

AGENDA
Tulsa County Board of Adjustment
Regularly Scheduled Meeting
Tuesday March 15, 2022, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room

Meeting No. 505

INTRODUCTION AND NOTICE TO THE PUBLIC

At this Meeting the Board of Adjustment, in accord with and pursuant to applicable Board of Adjustment Policies and Procedures, will review, consider, discuss, and may take action on, approve, amend, modify, approve with amendment(s) or modification(s), deny, reject, or defer any action on any item listed on this Agenda.

Review and possible approval, approval with modifications, denial or deferral of the following:

1. Approval of Minutes of February 15, 2022 (Meeting No. 504)

UNFINISHED BUSINESS

2. **2947- Travis Dunn**
Variance of the minimum land area per dwelling unit in the AG district to permit two dwelling units on one lot of record in an AG district (Section 330); and a **Variance** from the all-weather parking surface requirement (Section 1340.D).
LOCATION: 16532 South 43rd Avenue East

NEW APPLICATIONS

Review and possible approval, approval with modifications, denial or deferral of the following:

3. **2951- Rigoberto Gomez**
Special Exception to allow for a rodeo facility (Use Unit 20) in an AG District (Section 310); and a **Variance** from the all-weather parking surface requirement (Section 1340.D)
LOCATION: 11201 North 41st Avenue East

4. **2952- Gawey Architects**
Modification of a previously approved site plan to permit a new Parish Hall, Parish Temple, Caretaker Residence, and an update to parking locations in the AG district (Section 1205).
LOCATION: 15710 South Peoria Avenue East

5. **2953- Lonnie Basse**
Modification of a previously approved Special Exception (CBOA-2738) to extend the time limitation and the variance from the all-weather parking requirement for a fireworks stand in a CS district (Section 310).
LOCATION: 11625 North 113th Avenue East

6. **2954- Jacob McClendon**
Use Variance to permit an Agricultural Use (Use Unit 3) to permit farming and raising farm animals in an RS Zoned District (Section 1203).
LOCATION: 6643 North Victor Avenue East

7. **2955- Jacob Snow**
Special Exception to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an IL District (Section 1226); and a **Use Variance** to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an RS district (Section 1226).
LOCATION: 4918 West 21st Street South

8. **2956- Amy Hall**
Variance of the minimum ~~lot area~~ and land area per dwelling unit in the AG district to permit two dwelling units on one lot of record. (Section 330)
LOCATION: 16421 East 171st 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.



Case Number: CBOA-2947

Hearing Date: 03/15/2022 1:30 PM

Case Report Prepared by:

Robi Jones

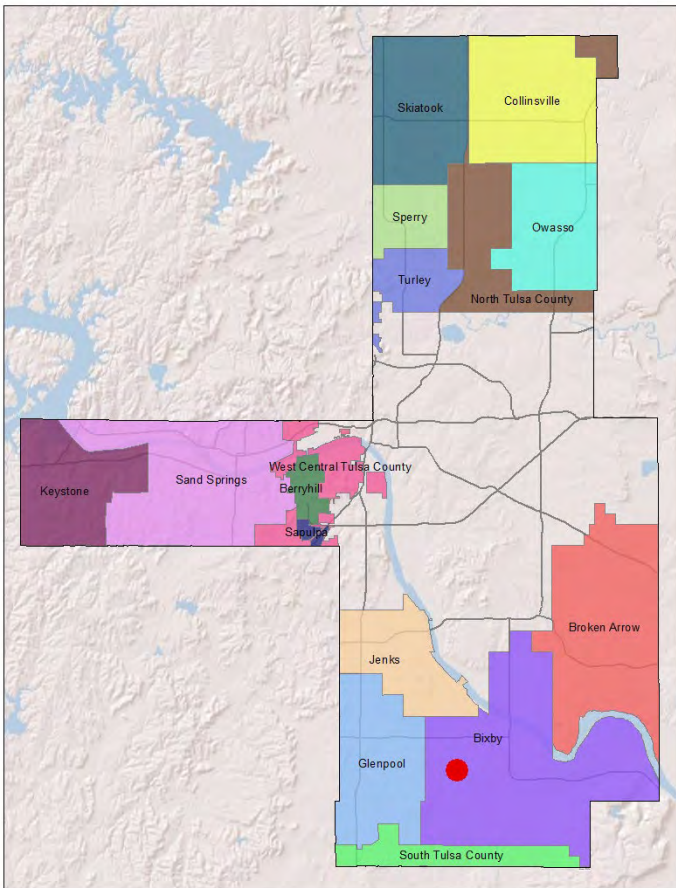
Owner and Applicant Information:

Applicant: Travis Dunn

Property Owner: DUNN, TRAVIS MARTIN

Action Requested: Variance of the minimum land area per dwelling unit in the AG district to permit two dwelling units on one lot of record in an AG district (Section 330); and a Variance from the all-weather parking surface requirement (Section 1340.D).

Location Map:



Tulsa County Comprehensive Land Use Plan

Additional Information:

Present Use: Residential

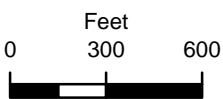
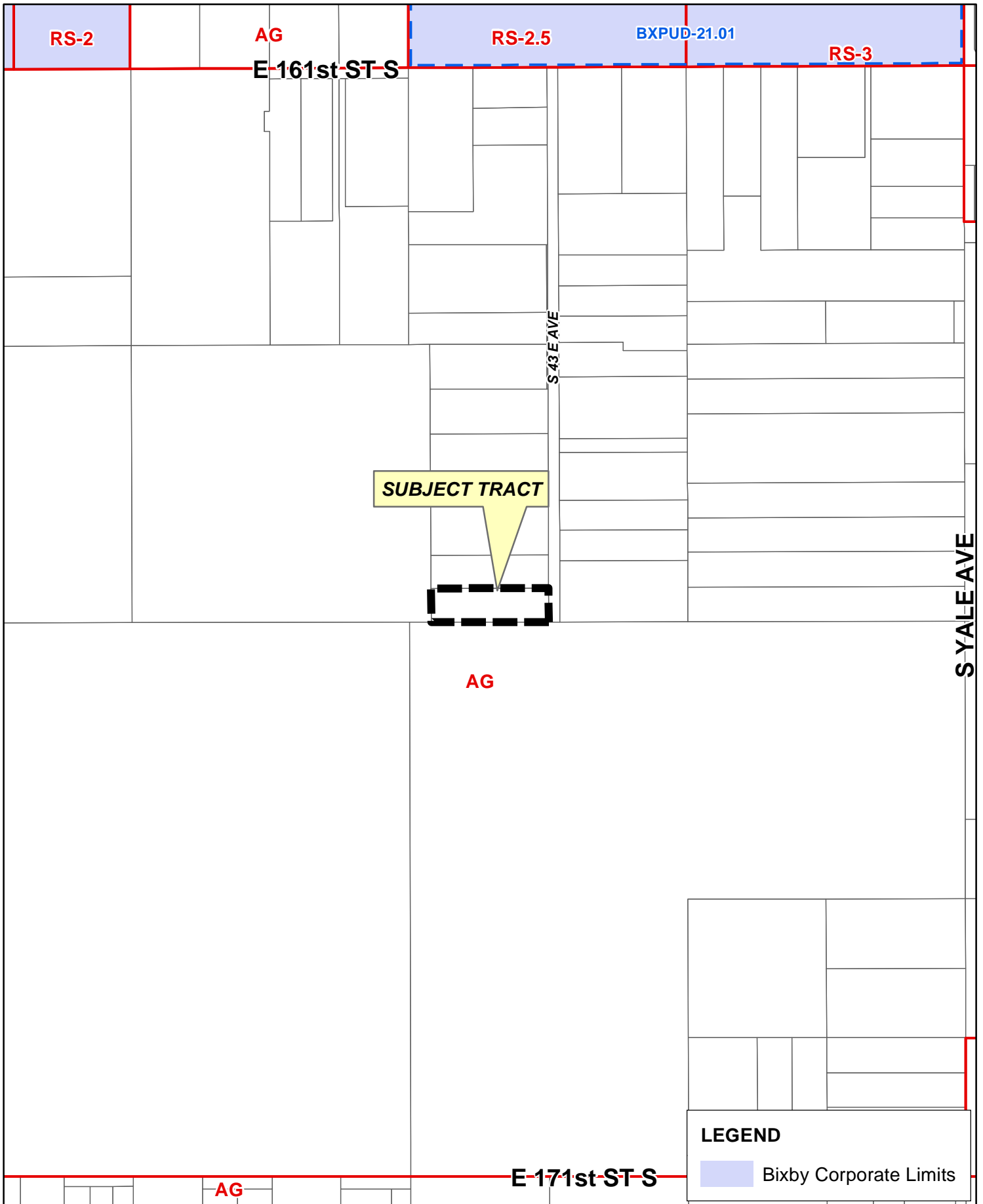
Tract Size: 2.04 acres

Location: 16532 S 43 AV E

Present Zoning: AG

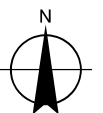
Fenceline/Area: Bixby

Land Use Designation: Low Density Residential



CBOA-2947

17-13 28



**TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT**

TRS: 7328

CZM: 66

CASE NUMBER: **CBOA-2947**

CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 03/15/2022 1:30 PM

APPLICANT: Travis Dunn

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

LOCATION: 16532 S 43 AV E

ZONED: AG

FENCELINE: Bixby

PRESENT USE: Residential

TRACT SIZE: 2.04 acres

LEGAL DESCRIPTION: S158.75 E560 SW SW NE SEC 28 17 13 2.04ACS,

RELEVANT PREVIOUS ACTIONS: None relevant

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by AG zoning with a combination of residential and agricultural uses.

NEW STAFF COMMENTS: The case was continued from 02/15/2022 due to the applicant's absence.

ORIGINAL STAFF COMMENTS:

The applicant is before the Board requesting a Variance of the minimum land area per dwelling unit in the AG district to permit two dwelling units on one lot of record in an AG district (Section 330); and a Variance from the all-weather parking surface requirement (Section 1340.D). As shown on the attached site plan, the applicant has an existing single-family residence on the lot and is proposing to add a manufactured housing unit in the rear yard located southwest of the existing home.

The applicant provided the following statement: *"Our daughter will need housing at the end of February 2022; adding a manufactured home to our lot will be quicker than remodeling our current home to add space. After our daughter obtains her own housing, we would move my mother into the house to be nearer to us."*

Section 208 states: No 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 which is within an approved PUD, in an RMH district, or in an **AG district**, with the exception in the AG district that there be no more than two dwellings per lot.

Section 330, Table 3 of the Code requires a minimum lot area of 2 acres and a land area per dwelling unit requirement of 2.1 acres in the AG district. The applicant is proposing to have two dwellings on the 2.04-acre subject lot. The applicant meets the minimum lot size but does not meet the minimum land area per dwelling unit.

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

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 is not injurious to the surrounding agricultural district.

Sample Motion:

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

- *Subject to the following conditions (if any - it could include “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”



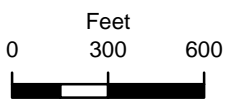
E 161st ST S

S 43 E AVE

S YALE AVE



E 171st ST S



Subject Tract

CBOA-2947

17-13 28

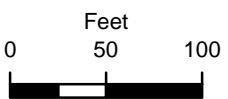
Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: 2020/2021





S 43 E AVE



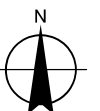
Subject Tract

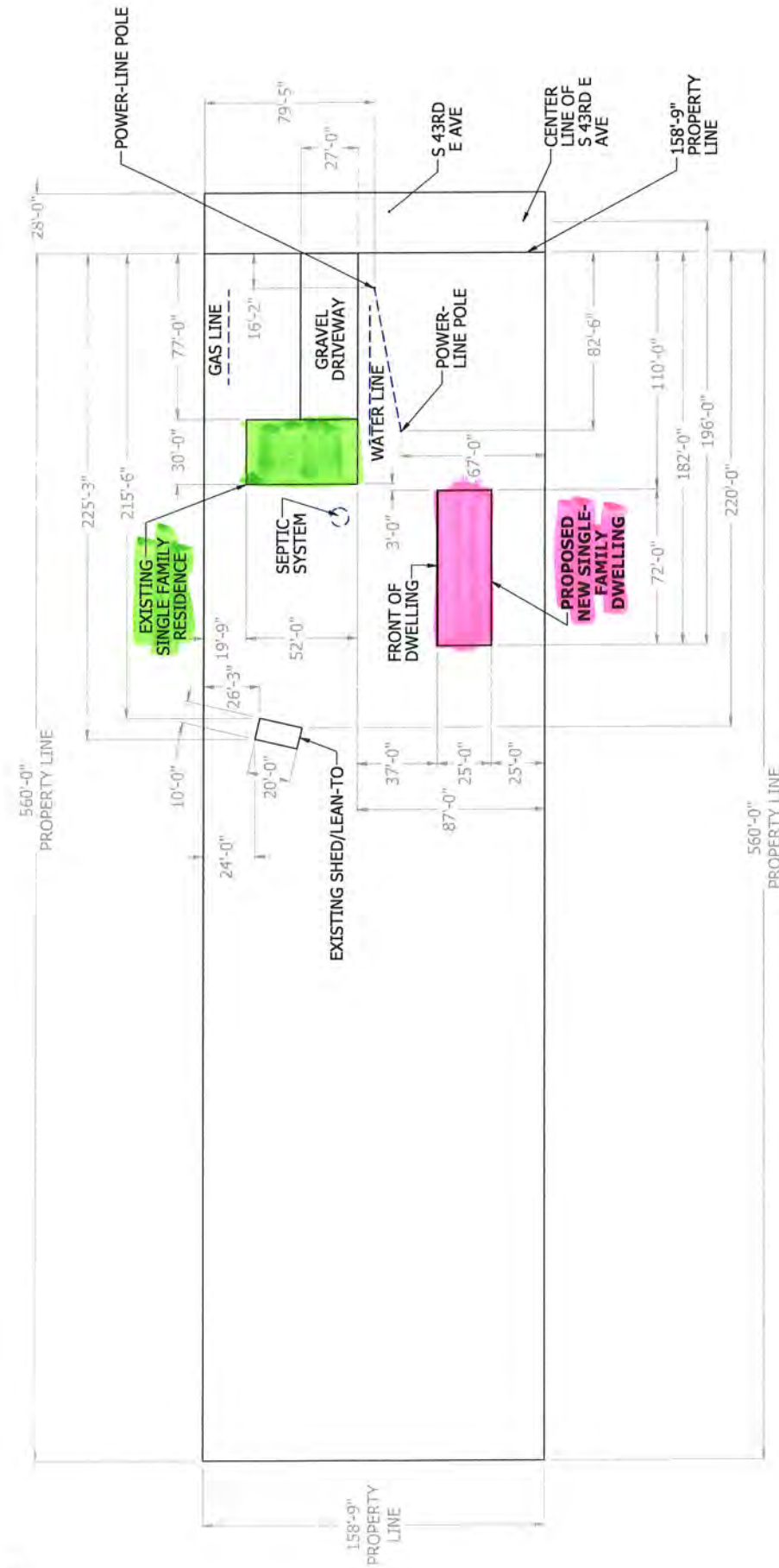
CBOA-2947

17-13 28

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

Aerial Photo Date: 2020/2021





SITE PLAN

LEGAL DESCRIPTION:
 SUBDIVISION: UNPLATTED
 LEGAL: S158.75 E560 SW NE SEC 28 17 13 2.04ACS
 SECTION: 28 TOWNSHIP: 17 RANGE: 3

SITUS ADDRESS: 16532 S 43 AV E BIXBY 74008

DWN BY: TD
 SCALE: 1/4" = 1'



Case Number: CBOA-2951

Hearing Date: 03/15/2022 1:30 PM

Case Report Prepared by:

Robi Jones

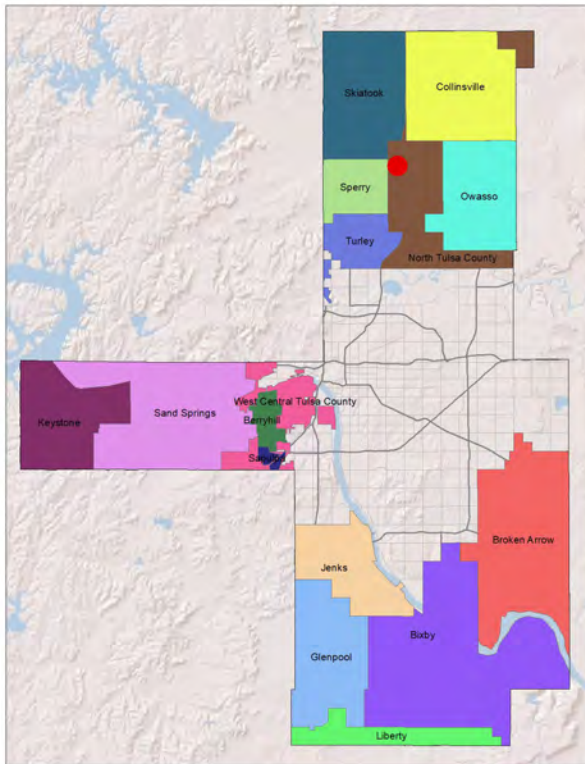
Owner and Applicant Information:

Applicant: Rigoberto Gomez

Property Owner: GOMEZ, RIGOBERTO AND MARIA L

Action Requested: Special Exception to allow for a rodeo facility (Use Unit 20) in an AG District (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D)

Location Map:



Tulsa County Comprehensive Land Use Plan

Additional Information:

Present Use: Vacant

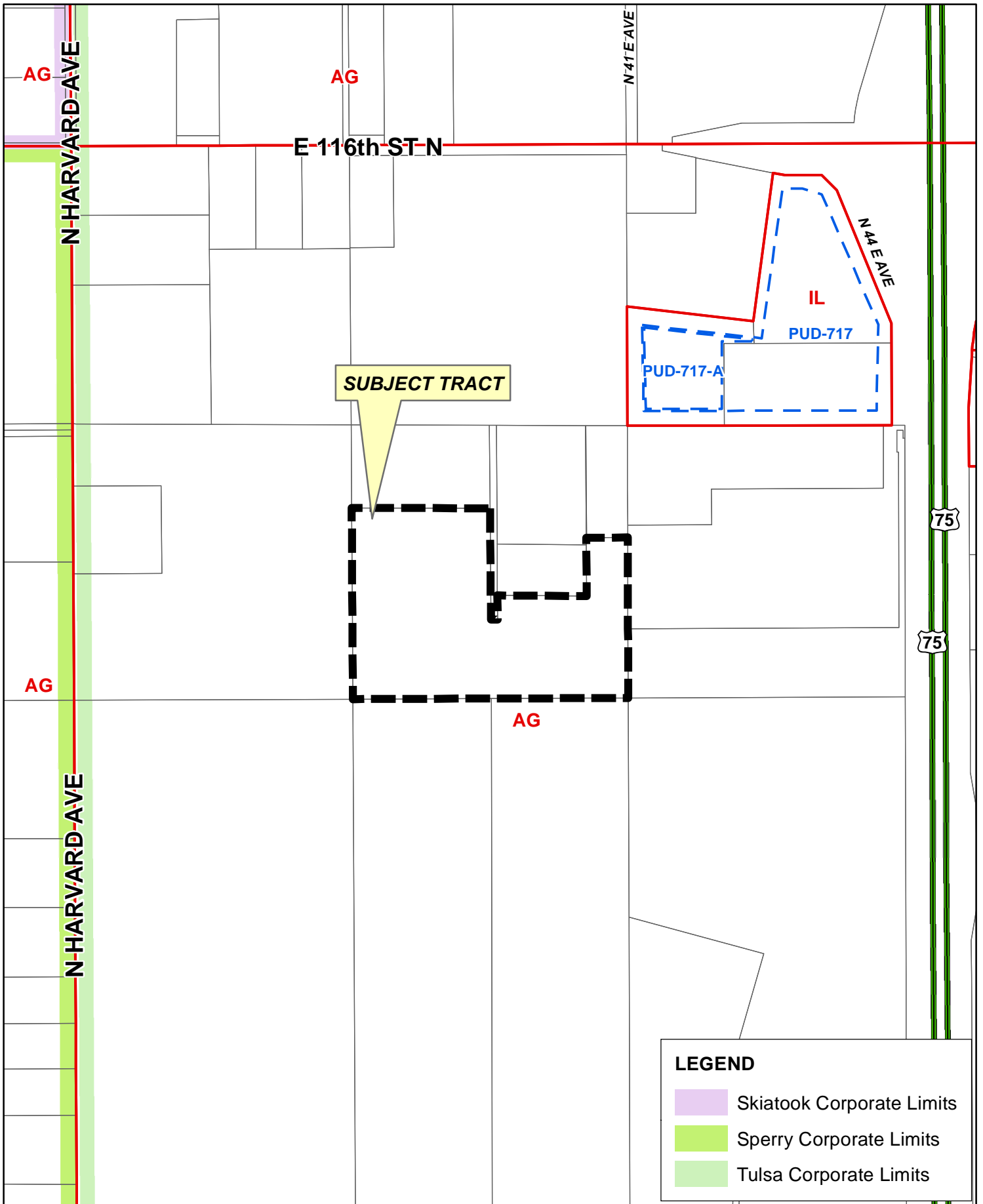
Tract Size: 22.8 acres

Location: 11201 N 41 AV E

Present Zoning: AG

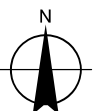
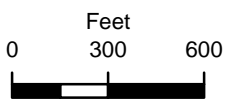
Fenceline/Area: N. Tulsa County

Land Use Designation: Rural Residential/Agricultural



CBOA-2951

21-13 09



**TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT**

TRS: 1309

CZM: 10

CASE NUMBER: **CBOA-2951**

CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 03/15/2022 1:30 PM

APPLICANT: Rigoberto Gomez

ACTION REQUESTED: Special Exception to allow for a rodeo facility (Use Unit 20) in an AG District (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D)

LOCATION: 11201 N 41 AV E

ZONED: AG

FENCELINE: North Tulsa County

PRESENT USE: Vacant

TRACT SIZE: 22.8 acres

LEGAL DESCRIPTION: W/2 SE NW LESS N396 & S768 E200 E/2 SE NW & S509 W427 E627 E/2 E/2 NW & W33 S377 E/2 SE NW SEC 9 21 13 15.197ACS,

RELEVANT PREVIOUS ACTIONS: None relevant

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by AG zoning with what appears to be agricultural uses with a smattering of residential uses.

STAFF COMMENTS:

The applicant is before the Board requesting a Special Exception to allow for a rodeo facility (Use Unit 20) in an AG District (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

The Code requires all parking areas be paved with an all-weather material to maintain a minimum level of aesthetics, and to control air-borne particulates like dust. The applicant has requested a variance to allow a gravel or dirt parking area on the site. The applicant provided the following statement related to the Variance request: *“Hard to do concrete for drains.”*

According to the site plan, traffic will enter from East 116th Street North on an existing gravel driveway. The site will include an outdoor arena, stands, kitchen, stalls, a building, and a house.

According to the applicant, the site has been used for rodeos in the past. They do not have access to a public street. The applicant is looking into whether there is a legal access easement. He is also reaching out to his neighbors to get letters of support.

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 property is compatible with the surrounding area.

Sample Motion:

“Move to _____ (approve/deny) a Special Exception to allow for a rodeo facility (Use Unit 20) in an AG District (Section 310);

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

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

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

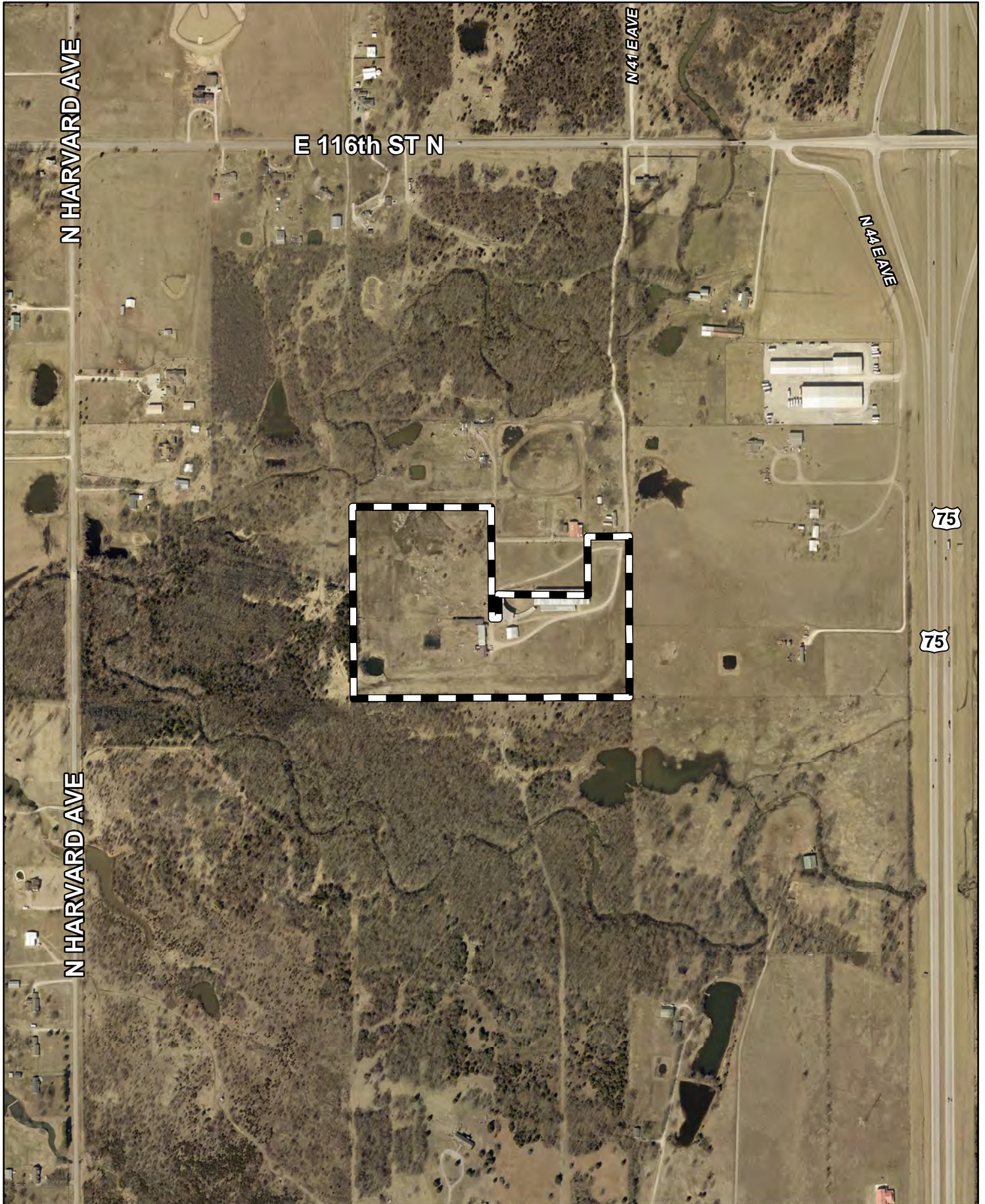
Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

“Move to _____ (approve/deny) a Variance from the all-weather parking surface requirement (Section 1340.D

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.”



