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

Meeting No. 484

The Tulsa County Board of Adjustment will be held in the St. Francis Room in Williams Tower I and by videoconferencing and teleconferencing.

Board of Adjustment members and members of the public may attend the meeting in the St. Francis Room but are encouraged to attend and participate in the Board of Adjustment meeting via videoconferencing and teleconferencing by joining from a computer, tablet or smartphone.

Attend in Person: Williams Tower I, St. Francis Room, 1st Floor
1 W. 3rd St., Tulsa, Oklahoma

Attend Virtually: https://us02web.zoom.us/j/81098765107

Attend by Phone: 1-312-626-6799 Meeting ID: 810 9876 5107

Additional Directions: During the meeting, if you are participating through ZOOM and wish to speak on an item, please send your name and the case number via the ZOOM chat. If you are dialing in on a phone, wait for the item to be called and speak up when the Chair asks for any interested parties.

The following County Board of Adjustment members plan to attend remotely via ZOOM, provided that they may still be permitted to appear and attend at the meeting site, St. Francis Room, Williams Tower I, 1 West 3rd Street, Tulsa Oklahoma: David Charney, Don Hutchinson, Don Crall, Gene Dillard, Larry Johnston

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CONSIDER, DISCUSS AND/OR TAKE ACTION ON:

1. Approval of **Minutes** of June 16, 2020 (Meeting No. 483).

UNFINISHED BUSINESS

2. **2822—Leah Harris**
Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Residential District (Section 1203); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 11616 East 191st Street South

3. **2821—Holliday Sand and Gravel Company, Inc.**
Special Exception to permit Use Unit 24, Mining and Mineral Processing (Section 1224), in an AG District (Section 310, Table 1). **LOCATION:** SW of East 141st Street South & South 193rd Avenue East

NEW APPLICATIONS

4. **2823—Ken Binkley**
Special Exception to permit fireworks stand (Use Unit 2) in an AG District; Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 9805 East 161st Street South, Bixby

5. **2824—Richard Read**
Variance to permit a detached accessory building to exceed 750 square feet in an RS District (Section 240.2-E). **LOCATION:** 518 North 72nd West Avenue

6. **2825—Ashley West – Freedom Homes by William Long**
Special Exception to permit a manufactured home in an RS District (Section 410); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 909 West 6th Street South, Sand Springs

7. **2826—Roxanne Burch**
Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a CH District (Section 1203). **LOCATION:** 6155 North Peoria Avenue

8. **2827—Malinda Beene**
Variance to reduce the lot and land area per dwelling unit in an AG district to allow two dwelling units on one lot of record (Section 330 Table 3); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 4219 South 225th West Avenue

9. **2828—Phoenix Industrial – Debra Agee**
Use Variance to allow Use Unit 25, Light Manufacturing Industry, in an AG District (Section 1225); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 18340 South 75 Highway West

10. **2829—Charles Stewart**
Use Variance to allow a machine shop (Use Unit 25 - Light Manufacturing Industry) in an RS District; Variance of the allowable square footage for accessory buildings

in aggregate in an RS District (Section 240.2.E). **LOCATION:** 712 North Willow Road West

11. **2830—Jay Howard**
    Variance of the minimum lot and land area per dwelling unit in an AG District to permit a lot split (Section 330, Table 3). **LOCATION:** 4327 West 26th Street

12. **2831—Kenneth Johnson**
    Use Variance to allow Use Unit 25, Light Manufacturing Industry, in an AG District (Section 1225). **LOCATION:** 7703 West 7th Street South

OTHER BUSINESS

NEW BUSINESS

BOARD MEMBER COMMENTS

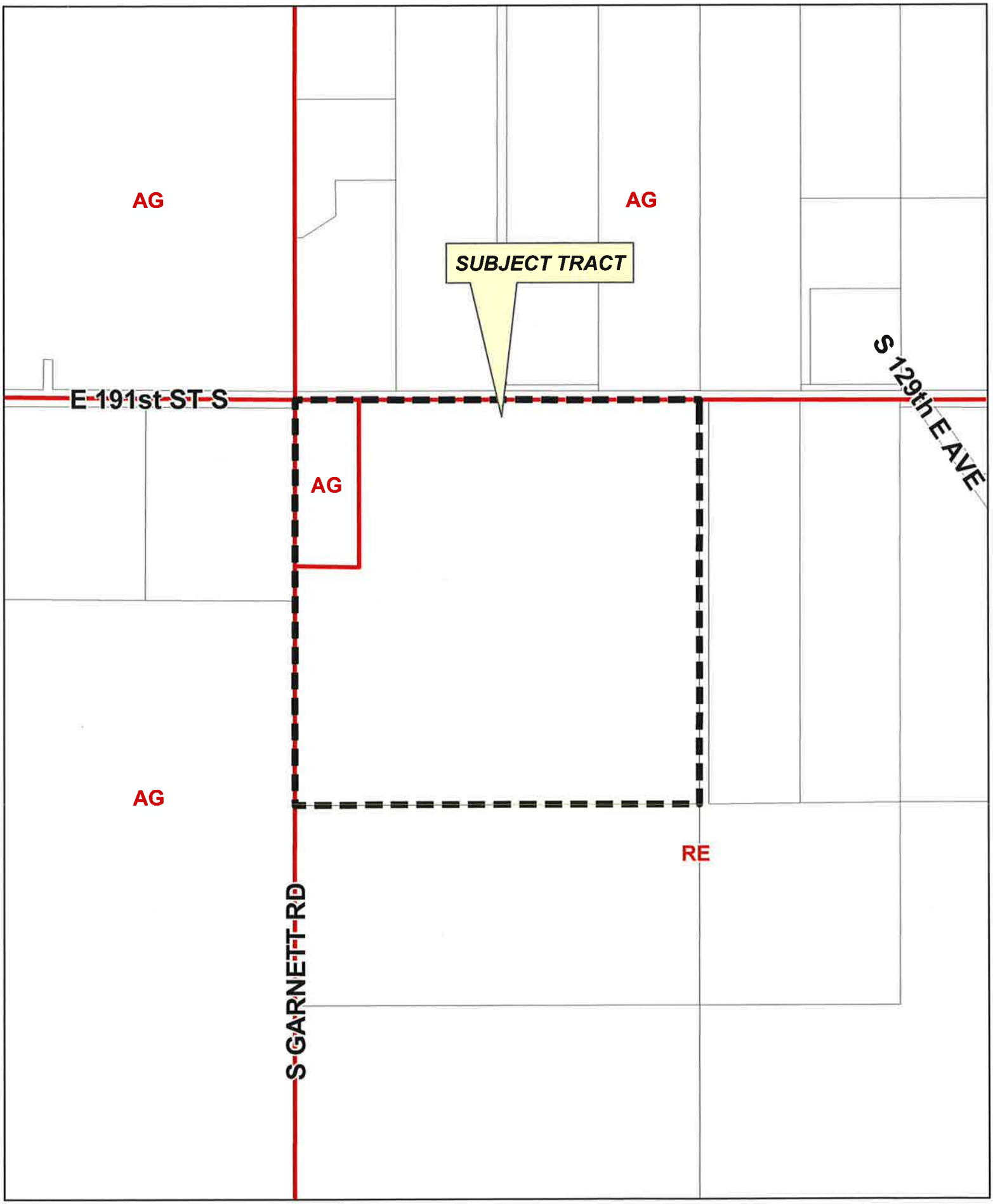
ADJOURNMENT

Website: 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. *All electronic devices must be silenced* 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-2822

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TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 6408
CZM: 73

CASE NUMBER: CBOA-2822
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Leah Harris

ACTION REQUESTED: Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Residential District (Section 1203) and a Variance from the all-weather parking surface requirement (Section 1340.D).

LOCATION: 11616 E 191 ST S

ZONED: AG, RE

FENCELINE: Bixby

PRESENT USE: Agricultural

TRACT SIZE: 40 acres

LEGAL DESCRIPTION: NW NW SEC 8 16 14 40ACS,

RELEVANT PREVIOUS ACTIONS:

Subject Property:

CBOA-466 July 1984: The Board **approved** a *Special Exception* to allow oil and gas wells in a RE zoned district, per conditions, located at the southeast corner of East 191st Street South and Garnett Road, the subject tract.

CZ-80 July 1983: All concurred in **approval** of a request for *rezoning* a 160± acre tract of land from AG to RE on property located at the southeast corner of 191st Street South and South Garnett Road from AG to RE. All concurred in **approval** of the requested RE zoning, less and except the property containing a cemetery in the northwest corner of the subject tract.

Surrounding Property:

CBOA-2615 January 2017: The Board **denied** the request for a *Variance* to allow two dwellings on one lot of record and a *Special Exception* to permit a manufactured home in the RE District, on property located at 11790 East 191st Street South, Bixby.

ANALYSIS OF SURROUNDING AREA: The subject tract is located in a rural area with AG zoning to the west and north. It abuts RE zoning to the east and south. A portion of the subject property is zoned AG and is the site of a cemetery. Surrounding uses appear to be agricultural or vacant with a smattering of residential.

NEW STAFF COMMENTS:

On 06/16/2020, the case was continued by the Board because time restraints did not allow the applicant time to present the case.

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ORIGINAL 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 1203) and a Variance from the all-weather parking surface requirement (Section 1340.D).

A Use Variance is required as Agriculture is not a use permitted in an RE 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: *"We were told that the land we purchased with the intention of agriculture was already zoned as agriculture, however, it is not. We have a business in agriculture and need it zoned appropriately."*

According to the submitted site plan, the applicant has two 9,975 sq. ft. buildings and will construct another 2,500 sq. ft. building. It is unclear if all buildings will be used for a horticulture nursery. The total aggregate square footage is 22,450 sq. ft.

The applicant proposes an unpaved (gravel) parking lot. 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).

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 1203); Variance from the all-weather parking surface requirement (Section 1340.D).

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."

UNFINISHED BUSINESS:

Case No. 466

Action Requested:

Special Exception - Section 410 (a) - Principal Uses Permitted in a Residential District - Use Unit 1224 - Request for an exception to permit oil and gas extraction in an RE district under the provisions of Section 1680, located at the SE corner of 191st Street South and Garnett Road.

Comments:

Mr. Jones presented a letter from the Bixby Board of Adjustment who heard this item in referral, a letter from the surface owner (Exhibit "A-1"), and a letter from the mineral owner of the subject tract. Mr. Alberty read the letter from Bixby which recommended denial of this case. The letter from the surface owner explained what has gone on on the subject tract and requested that this case be denied. The letter from the mineral owner explained why they think this application should be approved.

Presentation:

The applicant, Frank E. Turner, 2761 East Skelly Drive, Suite 700, was represented by Mr. William K. Powers, attorney, 2805 East Skelly Drive. Mr. Powers described the subject tract and where it is located. The tract has no structures, improvements, or operations as a farm or agriculture unit. The only part of the property that is used is used for a cemetery. Mr. Powers informed that drilling could be started and finished within 2-1/2 to 6 days time. He stated that there has been no production in this area since back in about the 1930s, but the people who own the minerals would like to have it developed. Mr. Powers informed they have a lease signed in 1982 by Mr. Tower, the surface owner. He informed they would like to have blanket approval for the entire subject tract. He stated that they have an idea of where they would like to drill, and that location would be at least 990 feet from the cemetery.

Comments and Questions:

Mr. Walker asked the applicant if the lease signed by the surface owner had expired, and Mr. Powers informed him that the lease was signed on April 23, 1984, and is a three-year lease.

Mr. Powers informed there is a constitutional question involved in this case because when notification is given as to proposed zoning changes, the mineral owners of the property are not notified. He informed that the mineral owners were not notified when the property was rezoned.

Mr. Martin asked where previous wells were drilled on the subject tract, and the proposed operator, William D. Kenworthy, 7010 South Yale Avenue, Suite 211, told where three other wells were located on the property and when these wells were drilled. He informed there is now at least one producing gas well in this section. There is a gas pipeline in the area that collects the gas.

Mr. Jones told when the subject tract was zoned from AG to RE.

Case No. 466 (continued)

Mr. Alberty asked if this property has been platted for development, and Mr. Jones informed he is not aware of any platting or plats in the process. Mr. Jones informed that the Bixby city planner informed him that Bixby is very interested, in his opinion, in annexing the subject tract--at that point, they would handle the platting requirements.

Mr. Martin asked the applicants what occurred at the Bixby meeting where this case was heard and denied by a 4-0 vote. Mr. Powers informed he was told that the protestants at that meeting were people who had relatives buried in the cemetery on the subject tract. Mr. Powers informed that the cemetery area would not be violated.

There was discussion about where the proposed location of the well site is in relation to the cemetery and where residences are located in the area.

Mr. Powers informed this is a unique piece of property. There are not a lot of 160-acre tracts in Tulsa County that do not have any structures on them.

Protestants:

James Kanady, Route 1, Box 282, Bixby, informed he owns 200 acres west of the subject tract. It is his understanding that the owners of the subject tract plan to develop the tract. People who might move out there would probably not want a gas well in the area. That seemed to be one of the concerns of the Bixby Board. He described the surrounding area--there is scattered development. He does not object to the drilling, but he does not think there should be drilling and residential development.

Richard Goff, Route 1, Box 288, Bixby, described where his property is located. He has several relatives buried in the cemetery, and he wants to be sure it will not be disturbed in any way.

William Owens, P. O. Box 505, Bixby, lives directly south of the subject property. He informed there is drilling all around this area, but he feels that the applicant should have the property rezoned if he wants to drill.

Applicant's Rebuttal:

Mr. Powers informed they plan to stay as far away from the cemetery on the property as possible.

Mr. Kenworthy told of the process they intend to use to drill the well. Mr. Powers informed the approximate depth of the well will be 2,200 feet.

Senator John Young, 2 North Main, Sapulpa, is one of the owners of the minerals of the subject tract. He informed they were not informed when the subject tract was rezoned. He informed that he sold the surface rights about 8 years ago and kept the mineral rights.

Comments and Questions:

Mr. Alberty informed if the Board is in a situation to recommend approval of this application, they need to consider some setback requirements from the cemetery.

Case No. 466 (continued)

Mr. Walker informed if production is allowed, he would like it limited to specific well sites rather than blanket approval for the entire tract. That would address the cemetery situation as well as some boundaries and setbacks. It might even allow part of the land to develop.

Mr. Powers informed they have already selected some well sites, and if all the drill sites are used or occupied, the closest that any one of them would come to the cemetery would be 990 feet.

Board Action:

On MOTION of MARTIN and SECOND by WINES, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception (Section 410 (a) - Principal Uses Permitted in a Residential District - under the provisions of Use Unit 1224) to permit oil and gas extraction in an RE district under the provisions of Section 1680, subject to no operations being conducted within 500 feet of the boundaries of the cemetery, on the following described property:

NW/4 of Section 8, Township 16 North, Range 14 East, Tulsa County, Oklahoma.

NEW APPLICATIONS:

Case No. 464

Action Requested:

Variance - Section 330 - Bulk and Area Requirements in the Agriculture District - Use Unit 1206 - Request for a variance of the lot width from 200' to 125.5', of the lot area from 2 acres to 1-acre, and of the land area from 2.2 acres of 1.07 acre, all to permit a lot split in an AG district under the provisions of Section 1670, located west of the NW corner of West 51st Street and League Road.

Presentation:

The applicant, R. E. Buchanan, P. O. Box 632, Sand Springs, informed he would like to split off one-acre of this tract and sell it to his brother.

Protestants: None.

Comments and Questions:

Mr. Alberty informed there is a lot to the west that is smaller than what is proposed.

Board Action:

On MOTION of MARTIN and SECOND by WALKER, the Board voted 5-0-0 (Alberty, Martin, Tyndall, Walker, Wines, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 330 - Bulk and Area Requirements in the Agriculture District - under the provisions of Use Unit 1206) of the lot width from 200' to 125.5', of the lot area from 2 acres to 1-acre, and of the land area from 2.2 acres to 1.07 acre, all to permit a lot split (L-16182) in an AG district under the provisions of Section 1670, on the following described property:

A parcel of land known as Tract 15, which is described as follows: Beginning at a point of 25 feet North and 1339 feet West of the

Application No. CZ-80 Present Zoning: AG
Applicant: Pilgram (Tower) Proposed Zoning: RE
Location: SE corner of 191st Street and Garnett Road

Date of Application: March 29, 1983
Date of Hearing: June 8, 1983
Size of Tract: 160 acres

Presentation to TMAPC by: Jessie V. Pilgram (c/o James D. Ferris)
Address: 320 South Boston Avenue, Suite 920 - 74103 Phone: 582-5281

STAFF RECOMMENDATION:

Relationship to the Comprehensive Plan: CZ-80

The District 20 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area does not give any designation for the subject property. However, the Development Guidelines would call for rural, undeveloped areas being designated as Low Intensity -- No Specific Land Use.

The requested RE District is in accordance with the Development Guidelines.

Staff Recommendation:

Site Analysis -- The subject tract is approximately 160 acres in size and located at the southeast corner of 191st Street and South Garnett Road. It is partially wooded, rolling, vacant and zoned AG.

Surrounding Area Analysis -- The tract is abutted on the north by vacant land zoned AG, on the east by mostly vacant land with a few scattered single-family dwellings zoned AG, on the south by vacant land zoned AG and on the west by vacant land zoned AG.

Zoning and BOA Historical Summary -- There have been no zoning or Board of Adjustment cases in the area which would preclude consideration of RE zoning.

Conclusion -- Based upon the fact that both the tract and the surrounding area is undeveloped and the Development Guidelines would support Low Intensity -- Residential, the Staff recommends APPROVAL of the requested RE zoning.

The Staff noted there is a cemtery on the subject tract and there are procedures for relocating. If this is not proposed by the applicant, the Staff would suggest that the portion of the tract containing the cemetery be deleted from the application and remain agricultural.

Applicant's Comments:
The applicant was not present.

Protestants: None.

TMAPC Action: 6 members present.
On MOTION of C. YOUNG, the Planning Commission voted 6-0-0 (Benjamin, Higgins, Hinkle, Kempe, Petty, C. Young, "aye"; no "nays"; no "abstentions"; Draughon, Gardner, Miller, T. Young, Inhofe, "absent") to

Application No. CZ-80 (continued)

recommend to the Board of County Commissioners that the following described property be rezoned RE, LESS and EXCEPT that portion designated for the cemetery to remain AG:

LEGAL PER NOTICE:

Northwest Quarter (NW/4) Section Eight (8), Township 16 North, Range 14 East, Tulsa County, Oklahoma.

LEGAL PER PLANNING COMMISSION ACTION:

Legal to be furnished by the applicant.

6.8.83:1459(3)

CZ-80 Pilgrim (Tower) SE corner of 191st Street and Garnett Road AG to RE

Mr. Jim Ferris was present for the applicant and requested a continuance. It has been determined there is a small cemetery on the tract and the developer must figure out how to deal with this problem. He requested a continuance until June 8, 1983, in order to solve this matter.

Mr. ~~Rick~~ Greg Robinson, Route #1, Box #288, is interested in this case. He has no objection to the rezoning, but is concerned about the cemetery and would agree with the continuance.

On MOTION of C. YOUNG, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Benjamin, Miller, Petty, Inhofe, "absent") to continue consideration of CZ-80 until Wednesday, June 8, 1983, at 1:30 p.m. in the Langenheim Auditorium, City Hall, Tulsa Civic Center.

5.11.83:1455(7)

E/2 E/2 SE SE BEG 800N SECR SE TH W330 N520 E330 S520 POB SEC 10 19 10 3.939AC, OF TULSA COUNTY, STATE OF OKLAHOMA

Comments and Questions:
Mr. Crall stated that if the building were complete he would have a hard time saying no, because the Board understands mistakes. But right now the situation has been caught in time to fix the problem. Mr. Crall stated that he understands this could be a little bit of an expense but the cost of upsetting neighbors is something that cannot be measured. Mr. Crall suggested the applicant hire a surveyor. At this point Mr. Crall stated that he cannot support this Variance request because it can be fixed without too much of a hardship on the applicant.

Mr. Hutchinson stated that he cannot support the request. He would recommend the applicant get a survey performed for protection, especially since he is that close to the property line.

Board Action:
On **MOTION** of **CRALL,** the Board voted 3-0-0 (Crall, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney, Dillard "absent") to **CONTINUE** the request for a Variance of the 15 foot side yard setback for an accessory building (Section 330) to the Board of Adjustment meeting on March 21, 2017 to allow the applicant time to have a survey performed; for the following property:

E/2 E/2 SE SE BEG 800N SECR SE TH W330 N520 E330 S520 POB SEC 10 19 10 3.939AC, OF TULSA COUNTY, STATE OF OKLAHOMA

2615—Lydia Scott

FILE COPY

Action Requested:
Variance to allow two dwellings on one lot of record (Section 208); Special Exception to permit a manufactured home (Use Unit 9) in the RE District (Section 410). **LOCATION:** 11790 East 191st Street South, Bixby

Presentation:
Lydia Scott, P. O. Box 536, Bixby, OK; stated she would like to have a single wide mobile home placed on her father's property which is ten acres.

Mr. Hutchinson asked Ms. Scott if the mobile home was already placed on the property. Ms. Scott answered affirmatively.

Mr. Hutchinson asked Ms. Scott if her father was planning to have a lot split. Ms. Scott stated that she did not think there were any plans for a lot split.

Mr. Johnston asked Ms. Scott about a structure that appears on the aerial photo of the property. Ms. Scott stated that her father has a metal shed on the property from when he had an asphalt business and he used to park his trucks on the property.

Interested Parties:

Scott Owens, 11630 East 191st Street South, Bixby, OK; stated he is the neighbor west and closest to subject property and his front door faces the property. The mobile home is approximately 200 feet from his property line. His concern is that the trailer has already been placed, hooked up and they are living in it. He also has concerns about property values and the fact that there are three dwellings very close together. Mr. Owens stated that he has concerns about sewage drainage. The land has been zoned RE to protect the land owners.

Mr. Crall asked Mr. Owens if there were sewage problems with the other homes. Mr. Owens stated that there were not and he does not want any. He has a problem with the fact that things have not been done right and what kind of system is going to be installed. Where are the lateral lines going to go because there is not enough room because they are only about 200 feet from his property line. He does not want their sewage drainage let out onto his property.

Dan Riem, 11812 East 191st Street South, Bixby, OK; stated he lives on the property to the north of the subject property and just recently purchased his property because of the remoteness. He completed his 2,300 square foot house in October and he objects to the request because it will compromise the Residential Estate zoning. Mr. Riem has concerns about property values for himself and all the neighbors. The properties are zoned for one dwelling and it needs to stay that way.

Mr. Hutchinson asked Mr. West to explain the RE zoning. Mr. West stated that the RE zoning is large tracts of land for residential use. In regards to the sewage system, aerobic systems can handle subdivisions. Single wide mobile homes are not allowed in the RE zone but a double wide is allowed by right.

Rebuttal:

Lydia Scott came forward and stated that there is a possibility that the mobile home could be tied into her father's established lateral lines because his septic tank is large enough for the two dwellings.

Mr. Hutchinson asked Ms. Scott what she was using now. Ms. Scott stated she does not have anything currently because she does not have a lot of resources to have things done.

Ms. Scott stated the mobile home is not meant to be permanent because eventually there will be a house built elsewhere.

FILE COPY

CBOA -2615

Mr. Hutchinson asked Mr. West if two dwellings are allowed on one septic system. Mr. West stated that DEQ would have to make that determination, because it depends on the lateral lines and septic tank.

Comments and Questions:
Mr. Crall stated that he has more concern about the legal ramifications of the current living conditions than he has about dwellings.

Mr. West stated the applicant is violation of the Zoning Code if she is currently living in the mobile home.

Mr. Johnston asked Mr. West what the definition of a mobile home is. Mr. West stated that a single wide is normally considered to have the ability of being moved in one body which is one unit that is normally 14 to 16 feet wide by 72 or 80 feet long. A double wide is a two section home that has a permanent foundation underneath it. A single wide is not permitted in any R zoned districts as a use by right.

Mr. Hutchinson stated that he cannot support this application. Mr. Johnston agreed.

Mr. Crall stated that if the Board approves this request there will be restrictions placed on it that will cost money and those restrictions are not cheap, i.e., sewer, parking pad, etc. Mr. Crall stated that he does know if the Board would be doing the applicant a favor if they approve it.

Board Action:
On **MOTION** of **HUTCHINSON,** the Board voted 3-0-0 (Crall, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney, Dillard "absent") to **DENY** the request for a Variance to allow two dwellings on one lot of record (Section 208); Special Exception to permit a manufactured home (Use Unit 9) in the RE District (Section 410); for the following property:

NW SE NW & W30 NE NW SEC 8 16 14 10.909ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

Ms. Miller left the meeting at 3:15 P.M.

2616—Don Meador

Action Requested:
Variance of the allowable square footage for accessory buildings in the RS District from 750 square feet to 4,650 square feet (Section 240.2.E). **LOCATION:** 5452 South 67th West Avenue

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Subject Tract

CBOA-2822

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Aerial Photo Date: February 2018

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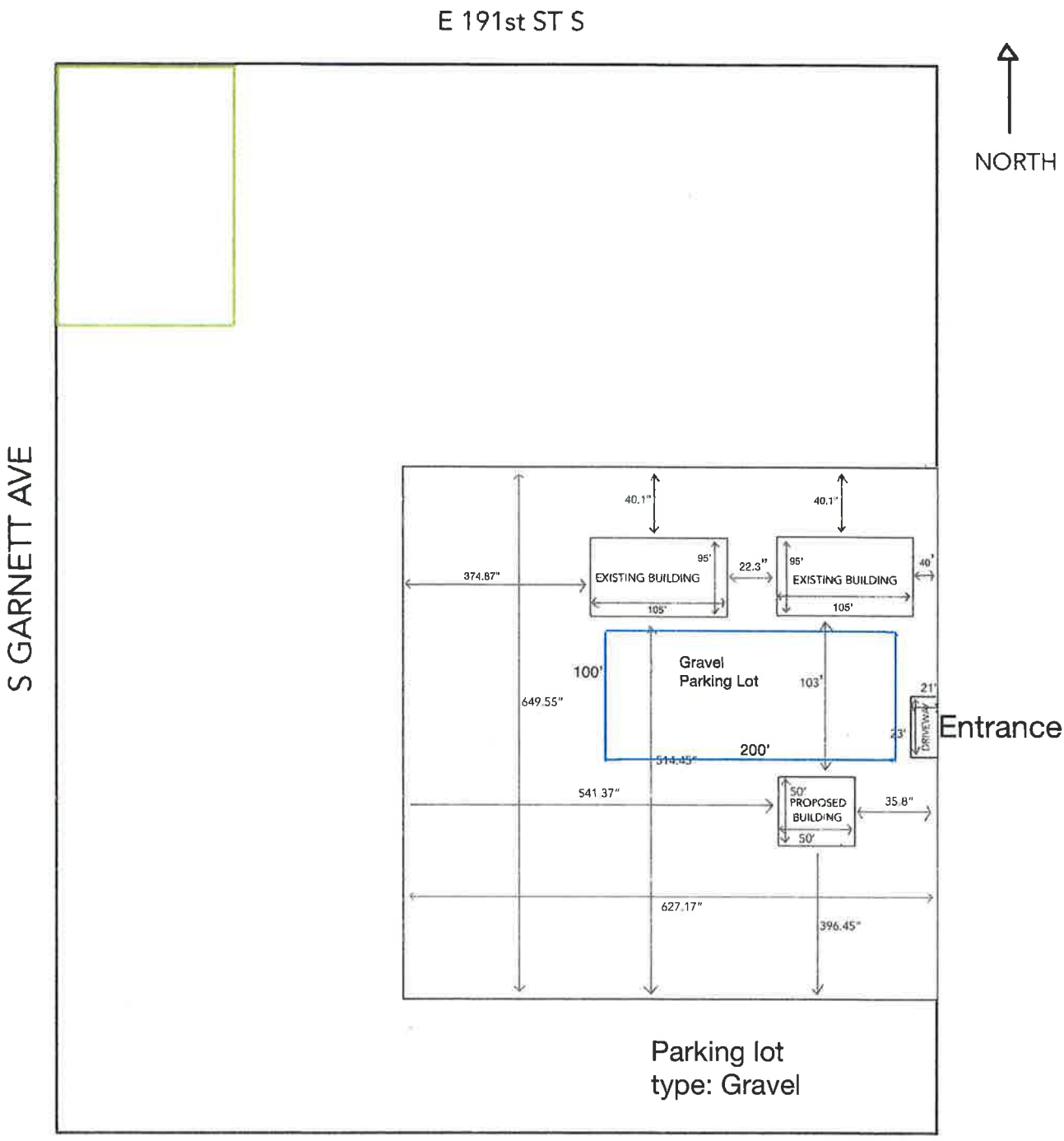
SITE PLAN



11616 E 191ST S | BIXBY, OK 74008

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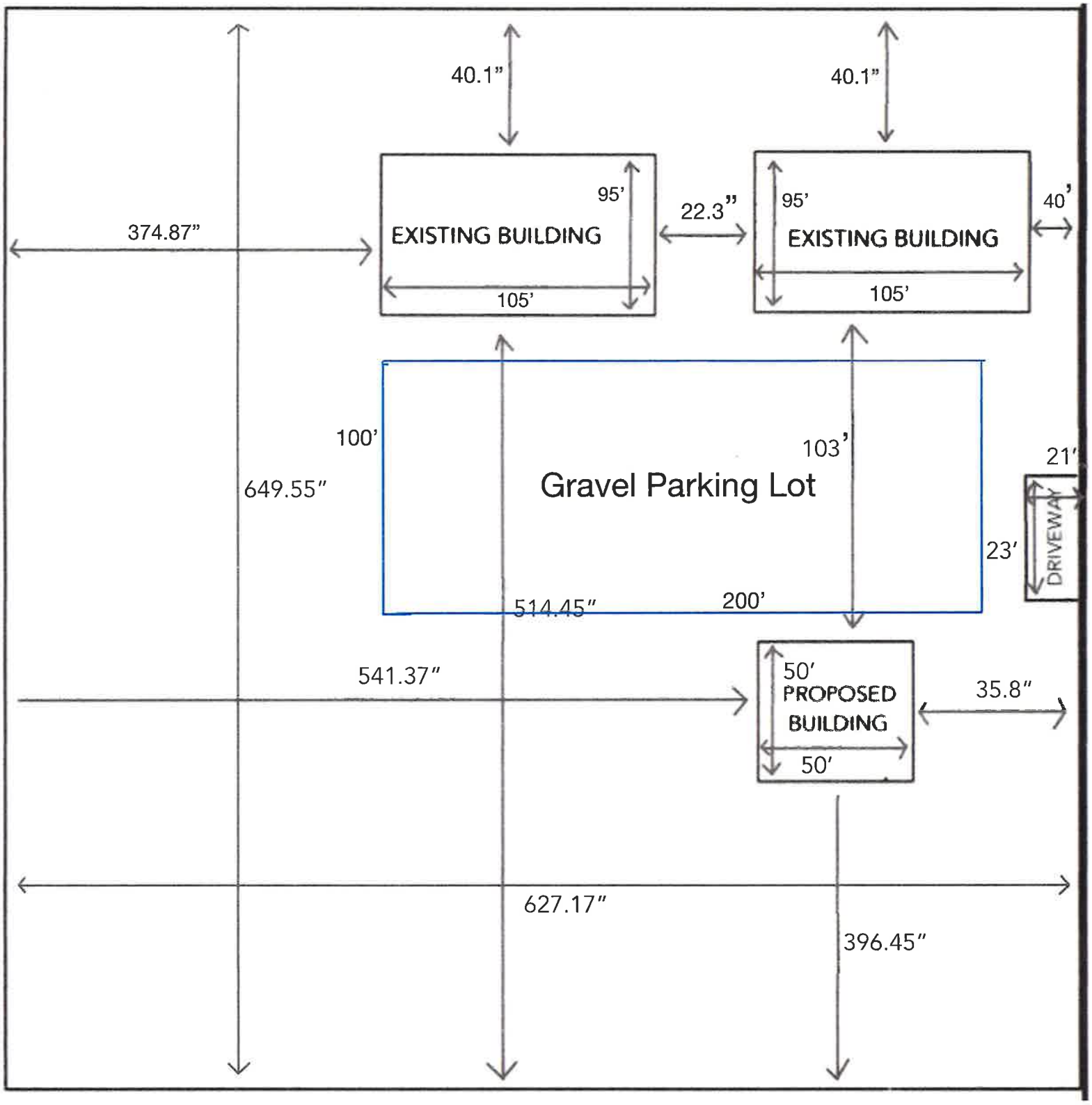
Looking south on S. Garnett Rd. and E. 191st St. S. – cemetery is on the left.

Looking west from a private drive which is south of E. 191st St. S. It appears to be the proposed area of access.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105'
40'
374.87"
100'
649.55"
Gravel Parking Lot
103'
21'
DRIVEWAY
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200'
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50'
PROPOSED
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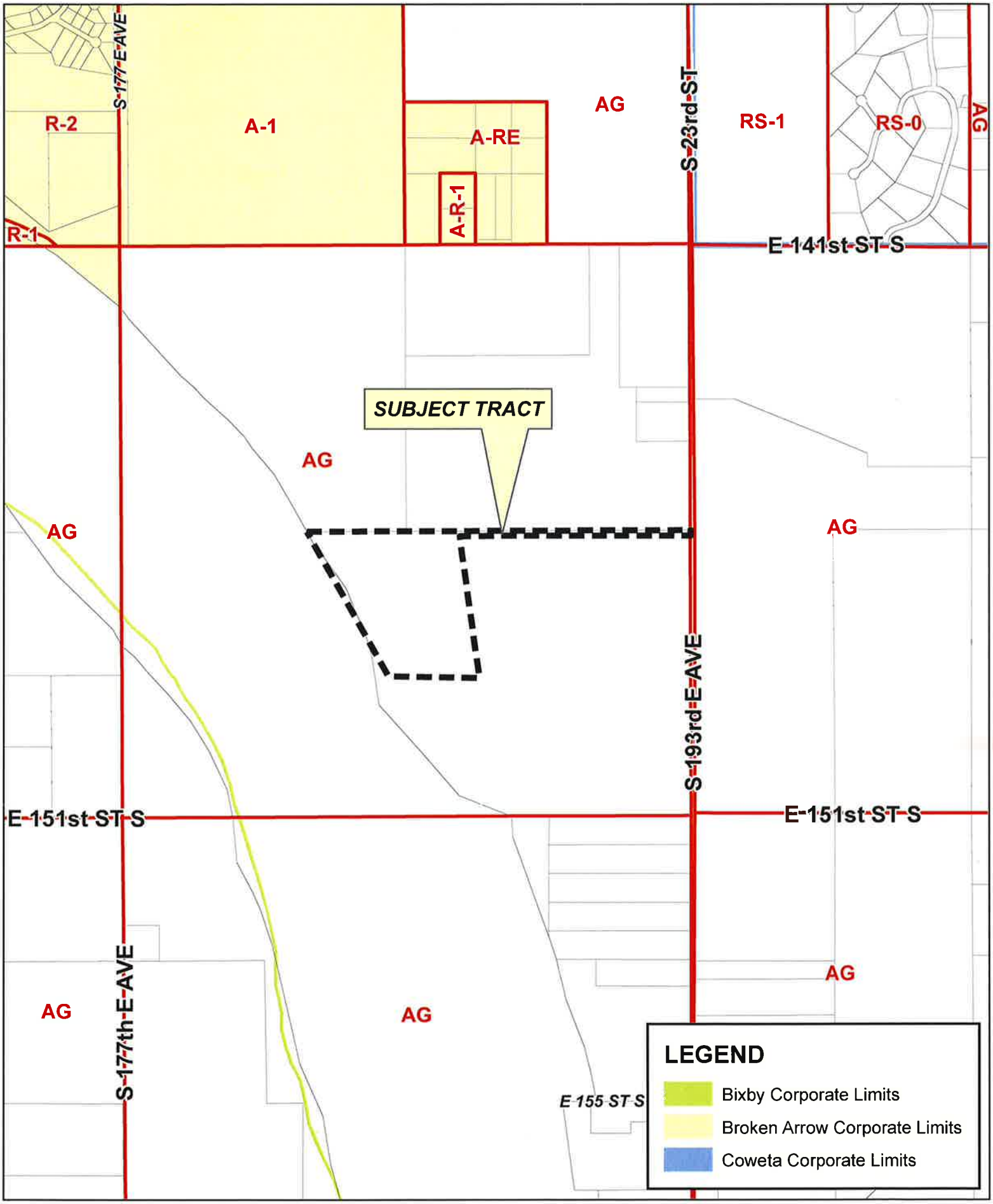
35.8"
627.17"
396.45"



CBOA-2821

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TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 7413
CZM: 64

CASE NUMBER: CBOA-2821
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Holliday Sand & Gravel Company, Inc.

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

LOCATION: SW of E. 141st St. S. & S. 193rd Ave. E.

ZONED: AG

FENCELINE: Broken Arrow

PRESENT USE: Agriculture

TRACT SIZE: 36.64 acres

LEGAL DESCRIPTION: Commencing at the Northeast Corner of the Southeast Quarter of Section 13, Township 17 North, Range 14 East, said point being the Point-of-Beginning; thence N 90°00'00" W (assumed), along the North line of the South one-half of said Section 13, a distance of 3490.00' to the East line of the Arkansas River; thence S 30°54'00" E, along the said East line of the Arkansas River, a distance of 1538.34' to a point 1320' south of the said North line of said South one-half of said Section 13; thence N 90°00'00" E, 1320' south of and parallel to the said North line of said South one-half of said Section 13, a distance of 840.00'; thence N 08°56'58" W, a distance of 1285.65' to a point 50.00' south of the said North line of said South one-half of said Section 13; thence N 90°00'00" E, 50.00' south of and parallel to the said North line of said South one-half of said Section 13, a distance of 2060.00' to the east line of Southeast Quarter of said Section 13; thence N 00°00'00" W, along said east line of Southeast Quarter of said Section 13, a distance of 50.00' to the Point-of-Beginning. Said tract contains an area of 36.644 acres, more or less.

RELEVANT PREVIOUS ACTIONS: None relevant

ANALYSIS OF SURROUNDING AREA: The subject tract abuts agricultural zoning in all directions. The Arkansas River is to the west and Wagoner County is to the east. The corporate limits of Broken Arrow begin north of E. 141st St. S.

NEW STAFF COMMENTS:

On 06/16/2020, the case was heard and continued by the Board. The applicant was requested to provide more information.

ORIGINAL STAFF COMMENTS:

The applicant is requesting a Special Exception to permit Use Unit 24, Mining and Mineral Processing, (Section 1224) in an AG District (Sec. 310, Table 1). A Special Exception is required as the proposed mining and quarrying operation is not permitted by right in an AG district because of potential adverse effect, but which if controlled in its relationship to the neighborhood and to the general welfare, may be permitted.

1224.3 Use Conditions: The Board of Adjustment, in granting a mining and mineral processing use by Special Exception, shall consider potential environment influences, such as dust and vibration, and shall establish in the particular instance, appropriate protective conditions such as setbacks, screening, and method of operation, as will mitigate the adverse effect on proximate land uses.

The applicant has provided a detailed Project Description and copy of their Good Neighbor Trucking Policy (see attached documents).

If inclined to approve the Board may consider any condition it deems necessary and reasonably related to the request to ensure the proposed mining (dredging) and quarrying of sand is compatible with the surrounding neighborhood.

Sample Motion:

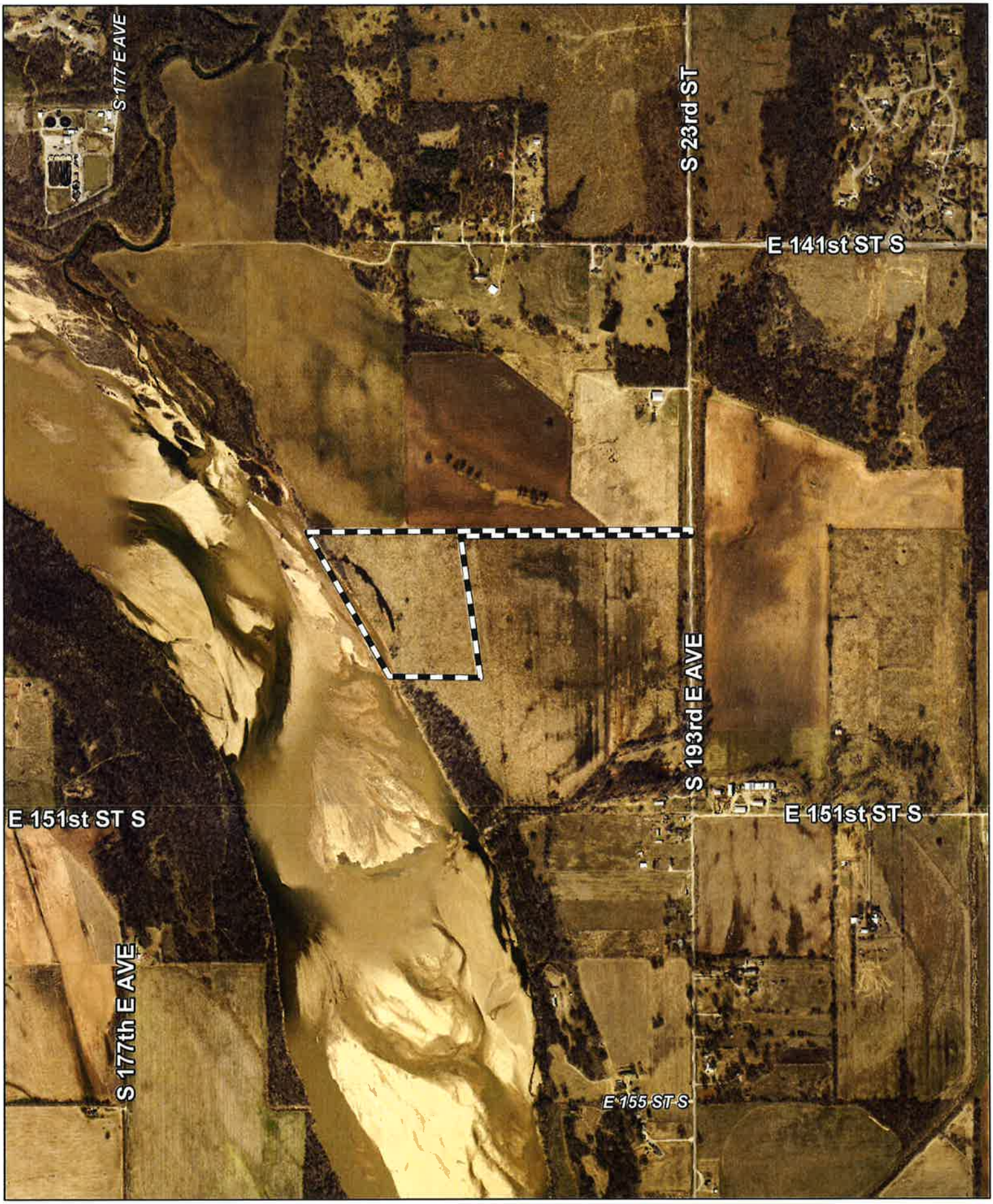
"Move to _____ (approve/deny) a Special Exception to permit Use Unit 24, Mining and Mineral Processing, (Section 1224) in an AG District (Sec. 310, Table 1).

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

In granting a Special Exception, the Board finds 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."

Looking south on S. 193rd E. Ave. - subject property is on the right but the exact location of entrance was unclear.

Looking north on S. 193rd E. Ave. - subject property is on the left but the exact location of entrance was unclear.



Feet
0 600 1,200

Subject Tract

CBOA-2821

17-14 13

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

Aerial Photo Date: February 2018

N

3.5

Section 13, Township 17N, Range 14 E
Tulsa County, OK.
±133 Acres (±37 Acres Land, ±96 Acres River)
Portion of the Leonard and Coweta, OK. Quadrangles
USGS

—— P —— Proposed Permit Boundary
(±37 Acres Land)
(±96 Acres River)

Site
Plan

Scale

500' 0 1,000'

Google Earth Aerial Date: October 2018

Holliday Sand & Gravel Co.
North Broken Arrow
Plant #21
Site Location Map

drawn by	date
MG	05/2020

168-2108-0627 Rev. Aug 2015.dwg (N. Broken Arrow Site Map)

3.6

Proposed Sand Plant in Tulsa County

Revised 6-16-20
CBOA-2821

Project Description

Holliday Sand & Gravel Company requests a Special Exception from the Tulsa County Board of Adjustment under Use Unit 24, Section 310, in an AG District to locate a sand plant to dredge sand and gravel from the Arkansas River for commercial purposes.

Holliday proposes to operate a sand plant on 37 acres approximately one-half mile southwest of South 193rd Avenue East (County Line Road) and East 141st Street South (Yazoo), approximately one-half mile southwest of the Broken Arrow city limits.

Holliday plans to operate a floating cutter suction dredge on the adjacent 96 acres of the Arkansas River. See a detailed operation description on the last page of this document.

Summary Points

- Ongoing need for sand for concrete construction and paving
- Existing sand plant sites are overworked and depleting
- A sand plant is an appropriate land use for floodplain land zoned AG.
- Low density housing, rural location.
- Close to the turnpike, minimizing trucking impacts.
- Holliday has an active program that controls trucking impacts through close monitoring and strict enforcement of its established ***Good Neighbor Trucking Policy*** (included below).

Need

- Construction in the Tulsa area is booming.
- Demand for sand for concrete is growing beyond the capacity of the existing sand plants.
- As existing sand deposits and sites are exhausted new sites must be located, zoned, built and operated in time to prevent a shortage of construction aggregates.

Siting Factors

The proposed sand plant site is an appropriate location:

- Rural area
- Low population density
- Only 2.8 Miles from Creek Turnpike
- Excellent sight distance on 193rd Street
- ½ mile plant setback from 193rd Street
- No homes within ½ mile of the sand plant equipment

- No homes within ¾ mile on the opposite side of the River
-

Project Description
Please see detailed description of process and equipment on last page.

Schedule of Operation

- Sales and truck loading: 7 AM to 4 PM on weekdays **(Will be strictly enforced!)**
- Sand dredging and processing activities: 7 AM start time weekdays. 1 – 10 hour shift is normal but during peak demand a second 10-hour shift would be added on weekdays only. Dredge normally operates 75% of the time.
- The projected life of the operation is approximately 15 to 20 years.

Environmental Impact

Holliday Sand & Gravel Company is committed to being a good neighbor through:

- Strict enforcement of its *Good Neighbor Trucking Policy* (next to last page below) **Any violations result in no longer getting loaded at any Holliday Sand plants.**
- Responding to and allocating resources to address concerns of our community (e.g.: speed signs, trucker training, enrollment in *Good Neighbor Trucking Policy* program, monitoring and follow up for observed violations, prompt response to any concerns of residents, street sweeping if needed, and maintenance of access road and drive entrance on 193rd Street.
- No trucks loaded before 7 AM, or after 4 PM.
- Installation of 2 - Radar Signs on 193rd Street either side of the plant driveway, which has shown to be extremely effective in reducing speeds and the potential for accidents.
- Application of noise reduction methods and materials (e.g.: engine silencers, noise barriers, strobe backup alarms (when dark), rubber chute liners and screening media).

Following is our evaluation of potential impacts and how we will mitigate them.

Residences
Approximate location of residences from the sand plant operation:
½ mile radius = 0 residences
1 mile radius = 25 residences

Mitigation of impacts to residences consists of limited hours of loading and operation, noise control and dust control. See further details below.

Schools

- No schools or crosswalks are located on the proposed truck route. 1000 feet north of 131st is a single school bus stop. Speed limit ther is 45 mph.
- Holliday will monitor the bus stop for any incidences that involve trucks by contacting the school, bus company, guard or nearby neighbors and giving them our Area Manager's phone number and encouraging them to contact us immediately.
- Even if it is not one of our customer trucks, we will follow up with that trucking company.

Traffic

- Speed limit is 50 mph south of 131st Street on 193rd where the plant driveway is located.
- Line of sight is at least ½ miles in both directions on 193rd Street.
- At 55 MPH it will take about 6 seconds to stop a truck and the truck will have traveled about 512 feet. (Existing line of site is ½ mile.)
- 2018 INCOG-AADT average daily traffic counts:
  - Are low on S. 193rd Avenue East where the plant entrance drive would be = 2420 average vehicles per day.
  - Once north of E. 141st Street S. it increases to 6212 vehicles per day.

Additional RadarSigns will be installed on 193rd Avenue, both directions from the driveway entrance. See Holliday's existing RadarSigns at the end of this document.

