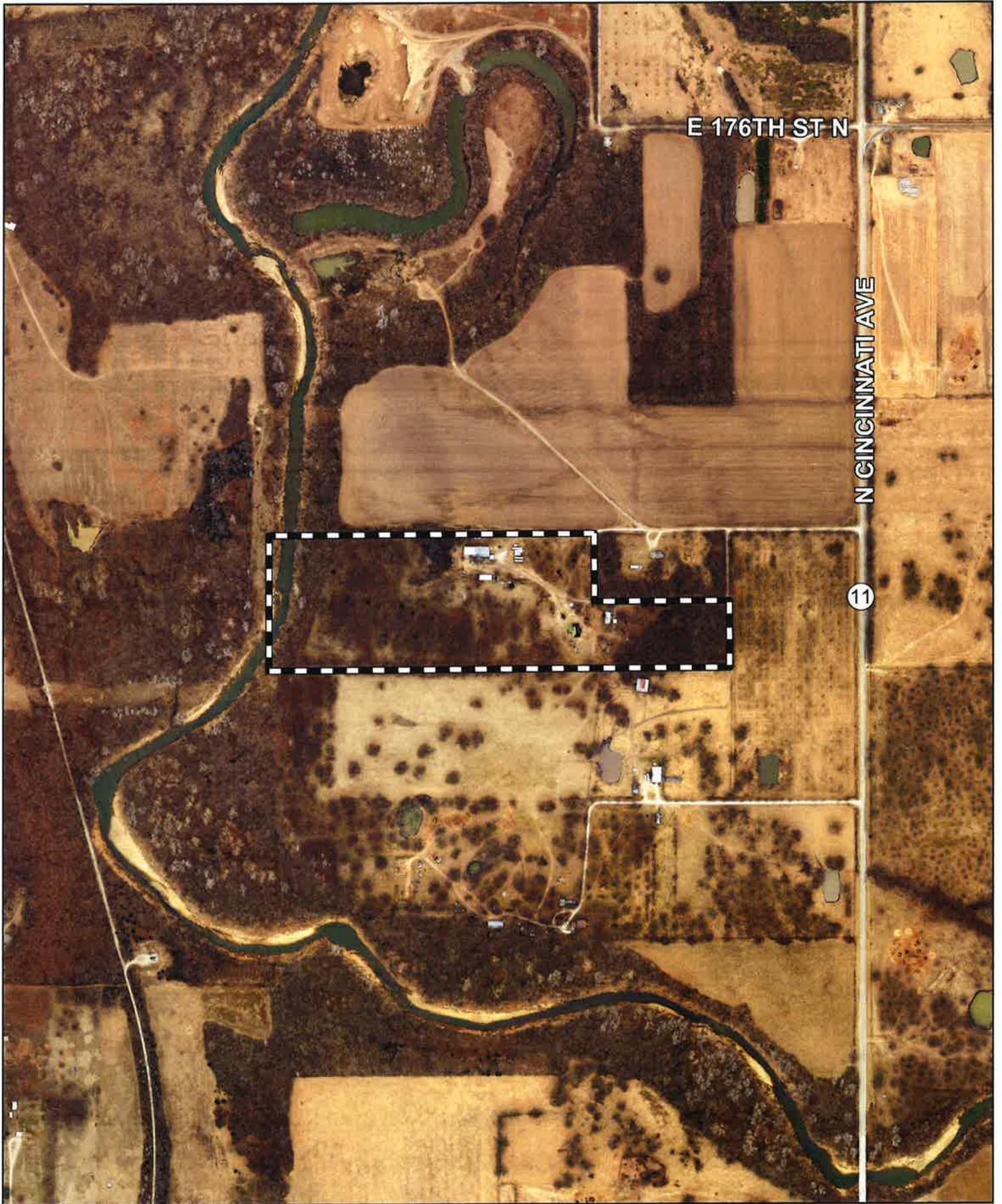
CBOA-2790

22-12 11

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018 4.10

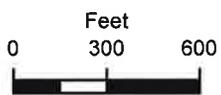




E 176TH ST N

N CINCINNATI AVE

E



Subject Tract

CBOA-2790

22-12 11

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018



4.11

From: "Kramer, Wendy" <wkramer@incog.org>
To: "Don Jackson" <dejackson@aep.com>, "Gibson, Barbara" <bgibson@incog.org>, "Irene Hickman" <ihickman@tulsacounty.org>, "Lucky Airehrour" <lairehrour@tulsacounty.org>, "Parker Sisco" <psisco@tulsacounty.org>, "Sabrina Martin" <sabrina.martin@tulsacounty.org>, "Scott Canavan" <scanavan@tulsacounty.org>, "Sears, Andrew" <ASears@incog.org>, "Steven Cobb" <Steven.M.Cobb@usps.gov>, "ttosh@tulsacounty.org" <ttosh@tulsacounty.org>
Cc: "turningpointmw@atlasok.com" <turningpointmw@atlasok.com>
Subject: 17198 N Cincinnati Ave, Skiatook, OK 74070
Date: Thu, 05 Dec 2019 10:08:16 -0600

Tulsa County Parcel ID **92211-2211-14590** has been assigned a property address of **17198 N Cincinnati Ave, Skiatook, OK 74070**.

Tulsa County Assessor Legal Description: *S/2 SW NE & S/2 SW SE NE & S/2 LOT 2 SEC 11 22 12*

Please see attached property location map.

Thanks,

Wendy Kramer

GIS Specialist | INCOG
 2 West 2nd Street, Suite 800 | Tulsa, OK 74103
 Phone: 918.579.9463 | Fax: 918.583.1024
www.incog.org | wkramer@incog.org



4.12

January 10, 2020

Charles Burgess
17300 N. Cincinnati
Skiatook, OK 74070

Tulsa County Board of Adjustment
2 West Second Street, Ste. 800
Tulsa, OK 74103

Re: Adjustment Case No. CBOA-2790 - Variances

For and in consideration due to easement hardship is as follows:

Tulsa County code requires 30'-0' right of way/easement. A variance to this code is requested as Right-of-way given per document dated and signed by Carl and Carolyn Skalnik of Skiatook, Oklahoma on 13 January 2010 specifically grants 25' easement. This is utilizing the same historic Right-of-Way signed and dated by A.T. Free and Laura Free of Skiatook, OK on 25 August 1916 and filed Sept. 5, 1917 in Book 197, page 391.

Per Richard Kreige, (neighbor):

Request for change is 30'-0' street footage. Easement for access to the property is 25' from Hwy 11 – So street frontage is 25' instead of the required 30 feet.

Without this variance, additional hardship will occur with the construction of a new residential house—initially started under Building Permit No. 15693, dated 02/02/2010—as construction was delayed beyond normal building time constraints. Further, flooding occurring in Skiatook, OK on May 21, 2019 rendered an existing residence—a double wide manufactured home—unsuitable for living. Without the completion of the single-family residential building previously started under above noted building permit, owners Charles Burgess and Jeanette Burgess will not be able to reside on their own property.

Charles L. Burgess

4.13

TULSA COUNTY BUILDING PERMIT

STREET ADDRESS
17198 N. Cincinnati

SUB/ACCT#:
92211-22-11-14590

ZONING CLEARANCE PERMIT DEVELOPMENT PERMIT
~~XXXXXXXXXXXXXXXXXXXX~~

BUILDING PERMIT

PERMIT NO.
15693

DATE
02/02/2010

OWNER
Charles Burgess

CONTRACTOR
Same

ADDRESS
17300 N. Cincinnati Ave Skiatook, Ok

TELEPHONE
695-4573 or Hm# 396-2560 74070

LOT
BLOCK
ADDITION

LEGAL DESCRIPTION
S2 SW NE & S2 SW SE NE &
S2 Gov't Lot 2

SECTION TWP RANGE
11 22 12

RECEIPT NO.
52827

ZONING
\$10.00

FLOOD REVIEW
-\$10.00--

BUILDING

TOTAL FEES
\$ 20.00

TYPE OF WORK TO BE DONE
Construct Two Story Single Family Residence W/ Basement

ZONING DISTRICT
AG

ZONE MAP
1

Minimum Finished Floor Elevation to Qualify for the National Flood Insurance Program
FIRM zone Fldway PANED40K DATE: 3/09

M.S.L. U.S.G.S.
645 + 2

BOARD OF ADJUSTMENT - NO.

USE UNIT NUMBER
6

USE GROUP
R-3

INSURANCE

LOT INFORMATION	FRONTAGE	AVERAGE DEPTH	LOT AREA	LAND AREA	LAND AREA PER D.U.	PARKING SPACES	LOADING BERTHS
	30	2198		28.3 Acs			

PERC TEST NO.
03-72-0142

SANITARY SEWER
Y/N

REPLACEMENT HOME USE BY RIGHT
 SECOND DWELLING SPECIAL EXCEPTION

LOT SPLIT #

STRUCTURE SET BACK
FRONT (FROM CENTER LINE STREET)
Per Site Plan

15 SIDE 15 SIDE REAR 40

FROM CENTER LINE MAJOR STREET

BUILDING INFORMATION	WIDTH	LENGTH	HEIGHT	FLOOR AREA	NO. FLOORS	NO. DWELLING UNITS	FLOOR
	64	70	16	3392 Sqft	2	1	Concrete/Wood
	EXT. WALLS	INT. WALLS	ROOF DECK	ROOFING	CEILING	FIRE WALLS	SMOKE DETECTORS
Wood	Wood	Wood	Comp	Drywall	-----	-----	Yes
SUPPRESSION	SMOKE VENTS	STAND PIPE	EXIT LIGHTS	TYPE OF CONSTRUCTION		VALUATION	
-----	-----	-----	-----	5B		\$130,000.00	

INSPECTION RECORD

	DATE	INITIALS	DATE	INITIALS
FOUNDATION				
FRAMING	Rough		ELEC. Temp Pole	
	Final		Rough	
MECH.	Rough		ELEC. Temp/Bldg	
	Top Out		Final	
PLUMBING	Rough		GAS SERV.	
	Top Out		GAS TOP OUT	
FINAL BLDG.	Rough		O.K. DUCT	
	Final		OTHER	
	DATE	INITIALS	DATE	INITIALS
			FINAL ELEC.	

SPECIAL REQUIREMENTS

Mechanical, plumbing and electrical permit required.

A separate permit must be obtained from the County Engineer for the installation of a private culvert pipe.

Mobile homes shall be skirted and anchored and have "tie downs" in accordance with County Building Code and FEMA regulations.

PLBG. PERMIT # _____

MECH. PERMIT # _____

MECH. PERMIT # _____

ELEC. PERMIT # _____

OTHER REQUIREMENTS EROSION CONTROL PLAN
NO-RISE CERTIFICATION
FLOODPLAIN Permit #09-020
AG. Exempt #681512

ARCHITECT OF RECORD:

ENGINEER OF RECORD:

PLANS EXAMINED BY
Merry Stent

APPLR
[Signature]

SIGNATURE
Charles Burgess

APPROVED BY COUNTY INSPECTOR
Ray Jordan

DISTRIBUTION: ORIGINAL - Post on job GREEN - Applic. CANARY - Number file PINK - Assessor GOLDENROD - Inspector CARD - Inspection file

4.14



**EASEMENT
 for Road and Utilities**

KNOW ALL MEN BY THESE PRESENTS:

That Carl Skalnik and Cheryl Skalnik, HUSBAND AND WIFE of Tulsa County, State of Oklahoma, hereinafter called the Grantors (Whether one or more), for and in consideration of the sum of TEN AND NO/100 (\$ 10.00) and other goods, valuable and sufficient considerations, do hereby grant, bargain, sell, convey and dedicate unto Charles Burgess and Janette A. Burgess, HUSBAND AND WIFE, THEIR SUCCESSOR AND ASSIGNS the right to use, maintain, assign and hold a non exclusive easement across the following described lots or parcels of land for the purpose of establishing thereon utilities and a road ~~or highway~~ or facilities necessary and incidental thereto, to-wit:

Private *KS*

**A Strip of Land for the purpose of an access Easement, being twenty-Five (25) feet in Width, More Particularly Described as follows, to-Witt:
 The South Twenty-Five (25) feet of the North Half of the Southeast Quarter of the Northeast Quarter (N/2 SE/4 NE/4) and the South 25 feet of the East 25 feet of the North Half of the Southwest Quarter of the Northeast Quarter (N/2 SW/4 NE/4) of Section 11, Township 22 North, Range 12 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, According to the U.S. Government Survey Thereof**

To have and to hold said above described premises unto the said party Grantees, free, clear and discharged from any and all claims of damages or injury that may be sustained directly or indirectly unless it in anyway effects the remaining lands of the Grantors.

PROVIDED HOWEVER, that the undersigned owners, their successors and assigns reserve the right to construct utilities or a road within the easement herein described and shall have the rights to maintain said road, ~~until such a time as TULSA County or other public agency accepts the maintenance thereof.~~

Said Grantors hereby covenant and warrant that at the time of the delivery of these presents they are the owners in fee simple of the above described premises and that same are free and clear of all liens and claims whatsoever except.

In Witness whereof the Grantors herein named have hereunto set their hands and seals this the _____ day of _____, 2010.

Carl Skalnik
 CARL SKALNIK

Cheryl Skalnik
 CHERYL SKALNIK

Charles Burgess
 CHARLES BURGESS

Janette Burgess
 JANETTE A. BURGESS

✓ CHARLES BURGESS

STATE OF OKLAHOMA)

County of Osage)

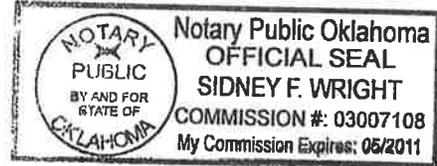
SS.

Before me, a Notary Public in and for said county and state, on this 13 day of Jan., 2010, personally appeared Carl Skalnik and Cheryl Skalnik, **HUSBAND AND WIFE**, to me known to be the identical person(s) who executed the within and foregoing instrument, and each for himself acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and seal the day and year last above written.

Sidney F Wright
Notary Public

My Commission Expires: May 2011
My Commission Number: D3007108



STATE OF OKLAHOMA)

County of Osage)

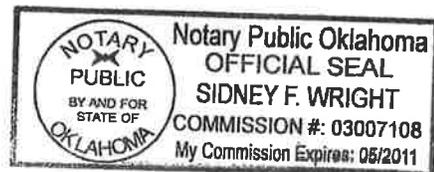
SS.

Before me, a Notary Public in and for said county and state, on this 14 day of Jan, 2010, personally appeared Charles Burgess and Janette A. Burgess, **HUSBAND AND WIFE**, to me known to be the identical person(s) who executed the within and foregoing instrument, and each for himself acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and seal the day and year last above written.

Sidney F Wright
Notary Public

My Commission Expires: May 2011
My Commission Number: D3007108



4.17

PLAT OF SURVEY

me/Fax: (918) 865-69
 ll: wbsmith@hisinc.

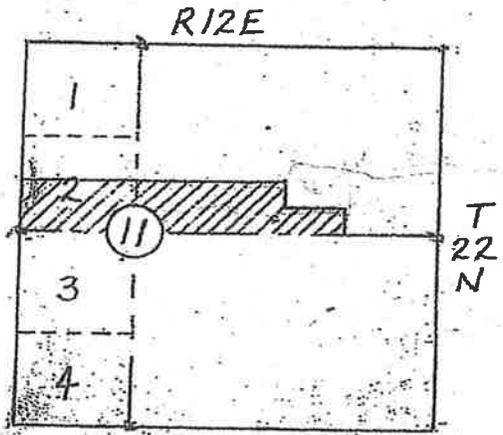
Elev Certificate

504 5779
404 699 3119

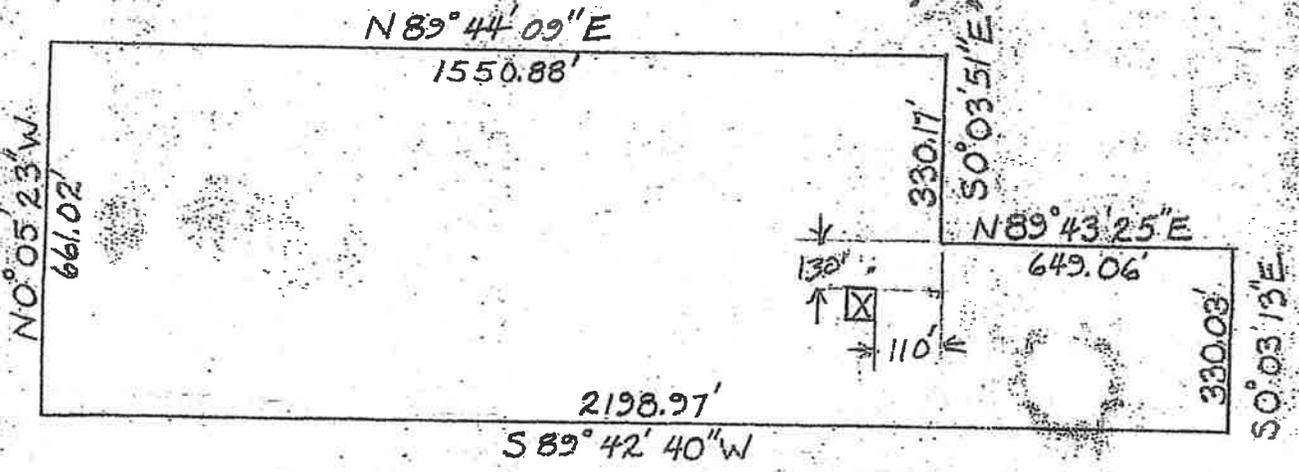
Report

Beth

Documents
 uments
 Documents
 uments



LOCATION MAP



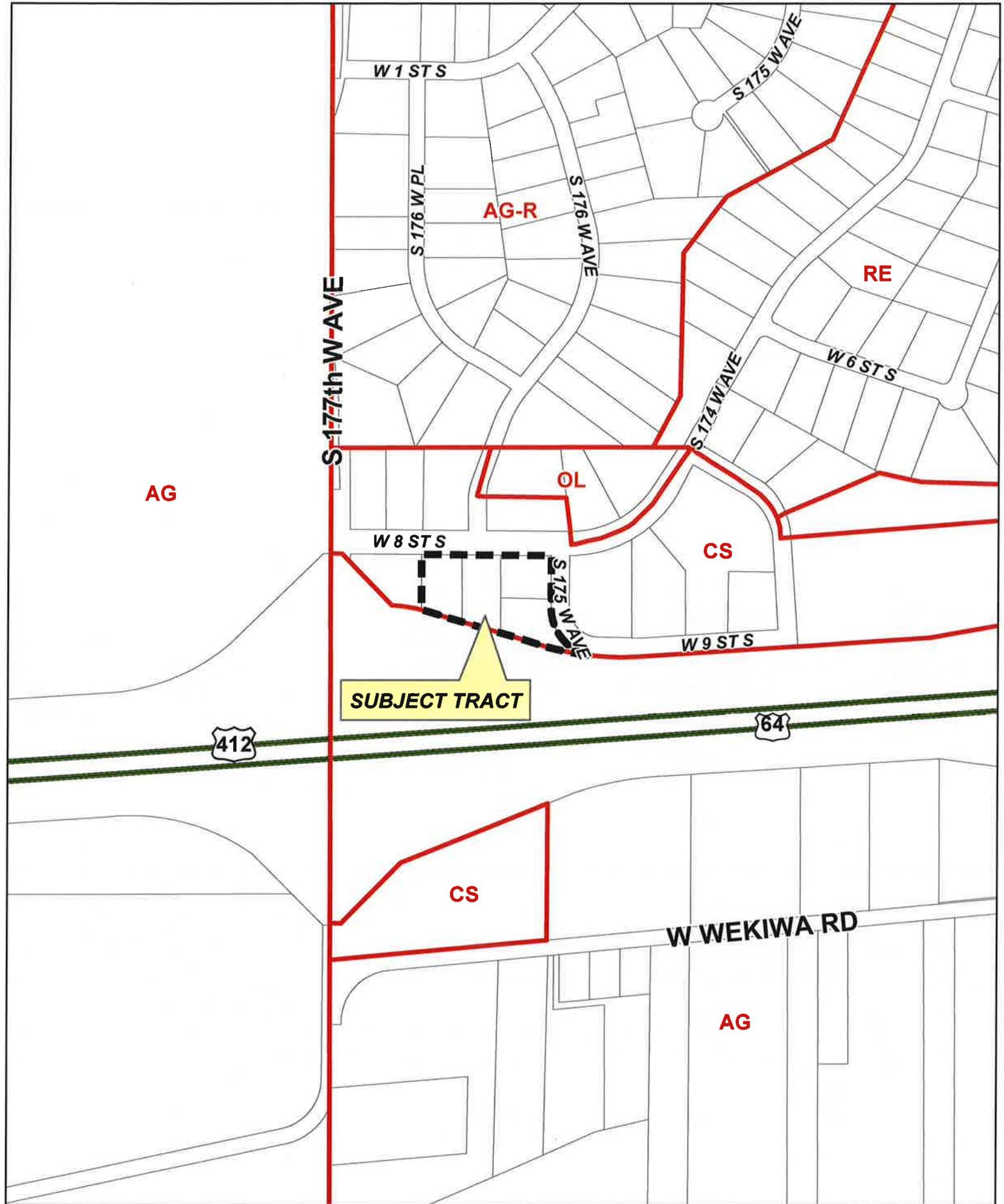
DESCRIPTION:

The South Half (S/2) of Lot Two (2) and the South Half (S/2) of the Southwest Quarter (SW/4) of the Northeast Quarter (NE/4) and the South Half (S/2) of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of the Northeast Quarter (NE/4) of Section 11, all in Township 22 North, Range 12 East, Osage County, State of Oklahoma, according to the United States Government Survey thereof, containing 28.233 acres more or less.

CERTIFICATION:

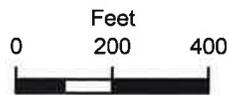
I, RICHARD W. KEITH, hereby certify that I have surveyed

4.18

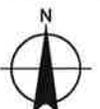


CBOA-2791

5.1



19-11 06



**BOARD OF ADJUSTMENT
CASE REPORT**

STR:9106

Case Number: CBOA-2791

CZM:34

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Melissa Torkleson

ACTION REQUESTED: **Special Exception** to allow Use Unit 20, Commercial Recreation, to allow indoor and outdoor Amusement Activities not elsewhere classified (NEC), in a CS zoned district (Sec. 1220); and a **Special Exception** to allow Use Unit 2, Area-Wide Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS district (Sec. 1202); and a **Variance** from the all-weather parking surface requirement (Sec. 1340.D).

LOCATION: 17516 W 8 ST S

ZONED: CS

PRESENT USE: Seasonal Sales

TRACT SIZE: 2.49 acres

LEGAL DESCRIPTION: LT 4 BLK 4; LT 5 BLK 4; LT 3 BLK 4; LT 2 BLK 4, WEKIWA HILLS

RELEVANT PREVIOUS ACTIONS:

Subject Property: None relevant

Surrounding Property:

CBOA-2648 January 2018: The Board **approved** the request for a *Use Variance* to permit a landscaping business (Use Unit 15) on an OL zoned lot; and a *Use Variance* to permit storage, not elsewhere classified (NEC) (Use Unit 23) on an OL zoned lot (Section 610), on property located at the southwest corner of West 8th Street South & South 174th West Avenue.

CBOA-2231 September 2006: The Board **approved** a *Special Exception* to permit automotive repair, Use Unit 17, in a CS district, on property located at 17628 West 8th Street.

CBOA-2114 July 2004: The Board **approved** a *use variance* to allow storage in a portable building as principal use in an OL zoned district to function as accessory to the adjacent residential use; located North of the NE/c W 8th St and S 176 W Avenue.

ANALYSIS OF SURROUNDING AREA: The subject tract is located in a CS zoned district with commercial uses. It abuts Highway 412 on the south. Just north of the CS district is a residential neighborhood with AG-R zoning and properties zoned OL including the property approved for a Use Variance to permit a landscaping business and storage (CBOA-2648).

STAFF COMMENTS:

The applicant is before the Board requesting a **Special Exception** to allow Use Unit 20, Commercial Recreation, to allow indoor and outdoor Amusement Activities not elsewhere classified (NEC), in a

5.2

CS zoned district (Sec. 1220); and a **Special Exception** to allow Use Unit 2, Area-Wide Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS district (Sec. 1202); and a **Variance** from the all-weather parking surface requirement (Sec. 1340.D).

The applicant proposes to have indoor and outdoor amusement activities, such as inflatables, on the property. The amusement activities fall under Use Unit 20, Commercial Recreation: Intensive. A Special Exception is required as the proposed amusement activities are uses which are not permitted by right in the CS district because of potential adverse affects, but which if controlled in the particular instance as to its relationship to the area and to the general welfare, may be permitted.

The applicant also proposes to have a pumpkin patch on the property for a temporary time period around Halloween and possibly sell Christmas trees on the property for a temporary time period around Christmas. A Special Exception is required as the proposed pumpkin patch and Christmas tree sales are considered temporary open air activities within Use Unit 2 and are uses which are not permitted by right in the CS district because of potential adverse affects, but which if controlled in the particular instance as to its relationship to the area and to the general welfare, may be permitted.

A portion of the existing parking lot is an unpaved gravel area. The Code requires all parking areas be paved with an all-weather material to maintain a minimum level of aesthetics, and to control air-borne particulates like dust. The applicant has requested a variance to allow a gravel parking area on the site

The applicant provided the following statement: "Hardship request for gravel lot on 3 sides of building. Located in rural area with no adjoining businesses. Concrete handicap parking and handicap approach is in place already."

The approval of a special exception will trigger the requirement to conform to the Subdivision and Development Regulations. Issues related to Right-of-Way dedication and storm water management would be addressed during the platting stage.

If inclined to approve, the Board may consider any conditions it deems necessary and reasonably related to the request to ensure that the proposed uses in the CS zoned district are compatible with the surrounding area.

If inclined to approve the Board may consider the following conditions:

- Limiting the number of onsite events per year.
- Limiting the day and hours of operation.

Sample Motion:

"Move to _____ (approve/deny) a Special Exception to allow Use Unit 20, Commercial Recreation, to allow indoor and outdoor Amusement Activities not elsewhere classified (NEC), in a CS zoned district (Sec. 1220); and a Special Exception to allow Use Unit 2, Area-Wide Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS district (Sec. 1202); and a Variance from the all-weather parking surface requirement (Sec. 1340.D).

Finding the hardship to be _____.

Approved per conceptual plan (if any) on page _____ of the agenda packet.

Subject to the following conditions (including time limitation, if any): _____.

Finding the Special Exceptions 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.

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.”

CBOA-2648

FILE COPY

Presentation:

Eric Engel, 243 South 176th West Avenue, Sand Springs, OK; stated he spoke with Mr. Lily and has the site plan as the Board requested at the last meeting. Mr. Engel presented the site plan to the Board for review. Mr. Engel stated that he spoke with Mr. West to determine how best to place the proposed building on the subject property, so Mr. Lily would only see the 25 foot side instead of the longer 100 foot side. Mr. Engel is proposing to have a living fence on the property screening Mr. Lily's property.

Mr. Charney asked Mr. Engel if he had reviewed the presented site plan with Mr. Lily. Mr. Engel stated that he has not, because he just picked up the site plan from the engineering firm.

Mr. Charney asked Mr. Engel if he was committing to erecting a six-foot privacy fence along the southerly border for 168 feet in length. Mr. Engel answered affirmatively. Mr. Charney asked Mr. Engel if he would commit to erecting the 25 x 100 proposed building as shown on the presented plan. Mr. Engel answered affirmatively. Mr. Charney asked Mr. Engel if the 25 x 100 building would be enclosed on all sides. Mr. Engel answered affirmatively. Mr. Charney asked Mr. Engel if all storage for the landscaping business and the related storage would all be within the proposed building or would there still be storage outside. Mr. Engel stated there would be some outside storage for the sheer fact of the use of equipment, but he would have under a carport type structure.

Mr. Hutchinson asked Mr. Engel if there would also be a 24 length of privacy fence erected as shown on the site plan. Mr. Engel answered affirmatively.

