

**AGENDA**  
**Regularly Scheduled Meeting**  
**Tulsa County Board of Adjustment**  
**Tuesday, March 17, 2020, 1:30 p.m.**  
**Williams Tower I**  
**1 West 3rd Street, St. Francis Room**  
**Tulsa, OK**

**Meeting No. 480**

**CONSIDER, DISCUSS AND/OR TAKE ACTION ON:**

1. Approval of **Minutes** of February 18, 2020 (Meeting No. 479).

**UNFINISHED BUSINESS**

2. **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

**NEW APPLICATIONS**

3. **2805—Align Design – Kyle Gibson**  
Variance of the required side yard setback from 15 feet in the AG District (Section 330, Table 3); Use Variance to allow Use Unit 25 for Industrial Light uses (Section 1225). **LOCATION:** 6312 East 106th Street North
4. **2806—Nick Brown**  
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:** 9525 South 33rd West Avenue

**OTHER BUSINESS**

**NEW BUSINESS**

**BOARD MEMBER COMMENTS**

**ADJOURNMENT**

**Website: [www.tulsaplanning.org](http://www.tulsaplanning.org)**

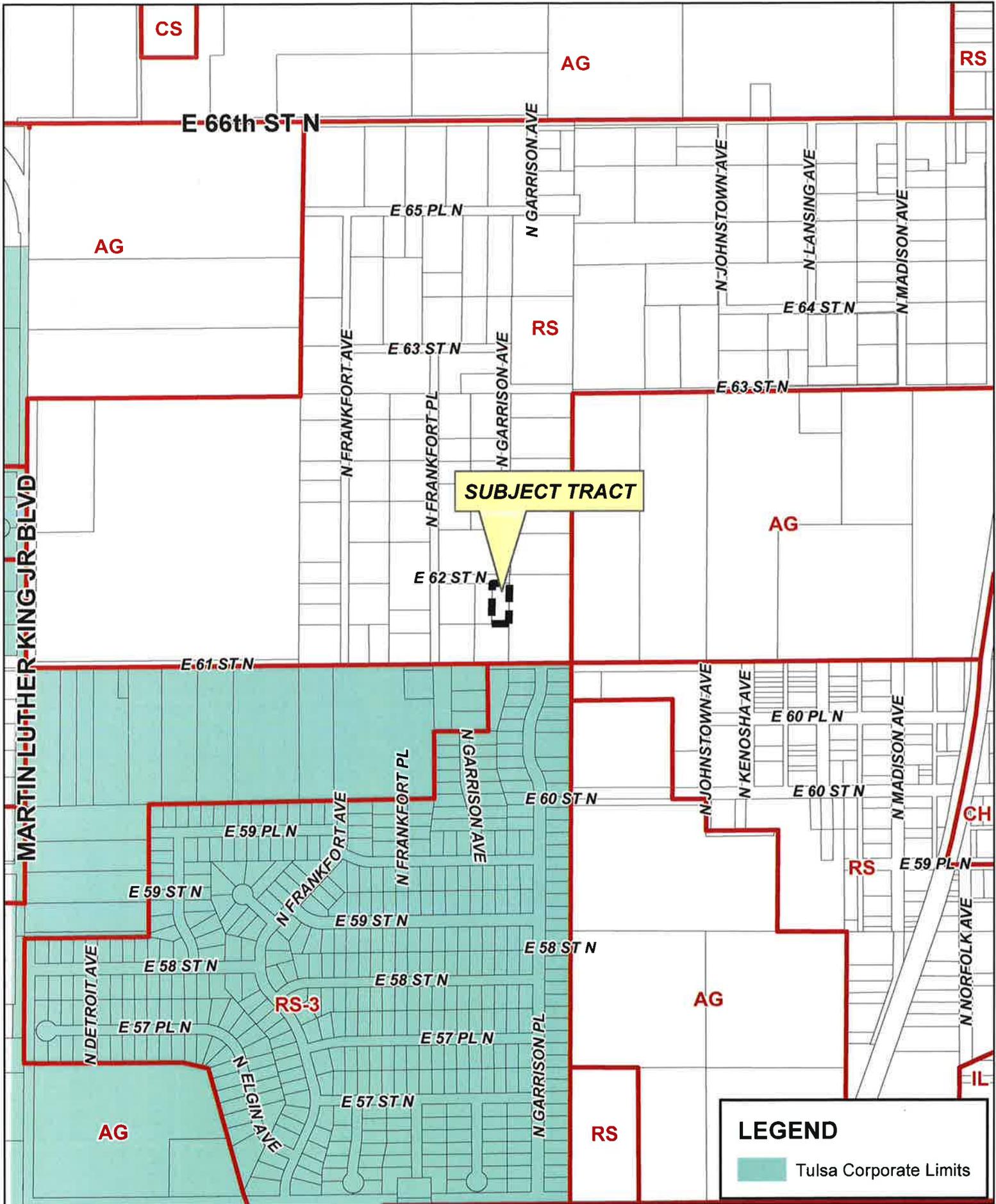
**E-mail: [esubmit@incog.org](mailto:esubmit@incog.org)**

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.

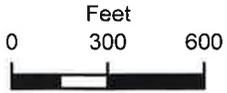
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**CBOA-2798**

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**BOARD OF ADJUSTMENT  
CASE REPORT**

**TRS:** 129

**CZM:** 21

**Case Number: CBOA-2798**

**CASE REPORT PREPARED BY:** Robi Jones

**HEARING DATE:** 03/17/2020 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

**AREA:** North Tulsa County

**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:**

New Comments (03/17/2020):

The case was continued from 1/21/2020 to 03/17/2020 to give the applicant more time to consult with Tulsa County Permit Department and develop a clearer vision of his plan for the property. It was suggested that the applicant submit a more detailed site plan.

Staff of Tulsa Planning Department and Tulsa County Permit Department has concluded that if the Agricultural Use is approved by the Board, the new structure would not need to be considered an accessory building to a residential property. If approved, the new structure could stand alone such as any building could on AG zoned parcels. However, the Board has the ability to limit the size of the structure as a condition of the approval.

The applicant has met with both offices and has submitted a new site plan. According to the site plan, the existing structures will be removed and a new structure will be erected on the property. The size of the new building will be 35' x 100' (3,500 sq. ft). The site plan calls for a concrete or gravel surface. Staff has discussed the need for variance with the applicant if he decides to pursue gravel parking. The applicant stated that he will choose to use concrete if approved.

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Original Comments (1/21/2020):

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.

**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."*

the fact that the Comprehensive Plans shows plans for the area to be residential; for the following property:

**N 1/2 NE SW SEC 28-21-14, OF TULSA COUNTY, STATE OF OKLAHOMA**

**Board Action:**

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **DENY** the request for a **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) finding there is not enough information given the denial of the requested Special Exception; for the following property:

**N 1/2 NE SW SEC 28-21-14, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2798—Hanford Jenkins**

**FILE COPY**

**Action Requested:**

Use Variance to permit Use Unit 3, Agriculture, for a horticulture nursery in a residential district (Section 410, Table 1). **LOCATION:** 560 East 62<sup>nd</sup> Street North

**Presentation:**

**Hanford Jenkins**, 245 East 59<sup>th</sup> Street North, Tulsa, OK; stated he would like to have a cannabis grow house. He has been in the area all of his life and his Grandmother still lives there. He has tried to contact the area residents and has been able to speak with a few of them. There will be no traffic.

Mr. Charney asked Mr. Jenkins if he would have any employees at the facility. Mr. Jenkins stated that there would be three or four family members.

Mr. Charney asked Mr. Jenkins if there was an existing structure or if he would be building a structure on the subject property. Mr. Jenkins stated that he will build a new structure.

Mr. Hutchinson asked Mr. Jenkins what the square footage of the new structure would be. Mr. Jenkins stated that he would like to have about a 30'-0" x 40'-0" structure. Mr. Jenkins stated he erect a fence around the building and would like to have a parking area.

Mr. Hutchinson asked Mr. Jenkins how many plants he is planning to grow. Mr. Jenkins stated that he would like to have 150 plants or more.

Mr. Hutchinson asked staff if there was a building requirement for the subject property. Ms. Tosh answered affirmatively. Ms. Tosh stated the proposed building can only be 750 square feet without a house. Ms. Tosh stated that there is another issue on the property if the house is razed the proposed building would not be an accessory building.

*a.u*

CBOA - 2798

Mr. Charney stated that an accessory building that is not a house has a size limit in the subject neighborhood, and that is 750 square feet. That is a pre-determined size limit unless a Special Exception is requested.

Mr. Charney asked Mr. Jenkins if there was a house on the property currently. Mr. Jenkins stated there is a burned-out house on the property that cannot be used, and he plans to raze that structure.

Mr. Charney stated that he does not think Mr. Jenkins can obtain a building permit because it is a residential use. Mr. Charney thinks Mr. Jenkins would need to build a residence and then have a 750 square foot building adjacent to that house, or it could be attached to the house. The building cannot be built without a house.

Ms. Tosh stated the primary use on the subject property has to be residential.

Mr. Jenkins stated the subject property has two houses on it, the burned-out house and one on the rear of the property.

Ms. Tosh stated that creates another issue.

Mr. Charney stated that he wants to give Mr. Jenkins' application a hearing, but he wants Mr. Jenkins to know regardless of what is decided today he would encourage Mr. Jenkins to make an appointment with staff and talk through all the procedures required to build the requested structure.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **CONTINUE** the request for a **Use Variance** to permit Use Unit 3, Agriculture, for a horticulture nursery in a residential district (Section 410, Table 1) to the March 17, 2020 Board of Adjustment meeting; for the following property:

**E 85.2 LOT 7 BLK 1, FAIRVIEW HGTS ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA**

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~~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.

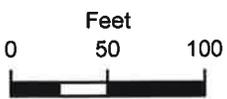
All members voting yea. Carried.

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.