N HARVARD AVE

E 116th ST N

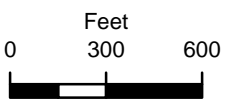
N 41 E AVE

N 44 E AVE

75

75

N HARVARD AVE



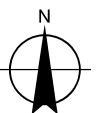
Subject Tract

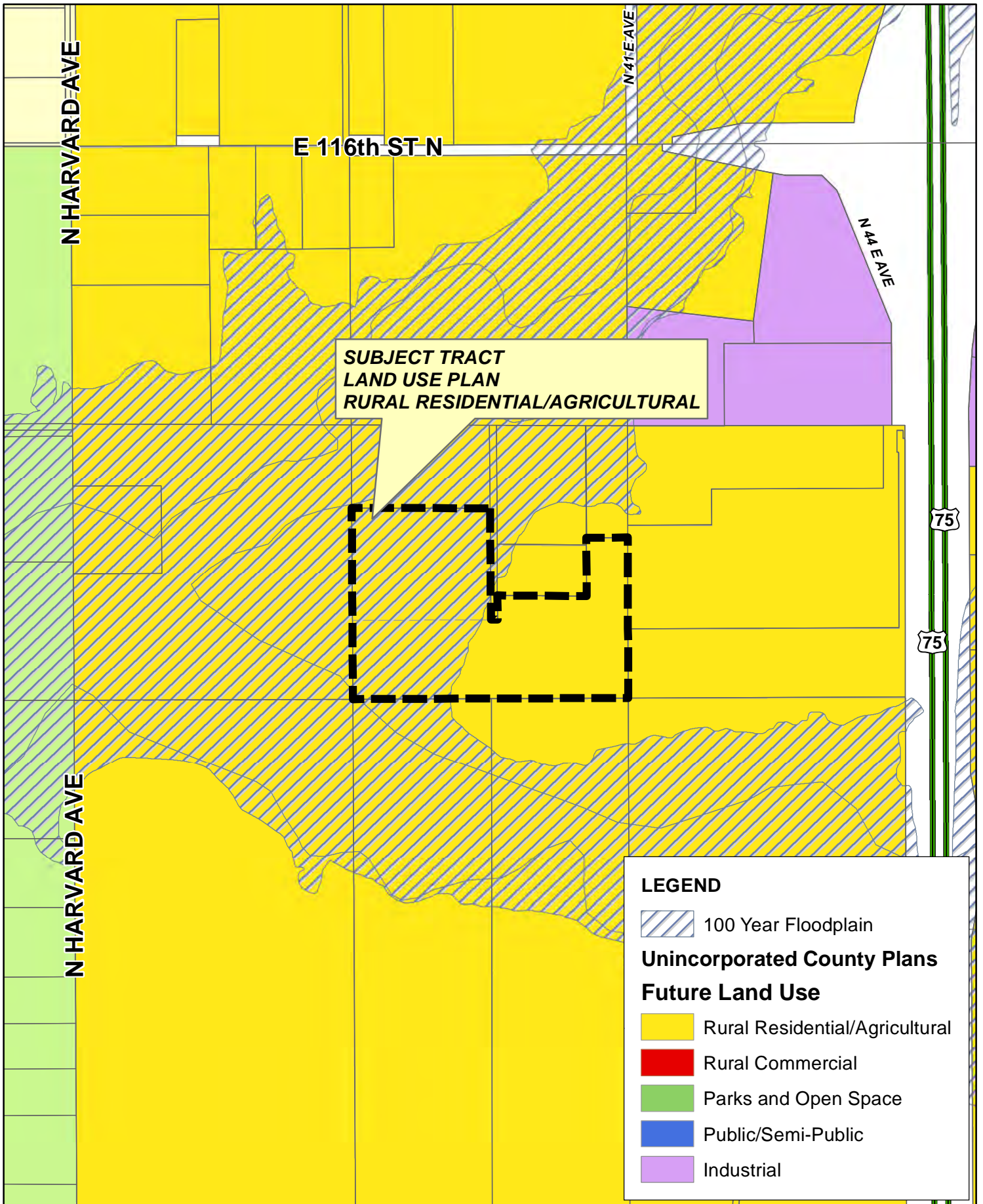
CBOA-2951

21-13 09

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







Aerial Photo Date: 2020/2021

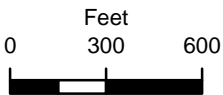




**SUBJECT TRACT
LAND USE PLAN
RURAL RESIDENTIAL/AGRICULTURAL**

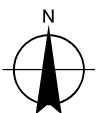
LEGEND

-  100 Year Floodplain
- Unincorporated County Plans**
- Future Land Use**
-  Rural Residential/Agricultural
-  Rural Commercial
-  Parks and Open Space
-  Public/Semi-Public
-  Industrial



CBOA-2951

21-13 09



Hwy 75

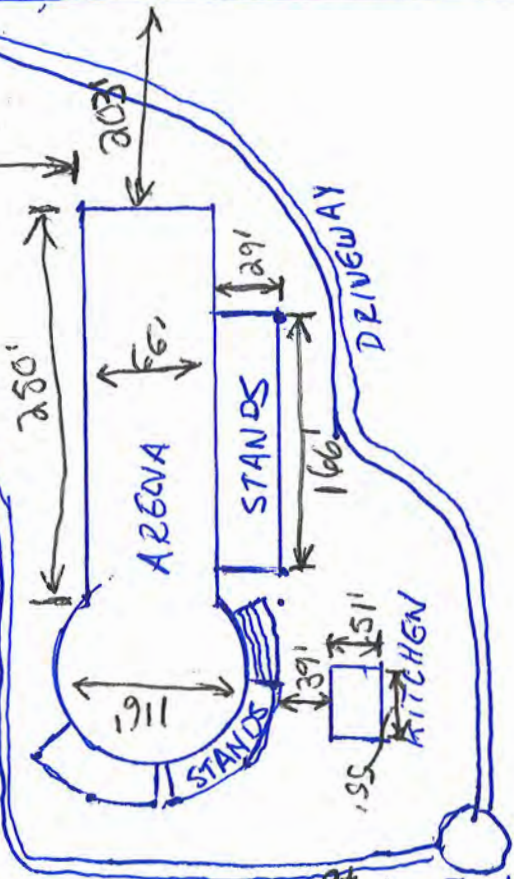


41st St

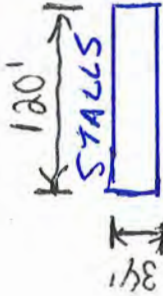
116 St N.

PARKING LOT

DRIVEWAY



PARKING LOT



PARKING LOT

30 ACRES

30 ACRES



Case Number: CBOA-2952

Hearing Date: 03/15/2022 1:30 PM

Case Report Prepared by:

Robi Jones

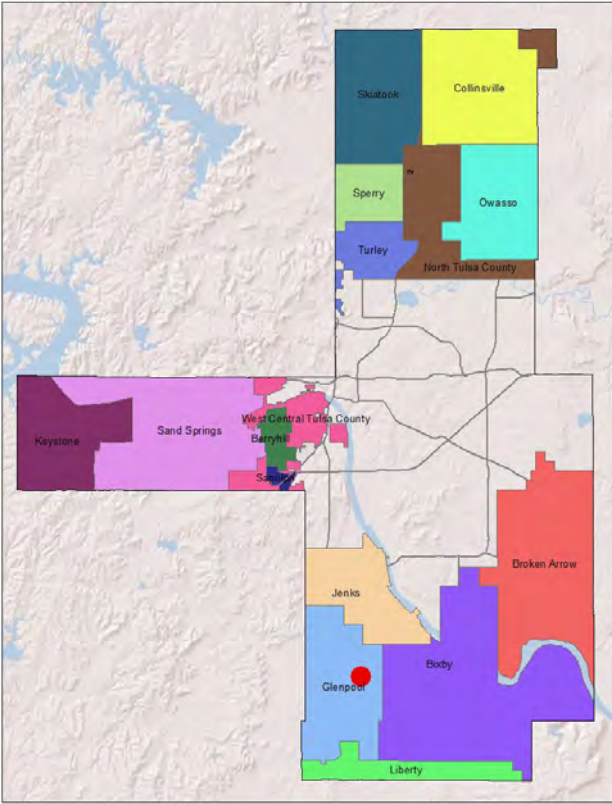
Owner and Applicant Information:

Applicant: Gaway Architects

Property Owner: HOLY APOSTLES ORTHODOX

Action Requested: Modification of a previously approved site plan to permit a new Parish Hall, Parish Temple, Caretaker Residence, and an update to parking locations in the AG district (Section 1205).

Location Map:



Tulsa County Comprehensive Land Use Plan

Additional Information:

Present Use: Church

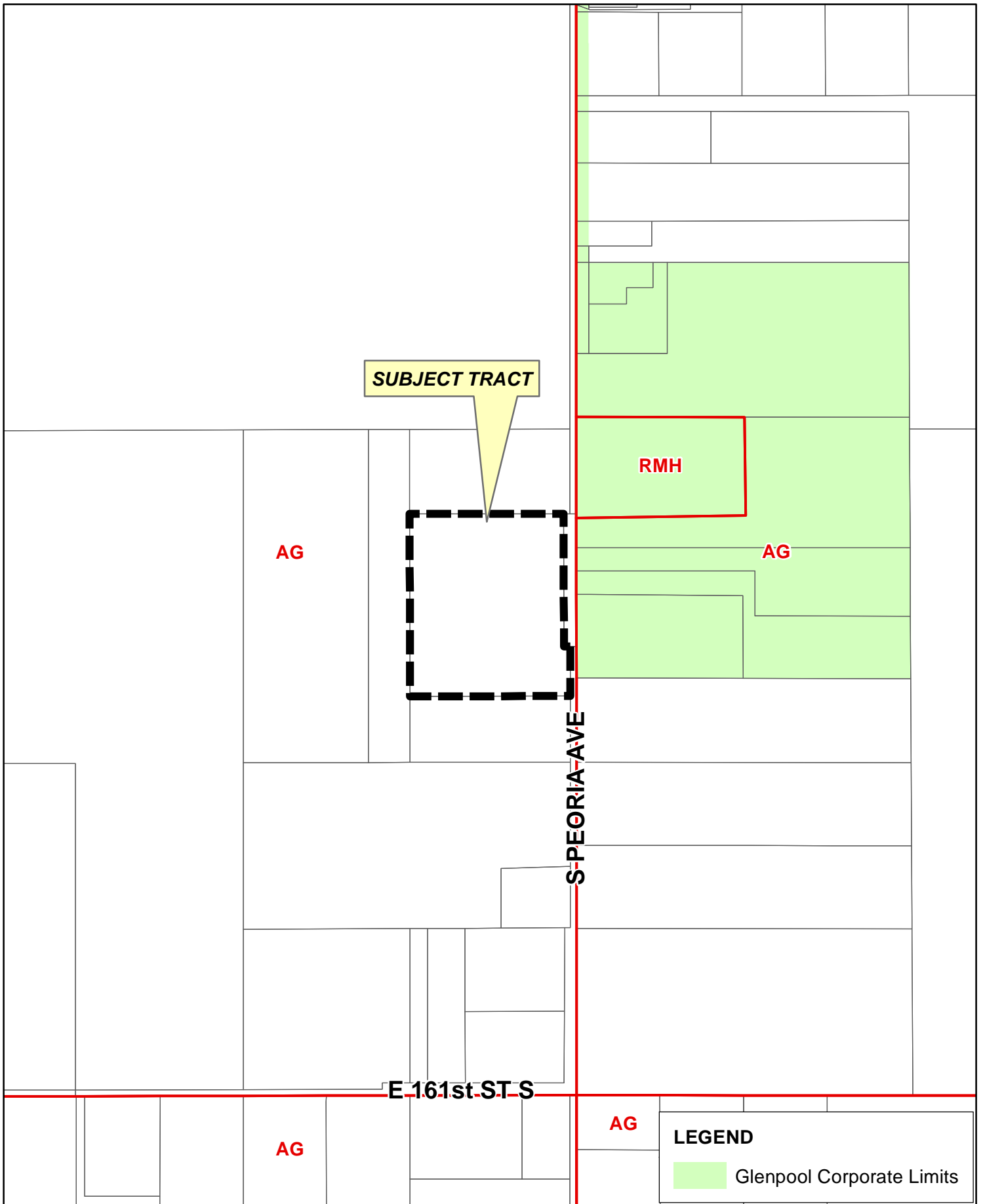
Tract Size: 10.28 acres

Location: 15710 S PEORIA AV E

Present Zoning: AG

Fenceline/Area: Glenpool

Land Use Designation: Suburban Residential



SUBJECT TRACT

AG

RMH

AG


S PEORIA AVE

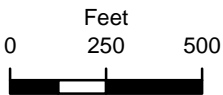
E 161st ST S

AG

AG

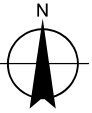
LEGEND

 Glenpool Corporate Limits



CBOA-2952

17-12 24



**TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT**

TRS: 7224

CZM: 65

CASE NUMBER: **CBOA-2952**

CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 03/15/2022 1:30 PM

APPLICANT: Gawey Architects

ACTION REQUESTED: Modification of a previously approved site plan to permit a new Parish Hall, Parish Temple, Caretaker Residence, and an update to parking locations in the AG district (Section 1205).

LOCATION: 15710 S PEORIA AV E

ZONED: AG

FENCELINE: Glenpool

PRESENT USE: Church

TRACT SIZE: 10.28 acres

LEGAL DESCRIPTION: N198 S461 E/2 NE SE LESS E24.75 FOR RD & LT 1 BLK 1, HOLY APOSTLES CHURCH

RELEVANT PREVIOUS ACTIONS:

Subject Property:

CBOA-2369 July 2010: The Board **approved** the Amendment as submitted per site plan; that special attention be given to the perimeter lighting and completed according to County staff recommendations; to a previously approved site plan to permit an expansion to an existing church use in the AG district; and a *Special Exception* to permit a (Use Unit 2) cemetery in an AG district (Section 301) on an existing church property, on property located at 15710 South Peoria Avenue East.

CBOA-2315; on 12.16.08 the Board **denied** a *Special Exception* to permit a (Use Unit 2) cemetery in an AG district (accessory to an existing church) finding the special exception will not be in harmony with the spirit and intent of the code.

CBOA-2244; on 1.16.07 the Board **approved** a *Modification* of a previously approved site plan for church use in an AG district, with the change of use from a multi-purpose building to a parsonage as presented, finding it in keeping with the previously approved special exception;

CBOA-2141-A; on 4.19.05 the Board **approved** a *Required Site Plan* for a church and accessory uses, with conditions: site plan to include precise location of parking spaces per code requirement; and **no improvements in the front yard area;**

CBOA-2141; on 11.16.04 the Board **approved** a *Special Exception* to permit church and accessory church uses in an AG district; subject to a more detailed site plan submitted to the Board when plans are finalized;

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

STAFF COMMENTS:

The applicant is before the Board requesting a Modification of a previously approved site plan to permit a new Parish Hall, Parish Temple, Caretaker Residence, and an update to parking locations in the AG district (Section 1205).

The existing church established a required site plan with the Board of Adjustment for the approved church use on April 19, 2005 (CBOA-2141-A) The required site plan was later modified in January 2007 (CBOA-2244), to change of use of a multi-purpose building to a parsonage and then modified again in July 2010 (CBOA-2369), to permit an expansion to an existing church use.

According to the new site plan:

- The proposed parish hall has a new location and the square footage is increasing to 7,000 square feet maximum (from the approved 4,400 square foot maximum).
- The proposed parish temple has a new location and the square footage is 5,000 square feet maximum.
- The property has been combined with the parcel to the south and the new site plan includes a future caretaker's residence and barn.

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

As the church was originally permitted by special exception, the Board should find that the proposed modified site plan is consistent with the spirit and intent of that original special exception approval (CBOA-2141).

Sample Motion:

“Move to _____ (approve/deny) a Modification of a previously approved site plan to permit a new Parish Hall, Parish Temple, Caretaker Residence, and an update to parking locations in the AG district (Section 1205).

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

Finding the proposed modification is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief or meets the zoning requirements, per code.

COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 362
Tuesday, July 20, 2010, 1:30 p.m.
County Commission Room
County Administration Building, Room 119
500 South Denver

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair	Walker, Vice Chair	Alberty	West, Co. Inspector
Dillard		Cuthbertson	
Osborne, Secretary		Sparger	
Tyndall			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 15th day, July, 2010 at 10:35 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **TYNDALL**, the Board voted 3-0-1 (Charney, Dillard, Tyndall "aye"; no "nays"; Osborne "abstain") to **APPROVE** the Minutes of June 15, 2010 (No. 361).

UNFINISHED BUSINESS

Mr. Osborne recused himself from the panel on this case and left the room.

Case No. 2369-Sack & Associates

Action Requested:

Amendment to a previously approved site plan to permit an expansion to an existing church use in the AG district; Special Exception to permit a (Use Unit 2) cemetery in

07/20/2010/#362 (1)

CBOA-2369

an AG district (Section 301) on an existing church property. **Location:** 15710 S. Peoria Ave. E.

Presentation:

Ted Sack, Sack & Associates, 111 South Elgin, Tulsa, OK; he represents Holy Apostles Christian Orthodox Church. Mr. Sack presented a new master development plan, an overall plan to outline the development of the church. Mr. Sack stated the church had been before the board before and received permission for the church use of this property. Approximately 18-20 months ago, the church went to the board regarding church cemetery use, which was turned down. At that time there was an indication from the board of a desire to know exactly what the church had planned. The church went to Sack & Associates and asked to have a master plan developed for them and to give some guidance as to their future development. The church wants to be good neighbors, so Sack & Associates developed the plan to take into account the property around the church. The plan shows the new parish temple along with a parish community hall and the change of an all-purpose building to a meeting room and the associated parking that is required to meet the square footage requirement. It also shows the rectory in the southeast corner next to Fr. Ambrose. Fr. Ambrose has been at the two previous meetings, but unfortunately, he is at a funeral today and is unable to attend. Mr. Bearer of Barber & Bartz is here and would like to speak. The neighbors may also wish to speak before he speaks.

Mr. Sack continued to go on with the master plan; it identifies the potential area of the detention facility when that need arises and also a cemetery area or an interment area. In meeting with the neighbors, they asked why that area was picked. In the doctrine of the church, they very much believe in praying and respecting the dead, and they insisted it be out near the chapel. That worked well for the neighbors because it was the most remote location from them. This area of interment is less than a quarter of an acre; it is 187 ft. from the north property line and over 410 ft. from the west boundary and over 205 ft. from the south boundary. From the Peoria side from the center of the street it is 100 ft. from the center of the street, which by the time a structure is built on the other side of the street with that 100 ft. to the center of the street plus the right-of-way for an arterial street with an additional 50 ft. with a 35 ft. setback, which is typical of agricultural or residential zoning on an arterial street, there is 185 ft. from someone on the east side. Sack & Associates also split it up by installing some landscaping in the front to break up the area and to help screen. The cemetery use or interment area has brought the most interest. The consultants have prepared an artist's rendering of how the church would anticipate the interment area to look. It is in front of the chapel where they can pay respect to the buried people, their parishioners. There are very plain markers with a single cross; they do not want to make something that is gaudy. In the package there is a copy of another Orthodox cemetery that is in the San Antonio area. The Holy Apostles Church would like to mark the graves with an iron type cross, as opposed to the wood cross that is shown in the photograph in the packet.

Mr. Sack expressed in many ways, the cemetery use could be looked at as an accessory use to the church. In older parts of the country most of the churches,

CBOA 2369

especially back East in the older part of the country, have cemeteries associated with them. A lot of the churches, even in the Tulsa area, are trying to provide columbaria for cremation within their facilities. Sack & Associates engineered a church approximately 10 to 15 years ago on 91st Street that had a small cemetery associated with it; actually platting the property and cemetery with it. Mr. Sack stated he could provide a copy of that if the Board would like to see it. He expressed that it was a larger area; it was more like a half acre, as opposed to the quarter acre at this facility. One of the things that is not on this proposal is this is only for the members in good standing within the church; it is not a cemetery that is church-affiliated. It is a church that has an associated cemetery with it for its members.

Comments and Questions:

The board asked how many burial plots could be planned for the proposed site. Mr. Sack stated that it could be a 3' x 10' interment, which could be questionable; he expressed they do a lot of work for Floral Haven, they have done gardens there of all sizes of burial plots. But with the 3' x 10', it would allow for approximately 300 spaces.

Interested Parties:

Robert Bearer, 525 South Main, Suite 800, Tulsa, OK; Mr. Bearer expressed he is here today because he is a member of the parish and he practices law so he has been asked to attend this meeting and supplement Mr. Sack's presentation, although he has never appeared before this board and it is not his principle area of practice. He is here more as a member of the parish, and he wants to speak to three items.

First, Mr. Bearer stated he believes this request is in harmony with the spirit and intent of the code and is not injurious to the neighborhood or detrimental to the public welfare. He expressed under that heading he speaks for Fr. Ambrose who can't be here. Mr. Bearer continued, the second point is that regarding the burden of proof, he would like the board to consider approaching their burden of proof. He thinks the burden of proving injury to the neighborhood and detriment to the public welfare should be on those opposing the site plan. And third, he provided that he would like to bring to the board's attention a federal statute that does affect the Board's decision making here and that is the Religious Land Use and Institutionalized Persons Act 42 USC 2000 cc which has been summarized in the handout. But on these three issues for Fr. Ambrose they think actually this application could have been posed as an accessory use. They regret they didn't do that. The reason is this cemetery really has no function whatsoever, it has no purpose except for (inaudible) for the church. It would be strictly reserved for members of the parish and their immediate family. Mr. Bearer provided the only charges that would be imposed would be those necessary to insure the maintenance of the property long term. The parish is associated with the Diocese of the South and the Orthodox Church of America. The Diocese of the South signs on as the guarantor for all financial applications. It ultimately is the beneficiary under a trust. The department is actually held in the name of the local congregation not the proper corporation but it is held in trust by the diocese of the national church. There is some financial support behind this venture that would assure its maintenance. Mr. Bearer also wanted to take the liberty of trying to share with the Board how important having a cemetery on the

CBOA 2369

premises is to Orthodox Christians. He continued, maybe not only to Orthodox Christians, as Mr. Sack has said, in the past many churches traditionally were associated with cemeteries in fact the church had its beginnings in the catacombs of Rome where the deceased were buried. Mr. Bearer said orthodoxy is not just a professional or philosophical association of persons who get together because they believe the same things. It is really a lot like Orthodox Judaism it is a way of life, and part of that way of life is remembering and praying for the departed at intervals on the day of their burial, the third day after, the ninth day after, the 40th day after and every year thereafter. In fact in every service of evening and morning prayer, and every divine liturgy on Sundays and Feast Days, the parish prays this prayer and they pray for all their fathers and brethren, the Orthodox who departed this life before them who here and in the entire world lie asleep in the Lord. For this prayer to have any meaning at all assumes that the departed are associated with marriage are laid to rest there and lie here in sleep with the Lord.

Now as far as the burden of proof, Mr. Bearer provided he would like to move to that and recommend at least the Board consider that the burden of actually showing injury to the neighborhood or detriment to the public welfare ought to lie on those opposing the motion because to do otherwise would impose on the applicant the responsibility to prove a negative, that it won't do any harm. He stated that is difficult to show. On the other hand, he has personally spoken with two Glenpool/Bixby developers and an experienced appraiser, and none of those three have expressed any concern about elements of the plan including the cemetery. They have said that they do not believe it would impair the development of the adjacent property if they were developing it. Mr. Bearer expressed he would like for the Board to consider those anecdotal testimonies and weigh accordingly.

Mr. Bearer provided, the Religious Land Use and Institutionalized Persons Act (RLUIPA) says that even the zoning board is prohibited from imposing any land use regulation in the manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly restitution unless the Board demonstrates that in position of the burden on that person, assembly or institution is in furtherance of a compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest. He provided in May of this year the 10th Circuit applied this act to permanently enjoin on the basis of unreasonable limitations a county's partial denial of a church's special use application for approval of its master site plan in an agricultural district in the case of the Rocky Mountain Christian Church vs. The Board of County Commissioners in Boulder County, Colorado. Under the RLUIPA the applicant's site plan or elements thereof may only be denied if the denial would be in furtherance of a compelling government interest. Mr. Bearer expressed he trusts the Board will agree no such compelling interest prevails in this case so as to deny the plan. He continued should the Board however demonstrate that denial is required, or that modification it is required to protect the compelling government interest, then they would ask the Board to impose only the least restrictive means of furthering that interest and they would be quite willing to submit to any appropriate conditions or

CBOA 2369

safe guards regarding size, location, screening, illumination, landscaping, whatever the Board may see fit to recommend or impose.

Kurston McMurray, 1515 South Utica, Suite 250, Tulsa, OK; Mr. McMurray is opposed to the application and represents Sharp Mortgage Company. Mr. McMurray, like Mr. Bearer, expressed he does not make this a general place to practice. He stated when he became involved in looking at this application he looked into what it meant to get a Special Exception, what a Use Unit 2 category is, etc. He stated that the Use Unit 2 classification is a list of uses for properties that are on this list because "they have a potential adverse influence on adjacent properties". That is precisely why when the land owner wants to use his property in this manner he has to come to the Board and seek a Special Exception. Other Use Unit 2 uses are an Adult Detention Center, Bus Stations, Jails, Landfills, and on that list is also a Cemetery. These are not typically uses that increase the market value or the pleasure of the neighbors, and that is precisely why they are on this list. So that is why an applicant is required to prove to the Board, which the board hears every single time they have one of these meetings, that the use will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood.

Mr. McMurray provided that Mr. Bearer mentioned burden of proof, he asked the Board to consider the opposition to bear the burden of proof in this matter. Mr. McMurray submitted to the Chairman of the Board that Oklahoma case law, Supreme Court case law, is pretty clear on who has the burden of proof. It is well established in a case called Volunteers of America, Inc. that the applicant bears the burden of proving the conditions that will authorize a Special Exception. He stated can submit this case to the Board if it need be. Mr. McMurray provided he wants to make sure that it is understood right away in his part of this presentation because he didn't understand that was the applicant's position until he read the additional information that Mr. Bearer submitted to this Board. An exhibit Mr. Bearer presented when they submitted the burden of proof was on us, is contrary to Oklahoma law. Mr. Bearer says it requires them to prove a negative. Mr. McMurray stated he doesn't think it requires them to prove positively that it is in harmony and that is not injurious. Here the applicant hasn't carried that burden. They mentioned in their presentation that previously in December 2008 they presented this application for Special Exception regarding the cemetery to this very Board. This Board made a very specific determination pursuant to these standards, and Mr. McMurray read from the materials that were posted as part of the history, "the Special Exception for cemetery use will not be in harmony with the spirit and intent of the Code, and would be injurious to the neighborhood or otherwise detrimental to the public". That was this Board's ruling or determination in December of 2008. Mr. McMurray suggested this Board's previous rulings should be such that interested parties, like Mr. McMurray's client Sharp Mortgage who owns about 785 acres of land in this area that surrounds and is adjacent to the church's property, and interested parties, like the other land owner's that were here previously, the Herrings and the Ranfords, ought to be able to rely upon this Board's rulings, and use their property appropriately. Ramifications of not following previous rulings are obvious and this is not an application that would justify an about-face on a previous determination.

07/20/2010/#362 (5)

CBOA 2369

Mr. McMurray provided that the cemetery and the expansion of the church is not in harmony with the intent of the Code and this Board's previous rulings and would be injurious to the neighborhood. Mr. McMurray stated since he doesn't get in this forum very often he referred to the case law. He thinks this is an unauthorized appeal of that previous December 2008 ruling. There is a case called Hargrave that would suggest that because they didn't appeal the December 2008 ruling within 10 days this is an inappropriate forum for them to reconvene. When that is heard by District Court, if it has to be, Mr. McMurray thinks that would be the salient point for them, for the opposition.

Mr. McMurray provided the application is not like the other ones, in that there is not a whole lot of information; there is not a timeline of accomplishment of all of these events, there is a little bit of information about access, parking is a concern, screening, scheduling of events is a concern. There is also, on the colored master plan a reference regarding an aerobic septic system. Mr. McMurray stated he had not heard much about it and had a lot of concern. If the church is going to expand to 200 or 300 members Mr. McMurray stated he would like to hear about the functionality of an aerobic septic system in that area, as it would affect those on the west, south and north. On the master plan there is a notation that a drainage stream would be blocked off and irrigation changed; he has not heard much from the applicant about that. Sharp Mortgage has cattle and livestock that is serviced by the drainage stream that follows through both properties. It would be unfortunate for that to be dammed up and altered without any further additional information.

Mr. McMurray stated the applicant's burden was to prove that this is in harmony with the spirit of the code. Mr. McMurray provided a brief history to the Board stating in 2004 the church was approved as a church with no site plans, as a small chapel and a church office; that seemed to be okay with the neighbors, it didn't draw much, if any at all, opposition. That seemed to fit the small quaint country chapel. There was no evidence at that time of building a mega-church-looking facility with a cemetery. In April 2005 the Board approved the site plan with the limitation that there be no improvements in the front yard area, and Mr. McMurray quoted that from a previous record of the Board's previous determination. He read the master plan that is before the Board from the applicant, the proposed cemetery and maybe some of the other buildings are in what looks like the front yard; that is east and south of the chapel. Mr. McMurray stated if he were reading the master plan correctly and hearing the applicant the church is asking the Board to overrule itself from its December 2008 determination, and also its April 2005 determination to allow some improvements placed in the front yard of the church. Mr. McMurray expressed that Mr. Bearer told the Board about 2008 where they applied for the cemetery and now, today, they have a master plan. They went from a quaint church to a master plan with bell tower, lighted parking lots, gazebos, playgrounds, a storage building, a cemetery with 300 plots, a new drainage system, an aerobic system that he thinks is spraying septic tank water; the deal keeps changing from the church and the neighbors are feeling mistreated by the way this information is being presented to them in piecemeal. The master plan is not in harmony with what they originally started with in 2004, a quaint country church.

CBOA 2369

Mr. McMurray continued a brief analogy would be, if he told his neighbors he was going to put a private swimming pool in his backyard that would be okay with the neighbors. But if he added a 30 ft. diving board and septic pool and big water slide that runs 24 hours a day, and he changed the irrigation of his property and then he bulldozed his house and put parking lots with lights that are shining in my neighbor's yard then he charged admission he would have a water park not a swimming pool. That is what the neighbors, the message he would like to convey to the board, feel like. They started with a country quaint church and now they have a water park that the neighbor's did not understand back in 2004 when this began.

Mr. McMurray continued, Chapter 3 of the code defines the AG zoned districts; in Chapter 3 is very applicable to the Board's obligations today. Section 300.1 says the purposes of the agricultural district is to encourage and protect agricultural land until an orderly transition to urban development can be accomplished. Mr. McMurray submitted to the Board in granting this application the Board would not be protecting the orderly transition to urban development as required under Section 300.1. He stated he thought this is particularly applicable to this area of the county. No doubt the Board knows the economic development which has been occurring in the Glenpool area, there has been a Wal-Mart center, banks, restaurants, etc. This is a prime, when he says "this" he is speaking about the church's property and Sharp Mortgage's property and those neighboring it; that is what he thinks the developers would consider a prime piece of development land. The last time he was here in 2008 he provided the Board a sketch of a development that was pitched to Sharp Mortgage Company by a development company, and he represented to the Board this is just one of a number of opportunities that Sharp Mortgage has had with respect to developing the property, and that these opportunities exist for them now. The reason they exist is because the zoning code had been enforced properly and is offering them an orderly transition of urban development just as Section 300.1 contemplates. Sharp Mortgage views this church's application as a threat to their future development plans.

Mr. McMurray continued, since the May 2010 meeting Sharp Mortgage Company has found out the City of Glenpool has a plan to construct a 40-acre cemetery at 161st and Elwood, which he understands is less than a mile away from the subject property. Putting this into context with today's application he thought it offered the church an alternative that is more in harmony with the intent of the code and with this Board's previous determinations. Mr. McMurray thought if they were to investigate and speak honestly about it the City would probably be amenable to selling them or making a deal with them to allow them to have a private section of that public cemetery they are planning to construct. He understands there is a similar Orthodox church in Dallas that has that arrangement with the City of Dallas for this very reason. He also believed the existence of the cemetery probably wipes out all of these threats about the religious land use persons act Mr. Bearer raised. In addition, it can't be a substantial burden to them to reject this application because the code requirements have not been met, and there is an alternative option that is more palatable for them.