Mr. Johnston asked Mr. Engel to elaborate about the covered storage area he had mentioned. Mr. Engel stated it would be located on the south corner of the proposed building. Mr. Johnston asked Mr. Engel if it would extend from the end of the building to the property line as extension of the building. Mr. Engel stated that it could possibly be that. Mr. Johnston asked if that structure would be open on all sides. Mr. Engel answered affirmatively.

Mr. Johnston thought the building would back up to the fence and that all the storage would be behind the building. Mr. Engel stated that the topography makes that difficult, because there is an approximate 36-foot drop off. Mr. Johnston asked if the building would be going onto a flat area of the property. Mr. Engel stated that it will be a flat area, but right now it is heavily wooded yet the flattest spot on the property. Mr. Johnston asked Mr. Engel how much fall he thought there is across the length of the proposed building. Mr. Engel stated that he estimates six feet. Mr. Johnston asked Mr. Engel if he would be losing the trees by placing the building in that area. Mr. Engel stated there would still be a line of trees on the north side, because he is only going to excavate the area where the building will be erected. Mr. Johnston asked Mr. Engel if the trees offered a visual block at this time of year. Mr. Engel stated the trees do because they are that thick.

CBOA-2648

FILE COPY

Mr. Charney asked Mr. Engel if Mr. Lily had a copy of the site plan that was presented to the Board at this meeting. Mr. Engel stated that Mr. Lily did not. Mr. Charney stated that it is critical that Mr. Lily receive a copy. Mr. Engel presented Mr. Lily with a copy.

Interested Parties:

Hugh Lily, 311 South 176th West Avenue, Sand Springs, OK; came forward and presented new pictures of the subject area to the Board. Mr. Lily stated that there are eight vehicles parked on the grass, on the street and in Mr. Engel's driveway that he can see as he pulls into his driveway. Mr. Lily stated there are still ten vehicles parked behind the fence. Mr. Lily stated after the last meeting he and Eric spoke about the six foot privacy fence, and Eric agreed to have the fence completed by the 15th, but it is still not there. Mr. Lily stated that he has been going through this with Mr. Engel for the last six years.

Mr. Charney asked Mr. Lily if the six-foot privacy were erected and the 25 x 100 building were built in the area designated on the site plan, and the remaining storage was contained within a storage shed would he still object to the proposed use. Mr. Lily stated that will work as long as it gets done. Mr. Charney stated that if the Board approves this request and places conditions on the approval and the conditions are not satisfied Mr. Engel would be back in violation. Mr. Lily stated that he has been dealing with this for ten years. Mr. Charney stated that it is important to the Board that you and Mr. Engel speak like gentlemen should to each other and reach an agreement. The Board has been trying to get to that for 90 days now.

Rebuttal:

Eric Engel came forward.

Mr. Charney stated if the Board were to approve the Variance requests, it is important that the fencing be erected as described in the exhibit, which is a 24-foot section and a 168-foot section, and the four sided building be constructed and actually used for storage. Mr. Engel agreed.

Mr. Charney asked Mr. Engel he intends to build another building south of the currently proposed building. Mr. Engel stated that he plans a lean-to so that in the evening he can pull vehicles under. Mr. Charney stated the Board may condition an approval that the storage be placed underneath a structure instead of left haphazardly in the lot. Mr. Engel stated that is a fair request.

Mr. Johnston stated that he would specify the lean-to be the same width as the building depicted on the site plan, and that it not be built beyond the building set-back line, and be of similar roof open on the eastern side for ingress and egress. Mr. Engel stated the only side of the lean-to that would be open would be to the street side.

Mr. Charney stated that if outside storage becomes the norm again there will be another citation, and the Board has the ability to revoke the approval. Mr. Charney asked Mr. Engel if he understands this. Mr. Engel stated that he does understand.

CBDA-2648

FILE COPY

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Use Variance to permit a landscaping business (Use Unit 15) on an OL zoned lot; Use Variance to permit storage, not elsewhere classified (NEC) (Use Unit 23) on an OL zoned lot (Section 610). The approval is subject to the construction of a six-foot privacy fence for 168 feet on the southerly boundary and a 24-foot privacy fence on another boundary with the neighbor as depicted in the exhibit submitted by the applicant at today's meeting. There is to be construction of a storage building 25 x 100 feet enclosed on all four sides and doors for ingress and egress as located and depicted on the site plan provided by the applicant. There is to be no outside storage related to the landscape business, and any outside storage would only be permitted in an additional building, an open lean-to shed, located south of the four-sided building depicted on the exhibit provided by the applicant. There is a general prohibition of outside storage attached to this approval; the storage is to be located within one of the two structures. The Board finds the hardship to be the topography and neither the infrastructure, sanitary sewer, or roadways were designed for a more standard office use; for the following property:

LT 2 & LT 3 BLK 2, WEKIWA HILLS, OF TULSA COUNTY, STATE OF OKLAHOMA

2654 - Richard Kosman

Action Requested:

Variance of the minimum frontage requirement in the IM District to permit a lot-split (Section 930). **LOCATION:** South of the SW/c of West 51st Street South and South 49th West Avenue

Presentation:

Richard Kosman, R K and Associates, 4815 South Harvard, Tulsa, OK; stated he represents the Tulsa Industrial Center. The Center has approximately 29 acres in Tulsa County and the only access to that property is with a City of Sapulpa right-of-way. The Industrial Center would like to set this land in two tracts with a common property line in the center. The existing right-of-way is 82.42 feet wide, and normally there is a fifty-foot right-of-way.

Mr. Charney asked if there is a current dedicated right-of-way. Mr. Kosman stated there is a current dedicated street right-of-way, though the roadway is not there.

Board Action:

On **Motion of Charney**, the Board voted 4-1-0 (Walker, Dillard, Hutson, Charney "aye"; Tyndall "nay"; no "abstentions"; no "absences") to **APPROVE** a Modification of an existing Special Exception to increase the permitted number of residents from 150 to 289 in an existing treatment center, with conditions: no co-ed occupancy; no increase in the footprint; up to a maximum occupancy of 289, finding it 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 the following described property:

SW NW LESS W/2 NW SW NW & LESS W50 THEREOF & LESSS30
THEREOF FOR RD SEC 1 20 12 33.368ACS, Tulsa County, State of Oklahoma

Case No. 2230

Action Requested:

Special Exception to permit a mobile home in an RS district (Section 410), located: 1417 East 61st Street North.

Presentation:

Jane Lewis, 324 West 92nd Street North, Sperry, Oklahoma, stated she owns the subject property. She proposed to demolish the existing home and move in a single-wide mobile. She informed the Board she has City sewer.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Walker**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a mobile home in an RS district (Section 410), with conditions for paved parking, skirting and tie-downs, finding it 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 the following described property:

LTS 11 & 12 BLK 1 EAST TURLEY ADDN AMD B1&4-5&8 Tulsa County, State of Oklahoma

Case No. 2231

Action Requested:

Special Exception to permit automotive repair (UU17) in a CS district, located: 17628 West 8th Street.

FILE COPY

CBOA-2231

Presentation:

Eric Engel, 243 South 176th West Avenue, Sand Springs, Oklahoma, pointed out the elevation changes and drainage easement. He stated they would not have wrecked vehicles and outside storage. He added that it is a well-built facility. He stated there would not be any auto-body work at this site.

Interested Parties:

There were no interested parties who wished to speak.

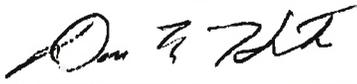
Board Action:

On **Motion of Walker**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit automotive repair (UU17) in a CS district, with conditions to allow maximum of eight vehicles parked overnight, and no outside storage, finding it 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 the following described property:

LT 1 BLK 4 WEKIWA HILLS Tulsa County, State of Oklahoma

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

Date approved: 11-21-06



Chair

Presentation:

Dick McNair, 2005 N. 167th E. Ave., proposed to mine dirt in an IM district. After the mining project they plan to convert it to a commercial development. He stated they have an easement from 49th W. Ave. and they access through Bowers Oil Company.

Comments and Questions:

In response to Mr. Hutson's questions, Mr. McNair replied they would obtain all permits and meet all requirements; estimate the project to last two to three years; and estimate the 300,000 to 500,000 yards of dirt. This will also improve the drainage directing it away from 21st Street rather than to 21st Street.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson and Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow mining of dirt in an IM district, per the application.

Amended Motion:

On **Motion** of **Hutson**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson and "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** a **Variance** of street frontage from 50' to 0', the second by Dillard stands, finding there is a road easement to access the property, on the following described property:

BEG 755.04S & 717.77E NWC NW TH E601.72 S565.32 W6 01.72 N565.51
POB SEC 16 19 12 7.81ACS

Case No. 2114

Action Requested:

Use variance to allow storage in a portable building as principal use in an OL zoned district to function as accessory to the adjacent residential use. SECTION 610. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS, located: 403 South 176th West Avenue

Presentation:

Tom Gudgel, III, 2250 E. 73rd St., Ste 600, stated he represented the owner, Hugh Lilley, who was also present. There is a storage building on Lot 4 for the home on Lot 1. He submitted photographs (Exhibit C-1). He also owns Lot 1 to the south of the subject property in the CS zoned district. He purchased all three lots together. He pointed out the elevation from the street and that the storage building is on the same level as the house. He was told by the seller of the storage building that he

FILED

CBDA-2114 (cont.)

did not need a building permit. There are no other buildings. He could not place the building on the same lot with the house because of the topography. He noted that other neighbors have storage buildings. It is used for personal items and lawn care equipment. The applicant would be willing to tie the lots together.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Tyndall**, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Hutson and "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** a **Use Variance** to allow storage in a portable building as principal use in an OL zoned district to function as accessory to the adjacent residential use, finding the owner will tie the Lots 1 and 4 of Block 2 together, and there would be no other structures built on this lot, and the unusual shape of the lot, on the following described property:

LT 4 BLK 2, WEKIWA HILLS

FILED

Case No. 2117

Action Requested:

Variance of land area per dwelling unit from 2.1 to 1.1 acres to permit two dwelling units. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located:13106 N 129th E. Ave.

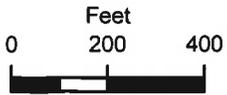
Presentation:

Mr. Beach informed the Board that due to a change in the processing of new applications, this case was not advertised in time for this meeting even though the application was made in time. The applicant asked that the Board hear the case today even though they would not be able to make a decision until the next meeting.

Chris Himebaugh, 13106 N. 129th E. Ave., Collinsville, Oklahoma, proposed to use an existing mobile home on 2.2 acres while he builds a stick built home on the same property. The mobile would then be used for a family member. He obtained support from his neighbors and out of state property owners for this application. He plans to use an aerobic system for the two homes. He would be willing to remove the trailer when his father no longer lives there.

Interested Parties:

There were no interested parties present who wished to speak.



 Subject Tract

CBOA-2791

19-11 06

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018





W8 STS

S176 WAVE

S175 WAVE

W9 STS



Subject Tract

CBOA-2791

19-11 06

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

5.13





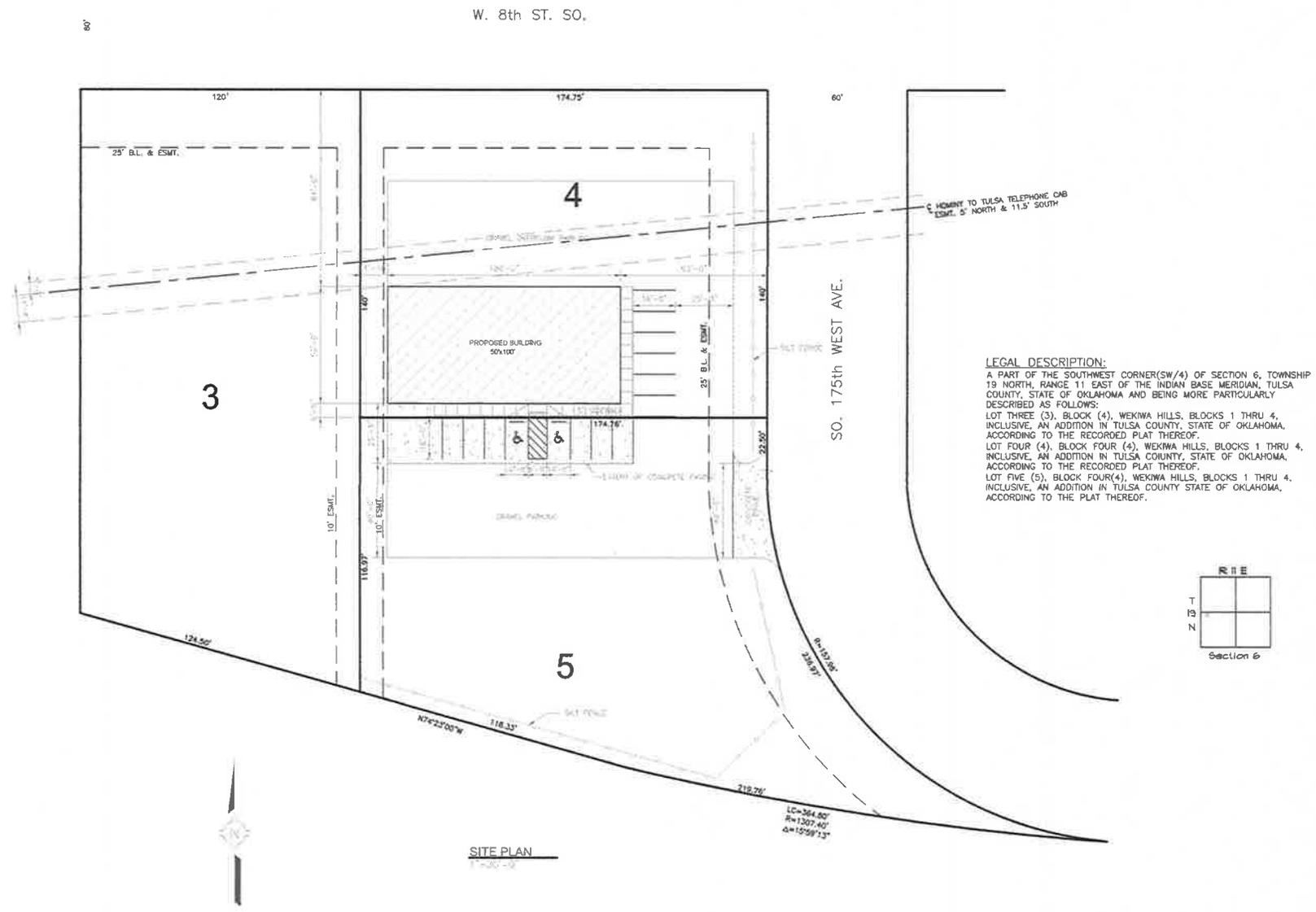
Google Earth close-up aerial from October 2018



Google Earth aerial from October 2018

17516 W. 8th St. Sand Springs, OK

5.15



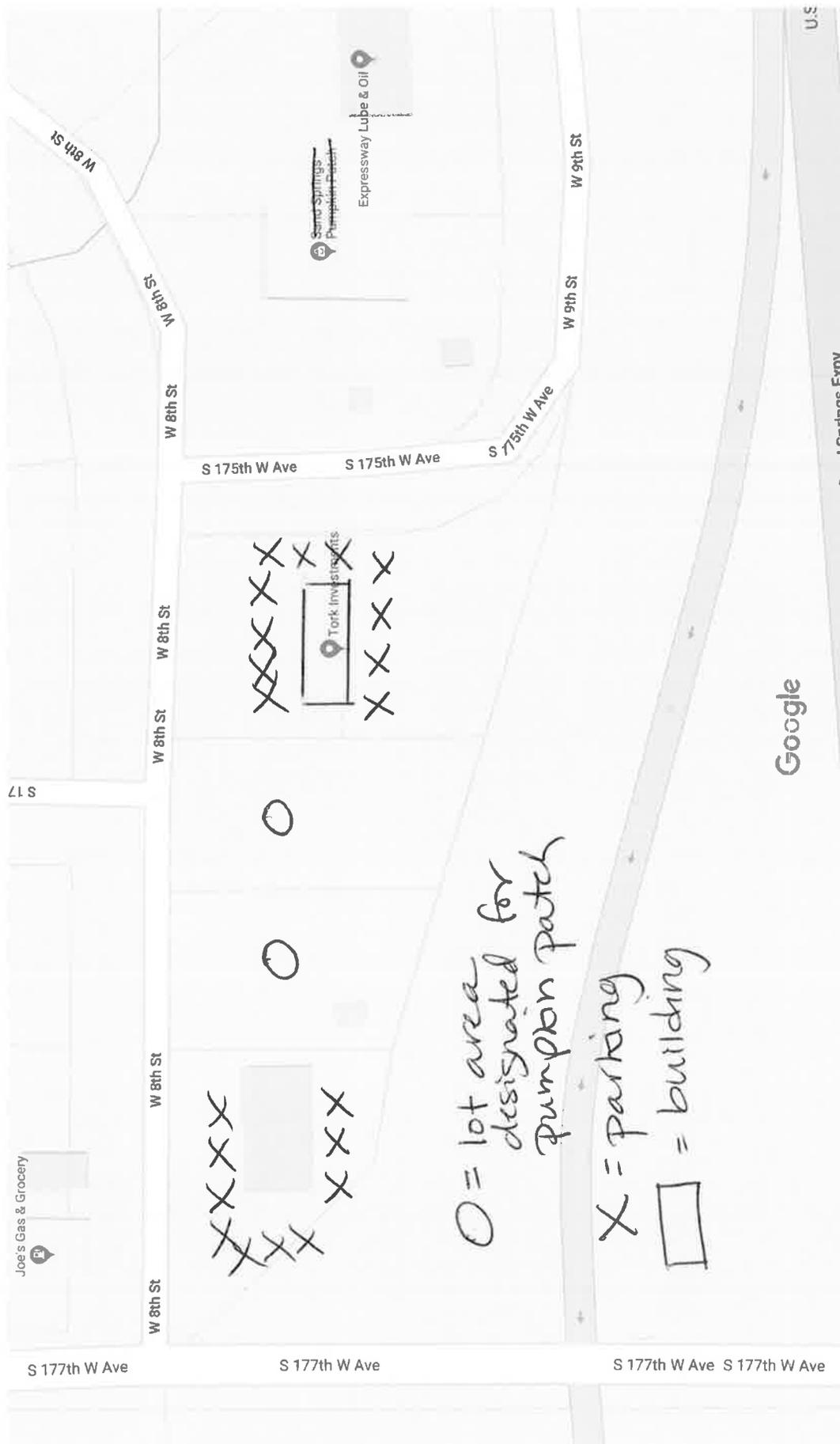
NEW BUILDING FOR:
 BIG BLAST FIREWORKS
 LOTS 3, 4 & 5 BLOCK 4 WEKIWA HILLS ADDITION
 17516 WEST 8th STREET
 SAND SPRINGS, OK

Date:	Sept. 15, 2010
Rev. Date:	
First Flr:	

SHEET
C1

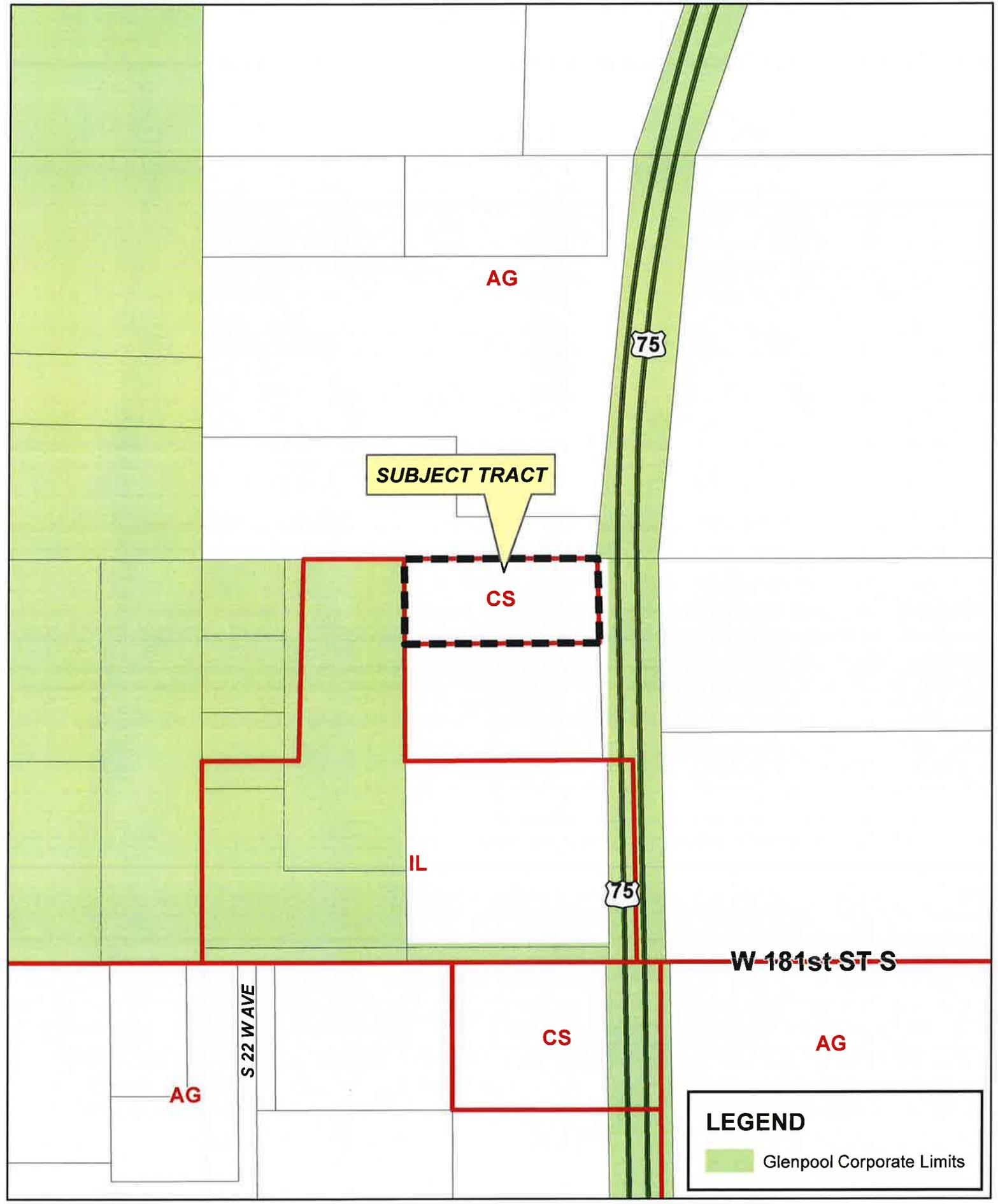
17516 W- 8th St,
Sand Springs, OK

5.16



O = lot area
designated for
pumpkin patch

X = parking
[] = building



CBOA-2792

6.1

17-12 34

BOARD OF ADJUSTMENT CASE REPORT

STR:7234

Case Number: CBOA-2792

CZM:65

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Melissa Torkleson

ACTION REQUESTED: Special Exception to allow Use Unit 2, Area-Wide Special Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS district (Sec. 1202); and a Variance from the all-weather parking surface requirement (Sec. 1340.D).

LOCATION: 17902 S 75 HY W

ZONED: CS

PRESENT USE: Vacant

TRACT SIZE: 4 acres

LEGAL DESCRIPTION: PRT N/2 E/2 SW SE BEG 32.20W NEC THEREOF TH SELY276.12 W634.27 NWLY275.81 E628.62 POB SEC 34 17 12 4.00ACS

RELEVANT PREVIOUS ACTIONS:

Subject Property:

CZ-481 January 2019: All concurred in **approval** of a request for *rezoning* a 4± acre tract of land from AG to CS to permit retail sales, on property located at 17902 South 75 Highway West (subject property).

CBOA-2703 July 2018: The Board **approved** the request for a *Special Exception* to allow a fireworks stand (Use Unit 2) in an AG District; *Variance* from the all-weather surface material requirement for parking (Section 1340.D) with the following conditions, the hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023.

CBOA-1810 January 2001: The Board **approved** a *Special Exception* to allow church and related uses in an IL zoned district and **approval** of a previously approved site plan per amendments on AG tract on property located north of the northwest corner of West 181st Street South and HWY 75.

Surrounding Property:

CBOA-2286 January 2008: The Board **approved** a *Use Variance* to permit warehousing and processing of metal in an existing metal salvage yard in an AG district, on property located at 17846 South Beeline Expressway.

ANALYSIS OF SURROUNDING AREA: The subject tract is located just outside of the Glenpool City Limits. The property to the west is in Glenpool and it is zoned IL and appears to be a mini-storage. The abutting property to the north is zoned AG with a Use Variance (CBOA-2286) to allow a metal

salvage yard. Highway 75 abuts the property on the east and the property to the south is zoned both AG and IL and is used as a church. The applicant is proposing to use the church's parking lot for overflow parking space if needed.

STAFF COMMENTS:

The applicant is before the Board requesting a **Special Exception** to allow Use Unit 2, Area-Wide Special Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS district (Sec. 1202); and a **Variance** from the all-weather parking surface requirement (Sec. 1340.D).

The applicant provided the following statement: *“Request for hardship related to gravel parking on 3 sides of proposed building. Concrete parking along front side of building along with handicap concrete parking. Located in rural county with no adjoining businesses.”*

A Special Exception is required as the proposed pumpkin patch and Christmas tree sales are uses which are not permitted by right in the CS district because of potential adverse affect, but which if controlled in the particular instance as to its relationship to the area and to the general welfare, may be permitted.

The Site Plan submitted with the application proposes a seasonal pumpkin patch to be located on the western portion of the parcel, behind the commercial building. Parking will be on a gravel lot near the building with the possibility of utilizing the church's parking lot (located south of the subject property) for overflow parking if needed.

The applicant proposes an unpaved gravel parking area. The Code requires all parking areas be paved with an all-weather material to maintain a minimum level of aesthetics, but more importantly to control air-borne particulates like dust and to control the tracking of dirt and mud onto public streets. The applicant was before the Board in July 2018 (CBOA-2703) and received approval for a *Variance* from the all-weather surface material requirement for parking which will expire in July 2023. The applicant is before the Board today to ask for a permanent, (or in the alternative, a longer time period), variance from the all-weather surface material requirement for parking.

Pumpkin patches and Christmas tree sales are normally temporary uses operating for less than a few weeks in a given year. The commercial building located on the subject property will operate as retail space for the sale of fireworks, a use allowed by right in the CS district.

The approval of a special exception will trigger the requirement to conform to the Subdivision and Development Regulations. Issues related to Right-of-Way dedication and storm water management would be addressed during the platting stage.

If inclined to approve, the Board may consider any conditions it deems necessary and reasonably related to the request to ensure that the pumpkin patch and Christmas tree sales are compatible with the surrounding area. The Board may consider establishing conditions related to hours of operation.

Sample Motion:

“Move to _____ (approve/deny) a Special Exception to allow Use Unit 2, Area-Wide Special Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS district (Sec. 1202); and a Variance from the all-weather parking surface requirement (Sec. 1340.D).

Approved per conceptual plan on page _____ of the agenda packet.

Subject to the following conditions (including time limitation, if any): _____.

Finding the hardship to be _____.

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.

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.”

5. **CZ-481 Tork Investments** (County) Location: North of the northwest corner of West 181st Street South and Highway 75 requesting rezoning from **AG to CS**

STAFF RECOMMENDATION:

DEVELOPMENT CONCEPT: Rezone from RE to CS to permit seasonal sales. These sales would include fireworks, Christmas sales, a pumpkin patch and other similar seasonal commercial activities as permitted within the CS zone.

DETAILED STAFF RECOMMENDATION:

CZ-481 is non injurious to the existing proximate properties and;

CZ-481 is consistent with the anticipated future development pattern of the surrounding property therefore;

Staff recommends Approval of CZ-481 as outlined in Section I above.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: This area is outside of the City of Tulsa Comprehensive Plan area. This site is located adjacent to the City of Glenpool, and is within the Highway 75 Corridor, which commercial zoning would be compatible with.