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 2.8





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 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

MARTIN LUTHER KING JR BLVD

N DETROIT AVE

N ELGIN AVE

N FRANKFORT AVE

N FRANKFORT PL

N GARRISON AVE

N GARRISON PL

N JOHNSTOWN AVE

N KENOSHA AVE

N MADISON AVE

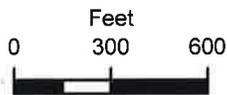
N NORFOLK AVE

N GARRISON AVE

N JOHNSTOWN AVE

N LANSING AVE

N MADISON AVE



Subject Tract

**CBOA-2798**

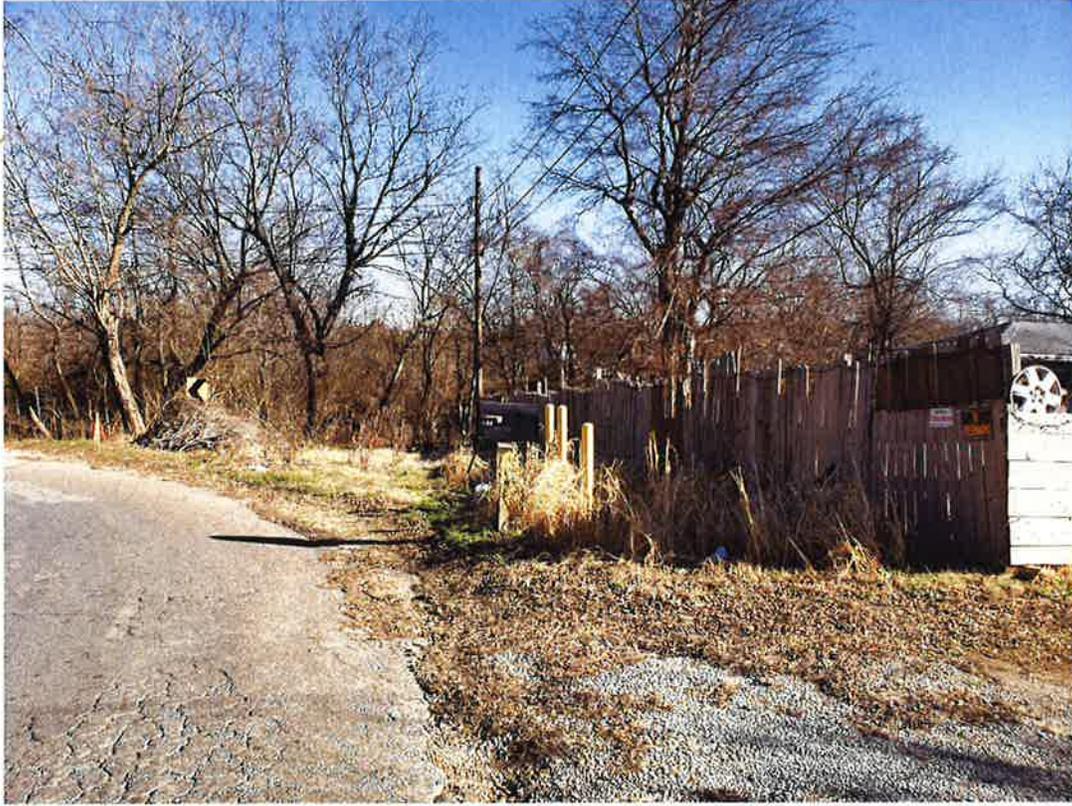
20-12 01

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

Aerial Photo Date: February 2018

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*Looking east along E. 62<sup>nd</sup> St. N. – subject property is on the right*



*Looking southeast from E. 62<sup>nd</sup> St. N.*



*Looking south into subject property from E. 62<sup>nd</sup> St. N.*



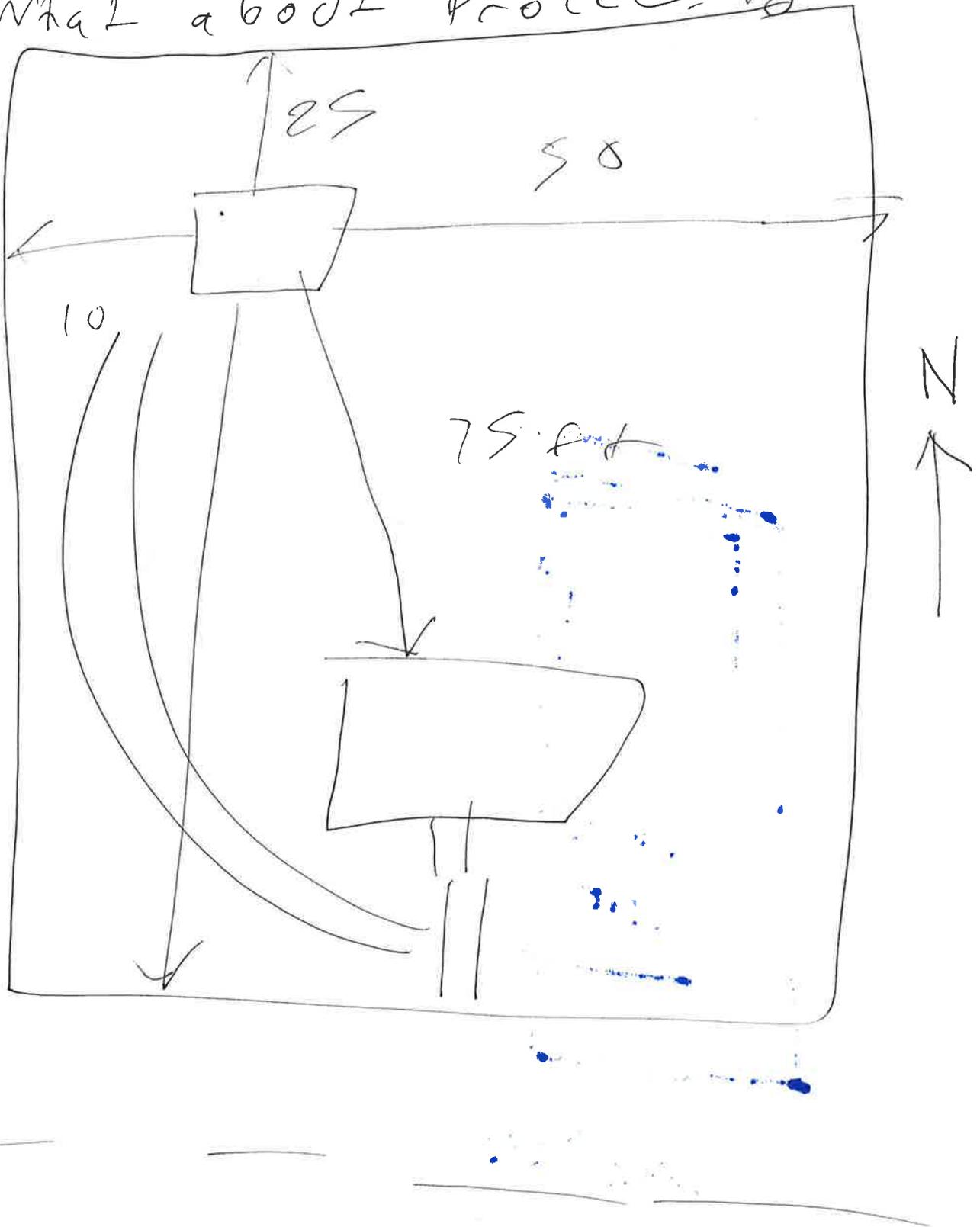
Parking Lot

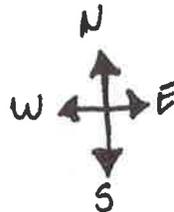
New Building

→ larger than 750 SF

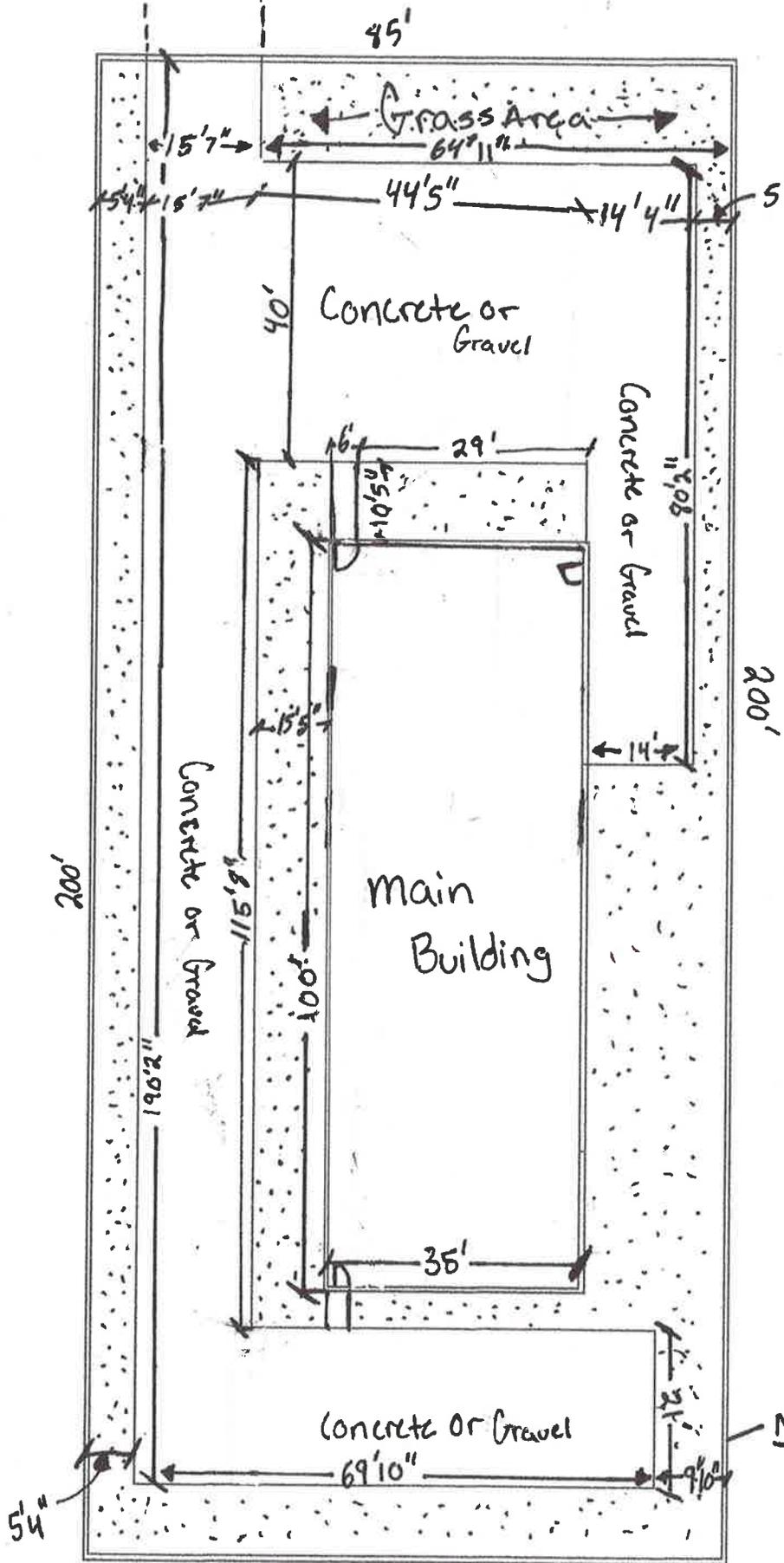
→ Purpose is to grow

→ What about processing?