CBOA 2369

In addition, the church has existed, at least in that area, since 2004 and they existed for four years at a minimum before they submitted their application for the cemetery. So, he thought it would be difficult for the church to prove to this Board and a court of law that the cemetery is a substantial burden that then triggers their remedies under that federal act. If it was a substantial burden the church would have bought property that was more easily suited for a cemetery, or they would have made sure that when they bought the property they obtained the approval before they purchased. Sharp Mortgage Company is also in preliminary discussions with the City of Glenpool and they view this application as something that is negative.

Secondly, this is injurious to the neighborhood. There has been previous testimony from the Ranfords and the Herrings that the cemetery and the additional construction of buildings, etc., is something they do not want. The cemetery, in particular, has garnered up fears of those who have property out there. Mr. McMurray asked the Board to recall, there was testimony from Mr. Ranford and Mr. Herring stating their wives would move out and would not develop their land if the Board approved the Special Exception. Those are live concrete examples and evidence of injurious to the neighborhood.

Lastly, there are some practical issues the Board should consider. Is there a risk the applicant would start this cemetery and then relocate the church? What would happen then? Does the church have the financial wherewithal to maintain the cemetery in compliance with Title 8 of the Oklahoma statutes? Mr. McMurray stated he is not an expert in Title 8 but he understands there has to be a trust in place; it has to be fully funded; it has to comply with the state requirements of how to maintain it insuring public safety and safeguards; and has to comply with certain regulations as to avoid an abandoned cemetery. There has been nothing presented to the Board today that would show the church has any experience in how to run and maintain a cemetery. And that is Sack & Associates, Inc. burden, not the neighbors. They want the Special Exception they should come forward with proof that this is not going to be injurious because they know how to maintain and run a cemetery.

Practical issue number two, there are 39 new parking places that face directly toward north. From past experience, 39 parking lot spaces would shine lights right onto the neighbors to the north and disturb them. On the map it shows 40 ft. from those parking spaces to the church's neighbor to the north, that Mr. McMurray would suspect is no longer than from here to there (referring to physical points within the County Commission room). Mr. McMurray thought thinks this is an issue the church has not addressed and there has been nothing said about that, and it's their burden. Facing to the west there's 12 more parking spaces. He mentioned the drainage system, there's a drainage stream. This is the next issue. The drainage stream runs through the southern part of the property and onto the west, onto Sharp Mortgage Company's property. He can't tell from the master plan if they are proposing to dam up that water and put a detention pond there. That would definitely negatively affect Sharp Mortgage's property. It will block water flow and fills to his ponds, and ponds are used to care for his livestock and cows. The aerobic system is that an airborne aerobic

CBOA 2369

system, where is it sprayed? They have not provided the Board anything with regard to how that would work. They can't provide the Board, or the neighbors, any comfort as to how that would work. There is a high pressure gas line easement that they believe runs along the eastern property line. These are things that Mr. McMurray doesn't think they presented to the Board. Mr. McMurray would submit to the Board that according to 1680.3 the Board must determine the Special Exception is in harmony and not injurious.

Mike McConnell, Crown Hill Cemetery, 4301 East 66th Street North, Tulsa, OK; Mr. McConnell is here on another completely different matter but heard some things he wanted to address. There were very good points made by both folks. Mr. McConnell stated he is a professional cemeterian and while some of the things Mr. McMurray questioned are real concerns such as the trust funds, what happens when the cemetery fills up and so forth. For that amount of land Mr. McConnell strongly questions whether 300 people could be buried in the area in question, he believes somewhere between 250 and 270 could be buried. The parking he would think would be in favor of the church, 8' x 17' parking space, they are going to be assembling there for the services anyway. There are rules about trusting the land to the state board but he doesn't know if the church would fall under those same rules; a trust does not need to be established if it is a non-perpetual care cemetery. If the church is a perpetual care cemetery they must trust 10% of everything they sell. But they are not selling property so there is nothing to post. There are two government bodies that govern cemeteries which in time will eventually move over to the state insurance board; but right now cemeteries are governed by the insurance board and the state banking commission, they do hold the trust and you are audited randomly. But those issues will not apply, for the most part, if you are not an operating cemetery for profit. Each burial has an aerobic system because it has concrete liner. There are companies that will come out and dig a grave and their insurance would stand in place for anything that may or may not go wrong, and they will also put a concrete liner in the ground and there are ways to do that so everybody is protected. Mr. McConnell seriously doubted if this 40 acre cemetery around the way is going to be built, but that depends on the State Cemetery Board; he is also the second Vice President of the State Cemetery Association. He would hate to see, he doesn't live in that area, something that might affect these folk later or come into play and affect myself or other cemeteries.

Rebuttal:

Robert Bearer, commented to the meeting in December 2008. He stated he wouldn't characterize it exactly the same way as Mr. McMurray did, an out-an-out denial. He thought the Chairman stated that there was not enough information in the application at the time. He also remembers Mr. Hudson stating he could not support the application as submitted, and the site plan was totally inadequate at that time. He suggested the applicant should provide more information to the neighborhood for support. He provided that was the genesis of this site plan before the Board today.

As to the question of whether they would ever be a mega-church, no way. The Orthodox Christian Churches in the Orthodox Christian Church of America are typically

CBOA 2369

a maximum size of about 250, and that is not what would be called a mega-church. Actually that's pretty small.

Mr. Bearer continued, as far as no improvements being in the front yard, which is true. One of the former approvals by this board was that there were to be no improvements to be in the front yard but it would be his position that is a decision that could be modified if this site plan were satisfactory or approved. He expressed he doesn't see that as something to be permanently binding upon the Board that made that rule. As far as scheduling services I didn't know that was an issue, but that can certainly be addressed.

As far as the piecemeal planning, they certainly apologize for that but they asked the Board to understand that when a church like this starts it starts as a mission effort, with 4 to 6 families, they rent property in a strip center and try to make it do. And in this case this congregation has an extraordinary way of beautifying property; these people love art, they love beauty and he thinks the neighbors can be assured this property will be developed in a tasteful manner. What is built there will be very good when it's finally permanent. As far as a timeline for development that's, again, a function of the youth of the parish. It has to have a certain critical mass before it can afford to implement this plan. The second item in the plan would be the house for Fr. Ambrose which has been approved by the parish council, and Mr. Bearer believes an agreement has been signed and guaranteed by the diocese. So, the house would go forward because there is funding but the rest of the plan would have to wait for maturity of the congregation.

The church never made a proposal for a cemetery and a site plan like this partly because of lack of size, lack of funds, they couldn't afford to hire a firm to design a plan, and now they are getting around to it. Even now it would take awhile for the plan to come to fruition.

As far as light shining on the neighbors, the church would be more than happy to look at screening of some kind, and that was explained in a meeting.

Mr. Charney interrupted at this point to interject on two or three points to save some time for the Board, the staff, and participants of the meeting. In regards to three items, one was the lighting, one was the drainage that Mr. McMurray addressed, and one was the aerobic system. There are third parties that govern that and address that, they are a part of the construction process. Those issues are never addressed at the Board level; and he thinks it is important for everyone to know. The Board recognizes it as being critically important in the construction process, the platting process, and the building permit process where they will have to design a stormwater detention facility and make sure it doesn't impair downstream flows. That is so the post-development issue doesn't increase flows and there isn't improper diversion of water. Those are all very real concerns, He just wants to make sure everyone here recognizes those aren't the Board's concerns when there are third parties that address those at different stages of development. He asked Mr. Alberty if that is a fair description of the Stormwater Management concept.

07/20/2010/#362 (10)

CBOA 2369

Mr. Alberty stated, "Yes, the county engineer would review all drainage plans, detention plans, and any requirements that remain. Obviously the Board is concerned about those issues but it's not an issue that you technically address in this stage."

Mr. Charney stated, "In determining the actual land usage and I think with regard to the aerobic system's capacity I know there is strong engineering and DEQ input, an approval process where those functions, decisions, analytical processes are handled by other parties other than us and they aren't put into our maintenance and decision making. I just wanted everyone to know that, and we recognize the importance of them but not here."

Mr. Charney continued, "Lighting, as well. I have heard there are ordinances and factors that we look to as to how certain lighting can occur, and these are part of our approval if it were to be. I know many times we have said that there must be certain lighting that is shielded so that they are not visible from a certain distance. So, those are all things we care about but the engineering components are often addressed at later stages, if this were to be approved."

Mr. Bearer thanked Mr. Charney. Mr. Bearer then stated his final two points would be as far as Mr. McMurray raised the issue of relocation of the church. He doesn't think that is something that should be of concern. This church is, the way these parishes plant, once they are planted the land is consecrated and dedicated in the names dedicated to church use forever. If the church were to grow larger than that 250 size, what would happen would be a different parish would be started somewhere else. Some people would leave, not bring a detriment to this parish but they would leave, the parish would remain and a new mission would be set up in a geographic area that is proximate, more proximate, to the new members. But this parish would remain there in perpetuity.

Finally, as far Title 8 goes Mr. Bearer does not believe the Title 8 applies to church cemeteries but if it does they will comply with it. The church may decide that it is a good thing to comply with anyway, but he doesn't think it actually applies to church cemeteries he thinks they are exempt.

Mr. Charney asked, "Do you have anything new to rebut, Mr. Sack, with regard to technical issues, we will give you a moment please then we are going to close this portion."

Ted Sack came forward. He stated they need to keep in mind the fact about development around the cemetery. The cemetery use here is very incidental, and it is very small. It has 3% of the property.

There is quite a large development, a very high-end development that was put in just recently called Tanglewood, down on Harvard, just south of 91st Street. He never heard of problems, of that development having trouble due to being next to the cemetery. As

CBOA 2569

small as this is he doesn't think the neighborhood will really ever know that it is there. And, he just doesn't think it is harmful to anyone. The master plan is something for them to grow into. Sack & Associates pushed the church to give them their dreams and their ideas as to where they wanted to end up. Mr. Sack thinks this is going to be something achieved over the next 10 to 20 years; it is going to take some time for them to get this. But the plan tries to address all the different issues, like detention. It doesn't attempt to design it but set aside for it, like the aerobic system, it is not designed but it is set aside for it.

Mr. Charney stated, "At this point we will conclude and close the public comment portion of this particular case. We'll deliberate openly amongst ourselves (the Board members) and to reach a conclusion or see if a motion is capable of being formed. Again, the applicant is seeking two things, an Amendment to a previously-approved site plan and a Special Exception to permit cemetery use. With that, is there anybody who would like to make any introductory comments or thoughts?"

Board Deliberation:

Mr. Charney stated he recalled this case coming before them previously; "I remember that we needed more information. So I wouldn't feel as though we were overruling ourselves or ignoring a previous decision as much as I remember not having enough information and thinking we needed something more; and I know that's what I recall thinking at the time. This is exactly what I wish we had more of, quite frankly. This is a very thorough site plan; whether we agree or not is a different matter but this helps immensely in making decisions and I think that this is exactly what we needed to make a thorough decision so I don't necessarily consider it as piecemeal as just it evolved to the point that there finally was an appropriate master plan to us to review. That is how I recall our previous thoughts."

Mr. Tyndall stated, "I don't think this is going to stop growth to that area. I don't see that it is a growth stopper, and it has not stopped it in other areas. I don't see why this small one would stop it down there." Mr. Charney interjected, "I agree." Mr. Tyndall continued, "They have done a good job with what they have done, with their construction and their appearance down there so far. I can support this application."

Mr. Dillard stated, "We just traveled to Boston down to Philadelphia and it seems like in other parts of the nation cemeteries are pretty much part of the church, and it didn't stop growth in Boston. I didn't see any stopped growth in Philadelphia, and I didn't see any deterioration in values of property that was nearby. When I read the Code, the Code defines "accessory use" as one that is customary, incidental and subordinate to the principal use. The principal use of their building is that of conversion to salvation, or whatever, church usage they do. I can support it too."

Mr. Charney said, "My feelings are similar." He didn't view a church use, even in an agricultural setting, as an intense use. He stated when he thinks of intense uses, the Wal-Marts, the restaurants, he thinks of that as significant intense use. He thinks of churches, and he has seen and been involved in many developments near, around, and

CBOA 2369

adjacent to churches, and he thinks the neighbors view them as a low intensive use; maybe a couple times a week there's people there. There are things that he thinks should be addressed with regard to them; one of them is lighting, and he was glad it came up. He thinks if it were approved he might be concerned and make certain that lighting on the perimeter is the down lighting, making certain that lighting is as unobtrusive as possible. He continued that he doesn't view the church as an intense use and he doesn't see it as a threat to future development. Mr. Charney stated he has found sometime more intense uses are pleased to see areas begin to fill in with uses such as this. It's not one that is bothersome, and it is one that he has seen residential development thrive adjacent to. He said he views this as a lot of information. This site plan demonstrates, on a perimeter showing the cemetery plots on the perimeter where there would be a later plat right up next to it, it is virtually impossible for there to be a home site immediately adjacent to the cemetery the way it is insulated by the parking lot, the structure, and an arterial street on one side. He stated whenever he looks at it he feels there is sufficient information and he feels like the applicant has met the burden whether it be the applicant's burden or the opponent's burden to establish that there has been no showing of adverse impact upon the surrounding neighbors. Mr. Charney stated he would like that the finding be made in the record that the Board considered it and that the Board might have, Mr. Charney would like to make a motion that the Board approves the amendment as submitted per site plan; that special attention be given to the perimeter lighting to be completed upon consultation with County staff. The motion is to be binding; the applicant has demonstrated there would be no adverse impact. The Special Exception is 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 **CHARNEY**, board voted 3-0-0 (Charney, Dillard, Tyndall "aye"; no "nays"; no "abstentions") to **APPROVE** the Amendment as submitted per site plan; that special attention be given to the perimeter lighting and completed according to County staff recommendations; to a previously approved site plan to permit an expansion to an existing church use in the AG district; Special Exception to permit a (Use Unit 2) cemetery in an AG district (Section 301) on an existing church property; 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 described property:

LT 1 BLK 1, HOLY APOSTLES CHURCH

Mr. Osborne came back to the panel to participate in the discussion of the remaining cases.

NEW APPLICATIONS

Case No. 2378-Fred Owens

communications tower in the AG district (Section 310) based on items found in Section 1204.3, Sub. 1, A through L.; finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

LT 4 BLK 1, BLUE STEM ACRES II

FILE COPY

Case No. 2369-Sack & Associates/Ted Sack

Action Requested: Amendment to a previously approved site plan to permit an expansion to an existing church use in the AG district; Special Exception to permit a (Use Unit 2) cemetery in an AG district (Section 301) on an existing church property. **Location:** 15710 S PEORIA AV E

Presentation: No presentation made.

Comments and Questions:

Mr. Charney stated this case will need to be continued because Mr. Osborne has a close personal friendship with counsel for the applicant. Even though counsel is here pro bono, Mr. Osborne is going to recuse himself from voting on this case. There are only three board members present for this meeting and there must be three board members to act on a decision vote in any case before the board. Even with the continuance granted from the last meeting stipulating there will be no more continuances, the board is compelled to continue this case to the July 20, 2010. The board will make every effort to have all board members present at the next meeting.

Interested Parties:

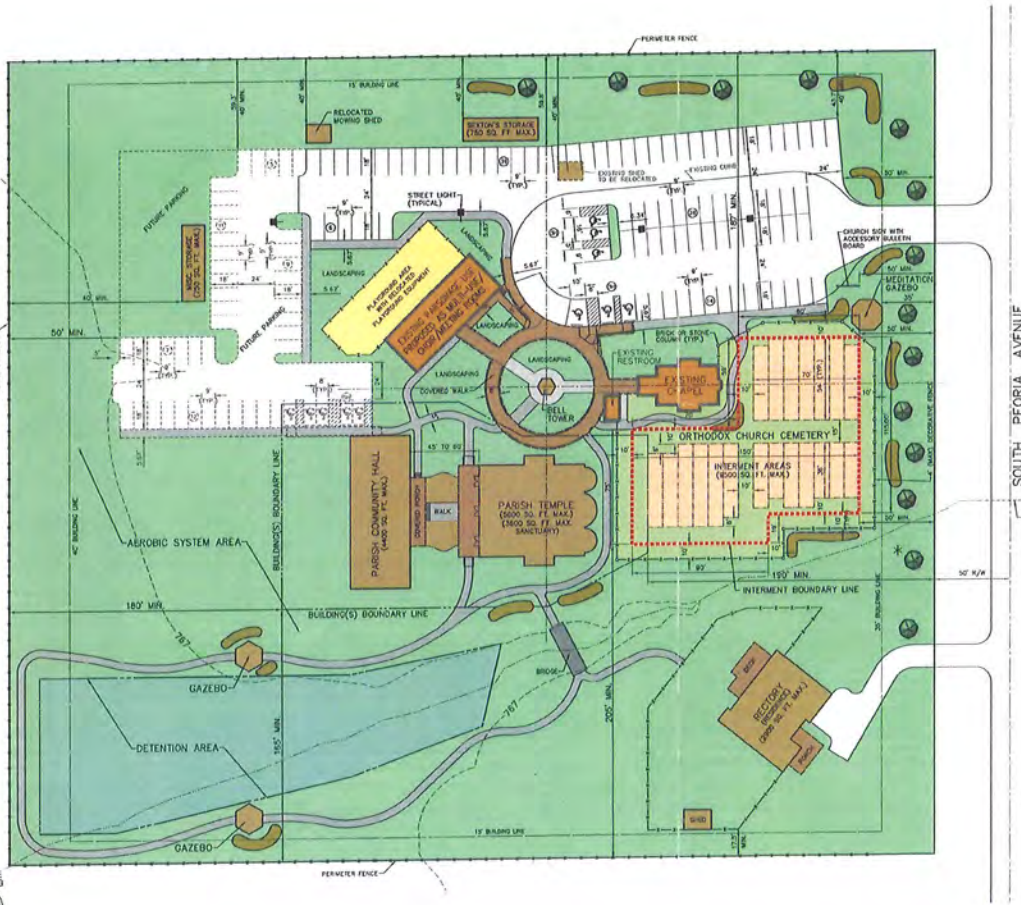
Ben Herring, 15612 South Peoria Avenue, Bixby, OK; stated he feels the board is making a wrong decision in continuing this case to July because the May minutes have been approved as written with no correction, and this case is reflected in the May minutes stating this case will be heard at the June hearing with no further continuances.

Board Action:

On **MOTION** of Charney, the Board voted 3-0-0 (Charney, Osborne, Tyndall "aye"; no "nays"; no "abstentions") to **CONTINUE** the Amendment to a previously approved site plan to permit an expansion to an existing church use in the AG district; and the Special Exception to permit a (Use Unit 2) cemetery in an AG district (Section 301) on an existing church property until the next Board meeting on July 20, 2010 due to the eligibility of only two board members being able to vote; on the following described property:

**BEG 2885W & 370N SECR SE TH W150 N335 E150 S335 POB LESS S176.5 SEC 33
19 12**

06/15/2010/#361 (3)



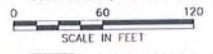
Parking Requirements

Use	Ratio (SEC. 106.6)	Required Parking	Proposed Parking
Park of Worship 3000 S.F. Seachday	1 to 40 S.F.	80 Spaces	89 Spaces

Legend
LANDSCAPE PLANTING (TYP.)

*NOTE: PRIOR TO ANY USE OF THE CEMETERY, TEN (10) TREES WILL BE INSTALLED WITHIN THE NON-RESIDENTIAL STREET YARD ALONG SOUTH PEORIA AVENUE.

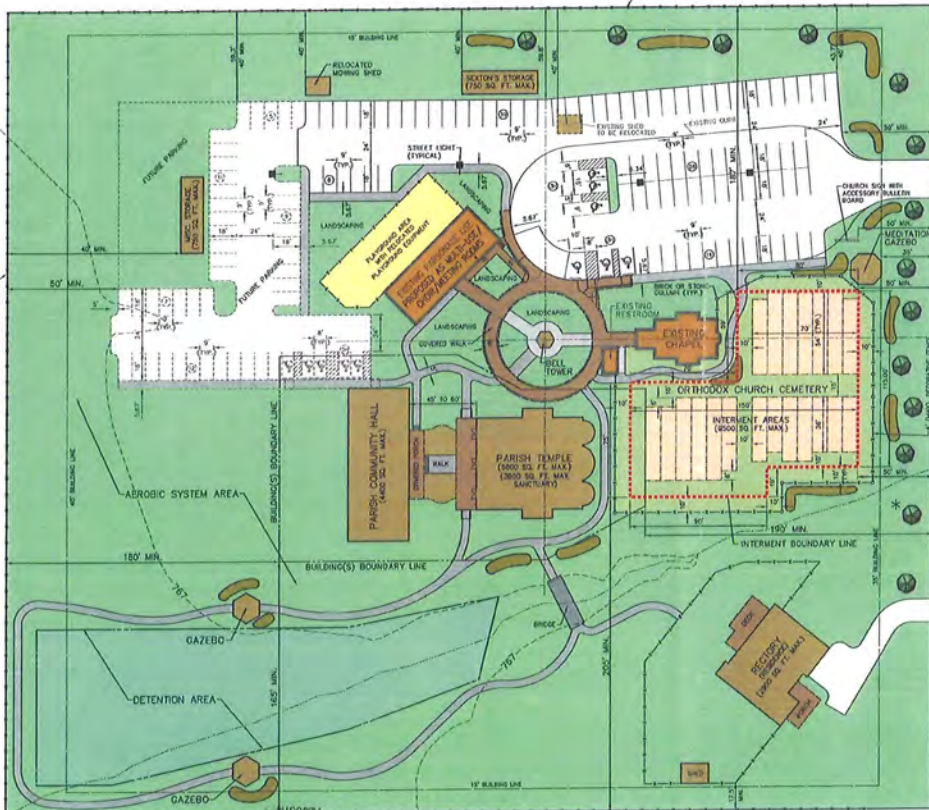
EXHIBIT
FOR
COUNTY BOARD OF ADJUSTMENT
MASTER DEVELOPMENT PLAN
FOR
LOT 1 IN BLOCK 1
OF
'HOLY APOSTLES CHURCH'
SECTION 24, T-17-N, R-12-E
TULSA COUNTY, OKLAHOMA



3.8

SACK AND ASSOCIATES, INC.
1000 WEST 15TH STREET, SUITE 100, TULSA, OKLAHOMA 74103
TEL: 918.438.1111 FAX: 918.438.1112
WWW.SACKANDASSOCIATES.COM





Parking Requirements

Use	Ratio (SEC. 1055.4)	Required Parking	Proposed Parking
Place of Worship 3000 SF Sanctuary	1 to 40 SF	90 Spaces	93 Spaces

Legend
 LANDSCAPE PLANTING (E.P.)

* NOTE: PRIOR TO ANY USE OF THE CEMETERY, TEN (10) TREES WILL BE INSTALLED WITHIN THE NON-RESIDENTIAL STREET YARD ALONG SOUTH PEORIA AVENUE.

EXHIBIT
 FOR
 COUNTY BOARD OF ADJUSTMENT
 MASTER DEVELOPMENT PLAN
 FOR
 LOT 1 IN BLOCK 1
 OF
 'HOLY APOSTLES CHURCH'
 SECTION 24, T-17-N, R-12-E
 TULSA COUNTY, OKLAHOMA

0 60 120
 SCALE IN FEET



TULSA COUNTY BOARD OF ADJUSTMENT
 CASE NO. 2010-17
 OFFICIAL RECORD EXHIBIT
 ENTERED IN THE
 RECORDS OF THE TULSA COUNTY BOARD OF ADJUSTMENT

Presentation:

Dennis Seawright, 16201 North Utica Avenue, Skiatook, Oklahoma, proposed to split the 300 ft. lot. The frontage would be 150 ft. average per lot but they would need a panhandle for access. There is a dry-weather creek at the rear, a pond, and existing structures that would interfere with the code requirements. The strick-built house was built before 1980. They want to replace the single-wide mobile home with a double-wide.

Comments and Questions:

Mr. Charney recognized the hardships.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On Motion of Charney, the Board voted 3-0-0 (Tyndall, Charney, Hutson "aye"; no "nays"; "abstained"; Walker, Dillard "absent") to **APPROVE** a Variance of the minimum average lot width required in the AG district from 150 ft. (Section 330) to permit a lot split, as presented, finding the hardship to be the existing structure, topography, creek to the west and the easement to the east, on the following described property:

N/2 S/2 SW NE LESS N30 THEREOF & LESS W40 THEREOFFOR RD SEC 18
22 13, Tulsa County, State of Oklahoma

Case No. 2315

Action Requested:

FILE COPY

Special Exception to permit a (Use Unit 2) cemetery in an AG district (accessory to an existing church) (Section 310), located: 15710 South Peoria Avenue.

Mr. Cuthbertson mentioned that the cemetery could not be considered as an accessory use, but rather as a second principal use.

Presentation:

George Michalopoulos, 2670 South Utica Avenue, proposed to put in a cemetery in the church yard. He explained this would not be a 'for profit' cemetery, but for parishioners and indigents as needed.

Comments and Questions:

Mr. Charney noted that the Board approved an application for the church to be constructed originally. Mr. Michalopoulos responded they are located in the middle of eight acres. The cemetery would be to the east and south of the church building, surrounded by a wrought iron fence.

12:16:08:343 (3)

2.20

Interested Parties:

Kursten Murray, 1515 South Utica, Tulsa, Oklahoma, represented Sharp Mortgage Company. His client owns about 700 acres on the west of the subject property. He indicated that this use has potential adverse affect on abutting property. He added the application did not provide a lot of detail. He requested the Board protect the surrounding properties in considering if this use is in harmony with the spirit and intent of the code and to protect the AG district until an orderly transition to urban development can be accomplished. He submitted an article, and map (Exhibits A-2, and A-3). He pointed out that developers are expected to begin projects in the area. Mr. Murray mentioned that South Peoria might be widened in the future. He expressed concerned should the church relocate and if the cemetery were enlarged.

Comments and Questions:

Mr. Charney commented that a cemetery is a less intensive use and asked how it is injurious.

Ben Herring, 15612 South Peoria, stated he owns the property to the north of the subject property. He stated he built a 1900 sq. ft. permanent residence. He gave a little history of property ownership. He was expecting the area to remain residential and then the church was built, and a mobile home was moved in. He complained that trash blows onto his pasture from the subject property. He informed the Board that his wife has a fear of living next to a cemetery. He questioned why the church did not put this in their original application if this is their common practice. He mentioned the three pipelines on along Peoria, two of which are in use.

Robert Ranford, 13150 Oak Street, Glenpool, Oklahoma, stated he recently purchased three acres south of the subject property. He looked for property a long time before he purchased this. He stated that his wife refused to build a home next to a cemetery. They don't object to construction of homes in the area.

Applicant's Rebuttal:

Mr. Michalopoulos responded that the mobile home is temporary until they build a stick-built parsonage. He stated the cemetery would be tastefully prepared. He indicated that other areas do not have decreased property values near a cemetery.

Comments and Questions:

FILE COPY

Mr. Tyndall noted it was not a part of the original application for the church. Mr. Charney stated there was not enough information in the application. He added that it is a big project and requires a lot of planning and perpetual care. Mr. Hutson stated he could not support the application as submitted and the site plan is totally inadequate. He suggested the applicant should provide more information to the neighborhood for support.

12:16:08:343 (4)

2.21

FILE COPY

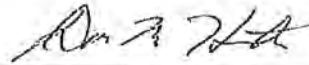
Board Action:

On **Motion** of Tyndall, the Board voted 3-0-0 (Tyndall, Charney, Hutson "aye"; no "nays"; "abstained"; Walker, Dillard "absent") to **DENY** a Special Exception to permit a (Use Unit 2) cemetery in an AG district (accessory to an existing church) (Section 310), finding the special exception will not be in harmony with the spirit and intent of the code and would be injurious to the neighborhood, or otherwise detrimental to the public welfare, and insufficient site plan information, on the following described property:

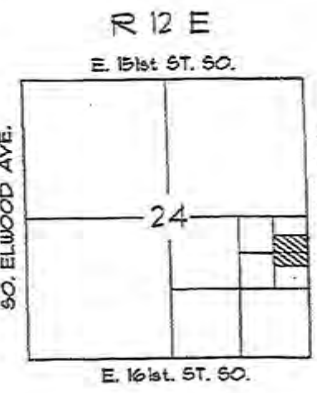
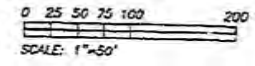
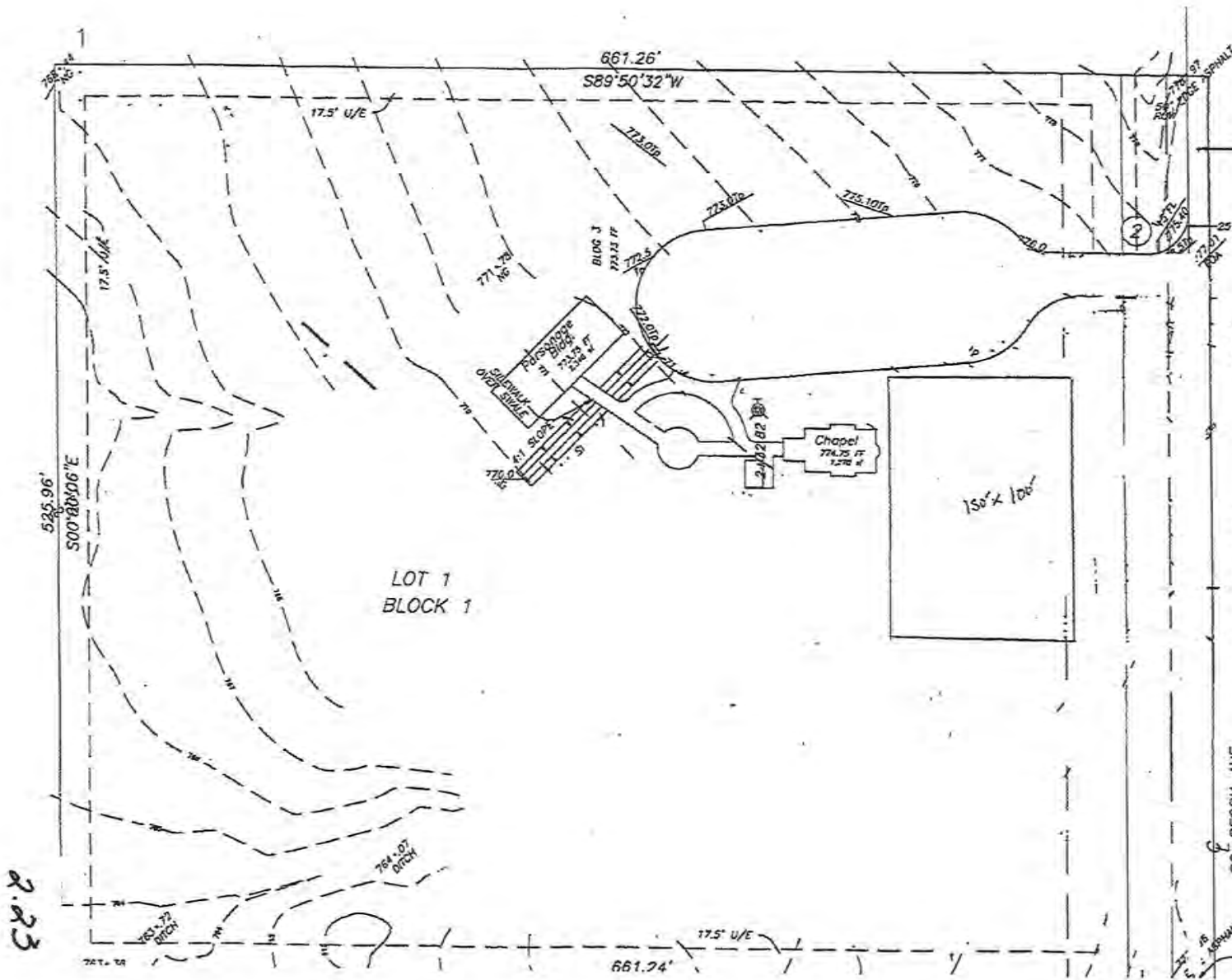
LT 1 BLK 1, HOLY APOSTLES CHURCH, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 2:41 p.m.

