

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 478**

Tuesday, January 21, 2020, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room
Tulsa, Oklahoma

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair	Crall, Secretary	Miller	Tosh, Co. Inspector
Hutchinson, V.Chair		R. Jones	
Dillard		Sparger	
Johnston			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 16th day of January, 2020 at 10:03 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 1:30 p.m.

MINUTES

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the Minutes of December 17, 2019 (No. 477).

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

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

UNFINISHED BUSINESS

2786—Tanner Bemies

Action Requested:

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

LOCATION: East of the NE/c of East 161st Street South & South Mingo Road

Presentation:

Joseph Watt, Sisemore and Associates, 6111 East 32nd Place, Tulsa, OK; stated that a copy of the operations manual on the good neighbor policy that was put together for his client, Mr. Tanner Bemies. The manual addresses all the concerns from the citizens that were at the December meeting. Mr. Watt stated there is a map in the manual showing the site's relationship to the school districts, the zoning classifications, the road conditions, the traffic counts and where alternate routing will be during school.

Mr. Charney asked Mr. Watt if there had been a meeting with any of the interested parties from the December meeting. Mr. Watt deferred to Mr. Bemies.

Tanner Bemies, 25185 South Glenwood Drive, Claremore, OK; stated that after the December meeting he met with the interested parties in the hallway. After meeting with the interested parties, it was evident to him that there was not much he could say to them that would change their minds. After receiving the meeting minutes, celebrating the birth of his first child and the busyness of the holidays time was not made to go outside and meet with the interested parties in any sort of capacity. All he had was addresses and he did not feel it would have been kind to knock on doors.

Mr. Charney asked Mr. Watt if he could briefly summarize what is contained in the manual for the interested parties, because if the Board were inclined to approve the application, the Board could grant it contingent upon certain operating conditions. It is important to hear what the commitments are, and the interested parties want to hear those.

Mr. Watt stated the highlights of the good neighbor policy. The hours of operation will be from 7:00 A.M. to 5:00 P.M. for sales, allowing trucks in and out of the site to receive material. The work facility could be from 6:00 A.M. to 6:00 P.M. to have additional hours of the day to prepare to load trucks with material. The map shows routes of the trucks. It would be mandated that all traffic be maintained on South 161st West to Memorial before turning north; Memorial is an improved section line arterial roadway and all the intersections are traffic lighted as opposed to four-way stop signs. This would minimize any disturbance to the public schools. There is on site dust control which was a concern; during the times of operation and the times of dry periods there will be water trucks and/or an irrigation system that will be present to minimize the dust created. There will be two state agencies that will be checking the operation periodically; one is the Oklahoma

Department of Mines and the other is the Oklahoma Department of Environmental Quality of which the project will file a stormwater pollution prevention plan. The operation will be governed to the letter of the law to maintain the SWP3 in Engineering. The operation will also be bound by all the covenants in the Department of Mines regarding the upkeep of the site. Mr. Watt stated there will be an entrance constructed out of heavy stone that has been found to be very effective during wet periods to knock off mud from the tires of any truck entering or exiting. If mud and debris is taken into the street, the operation will immediately clean the street with either mechanical brooms or shovels, whatever is required, to maintain the protection of the street. There were concerns about long-term reclamation and one option would be to keep the area lowered to the point where it could receive runoff from the upstream properties and serve as a compensatory storage facility to reduce the amounts of stormwater entering the Arkansas River. The area could also be used for soccer fields or other sports. Each and every trucking company that enters into an agreement to purchase materials from the site will be entering into an agreement of which is being drafted currently that stipulates the truckers will adhere to traffic routes, times, events, keeping the truck clean, the prohibition of jake braking inside any municipality, etc. Mr. Watt stated this is a professional venture so his client can make a fair and reasonable profit and minimize the impact to the neighbors and the schools and the City of Bixby.

Mr. Bemies came forward and stated he agrees fully with Mr. Watt's plan. He has worked very closely with Mr. Watts to make sure that he will be a good neighbor.

Mr. Charney asked Mr. Bemies if it were critical to the Board's decision that the policies that have been outlined in the document and summarized by Mr. Watt, that the policy be followed to the "T" will that commitment be made? Mr. Bemies answered affirmatively.

Mr. Dillard asked staff if the good neighbor policy could be filed of record at the County Clerk's office as a stipulation that would attach to the property? Ms. Miller stated the good neighbor policy would be a condition of the approval of this action. Mr. Dillard stated that he sees the avoidance of the owner not wanting to speak with the residents because he saw they were disgruntled and did not follow through as the Board coached him to do, so can this policy be put as a legal document of record on the property? Ms. Tosh stated that since the building permit will be ongoing and will have to be reapplied for annually as a development permit, the permit can be made contingent on these requirements. The County will be the establishment that receives complaints if the requirements are not followed and that might trigger not receiving the next development permit.

Interested Parties:

Jan Bartlett, 3773 Chesapeake Street, Springdale, AR; stated she grew up on the Bolton farm which is adjacent to the proposed mine, and she is also here today on behalf of Mr. Rick Nelson who spoke with the Board before; he is a property owner across the street of the subject site. Ms. Bartlett read a letter that was written by Mr. Nelson regarding his concerns.

Wayne Mark, 3118 East 146th Street South, Bixby, OK; stated he is a cyclist and he uses the roads for cycling. Those streets are the only way to get farther out of the City and the problem he sees is the amount of dump truck traffic that will be on the streets. Not only will they tear up the roads, because they are only chip and seal roads, but from his personal experience it does not make a difference what the drivers are told to do they will drive the roads as fast as they possibly can and will not give an inch to a cyclist. Mr. Mark stated he is concerned about future safety.