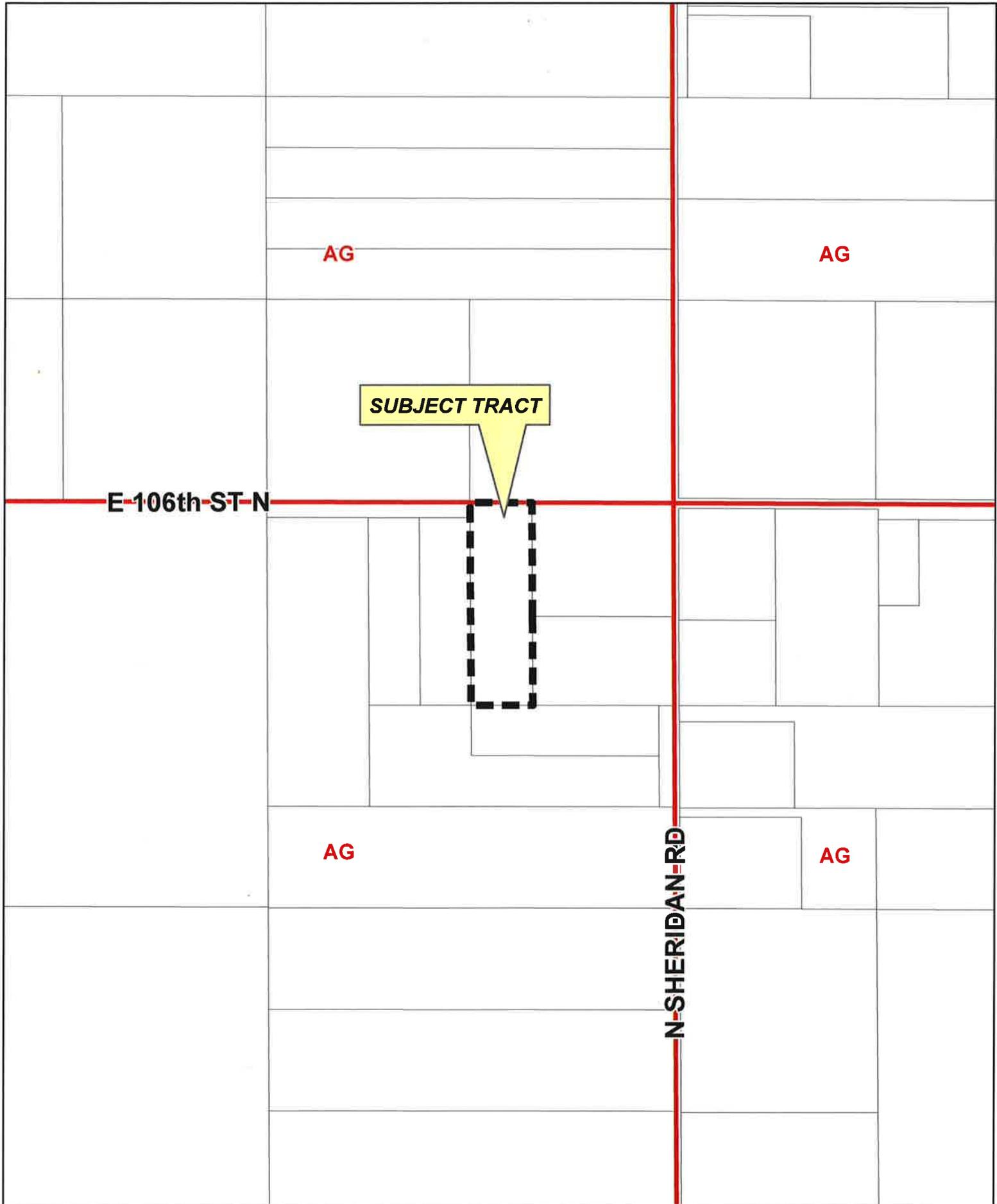
New Site Plan



Note 1 = 8'-10' High, chain linked fence

58

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E 106th ST N

AG

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SUBJECT TRACT

AG

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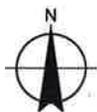
N SHERIDAN RD



**CBOA-2805**

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**BOARD OF ADJUSTMENT  
CASE REPORT**

**TRS:** 1315  
**CZM:** 11

**CASE NUMBER: CBOA-2805**  
**CASE REPORT PREARED BY:** Robi Jones

**HEARING DATE:** 03/17/2020 1:30 PM

**APPLICANT:** Kyle Gibson

**ACTION REQUESTED:** Variance of the required side yard setback from 15 feet in the AG district (Sec. 330, Table 3); and a Use Variance to allow Use Unit 25 for Industrial Light uses (Section 1225).

**LOCATION:** 6312 E 106 ST N

**ZONED:** AG

**FENCELINE:** North Tulsa County

**PRESENT USE:** Residential

**TRACT SIZE:** 3.03 acres

**LEGAL DESCRIPTION:** PRT NE NE NE BEG 460W NEC THEREOF TH S659.83 W200.13 N659.84 E200.01 POB SEC 15 21 13 3.031ACS,

**RELEVANT PREVIOUS ACTIONS:**

Subject Property: No relevant history

Surrounding Property:

CBOA-2759 May 2019: The Board approved a *modification* of a previously approved site plan to include a storm shelter (CBOA-2678), on property located at 6441 East 106<sup>th</sup> Street North.

CBOA-2678 May 2019 (Remand): The Board moved to **confirm** the submissions by Applicant related to the paper copies of the site plan shown on the poster boards that were presented at the hearing in Meeting No 457 on June 19, 2019 along with signed confirmation that the paper copies are identical representations of the exhibits shown on the poster boards that the Board required Applicant to submit as a condition or safeguard to the Board's motion approving the Special Exception in the matter, case no. CBOA-2678; and the Board moved to **find** that based on the evidence in the Record in Case No. CBOA-2678, including, without limitation the Application, various submittals prior to the Hearing, the Hearing that took place in Meeting no. 457 on June 19, 2018 along with the submittals and deliberations during the Hearing, the minutes of the Hearing and related transcript, and the written confirmation submitted by the Applicant at this special hearing, we find that the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on property located at 6941 East 106<sup>th</sup> Street North.

CBOA-2678 June 2018: The Board **approved** a request for a *special exception* to allow a Community Services & Similar Uses (Use Unit 5) in an AG District (Section 310) to permit a child nursery/child development center, subject to the site plan as submitted at today's meeting; and **approved** the request for a *variance* of the all-weather surface material

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requirement for parking (Section 1340.D); the required parking spaces per Code will have hard surfaces, and the overflow parking spaces only will not be required to have hard surfaces, on property located at 6491 East 106<sup>th</sup> Street North.

**CBOA-2568 March 2016:** The Board approved a *Variance* of the minimum lot area from 2 acres to 1.81 acres in the AG District; and a *Variance* of the minimum land area per dwelling unit to permit a lot split, on property located at 6410 East 106<sup>th</sup> Street North, Owasso.

**ANALYSIS OF SURROUNDING AREA:** The subject tract abuts AG zoning in all directions. The parcels to the west, south, and east appear to have residential uses. The tract to the north is the site of an early childhood center, see CBOA-2678.

**STAFF COMMENTS:**

The applicant is before the Board requesting a *Variance* of the required side yard setback from 15 feet in the AG district (Sec. 330, Table 3); and a *Use Variance* to allow Use Unit 25 for Industrial Light uses (Section 1225).

The Code requires a side yard setback of 15 feet in the AG District. According to the site plan, the proposed accessory building will be 6 feet from the property line and the size of the accessory building is 40' x 30'. The use of the building is in connection with the horticultural nursery which is allowed by right in an AG district. The size of the accessory building is not limited in the AG district.

A Use Variance to allow Use Unit 25, Light Manufacturing Industry, for Industrial Light uses is required as Use Unit 25 is not allowed by right in an AG district. The proposed use will involve using water based extraction for the processing of medical marijuana and will be located in the existing 20' x 20' building as shown on the site plan. Oklahoma Medical Marijuana Authority, OMMA, will require the proper licenses be approved and maintained for the processing of medical marijuana.

The applicant has supplied the following statement of hardship: "Existing greenhouses and agricultural sites dictate building being located near west lot line as to not prohibit agricultural production. Canada Goose nesting grounds near pond in the middle of lot also dictate current location of building."

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.

**Sample Motion:**

*"Move to \_\_\_\_\_ (approve/deny) a Variance of the required side yard setback from 15 feet in the AG district (Sec. 330, Table 3); and a Use Variance to allow Use Unit 25 for Industrial Light uses (Section 1225).*

*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 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.*

subject to conceptual plan 4.15 of the agenda packet. The Board finds the hardship to be the existence of two structures on an unusually configured lot, with each currently having separate drives and separate septic fields. The renovation of the house on the future smaller lot be completed and maintained well. The existing carport on the larger lot will be allowed to have a gravel parking surface. 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:

**E 198 W 462 SE SE NE SEC 5-21-14, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2759—Eller & Detrich – Lou Reynolds**

**FILE COPY**

**Action Requested:**

Modification of a previously approved site plan to include a storm shelter (CBOA-2678). LOCATION: 6441 East 106<sup>th</sup> Street North

**Tracy Pipkin**, 7211 East 106<sup>th</sup> Street North, Owasso, OK; stood and stated that he has a procedural question before the case is heard. Mr. Charney allowed Mr. Pipkin to take the floor.

Mr. Pipkin stated that on June 19, 2018 Mr. Charney stated that “he was compelled to recuse himself from three items on the agenda, even though he did not have a financial or other interest in the decision being made that he or his business partners have holdings very nearby and he feels it is his duty to step aside. The standard is not that there be an actual conflict of interest or a monetary interest, sometimes even if there is a potential appearance of impropriety...”.

Mr. Charney asked if this case is the same intersection? Mr. Pipkin answered affirmatively. Mr. Pipkin stated that the case he is quoting is two lots over, the rodeo case.

Mr. Charney asked Mr. Pipkin to take a seat so he could make a comment. Mr. Charney stated there is only one case before the Board today and he knows the case before the Board today is the day care center. Mr. Charney stated he understands Mr. Pipkin's problem with his being on the Board for this today. Mr. Pipkin stood and stated there is another one.

Mr. Pipkin stated that the Code of Ethics states, “any reasonable person believing to be unbiased or impartial”, that is the question. Mr. Pipkin stated that in that same meeting Mr. Dillard misrepresented the facts in that case; the materials that were presented to

the Board were overwhelming in favor of support for that request at the time of that meeting. Mr. Dillard stated that they were balanced between the for and against, and that is no where near the case of the actual facts of what was going on. It could be that the Board only had a limited supply of information, he does not know, but he thinks it was overwhelming that it was more like ten to two, and there was a generic letter that indicated the day care was good.

Mr. Charney asked Mr. Pipkin if he was requesting that he recuse himself from the matter Mr. Reynolds is going to present to the Board today? Mr. Pipkin answered affirmatively. Mr. Charney thanked Mr. Pipkin for the request and stated that he understands the nature of the request, and he refuses to grant Mr. Pipkin's request and will sit in judgement on this matter.

Mr. Charney asked Mr. Dillard if he wished to recuse himself from the matter before the Board today? Mr. Dillard stated that he has no bias and he has not seen the property. He does not know anyone involved in the property.

Mr. Charney stated that he has spoken to the party's request relating to this request and thanked Mr. Pipkin for his appearance.

Mr. Charney stated there has been a request for two recusals, and he believes it was on matters that the Board has spoken to previously when the base case was before the Board. The Board is going to proceed to hear the case before them today, and he understands that it has to deal with the same precise property. Mr. Charney stated that he deems the Board to believe they are in full conformity with the Code of Ethics, and other Code requirement in the ability to make an impartial decision.

**Presentation:**

**Lou Reynolds**, Eller & Detrich, 2727 East 21<sup>st</sup> Street, Tulsa, OK; stated he represents the Washington County Child Care Foundation. This case is regarding an amendment to the previous site plan the Board approved a year ago to include a storm shelter. The client intends to build a 1,165 square foot storm shelter adjacent to the facility. The storm shelter will be one-story high with the same exterior and accent material as the main building.

Mr. Charney asked Mr. Reynolds if the storm shelter would conform to the same architectural style of the principal structure. Mr. Reynolds answered affirmatively. Mr. Charney asked if there would any modification to the footprint of the building. Mr. Reynolds stated there would be no modification to the original building, it is just the site plan for a storm shelter.