Date approved: 1-20-09



Chair



LOCATION MAP

CBOA 2315

SUBDIVISION CONTAINS
1 LOT
1.98 ACRES
July 12, 2003
C. HOLYARCIDIUS

EXISTING 24.75'
STATUTORY RIGHT OF WAY

2.23

S50 E/2 E/2 NW NE SW & E/2 E/2 SW NE SW&E/2 E/2 NW SE SW & E/2 NE SW SE SW & W/2 NE SW SE SW LESS N280 THEREOF & SE SW SE SW LESS S50 FOR RD SEC 3 16 13 8.751ACS Tulsa County, State of Oklahoma

Case No. 2244

Action Requested:

Modify an approved site plan for church use in an AG district, located: 15710 South Peoria Avenue.

Presentation:

Mike McClendon, 4901 South Lyons, Broken Arrow, Oklahoma, proposed to modify a previously approved site plan from 2005. They planned to build a parsonage instead of a multi-purpose building. A site plan was provided (Exhibit B-1).

Comments and Questions:

Mr. Charney asked if the parsonage would be a single-family dwelling, to which Mr. McClendon replied that it would be. Mr. Cuthbertson clarified that the Board needs to determine that the modified plan is in keeping with the previously approved special exception. He informed them the parsonage would be accessory to the church.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On Motion of Dillard, the Board voted 3-0-0 (Walker, Tyndall, Dillard, Hutson, Charney "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the modification of an approved site plan for church use in an AG district, with the change of use from a multi-purpose building to a parsonage as presented, finding it in keeping with the previously approved special exception, on the following described property:

Lot 1, Block 1, Holy Apostles Church Addn, Tulsa County, State of Oklahoma

Case No. 2245

Action Requested:

Variance of the minimum permitted land area per dwelling in an AG district from 2.1 acres to 2 acres to permit a lot split (Section 330), located: North of the northwest/corner of East 191st and South Yale Avenue.

01:16:07:320 (4)

2.24

Mr. Charney arrived at 1:35 p.m.

Interested Parties:

The interested parties were informed of the date and change of the meeting place to the Aaronson Auditorium in the Tulsa Central Library for the next County Board of Adjustment.

Board Action:

On Motion of Dillard, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **CONTINUE** Case No. 2151 to the meeting on May 17, 2005 for proper advertising, on the following described property:

S/2 SW NW & S/2 S/2 N/2 SW NW LESS TR BEG SW/c NW TH N500 E900
S500 W900 TO POB S9 16 13 15.675 ACS M/L Tulsa County, State of
Oklahoma

Case No. 2141

Action Requested:

Review and approval of a required site plan, located: West side of South Peoria Avenue, at approximately 157th Street South.

Presentation:

John Sames, 2418 East 25th Place, represented the Holy Apostles Church. He submitted a site plan (Exhibit A-1). They proposed to build in phases. This phase they proposed to build a multi-purpose building 60' X 40' and the church 80' x 50'. They intended to build parking spaces for 75 to 100 cars. The plans are to keep it as rural and pristine as possible with a lot of landscaping.

Comments and Questions:

Mr. Walker reminded Mr. Sames that the parking requirement is one parking space per 40 sq. ft. of sanctuary area. He asked if they planned to comply with that requirement. Mr. Sames replied they plan to comply. Mr. Walker reminded him there is a restriction of no parking in the required front yard. Mr. West pointed out that striping for parking spaces would have to be shown on the plans for a building permit.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On Motion of Charney, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a required site plan for a church and accessory uses, with conditions: site plan to include precise

04:19:05:299 (2)

2.26

location of parking spaces per code requirement; and no improvements in the front yard area, on the following described property:

PRT NE SE BEG 336S & 24.75W NEC NE SE TH W661.26 S 525.96 E661.24 N525.96 TO POB LESS E24.75 FOR RD S EC 24 17 12 7.685ACS, Tulsa County, State of Oklahoma

Case No. 2152

Action Requested:

A variance of the required street frontage on a public street or dedicated right-of-way from 30 ft to 0 ft in order to obtain a building permit to remodel an existing dwelling. (Section 207), located: 7618 East 164th Street North.

Presentation:

Robert J. Majka, Jr., represented his parents, Mr. and Mrs. Robert J. Majka, Sr., 7618 East 164th Street North, Collinsville, Oklahoma. They want to build an addition to the house and need access to a public road. There is a gravel road that is not maintained by the county.

Comments and Questions:

Mr. Walker noted this is a pre-existing condition.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On Motion of Charney, the Board voted 4-0-0 (Walker, Tyndall, Dillard, Charney "aye"; no "nays"; no "abstentions"; Hutson "absent") to **APPROVE** a Variance of the required street frontage on a public street or dedicated right-of-way from 30 ft to 0 ft in order to obtain a building permit to remodel an existing dwelling. (Section 207), finding there is no other access to the subject property, on the following described property:

PRT SW NE BEG SWC NE TH E1319.84 N1321.04 W659.87S330.23 W659.89 S990.55 POB SEC 14 22 13 35.023ACS, Tulsa County, State of Oklahoma

Case No. 2153

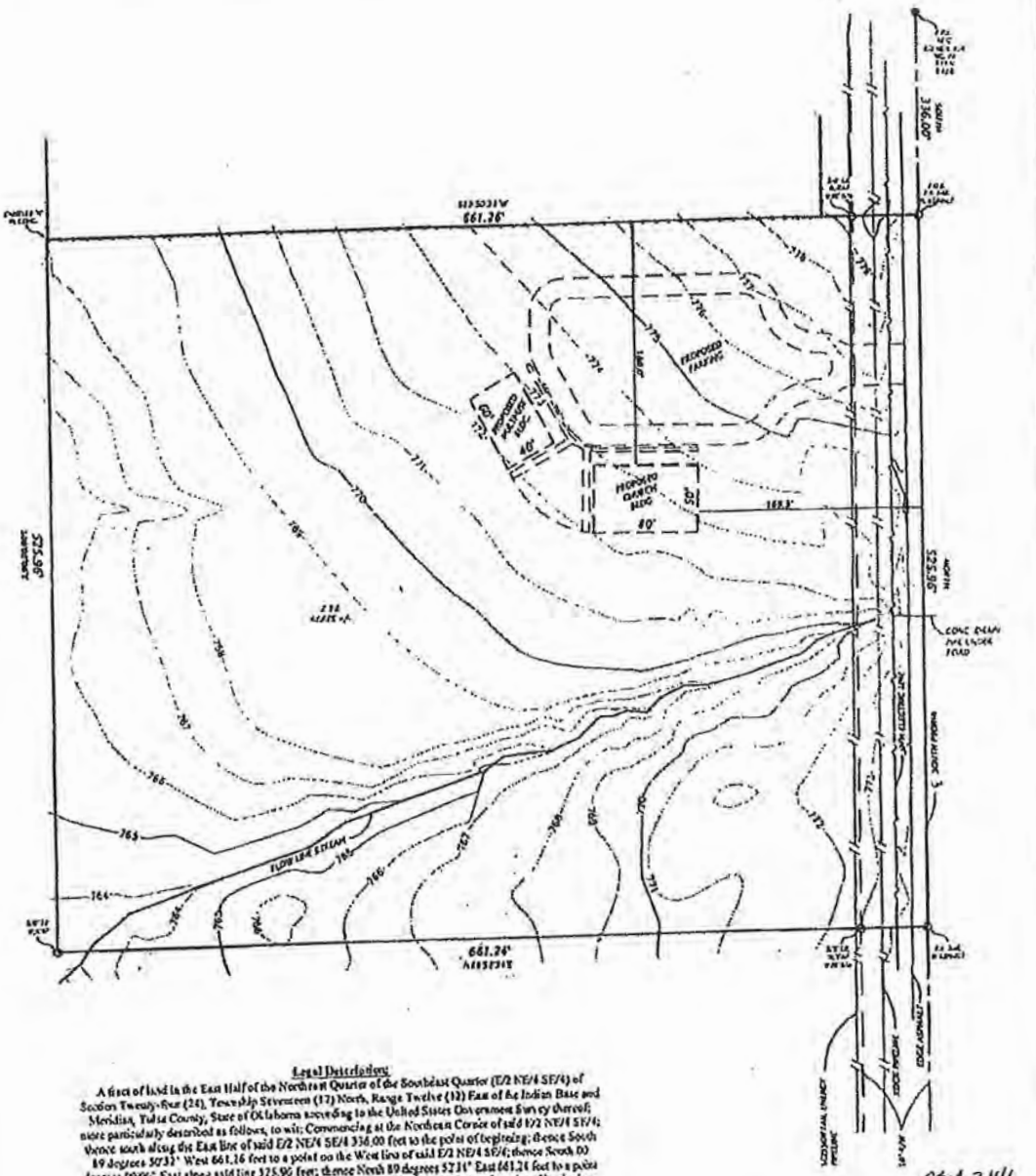
Action Requested:

Variance of street frontage requirement from 30' to 0' to permit a lot split. (Section 207), located: 18968 E. 64 Hwy.

04:19:05:299 (3)

2.27

SCALE: 1"=50'
NORTH



Legal Description

A tract of land in the East Half of the North East Quarter of the Southeast Quarter (E/2 NE/4 SE/4) of Section Twenty-four (24), Township Seventeen (17) North, Range Twelve (12) East of An Indian Base and Meridian, Tulsa County, State of Oklahoma according to the United States Government Survey thereof; more particularly described as follows, to wit: Commencing at the Northern Corner of said E/2 NE/4 SE/4; thence south along the East line of said E/2 NE/4 SE/4 336.00 feet to the point of beginning; thence South 89 degrees 50'33" West 661.16 feet to a point on the West line of said E/2 NE/4 SE/4; thence South 89 degrees 00'00" East along said line 325.96 feet; thence North 89 degrees 52'11" East 661.26 feet to a point on the East line of said E/2 NE/4 SE/4; thence North along said line 325.96 feet to the point of beginning.

TULSA COUNTY BOARD OF ADJUSTMENT
CASE NO. 2141
OFFICIAL RECORD: EXHIBIT A-1
ENTERED IN THE 4-19-05
MINUTES OF THE TULSA COUNTY BOARD OF ADJUSTMENT.

THIS PLAN IS MADE FOR AND AT THE REQUEST OF:
John Senter, Holy Apostles Orthodox Church
 THIS PLAN OF SURVEY BEING THE REGULAR BUSINESS TRANSACTIONS FOR THE PRACTICE OF LAND SURVEYING AS APPROVED BY THE OKLAHOMA STATE BOARD OF REGULATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

CERTIFICATE
 I, K.S. COLLINS, REGISTERED LAND SURVEYOR, HEREBY CERTIFY AND FOR THE STATE OF OKLAHOMA, HEREBY CERTIFY THAT THE ABOVE PLAN AND LEGAL DESCRIPTION THEREOF IS A CORRECT AND ACCURATE REPRESENTATION OF THE SURVEY AND BOUNDARIES OF THE PROPERTY DESCRIBED HEREIN AS SHOWN BY THE ABOVE PLAN AND LEGAL DESCRIPTION. THE ABOVE PLAN MAY BE SUBJECT TO EASEMENTS, RIGHTS OF WAY OR RIGHTS OF RECORD AS SHOWN BY RECORDS OF RECORDS OFFICE HAS BEEN CONDUCTED.

- LEGEND**
- = 1/4 AC. PLOT
 - = 1/2 AC. PLOT
 - = 1 AC. PLOT
 - = 2 AC. PLOT
 - = 4 AC. PLOT
 - = 8 AC. PLOT
 - = 16 AC. PLOT
 - = 32 AC. PLOT
 - = 64 AC. PLOT

COLLINS LAND SURVEYING, INC.
 115 East Street, Suite 108
 ADA, OK 74404
 OFFICE (918) 484-1110 FAX (918) 484-1111
 CELL (918) 484-1111

ROBERT DO PANGLOSS, SURVY
 Holy Apostles Orthodox Church
 28 No. 21-10-11 DATE: 4/19/05

K.S. Collins
 K.S. COLLINS
 OKLAHOMA REGISTERED
 LAND SURVEYOR NO. 1229

CBOA 2315

2.28

Exception to permit a home occupation (mail order) in an AG-R district, 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 MOTION of Hutson, the Board voted 5-0-0 (Walker, Tyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to APPROVE a Variance of home occupation guidelines limiting a home business to 500 sq ft of floor area to allow 896 sq ft for the home occupation on a tract of 4.81 acres, finding the size of the property allows for increased square footage, on the following described property:

N330 E/2 SE NW LESS W25 THEREOF FOR RD SEC 19 22 13 4.81ACS,
Tulsa County, State of Oklahoma

The Chair called a brief recess, after which the hearing reconvened.

Case No. 2141

Action Requested:

Special Exception to permit church and accessory church uses in an AG District -- Section 310. Community Services & Similar Uses -- Use Unit 5, located: West side of South Peoria Avenue, at approximately 157th Street South.

Presentation:

John Sames, P.O. Box 4484, Tulsa, stated he represented the Holy Apostle Orthodox Christian Church. They started a mission church about one and one-half years ago and now seek to obtain property to build. Phase One of the church development would be a 2,500 sq. ft. metal building with brick or stone façade for sanctuary, classes and office space. The membership is about 300 people and services would be on Wednesday evening, Saturday evening, and Sunday morning. They plan to improve the land to a park-like setting. The applicant provided exhibits (Exhibit C-1) to the Board.

Interested Parties:

Dan Bridgewater, 15810 South Peoria, indicated that because the surrounding properties are five to ten acre lots the notice to property owners within a 300' radius was minimal. He informed other property owners outside the 300' radius. He stated that he was representing the five owners directly impacted and another 15 to 20 owners in the area. He was concerned there are no plans for road improvement. He informed the Board there have been a number of traffic accidents with fatalities in the past two years. He suggested that the church would bring a lot more traffic but being tax-exempt would not contribute to the improvement of the roads. They have problems with speeding and a lack of the presence of law enforcement. The only ingress and egress is from Peoria. He stated the road would not handle the heavy construction equipment, as it is already

11:16:04:294

2.29

in poor condition. He also pointed out that the back of the property is in a 100 year waterway. They had concerns regarding the sewage system that would be used.

Cliff Weaver, 15809 North Peoria, expressed objections in agreement with those previously stated by Mr. Bridgewater.

A petition of opposition and a map (Exhibit C-2, C-3) were provided.

Applicant's Rebuttal:

Mr. Sames felt that roads tend to be improved when the properties are improved. He stated the quality of the improvements they would make on this property would increase the surrounding property values. The church would be supportive of road improvements and their members are tax payers. Churches are like a buffer for neighborhoods to crime and to businesses that sell liquor and promote adult entertainment. He did not believe that the church would change the volume of traffic extremely. They plan to follow the code and laws governing a sewage system. He mentioned property at 161st and Yale that was approved for church use.

Comments and Questions:

Mr. Hutson asked why they chose this area. Mr. Sames replied that it was geographically appropriate to the parishioners of the church.

Mr. Hutson recognized an Interested Party who wished to speak.

Daniel Bridgewater, 15810 South Peoria, disagreed that the surrounding properties would increase in value because of a pretty church. He stated that the subject property and the property at 161st and Yale were not comparable. The roadways and the proximity of residential homes were very different.

Cliff Weaver, 15809 South Peoria, stated he did not believe the presence of a church would help them get better roads. He did not want a church to move in next to his property.

Board Action:

On MOTION of Dillard, the Board voted 5-0-0 (Walker, Wyndall, Dillard, Charney, Hutson "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit church and accessory church uses in an AG District, subject to a more detailed site plan submitted to the Board when plans are finalized, 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:

PRT NE SE BEG 336S & 24.75W NEC NE SE TH W661.26 S 525.96 E661.24 N525.96 TO POB LESS E24.75 FOR RD S EC 24 17 12 7.685ACS, Tulsa County, State of Oklahoma

11:16:04:294 (9)

2.30

purposes; and subject to signage limited to a small sign at the front of the property, to be permitted; on the following described property:

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

NEW APPLICATIONS

FILE COPY

Case No. 2369-Sack & Associates/Ted Sack

ACTION REQUESTED: Amendment to a previously approved site plan to permit an expansion to an existing church use in the AG district; *Special Exception* to permit a (Use Unit 2) cemetery in an AG district (Section 301) on an existing church property. **LOCATION:** 15710 S PEORIA AV E

PRESENTATION: Ted Sack, Sack & Associates, 111 South Elgin, Tulsa, OK; on behalf of the Holy Apostle Church, 15710 South Peoria Avenue, requested a continuance to the next meeting time on June 15, 2010.

Comments and Questions:

Four interested parties were present at this hearing; only two wanted to speak to the board.

Interested Parties:

Ben Herring, 15612 South Peoria, Bixby, OK; expressed that this is the second time to appear at a meeting on same subject; it was denied the first time. Mr. Herring wondered what the process is before it is tabled to a later date; how common is it to have all five members present. Mr. Alberty stated there is no guarantee because the board is all volunteer members and they have business commitments sometimes that prevent them from being here. Also there is no policy or state law that says you have to wait so many times. They can file an application every month if they so desire. The Chairman asked if it would be agreeable if we continue this until June 15th and if we still do not have five members present we can move ahead regardless. Mr. Herring stated that he would like to see this happen today because this is the day that was picked and the day he made accommodations to be available. Mr. Cuthbertson offered Mr. Herring the opportunity to provide any comments in writing prior to the hearing and he would make sure they would be provided to all members of the board. Mr. Herring stated he would not be interested in that because he would prefer to be here in person.

Kurston McMurray, 1515 South Utica, Tulsa, OK; asked for an agreement from the Board that they will proceed at the next hearing even if there are fewer than five members present. The Chairman agreed.

05/18/2010/#360 (3)

No other interested parties preferred to have a comment.

Board Action:

On **MOTION** of Tyndall, the Board voted 3-0-0 (Tyndall, Walker, Dillard, "aye"; no "nays"; no "abstentions") to **CONTINUE** the Amendment to a previously approved site plan to permit an expansion to an existing church use in the AG district; and the Special Exception to permit a (Use Unit 2) cemetery in an AG district (Section 301) on an existing church property until the next Board meeting on June 15, 2010, providing that there would be no further continuations; on the following described property:

**BEG 2885W & 370N SECR SE TH W150 N335 E150 S335 POB LESS S176.5 SEC 33
19 12**

Case No. 02367-Coy & Kim Casey

ACTION REQUESTED: *Variance to permit a detached accessory building in a side yard in an RS zoned district (420.2.A.2) and a Variance of the maximum permitted floor area for a detached accessory building in an RS district from 750 sq. ft. to 1,111 sq. ft. (Section 240.2.E).*

LOCATION: 4136 W 59TH ST

PRESENTATION: Coy & Kim Casey, 4136 West 59th Street, Tulsa, OK; presented the request to construct a detached garage on the side of their property. Mr. Casey presented a documentation of support by four neighbors.

Comments and Questions:

The Chairman stated there are several similar situations in the area and not a whole lot of thoroughfare there is there? Ms. Casey responded their street is a dead end street. The Chairman asked if the building was going to be located in the treed area to the west. Mr. Casey responded that it would be approximately three feet west of the existing garage and home.

Mr. Tyndall asked what the building was going to be used for and Mr. Casey stated he will be using the building as a garage for a boat and a ½-ton pickup truck; protection from the hail.

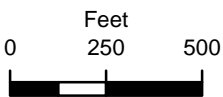
Mr. Dillard asked the property was on sewer system or septic tank. Mr. Casey responded the property is on the sewer system.

Mr. Casey explained the hardship will be the clearing of three large diameter trees. Also, the activities will be held in the backyard and for the side there will be a loss of trees and picnic table. The lot is 158'-0" deep.



S PEORIA AVE

E 161st ST S



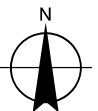
Subject Tract

CBOA-2952

17-12 24

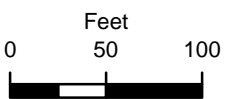
Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: 2020/2021





S PEORIA AVE



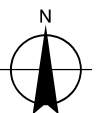
Subject Tract

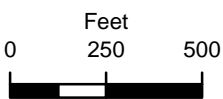
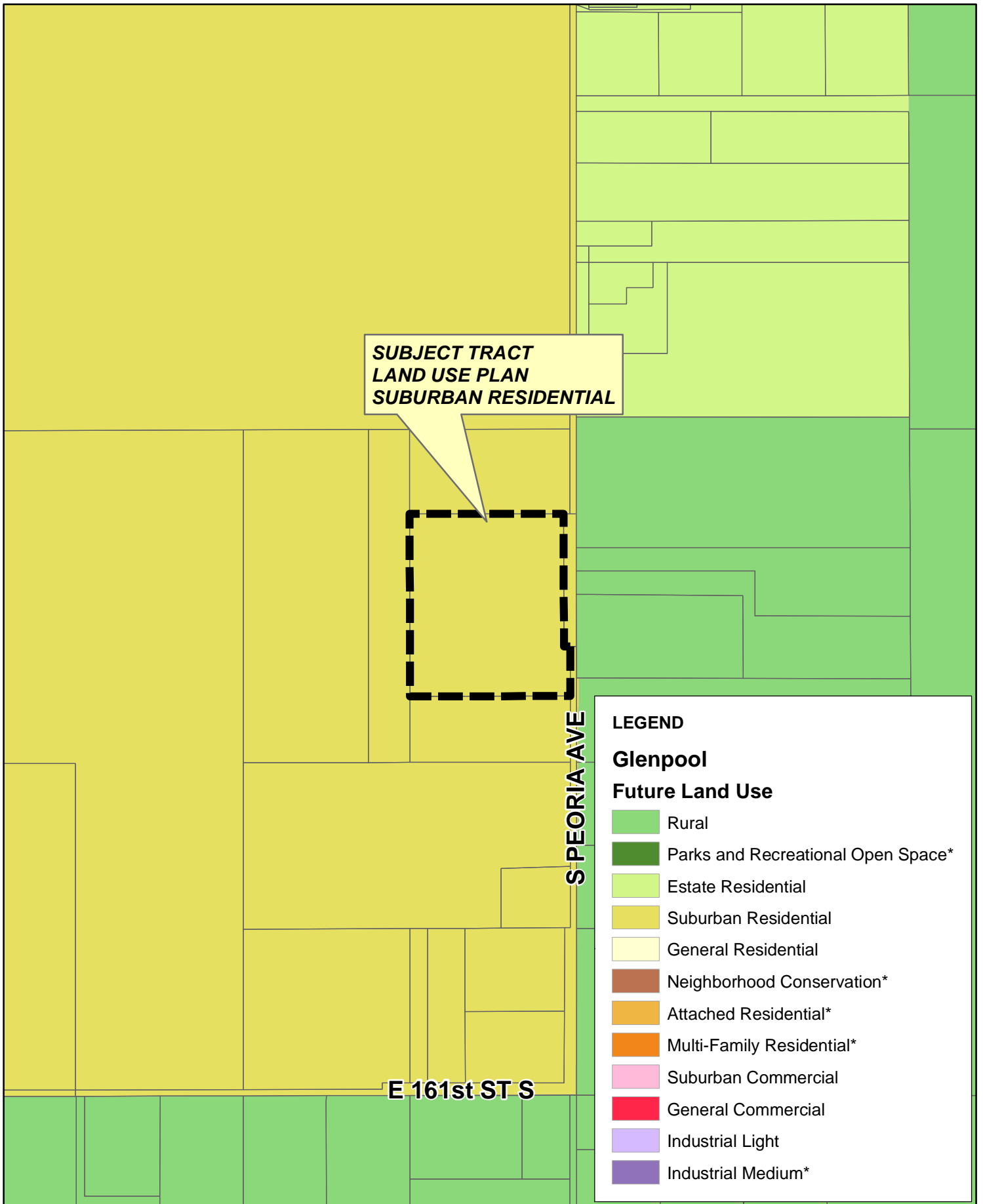
CBOA-2952

17-12 24

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

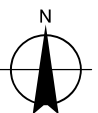
Aerial Photo Date: 2020/2021





CBOA-2952

17-12 24



Jones, Robi

From: Patty Chumbley <PChumbley@waterstonemortgage.com>
Sent: Monday, February 28, 2022 7:18 PM
To: esubmit
Subject: Case #CBOA-2952

What rights do the neighborhood occupants have to limit the light pollution that this church is already imposing on the neighborhood? Aren't there any restrictions on lighting in an area that is zoned AG and is residential? The parking lot that they currently have has lights on all night. Are they going to be able to put up more lights with their extra buildings and parking lot? Don't you have any obligation to the current residents?



Patty Chumbley

Loan Originator

NMLS #233637

12133 South Yukon Ave, Suite 200 Glenpool, OK 74033

O: 918.236.2943 M: 918.230.2233

F: 918.515.4561 TF: 800.354.1149

Email: PChumbley@WaterstoneMortgage.com

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Jones, Robi

From: R T <godskid07@hotmail.com>
Sent: Thursday, March 3, 2022 3:38 PM
To: esubmit
Subject: Case No. CBOA-2952

To Whom It May Concern,

My name is Robin Taylor and my family and I live directly across the street from the church and location that is up for modification.

When we moved in, I thought it was beautiful to live across the street from the church. We have, for the last year or so, have not liked that they have started burying people in the front yard of their church, but I assumed it was legal since they are a church as there was nothing I could do about it.

Now that we see the diagram for development, I see that they are planning to continue to expand this "cemetery". It is a little unsettling to go from finding peace and joy across the street, to seeing death in the very obvious, cannot be missed, area of their location. I do not mind the expansion, they have always been great neighbors. I simply would request a different location for their graves, somewhere other than front and center and impossible to miss. Thank you for your interest to hear your neighbors wishes.

Clinton and Robin Taylor & Family

Jones, Robi

From: Kurt Townsend <townsendkurt@gmail.com>
Sent: Saturday, March 5, 2022 3:53 PM
To: Jones, Robi; esubmit
Subject: Case No. CBOA-2952 / Questions and Concerns
Attachments: Aerial Photo CBOA-2952.pdf

Mr. Jones,

My father-in-law, George Sharp, owns approximately 600 acres that joins the subject property to the west. He also owns the residence property that joins the subject property to the south. There is a creek that runs through the subject property and feeds his cattle pond. Upon information and belief, the owners of the subject property have blocked or diverted the natural flow of water and the cattle pond is drying up. I understand this issue is outside of this matter and will be addressed accordingly.

I wanted to let you know of one of the issues my father-in-law has had with the subject property after the previous site plan was approved. Now with the proposed modification, my father-in-law has additional questions and concerns, specifically regarding the proposed aerobic system and detention area and its effect on his properties. I have attached a PDF of an aerial for reference.

Could we schedule a conference call before the public hearing scheduled for March 15th? I was hoping you will have some answers or information that may relieve my father-in-law's concerns. Please let me know at your earliest convenience via email or my cell phone (918) 625-9343.