Gary Pereschuk, 13315 South 90th East Avenue, Bixby, OK; stated his concern is also as a cyclist; he has lived in the area for about 25 years. He used to ride at 141st and 129th but there is a sand mining operation there now, and with the speed and the flow of the dump trucks he no longer rides there so his only option is go across the pedestrian bridge at Bixby, which is now closed. His concern would be the additional amount of dump trucks that drive on the proposed route. Having seen what happens at the sand operation at 141st and 129th, the trucks are backed up at 6:00 A.M. because they want to be the first in line. He is also afraid this will happen around the Bixby school area. The traffic is horrendous so imagine what is going to happen with another 100 dump trucks. He knows everyone will not be in the area at the same time, but those trucks want to be in line early and that will be another pressure on the bridge; that is the only arterial direction to go north. If something happens on the bridge that will lock traffic up because there is no other way out. Mr. Pereschuk stated that Bixby has done a lot of flood control work, but the water backs up from the Arkansas River through a canal that is on Mingo and it goes back through the neighborhoods, and the River was up 20 feet this spring. There are many new houses being built on 131st and Memorial with future projection of other residences being built. The water will back up if there is another event like 2019.

Laura Bolton, 10910 East 161st Street South, Bixby, OK; stated she lives east of the subject property. Ms. Bolton is concerned about the hours of operation; today the hours are going to be 6:00 A.M. to 6:00 P.M. without any days of the week specified, but when he spoke at last meeting the hours were going to be 8:00 A.M. to 5:00 P.M., Monday through Saturday. This sounds like the hours and days have already extended more than what was proposed previously. It was said the trucks would go straight east off 161st to Memorial, that passes a school. Ms. Bolton stated that she knows the Board of Adjustment does not have the authority to police this, and she does know there has been discussion about reviewing this request on a yearly basis, but her concern is how will this be policed? How will Mr. Bemies make the trucks go the direction he is promising?

Mr. Charney stated the information the Board has before them regarding the hours of operation is Monday through Friday, and sometimes Saturday. The working hours of the facility, as far as sales, it states 7:00 A.M. to 5:00 P.M. The work on the site could begin at 6:00 A.M. Ms. Bolton stated that means the equipment would be running at 6:00 A.M.

Rebuttal:

Tanner Bemies came forward and deferred to Mr. Joseph Watt.

Joseph Watt came forward and stated the amount of soil in the 60 acres, there was no reason to spend a lot of money testing, drilling and boring prior to the Special Exception being approved. If the Special Exception is not approved, he has saved his client that money. There was initial digging done with an excavator; went down 10 feet and there was still good soil with no evidence of water percolating up through the ground. He thinks a generalized map has been put together of how the site will be dug, so that trucks can be stacked on site while they are waiting to be loaded and not backing them onto 161st. In May a stacking lane was started around the perimeter so that not one truck will be waiting on 161st and interfering with the bicyclists or the morning traffic that utilizes the east-west direction. The trucks will pass a school, Bixby Central Intermediate School, and hopefully if the Special Exception is approved the client will be able to work out with the school an alternate route during the peak times of school use which would minimize the disturbance to the school traffic, their children and their operation. In regard to flood control and flood draining, there is nothing being put in, but the client is taking out giving more area for storm water to store itself. Most of the area is under the 500-year flood plain, under the 100-year flood plain, under the 50-year flood plain, and most of it is under the 25-year flood plain. There is not going to be any acceptable use of the property unless it is agricultural or mining because it floods. When his client first came to the Board there was nothing on paper regarding the hours of operation, and now the hours are on paper. Mr. Watt hopes this will help relieve the concerns of the residents, because a great deal of steps have been taken to make this a positive operation.

Comments and Questions:

Mr. Charney stated this application is not for a change in zoning, it is for the approval of a Special Exception to do something special on the subject site and the Board can place a time limit on that approval and has done it in the past.

Mr. Johnston stated that with a time limit placed on the approval, he could support this request. He is concerned about enforcement.

Mr. Hutchinson he can support the request with the stipulation that Tulsa County looks at this on an annual basis.

Mr. Charney agreed with Mr. Hutchinson. He stated this site is not in the City of Bixby, but it is within their fence line. It is not binding but he thinks it is relevant that it is recognized as being within the Tulsa County jurisdiction and the City of Bixby has no objections of the underlying use.

Mr. Dillard stated he is very impressed with the Architect, the Engineers but he is not sure that Mr. Bemies realizes what he is getting in to, because when there was a little bit of consternation he backed off, that is why he wanted to know if the policy could be filed of record. He can support the request if there is a one-year time limit providing the policy is kept on the record, and the applicant complies with everything in the policy.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a **Special Exception** to permit Use Unit 24, Mining and Mineral Processing, to allow native soils to be mined (Section 1224) in an AG District (Section 310, Table 1), subject to conceptual plan 2.36 of the agenda packet. The approval is contingent with the written policy that was supplied by the applicant and there is to be a one-year time limit; January 2021, at which time the case is to be reviewed by the Board of Adjustment. Finding the Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

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

NEW APPLICATIONS

2789—Michael Abboud

Action Requested:

Use Variance to allow an overnight campground for recreational vehicles, Use Unit 17, in an AG District (Section 310); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 19301 West Wekiwa Rd

Presentation:

Michael Abboud, 19301 West Wekiwa Road, Tulsa, OK; stated he would like to have an RV campsite on 1 or 2 acres of the overall tract. The primary use of the property is agricultural and have cattle on the property and will still be used for agricultural purposes. He wants to preserve the existing wildlife habitat, and this is his home.

Mr. Charney asked Mr. Abboud if he lives on the subject tract. Mr. Abboud stated that he does not, but his parents live on it.

Mr. Charney asked Mr. Abboud about the request covering the 35-acre tract. Mr. Abboud stated that he intends only to use the 1 to 3 acres on the western property line; the property starts at 193rd and goes to 196th.