- Holliday will regularly monitor all trucks on 193rd for speeding, noise, and if needed install cameras to document compliance.
- Violation of the designated trucking route will result in permanently being denied loading.
- Estimated volume of truck traffic coming and going from the plant:

Per Hour:	Min. = 0	Max. = 10	Ave. = 5
Per Day:	Min. = 0	Max = 100	Ave. = 50

- No loaded trucks are permitted to leave the plant overloaded or untarped.

Dust Control

- At least 75 feet of the plant driveway approach to S 193rd Avenue East will be surfaced to prevent tracking of material.

- Haul roads within the site will be watered during dry dusty conditions with a water truck.
- Any sand tracked onto 193rd Avenue will be swept up and removed as needed.
- The washed sand stockpiles do not emit dust.
- There are no dust emitting processes involved (no crushing or dry screening).

Noise

- Loading equipment will utilize strobe backup lights instead of beeping alarms before and after sunset.
- Dredge and plant equipment would have limited hours of operation from 7 AM to 4 PM on weekdays, and during peak demand a second 10-hour shift would be added on weekdays only. Dredge normally operates 75% of the time.

- The dredge is diesel powered and is equipped with a hospital rated silencer, so noise is not above 85 decibels at the dredge itself. The dredge would operate 18 feet below grade, at the level of the water table.

- Application of noise reduction methods and materials (e.g.: engine silencers, noise barriers, strobe backup alarms (when dark), rubber chute liners and screening media) throughout the plant.

Visual

The sand stockpiles are up to 30 feet in height and provide an excellent visual and noise barrier around the plant.
The plant is ½ mile back from 193rd Street.

Light

Light pollution to nearby residences (1/2 to one mile away) will be prevented with either light fixtures that emit downward light only or that are directed away from the sightline of residences.

Structures

The following is a list of the facilities or equipment to be erected on site:
(Structures, fuel tank, electrical and sanitary facilities would be placed 2 feet above the 100-year flood plain elevation.)

- Three phase pole mounted electrical power will be brought to the site by PSO.
- Truck scale - 11' x 70' low profile
- Office - 14' x 30' Prefabricated Quarry Office
- Two portable toilets
- Parking area adjacent to office – 20'x 50'
- Fenced parking for front end loaders - 50' x 60, six-foot chain link
- 2 – 2000 gallon diesel storage tanks with containment
- Powerhouse for plant switchgear – small building 8'x 12', 10 feet tall.
- Sand processing equipment - on 20' x 60'pad, 40 feet tall.

- Sand stockpiling belt conveyors - 100' long, 30' high, 2 each.

Pollution Prevention

- Holliday Sand is committed to the prevention of contamination of the ground and groundwater, and surface water from project materials.
- The only bulk chemicals (55 gallons or greater) stored on site are diesel fuel and lubricating oil. Biodegradable hydraulic oil is used on the floating dredge in the river.
- A Stormwater Pollution Prevention Plan is being prepared to address the potential contaminates such as fuel and oil. It will establish procedures for training and inspection for the prevention and if needed cleanup of spills.

- A dredged water discharge and stormwater permit will be obtained through OK Department of Environmental Quality prior to operation.
- The river water discharge from the plant flows into a large settling basin for removal of fine sand and silt prior to release back to the Arkansas River.
- Monthly samples are taken, tested per OK DEQ guidelines and the results reported monthly.
- Fines are removed regularly from the settling basin and blended with saleable product.

Flood Plain

- The proposed site lies within the 500-year flood plain.
- The office, fuel tanks and electrical switchgear will be elevated as required by flood code.
- Should bank erosion occur during the project, Holliday has the equipment and resources committed to stabilize any eroded areas over the life of the project.

Flood Contingency Plan

The following are actions to be taken should flooding be eminent at the proposed project site:

- Sell and/or transport material stockpiles from the flood plain if possible.
- Contact PSO and electrician to disconnect electric power
- Cease operations, de-energize all electric powered equipment
- Verify an escape route out of the flood plain
- Secure or remove all equipment that could float: dredge, pontoons, fuel tanks, pipe
- Remove all portable equipment from the floodplain to higher ground

Security Fencing

To prevent the public and livestock access to the sand plant and entrance road, a 4--foot tall fence (matching the existing livestock fencing) will be installed with warning signs attached every 100 feet.

Examples of signage design:

Danger – Keep Out

Active Mining Operation

Reclamation

The projected life of the plant is 15 to 20 years depending on river flows
All mining is by floating dredge in the river. There will not be any pit mining on land.
Upon completion of mining operations:

1. Remaining stockpiles would be sold
2. Any minor amount of sand or gravel will be graded level
3. All sand plant equipment will be removed, and plant equipment concrete footings and slab would be removed.
4. Settling pond would be backfilled and graded smooth
5. The two 2000 gallon diesel fuel tanks would be removed and closed out according to OCC requirements.
6. OK Department of Mines will inspect for compliance prior to the required bond release ($1000/acre).

Additional Permits Pending

The Project will be regulated by the following agencies and application for those permits will ensue pending Tulsa County approval of a Special Exception:

- U.S. Army Corps of Engineers - Wetland determination and Section 404
- Oklahoma Department of Mines - Non-Coal Mining Permit
- Oklahoma Department of Environmental Quality - water permits
- Tulsa County building and driveway permits

Holliday Sand & Gravel Company
Good Neighbor Trucking Policy

Holliday Sand & Gravel is committed to operate its facilities in a safe and courteous manner. That commitment requires your hauling our products on the local roadways and through neighborhoods like a professional.
Holliday Sand & Gravel will REFUSE TO DO BUSINESS with haulers that do not demonstrate safe and courteous practices and comply with the following rules.

HOLLIDAY SAND HAS ADOPTED THE FOLLOWING AS OUR MINIMUM SAFE AND COURTEOUS GUIDELINES FOR ALL TRUCKS THAT WE LOAD:

- ✓ **OBEY THE SPEED LIMIT – ESPECIALLY RESIDENTIAL AREAS**
- ✓ **DO NOT ARRIVE AT THE PLANT BEFORE THE POSTED OPENING TIME – THIS VIOLATES OUR COUNTY PERMIT**
- ✓ **NO PARKING ON PUBLIC ROADS OUTSIDE THE PLANT ENTRANCE**
- ✓ **NO AGGRESSIVE DRIVING – NEVER CROSS THE CENTERLINE**
- ✓ **DISENGAGE THE JAKE BRAKE SYSTEM AND DRIVE SLOW ENOUGH THAT IT IS NOT NEEDED TO STOP SAFELY**
- ✓ **WATCH FOR CHILDREN PLAYING, RIDING BIKES, AND AT BUS STOPS AND BE PREPARED TO SLOW DOWN OR STOP**
- ✓ **TARP AND DO NOT ALLOW SAND TO SPILL OUT ON THE ROAD**
- ✓ **COMPLY WITH ANY SPECIALLY DESIGNATED HAULING ROUTES**

FAILURE TO FOLLOW THESE GUIDELINES WILL RESULT IN A REFUSAL TO LOAD YOUR TRUCK AT ANY OF OUR FACILITIES.

As a truck operator that wishes to be loaded by Holliday Sand & Gravel Company, I have read these Guidelines, and agree to comply with them as a minimum standard.

Printed Name: _____
Signature: _____
Today's Date: _____

DESCRIPTION OF DREDGING AND PROCESSING OPERATION ON THE ARKANSAS RIVER – TULSA COUNTY, OK

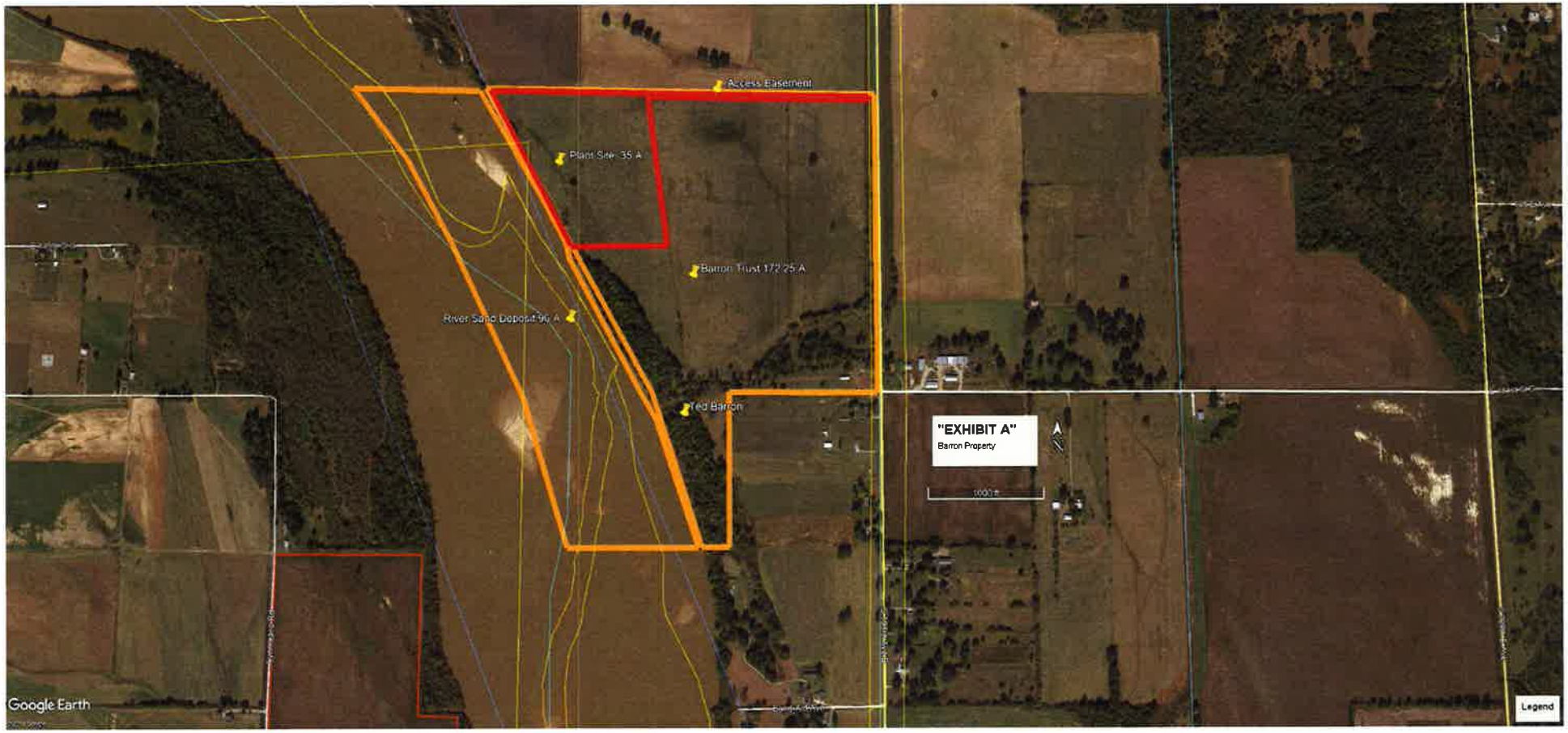
Sand and gravel would be removed hydraulically from the Arkansas River bottom by a diesel-powered floating cutter suction dredge. Material would be dredged to a depth of approximately 12 feet below the ordinary low water level. The sand-gravel slurry is then pumped through a floating pipeline to the processing plant on land. The sand-gravel slurry is discharged onto a scalping screen to separate the plus 3/8" gravel from the sand slurry. The sand slurry passing through the screen enters a sizing tank containing river water. The sand settles to the bottom of the tank and is selectively removed through valves in the tank bottom to produce various aggregate specifications. This slurry then enters a dewatering screw which discharges onto a conveyor belt placing the sand in conical piles over subsurface drains for final dewatering. Approximately 40,000 square feet would be needed for stockpiles.

Return water from the plant consists of river water and some wasted sand which has overflowed the weirs of the sizing tank and dewatering screw. This return water gravity flows by pipeline into a settling pond (approx. 75' x 250'). Solids collected in the settling pond are mechanically removed. The pond discharge water is then routed back to the river through a pipe. Discharge water samples are taken monthly, tested for pH and suspended solids and the results reported to the Oklahoma DEQ.

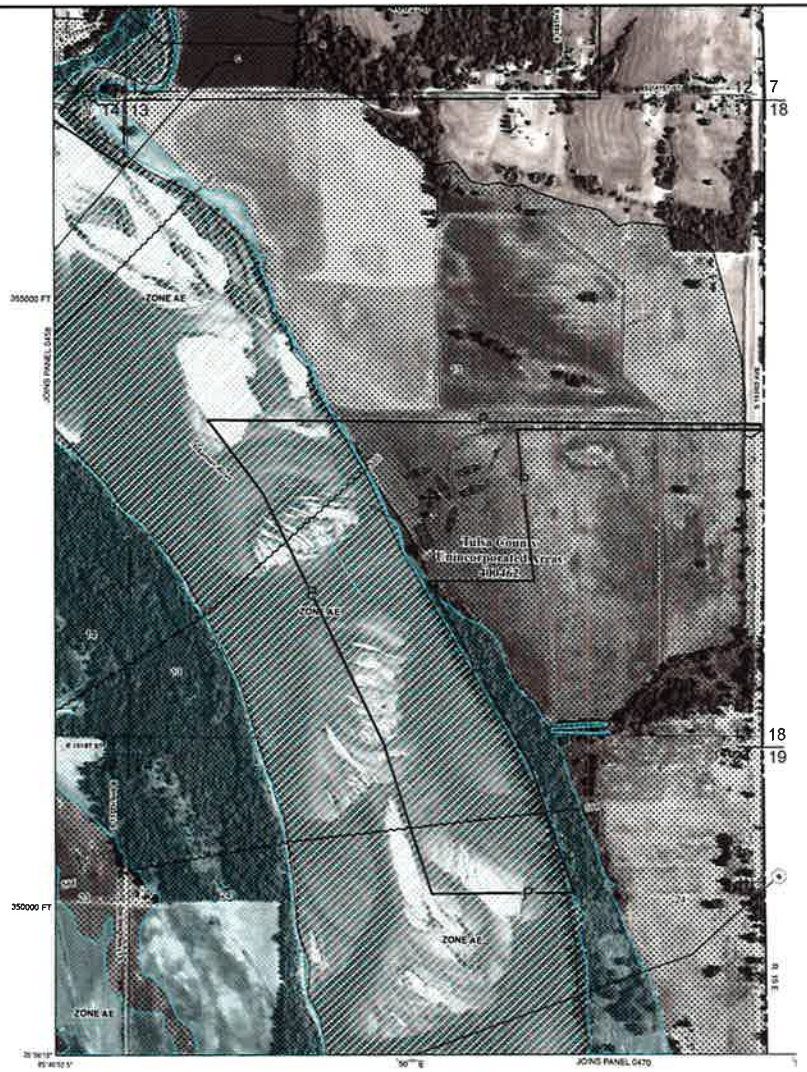
Approximately 300,000 tons of sand and gravel would be removed annually at this site. The dredge and plant would operate approximately 2500 hours a year.

Holliday's RadarSign on E. 161st Street South

Holliday's RadarSign on S. 193rd Avenue East


Access Easement
Plant Site 35 A
Barron Trust 172.25 A
River Sand Deposit 90 A
Ted Barron
"EXHIBIT A"
Barron Property
1000 ft
Google Earth
Legend

3.17



Section 13, Township 17N, Range 14 E
Tulsa County, OK.
±133 Acres (±37 Acres Land, ±96 Acres River)
Portion of the Leonard and Coweta, OK. Quadrangles
USGS

—P— Proposed Permit Boundary
(±37 Acres Land)
(±96 Acres River)

Scale
500' 0 1,000'

Portion of FEMA Map Number
40143C0459L
September 30, 2016

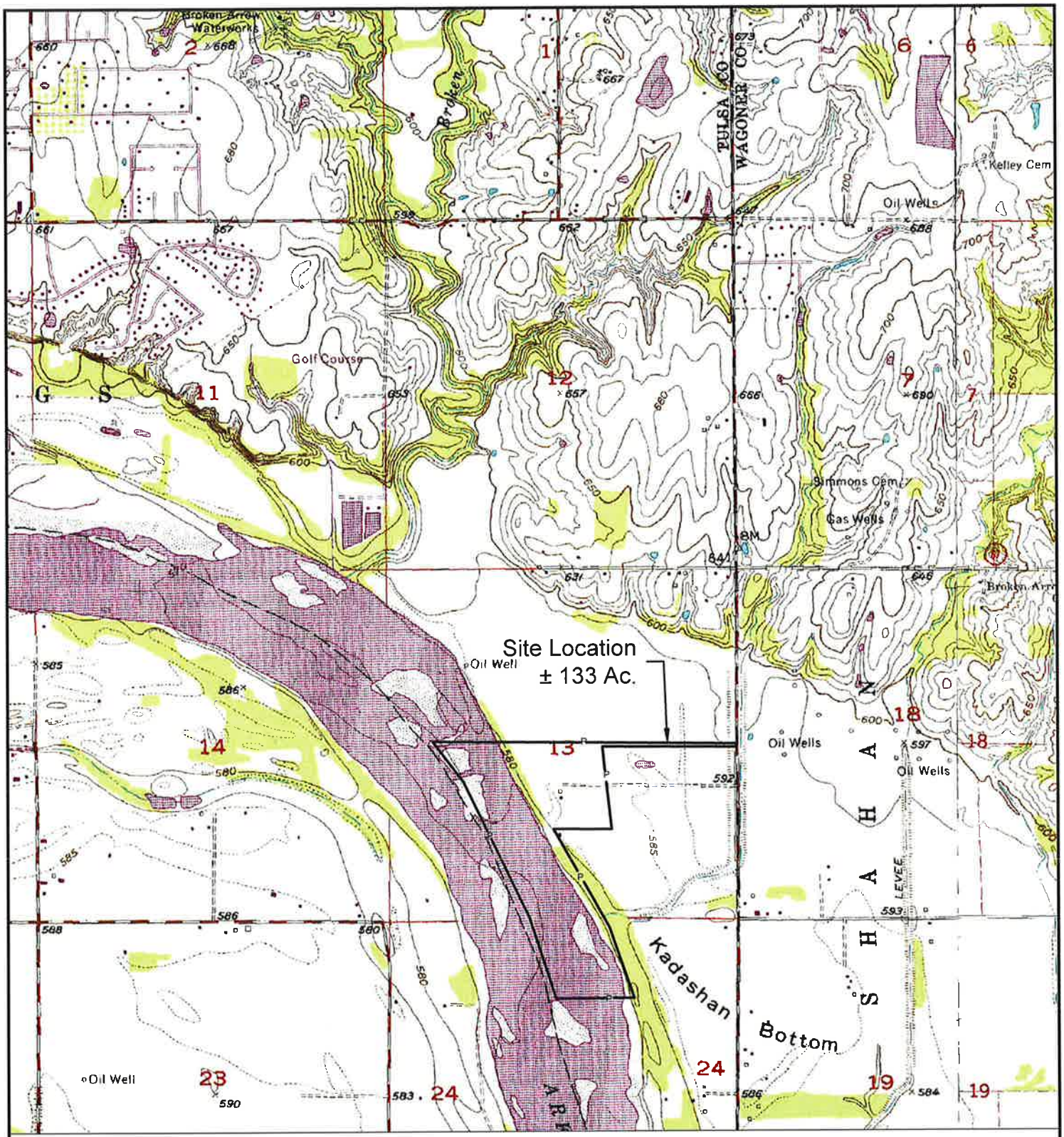
Holliday Sand Gravel LLC
North Broken Arrow
Plant #21
Flood Zone Map

drawn by	date
MG	05/2020

TRIAD

i:\08-0627 Rev. Aug 2015.dwg(N. Broken Arrow Flood Map)

3.18



Sect 13, T17N, Rng 14 E
Tulsa County, OK.
±133 Acres (±37 Acres Land, ±96 Acres River)
Portion of the Leonard and Coweta, OK. Quadrangles
USGS

Scale

2000' 1000' 0 1000' 2000'

N

Holliday Sand & Gravel Co.
North Broken Arrow
Plant #21
General Location Map

drawn by	date	Triad Environmental Services
MG	05/2020	P.O. Box 1507 Pittsburg, KS 6 (620) 231-5660 (620) 231-5661

TP\68-21\dwg\68-21 08-0627 Rev Aug 2015.dwg(N. Broken Arrow #21 Gen Loc)

3.19

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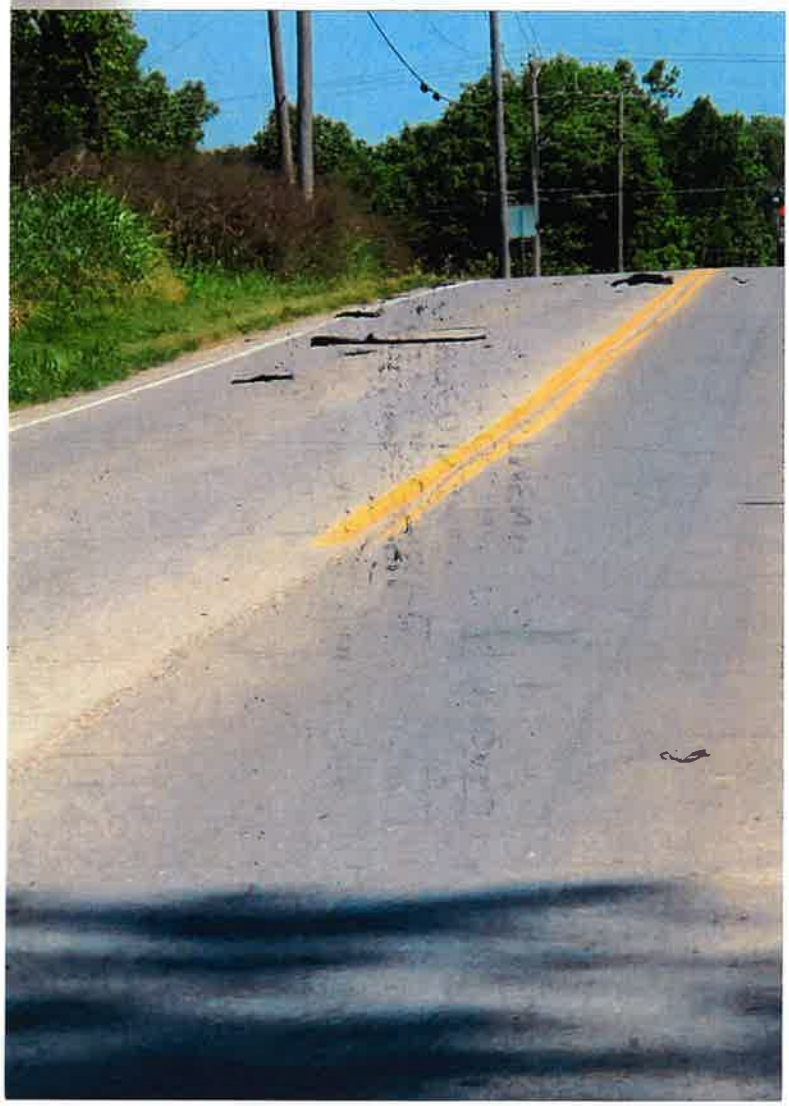
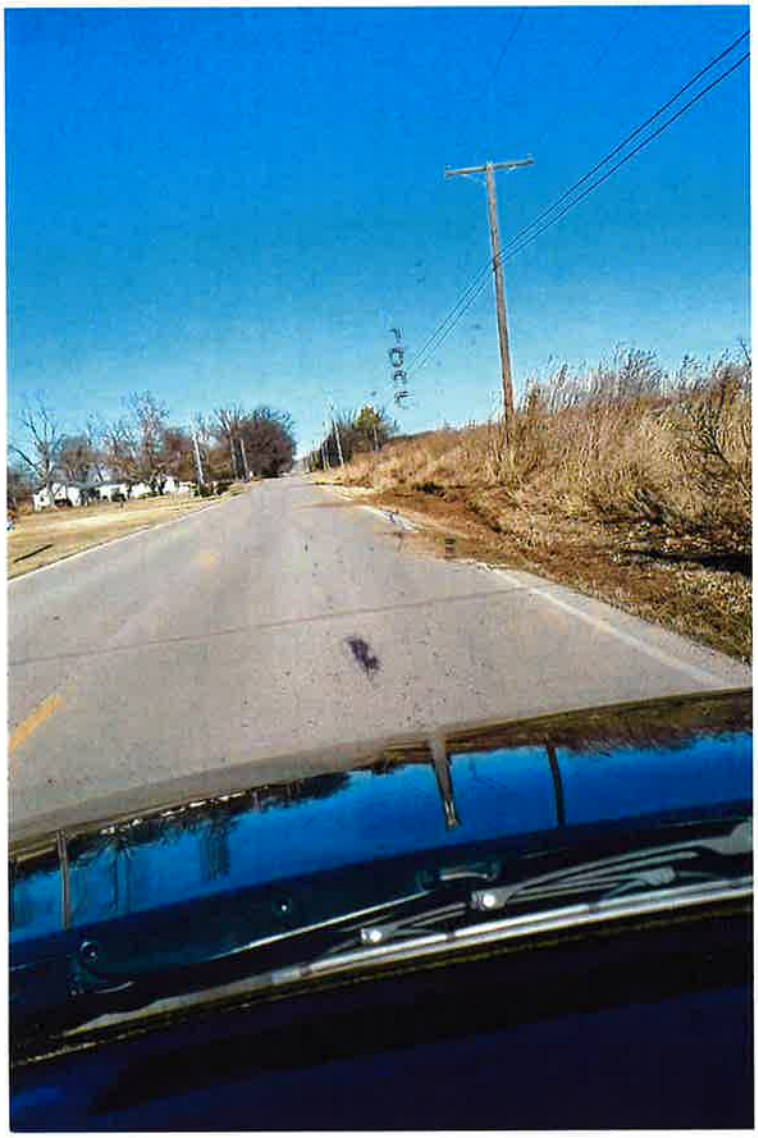
Edit





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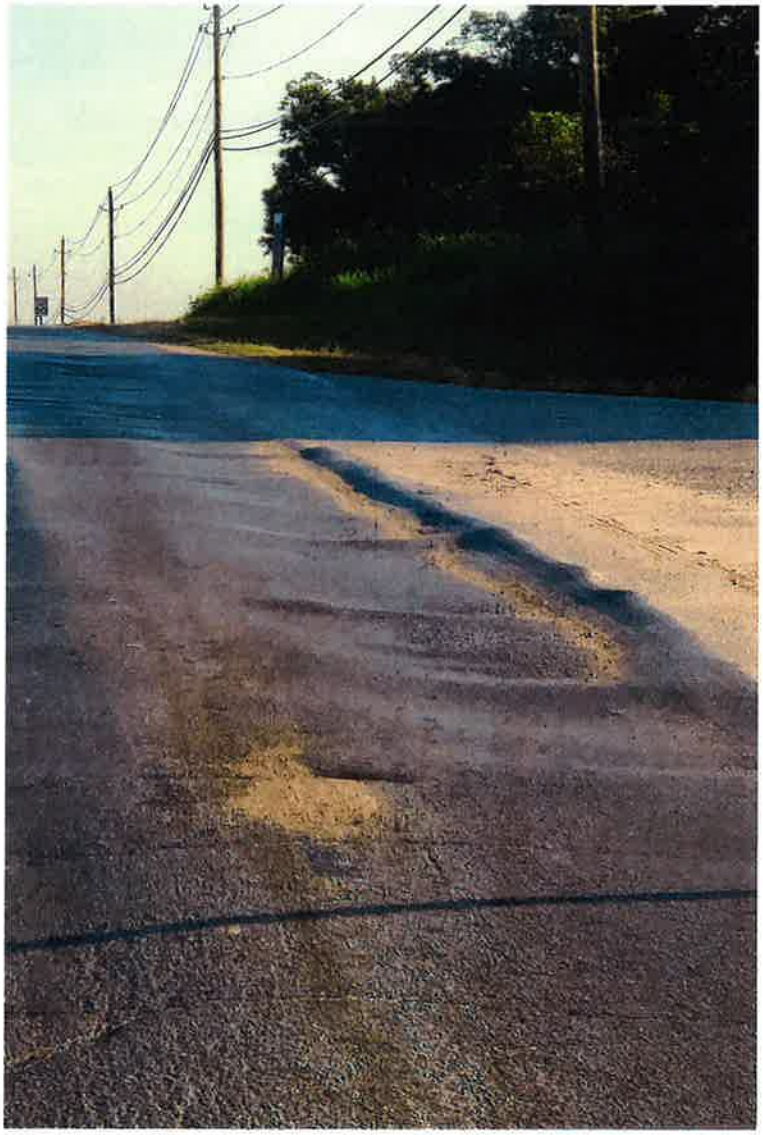


49
35

Google Maps OVERHEAD VIEW

3.24

Imagery ©2020 Landsat / Copernicus, Maxar Technologies, USDA Farm Service Agency, Map data ©2020 1 mi

TULSA COUNTY BOARD OF ADJUSTMENT
CASE NO. 2821
OFFICIAL RECORD EXHIBIT
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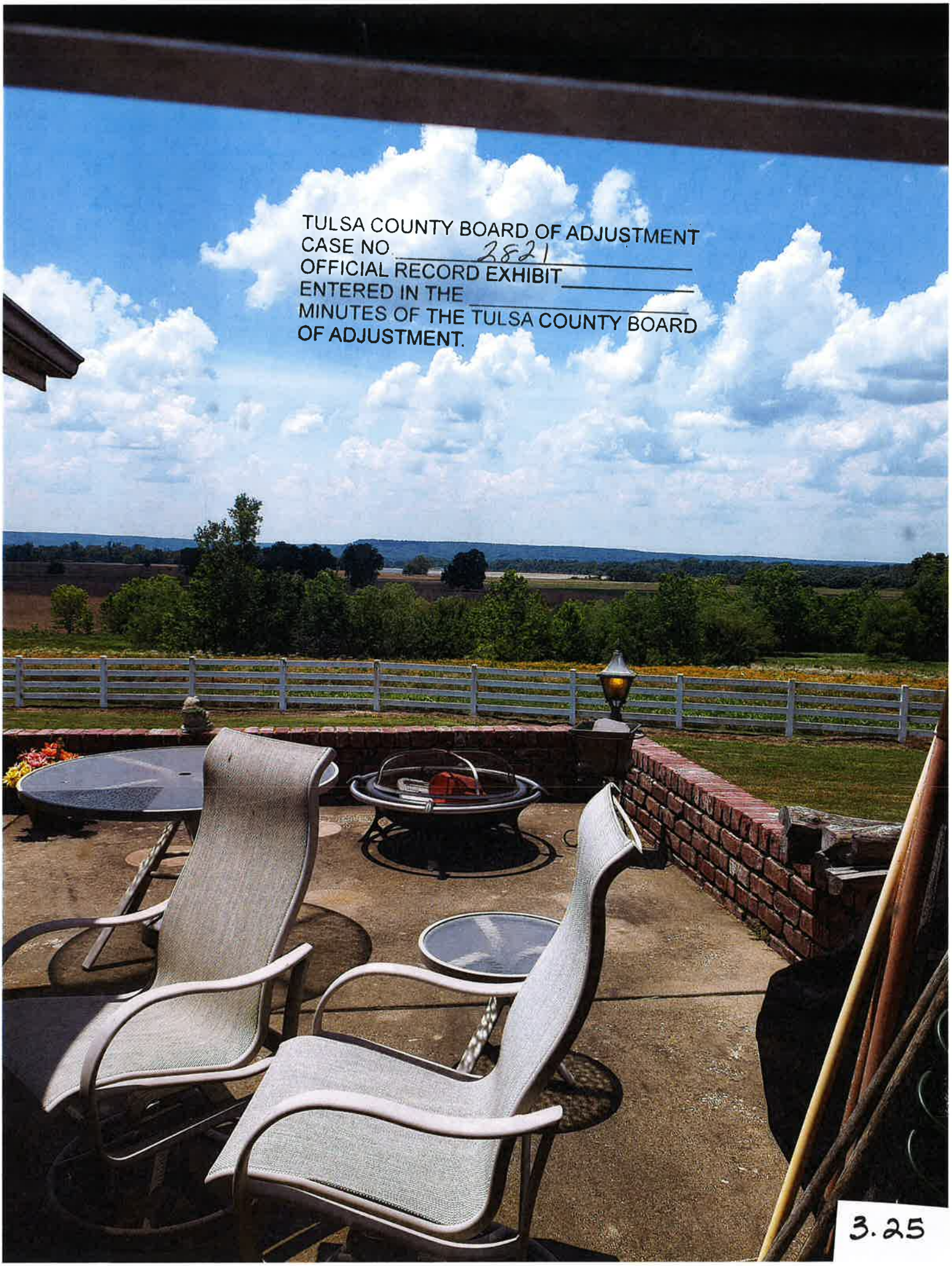
MINUTES OF THE TULSA COUNTY BOARD
OF ADJUSTMENT.

5.30


TULSA COUNTY BOARD OF ADJUSTMENT
CASE NO. 2821
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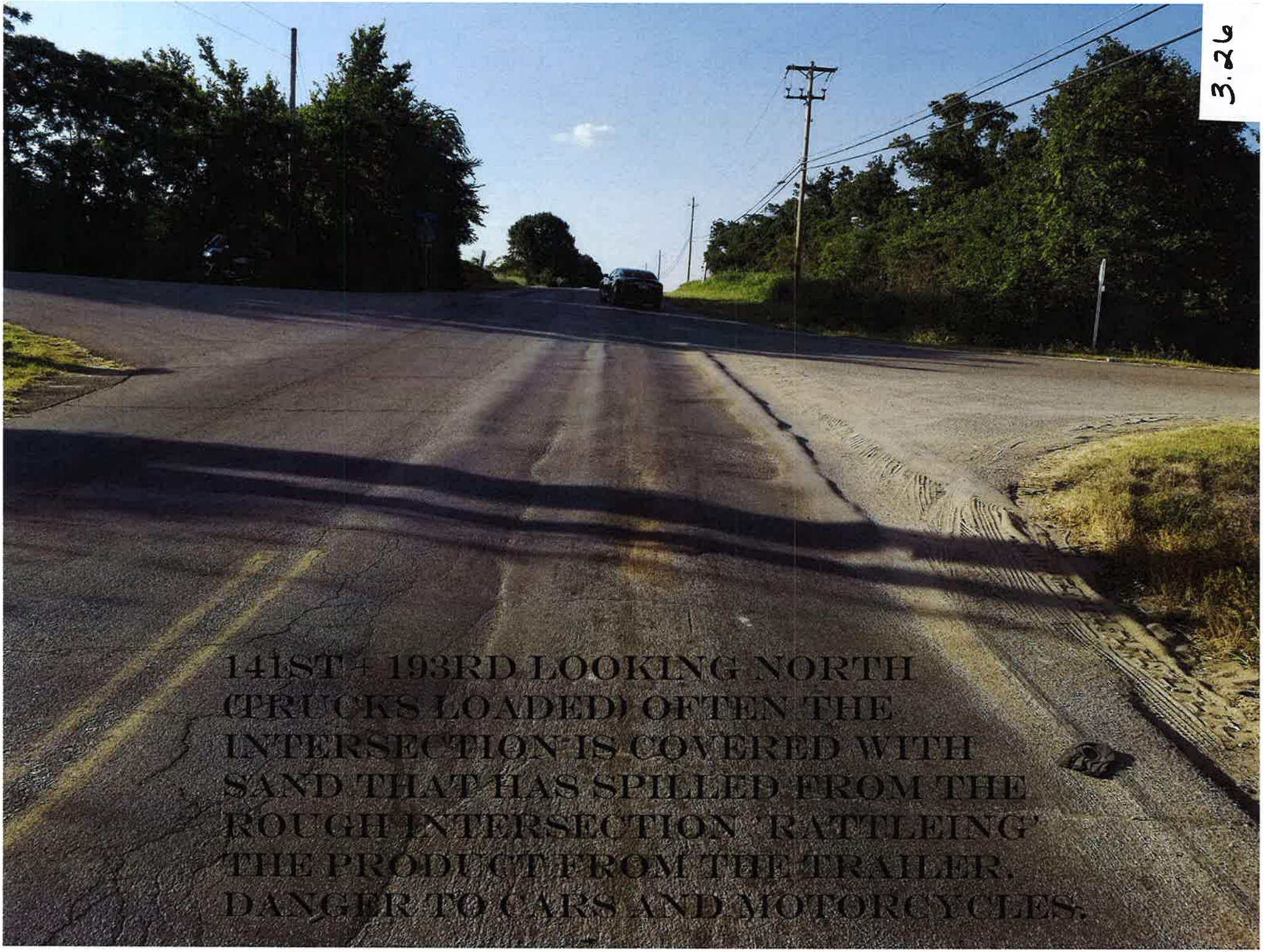
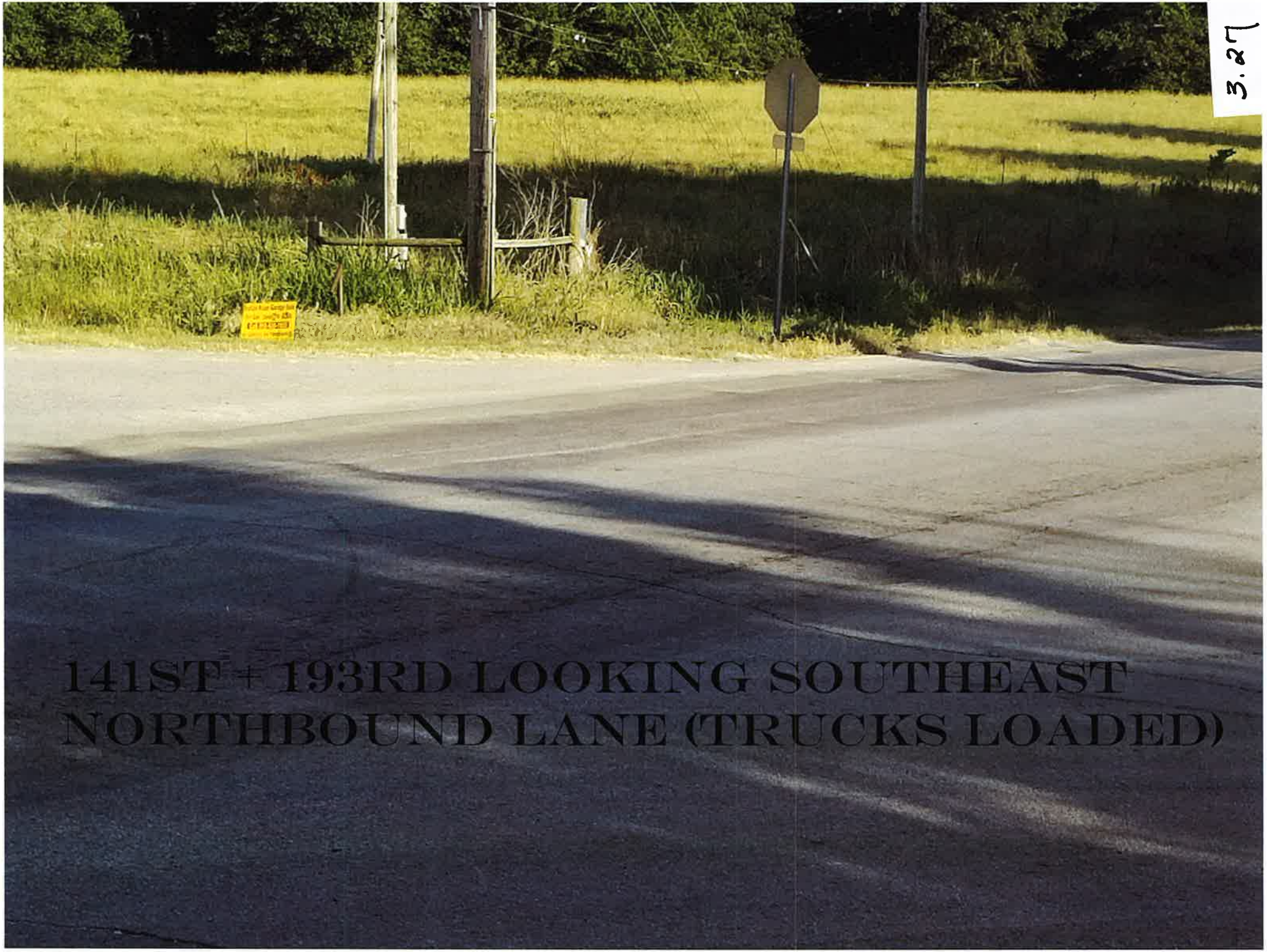
OF ADJUSTMENT.
3.25



141ST + 193RD LOOKING NORTH (TRUCKS LOADED) OFTEN THE INTERSECTION IS COVERED WITH SAND THAT HAS SPILLED FROM THE ROUGH INTERSECTION 'RATTLEING' THE PRODUCT FROM THE TRAILER. DANGER TO CARS AND MOTORCYCLES.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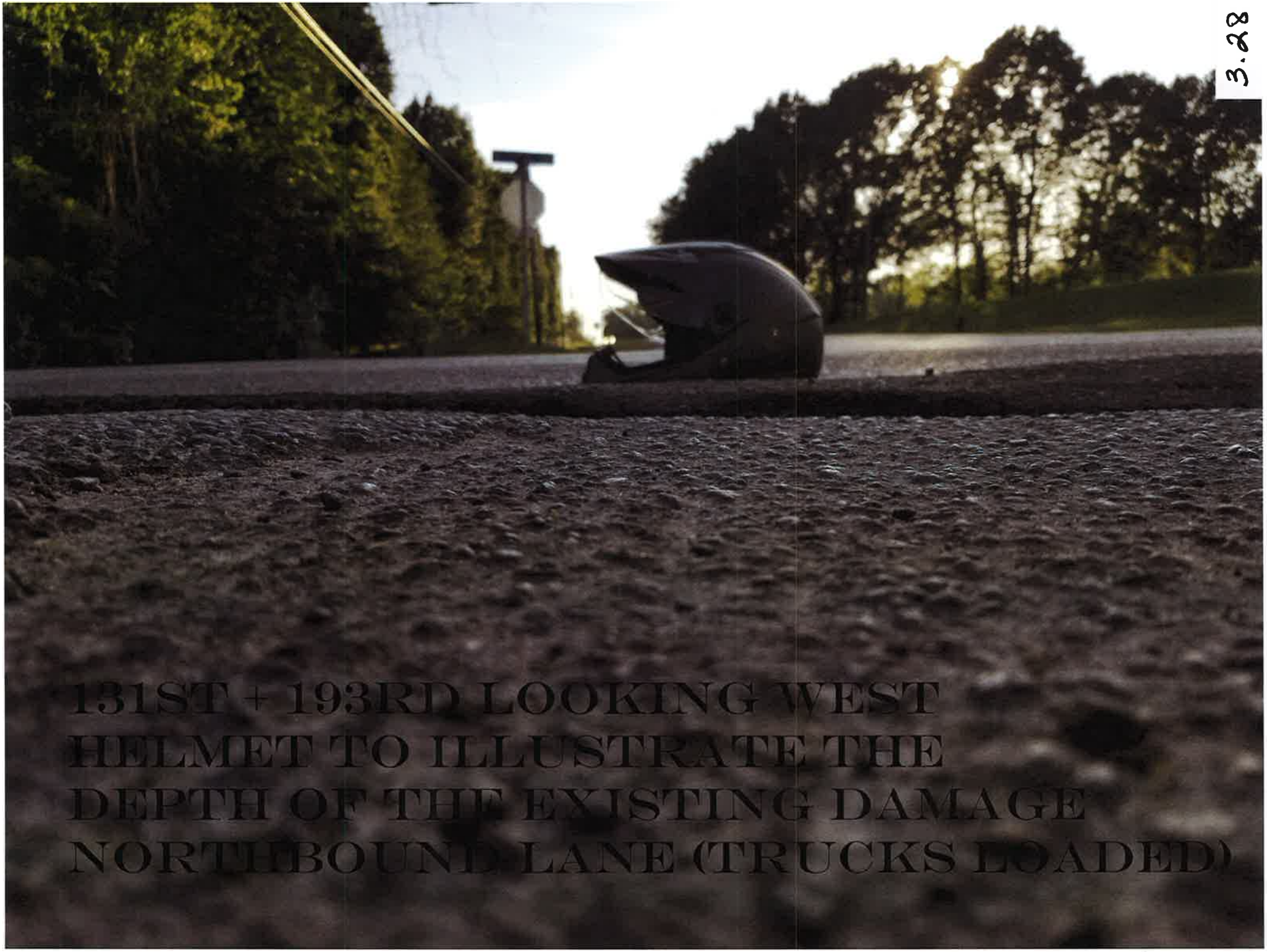
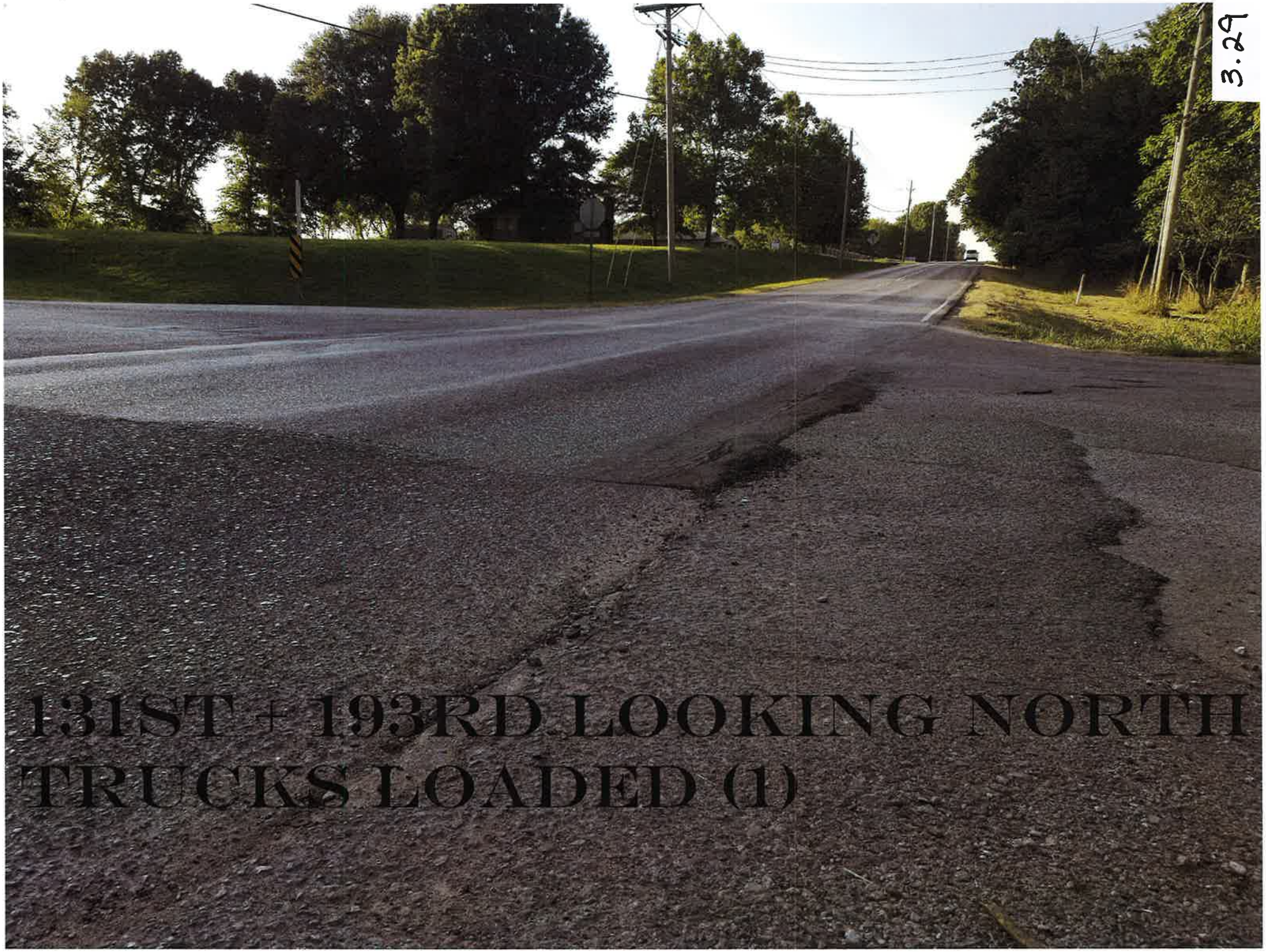
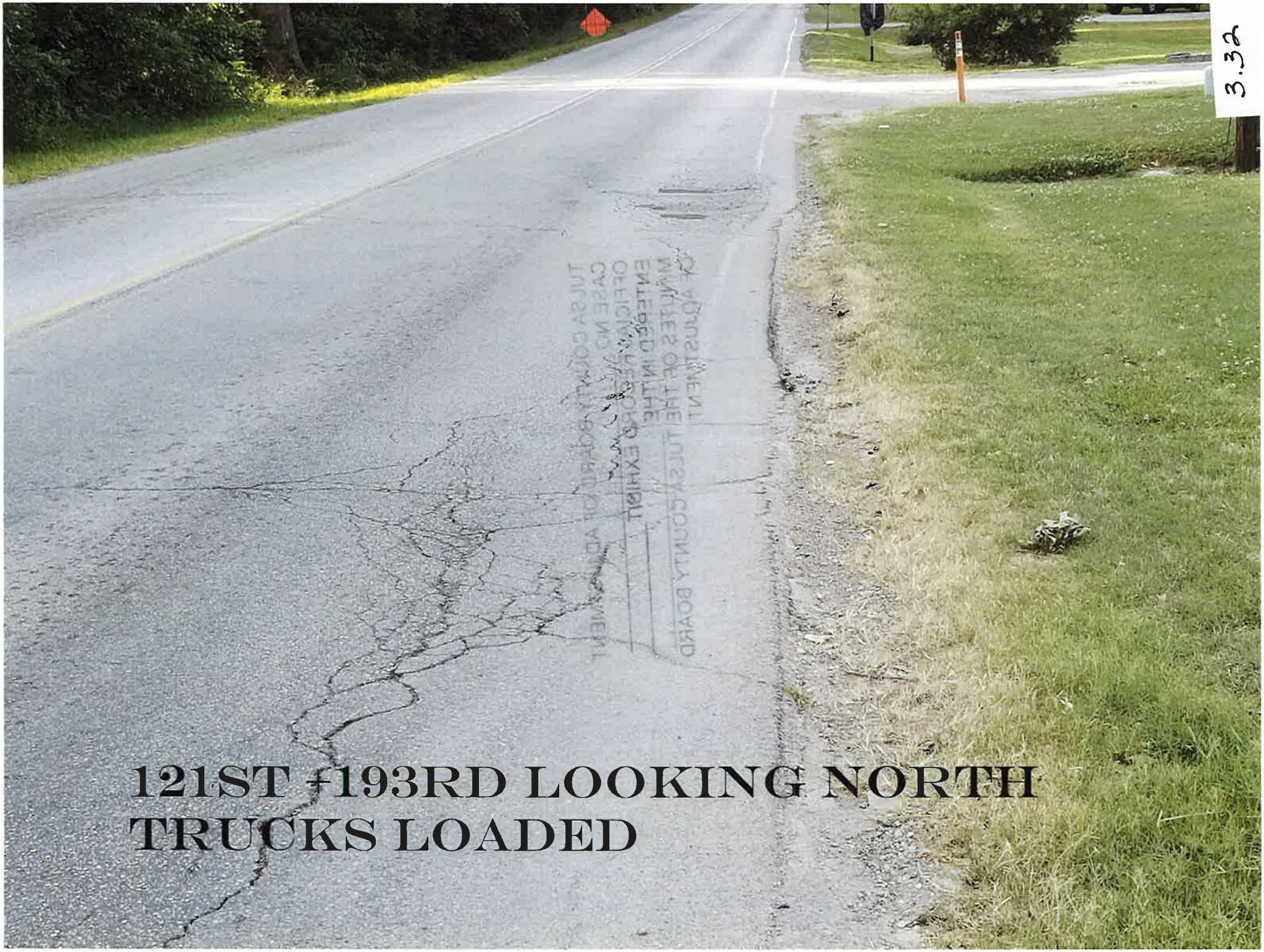
141ST + 193RD LOOKING SOUTHEAST
NORTHBOUND LANE (TRUCKS LOADED)


3.28
131ST + 193RD LOOKING WEST
HELMET TO ILLUSTRATE THE
DEPTH OF THE EXISTING DAMAGE
NORTHBOUND LANE (TRUCKS LOADED)


3.24
131ST + 193RD LOOKING NORTH
TRUCKS LOADED (1)


3.30
121ST + 193RD LOOKING
SOUTHWEST


3.31
121ST + 193RD LOOKING SOUTH (1)


3.32
121ST +193RD LOOKING NORTH
TRUCKS LOADED

TULSA COUNTY BOARD OF ADJUSTMENT

CASE NUMBER: CBOA-2821

HEARING DATE: 7/21/2020

APPLICANT: Holliday Sand & Gravel Company, Inc. ("Applicant")

OBJECTION TO APPLICANT'S REQUEST FOR SPECIAL EXCEPTION

On June 16, 2020, a hearing was held before the Tulsa County Board of Adjustment (the "BOA") on Applicant's request for a special exception. Specifically, Applicant requests a special exception to once again attempt to put a second sand and gravel dredging and mining operation in the community in the vicinity of 151st Street South, and 193rd East Avenue. The hearing was continued to July 21, 2020 upon the vote of the BOA, with a 4-1 vote in favor of the continuance. The BOA requested that Applicant submit additional documentation and information relating to the concerns and objections voiced by the many neighbors in attendance who opposed Applicant's application.