Sincerely,

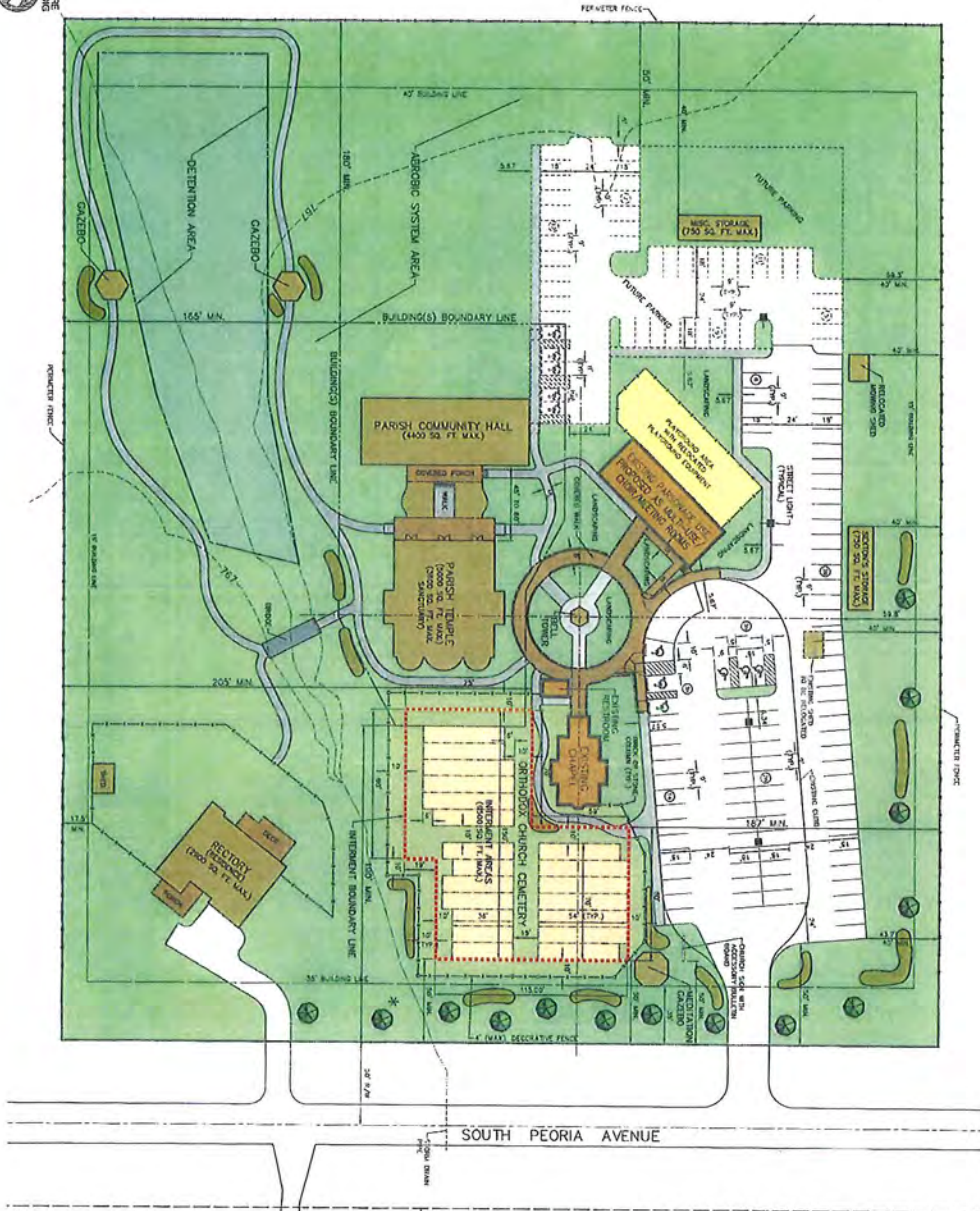
Kurt K. Townsend



CBOA-2369 Approved Site Plan - 2.13



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SOUTH PEORIA AVENUE

Use	Lot Size	Required Parking	Proposed Parking
Place of Worship	1 to 20,000 sq ft	1 per 100 sq ft	90 Spaces
20,000 sq ft. or greater			10 Spaces

Legend
Landscaping (L)

*NOTE: TO BE IN ACCORDANCE WITH THE CITY OF TULSA, OKLAHOMA, ZONING ORDINANCE, SECTION 17-17N, B-12E, WHICH IS INCORPORATED BY REFERENCE INTO THIS SITE PLAN. THE CITY OF TULSA, OKLAHOMA, ZONING ORDINANCE, SECTION 17-17N, B-12E, IS INCORPORATED BY REFERENCE INTO THIS SITE PLAN.

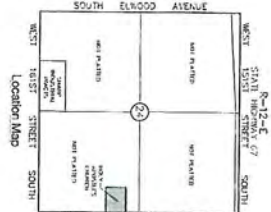


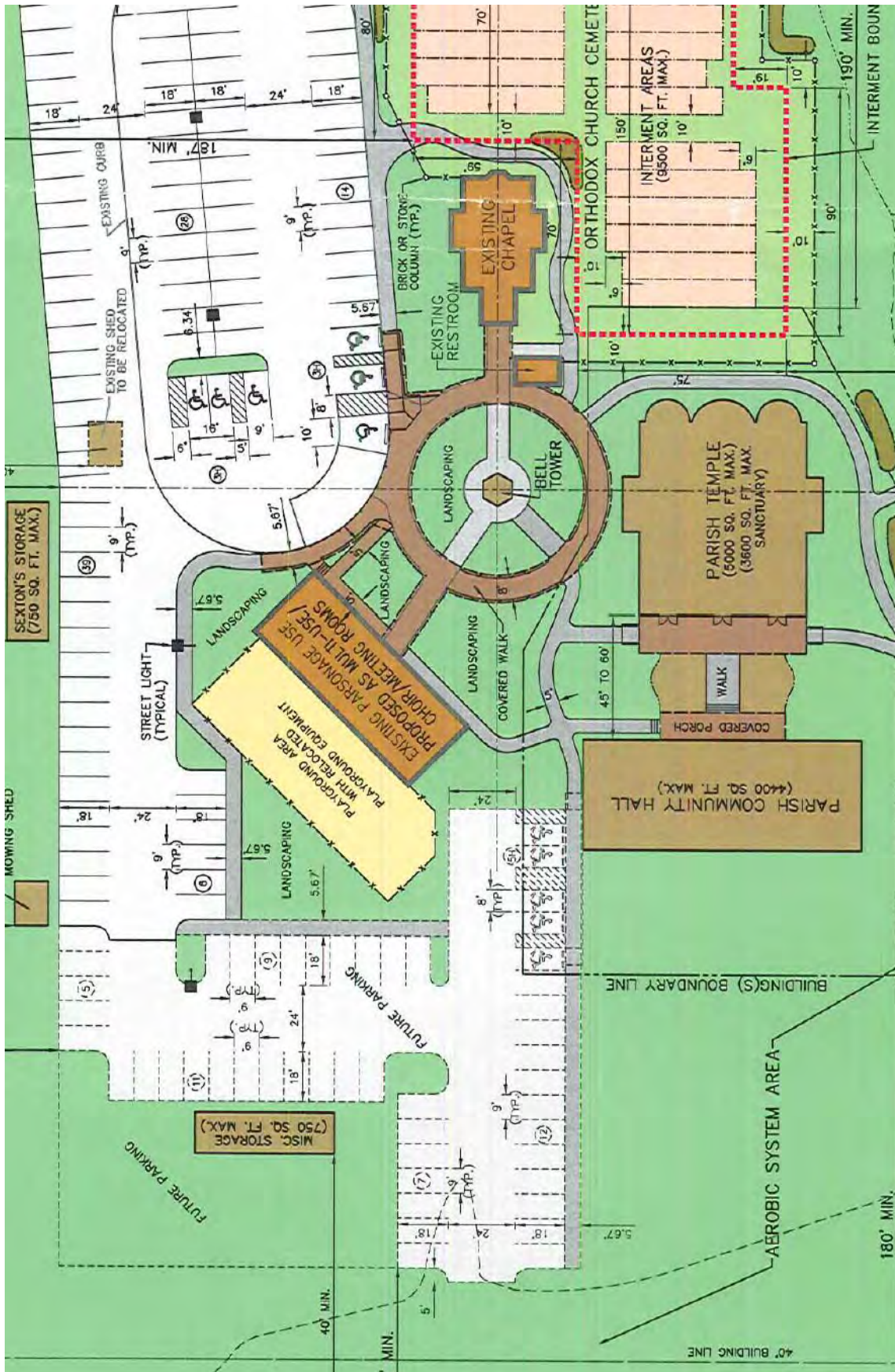
EXHIBIT
COUNTY BOARD OF ADJUSTMENT
MASTER DEVELOPMENT PLAN
FOR
LOT 1 IN BLOCK 1
OF
'HOLY APOSTLES CHURCH'
SECTION 24, T-17N, R-12E
TULSA COUNTY, OKLAHOMA



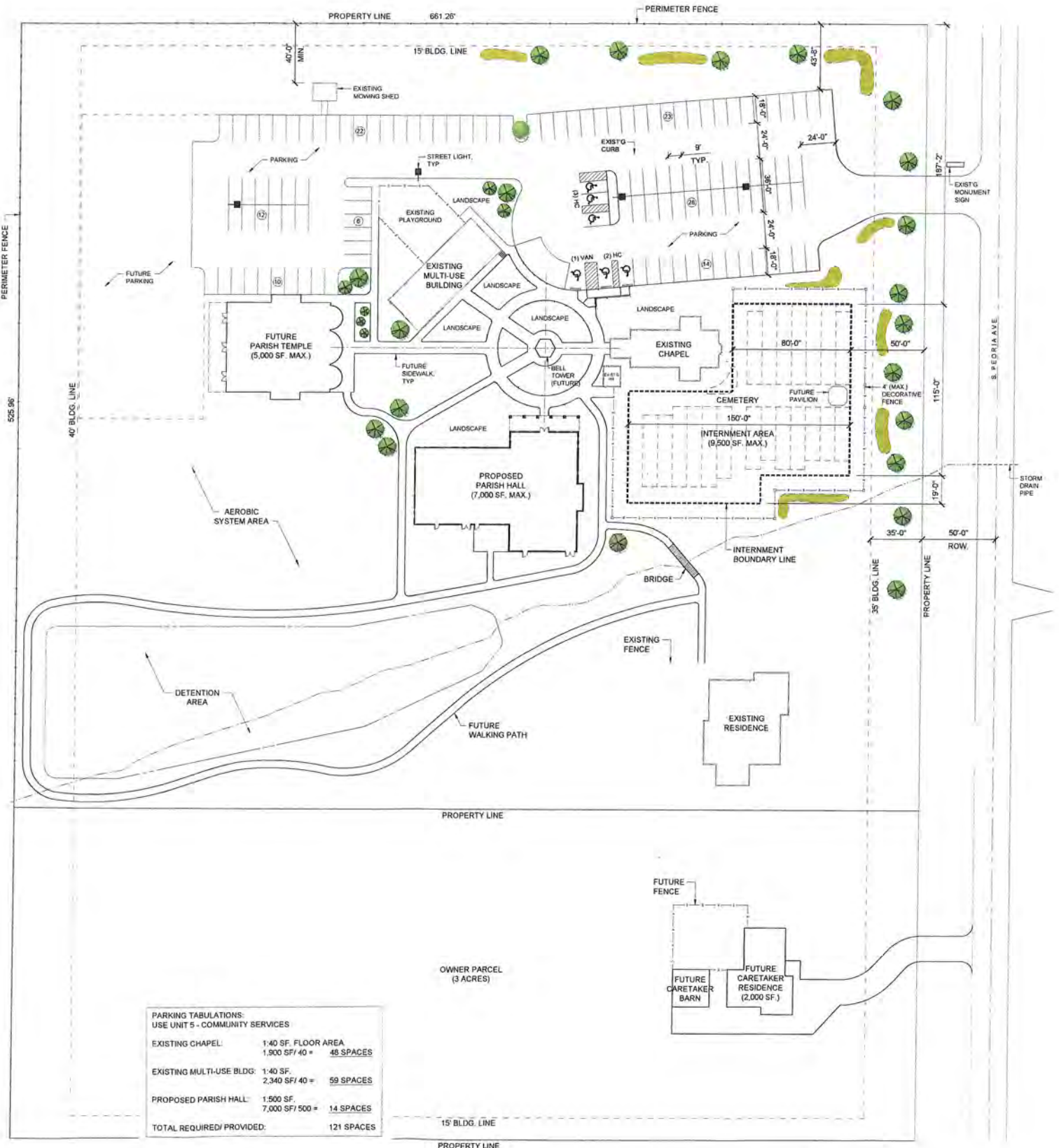
SACK AND ASSOCIATES, INC.
CIVIL ENGINEER

2.13

Approved Site Plan - CBOA-2369

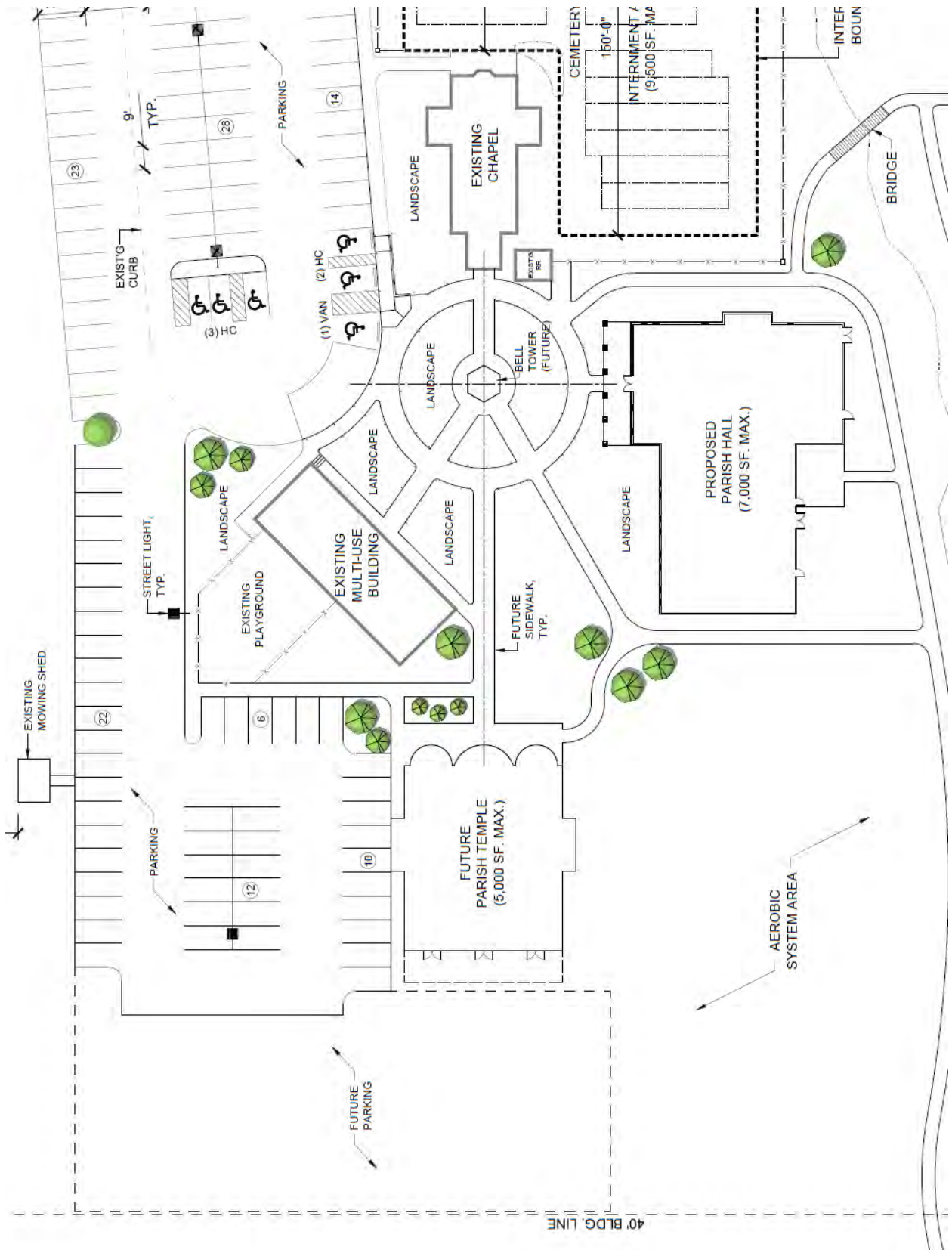


CBOA-2952 Proposed Site Plan



PARKING TABULATIONS: USE UNIT 5 - COMMUNITY SERVICES	
EXISTING CHAPEL:	1:40 SF. FLOOR AREA 1,900 SF/ 40 = 48 SPACES
EXISTING MULTI-USE BLDG:	1:40 SF. 2,340 SF/ 40 = 59 SPACES
PROPOSED PARISH HALL:	1:500 SF. 7,000 SF/ 500 = 14 SPACES
TOTAL REQUIRED/ PROVIDED:	121 SPACES

Proposed Site Plan - CBOA-2952





Case Number: CBOA-2953

Hearing Date: 03/15/2022 1:30 PM

Case Report Prepared by:

Robi Jones

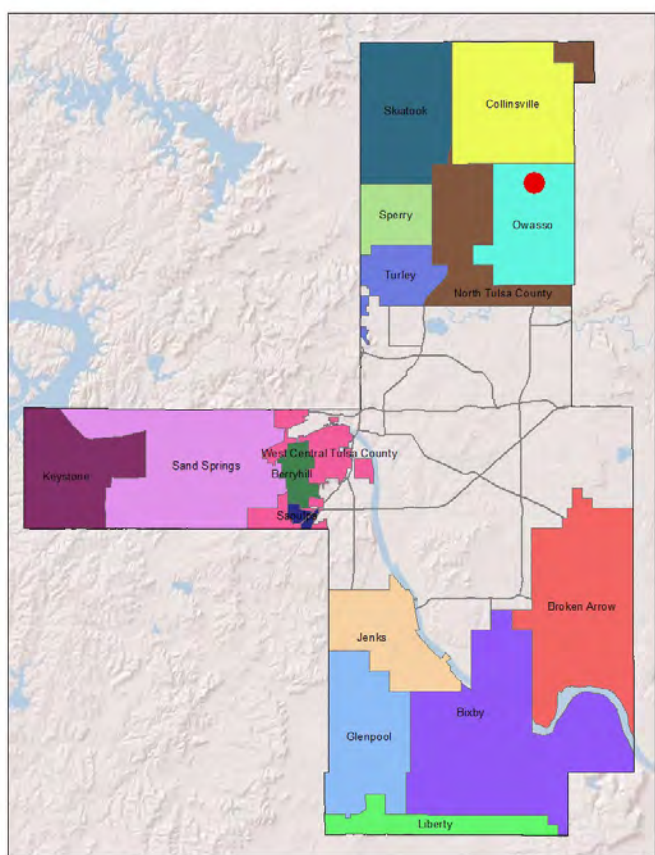
Owner and Applicant Information:

Applicant: Lonnie Basse

Property Owner: KEY PLUS PROPERTIES LLC

Action Requested: Modification of a previously approved Special Exception (CBOA-2738) to extend the time limitation and the variance from the all-weather parking requirement for a fireworks stand in a CS district (Section 310).

Location Map:



Tulsa County Comprehensive Land Use Plan

Additional Information:

Present Use: Commercial/Temporary Fireworks Stand

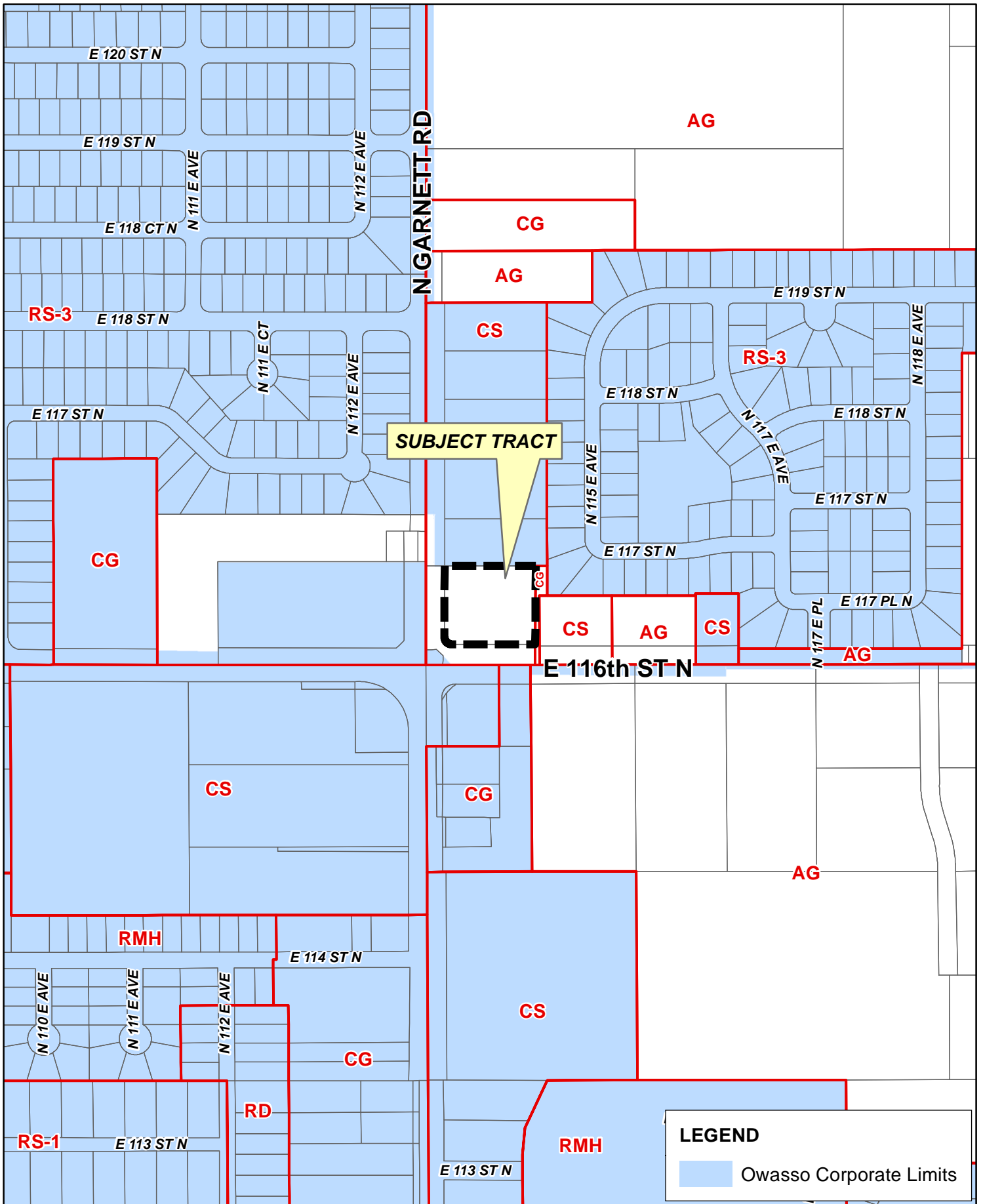
Tract Size: 1.66 acres

Location: 11625 N 113 AV E

Present Zoning: CS

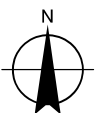
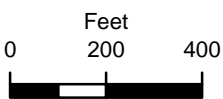
Fenceline/Area: Owasso

Land Use Designation: Commercial



CBOA-2953

21-14 05



**TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT**

TRS: 1405

CZM: 12

CASE NUMBER: **CBOA-2953**

CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 03/15/2022 1:30 PM

APPLICANT: Lonnie Basse

ACTION REQUESTED: Modification of a previously approved Special Exception (CBOA-2738) to extend the time limitation and the variance from the all-weather parking requirement for a fireworks stand in a CS district (Section 310).

LOCATION: 11625 N 113 AV E

ZONED: CS

FENCELINE: Owasso

PRESENT USE: Commercial/Temporary Fireworks Stand

TRACT SIZE: 1.66 acres

LEGAL DESCRIPTION: BEG SWC SW TH E347 N316 W347 S316 POB LESS BEG SWC SW SW SW TH N50 E30 SE28.28 S30 W50 POB & LESS BEG 50N SWC SW TH N266 E59 S225.89 CRV LF 39.30 E262.97 S65 W297 N30 NW28.28 W30 POB SEC 5 21 14 1.65ACS, WEDEL CENTRE

RELEVANT PREVIOUS ACTIONS:

Subject Property:

CBOA-2738 March 2019: The Board **approved** a special exception to permit a fireworks stand (Use Unit 2); and a Variance from the all-weather parking surface requirement for a period of three years, March 2022, on property located at 11625 North 113th Avenue East.

CBOA-1457 October 1996: The Board **approved** a special exception to allow auto sales in a CS zoned district, located on the subject property, the northeast corner of East 116th Street north and North Garnett Road.

Surrounding Property:

CBOA-2517 November 2014: The Board **approved** a special exception to permit a temporary fireworks stand in the AG District, on property located at 11400 East 116th Street North.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts CS zoning to the north, CG and CS zoning to the south, CG zoning to the east, and RS-3 zoning to the west which is the site of a church. Other surrounding uses appear to be commercial in nature.

STAFF COMMENTS:

The applicant is before the Board requesting a Modification of a previously approved Special Exception (CBOA-2738) to extend the time limitation and the variance from the all-weather parking requirement for a fireworks stand in a CS district (Section 310).

In 2019, the Board **approved** a special exception to permit a fireworks stand (Use Unit 2); and a Variance from the all-weather parking surface requirement for a period of three years with the following conditions:

- Three-year time limit
- Days of operation to be June 20th – July 6th
- Hours of operation to be 10:00 a.m. to 10:00 p.m. from June 20th to July 2nd and July 5th to July 6th, Hours of operation to be 10:00 a.m. to 12:00 midnight on July 3rd and July 4th
- There is to be no generators used
- There is to be no additional lighting
- The applicant is to try to place the tent where the customers can park on the parking lot

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 for Modification:

“Move to _____ (approve/deny) a Modification of a previously approved Special Exception (CBOA-2738) to extend the time limitation and the variance from the all-weather parking requirement for a fireworks stand in a CS district (Section 310).

Subject to the following conditions (if any): _____.

Finding the proposed modification is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief or meets the zoning requirements, per code.”

2737—American Promotional Events

Action Requested:

Special Exception to permit fireworks stand (Use Unit 2); Variance from the all-weather parking surface requirement (Section 1340.D) for a period of 10 years.

LOCATION: 701 West 41st Street South

Presentation:

Lonnie Basse, American Promotional Events, TNT Fireworks, 5401 West Skelly Drive, Tulsa, OK; stated TNT Fireworks has been at this site since 1987.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney, Crall "absent") to **APPROVE** the request for a Special Exception to permit fireworks stand (Use Unit 2); Variance from the all-weather parking surface requirement (Section 1340.D) for a period of 5 years, March 2024. The days of operation are to be from June 20th to July 6th. The hours of operation are to be 10:00 A.M. to 10:00 P.M. from June 20th through July 2nd and July 5th and July 6th, and 10:00 A.M. to 12:00 midnight July 3rd and July 4th; for the following property:

**SW SW SW LESS S50 & W50 N280 S330 FOR STS SEC 22 19 10
8.921ACS, TIMBERLING HOLLOW, SOONER MINI STORAGE, SOONER MINI
STORGE EXT, OF TULSA COUNTY, STATE OF OKLAHOMA**

FILE COPY

2738—American Promotional Events

Action Requested:

Special Exception to permit fireworks stand (Use Unit 2); Variance from the all-weather parking surface requirement (Section 1340.D) for a period of 10 years.

LOCATION: 11625 North 113th Avenue East

Presentation:

Lonnie Basse, American Promotional Events, TNT Fireworks, 5401 West Skelly Drive, Tulsa, OK; stated TNT Fireworks has been at this location prior to 1987.

Interested Parties:

Morgan Pemberton, Assistant City Planner, City of Owasso, 200 South Main, Owasso, OK; stated the City requested a denial in Case CBOA-2670 in May, 2018, which is a

03/19/2019/#466 (8)

fireworks stand on North Garnett Road south of Smith Farm Market. The City requested a denial of that application for several reasons and the City of Owasso believes that many of the same circumstances apply to this case. While the subject property is not within Owasso city limits it is within Owasso's fence line, and it is predominately surrounded by property that has been annexed into Owasso's city limits. Also, the subject property is located on the northwest corner of one of Owasso's busiest commercial corridors. The City of Owasso anticipates seeing a considerable amount of development in coming years with the widening of Garnett Road from 96th Street North to 116th Street North, as well as the widening of 116th Street North from Mingo to Garnett Road. The City of Owasso does not allow firework stands to operate within its city limits, and also all parking in the City of Owasso is required to be of a hard-paved surface and no gravel parking is permitted. The subject property in not meeting the standards of the City of Owasso, though technically it is still in the County, it may have a general detrimental affect on property values in the surrounding area. The City of Owasso is also concerned with the specific potential effects of the fireworks stand operating on the subject property, including dust, noise, and increased traffic to an area that is often congested with vehicles. In particular, there is a residential neighborhood that is within the Owasso city limits and it abuts the subject property on the northwest corner. Ms. Pemberton stated that her estimates show that the residential neighborhood is less than 150 feet away from where the fireworks stand is proposed to be located. Amplified noise and dust emanating from the subject property as a result of increased activity on a non-paved surface would be especially detrimental to the existing residential neighborhood. The City of Owasso feels that for the reasons that have been discussed this case does not meet the statutory requirements for a Special Exception or a Variance, and therefore the City of Owasso respectfully requests the Board deny this particular case. Ms. Pemberton stated that if the Board is so inclined to approve this application, the City of Owasso requests the Board consider adding these additional conditions on the subject property: hours of operation be limited from 10:00 A.M. to 7:00 P.M., that no generators be allowed to operate on the property due to the excessive noise they create, that no additional light sources be added on to the subject property over 20 feet in height or closer than 100 feet of the existing residential sub-division, that gravel parking not be allowed and all parking on the subject property would be required to be on a hard surface, that no signs that are not allowed in the Owasso city limits be permitted on the subject property including stand alone banners, flags, portable signs, flashing signs, all credit signs, pennants, ribbons, balloons, inflatables, streamers or strings of light bulbs. The City of Owasso also request that a two-year time limit be added.

Mr. Hutchinson asked Ms. Pemberton if the hard corner, where the car lot is located, is annexed into the City of Owasso currently. Ms. Pemberton stated that it is not; it is the only corner at that intersection that is not currently in Owasso city limits.