Mr. Reynolds stated the storm shelter will have the capacity to hold all the children attending the day care, and maybe any parent picking up children. The storm shelter has been designed for the worst-case scenario.

CBOA-2759

FILE COPY

Mr. Johnston asked Mr. Reynolds if the storm shelter will contain any other day-to-day use other than being just a storm shelter. Mr. Reynolds stated that at the present time it will not, but it might have some kind of use in the future; they are trying to be efficient with the shelter.

**Interested Parties:**

**Carl McCarty**, 10535 North Sheridan, Sperry, OK; stated he lives diagonal to the subject property. Now he has to back into his driveway to be able to get out because of the traffic on Sheridan. He found out this is a 501c3 facility and it is for rich kids, it is not for poor native American children like was presented. He has found out from the City of Owasso that this will mean the destruction of his house, because nothing about this day care center came across the City Council desk. Mr. McCarty stated that there will need to be a three-point turning at the facility, and his house will be destructed to ease the traffic. Mr. McCarty stated that is a problem because he is on a fixed income and his house is older than the State of Oklahoma. This facility has dropped the value of his house because no one wants to live next to that traffic. Mr. McCarty stated this facility should have been built in the Sheridan Crossing neighborhood not in his neighborhood. There will be traffic problems at that location because when there are 200 cars at the four-way it will be dangerous. A 501c3 should never be used to profit rich kids, it should only be used for poor children.

Mr. Charney stated that the Board is present today on a very limited matter; the expansion of a previously approved site plan by adding a storm shelter. He understands that Mr. McCarty does not like the use on the corner and he thanked Mr. McCarty for his comments. The Board's focus today is whether the Board wishes to amend a site plan to allow a storm shelter and that is the focus today.

**Tracy Pipkin** came forward and stated he does not think this expansion is a good idea because he believes the Board has overstepped the bounds of what could be allowed. This would continue to go against the Zoning Code that indicates, which is to encourage and protect agricultural land, this does not do that. This furthers the wasteful scavenger development in rural areas. These are two specifics items that the Board has ignored. Mr. Pipkin stated that he would be interested in understanding what the criteria for trying those two items. Mr. Pipkin stated that in CBOA-2569 Mr. Dillard stated, "this would change the resident's world ... cannot support the request". Mr. Pipkin stated nothing has changed since that hearing. Mr. Pipkin thinks his statement about being biased has already been proven that it already is. Again, the infrastructure for this is not congruent to the type of road and infrastructure that is there. There is no way to properly support additional construction. The neighborhood is adversely impacted by the noise pollution, light pollution, because the noise can be heard for miles away. This reduces wildlife and the road is disintegrating. There is no reason for a commercial environment to be in this residential area.

CBOA-2759

FILE COPY

**Rebuttal:**

**Lou Reynolds** came forward and stated this request will not increase any traffic. The entrance ramp is almost 60 feet from the intersection and the other entrance is 330 feet from the intersection.

Mr. Charney asked Mr. Reynolds if today's request does not increase the number of allowed children on the site, it is simply a storm shelter correct? Mr. Reynolds answered affirmatively.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **HUTCHINSON**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Modification of a previously approved site plan to include a storm shelter (CBOA-2678). Finding the proposed modification is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief or meets the zoning requirements, per code; for the following property:

**SE SE SE SEC 10 21 13 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

\*\*\*\*\*

**OTHER BUSINESS**

\*\*\*\*\*

**NEW BUSINESS**

None.

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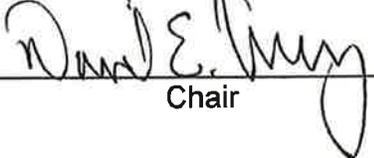
**BOARD COMMENTS**

None.

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There being no further business, the meeting adjourned at 2:44 p.m.

Date approved: \_\_\_\_\_

8/20/19  
  
Chair

**TULSA COUNTY BOARD OF ADJUSTMENT**  
**MINUTES of Special Meeting No. 468**  
Monday, May 13, 2019, 1:30 p.m.  
Ray Jordan Tulsa County Administration Building  
500 South Denver, Room 119  
Tulsa, Oklahoma

**MEMBERS PRESENT   MEMBERS ABSENT   STAFF PRESENT   OTHERS PRESENT**

Charney, Chair  
Crall, Secretary  
Hutchinson, V.Chair  
Johnston

Dillard

S. Miller  
Ulmer  
R. Jones  
Sparger

The notice and amended agenda of said meeting were posted at the County Clerk's office, County Administration Building, 10<sup>th</sup> day of May, 2019 at 1:59 p.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

\*\*\*\*\*

MINUTES  
None.

\*\*\*\*\*

Ms. Ulmer read formerly called the case for the Board of Adjustment Public Hearing.

\*\*\*\*\*

UNFINISHED BUSINESS

**2678—Shane Edmondson – Remand**

**Action Requested:**

**Special Exception** to allow a Community Services & Similar Uses (Use Unit 5) in an AG District (Section 310) to permit a child nursery/child development center.

**LOCATION:** 6441 East 106<sup>th</sup> Street North

Mr. Charney asked Mr. Reynolds to come forward. Mr. Charney stated that he understands, from the directive from the District Court on the order of remand, that the Board is to consider submissions by the applicant related to certain paper copies.

**Presentation:**

**Lou Reynolds**, Eller & Detrich, 2727 East 21<sup>st</sup> Street, Tulsa, OK; stated that he is familiar with the order of remand and he has the paper copies for submission. Mr. Reynolds submitted his copies to the Board for review. Mr. Reynolds stated that this item was actually submitted to staff, but it did not make it into the packet that was distributed to the Court for the appeal, it was a clerical oversight. The copies are of the documents that were submitted new and were also submitted to staff right after the hearing which is shown on the attachment.

Mr. Charney asked Mr. Reynolds if the paperwork was his affidavit. Mr. Reynolds stated that it is the affidavit of Shane Edmondson who appeared at the hearing and the applicant that presented the documents.

Mr. Charney asked Mr. Reynolds if they were the identical documents that were presented at the hearing and shown on the poster boards as well at the time of the hearing. Mr. Reynolds answered affirmatively.

Mr. Charney asked Mr. Reynolds if there was anything else he would like the Board to consider in regard to the item being discussed today. Mr. Reynolds stated there was not.

**Interested Parties:**

There were interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **HUTCHINSON**, the Board moved to **CONFIRM** the submissions by Applicant related to the paper copies of the site plan shown on the poster boards that were presented at the hearing in Meeting No. 457 on June 19, 2018, along with signed confirmation that the paper copies are identical representations of the exhibits shown on the poster boards that the Board required Applicant to submit as a condition or safeguard to the Board's motion approving the Special Exception in this matter, case no. CBOA-2678; for the following property:

**SE SE SE SEC 10 21 13 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

Before the vote was taken: **Gregory Reilly**, Attorney at Law, 320 South Boston, Suite 200, Tulsa, OK; stood and stated that he would like to have the opportunity to review the documents with the people that were present at the public hearing.

Mr. Charney asked Mr. Reynolds if the affidavit had been submitted to Mr. Reilly. Mr. Reynolds stated that it had not. Mr. Charney asked Mr. Reynolds to submit the documents to Mr. Reilly.

Mr. Charney stated that in his judgment as Chair of the County Board of Adjustment the scope at this hearing was to be limited to a submission by the applicant related to the copies. It is his judgment that the applicant has done so and he would be in favor of the motion as recited by Mr. Hutchinson.

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-1 (Charney, Hutchinson, Johnston "aye"; no "nays"; Crall "abstains"; Dillard "absent") moving to **CONFIRM** the submissions by Applicant related to the paper copies of the site plan shown on the poster boards that were presented at the hearing in Meeting No. 457 on June 19, 2018, along with signed confirmation that the paper copies are identical representations of the exhibits shown on the poster boards that the Board required Applicant to submit as a condition or safeguard to the Board's motion approving the Special Exception in this matter, case no. CBOA-2678; for the following property:

**SE SE SE SEC 10 21 13 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

Mr. Charney stated that the next item on the agenda is a directive from the Court that the Board can determine for the record that the matter being discussed were consistent with the standard of review, which the Board normally applies to such cases. Mr. Charney asked if there was anyone that would like to make a motion to that effect, consistent with the Court's limited mandate to the Board the Chair would entertain such a motion.

On **MOTION** of **HUTCHINSON**, the Board moved to **FIND** that based on the evidence in the Record in Case No. CBOA-2678, including, without limitation the Application, various submittals prior to the Hearing, the Hearing that took place in Meeting no. 457 on June 19, 2018 along with the submittals and deliberations during the Hearing, the minutes of the Hearing and related transcript, and the written confirmation submitted by the Applicant at this special hearing, we find that 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:

**SE SE SE SEC 10 21 13 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

Before the vote was taken, **Gregory Reilly** stood and asked to be recognized. Mr. Reilly stated that due process requires that if there is notice and opportunity to be heard at a special hearing that the people affected by that be given the opportunity to be heard on this motion.

Mr. Charney appreciated the comments given by Counsel for the appellant, normally, he couldn't agree more and he thinks the Board has a long history of wanting everyone to speak as much and as vehemently as they wish. Mr. Charney stated that it is his understanding, upon advice of Counsel, that the Board has a very limited scope and that the Court remanded this Board today for two very narrow issues. It is his understanding that those were the only two matters that the Board were to take, and there was to be no hearing, no testimony to be taken, no additional hearing to be incurred regards to the merits of the case or aspect at all, other than the two narrow matters that he understands the Court directed the Board to review upon remand. That is consistent on advice of Counsel. Mr. Charney asked Mr. Nolan Fields, Legal Counsel for the County Board of Adjustment, if that was the directive as he read it.

**Nolan Fields** stood and stated this directive is based on a Journal Entry that was joint between the parties and the Court signed off on. In commensurate, the narrow scope that the parties effectively crafted the Journal Entry and the Judge remanded it back for, and this is exactly what the Judge was asking for and it is being delivered.

**Gregory Reilly** stood and contested that. He thinks the word of the Court and the Journal Entry that was entered that this matter was to be set for a special hearing with notice and all other procedural requirements that are required with respect to a special public hearing.

**Nolan Fields** stated that in response there is no open meeting requirement for public comment at an open meeting. Commensurate with the Court's order and with the rules and procedures, it is the Chair's prerogative how this Board conducts such open meetings and hearings. Commensurate with the order from the Court, he believes the Board is proceeding correctly in that the Board is either approving or not approving the findings that the Court laid out for them to review.

**Gregory Reilly** addressed the Chairman, he thinks there is a conflict of interest issue that needs to be addressed that has not been addressed at the outset with respect to his development in a location that is approximately two miles from the site of the proposed daycare. Mr. Reilly thinks that in 2016 the Chair gave an eloquent elaboration of what his standard was with respect to conflicts of interest and an appearance of impropriety, and what a reasonable person believes if there is a conflict. Mr. Reilly believes there is a conflict and he believes there is an appearance of impropriety in Mr. Charney presiding over this matter; there probably was at the time the original hearing took place and he would like to raise that issue.