This firm represented landowner Steve Walker of 15525 S. 193rd East Avenue ("Walker") at the initial hearing. This firm now represents other interested parties, in addition to Walker. Walker, along with David Barron ("Barron"), the landowner whom Applicant stated contacted them about putting the proposed mining operation on his property, previously opposed a similar relevant application in 2001. As the BOA is aware, there was a civil lawsuit filed objecting to the BOA's granting of Applicant's previous application (the "District Court Case").[1] As a matter of public record, Barron was a named Plaintiff in that case. Barron opposed the plant being located at 155th in 2001, but now seeks to profit from a plant on his property at approximately 145th. The only material changes to this AG zoned community since 2001 is that there are more residences and residential neighborhoods in the area, and both the Tulsa County District Court and the Oklahoma Court of Civil Appeals have previously found that an exception permitting a mining and dredging operation in this community will be harmful to the community and the environment.

PREVIOUS LITIGATION RELATING TO APPLICANT & THIS COMMUNITY

Although the Chairman expressed it is his opinion the previous litigation involving this same community and the Applicant are not binding upon the BOA, which may be technically accurate due to a minor adjustment in location, we believe it is important for this body, with its current members, to have a firm understanding of the previous litigation involving Walker and Applicant. As will be shown below, Applicant made essentially the same promises, pleas, and representations in its 2001 application, which the Oklahoma Courts found insufficient to justify a special exception for Applicant's operation.

[1] Tulsa County District Court Case No. CJ-2001-4244.

Applicant made the same request as the current request before the BOA in 2001 (Case No. 1877). After a hearing on the application on June 19, 2001, the BOA approved Applicant's request.[2] The 2001 application identified the site of the proposed operation at SW/c E. 155th St. & 193rd E. Ave. The current Application identifies the location as "SW of E. 141st St. S. & 193rd E. Ave."; however, the drawing shows the location to be closer to 145th Street, with the dredging and mining operation extending south of 151st Street. The same community impacted by Applicant's previous application is clearly the same community affected by Applicant's current Application.

Attached hereto is copy of the Journal Entry of Judgment in the District Court Case.[3] In summary the Tulsa County District Court found the BOA erred in granting the special exception. The Court held: "[there was] insufficient substantial evidence to grant the special exception"; that "the decision of the [BOA] was arbitrary, capricious, and unreasonable"; and "[t]he granting of the special exception would result in unnecessary and substantial harm to the Petitioners and the community at large, and will further potentially harm and damage the environment through noise, erosion, an increase in dangerous traffic, and possibly from damage to the roadways."

Applicant appealed the District Court's decision to the Oklahoma Court of Civil Appeals (the "Appellate Court"). The Appellate Court affirmed the District Court's decision. The Appellate Court issued a detailed Opinion on January 13, 2004 (the "Opinion").[4] As set forth in Applicant's 2001 application and the Opinion, Applicant asserted many of the same reasons for the request, as well as the same mitigating factors Applicant claims will minimize the impact of its operation. For example, Applicant asserted its plant would "not be injurious to the neighborhood or detrimental to the public welfare".[5] Applicant alleged the increase in traffic on the area roads would not be greater than the current use, and that it would take considerable precautions to reduce noise at its plant".[6] Applicant similarly asserted it would use a wide range of precautions to reduce noise, including, "electric motors in various equipment, a 'hospital quality' silencer on the diesel engine on the dredge, state of the art silencers on the scoop loaders, and the use of plastic or rubber coated chutes and screens."[7]

The Appellate Court noted in the Opinion the testimony of Dean Holladay, the Superintendent of Highway Maintenance (the person responsible for maintaining 193rd East Avenue in the area of the proposed plant at that time), stating the roadway "is beginning to fail and needs maintenance performed on it" and "...that the road was designed for light traffic and is not suitable to handle an additional one hundred semi-trucks...".[8] The Opinion goes on to cite the

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[2] See Tulsa County Board of Adjustment Minutes of Meeting 253, attached hereto as Exhibit 1.
[3] See Journal Entry of Judgment dated October 17, 2002, attached hereto as Exhibit 2.
[4] See Appellate Court Opinion dated January 13, 2004, attached hereto as Exhibit 3.
[5] See Exhibit 3 at p. 5.
[6] See Exhibit 3 at p. 5.
[7] See Exhibit 3 at p. 6.
[8] See Exhibit 3 at p. 7.

testimony of Jack Sheridan, an engineer specializing in hydraulics, who testified the plant would cause erosion of the riverbank and erosion up to 193rd East Avenue.[9]

In the Opinion, the Appellate Court held, "[i]n reviewing the evidence, we find that Landowners presented clear evidence that the operation of the sand plant will 'be injurious to the neighborhood' and 'possibly detrimental to the public welfare.' Although [Applicant] presented testimony that it would do a variety of things to hold down noise, the increase of heavy traffic will be substantial, and the evidence tends to establish that this will considerably increase the noise level and damage the roadways. In addition, section 1224.3 of the Tulsa Zoning Code requires consideration of possible 'environmental influences.' Although there is a strong evidentiary dispute over whether the plant will result in substantial erosion to the river bank, there was expert testimony to that effect which the Trial Court could have, and apparently did, accept."[10] In conclusion the Appellate Court stated, "[w]e conclude that the Trial Court's decision is not clearly contrary to the weight of the evidence. The Landowners presented clear evidence that the zoning exception would allow a use of the property which would be injurious to the neighborhood and environment. Accordingly, the decision of the Trial Court is affirmed."[11]

THE APPLICATOIN IS INCONSISTENT WITH THE CITY OF BROKEN ARROW'S COMPREHENSIVE PLAN & THE CITY OBJECTS

In addition to the extensive testimony regarding how the proposed plant will be injurious to the neighborhood, community and environment, Applicant's request is also contrary to the City of Broken Arrow's Comprehensive Plan. The City of Broken Arrow objected to Applicant's request by letter dated June 15, 2020. A copy of the City of Broken Arrow's letter is attached hereto.[12] In its letter, Broken Arrow's Community Development Director, Larry R. Curtis, states the application is not compatible with the Level 1 low density residential use of the property, as designated in the Comprehensive Plan. Further, Broken Arrow objected to the application because: most of the tract and surrounding properties are not in the 100 year floodplain, and are capable of development; 193rd East Ave. is currently maintained by the City of Broken Arrow[13]; there have not been additional traffic studies to analyze traffic control signage; and no analysis has been done to determine the impact the proposed plant could have on the Lynn Lane Waste Water facility located approximately ½ mile south of the proposed plant.[14]

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[9] See Exhibit 3 at p. 8.

[10] See Exhibit 3 at p.10.

[11] See Exhibit 3 at p. 11.

[12] See City of Broken Arrow letter dated June 15, 2010, attached as Exhibit 4.

[13] The City of Broken Arrow's letter states that although the east side of 193rd East Ave. (north-bound) is in Wagoner County, Broken Arrow maintains 193rd East Ave. in this area. Tim Kelley with Wagoner County confirmed that Broken Arrow does maintain both lanes of 193rd East Ave. in the area in question.

[14] See Exhibit 4.

The City of Broken Arrow's objection to the Application was neither raised, disclosed, nor discussed at the initial hearing on this Application. At the time of the initial hearing Walker was not aware Broken Arrow had provided a written objection to the Application.

EVIDENCE OF DAMAGE TO THE COMMUNITY & ROADS

At the hearing a member of the BOA stated that the interested parties all gave statements about the noise from the existing plant at 161st, as well as the truck traffic therefrom, but that no video evidence supporting the same was presented. Unfortunately, Mr. Walker was not able to present the evidence he possessed (on a thumb drive) showing the BOA representative examples of the noise, traffic and road conditions due to Zoom conferencing being utilized. Walker did provide the BOA with photographs supporting his assertions at the hearing, which were made part of the record. Attached hereto are additional photographs depicting the conditions of 193rd East Ave., photographs of sand on the roadway, dust covering surfaces of Walker's real and personal property.[15] Walker further submits video evidence of the noise associated with passing trucks, which Applicant admits will occur 100 times per day, beginning before 7AM and ending at shortly after 4PM (which is when Applicant says the last trucks will be loaded).[16]

It is clear from the photographs provided, there is substantial existing wear and tear on 193rd East Ave. between the site of the proposed plant and the Creek Turnpike. Notably, the wear and tear is more substantial in the northbound lane of 193rd due to loaded trucks traveling to the Creek Turnpike. The intersection at 141st St. S. has ripples in the asphalt (washboard effect), which are clearly from heavy trucks starting and stopping at the intersection. Similarly, the intersection at 131st St. S. has substantial damage to the asphalt, including a large/long rut in the asphalt where traffic traveling northbound has pushed the asphalt up across the east side of the intersection.[17] This stretches nearly the entire length of the intersection. Also located at this intersection is a BlockHouse Grill & Pub, which has an outdoor patio near the roadway.

As the BOA is aware, heavy trucks produce noise and vibration while traveling the roadways. From 50' away, a heavy truck traveling between 30 mph and 50 mph will produce noise levels (not including vibration) of 80 – 85 decibels.[18] There are homes along 193rd East Ave. which are closer than 50' from the roadway; therefore, the decibel levels of the heavy trucks coming from Applicant's proposed plant would produce noise greater than 80 to 85 decibels. Although Applicant downplayed the significance of 85 decibels at the hearing, the Occupational Safety and Health Administration (OSHA) requires employers to establish a hearing conservation program for employees whose noise exposures equal or exceed an 8-hour time-weighted average of 85 decibels.[19] Although Walker and those similarly situated will not be exposed to a time-weighted average of 85 decibels, they will be exposed to 85 decibels or greater up to 100 times a

[15] See Exhibit 5, pages 5-1 through 5-4.
[16] See Thumb Drive marked Exhibit 6.
[17] See Exhibit 7, pages 7-1 through 7-2.
[18] https://nonoise.org/resource/trans/highway/spnoise.htm, see chart attached as Exhibit 8.
[19] See 29 CFR 1910.95(c)(1).

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day during a 9-10 hour period. Contrary to Applicant's presentation, 85 decibels is significant, and is substantial enough for OSHA to promulgate rules relating to exposure to such levels.

APPLICANT'S ABANDONED PLANT

Upon information and belief, Applicant currently owns the abandoned sand plant just north of the Memorial Dr. bridge at 141st and Memorial Dr. in Bixby, OK. According to the Tulsa County Assessor's Office, HSG Acquisition Company, LLC (owned by Applicant) purchased the property at 14101 S. Memorial Dr. E., Bixby, OK 74008 (the "Abandoned Plant") in 2008.[20] Applicant's Abandoned Plant is relevant to these proceedings for two reasons: (1) Holliday left mounds of sand, equipment, and a vacant building after abandoning the site; and (2) the Abandoned Plant provides Applicant with an existing source of sand.

At the previous hearing Applicant expressed the importance of being a good neighbor. Applicant spoke of measures they take relating to: controlling truck traffic, managing driving behaviors, keeping dust down, and leaving the land in good condition when they were finished. However, as demonstrated by the photographs of the Abandoned Plant, Applicant abandoned that site years ago and left behind metal, equipment, a vacant building and mounds of sand.[21] This clearly shows Applicant's disregard for the environment and the community in which its plants are located.

Further, as a basis for Applicant's request, Applicant claims there is an existing and ongoing need for sand for concrete construction and paving, and that existing sand plant sites are overworked and depleting. However, in addition to Applicant's two (2) existing and operational sites in this area, Applicant has a third site in Bixby at the Abandoned Plant. There is even unused sand Applicant left at the old plant. Applicant explained during the hearing that flood events are one way sand deposits for mining are restored. The Abandoned Plant was not operational prior to the recent major flooding event in this area, and has not been operational since. Therefore, the Abandoned Plant could be another source of sand for Applicant without the need to destroy more land or disrupt this community further.

CONCLUSION

As the BOA is aware, this is Applicant's third attempt at putting a sand and gravel mining operation along a three or four mile stretch of 193rd East Ave. First in Tulsa County in 2001, then in Wagoner County in approximately 2010, and now again in Tulsa County in 2020. This community strongly opposes Applicant's request, as does the City of Broken Arrow. The Applicant's proposed use is inconsistent with the AG zoning of the area in question, is inconsistent with Broken Arrow's Comprehensive Plan, and as the courts have previously stated, "[t]he granting of the special exception would result in unnecessary and substantial harm to the

[20] See property data attached as Exhibit 9.
[21] See photos attached as Exhibits 10, pages 10-1 through 10-4.

[interested parties] and the community at large, and will further potentially harm and damage the environment through noise, erosion, an increase in dangerous traffic, and possibly from damage to the roadways." Therefore, Walker respectfully requests the BOA deny Applicant's request for a special exception to operate a sand and gravel mining facility as proposed in Case No. CBOA-2821.

Respectfully submitted,

JONES, GOTCHER & BOGAN, P.C.

Tadd J.P. Bogan

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COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 253
Tuesday, June 19, 2001, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chair	Walker	Butler	West, Co. Inspec.
Tyndall	Dillard, Vice Chair	Fernandez	
Hutson			

The notice and agenda of said meeting were posted in the Office of INCOG, 201 W. 5th St., Suite 600, Friday, June 15, 2001 at 8:00 a.m., as well as at the City Clerk's office, City Hall.

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

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MINUTES:

On **MOTION** of **Hutson**, the Board voted 3-0-0 (Alberty, Tyndall, Hutson "aye", no "nays"; no "abstentions"; Walker, Dillard "absent") to **CONTINUE** the May 15, 2001 minutes to the next County Board of Adjustment meeting, June 19, 2001.

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UNFINISHED BUSINESS

Case No. 1847

Action Requested:

Variance of Section 240.2.E to permit an accessory building of 2,400 sq. ft. in an RS district. SECTION 240.2. YARDS, Permitted Yard Obstructions -- Use Unit 6; and a Variance to permit the accessory use on a lot adjoining the principal dwelling unit (under common ownership) as the principal and only use on the lot, located 742 N. Willow St.

Presentation:

Diane Fernandez, stated that this case was re-advertised, and it would have been heard by the City of Sand Springs but they did not have a quorum for this particular Board of Adjustment referral.

Ronald Shipman, 724 Willow St., Sand Springs, stated he wants to build a building for equipment for a small siding business, including trailers and

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Presentation:

Bill and Debbie McCalister, 18215 E. 101st St., stated they purchased the land in 1994 and the adjoining six acres with the plan to build a home and family compound. They now seek access by easement for a lot-split. The soil percolation test has been done and approved; city water taps have been approved pending easement dedication from a neighbor. They do not want to subdivide. There are two other children, which would total four dwellings.

Comments and Questions:

Mr. Alberty asked if they would file the easement with the county for roadway purposes. Mr. McCalister responded that it would be a 20' hard surface road and 30' easement. Mr. McCalister added that he maintains the road.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Tyndall**, the Board voted 3-0-0 (Alberty, Tyndall, Hutson "aye", no "nays"; no "abstentions"; Walker, Dillard "absent") to **APPROVE** a ***Variance*** of minimum 30' of frontage on a public or dedicated right-of-way to permit access by easement for a lot-split, per presentation and filing of easements, 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:

NE SW SW, less W 264', Section 24, T-18-N, R-14-E, Tulsa County, State of Oklahoma.

..*.*.*.*.*.*.*.

Case No. 1877

Action Requested:

Special Exception to permit mining of sand and gravel and associated processing in an AG district. SECTION 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT and SECTION 1224. USE UNIT 24. MINING AND MINERAL PROCESSING -- Use Unit 24, located SW/c E. 155th St. & 193rd E. Ave.

Presentation:

Mike Odell, 6811 W. 63rd St., Overland Park, Kansas, submitted a packet of exhibits (Exhibit D-1, D-2, D-3). He stated he is the Vice-President for Holliday Sand and Gravel. He stated he met with the property owners. He informed the Board that the size of the property is about 19 ½ acres. He stated that they would be doing sand removal only, no processing at the

site. They were planning the entrance and exit as far south as possible to be as far as possible from the homeowners' drives. He indicated that the existing plants could not provide enough sand for the Tulsa area. They plan to minimize the use of County roads for trucking sand. The existing trees along the fence line would be left for screening. He stated the plant would be in the flood plain but not in the floodway. The existing homes would be used for offices and would also be left for screening.

Interested Parties:

Dennis Shook, 109 N. Casper St., Wagoner, Oklahoma, submitted photographs (Exhibit D-3). He stated he represented John and Pat Holder and other property owners in the neighborhood. They believe the neighborhood would be adversely affected if the application was approved. He noted the zoning along the turnpike is a mix of R and AG districts. He indicated that the truck traffic would cross the County Line road at about 155th St. The Long Range Transportation Plan 2025 does not include improvements or widening of the two lane road. He estimated 180 – 200 trucks on 193rd E. Ave. per day, from numbers given by the sand company. He reminded the Board that there are only two stop signs at 141st and 193rd St. and at 131st and 193rd and no other traffic control devices on this road. He felt the speed of 18 wheelers would be cause for concern to those living in the area.

Mr. Alberty out at 3:50 p.m.

Mr. Shook reminded the Board that the area is zoned AG not industrial. Holliday Sand and Gravel has an existing plant which has caused the river to erode and old Highway 51 is now closed and not passable. The homeowners are concerned that the second plant could impact properties in the same way.

Mr. Alberty returned at 3:52 p.m.

He expressed concern that calcium chloride would not be effective to prevent dust during the drier season of the year. He also mentioned that homeowners were concerned about decreasing property value.

Pat Boyd, P.O. Box 225, Porter, Oklahoma, stated that this project is not compatible with a residential district.

John Holder, 15353 S. 193rd E. Ave., stated he purchased his property to raise horses. His land has increased in value and he has improved his home considerably. He informed the Board that the current average daily truck traffic only on 193rd E. Ave. is between 119 and 164 trucks.

Steven Walker, 15511 S. 193rd E. Ave., pointed out the sod farms and indicated the plant would ruin the view and beauty of the property. He noted previous concerns and suggested this is not a good location. He indicated the nuisances it would cause to health by mosquitoes and noise. He was concerned about hours of operation and lighting.

Beverly Hefley, 15606 S. 193rd E. Ave., **Mel Chambers**, 15238 S. 193rd E. Ave., **Brenda Chambers**, 15238 S. 193rd E. Ave., **Pat Bouie**, 15495 S. 193rd E. Ave., **Mrs. L.C. New**, and **Pat Holder**, 15353 S. 193rd E. Ave., all had similar concerns to those previously listed.

Jo Caruthers, spoke in support of the application, stating the trucking is necessary to transport the sand. He stated that the company does everything they can to be good neighbors. He informed the Board that Tulsa really needs this sand supply.

A letter of support was submitted (Exhibit D-4). Letters and petitions of opposition were submitted (Exhibits D-5, D-6).

Applicant's Rebuttal:

Mr. Odell commented that the company is in favor of any transportation improvements that will increase safety. He informed the Board that Keystone Dam causes the erosion. He stated that the existing plants cannot keep up with the supply of sand needed for the Tulsa area. He indicated that this site was the only one available at this time. The Department of Environmental Quality has inspected and approved. Mr. Odell stated there would be no open pits and the settling ponds are not stagnant and fill up with sand with water flowing through them so they are very clean. He added that they do pay sales tax on the sand.

Comments and Questions:

Mr. Tydall asked about the hours of operation. Mr. Odell responded hours of operation would be 6:00 a.m. to 6:00 p.m., Monday through Friday, a half day on Saturday. They realize that this is early in the morning but they have a shortage of trucks. He added that they will haul a certain amount of sand per day, whether it is in twelve hours or eight hours. The plant will be closed on Sunday and holidays.

Board discussion ensued.

Board Action:

On **MOTION** of **Hutson**, the Board voted 3-0-0 (Alberty, Tyndall, Hutson "aye", no "nays"; no "abstentions"; Walker, Dillard "absent") to APPROVE a ***Special Exception*** to permit mining of sand and gravel and associated processing in an AG district, per presentation, 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:

A part of the Fraction Section 24, T-17-N, R-14-E, Tulsa County, State of Oklahoma, described as follows: Commencing at a point on the NE/c SE/4 NE/4 of said Section 24 a distance of 1010' to the POB; thence W along the N line of the SE/4 NE/4 of said Section 24, also known as the N line of Lot 5, a distance of 560' to a point on the Wly high bank of the Arkansas River; thence W along the SE/4 NE/4 of said Section 24 a distance of 1140' more or less to a point along the centerline of the Arkansas River; thence SEly along the centerline of the Arkansas River and its meandering thereof a distance of 4100' more or less to a point on the S line of said Section 24; thence E along the S line of said Section 24 a distance of 900' more or less to a point on the Wly high bank of the Arkansas River; thence NWly along the Wly high bank of the Arkansas River and its meandering thereof to a point that is on the S line of said Lot 5; thence E along the S line of said Lot 5 a distance of 750' more or less to a point that is 720' more or less W of the E line of said Section 24; thence NWly along a line that is parallel to the Arkansas River a distance of 1300' more or less to the POB.

..*.*.*.*.*.*.*.*.

Case No. 1878

Action Requested:

Variance of the required 30' frontage on a public street to 0'. SECTION 207. STREET FRONTAGE REQUIRED -- Use Unit 6, located 11908 N. Oswego.

Presentation:

Linda Vestal, 11908 N. Oswego, Sperry, Oklahoma, stated her request.

Comments and Questions:

Mr. Alberty asked if this was like a family compound. Ms. Vestal replied that it was and her sisters and father are all around it. He asked how she accesses the property. She responded from 116th and 41st and 119th and 41st on New Haven. She submitted a letter showing approval for a rural water tap (Exhibit E-1). She added that she was going to put in an aerobic system for sewage. Mr. Alberty advised Ms. Vestal to file the roadway that would lead from the nearest public right-of-way to her property with a minimum width of 30' and utility easements of record.

Interested Parties:

There were no interested parties present who wished to speak.

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, DISTRICT COURT
STATE OF OKLAHOMA

FILED
OCT 17 2002
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

IN THE MATTER OF AN APPEAL FROM A DECISION BY THE TULSA COUNTY BOARD OF ADJUSTMENT IN BOARD OF ADJUSTMENT CASE NO. 1877.	))))	Case No. CJ-2001-4244-Peterson

JOURNAL ENTRY OF JUDGMENT

Now on this 29th day of May, 2002, there comes on for trial before this Court, the Appeal of John Holder, Patricia Holder, L. C. Neal, Leon Hefley, Beverly Hefley, Don Chambers, Brenda Chambers, Steve Walker, and Pat Buie (hereinafter collectively referred to as "Petitioners") appealing of a decision rendered by the Tulsa County Board of Adjustment on the 19th day of June, 2001. Petitioners appeared in person and by and through their attorney, Dennis N. Shook. The Tulsa County Board of Adjustment appeared through Assistant District Attorney, Dick A. Blakeley. The Intervenor, Holliday Sand and Gravel Company, Inc. appeared through its attorney, James M. Meredith. The Court, after hearing the witnesses and reviewing the evidence submitted and being otherwise fully advised in the premises, makes the following findings:

1. The Tulsa County Board of Adjustment did err in granting intervenor the special exception.

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SALLY HOWE SMITH
COURT CLERK

2. There is insufficient substantial evidence to grant the special exception.

3. The decision of the Tulsa County Board of Adjustment was arbitrary, capricious and unreasonable in the granting of the special exception.

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4. The granting of the special exception will result in unnecessary and substantial harm to the Petitioners and the community at large, and will further potentially harm and damage the environment through noise, erosion, an increase in dangerous traffic, and possibly from damage to roadways.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THIS COURT that the decision of the Tulsa County Board of Adjustment in Case No. 1877 in the issuance of a special exception to the intervenor is hereby reversed and set aside.

10-7-02

JUDGE

Dennis N. Shook, O.B.A. # 8202
Attorney at Law
109 N. Casaver St.
P. O. Box 876
Wagoner, OK 74477

Dick A. Blakeley, O.B.A. #852
Chief, Civil Division
Office of the District Attorney
406 Tulsa County Courthouse
500 S. Denver
Tulsa, OK 74103

James M. Meredith, O.B.A. #15034
LOGAN & LOWRY, LLP
19 East Third Street
Grove, OK 74344
918.786.7511

I, Sally Howe Smith, Court Clerk, for Tulsa County, Oklahoma, hereby certify that the foregoing is a true, correct and full copy of the instrument herewith set out as appears on record in the Court Clerk's Office of Tulsa County, Oklahoma, this

OCT 31 2002

By Billy Crockett
Deputy

IN THE COURT OF CIVIL APPEALS

STATE OF OKLAHOMA

DIVISION II

IN THE MATTER OF THE APPLICATION FOR EXCEPTION OF HOLLIDAY SAND & GRAVEL COMPANY BEFORE THE TULSA COUNTY BOARD OF ADJUSTMENT.	)	
JOHN HOLDER, PATRICIA HOLDER, L.C. NEAL, LEON HEFLEY, BEVERLY HEFLEY, DON CHAMBERS, BRENDA CHAMBERS, STEVE WALKER, and PAT BUIE,	)	Case No. 98,501
Plaintiffs/Appellees,	)	Not for Official Publication
vs.	)	
HOLLIDAY SAND & GRAVEL COMPANY,	)	
Defendant/Appellant.	)	

APPEAL FROM THE DISTRICT COURT OF
TULSA COUNTY, OKLAHOMA

HONORABLE DAVID L. PETERSON, TRIAL JUDGE

AFFIRMED

Dennis N. Shook
Tulsa, Oklahoma — For Plaintiffs/Appellees

Donna L. Smith
LOGAN & LOWRY, LLP
Vinita, Oklahoma — For Defendant/Appellant

OPINION BY RONALD J. STUBBLEFIELD, JUDGE:

Holliday Sand and Gravel Company (Holliday) appeals from an order of the District Court of Tulsa County which overturned the decision of the Tulsa County Board of Adjustment to grant Holliday's application for a zoning exception to permit operation of a sand mining plant in a district zoned agricultural. The issue on appeal is whether the Trial Court's decision is clearly contrary to the weight of the evidence. Upon review of the record on appeal and applicable law, we find it is not and affirm.

FACTS AND PROCEDURAL HISTORY

In May 2001, Holliday submitted an application to the Tulsa County Board of Adjustment (Board) seeking a special exception to zoning ordinances to allow it to mine and process sand and gravel at a location – the southwest corner of 155th Street South and 193rd East Avenue – zoned agricultural. The Board held a hearing at which Holliday presented the Board with various documentation demonstrating

its pending licensure to operate such a business.[1] The Board voted to approve the special exception.

Landowners John Holder, Patricia Holder, L.C. Neal, Leon Hefley, Beverly Hefley, Don Chambers, Brenda Chambers, Steve Walker, and Pat Buie filed an appeal with the District Court of Tulsa County. A hearing was held with each side presenting evidence. The Trial Court found that the Board erred in granting the special exception, concluding there "is insufficient substantial evidence to grant the special exception" and that the Board was arbitrary and capricious in granting it. The Court found that the grant of the special exception, would "result in unnecessary and substantial harm to the [Landowners] and the community at large, and will further potentially harm and damage the environment through noise, erosion, an increase in dangerous traffic, and possibly from damage to the roadways." Holliday appeals.

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[1] The documentation included an air quality permit application, a spill prevention control and countermeasure plan and stormwater pollution prevention plan, Oklahoma Water Resources Board Waste Disposal Permit information from a plant operated by Holliday in Coweta, Oklahoma, an application for a wastewater discharge permit, an application for a non-coal mining permit made to the Oklahoma Department of Mines, and an application for a permit from the U.S. Army Corps of Engineers. In addition, there was evidence of employee training to protect a federally listed endangered bird – the least tern – that nests on sand bars along rivers and waterways.

STANDARD OF REVIEW

Under 19 O.S.2001 § 866.24, a trial court is required to perform a trial *de novo* when reviewing a decision of a county board of adjustment. In conducting the trial, the trial court has the same power and authority as a county board of adjustment. *Id.* However, the burden of proof before the trial court "rests on the same party upon whom it rested before the board of adjustment." *Hargrave v. Tulsa Bd. of Adjustment*, 2002 OK 73, ¶ 6, 55 P.3d 1088, 1091.

When reviewing a decision of a board of adjustment, "there is a presumption of correctness that attaches to [a board's] decision which, *if affirmed*, will be accorded 'great weight' and not disturbed on appeal to this court unless it is 'clearly arbitrary or erroneous.'" *Bankoff v. Bd. of Adjustment of Wagoner County*, 1994 OK 58, ¶ 19, 875 P.2d 1138, 1143. However, where as here, a trial court reverses the decision of a board, "the presumption that originally attached to its validity is to be considered as having been overcome by the adverse ruling of the trial court." *Id.* In reviewing a trial court's decision reversing a board of adjustment decision, we will not overturn the trial court's decision unless we find it is clearly contrary to the weight of the evidence. *Id.*

ANALYSIS OF ISSUES

Holliday contends that the decision of the Trial Court was against the clear weight of the evidence. It emphasizes its own evidence that environmental concerns had been addressed by various regulatory entities, and that their approval of Holliday's license to operate constitutes a prima facie showing that the land use would not be injurious to the neighborhood or detrimental to the public welfare. It also emphasizes its evidence that the increase in traffic on the area roads would not be a great percentage of increase over current use, and that it had and would take considerable precautions to reduce noise at its plant.

Holliday's principal witness was its Vice President of production, Michael Odell. Odell testified that a good portion of the proposed plant site is flood plain and that approval had been obtained to operate in the flood plain. He described the plant operation as follows:

> [S]tarting in the river we have a dredge, a floating steel dredge with a pump on it that sucks sand and gravel slurry out of the river from the bottom of the river, conveys it with a floating pipeline to the bank where we have a hinge point. The pipe continues directly to the processing equipment, and – which is located here. You can see its more – as near to the riverbank as possible.
>
> These kidney shapes are sand stockpiles conveyed both directions from the plant, as there's two primary piles. The trucks would enter – they would come down south on County Line Road, turn west into the plant;

> down the entrance road, it's about 800 feet, make a circuit on the plant haul road here, be loaded near the sand stockpiles, proceed to the scale to be weighed, receive a ticket, pull off after the scale, tarp, head out east on the haul road or the entrance road, and then I believe all the traffic will be heading north again on County Line Road.

Odell further testified that Holliday would locate the proposed facility as far from existing residences as possible, that Holliday does not use any kind of chemical processes in its operations, and that Holliday would take a wide range of precautions against increased noise. Those precautions included the use of electric motors in various equipment, a "hospital quality" silencer on the diesel engine on the dredge, state of the art silencers on the scoop loaders, and the use of plastic or rubber coated chutes and screens. He did admit that there would be approximately 90 trucks using the facility per day and also that erosion had occurred at the Coweta plant operated by Holliday, but before Holliday began operating the plant.

In addition to Odell's testimony, Holliday called an appraiser to testify that the operation of the plant would not substantially reduce the values of neighborhood properties. However, the witness's credibility was substantially diminished by his admission that he had "dropped" his appraiser's license and was no longer a licensed/accredited appraiser.

Finally, Holliday presented the testimony of an engineer to refute the testimony of a witness of Landowners that the sand mining would result in bank erosion at the site.[2] The witness found several faults with the conclusion that substantial erosion was a probability from the operation of the mine.

Landowners presented the testimony of Dean Holladay, the Superintendent of Highway Maintenance Division District 3, Tulsa County. Mr. Holladay is responsible for the maintenance of existing roadways, including 193rd East Avenue in the area of the proposed plant. He testified that the span of 193rd East Avenue between the new Creek Turnpike and 161st Street is beginning to fail and needs maintenance performed on it. He stated that the road was designed for light traffic and is not suitable to handle an additional one hundred semi-trucks that would travel the road in connection with the proposed plant's operation. On cross-examination, Holladay acknowledged that semi-trucks currently use the roadway in connection with sod farms and another sand plant operating near the area. He also admitted a possibility that the City of Tulsa is conducting an evaluation to determine if the roadway should be improved.

---

[2] Although Holliday had the burden of proof at trial, the Landowners put on their case first.

Landowners also called witness Patrick Boyd, a real estate appraiser. He testified that the land in the area of the plant, between the new Creek Turnpike and 161st Street, is a rural residential farming community area, that had become more dense in population in the last ten years. Boyd stated that he is familiar with another sand plant owned by Holliday in Coweta, Oklahoma, and opined that a sand and gravel plant has a negative impact on the value of residential property because of the noise of the plant and the heavy commercial traffic.

Landowners also called Michael Odell, the Holliday Vice President, primarily to gain his admission that he had described the traffic flow to the area homeowners as an average of ninety trucks per day – both dump trucks and semi-trucks. He had also informed the homeowners that the plant would operate between 6:00 a.m. and 6:00 p.m. on Mondays through Fridays and between 6:00 a.m. and 12:00 p.m. on Saturdays.

Landowners also presented the testimony of Jack Sheridan, an engineer specializing in hydraulics, who testified that the operation of the sand plant in the area proposed by Holliday would cause erosion of the riverbank and erosion up to 193rd East Avenue. He stated this was a probability, not just a possibility.

Finally, landowner Patricia Holder testified that the noise from trucks involved in the sod farms and other sand plant had already affected the enjoyment

of her property, and that a substantial increase in truck traffic as contemplated by Holliday would further demean the lifestyle in the "very quiet, very peaceful" neighborhood. The parties stipulated that, if called as witnesses, the testimony of four other landowners would be essentially the same as Ms. Holder's testimony.

The parties do not dispute that the area in which the proposed plant is to be located is zoned agricultural. Under section 310 of Tulsa County Zoning Code, mining and mineral processing are permitted by special exception in areas so zoned. When an application for special exception is filed, section 1680.3 of the Tulsa County Zoning Code provides for the following procedure:

> The Board of Adjustment shall hold the hearing, and upon the concurring vote of three members may grant the Special Exception *after finding 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.* Provided that the Board in granting a Special Exception shall prescribe appropriate conditions and safeguards, and may require such evidence and guarantee or bond as it may deem necessary to enforce compliance with the conditions attached.

(Emphasis added.) When considering a special exception for mining, the Board must also "consider potential environment influences, such as dust and vibration,

and shall establish in the particular instance, appropriate protective conditions such as setbacks, screening, and method of operation, as will mitigate the adverse affect on proximate land uses." Tulsa County Zoning Code § 1224.3.

In reviewing the evidence, we find that Landowners presented clear evidence that the operation of the sand plant will "be injurious to the neighborhood" and possibly "detrimental to the public welfare." Although Holliday presented testimony that it would do a variety of things to hold down noise, the increase of heavy truck traffic will be substantial, and the evidence tends to establish that this will considerably increase the noise level and damage the roadways. In addition, section 1224.3 of the Tulsa County Zoning Code requires consideration of possible "environmental influences." Although there is a strong evidentiary dispute over whether the plant will result in substantial erosion to the river bank, there was expert testimony to that effect which the Trial Court could have, and apparently did, accept.

It is true, as Holliday points out in its brief, that a denial of a special exception cannot be based on fears of what may or may not happen. *In re Application of Volunteers of America, Inc.*, 1988 OK 8, ¶ 11, 749 P.2d 549, 552. However, Landowners fulfilled the requirement of "actual evidence," *Id.*, by both the testimony regarding the substantial increase in truck traffic and its probable

effect on the roads, and by the engineer's expert testimony that erosion will occur, resulting in damage to the riverbank.

CONCLUSION

We conclude that the Trial Court's decision is not clearly contrary to the weight of the evidence. The Landowners presented clear evidence that the zoning exception would allow a use of the property which would be injurious to the neighborhood and the environment. Accordingly, the decision of the Trial Court is affirmed.

AFFIRMED.

COLBERT, V.C.J., and TAYLOR, P.J., concur.

January 13, 2004

3.56

CITY OF
BROKEN ARROW

Where opportunity lives

Community Development

Tulsa County Board of Adjustment
Robi Jones

June 15, 2020

Case Number CBOA-2821
Holliday Sand & Gravel Company

To: The Tulsa County Board of Adjustment

The City of Broken Arrow has reviewed the proposal for a Special Exception to permit Use Unit 24, for a Sand Mining operation. This undeveloped area is within the Broken Arrow fence line and has access only to County Line Road, 23rd Street (193rd East Avenue), which is maintained by the City of Broken Arrow.

The City of Broken Arrow is not in support of this Special Exception, for the following reasons;

1. The City of Broken Arrow's Comprehensive Plan, designates this entire area for and low density residential uses only, as identified in Level 1 of the Broken Arrow Comprehensive Plan. The proposed use – Sand Mining, Sand Extraction and Sand and Earth Transportation, is not a permitted Land Use, nor a compatible land use within Level 1 of the Comprehensive Plan.
2. The application states that this property is in a floodplain. According to County and City maps, some of this property is in the 100 year floodplain. However, most of this tract and surrounding property is not in the 100 year floodplain and is developable as permitted within Level 1 land uses, identified in the Comprehensive Plan.
3. There is only one access point to this property, from County Line Road or 23rd Street (193rd East Avenue). This road is currently maintained by the City of Broken Arrow, though the east portion of the street (north bound) is in Wagoner County and within the City of Coweta Fenceline.
4. Existing street and traffic control signs (south bound) are installed and maintained by the City of Broken Arrow. There has been no coordination for additional traffic studies to analyze traffic control signage.
5. Proposed Sand Mining and Dredging operation is approximately ½ mile south of the City of Broken Arrow Lynn Lane Waste Water facility. Impacts of the proposed use should be analyzed, before this use can be considered.

Based on the above reasons and the City of Broken Arrow's Comprehensive Plan, it is recommended that this special exception not be permitted at this time, until all of these concerns have been addressed.

Sincerely,

Larry R. Curtis, CFM
Community Development Director, City of Broken Arrow

EXHIBIT
WALKER
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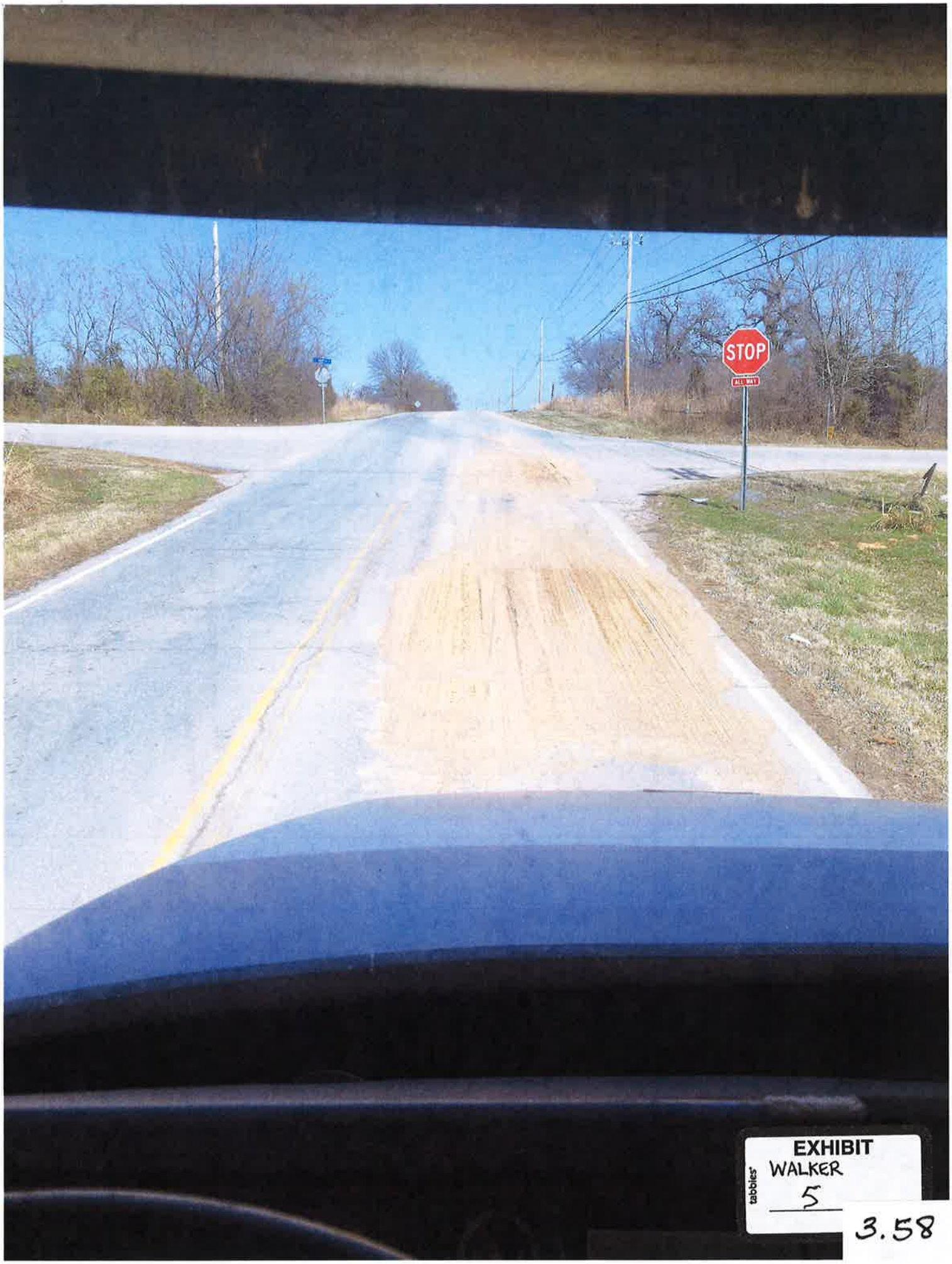

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EXHIBIT
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7-2

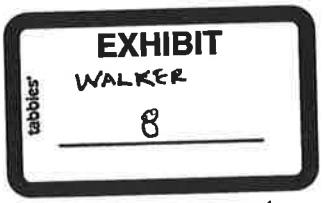
Noise Increases with Vehicle Speed

When Congress allowed states to raise speed limits, and many states did raise speed limits from 55 mph to 65 mph and higher, highways in these states got noisier. The table below lists the change in the noise made by auotmobiles, medium trucks, and heavy trucks as they increase in speed from 30 mph to 70 mph. Raising the speed of an automobile 10 mph (from 55 to 65 mph) increases the noise made by that vehicle 3 dB, from 72 dB to 75 dB. Similarly, noise made by trucks increases from 86 to 88 dB with the same 10 mph increase in speed. In these examples, gas mileage also decreases by 15%.

The result is a substantial increase in noise for those living and working near highways. Soundwalls are capable of reducing noise levels by 10 dB, so increased speed limits have also significantly reduced the effectiveness of highway noise barriers.

Reducing speed limits on roadways and increasing enforcement of speed limits is often the most effective and cost efficient means of reducing noise. For example, reducing vehicle speeds from 40 to 30 mph is as effective as removing one half the vehicles from the roadway.

Speed (mph)	Noise at 50 ft (dB)		
	Auto	Medium Truck	Heavy Truck
30	62	73	80
31	62	74	80
32	63	74	81
33	63	75	81
34	64	75	81
35	64	76	82
36	65	76	82
37	65	77	82
38	66	77	82
39	66	77	83
40	67	78	83
41	67	78	83
42	67	78	84
43	68	79	84
44	68	79	84
45	68	79	84
46	69	80	85
47	69	80	85
48	70	80	85
49	70	81	85
50	70	81	85
51	71	81	86
52	71	82	86
53	71	82	86
54	72	82	86



3.64

55	72	82	86
56	72	83	87
57	72	83	87
58	73	83	87
59	73	83	87
60	73	84	87
61	74	84	88
62	74	84	88
63	74	84	88
64	74	85	88
65	75	85	88
66	75	85	88
67	75	85	89
68	75	86	89
69	76	86	89
70	76	86	89
Source: Cowan, Environmental Acoustics, 150			

Top

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3.65

Assessor
JOHN A. WRIGHT

Property Search

Disclaimer

The Tulsa County Assessor's Office has made every effort to insure the accuracy of the data contained on this web site; however, this material may be slightly dated which could have an impact on its accuracy.

The information must be accepted and used by the recipient with the understanding that the data was developed and collected only for the purpose of establishing fair cash (market) value for ad valorem taxation. Although changes may be made periodically to the tax laws, administrative rules and similar directives, these changes may not always be incorporated in the material on this web site.