Rebuttal:

Lonnie Basse came forward and stated that in all the years TNT Fireworks has operated on the subject property, the Church of the Nazarene does this a fund raiser project, TNT has never been made aware of any problems, TNT has never been

CBOA-2738

FILE COPY

approached by the City of Owasso regarding concerns, and he thinks this is an overreach of their authority as the stand is not in the city limits. The City of Owasso has no control over the subject property and should not have any control; if they want control, they should annex the property. Mr. Basse stated that he is unaware of any of the other fireworks stands that are in or near the City of Owasso being given extra requirements.

Comments and Questions:

Mr. Dillard stated that he can support this request for three years with the same hours as the other stands presented today; this stand has had no complaints in over 30 years.

Mr. Johnston agreed with the three-year time limit suggested by Mr. Dillard.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-0-0 (Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney, Crall "absent") to **APPROVE** the request for a Special Exception to permit fireworks stand (Use Unit 2); Variance from the all-weather parking surface requirement (Section 1340.D) for a period of 3 years, March 2022. The days of operation are to be from June 20th to July 6th. The hours of operation are to be 10:00 A.M. to 10:00 P.M. from June 20th through July 2nd and July 5th and July 6th, and 10:00 A.M. to 12:00 midnight July 3rd and July 4th. There are to be no generators used and there is to be no additional lighting. The applicant is to try to place the tent where the customers can park on the parking lot; for the following property:

BEG SWC SEC E347 N316 W347 S316 POB LESS BEG SWC SW SW SW TH N50 E30 SE28.28 S30 W50 POB SEC 5 21 14 2.46ACS, WEDEL CENTRE, OF TULSA COUNTY, STATE OF OKLAHOMA

2739—American Promotional Events

Action Requested:

Special Exception to permit fireworks stand (Use Unit 2); Variance from the all-weather parking surface requirement (Section 1340.D) for a period of 10 years.

LOCATION: 19214 East 91st Street South

Presentation:

Lonnie Basse, American Promotional Events, TNT Fireworks, 5401 West Skelly Drive, Tulsa, OK; stated TNT Fireworks has been at this location since the early 1990s.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

03/19/2019/#466 (10)

Case No. 1456 (continued)

Mr. Looney stated this application falls into the same category as Case No. 1455 and should be continued so that Staff can report on studies of telecommunication towers.

Mr. Alberty stated after hearing the case he could go along with a continuance, however, his vote will probably be against this application because it cannot be made compatible with the existing land use.

Mr. Walker agreed that he could support denial of this application also.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, Walker "aye"; no "nays" no "abstentions"; no "absent") to **DENY** finding that the application is not compatible with the existing neighborhood and would be harmful to the spirit and intent of the Code; on the following described property:

S/2, SW, NW, NE, Less N25' thereof, Sec. 36, T-18-N, R-14-E, Tulsa County, Oklahoma.

Case No. 1457

Action Requested:

Special Exception to allow auto sales in a CS zoned district. **SECTION 710. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17, located 11601 North 113th East Avenue.

Presentation:

The applicant, **John McCoy**, 11601 North 113th E. Ave., submitted a plat of survey (Exhibit C-1), photographs (Exhibit C-2) and stated there is a vacant gas station on the subject property and he would like to sell cars on this lot. Mr. McCoy further stated that there is a Quik-Trip across the street and all the surrounding property is businesses.

Comments and Questions:

Mr. Walker asked the applicant if there would be any auto repairs done on site? He answered negatively.

Mr. Walker asked the applicant if he would be selling any accessories or heavy equipment? He stated he would be selling cars and trucks only.

Case No. 1457 (continued)

Mr. Walker asked the applicant what the size of the tract is? He stated there is a building that has approximately 100 SF and from the center of the building out to the center of the road it is 100'. He further stated the width of the property is approximately 125'. He indicated that he will be parking the cars out front and will have approximately 20 cars. Mr. McCoy stated the lot will be a small, neat car lot.

Mr. Walker asked the applicant if the front of the car lot is facing the west or south? He stated there is a front parking area that faces the west and that is where he plans to display the cars.

Mr. Looney asked the applicant what type of paving surface is on the lot? He stated it is a concrete surface.

Mr. Looney asked the applicant if the covered canopy is on the subject property? He answered affirmatively.

Mr. Alberty stated he is familiar with this area called "German Corner" and the subject property has been a service station with a canopy. He further stated the subject property has had numerous uses since the service station was vacated. Mr. Alberty indicated that three of the corners have CG zoning, which would permit automobile sales as a use by right. He stated that due to the fact that this was formerly an automotive use, then automotive sales will be entirely appropriate especially with the limitation of 20 cars.

Board Action:

On **MOTION** of **ALBERTY**, the Board voted 5-0-0 (Alberty, Eller, Looney, Tyndall, White "aye"; no "nays" no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to allow auto sales in a CS zoned district. **SECTION 710. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17, per plan submitted; subject to the limitation of a maximum of 20 cars; subject to no outside storage of auto parts or accessories; subject to no auto repair work done on site; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Beg SW/c, Sec. 5, T-21-N, R-14-E, Tulsa County, Oklahoma; TH E175, N265, W65, N30, W110, S295, POB.

10:15:96:197(12)

to permit gravel parking (Section 1340.D), subject to a five year time limit of operation until November 2019; for the following property:

E/2 BEG NWC SE TH E353 S1271.73 NWLY360.9 N1197.13 POB LESS S50 FOR RD SEC 7 19 11 4.869ACS, RIVER VALLEY ESTATES AMD, OF TULSA COUNTY, STATE OF OKLAHOMA

2517—Jake's Fireworks, Inc.

FILE COPY

Action Requested:

Special Exception to permit a temporary fireworks stand in the AG District (Section 310). **LOCATION:** 11400 East 116th Street North, Owasso

Presentation:

Jason Marietta, 1500 East 27th Terrace, Pittsburg, Kansas; no formal presentation was made but the applicant was available for any questions.

Mr. Charney asked Mr. Marietta exactly where the fireworks stand is located. Mr. Marietta stated is at German Corner.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Charney, Dillard, Hutchinson "aye"; no "nays"; no "abstentions"; Walker "absent") to **APPROVE** the request for a Special Exception to permit a temporary fireworks stand in the AG District (Section 310), subject to a five year time limit of operation until November 2019; for the following property:

LT 1 BLK 1, HOPE CHAPEL, OF TULSA COUNTY, STATE OF OKLAHOMA

2518—Amanda Marks

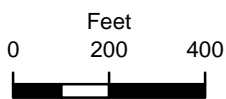
Action Requested:

Variance to increase the permitted building height to 43 feet in an AG District (Section 330, Table 3). **LOCATION:** 1923 West 4th Street

Presentation:

Amanda Marks, 1956 North 177th West Avenue, Tulsa, OK; stated she is building a new home and is about 80% complete. The inspector just realized the height of the house is above the allowable height of 36 feet so she is before the Board to request a

11/18/2014/#414 (5)



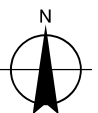
 Subject Tract

CBOA-2953

21-14 05

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

Aerial Photo Date: 2020/2021

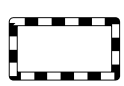
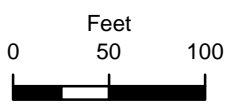




N GARNETT RD

N 115 E AVE

E 116th ST N



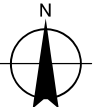
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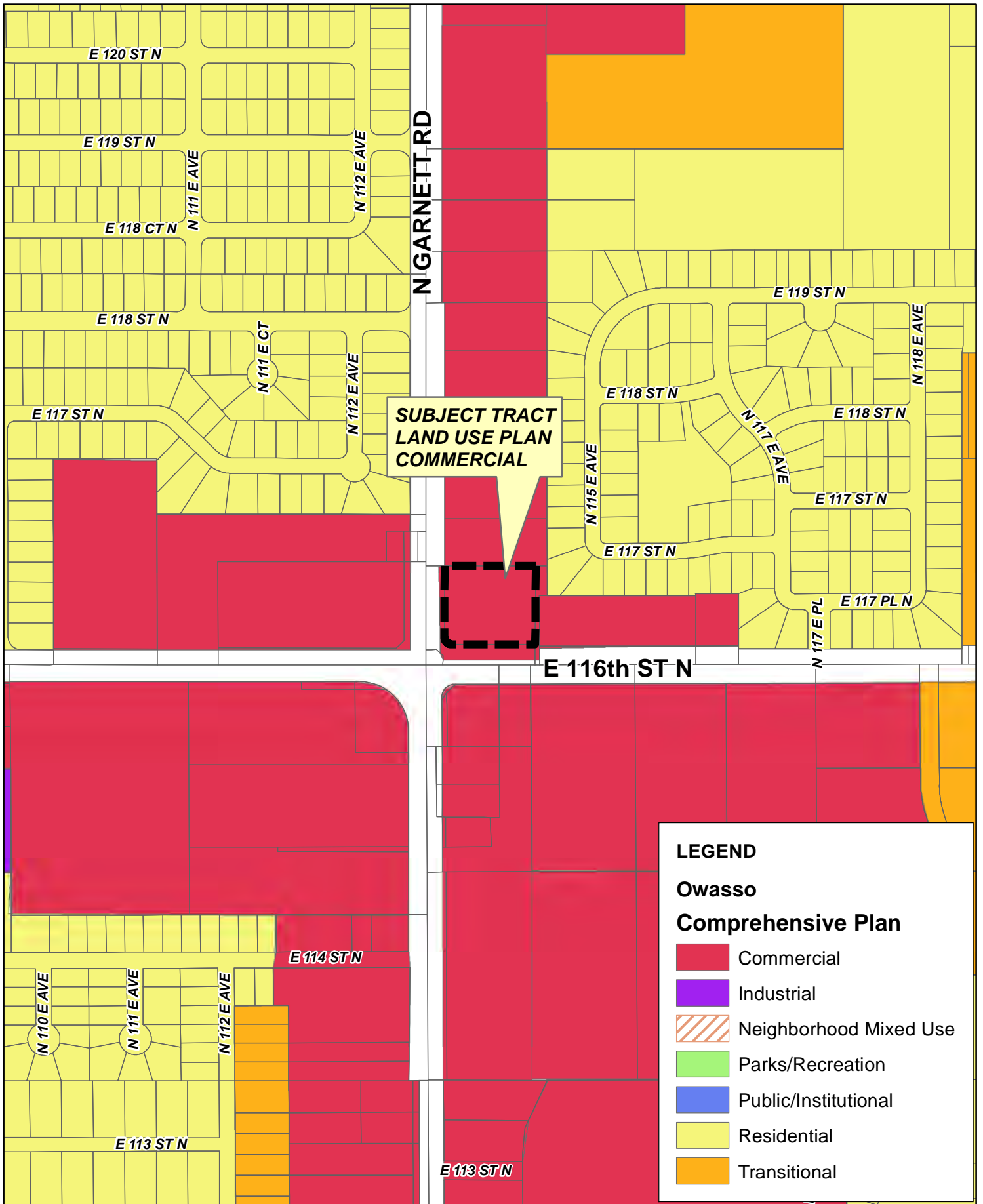
CBOA-2953

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

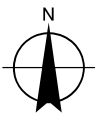
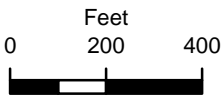
Aerial Photo Date: 2020/2021

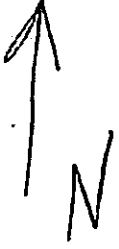




CBOA-2953

21-14 05





11625 N. 113th E. Av.
Collinsville, OK

113 E. Av.

Bldg
Auto Sales

Fireworks Tent

116th St. N.

7.10



Case Number: CBOA-2954

Hearing Date: 03/15/2022 1:30 PM

Case Report Prepared by:

Robi Jones

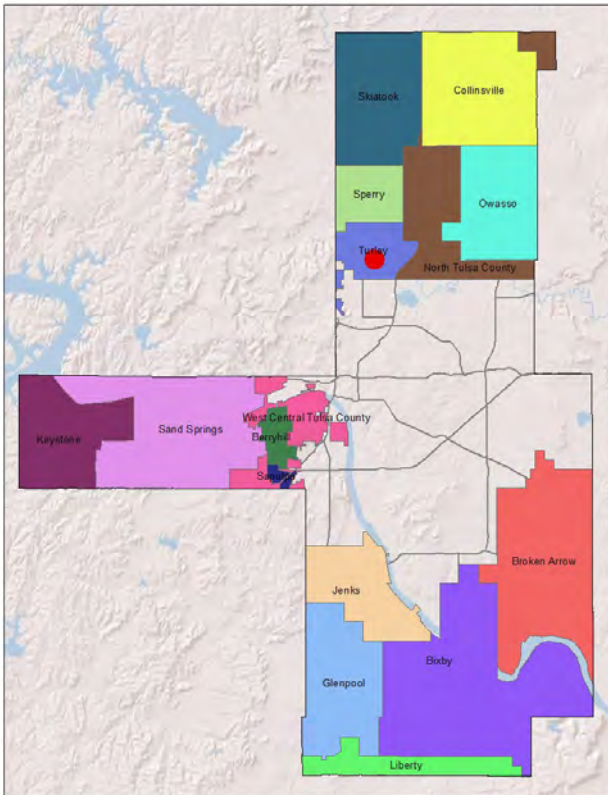
Owner and Applicant Information:

Applicant: Jacob McClendon

Property Owner: KOSKINEN, MARY
ROBERTA ANN

Action Requested: Use Variance to permit an Agricultural Use (Use Unit 3) to permit farming and raising farm animals in an RS Zoned District (Section 1203).

Location Map:



Tulsa County Comprehensive Land Use Plan

Additional Information:

Present Use: Residential

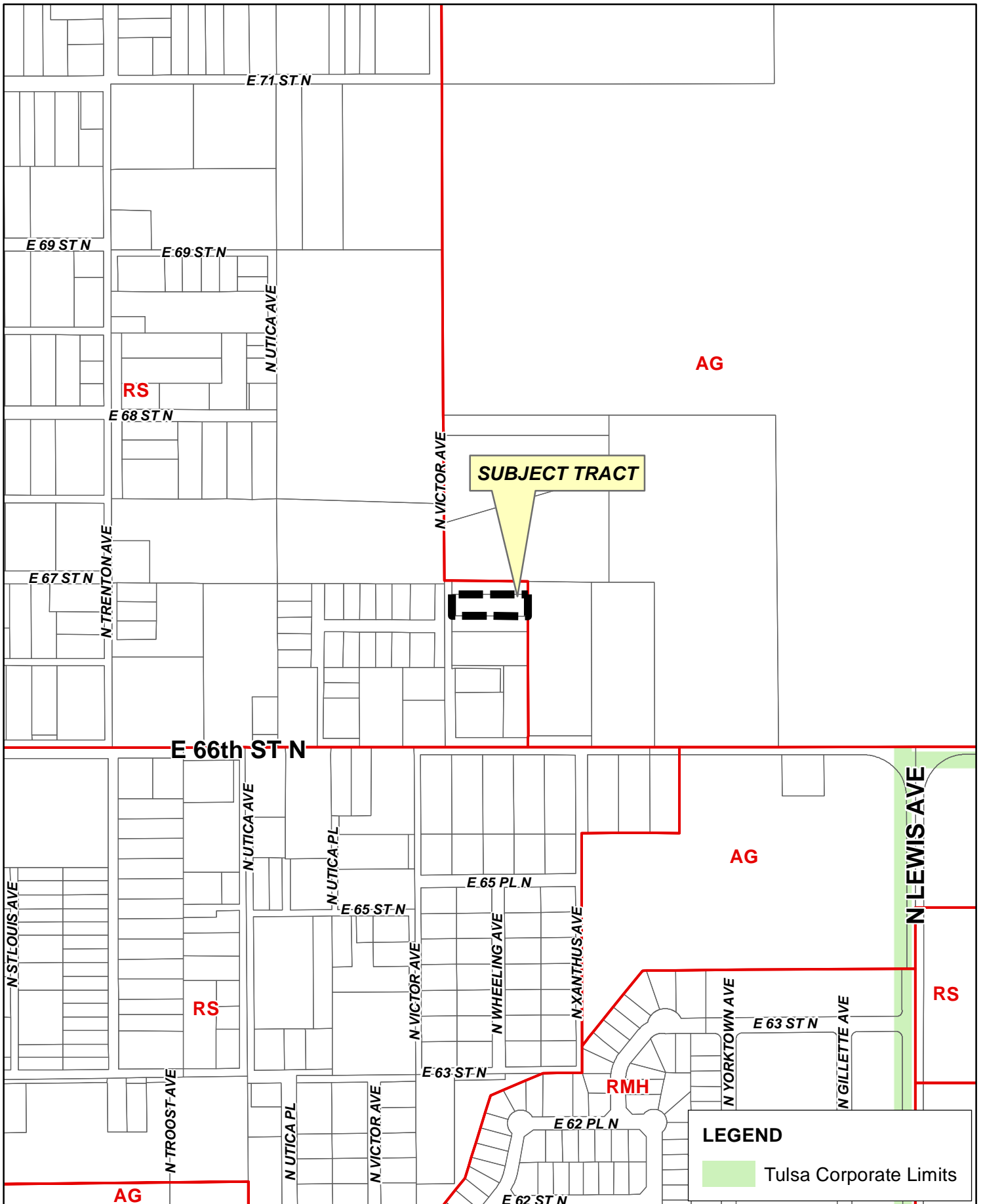
Tract Size: 0.56 acres

Location: 6643 N VICTOR AV E

Present Zoning: RS

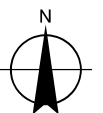
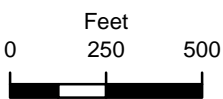
Fenceline/Area: Turley

Land Use Designation: Rural
Residential/Agricultural



CBOA-2954

21-13 31



**TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT**

TRS: 1331

CZM: 16

CASE NUMBER: CBOA-2954

CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 03/15/2022 1:30 PM

APPLICANT: Jacob McClendon

ACTION REQUESTED: Use Variance to permit an Agricultural Use (Use Unit 3) to permit farming and raising farm animals in an RS Zoned District (Section 1203).

LOCATION: 6643 N VICTOR AV E

ZONED: RS

FENCELINE: Turley

PRESENT USE: Residential

TRACT SIZE: 0.56 acres

LEGAL DESCRIPTION: S82 N132 N198 NW SW SW SE LESS W30 THEREOF FOR ST SEC 31 21 13 .565ACS,

RELEVANT PREVIOUS ACTIONS:

Subject Property:

CBOA-1953 May 2002: The Board **approved** a *Special Exception* to allow a manufactured dwelling in an RS zoned district, on property located at 6643 N. Victor Avenue East.

Surrounding Property:

CBOA-2447 November 2012: The Board **approved** a *Use Variance* to allow for a funeral home (Use Unit 11) in an AG district, on property located at 1821 East 66th Street North.

CBOA-710 December 1986: The Board **approved** a *Special Exception* to allow a church, associated school and related uses in an AG district, on property located at 1821 East 66th Street North.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts RS zoning to the north, west, and south. It abuts AG zoning to the east. Surrounding uses appear to be residential with a church to the east. The applicant has provided an exhibit listing the surrounding uses.

STAFF COMMENTS:

The applicant is before the Board requesting a Use Variance to permit an Agricultural Use (Use Unit 3) to permit farming and raising farm animals in an RS Zoned District (Section 1203).

A Use Variance is required as Use Unit 3, Agriculture, is not a use permitted in an RS 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: “Disabled combat vet trying to raise small food animals.”

According to the site plan provided by the applicant, he would like to raise 5 chickens, 3 pigs, and 3 goats.

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 an Agricultural Use (Use Unit 3) to permit farming and raising farm animals in an RS Zoned 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.”

Case No. 1953

Action Requested:

Special Exception to allow a manufactured dwelling in an RS zoned district. SECTION 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9, located 6643 N. Victor.

Presentation:

Mary Thomas, 6643 N. Victor, proposed to put a mobile home on the property. A site plan was provided (Exhibit A-1). Photographs (Exhibit A-2) were submitted to the Board.

Comments and Questions:

Mr. Alberty reminded the applicant that they need DEQ approval for a sewage system. The applicant indicated they would be on the city sewer system. Mr. Alberty observed there are other mobile homes in the area. He asked if they desire to make it a permanent dwelling. The applicant replied in the affirmative. Mr. Alberty asked the applicant when they plan to tear down the existing structure. The applicant indicated it has been vacated and they are ready to tear it down.

Jim Cartwright, 6643 N. Victor, was present and helped present the case.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Walker**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall "aye"; no "nays", no "abstentions"; Hutson "absent") to **APPROVE** a **Special Exception** to allow a manufactured dwelling in an RS zoned district, with conditions to remove the existing dwelling unit within 120 days; and DEQ approval tie-downs, skirting, and building permit, on the following described property:

S 82.00' N 132.00' N 198.00' NW SW SE, less W 30.00' for street, Section 31, T-21-N, R-13-E, Tulsa County, State of Oklahoma.

Case No. 1954

Action Requested:

Variance to allow two dwelling units on one lot of record. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6; and a Variance to the requirement of 30' of frontage on a public road to 0'. SECTION 207. STREET FRONTAGE REQUIRED, located 913 W. 4th St.

Presentation:

Barbara J. King, 525 Ridge Dr., Sand Springs, submitted a letter (Exhibit B-2) from the Sand Springs Board of Adjustment. She stated that she would like to

N 432.7 E 565 SE SW NW SEC 33-21-14, OF TULSA COUNTY, STATE OF OKLAHOMA

FILE COPY

Case No. 2447—Crown Hill Funeral Home

Action Requested:

Use Variance to allow for a funeral home (Use Unit 11) in an AG District (Section 310, Table 1). Location: 1821 East 66th Street North

Presentation:

Michael McConnell, 2455 North Boston Avenue, Tulsa, OK; stated he would like to receive a license from the state funeral board to operate a full service funeral home. He would also like to have the ability to embalm. For the most part funeral homes do not perform their own in-house embalming because it is now outsourced. The state funeral board wants funeral homes to have the capability of doing so in case of a disaster or large emergency. He would like to be able to show and sell caskets and provide a price list for funeral services.

Mr. Charney asked Mr. McConnell if he was a prospective buyer or if he currently owned the property. Mr. McConnell stated that he has a lease with option to purchase and he does intend to purchase the building if he is allowed to use the funeral home. He has no reason to purchase the building without the use of the funeral home.

Mr. Charney asked Mr. McConnell if the site was served by sanitary sewer or septic system. Mr. McConnell stated the property is on sanitary sewer. Mr. Charney asked if Mr. McConnell knew if there is a sufficient infrastructure in place from to handle the embalming process. Mr. McConnell stated there is a sufficient infrastructure in place, and stated the state funeral board has seen the building several times. He has not been able to obtain the occupancy permit then the license for the funeral home. The Board of Adjustment is the last step in the process so that all the permits can be obtained and in place.

Mr. Draper asked Mr. McConnell if the existing church/school use intended to continue, or is the building intended to totally become a funeral home. Mr. McConnell stated there is a very large chapel on site and it has been used for weddings. There is no school, and at one time there was a church renting the chapel.

Mr. Charney asked Mr. McConnell if any of the surrounding neighbors has expressed any concerns in regards to the funeral home. Mr. McConnell stated that he has heard overwhelming support from the neighbors for the proposed project.

Interested Parties:

John Smaligo, 633 North Denver Avenue, Tulsa, OK; stated that he appeared before the Board of Adjustment several years ago in regards to a halfway house at the subject location. It was decided by the Board, very wisely, that the level of intensity of the type

11/20/2012/#390 (7)

BOA-2447

FILE COPY

of use did not fit the surrounding area. Mr. Smaligo mentioned the petition from the neighbors in the surrounding area, that they recognize this as an opportunity for this facility to be used in a positive way and a good business opportunity for the community. Mr. Smaligo stated that Mr. McConnell has gone out of his way to visit with some of the homeowners of the area and tell them about his plans. Mr. McConnell has been very open about this process and garnered quite a bit of support, which is well deserved. Mr. Smaligo encourages the Board to approve this application.

Jeff Kirkham, 1727 East 73rd Street North, Tulsa, OK; stated he believes in Mr. McConnell. He believes that Mr. McConnell will do as he says he is going to do. He believes Mr. McConnell will continue to improve the subject property. He knows Mr. McConnell will be an asset to the community.

Comments and Questions:

Mr. West suggested that Mr. McConnell have the property platted, which would clean up the property for the County.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dillard, Draper, Osborne, Walker "aye"; No "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a **Use Variance** to allow for a funeral home (Use Unit 11) in an AG District (Section 310, Table 1). Finding that the peculiar nature of the structure as it is situated on the land has a limited potential use. This hardship will allow the Board to grant the use variance given the unusual nature of the structure on the site and the overall size of the property; for the following property:

W250 E/2 SW SW SE LESS S50 THEREOF FOR RD SEC 31 21 13 3.501ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2448—Larry D. Vaughan

Action Requested:

Variance to allow 1,500 square foot accessory building (pole barn) in an RS District (Section 240.2.E). **Location:** 4701 West 27th Street South

Presentation:

Larry Vaughan, 4701 West 27th Street South, Tulsa, OK; stated there is an existing 750 square foot pole barn that is approximately 40 years old and it is riddled with termites. He has attempted to make repairs to the barn but it is not cost effective. He would like to build a 1,500 square foot pole barn to the north of the existing barn and after the new structure is complete he will raze the old barn.

Interested Parties:

There were no interested parties present.

11/20/2012/#390 (8)

Case No. 709 (continued)

to DENY a Special Exception (Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1209) to allow a mobile home in an AG-R District; finding that there are no mobile homes in the immediate neighborhood; and finding that a mobile home is not compatible with the residential character of the area; on the following described property:

East 519', south 210', north 630', NE/4, NE/4, Section 8, T-21-N, R-14-E, Tulsa County, Oklahoma.

Case No. 710

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in Agricultural Districts - Use Unit 1205 - Request a special exception to allow a church, associated school and related uses in an AG District, located east of NE/c 66th Street North and Victor Avenue.

Presentation:

The applicant, Northside Freewill Baptist Church, was represented by Curtis Linton, 1724 East 63rd Street North, Tulsa, Oklahoma, who explained that the church is planning to relocate and build a new facility on the property at the above stated location. He stated that a parsonage, which is his residence, has been constructed on the property adjoining the tract in question. Mr. Linton informed that the first story of the building will have approximately 22,500 sq. ft. of floor space, with an additional 7,000 sq. ft. being added at a later date. He stated that the church operates a day school and is a food bank distributor.

Comments and Questions:

Mr. Alberty asked what grades are taught in the school and Mr. Linton replied that classes are taught from kindergarten through high school, with an enrollment of approximately 40 children.

Mr. Alberty asked if the school will be conducted in the church, and Mr. Linton stated that the first phase of the construction will actually be a multi-purpose building which will be used for the school, worship services and other church related activities.

Mr. Looney inquired as to the school hours, and Mr. Linton informed that classes will begin at 8 a.m. and conclude at 3:30 p.m.

In answer to Mr. Alberty's inquiry, Mr. Linton informed that the present church membership is approximately 350 to 400. He stated that a new octagonal shaped auditorium will be constructed in the near future.

12.16.86:79(6)

Case No. 710 (continued)

Mr. Alberty explained that the Board can approve church use at this time, but a site plan will have to be approved by the Building Inspector before construction begins.

Mr. Edwards informed that an Engineer Certificate will be required and Mr. Alberty pointed out that the applicant will also be required to acquire a plat, or obtain a waiver of that requirement.

Board Action:

On MOTION of LOONEY, 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 Agricultural Districts - Use Unit 1205) to allow a church, associated school and related uses in an AG District; subject to site plan approval by the Building Inspector; finding that the granting of the special exception request will not be detrimental to the area; on the following described property:

West 250' of the E/2, SW/4, SW/4, SE/4 of Section 31, T-21-N, R-13-E, Tulsa County, Oklahoma.

Case No. 711

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use unit 1209 - Request a special exception to allow a mobile home in an RS District.

Variance - Section 208 - One Single Family Dwelling per Lot of Record - Request a variance to allow two dwellings per lot of record, located at 6141 North Utica Place.