Land Use Vision:

Land Use Plan map designation: N/A

Areas of Stability and Growth designation: N/A

Transportation Vision:

Major Street and Highway Plan: Highway 75 is designated as a Freeway

Trail System Master Plan Considerations: None

C2-481

Small Area Plan: None

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: *The site is currently vacant agricultural land and does not vary greatly in elevation.*

Environmental Considerations: A small portion of the lot, located in the SE corner, adjacent to Hwy 75 is located in the 100 year floodplain. The developer would need to work with Tulsa County to mitigate any issues if development were to occur within the small floodplain area.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
Highway 75	Freeway	Per ODOT	4

Utilities:

The subject tract has municipal water available. Sewer is not currently available on the site. A septic or similar system would be needed, unless sewer is extended from the City of Glenpool. This would require annexation by the City of Glenpool.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	AG	N/A	N/A	Metal Fabrication Facility
South	AG	N/A	N/A	Vacant/Church
East	AG	N/A	N/A	Hwy 75
West	IL	N/A	N/A	Vacant/Self-Storage

SECTION III: Relevant Zoning History

ZONING ORDINANCE: Ordinance number 98254 dated September 15, 1980, established zoning for the subject property.

CZ-481

Subject Property:

CBOA-2703 July 2018: The Board of Adjustment **approved** a *special exception* to allow a fireworks stand (Use Unit 2) in an AG District; and **approved** a *variance* of the all-weather surface material requirement for parking. The approval will have a five-year time limit, on property located north of the northwest corner of West 181st Street south and HWY 75.

CBOA-1810 January 2001: The Board **approved** a *special exception* to allow church and related uses in an IL zoned district and **approval** of previously approved site plan per amendments on AG tract on property located north of the northwest corner of West 181st Street South and HWY 75.

Surrounding Property:

CBOA-2286 January 2008: The Board of Adjustment **approved** a *variance* to permit warehousing and processing of metal in an existing metal salvage yard in an AG district, on property located north of the northwest corner of West 181st Street South and HWY 75.

CBOA- November 1991: The Board of Adjustment **approved** a *special exception* to permit a church use in an IL and AG district; per plot plan; finding church use to be compatible with the surrounding area, on property located at the northwest corner of West 181st Street South and HWY 75.

TMAPC COMMENTS:

Mr. Covey asked staff if TMAPC hears a lot of cases covered by other municipalities comprehensive plans.

Staff answered "yes".

Mr. Covey asked if staff spoke with Glenpool about this application.

Staff stated Tanner Consulting is the acting planner currently and he talked with them. They stated the application is consistent with the Glenpool Comprehensive Plan.

The applicant indicated her agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 10 members present:

On **MOTION** of **SHIVEL**, TMAPC voted **10-0-0** (Covey, Doctor, Fothergill, Fretz, Krug, Millikin, Reeds, Ritchey, Shivel, Walker, "aye"; no "nays"; none

CZ-481

"abstaining"; Dix, "absent") to **APPROVE** CZ-481 rezoning from AG to CS per staff recommendation.

Legal Description of CZ-481:

A TRACT OF LAND THAT IS PART OF THE NORTH HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER (N/2 E/2 SW/4 SE/4) OF SECTION THIRTY-FOUR (34) TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWELVE (12) EAST THE INDIAN MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID N/2 E/2 SW/4 SE/4, THENCE SOUTH 88°49'58" WEST AND ALONG THE NORTH LINE OF SAID N/2 E/2 SW/4 SE/4 FOR A DISTANCE OF 32.20 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 75 AS RECORDED MARCH 11, 1957, IN DEDICATION DEED, BOOK 2768, PAGE 273, COUNTY OF TULSA RECORDS, SAID POINT BEING THE POINT OF BEGINNING;

THENCE SOUTH 2°19'04" EAST AND ALONG SAID RIGHT OF WAY FOR A DISTANCE OF 276.12 FEET; THENCE SOUTH 88°51'21" WEST FOR A DISTANCE OF 634.27 FEET TO A POINT ON THE EAST LINE OF LOT 4 BLOCK 1 "COTTON CREEK MINI STORAGE" ACCORDING TO THE RECORDED PLAT THEREOF, PLAT NO. 6582 CITY OF GLENPOOL, TULSA COUNTY, STATE OF OKLAHOMA; THENCE NORTH 1°08'39" WEST AND ALONG SAID EAST LINE FOR A DISTANCE OF 275.81 FEET TO A POINT ON THE NORTH LINE OF SAID N/2 E/2 SW/4 SE/4 SAID POINT BEING THE NORTHEAST CORNER OF SAID LOT 4; THENCE NORTH 88°49'58" EAST AND ALONG SAID NORTH LINE FOR A DISTANCE OF 628.62 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 174,238 SQUARE FEET, OR 4.000 ACRES.

OTHER BUSINESS

6. Commissioners' Comments

Ms. Krug announced she would be leaving Planning Commission at the end of the year to accept a job with INCOG.

ADJOURN

TMAPC Action; 10 members present:

On **MOTION** of **REEDS**, TMAPC voted **10-0-0** (Covey, Doctor, Fothergill, Fretz, Krug, Millikin, Reeds, Ritchey, Shivel, Walker, "aye"; no "nays"; none "abstaining"; Dix, "absent") to **ADJOURN** TMAPC meeting 2783.

the all-weather surface material requirement for parking (Section 1340.D). The Board finds that a hard surface for parking would be detrimental to the surrounding area, but the parking is to be an impervious properly laid gravel. The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023. The Board finds this will not be injurious to the neighborhood; for the following property:

S330 NE NE SEC 35 17 13 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2703—Sherry Barbour

FILE COPY

Action Requested:

Special Exception to allow a fireworks stand (Use Unit 2) in an AG District; Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 17948 South Highway 75

Presentation:

Sherry Barbour, 18622 South 62nd East Avenue, Bixby, OK; stated she has a fireworks stand at this location for about 10 years. There is no residential near the area and there are ingress and egress points from Highway 75 because they share a driveway way with the recycler that is north of the stand.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-1 (Charney, Crall, Dillard, Johnston "aye"; no "nays"; Hutchinson "abstaining"; none "absent") to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an AG District; Variance of the all-weather surface material requirement for parking (Section 1340.D). The hours of operation are to be June 17 to June 26th 9:00 A.M. to 9:00 P.M., June 27th to June 30th 9:00 A.M. to 10:00 P.M., and July 1st to July 4th 8:00 A.M. to 12:00 midnight. The approval will have a five-year time limit, July 2023. The Board finds this will not be injurious to the neighborhood; for the following property:

N/2 E/2 SW SE LESS HWY ON E SEC 34 17 12 9.69AC, TRUE LIFE TABERNACLE, COTTON CREEK MINI-STORAGE, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 1809 (continued)

Presentation:

Roy Stane, 8503 E. 98th St. N., submitted photographs (Exhibit B-1) and stated he would like to replace an old existing trailer in very poor condition with a new mobile home that would be wheelchair accessible. He stated that the old trailer has many safety hazards.

Comments and Questions:

Mr. Alberty explained that the existing trailer was there in a non-conforming use, and he's asking to replace it.

Interested Parties:

Cathy Hutchison, 8402 N. 100th E. Ave., Owasso, OK, stated she was there in support of the application. She stated she was the Vice-President of Precision Components, a small manufacturing firm in Owasso, and she is the President of Volunteer Network, Owasso. She informed the Board that the company met and began helping the family through Volunteer Network two years ago. She described the poor conditions of the trailer, and they desire to help the family purchase something in better condition, but wanted the property to be in compliance with the Code first.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a mobile home in an RE district with conditions to use tie-downs, skirting and obtain DEQ approval for sanitary system; and a **Variance** to allow two dwelling units per lot of record, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

Lot 1, Block 4, Hill Dale Acres, Tulsa County, State of Oklahoma.

Case No. 1810

Action Requested:

Special Exception to allow church and related uses in an IL zoned district and approval of previously approved site plan per amendments on AG tract. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT and SECTION 910. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 5, located NW/c W. 181st St. S. & US-75.

Presentation:

David Washington, 1660 E. 71st St., stated that the applicant is actually True Life Tabernacle, Inc. He introduced Pastor Robert Griffin and Charles Martin. He

01:16:01:248(7)

Case No. 1810 (continued)

stated that they are seeking a permit to construct a gymnasium on a part of the property that is already platted.

Comments and Questions:

Mr. Walker asked if the existing structure faces the highway. Mr. Washington replied in the affirmative. Mr. Walker noted that there is parking to the south, and Mr. Washington added there is also parking to the north. Mr. Walker asked if they access from the road to the south. He responded that was correct. He asked Mr. Washington where the gym would be located. He replied it would be to the west. Mr. Alberty asked if the Board had previously approved the use and it must come back for site plan changes.

Board Action:

On **MOTION** of **Alberty**, the Board voted 5-0-0 (Walker, Alberty, Tyndall, Dillard, Looney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow church and related uses in an IL zoned district and approval of previously approved site plan per amendments on AG tract, and including approval for future construction, per plans submitted, finding that it 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 the following described property:

Lot 1, Block 1, True Life Tabernacle, SE/4 SW/4 SE/4 AND N/2 E/2 SW/4 SE/4 of Section 34, T-17-N, R-12-E, Tulsa County, State of Oklahoma.

Case No. 1811

Action Requested:

Variance of required 200' lot width in an AG district to 164' to permit a lot split. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6; and a Variance of land area from 2.2 acres to 2 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located 11801 N. 113th E. Ave.

Presentation:

Pat Graham, stated she works for Homes Unlimited, in Owasso, and represented the owners of the subject property. She stated they listed the property and sold the surrounding property of about 35 acres.

John Fuller, 11801 N. 113th E. Ave., pointed out the property on a map to the Board.

Interested Parties:

There were no interested parties who wished to speak.

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 332
Tuesday, January 15, 2008, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair
Dillard
Hutson
Tyndall, Vice Chair
Walker

Butler
Cuthbertson

West, Co. Inspector
Iski, Asst. D.A.

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, Friday, January 11, 2008 at 10:15 a.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Chair Charney called the meeting to order at 1:33 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 3-0-0 (Tyndall, Charney, Walker "aye"; no "nays"; Dillard, Hutson "abstained"; no "absences") to **APPROVE** the Minutes of December 18, 2007 (No. 331).

UNFINISHED BUSINESS

Case No. 2286

Action Requested:

A Use Variance to permit warehousing and processing of metal in an existing metal salvage yard in an AG district (Section 310), located: 17846 South Beeline Expressway.

FILE COPY

CBOA-2286

Presentation:

Tim Terrill, Tulsa Engineering and Planning Associates, 6737 South 85th East Avenue. The 1981 footprint was somewhat smaller than it is today. They would be doing warehousing and some processing. They proposed to construct eight-foot screening on the east and south sides. They would also plant evergreen vegetative screening on the west. He stated it is essentially the same use. They are not actually expanding but refining the process and bringing the materials inside the building.

Interested Parties:

Charles Cole, 2212 East 13th Street, Tulsa, Oklahoma, stated he talked with the residential neighbors. They are aware of the proposed screening, including vegetation. The neighbors were present and in support of the application. Mr. Charney asked them for any comments and they indicated they had no comments.

The Board members discussed the application, mentioning the nature of business is to grow, but expect the storage of materials to be inside the building. They did not want to see any expansion of storage outside. Mr. Hutson noted the boundaries of the yard for storage is defined by the structures and proposed screening.

FILE COPY

Board Action:

On Motion of Hutson, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Use Variance to permit warehousing and processing of metal in an existing metal salvage yard in an AG district (Section 310), per site plan, with limited proposed outside storage of 400 ft. x 500 ft., starting 290 ft. east of the west boundary line of the property; with screening on the south per site plan, screening fences and trees, finding the business has existed for over 30 years preceding the zoning code adoption, on the following described property:

FILE COPY

BEG SWC N/2 SE TH E829.4 N400 W829.4 S400 TO POB & BEG 829.4E SWC N/2 SE TH E460 CRV RT APROX137 ALG HWY 75 ROW TH W APROX460 S137 TO POB SEC 34 17 12 9.04ACS; Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 2288

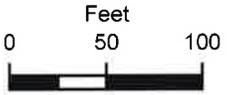
Action Requested:

Variance of the 30 ft. of street frontage required to permit a parcel to be used for residential purposes (Section 207) to permit a lot split, request withdrawn.

Request for a partial refund of \$200.00 for property located: 26887 West 27th Place South.



75



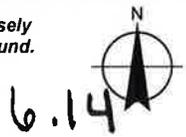
Subject Tract

CBOA-2792

17-12 34

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018



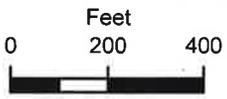


75

75

W 181st ST S

S 22 WAVE



Subject Tract

CBOA-2792

17-12 34

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

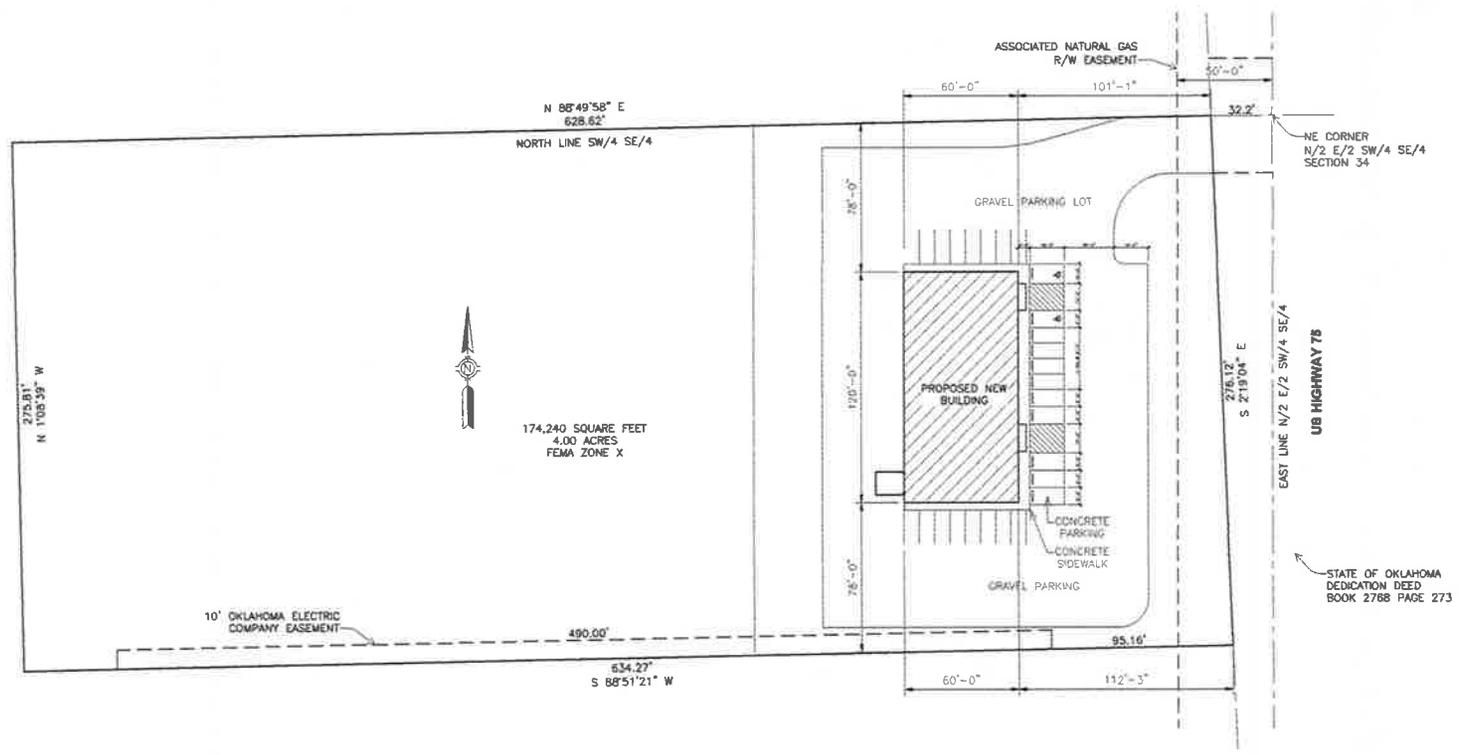


17902 S. Hwy 75
 Glenpool, OK 74033



6.16

TORK INVESTMENTS
 NEW WAREHOUSE
 SOUTH US HIGHWAY 75
 GLENPOOL, OK



1 SITE PLAN
 1"=30'-0"

LEGAL DESCRIPTION:
 A TRACT OF LAND BEING PART OF THE NORTH HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER (N/2 E/2 SW/4 SE/4) OF SECTION THIRTY-FOUR (34) TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWELVE (12) EAST, THE BROWN MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHEAST CORNER OF SAID N/2 E/2 SW/4 SE/4, THENCE SOUTH 89°51'21" WEST AND ALONG THE NORTH LINE OF SAID N/2 E/2 SW/4 SE/4 FOR A DISTANCE OF 33.30 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 75 AS RECORDED MARCH 11, 1957, IN DEDICATION DEED, BOOK 2768, PAGE 273, COUNTY OF TULSA RECORDS, SAID POINT BEING THE POINT OF BEGINNING;
 THENCE SOUTH 2°19'04" EAST AND ALONG SAID RIGHT OF WAY FOR A DISTANCE OF 276.12 FEET; THENCE SOUTH 89°51'21" WEST FOR A DISTANCE OF 634.27 FEET TO A POINT ON THE EAST LINE OF LOT 4 BLOCK 1 TOTTEN CREEK SUB DIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, PLAT NO. 6282 CITY OF GLENPOOL, TULSA COUNTY, STATE OF OKLAHOMA; THENCE NORTH 1°02'30" WEST AND ALONG SAID EAST LINE FOR A DISTANCE OF 276.01 FEET TO A POINT ON THE NORTH LINE OF SAID N/2 E/2 SW/4 SE/4 SAID POINT BEING THE NORTHEAST CORNER OF SAID LOT 4; THENCE NORTH 89°51'21" EAST AND ALONG SAID NORTH LINE FOR A DISTANCE OF 634.62 FEET TO THE POINT OF BEGINNING.

No.	Revision/Issue	Date

Proj. No.	Sheet
1-22-19	C1

17902 S. Hwy 75
Glenpool, OK

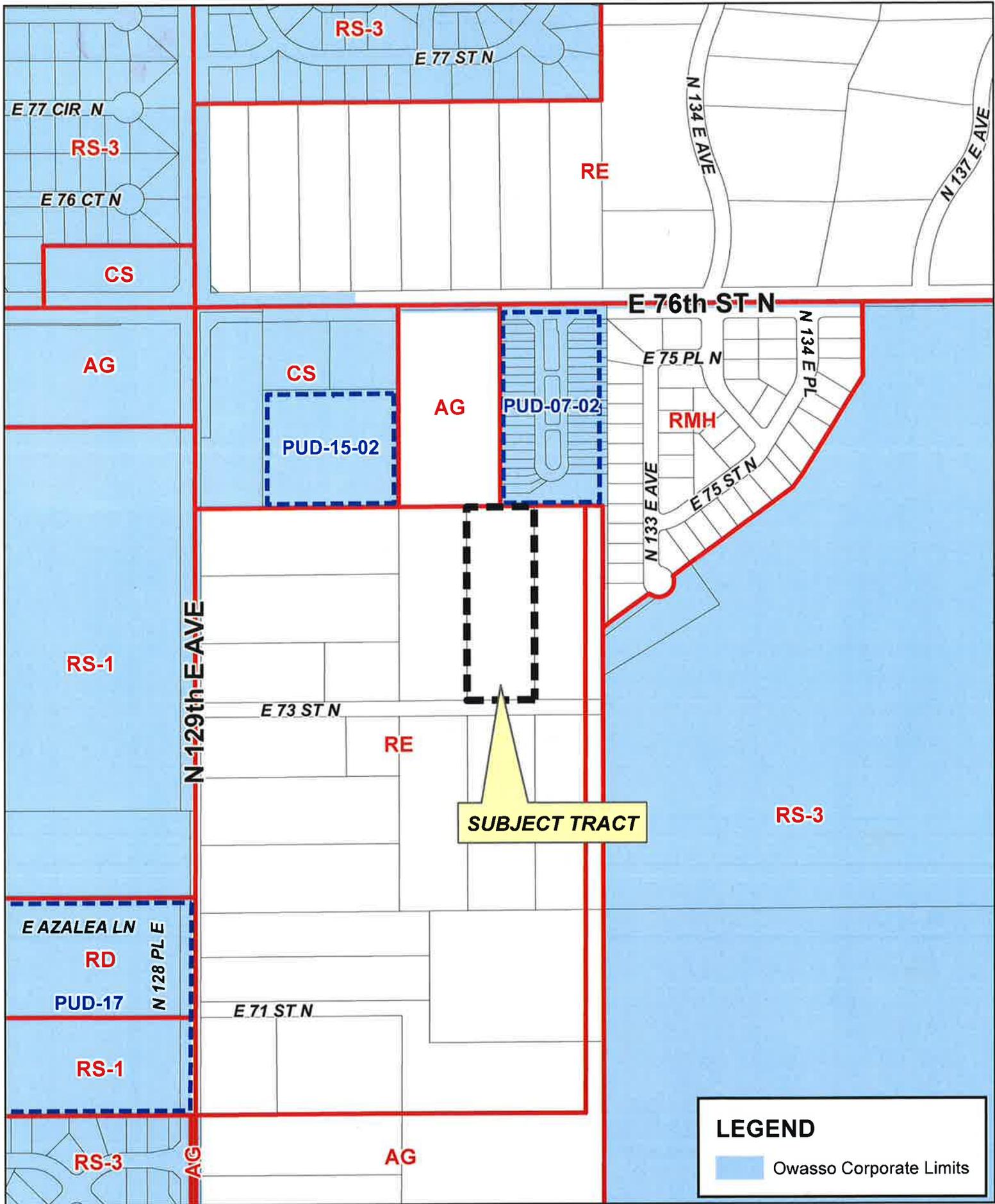
Google Maps



OO = lot area
designated for
pumpkin patch
#1 XXX = parking
#2 XXX = over flow parking
□ = building

6.17

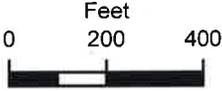
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SUBJECT TRACT

LEGEND

Owasso Corporate Limits



CBOA-2793

21-14 33

7.1



BOARD OF ADJUSTMENT CASE REPORT

STR:1433

Case Number: CBOA-2793

CZM:18

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Landon McJilton

ACTION REQUESTED: Use Variance to permit Use Unit 3 (Section 1203), Agriculture, for a Horticulture Nursery in a Residential District (Section 410, Table 1).

LOCATION: 13115 E 73 ST N

ZONED: RE

PRESENT USE: Residential

TRACT SIZE: 3.21 acres

LEGAL DESCRIPTION: E220 W440 SE NW NW LESS S25 FOR RD SEC 33 21 14

RELEVANT PREVIOUS ACTIONS: None relevant

ANALYSIS OF SURROUNDING AREA: The subject tract is located in a RE zoned neighborhood and abuts RE zoning the east, south, and west. They are large lots and appear to be residential uses. The subject tract abuts both an AG district and an RMH district to the north. The RMH district is in the corporate limits of Owasso. The subject tract is located near the end of a dead-end street.

STAFF COMMENTS:

The applicant is before the Board requesting a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Residential District (Section 410, Table 1).

A Use Variance is required as Use Unit 3, Agriculture, is not a use permitted in a RE zoned district because of the potential adverse effects on neighboring properties. The agricultural use must be found to be compatible with and non-injurious to the surrounding area.

The applicant supplied the attached hardship statement (see attachment). Please note the following factors listed in the attachment:

1. All operations will take place within existing structures, no additional construction will occur.
2. The sole employee already resides at the residence. There will be no daily commuting to or from the property.
3. The operation of the proposed business does not require heavy machinery, nor does it create loud noises. All operations take place inside the structure.
4. Transport of materials and products to and from the property will be handled via pickup truck by the sole employee. No Customers will visit the property.
5. Odors will be handled using large industrial carbon filters which is aided by the spacing between properties.
6. No signage of any kind will be posted around the property.
7. Mailing is handled via PO Box.

7.2

According to the site plan provided by the applicant, the detached accessory building will be in the rear yard which is permitted in RE districts. The size of the existing accessory building where the horticulture nursery will operate is approximately 2,500 square feet.

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure the proposed use of the land is compatible with and non-injurious to the surrounding area.

Sample Motion:

“Move to _____ (approve/deny) a Use Variance to permit Use Unit 3 (Section 1203), Agriculture, for a Horticulture Nursery in a Residential District (Section 410, Table 1).

Approved per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: _____.

Finding the hardship to be _____.

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.”



E73 STN



Subject Tract

CBOA-2793

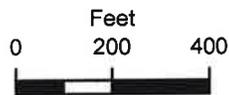
21-14 33

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

7.4





Subject Tract

CBOA-2793

21-14 33

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

7.5



Hardship Statement:

The hardship faced by the 3.2 acre property at 13115 E 73rd St N, which abuts an agricultural property to the north is present due to the existence of a sewage lagoon in the center of the northern portion of the property. This lagoon occupies approximately 6,000 sq ft in the center of this portion of the property. The lagoon serves as the treatment location for the effluent from the residence on the property. Sewage lagoons are well known to host disease causing insects as well as offensive odors. Due to the hazardous nature of this system (which has always existed on the property) the portion of land surrounding the sewage lagoon remains unusable. Likewise, this prohibits the owner of the property from utilizing the area which the lagoon occupies as well as the surrounding land to its full potential and thus decreases the value of the property. The recent construction of housing developments to the north of the property have limited the prospective buyers of this portion of the property and have added to the diverse range of zoning types in this area.

Furthermore, the 2,500 sq ft building for which the applicant is primarily seeking this application served as the home office of the property owner's (Sue McJilton) husband and applicant's (Landon McJilton) father for over twenty years before his death in 2012. The applicant believes hardship also exists in that no other buildings in the state of Oklahoma have this history and sentiment attached. The prospect of revitalizing the building that meant so much to the McJilton family so that it might continue to play a significant factor in their future is another major reason for this variance request and hope it can be looked on as another driver of hardship.

The applicant believes approval of this variance will not cause substantial detriment to the public good or impair the purpose and intent of the zoning ordinance do to the following factors:

1. All operations will take place within existing structures, no additional construction will occur.
2. The sole employee already resides at the residence. There will be no daily commuting to or from the property.
3. The operation of the proposed business does not require heavy machinery, nor does it create loud noises. All operations take place inside the structure.
4. Transport of materials and products to and from the property will be handled via pickup truck by the sole employee. No customers will visit the property.
5. Odors will be handled using large industrial carbon filters which is aided by the spacing between properties.
6. No signage of any kind will be posted around the property.
7. Mailing is handled via PO Box.

It is the applicant's hope that if approved, this variance will not cause any disruption, harm, or disturbance to the peace and tranquility of the neighborhood or its residents.