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Quick Facts

Account #	R97313731329980
Parcel #	97313-73-13-29980
Situs address	14101 S MEMORIAL DR E BIXBY 74008
Owner name	HSG ACQUISITION COMPANY LLC
Fair cash (market) value	$223,400
Last year's taxes	$2,386
Legal description	Subdivision: UNPLATTED Legal: PRT NE & NW BEG 175E NWC NW TH SE 110.18 SE531.35 SE778.07 SE1983.07 SE555.22 NE435 SW244.2 NW627.81 NW924.84 NW236.91 NW970.64 NW334.52 W TO POB SEC 13 17 13 13.09ACS Section: 13 Township: 17 Range: 13


97313-73-13-29980 (2/2017)

General Information

Situs address	14101 S MEMORIAL DR E BIXBY 74008
Owner name	HSG ACQUISITION COMPANY LLC
Owner mailing address	11011 CODY 3RD FLOOR OVERLAND PARK, KS 66210
Land area†	13.09 acres / 570,200 sq ft
Tax rate	BI-4A [BIXBY]
Legal description	Subdivision: UNPLATTED Legal: PRT NE & NW BEG 175E NWC NW TH SE 110.18 SE531.35 SE778.07 SE1983.07 SE555.22 NE435 SW244.2 NW627.81 NW924.84 NW236.91 NW970.64 NW334.52 W TO POB SEC 13 17 13 13.09ACS Section: 13 Township: 17 Range: 13
Zoning	AGRICULTURE DISTRICT [AG]

Values

	2018	2019	2020
Land value	$95,000	$95,000	$95,000
Improvements value	$112,400	$116,200	$128,400
Fair cash (market) value	$207,400	$211,200	$223,400

Exemptions claimed

	2018	2019	2020
Homestead	–	–	–
Additional homestead	–	–	–

Tax Information

	2018	2019	2020
Fair cash (market) value	$207,400	$211,200	$223,400
Total taxable value (capped)	$155,715	$163,500	$171,675
Assessment ratio	11%	11%	11%
Gross assessed value	$17,129	$17,985	$18,884
Exemptions	$0	$0	$0
Net assessed value	$17,129	$17,985	$18,884
Tax rate	BI-4A [BIXBY]		
Tax rate mills	131.43	132.66	132.66*
Estimated taxes	$2,251	$2,386	$2,505*
Most recent NOV	March 3, 2020		

* Estimated from 2019 millage rates

Tax detail (2019 millages)

	%	Mills	Dollars
City-County Health	1.9	2.58	$48.72
City-County Library	4.0	5.32	$100.46
Tulsa Technology Center	10.0	13.33	$251.72
Emergency Medical Service	0.0	0.00	$0.00
Tulsa Community College	5.4	7.21	$136.15
School Locally Voted	26.5	35.16	$663.96
City Sinking	0.0	13.10	$247.38
School County W			7.25
School County W			5.54
School County Wide			0.77
County Gov			3.19

EXHIBIT
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9
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Improvements

Bldg ID#	Property type	Use	Year built	Year remodeled	GBA †	NRA †	Stories	Story height
1	Commercial	Storage Warehouse	1978	–	2,000 SF	2,000 SF	1.0	16.0
1	Commercial	Office Building	1978	–	680 SF	680 SF	1.0	10.0
1	Commercial	Storage Warehouse	1987	–	1,500 SF	1,500 SF	1.0	14.0

Sales/Documents

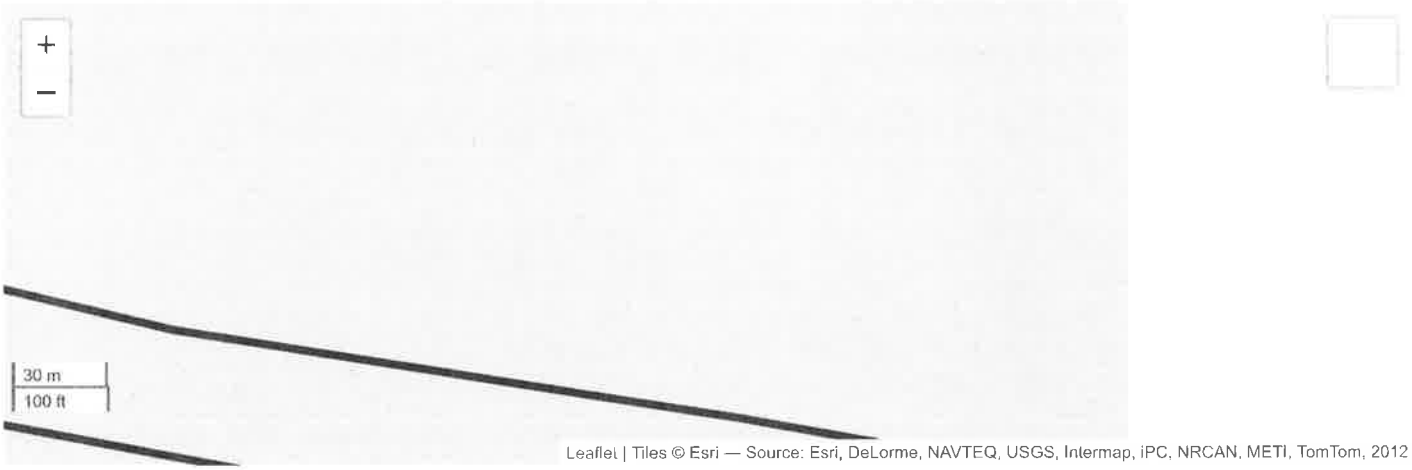
Date	Grantor	Grantee	Price	Doc type	Book-Page/Doc#
Aug 1, 2008	LIST & CLARK COMPANY	HSG ACQUISITION COMPANY LLC	$100,000*	Warranty Deed	2008093678

* Multiple parcel sale

Images

Photo/sketch
(Click to enlarge)

† **Square footage and acreage values included in this record are approximations. They may not reflect what a licensed surveyor would determine by performing a formal survey. They are for tax purposes only and are not intended for use in making conveyances or for preparing legal descriptions of properties.**



Click to view this area on the **Google Maps web page** in a new window

John A. Wright — Tulsa County Assessor

Tulsa County Administration Building, Room 215 | 500 S. Denver | Tulsa, OK 74103

Phone: (918) 596-5100 | Fax: (918) 596-4799 | Email: assessor@tulsacounty.org

Office hours: 8:00–5:00 Monday–Friday (excluding holidays)

3.67

	2018	2019	2020
Senior Valuation Limitation	—	—	—
Veteran	—	—	—

(Continued on next page)

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Google Maps Holliday Sand & Gravel Plant @ 14101 S. Memorial Dr. (abandoned)

Imagery ©2020 Maxar Technologies, Map data ©2020 50 ft

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10-1

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3.72

Sparger, Janet

From: Ron Schnare <rschnare51@gmail.com>
Sent: Wednesday, June 10, 2020 11:59 AM
To: esubmit
Subject: Case # CBOA-2821 written Comments for Holiday Sand & Gravel new Sand Plant.

Ron Schnare
19441 E 133rd Pl S
Broken Arrow, 74014
918-451-8169

My Name is Ron Schnare and I am a resident that lives at approximately 133rd and county line road in Broken Arrow. I am writing to comment on the proposed new Sand plant in which I received a notice of via mail.

I would like to submit 2 concerns with the proposal.

1. The negative impact to intersections and road conditions. The proposal will DOUBLE the number of big heavy trucks using County line between the creek turnpike and 141st meaning added wear on what are already rough intersections. Is there budget available or where does funding come from to maintain the road and condition of the intersections? The intersections at 121st, 131st and 14st are already in sub-par condition and will deteriorate at a faster pace with the increased truck traffic. With this proposal, this stretch of road will average either a 10 wheeler dump truck or 18 wheeler every 3 minutes for 10 hours a day. That is a lot of stress on the roadway. Please do not approve the request of Holiday Sand & Gravel without considering this and having a defined plan in place to address the roads and intersections.

2. Noise and Jake Brakes. Are there plans to address this concern for the residents that live along county line road? The use of Jake brakes should not be allowed if this proposal is approved as part of Holiday Sand and Gravel being a good neighbor.

Thank you for the opportunity to comment and for addressing my concerns.

Ron Schnare

3.73

Sparger, Janet

From: Susan Vitt <showard34@hotmail.com>
Sent: Saturday, July 4, 2020 12:26 PM
To: esubmit
Subject: Holliday Sand & Gravel, ref# CBOA-2821

Tulsa County Board of Adjustment c/o
Incog
2 W 2nd St, STE 800
Tulsa OK 74103
Ref # CBOA-2821

I am writing in response to ref#2821 concerning the change of usage for Holliday Sand and Gravel. This company is using
county line rd, (193rd) for transportation of their sand and gravel. I do not want to increase the traffic by hauling more
sand and gravel. This area is a residential area and is not able to handle the extra traffic and weight loads. I believe this
would be a great injustice to the people currently living in this area. Who is going to pay for the up keep of the roads.
The amount of traffic would be a great burden to everyone. This is already a heavy driven area. We have Churches, housing
and a great number of children that are in this area. New sub division are going in daily. This will hinder the growth in
south Broken Arrow. Someone will be lining their pockets at the expense of Broken Arrow residents. I am a resident of
South Broken Arrow and do not care for the traffic, littering, smell and the noise level that would be introduced to
our area of Broken Arrow. Please do not allow approval of this request.

Thank you
Susan Vitt

3.74

Sparger, Janet

From: fcsw85a <fcsw85a@windstream.net>
Sent: Saturday, June 13, 2020 2:17 PM
To: esubmit
Subject: CBOA-2821 Zoning application Holliday Sand and Gravel

June 13, 2020

Dear Sirs,

If I may, I would like to submit my objection to the proposed special exception requested by Holliday Sand and Gravel Company, slated to be heard by the Tulsa County Board of Adjustment on June 16th, 2020. Case Number CBOA-2821.

First and foremost, Holliday Sand has already been denied a zoning variance by the Oklahoma Supreme Court in CJ-2001-4244.

There are numerous reasons for rejection I would like to briefly address.

Holliday states in their application that there would be an average of 5 trucks per hour, or 50 trucks per day entering and leaving this plant.

I spent three hours last week counting both north bound and south bound trucks crossing in front of my property on 193rd east ave. On Wednesday, June 10th, a total of forty trucks passed between 11:22 am and 12:22 pm. Eighteen going north and twenty two going south. On June 11th, between 9:00 and 10:00 am, forty nine trucks passed, twenty north bound and twenty nine south bound. And on June 12th, between 5:55 am and 6:55 am, forty two trucks went by, twenty seven north and fifteen south. Please note the time on June 12th. I did not count the truck that went by at 5:37 am.

This equates to four hundred and forty truck per a ten hour day or two thousand two hundred trucks leaving and entering the Holliday sand plant on 161st street. These are not Chevrolet or Ford pick up trucks. They are very large ten axle vehicles capable of carrying fifteen tons. The noise and vibration from these trucks is difficult to comprehend until you are exposed to them ten hours or so per day five days a week.

I would also like to state that these trucks are extremely detrimental to the county road system along 193rs street. A segment of this road was resurfaced approximately two years ago from just south of the 141st. intersection. It is already developing several potholes and the intersection itself has virtually been destroyed because of the asphalt buckling. A washboard effect so to speak. These road faults are very destructive to regular traffic vehicles. I might also state, that these trucks do discharge a great deal of sand on the intersections when they proceed from a stop, which causes a lot of tire slippage for regular cars.

The number of trucks that will be traveling along 193rd street will cause a tremendous amount of traffic congestion to the Creek turnpike.
This is only a two way street with no shoulders. There are double yellow lines just about the whole route. Consequently, no passing allowed. The amount of congestion, if one is unfortunate enough to be behind one of these trucks, can be very frustrating. Imagine the back up if four hundred or more truck join the parade.

3.75

I will keep this brief as other residences will also be adding their objections I am sure. Bottom line. This area is both residential and farm land. It is not zoned for mining and we do not live out here to be subjected to the constant truck traffic, noise and air pollution this company proposes to bring to our area. We already have enough of it from the 161st street plant. I respectfully request that the board reject this application forthwith.

I appreciate you reading and considering this e-mail.

Sincerely,

James M Zyskowski DVM Emeritus

15355 south 193rd east ave

Broken Arrow, OK. 74014

918-694-8587

3.76

Sparger, Janet

From: Patricia Lester <pattilester@cox.net>
Sent: Monday, June 15, 2020 9:00 AM
To: esubmit
Subject: Case number:CBOA-2821 (Holiday Sand and Gravel, Inc.)

I currently live on the 30 acre property that is located at 131st and County Line Road. This property has been lived and farmed on since 1946 by the Lester family. Currently 3 family units reside on this land. Included are small children and older grandparents who grew up on this property. We have seen County Line road change over the last 75 years, but never imagined that this road which virtually has not changed except for resurfacing the dirt roads; It is still a 2 lane road with no room on either side to walk or stand on safely. There are no shoulders, sidewalks bile or walking paths. This road has not been changed to accommodate the increasing number of dump trucks which go back and forth all hours of the day and pre daylight hours. Just trying to get the mail safely is a waiting game with traffic.

One of our family members teaches at Holland Hall. He bikes to work daily and uses all manner of lights on his bike and personal self to alert the trucks from running into him. There is no room for the trucks to get by him as he must go down County Road for 1 mile to get to the Creek Turnpike bike paths.
The Broken Arrow school buses pick up children up and down County Line Road and the traffic backs up frequently, children are waiting by the side of the road with no where to stand except the sloping bar ditches. If you want to jog or run for exercise, you cannot safely be on this road.

We have fenced in our yards to protect our toddlers from running into the road, where trucks whiz by at a steady pace. We have an electric gate which stays open for about 30 seconds, so we constantly are watching to make sure the children don't get into the road before it shuts. Unfortunately, not all the families have the luxury of fenced yards. There are homes with children up and down County Line Road.

Gone are the days when we could sit on our porch and have a conversation, mainly because the trucks are using Jake Breaks to slow down at the stop sign after going as fast as they can before they stop. This goes not just one way, but both north and south.

Holiday Sand claims that no families live within a half of a mile from their plant; but this is not true. Besides the several families in that immediate area, there are dozens of homes between the 141st and 161st area where the trucks are going back and forth. But these trucks cannot get to this location without going down County Line Road where hundreds of families reside and have to listen to these vast amount of trucks pass by all day. We also have friends who bought property at 151st and County Line Road over 1 year ago and were not notified of this hearing.

The grandparents who live on our property have friends on the other side of the street, who also have lived on their properties for 50 plus years, but neither can visit by walking when they cannot safely cross the street. Nor can they walk to the corner because the roads are not wide enough for trucks and people to be on the same street.

So multiplying the current amount of trucks with more trucks will not be suitable for safety of the current residents, nor future residents.

I wish that I could be at the meeting in person, but due to the COVID 19 health risk for older citizens, and with the increase level of infections this past week, I will respectfully send this email instead.

Regards,
Patricia Lester

3.77

3.78

Sparger, Janet

From: Ron Schnare <rschnare51@gmail.com>
Sent: Wednesday, June 10, 2020 11:59 AM
To: esubmit
Subject: Case # CBOA-2821 written Comments for Holiday Sand & Gravel new Sand Plant.

Ron Schnare
19441 E 133rd Pl S
Broken Arrow, 74014
918-451-8169

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Ron Schnare

3.79

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2. Noise and Jake Brakes. Are there plans to address this concern for the residents that live along county line road? The use of Jake brakes should not be allowed if this proposal is approved as part of Holiday Sand and Gravel being a good neighbor.

Thank you for the opportunity to comment and for addressing my concerns.

Ron Schnare

3.80

Sparger, Janet

From: Ron Schnare <rschnare51@gmail.com>
Sent: Wednesday, June 10, 2020 11:59 AM
To: esubmit
Subject: Case # CBOA-2821 written Comments for Holiday Sand & Gravel new Sand Plant.

Ron Schnare
19441 E 133rd Pl S
Broken Arrow, 74014
918-451-8169

My Name is Ron Schnare and I am a resident that lives at approximately 133rd and county line road in Broken Arrow. I am writing to comment on the proposed new Sand plant in which I received a notice of via mail.

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Ron Schnare

3.87

Sparger, Janet

From: Jones, Robi
Sent: Monday, June 15, 2020 3:31 PM
To: Sparger, Janet
Subject: FW: CBOA-2821

These came in today as well.

From: Harnden, Michael (Holliday Sand & Stone) <mike.harnden@hollidaysand.com>
Sent: Monday, June 15, 2020 11:18 AM
To: Jones, Robi <rjones@incog.org>
Subject: CBOA-2821

Robi,
I spoke with Ron Peters about starting a road maintenance fund for 193rd if we were approved. Ron gave me Alex Mills contact information the Tulsa County Engineer. I spoke with Alex and he thought it was a great idea. Alex was going to find out how and who he would need to speak with about setting the fund up. I'll let you know when I find out more.

Thanks

Mike Harnden

Sales Manager

Cell: (918)232-2301

Office: (918)369-8850

Fax: (918)369-8842

Email: mike.harnden@hollidaysand.com

Holliday Sand & Stone Co.

A CRH COMPANY

3.88

CITY OF
BROKEN ARROW

Where opportunity lives

Community Development

Tulsa County Board of Adjustment
Robi Jones

June 15, 2020

Case Number CBOA-2821
Holliday Sand & Gravel Company

To: The Tulsa County Board of Adjustment

The City of Broken Arrow has reviewed the proposal for a Special Exception to permit Use Unit 24, for a Sand Mining operation. This undeveloped area is within the Broken Arrow fence line and has access only to County Line Road, 23rd Street (193rd East Avenue), which is maintained by the City of Broken Arrow.

The City of Broken Arrow is not in support of this Special Exception, for the following reasons;

1. The City of Broken Arrow's Comprehensive Plan, designates this entire area for and low density residential uses only, as identified in Level 1 of the Broken Arrow Comprehensive Plan. The proposed use – Sand Mining, Sand Extraction and Sand and Earth Transportation, is not a permitted Land Use, nor a compatible land use within Level 1 of the Comprehensive Plan.
2. The application states that this property is in a floodplain. According to County and City maps, some of this property is in the 100 year floodplain. However, most of this tract and surrounding property is not in the 100 year floodplain and is developable as permitted within Level 1 land uses, identified in the Comprehensive Plan.
3. There is only one access point to this property, from County Line Road or 23rd Street (193rd East Avenue). This road is currently maintained by the City of Broken Arrow, though the east portion of the street (north bound) is in Wagoner County and within the City of Coweta Fenceline.
4. Existing street and traffic control signs (south bound) are installed and maintained by the City of Broken Arrow. There has been no coordination for additional traffic studies to analyze traffic control signage.
5. Proposed Sand Mining and Dredging operation is approximately ½ mile south of the City of Broken Arrow Lynn Lane Waste Water facility. Impacts of the proposed use should be analyzed, before this use can be considered.

Based on the above reasons and the City of Broken Arrow's Comprehensive Plan, it is recommended that this special exception not be permitted at this time, until all of these concerns have been addressed.

Sincerely,

Larry R. Curtis, CFM
Community Development Director, City of Broken Arrow

Sparger, Janet

From: Wolfe <chantelg@yahoo.com>
Sent: Saturday, June 13, 2020 10:23 AM
To: esubmit
Subject: Case Number: CBOA-2821 Holliday Sand and Gravel Hearing

To Whom it May Concern,

We live just south of 131st St on County Line. We moved here a year ago for the peace and quiet and country living. We did not realize at the time that County Line was used to transport so many large and loud trucks. The traffic noise, congestion, and street conditions are the only real downfall of the property we bought.

The constant road noise from 100 trucks a day accelerating without a muffler right in front of our house is upsetting. Adding another 100 trucks a day would just be miserable. Plus the countless number of drivers in loud cars or motorcycles thinking the intersection is the place to drag race and get up to speeds of 100 miles per hour makes the road noise a constant annoyance. When I pull out of my driveway onto County Line, I typically have to wait for several minutes for traffic to clear because of the significant amount of cars and trucks on this road. The condition of the road is poor, as well, due to all the heavy trucks driving back and forth daily. I believe that adding another 100 trucks a day down this road would result in extreme difficulty with pulling into traffic, a significant increase in noise pollution, and escalate unsafe driving conditions from the worn down road.

We spent so much money on our dream house and to have that spoiled by the constant presence of these loud trucks is supremely disappointing and the thought of that multiplying is truly demoralizing. I hope there is a solution where everyone can get what they want, but in the meantime, we have to tolerate the trucks we have now. Please, do not add any more trucks to the scenario.

Thank you,
Chantel Wolfe

3.90

Sparger, Janet

From: Patrick Lester <patlester1939@icloud.com>
Sent: Sunday, June 14, 2020 11:00 PM
To: esubmit
Subject: Case Number: CBOA-2821 (Holliday Sand and Gravel, Inc.)

I am expressing opposition to this proposed Special Exception to permit Holliday Sand to double the number of massive dump trucks that will travel on 193rd (County Line Rd). I would attend this hearing in person except for a scheduled physician appointment.

1) I travel County Line daily and the current dump truck traffic from the existing sand mining operation just south of the proposed plant already impedes and endangers traffic on this heavily traveled road. Last Thursday, I counted 3 of these trucks passing me in the morning and 4 in the afternoon going in the opposite direction just between 131st and 121st streets.
2) It has been reported that current non-dump truck traffic volume at County Line road and 131st St is several thousand vehicles each day. I first lived immediately south of 131st St in 1946 (returning to live on our farm in 2018). In the late 1950s, I often walked home from high school football practice and usually 1-2 cars would drive by but on occasion, not a single vehicle passed and I walked the entire 7 miles. What a difference! But it would be considerably more dangerous today not just with the busy passenger traffic but with these monster trucks!
3) There are citizens who ride bicycles on 193rd to the Creek Expressway to take advantage of the bike trails. I don't as I'm risk adverse but younger people do.
4) There are children who live on this route. Large trucks with very long stopping distance create an additional hazard for them as they walk to neighbors' homes.
5) These drivers usually use Jake Breaks when approaching 131st St. This is incredibly loud and is a further disturbance to the quiet rural environment many moved to the country to enjoy.
6) With the current and anticipated new home construction on this route, it is already a growing suburban area. Those of us with small farms bemoan the additional loss of solitude but a conversion of agricultural land to such a noisy and dangerous industry would be regrettable.
7) And finally, over the past year or so, I have noticed a more rapid deterioration of the road surface, presumably from the 75-100 dump trucks which currently travel this road. Can we sacrifice safety, solitude and street maintenance cost escalation for the benefit of an already undesirable industry?
I urge you to deny the Special Exception.
Yours truly,
Patrick D. Lester

Sent from my iPad

3.91

Sparger, Janet

From: Jeffery Hamilton <lipgrippers@aol.com>
Sent: Monday, June 15, 2020 9:37 PM
To: esubmit
Subject: Case Number CBOA-2821

Please **do not** grant a special exemption to Holliday Sand and Gravel Company to permit mining and mineral processing in an AG zoning district.

They are not good neighbors. The light and noise pollution, even at 2am, is horrendous. Their 75-100 trucks entering and exiting their plant on 161st and travelling on both 161st (a 15 ton limit road) and 193rd East Ave (weight limit unknown) sandblast our cars and throw rocks at our windshields, even when travelling in the opposite direction. They are not stopped for speeding.

193rd East Ave is in bad shape from all the truck traffic that we have currently. It is already falling off the road bed, has many unfilled potholes (one big enough to lose a tire in) waffling, ruts and bumps. Lets add another 100 trucks and watch it sink further into the river bottom.

Before allowing 200 trucks to run up and down 193rd East Ave, a major traffic concern, one should consider whether or not the roads and bridges were built to handle that much heavily weighted traffic. From all appearances, they were not. They cannot even handle the 100 trucks we see now.

The entrance to Holliday's Sand Plant on 161st street is dangerous as trucks pull out trying to get on the road before you get there. There has been one death that I know of. Now they want to open another plant with their entrance near the bottom of a hill. The people driving south on 193rd East Ave will have a good chance of having a truck pull out in front of them. Since the speed limit is 50, a very dangerous proposition.

Enough is enough! How they ended up with a plant on this side of the river is beyond me. It shouldn't have happened. And it should not happen again.

PLEASE...NO SPECIAL EXEMPTION.

Jeff and Arlene Hamilton
16818 S 203rd East Ave
Broken Arrow OK 74014
(918) 486-5150

3.92

Sparger, Janet

From: Mandy <amanda.damaris@gmail.com>
Sent: Monday, June 15, 2020 10:04 PM
To: esubmit
Subject: Case number:CBOA-2821 (Holiday Sand and Gravel, Inc.)

To Whom m it may concern,
I live on 131st and 193rd and I am writing to state that I Strongly oppose allowing Holiday Sand to further develop land that will increase truck traffic in 193rd street.

This street is already full of large construction vehicles, dump trucks and semis. The noise level these trucks bring to our community is already appalling. Let alone the fact that children play in these neighborhoods and in the yards that face 193rd, like mine.

This county road used to be quite and peaceful and is now littered with trash and noise, largely because of the increased traffic of already operating dirt and gravel companies. It has become equivalent of living next to a busy highway.

Our family has lived here for over 30 years and we DO NOT want this community to turn further into a through-fair for sand and dirt mining business.

Our roads cannot take the increased wear and our families and kids cannot take the increased noise, view, and unsafe conditions that large trucks bring to our neighborhood.

I have to work and cannot attend the meeting. Please allow our voices to be heard. Please to not approve this use of the land unless there is a different route trucks can take, decreasing the traffic through our street.

Mandy Foster
13150 S 193rd East Ave

3.93

Sparger, Janet

From: Justin & Mandy <jmfester@gmail.com>
Sent: Monday, June 15, 2020 10:12 PM
To: esubmit
Subject: Case number:CBOA-2821 (Holiday Sand and Gravel, Inc.)

I am writing to state that I do not agree that Holiday Sand and Gravel should be allowed to further develop their land which will increase truck traffic along our street of 193rd East Ave.

This street is already unsafe to the neighborhood. Houses like ours that face 193rd cannot allow our children to play in the front yard. We are awoken at 5 AM due to truck brakes Monday -Saturday mornings. We had to upgrade all of our windows to highest level of sound proof because the noise level of the trucks are so great we are at times unable to hear a conversation within our own home, let alone attempt a conversation outdoors.

To increase this would not only be effecting our daily lives, but increasing the unsafe conditions large trucks already contribute to for biking and walking along our street. The streets are narrow and worn due to the great amount of traffic and the high speed limits. County line did nit see this type of large truck traffic before dirt and gravel mining businesses opened at 141st/county line. Please do not increase this type of traffic to our community and to our streets

Justin Foster

3.94

Sparger, Janet

From: Jonathan Klecka <jonathanklecka@gmail.com>
Sent: Monday, June 15, 2020 10:40 PM
To: esubmit
Subject: Case Number CBOA2821 Hearing Set for 06/16/2020

To whom it concerns:

My wife and I would like to express our concerns with the request to add another location for Holliday Sand.

The road (S. 193rd E. Ave) already suffers from the large number of heavy trucks that come and go from the current sand plant. The road has potholes that haven't been repaired in some time (over a year). The intersection of S. 193rd and E. 141st is in horrible shape when traveling north from the south side of the intersection from the heavy loads. Not to mention this is a two-lane road and the current traffic load is more than enough.

The current sand plant is a little over one (1) mile away from our residence. I can hear the machines running at night as well as can see the light pollution they produce. They have been running 24hr shifts. I am a first responder and I moved to the county for peace and quiet. A lot of businesses shut down operation in the afternoon but not the sand plant.

The new proposed site would be very close to my residence and I am completely against it! Why is there a need for a second plant so close to the current? We believe that if the plant were to be opened it would lower the quality of life for the surrounding residents and their farm animals

Thank you for your time:
Concerned residents on E. 151st St. S. between 193rd and 209th.

3.95

TITUS HILLIS

TITUS HILLIS REYNOLDS LOVE

A PROFESSIONAL CORPORATION

PATRICIA NEEL
Patricianeel79@gmail.com

FIRST PLACE TOWER
15 EAST FIFTH STREET, SUITE 3700
TULSA, OKLAHOMA 74103-4304

T: (918) 587 6800
F: (918) 587 6822
T : (918) 695-0644

July 13, 2020

Tulsa County Board of Adjustment
Two West Second Street
Suite 800
Tulsa, Oklahoma 74103

Re: **Application 2821 Holliday Sand and Gravel Company Special Exception from Patricia Neel, Attorney for the LC Neel Revocable Trust and Suburban Realty Co., Inc.**

Gentlemen:

I appeared at the June 16, 2020 Meeting No. 483 representing the LC Neel Revocable Trust and Suburban Realty Co., Inc. but was limited to a 2-minute presentation. This memorandum is submitted to address the Re-Notice of hearing received July 1, 2020 and to present a complete due process presentation of my clients' position opposing this special exception.

I. RE-NOTICE DOES NOT CURE INITIAL OBJECTION

It appears the Re-Notice simply provides a more detailed site plan but does not move the operation to make it less obstructive to the view from my client's home and does nothing to negate the devaluation of Mr. Neel's home, his and Suburban's and other owners' investments in their properties. Any proposed minor relocation/reconfiguration does not reduce the constant parade of trucks on the east/west gravel road which will obscure the view along with their dust clouds and motor/brake noise. It only makes the dust/noise extend a greater distance. Since the site is South of my client's home, the prevailing South winds will blow the dust towards the home and cloud the home with dust, adding to the devaluation.

Attached to this memorandum is a photo I took on June 15th of the current Holliday operation at 161st. See Ex. 1. At around 2:00 pm, I entered the Creek Turnpike at Yale and exited at County Line. There was a car in front of me and in front of the car was a sand and gravel truck which I followed all the way to the current Holliday operation site. The truck crossed over the center line of the narrow 2 lane road several times. The car in front of me passed the truck just south of 131st and narrowly missed a head-on collision. I counted 10 sand and gravel trucks going north toward the Turnpike before I arrived at the Holliday location. Due to the number of large sand and gravel trucks, it would have been unsafe for me to turn into the Holliday gravel road so I drove past and

pulled over to take the photo of the north/south road. The photo accurately depicts the clouds of dust billowing high into the air from the massive trucks but represents only a short portion of the road, which was approximately 5 times the distance shown. I zoomed a photo into that portion in order to demonstrate the volume of airborne dust. There was a steady flow of trucks entering/leaving the road during the time I observed the operation. The dust cloud at the actual dredge site, which was too distant to photograph, was so high it disappeared into the clouds. The roadway dust never settled and carried south across 161st even though winds were light. See attached copy of the weather forecast page from the Tulsa World for the 15th, Ex. 2. I observed there were no houses or structures directly south of the road as far as I could see. The closest business was Sanders Nursery, a garden store.

II. THE ISSUES HAVE BEEN PREVIOUSLY RESOLVED

This is the second time Mr. Neel has objected to the mining operation. He was a prevailing plaintiff in the 2001 action filed in Tulsa County, the decision of which was affirmed by the Court of Appeals in Case No. 98,501 filed in Tulsa County on April 22, 2004. [Note: Mr. Neel's last name was erroneously spelled Neal in the caption.] This special exception request is simply a rehash of the same issues just a stone's throw down the road. The objecting homeowners, some of whom were plaintiff's in the prior case, face the same issues. A review of the appellate decision, attached hereto, establishes Holliday raises no new justifications for a different conclusion to be reached in this case. See Ex. 3.

III. GRANTING THE EXCEPTION WOULD NEGATIVELY IMPACT QUALITY OF LIFE, HEALTH AND ECONOMIC SECURITY FOR LC NEEL, SUBURBAN AND THE SURROUNDING LANDOWNERS

A. Property Owners Relied on the City of Broken Arrow Comprehensive Plan and the Pattern of Residential Growth of the Area

Mr. Neel is 95 years old and lives in his home on 40 acres at 18500 E. 141st St. So., which he and Mrs. Neel purchased in 1999. Mrs. Neel passed away in 2013. The Neels were the perfect embodiment of the American Dream. Eloping at 18 with only $24 between them, they worked together to become successful home builders, developers and realtors. Suburban Realty was their wholly owned real estate company.

In the early 1960's, the Neels made an educated guess that Tulsa would grow toward Bixby so they went to far south Tulsa (North Bixby), all farmland at the time, and bought as much land as they could at and around 111th and Memorial. At the time there was no development past 61st and Memorial. Over a 40-50 year period, as Tulsa grew south down Memorial, Mrs. Neel designed and they developed, built and sold homes in several additions (Southwood, Southwood South, Southwood Extended, South Country Estates, Country Crossing and more) which covered more than a square mile of property. In 1965, they moved from Tulsa to a new home on the undeveloped corner of 111th and Mingo. This corner remained undeveloped until 1993 when they platted the land for Country Crossing addition, carving out a 2 acre tract preserving their home. After more than 30 years of living without neighbors, they decided to find a more peaceful home and moved to the 40 acres on 141st for the beautiful view, the peaceful and quiet surroundings and the expectation that they would be able to age in their own home.

In addition to the land purchased in Bixby, beginning in the late 1960's, the Neels began buying land in both Wagoner and Tulsa Counties around 141st and County Line, anticipating Broken Arrow's growth. The Trust now owns 3 of the 4 corners at that intersection and numerous other land holdings north toward 131st and east toward Coweta which have been held for future development/sale. This represents Mr. Neel's portfolio and retirement fund. Similarly, for many of the people who have built homes within the sphere of the proposed operation, those homes likely represent a substantial percentage of their net worth.

The Neels had worked with the Cities of Bixby, Tulsa and Broken Arrow and Tulsa and Wagoner Counties over many years. They were aware of the comprehensive plan for the City of Broken Arrow and relied upon it in their investment in land. Two new additions have been recently developed on the east (Broken Arrow) side of 193rd between 131st and 141st and individual homes have multiplied in the last years. The increased development south of the Turnpike has increased traffic on 193rd, a two-lane road which is already experiencing deterioration, at least in part due to the current Holliday operation.

B. Granting the Special Exception Constitutes a Governmental Taking Without Compensation

For most homeowners, their home is their largest investment. Numerous other homeowners spoke at the June 16 meeting, expressing their reliance on the ambiance of the area remaining as represented by the comprehensive plan. My client and many homeowners expressly relied on the comprehensive plan when purchasing their homes. Most notably, Broken Arrow has objected to the special exception for the reasons expressed by the property owners, many of whom have mortgaged their homes to lending institutions which relied upon the appraised value of the properties. That value will decline if the special exception is granted. This would be tantamount to a reverse condemnation/adverse possession of these properties without compensation. Further, if it does not create an immediate actionable nuisance, it has every indicia of creating one in the near future.

C. Balancing Interests Weighs in Favor of Property Owners

As home builders/developers, the Neels were aware of the need for sand and gravel and in the 1970's had leased land for a sand and gravel operation at the Memorial bridge across the Arkansas River into Bixby. They did not, and would not, lease/sell any land that would negatively impact properties by being adjacent to and/or interfering with the nature of the neighborhoods/properties nearby, including one they developed further east of Memorial and south of 131st.

On June 16, I submitted a photo taken from the back porch of the Neel home showing the stunning view of the bend in the Arkansas River and Leonard Mountain beyond. The Neels were keenly aware that this overlooked the 100-500-year flood plain which made development of the land very unlikely, thereby preserving their view. Throughout the year, deer, bald eagles, fox and numerous other wildlife and birds can be seen.

Mr. Neel has a history of pneumonia, diabetes and allergies in addition to other serious health conditions which make him a vulnerable person. His primary exercise is walking to his back porch

to enjoy the tranquility of his home. The neighbors to the south are several members of a Creek Indian family living on their original land allotment. Their families also have health concerns that will be impacted by the dredge operation and dust that it generates.

Numerous persons spoke to the issue of noise. When trucks start lining up as early as 5:30-6 each morning, the noise and dust commence and are not only present from 7am-4pm. When there is a south wind, the noise and dust will be even worse. There is no question but that there will be an adverse effect on residents in the area, wildlife and waterfowl, an important aesthetic to the persons who chose this area in which to live. This is not only a nuisance but an additional health risk. See attached article from the June 2020 Prevention Magazine which sets forth the health concerns that noise presents. Ex. 4

It is important to note that County Line is just that-the line between Tulsa and Wagoner County. Recently, Suburban received a notice of a request for rezoning impacting property owned at 141st and 225 E Ave., attached, Ex. 5. The request was approved over protest and ultimately the Wagoner County Commissioners approved rezoning based upon an agreement by the parties which included redirecting up to 50 dump trucks per day, tractor trailers with large bulldozers, track hoes and other large dirt moving equipment to exit 225th to the south to 141st (continuing on to County Line to go north to the Turnpike). These had been exiting north to 131st. This will immediately increase heavy traffic and cause additional deterioration of County Line Road in addition to increasing safety concerns. See email advising of settlement terms and supporting documents, attached, Ex. 6. As development on 141st in Wagoner County continues to increase, the use of County Line Road will further increase, exacerbating safety concerns and deterioration. The "road fund" proposed to the City of Broken Arrow, designated for general use, will not alleviate these issues and is in effect a band-aid on major wound.

D. Other Operations/Sites Are Available

Comments at the prior meeting indicated a concern for the need for sand and gravel operations. Recognizing the need does not mean it needs to be at the proposed site. There are other sand and gravel operations along the Arkansas River from Sand Springs to Wagoner County. Google lists 140 Sand and Gravel Contractors in the state. And as I stated at the first hearing, it is a long river and there should be no preference given to accommodate what might be most economic for one company over the vested property rights of the long term owners whose property values and lives will suffer.

IV. CONCLUSION

The LC Neel Trust and Suburban Realty Co. Inc., respectfully request the Special Exception be denied.

Respectfully submitted.

Patricia Neel

IMG_2141.JPG

EXHIBIT
tabbies
1

B. 101

TODAY'S FORECAST

93 71

Mostly sunny. Clear tonight.

Wind: S 6-12 mph
POP: 0%
RealFeel®: 97/71

MORNING	AFTERNOON	EVENING
72	89	92

EXTENDED 5-DAY FORECAST

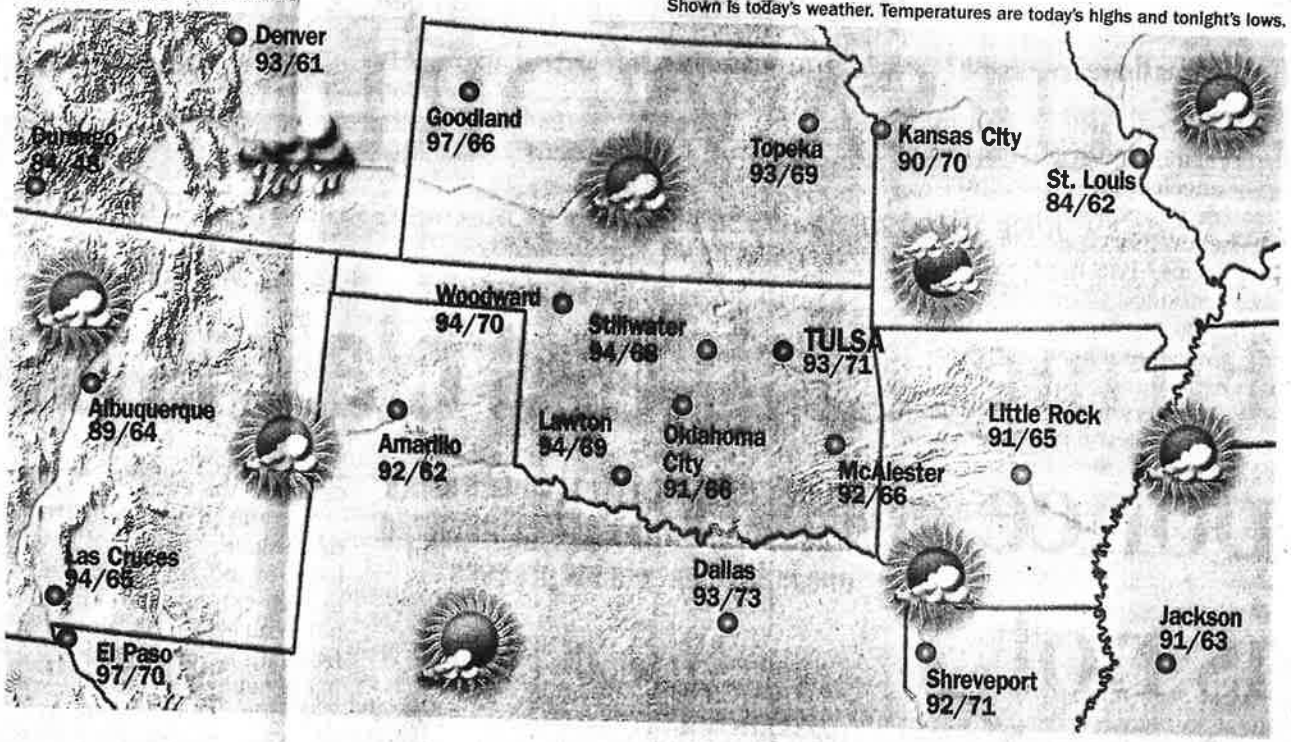
AccuWeather Plan your week | Visit AccuWeather.com

TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
92 / 72	92 / 73	94 / 75	95 / 74	92 / 71
Mostly sunny and very warm	Mostly sunny and very warm	Mostly cloudy and very warm	Mostly sunny and hot	Partly sunny, breezy and warm
Wind: S 7-14 mph	**Wind:** S 8-16 mph	**Wind:** S 8-16 mph	**Wind:** SSW 8-16 mph	**Wind:** S 10-20 mph
POP: 15%	**POP:** 15%	**POP:** 10%	**POP:** 10%	**POP:** 25%
RealFeel®: 98/69	**RealFeel®:** 94/71	**RealFeel®:** 95/72	**RealFeel®:** 95/71	**RealFeel®:** 91/70

The exclusive **AccuWeather.com RealFeel Temperature® (RF)** is an index that combines the effects of temperature, wind, humidity, sunshine intensity, cloudiness, precipitation, pressure and elevation on the human body – everything that affects how warm or cold a person feels. Shown are the highest and lowest values for each day. **POP:** Probability of Precipitation

REGIONAL FORECAST

Shown is today's weather. Temperatures are today's highs and tonight's lows.



WEATHER

ALMANAC

Tulsa through 5 p.m. yesterday

Temperature

High	94
Low	67
Normal high	87
Normal low	67
Record high	107 (1911)
Record low	51 (1942)
High one year ago	85
Low one year ago	62

Precipitation

24 hours ending 5 p.m. yest.	none
Record precipitation	3.03" (2010)
Month to date	Trace
Normal month to date	2.46"
Year to date	21.68"
Normal year to date	19.04"

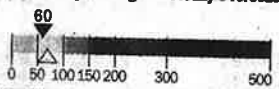
National Extremes Yesterday

High: 104 in Gila Bend, AZ
Low: 19 in Bodie State Park, CA

National extremes are for the 48 contiguous states.

AIR QUALITY TODAY

▼ Yesterday's rating △ Today's forecast



What it means: 0-50: **Good**; 51-100: **Moderate**; 101-150: **Unhealthy for sensitive people**; 151-200: **Unhealthy**; 201-300: **Very Unhealthy**; 301-500: **Hazardous** Source: airnow.gov

LAKE LEVELS

Measures above unless denoted by minus. Statistics as of 7 a.m. yesterday.

Beaver	8.62	Keystone	3.65
Broken Bow	0.60	McGee	-0.19
Bull Shoals	39.86	Oologah	4.51
Copan	0.13	Pine Creek	-2.99
Eucha	0.18	Salt Plains	0.07
Eufaula	1.05	Sardis	-0.06
Fort Gibson	2.40	Skiatook	0.21
Grand	-0.88	Spavinaw	0.35
Heyburn	-0.43	Table Rock	14.67
Hudson	0.16	Tenkiller	4.30
Hulah	0.50	Texoma	2.13
Kaw	4.86	Wister	4.56

LATER INFO: Call 918-669-7521

TULSA TEMPERATURES

24 hours ending 5 p.m. Sunday

6 p.m.	93	2 a.m.	75	10 a.m.	85
7 p.m.	91	3 a.m.	74	11 a.m.	87
8 p.m.	89	4 a.m.	69	Noon	90
9 p.m.	87	5 a.m.	69	1 p.m.	91
10 p.m.	79	6 a.m.	68	2 p.m.	92
11 p.m.	81	7 a.m.	73	3 p.m.	92
Mid.	76	8 a.m.	77	4 p.m.	93
1 a.m.	76	9 a.m.	82	5 p.m.	92

SUN AND MOON

Sunrise today	6:06 a.m.
Sunset tonight	8:43 p.m.
Total daylight	14 hr., 37 min.
Moonrise today	2:53 a.m.
Moonset today	3:33 p.m.

New First Full Last

SKYWATCH

Source: McDonald Observatory

Under clear, dark skies, the galaxy M81 is visible through binoculars. Find the Big Dipper, which is high in the north at nightfall, then scan to the lower right of the Dip

The Planets	Rise	Set
Mercury	7:37 a.m.	10:00 p.m.
Venus	5:06 a.m.	7:11 p.m.

NATIONAL CITIES

City	Today Hi/Lo/W	Tue. Hi/Lo/W	City	Today Hi/Lo/W	Tue. Hi/Lo/W
Abilene	93/69/s	93/70/s	Memphis	87/62/pc	86/67/s

IN THE COURT OF CIVIL APPEALS

STATE OF OKLAHOMA

DIVISION II

IN THE MATTER OF THE APPLICATION FOR EXCEPTION OF HOLLIDAY SAND & GRAVEL COMPANY BEFORE THE TULSA COUNTY BOARD OF ADJUSTMENT.

JOHN HOLDER, PATRICIA HOLDER, L.C. NEAL, LEON HEFLEY, BEVERLY HEFLEY, DON CHAMBERS, BRENDA CHAMBERS, STEVE WALKER, and PAT BUIE,

Plaintiffs/Appellees,

vs.

HOLLIDAY SAND & GRAVEL COMPANY,

Defendant/Appellant.

Case No. 98,501

Not for Official Publication

APPEAL FROM THE DISTRICT COURT OF
TULSA COUNTY, OKLAHOMA

HONORABLE DAVID L. PETERSON, TRIAL JUDGE

AFFIRMED

Dennis N. Shook
Tulsa, Oklahoma — For Plaintiffs/Appellees

Donna L. Smith
LOGAN & LOWRY, LLP
Vinita, Oklahoma — For Defendant/Appellant

OPINION BY RONALD J. STUBBLEFIELD, JUDGE:

Holliday Sand and Gravel Company (Holliday) appeals from an order of the District Court of Tulsa County which overturned the decision of the Tulsa County Board of Adjustment to grant Holliday's application for a zoning exception to permit operation of a sand mining plant in a district zoned agricultural. The issue on appeal is whether the Trial Court's decision is clearly contrary to the weight of the evidence. Upon review of the record on appeal and applicable law, we find it is not and affirm.

FACTS AND PROCEDURAL HISTORY

In May 2001, Holliday submitted an application to the Tulsa County Board of Adjustment (Board) seeking a special exception to zoning ordinances to allow it to mine and process sand and gravel at a location – the southwest corner of 155th Street South and 193rd East Avenue – zoned agricultural. The Board held a hearing at which Holliday presented the Board with various documentation demonstrating

3.106

its pending licensure to operate such a business.[1] The Board voted to approve the special exception.

Landowners John Holder, Patricia Holder, L.C. Neal, Leon Hefley, Beverly Hefley, Don Chambers, Brenda Chambers, Steve Walker, and Pat Buie filed an appeal with the District Court of Tulsa County. A hearing was held with each side presenting evidence. The Trial Court found that the Board erred in granting the special exception, concluding there "is insufficient substantial evidence to grant the special exception" and that the Board was arbitrary and capricious in granting it. The Court found that the grant of the special exception, would "result in unnecessary and substantial harm to the [Landowners] and the community at large, and will further potentially harm and damage the environment through noise, erosion, an increase in dangerous traffic, and possibly from damage to the roadways." Holliday appeals.

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[1] The documentation included an air quality permit application, a spill prevention control and countermeasure plan and stormwater pollution prevention plan, Oklahoma Water Resources Board Waste Disposal Permit information from a plant operated by Holliday in Coweta, Oklahoma, an application for a wastewater discharge permit, an application for a non-coal mining permit made to the Oklahoma Department of Mines, and an application for a permit from the U.S. Army Corps of Engineers. In addition, there was evidence of employee training to protect a federally listed endangered bird – the least tern – that nests on sand bars along rivers and waterways.