Mr. Charney asked Mr. Abboud if he was speaking of the most westerly long narrow piece of land. Mr. Charney stated that it is a strip of land in the southwest corner of the subject tract. Mr. Abboud answered affirmatively.

Mr. Charney asked Mr. Abboud to speak about the all-weather surface requirement. Mr. Abboud stated there will be an aggregate pad for the RV to park on, which is a plastic honeycomb lattice that can be filled with aggregate making it is as good as concrete and it will allow water to filter through. It is a system from True Grid Systems out of Houston.

Mr. Abboud stated there will be a 10'-0" x 40'-0" area for the RV and in front there will be about a 20'-0" space for people to park the towing vehicle and an extra car if needed.

Mr. Dillard asked Mr. Abboud how many RV spaces he plans to have. Mr. Abboud stated there would 20 spaces.

Interested Parties:

H. R. Goff, 1301 South Park Street, Lot D-6, Sapulpa, OK; stated he owns the adjoining 60-acre mobile home park. He has built five mobile parks and the first three were RV parks very similar to the request today. Mr. Goff stated his concern is dust control. In this area has installed 2,000 feet of road and the biggest problem was the sand. It would get so bad on occasion that he would have to shut the project down because it was so dry that the fine bottom sand was picked up on the wind and carried off. Mr. Goff stated that underground springs is another concern for the septic system.

Rebuttal:

Michael Abboud came forward and stated his request would cover about three acres or 130,000 square feet. He is sensitive to the dust issue, because it is not good for people that want to enjoy the area. He is also sensitive to the underground springs in the area. He plans on having his own internal septic system so he will not be digging into the water areas.

Mr. Charney asked Mr. Abboud if there would be one drive into the property with all the RVs and parking spaces adjacent to the one drive, and that there will be no circular drive with 20 spaces maximum. Mr. Abboud answered affirmatively.

Michael Abboud came forward and stated the dimensions for the request is 175'-0" wide running east to west by 800'-0" running north to south, which is about 3.2 acres.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the request for a Use Variance to allow an overnight campground for recreational vehicles, Use Unit 17, in an AG District (Section 310); Variance from the all-weather parking surface requirement (Section 1340.D), subject to conceptual plans 3.11 and 3.12 of the agenda packet. The Board has found the hardship to the peculiar nature of the tract and coupled with the frontage along the publicly dedicated street provide the unusual peculiar circumstances. There is to be a maximum of 20 RV spaces on the subject tract and they are to be lined

up on one side of an ingress/egress road. The Variance is granted to a 3 to 4-acre tract in the southwest corner of the parent tract. There are to be proper dust control efforts made by the applicant. There is to be gravel parking area for the ancillary and towing vehicles but not for the RV itself. In granting a Variance, the Board must find that by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

W/2 SE SE LESS 1.45AC TO HWY & S/2 NE SE SE & SE SE SE SEC 2 19 10, OF TULSA COUNTY, STATE OF OKLAHOMA

2790—Charles Burgess

Action Requested:

Variance of the street frontage requirements in an AG District from 30 feet to 0 feet (Section 207). **LOCATION:** 17300 North Cincinnati Avenue

Presentation:

Charles Burgess, 17300 North Cincinnati, Skiatook, OK; stated the primary purpose for today's request is to renew his building permit. The building permit expired, and he is trying to finish the house. Due to the spring floods, he is basically homeless and is living with a neighbor. The original permit stated he had a 25-foot easement but to renew that same permit he is told he needs a 30-foot or 0 feet easement.

Mr. Charney asked Mr. Burgess how long he had the 25-foot easement. Mr. Burgess stated that it has been ten years. Mr. Charney asked Mr. Burgess if that easement ran out to the publicly dedicated street. Mr. Burgess answered affirmatively. Mr. Charney asked Mr. Burgess if the easement ran from Highway 11 in a westerly direction to the property. Mr. Burgess answered affirmatively.

Mr. Burgess stated the house is 75% finished and now he is trying to renew the permit, and that is why he is before the Board today because Tulsa County requires a 30-foot or 0 feet easement.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a **Variance** of the street frontage requirements in an AG District from 30 feet to 0 feet (Section 207). The Board has found the hardship to be that the tract of land being served by the subject easement is set back significantly from the County road, and the unique configuration of the land is such that any improvement thereon can only be accessed by easement not virtue of a public roadway; for the following property:

S/2 SW NE & S/2 SW SE NE & S/2 LOT 2 SEC 11 22 12, OF TULSA COUNTY, STATE OF OKLAHOMA

2791—Melissa Torkelson

Action Requested:

Special Exception to allow Use Unit 20, Commercial Recreation, to allow indoor and outdoor amusement activities not elsewhere classified (NEC) in a CS District (Section 1220); Special Exception to allow Use Unit 2, Area-Wide Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS District (Section 1202); Variance from the all-weather parking surface requirement (Section 1340.D).

LOCATION: 17516 West 8th Street, Sand Springs

Presentation:

Melissa Torkelson, 637 South 193rd West Avenue, Sand Springs, OK; stated her business is a seasonal business. Seasonally she does firework sales twice a year for 4th of July and the New Year, she has an October pumpkin patch which she has done for nine years, and inside the building when there are no firework sales and there is no pumpkin patch she has inflatables and indoor parties.

Mr. Charney asked Ms. Torkelson if her indoor activities were similar to indoor birthday parties with inflatables. Ms. Torkelson answered affirmatively.

Ms. Torkelson stated she built the subject building about ten years ago and she does not store fireworks. The wholesaler out of Muskogee is where she keeps her inventory. Party is short, usually just the winter months and she closes the building by May to prepare for the firework season.