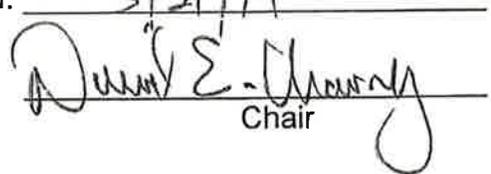
Mr. Charney stated that he appreciates Mr. Reilly raising the issue for the record and for God and country to hear. He respects Mr. Reilly's duty for the need to do that. Mr. Charney stated that on advice on Counsel that this was remanded back to the Board for two very narrow issues. Mr. Charney stated that if he is wrong he would very much appreciate a Judge, and he is not acting in that capacity, this Board of four volunteers who are doing their very best to try and understand what the Judge directed the Board to do and his reading of that as the Chair, and the Counsel for this Board concurs in that reading, is that the Board is here for two very narrow matters. That is what was posted on the agenda. There were no matters on the agenda regarding the matters that have been brought up by Mr. Reilly. Mr. Charney does not believe he has the power to delve into those today, or that the Board has the power. He could be wrong but he does not think he is wrong. If he is wrong, he welcomes a Judge to send this back to the Board again and the Board will come back for another special meeting. Mr. Charney believes in people having full, complete and fair hearings. The Board tries to very narrowly determine, very narrowly address, what it believes the Court remanded. Mr. Charney appreciates the need to make the record and to state the things that have been stated, but he disagrees vehemently that there was any conflict of interest or that there was even a remote appearance. Based upon advice of Counsel, and what the Board believes was fairly addressed some time ago, he will honor the motion that is on the floor and that motion will be voted on.

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-1 (Charney, Hutchinson, Johnston "aye"; no "nays"; Crall "abstains"; Dillard "absent") moving to **FIND** that based on the evidence in the Record in Case No. CBOA-2678, including, without limitation the Application, various submittals prior to the Hearing, the Hearing that took place in Meeting no. 457 on June 19, 2018 along with the submittals and deliberations during the Hearing, the minutes of the Hearing and related transcript, and the written confirmation submitted by the Applicant at this special hearing, we find that 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:

**SE SE SE SEC 10 21 13 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

There being no further business, the meeting adjourned at 1:44 p.m.

Date approved: \_\_\_\_\_

5/21/19  
  
Chair

that would be working on Fridays and Saturdays, depending on the week. The counseling services is equine and animal assisted therapy; i.e., horses, dogs, goats, etc. Ms. Brown stated that she has spoken to two people that are north of the subject property and they have no objections to her request.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the request for a Use Variance to allow for an office use (Use Unit 11) to permit a counseling service in an AG District (Section 310) with a maximum of three counselors to operate on site at one time; for the following property:

**TR BEG 25S & 7W NEC SW NE TH W30 S103 E7 S862 W1289.13 S326.93 E1318.72 N1228.84 W7 N63 POB SEC 9 21 13 10.570ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

\*\*\*\*\*

**NEW APPLICATIONS**

**2678—Shane Edmondson**

**Action Requested:**

Special Exception to allow a Community Services & Similar Uses (Use Unit 5) in an AG District (Section 310) to permit a child nursery/child development center; Variance of the all-weather surface material requirement for parking (Section 1340.D). **LOCATION:** 6491 East 106<sup>th</sup> Street North

**Presentation:**

**Shane Edmondson**, 2910 East 88<sup>th</sup> Street South, Tulsa, OK; stated the subject site is located on the Northwest corner of 106<sup>th</sup> Street North and North Sheridan Road. Mr. Edmondson deferred his presentation.

**Dominique Lewis**, 13374 East 134<sup>th</sup> Street North, Collinsville, OK; stated she is the site director of the Delaware Child Development Center in Claremore. The facility is a full nurturing center. They teach the children to interact with nature. They will also serve freshly made from scratch food to the children.

CBOA-2678  
cont.

**Kelsey** , 1879 South Armstrong, Bartlesville, OK; stated she is the Director of Education and Training in Bartlesville. The Delaware Tribe has three campuses; Claremore, Owasso, and the main campus is located in Bartlesville. The facility believes in a natural environment for the children, so the structures are made of wood and there are agricultural animals for interaction, i.e., cows.

**Tina McClintic**, 419 South Moore, Dewey, OK; stated she is the Site Director in Bartlesville. The facility believes in a natural environment for the children. The proposed facility will have double fencing; a natural wood fence around the perimeter of the property with another natural wood fence around the play area. The facility is funded by the Head Start program and the Delaware Tribe. The hours of operation will be 7:00 A.M. to 6:00 P.M. The peak times for drop off and pick up are from 7:30 A.M. to 8:30 A.M. and 4:00 P.M. to 5:00 P.M. The proposed site will be built in two phases. The first phase will be for one building, and the second phase will be for a 1,000 square foot storm cellar.

**Shane Edmondson** came forward and stated the building setback will be a minimum of 50 feet from the street. There will be a one-way loop drive that will be at least 350 feet from the intersection for drop off and pick up. The drop off times for the children are staggered so there should be no traffic back up. The outside deliveries, i.e., food, will be made by small trucks two or three times a month. The building will be on an aerobic system. Grounds lighting and parking lot lighting will be the minimum allowed by the Code requirements thus not causing excessive light pollution.

**Interested Parties:**

**Tracy Pipkin**, 7211 East 106<sup>th</sup> Street North, Owasso, OK; stated he lives 1/2 mile east of the subject property. He thinks this project could be a good fit for the corner and for the area, but he does have concerns about traffic. On March 15, 2016 the Board denied a rodeo going in. On October 18, 2016 the Board denied an RV park going in. On March 6, 2017 the road was closed for repairs and it did not last; Mr. Pipkin showed pictures of poor road conditions in the area. The road is in need of repair again and that still has not been addressed. Mr. Pipkin stated that he has heard that 116<sup>th</sup> Street North and 86<sup>th</sup> Street North are to be widened and if that does happen the traffic will use 106<sup>th</sup> Street North to get to Owasso. If the widening project does happen it will only increase the traffic and cause major traffic concerns for this dangerous intersection.

**Carl McCarty**, 10535 North Sheridan Road, Sperry, OK; stated he is opposed to this request. Mr. McCarty stated that 106<sup>th</sup> Street North will not support any more traffic because it is the route the emergency services use to get to both hospitals in Owasso and it causes traffic jams. Mr. McCarty stated he is also concerned about property values decreasing if this request is approved.

**Bruce Hoover**, 10322 North Sheridan Road, Sperry, OK; stated he is opposed to this request. Mr. Hoover believes this proposal is not a good use for the property. Mr. Hoover stated that he too has major concerns about traffic, especially an increase in the traffic.

CBOA-2678  
cont.

**Charles Edwards**, 5911 East 106<sup>th</sup> Street North, Sperry, OK; stated he is opposed to this request. Mr. Edwards stated that he has concerns about fire and police protection in the area. There are thefts in the area and people are locking everything down and locking everything up because thievery has become rampant in the area, to the point that he had old metal piping stolen from his yard that was from a plumbing remodel in his house. Mr. Edwards stated that he is also concerned about the decrease in property values if this is allowed to go in.

**Debbie King**, 6804 East 106<sup>th</sup> Street North, Sperry, OK; stated her family has owned their land for over 80 years, and she has seen a lot of things happen in the area. Ms. King stated that she has serious concerns about traffic at that corner because it is very dangerous. People speed on the road, run the stop sign, and there have been serious wrecks. Ms. King believes that a commercial business and it is not the same as living in the country. Ms. King does not think this is a safe corner for children and she does not think it is a good fit for the area.

**Ken Heabardin**, 6250 East 106<sup>th</sup> Street North, Sperry, OK; stated the subject property is zoned as AG land and it is not intended to be for commercial use. Mr. Heabardin stated that he too has traffic concerns, because the road is not designed to handle large amounts of traffic and it is a dangerous corner.

**Shawn Penn**, 6410 East 106<sup>th</sup> Street North, Sperry, OK; stated this request is not a good fit for the neighborhood. He believes that property values will go down if this is allowed to be built. He also had concerns about the wildlife in the area because this proposal will be a danger to the area wildlife. Mr. Penn asked what will happen to his rights to hunt on his land if this center is allowed to be built and asked about his right to burn his trash on his land. Mr. Penn stated he is concerned about losing his personal rights if this center is allowed to go in.

**Mary Odom**, 10914 North Sheridan Road, Sperry, OK; stated she lives 1 ¼ mile North of the subject corner and has lived there over 40 years. During that time she thinks Sheridan Road has been resurfaced three times, and 106<sup>th</sup> Street has been resurfaced maybe once so the traffic concerns expressed are valid concerns. Ms. Odom stated that the picture she saw had 35 designated parking spaces so there must be a lot more people coming and going than what has been presented. Ms. Odom believes if this is approved this will open the door to more retail in the area and it would disrupt a style of living everyone is accustomed to.

**Les Riker**, 11051 North Sheridan Road, Sperry, OK; stated that he lives ½ mile north of the subject corner. Mr. Riker stated he has traffic concerns and light pollution concerns. There are many thefts in the area, so the center will eventually light up the grounds to deter theft. Mr. Riker stated if this request is approved it will be a stepping stone to other commercial businesses going in.

CB01A-2678  
cont.

**Jennifer Cyiza**, 398449 West 4000 Road, Ramona, OK; stated she lives on 50 acres and she uses Delaware Child Development Center in Bartlesville. There is research the shows that it is important for children to have spaces where they can explore and open play. The people who will use the child care center are people that live in the area and they are already using the streets. The center is not a commercial property; the center has utilized small animals and have bought in that area, so they can bring that environment more to families. Ms. Cyiza stated that it is important that children learn how to deal with and live with wildlife from the country setting. It is important that our children cherish the Oklahoma Prairie and that is what the center is trying to teach. Ms. Cyiza stated that a commercial business will be paying taxes and will help the infrastructure. This is an added value to the community because educational facilities make property values go up not down.

Mr. Charney reminded the audience that it is the Board's responsibility to focus on land usage. He understands where the public is coming from, but he wants them to understand that the Code demands that the Board focuses upon the existing zoning and what the new use will actually be on the subject property.

**Rebuttal:**

**Shane Edmondson** came forward and stated that by Code this use is not prohibited, but as a Special Exception each request is to be taken case by case as long as it fits within agricultural and fits in with the spirit of the Code. Mr. Edmondson stated that traffic concerns are valid concerns, and he has already been asked to see what the ability is to do the infrastructure improvement. Studies show that home values do increase with educational facilities in place. This is a non-profit organization solely for the use of children, so it is not a QuikTrip. The building is not on the corner, it is set back. There are two hospitals within three miles and there will be an emergency plan in place. All personnel will have to go through training to understand what the emergency procedures are if something does happen. Safety is the number one concern at the center. The property is rural but it is very close to a hospital so that is one of the reasons it was chosen. The center will need to meet Code to receive a permit to build, so engineering will be required, and water studies will be done. The wildlife will be disturbed, and they will move out. The property will be cleaned up and will be landscaped, and there will always be animals there. Mr. Edmondson stated that it would be dangerous to have a set up that could not handle the car flow, so studies have been done on the two existing facilities and that is how the flow was determined, and the parking spaces are by Code. Occupancy requires all the parking spaces that the facility may not need. Mr. Edmondson stated there is a need for this facility because there is a lack of child care in the area.