STANDARD OF REVIEW

Under 19 O.S.2001 § 866.24, a trial court is required to perform a trial *de novo* when reviewing a decision of a county board of adjustment. In conducting the trial, the trial court has the same power and authority as a county board of adjustment. *Id.* However, the burden of proof before the trial court "rests on the same party upon whom it rested before the board of adjustment." *Hargrave v. Tulsa Bd. of Adjustment*, 2002 OK 73, ¶ 6, 55 P.3d 1088, 1091.

When reviewing a decision of a board of adjustment, "there is a presumption of correctness that attaches to [a board's] decision which, *if affirmed*, will be accorded 'great weight' and not disturbed on appeal to this court unless it is 'clearly arbitrary or erroneous.'" *Bankoff v. Bd. of Adjustment of Wagoner County*, 1994 OK 58, ¶ 19, 875 P.2d 1138, 1143. However, where as here, a trial court reverses the decision of a board, "the presumption that originally attached to its validity is to be considered as having been overcome by the adverse ruling of the trial court." *Id.* In reviewing a trial court's decision reversing a board of adjustment decision, we will not overturn the trial court's decision unless we find it is clearly contrary to the weight of the evidence. *Id.*

ANALYSIS OF ISSUES

Holliday contends that the decision of the Trial Court was against the clear weight of the evidence. It emphasizes its own evidence that environmental concerns had been addressed by various regulatory entities, and that their approval of Holliday's license to operate constitutes a prima facie showing that the land use would not be injurious to the neighborhood or detrimental to the public welfare. It also emphasizes its evidence that the increase in traffic on the area roads would not be a great percentage of increase over current use, and that it had and would take considerable precautions to reduce noise at its plant.

Holliday's principal witness was its Vice President of production, Michael Odell. Odell testified that a good portion of the proposed plant site is flood plain and that approval had been obtained to operate in the flood plain. He described the plant operation as follows:

> [S]tarting in the river we have a dredge, a floating steel dredge with a pump on it that sucks sand and gravel slurry out of the river from the bottom of the river, conveys it with a floating pipeline to the bank where we have a hinge point. The pipe continues directly to the processing equipment, and – which is located here. You can see its more – as near to the riverbank as possible.
>
> These kidney shapes are sand stockpiles conveyed both directions from the plant, as there's two primary piles. The trucks would enter – they would come down south on County Line Road, turn west into the plant;

> down the entrance road, it's about 800 feet, make a circuit on the plant haul road here, be loaded near the sand stockpiles, proceed to the scale to be weighed, receive a ticket, pull off after the scale, tarp, head out east on the haul road or the entrance road, and then I believe all the traffic will be heading north again on County Line Road.

Odell further testified that Holliday would locate the proposed facility as far from existing residences as possible, that Holliday does not use any kind of chemical processes in its operations, and that Holliday would take a wide range of precautions against increased noise. Those precautions included the use of electric motors in various equipment, a "hospital quality" silencer on the diesel engine on the dredge, state of the art silencers on the scoop loaders, and the use of plastic or rubber coated chutes and screens. He did admit that there would be approximately 90 trucks using the facility per day and also that erosion had occurred at the Coweta plant operated by Holliday, but before Holliday began operating the plant.

In addition to Odell's testimony, Holliday called an appraiser to testify that the operation of the plant would not substantially reduce the values of neighborhood properties. However, the witness's credibility was substantially diminished by his admission that he had "dropped" his appraiser's license and was no longer a licensed/accredited appraiser.

Finally, Holliday presented the testimony of an engineer to refute the testimony of a witness of Landowners that the sand mining would result in bank erosion at the site.[2] The witness found several faults with the conclusion that substantial erosion was a probability from the operation of the mine.

Landowners presented the testimony of Dean Holladay, the Superintendent of Highway Maintenance Division District 3, Tulsa County. Mr. Holladay is responsible for the maintenance of existing roadways, including 193rd East Avenue in the area of the proposed plant. He testified that the span of 193rd East Avenue between the new Creek Turnpike and 161st Street is beginning to fail and needs maintenance performed on it. He stated that the road was designed for light traffic and is not suitable to handle an additional one hundred semi-trucks that would travel the road in connection with the proposed plant's operation. On cross-examination, Holladay acknowledged that semi-trucks currently use the roadway in connection with sod farms and another sand plant operating near the area. He also admitted a possibility that the City of Tulsa is conducting an evaluation to determine if the roadway should be improved.

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[2] Although Holliday had the burden of proof at trial, the Landowners put on their case first.

Landowners also called witness Patrick Boyd, a real estate appraiser. He testified that the land in the area of the plant, between the new Creek Turnpike and 161st Street, is a rural residential farming community area, that had become more dense in population in the last ten years. Boyd stated that he is familiar with another sand plant owned by Holliday in Coweta, Oklahoma, and opined that a sand and gravel plant has a negative impact on the value of residential property because of the noise of the plant and the heavy commercial traffic.

Landowners also called Michael Odell, the Holliday Vice President, primarily to gain his admission that he had described the traffic flow to the area homeowners as an average of ninety trucks per day – both dump trucks and semi-trucks. He had also informed the homeowners that the plant would operate between 6:00 a.m. and 6:00 p.m. on Mondays through Fridays and between 6:00 a.m. and 12:00 p.m. on Saturdays.

Landowners also presented the testimony of Jack Sheridan, an engineer specializing in hydraulics, who testified that the operation of the sand plant in the area proposed by Holliday would cause erosion of the riverbank and erosion up to 193rd East Avenue. He stated this was a probability, not just a possibility.

Finally, landowner Patricia Holder testified that the noise from trucks involved in the sod farms and other sand plant had already affected the enjoyment

of her property, and that a substantial increase in truck traffic as contemplated by Holliday would further demean the lifestyle in the "very quiet, very peaceful" neighborhood. The parties stipulated that, if called as witnesses, the testimony of four other landowners would be essentially the same as Ms. Holder's testimony.

The parties do not dispute that the area in which the proposed plant is to be located is zoned agricultural. Under section 310 of Tulsa County Zoning Code, mining and mineral processing are permitted by special exception in areas so zoned. When an application for special exception is filed, section 1680.3 of the Tulsa County Zoning Code provides for the following procedure:

> The Board of Adjustment shall hold the hearing, and upon the concurring vote of three members may grant the Special Exception *after finding 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.* Provided that the Board in granting a Special Exception shall prescribe appropriate conditions and safeguards, and may require such evidence and guarantee or bond as it may deem necessary to enforce compliance with the conditions attached.

(Emphasis added.) When considering a special exception for mining, the Board must also "consider potential environment influences, such as dust and vibration,

and shall establish in the particular instance, appropriate protective conditions such as setbacks, screening, and method of operation, as will mitigate the adverse affect on proximate land uses." Tulsa County Zoning Code § 1224.3.

In reviewing the evidence, we find that Landowners presented clear evidence that the operation of the sand plant will "be injurious to the neighborhood" and possibly "detrimental to the public welfare." Although Holliday presented testimony that it would do a variety of things to hold down noise, the increase of heavy truck traffic will be substantial, and the evidence tends to establish that this will considerably increase the noise level and damage the roadways. In addition, section 1224.3 of the Tulsa County Zoning Code requires consideration of possible "environmental influences." Although there is a strong evidentiary dispute over whether the plant will result in substantial erosion to the river bank, there was expert testimony to that effect which the Trial Court could have, and apparently did, accept.

It is true, as Holliday points out in its brief, that a denial of a special exception cannot be based on fears of what may or may not happen. *In re Application of Volunteers of America, Inc.*, 1988 OK 8, ¶ 11, 749 P.2d 549, 552. However, Landowners fulfilled the requirement of "actual evidence," *Id.*, by both the testimony regarding the substantial increase in truck traffic and its probable

effect on the roads, and by the engineer's expert testimony that erosion will occur, resulting in damage to the riverbank.

CONCLUSION

We conclude that the Trial Court's decision is not clearly contrary to the weight of the evidence. The Landowners presented clear evidence that the zoning exception would allow a use of the property which would be injurious to the neighborhood and the environment. Accordingly, the decision of the Trial Court is affirmed.

AFFIRMED.

COLBERT, V.C.J., and TAYLOR, P.J., concur.

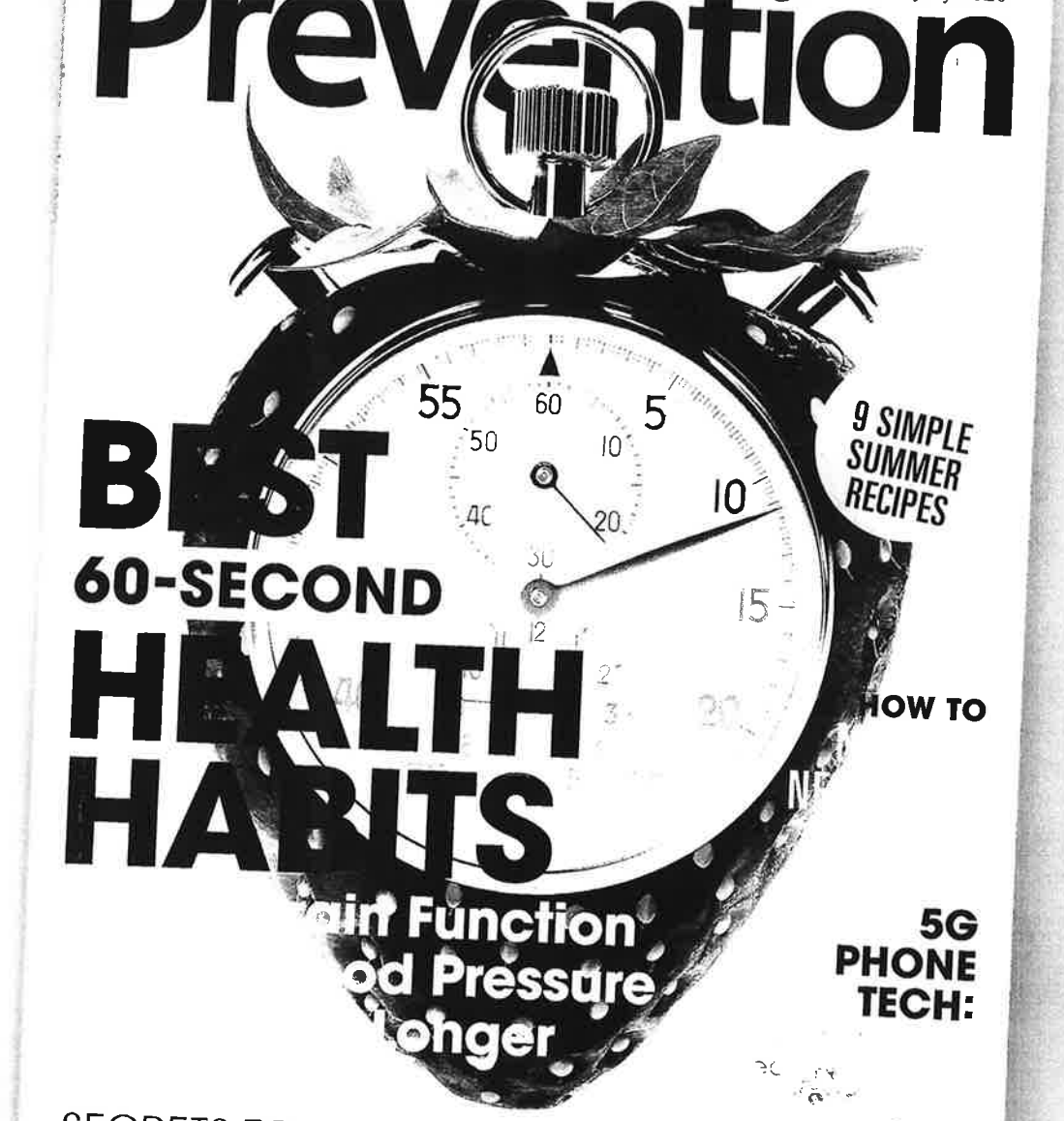
January 13, 2004

3.115

LESSONS FROM NURSES

Prevention

July 2020



BEST 60-SECOND HEALTH HABITS

ain Function
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9 SIMPLE SUMMER RECIPES

HOW TO

5G PHONE TECH:

SECRETS TO **OVERCOMING YOUR PAST**

EXHIBIT
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Natural Fixes

Our Health in a Noisy World

BY ANDREW WEIL, M.D.

Noise pollution is nothing new: An 1856 editorial in London's *Times* complained of the city's "noisy, dizzy, scatterbrained atmosphere," and in 1866, American writer Nathaniel Hawthorne groused that steam-train whistles "bring the noisy world into the midst of our slumberous peace." But the sounds of our world today do more than just annoy us. Research reveals that the low-level thrum of constant noise from traffic, overhead jets, and the like—the common background of modern life—impairs health as well.

Dr. Weil is founder and director of the Andrew Weil Center for Integrative Medicine.

THE WIDE-RANGING REPERCUSSIONS

In 2019, an organization that tracks ambient noise levels in Paris found that an average resident in the noisiest regions lost more than three "healthy life-years" because of conditions caused or worsened by noise pollution. That may sound surprising, but heart disease, obesity, diabetes, cognitive impairment, sleep disturbance, hearing problems, and tinnitus are all linked to chronic noise exposure, according to the World Health Organization.

The damage appears to manifest in two ways:

DIRECT EFFECTS

There's an immediate effect on the acoustic nerves and, as a result, the rest of the nervous system. A fluid-filled inner-ear organ called the cochlea converts sound vibrations into electrical impulses that go directly to the brain. Constant noise, especially when it's loud, can overload and compromise that nerve-based connection, leading to hearing loss.

INDIRECT EFFECTS

Sound-induced low-level emotional stress has an indirect effect on the body and the mind. Stress can lead to overproduction of cortisol, a hormone that, at elevated levels, has been linked to heart disease and most of the other conditions the WHO has connected with chronic noise exposure.

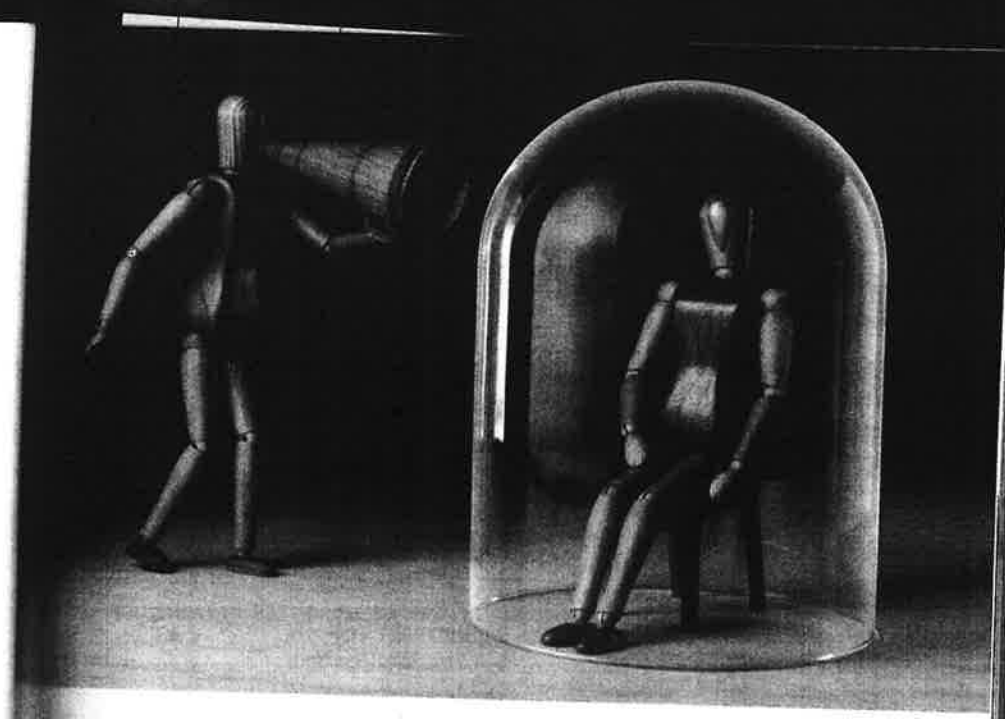

ILLUSTRATION BY KANCHAN BATHE

OPTIMIZING YOUR ENVIRONMENT

Sound is vital to the reflexes that help orient us—so much so that people standing in a chamber that blocks out all noise often feel dizzy and fall. A happy medium between the maddening mechanized noise we live in and eerie, disorienting silence appears to be the sorts of soundscapes in which we evolved: the breeze through the trees, rain on the roof, chirping birds. Evidence suggests that playing recorded nature sounds, such as that of flowing water, lowers stress levels (as measured by levels of cortisol in saliva) more than listening to music or being enveloped in silence.

I recommend that you take your sound environment seriously and do what you can to improve it. If your world is too noisy, noise-canceling headphones can bring blessed relief. A pair of quality closed-cell foam earplugs can work wonders in situations where headphones are inappropriate or awkward—including sleeping in bed. Thick curtains can also muffle street sounds.

And if you find yourself in an environment that's too quiet, search online for "nature sounds." There are lots of free recordings on YouTube, some up to 10 hours long. A friend of mine, a writer from Oregon now based in bone-dry Phoenix, typically works while listening to a drenching thunderstorm. Search, and you may discover just the natural sound you've longed to hear.

COWETA METRO AREA PLANNING COMMISSION

NOTICE TO PROPERTY OWNERS WLZ # 21-20

THE WAGONER COUNTY LAND RECORDS INDICATE YOU ARE THE PRESENT OWNER OF PROPERTY LOCATED WITHIN THREE HUNDRED (300) FEET OF THE FOLLOWING DESCRIBED PROPERTY, to-wit:

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (S/2 SE/4 NE/4) OF SECTION EIGHT (8), TOWNSHIP SEVENTEEN (17) NORTH, RANGE FIFTEEN (15) EAST OF THE INDIAN BASE AND MERIDIAN, WAGONER COUNTY, STATE OF OKLAHOMA.

THE OWNER OF THE ABOVE DESCRIBED PROPERTY, MARISA RITTER, HAS APPLIED FOR A CHANGE OF ZONING FROM AGRICULTURAL (AG) TO LIGHT INDUSTRIAL (IL) SO THEY MAY USE THEIR PROPERTY FOR MEDICAL MARIJUANA GROWING.
A PUBLIC HEARING ON THIS APPLICATION WILL BE HELD BY THE COWETA METRO AREA PLANNING COMMISSION, WHOSE PHONE NUMBER IS 918-485-8123. THIS HEARING WILL BE HELD MONDAY, JUNE 22, 2020 AT ~~7:00~~ 6:30 P.M. IN THE OLD COWETA COURTHOUSE AT 216 S. BROADWAY, COWETA, OK.
YOU MAY APPEAR IF YOU SO DESIRE, EITHER IN PERSON OR BY AGENT OR BY ATTORNEY AND BE HEARD. THE HEARING OF THIS APPLICATION IS NOT LIMITED TO THOSE RECEIVING A COPY OF THIS NOTICE AND IF YOU KNOW OF AN AFFECTED PROPERTY OWNER, WHO FOR ANY REASON FAILED TO RECEIVE A COPY, IT WOULD BE APPRECIATED IF YOU WOULD INFORM THEM OF THIS HEARING.

DATE MAY 21, 2020

Marisa Ritter
APPLICANT

EXHIBIT
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3.120

Section 8-T17N-R15E

Date created 2/14/2019 **Reference Scale: 1:8,400**

WAGONER COUNTY MAPPING DEPARTMENT
Sandy Hodges, Wagoner County Assessor

The contents of these maps are for the Wagoner County Reappraisal Program. Guidelines were established in accordance with Oklahoma Mapping Standards. Property descriptions are unofficial and Wagoner County assumes NO responsibility for any subsequent usage outside of the Reappraisal Program.

3.121

Gmail

Patricia Neel <patricianeel79@gmail.com>

Zoning issue

annette capps <annettecapps@yahoo.com> Fri, Jul 3, 2020 at 4:52 PM
To: Patricia Neel <patricianeel79@gmail.com>

Thank you so much for your support with the rezoning issue.

We appeared before the Wagoner County Commissioners on Monday and again presented our objections. It is rather long but the final result is that they conditionally approved the rezoning based up us (the landowner and our non-profit) coming up with a civil agreement. Based on our agreement which excludes 12 Industrial activities we find objectionable (such as heavy construction, wrecker service, industrial greenhouses), the landowner will receive his Industrial zoning and can grow marijuana. However, should he cease that business, he is required by our agreement to zone back to AG. In addition, he agreed to re-route his dump trucks to the south, so neighbors aren't constantly subjected to the heavy traffic and dust.

Since the state of Oklahoma is pressuring the municipalities and commissioners to approve and promote the marijuana business, I think this is probably the best result that was even possible.

[Quoted text hidden]

3.123

Annette Capps
13475 S 225th E Ave
Broken Arrow, OK 74014

January 29, 2019

Tim Kelley
Wagoner County Commissioner District 3
16507 S 305th E Ave
Coweta, OK 74429

Dear Tim:

I met with Brenda at the Metro Planning Commission on December 13, 2018 and have spoken to Shoni a few times regarding the situation on 225th E Ave between 131st and 141st. I own 120 acres with two homes ½ mile apart on the east side of this road.

I understand that this road may be paved next spring and I have 2 concerns:

1. The property on the west side of 225th across from my Mom's house at 13475 S 225th E Ave has been under constant dirt work and excavation for over 2 years. This includes up to **50 dump trucks per day**, tractor trailers with large bulldozers, track hoes and other large dirt moving equipment. Although I am thrilled with the idea of a chip and seal road, I have concerns that it would stand up to the constant flow of Elliot's heavy equipment. Having been involved with my Dad in real estate development in Arkansas, we often worked with the county on road surfacing and repair. With the dirt work filling in the ditches and constant dump trucks, I know the results can deteriorate a road quickly. By the time I returned from my visit with Brenda, there were 13 new loads of dirt dumped. I sincerely hope that the county can find a way to either stop the business across the street or regulate it in some way. We can all tolerate construction and growth for a time, but there seems to be no end to whatever business is taking place on the west side of the road.

2. Although my home is located 600 feet east of 225th, the dust has become intolerable even in my location. I have enclosed photos taken from my home at 22630 E 131st St S. Although I don't like the holes in the road, it is much more tolerable than the dust. We need some relief, as do our animals and our hayfields.

3. Would you be willing to talk to me for 10-15 minutes about my concerns? I will be making decisions about fencing and fertilizing our hayfield that depend on your input regarding this situation.

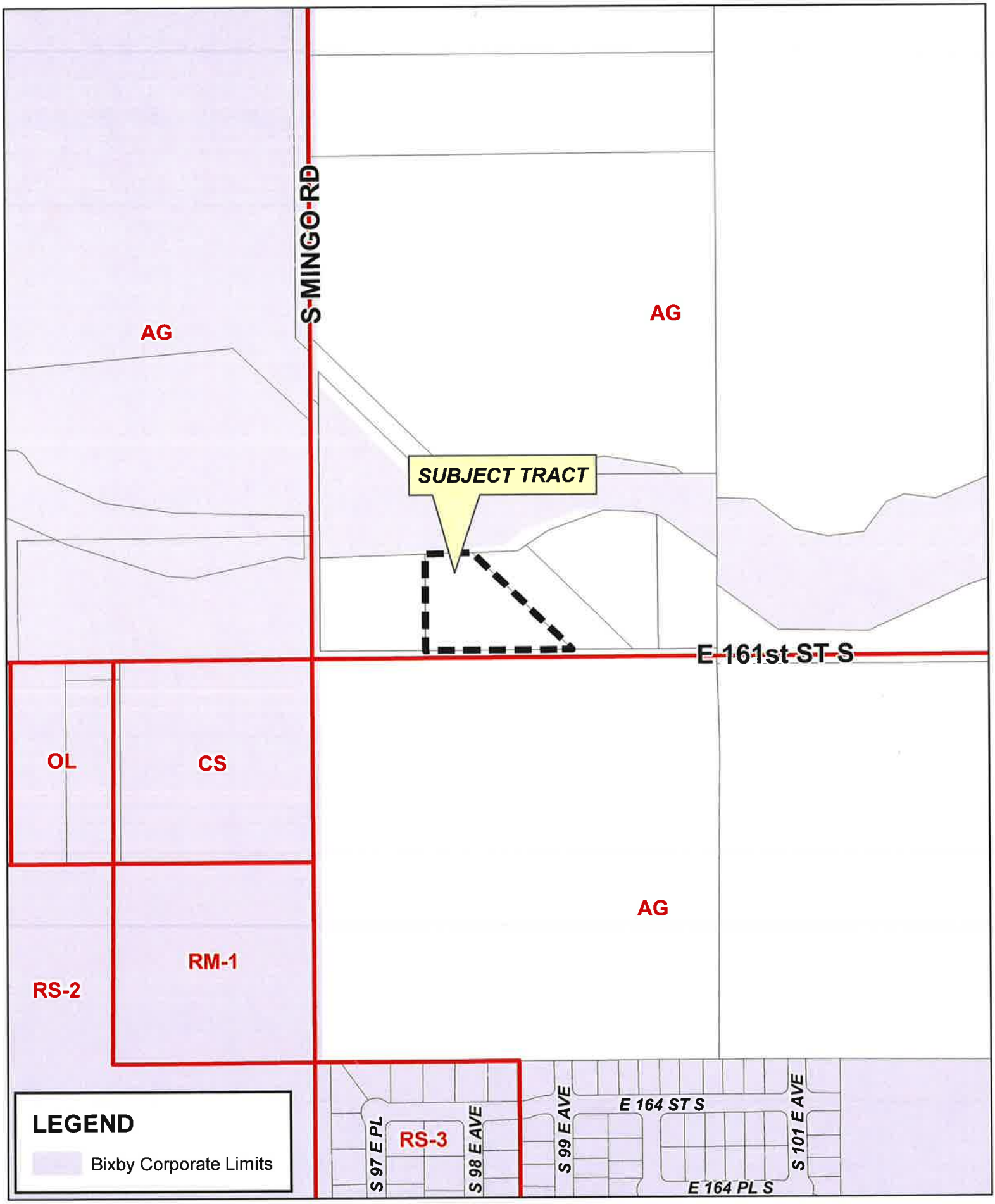
Thank you for your consideration. My number is 918-284-7511.

Sincerely,

Annette Capps

Annette Capps

3.124



CBOA-2823

17-14 19

4.1

TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 7419
CZM: 68

CASE NUMBER: CBOA-2823
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Ken Binkley

ACTION REQUESTED: Special Exception to permit fireworks stand (Use Unit 2) in an AG district and a Variance from the all-weather parking surface requirement (Section 1340.D).

LOCATION: 9805 E 161 ST S

ZONED: AG

FENCELINE: Bixby

PRESENT USE: Residential

TRACT SIZE: 2.2 acres

LEGAL DESCRIPTION: E479.2 W849.7 LYING S OF MVRR LESS BEG 370.50E & 353.81N SWC SW TH N APR 128.67 SE APR 168.76 SW APR 119.19 POB & LESS S24.75 THEREOF FOR ST SEC 19 17 14 2.204ACS,

RELEVANT PREVIOUS ACTIONS:

Subject Property:

CBOA-2535 May 2015: The Board approved the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an AG District (Section 310); Variance of the all-weather surface requirement for parking (Section 1340.D) finding this will not be injurious to the surrounding neighborhood. The hours of operation will be 11:00 A.M. to 10:00 P.M. June 15th through July 5th with the hours of operation for July 3rd and July 4th being 11 :00 AM. to 12:00 midnight, or consistent with the State permitted operating window. This approval has a five-year time limit until June 2020, on property located at 9805 E 161 ST S.

Surrounding Property: None Relevant

ANALYSIS OF SURROUNDING AREA: The subject tract is located in a rural area that contains large lot residential on the east and west; light industrial and a church to the north.

STAFF COMMENTS:

The applicant is before the Board requesting a **Special Exception** to permit fireworks stand (Use Unit 2) in an AG district and a **Variance** from the all-weather parking surface requirement (Section 1340.D). The applicant had been approved prevoiusly for the exact request (CBOA-2535) with a time limitation of 5 years. The time limit expired June 30, 2020. Therefore, the applicant is before the Board again with the same request.

The applicant provided the following statement: *"Would like to utilize the property for fireworks sales from June 15 – July 5. The property is part of a grass yard and gravel or pavement would not be utlized for the remainder of the year. Also, gravel would also be hazardous."*

A Special Exception is required as the proposed fireworks stands are 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 fireworks stands must be found to be compatible with the surrounding area.

The Site Plan submitted with the application proposes four fireworks stands and a cashier's booth on the eastern portion of the property. The subject property currently contains one occupied single family home. The subject site is in a sparsely developed rural area; residences abut the subject lot on the east and west.

The applicant proposes an unpaved grass 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.

Fireworks stands previously approved by the Board within the County are normally a temporary use operating for less than a few weeks in a given year. The applicant has stated that the fireworks stands will be in operation from *June 15 – July 5.*

If inclined to approve, the Board may consider any conditions it deems necessary and reasonably related to the request to ensure that the fireworks stand is 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 permit fireworks stand (Use Unit 2) in an AG district 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.

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.

Variance from the minimum lot width requirement from 150 feet to 118.6 feet in an AG District to permit a lot split (Section 330, Table 3). **LOCATION:** 7613 East 181st Street South, Bixby

Presentation:
Lance Price, 3223 East 146th Place, Bixby, OK; stated he owns 8.5 acres that he would like to separate. There is an existing house on one acre of the acreage and he would like to separate it from the remaining acreage.

Mr. Charney asked Mr. Price if he planned to split the other acreage into individual lots for more homes, if the Board were to approve this request. Mr. Price stated that he has no intentions of splitting the acreage apart because he is a believer in putting land back together rather than separating it.

Interested Parties:
Linda Greene, 21884 West 131st Street South, Sand Springs, OK; stated that she spoke with Mr. Price in the hallway today, and she now understands what Mr. Price is attempting to do with the subject property. Ms. Greene stated she is withdrawing her verbal request for the continuance.

Comments and Questions:
None.

Board Action:
On **MOTION** of **DILLARD**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Variance from the minimum land area per dwelling unit requirement from 2.1 acres to 1 acre; Variance from the minimum lot area requirement from 2 acres to 1 acre; Variance from the minimum lot width requirement from 150 feet to 118.6 feet in an AG District to permit a lot split (Section 330, Table 3). This approval is not to presumed that it allows additional lot splits even though there is eight acres. The hardship is the pecularity of the long narrow nature of the lot; for the following property:

E/2 E/2 SW SE LESS E130 S385 THEREOF SEC 35 17 13 8.85AC, OF TULSA COUNTY, STATE OF OKLAHOMA

2535—Ken Binkley

Action Requested:
Special Exception to allow a fireworks stand (Use Unit 2) in an AG District (Section 310); Variance of the all-weather surface requirement for parking (Section 1340.D).
LOCATION: 9805 East 161st Street South, Bixby

BOA-2535 FILE COPY

Presentation:
Ken Binkley, 9805 East 161st Street South, Bixby, OK; stated the fireworks stand has been operating for 23 years and this will be the 24th year. The stand has been located on the subject property for 12 years. Mr. West informed him last year that he needed to come before the Board of Adjustment to receive approval which would make the stand legal, and that is why he is here today.

Mr. Charney asked Mr. Binkley if the stand was located on his homestead property. Mr. Binkley answered affirmatively.

Mr. Charney asked if there was an area for people to pull off 161st Street. Mr. Binkley stated there is ample parking and across the road he has permission from the sod farm to use their property for parking also if needed.

Mr. Binkley stated there has never been a traffic issue in the past and he has a lot of repeat customers.

Mr. Charney asked Mr. Binkley what his operating hours would be. Mr. Binkley stated that the hours would be 11:00 A.M. until 10:00 P.M., and on the 4th be open until midnight.

Mr. Hutchinson asked Mr. Binkley when he opened the stand and when he would close the stand for the season. Mr. Binkley stated that he will open it June 15th and be open until July 6th.

Mr. Crall asked Mr. Binkley if there was any area that he could lay gravel for the parking. Mr. Binkley stated the stand is in his yard so laying gravel on the property would mean he would be throwing rocks everytime he mows the grass.

Mr. Dillard asked Mr. Binkley if he had mud and rutting problems in the past. Mr. Binkley stated that he has had a couple of rainy seasons where there was a mud issue.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **HUTCHINSON**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to allow a fireworks stand (Use Unit 2) in an AG District (Section 310); Variance of the all-weather surface requirement for parking (Section 1340.D) finding this will not be injurious to the surrounding neighborhood. The hours of operation will be 11:00 A. M. to 10:00 P.M. June 15th through July 6th with the hours of operation for July 3rd and July 4th being 11:00 A.M. to 12:00 midnight, or consistent with

BOA-2535

the State permitted operating window. This approval has a five year time limit until June 2020; for the following property:

E479.2 W849.7 LYING S OF MVRR LESS BEG 370.50E & 353.81N SWC SW TH N APR 128.67 SE APR 168.76 SW APR 119.19 POB & LESS S24.75 THEREOF FOR ST SEC 19 17 14 2.204ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

* * * * * * * * * * * * * *

NEW APPLICATIONS

2536—Joseph Watt

Action Requested:
Special Exception to allow a mini-storage (Use Unit 16) in a CS District (Section 710). **LOCATION:** NE/c of East 86th Street North and North Yale Avenue, Owasso

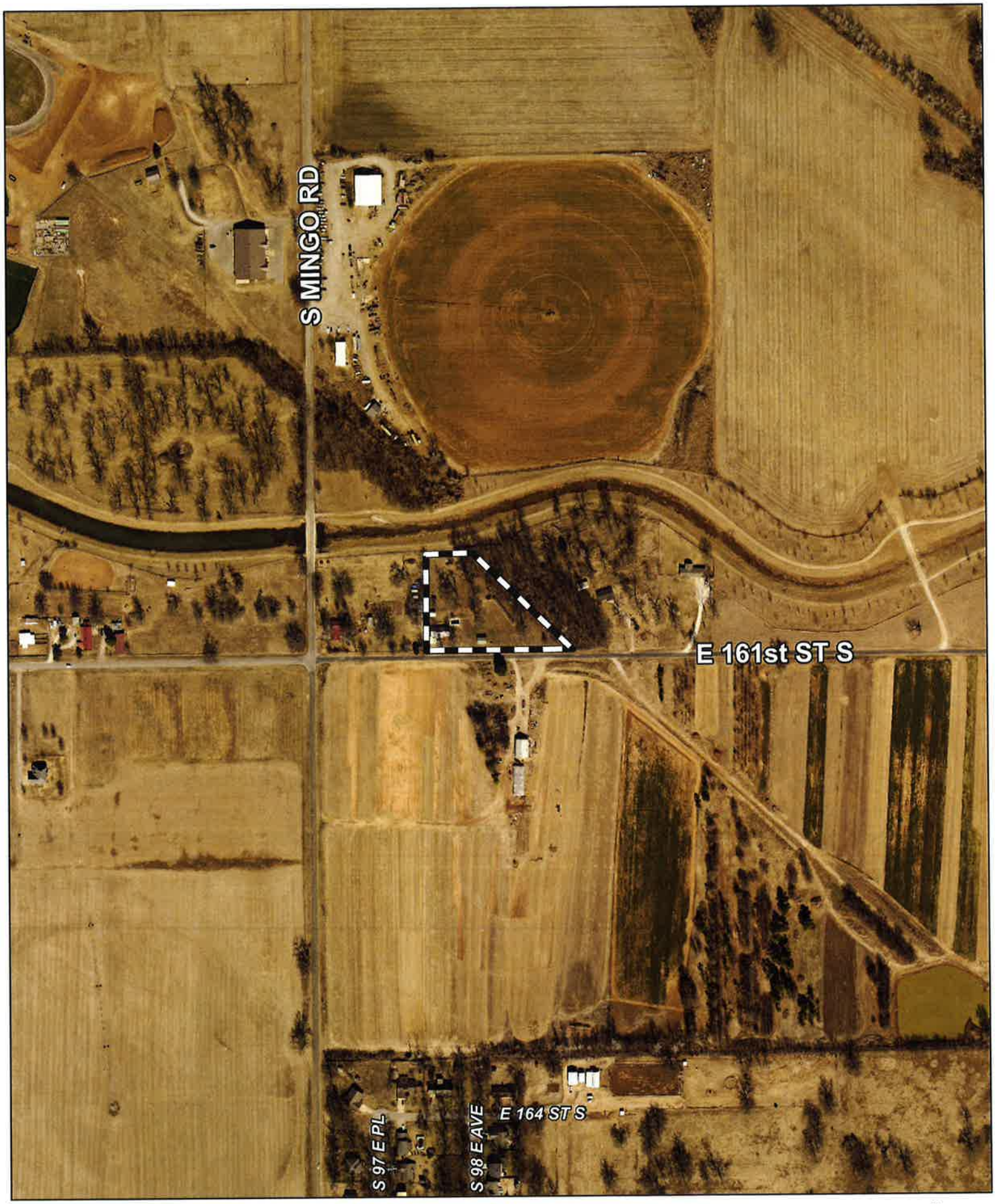
Presentation:
Joseph Watt, 9936 East 55th Place, Tulsa, OK; stated the beginnings of this property was when the nine acres was separated out years ago. There was a perimeter of 90 feet on the north and 120 feet on the east zoned RE and the rest of the land was zoned agriculture. Mr. Watt stated that he has not been able to find the records for the separation so he does not know how it came about. The CS zoning is more restrictive for commercial development but yet part of this is to allow storage units and a commercial building. Prior to today he had to do all the storm water details and determinations so the proposed usage would not be displacing water on anyone else. Matter of fact, he will be taking water away from portions of the property that is now draining to the northeast and it will be pulled back to the south and the west holding it in the detention facility for the subject property, and it is proposed to regrade the site so there will be no water whatsoever displaced onto the neighbors to the north or to the east.

Interested Parties:
Calvin Swindle, 5206 South Harvard, Unit 319, Tulsa, OK; stated he has concerns about the drainage.

Mr. Charney stated that in order to have a building constructed on the subject site there will be platting and an engineering effort made to control the stormwater in a manner that is consistent with all the stormwater regulations. The Board of Adjustment does not focus upon that, but focus on the land use is appropriate. The stormwater drainage, the stormwater retainage and the stormwater detention and the release will all be addressed at the platting stage and it will be reviewed very carefully, then it will be stamped by an Engineer that the applicant is not releasing stormwater at a faster rate in the post developlment stage than is being release currently.

Looking northwest from E. 161st St. S. – image from Google Earth 2012

Looking northeast from E. 161st St. S. – image from Google Earth 2012



Feet
0 200 400

Subject Tract

CBOA-2823

17-14 19

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

Aerial Photo Date: February 2018

N

4.8

Feet
0 50 100

Subject Tract

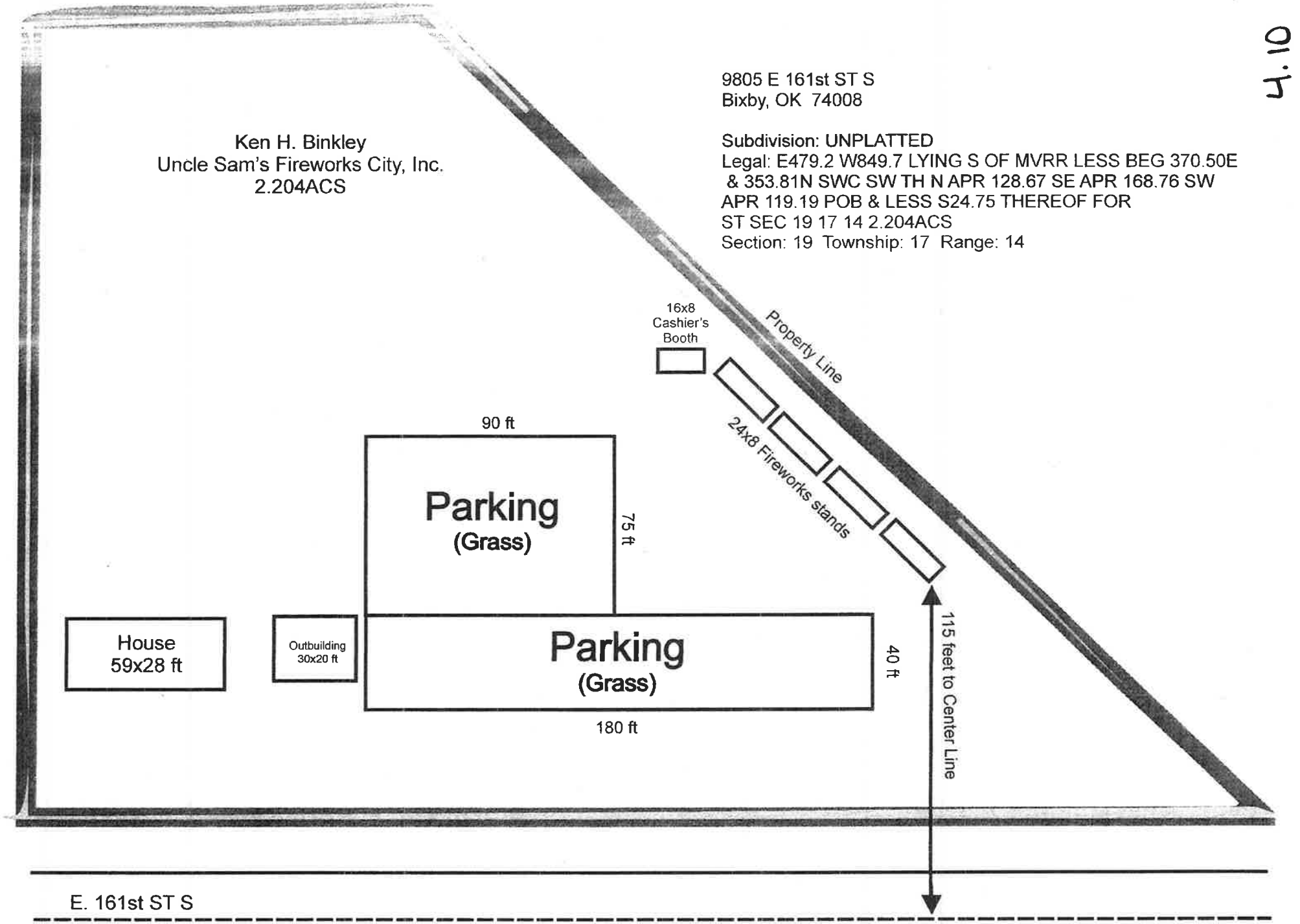
CBOA-2823

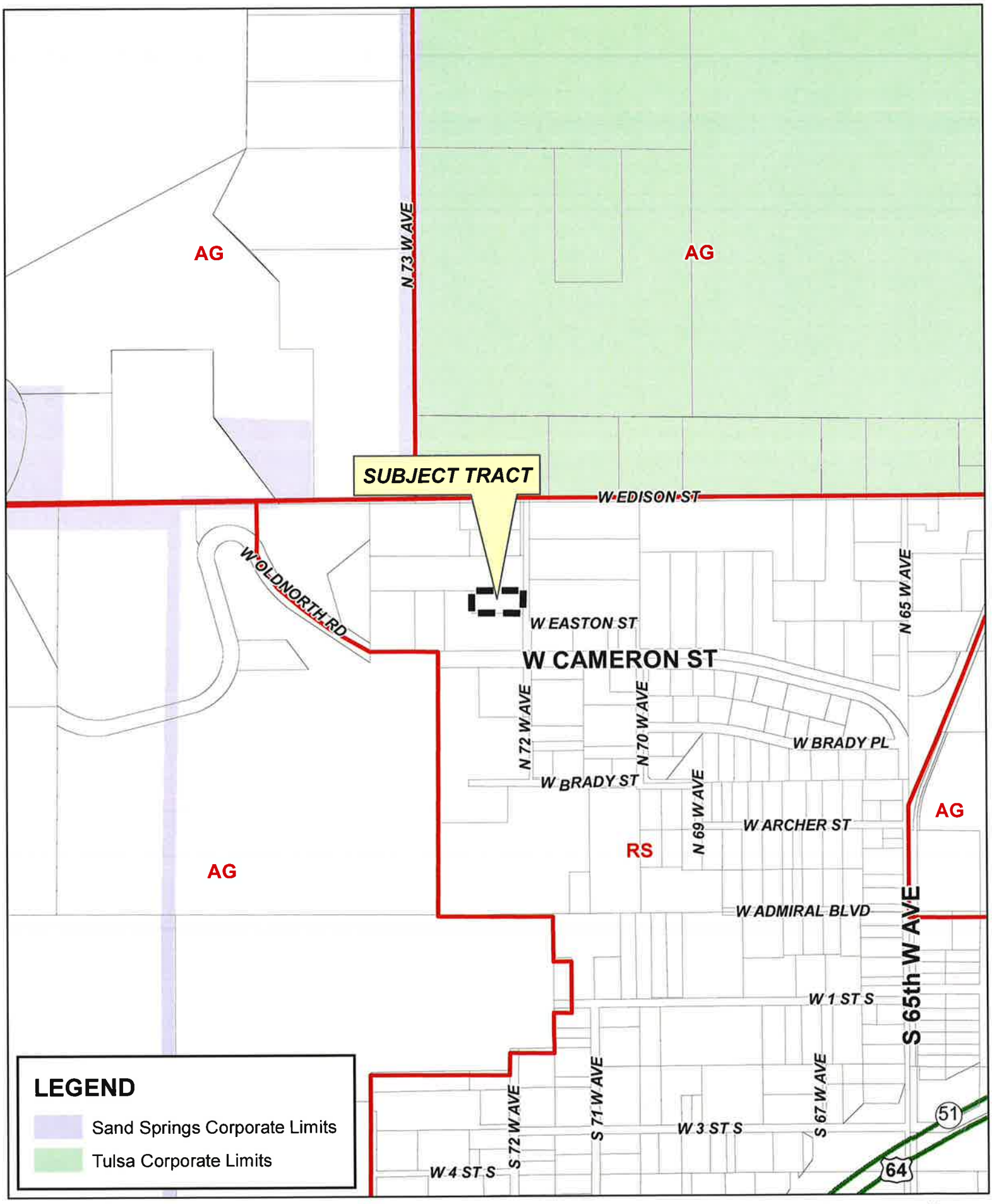
17-14 19

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

Aerial Photo Date: February 2018

N


9805 E 161st ST S
Bixby, OK 74008
Ken H. Binkley
Uncle Sam's Fireworks City, Inc.
2.204ACS
Subdivision: UNPLATTED
Legal: E479.2 W849.7 LYING S OF MVRR LESS BEG 370.50E & 353.81N SWC SW TH N APR 128.67 SE APR 168.76 SW APR 119.19 POB & LESS S24.75 THEREOF FOR ST SEC 19 17 14 2.204ACS
Section: 19 Township: 17 Range: 14
16x8 Cashier's Booth
Property Line
24x8 Fireworks stands
90 ft
Parking (Grass)
75 ft
House 59x28 ft
Outbuilding 30x20 ft
Parking (Grass)
40 ft
180 ft
115 feet to Center Line
E. 161st ST S



CBOA-2824

19-12 06

5.1

TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 9206
CZM: 35

CASE NUMBER: CBOA-2824
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Richard Read

ACTION REQUESTED: Variance to permit a detached accessory building to exceed 750 sq. ft. in an RS District (Sec.240.2-E).

LOCATION: 518 N 72 AV W

ZONED: RS

FENCELINE: West Central Tulsa County

PRESENT USE: Residential

TRACT SIZE: 0.65 acres

LEGAL DESCRIPTION: N110 E256.75 BLK Q, FARM COLONY SUB

RELEVANT PREVIOUS ACTIONS:

Subject Property: None relevant

Surrounding Property:

CBOA-1064 March 1992: The Board **APPROVED** a *variance* of the maximum square footage of floor area for an accessory building from 750 sq. ft to 1500 sq. ft; and **APPROVED** a *variance* of the required 55' setback from the centerline of West Edison to 38'; and **WITHDREW** a *variance* to permit an accessory building in the side or front yard, on property located at 532 North 72nd West Avenue.

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by RS zoning in a rural residential neighborhood.

STAFF COMMENTS:

The applicant is requesting a Variance to permit a detached accessory building to exceed 750 sq. ft. in an RS District (Sec.240.2-E).

Section 240.2.E permits accessory buildings in the RS district up to 750 sq. ft. of floor area regardless of the lot size. The provision of the Code attempts to establish and maintain development intensity of the district, preserve the openness of living areas and avoid overcrowding by limiting the bulk of structures.

The applicant provided the following statement, "We currently have 3 vehicles; 2 daily drivers and one antique that I inherited from an older brother. We would also like to release a storage building that we have rented for over 10 years, containing most of our yard equipment, to which we do not have easy access. A 24' wide garage is the maximum width we can build and be with the guidelines

for an RS zone setback, and the limitations of our property. A 24 x 30 garage will not hold 3 cars, the contents of our storage unit and a workshop area."