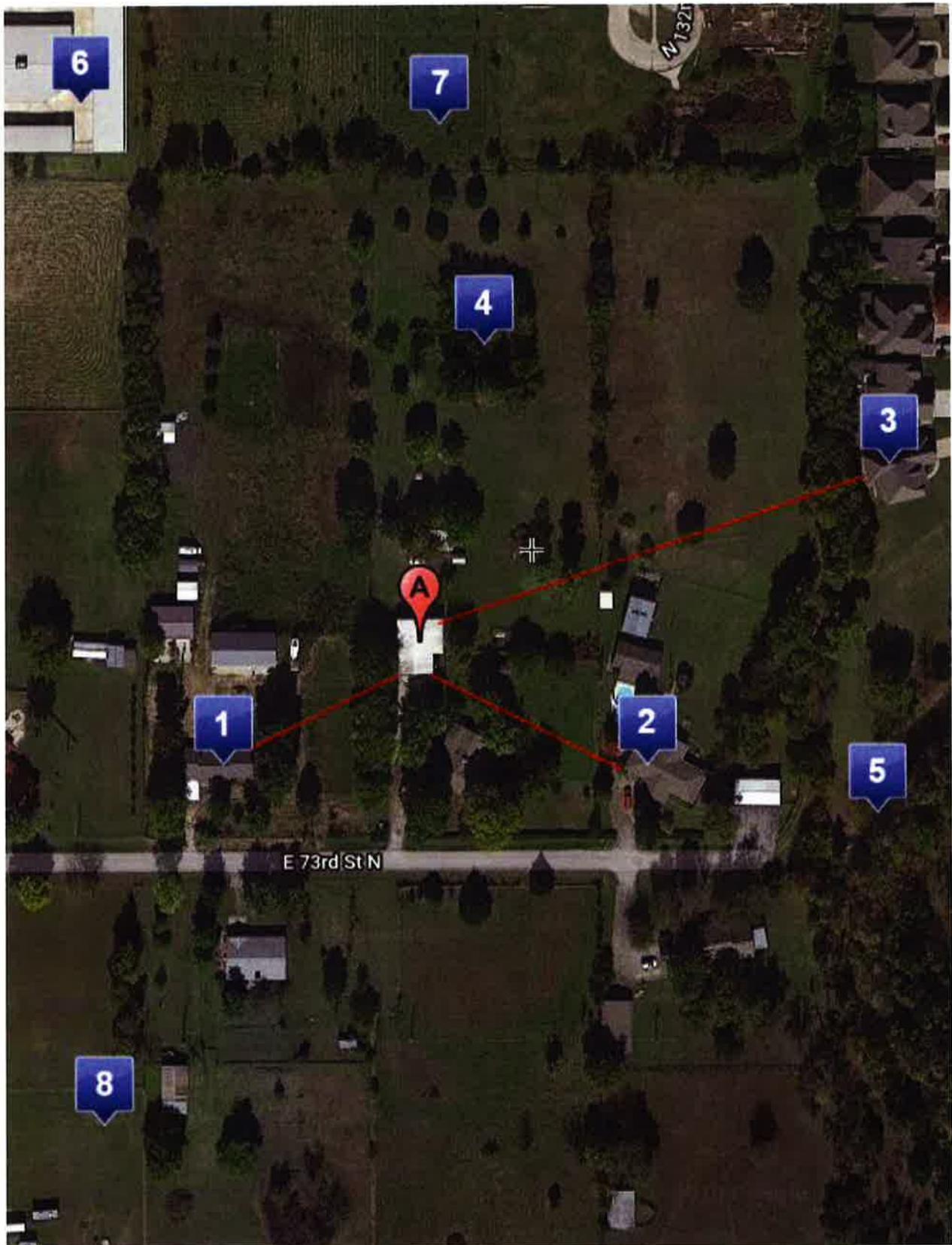
Looking north at the property from E. 73rd St. N.



Looking west onto E. 73rd St. N. – subject property on the right (north)

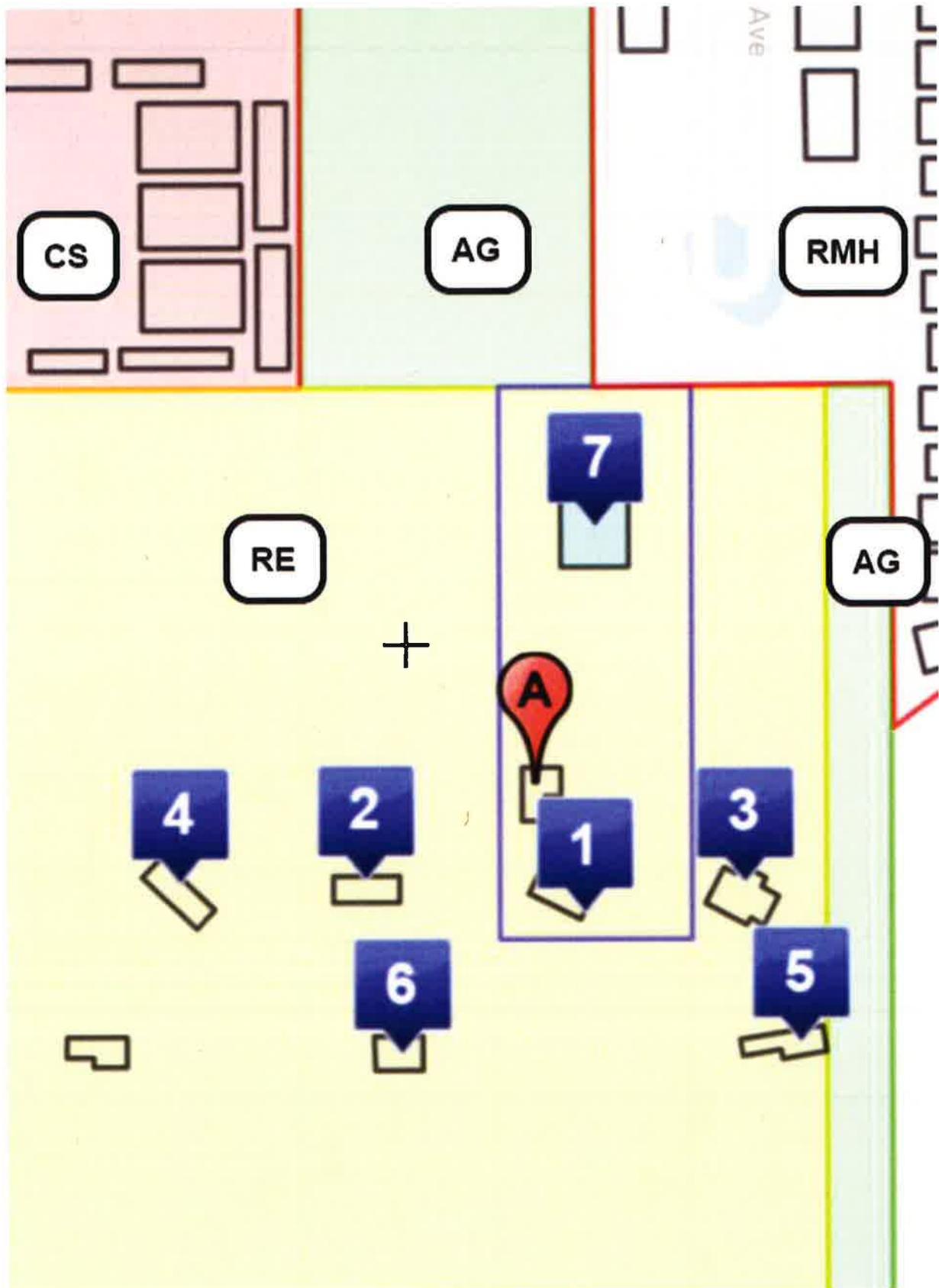


Looking east onto E. 73rd St. N – subject property on the left (north)



- A) Proposed Location (Approx. 2,500 sqft)
- 1) Adjacent Neighbor at 13113 E 73rd St N (Approx. 164 ft)
- 2) Adjacent Neighbor at 13217 E 73rd St N (Approx. 196 ft)
- 3) Nearby PUD Neighborhood (Approx. 426 ft)
- 4) Sewage Lagoon on property
- 5) Flowing creek adjacent to agricultural zoning
- 6) Commercial storage units

- 7) Agricultural zoning
- 8) RE Residential used commercially



- A) Proposed Location (Approx. 2,500 sq ft)
- 1) Main residence at 13115 E 73rd St N (Approx. 2,700 sq ft)
- 2) Adjacent Neighbor at 13113 E 73rd St N
- 3) Adjacent Neighbor at 13217 E 73rd St N
- 4) Neighbor at 12921 E 73rd St N
- 5) Neighbor at 13216 E 73rd St N
- 6) Neighbor at 13114 E 73rd St N
- 7) Sewage Lagoon in back of property



*Approx. 2,500 sq ft

Jones, Robi

From: Fritschen, Karl <kfritschen@CityOfOwasso.com>
Sent: Tuesday, January 14, 2020 2:37 PM
To: Jones, Robi
Cc: Dempster, Brian
Subject: RE: County Board of Adjustment Cases

Thanks Robi for the notices.

I have discussed with some others and our comments are as follows.

Case CBOA-2797: Wedding Venue

This facility lies within our residential land use category per our land use plan and is somewhat isolated. Considering the size of the tract and the AG zoning, the wedding venue would be viewed as an accessory use so we do not oppose it in that regard so long as a residential use is maintained on the property. Should the residential component be vacated, then it would be viewed as a change in use to commercial. However, we do have the following concerns that the Board should consider before rendering a decision.

- How will water service be provided? This is City of Owasso Water so any taps will need a permit and inspections by City personnel.
- How will wastewater be handled? If they are tapping into Owasso sewer, then annexation may be required as well as inspections.
- Will any easements be needed around the perimeter for public water service.
- The Board should consider traffic through the neighborhood. Maybe consider limiting hours of operation.
- Will noise be an issue? Again, maybe consider limiting hours of operation.
- How much site lighting will be needed and where will it be placed?

Case CBOA-2793: Landscape Nursery

This facility lies within our residential land use category per our land use plan and is somewhat isolated. Though the tract is zoned RE it is 3.21 acres in size, so the use we feel does not pose a detriment to the adjoining residences given the size of tracts in this area. However, we do have the following concerns that the Board should consider before rendering a decision.

- What will be the hours of operation?
- Increased truck traffic carrying material and landscape plants may cause increase wear and tear on the road.
- Is this a retail or wholesale nursery?

Thank you Robi for allowing Owasso to comment on these two cases.

Regards,

Karl A. Fritschen, MRCP, AICP, RLA
Planning Manager

200 S. Main
City of Owasso, OK 74055
918.376.1545

"the truth is out there"



From: Jones, Robi [mailto:rjones@incog.org]
Sent: Monday, January 13, 2020 11:35 AM
To: Fritschen, Karl
Subject: County Board of Adjustment Cases

Karl,

I am sending you a copy of the two Board of Adjustment cases we have in Owasso's fenceline. Let me know if you have any questions. If you get calls on either case, please give them my number and I will be happy to discuss it with them.

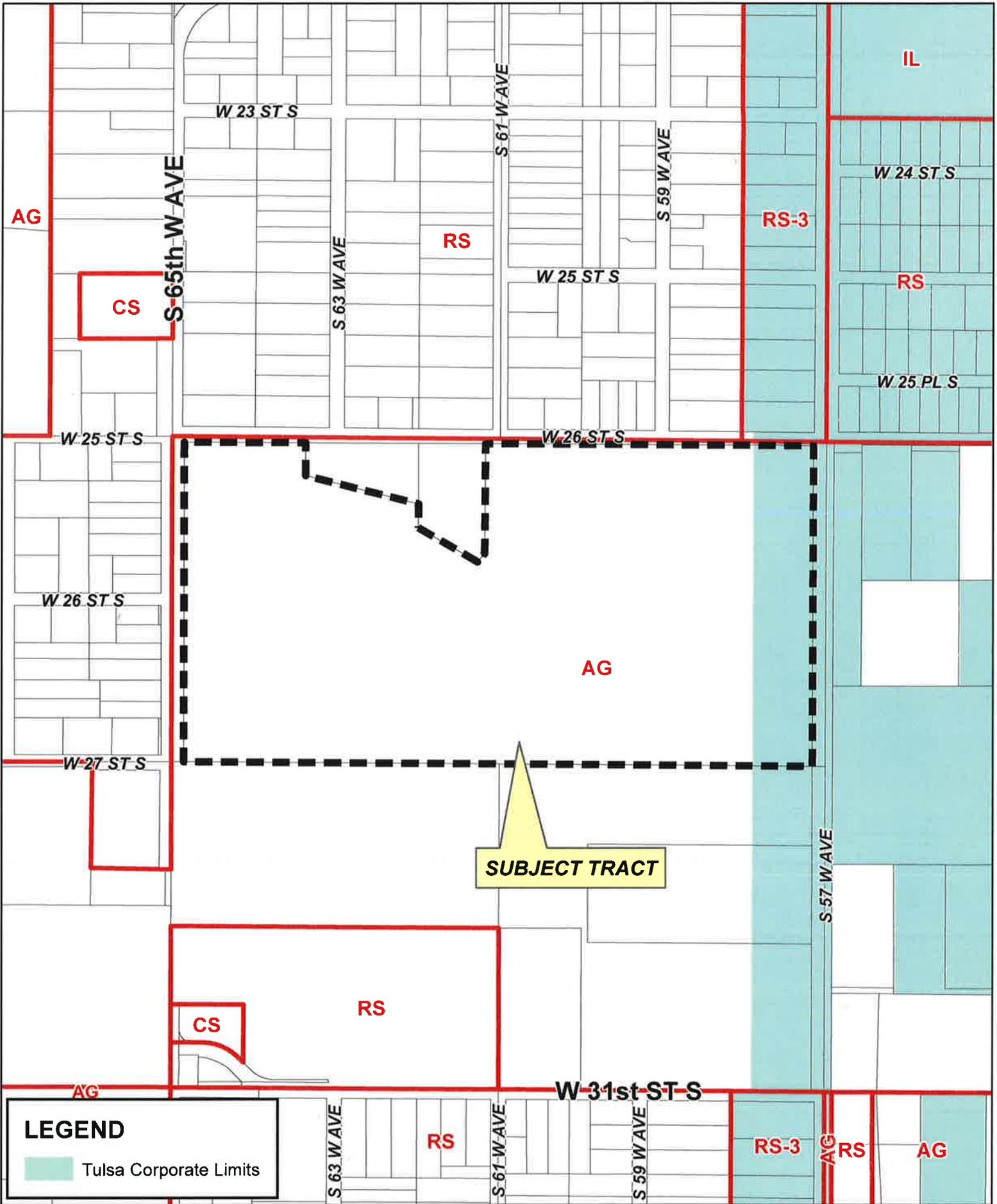
Robi

Robi Jones
Community Planner
County Board of Adjustment Administrator
Tulsa Planning Office
2 W. 2nd St., 8th Floor | Tulsa, OK 74103
918.579.9472
rjones@incog.org



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CBOA-2794

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19-12 17



**BOARD OF ADJUSTMENT
CASE REPORT**

STR:9217

Case Number: CBOA-2794

CZM:35

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Martin Benson

ACTION REQUESTED: Special Exception to permit Use Unit 2, Area-Wide Special Exception Uses, for a temporary construction facility in the AG District (Section 1202).

LOCATION: SW/c of W. 26th St. S. & S. 57th W. Ave.

ZONED: AG

PRESENT USE: Agriculture

TRACT SIZE: 71.25 acres

LEGAL DESCRIPTION: N/2 SW LESS BEG 1653.22W & 20S NEC SW TH S343.23 SE277.55 NE44.73 N442.48 W265.33 POB & LESS BEG 1653.22W NEC SW TH W457 S155.28 SE470.29 N266.31 POB & LESS W50 & LESS E30 & LESS N20 THEREOF FOR RDS SEC 17 19 12 71.25ACS

RELEVANT PREVIOUS ACTIONS: None Relevant

ANALYSIS OF SURROUNDING AREA: The subject tract is located along the proposed Gilcrease Expressway through Berryhill. It abuts Berryhill Public Schools to the south as well as what appears to be a vacant agricultural property. It abuts residential neighborhoods to the west and north. The construction of the Gilcrease Expressway will be near the eastern boundary of the property.

STAFF COMMENTS:

The applicant is before the Board requesting a Special Exception to permit Use Unit 2, Area-Wide Special Exception Uses, for a temporary construction facility in the AG District (Section 1202). A Special Exception is required as it is a use which is not permitted by right in the AG District because of potential adverse affect, but which if controlled in the particular instance as to its relationship to the area and to the general welfare, may be permitted. The temporary construction facility must be found to be compatible with the surrounding area. Construction Facilities must abide by the following Use Conditions:

1202.3 Use Conditions:

A. The Board of Adjustment shall impose appropriate time limitations on temporary open-air activities, except construction facilities, to ensure that the use is not injurious and is temporary in nature.

B. Construction Facilities

1. The use may continue for a period not to exceed two years in the same location.
2. Ingress and egress must be from arterial or collector streets, provided that such location would result in less traffic on streets in residential areas.

8.2

3. The use shall not be located nearer than 100 feet to any lot containing an occupied dwelling, without the consent of the owner thereof.

The facility is proposed as a temporary use operating for a minimal period of time while the Gilcrease Expressway is under construction. The subject property is agricultural and appears to be vacant at this time. According to the Plant Site Lease Agreement, the applicant will be leasing 10 acres from the owner as depicted in EXHIBIT A but at this time, the applicant is not able to provide a legal description for the precise 10 acres. The site plan illustrates a 40' wide temporary driveway onto South 57th West Avenue.

The property is included in the Berryhill Land Use Plan, adopted in 2019. The future Land Use Designation is New Neighborhood.

The approval of a special exception will trigger the requirement to conform to the Subdivision and Development Regulations. Issues related to Right-of-Way dedication and storm water management would be addressed during the platting stage.

If inclined to approve the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the construction facility is compatible with the surrounding area.

Sample Motion:

“Move to _____ (approve/deny) a Special Exception to permit Use Unit 2, Area-Wide Special Exception Uses, for a temporary construction facility in the AG District (Section 1202).

Approved per conceptual plan on page _____ of the agenda packet.

Subject to the following conditions (including time limitation, or hours of operation if any):_____.

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.”



Subject Tract

CBOA-2794

Note: Graphic overlays may not precisely align with physical features on the ground.

19-12 17

Aerial Photo Date: February 2018

8.4





Duit Construction Co., Inc.



I-35 North Waterloo Rd. Interchange
6250 Industrial Blvd. North

Concrete Paving

405.340.6026 voice
405.348.7627 fax

P.O. Box 3788
Edmond, OK 73083

"EQUAL OPPORTUNITY EMPLOYER"

EXHIBIT A



5 initial TSB HB

W 26th St S

W26th Street to Site = 320'

S57th Street to Site = 350'

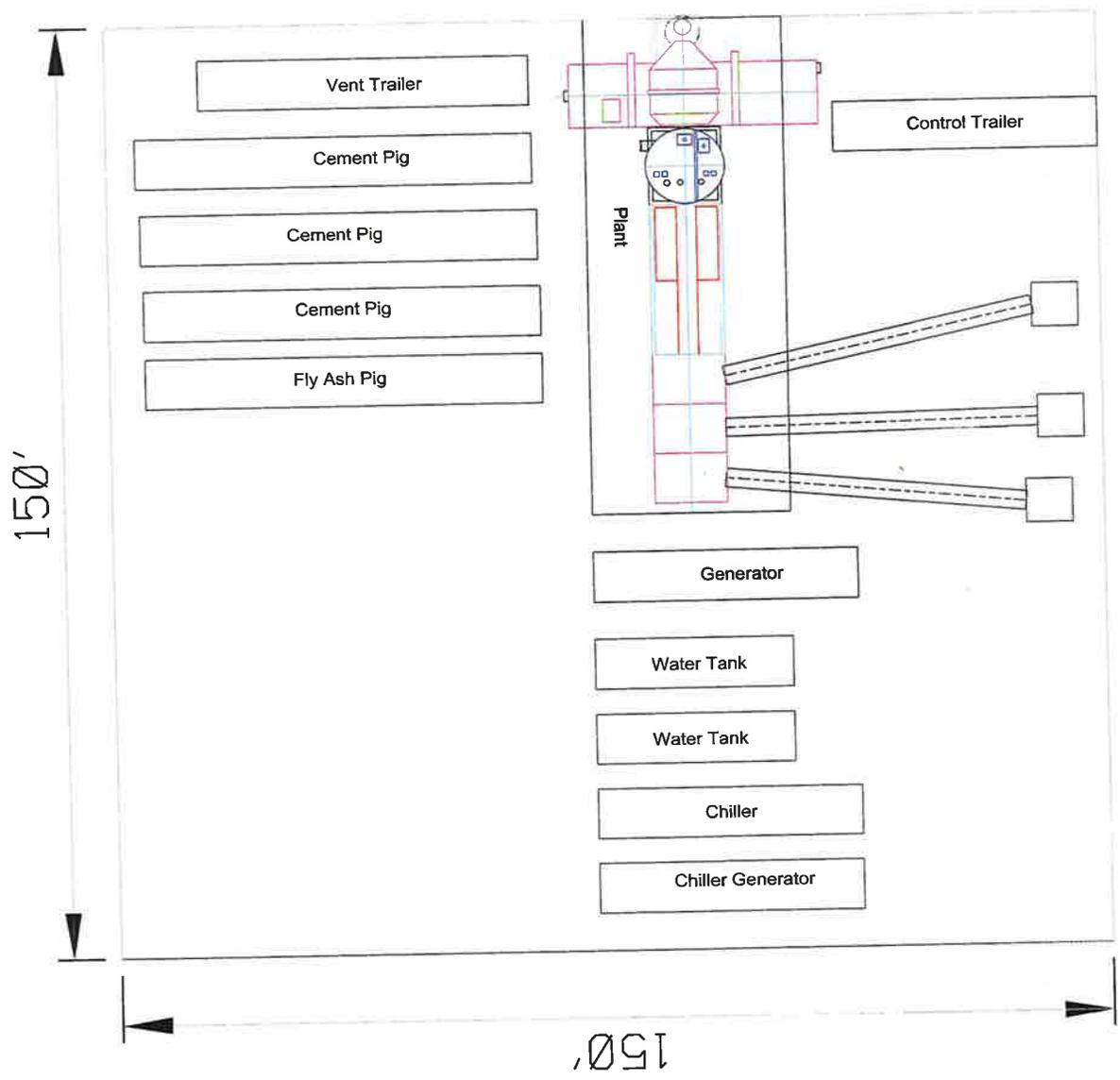


S 57th W Ave

© 2018 Google

8.6

CBOA-2794





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P.O. Box 3788
Edmond, OK 73083

"EQUAL OPPORTUNITY EMPLOYER"

PLANT SITE LEASE AGREEMENT

This Plant Site Lease Agreement is between Alma R Bean Revocable Trust, Owner of the real property herein described, hereafter referred to as "Owners" and Duit Construction Company, Inc. an Oklahoma Corporation, 6250 Industrial Blvd., Edmond, OK, hereafter referred to as "Contractor."

In consideration of the mutual covenants hereinafter set forth, Contractor and Owner agree as follows:

1. Lease of Plant Site

a. WHEREAS, Owners own the following described real property, N/2 SW LESS BEG 1653.22W & 20S NEC SW TH S343.23 SE277.55 NE44.73 N442.48 W265.33 POB & LESS BEG 1653.22W NEC SW TH W457 S155.28 SE470.29 N266.31 POB & LESS W50 & LESS E30 & LESS N20 THEREOF FOR RDS SEC 17 19 12 71.25ACS

Section: 17 Township: 19 Range: 12. Contractor hereby leases 10 acres of said land, being the area depicted on the google map labeled EXHIBIT A, and made a part of this agreement. All easements appurtenant thereto, including but not limited to those for ingress, egress, and utilities ("the Plant Site"), for the purpose of installing, constructing, maintaining, repairing, using and operating portable concrete batch plant(s) and all machinery, equipment, scales, telephone lines, parking and material storage areas, and other items and improvements desirable in Contractor 's judgment for its operations on the Plant Site (collectively "the Plant"). Contractor agrees to keep the site free of all loose trash and debris.

b. Any utilities required by Duit Construction Co., Inc. will be furnished by Duit Construction Co., Inc. The property is leased in "as is" condition at the commencement of the lease.

c. At the beginning of the lease period, Contractor will clear the area of all trees and brush and strip the available topsoil on the lease, and stockpile same in an area to avoid contamination of same. Contractor will then spread asphalt millings, or similar surfacing material, to produce an all-weather surface. Prior to the termination of this lease, the Contractor will haul off remaining aggregate stock piles, remove all equipment, fixtures, inventory and any other personal property brought onto the real property by the Contractor. The site shall be graded back to a reasonably smooth surface, and shall be free of all trash, refuse and any other material brought onto the site by Contractor. Contractor will then spread the stockpiled topsoil back across the property in a smooth and workman like manner with natural drainage. Contractor shall hold harmless and indemnify the Owner for any hazardous materials brought onto the property during the term of this lease. Contractor shall be responsible for any cost related to the removal and/or monitoring of any hazardous material brought onto the property during the term of this lease. Contractor shall indemnify and hold Owner harmless for any claims arising from said hazardous material. Contractor shall comply with all EPA standards during the term of this lease and shall leave the real property in compliance with EPA standards at the termination of this lease. The Contractor will be required to seed the site. In lieu of top soiling and seeding, and at Owner's request, Contractor will leave the all-weather surface in place which Owner will retain ownership at the termination of the lease.

1 initial AB WJ



Duit Construction Co., Inc.



Concrete Paving

I-35 North Waterloo Rd. Interchange
6250 Industrial Blvd. North

405.340.6026 voice
405.348.7627 fax

P.O. Box 3788
Edmond, OK 73083

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2. Term, Termination

Term of Lease will begin the date Contractor enters the site to begin operations and terminate when the Contractor has concluded his operations and has satisfied the terms of this lease, but no later than 60 days after final acceptance of OTA Project GCT-2500 (Gilcrease Expressway).

Upon the Termination of this Lease Agreement, Contractor shall remove all equipment and materials and surrender the Plant Site to Owner in the condition stated in Section 1.c of this lease, ordinary wear and tear and acts of God excepted.

3. Rental Payments

This Lease Agreement is expressly contingent upon the execution of an agreement by Contractor and Owner as follows: Contractor will pay Owner [REDACTED], payable in advance, by the first of each month. The first payment, will be payed when Contractor enters the site to begin operations.

4. Warranties of Owner

Owner represents that its ownership of the Plant Site is fee simple and absolute.

5. Damage to Plant Site; Eminent Domain

If the Plant Site is damaged by an act of God and its use by Contractor is rendered impracticable, or if all or a portion of the Plant Site is taken by eminent domain, or if for any reason the Plant Site is rendered inoperable for more than thirty days by any government action, Contractor, with sixty (60) days advance written notice to Owner, terminate this Lease Agreement by notifying Owner in writing.

6. Assignment

Contractor may assign, pledge, or otherwise transfer its rights or obligations under this Lease Agreement with prior written consent of Owner. Assignment of this lease shall not release Contractor from its performance of any covenants of Contractor herein contained.

7. Notices

Any notice or communication concerning this Lease Agreement shall be sent by certified mail, return receipt requested, or delivered by hand, if to Operator, addressed to: Duit Construction Company, Inc., 6250 Industrial Boulevard, P.O. Box 3788, Edmond, Oklahoma 73083, Attention: Tim Duit, President. If to Owner, addressed to: Bob Bean Jr., 6144 W26th, Tulsa, ok 74107, Attention Bob Bean Jr., Trustee.

2 initial



Duit Construction Co., Inc.



Concrete Paving

I-35 North Waterloo Rd. Interchange
6250 Industrial Blvd. North

405.340.6026 voice
405.348.7627 fax

P.O. Box 3788
Edmond, OK 73083

"EQUAL OPPORTUNITY EMPLOYER"

8. Miscellaneous

Time is of the essence of this Lease Agreement. This Lease Agreement may not be modified or amended except by written instrument executed by both parties. This Lease Agreement shall be binding upon the heirs, successors, administrators, and assigns of both parties.

9. Atornment, Subordination, Non-disturbance

Contractor shall, in the event of a sale or assignment of Owner's interest in the real property, or if the real property comes into the hands of a mortgagee or any other person because of a mortgage foreclosure, exercise of a power of sale under a mortgage, not disaffirm this lease and atorn to the purchaser of such mortgage, or other person and recognize the same as Owner hereunder. Contractor shall execute, at Owner's request, any atornment agreement required by any mortgagee or other person. Any subsequent Owner will not disturb Contractor's quiet enjoyment per the terms of this lease. This lease shall be junior and inferior at all times to the lien of any mortgage or mortgages which now or hereafter have a lien upon any part of the real property and Contractor shall execute such instruments as Owner requests, to evidence such subordination.