Mr. Charney asked Ms. Torkelson if there was a publicly dedicated right-of-way in front of the tract. Ms. Torkelson answered affirmatively.

Mr. Charney asked Ms. Torkelson if there had ever been any parking issues or parking problems. Ms. Torkelson stated that it does get quite busy on weekends for the pumpkin patch but the road is quite wide, and the parking from the gravel lot area goes behind the building along 8th Street and she has permission from surrounding business to utilize their parking when those businesses are closed.

Mr. Charney asked Ms. Torkelson if she had ever had any complaints from the neighbors on either side of her. Ms. Torkelson stated that she has not had one single complaint.

Ms. Torkelson stated the indoor parties are small because they are private parties, there is usually about 30 people inside the building. The occupancy that was issued for the building ten years was for 74 persons. When the inflatable jump houses are in the building it does reduce the space and because of that the parties are required to stay under 50 people.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Crall “absent”) to **APPROVE** the request for a Special Exception to allow Use Unit 20, Commercial Recreation, to allow indoor and outdoor amusement activities not elsewhere classified (NEC) in a CS District (Section 1220); Special Exception to allow Use Unit 2, Area-Wide Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS District (Section 1202); Variance from the all-weather parking surface requirement (Section 1340.D). The parties are to be limited to 50 occupants for the Use Unit 20 Special Exception; for the following property:

LT 4 BLK 4; LT 5 BLK 4; LT 3 BLK 4; LT 2 BLK 4, WEKIWA HILLS, OF TULSA COUNTY, STATE OF OKLAHOMA

2792—Melissa Torkelson

Action Requested:

Special Exception to allow Use Unit 2, Area-Wide Special Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS District (Section 1202); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 17902 South Highway 75, Glenpool

Presentation:

Melissa Torkelson, 637 South 193rd West Avenue, Sand Springs, OK; stated this is the same type of operation as the previous case she presented to the Board it is just in a different location.

Mr. Charney asked Ms. Torkelson if she had operated at the subject site historically. Ms. Torkelson stated that she has not.

Ms. Torkelson stated she purchased the subject property about two years ago, and there is a building being constructed on the property; she is hoping to open in October.

Mr. Charney asked Ms. Torkelson if she would be having Christmas tree sales and pumpkin sales inside the future building. Ms. Torkelson stated that for this site those activities will take place outside.

Mr. Charney asked Ms. Torkelson what her parking plan is. Ms. Torkelson stated there is gravel parking on the site plan around all four sides of the building, and she has already requested overflow parking from Triumph Worship Center and the Pastor has given his permission.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **JOHNSTON**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the request for a **Special Exception** to allow Use Unit 2, Area-Wide Special Exception Uses, to allow a pumpkin patch and Christmas tree sales in a CS District (Section 1202); **Variance** from the all-weather parking surface requirement (Section 1340.D), subject to conceptual plans 6.16 and 6.17 of the agenda packet; for the following property:

**PRT N/2 E/2 SW SE BEG 32.20W NEC THEREOF TH SELY276.12 W634.27
NWLY275.81 E628.62 POB SEC 34 17 12 4.00ACS, OF TULSA COUNTY, STATE OF
OKLAHOMA**

2793—Landon McJilton

Action Requested:

Use Variance to permit Use Unit 3, Agriculture, for a horticulture nursery in a residential district (Section 410, Table 1). **LOCATION:** 13115 East 73rd Street North

Presentation:

Landon McJilton, 3028 West Hartford Street, Broken Arrow, OK; stated he is seeking the minimum change required which is an agricultural Use Variance in order to operate a horticultural nursery on 3.2 acres located within the residential district of Tulsa County. An approval of this Variance would allow his mother to have a medical cannabis grow fully contained within a 2,500 square foot structure located on her property. The area is not a typical residential neighborhood. The property is part of a diverse and changing zoning landscape. The property currently abuts an agricultural property on the northern border, commercial zoned properties to the northwest, agricultural zoning to the east, and

other businesses being operated out of residential zoning to the southwest. This wide range of personal use property is why the residents of 73rd Street North move there in order to enjoy the liberties not afforded by more homogenous housing developments. Mr. McJilton stated that he has support from most of the residents, which he believes reflects the congruent mindset. Mr. McJilton stated the hardship for the request is the presence of a sewage lagoon in a northern portion of the subject property. This lagoon occupies about 6,000 square feet of the center of the property and it serves as a treatment location for the affluent. Sewage lagoons are well known for hosting disease causing insects as well as offense odors. Due to the hazardous nature of this system the land surrounding the sewage lagoon remains unusable. This also prohibits the owner of the property from utilizing the area in which the lagoon occupies as well as the surrounding land to its full potential, and thus decreases the value of the subject property. The recent construction and housing developments to the north of the property have limited perspective buyers and have added to the diverse range of zoning types in the area. The 2,500 square foot building served as the home office of his father before his passing in 2012. The approval of this Use Variance will not cause substantial detriment to the public good or impair the purpose and intent of the zoning ordinance. The 3.2-acre property is above the 2.1-acre requirement for agricultural zoning. All operations will take place within the existing structure; no additional construction would occur. The sole employee already resides at the residence. There will be no daily commuting to or from the property. The operation of the proposed business does not require heavy machinery, nor does it create loud noises. Transport of materials and products to and from the property would be handled via pickup truck by the sole employee. No customers would be visiting the property. If necessary, odors would be handled using large industrial carbon filters. No signage will be posted around the property. All mailings will be by a post office box.

Interested Parties:

Sue McJilton, 13115 East 73rd Street North, Tulsa, OK; stated she is a registered nurse and has been in business for over 40 years. Her husband had cancer and she was his care giver. While her husband underwent several different kinds of treatments, she would dispense him meds. Now she is the caregiver for her 89-year old father and the doctors want to medicate him with opioids. She is grateful the State of Oklahoma has passed the medicinal marijuana, but there is a shortage of supply. Ms. McJilton stated she has a building in a neighborhood that her children grew up in and where she lives. She would ask the Board to approve her request today.