Mr. Dillard asked Mr. Edmondson who currently owns the subject property. Mr. Edmondson stated the Delaware Child Development Center owns the property. Mr. Dillard asked Mr. Edmondson if he had stated previously that the facility is a 501-C3. Mr. Edmondson answered affirmatively.

CPBA-2678  
cont.

**Carl McCarty** came forward and stated that the traffic has become a nightmare in the area so much so that he has to back into his driveway, so he can see the traffic when leaving his property.

Mr. Charney asked Mr. Edmondson why he sought a Variance on the hard surface requirement for parking. Mr. Edmondson stated the Variance was filed with the assistance of the INCOG staff. Ms. Ulmer stated there is overflow parking designated on the site plan that did not have all-weather surface parking, so the Variance request does not cover the entire parking, only the overflow parking.

**Comments and Questions:**

Mr. Johnston stated that he was undecided. This area is a corner lot and one day that corner will be something. This particular use it is close to residential and it will maintain the natural amenities for the neighborhood. Traffic is traffic.

Mr. Hutchinson stated that he can support the request. This is a ten-acre tract on a hard corner. In the Comprehensive Plan almost every hard corner is commercial, and this is the most less intrusive application that can go on the subject corner. This is a main thoroughfare, and the worst part about this is being the first application for the area regarding development.

Mr. Charney stated that he has lived in the Owasso area his entire life and cares immensely for the entire community. Virtually every corner within the Comprehensive Plan shows every corner as having a potential commercial use. Traveling eastward, outside the current city limit of Owasso, the overall Comprehensive Plan has gone almost to the Port and the corner have future commercial concepts designated. It is the planning norm, that the arterial streets will have some day some sort of commercial use. The concerns can be lumped into two categories. One is changing the more rural agricultural nature of the area, and the other is significant traffic concerns. Regarding traffic, there has been a lot of good occur with a new user that has significant capacity, and there are means by which to get that addressed.

Mr. Dillard stated when monetary values are looked at regarding property that is a supposition. Property values increase when there is an educational opportunity in the area, and that has been seen over and over. This will improve the area, but it will not improve the tax base. When people start using the facility it may cause the County Commissioners to study the intersection to make it better for the traffic, because there are medical facilities close by too.

**Board Action:**

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the request for a **Special Exception** to allow a Community Services & Similar Uses (Use Unit 5) in an AG District (Section 310) to permit a child nursery/child development center, subject to the site plan as submitted at today's meeting; for the following property:

CB21A-2678  
cont.

**SE SE SE SEC 10 21 13 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the request for a Variance of the all-weather surface material requirement for parking (Section 1340.D). The required parking spaces per Code will have hard surfaces, and the overflow parking spaces only will not be required to have hard surfaces; for the following property:

**SE SE SE SEC 10 21 13 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**

**2679—Jason Jacobs**

**Action Requested:**

Special Exception to permit a firework stand (Use Unit 2) in an CS District (Section 710); Special Exception to permit an automobile sales and service use (Use Unit 17) in a CS District (Section 710). **LOCATION:** 2404 South 265<sup>th</sup> West Avenue

**Presentation:**

**Sherry Jacobs**, 5050 E. Lee Terrace, Sand Springs, OK; stated she has owned the convenience store business since 1999. She would like to convert the area adjacent to the store into the automobile sales lot and place the firework stand on the side of the building.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **CHARNEY**, to **APPROVE** the request for a Special Exception to permit a firework stand (Use Unit 2) in an CS District (Section 710); Special Exception to permit an automobile sales and service use (Use Unit 17) in a CS District (Section 710), subject to a five-year time limit, June 19, 2023; for the following property:

**PRT SW NE BEG 491.05N SWC NE TH N631.92 NELY435.36 SWLY338.99  
SW255.71 SWLY214.45 POB SEC 18 19 10 3.70ACS, OF TULSA COUNTY, STATE  
OF OKLAHOMA**

207), given the existence of the easement and the house is set back substantially off the publicly dedicated right-of-way; for the following property:

~~N/2 W/2 SE SW SEC 26 17 14 10ACS, OF TULSA COUNTY, STATE OF OKLAHOMA~~

Mr. Charney recused himself from Agenda Items #7, #8 and #9 at 3:09 P.M. and left the meeting.

**2568—Jode Lingle**

FILE COPY

**Action Requested:**

Variance of the minimum lot area from 2 acres to 1.81 acres in the AG District (Section 330, Table 3); Variance of the minimum land area per dwelling unit (Section 330, Table 3) to permit a lot split. **LOCATION:** 6410 East 106<sup>th</sup> Street North, Owasso

**Presentation:**

**Jode Lingle**, 13643 South Highway 170 West, West Fork, AR; stated he wants to divide the property which is 3.8 acres and that is slightly smaller than the required 4 acres required for a lot split. There are two existing houses on the property and if he is able to divide the land each house will have their own lot.

**Interested Parties:**

**Debbie King**, 4105 East 96<sup>th</sup> Street North, Sperry, OK; asked if Mr. Lingle is allowed to split his property will it apply to the whole area or will it be just for his property. Mr. Hutchinson stated that this request will only apply to Mr. Lingle's property.

**Comments and Questions:**

None.

**Board Action:**

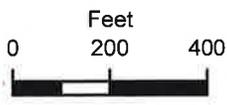
On **MOTION** of **JOHNSTON**, the Board voted 3-0-0 (Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney, Crall "absent") to **APPROVE** the request for a Variance of the minimum lot area from 2 acres to 1.81 acres in the AG District (Section 330, Table 3); Variance of the minimum land area per dwelling unit (Section 330, Table 3) to permit a lot split. The hardship is that there are houses that exist on the property and will not cause a detriment to the area; for the following property:

**PRT NE NE NE BEG NEC THEREOF TH S370 W460 N370 E460 POB SEC 15 21 13 3.907ACS, OF TULSA COUNTY, STATE OF OKLAHOMA**



E 106th ST N

N SHERIDAN RD



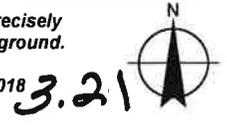
 Subject Tract

**CBOA-2805**

21-13 15

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

Aerial Photo Date: February 2018





**E 106th ST N**



*Subject Tract*

**CBOA-2805**

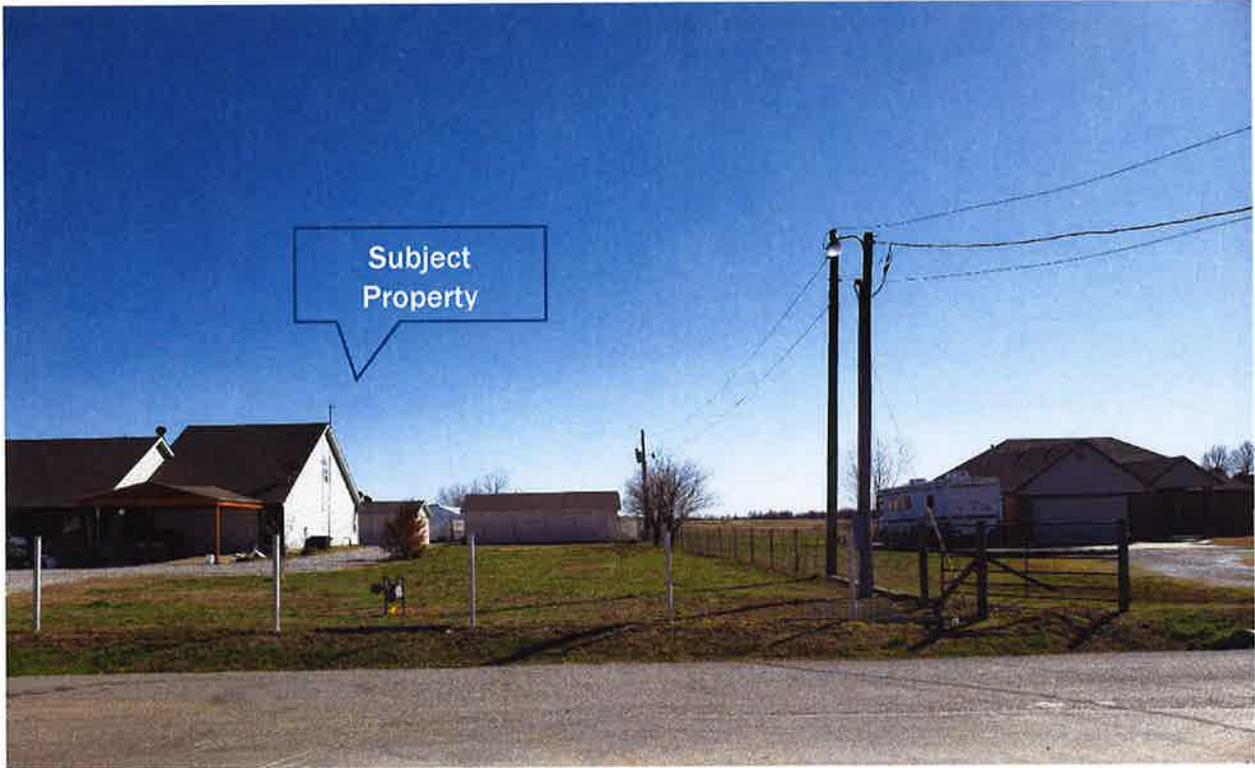
21-13 15

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

*Aerial Photo Date: February 2018*



**3.22**



*Looking south across E. 106<sup>th</sup> Street North*



*Looking southeast from E. 106th St. N.*



*Looking west from E. 106<sup>th</sup> St. N.*



*Looking at childcare facility north of subject property across E. 106<sup>th</sup> St. N.*

**Jones, Robi**

---

**To:** Kyle Gibson  
**Subject:** RE: Hardship

**From:** Kyle Gibson <kyle@aligndesigngroup.com>  
**Sent:** Monday, February 3, 2020 9:30 AM  
**To:** Jones, Robi <rjones@incog.org>  
**Subject:** Hardship