10. Insurance

Contractor agrees to carry public liability insurance on the real property during the term hereof, covering the Contractor and naming the Owner as an additional insured, for limits of not less than \$1,000,000.00 for bodily injury, including death and personal injury for any one occurrence and \$250,000.00 property damage insurance. Contractor's insurance will include contractual liability coverage recognizing this lease, products and/or completed operations liability and providing that Owner and Contractor shall be given a minimum of thirty (30) days written notice by the insurance company prior to cancellation, termination or change in such insurance. Contractor shall provide Owner with a written certificate of said insurance.

11. Indemnification

Contractor shall indemnify and save harmless Owner from and against any and all liability, liens, claims, demands, damages, expenses, fees, costs, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature arising or growing out of or in any way connected with Contractor's use, occupancy, management or control of the real property.

12.. Contingents

This Lease Agreement is contingent on two happenings.

1. Contractor will enter into a contract with OTA to construct the Gilcrease Expressway, project GCY-2500. This is expected to be in January, 2020.
2. Contractor and Owner are able to obtain a zoning variance from Tulsa County to erect and operate a temporary batch plant, for the Gilcrease Expressway project, on property zoned for agriculture use.

3 initial



Duit Construction Co., Inc.



Concrete Paving

I-35 North Waterloo Rd. Interchange
6250 Industrial Blvd. North

405.340.6026 voice
405.348.7627 fax

P.O. Box 3788
Edmond, OK 73083

"EQUAL OPPORTUNITY EMPLOYER"

This five-page agreement is deemed to be mutually and equally beneficial to both parties and shall constitute the entire agreement.

Executed by Owner and Operator through their duly authorized representatives this

_____ Day of _____, 2019.

OWNER: Alma R Bean Revocable Trust

CONTRACTOR: DUIT CONSTRUCTION CO., INC.

By: Alma R. Bean

By: Markus Bauson

Title: Owner

Title: Deputy Project Manager

By: B.L. Bean Jr.

Title: Trustee

4 initial BAB MB

Jones, Robi

From: Martin Benson <MBenson@duitconstruction.com>
Sent: Friday, December 27, 2019 9:35 AM
To: Jones, Robi
Subject: RE: [External] County Board of Adjustment
Attachments: Site Plan for Gilcreas Expressway Plant Site (12-12-19).pdf

Robi,

Attached is the Google Earth Picture of the proposed site and site plan (with dimension from 57th Ave and 26th St.). Please see my responses (highlighted) under your question.

How will you know exactly where your leased land is located?

- We will measure (via GPS or accepted method) off the edge of the roadway the dimensions called out in the site plan off of S 57th W. Ave & W. 26th St. S.

Will the property owner want to lease to other construction facilities?

- No. The Gilcrease Constructors, and subs, will be the only construction companies allowed to use or access the leased property

How far away is the nearest occupied dwelling?

- 450' from the planned stockpile area

How many trucks will be coming and going from the facility daily?

- I'm not sure how to properly answer this question, because it depends on the daily operation. My guess would be 0-25

Will S. 57th W. Ave. be closed for the construction of the Gilcrease Expressway?

- No, S. 57th are going to be reconstructed during the construction process. Temporary roadway shoo-fly's and traffic control plans will be used to direct the traveling public

The picture of the plant is not clear on my site plan, could you send me a close-up view of the plant?

- I will send.

A. Construction Facilities

1. The use may continue for a period not to exceed two years in the same location.
 - a. We intend to use the 2 year limit.
2. Ingress and egress must be from arterial or collector streets, provided that such location would result in less traffic on streets in residential areas.
 - a. We will use S. 57th as the only ingress and egress within the construction limits
3. The use shall not be located nearer than 100 feet to any lot containing an occupied dwelling, without the consent of the owner thereof.
 - a. We will not be within 100' of any occupied dwelling.

From: Jones, Robi <rjones@incog.org>
Sent: Friday, December 27, 2019 8:55 AM
To: Martin Benson <MBenson@duitconstruction.com>
Subject: RE: [External] County Board of Adjustment

Martin,

I have a copy of the site map for the 71.25 acres. (I mistakenly called it 74 acres earlier.) Some of my concerns are: How will you know exactly where your leased land is located? Will the property owner want to lease to other construction facilities? How far away is the nearest occupied dwelling? How many trucks will be coming and going from the facility daily? Will S. 57th W. Ave. be closed for the construction of the Gilcrease Expressway? The picture of the plant is not clear on my site plan, could you send me a close-up view of the plant?

The following are conditions in the zoning code that you would have to follow if the temporary construction site is approved.

1202.3 Use Conditions:

- A. The Board of Adjustment shall impose appropriate time limitations on temporary open-air activities, except construction facilities, to ensure that the use is not injurious and is temporary in nature.
- B. Construction Facilities
 - 1. The use may continue for a period not to exceed two years in the same location.
 - 2. Ingress and egress must be from arterial or collector streets, provided that such location would result in less traffic on streets in residential areas.
 - 3. The use shall not be located nearer than 100 feet to any lot containing an occupied dwelling, without the consent of the owner thereof.

Robi

Robi Jones
Community Planner
County Board of Adjustment Administrator
Tulsa Planning Office
2 W. 2nd St., 8th Floor | Tulsa, OK 74103
918.579.9472
rjones@incog.org



From: Martin Benson <MBenson@duitconstruction.com>
Sent: Friday, December 27, 2019 8:37 AM
To: Jones, Robi <rjones@incog.org>
Subject: RE: [External] County Board of Adjustment

Robi,

Would the site map of the leased land within the 74 acres help?

Martin.

From: Jones, Robi <rjones@incog.org>
Sent: Friday, December 27, 2019 8:23 AM
To: Martin Benson <MBenson@duitconstruction.com>
Subject: RE: [External] County Board of Adjustment

Martin,

My understanding is that you are only leasing 10 acres of a 74 acre parcel. Do you have a legal description from the land owner of the 10 acres?

Robi

Robi Jones
Community Planner
County Board of Adjustment Administrator
Tulsa Planning Office
2 W. 2nd St., 8th Floor | Tulsa, OK 74103
918.579.9472
rjones@incog.org



From: Martin Benson <MBenson@duitconstruction.com>
Sent: Friday, December 27, 2019 8:19 AM
To: Jones, Robi <rjones@incog.org>
Subject: RE: County Board of Adjustment

Robi,

I've attached is the legal description that I have for the land parcel. I hope this is what you are needing. If not, please don't hesitate to call or email me so I can get you the correct information. Thanks again for your help.

Thanks,

Martin Benson

Duit Holdings | Deputy Project Manager
Phone: 405-340-6026 | Cell: 405-315-3595
P.O. Box 3788 | Edmond, Oklahoma 73083



From: Jones, Robi <rjones@incog.org>
Sent: Thursday, December 26, 2019 4:14 PM
To: Martin Benson <MBenson@duitconstruction.com>
Subject: [External] County Board of Adjustment

Mr. Benson,

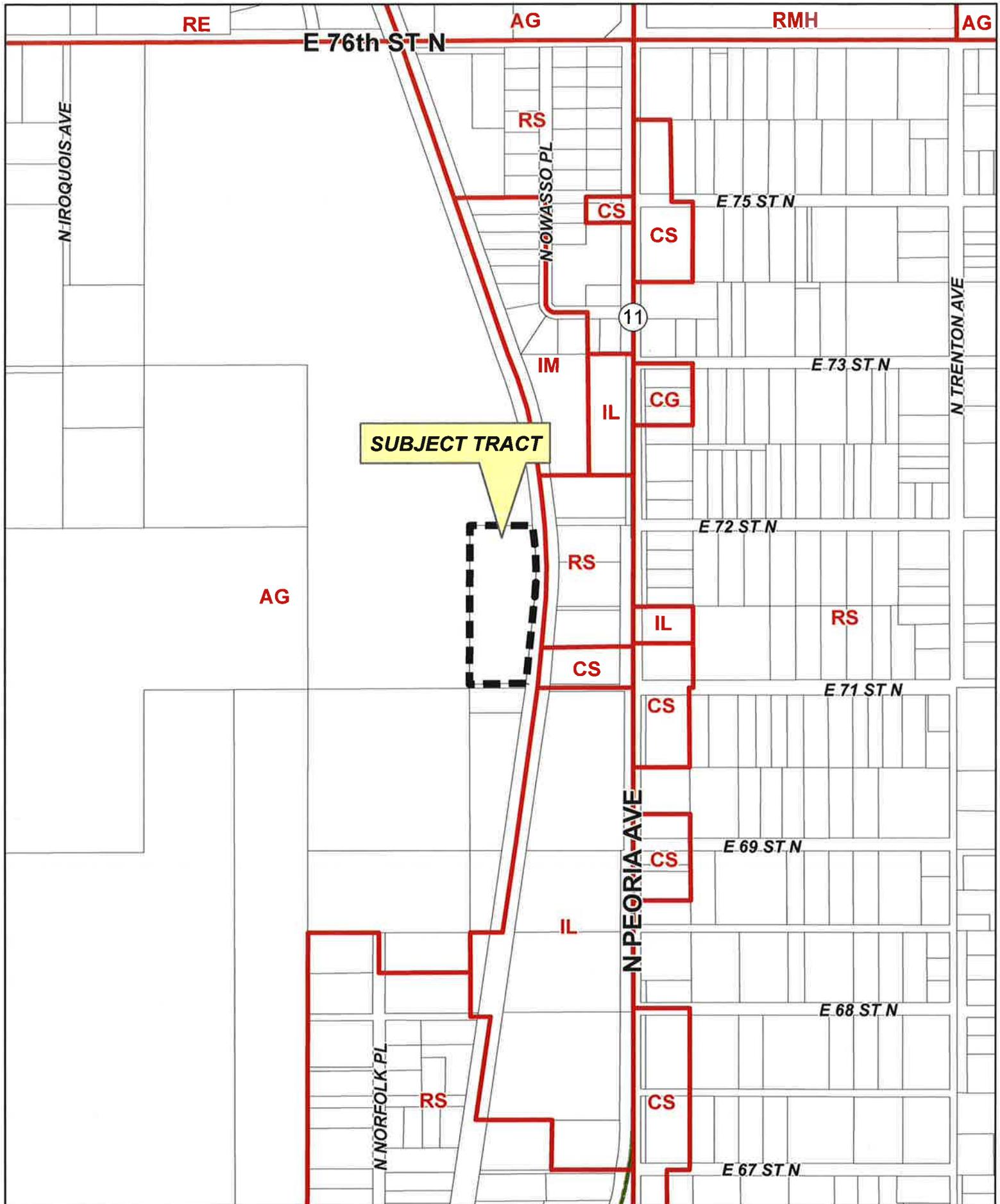
I am working on your case, CBOA-2794, for a Special Exception to permit a temporary construction facility in the Berryhill area. Do you have a legal description for the 10 acres you are requesting to lease?

Thanks,

Robi

Robi Jones
Community Planner
County Board of Adjustment Administrator
Tulsa Planning Office
2 W. 2nd St., 8th Floor | Tulsa, OK 74103
918.579.9472
rjones@incog.org





SUBJECT TRACT

CBOA-2795

9.1



**BOARD OF ADJUSTMENT
CASE REPORT**

STR:1236
CZM:15

Case Number: CBOA-2795

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Kevin Watkins

ACTION REQUESTED: Use Variance to allow Overnight Campground for Recreational Vehicles, Use Unit 17, in an AG district (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

LOCATION: 1145 E 71 ST N

ZONED: AG

PRESENT USE: Vacant

TRACT SIZE: 3.74 acres

LEGAL DESCRIPTION: ALL THAT PRT SE SE NE LYING W RR R/W LESS S15 THEREOF FOR RD SEC 36 21 12 3.740ACS,

RELEVANT PREVIOUS ACTIONS:

Subject Property: None relevant

Surrounding Property:

CZ-473 and PUD-847 September 2018: The applicant **withdrew** a request for *rezoning* a 10± acre tract of land from AG to AG/CG/PUD-847 and a proposed *Planned Unit Development* on a 70± acre tract of land, for a mixed use development with the following concept:

City Lights Village will be a master planned, entry-level, affordable housing community. It will consist of single, double, and family occupancy cottages. The village will be home to neighbors lifted from homelessness as well as individuals/families living and working missionally alongside them.

on property located west of the northwest corner of North Peoria Avenue and East 66th Street North.

CBOA-2434 August 2012: The Board **approved** a *Use Variance* to permit auto crushing operation and accessory uses (not within enclosed buildings), and permitting existing buildings to be situated less than 100 feet from centerline of abutting secondary arterial street; and a *Special Exception* for modification or waiver of screening requirement along lot line abutting R-zoned District, on property located at 6834 – 7002 North Peoria Avenue.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts AG zoning on the north, west, and south. The Osage-Prairie Trail abuts the property on the east. Properties east of the trail, appear to have both industrial and residential uses in RS and CS zoned districts

9.2

STAFF COMMENTS:

The applicant is before the Board requesting a **Use Variance** to allow an Overnight Campground for Recreational Vehicles, Use Unit 17, in an AG district (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

The applicant provided the following statement: *“Would like to use property for something. Had cows on it but kids cut fence on trail and always got them out so, I think this would be a good use for it.”*

A **Use Variance** is required because an Overnight Campground for Recreational Vehicles, Use Unit 17, is not permitted in an AG zoning district due to potential adverse affect. The site plan provided by the applicant indicates that the Overnight Campground will be constructed in phases and will contain up to 35 pad sites after the last phase is completed. The pads will be located on the eastern boundary of the property.

The applicant proposes unpaved (gravel) parking spaces for additional vehicles to park on each pad site. The Code requires all paving surfaces be paved to maintain a minimum level of aesthetics, but more importantly to control air-borne particles like dust and to control the tracking of dirt and mud onto public streets. The applicant is requesting a **Variance** of the all-weather parking surface requirement (Section 1340.D).

Sample Motion:

“Move to _____ (approve/deny) a Use Variance to allow Overnight Campground for Recreational Vehicles, Use Unit 17, in an AG district (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: _____.

Finding the hardship to be _____.

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.”

UNFINISHED BUSINESS

Case No. 2434—Stephen Schuller

FILE COPY

Action Requested:

Use Variance to permit auto crushing operation and accessory uses (not within enclosed buildings), and permitting existing buildings to be situated less than 100 feet from centerline of abutting secondary arterial street (Section 1670); Special Exception for modification or waiver of screening requirement along lot line abutting R-zoned District (Section 250.3). **Location:** 6834 - 7002 North Peoria Avenue

Presentation:

Stephen Schuller, Attorney, 1100 OneOk Plaza, 100 West 5th Street, Tulsa, OK; stated the property is located on the west side of North Peoria Avenue, which is State Highway 11 at the location of the subject property. The subject property is situated in an IL District between the old Midland Valley Railroad and North Peoria Avenue. Along the south boundary of the subject property is sided by a bike trail, and properties to the north and east are consistent with CS zoning with a couple of small RS districts tucked in. In April 1994 the County Board of Adjustment approved a use variance to permit a mobile auto crushing operation on the subject property that is extended to this day. The use variance had a two-year term and has been extended once or twice. The property owners apparently did not understand the process requirement for further approvals by the Board and did not come back before the Board of Adjustment. Now the term has expired. All the other conditions imposed by the County Board of Adjustment in 1994 have been complied with. This operation has been continuously conducted on the subject property for 18 years. The equipment in use is a mobile auto crushing machine and it is necessary to operate it outdoors because of its enormous size, plus the autos to be crushed must be lifted by forklift to place them in the machine and take them back out of the machine. After the crushing process is complete the autos are hauled off within a few hours or a few days because the owner's revenue is from the sale of the crushed vehicle. The owners are in the process of cleaning up the entire area. The use of the property is screened from view of the nearby residentially zoned property, which is the opposite side of North Peoria Avenue, except for the entry gates to the subject property. The subject property is also screened from the old railway and the bike trail. There are a few buildings on the north side of the property that have been in place for approximately 30 years, and the requisite setbacks from the abutting street line of North Peoria Avenue have not always been strictly observed. The locations of these buildings are consistent with the locations of other buildings along North Peoria Avenue in the vicinity of the property and in the neighborhood. These buildings house equipment and related accessory operations for the mobile auto crushing operation. One building is approximately 80 feet from the centerline of Peoria Avenue and another one is approximately 70 feet from the centerline of Peoria Avenue, but they have been in place

CBOA-2434

for approximately 30 years. The CS zoning districts in the area have intensive commercial uses. One the corner of 71st Street North and North Peoria Avenue there is a tire store with a salvage yard in the rear, which appears not to be screened because the salvage yard can be seen from the street. There is another automobile salvage yard in operation on the other side of North Peoria at 69th Street North. These are a couple of examples of the automobile and industrial uses that are common in this neighborhood. In addition, there is a motor vehicle crushing operation directly south of the subject property so it is not unusual in this neighborhood. There are also commercial businesses up and down Peoria Avenue in this area, and they generally consist of automotive repair, salvage, and a metal processing business. The subject property is a business that is similar to other business operations in the area, especially in the immediate vicinity of the subject property. With the existing screening in place along Peoria and the other borders of the property, with the conditions imposed by the Board in 1994, there is no harm to the surrounding neighborhood or the surrounding commercial or industrial areas. He would ask the Board for a modification of the screening requirement in order to eliminate it for the entry gates to the subject property. He would request the grant of the use variance, the same that was granted in 1994, for the continued operation of an existing mobile motor vehicle crushing operation and the accessory uses, and to not have the operation within enclosed buildings. He would also request the grant of the use variance to permit the well established buildings on the north end of the property be situated less than 100 feet from the centerline of North Peoria Avenue. He would request the grant of the special exception to modify the screening requirements so screening would be required at the driveway entrance.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DRAPER**, the Board voted 3-0-0 (Dillard, Draper, Walker "aye"; no "nays"; no "abstentions"; Charney, Osborne "absent") to **APPROVE** the request for a Use Variance to permit auto crushing operation and accessory uses (not within enclosed buildings), and permitting existing buildings to be situated less than 100 feet from centerline of abutting secondary arterial street (Section 1670); Special Exception for modification or waiver of screening requirement along lot line abutting R-zoned District (Section 250.3). The screening requirements are waived only for the current two points of access. The hardship for the subject property is that the buildings are existing non-conforming and the use is existing non-conforming because they were established before the regulatory Board of Adjustment was in effect; for the following property:

NE/4 NE/4 SE/4 and N/2 SE/4 NE/4 SE/4 lying or situated East of Midland Valley Railroad Right of Way described in Quit-Claim Deed recorded in Book 6718/Page 2175, in Section 36, Township 21 North, Range 12 East, Tulsa County, Oklahoma

FILE COPY

CBOA-2434

(subject to adjacent highway/roadway dedications of record), OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

Case No. 2435—Clark Boyd

Action Requested:

Special Exception to allow Fireworks Stand (Use Unit 2) in an AG District for five years (Section 310); Variance of all-weather surface for parking (Section 1340.D).

Location: 22423 West Coyote Trail

Presentation:

Clark Boyd, 22423 West Coyote Trail, Sand Springs, OK; stated he would like to have a fireworks stand as a fund raiser for the young people of his church, so they can make an annual trip to Mexico.

Interested Parties:

Janny Simpson, 22112 West Coyote Trail, Sand Springs, OK; stated she is opposed to the fireworks stand. The subject property is located near a very dangerous intersection, and she has had several feet of her pipe fence demolished by cars several times because of the configuration of the intersection. The neighbors have requested the Sheriff's Department patrol Coyote Trail to curtail the speeding. There was a traffic count taken and in a 24 hour period there were 1,530 cars that passed the intersection. The neighbors are also concerned about fire because the area is heavily wooded. The last two summers the area has been under a fire ban, and if there had been an active fireworks stand on the subject property there would have been the possibility of a fire. There is a fireworks stand that is six miles east, there is plenty of parking for that stand, and it is taken down almost immediately after the holiday. Mr. Boyd's stand has been sitting on his property for months and it is not attractive. The area residents have made, and are making, a great effort to keep their homes clean and attractive, and they do not want a detraction added, even temporarily, to the residential area.

Rebuttal:

Clark Boyd came forward and stated the fireworks stand is not attractive, but he has been told by the company that brought it to the property that he is on the list to have it removed, and it should be gone by tomorrow. He has lived on the property for approximately eight years, and he wants to have the fireworks stand only as a fund raiser for the July 4th holiday.

Mr. Draper asked Mr. West what enforcement restrictions could be placed on the fireworks stand if today's request were approved. Mr. West stated the Board would

08/21/2012/#387 (5)

9.6



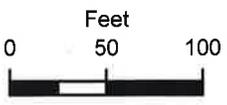
Looking east along E. 71st St. N. – subject property is on the left

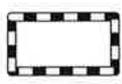


Looking northeast at the subject property from E. 71st St. N.



E71 ST N



 **Subject Tract**

CBOA-2795

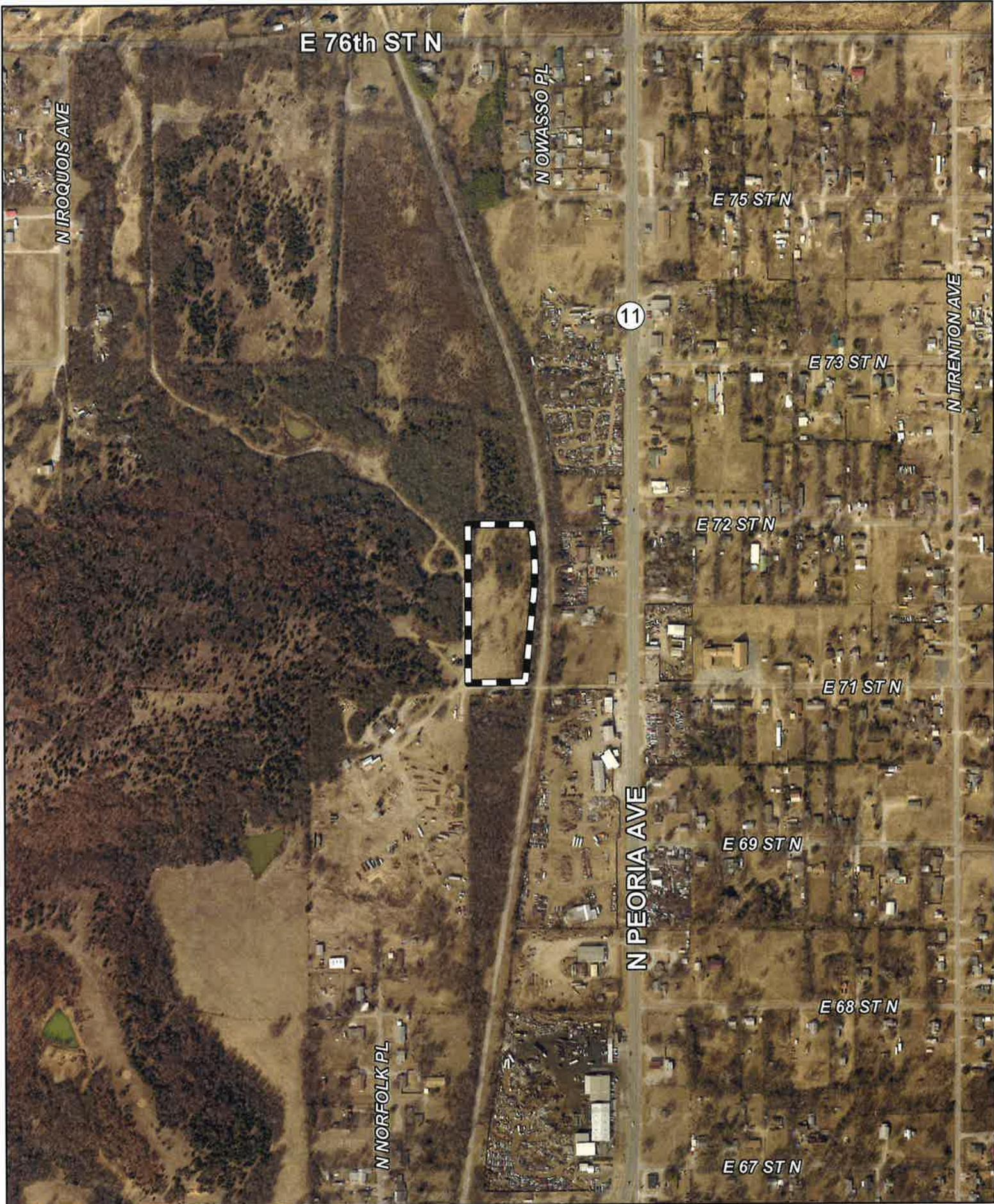
21-12 36

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

9.8





E 76th ST N

N IROQUOIS AVE

N OWASSO PL

E 75 ST N

11

E 73 ST N

N TRENTON AVE

E 72 ST N



E 71 ST N

N PEORIA AVE

E 69 ST N

N NORFOLK PL

E 68 ST N

E 67 ST N



Subject Tract

CBOA-2795

21-12 36

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

9.9



Jones, Robi

From: Kevin Watkins <premierdirt@yahoo.com>
Sent: Thursday, January 2, 2020 8:45 PM
To: Jones, Robi
Subject: Camp ground 71 st n

Yes we have water tap in place

There is a septic system on site from the house that was there.

Elect is at road and down the west side of property and have spoke with AEP

There no prob getting power.