Mr. Charney asked Ms. McJilton if her request was strictly for growing. Ms. McJilton answered affirmatively.

Mr. Charney asked Ms. McJilton if the product would be leaving the property in a regular passenger vehicle. Ms. McJilton answered affirmatively.

Mr. Charney asked Ms. McJilton what she had previously used the existing structure for. Ms. McJilton stated her husband ran a small construction company from the building.

Mr. Hutchinson asked Ms. McJilton how many plants she wanted to have. Ms. McJilton stated that there would be about 150 adult plants.

Mr. Charney asked Ms. McJilton if she understood the distinction between growing, processing and dispensing. Ms. McJilton stated that she did understand.

Mr. Hutchinson asked Ms. McJilton if she would be drying the product on the property. Ms. McJilton answered affirmatively.

Arley Owens, 13217 East 73rd Street North, Owasso, OK; stated he lives directly east of the subject property. The street is a dead-end street that is about two blocks long and consists of seven homes. Three residents, including himself, have lived there for over 50 years. He is a retired Tulsa Police detective and part of his job was enforcing the law on illegal drugs, mostly marijuana possession. Most people he encountered with marijuana were people that you would not want to live next door to you. Medical marijuana is now legal and in the infancy stage with regulations changing every day. If this is approved will the McJilton's want to increase the size of their business, and will they want to include recreational marijuana in their business should that be made legal. Mr. Owens thinks the McJilton's profit will be at the expense of the neighborhood. If this is approved the medical marijuana business will be within 200 feet of his back door. Mr. Owens stated he has spoken with people about marijuana businesses and he has been told that there will be a foul odor regardless of the filtering system. If this request is approved, it will affect property values and the neighborhood would deteriorate. He thinks business should be conducted in a business location not a neighborhood. Mr. Owens requests the application not be approved.

Mark Schaffitzel, 7289 North 137th East Avenue, Owasso, OK; stated he has lived in the area for about 50 years. He thinks that what the McJilton's are trying to do is a great thing and he thinks there is a lot to come medical marijuana, but he sides with his neighbor with the fact that in a residential area he does not see it to be appropriate for the area. He owns property directly across the street from the subject property. The police will not support this, the City of Owasso will not be the one and he does not want to police this. There are commercial spaces in Owasso the McJilton's could move into and grow marijuana. Medical marijuana is a growing thing and it could be a good thing, but it needs to be regulated, and regulations don't start in neighborhoods.

Judy Owens, 13217 East 73rd Street North, Owasso, OK; stated she has beat cancer twice and has been through all the treatments. She has tried medical marijuana and she cannot tell any difference.

Rebuttal:

Landon McJilton came forward and stated he did have a chance to sit down with the Owens prior to this meeting and it is his belief that Mr. Owens has his strong opinion due to his long history in law enforcement. His father operated a loud dirty business next door to the Owens for years and never heard one complaint. He thinks it is the nature of this business that concerns him and his history with it more so than the business itself. Mr.

McJilton stated that he cannot sell to individuals, it is a business to business process, and it has to be done with a person who has a transportation license. Mr. McJilton stated that he has a transportation license, so it is only cost effective for him to transport his own product. It is important to note that he is not asking for the entire property to be rezoned or the Use Variance to apply to the entire 3.2 acres, it is specifically for the existing 2,500 square foot building. There would only be one full time person working at the facility which is all that is required for the small operation.

Sue McJilton came forward and stated that she has had a license and has been able to grow the marijuana for the past year in the building. No one knew about this because she has kept it very quiet and very secure. She has been legitimately growing and not selling, and no one has complained or said anything about odors or smell. It was unbeknownst to anybody until she applied for the Use Variance.

Mr. Hutchinson asked Mr. McJilton if he was growing six plants or the 150 plants he mentioned earlier. Mr. McJilton stated there are 150 plants growing.

Ms. McJilton stated that she and her sons have spoken with everyone in the neighborhood and she has the blessings of three neighbors she spoke with. The neighborhood is not the same as it was when the Owens' moved in 50 years ago, there is a nursery behind her, there is a storage unit at the end of the street, there is an apartment complex behind the neighborhood, so the quiet little rural neighborhood that use to be there has changed.

Comments and Questions:

Mr. Johnston stated he could support this request as long as it is contained in the existing building and the number of employees is minimal. The applicant could grow something in the building other than marijuana and still be legal. He would also want a two-year time limit.

Mr. Hutchinson stated he does not have a problem with grow houses, but he has a problem with the grow house in this location, a residential setting. To him the area is too residential, and he cannot support the request.

Mr. Charney stated the fact that there are residences on either side, whenever the Board thinks about allowing businesses to operate the Board generally examine what is the adverse impact. He cannot think of a business that is more benign in the intensity of the use, but it has a potential adverse smell, it is associated with a use that is bothersome to many people. He cannot support the request.