According to the site plan submitted with the application, the applicant is proposing to construct a 24' x 40' (960 sq. ft.) accessory building in the rear yard.

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

Sample Motion:

"Move to _____(approve/deny) Variance to permit a detached accessory building to exceed 750 sq. ft. in an RS District (Sec.240.2-E).

Subject to the following conditions (if any) _____.

Finding the hardship to be _____.

In granting the Variances, 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 circumstance 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. 1064

Action Requested:

Variance of the maximum square footage of floor area for an accessory building from 750 sq ft to 1500 sq ft - **Section 240.2.E Permitted Yard Obstructions** - Use Unit 6.

Variance of the required 55' setback from the centerline of West Edison to 38' - **Section 241. EXISTING BUILDING ENCROACHMENT ON FRONT YARDS OR BUILDING SETBACKS** - Use Unit 6.

Variance to permit an accessory building in the side or front yard - **Section 420.2.A.2 Accessory Use Conditions** - Use Unit 6, located 532 North 72nd West Avenue.

Presentation:

The applicant, **Joe Damer**, 532 North 72nd West Avenue, Tulsa, Oklahoma, informed that he is proposing to construct a building on an existing slab, and that he will remove the other small storage buildings when the new structure is completed.

Comments and Questions:

Mr. Gardner advised that this application was continued from the last meeting because the building site for the 30' by 50' storage facility was on a separate lot from the residence. In regard to the variance of the setback requirement, Mr. Gardner stated that the section line to the north will not be widened, and the major issue in the application is the size of the structure.

Mr. Jones stated that the applicant has obtained a lot split, placing the storage building and the house on the same lot. He informed that Staff has viewed the property and found a large amount of outside storage, and added that the detached accessory building would be large enough to accommodate a business. Mr. Jones stated that the Board could limit the use to storage purposes only.

In response to Mr. Alberty, the applicant replied that the building will be used for storage only.

Mr. Alberty asked Mr. Damer if he is proposing to operate a business in the building, and he stated that the facility will not be used for business purposes, but only for the storage of fuel, cars, a tractor and other farm equipment.

Mr. Walker stated that he has site checked the property, and informed the applicant that he could support the request if the three portable buildings were removed, and the surrounding area was cleared.

Case No. 1064 (continued)

Mr. Damer stated that he is constructing the new building in order to have storage space for some of the materials that are currently stored outside.

Protestants:

None.

Board Action:

On **MOTION** of **TYNDALL**, the Board voted 3-0-0 (Alberty, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Eller, Looney "absent") to **APPROVE** a **Variance** of the maximum square footage of floor area for an accessory building from 750 sq ft to 1500 sq ft - **Section 240.2.E Permitted Yard Obstructions** - Use Unit 6; and to **APPROVE** a **Variance** of the required 55' setback from the centerline of West Edison to 38' - **Section 241. EXISTING BUILDING ENCROACHMENT ON FRONT YARDS OR BUILDING SETBACKS** - Use Unit 6; and to **WITHDRAW** a **Variance** to permit an accessory building in the side or front yard - **Section 420.2.A.2 Accessory Use Conditions** - Use Unit 6; subject to a building permit, and subject to the building being used for personal storage only; subject to no commercial use of the proposed structure; and subject to all existing portable buildings being removed from the premises; finding that the variance to permit the building in the side or front yard is no longer needed because of the lot split; and finding that the property is located in a sparsely settled area, with surrounding agricultural uses, and the storage facility (no commercial use) will not be detrimental to the area, or violate the spirit, purposes and intent of the Code; on the following described property:

> The north 157.5' east 264' of Block O less the east 10' thereof for road and all of Block O and north 81' Block P less north 81' east 264' of Block P and less the south 43' east 264' of Block O and less the east 10' north 157.5' of Block O and less the north 157.5 east 264' of Block O, Farm Colony Subdivision, Tulsa County, Oklahoma.

Feet
0 300 600

Subject Tract

CBOA-2824

19-12 06

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

Aerial Photo Date: February 2018

5.6

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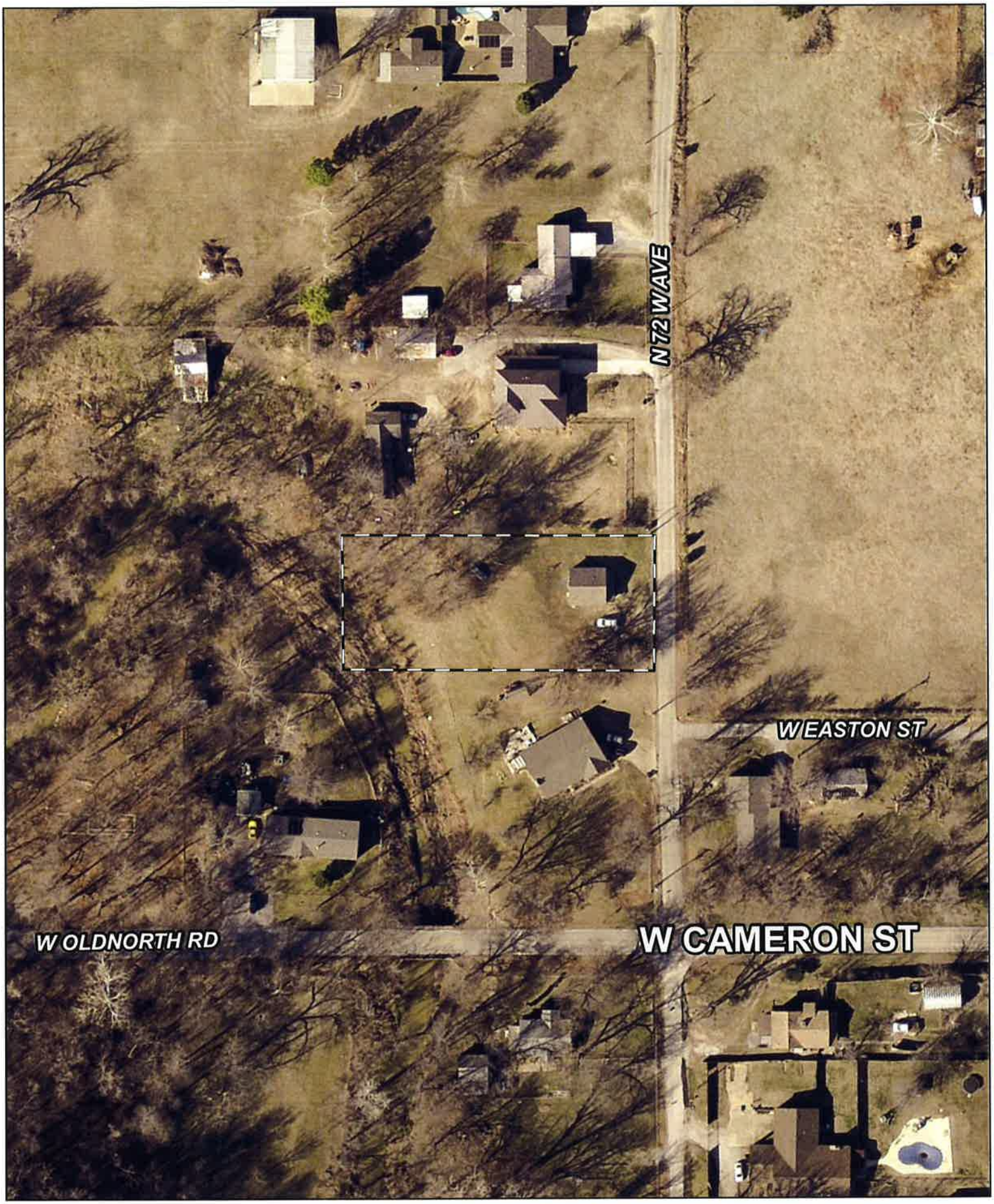

Feet
0 50 100

Subject Tract

CBOA-2824

19-12 06

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

Aerial Photo Date: February 2018

5.7

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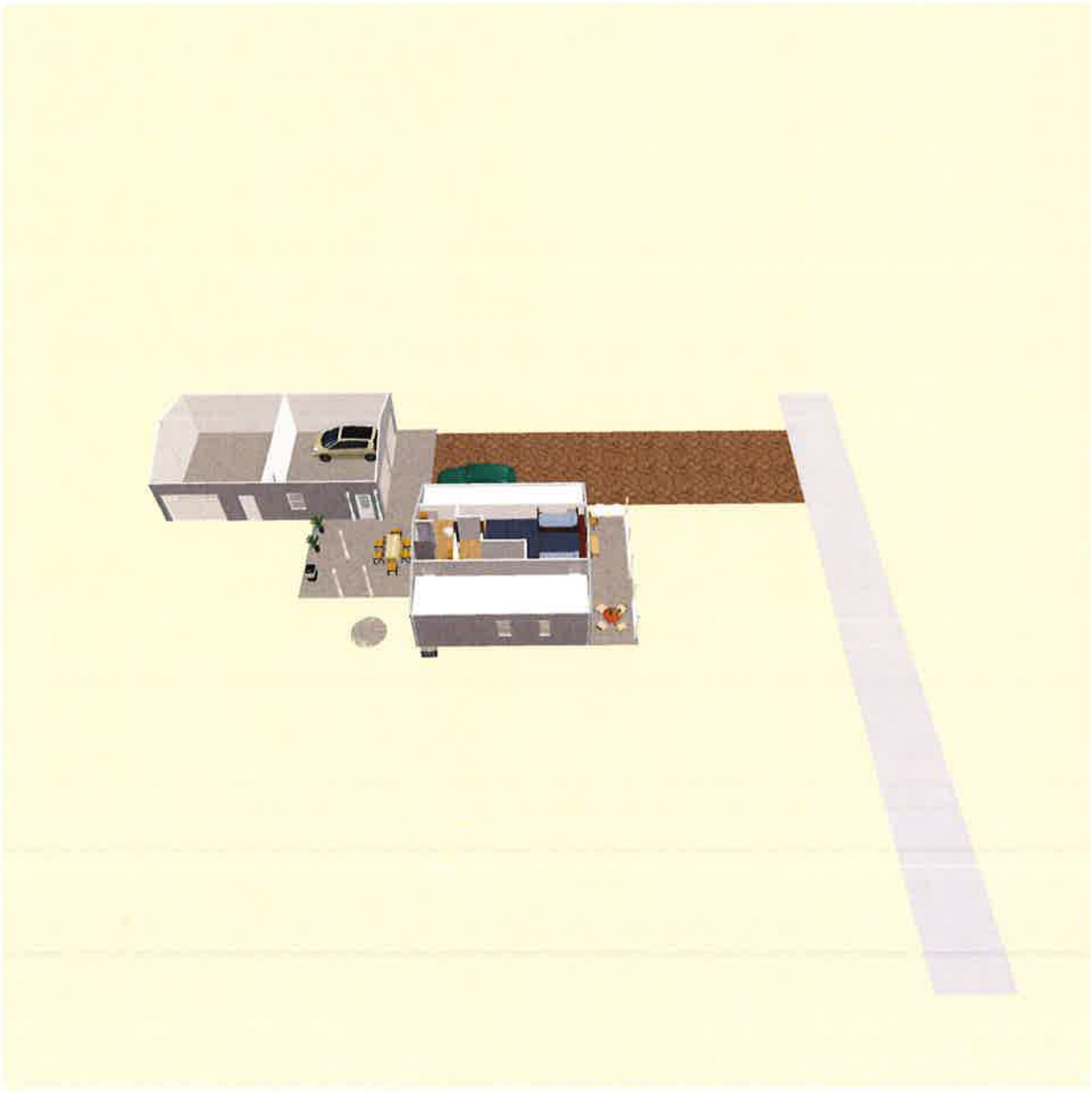
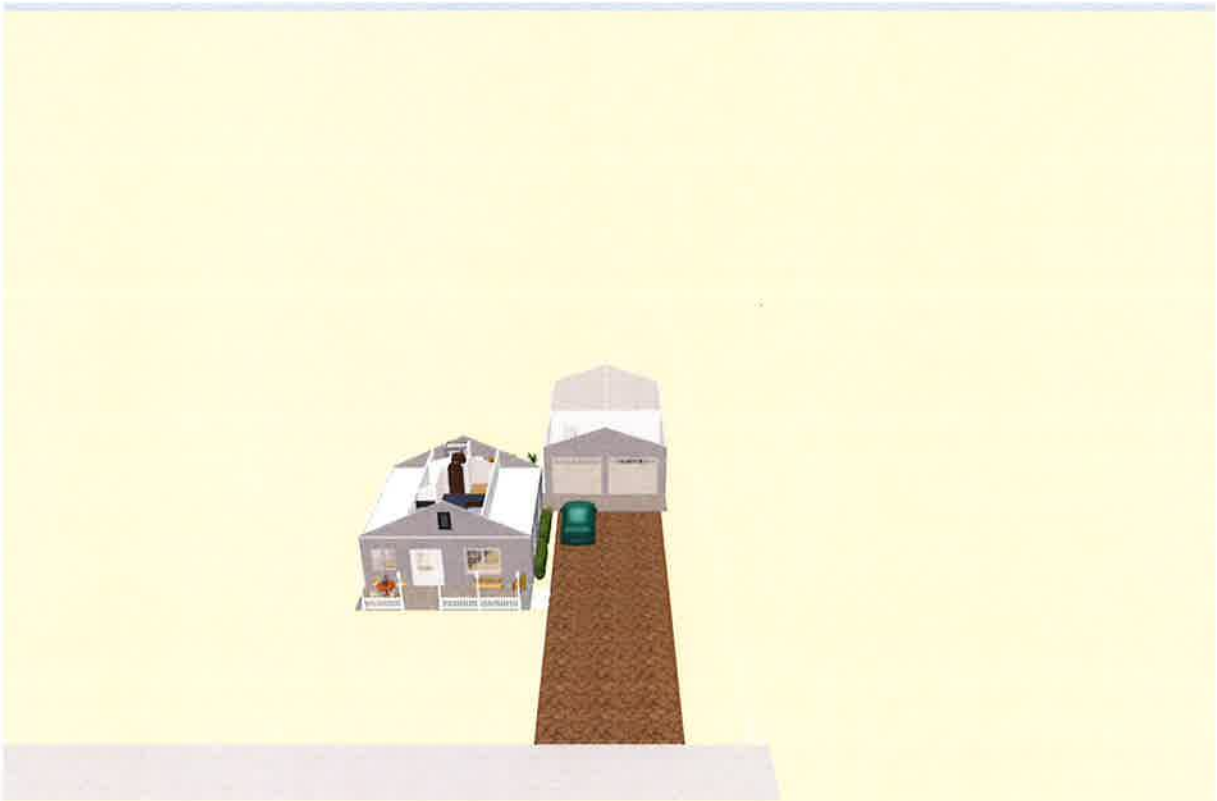




Building stipulations

We are in a rural RS zoning.

The garage will be 24' x 40', with the 24' running north/south and the 40' running east/west. The garage also includes a partitioned workshop/storage area (960 sq. ft.)

.

There will be a 7-8' separation between the north side of the garage and the north fence property line.

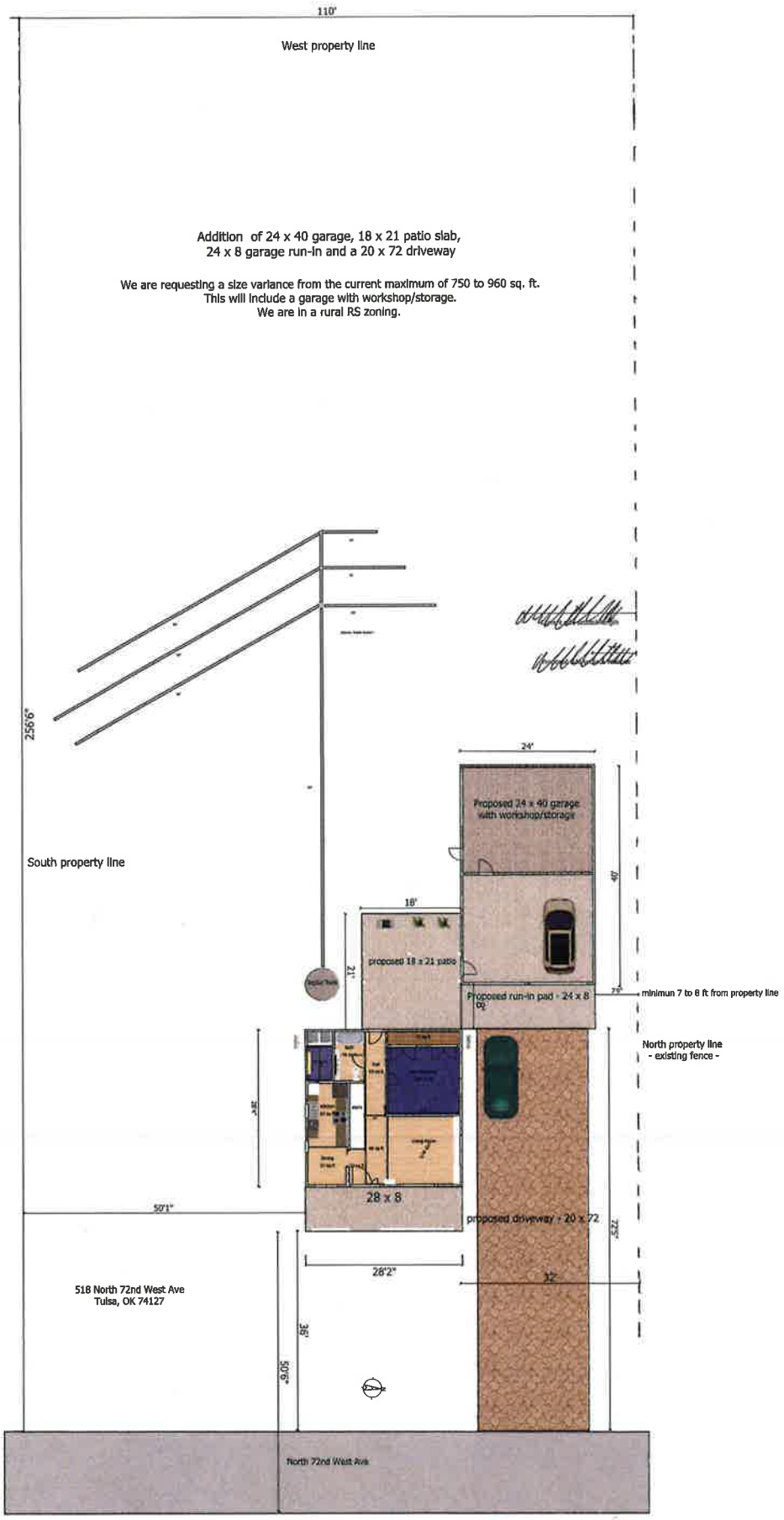
There will be 8' between the back of the house and the start of the garage.

We currently have 3 vehicles; 2 daily drivers and one antique that we inherited from an older brother. We would also like to release a storage building that we have rented for over 10 years, containing most of our yard equipment to which we do not have easy access.

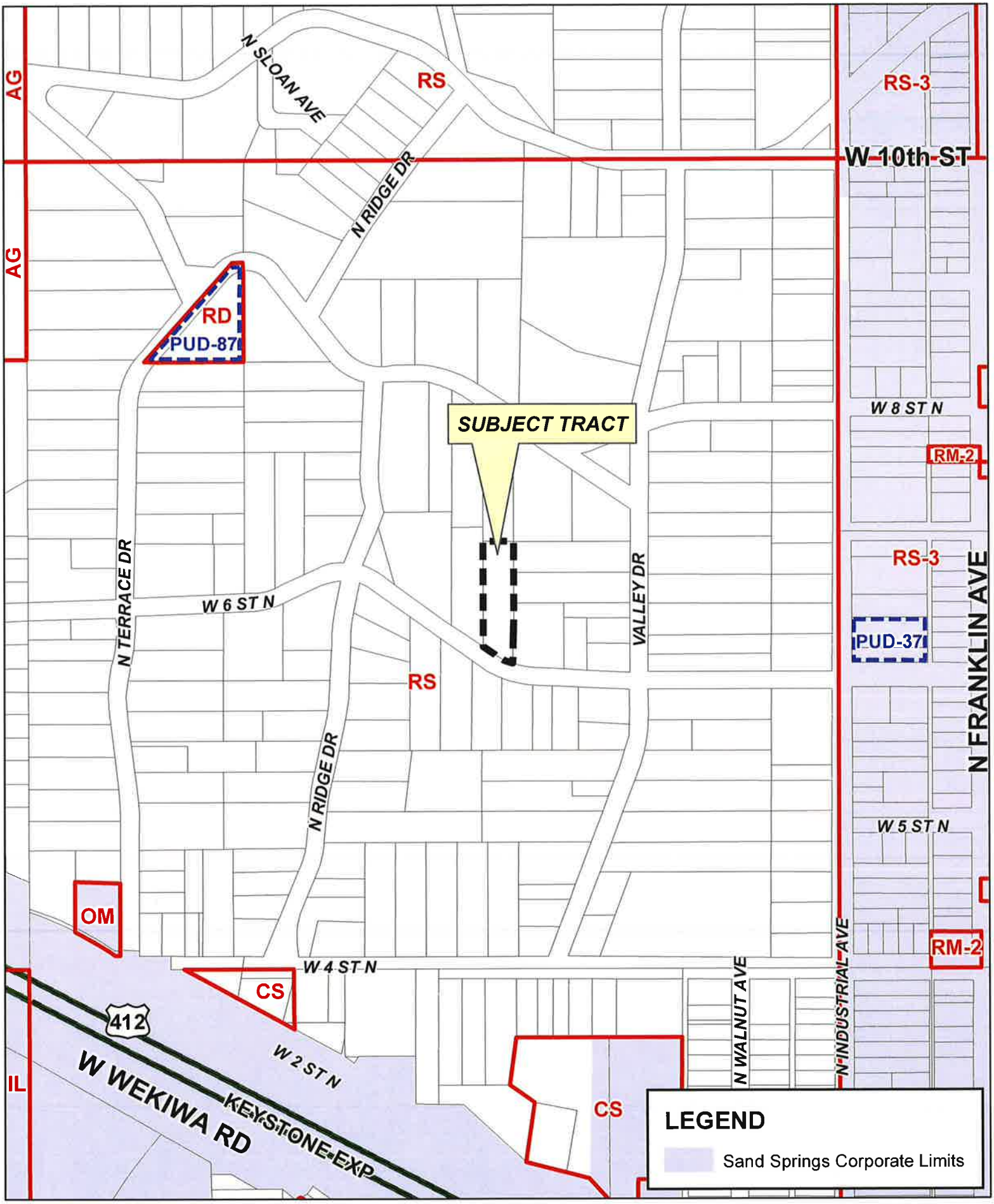
Current limitations:
750 sq. ft. limit on size

Conditions for variance:
A 24' wide garage is the maximum width we can build and be within the guidelines for an RS zone setback, and the limitations of our property. A 24 x 30 garage will not hold 3 cars, the contents of our storage unit and a workshop area.

We are requesting a size variance; from the current maximum of 750 sq. ft. (24 x 31.25) to 960 sq. ft. (24 x 40).


110'
West property line
Addition of 24 x 40 garage, 18 x 21 patio slab,
24 x 8 garage run-in and a 20 x 72 driveway
We are requesting a size variance from the current maximum of 750 to 960 sq. ft.
This will include a garage with workshop/storage.
We are in a rural RS zoning.
256'6"
South property line
24'
Proposed 24 x 40 garage with workshop/storage
40'
18'
proposed 18 x 21 patio
21'
Proposed run-in pad - 24 x 8
8'
minimum 7 to 8 ft from property line
North property line
- existing fence -
28 x 8
proposed driveway - 20 x 72
72'
28'2"
32'
50'1"
518 North 72nd West Ave
Tulsa, OK 74127
35'
50'6"
North 72nd West Ave

5.12



CBOA-2825

19-11 10

6.1

TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 9110
CZM: 76

CASE NUMBER: CBOA-2825
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Ashley West

ACTION REQUESTED: Special Exception to permit a manufactured home in an RS District (Section 410); Variance from the all-weather parking surface requirement (Section 1340.D).

LOCATION: 909 W 6 ST N

ZONED: RS

FENCELINE: Sand Springs

PRESENT USE: Vacant

TRACT SIZE: 0.89 acres

LEGAL DESCRIPTION: LT-9-BLK-15, CHARLES PAGE HOME ACRES NO 2 & RESUB PRT B10-12

RELEVANT PREVIOUS ACTIONS:

Subject Property: None Relevant

Surrounding Property:

CBOA-1911 November 2001: The Board **approved** a *special exception* to allow a mobile home in an RS zoned district, on property located at 901 W. 6th St.

CBOA-1710 March 2000: The Board **approved** a *variance* of Section 240.2.E to allow increase in the aggregate floor area of accessory buildings from 750 sq. ft. to 2,240 sq. ft. in an R zoned district, on property located at 620 Valley Drive.

CBOA-1628 March 1999: The Board **approved** a *special exception* to Section 410 to allow a mobile home in an RS zoned district, on property located at 704 W. 8th St.

ANALYSIS OF SURROUNDING AREA: The subject tract is located in an RS zoned district surrounded by single-family residential uses.

STAFF COMMENTS:

The applicant is requesting a Special Exception to permit a manufactured home in an RS District (Section 410); Variance from the all-weather parking surface requirement (Section 1340.D).

A special exception is required as the proposed manufactured home is a use which is not permitted by right in the RS district because of potential adverse effects, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted. The manufactured home must be found to be compatible with the surrounding neighborhood.

The Code requires all parking 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** from the all-weather parking surface requirement (Section 1340.D).

The applicant provided the following statement: "1. Cost of site building excessive / lack of new home construction in area. 2. Previous home dilapidated and (de—?) over-grown lot, substantially unappealing property to the east. 3. Will be an improvement to the area, dilapidated old home demolished, look and aesthetic upgrade to properties in area / Property with new home will be maintained."

If inclined to approve the request the Board may consider any condition it deems necessary in order to ensure that the proposed manufactured home is compatible and non-injurious to the surrounding area.

Sample Motion:

"Move to _____ *(approve/deny) a* Special Exception to permit a manufactured home in an RS District (Section 410); 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.

In granting a Special Exception, the Board must 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.

Board Action:

On **Motion** of **Walker**, the Board voted 5-0-0 (Alberty, Tyndall, Walker, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a ***Variance*** of minimum average lot width to permit a lot split from 200' to 165', on the following described property:

Pt. of the SE/4 NE/4 of Section 30, T-19-N, R-11-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows: Beg. at a point 2,640' N and 1,339' W of the SE/c of Section 30, T-19-N, R-11-E, thence N 330'; thence E 654'; thence S 330'; thence W 654' to the POB.

..*.*.*.*.*

Case No. 1919

Action Requested:

Special Exception to construct a 250' monopole cellular transmission tower on property zoned AG. SECTION 1204.C.3.2. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES – Use Unit 4, located Tulsa State Fairgrounds/Expo Square.

Presentation:

Mrs. Fernandez presented the application and request for continuance, and the applicant was not present.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Walker**, the Board voted 5-0-0 (Alberty, Tyndall, Walker, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 1919 to the meeting on December 18, 2001.

..*.*.*.*.*.*.*.*.

NEW APPLICATIONS

Case No. 1911

Action Requested:

Special Exception to allow mobile home in RS zoned district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9, located 901 W. 6th St.

Presentation:

Mrs. Fernandez informed the Board that the Sand Springs Board of Adjustment sent a letter of support for this application.

Theresa Wooten, 10943 W. 71st St. S., Sapulpa, Oklahoma, stated she would like to put a mobile home on the subject property.

Comments and Questions:

Mr. Alberty asked if there was anything else located on the property. Ms. Wooten replied there is a small shed. She added that a percolation test was done and a septic tank was placed on the property. Mr. Alberty asked about other mobile homes. She responded there are several other mobiles on Valley Drive, and some are family members.

Interested Parties:

Rachel Roland, 600 N. Valley Dr., expressed her concerns regarding runoff water onto her property since they put in landfill on the subject property. She stated that the water has also moved sand onto her fence. She was concerned that the owner has not mowed the street front since the landfill.

Comments and Questions:

Mr. Alberty asked if she had any concerns with the proposed mobile home. Ms. Roland stated that she does not have any objection to an owner occupancy as long as it does not negatively impact her own property and that they maintain the property.

Applicant's Rebuttal:

Ms. Wooten acknowledged that the land had to be leveled out to place their home. She assured the Board that the property would be maintained.

FILED

Board Action:

On **Motion** of **Walker**, the Board voted 5-0-0 (Alberty, Tyndall, Walker, Dillard, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a ***Special Exception*** to allow mobile home in RS zoned district, with conditions for DEQ approval, tie-downs, skirting, building permit, and approval of development engineer for correction of drainage, 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:

Lot C, Block 15, Charles Page Home Acres, No. 2, a Subdivision in Tulsa County, State of Oklahoma, according to the recorded replat and resubdivision plat thereof; and replat and resubdivision of the S/2 (S 50') of Lot 12, Block 15 of Charles Page Home Acres No. 2 Subdivision.

..*.*.*.*.*.*.*.*.

Case No. 1710

Action Requested:

Variance of Section 240.2.E. to allow increase in the aggregate floor area of accessory buildings from 750 square feet to 2,240 square feet in an R zoned district. SECTION 240.2.E. YARDS, Permitted Yard Obstructions – Use Unit 23, located at 620 Valley Dr.

Presentation:

Mr. Bruce stated that one area resident sent a letter that indicated concern that the applicant may have used the property for construction business storage in the past.

Terry Dexter, 620 Valley Drive, Sand Springs, stated he is a resident of fifteen years. He stated that the neighbor to the north, Ms. Greeves, called him to see what his plans were. Mr. Dexter told her that he is going to use it to store his boats and a trailer.

Mr. Walker asked Mr. Dexter what line of work he is in. Mr. Dexter stated he works for the City of Tulsa. Mr. Dexter indicated that Ms. Greeves is probably concerned about the neighbor on the north side of his property, in the triangle. That neighbor has plumbing equipment, tractors, and broken-down vehicles.

Comments and Questions:

Mr. Walker asked if the Sand Springs Board has heard this case. Mr. Bruce stated that he has not had any response from the Sand Springs Board. Mr. Alberty asked if this accessory building is just for the applicant's own personal belongings, that are out in the open right now. Mr. Dexter replied affirmatively. He wants to protect his investment in recreational items and equipment.

Mr. Stump asked if the applicant's house is on Lot 1 Block 15 or on the one east of that. Mr. Bruce stated that the house is on Lot 2 of Block 15 to the east of the area indicated on the map. Mr. Dexter owns both of the lots. Mr. Stump stated that there should be a tie-agreement, in this case. Mr. Alberty asked Mr. Dexter if he would mind a tie-agreement of the two lots. Mr. Dexter stated that he would agree to a tie-agreement. Mr. Walker asked if there is a storage building on the lot that his house is on. Mr. Dexter replied that there is a 12 X 20 storage building on the lot with the house, used for lawn care equipment.

Interested Parties/Protestants

None present.

FILED

Board Action:

On **MOTION** of **Looney**, the Board voted 5-0-0 (Alberty, Dillard, Walker, Looney, Tyndall "aye"; no "nays", no "abstentions", no "absences") for **APPROVAL** of a ***Variance*** of Section 240.2.E. to allow increase in the aggregate floor area of accessory buildings from 750 square feet to 2,240 square feet in an R zoned

district, subject to no equipment be stored or parked outside; there be no commercial use of the property; and a tie-agreement of Lots 1 and 2, Block 15, for the following described property:

Lot 1, Block 15, Charles Page Home Acres #2 and Re-subdivision of Part Block 10-12, Tulsa County, State of Oklahoma

****

Case No. 1713

Action Requested:

Variance to Section 208 to allow 2 dwelling units on one lot of record or Variance to the minimum average lot width from 200' to 102' and 82.55'. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; Variance to the minimum land area per dwelling unit from 2.2 acres to 1.5 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; Variance to the minimum lot area per dwelling unit from 2.0 to 1.38 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, and located at 8620 E. 96th St. N.

Presentation:

Jill Hughes, 8620 E. 96th St. N., Owasso, states that they want to keep their existing home and build a new one on the backside of the land without a lot-split. She stated that her neighbors are concerned about a lot-split. Mr. Walker asked if there is a creek or something they have to cross to get to the back of the property. She stated that there is a creek, but they built a bridge with drain culvert. She added that there is not a problem with drainage. Ms. Hughes informed the Board that they just want to rent out the house.

Comments and Questions:

Ms. Hughes stated that a soil percolation test was done for the existing home and where they intend to build the second home.

Protestants:

Herbert Fennel, 9411 N. Memorial Ave., Owasso, stated he is representing himself and two more people that oppose the request. He stated that the subject property abuts a piece of his property. Mr. Fennel stated he does not mind a house being built there; but he objects to reducing the size of the property. He stated it is a long, narrow piece of property that was sold for one home only. He informed the Board that there are no sewer lines, and they want the lots to remain the similar in the area.

Case No. 1627 (continued)

±, thence S 92' ±, thence E 283' ±, thence S 285' ±, thence W 70' ±, thence S 283' ±, thence W 708' ±, to the POB containing 10.7 acres

..*.*.*.*.*.*.*.*.

NEW APPLICATIONS

Case No. 1628

Action Requested:

Special Exception to Section 410 to allow a mobile home in a RS zoned district. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9**, located 704 W. 8th St.

Presentation:

The applicant, **Janice Blanton,** 4808 S. Elwood, Lot 908, Tulsa, OK, submitted a site plan (Exhibit C-1) stated that she and her mother would like to move a mobile home onto the property. Ms. Blanton mentioned that her daughter lives six blocks away and they would like to be close to her daughter. Ms. Blanton stated that everything has been line up to put the trailer in and they found out at the last minute that they needed this Special Exception. Ms. Blanton said that the Sand Springs Board of Adjustment approved the use (Exhibit C-3). Ms. Blanton submitted a photo (Exhibit C-2) of the mobile home that will be moved onto the property this summer.

Interested Parties:

Earl Holcomb, Route 1, Box 228, Sand Springs, OK, stated that he and his mother live across the street from the subject property and has no objection to Ms. Blanton moving the mobile home in.

Board Action:

On **MOTION** of **WALKER**, the Board voted 5-0-0 (Alberty, Dillard, Looney, Tyndall, Walker "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to Section 410 to allow a mobile home in a RS zoned district, finding 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. **SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9,** on the following described property:

Lot 16, less the W 200' of Block 17, Charles Page Home Acres #2, an addition to the County of Tulsa, State of Oklahoma.

..*.*.*.*.*.*.*.*.*

Subject Property

Lot West of
Subject Property

Feet
0 200 400

Subject Tract

CBOA-2825

19-11 10

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

Aerial Photo Date: February 2018

6.11

N

Feet
0 50 100

Subject Tract

CBOA-2825

19-11 10

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

Aerial Photo Date: February 2018

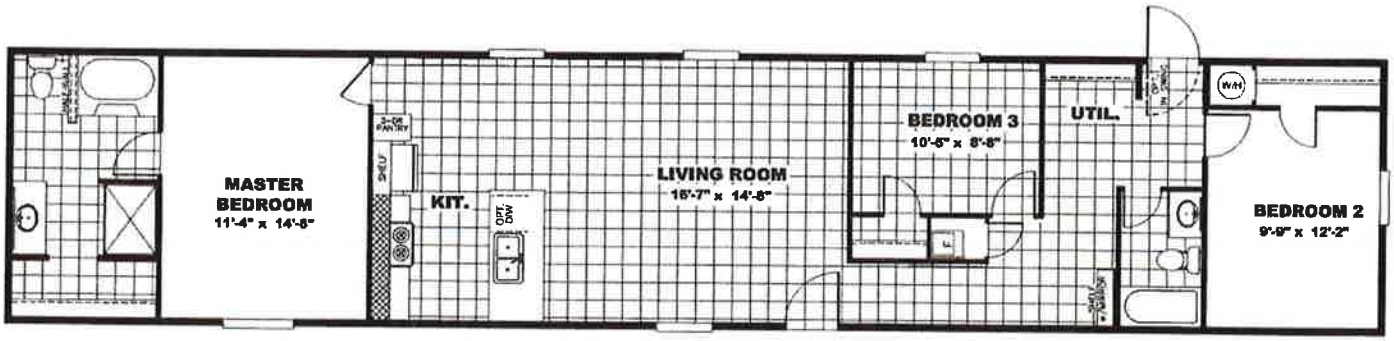
6.12

TRU

VICTORY PLUS

TRS16763A

1,165 sq ft // 3 beds // 2 baths



6.13

Triple G Excavating
Po Box 2077
Sapulpa, OK 74067 US
+1 9186972039
scottgann.triplegexcavating@gmail.com

West

Estimate

ADDRESS
Jeannie Miller
Freedom Homes
9516 East Admiral
Tulsa, Ok 74115 United States

ESTIMATE **1056**
DATE **04/22/2020**

SERVICE	DESCRIPTION	QTY	RATE	AMOUNT
Pad Work 1	To build pad with water diversion for new home West home	1	1,500.00	1,500.00
Foundation 2	To dig and pour runners 18" wide 18" deep with rebar tied and open hole inspection	10	450.00	4,500.00
Electric Service	Electric service to be connected to home from source in conduit with new 200 amp disconnect and new 200 amp breaker.	1	2,000.00	2,000.00
New Sewer Service	Drops plumed under home and connected to existing septic system	1	900.00	900.00
New Water Service	Water service connected to existing water source in 3/4 pex with crimp ring fittings shutoff valve pressure regulator heat tape and insulation	1	1,200.00	1,200.00

TOTAL **$10,100.00**

Accepted By

Accepted Date

6.14

-order without carpet.

Welcome Home
SALES WORKSHEET

Customer Name: Ashley West Home Consultant Name: Kathy Portley

Delivery Address: 909 W 6th Sand Springs, Ok 74063 Date: 4-17-20

Home Info

Model: Victory Stock #: ~~RV4520~~ RSO KP

☒ New ~~☐ Display~~ KP

☐ Used ~~☒ Order~~

Trade Info

~~Make:~~ _____ Model: _____

Year: _____ Size: _____

Pay off: _____ Paid by: ☐ Buyer ☐ Seller

Condition: ☐ Good ☐ Fair ☐ Poor

Pricing

Home Price	$	52,809.00
Site Improvements	$	11,400.00
	$	
Ok title fee (appx)	$	522.00
Est. Sales tax: (appx)	$	1045.00
Total Package:	$	65,776
Earnest money deposit	$	-500.00 Amex transaction
		65,276

Responsibilities

Seller Responsibilities: Deliver, Set, Block, Level, Tiedown, AC installed, Metal skirting installed, ground Vapor barrier, set of steps, Wheels tires and axles not included, but will be rented and returned to factory.

Buyer Responsibilities: Clear trees, accessible site, Set up all utility accounts, planning, building, zoning permits (Home center will prepare and represent, but cost is buyer responsibility), any site work or improvements above listed below.

Options: Build pad, Tulsa county foundation spot piers, Connect existing waterline, Connect existing Septic, install and connect 200 amp electric.

Acknowledgment

Buyer acknowledges and agrees that this Sales Worksheet presents a proposed sales package based on information reasonably available at this time. The terms of the proposal may be based on estimates and may change at any time based on Seller's or Buyer's preferences and additional information that becomes available concerning the potential sale. The terms of the agreed upon sales package, including additional information concerning the sale that may not be listed in this worksheet, will be documented in the final sales agreement and/or other sales-related documentation entered into by Seller and Buyer at the closing of the sale, and will be subject to the terms and conditions contained therein. New manufactured homes meet Federal Manufactured Home Standards. Buyer is responsible to verify home meets all local requirements including zoning and any applicable land covenants.

Buyer/Co-buyer: _____ Date: 4-17-20

Home Center: _____ Date: 4-17-20

6.15

N36.144144
W096.123040

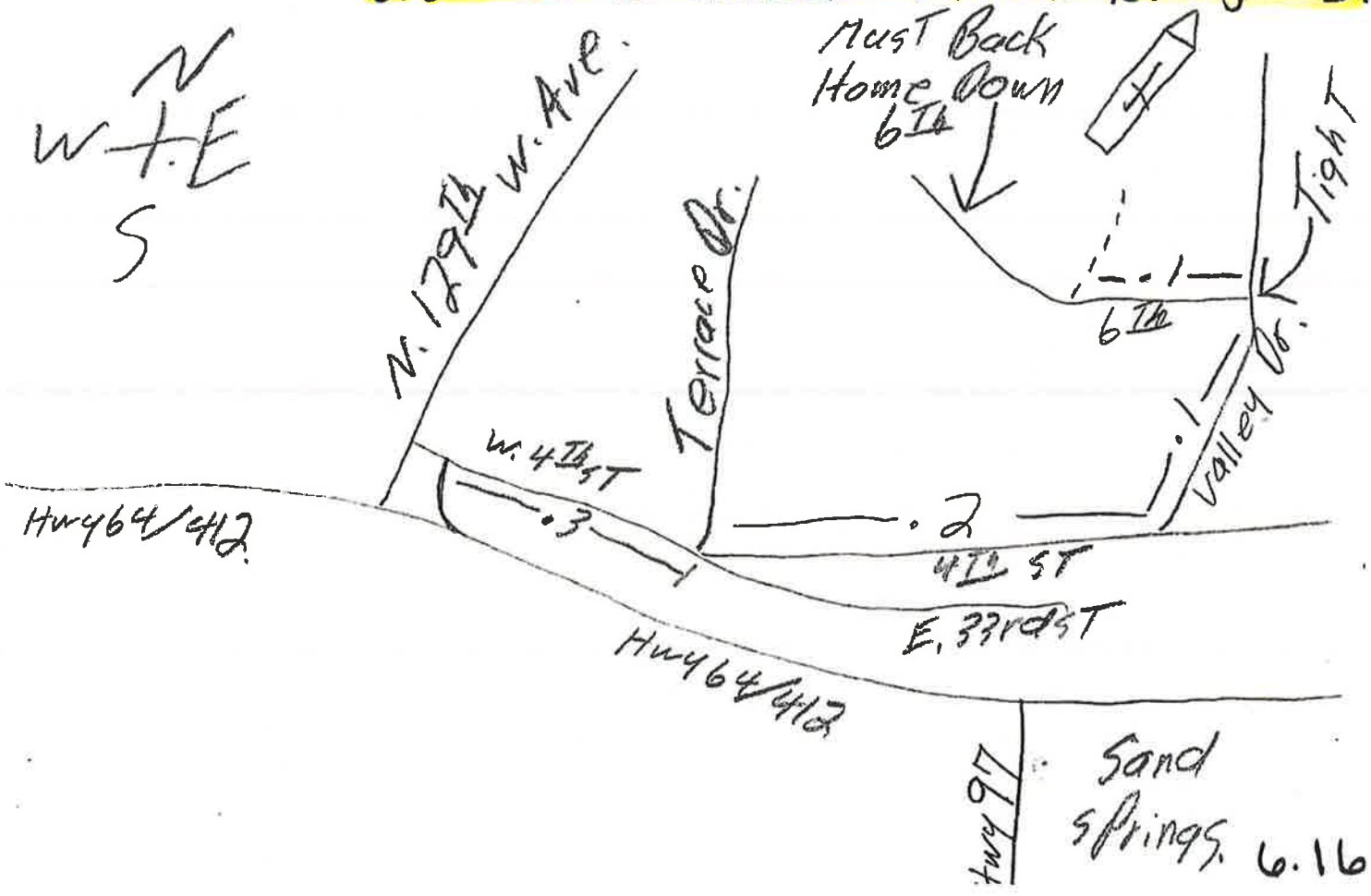
Freedom-Kathy

Customer: Ashley & Heather West (Tulsa Co.)
Address: 909 W. 6th St. N.
Sand Springs OK. 74063
Phone: Ashley- 918-813-2637
Heather- 918-813-4188
Electric:
Septic:
Concrete:

Yr. & Size: 16X76
Stock # RV4570 (New/Used)
Serial # SRB034570AL
Sewer:
Plumbing:
Skirting:
Pad:

Pad 15" out - needs water diversion = Digs in Middle
Pull Mail Boxes / Cut Down Hump East of Drive / Cut discussed
Limbs / Mark Septic / Permission from Neighbors at Tight
Corner / Will Require House Cat = Rolling Crew to Keep
Be dry / This is an exstream delivery = Home
May Drag + Be damaged

- went over w/ customer home orientation -
Discussed with customer to talk to Neighbors.