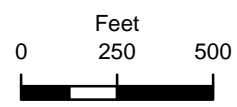
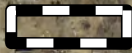
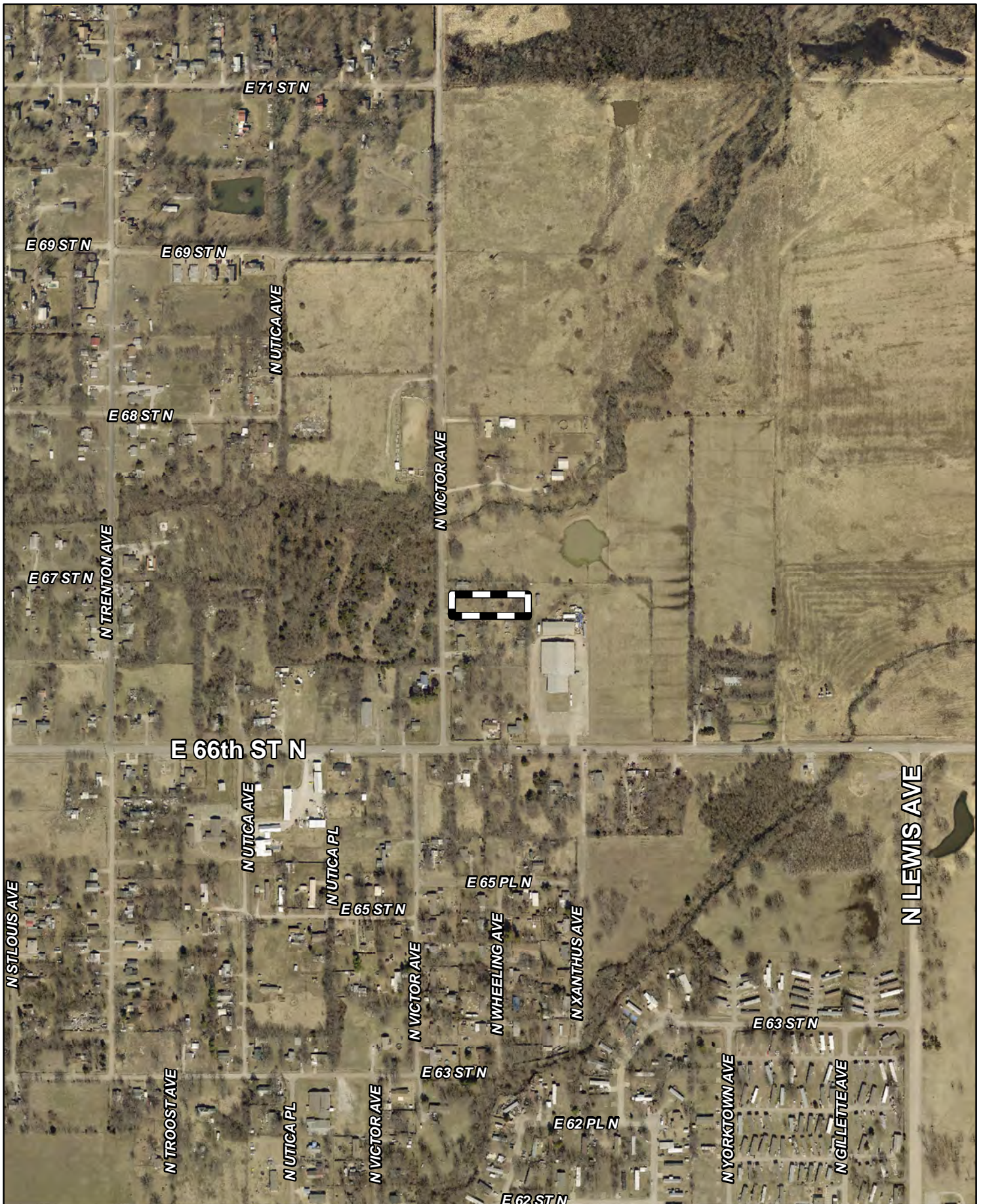
Presentation:

The applicant, Leroy Brown, 6141 North Utica Place, Tulsa, Oklahoma, stated that the proposed location for the mobile home in question is a 2 1/2 acre tract behind the houses in the area. He informed that he has constructed a bridge across the creek and has placed one dwelling on the back tract.

Comments and Questions:

Mr. Alberty asked the applicant if he intends to rent the trailer and he answered in the affirmative.

Mr. Walker inquired if there are trees along the creek to screen the view of the mobile home from the residences, and Mr. Brown replied that there are many trees along the creek bank.



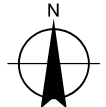
Subject Tract

CBOA-2954

21-13 31

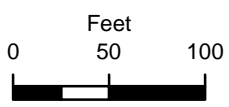
Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: 2020/2021





N VICTOR AVE



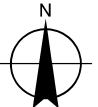
Subject Tract

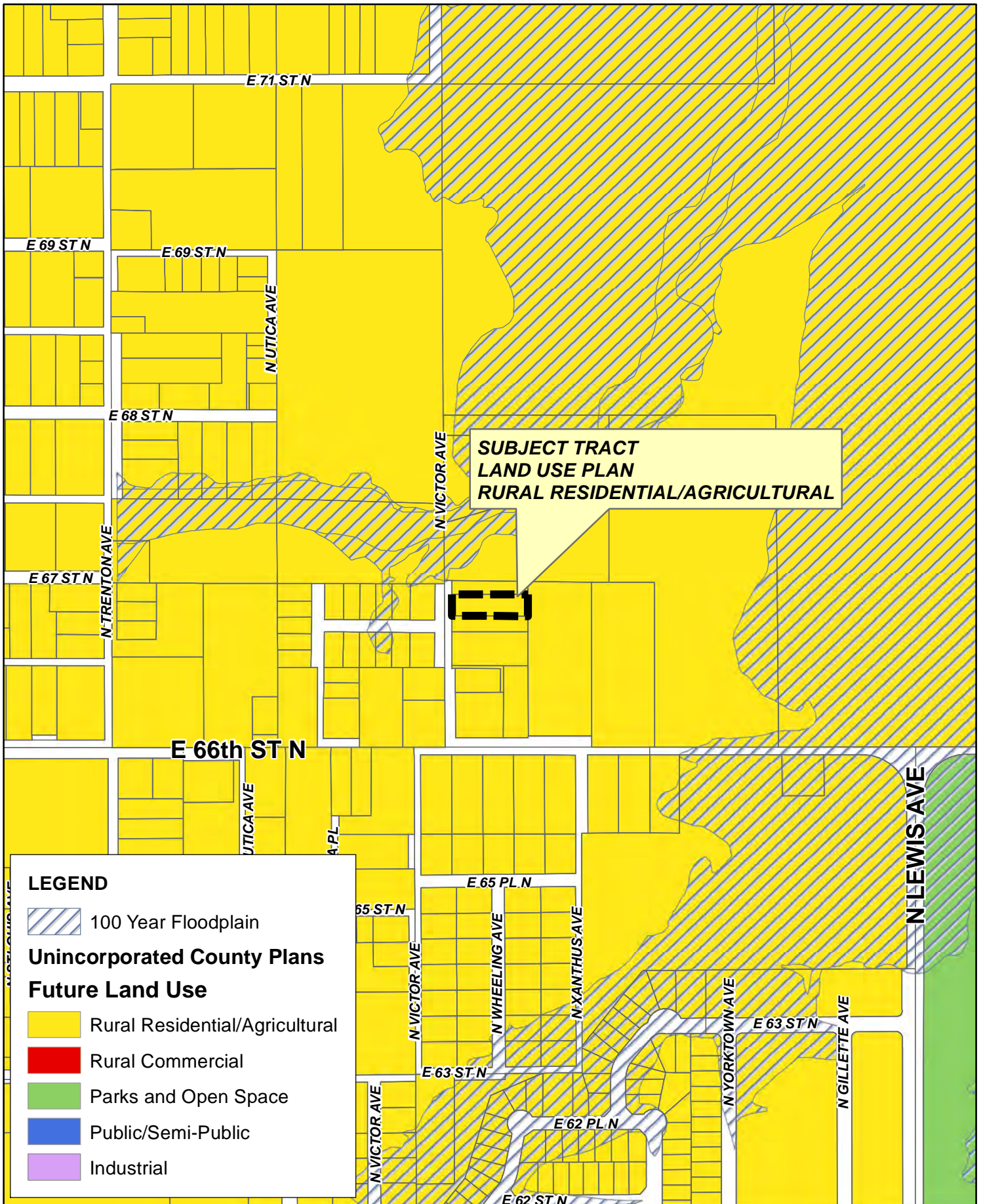
CBOA-2954

21-13 31

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

Aerial Photo Date: 2020/2021





LEGEND

100 Year Floodplain

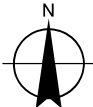
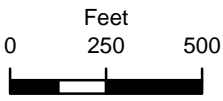
Unincorporated County Plans

Future Land Use

- Rural Residential/Agricultural
- Rural Commercial
- Parks and Open Space
- Public/Semi-Public
- Industrial

CBOA-2954

21-13 31





Looking east toward subject property

Google Earth 2022



Looking south on N. Victor Ave. E.

Google Earth 2022

8:52



ON HUNT



N

100 ft
796 ft elevation

COWS

goats

Abandoned **LOOPER / vacant**
GOV

KOSKINEN MARY RA

HARLOW JOHNNY P

Family

Family

HARLOW JOHNNY P

WEBSTER BOBBY J

GILLIS ROY LEE

Victor ave

Vehicle salvage yard

Horses

Church

S

5 trial days left

Sat
2D



Map Layers



Offline Maps



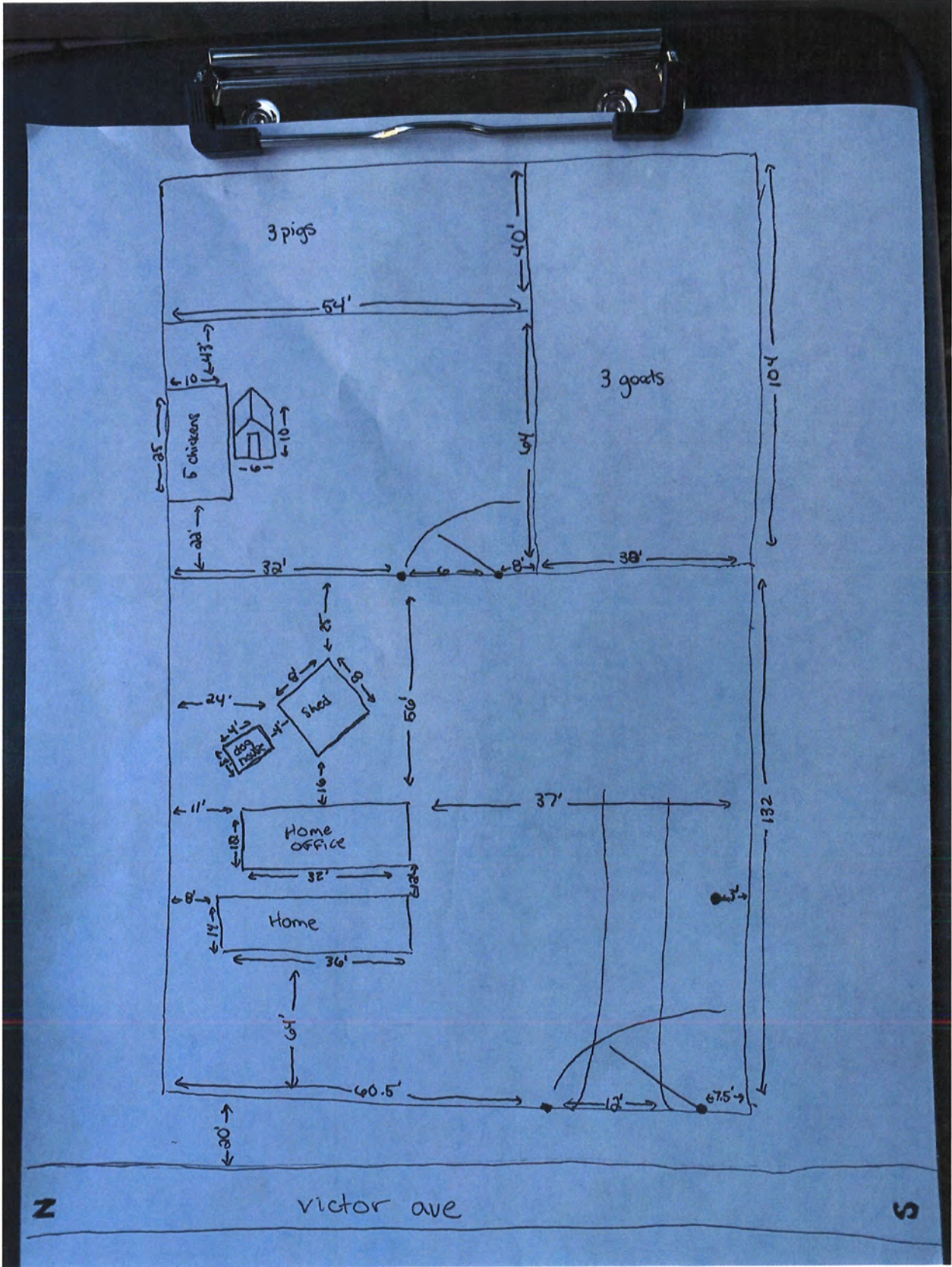
My Content



Tools



Tracker





Case Number: CBOA-2955

Hearing Date: 03/15/2022 1:30 PM

Case Report Prepared by:

Robi Jones

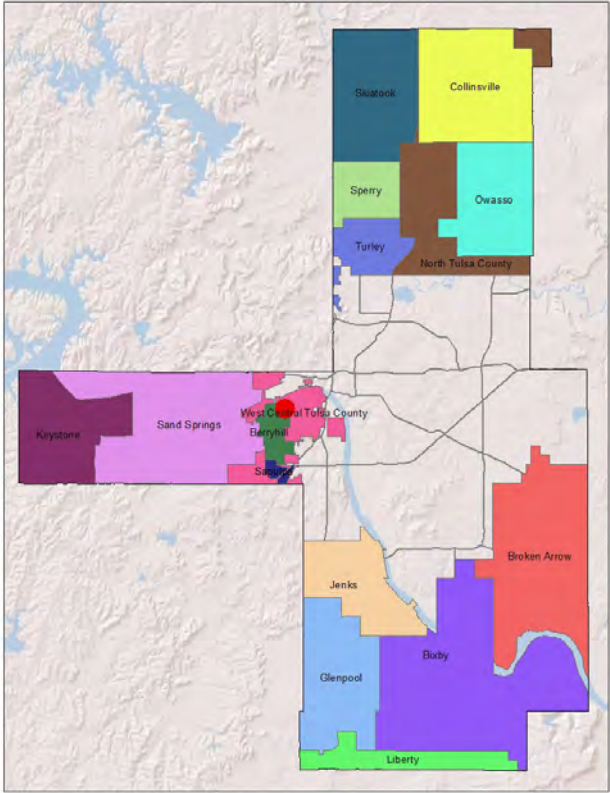
Owner and Applicant Information:

Applicant: Jacob Snow

Property Owner: JEJ PROPERTIES LLC-SERIES 8

Action Requested: Special Exception to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an IL District (Section 1226); and a Use Variance to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an RS district (Section 1226).

Location Map:



Tulsa County Comprehensive Land Use Plan

Additional Information:

Present Use: Vacant

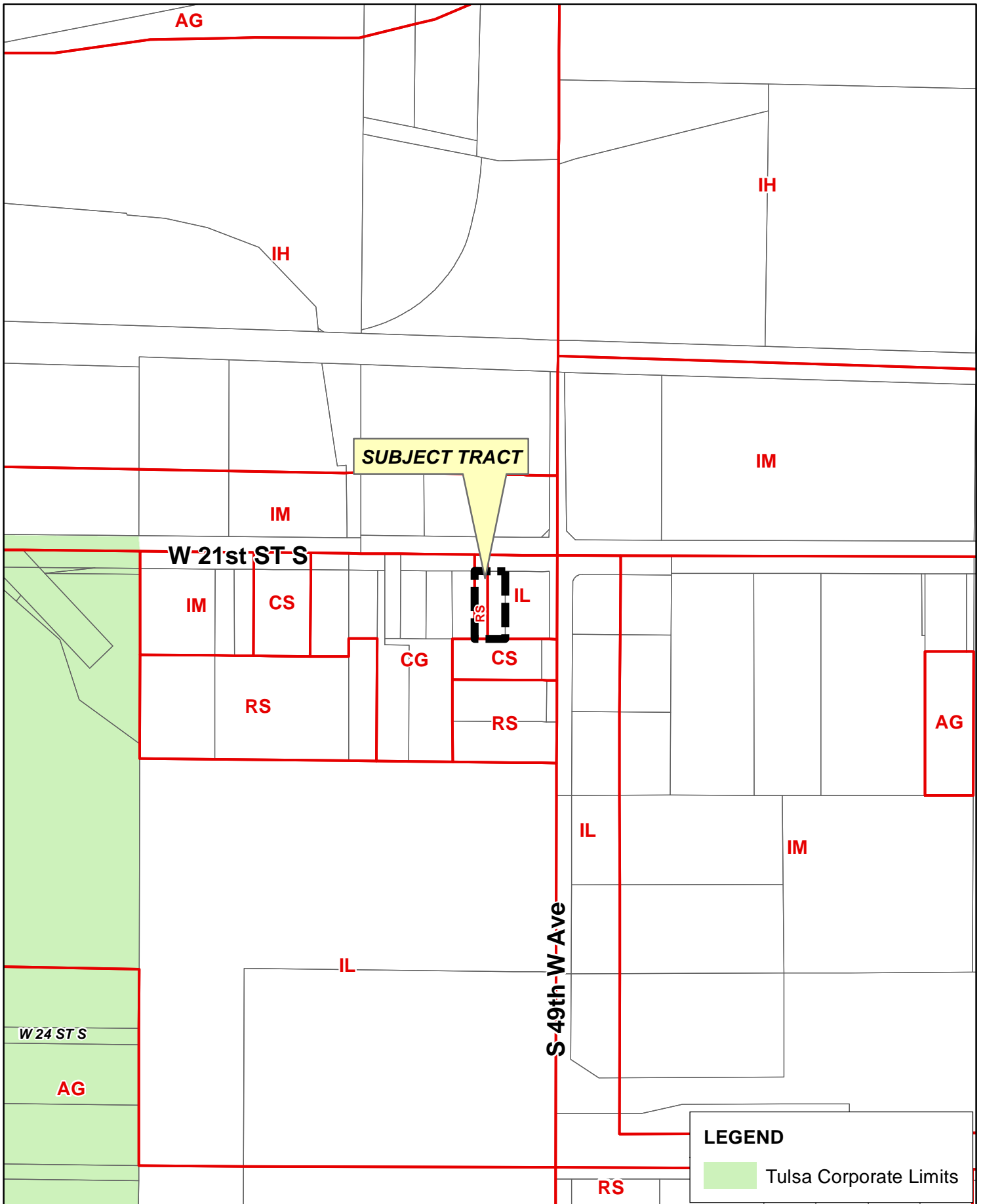
Tract Size: 0.47 acres

Location: 4918 W 21 ST S

Present Zoning: RS, IL

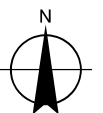
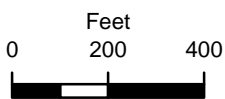
Fenceline/Area: Berryhill

Land Use Designation: Neighborhood Center



CBOA-2955

19-12 17



**TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT**

TRS: 9217

CZM: 35

CASE NUMBER: **CBOA-2955**

CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 03/15/2022 1:30 PM

APPLICANT: Jacob Snow

ACTION REQUESTED: Special Exception to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an IL District (Section 1226); and a Use Variance to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an RS district (Section 1226).

LOCATION: 4918 W 21 ST S

ZONED: RS, IL

Area: Berryhill

PRESENT USE: Vacant

TRACT SIZE: 0.47 acres

LEGAL DESCRIPTION: E40 W110 N 2ACS E 5ACS NE NE NE LESS N50 FOR ST SEC 17 19 12 .20AC; BEG 165 W & 50 S NEC NE S 214 W 55 N 214 E 55 TO BEG SEC 17 19 12,

RELEVANT PREVIOUS ACTIONS:

Subject Property:

Z-491 September 2019: All concurred in **approval** of a request for *rezoning* a 0.27± acre tract of land from CS to IL on property located at 4918 West 21st Street South.

CBOA- 1319 January 1995: The Board **approved** a *special exception* to permit automobile sales in a CS zoned district subject to a maximum of six cars displayed on the lot; finding that there are mixed zoning classifications in the area and car sales will be compatible with the surrounding uses, on the property located at 4918 West 21st Street South.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts CG zoning to the west, CS zoning to the south, IL zoning to the east, and IM zoning to the north. Surrounding uses appear to be commercial and industrial in nature. The subject site has a residential dwelling unit on it that was built in 1970 according to the County Assessor's office.

STAFF COMMENTS:

The applicant is requesting a Special Exception to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an IL District (Section 1226); and a Use Variance to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an RS district (Section 1226).

A special exception is required as Use Unit 26 is a use which is not permitted by right in the IL district and a use variance is required as Use Unit 26 is a use which is not permitted by right in the RS district because

of potential adverse affects, but which if controlled in the particular instance as to its relationship to the surrounding area and to the general welfare, may be permitted.

The Board of Adjustment, in reviewing the requested Special Exception and Use Variance, must consider potential environment influences, such as dust and vibration, noise and truck traffic. The applicant should be able to provide the Board with information related to the potential impacts (if any) of the proposed moderate-impact processing on adjoining land uses.

The applicant provided the following statement: *“Our facility is only partially inside the RS zone which only covers the driveway to the west of the building, running south from 21st Street to the residential dwelling that is to the south of the facility. The use of carbon dioxide is critical to our manufacturing process. Carbon dioxide is an inert gas and poses no fire or explosion hazard and has a neutral environmental impact.”*

Use Unit 26 is described as manufacturing and industrial uses having moderately objectionable environmental influences by reason of the emission of odor, heat, smoke, noise, or vibration.

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

Sample Motion:

“Move to _____ (approve/deny) a Special Exception to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an IL District (Section 1226).

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

Subject to the following conditions, if any: _____.

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

Move to _____ (approve/deny) a Use Variance to allow Use Unit 26, Moderate Manufacturing and Industry, to permit moderate-impact processing in an RS district (Section 1226).

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.”

a nice area. He stated as far as security concerns the law states there has to be camera systems and 24-hour monitoring so that will be installed. Mr. Soukieh stated the property has a chain link fence with a rail all the way around it. He stated there will be carbon filters in the ventilation system for the smell. Mr. Soukieh stated he is hoping to get the zoning change approved.

Mr. Reeds asked if the growth will be inside and outside.

The applicant stated all indoors.

Mr. Reeds asked if there is an apartment building to the east.

The applicant stated he wasn't sure how it is classified but it's more of a homeless shelter ran by the Day Center.

Ms. Kimbrel asked if the applicant had talked to any neighboring residents or other community organizations or businesses in the area.

The applicant stated he had talked briefly with the Salvation Army.

Mr. Covey asked if the applicant owned the property to the south.

Mr. Soukieh stated he owned the property to the south and the east of the subject property.

Mr. Covey asked if the intent was to build a new facility.

Mr. Soukieh stated no, it was to use the existing building.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **McARTOR**, TMAPC voted **9-0-0** (Covey, Fothergill, Kimbrel, McArtor, Ray, Reeds, Ritchey, Van Cleave, Walker, "aye"; no "nays"; none "abstaining"; Doctor, Shivel, "absent") to recommend **APPROVAL** of rezoning from CH to IL with optional development plan for Z-7492 per staff recommendations.

Legal Description Z-7492:

BLK 67 & S30.43 VAC ST ADJ ON N THEREOF LESS S200 THEREOF BLK 67, GLENHAVEN

7. **CZ-491 Christina Wilson** (County) Location: West of the southwest corner of West 21st Street South and South 49th West Avenue rezoning from **CS to IL**

09:18:19:2802(10)

STAFF RECOMMENDATION:

SECTION I: CZ-491

DEVELOPMENT CONCEPT: The applicant is proposing to rezone the subject property from AG to IL in order for light industrial uses to be utilized on the site.

The site is located within the Berryhill Small Area Plan, which designates this lot as Neighborhood Center and an Area of Growth. Industrial development at this location is not compatible with the goals of the Berryhill Small Area Plan. This area is in the vicinity of the Gilcrease Expressway expansion. One of the goals expressly stated in the plan (Goal 3) is to promote commercial growth along major street corridors and interchanges of the Gilcrease Expressway along W 21st St S between S 61st W Ave and S 49th W Ave, which the subject lot lies within. Additionally, Goal 5 limits industrial areas and uses incompatible with the existing and desired future character of the community. This goal calls out areas within Berryhill where industrial uses would be compatible. The subject lot does not lie within those specified areas.

DETAILED STAFF RECOMMENDATION:

CZ-491 is consistent with the current uses of the surrounding properties, but is not compatible with the Land Use or Goals of the Berryhill Small Area Plan, therefore;

Staff recommends denial of CZ-491 to rezone property from CS to IL.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The site is located within the Neighborhood Center land use designation of the Berryhill Small Area Plan.

Land Use Vision:

Land Use Plan map designation: Neighborhood Center

Neighborhood Centers are small-scale, one to three story mixed-use areas intended to serve nearby neighborhoods with retail, dining, and services. They can include apartments, condominiums, and townhouses, with small lot single family homes at the edges. These are pedestrian-oriented places served by transit, and visitors who drive can park once and walk to number of destinations.

Areas of Stability and Growth designation: Growth

The purpose of Areas of Growth is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Areas of Growth are found throughout Tulsa. These areas have many different characteristics but some of the more common traits are close proximity to or abutting an arterial street, major employment and industrial areas, or areas of the city with an abundance of vacant land. Also, several of the Areas of Growth are in or near downtown. Areas of Growth provide Tulsa with the opportunity to focus growth in a way that benefits the City as a whole. Development in these areas will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile.

Transportation Vision:

Major Street and Highway Plan: W 21st St S is designated as a Secondary Arterial

Trail System Master Plan Considerations: None

Small Area Plan: Berryhill

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: The site contains an existing commercial building.

Environmental Considerations: The site is located within the Tulsa County 500 year Floodplain.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
W 21 st St S	Secondary Arterial	100 Feet	4

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	IM	Neighborhood Center	Growth	Industrial
South	CS	Neighborhood Center	Growth	Commercial/Industrial
East	IL	Neighborhood Center	Growth	Commercial/Industrial
West	RS	Neighborhood Center	Growth	Vacant

SECTION III: Relevant Zoning History

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

Subject Property:

CPA-77 January 2019: All concurred in **approval** to *adopt* CPA-77, The Berryhill Land Use Plan, as an amendment to the Tulsa Comprehensive Plan and the Tulsa Metropolitan Area Comprehensive Plan for District 9. The plan area boundary is approximately 4.15 square miles of land area, bounded on the North by the Arkansas River; and on the South along W 51st St. S, excluding some properties within Sapulpa city limits; and bounded on the East along 49th W Ave to include some east abutting properties; and on the West along 65th West Avenue including properties west of 65th W Ave that abut Chandler Park and Sand Springs City limits.

CBOA- 1319 January 1995: The County Board of Adjustment **approved** a *special exception* to permit automobile sales in a CS zoned district subject to a maximum of six cars displayed on the lot; finding that there are mixed zoning classifications in the area and car sales will be compatible with the surrounding uses, on the property located at 4918 West 21st Street South.

Surrounding Property:

CZ-447 January 2017: All concurred in **approval** of a request for *rezoning* a 4 ± acre tract of land from RS to CG on property located west of the southwest corner of West 21st and South 49th West Avenue.

CBOA- 2553 November 2015: The County Board of Adjustment **approved** the applicant's request for a *variance* of the required front setback in the IM District from 50 feet to 20 feet with the hardship being the existing building on the subject property, on property located at 5001 West 21st Street South.

BOA-6888 February 1971: The Board of Adjustment **approved** the applicant's request for *exception* to permit using IM property for a petroleum tank farm.

TMAPC Comments:

Ms. Kimbrel asked what the future Land Use designation for this area was.

Staff stated it is Neighborhood Center so it would be commercial. He stated the current zoning would be compatible but an industrial use would not.

Mr. McArtor asked what the applicant wanted to do on the subject property.

Staff stated he was not sure of the specifics the applicant would have to speak to that but in general industrial light uses.

Applicant Comments:

The applicant stated she is looking to change the zoning for a marijuana grow facility. The property currently is enforced with bars and security cameras, motion detectors, carbon filters, all of the minimal OMMA requirements. The applicant stated there is a lot of industrial already in this area and when she spoke with the City about rezoning, they suggested IL due to what is surrounding the subject property now. The applicant stated she has talked to the neighbors, there's a trash place right next door, there's a house behind that is owned by the owner of this location.

Mr. Covey stated there is IL to the east and IM all around the subject property. He stated the applicant is asking for IL zoning and it abuts IL.

Mr. Ritchey stated Berryhill has a plan and plans have a purpose and need to be protected. But is there ever a plan to get all the owners in an area to opt in to switch their zoning for free to CH or something to spur the commercial growth or are they just depending on these trash piles to one day decide they don't want to post trash at this location anymore.

Staff stated they just look at the plan being proposed and the compatibility of future uses to that plan and if they are not compatible with those uses staff recommends denial of that change.

Mr. Fothergill stated Berryhill is in unincorporated Tulsa County with a strip of incorporated city of Tulsa that runs through the middle of it for the Gilcrease Expressway. He stated the part of 21st Street where the subject property is located is again in unincorporated Tulsa County but less than a mile from the incorporated strip where the Gilcrease will go. Mr. Fothergill stated this plan was put together as a joint between the City and the County and there are no plans to get all these people on board with a opt in zoning change. Mr. Fothergill stated 21st Street is heavily industrialized and it includes a refinery and several chemical manufacturing companies. He stated the idea was to try to get commercial in that area because everybody wants to be able to shop in your own neighborhood and get those amenities there. Mr. Fothergill stated but it is a plan.

Mr. McArtor asked staff what was the difference in this request and the one just approved?

Staff stated the zoning is different and the optional development plan for the IL zoning helped to make it compatibility with the comprehensive plan. Staff stated the recently adopted Berryhill Land Use Plan was the major factor in the decision to recommend denial to consider what the residents of Berryhill wanted in this area.

Mr. McArtor asked if it would be helpful for this applicant to have an optional development plan.

Staff stated the optional development plan is not available in the County. The County uses PUD's.

Mr. Covey asked would it be better if the applicant did a PUD.

Staff stated that we would definitely have more control, but it would still be an industrial use in a commercial area.

Mr. Fothergill stated the PUD wouldn't change the fact that it's violating the Berryhill Land Use Plan which is staff's objection. He stated in his opinion this will not be a highly commercialized area in the near future but it's certainly industrial. Mr. Fothergill stated he drives the street twice a day, every day and it's an industrial street. He stated there are a few commercial sites further east but everything else on the street is industrial.

Mr. McArtor asked if the idea of making this commercial is a long way away.

Mr. Fothergill stated "yes", closer towards the Gilcrease Expressway which is toward 57th West Avenue he sees going commercial just like any other interchange to a Turnpike. Mr. Fothergill stated more commercial would be great. He stated they do want to limit industrial and keep it from creeping in. Mr. Fothergill stated the subject property is boxed in around industrial and he doesn't see it making an impact.