Mr. Dillard stated the case he recalls is the fruit stand that was denied because it was a business in a residential area. He does not have a problem with the cannabis, but he does have a problem with it being in a residential zone.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 3-1-0 (Charney, Dillard, Hutchinson "aye"; Johnston "nays"; no "abstentions"; Crall "absent") to **DENY** the request for a **Use**

Variance to permit Use Unit 3, Agriculture, for a horticulture nursery in a residential district (Section 410, Table 1); for the following property:

E220 W440 SE NW NW LESS S25 FOR RD SEC 33 21 14, OF TULSA COUNTY, STATE OF OKLAHOMA

2794—Duit Construction – Martin Benson

Action Requested:

Special Exception to permit Use Unit 2, Area-Wide Special Exception Uses, for a temporary construction facility in the AG District (Section 1202). **LOCATION:** SW/c of West 26th Street South & South 57th West Avenue

Presentation:

Martin Benson, 6250 Industrial Boulevard, Edmond, OK; stated this request is to install a temporary batch plant for the construction of the Gilcrease project. The project was let in April 2019, and this will be the second or next leg of the Gilcrease Expressway. His company has been elected as the low bid on the project and they are looking forward to working on the next leg of the project. This request will place a concrete batch plant in the center, between the Arkansas River and 51st Street, giving access to both sides of the project. In the future he will have an application for a Special Exception to have a temporary batch plant on the north side of the river.

Ms. Miller left the meeting at 3:45 P.M.

Mr. Hutchinson asked Mr. Benson how long he planned to have the batch plant operating. Mr. Benson stated the contract is for 30 months, the last six months of the project will a trial period for the completion. So in a 24 month period there, the company will be batching concrete.

Mr. Hutchinson asked Mr. Benson what would happen to the site after the batch plant is removed. Mr. Benson stated the company will strip the material and lay down a plating material. He allows the land owner the option of leaving the material on the ground or he can strip it and replace the top soil.

Mr. Charney asked Mr. Benson to explain about the operations of a batch plant. Mr. Benson stated a batch plant is not necessarily a noisy operation but it could be due to construction. The batch plant will operate from 7:00 A.M. to 5:00 P.M., Monday through Friday. On Saturdays the batch plant would operate from 7:00 A.M. to 3:00 P.M. In between those times the gates would be open to receive construction material but there would be no night work going on at this time.

Ms. Miller re-entered the meeting at 3:47 P.M.

Mr. Johnston asked Mr. Benson if there would be security lighting. Mr. Benson answered affirmatively. Mr. Benson stated the residential areas are on the north side of the subject property and all the lights will face to the south so they will not shine toward the residential properties. The plant site will also be more than 400 feet away from the residential properties. Mr. Benson stated the site is a 73 acre tract and the batch plant will be on a 10-acre tract on the southerly boundary in the center of the parent tract.

Mr. Charney asked Mr. Benson about dust control at the site. Mr. Benson stated there are dust collectors on the top of the silo to keep cement from leaving the project. On the ground there will be water trucks that will circle the batch plant site to keep dust down. Mr. Benson stated that he is also required by DEQ to keep dust abatement down, and there is monitoring and inspections records that must be turned into the Department of Environmental Quality quarterly and monthly to prove the site meets the standards.

Mr. Johnston asked Mr. Benson if he was going to fence the property. Mr. Benson stated the property is already fenced. Mr. Johnston asked Mr. Benson if the batch plant would be fenced. Mr. Benson stated the batch plant will not be fenced but it will have silt fencing or an erosion control measure around the 10-acre portion of the site.

Interested Parties:

Leon Kragel, 2525 South 61st West Avenue, Tulsa, OK; stated he lives to the north of the subject site. Construction sites do not stop during the longer hours of the summer months. Mr. Kragel stated that another concern he has is the dust control, because there is a lot of south wind even in the winter. The project is a large project and will take a lot longer than what it is scheduled to take; he sees this project extending. There are other plants that are within 15 minutes of the project, in fact there is one around the corner. He does not understand why the project is not using other entities within Tulsa County to purchase the product. Mr. Kragel stated there are other sites that should be reviewed that the State, the City, the County and that the Oklahoma Turnpike Authority has purchased that are in the 51st and 21st Streets area that are away from the residential areas. There are a lot of children in the neighborhood and kids are curious, and at the time the plant would be closed, there could be kids running around the plant; this site needs to be fenced properly.

Rebuttal:

Martin Benson came forward and stated the hours of operation will be 7:00 A.M. to 5:00 P.M. If rain is excessive then the batch plant will potentially work on Saturdays. There is a 30 month construction contract that his company has to meet on the project, there is no leeway. His company went into this bid with the construction of the company's own temporary plant. The company batches their own concrete and we believe in ourselves more than outside sources, but the outside sources will still be used because he will need concrete pads to set his concrete plant on. Mr. Benson stated that safety comes first with his company and there are safety meetings held everyday with the employees.

Mr. Johnston asked Mr. Benson what type of fencing is proposed. Mr. Benson stated the outside perimeter will be a seven or eight foot iron gated barbed wired fence; northside will have a 6'-0" chainlink fence and on the interior there will be a 36" silt fence for erosion control.

Madalyne Loman, 5911 West 26th Street, Tulsa, OK; stated that her property is right across the street from the subject site. Within two houses there are seven children so the fence is her concern, as well as the dust that affect the families and the homes. The dust will also affect the HVAC systems. The field mice will only get worse when the natural environment is disturbed. This will be an eyesore to the neighborhood so she would like to see a fence that will shield the neighborhood from looking at the plant and the piles of materials that will be there.

Mr. Charney asked Mr. Benson if he would have objections to a construction fence being erected on the interior ten acres. Mr. Benson stated that would be fine.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Crall "absent") to **APPROVE** the request for a Special Exception to permit Use Unit 2, Area-Wide Special Exception Uses, for a temporary construction facility in the AG District (Section 1202), subject to a time limit of three years, January 21, 2023. There is to be a robust water truck and dust abatement plan. The hours of operation are to be 7:00 A.M. to 5:00 P.M., six days a week with no work on Sundays. There is to be general perimeter construction fencing around the hard assets on the site. Site is to have topsoil returned and be reseeded taking the site back to a natural condition. No construction materials are to remain on site when finished unless the landowner opts for a hard pad to stay; for the following property:

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

Mr. Charney stated that one Board member will be recusing himself from the next two matters on the agenda.