Robi,

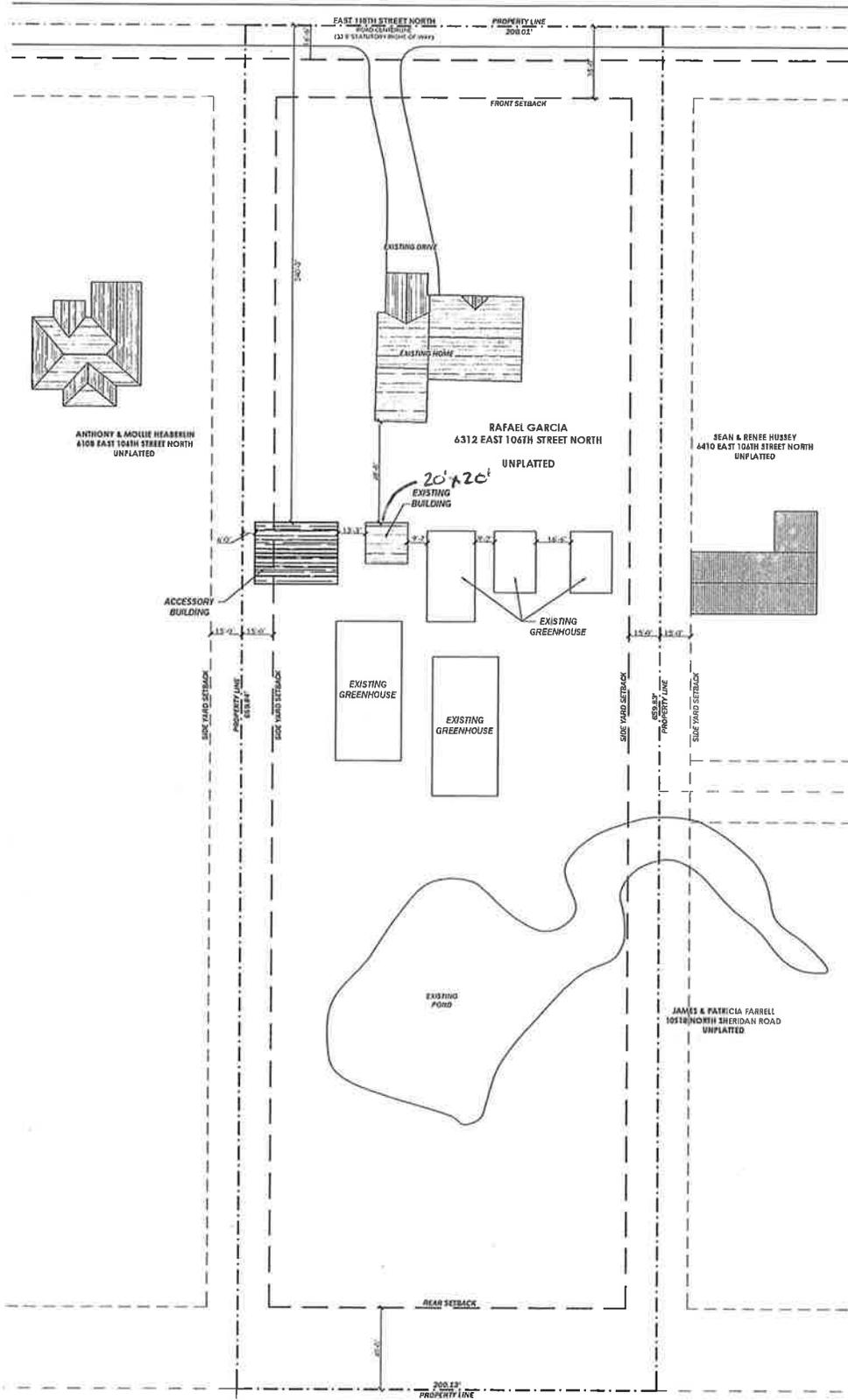
CBOA-2805 attached you will find the Site Plan for CBOA - 2805.

The hardship is:

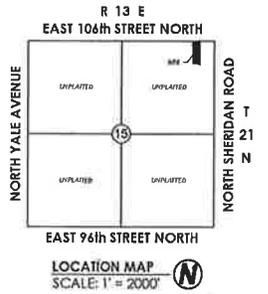
Existing greenhouses and agriculture sites dictate building being located near west lot line as to not prohibit agriculture production. Canada Goose nesting grounds near pond in the middle of lot also dictate current location of building.

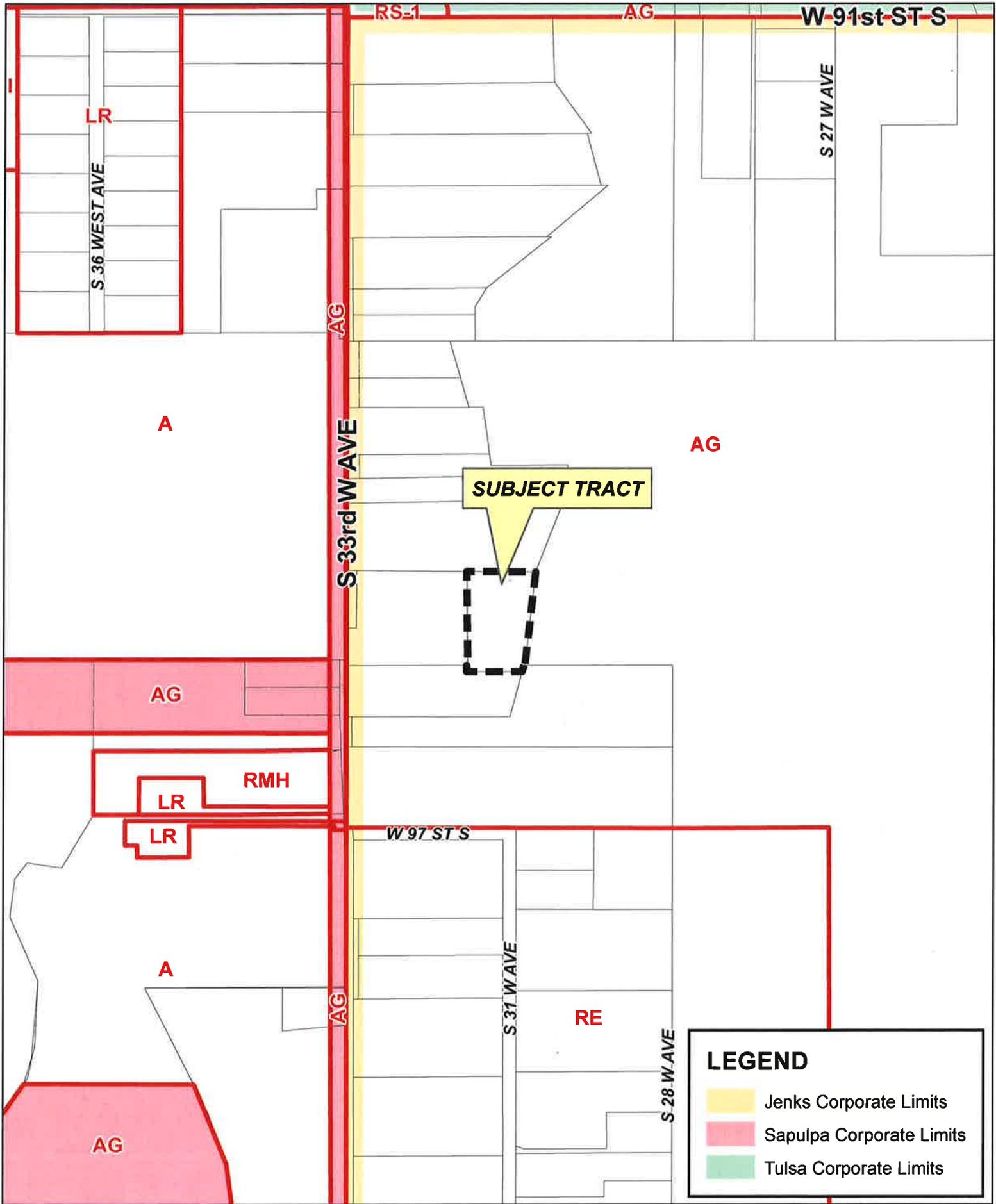
--

**Kyle Gibson**  
*Jurisdictional Coordinator*  
[kyle@aligndesigngroup.com](mailto:kyle@aligndesigngroup.com)  
P. 918-629-4694



SCALE: 1" = 30'





**SUBJECT TRACT**

**LEGEND**

- Jenks Corporate Limits
- Sapulpa Corporate Limits
- Tulsa Corporate Limits



**CBOA-2806**

4.1



**TULSA COUNTY BOARD OF ADJUSTMENT  
CASE REPORT**

**TRS:** 8222

**CZM:** 55

**CASE NUMBER: CBOA-2806**

**CASE REPORT PREPARED BY:** Robi Jones

**HEARING DATE:** 03/17/2020 1:30 PM

**APPLICANT:** Nicholas Brown

**ACTION REQUESTED:** 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:** 9525 S 33 AV W

**ZONED:** AG

**FENCELINE:** Jenks

**PRESENT USE:** Vacant

**TRACT SIZE:** 2.42 acres

**LEGAL DESCRIPTION:** BEG 485E SWC NW TH N388.71 E275 SWLY CL NICKEL CREEK 180 SWLY 210.43 SW26.1 W227.62 TO POB SEC 22 18 12 2.425ACS,

**RELEVANT PREVIOUS ACTIONS:** None relevant

**ANALYSIS OF SURROUNDING AREA:** The subject tract is surrounded by AG zoning in all directions. There are residential uses to the west, south, and southeast. The remaining properties appear to be agricultural uses and are located within the 100-year floodplain.

**STAFF COMMENTS:**

The applicant is before the Board requesting a Variance of the minimum frontage requirement on a public street or dedicated right-of-way from 30 ft to 0 ft to permit a single-wide mobile home on the subject lot. The applicant provided the following statement: *"I am requesting this variance because I plan to park a single-wide mobile home on the property and was told by Tulsa County that the building permit to park the home could not be approved without a variance. The property is landlocked and there is no street frontage. While the property to the west has a granted easement for ingress and egress to the property in question, the zoning code requires the variance before a building permit can be issued."*

The submitted site plan indicates that the subject lot has access through an easement located on the parcel to the west which abuts South 33<sup>rd</sup> West 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 a General Warranty Deed that describes a twenty-five (25) foot roadway easement for ingress and egress to the subject property.

The single-wide mobile home is permitted by right in the AG district and it meets all the bulk and area requirements. It appears that the placement of the mobile home will not be in the 100-year floodplain.

4.2

The Tulsa County Comprehensive Plan, as well as the Jenks Comprehensive Plan, describe the Land Use Plan as Low Intensity and Development Sensitive. Low Intensity areas are described as those areas with four or fewer residences per acre. Development Sensitive are described as those areas in which the property is subject to flooding as determined by the Flood Insurance Administration. In this case, the placement of the proposed mobile home does not appear to be in the Development Sensitive area of the property. See the attached Land Use Plan.

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.