Mr. Reeds stated the one approved previously with IL was next to a house and this application we're looking at is next to an existing IL junkyard. Mr. Reeds stated he will be voting against staff recommendation.

Ms. Kimbrel asked if staff knew how Berryhill engages its community to make future land use decisions.

Staff stated there were several different public meetings and there were a lot of people present and very vocal about what they wanted and didn't want in their community. This was last year.

Mr. Reeds stated he participated in a couple of those meetings and they were very well attended but the fact is this is a far-flung part of that plan in his opinion. He stated when the Gilcrease is finished development is going to take off, is what we keep hearing but it's kind of like water in the river so we shall see.

TMAPC Action; 9 members present:

On **MOTION** of **RITCHEY**, TMAPC voted **8-1-0** (Covey, Fothergill, McArtor, Ray, Reeds, Ritchey, Van Cleave, Walker, "aye"; Kimbrel, "nays"; none "abstaining"; Doctor, Shivel, "absent") to recommend **APPROVAL** of IL zoning for CZ-491.

Legal Description CZ-491:

BEG 165 W & 50 S NEC NE S 214 W 55 N 214 E 55 TO BEG SEC 17 19 12,
City of Tulsa, Tulsa County, State of Oklahoma

8. **PUD-230-A Nathan Cross** (CD 7) Location: Northwest of the northwest corner of East 41st Street South and Highway 169 requesting a **PUD Major Amendment** to add School as an allowable use

STAFF RECOMMENDATION:

SECTION I: PUD-230-A

DEVELOPMENT CONCEPT: The applicant is proposing to add School as an allowable use within Development Area A of the PUD. The underlying zoning for this area is OL. School uses are permitted in OL zones by Special Exception. A

09:18:19:2802(16)

FILE COPY

COUNTY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 176

Tuesday, January 19, 1995, 1:30 p.m.

County Commission Room

Room 119

County Administration Building

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Alberty Eller Tyndall, Chairman Walker	Looney	Gardner Moore Russell	Glenn, Building Inspection

The notice and agenda of said meeting were posted in the Office of the County Clerk on Monday, January 18, 1995, at 11:28 a.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **ELLER**, the Board voted 4-0-0 (Alberty, Eller, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Looney, "absent") to **APPROVE** the **Minutes** of December 20, 1994 (No. 175).

Comments and Questions:

Mr. Glenn advised that all applications are subject to a flood hazard review; however, these reviews are not available at this time.

NEW APPLICATIONS

Case No. 1319

Action Requested:

Special Exception to permit automobile sales in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17, located 4918 West 21st Street South.

Presentation:

The applicant, **James Madewell**, was represented by **Kelly Knowlton**, 4818 West 30th Street, who informed that he and Mr. Madewell are proposing to operate a used car lot at the above stated location. He noted that there will be no inoperable vehicles on the lot, and probably no more than two cars will be displayed for sale.

01:19:176:(1)

Case No. 1319 (continued)

Comments and Questions:

Mr. Tyndall inquired as to the use of the lot at this time, and Mr. Knowlton stated that it is vacant.

In response to Mr. Alberty, the applicant stated that there will be a maximum of six cars on the lot at any given time.

Interested Parties:

Bill Watts, 2138 South 49th West Avenue, noted that the address on the hearing notice and the case map do not correspond. He stated that it appears that junk cars are on the subject property at this time.

Ms. Russell clarified that the wrong address was mailed out with the hearing notice; however, the correct legal description was advertised. She explained that only the narrow lot that fronts on 21st Street is under application.

The applicant stated that there are no junk cars or salvage of any type on his lot.

Mr. Alberty informed that he site checked the area and the use is predominately heavy industrial and automobile sales would not be an inappropriate use.

Board Action:

On **MOTION** of **ALBERTY** the Board voted 3-0-0 (Alberty, Eller, Tyndall, "aye"; no "nays"; no "abstentions"; Looney, Walker, "absent") to **APPROVE** a **Special Exception** to permit automobile sales in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17; subject to a maximum of six cars displayed on the lot; finding that there are mixed zoning classifications in the area and car sales will be compatible with the surrounding uses; on the following described property:

Beginning 165' west and 50' south of the NE/c, NE/4, south 214', west 55', north 214', east 55' to beginning, Section 17, T-19-N, R-12-E, Tulsa County, Oklahoma

Case No. 1320

Action Requested:

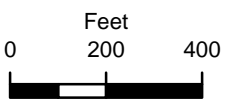
Variance of the maximum 750 sq ft for a detached accessory building - **SECTION 240.2.E. Permitted Yard Obstructions** - Use Unit 6, located 6110 West 41st Street South.



W 21st ST S

W 24th ST S

S 49th W Ave



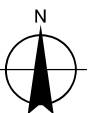
Subject Tract

CBOA-2955

19-12 17

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

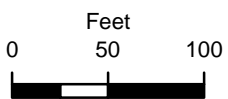
Aerial Photo Date: 2020/2021





W 21st ST S

S 49th W Ave



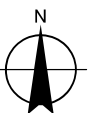
Subject Tract

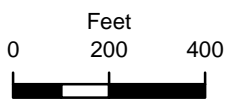
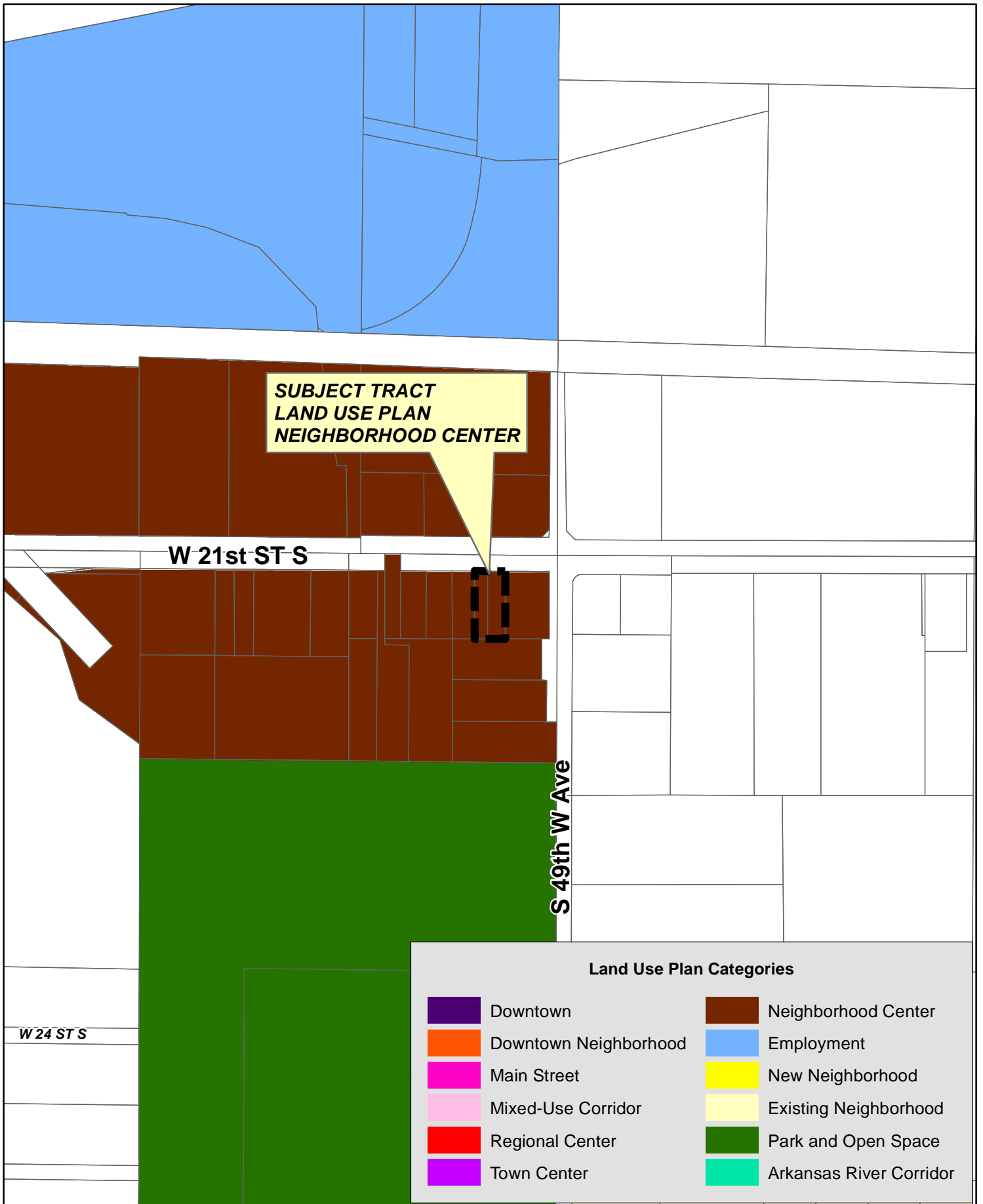
CBOA-2955

19-12 17

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

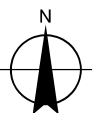
Aerial Photo Date: 2020/2021



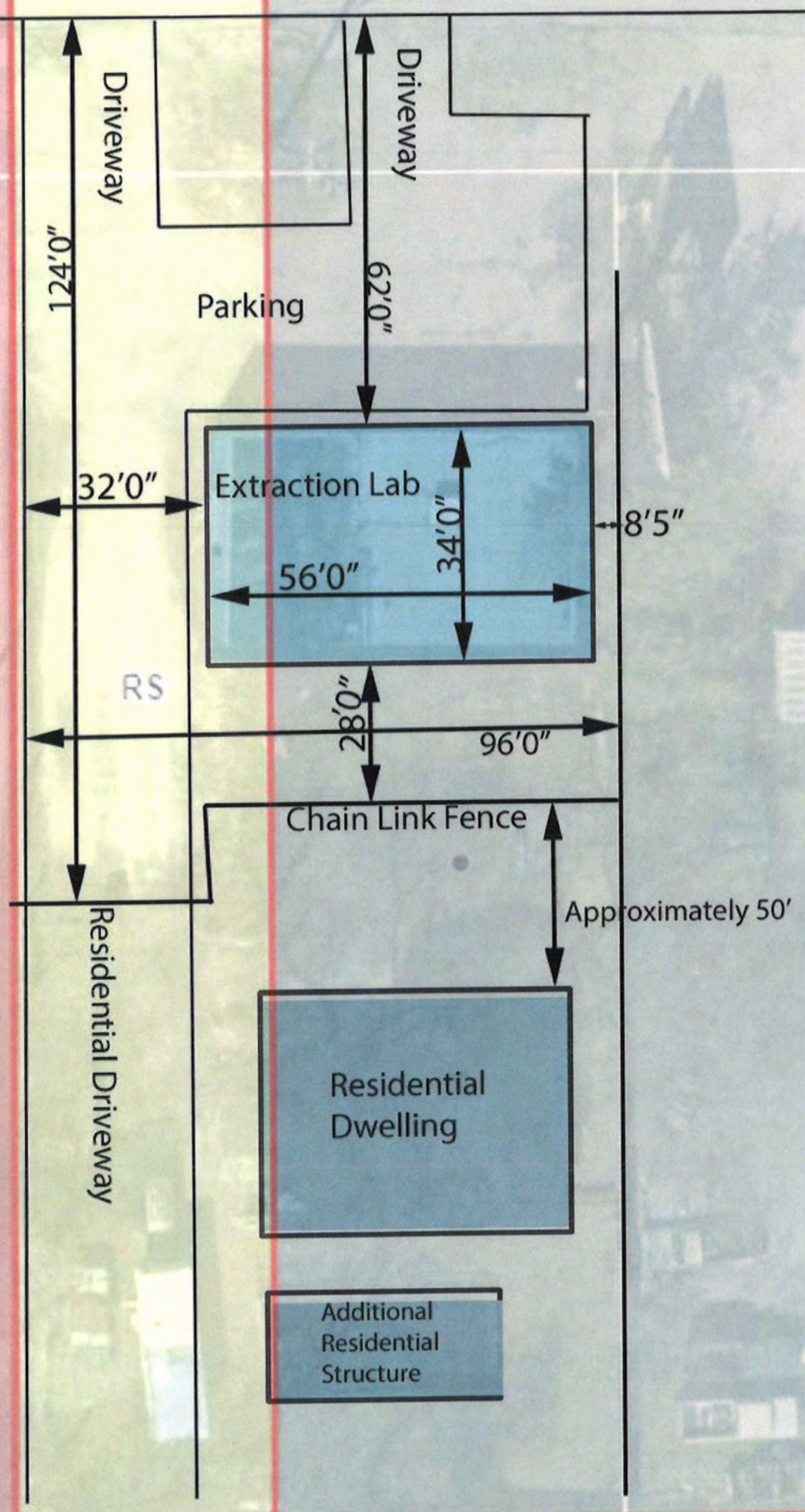


CBOA-2955

19-12 17



West 21st Street





Case Number: CBOA-2956

Hearing Date: 03/15/2022 1:30 PM

Case Report Prepared by:

Robi Jones

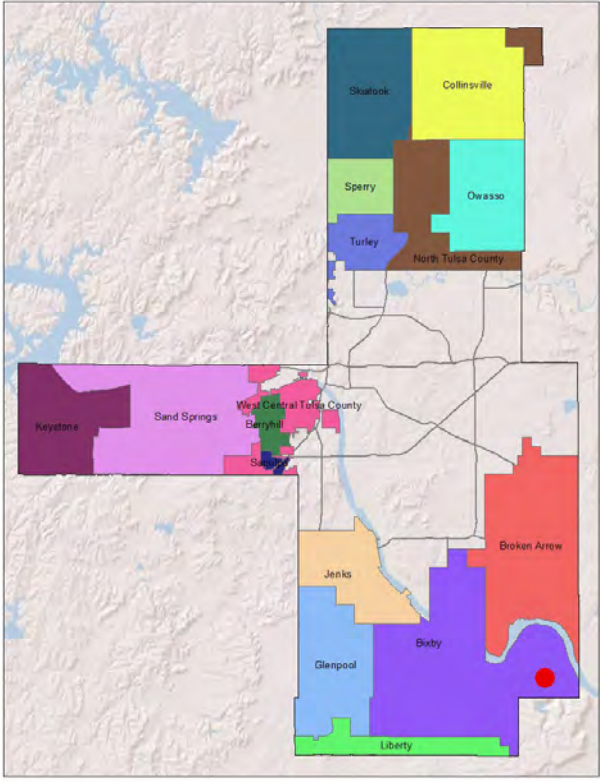
Owner and Applicant Information:

Applicant: Amy Hall

Property Owner: HALL, AMY CHRISTINA & JESSE EUGENE

Action Requested: Variance of the minimum lot area and land area per dwelling unit in the AG district to permit two dwelling units on one lot of record. (Section 330)

Location Map:



Tulsa County Comprehensive Land Use Plan

Additional Information:

Present Use: Residential

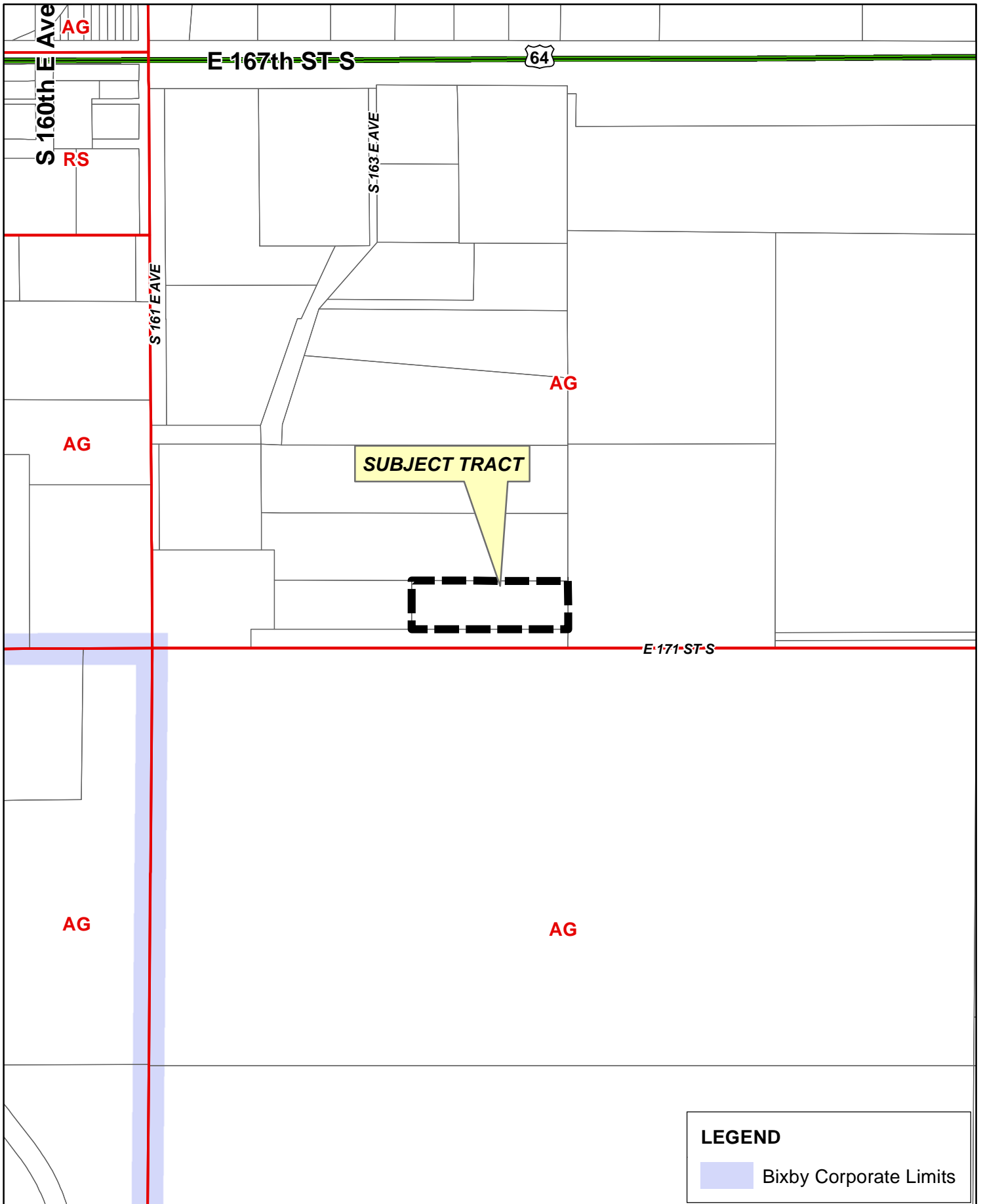
Tract Size: 1.79 acres

Location: 16421 E 171 ST S

Present Zoning: AG

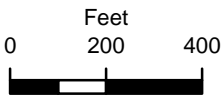
Fenceline/Area: Bixby

Land Use Designation: Rural Agriculture



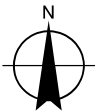
LEGEND

 Bixby Corporate Limits



CBOA-2956

17-14 26



**TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT**

TRS: 7426

CZM: 69

CASE NUMBER: **CBOA-2956**

CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 03/15/2022 1:30 PM

APPLICANT: Amy Hall

ACTION REQUESTED: Variance of the minimum lot area and land area per dwelling unit in the AG district to permit two dwelling units on one lot of record. (Section 330)

LOCATION: 16421 E 171 ST S

ZONED: AG

FENCELINE: Bixby

PRESENT USE: Residential

TRACT SIZE: 1.79 acres

LEGAL DESCRIPTION: PRT SW SW BEG SECR SW SW TH W502.775 N214.97 E502.775 S214.53 POB LESS S60 THEREOF SEC 26 17 14 1.787ACS,

RELEVANT PREVIOUS ACTIONS:

Subject Property:

CBOA-1730 May 2000: The Board **approved** a *Special Exception* to allow two dwelling units on one lot of record during construction of new residence; and a *Variance* of Bulk and Area requirements from 2 acres of required lot area to 1.79 acres; and a *Variance* from 2.2 acres of required land area to 2.1 acres on existing lot, on property located at 16421 East 171st Street South.

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by AG zoning with a mix of residential and agricultural uses.

STAFF COMMENTS:

The applicant is before the Board requesting a Variance of the minimum ~~lot area~~ and land area per dwelling unit in the AG district to permit two dwelling units on one lot of record. (Section 330)

The applicant provided the following statement:

“To whom it may concern my property meets variance #2 it is peculiar in that when we purchased this house 8 years ago we bought the main home and it had a shop with living quarters. This house fit our needs because I care for my Senior mother who was recovering from Cancer and is insulin dependent diabetic. #1 We have lived there for eight years and unfortunately this year we had a hardship due to a fire. On March 1st last year my car ignited in the garage. This fire spread to the house and caused us to lose every possession we owned other than our pets and the clothes on our back. The house was a total lose including the foundation. It was not until the rebuild process that we were aware of any variance needed. We are pretty far in our build we are expected to get to return home in June. We currently are about to roof the home. So to find out we cannot get electricity to our previous home site and we now need a variance is another hurdle in an already

traumatic time. #1 In addition if this variance is not granted it puts me in a position where I have to find an alternate living situation for my 70 year old mother who is disabled and who has lived with us for the last 8 years. We also meet #3 in that our home is not a detriment to others. As mentioned before the home has been there for years and that we have occupied this home 8 years, this is only come up in the rebuilding process. The homes sits on a private road and is behind a gate. Our home is well maintained and should be granted the variance because nothing has changed on the property we are not asking for anything that hasn't been there for years. We just ask that we are able to get the variance so we can complete construction of our home and return home we do not want to slow this process we have already been displaced a year on March 1st."

The existing home on the property burned down and during the rebuilding process, it was discovered that the storage/out building was being used for residential purposes. CBOA-1730 approved a temporary use of the building for residential purposes while the main home was being constructed. Then, the extra building was only to be used for storage purposes.

Section 208 states: No 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 which is within an approved PUD, in an RMH district, or in an **AG district**, with the exception in the AG district that there be no more than two dwellings per lot. The applicant would be allowed by right to have two homes on the property if they met the bulk and area requirements.

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 to have two dwellings on the 1.79-acre subject lot. In 2020, a Variance was approved for the lot area (CBOA-1730) however, the second Variance did not adequately approve the land area per dwelling unit requirement. Today's request is to approve the land area per dwelling unit from 2.1 acres to 0.89 acres.

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 is not injurious to the surrounding agricultural district.

Sample Motion:

“Move to _____ (approve/deny) a Variance of the minimum lot area and land area per dwelling unit in the AG district to permit two dwelling units on one lot of record. (Section 330)

- ***Subject to the following conditions (if any): _____.***
- ***Finding the hardship to be _____.***

Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan”

Case No. 1729 (continued)

stated his preference that there not be a store there; and that there are four existing feed stores within an 8½ mile radius already. He would ask that marketing activities be confined to the designated area, and that the dust be controlled.

Applicant's Rebuttal:

Mr. Geer stated that he intends to blacktop the parking areas to control dust.

Interested Parties:

John Hubbard, with Prudential-Detrick Realty, stated that he sold the property to the applicant. He stated that there is a 50' utility and road easement, which should not be considered in the 250' frontage. Mr. Alberty stated that the 200' is more than adequate to do what the applicant plans to do.

Board Action:

On **MOTION** of **Alberty**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** a **Variance** to allow agricultural sales in an AG zoned district, with the conditions: sales including tack, feed, and agricultural implements only; and be restricted to the west 200' of the property; any building constructed would be a minimum of 50' from north property line and a minimum of 50' from the south property line; and all parking be on all-weather surface, finding the hardship that there is commercial zoning in existence on the west side of the street, but the owner has elected to use a variance since he is restricting it to agricultural sales, on the following described property:

The N 360' of the NW/4 of the SW/4, Section 14, T-16-N, R-12-E, Tulsa County, State of Oklahoma, including seller's mineral interest (1/2 of same) less all roadway and utility easements of record.

Case No. 1730

Action Requested:

Special Exception to allow two dwelling units on one lot of record during construction of new residence. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6; a Variance of Bulk and Area requirements from 2 acres of required lot area to 1.79 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; and a Variance from 2.2 acres of required land area to 2.1 acres on existing lot. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS, located at 16421 E. 171st St. S.

05:16:00:240(11)

Presentation:

The applicant, Murrel Wilmoth, 2728 W. 66th Pl., stated that the subject property was approved for a lot-split in 1983. Mr. Wilmoth added that the owner plans to build a new house and use his current residence as a storage building. He stated that the hardship is the excessive right-of-way and the shallowness of lot, due to the right-of-way that was not used when 171st Street was taken off the street plan.

Comments and Questions:

Mr. Dillard asked about the condition of the roadway now. Mr. Wilmoth stated that it is steep, with an oil mat surface, and about 18'.

Interested Parties/Protestants:

No interested parties wished to speak.

Board Action:

On the **MOTION** of **Dillard**, the Board voted 4-0-0 (Alberty, Dillard, Walker, Tyndall "aye"; no "nays", no "abstentions"; Looney "absent") to **APPROVE** a **Special Exception** to allow two dwelling units on one lot of record during construction of new residence, 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; a **Variance** of Bulk and Area requirements from 2 acres of required lot area to 1.79 acres; and a **Variance** from 2.2 acres of required land area to 2.1 acres on existing lot, finding the hardship to be the excessive right-of-way and shallowness of the lot on the following described property:

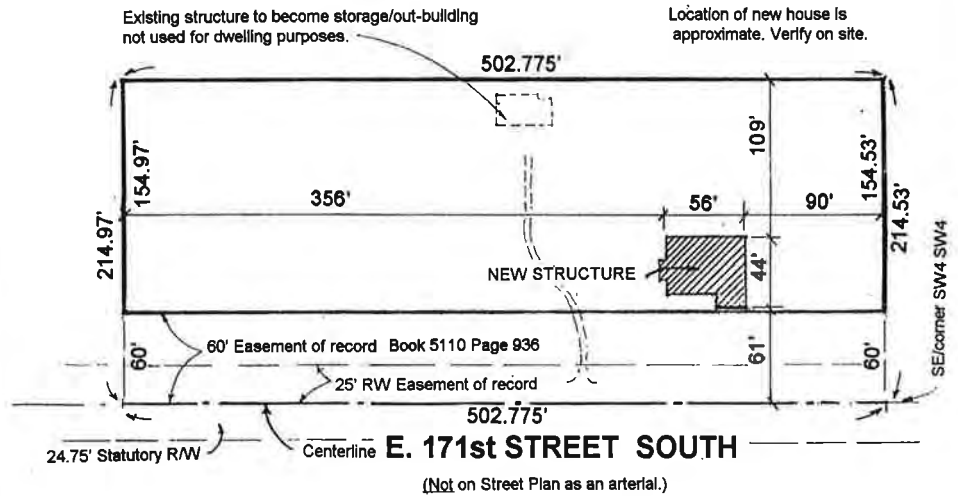
A tract of land in the W/2 SW/4 of Section 26, T-17-N, R-14-E, Beg at the SE/c SW/4 SW/4, Section 26; thence W 502.775'; thence N 214.97'; thence E 502.775'; thence S 214.53' to the POB; less easements of record along the southern boundary of the property for ingress and egress and roadway purposes, Tulsa County, State of Oklahoma

* * * * *

Case No. 1731

Action Requested:

Variance of average lot width of 200' to 155'. SECTION 330. BULK AND REQUIREMENTS IN THE AGRICULTURE DISTRICTS – Use Unit 6; a Variance of the minimum street frontage requirement of 30' to 0' on two proposed lots. SECTION 207. STREET FRONTAGE REQUIRED; a Variance of the minimum lot area from 2 acres to 1.58 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; and a Variance minimum land area requirement of 2.2 acres to 1.58 acres. SECTION 330. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS; OR a Variance to allow two dwelling units on one lot of record. SECTION 208. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located at 4347 S. 61st W. Ave.



Verify location of septic system and lateral field. Subject to approval of Tulsa City County Health Department.



NORTH
1" = 100'

PLOT PLAN

SCALE: 1" = 100'

LEGAL DESCRIPTION:

A tract of land in the west half of the southwest quarter (W2 SW4) south of the present alignment of US highway 64 in Section 26, T-17-N, R-14-E Tulsa County, Oklahoma, more particularly described as:

A tract of land in the west half of the southwest quarter (W2 SW4) of Section 26, T-17-N, R-14-E, beginning at the southeast corner of the southwest quarter of the southwest quarter (SW4 SW4) of Section 26; thence west 502.775 feet; thence north 214.97 feet; thence east 502.775 feet; thence south 214.53 feet to the point of beginning; LESS easements of record along the southern boundary of the property for ingress and egress and roadway purposes. (The property is also known as 16421 East 171st St. South and contains a net area of approximately 1.79 acres more or less.)

Note: Verify that property description has been of record more than five years. If more than five years no lot-split is required. (OS: Title 19, Sect. 863.10)

OWNER:

Joe and Donna Caldwell

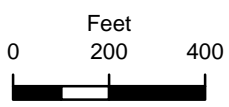
JOB ADDRESS:

16421 E. 171st St. S.

PLANNING DATA:

Jurisdiction: Tulsa County (Inside Bixby annexation "fence line")

S-T-R: 26-17-14 CZM: 69 ZONING: AG PLANNING DIST. #20



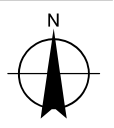
 Subject Tract

CBOA-2956

17-14 26

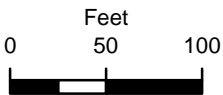
Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: 2020/2021





E 171 STS



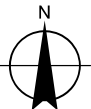
 *Subject Tract*

CBOA-2956

17-14 26

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

Aerial Photo Date: 2020/2021





Property Corner

Property Corner

* Address: 16421 E 171st St S
Bixby, OK 74008

*The previous existing home burnt down.

* Proposed New Home is to be placed
where old home was located

* All existing debris have been demoed
and removed

* The existing driveway is to be used and
a new one will NOT be constructed

House
Pad

68'-8"

91'-5"

Property Corner

Property Corner

1717st Street