I do know I will have to get w DEQ but thought I would wait till it was approved

Thanks for your time

KW

Sent from Yahoo Mail for iPhone

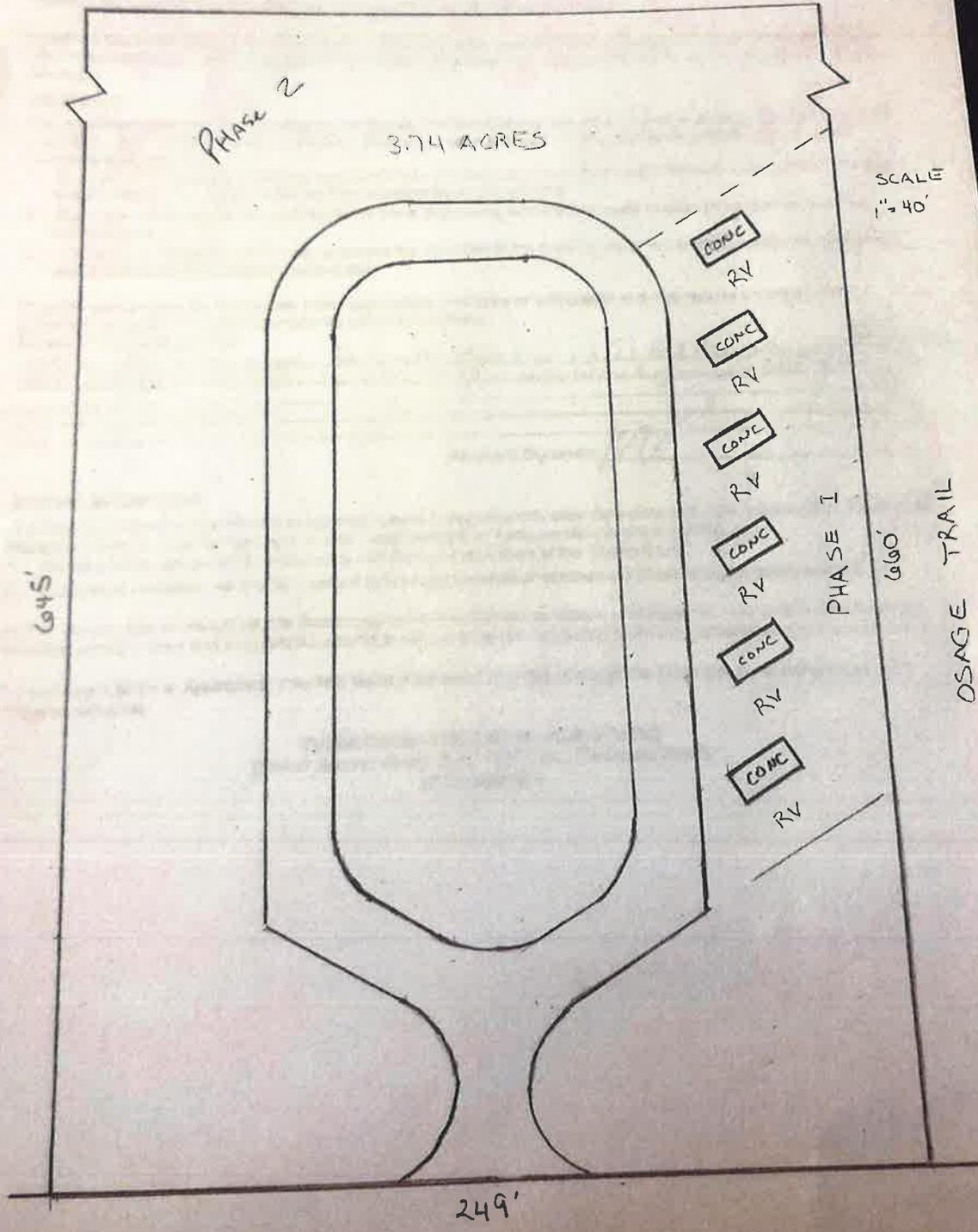
October 25, 2019

09864740

SEBERRY

OK 74073

CBOA 2795



2305

9.12

Drive

Phase 1
6 to start

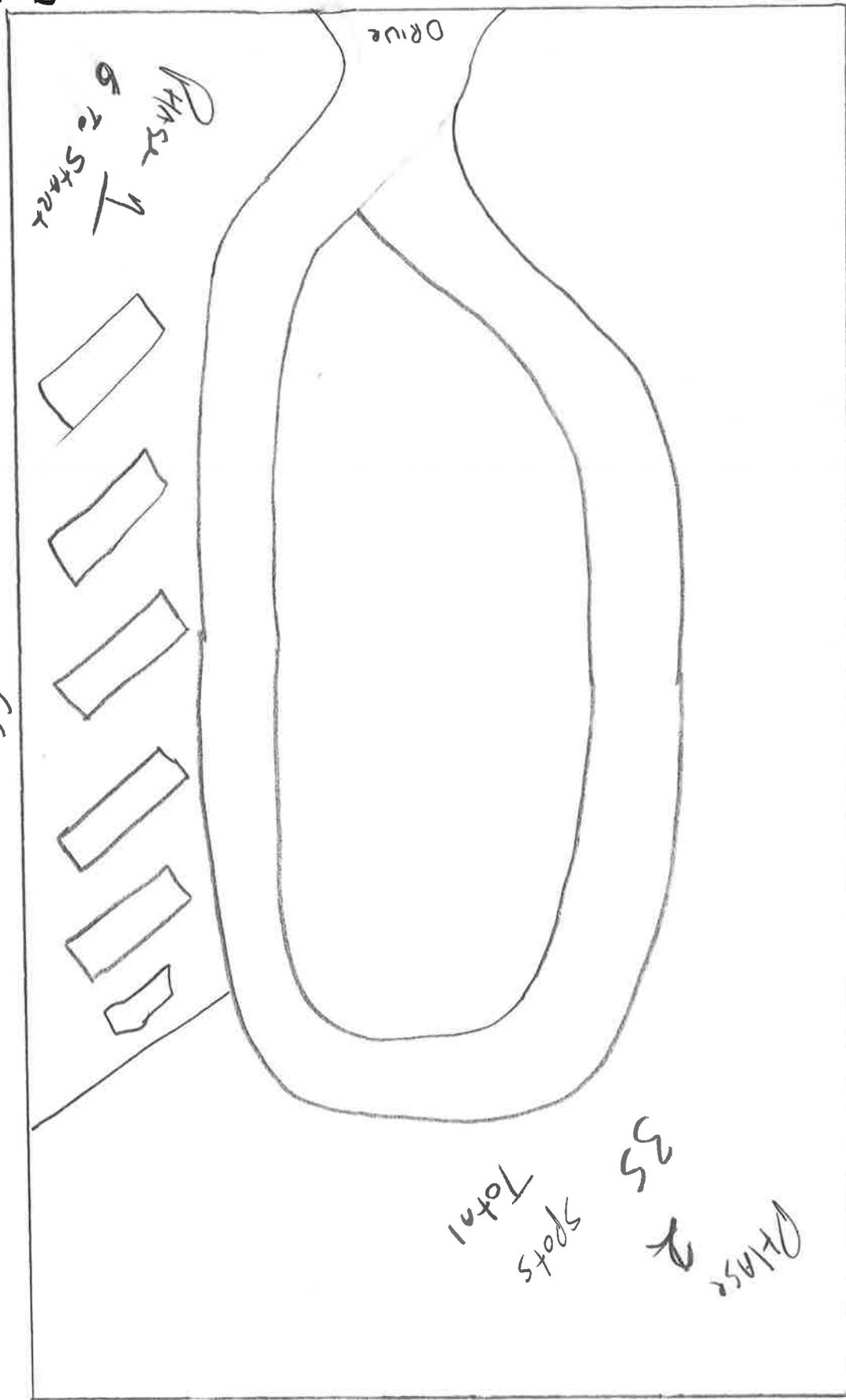
Drive TR 9.1

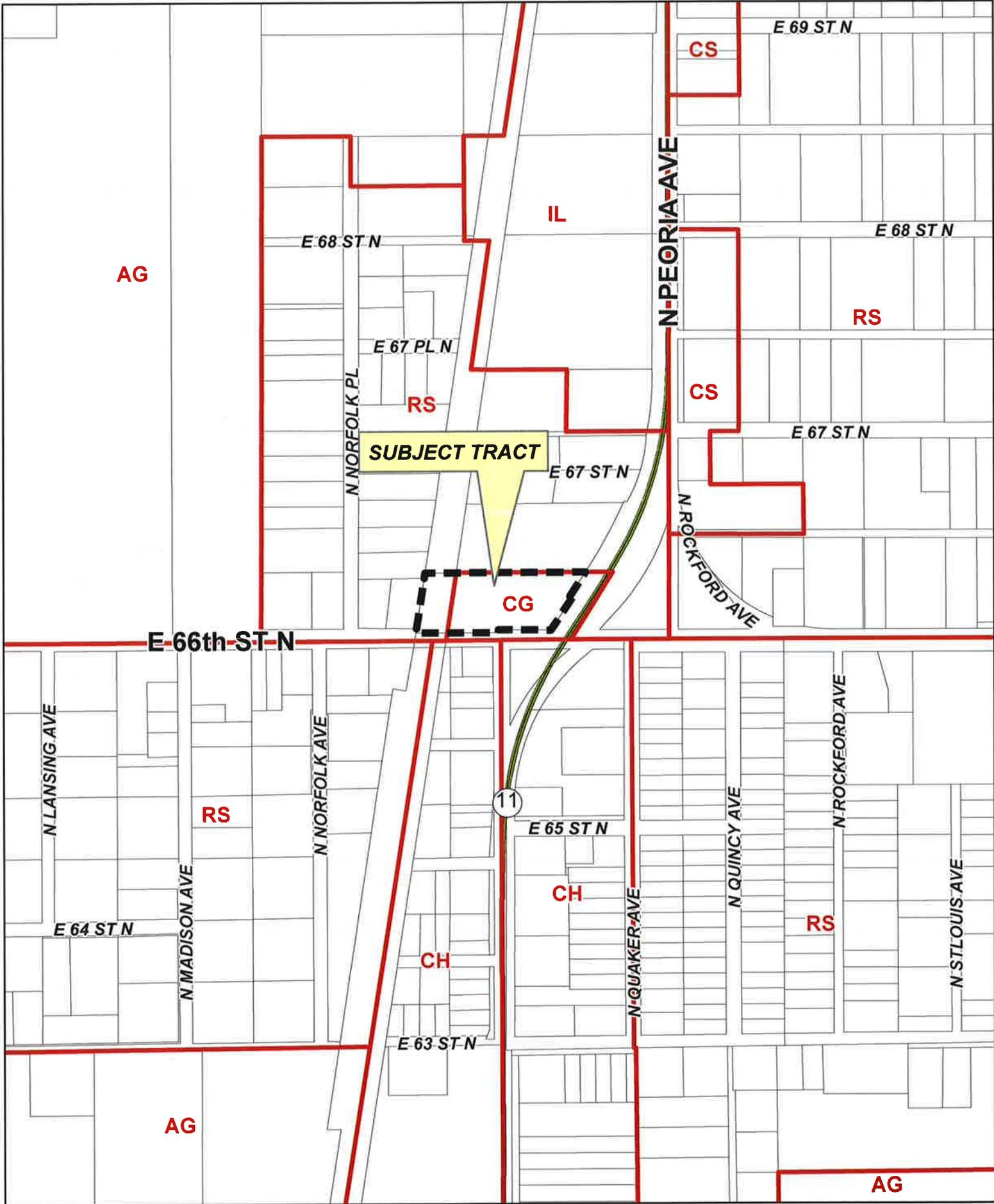
660

645

Phase 2
35 spots
Total

N





AG

E 69 ST N

CS

IL

E 68 ST N

E 68 ST N

RS

E 67 PL N

RS

CS

E 67 ST N

SUBJECT TRACT

E 67 ST N

N ROCKFORD AVE

CG

E 66th ST N

N LANSING AVE

RS

N NORFOLK AVE

11

E 65 ST N

CH

N QUAKER AVE

N QUINCY AVE

N ROCKFORD AVE

RS

N ST LOUIS AVE

E 64 ST N

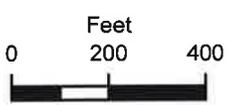
N MADISON AVE

CH

E 63 ST N

AG

AG



CBOA-2796

10.1

21-12 36



BOARD OF ADJUSTMENT CASE REPORT

STR:1236
CZM:15

Case Number: CBOA-2796

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Kevin Watkins

ACTION REQUESTED: Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a CG District (Section 710, Table 1)

LOCATION: 6606 N PEORIA AV E

ZONED: RS,CG

PRESENT USE: Shop

TRACT SIZE: 2.32 acres

LEGAL DESCRIPTION: BEG 376W & 30N SECR SE TH NE124 W10 NELY94 W529 SWLY197 E TO PT 543W OF EL N5 E167 POB SEC 36 21 12,

RELEVANT PREVIOUS ACTIONS:

Subject Property:

CBOA-2097 May 2004: The Board **denied** a *Special Exception* to allow storage of houses in transit in a CG zoned district to permit, on property located at 6600 North Peoria Avenue East.

Surrounding Property:

CBOA-2720 December 2018: The Board **approved** a *Use Variance* to allow Use Unit 27 in an IL and RS District to permit a Salvage Yard, on property located at 6702 & 6750 North Peoria Avenue East.

ANALYSIS OF SURROUNDING AREA: The subject tract is located in the Turley area. It abuts RS zoning to the north; that property appears to be vacant at this time. The westernmost portion of the subject property is zoned RS and the use is a multi-use trail, Osage-Prairie Trail, which connects Skiatook to Downtown Tulsa. West of the trail is RS zoning with residential uses. The subject property abuts CH zoning to the south with some commercial uses and a spattering of what appear to be vacant properties.

STAFF COMMENTS:

The applicant is before the Board requesting a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery, in a Commercial General District (Section 710, Table 1). A small portion of the subject property is zoned RS. This is the location of the Osage-Prairie Trail and will not contain any portion of the requested agricultural use.

A Use Variance is required as Use Unit 3, Agriculture, is not a use permitted in a CG zoned district because of the potential adverse effects on neighboring properties. The agricultural use must be found to be compatible with and non-injurious to the surrounding area.

10.2

The applicant supplied the following statement: *“Anything in this area that is new would be a benefit to this area”*.

According to the site plan provided by the applicant, there are or will be two buildings on the property. The proposed Horticulture Nursery will be located in a 40 x 60 (2,400 SF) building on the southern portion of the lot and it will be surrounded by a fence.

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure the proposed use of the land is compatible with and non-injurious to the surrounding area.

Sample Motion:

“Move to _____ (approve/deny) a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Commercial General District (Section 710, Table 1).

Approved per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: _____.

Finding the hardship to be _____.

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.”

Case No. 2097

Action Requested:

Special Exception to allow storage of houses in transit in a CG zoned district. SECTION 710. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 23, located: 6606 North Peoria.

Presentation:

Claude Stamper, Rt. 1, Box, 16, Locust Grove, OK, stated he moves houses and he has run into a problem of having a place to park them. They need temporary parking for mobile homes that they buy and sell.

Comments and Questions:

Mr. Charney asked for an average storage time. Mr. Stamper responded from one week to one month. Mr. Beach asked if they were secured, to which Mr. Stamper replied in the affirmative. Mr. Hutson asked how many are stored at one time. He stated he has had as many as six at one time. Mr. Hutson asked how long he has been storing homes there. Mr. Stamper stated he has been using the property about two months.

Interested Parties:

Jim Davidson, 3336 E. 32nd St., Ste. 212, stated he represented the 1st Bank of Turley. They oppose the application, as the subject property is directly across the street from the bank. The homes appear to be older homes and many are not secured, easily accessible to vagrants.

Joseph Harris, 4867 S. Sheridan, Ste. 704, stated he represented the owners of the property. The owners informed him they were not notified of this use until they were notified of this meeting; and they were not in support. He submitted photographs (Exhibit B-1). They did not give permission for this use. They have signs up for no trespassing. Mr. Beach asked the name of the property owner. Mr. Harris stated it is Gail and Doris Ballard. Mr. Beach explained that the application requires the owners' names and that they consent to the relief requested. The applicant indicated that he does have consent of the land owners.

Applicant's Rebuttal:

Mr. Stamper responded that he has been friends with the Ballard's for years. He personally talked with them and even discussed purchasing the property. They gave him permission to use the property for storing the homes.

Board Action:

On **Motion** of **Charney**, the Board voted 4-0-1 (Walker, Tyndall, Hutson and Charney "aye"; no "nays"; Dillard "abstained"; no "absences") to **DENY** a **Special Exception** to allow storage of houses in transit in a CG zoned district, finding it is not a conforming use and not appropriate in this location, on the following described property:

FILE COPY

Beg. 376.00' W and 30.00' N SE/c SE thence NE 124.00' W 10.00' NEly 94.00' W 529.00' SWly 197.00' E to PT 543.00' W of EL thence SEly 182.04', N 5.00' E 167.00' to POB, Tulsa County, State of Oklahoma.

Case No. 2099

Action Requested:

Special Exception to permit a temporary structural tent on previously approved church property. SECTION 310. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS – Use Unit 5, located: 5310 West 41st Street.

Presentation:

David Dryer, 5110 S. Yale Ave., Ste. 430, stated a previous Board of Adjustment case was approved for a tent to cover construction materials. The proposed purpose for the site is for a church building. In the meantime, they propose to put up a canvas tent similar to those used in other states to hold church services. It is temporary and can be heated and cooled. He added that it can be placed on a black-top slab, and is fire-retardant. The tent is designed to withstand 100 mile per hour winds, to be puncture resistant and can handle six inches of wet snow. It is approximately 79' x 144', or 11,376 sq. ft. They expect the tent would be set up for about eighteen months. He believes that 70 spaces would be sufficient for parking.

Comments and Questions:

Mr. Walker asked questions regarding the use. Mr. Dryer replied that it will be used mostly for sanctuary. Mr. Beach stated if it is for sanctuary use it would require 284 parking spaces. It is built with capacity for compartmentalization for offices and other. He also stated there would be permanent restroom facilities built. Mr. Hutson asked if the church has already purchased the tent. He replied they have done some studies and obtained bids regarding a purchase. Mr. Tyndall asked where the parking would be. Mr. Dryer referred them to the site plan. Mr. Beach informed the Board that 61 parking spaces, as shown on the site plan, would allow for a sanctuary of only 2,440 sq. ft.

Chris Presley, 2806 S. 29th W. Ave., submitted a packet of information to the Board (Exhibit C-1). They contacted other churches that have used this type of tent and none of them reported any structural problems. At this time they are renting various facilities and it is difficult to get established and is hard on their equipment and budget. He informed the Board the tent would be sectioned off for a foyer and altar counseling rooms.

Mr. Walker asked if other sizes were available. Mr. Presley replied there are other sizes. Mr. Walker noticed a discrepancy in the length of time they requested to

Board Action:

On **MOTION** of **CRALL**, the Board voted 3-0-0 (Crall, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney, Dillard "absent") to **APPROVE** the request for a **Special Exception** to permit an accessory building at a church (Use Unit 5) in an RS District (Section 410). 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; for the following property:

E227.07 LT 11 BLK 3, BERRY HILL ACRES, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

FILE COPY

2720—Randy Frailey

Action Requested:

Use Variance to allow Use Unit 27 in an IL and RS District to permit a Salvage Yard (Sections 410 and 910). **LOCATION:** 6702 & 6750 North Peoria Avenue East

Presentation:

Randy Frailey, 6750 North Peoria, Tulsa, OK; stated he is before the Board because his approval from the last hearing has reached its time limitation. Mr. Frailey stated he has operated the salvage on the subject property for about 17 years. During his five-year time limitation, he has cleaned up the property as he was instructed to do at the last meeting with the Board of Adjustment.

Ms. Miller stated the history on this property is that several years ago Mr. Frailey also submitted an application to rezone the RS piece of the subject property. The application was delayed at the County Commission level because they wanted Mr. Frailey to clean up the property because some the stuff was encroaching on the trail. Ms. Miller stated that Mr. Frailey has done that and now she is trying to get the application back to County Commission to clean up the RS piece, so hopefully that piece of property will transition to IL zoning.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 3-0-0 (Crall, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney, Dillard "absent") to **APPROVE** the request for a

CBOA-2720

FILE COPY

Use Variance to allow Use Unit 27 in an IL and RS District to permit a Salvage Yard (Sections 410 and 910). The Board finds the hardship to be that the existing property is already under the existing use and the applicant has shown good intentions about taking care of the site and screening it properly; for the following property:

BG.50'W.NE COR SE SE TH W. 481'SWLY 445'E.545'NLY 440'TO BG. SEC.36-21-12; BEG SECR W/2 NE SE SE TH N220 W266.5 TO E LN RR R/W TH SWLY ALONG RR R/W 222.5 TO SL NE SE SE TH E TO POB LESS S15 THEREOF FOR ST SEC 36 21 12 1.327ACS; S/3 E/2 NE SE SE LESS S15 THEREOF FOR ST & LESS BEG SECR E/2 NE SE SE TH W72 NELY ON CRV LF220 TO NL S/3 E/2 NE SE SE TH E52 TO EL SEC TH S219.9 POB SEC 36 21 12 1.240ACS; BEG 550N & 347.65W SECR SE TH W299 TO E R/W RR TH NELY ALG R/W 111 E279.3 TO PT 660N & 350.2W SECR SE TH SELY111 POB SEC 36 21 12 0.726ACS; BEG 550N & 347.65W SECR SE TH NWLY111 TO PT 350.2W & 660N SECR SE TH E258.2 TO WL HWY SWLY TO PT 550N SL SEC W POB SEC 36 21 12 0.669ACS; BEG 444.5NE ALG E R/W MIDLAND VALLEY RR & CTR BRITTON AVE TH E270 N112.5 W270 S112.5 POB SEC 36 21 12 0.729ACS; BEG 440N & 148.5W SECR SE TH W224.6 NE110.7 TO PT 356.65W EL SEC TH E TO WL ST SWY 11 SWLY TO PT 228.9SWLY FROM PT ON WL R/W 660N & 72W SECR SE TH NWLY10 SWLY5.7 POB SEC 36 21 12 0.618ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2725—James & Linda Barnett

Action Requested:

Special Exception to permit a manufactured home in a RE District (Section 410);

Variance to permit two dwelling units on a single lot of record (Section 208).

LOCATION: 9029 North Yale Avenue East

Presentation:

Linda Diane Barnett, 9029 North Yale Avenue, Sperry, OK; stated the subject property 9.914 acres and she would like to add a manufactured home for another residence to the property.

Ms. Miller stated that the manufactured home the applicant would like to place on the property is a double wide, so there is no need for a Special Exception to permit the manufactured home because a double wide manufactured home is allowed by right.

The Special Exception was withdrawn from the requested relief because it is no longer needed.

Mr. Hutchinson asked Ms. Barnett if she wanted to leave the manufactured home on the property for an extended period of time. Ms. Barnett answered affirmatively.

Ms. Barnett stated that her house is in the middle of the ten acres, and the manufactured home would be for her daughter. Her daughter's husband had a stroke



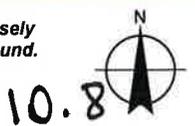
 Subject Tract

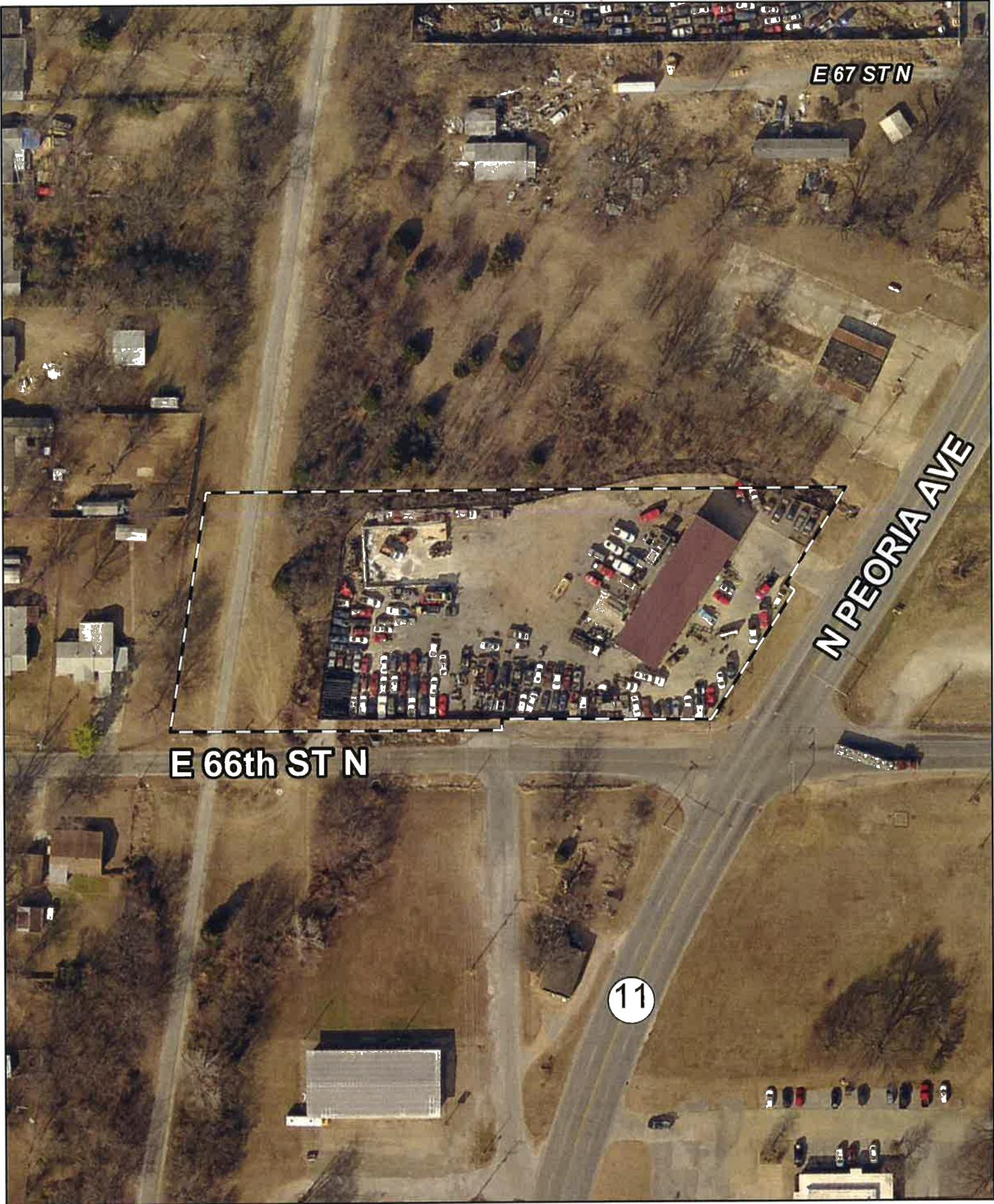
CBOA-2796

21-12 36

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018



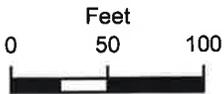


E 67 ST N

N PEORIA AVE

E 66th ST N

11



 Subject Tract

CBOA-2796

Note: Graphic overlays may not precisely align with physical features on the ground.

21-12 36

Aerial Photo Date: February 2018

10.9





Looking north towards subject property from E. 66th St. N.



Looking east at the subject property from the Osage-Prairie Trail

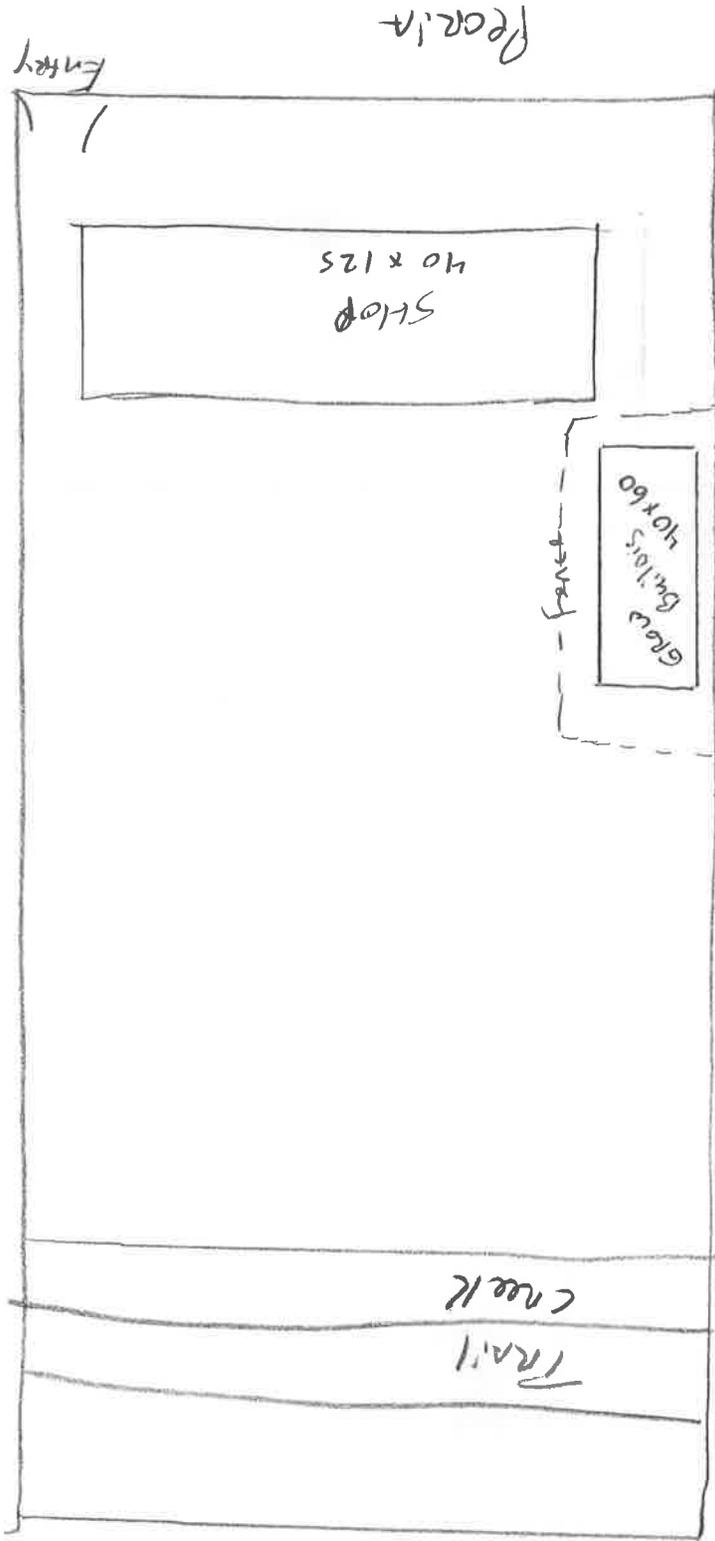


Looking northeast towards subject property from intersection of E. 66th St. N. & the Osage-Prairie Trail



Looking northwest at the subject property from N. Peoria Ave.