Mr. Hutchinson recused and left the meeting at 4:08 P.M.

2795—Kevin Watkins

Action Requested:

Use Variance to allow overnight campground for recreational vehicles, Use Unit 17, in an AG District (Section 310); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 1145 East 71st Street North

Presentation:

Kevin Watkins, P. O. Box 84, Sperry, OK; stated he tried raising cattle on the subject property and the kids in the area kept cutting the fence and the cattle would escape, so he would like to have a small RV park. The property is on a dead end street. Mr. Watkins stated he spoke with the surrounding neighbors. Mr. Watkins stated that he owns land from the back of the property to 76th Street North and from the west side of the property about 1,300 feet.

Mr. Charney asked Mr. Watkins if any of the neighbors expressed opposition to his request. Mr. Watkins said none of them opposed.

Mr. Charney asked Mr. Watkins how many units he would like to have. Mr. Watkins stated that he would like to be approved for 35 units and will start with six units in the first phase.

Mr. Watkins stated that he will install concrete parking pads for the RVs and use asphalt millings for everything else so there should be no dust.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-1 (Charney, Dillard, Johnston “aye”; no “nays”; Hutchinson “abstaining”; Crall “absent”) to **APPROVE** the request for a Use Variance to allow overnight campground for recreational vehicles, Use Unit 17, in an AG District (Section 310); Variance from the all-weather parking surface requirement (Section 1340.D). There is to be a maximum of 35 RV concrete pads on the subject site. In the event dust abatement becomes necessary the landowner will take all measures necessary to keep the dust down; for the following property:

ALL THAT PRT SE SE NE LYING W RR R/W LESS S15 THEREOF FOR RD SEC 36 21 12 3.740ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2796—Kevin Watkins

Action Requested:

Use Variance to permit Use Unit 3, Agriculture, for a horticulture nursery in a CG District (Section 710, Table 1). **LOCATION:** 6606 North Peoria Avenue East

Presentation:

Kevin Watkins, P. O. Box 84, Sperry, OK; stated he would like to have a grow house.

Mr. Charney asked Mr. Watkins if the property had a CG zoning. Mr. Watkins answered affirmatively.

Mr. Charney asked Mr. Watkins if this would be for growing only, not dispensing and not processing. Mr. Watkins answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 3-0-1 (Charney, Dillard, Johnston “aye”; no “nays”; Hutchinson “abstaining”; Crall “absent”) to **APPROVE** the request for a Use Variance to permit Use Unit 3, Agriculture, for a horticulture nursery in a CG District (Section 710, Table 1). The Board has found that the property fronts an arterial street in a commercial area and does not think it will have an adverse effect on the surrounding area; for the following property:

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

Mr. Hutchinson re-entered the meeting at 4:17 P.M.

2797—Jordan Graham

Action Requested:

Special Exception for Use Unit 2, Area-Wide Special Exception Uses, for a wedding and events center (Section 1202); Variance from the all-weather parking surface requirement (Section 1340.D); Variance of the minimum frontage requirement on a public street/dedicated right of way from 30 feet to 0 feet in the AG District (Section 207). **LOCATION:** North & East of the NE/c of East 76th Street North & North 129th East Avenue

Presentation:

Jordan Graham, 2619 South Vandalia Avenue, Tulsa, OK; stated she would like to open an event venue, mainly weddings, birthday parties and yoga classes. She needs to have a gravel parking lot because she operates heavy machinery there, i.e., tractors and lawn equipment. The property was sold as a piece of land that does not have street frontage and was originally Indian allotment ground, and she is the first owner since then. The south easement is the road that will be used to enter the property.

Interested Parties:

Jonathan Haley, 1618 East 45th Place, Tulsa, OK; stated he and Ms. Graham would like to host outdoor ranch wedding venues and the building will be open faced. It will basically be a hay storage barn and the wedding receptions will take place in the middle of the hay pasture. The building and the outdoor venues will be geared toward the center of the 20-acre tract. The north side of the land backs up to the Greens Golf Course. Mr. Haley stated that he and Ms. Graham would like to have yoga classes and they will cater to disabled veterans.

Mr. Charney asked Mr. Haley if the property would be accessed through Graceland Acres. Mr. Haley answered affirmatively. Mr. Charney stated that is a County subdivision not a City subdivision. Mr. Charney asked Mr. Haley if his property is outside the Owasso city limits. Mr. Haley answered affirmatively.

Mr. Charney asked Mr. Haley to explain how he would bring traffic into the property because it is a rural subdivision on rural roads that have no curb and gutters. Mr. Haley stated the roads are black topped. Mr. Charney stated that it is a rather unusual access through a residential neighborhood to get to a commercial use, and the access has always been unusual even for residential use.

Mr. Haley stated that in regard to heavy volume he will have a capacity for the events, so there will not be 500 people attending weddings on the property. The building is going to be 80'-0" x 40'-0" and can fit a maximum of 150 people. Assuming everyone drives their own vehicle there could be a fair amount of traffic, and weddings would be once a week if business is going well.

Mr. Charney asked Mr. Haley to explain the wedding venue in the middle of a residential setting. Mr. Haley stated Copper Meadows is an established neighborhood; both neighborhoods are legitimate. Mr. Charney was concerned about music in the middle of a residential setting. Mr. Haley stated the property is located close to Owasso football stadium and the stadium emits quite a bit of sound. It is nothing annoying but there are football games played there on Friday nights and music is played across speakers and it can be heard quite a way. Mr. Haley stated he will not amplify over what the football stadium emits.

Mr. Hutchinson asked Mr. Haley if he did not have road frontage. Mr. Haley answered affirmatively. Mr. Hutchinson asked Mr. Haley if he had an easement. Mr. Haley

answered affirmatively. Ms. Graham stated it is a public easement that deadends into her property so she is the only one that uses it.