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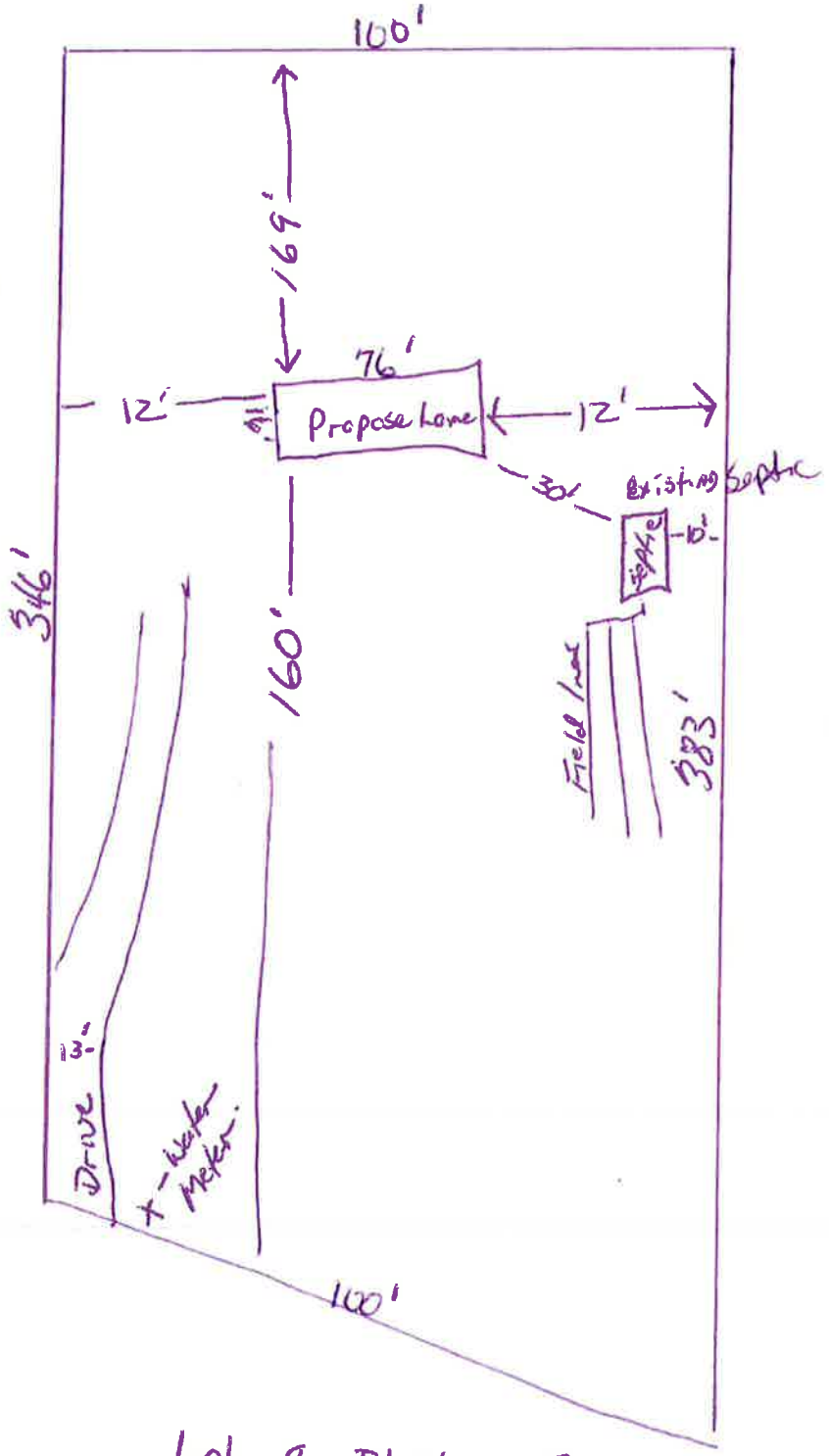

Lot 9 Block 15

6.17

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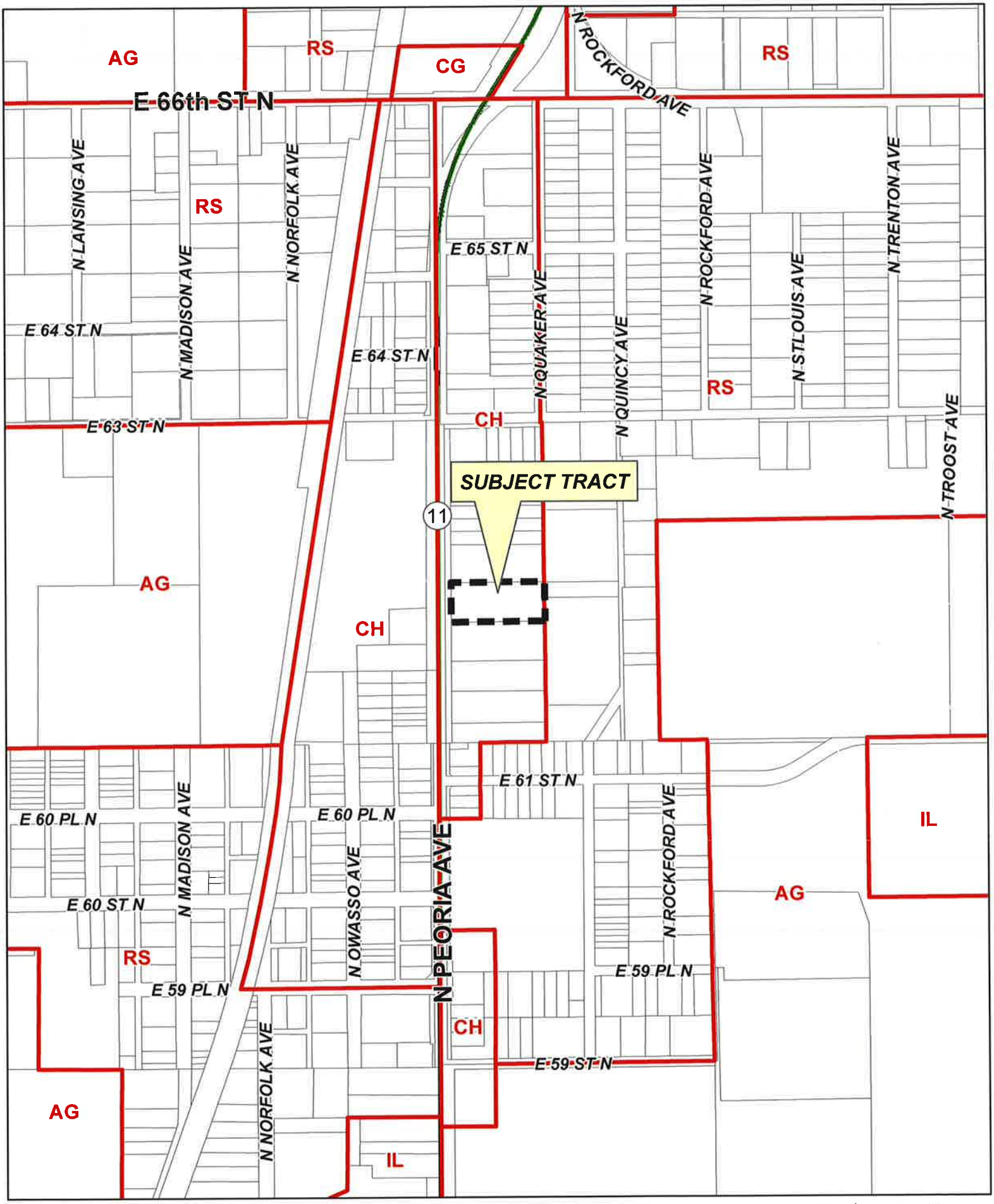
AG
RS
CG
RS
E 66th ST N
N ROCKFORD AVE
N LANSING AVE
N MADISON AVE
N NORFOLK AVE
RS
E 65 ST N
N QUAKER AVE
N QUINCY AVE
N ROCKFORD AVE
N STLOUIS AVE
N TRENTON AVE
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E 64 ST N
RS
CH
E 63 ST N
N TROOST AVE
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AG
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E 61 ST N
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N MADISON AVE
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N PEORIA AVE
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AG
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AG
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IL
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250
500
CBOA-2826
20-13 06
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TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 0306
CZM: 22

CASE NUMBER: CBOA-2826
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Roxanne Burch

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

LOCATION: 6155 N PEORIA AV E

ZONED: CH

FENCELINE: Turley

PRESENT USE: Commercial

TRACT SIZE: 1.42 acres

LEGAL DESCRIPTION: LT 4 LESS W25 FOR RD, BUSSMAN SUB

RELEVANT PREVIOUS ACTIONS:

Subject Property: None Relevant

Surrounding Property:

CBOA-872 February 1989: The Board **APPROVED** a *Special Exception* (Section 910 - Principal Uses Permitted in Commercial Districts - Use Unit 1225) to allow for a machine shop In a CH zoned district, on property located at 6237 N. Peoria Avenue.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts CH zoning to the north, west and south. It abuts RS zoning to the east. Many commercial uses exist along N. Peoria Ave. There is a scattering of residential uses to the east.

STAFF COMMENTS:

The applicant is before the Board requesting a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a CH District (Section 1203).

A Use Variance is required as Use Unit 3, Agriculture, is not a use permitted in a CH 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 following statement: *"Wanting to change from Commercial to Commercial/Agriculture".*

According to the site plan provided by the applicant, there is an existing building on the south side of the property that will be used for the Horticulture Nursery.

7.2

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 for Use Unit 3, Agriculture, for a Horticulture Nursery in a CH district (Section 1203).

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."

Looking east on N. Peoria Ave. - proposed building is on the right.

Case No. 872

Action Requested:

Special Exception - Section 910 - Principal Uses Permitted in Commercial Districts - Use Unit 1225 - Request a special exception to allow for a machine shop in a CH zoned district, located 6237 North Peoria Avenue.

Presentation:

The applicant, **Edward Hyde**, 7601 North 174th East Avenue, Owasso, Oklahoma, submitted a plot plan (Exhibit H-1) and asked permission to operate a machine shop on the subject property from 9:00 a.m. to 1:00 p.m., Monday through Saturday. He informed that the shop may occasionally be open from 7:00 a.m. to 4:00 p.m. The applicant explained that a machine shop is presently located next door to the proposed site, with a tire and muffler shop operating to the north.

Comments and Questions:

Mr. Looney asked if the building on the property has previously been used as a machine shop, and the applicant answered in the affirmative.

In response to Mr. Looney's question concerning screening, Mr. Hyde stated that there will be no need for screening because there is no outside storage of materials and all work will be conducted inside the building. The applicant remarked that he will not have employees at this time, and no more than two in the future.

Mr. Jones informed that the Code requires a 6' screening fence on the east property line to protect the residential neighborhood. He pointed out that the commercially zoned property to the north is developed residential, and the Board could require screening along that boundary if they find it appropriate.

Mr. Walker asked if deliveries will be made to the machine shop, and Mr. Hyde replied that his pickup is used for all deliveries.

In answer to Mr. Looney, the applicant informed that a lathe and mill will be the types of equipment used in the business.

Protestants:

Jo Fletcher, 6228 North Quincy, Tulsa, Oklahoma, stated that her house in directly behind the existing machine shop and is opposed to the noise and debris on the lot. She pointed out that the scrap metal poses a danger for the children in the neighborhood and provides a breeding place for rodents. Ms. Fletcher pointed out that the business south of the machine shop has installed a solid screening fence, beginning at the southwest corner of her property and extending to the south.

Case No. 872 (continued)

Mr. Looney asked the protestant if a continuance of the screening across the rear property line of the subject tract would alleviate her concerns, and she answered in the affirmative.

Mr. Tyndall asked Ms. Fletcher if she is opposed to the stated hours of operation, and she replied that she is in agreement with the hours that Mr. Hyde has mentioned. She informed that the existing shop opens early in the morning and is very noisy, with the employees talking loudly to be heard over the noise of the machines. Ms. Fletcher remarked that their voices can be heard inside her home and some of the machines make a high pitched noise that is very annoying.

There was discussion concerning screening of the residences in the CH Zone to the north.

Mr. Hyde remarked that he is leasing the property in question and is not sure the owner will install a screening fence. He explained that he will be forced to move to another location if that condition is imposed and the owner refuses to construct the fence.

Mr. Jones and Mr. Fields agreed that, although the existing machine shop is a nonconforming use, any new action on the property would then, according to the Code, require a 6' solid screening fence along the entire east property line.

Board Action:

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Eller, "absent") to **APPROVE** a **Special Exception** (Section 910 - Principal Uses Permitted in Commercial Districts - Use Unit 1225) to allow for a machine shop in a CH zoned district; subject to the installation of a 6' solid screening fence along the entire east property line; subject to no outside storage of materials; limiting the hours of operation from 7:00 a.m. to 4:00 p.m., Monday through Saturday; finding that there is a machine shop in operation next door to the subject tract, and the granting of the request will not be detrimental to the area; on the following described property:

Lot 7, Bussman Addition, Tulsa County, Oklahoma.

Feet
0 250 500

Subject Tract

CBOA-2826

20-13 06

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

Aerial Photo Date: February 2018

7.7

N

Feet
0 50 100

Subject Tract

CBOA-2826

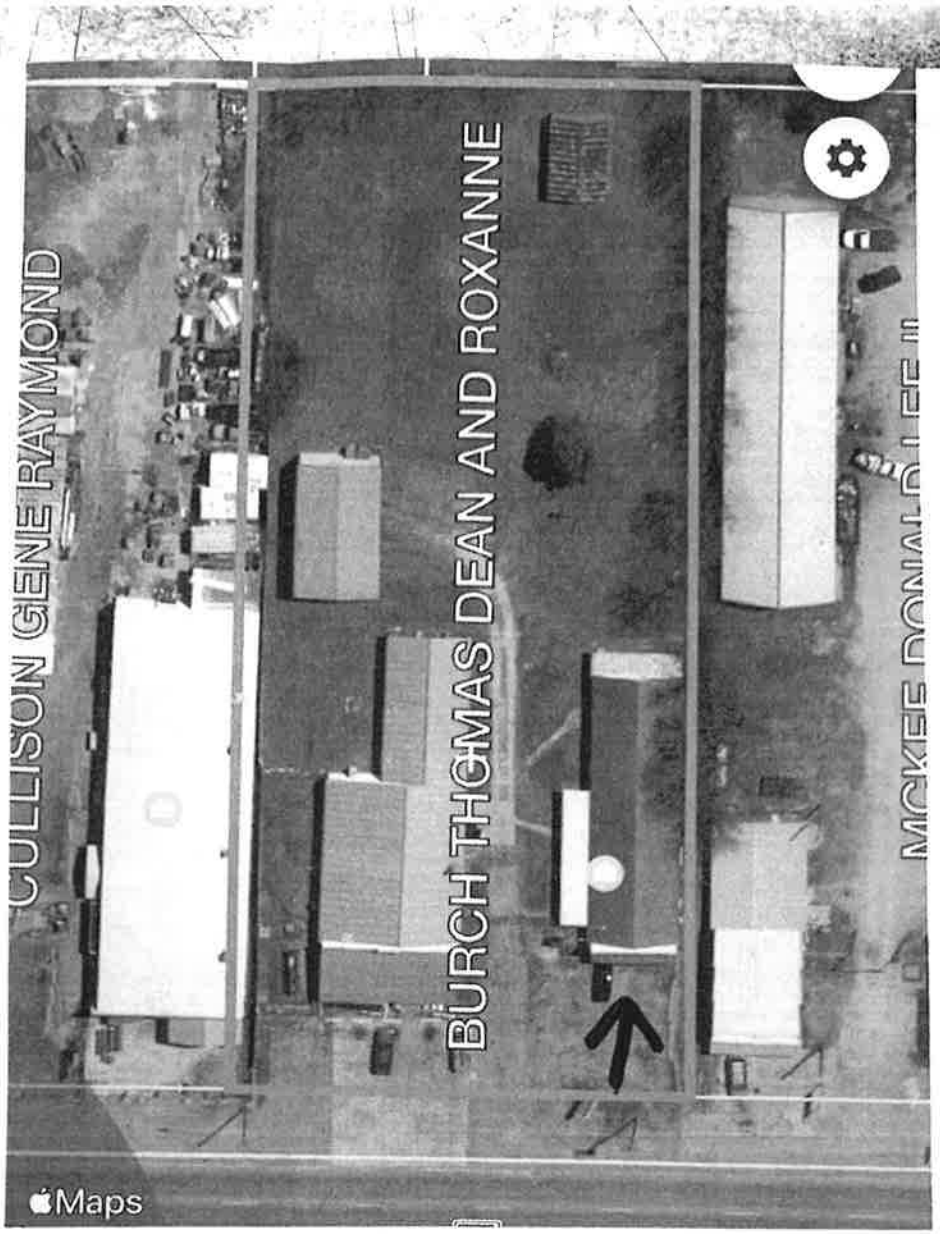
20-13 06

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

Aerial Photo Date: February 2018

7.8

N



Owner

BURCH THOMAS DEAN AND ROXANNE

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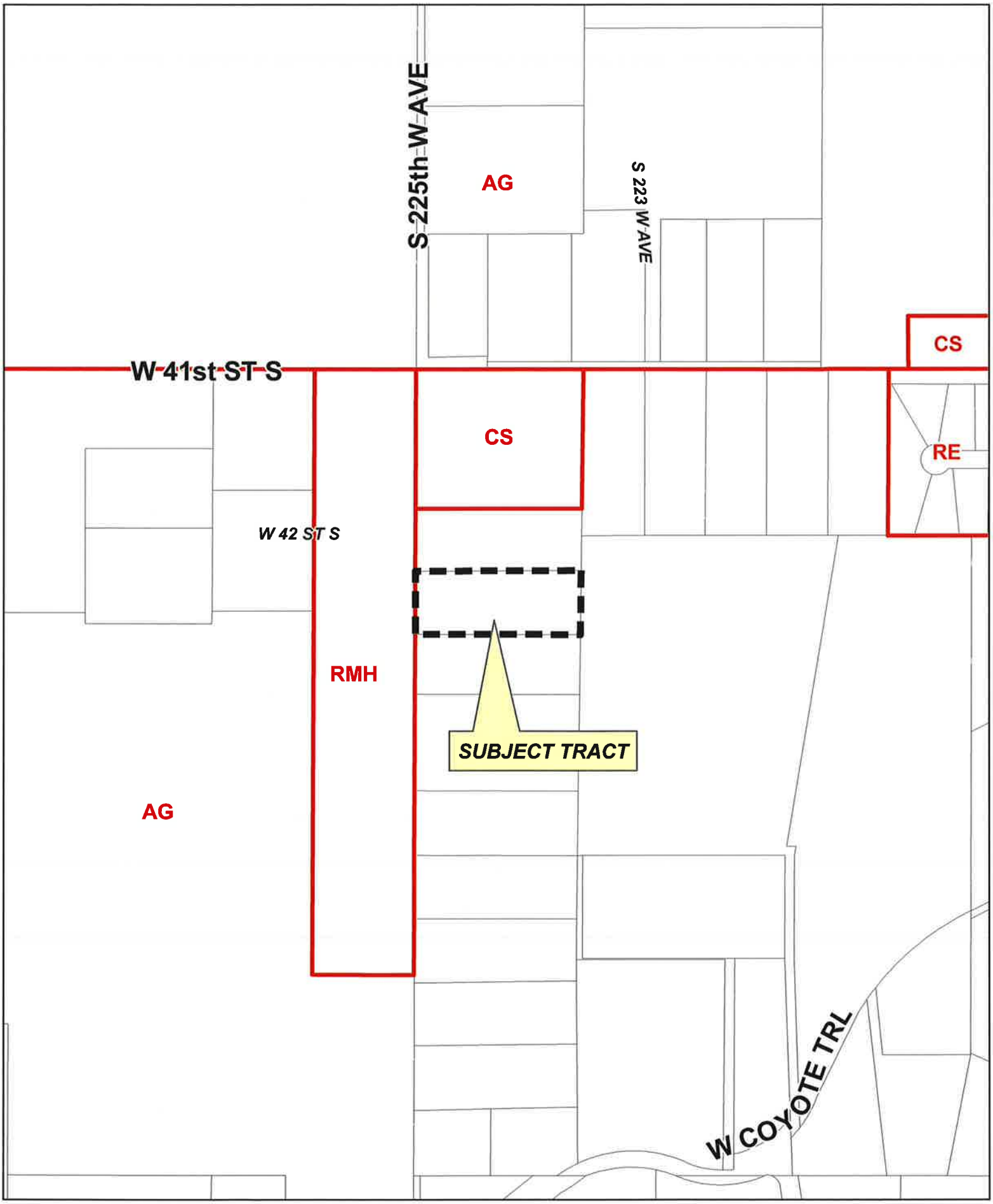


CBOA-2827

19-10 27

8.1

TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 9027
CZM: 42, 41

CASE NUMBER: CBOA-2827
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Malinda Beene

ACTION REQUESTED: Variance to reduce the lot and land area per dwelling unit in an AG district to allow two dwelling units on one lot of record (Section 330 Table 3); Variance from the all-weather parking surface requirement (Section 1340.D).

LOCATION: 4219 S 225 AV W

ZONED: AG

FENCELINE: Keystone

PRESENT USE: Residential

TRACT SIZE: 2.53 acres

LEGAL DESCRIPTION: PRT NW BEG 658.77S NWC TH E538.79 S205 W536.82 N205 POB SEC 27 19 10 2.53ACS,

RELEVANT PREVIOUS ACTIONS:

Subject Property: None relevant

Surrounding Property:

CBOA-1247 April 1994: The Board **APPROVED** a *Variance* to permit two dwelling units on one lot of record, and a *Variance* of land area and lot area per dwelling unit, on property located at 4321 S. 225th West Avenue.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts AG zoning to the north, east, and south. It abuts RMH zoning to the west. Surrounding properties appear to be residential uses.

STAFF COMMENTS:

The applicant is before the Board requesting a Variance to reduce the lot and land area per dwelling unit in an AG district to allow two dwelling units on one lot of record (Section 330 Table 3); Variance from the all-weather parking surface requirement (Section 1340.D). As shown on the attached plan, the applicant has an existing mobile home on the lot and a new manufactured home will be placed in front of that existing home.

The applicant provided the following statement: *"Nearby lots that are similarly sized have been split into 1.2 and 1.3 acre lots. Behind the first dwelling, the property is divided by a long shelf of rock followed by a steep decline in terrain, preventing a mobile of being moved toward the back half of the property."*

8.2

Section 330, Table 3 of the Code requires a minimum lot area of 2 acres and a minimum land area per dwelling unit of 2.1 acres in the AG district. The applicant is proposing two dwelling units on the 2.53-acre subject lot.

Section 208 of the Code states that not more than one single-family dwelling or mobile home may be constructed or otherwise placed on a lot, except in the case of a lot...in an AG district, with the exception in the AG district that there not be more than two dwellings per lot.

The applicant proposes an unpaved (gravel) surface parking area. The Code requires all paving surfaces be paved 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 is requesting a Variance of the all-weather surface material requirement for parking (Section 1340.D)

If inclined to approve, the Board may consider any conditions it deems necessary and reasonably related to the request to ensure that the additional dwelling unit is not injurious to the surrounding agricultural district.

Sample Motion:

***"Move to _____ (approve/deny) a* Variance to reduce the lot and land area per dwelling unit in an AG district to allow two dwelling units on one lot of record (Section 330 Table 3); Variance from the all-weather parking surface requirement (Section 1340.D).**

- ***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"

FILE COPY

Case No. 1247

Action Requested:

Variance to permit more than one dwelling on a lot of record, and a variance of land area and lot area per dwelling unit - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** and **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 9, located 4321 South 225th West Avenue.

Presentation:

The applicant, **Harvey Lambert**, 4321 South 225th West Avenue, Sand Springs, Oklahoma, requested permission to install a mobile home on his property, which will be used as a residence for his mother. A plot plan (Exhibit D-1) and photographs (Exhibit D-2) were submitted.

Comments and Questions:

Mr. Alberty asked if the mobile home will align with the existing dwelling, and Mr. Lambert answered in the affirmative.

Mr. Alberty noted that the property across the street is zoned for mobile home use and, if the subject property had the same zoning classification, several mobile homes could be installed on the tract by right.

Protestants:

None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 4-0-0 (Alberty, Eller, Looney, Walker, "aye"; no "nays"; no "abstentions"; Tyndall, "absent") to **APPROVE** a **Variance** to permit two dwelling units on a lot of record, and a **variance** of land area and lot area per dwelling unit - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** and **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 9; subject to a building permit and Health Department approval; finding that RMH zoned property across the street is permitted to develop at a greater density by right than that requested by the applicant; and finding that approval of the request will not be detrimental to the area; on the following described property:

Part of NW/4, beginning 1068.77' south of the NW/c thence east 534.85', south 317', west 531.80', north 317', Section 27, T-19-N, R-10-E, Tulsa County, Oklahoma.

Case No. 1248

Action Requested:

Variance to permit two dwelling units on one lot of record, variance of lot area and a variance of land area per dwelling unit - **SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** and **SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 9, located 21125 Campbell Creek Road.

Feet
0 200 400

Subject Tract

CBOA-2827

19-10 27

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

Aerial Photo Date: February 2018

8.5

N

Feet
0 50 100

Subject Tract

CBOA-2827

19-10 27

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

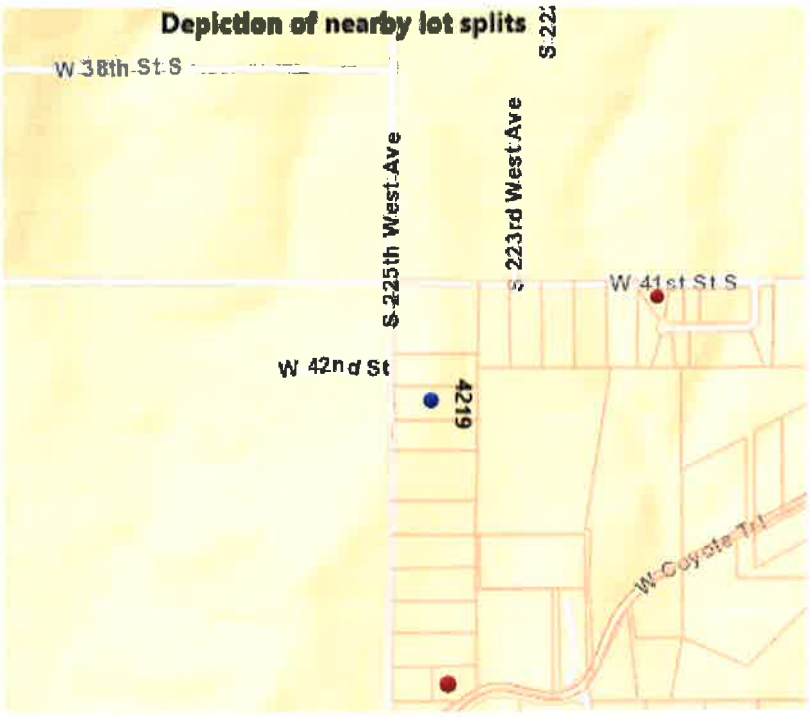
Aerial Photo Date: February 2018

8.6

N

8.7

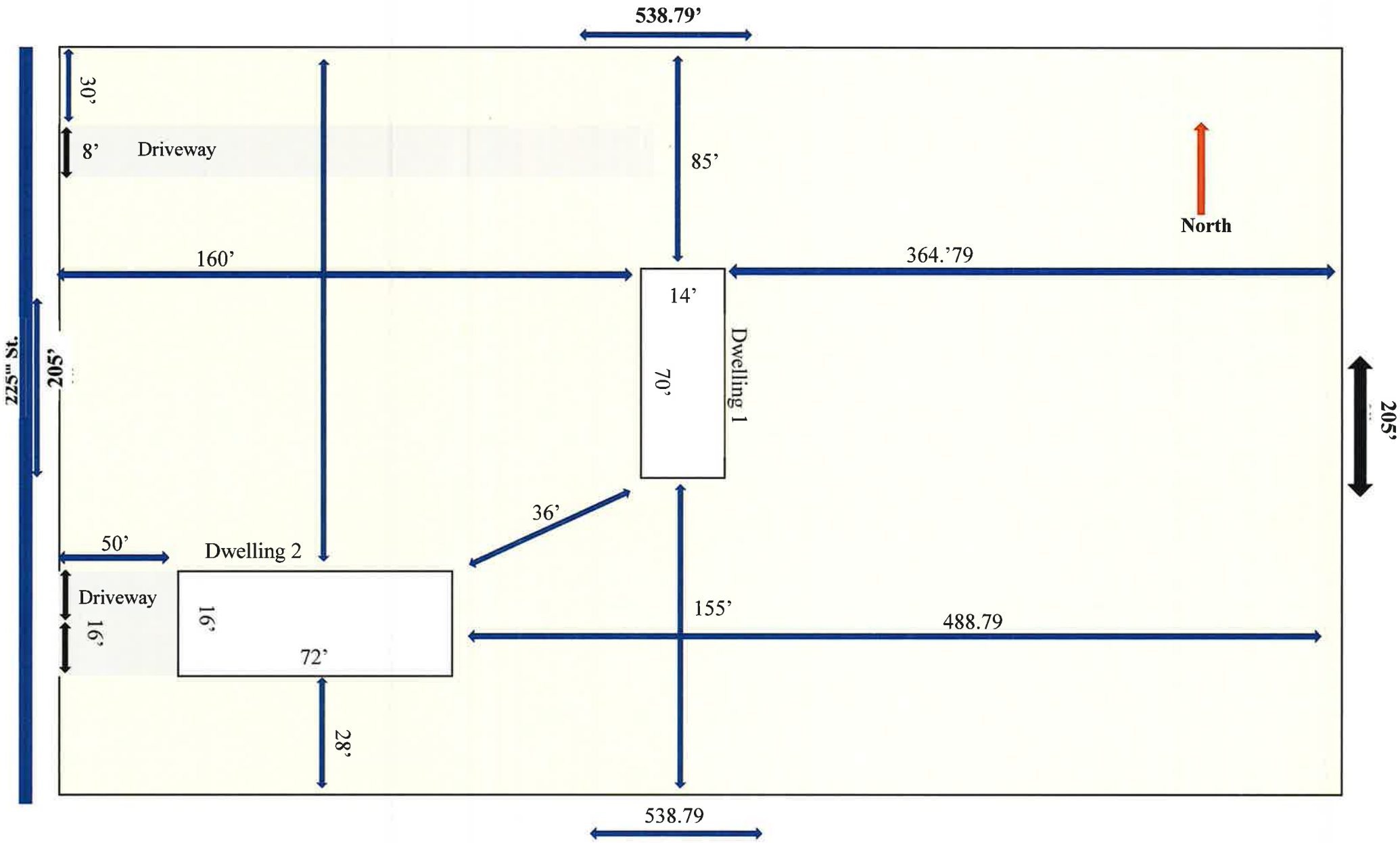
8.8


Depiction of nearby lot splits
W 38th St S
S 225th West Ave
S 223rd West Ave
W 41st St S
W 42nd St
4219
W Coyote Trl

8.9


S 225th West
S 223rd W
W 41st St S
W 42nd St
Mobile Park
4219
N
W Coyote Trl
W 47th St S
S 221st West Ave
West Ave

8.10


538.79'
30'
8'
Driveway
85'
North
160'
364.'79
14'
70'
Dwelling 1
205'
205'
36'
50'
Dwelling 2
Driveway
16'
16'
72'
155'
488.79
28'
538.79

8.11

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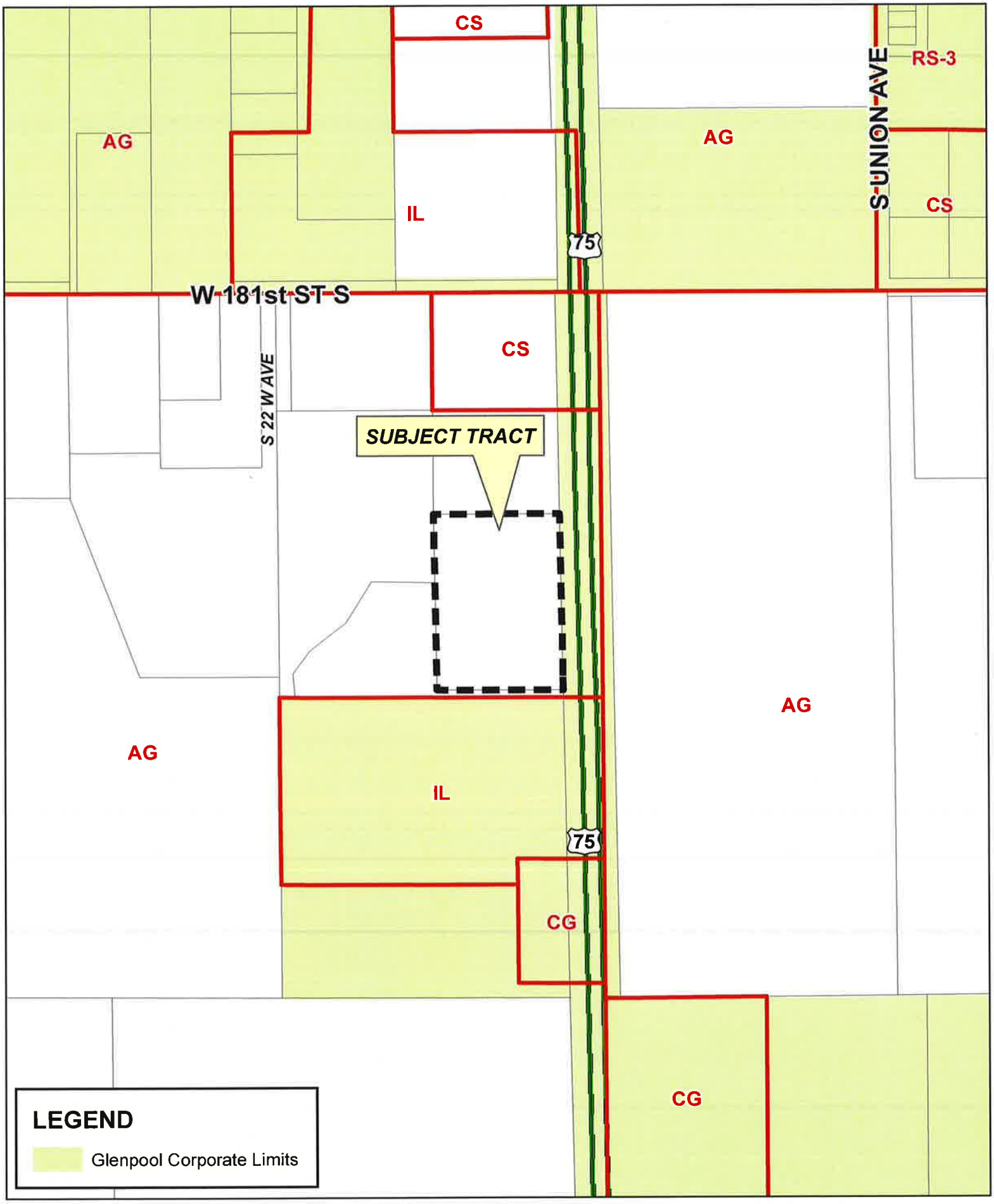


CBOA-2828

16-12 03

9.1

TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 6203
CZM: 70

CASE NUMBER: CBOA-2828
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Debra Agee

ACTION REQUESTED: Use Variance to allow Use Unit 25, Light Manufacturing Industry, in an AG District (Section 1225); Variance from the all-weather parking surface requirement (Section 1340.D).

LOCATION: 18340 S 75 HY W

ZONED: AG

FENCELINE: Glenpool

PRESENT USE: Industrial Business

TRACT SIZE: 8.56 acres

LEGAL DESCRIPTION: BEG 1262.51N & 156.72W SECR NE TH N728.19 W512.47 S727.09 E512.49 TO POB SEC 3 16 12 8.561ACS,

RELEVANT PREVIOUS ACTIONS: None relevant

ANALYSIS OF SURROUNDING AREA: The subject tract abuts IL zoning to the south in the city limits of Glenpool, and AG zoning to the north, east, and west. The property to the south is owned by the applicant and the site of their industrial business. There are scattered residential uses in the area as well as on the subject property.

STAFF COMMENTS:

The applicant is before the Board requesting a Use Variance to allow Use Unit 25, Light Manufacturing Industry, in an AG District (Section 1225); Variance from the all-weather parking surface requirement (Section 1340.D).

The applicant supplied the following statement: "Wasn't aware the company needed to go before Tulsa County Board. So, we are trying to get compliance so company will be in good standing with Tulsa County. Phoenix Industrial Insulation has been doing business here since 1996 with no problems for neighbors."

A Use Variance for Use Unit 25, Light Manufacturing Industry, is being requested so the applicant can conduct their Insulation business. Use Unit 25 is not a use allowed by right or by Special Exception in an AG district. Section 1225.1 describes Light Manufacturing Industry:

> Light manufacturing and industrial uses having slight or no objectionable environmental influences by reason of the emission of odor, heat, smoke, noise, or vibration. The following use conditions will apply:
>
> 1225.3 Use Conditions

A. The uses included in Use Unit 25, which are located within 300 feet of an R District, shall be conducted with enclosed buildings. The subject property is not located within 300' of an R District.

B. The uses included in Use Unit 25, when located on a lot which is abutting an R District, shall be screened from the abutting R District, by the erection and maintenance of a screening wall or fence along the lot line or lines in common with the R District. The lot does not abut an R District.

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.

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.

Sample Motion:

"Move to _____ (approve/deny) Use Variance to allow Use Unit 25, Light Manufacturing Industry, in an AG District (Section 1225); Variance from the all-weather parking surface requirement (Section 1340.D).

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.

Looking northwest into the subject property from S. 75 HWY

Looking west into the entrance of the subject property from S. 75 HWY.

Feet
0 250 500

Subject Tract

CBOA-2828

16-12 03

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

Aerial Photo Date: February 2018

N

Feet
0 50 100

Subject Tract

CBOA-2828

16-12 03

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

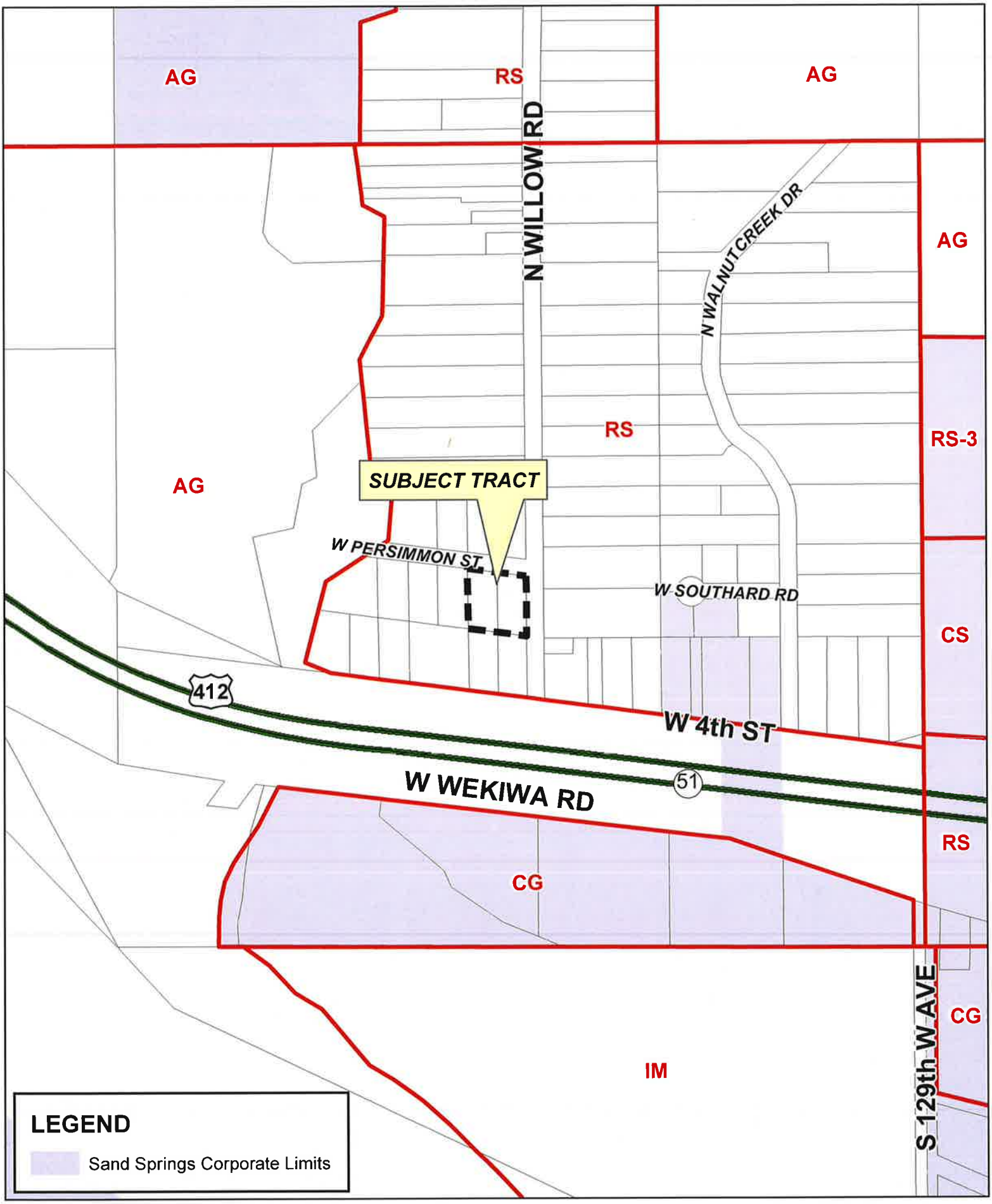
Aerial Photo Date: February 2018

9.6

N

HWY. 75
N
EXISTING HOUSE
382'
NEW BUILDING
POND
40'-0"
80'-0"
443'
EXISTING STORAGE
EXISTING SHOP

Imagery ©2020 Maxar Technologies, USDA Farm Service Agency, Map data ©2020 200 ft



CBOA-2829

19-11 09

10.1

TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 9109
CZM: 34

CASE NUMBER: CBOA-2829
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Charles Stewart

ACTION REQUESTED: Use Variance to allow a machine shop (Use Unit 25 - Light Manufacturing Industry) in an RS District; Variance of the allowable square footage for accessory buildings in aggregate in an RS district (Section 240.2.E)

LOCATION: 712 N WILLOW RD W

ZONED: RS

FENCELINE: Sand Springs

PRESENT USE: Residential / Machine Shop

TRACT SIZE: 0.93 acres

LEGAL DESCRIPTION: LT 1 BLK 8; LT 2 BLK 8, CHARLES PAGE HOME ACRES SUB NO 1

RELEVANT PREVIOUS ACTIONS:

Subject Property: None Relevant

Surrounding Property:

CBOA-2718 September 2018: The Board APPROVED the request for a Variance to reduce the rear setback in an RS District (Section 420); Variance to allow an accessory building to exceed 750 square feet (Section 240), subject to conceptual plan 6.11 for a 2,400 square foot accessory building, on property located at 1819 W. Persimmon St. N.

CBOA-1847 June 2001: The Board denied a Variance to permit an accessory building of 2,400 sq. ft. in an RS district; and a Variance to permit the accessory use on a lot adjoining the principal dwelling unit (under common ownership) as principal and only use on the lot, for lack of hardship and finding it would cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on property located at 742 N. Willow St.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts RS zoning in all directions with what appears to be residential uses.

STAFF COMMENTS:

The applicant is before the Board requesting a Use Variance to allow a machine shop (Use Unit 25 - Light Manufacturing Industry) in an RS District; Variance of the allowable square footage for accessory buildings in aggregate in an RS district (Section 240.2.E)

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 RS district. The proposed use for a machine shop has been established and used by the residents on the property for at least 40 years without incident. Section 1225.1 describes Light Manufacturing Industry:

> Light manufacturing and industrial uses having slight or no objectionable environmental influences by reason of the emission of odor, heat, smoke, noise, or vibration. The following use conditions will apply:
>
> 1225.3 Use Conditions
>
> A. The uses included in Use Unit 25, which are located within 300 feet of an R District, shall be conducted with enclosed buildings. The use will be conducted within an enclosed building.
>
> B. The uses included in Use Unit 25, when located on a lot which is abutting an R District, shall be screened from the abutting R District, by the erection and maintenance of a screening wall or fence along the lot line or lines in common with the R District.

The applicant has supplied the following statement of hardship: "*The reason for hardship is this property has been in my family for over 90 years. The existing machine shop that my unle built has been there for over 40. The shop has always been underpowered. I have used this shop my entire adult life. I'm asking for the current building to have proper power and to be brought up to code.*"

Section 240.2.E permits accessory buildings in the RS district; the total square footage of all accessory buildings on the lot cannot exceed 750 SF of floor area. The provision of the Code attempts to establish and maintain development intensity of the district, preserve the openness of living areas and avoid overcrowding by limiting the bulk of structures. The applicant will have 1,480 sq. ft. in aggregate. The applicant has filed for a lot line adjustment to combine both lots.

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 Use Variance to allow a machine shop (Use Unit 25 - Light Manufacturing Industry) in an RS District; Variance of the allowable square footage for accessory buildings in aggregate in an RS district (Section 240.2.E

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.

purposes. The applicant also requests the Special Exception for a period of five years. The hardship for the Variance is that the stands are only open for a couple of weeks out of the year. There is a circular drive that is near the stands that can be used by the public for parking.

Mr. Hutchinson asked Ms. Cornett why the applicant wants to move the fireworks stands from their location on the parking lot. Ms. Cornett stated the applicant needs to place the stands on her property and not in the right-of-way.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **CRALL,** the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a Special Exception to permit a fireworks stand in an AG District (Section 310); Variance of the all-weather surface material requirement for parking (Section 1340.D). The hours of operation will be 9:00 A.M. to 11:00 P.M., June 15th through July 2nd, and 9:00 A.M. to 12:00 Midnight, July 3rd and July 4th. The approval will have a time limit of five years, September 2023. The hardship for the Variance is the fact that the applicant will only be open for two weeks a year; for the following property:

NW SW SW LESS N273 NW SW SW & LESS BEG SWC NW SW SW TH E60.30 TH NELY ALG CRV RT 262.24 E452.50 N APR 172.38 W658 S POB FOR HWY SEC 24 22 12 2.617ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2718—Bentley Potts

Action Requested:
Variance to reduce the rear setback in an RS District (Section 420); Variance to allow an accessory building to exceed 750 square feet (Section 240). **LOCATION:** 1819 West Persimmon Street North, Sand Springs

Presentation:
Bentley Potts, 1819 Persimmon Street, Sand Springs, OK; stated he would like to build a 60 x 40 metal building. He will raze the old 20 x 60 existing building and place the proposed building in the same location. The fence line from the northeast corner runs into the existing building and he doesn't want to tear down that fence line if possible. Mr. Potts stated there are several easements that are marked on a survey and one of them cannot be identified.

Mr. Dillard asked Mr. Potts if he had a loan on his house currently. Mr. Potts answered affirmatively. Mr. Dillard stated that if Mr. Potts were moving the building there would be a situation, but since he is placing the proposed building back in the exact same spot as the old one and he has a mortgage someone has title insured the property. Mr. Dillard asked Mr. Potts how long the old building had been there. Mr. Potts stated that it has been there about 80 years.

Interested Parties:
There were no interested parties present.

Questions and Comments:
None.

Board Action:
On **MOTION** of **HUTCHINSON,** the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a Variance to reduce the rear setback in an RS District (Section 420); Variance to allow an accessory building to exceed 750 square feet (Section 240), subject to conceptual plan 6.11 for a 2,400 square foot accessory building; for the following property:

LT 11 BLK 6, CHARLES PAGE HOME ACRES SUB NO 1, OF TULSA COUNTY, STATE OF OKLAHOMA

* * * * * * * * * * * * *

OTHER BUSINESS
None.

* * * * * * * * * * * * *

NEW BUSINESS
None.

* * * * * * * * * * * * *

BOARD COMMENTS
None.

* * * * * * * * * * * * *

There being no further business, the meeting adjourned at 1:55 p.m.

Date approved: 10-16-18

Chair

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 253
Tuesday, June 19, 2001, 1:30 p.m.
County Commission Room
Room 119
County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty, Chair	Walker	Butler	West, Co. Inspec.
Tyndall	Dillard, Vice Chair	Fernandez	
Hutson			

The notice and agenda of said meeting were posted in the Office of INCOG, 201 W. 5th St., Suite 600, Friday, June 15, 2001 at 8:00 a.m., as well as at the City Clerk's office, City Hall.

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

..*.*.*.*.*.*.*.*.

MINUTES:

On **MOTION** of **Hutson,** the Board voted 3-0-0 (Alberty, Tyndall, Hutson "aye", no "nays"; no "abstentions"; Walker, Dillard "absent") to **CONTINUE** the May 15, 2001 minutes to the next County Board of Adjustment meeting, June 19, 2001.

..*.*.*.*.*.*.*.*.

UNFINISHED BUSINESS

Case No. 1847

Action Requested:

Variance of Section 240.2.E to permit an accessory building of 2,400 sq. ft. in an RS district. SECTION 240.2. YARDS, Permitted Yard Obstructions -- Use Unit 6; and a Variance to permit the accessory use on a lot adjoining the principal dwelling unit (under common ownership) as the principal and only use on the lot, located 742 N. Willow St.

Presentation:

Diane Fernandez, stated that this case was re-advertised, and it would have been heard by the City of Sand Springs but they did not have a quorum for this particular Board of Adjustment referral.

Ronald Shipman, 724 Willow St., Sand Springs, stated he wants to build a building for equipment for a small siding business, including trailers and

equipment. He owns four lots, and his house is on one of them. He stated that the building would be 260' from the street and at the bottom of a six-foot drop-off to prevent disrupting the view for anyone. He added that he would be willing to put in trees for screening. He discussed with neighbors and they are in support.

Comments and Questions:

Mr. Alberty asked for a hardship. Mr. Shipman stated the hardship would be security. A number of things have been stolen from him. Mr. Alberty asked what type of business Mr. Shipman has. He replied it is a siding business. Mr. Alberty asked where he runs his business. Mr. Shipman replied he runs it out of his home. He takes customer phone calls and goes out to the customers home, the customers do not come to his home.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Tyndall**, the Board voted 3-0-0 (Alberty, Tyndall, Hutson "aye", no "nays"; no "abstentions"; Walker, Dillard "absent") to DENY a ***Variance*** of Section 240.2.E to permit an accessory building of 2,400 sq. ft. in an RS district; and a ***Variance*** to permit the accessory use on a lot adjoining the principal dwelling unit (under common ownership) as the principal and only use on the lot, for lack of hardship and finding it would cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.

FILED

..*.*.*.*.*.*.*.*.

NEW APPLICATIONS

Case No. 1866

Action Requested:

Variance to permit an accessory structure on a lot that does not contain a principal dwelling unit to permit a lot split. SECTION 420. ACCESSORY USES IN RESIDENTIAL DISTRICTS -- Use Unit 6, located 6505 W. 42nd St.

Presentation:

Ms. Fernandez, informed Board that a letter was submitted to the Board regarding the Sand Springs Board of Adjustment action in support of the application.

Gene Crawford, 6505 W. 42nd St., stated he built a garage without a permit and was not aware of the restriction. He wanted to get a lot-split to build a new house on the other lot.