10.12



BOARD OF ADJUSTMENT CASE REPORT

STR:1428

CZM:18

Case Number: CBOA-2797

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Jordan Graham

ACTION REQUESTED: Special Exception for Use Unit 2, Area-Wide Special Exception Uses, for a wedding and events center (Section 1202); a Variance from the all-weather parking surface requirement (Section 1340.D); and a Variance of the minimum frontage requirement on a public street/dedicated right of way from 30 ft to 0 ft in the AG district (Section 207).

LOCATION: N. and E. of the NE/c of E. 76th St. N. & N. 129th E. Ave.

ZONED: AG

PRESENT USE: Agriculture

TRACT SIZE: 20 acres

LEGAL DESCRIPTION: N 1/2 NE SW SEC 28-21-14

RELEVANT PREVIOUS ACTIONS:

Subject Property: None relevant

Surrounding Property:

CBOA-2344 September 2009: The Board **approved** a *Special Exception* to permit a church (Use Unit 5) in a RE zoned district, on property located at 13401 East 76th Street North.

CBOA-969 July 1990: The Board **denied** a *Use Variance* to permit a mini-storage business in a RE district; finding that a hardship was not demonstrated that would warrant the granting of the request, on property located at 17646 North 137th East Avenue.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts a RE zoned neighborhood on the south. Surrounding properties to the west, north, and east are all located within the corporate limits of Owasso. The subject tract abuts a RS-3 zoned neighborhood to the west, Owasso Golf and Athletic Club to the north, and agricultural land to the east.

STAFF COMMENTS:

The applicant is before the Board requesting a *Special Exception* for Use Unit 2, Area-Wide Special Exception Uses, for a wedding and events center (Section 1202); a *Variance* from the all-weather parking surface requirement (Section 1340.D); and a *Variance* of the minimum frontage requirement on a public street/dedicated right of way from 30 ft to 0 ft in the AG district (Section 207).



11.2

A Special Exception is required as the proposed use is not permitted by right in the AG district because of potential adverse affect, but which if controlled in the particular instance as to its relationship to the surrounding area and to the general welfare, may be permitted. The proposed wedding and events center must be found to be compatible with the surrounding area.

The subject lot is located at the back of a large-lot rural neighborhood which is zoned RE. The proposed entry into the wedding and events center will be through the neighborhood. The applicant has indicated that there is an easement off East 79th Street North which provides access. Staff has reviewed the plat of Graceland Acres which does indicate 50 feet to be dedicated for a street between Lots 9 and 10 of Block 1. The street is not indicated in our mapping system and the gravel drive has not been maintained by the County. Staff has contacted the County Engineer and an employee that deals with records in the County Assessor's Office. They do not show that the street was ever vacated. After a complete historical research back to 1956 has been completed, the County Assessor's office indicated that they will correct the mapping and legal descriptions for lots 9 and 10 if an error has been made. According to the applicant, there is not a plan to build a home on the subject tract. Since the matter of the street has not been completely resolved at the time of this staff report, the request for the Variance of the minimum frontage requirement will remain.

The following was submitted by the applicant:

Variance Hardships:

- 1) A variance from the all-weather parking surface requirement:
"There is a gravel parking lot on the property. This has been in place for years as we use and operate heavy machinery such as tractors and lawn equipment. The parking lot may be expanded but must remain gravel in order to operate the machinery without destruction to the ground surface."
- 2) A variance of the minimum frontage requirement on a public street:
"The property is located towards the back of an establishment of homes and was sold as a piece of land that did not have street frontage. The property was originally Indian Allotment ground and we are the first owners since. The south easement is the road used to enter the property."

The applicant has submitted a conceptual site plan indicating that the site will contain off-street parking on a gravel lot. Photographs of the property were also submitted by the applicant.

The Code requires all parking surfaces be paved with an all-weather surface so as to maintain a minimum level of aesthetics, but more importantly to control air-borne particulates like dust and to control the tracking of dirt and mud onto public streets. The applicant has requested a variance to permit a gravel parking area.

The applicant intends to construct 70' x 40' (2800 SF) open structure on the site. The applicant should provide more information about the hours of operation and the anticipated amount of noise and traffic that the proposed wedding and events center will generate. According to the applicant, some of the intended uses include weddings, birthday parties, and yoga.

The subject property is within the fenceline of Owasso. The Tulsa County Land Use Plan, adopted July 2019, designates the Future Land Use as Residential. Please see attached note from the planning department at The City of Owasso.

The approval of a special exception will trigger the requirement to conform to the Subdivision and Development Regulations. Issues related to Right-of-Way dedication and storm water management would be addressed during the platting stage.

If inclined to approve the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the proposed use is compatible with the surrounding area. The Board may limit approval for a temporary period to establish a trial period.

Sample Motion:

“Move to _____ (approve/deny) a Special Exception for Use Unit 2, Area-Wide Special Exception Uses, for a wedding and events center (Section 1202); a Variance from the all-weather parking surface requirement (Section 1340.D); and a Variance of the minimum frontage requirement on a public street/dedicated right of way from 30 ft to 0 ft in the AG district (Section 207).

Finding the hardship to be _____.

Subject to the following condition(s), if any: _____.

Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Finding the hardship to be _____.

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.

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.”

agenda to give the applicant time to arrive. Mr. Cuthbertson stated that staff made contact with the applicant twice in the last month to inform the applicant she needed to be present for this meeting.

Board Action:

This case is regarding the following described property:

BEG 548.98S & 137.97 SELY CRV RT & 84.33SE NWC NWNW TH NE404.52 SE302.09 SW404.52 NW302.09 POB SEC26 19 10, Tulsa County, State of Oklahoma

Case No. 2344

Action Requested:

Special Exception to permit a church (Use Unit 5) in an RE zoned district (Section 410), located: 13401 East 76th Street North.

Presentation:

FILE COPY
Frank Plato, 3525 South Toledo Place, Tulsa, Oklahoma, 74135, stated he is one of the elders of the church. As he informed the Board at the last meeting, he repeated that the majority of the membership has moved into the Owasso area. They proposed to relocate to better serve the membership. They have services Sundays, 10:30 a.m., 11:30, and 6:00 p.m., and Wednesdays at 7:00 p.m. The Board asked the applicant to submit a site plan, which he did (Exhibit A-1). They have two special event conferences lasting one-week each per year in addition to normal church services. They do not have a kitchen, gymnasium or meeting facility for other activities. The existing building would be exclusively used by the church. They proposed to use the existing structure until the new one is built.

Comments and Questions:

Mr. Charney asked about the access drive of 25 ft. in width off of 76th Street North. Mr. Plato stated there are two existing driveways, on 134th East Avenue. In answer to other questions, Mr. Plato stated they average about 60 people in attendance on Sundays. They average 20 to 25 vehicles on Sundays. They proposed to complete the construction of the new building in less than a year, and remove the existing house. Mr. Cuthbertson expressed concern for the hard surface parking during the interim. Mr. Plato responded there are alternative parking spaces near Highway 169. They have plans for hard surface parking on the subject property when the building is completed.

Interested Parties:

Glennella Doss, Lansing Business Park, 720 East Marshall, Tulsa, Oklahoma, 74106, stated that she is the attorney working with Mr. Plato and the church. The applicant chose to go to the Board first before approaching the neighborhood about the project. She expressed an understanding that neighborhoods in

09:15:09:352 (2)

11.5

CB01A-2344 (cont.)

general, are supportive of churches, as offering community service and adding to the benefits of the neighborhood. She stated they know the importance of giving the neighborhood opportunity to participate. Ms. Doss noted that a new facility would also be an additional improvement to the aesthetics of the neighborhood.

Loretta Tittle, 13331 East 76th Street North, did not think the church would have room to grow at this location. She noted there is only room for approximately six cars to park at this time. She mentioned the flooding in this area. Mr. Charney assured her that even though the Board could not address the flooding issues that the County Engineer would at the time of review in the platting process, if the Board approves this application. She also mentioned her concern that North 134th East Avenue is very narrow. She was not against the church building a new structure, but she felt the location was not suitable. A petition was submitted to the Board in opposition to the application (Exhibit A-2).

Mr. Cuthbertson interjected that she would receive notice for any future preliminary plat for this application, if it comes to that point.

Applicant's Rebuttal:

Mr. Plato assured the Board that they plan to comply with the zoning code and the County Engineer.

Mr. Alberty reminded the Board that if the church planned to use another property for parking, they would need to come back to the Board for relief to allow such a scenario. Mr. Cuthbertson added that the applicant might choose to pave a parking lot on the subject property, based on the size of the sanctuary, according to the code and the permitting process. The Board might want the applicant to come back with a revised site plan if they were uncomfortable with such an intermediate step.

Board discussion ensued.

FILE COPY

Board Action:

On **Motion of Walker**, the Board voted 4-0-0 (Walker, Tyndall, Osborne, Charney "aye"; no "nays"; no "abstentions"; Dillard "absent") to **APPROVE** a Special Exception to permit a church (Use Unit 5) in an RE zoned district (Section 410), with conditions to construct a curb cut to access the property from 76th Street North for interim and future use; parking on hard surface only; temporary use of the existing structure for one year; per site plan submitted September 15, 2009, finding it is located in such a way that it should not be injurious to the internal neighborhood, on the following described property:

LT 7 BLK 2, GRACELAND ACRES, Tulsa County, State of Oklahoma

09:15:09:352 (3)

11.6

Case No. 2343

Action Requested:

Variance of the 30 ft. of frontage required on a public street to permit a lot split in the AG district (Section 207), located: 14022 East 136th Street North.

Mr. Cuthbertson stated there should have been two requests on this application. The applicant actually applied for it, upon staff's advice, for two elements of relief to accommodate a lot split. The second element was a variance of the average lot width. In order to create two lots on the rear of the property, they need the variance of the average lot width. The second variance was included on everything except the advertisement, so it would need to be advertised for a future meeting.

Presentation:

Richard Flannery, 3308 Heritage Drive, Claremore, Oklahoma, 74019, stated this is the last piece of property to divide from the original property. He described the history of division of the property to different family members. He identified the large pond on the south end of the property as the limiting factor.

Comments and Questions:

Mr. Charney asked how many residences would be served by this 30 ft. wide access. Mr. Flannery replied there would be two. Mr. Hutson stated that a small subdivision was created without following the zoning code. This would be the fourth split.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion of Walker**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a Variance of the 30 ft. of frontage required on a public street to permit a lot split in the AG district (Section 207), finding this would be the fourth split of the property without any unique condition with the land, on the following described property:

E390 E/2 NW NE LESS E220 N520 THEREOF & LESS W140N520 THEREOF & LESS N50 THEREOF FOR RD SEC 33 22 14, Tulsa County, State of Oklahoma

FILE COPY

Case No. 2344

Action Requested:

Special Exception to permit a church (Use Unit 5) in an RE zoned district (Section 410), located: 13401 E 76th Street North.

08:18:09:351 (6)

11.7

Presentation:

Frank Plato, 3525 South Toledo Place, Tulsa, Oklahoma, 74135, stated he is an elder at the church. He added that the majority of the membership has moved into the Owasso area. They proposed to relocate to better serve the membership. They have services Sundays, 10:30 a.m., 11:30, and 6:00 p.m., and Wednesdays at 7:00 p.m. They have an average of 28 to 30 parked cars on a given Sunday. They have two special event conferences lasting one-week each per year in addition to normal church services. They do not have a kitchen, gymnasium or meeting facility for other activities. The existing building would be exclusively used by the church. They sold the present facility more quickly than they expected so they do not have plans prepared for the new property. He stated they are aware of the need for a building permit, site plans, and other zoning code requirements.

Interested Parties:

Loretta Tittle, 13331 East 76th Street North, Owasso, Oklahoma, 74055, expressed concerns regarding drainage, flooding, the narrow road, numerous car accidents, and increased traffic.

Applicant's Rebuttal:

Mr. Plato stated if they could get the concept approved they would obtain a site plan and meet the zoning requirements for permits. He stated that their service times are during low traffic times on Sundays. He added there would be no need to direct traffic through the neighborhood.

FILE COPY

Comments and Questions:

Mr. Dillard stated it was premature for the applicant to bring the application to the Board without plans. Mr. Walker agreed the Board did not have anything to act upon. He suggested a continuance to give the applicant time to show the Board their plans. Mr. Charney was concerned that it is a platted residential lot, which calls for more detail and review. He suggested the church needs to know the required criteria before presenting an application to the Board.

Board Action:

On **Motion of Walker**, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 2343 to the meeting on ~~September 18, 2009~~, as stated by error in the motion, the correct date is September 15, 2009, on the following described property:

LT 7 BLK 2, GRACELAND ACRES, Tulsa County, State of Oklahoma

Mr. Cuthbertson suggested the applicant might want to meet with the County Engineer, Ray Jordan, regarding storm water drainage and access to the property. He also suggested the applicant do some outreach to the neighborhood related to those issues.

08:18:09:351 (7)

NEW APPLICATIONS

Case No. 969

Action Requested:

Use variance to permit a mini-storage business - **Section 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 17, located 7646 North 137th East Avenue.

Comments and Questions:

Mr. Richards informed that the Owasso Board of Adjustment (Exhibit B-2) has recommended denial of the application.

Presentation:

The applicant, **Imogene Self**, 7646 North 137th East Avenue, Owasso, Oklahoma, was represented by her daughter, Sue Norwood, who submitted two plot plans (Exhibit B-1) for a proposed mini-storage business. She explained that several members of her family live in Graceland Acres, and that her mother's property consists of approximately two acres, with one existing single-family dwelling. Ms. Norwood stated that her mother is considering the construction of a mini-storage facility on the rear portion of the property, and that she will assist her mother in the business operation. She stated that the facility will be fenced and will have only one entrance and exit, which will allow all traffic to be controlled by an electronic computerized gate.

Comments and Questions:

Mr. Alberty asked the applicant if she is aware that the requested business is an industrial/commercial type operation in a residential area, and she answered in the affirmative. Mr. Alberty pointed out that a hardship is required, which would demonstrate to the Board why the property is no longer suited for residential use.

Ms. Self stated that she does not have information that would substantiate the fact that the property cannot be used for residential purposes.

Protestants:

Maxine Thomas, 7841 North 134th East Avenue, Owasso, Oklahoma, stated that she is the sister-in-law of the applicant, and also lives in Graceland Acres. She submitted a map and petition (Exhibit B-3) signed by homeowners in the area that are in opposition to the use variance. She remarked that she is protective of the quiet atmosphere of the neighborhood and is also opposed to the application. Ms. Thomas stated that there is a drainage problem in the area and some of the properties have standing water during rainy seasons. She stated that the subject property is well maintained and the mini-storage would probably be an attractive facility; however, a business would not be compatible with the residential neighborhood.

Bob Bates stated that he lives in the Graceland Addition, and many of the older residents are accustomed to walking in the neighborhood. He pointed out that additional traffic in the area would not be welcome.

07.17.90:122(4)

11.9

Case No. 969 (continued)

In response to Mr. Alberty's inquiry, approximately 10 residents of the area indicated opposition to the application.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Use Variance** to permit a mini-storage business in an RE District - **Section 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 17; finding that a hardship was not demonstrated that would warrant the granting of the request; and finding that the mini-storage business would not be compatible with the residential area; on the following described property:

Lot 9, Block 2, Graceland Acres Addition, Tulsa County, Oklahoma.

Case No. 971

Action Requested:

Variance to permit two dwellings on a single lot of record - **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Units 6 and 9, located near Highway 51 and 186th West Avenue.

Presentation:

The applicant, **L. C. Forester**, Route 3, Box 946, Sand Springs, Oklahoma, stated that he currently resides in the existing house, and his daughter is proposing to place a second dwelling on the property to be used for her residence. Mr. Forester submitted a letter from his doctor (Exhibit C-2), and stated that he and his wife are in ill health and in need of continuing care. A location map (Exhibit C-1) was submitted by the applicant.

Comments and Questions:

Mr. Tyndall asked the applicant if the small lots to the west have dwelling units in place, and he replied that two of the lots have single-family dwellings, and the third lot is vacant.

Mr. Walker remarked that he is familiar with the neighborhood, and two dwellings, as proposed, would not be detrimental to the area.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** to permit two dwellings on a single lot of record - **Section 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Units 6 and 9; finding that the lots to the west have less land area per dwelling than the property in question; on the following described property:

Beginning 447.57' west of the northeast corner of the SE/4 of the SW/4, thence south 185.91' to the north line of Highway 51; thence southwesterly 272.5', north 570', east 252'; thence south 280.39', Section 12, T-19-N, R-10-E, Tulsa County, Oklahoma, and being located in an AG Zoned District.



N 129th E AVE

E 84 ST N

N 133 E AVE
N 134 E AVE

E 85 ST N
N 136 E AVE

N 138 E AVE

E 83 ST N

N 80 E CT E 80 ST N

N 131 E AVE E 79 CT N

N 130 E AVE

N 132 E AVE

E 77 PL N

E 79 ST N

N 134 E AVE

E 78 ST N

E 77 CT N

N 137 E CT

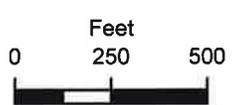
N 132 E AVE

N 137 E AVE

N 140 E AVE

E 77 ST N

E 76th ST N



Subject Tract

CBOA-2797

21-14 28

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018





Looking east from E. 79th St. N. – property entrance is on the left (north)



Looking northeast into property entrance from E. 79th St. N.



11.13



11.14





11.16



11.17

Variance Hardships:

1) A variance from the all-weather parking surface requirement:

There is a gravel parking lot on the property. This has been in place for years as we use and operate heavy machinery such as tractors and lawn equipment. The parking lot may be expanded but must remain gravel in order to operate the machinery without destruction to the ground surface.

2) A variance of the minimum frontage requirement on a public street:

The property is located towards the back of an establishment of homes and was sold as a piece of land that did not have street frontage. The property was originally Indian Allotment ground and we are the first owners since. The south easement is the road used to enter the property.

10 11 1956

293 776 1st 20 75

GRACELAND ACRES

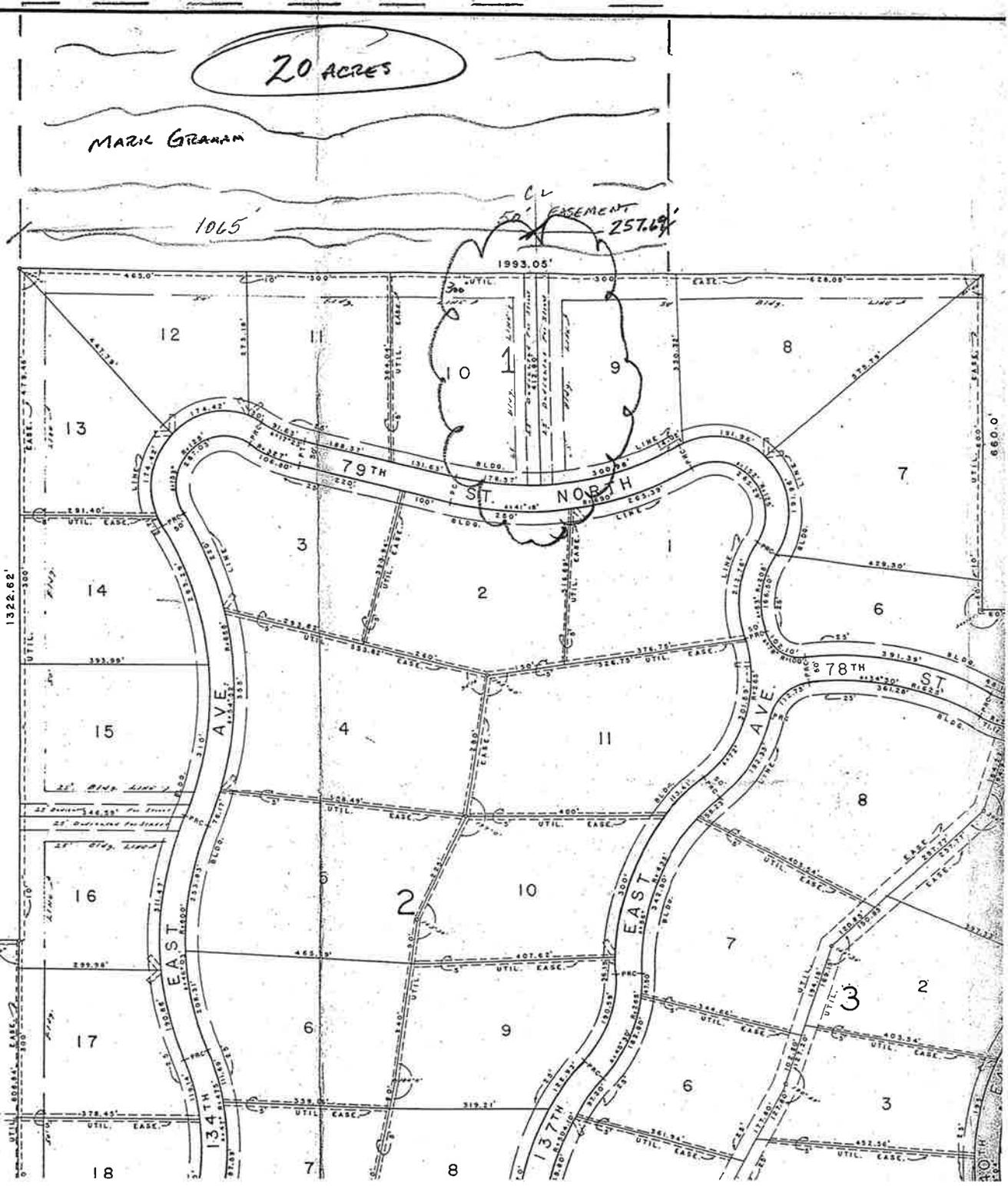
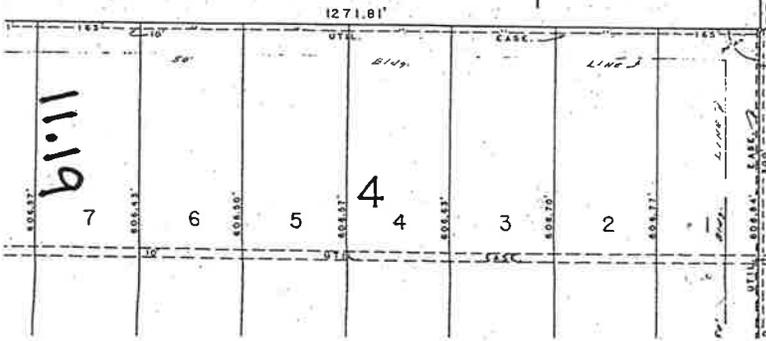
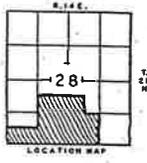
BEING THE SW 1/4 NW 1/4 SE 1/4 & W 1/4 SW 1/4 SE 1/4 & S 1/4 NE 1/4 SW 1/4 & SE 1/4 SW 1/4 & S 1/4 SW 1/4 SW 1/4 AND THE E 1/4 SW 1/4 SE 1/4 ALL BEING LOCATED IN SEC. 28, T.21N. R.14E. TULSA COUNTY, OKLA.

SHIBLEY ENGINEERING CO. INC.
1147 SO. LEWIS AVE.
TULSA OKLA.

MAY, 1956



SCALE: 1" = 100'



O F
GRACELAND ACRES

A SUB-DIVISION OF TULSA COUNTY

OKLAHOMA 293870

Being situated in the SW¹/₄, NE¹/₄, SE¹/₄, and West ¹/₂, SW¹/₄,
SE¹/₄, and S¹/₂, NE¹/₄, SW¹/₄, and SE¹/₄ of SW¹/₄ and S¹/₂, SE¹/₄, SW¹/₄,
and E¹/₂ of SW¹/₄, SE¹/₄ all in Section 28, Township 21 North,
Range 14 East, Tulsa County, Oklahoma

KNOW ALL MEN BY THESE PRESENTS:

That We, James A. Nichols and Mary Ann Nichols, Husband and Wife, are the Owners of the following described Real Estate:

Being situated in the SW¹/₄, NE¹/₄, SE¹/₄, and West ¹/₂, SW¹/₄, SE¹/₄, and S¹/₂, NE¹/₄, SW¹/₄, and SE¹/₄ of SW¹/₄ and S¹/₂, SW¹/₄, SE¹/₄, and E¹/₂ of SW¹/₄, SE¹/₄ all in Section 28, Township 21 North, Range 14 East, Tulsa County, Oklahoma.

That We have caused the same to be surveyed, staked and platted into Lots, Blocks and Streets, and have caused the same to be named and designated as "GRACELAND ACRES", a Subdivision in Tulsa County, Oklahoma, according to the Recorded Plat thereof. And we hereby dedicate for Public Use, ~~wherever~~ the Streets and Avenues are shown on the above ~~plat~~, and do hereby guarantee clear title to all land so dedicated, and for the purpose of providing an orderly development of the entire tract, and for the purpose of providing adequate restrictive covenants for the mutual benefit of ourselves and our successors in title, to the sub-division of said tract, hereinafter referred to as lots, do hereby impose the following Restrictions and create the following Easements, to which it shall be incumbent to our successors to adhere.

PROTECTIVE COVENANTS

These Covenants are to run with the land, and shall be binding on all parties or persons claiming under them until January 1st, 1981, at which time the said Covenants shall be automatically extended for successive periods of ten years, unless by a vote of a majority of the then Owners of the Lots, it is agreed to change said Covenants in whole or in part.

If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the provisions herein, it shall be lawful for any other person or persons, owning any real estate in said development of the sub-division to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such Covenant, and either prevent him or them from so doing, or to recover damages or other dues for such violation.

Invalidation of any of these Covenants by Judgment or Court Order shall in no way affect any of the other provisions, which shall remain in full force and effect.

1. All lots in the Tract shall be known and designated as Residential lots. No Structure shall be erected, altered, placed or permitted to remain on any Residential Lot Building Plot, other than a one detached single family dwelling, and a private garage for not more than three cars.
2. No building shall be located nearer to the front line, nor nearer to the side street line, than the Building lines shown on the Recorded Plat. No Building shall be located nearer than five feet to the side lot line, except that side line restrictions shall not apply to a garage or other subsidiary building located ninety feet or more from the front line. No residence or attached appurtenance shall be erected farther than Forty-Five feet from the front line.
3. No Residence or Structure shall be erected on any Building Plot, which has an area less than shown on the Recorded Plat.
4. No noxious trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become an annoyance or a nuisance to the neighborhood.
5. No Fraternal, Basement, Tent, Shack, Barn erected in this Tract, shall at any time be used as a Residence permanently, nor shall any Structure of a temporary nature or character be used as a Residence.
6. No dwelling shall be erected on any Residential Lot in the Tract, the ground floor of the main structure of which, exclusive of one story porches and garage is less than 765 Square Feet.
7. Easements for all Utilities, Sanitary and Storm Sewers, Installation, Operation and Maintenance affecting all Lots is hereby reserved for the use of the Public as shown on the Recorded Plat.
8. No open Trench or Surface Openings shall be allowed on any lot in this tract. All lots must be served by Septic Tank Systems as approved by the City-County Health Department, and the Tulsa State Board of Health. The location and Construction of any private water supply must likewise be approved by the above mentioned Agencies.

WITNESS our hands this 9 day of July 1956.

James A. Nichols
JAMES A. NICHOLS - Husband
Mary Ann Nichols
MARY ANN NICHOLS - Wife

ACKNOWLEDGMENT

STATE OF OKLAHOMA)
) SS
COUNTY OF TULSA)

Before me, the undersigned, a Notary Public in and for said State, personally appeared James A. Nichols and Mary Ann Nichols, Husband and Wife, to me known to be the identical persons who executed the within and foregoing Instrument on this 9th day of July 1956 and they acknowledge to me, that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF:
I have hereunto set my hand and seal this day and year last written.