**Sample Motion:**

*"Move to \_\_\_\_\_ (approve/deny) a Variance to reduce the required 30 feet of frontage on a public road or dedicated right-of-way from 30 feet 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."*



W 91st ST S

S 36 WEST AVE

S 27 W AVE

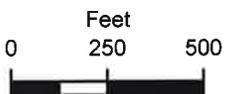
S 33rd W AVE



W 97 ST S

S 31 W AVE

S 28 W AVE



Subject Tract

**CBOA-2806**

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

18-12 22

Aerial Photo Date: February 2018 4.4





 Subject Tract

**CBOA-2806**

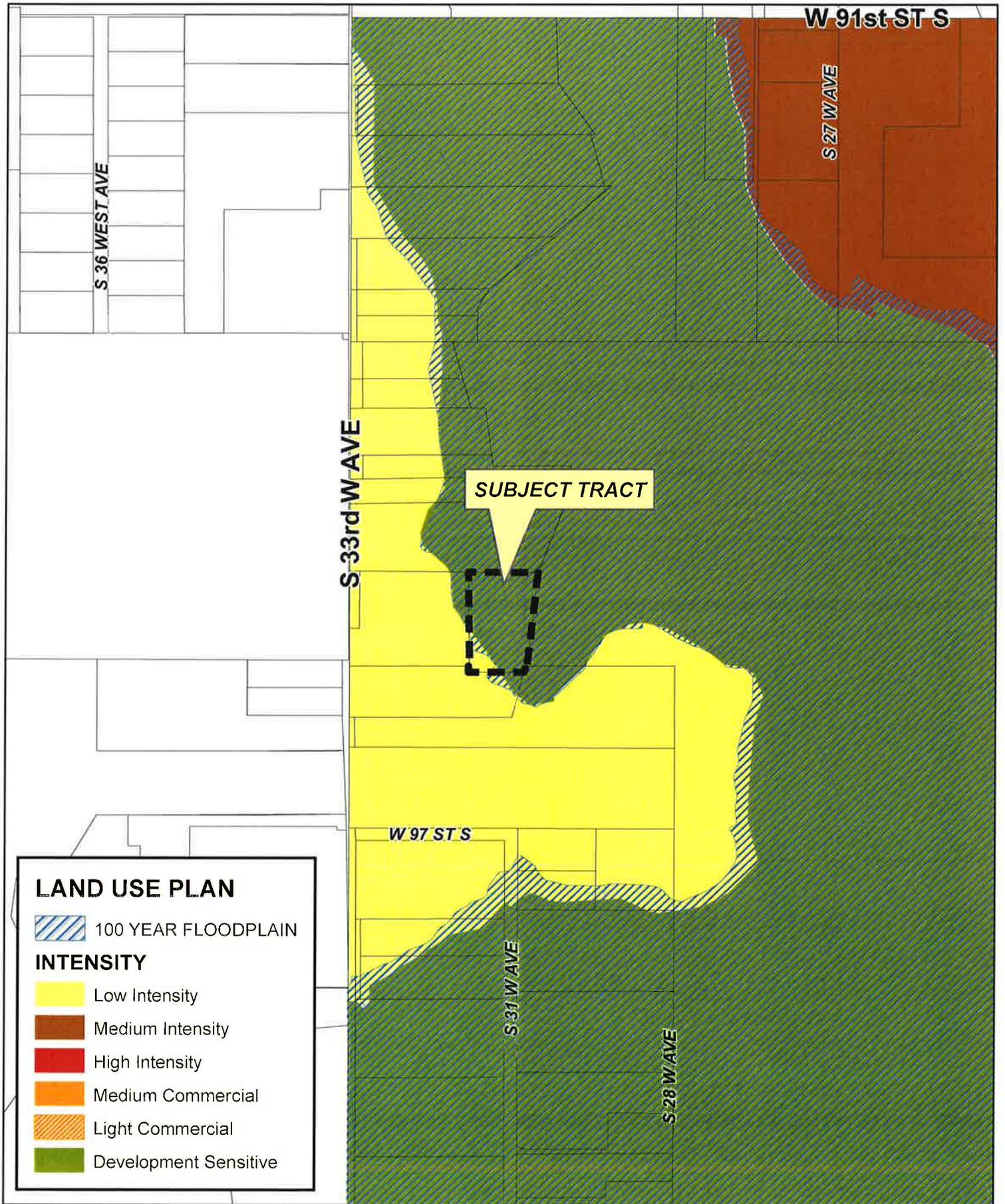
18-12 22

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

Aerial Photo Date: February 2018

4.5





**LAND USE PLAN**

 100 YEAR FLOODPLAIN

**INTENSITY**

 Low Intensity

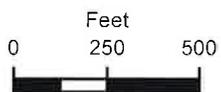
 Medium Intensity

 High Intensity

 Medium Commercial

 Light Commercial

 Development Sensitive



**CBOA-2806**

18-12 22



4.6

**Jones, Robi**

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**From:** Nick Brown <nick.r.brown2002@gmail.com>  
**Sent:** Wednesday, February 12, 2020 8:15 AM  
**To:** Jones, Robi  
**Subject:** Nick Brown Variance Request

Robi,

I am requesting this variance because I plan to park a single-wide mobile home on the property and was told by Tulsa County that the building permit to park the home could not be approved without a variance. The property is landlocked and there is no street frontage. While the property to the west has a granted easement for ingress and egress to the property in question, the zoning code requires the variance before a building permit can be issued.

Thank you,

Nick Brown

**GENERAL WARRANTY DEED**  
(with Survivorship Clause)

THIS INDENTURE, Made this 30th day of October, 1991, between JIMMIE MARIE NEWTON, a single person, party of the first part, and JIMMIE MARIE NEWTON and SUE ANN NEWTON BROWN, party of the second part.

WITNESSETH, That in consideration of the sum of TEN and NO/100 (\$10.00) DOLLARS, the receipt of which is hereby acknowledged, said party of the first part does, by these presents, grant, bargain, sell and convey unto JIMMIE MARIE NEWTON and SUE ANN NEWTON BROWN, the following described real estate, situated in the County of Tulsa, State of Oklahoma, to-wit:

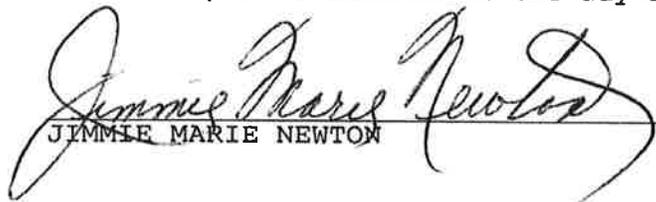
A tract of land located in the West Half of the Northwest Quarter (W/2 NW/4) of Section Twenty-two (22), Township Eighteen (18) North, Range Twelve (12) East, Tulsa County, State of Oklahoma according to the U.S. Government Survey thereof; more particularly described as Beginning at a point twenty-five (25) feet East of the Southwest corner of said West Half of the Northwest Quarter (W/2 NW/4) thence North and parallel to the West line of the West Half of the Northwest Quarter (W/2 NW/4) a distance of 388.71 feet, thence East a distance of 460 feet, thence South a distance 388.71 feet, thence West a distance of 460 feet to the point of beginning; subject to a twenty-five (25) foot roadway easement for ingress and egress located on the South twenty-five (25) feet of the above described property. CONTAINING: 4.10 acres more or less.

TO HAVE AND TO HOLD THE SAME as joint tenants, and not as tenants in common, with fee simple title in the survivor together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining forever.

And said party of the first part, her successors or assigns, do hereby covenant, promise and agree to and with said parties of the second part at the delivery of these presents they are lawfully seized in their own right of an absolute and indefeasible estate of inheritance in fee simple, of and in all singular the above granted and described premises, with the appurtenances; that the same are free, clear and discharged and unencumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments and encumbrances, of whatsoever nature and kind. EXCEPT: Easements and building restrictions of record and special assessments not yet due;

and that party grantor will WARRANT and FOREVER DEFEND the same unto said parties of the second part, their heirs, executors, or administrators, against said parties of the first part, their successors or assigns, and all and every person or persons whomsoever, lawfully claiming or to claim the same.

IN WITNESS WHEREOF, the said party of the first part hereto have executed or caused to be executed, this instrument the day and ear first above written.

  
JIMMIE MARIE NEWTON

1000

9519 S 33rd Ave Tulsa 74107

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF TULSA )

Before me, the undersigned Notary Public, in and for said County and State, on this 30 day of October, 1991, personally appeared JIMMIE MARIE NEWTON to me known to be the identical person who subscribed her name to the foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

*Betsy K. Kaufman*  
Notary Public

My commission expires:  
*October 30, 1994*



STATE OF OKLAHOMA  
TULSA COUNTY  
RECORDED  
91 NOV 12 AM 8:35  
JOAN HASTINGS  
TULSA COUNTY CLERK

OKLAHOMA  
TULSA COUNTY  
CLERK  
4.9

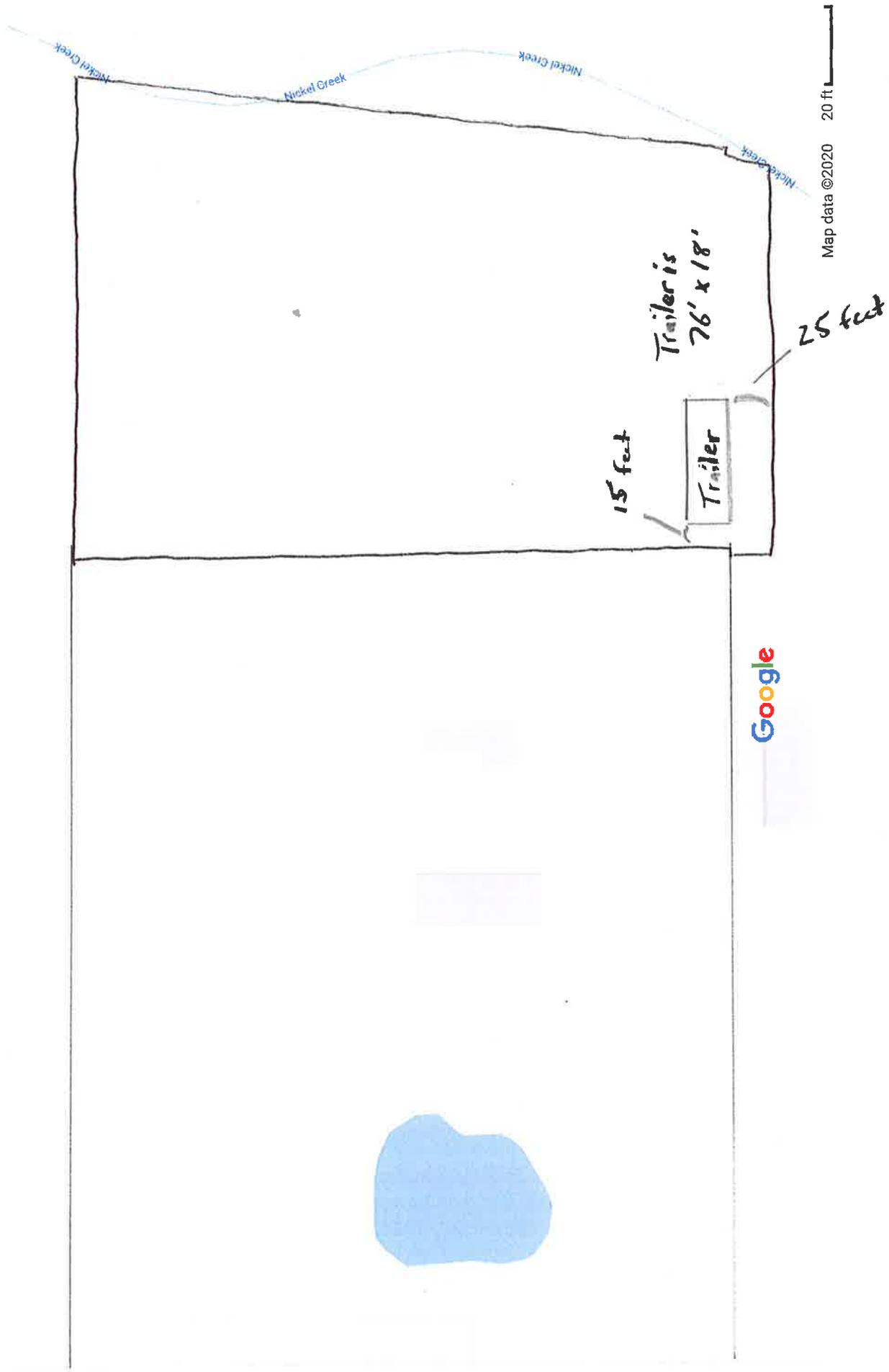
Ave

S 33rd W Ave

S 33rd W Ave

S 33rd W Ave

S 33rd W Ave



Map data ©2020

20 ft