Feet
0 200 400

Subject Tract

CBOA-2829

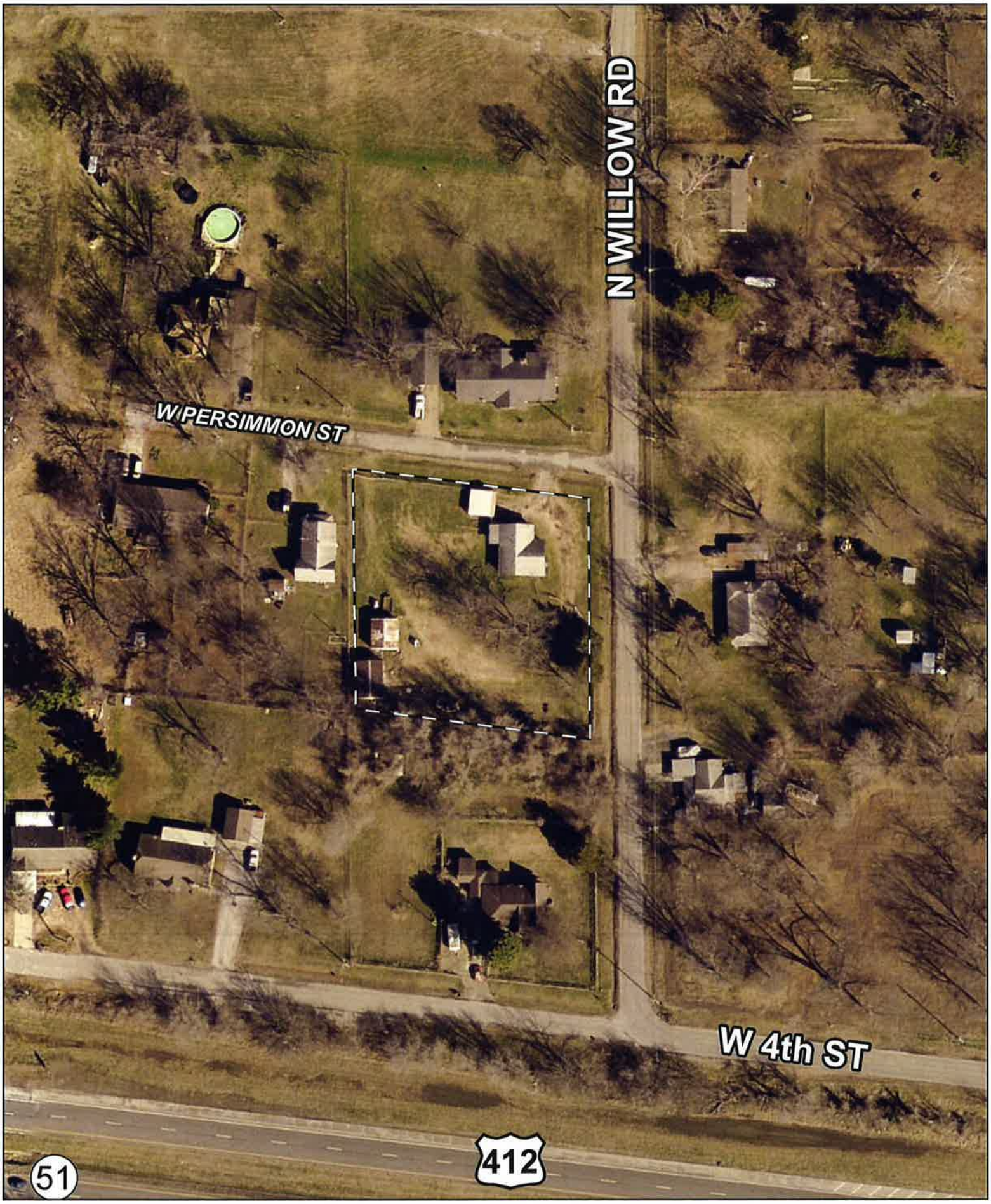
19-11 09

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

Aerial Photo Date: February 2018

10.9

N



Feet
0 50 100

Subject Tract

CBOA-2829

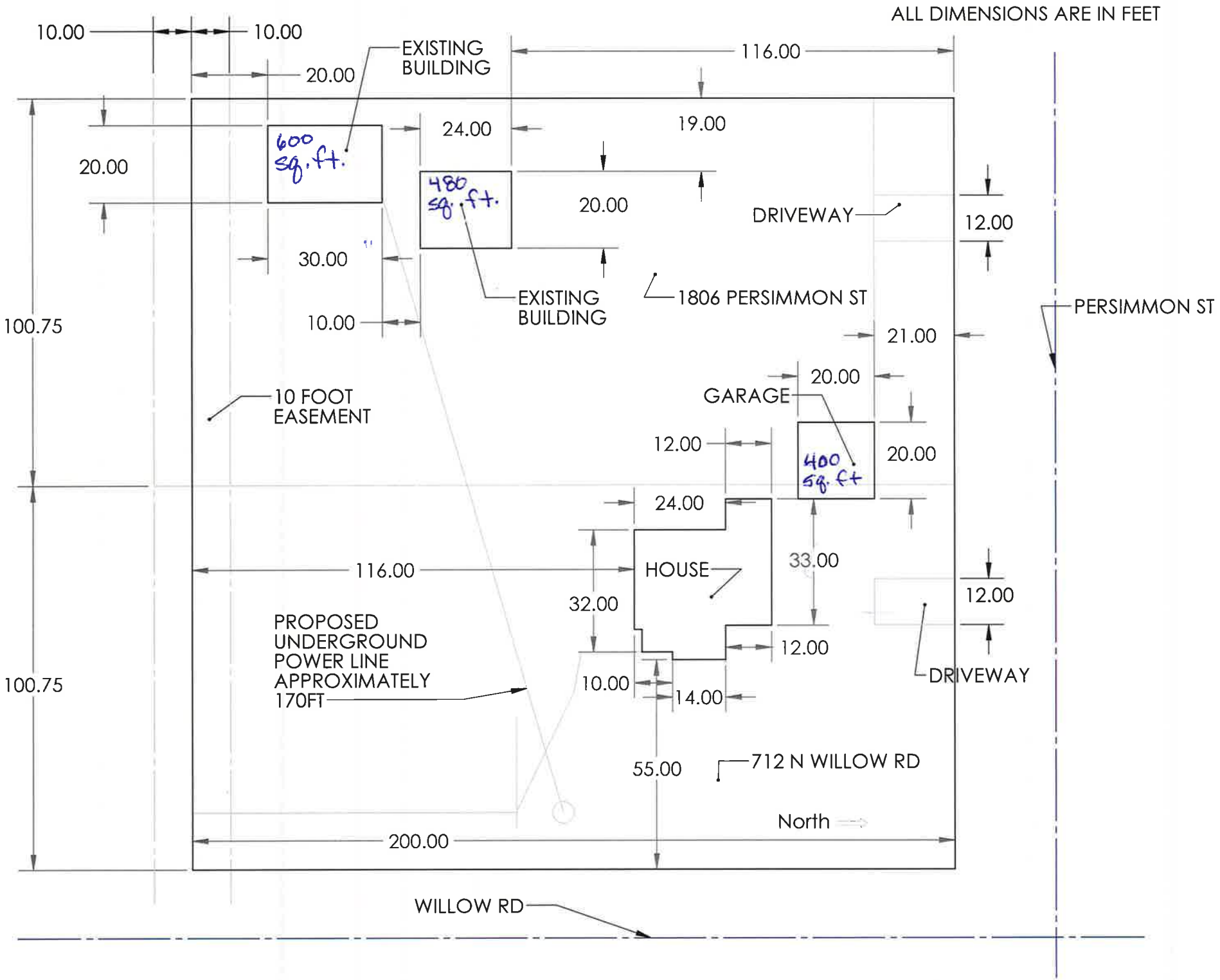
19-11 09

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

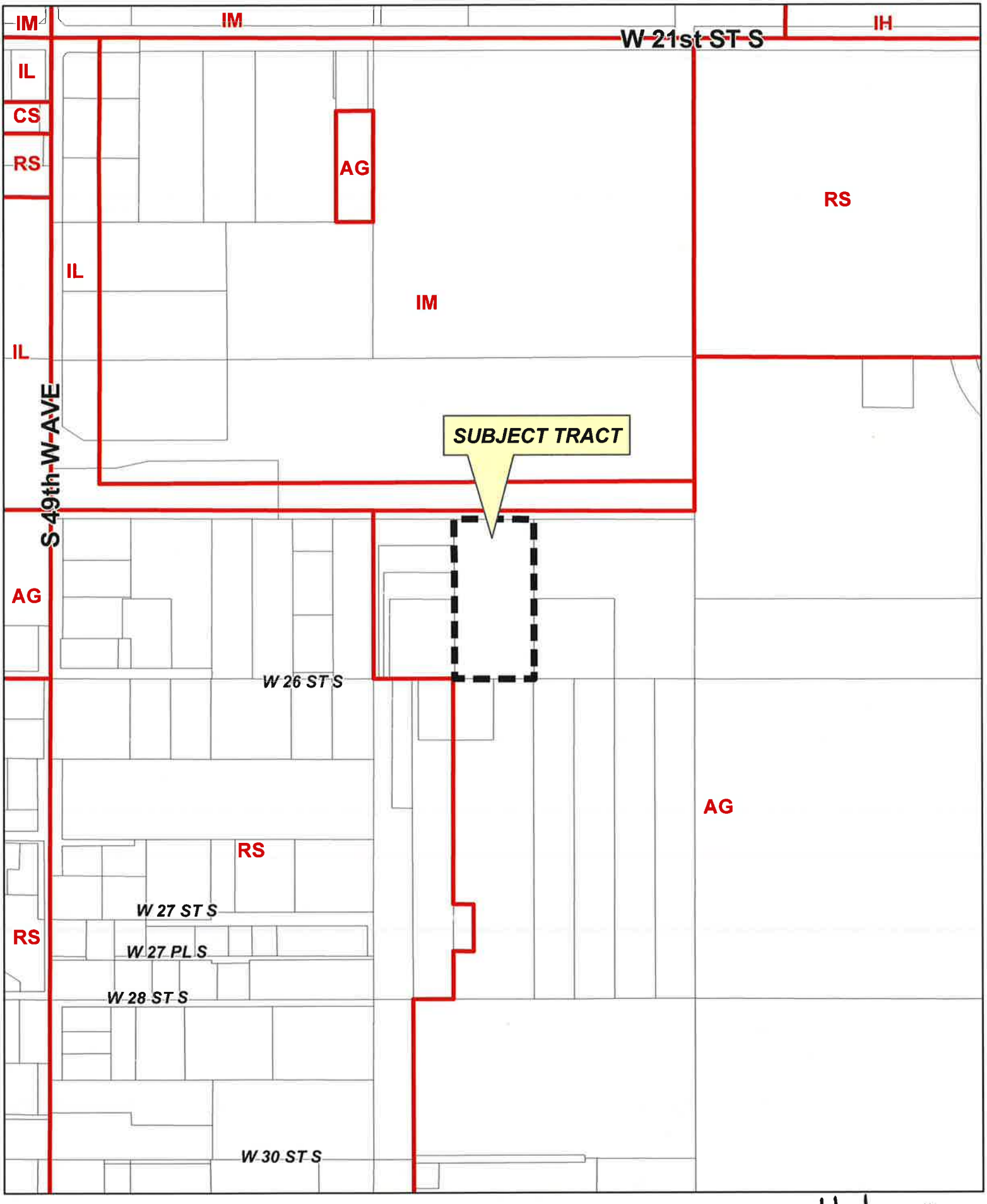
Aerial Photo Date: February 2018

10.10

11.01


ALL DIMENSIONS ARE IN FEET
10.00
10.00
20.00
EXISTING BUILDING
116.00
19.00
24.00
20.00
600 sq. ft.
480 sq. ft.
20.00
DRIVEWAY
12.00
30.00
EXISTING BUILDING
1806 PERSIMMON ST
PERSIMMON ST
100.75
10.00
21.00
20.00
GARAGE
10 FOOT EASEMENT
12.00
400 sq. ft
20.00
24.00
116.00
HOUSE
33.00
12.00
32.00
PROPOSED UNDERGROUND POWER LINE APPROXIMATELY 170FT
12.00
100.75
10.00
14.00
DRIVEWAY
55.00
712 N WILLOW RD
North
200.00
WILLOW RD

10.13



CBOA-2830

19-12 16

11.1

TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 9216
CZM: 35

CASE NUMBER: CBOA-2830
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Jay Howard

ACTION REQUESTED: Variance of the minimum lot and land area per dwelling unit in an AG District to permit a lot split (Section 330 Table 3).

LOCATION: 4327 W 26 ST S

ZONED: AG

FENCELINE: W. Central Tulsa County

PRESENT USE: Residential

TRACT SIZE: 4.99 acres

LEGAL DESCRIPTION: E/2 SW SE NW SEC 16 19 12 4.99ACS,

RELEVANT PREVIOUS ACTIONS:

Subject Property: None Relevant

Surrounding Property:

CBOA-2480 October 2013: The Board **APPROVED** a *Variance* of the minimum frontage requirement of 30 feet on a public street or dedicated right-of-way to 0 feet to allow a lot split, on property located at 4121 S. 26th St. S.

CBOA-807 April 1988: The Board **APPROVED** a Variance of lot width from 200' to 175' and a variance of lot area from 2 acres to .8 acre and a variance of the street frontage from 30' to 20', Located: East of the NW/c West 26th Street and South 49th West Avenue.

ANALYSIS OF SURROUNDING AREA: The subject tract is located within an AG (Agricultural) district that has AG property to the east, west, and south, with IL (Industrial Light) zoning to the north. This property is at the end of what would be West 26th Street South which has either RS (Residential Single-Family) or AG property along it with residential uses.

STAFF COMMENTS:

The applicant is before the Board requesting a Variance of the minimum lot and land area per dwelling unit in an AG District to permit a lot split (Section 330 Table 3). The applicant provided the following statement: *"The acre of land has been unusable due to the presence of a creek, which would provide the boundary (or near to) for the proposed split."*

As shown in the submitted survey, the applicant is attempting to split 1 acre of land from the existing AG zoned parcel. The proposed Tract (1.0 acres) shown on the submitted survey will not meet the minimum lot area and land area per dwelling unit requirement of the AG district, thus

needing County Board of Adjustment approval. The remaining parent tract will be 4± acres, thus meeting all the bulk and area requirements.

Per Section 330 of the Code, the AG district requires a minimum lot area of 2 acres and a minimum land area per dwelling unit of 2.1 acres. The Code also requires a minimum lot width of 150' in an AG district. Both tracts will meet the lot width requirements.

If inclined to approve the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the current and future use of the subject property is compatible and non-injurious to the public good and spirit/intent of the Code.

Sample Motion:

"Move to _____ *(approve/deny) a* Variance of the minimum lot and land area per dwelling unit in an AG District to permit a lot split (Section 330 Table 3).

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."

Mr. Charney asked Mr. Rainer if he would have any objections to removing the old structures on the land if the Board made that sort of requirement. Mr. Rainer stated that he would not have any objections to that request.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **CHARNEY,** the Board voted 3-0-0 (Charney, Dillard, Walker "aye"; no "nays"; no "abstentions"; Draper, Osborne "absent") to **APPROVE** the request for a Special Exception to allow for a single-family residence (Use Unit 6) to be permitted within an RMH district (Section 410), subject to the removal of all the existing structures and meet all DEQ requirements. 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:

BLK 19 LESS W150 & E24.55 W174.55 S100 THEREOF & LESS E10 THEREOF FOR ST, INDUSTRIAL HGTS ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

2480—Matt Blair

Action Requested:
Variance of the minimum frontage requirement of 30 feet on a public street or dedicated right-of-way to 0 feet (Section 207) to allow a lot-split. **LOCATION:** 4121 West 26th Street South

Presentation:
Matt Blair, 2248 South 61st West Avenue, Tulsa, OK; stated he and his wife want to build a house on the property. The property has an existing house and to build a new house the bank is requiring them to split the property. The property is zoned AG so they are meeting the minimum requirement of two acres for the lot split. He will appear before the Planning Commission to have the lot split approved. In splitting the property the rear 7 ½ acres not accessible to a county maintained road. As he understands it there are no future plans to extend West 26th Street thus the reason for his request of zero feet frontage.

Mr. Charney asked how much of the property he owns. Mr. Blair stated he owns all of the property but 7 ½ acres will be the piece of property where the house will be built.

Mr. Charney asked Mr. Blair if he understood the need for a mutual access agreement and why it is required. Mr. Blair stated there is an existing mutual access agreement in

place, which is actually an agreement with himself, and it has been filed with Tulsa County.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **CHARNEY**, the Board voted 3-0-0 (Charney, Dillard, Walker "aye"; no "nays"; no "abstentions"; Draper, Osborne "absent") to **APPROVE** the request for a Variance of the minimum frontage requirement of 30 feet on a public street or dedicated right-of-way to 0 feet (Section 207) to allow a lot-split with the stated hardship being the configuration of the land and the lack of access to a public road. This approval is subject to the standard permitting requirements; for the following property:

A tract of land being a part of the S/2 SE/4 NW/4 of S16, T19N, R12E of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, more particularly described by K.S. Collins, L.S. #1259 in and for the State of Oklahoma on 08/26/2013 as follows; BEGINNING at the Southeast Corner of said NW/4; thence S 89°53'29" W along the South line of said NW/4 a distance of 660.20 feet; thence N 00°02'51" W a distance of 659.04 feet to a point on the North line of said S/2 SE/4 NW/4; thence N 89°56'48" E a distance of 659.79 feet to a point on the East line of said NW/4; thence S 00°05'01" E along said East line a distance of 658.40 feet to the POINT OF BEGINNING, containing 9.98 acres of land, more or less, OF TULSA COUNTY, STATE OF OKLAHOMA

2481—Holiday Sand and Gravel

Action Requested:
Special Exception to permit mining (dredging) and quarrying of sand in an AG district (Arkansas River Channel) (Section 310, Table 1). **LOCATION:** Southeast of the SE/c of East 141st Street South and South 129th East Avenue

Presentation:
Mike Odell, Vice President of Production for Holiday Sand and Gravel, 14900 South Garnett Road, Bixby, OK; stated the request will cover approximately 114 acres in the Arkansas River channel. Holiday Sand currently operates under a lease arrangement with Watkins Sand. Holiday does not propose any activity on South 145th East Avenue on the east side of the river, only in the river itself. Holiday proposes to operate a hydraulic dredge in the river channel and pump sand to the existing plant on the west side of the river. Holiday Sand has been dredging sand in the Tulsa area since 1992,

Case No. 802 (continued)

Mr. Looney pointed out that the two east lots are not under application and cannot be considered at this time.

The Board concurred that, due to the fact that utilities are in place, they would be inclined to be supportive of the location of the mobile home on the east two lots for a maximum period of two years.

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 **CONTINUE** Case No. 802 to May 17, 1988, to allow the applicant to advertise the eastern lots.

NEW APPLICATIONS

Case No. 807

Action Requested:

Variance - Section 330 - Bulk and Area Requirements in Agriculture Districts - Use Unit 1206 - Request a variance of lot width from 200' to 175' and a variance of lot area from 2 acres to .8 acre.

Variance - Section 207 - Street Frontage Required - Use Unit 1206 - Request a variance of the street frontage from 30' to 20', located east of the NW/c West 26th Street and South 49th West Avenue.

Comments and Questions:

Mr. Jones informed that the Technical Advisory Committee has heard and recommended approval of the case. He stated that the application will be heard by TMAPC on April 20, 1988 and action taken by this Board should be made subject to Planning Commission approval.

Presentation:

The applicant, Harvey McGehee, 6147 West 23rd Street, Tulsa, Oklahoma, was represented by his son, Claude McGehee, Booneville, Arkansas. He asked the Board to allow a 2.91 acre tract to be split into three lots with each lot having a 20' handle to west 26th Street for access to the street and for utilities. He informed that newly created lots do not meet the minimum lot size for the AG District, but there are other lots in the area of comparable size.

Comments and Questions:

Mr. Alberty asked the applicant who will maintain the road, and Harvey McGehee informed that the owners of the land will maintain the road.

Case No. 807 (continued)

Mr. Alberty pointed out that many times properties in the county are sold and later there is confusion as to the party responsible for maintaining the street. He stated that he would suggest that a clause be inserted in the deed that would clarify who is responsible for the street maintenance. Mr. Alberty pointed out that any street dedicated to the County is required to comply with their specifications.

Mr. Gardner stated that if approved, the Board could make the approval subject to TMAPC approval, and subject to each lot being recorded with the stipulation that each of the owners of the lots be required to maintain the street.

Mr. Fields stated that the three 20' strips of land will be attached to and and made a part of the three lots and will not be a dedicated street, per se'.

Mr. Gardner informed that the strips will be private pieces of land, but they will be combined to make a mutual private street.

Protestants: None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** (Section 330 - Bulk and Area Requirements in Agriculture Districts - Use Unit 1206) of lot width from 200' to 175' and a variance of lot area from 2 acres to .8 acre; and to **APPROVE** a **Variance** (Section 207 - Street Frontage Required - Use Unit 1206) of the street frontage from 30' to 20'; subject to TMAPC approval; and recommending that the ownership of the street be satisfied in order that there is no future dispute regarding street maintenance; finding that there are other lots in the area that are similar in size to the lots in question; and finding that the lots are located on the rear portion of a tract, with limited street access; on the following described property:

A tract of land lying in the W/2, W/2, SE/4, NW/4, of Section 16, T-19-N, R-12-E of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the US Government Survey thereof, more particularly described as follows, to-wit:

Beginning at a point on the east line of said W/2, W/2, SE/4, NW/4, said point lying 330.06' north of the SE/c thereof; thence N 89°54'56" W a distance of 265.12' to a point; thence S 00°08'30" W a distance of 330.08' to a point on the south line of said W/2, W/2, SE/4, NW/4; thence N 89°55'09" W along said south line a distance of 60' to a point; thence N 00°08'30" E a distance of 660.17' to a point on the north line of the S/2, W/2, W/2, SE/4, NW/4 of said

Case No. 807 (continued)

Section 16; thence S 89°54'41" E along said north line a distance of 325.12' to the NE/c of said S/2, W/2, W/2, SE/4, NW/4; thence S 00°08'03" W along the east line thereof, a distance of 330.07' to the Point of Beginning, Tulsa County, Oklahoma. (The west 60' of the above described property being reserved for roadway purposes for the use of the grantor or his assigns.)

Case No. 808

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1202 - Request a special exception to allow for a temporary concrete batch plant in an AG zoned district, located west of NW/c of 116th Street North and US 169.

Presentation:

The applicant, Dult Construction, PO Box 3788, Edmond, Oklahoma, was represented by Neil Bolin, who asked permission to construct a temporary batch plant at the above stated location to supply concrete for the 169 Highway project. He informed that the farmland will be used for approximately eight months and then the land will be returned to its original use.

Comments and Questions:

Mr. Looney asked if there are homes located in the area, and Mr. Bolin informed that the nearest home is approximately one-half mile to the west.

Mr. Looney inquired as to the location of the plant on the property, and Mr. Bolin replied that it sets approximately 150' from the front fence line.

In response to Mr. Alberty's question as to the amount of time required to complete the project, Mr. Bolin stated that the construction will be completed within a one year period. He informed that the land will then be cleared and restored to its original condition.

Protestants: None.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** (Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1202) to allow for a temporary concrete batch plant in an AG zoned district for a period of one year only; subject to the land being cleared and restored to its previous condition at the end of the one year period; finding that the granting of the temporary request will not be detrimental to the area; on the following described property:

Feet
0 250 500

Subject Tract

CBOA-2830

19-12 16

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

Aerial Photo Date: February 2018

N

11.9

Feet
0 50 100

Subject Tract

CBOA-2830

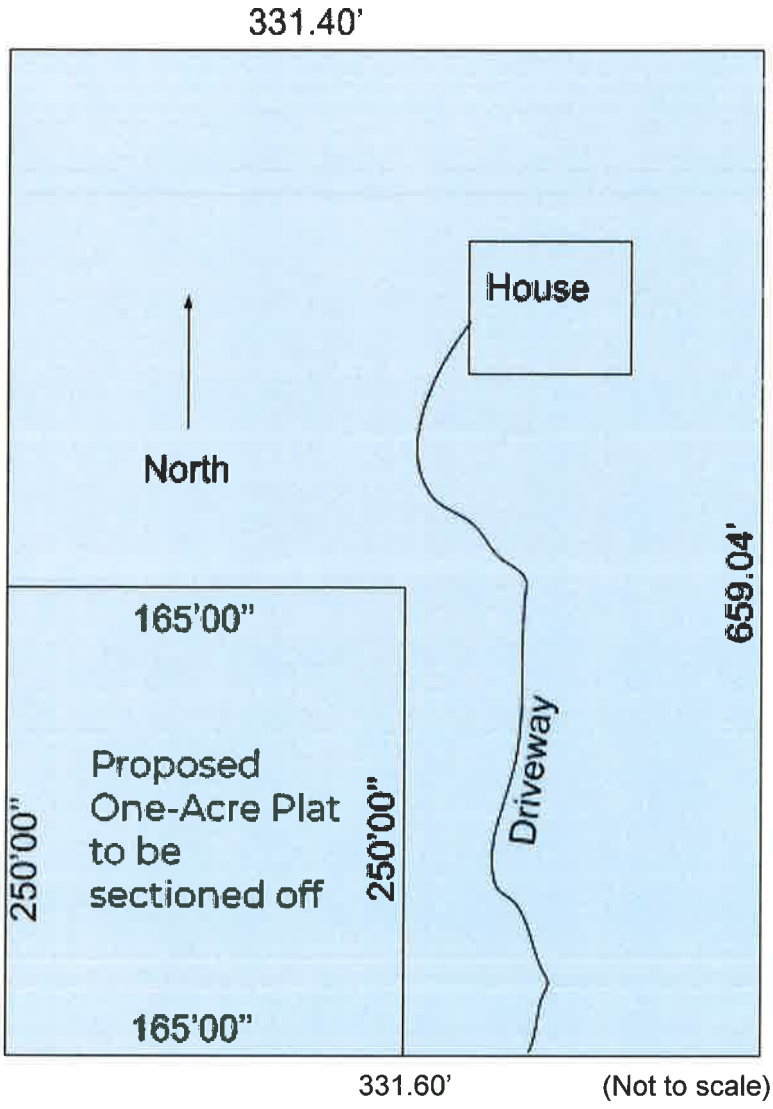
19-12 16

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

Aerial Photo Date: February 2018

11.10

N

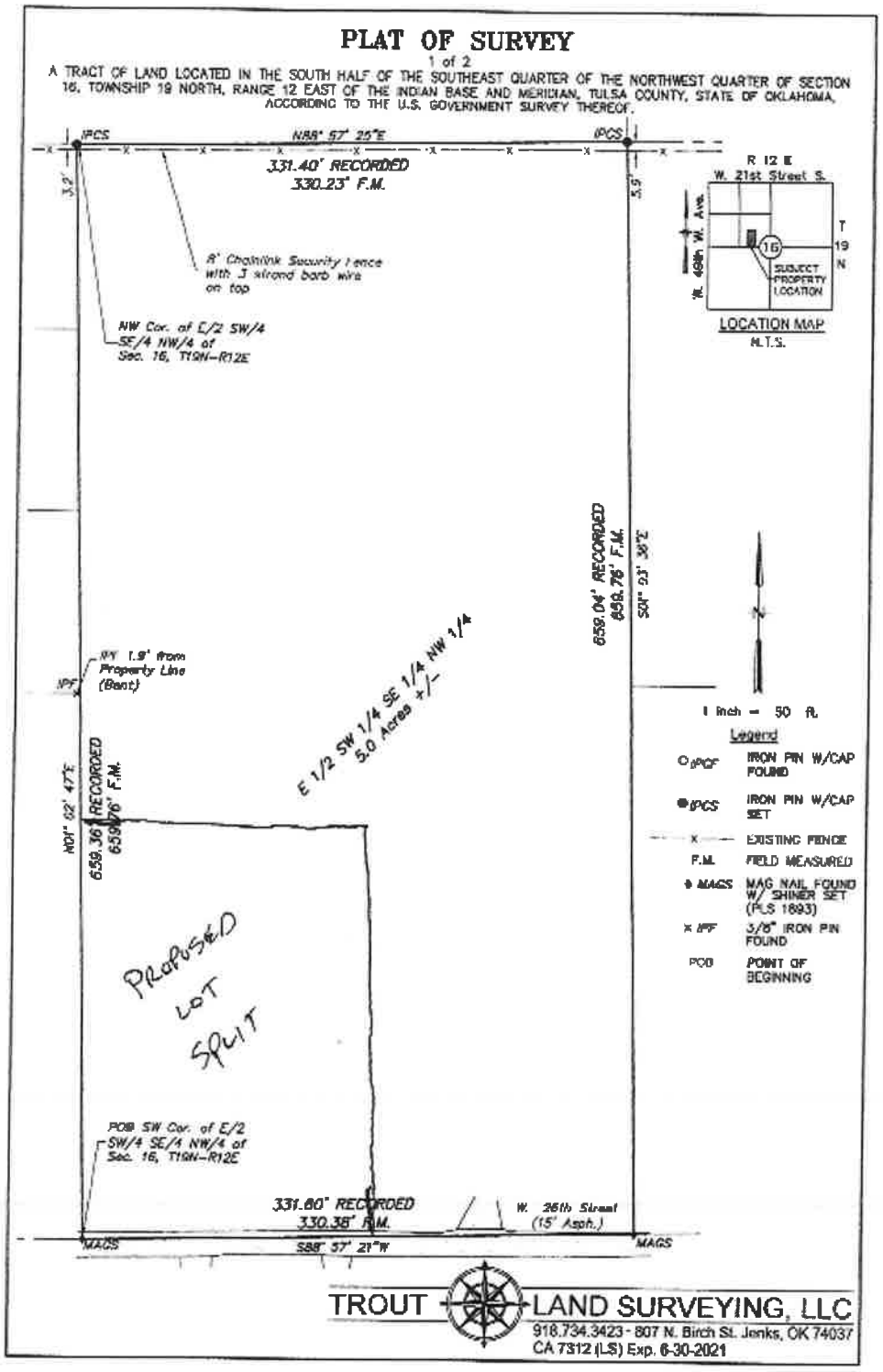


West 26th Street

PLAT OF SURVEY

1 of 2

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 19 NORTH, RANGE 12 EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF.

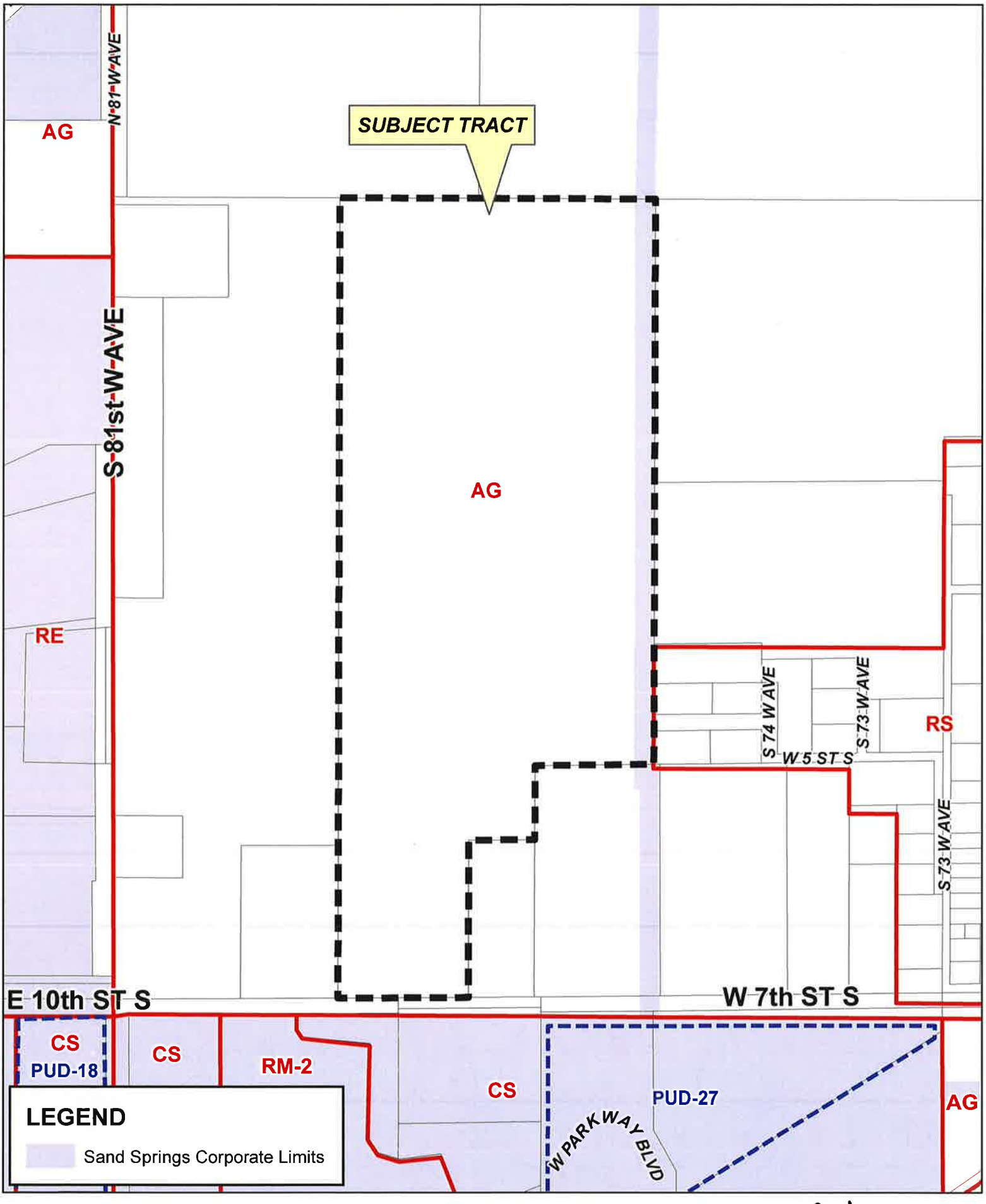


TROUT LAND SURVEYING, LLC

918.734.3423 - 807 N. Birch St. Jenks, OK 74037

CA 7312 (LS) Exp. 6-30-2021

11.12



CBOA-2831

19-12 06

12.1

TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 9206
CZM: 35

CASE NUMBER: CBOA-2831
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Kenneth Johnson

ACTION REQUESTED: Use variance to allow use unit 25, Light Manufacturing Industry, in an AG district (Section 1225)

LOCATION: 7703 W 7 ST S

ZONED: AG

FENCELINE: Sand Springs

PRESENT USE: AG/Com/Industrial

TRACT SIZE: 50.63 acres

LEGAL DESCRIPTION: TR 2 W984.24 E1916 SW LESS S770 E368 & LESS W210 E1510 S520.65 SEC 6 19 12 50.63AC,

RELEVANT PREVIOUS ACTIONS:

Subject Property:

BOA-9792 December 1977: The Board APPROVED a *Special Exception* to permit a construction/demolition landfill in an AG district, on property located at 7703 W. 7th St. S.

Surrounding Property:

CBOA-2766 September 2019: The Board DENIED a *Use Variance* to permit Use Unit 3, Agriculture, in a residential neighborhood, on property located at 451 South 74th West Avenue.

ANALYSIS OF SURROUNDING AREA: The subject tract is located in an AG district and abuts AG zoning on the west, north, and east. There are three additional parcels to the east that are zoned RS with what appear to be residential uses. The parcels to the south are zoned CS and are within the corporate limits of Sand Springs. Surrounding uses appear to be single-family residential on large lots with some agricultural and commercial uses as well.

STAFF COMMENTS:

The applicant is before the Board requesting a Use variance to allow use unit 25, Light Manufacturing Industry, in an AG district (Section 1225)

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. Section 1225.1 describes Light Manufacturing Industry:

12.2

Light manufacturing and industrial uses having slight or no objectionable environmental influences by reason of the emission of odor, heat, smoke, noise, or vibration. The following use conditions will apply:

1225.3 Use Conditions

A. The uses included in Use Unit 25, which are located within 300 feet of an R District, shall be conducted with enclosed buildings. The use will be conducted within an enclosed building.

B. The uses included in Use Unit 25, when located on a lot which is abutting an R District, shall be screened from the abutting R District, by the erection and maintenance of a screening wall or fence along the lot line or lines in common with the R District. The site plan shows a fence.

The applicant has supplied the following statement of hardship: *"Requesting Use Variance for linght industrial. Purpose to process our cannabis crop. I am asking that this be considered. Tulsa County Tax Assessor has already adjusted tax bracket from AG to AG/Commercial/Industrial due to fencing at grow (facility) for this reason, I ask you to approve this request."*

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* Use variance to allow use unit 25, Light Manufacturing Industry, in an AG district (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.

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

Interested Parties:
There were no interested parties present.

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

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

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

2766—Michael Parrish

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

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

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

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

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

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

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

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

Interested Parties:

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

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

Rebuttal:

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

CBOA -2766 FILE COPY

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

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

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

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

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

2768—Madison Freeman

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

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

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

Interested Parties:
There were no interested parties present.

9790 (continued)

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 3-0 (Guerrero, Jolly, and Walden "aye", Smith "out", Purser "absent") approved the Variance (Section 1460 - Repairs - Under the Provisions of Section 1670) to enclose a porch on a detached garage; and upheld (the Appeal Section 1650 - Appeals from the Building Inspector) a decision of the Building Inspector for refusing to permit the remodeling of a garage on the basis that the cubic content of a nonconforming building may not be altered or increased on the following described tract:

Lot 123 of the Resubdivision of Lots 1 to 10, Block 2, Rogers Heights Addition to the City of Tulsa.

9791

Action Requested:

Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) of the setback requirements from 100' to 91' to permit an addition to the present building in a CG District located at 2648 North Cincinnati Avenue.

Presentation:

The applicant George Bell, 2344 West Tecumseh, advised that he operates a restaurant at the subject location and wishes to make an addition to the restaurant. A 9' variance in the setback is needed. Mr. Bell stated that he is proposing to increase the kitchen area of the restaurant. The applicant submitted a plot plan (Exhibit "K-1") showing the present and proposed structure.

The Staff submitted a correspondence (Exhibit "K-2") from the owners of the restaurant stating that the addition would be an asset to the restaurant as well as encourage investment.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 4-0 (Guerrero, Jolly, Smith and Walden "aye", Purser "absent") approved the Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) of the setback requirements from 100' to 91' to permit an addition to the present building, per plot plan submitted on the following described tract:

Lot 1, Block 1, Archer Heights Addition to the City of Tulsa Okla.

9792

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1202 - Area-Wide Exception Uses) for an exception to permit a construction/demolition land-fill in an AG District located at 7703 West 7th Street.

9792 (continued)

Presentation:

The applicant Ted Rauch was not present, but was represented by Charles Rauch, 1543 East 49th Place, who requested an exception to locate a demolition land-fill in the 7700 Block of West 7th Street. Mr. Charles Rauch advised that materials going into the land-fill will be that of dirt, rocks, tree materials, but no organic matter. He stated that the proposed land-fill is an abandoned rock quarry and the roads will be maintained with rock from the abandoned quarry. The hours of operation will be from 8:30 a.m. until approximately 6:00 p.m., and closed on Sundays. Mr. Rauch informed that the entrance will be from the expressway at 81st then north to 7th Street. Mr. Rauch submitted an Engineering Report for a Demolition Land-fill (Exhibit "L-1") at the subject location and advised that he has received a letter from the Tulsa City-County Health Department recommending the proposed site. He added that the Health Department suggested watering down the roads to prevent dust problems. Mr. Rauch submitted an application (Exhibit "L-2") of which he has applied for a license for construction and demolition of the land-fill, also correspondence from the Oklahoma State Department of Health informing of the items to be included in the engineering report for a construction/demolition type solid waste disposal site. He also submitted a proposed demolition land-fill plan (Exhibit "L-3") showing the site of the land-fill on the subject property.

The Staff submitted a copy of the correspondence (Exhibit "L-4") given the applicant listing the operation requirements for a sanitary land-fill.

Protests: None.

Board Action:

On MOTION of WALDEN, the Board 4-0 (Guerrero, Jolly, Smith and Walden "aye", Purser "absent") approved the Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1202 - Area-Wide Special Exception Uses) to permit a construction/demolition land-fill in an AG District subject to the plot plan and all other standards submitted on the following described tract:

The North 1,000' of the South 2,049' of the West 500' of the East 1,916' of the East 1,916' of the SW/4 of Section 6, Township 19 North, Range 12 East, Tulsa County, Oklahoma.

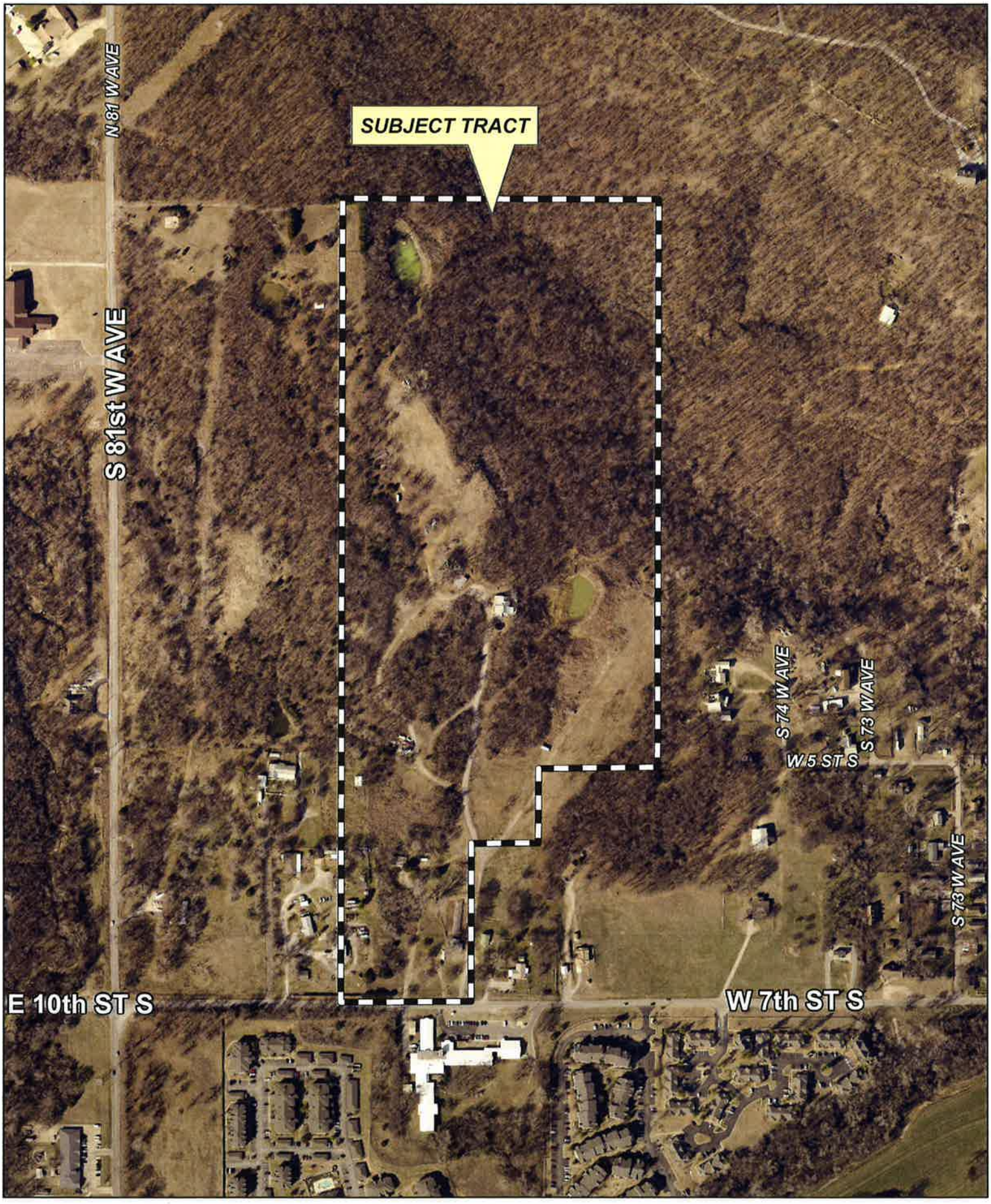
9793

Action Requested:

Variance (Section 630 - Bulk and Area Requirements in the Office Districts - Under the Provisions of Section 1670) of the Bulk and Area Requirements in an OM and OL District to permit computation of permitted floor area on the entire tract in common ownership located on the Northeast corner of 66th Street and Yale Avenue.

Presentation:

Attorney Roy Johnsen, representing the Warren Interest, requested a variance of the 21-acre site located south of St. Francis and north of 66th Street which contains the Warren and Kelly Medical buildings



Feet
0 200 400

Subject Tract

CBOA-2831

19-12 06

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

Aerial Photo Date: February 2018

12.9

① Building 1 24x36 (Industrial) Tax Increase 50% AG/50% Ind.
Use Pest Control office/Farm/Product Storage
Proposed 12x18' Room for Processing
East Fence line 40'
West Fence line 362'
South Fence line 210'
North Fence line 2325'

② Building, 2 Barn/Farm Storage (Industrial) Tax Increase
50% AG/50% Industrial
24x36
East Fence 150'
West Fence 280'
South Fence 210'
North Fence 2325'

③ 100x270' Fence in Alga (Grow) (Industrial)
Fence 8' Tall x 3 Strand B. Wire Top x 9 Gauge
Tax Increase 100% Industrial

④ 24'x108' HoopHouse (Grow)
100% Tax Increase (Industrial)

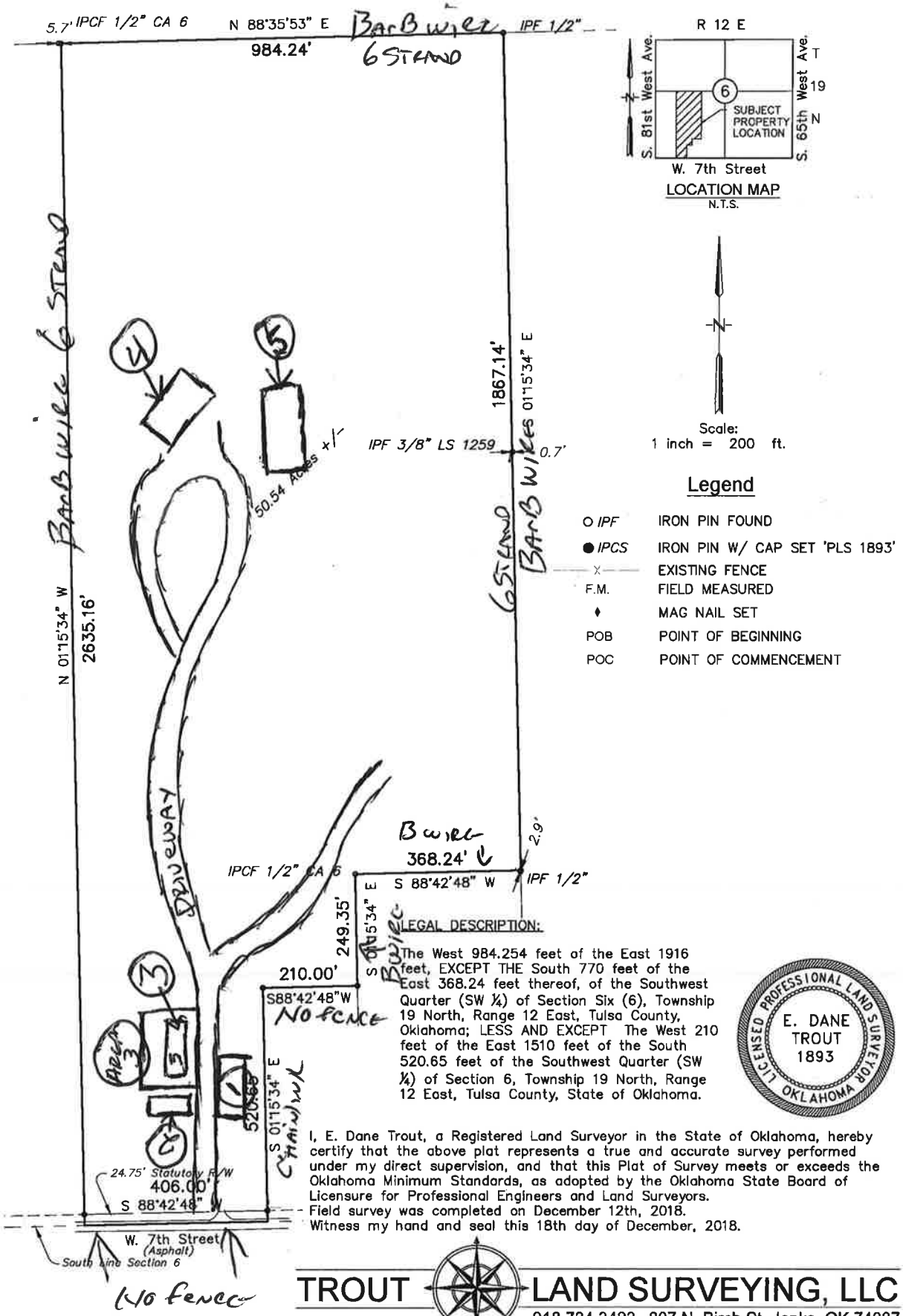
⑤ Building 4
24x30
Use Barn/Storage (Agriculture)

⑥ Building 5
40x70 Home

12.10

PLAT OF SURVEY

A TRACT OF LAND LOCATED IN THE SW/4 OF SECTION 6, TOWNSHIP 19 NORTH, RANGE 12 EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF.



I, E. Dane Trout, a Registered Land Surveyor in the State of Oklahoma, hereby certify that the above plat represents a true and accurate survey performed under my direct supervision, and that this Plat of Survey meets or exceeds the Oklahoma Minimum Standards, as adopted by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors.
Field survey was completed on December 12th, 2018.
Witness my hand and seal this 18th day of December, 2018.

TROUT LAND SURVEYING, LLC
918.734.3423 - 807 N. Birch St. Jenks, OK 74037
CA 7312 (LS) Exp. 6-30-2019

12.11