My Commission Expires 12 Dec 1956. *Edward P. Sartan*
Notary Public

11.21

GRACELAND-ACRES.TIF.pdf - Adobe Acrobat Pro DC
File Edit View Window Help
Home Tools GRACELAND+ACR... x

For: Mark Graham
 7834 N. 134th E. Ave.
 Owasso, OK. 74055

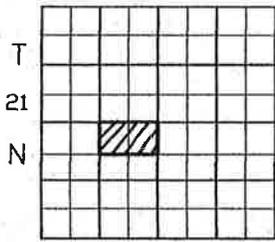
WATSON SURVEYING CO., INC.
 401 E. ROGERS BLVD.
 Skiatook, OK 74070
 PHONE (918) 396-3214
 C.A. #1058 EXP. 06/30/2005

#397-26

LEGEND

FENCE	----
SECTION LINE	-----
WATER LINE	--W--W--
GAS LINE	--G--G--
ELECTRIC LINE	--E--E--
TELEPHONE LINE	--T--T--
SANITARY SEWER	--SS--SS--
EASEMENT LINE	----
IRON PIN	●

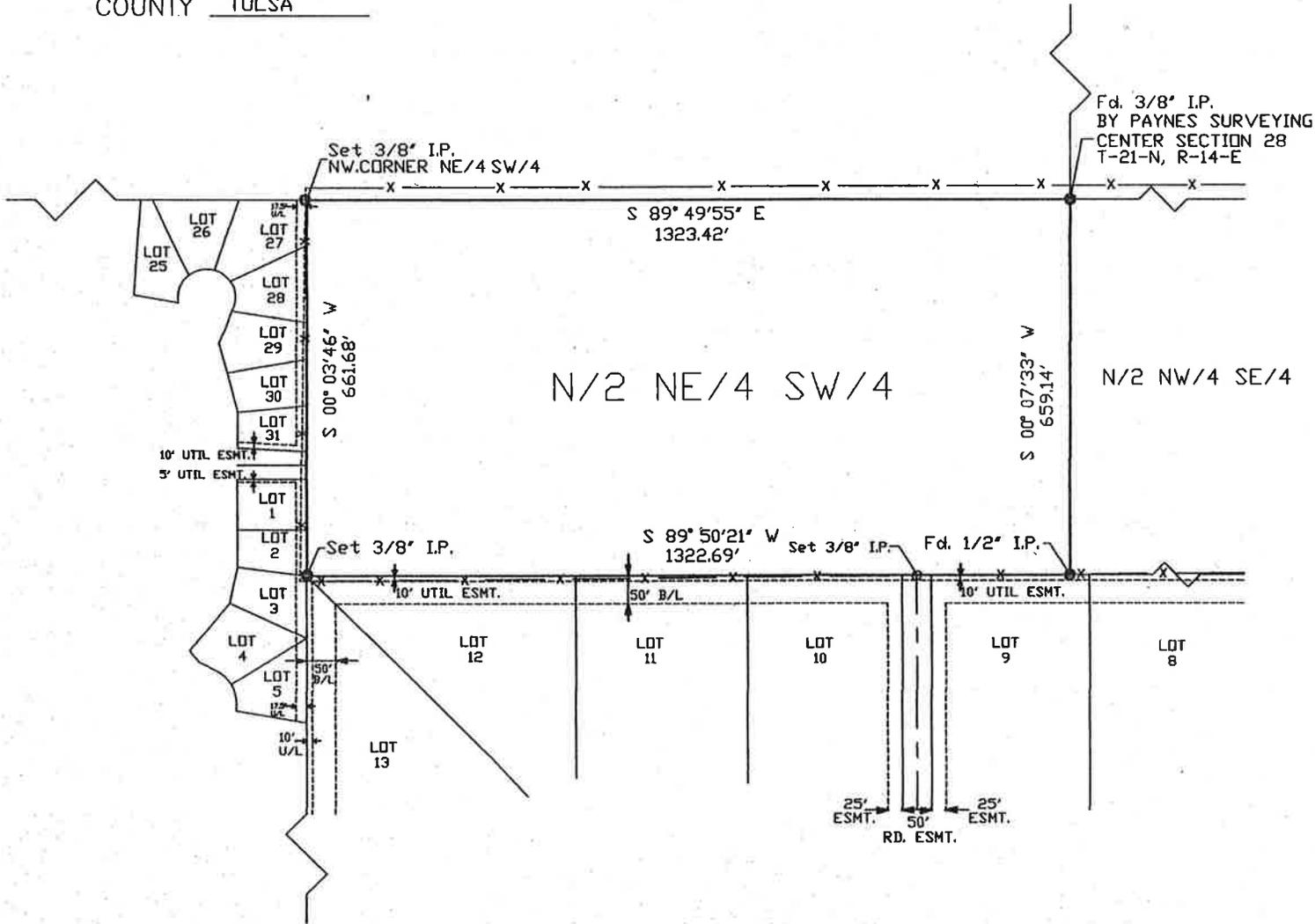
R 14 E



SECTION 28
 COUNTY TULSA

PLAT OF SURVEY

SCALE 1" = 300'



PROPERTY DESCRIPTION

The North Half, Northeast Quarter, Southwest Quarter,
 Section 28, Township 21 North, Range 14 East. (Recorded in Book
 5848/2810).

11.22

PROPERTY DESCRIPTION

The North Half, Northeast Quarter, Southwest Quarter,
Section 28, Township 21 North, Range 14 East. (Recorded in Book
5848/2810).

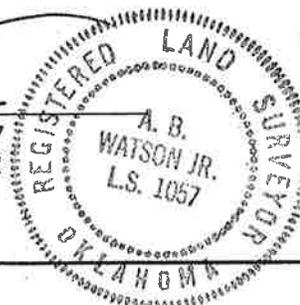
CERTIFICATE

The undersigned, a duly Registered Professional Land Surveyor in the State of Oklahoma, does hereby certify
that the above plat is true and correct representation of the survey of the above described property.

Witness my hand and seal this 15TH day of JUNE, 2005.

THIS PLAT OF SURVEY MEETS THE
OKLAHOMA MINIMUM STANDARDS FOR
THE PRACTICE OF LAND SURVEYING
AS ADOPTED BY THE OKLAHOMA
STATE BOARD OF REGISTRATION FOR
PROFESSIONAL ENGINEERS AND LAND
SURVEYORS.


A.B. WATSON JR. L.S. #1057
REGISTERED LAND SURVEYOR



GRACELAND ACRES



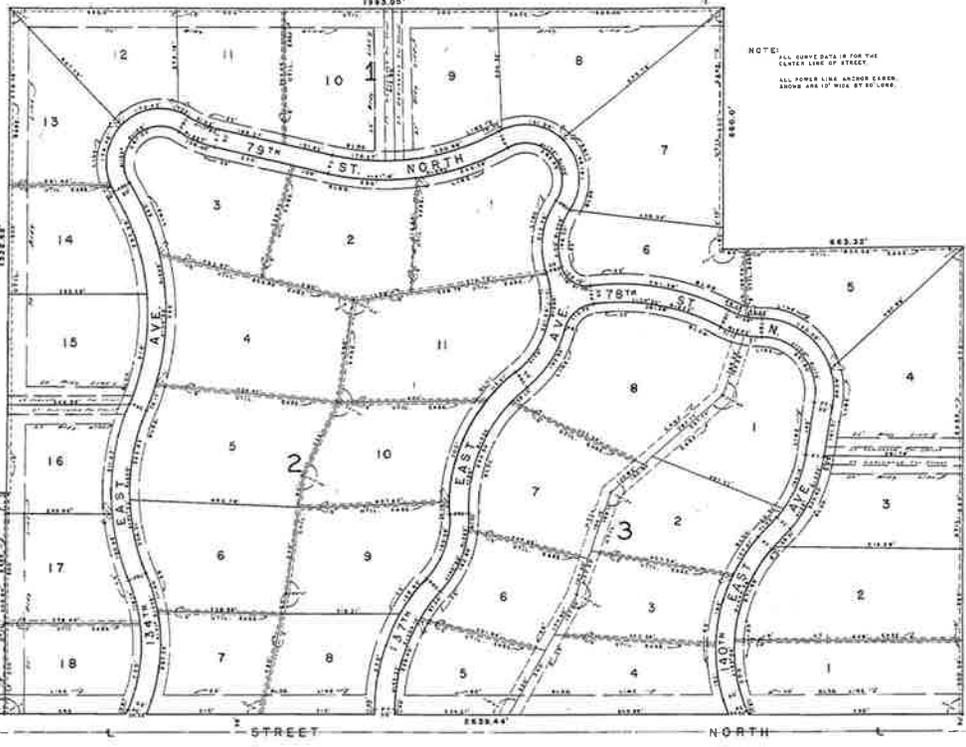
GRACELAND ACRES

April 1st 1935

BEING THE SW¹/₄ NW¹/₄ SEC 4 & NW SW¹/₄ SEC 4
SW NE¹/₄ SW¹/₄ & SE¹/₄ SW¹/₄ & SW SW¹/₄ SW¹/₄ AND
THE SW SW¹/₄ SEC 4 ALL BEING LOCATED IN SEC.
28, T. 21 N., R. 14 E., TULSA COUNTY, OKLA.

SHIBLEY ENGINEERING CO. INC.
1147 SO. LEWIS AVE.
TULSA OKLA.

MAY, 1935 SCALE 1"=100'



NOTE:
ALL CURVE DATA IS FOR THE
CENTER LINE OF STREET.
ALL POWER LINE AND/OR CROWN
ROADS ARE 10' WIDE BY 10' EASE.

STATE OF OKLAHOMA
TULSA COUNTY
SHIBLEY ENGINEERING CO. INC.
PLAT NO. 200970
 BEING PART OF THE SW¹/₄ NW¹/₄ SEC. 4, T. 21 N., R. 14 E., TULSA COUNTY, OKLA.
 AND PART OF THE SW SW¹/₄ SEC. 4, T. 21 N., R. 14 E., TULSA COUNTY, OKLA.
 AND PART OF THE SW SW¹/₄ SEC. 4, T. 21 N., R. 14 E., TULSA COUNTY, OKLA.

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing plat, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 1935.

Notary Public in and for the State of Oklahoma.

STATE OF OKLAHOMA
 COUNTY OF TULSA
 I, _____, Notary Public in and for the State of Oklahoma, do hereby certify that _____, the person whose name is subscribed to the foregoing plat, is the person who executed the same for the purposes and consideration therein expressed.

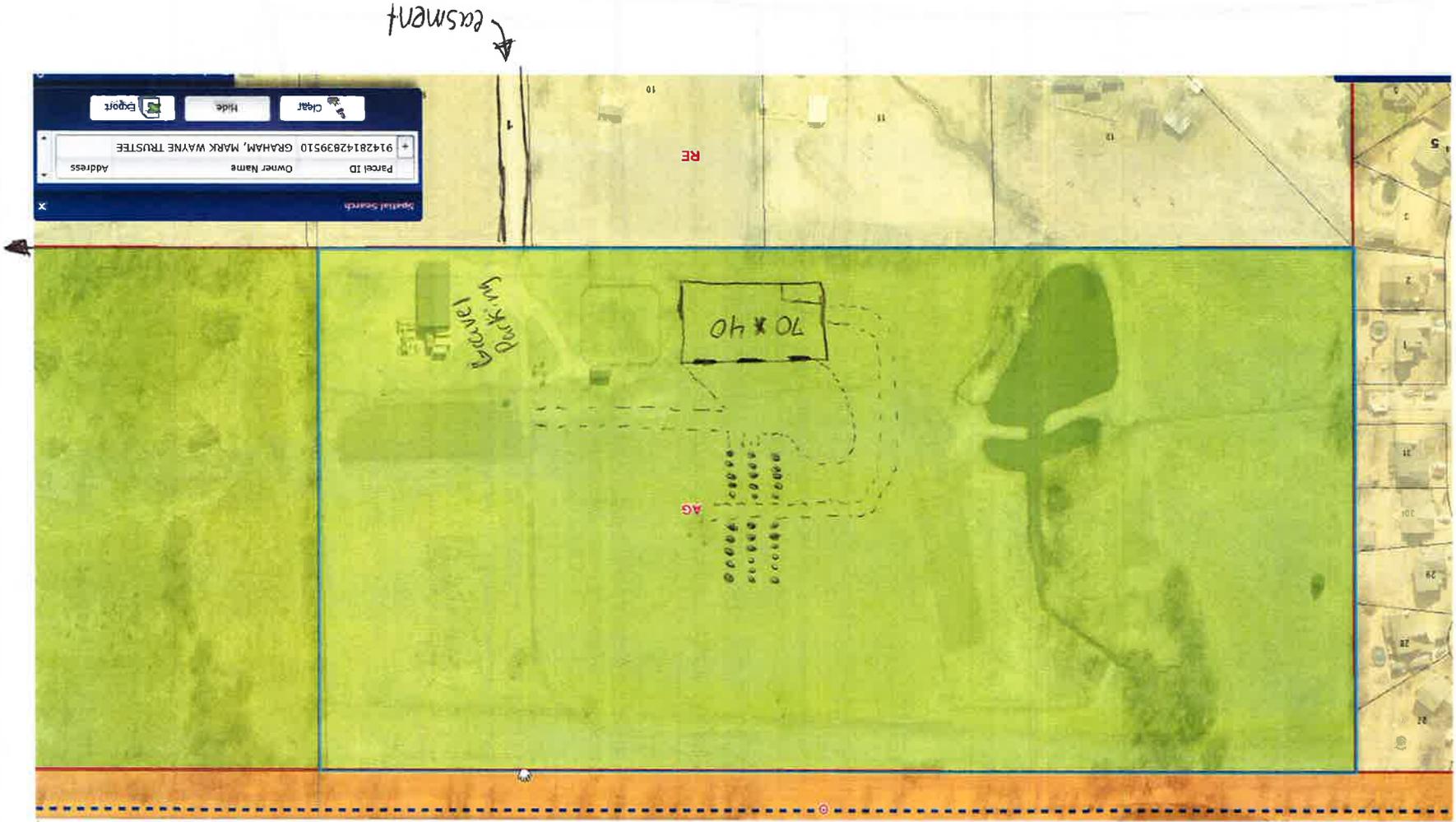
Notary Public in and for the State of Oklahoma.

11.24

200 chairs = \$2,000
20-25 tables



11.25



Jones, Robi

From: Fritschen, Karl <kfritschen@CityOfOwasso.com>
Sent: Tuesday, January 14, 2020 2:37 PM
To: Jones, Robi
Cc: Dempster, Brian
Subject: RE: County Board of Adjustment Cases

Thanks Robi for the notices.

I have discussed with some others and our comments are as follows.

Case CBOA-2797: Wedding Venue

This facility lies within our residential land use category per our land use plan and is somewhat isolated. Considering the size of the tract and the AG zoning, the wedding venue would be viewed as an accessory use so we do not oppose it in that regard so long as a residential use is maintained on the property. Should the residential component be vacated, then it would be viewed as a change in use to commercial. However, we do have the following concerns that the Board should consider before rendering a decision.

- How will water service be provided? This is City of Owasso Water so any taps will need a permit and inspections by City personnel.
- How will wastewater be handled? If they are tapping into Owasso sewer, then annexation may be required as well as inspections.
- Will any easements be needed around the perimeter for public water service.
- The Board should consider traffic through the neighborhood. Maybe consider limiting hours of operation.
- Will noise be an issue? Again, maybe consider limiting hours of operation.
- How much site lighting will be needed and where will it be placed?

Case CBOA-2793: Landscape Nursery

This facility lies within our residential land use category per our land use plan and is somewhat isolated. Though the tract is zoned RE it is 3.21 acres in size, so the use we feel does not pose a detriment to the adjoining residences given the size of tracts in this area. However, we do have the following concerns that the Board should consider before rendering a decision.

- What will be the hours of operation?
- Increased truck traffic carrying material and landscape plants may cause increase wear and tear on the road.
- Is this a retail or wholesale nursery?

Thank you Robi for allowing Owasso to comment on these two cases.

Regards,

Karl A. Fritschen, MRCP, AICP, RLA
Planning Manager

200 S. Main
City of Owasso, OK 74055
918.376.1545

"the truth is out there"



From: Jones, Robi [mailto:rjones@incog.org]
Sent: Monday, January 13, 2020 11:35 AM
To: Fritschen, Karl
Subject: County Board of Adjustment Cases

Karl,

I am sending you a copy of the two Board of Adjustment cases we have in Owasso's fenceline. Let me know if you have any questions. If you get calls on either case, please give them my number and I will be happy to discuss it with them.

Robi

Robi Jones
Community Planner
County Board of Adjustment Administrator
Tulsa Planning Office
2 W. 2nd St., 8th Floor | Tulsa, OK 74103
918.579.9472
rjones@incog.org



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Jones, Robi

From: Joe Wolfe <joe@my-firstcall.com>
Sent: Tuesday, January 14, 2020 5:04 PM
To: Jones, Robi
Subject: CBOA-2797 – Statement to Board of Adjustment

Robi,

My name is Joe Wolfe, and I own property directly south and east of the property on which Jordan Graham is requesting special exceptions in Case Number CBOA-2797. I understand that the special exceptions requested would enable the property owner to use his property for a wedding and special events center. I have several concerns about the proposed use of the property:

The proposed use would cause an increase in traffic through Graceland Acres, a residential neighborhood which lies directly to the south of the applicant's property. The roads in Graceland Acres are deteriorating, and throughout the neighborhood, the roads are not wide enough for two cars to pass each other going opposite directions. If you need to pass a car coming opposite to you, you may have to pull into a neighbor's yard to allow the other car to pass. In addition, there are no streetlights in Graceland Acres, which would pose a major safety risk for additional drivers who are not familiar with the area. There are small children living in the neighborhood or often visiting relatives in the area, and the increased traffic would pose a hazard to them, as there are no sidewalks in Graceland Acres. If the applicant is proposing to use the property for weddings and special events, there will likely be intoxicated drivers using these streets which are narrow and without street lights. Any drivers who are drinking at the events center have to drive through a residential neighborhood to go to and from the events center. Finally, I have observed that there is no location for the applicant to install signage to direct drivers to the proposed special events center. The only places the applicant could put signage would be in a utility easement along 76th Street North or in a privately owned residential lot.

I would encourage all members of the Board of Adjustment to drive through the proposed area to see for themselves the lack of streetlights and conditions of the streets. The proposed use of the applicant's property would be potentially hazardous to those living in Graceland Acres, as the neighborhood is not suited to large volumes of traffic.

Thank you,

Joe

Joe Wolfe
President

4125 S. Sheridan Road
Tulsa, Oklahoma 74145
TEL 918-665-1011
FAX 918-665-3538

Tulsa * Oklahoma City * Springfield * Dallas
Joe@My-FirstCall.com * www.My-FirstCall.com

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www.my-FirstCall.com

Thank you,

Joe

**Joe Wolfe
President**

4125 S. Sheridan Road
Tulsa, Oklahoma 74145
TEL 918-665-1011
FAX 918-665-3538

Tulsa * Oklahoma City * Springfield * Dallas
Joe@My-FirstCall.com * **www.My-FirstCall.com**

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BOARD OF ADJUSTMENT CASE REPORT

STR:129
CZM:21

Case Number: CBOA-2798

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Hanford Jenkins

ACTION REQUESTED: Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery, in a Residential District (Section 410, Table 1).

LOCATION: 560 E 62 ST N

ZONED: RS

PRESENT USE: Vacant Residential

TRACT SIZE: 0.39 acres

LEGAL DESCRIPTION: E 85.2 LOT 7 BLK 1, FAIRVIEW HGTS ADDN

RELEVANT PREVIOUS ACTIONS:

Subject Property:

BOA-4458 October 1964: The Board of Adjustment approved the operation of a home beauty shop, on the subject property.

ANALYSIS OF SURROUNDING AREA: The subject tract is located in a single-family residential neighborhood with large lots. The property is surrounded by RS zoning in all directions.

STAFF COMMENTS:

The applicant is before the Board requesting a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery, in a Residential District (Section 410, Table 1). The applicant would like to have a grow facility for medical marijuana on the property.

A Use Variance is required as Agriculture is not a use permitted in an RS zoned district because of the potential adverse effects on neighboring properties. A horticulture nursery must be found to be compatible with and non-injurious to the surrounding area.

The applicant supplied the following statement: *"I want the building to be put on my land because of the area and the property is like the country and I feel it is safe there."*

According to the submitted site plan, all buildings will be removed, and a structure will be built to house the horticulture nursery. Growing will occur indoors. The site plan does not specify the size or design of the structure. Staff has not been able to contact the applicant for more specific details.

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure the proposed use of the land is compatible with and non-injurious to the surrounding area.

12.2

Sample Motion:

"Move to _____ (approve/deny) a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery, in a Residential District (Section 410, Table 1).

Approved per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: _____.

Finding the hardship to be _____.

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."

MINUTES OF THE REGULAR MEETING OF THE BOARD OF ADJUSTMENT, WEDNESDAY, OCTOBER 21, 1964.

PRESENT: Avery, Acting Chairman; Ingle; Kruse; Sublett.

Case No. 4457 ✓
Kenneth Potter
Lot 21, Block 14,
Boman Acres Third
Addition

This being the date set down for public hearing on the application of Kenneth Potter, after having filed a 100% petition of an affected area created by the Board, for permission to operate a home beauty shop on Lot 21, Block 14, Boman Acres Third Addition, a U-1-C District. There appeared Mr. and Mrs. Kenneth Potter. There also appeared several protestants.

Mr. George Briedenbach, spokesman for the protestants filed a petition bearing some 95 signatures of persons living in Boman Acres Third Addition, which read as follows:

**PETITION TO THE BOARD OF ADJUSTMENT
TULSA, OKLAHOMA**

We, the undersigned property owners at the addresses indicated, oppose the installation of any advertised or unadvertised business establishment within the confines of Boman Acres Third Addition. This opposition is based on the Restrictions, Limitations, and Reservations of the Deed of Dedication as recorded.

After considerable discussion among the Board Members it was,

MOVED by Ingle () that this application be approved.

MOTION died for lack of a second and application denied.

Case No. 4458-A ✓
Bernice Torix
E.85.2' of Lot 7,
Block 1, Fairview
Heights Addition
To Turley

This being the date set down for public hearing on the application of Bernice Torix, after having filed a 100% petition of an affected area created by the Board, for permission to operate a home beauty shop on the East 85.2 feet of Lot 7, Block 1, Fairview Heights Addition to Turley, Oklahoma. There appeared Bernice Torix, No protest was offered.

MOVED by Sublett (Ingle) that this application be approved.

All members voting yea.

Carried.

Case No. 4459-A ✓
Lea Rauchwerger
Lot 20, Block 1,
Pilcher Summit
Addition

This being the date set down for public hearing on the application of Lea Rauchwerger for permission to operate a children's day nursery in a U-1-C District on Lot 20, Block 1, Pilcher Summit Addition. There appeared Lea Rauchwerger. No protest was offered.

MOVED by Ingle (Sublett) that this application be approved.

All members voting yea.

Carried.

Case No. 4461-A
Free Holiness Church
Lot 1, Block 1,
Hall Gardens Addition
Sand Springs, Oklahoma

This being the date set down for public hearing on the application of the Free Holiness Church for permission to erect a church on Lot 1, Block 1, Hall Gardens Addition to the City of Sand Springs, Oklahoma. There appeared Mr. Clarence S. Gilbert. No protest was offered.

MOVED by Sublett (Kruse) that this application be approved.

All members voting yea.

Carried.

Case No. 4465-A ✓
Mrs. Loretta Pogue
Lot 16, Block 7,
Briarwood Addition

This being the date set down for public hearing on the application of Mrs. Loretta Pogue for permission to operate a children's day nursery on Lot 16, Block 7, Briarwood Addition. There appeared Mrs. Loretta Pogue. No protest was offered.

MOVED by Kruse (Ingle) that this application be approved.

All members voting yea.

Carried.

Case No. 4466-A ✓
Sammie Peters
Lot 19, Block 22,
Maplewood Extended
Addition

This being the date set down for public hearing on the application of Sammie Peters, after having filed an 84% plus petition, of an affected area created by the Board, for permission to operate a home beauty shop on Lot 19, Block 22, Maplewood Extended Addition a U-1-C District. There appeared Sammie Peters. No protest was offered.

MOVED by Sublett (Kruse) that this application be approved.

All members voting yea.

Carried.



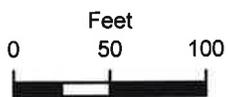
N GARRISON AVE

E 62 ST N

N FRANKFORT PL

E 61 ST N

N GARRISON PL



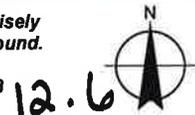
Subject Tract

CBOA-2798

20-12 01

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018





MARTIN LUTHER KING JR BLVD

E 66th ST N

E 65 PL N

E 63 ST N

E 62 ST N

E 61 ST N

E 60 ST N

E 60 PL N

E 60 ST N

E 59 PL N

E 59 ST N

E 59 ST N

E 58 ST N

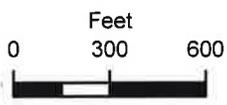
E 58 ST N

E 58 ST N

E 57 PL N

E 57 PL N

E 57 ST N



Subject Tract

CBOA-2798

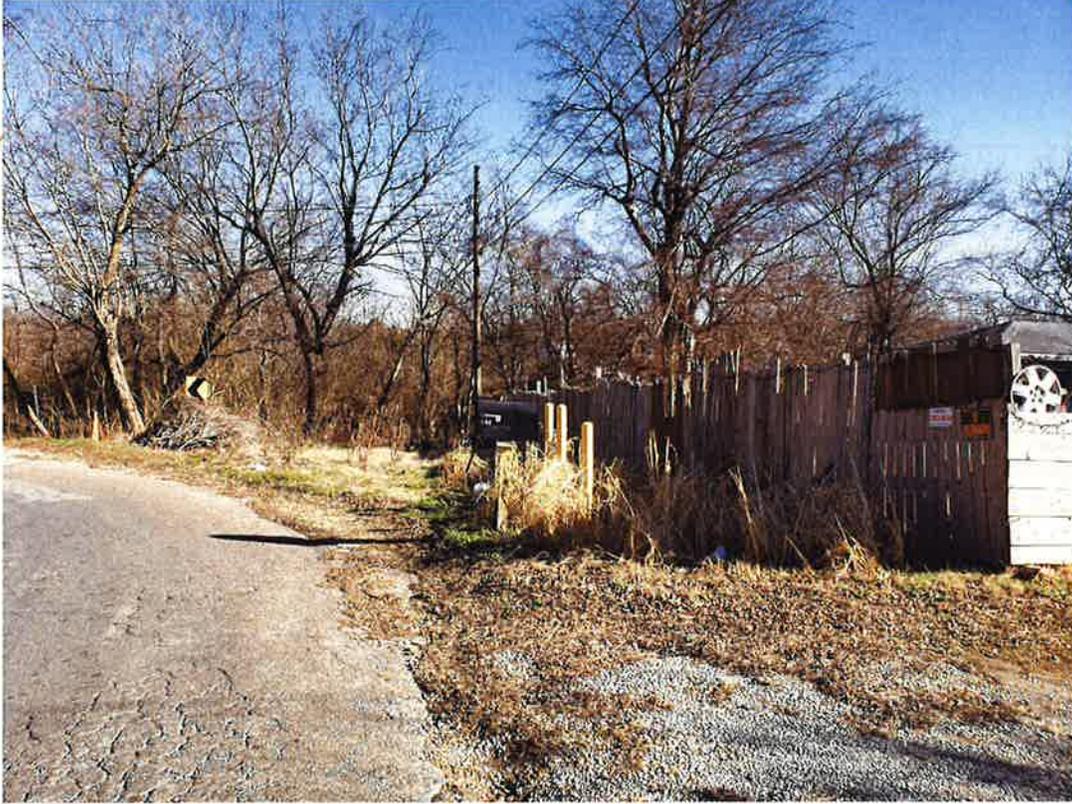
20-12 01

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

12.7





Looking east along E. 62nd St. N. – subject property is on the right



Looking southeast from E. 62nd St. N.



Looking south into subject property from E. 62nd St. N.



Parking Lot

New Building

→ larger than 750 SF

→ Purpose is to grow

→ What about processing?