Mr. Hutchinson asked Mr. Haley what he plans to do about sewer. Mr. Haley stated there is water and electric to the property and he will probably have a septic system for the waste.

Mr. Dillard asked Mr. Haley if he was going to apply for alcohol. Mr. Haley stated he would use licensed vendors but he will not bring alcohol.

Ms. Graham stated the neighbors that are right next door are in support of this request and she does not want to upset them. She wants to be okay with everyone in the neighborhood as well.

Mr. Haley stated the land is owned by Ms. Grahams family who has lived in the neighborhood over 30 years. He keeps her family in mind when making any plans for this venue.

Mr. Charney asked Mr. Haley if he knew if the City of Owasso Comprehensive Plan has the property as a residential use designation. Mr. Haley stated that he did not know. Ms. Jones stated the Land Use Plan calls for residential in the City of Owasso Comprehensive Plan, and Tulsa County Comprehensive Land Use Plan.

Mr. Charney asked Mr. Haley if he would be constructing restroom facilities that will be served by a septic system. Mr. Haley answered affirmatively.

Mr. Charney asked either party if there was anyone living on the subject property currently. Ms. Graham answered no. Mr. Haley stated there are structures on the property, bobcats, trailers, etc. and the gravel lot exists.

Mac Rosser, 321 South Boston, Suite 500, Tulsa, OK; stated he represents Joe and Chris Wolf. Mr. & Mrs. Wolf own property in the Graceland Acres subdivision, and their lot is adjacent to the subject property on the south side. They also own a 20-acre parcel adjacent to the applicant's property on the east side, so they own property both on the east side and the south side. Mr. & Mrs. Wolf have serious concerns about this application. First is the increased traffic that would be created in the Graceland Acres neighborhood and the dangers that comes with that, especially to children. The subject property is located at the back end of a residential neighborhood, far from any arterial street. Mr. Rosser presented aerials of the subject area to the Board to show the possible access routes and the distances required to reach the subject property. Mr. Rosser stated the roads have no sidewalks, it will be dark when the event is finished and people will not have any idea on how to get out of the neighborhood. There could easily be 100 cars trying to leave an event at the same time and possibly drinking making it dangerous and injurious to the neighborhood. There are no restrictions on the type of events that can be held on the subject property, there could be outdoor concerts or festivals. A lot of people can be put on 20 acres and everyone of those people that attend will have to come in and

go out one of the routes through Graceland Acres. Mr. Rosser stated that the Variance request from the all-weather surface means there can either be gravel or dirt. With gravel dust is a problem and dirt can turn into a mud bog. The other Variance request for allowing 0 feet of frontage on a public street brings in the question about the strip of land the applicant has to use to get to the subject property. The 50-foot wide strip of land that is referred to as an easement has not been dedicated to the County, County has never accepted it, it is not shown on any County road map, and the County Assessor does not show it in their system. That strip of land is owned by the Wolfes and the owner immediately adjacent to them on the west side. The use the applicant is proposing is contrary to two plans, Tulsa County Land Use Plan and the City of Owasso Comprehensive Plan, which shows the area as residential. The applicant's proposal is purely a commercial use in a residential area and it would not be harmony with the spirit and intent of the Code and it would certainly be injurious to the neighborhood. Mr. Rosser stated that a request for commercial use in Graceland Acres was denied by the County Board of Adjustment in 1990, and he thinks this should be denied today.

Mr. Charney asked Mr. Rosser if he would have the same set on concerns if there was an application seeking a RS-3 residential subdivision with the only access through Graceland Acres. Mr. Rosser stated if the property were to be platted residentially he is not sure the access point would be approved. At a minimum it would have to be dedicated. A residential development does not have the type of use that an event center would have.

Kevin & Sherri Lefler, 7823 North 132nd East Avenue, Owasso, OK; stated he lives in Copper Meadows. Their concerns are traffic, noise, trash, firearms use, fire risks, and no clear definition of the events to be held there. People do shoot guns in the area and that is concerning and she has eight grandchildren, one who has special needs. There is a concern about dust if there is no paved parking lot, and concerns about the children's safety with the possibility of altered drivers after an event.

James Miller, 7698 North 139th East Avenue, Owasso, OK; stated the road, 140th East Avenue, floods. The primary entrance on North 137th East Avenue is prone to flooding which is from his pond because it was not built correctly. Mr. Miller thinks if this request is approved it would have to come with a substantial from Tulsa County to improve the infrastructure of the entire neighborhood because the neighborhood cannot support the request.

David Tittle, 13331 East 76th Street North, Owasso, OK; stated he lives on the corner that is the northwest side of 134th and 76th. The road is not a blacktop road, it is a screenings road that has been tarred and chipped. He has concerns about safety on 76th Street North; there are hundreds and hundreds of houses being built out east. There has been at least one fatality east of 137th Street and he has called for an ambulance countless numbers of times for accidents on his corner. There are no street lights, no curbs, no sidewalks, there is nothing for safety. Mr. Tittle stated he disapproves of any kind of change in that area for traffic and safety reasons.

Rebuttal:

Jordan Graham came forward and stated that she will follow every law put in place, especially with the drinking and driving because there are options like Uber, Lyft, taxis, shuttles. She will insure that those are always in place because she would never want anyone to be intoxicated and on the road. Ms. Graham stated that she does not understand the concerns of Mr. & Mrs. Wolfe because they do not reside in the neighborhood. Ms. Graham stated she grew up in the subject neighborhood and the roads are what they are. There is no intention of having concerts or festivals on the subject property.

Jonathan Haley came forward and stated the phrase “event venue” is a scary phrase, but this will be a wedding venue. There will not be concerts or anything of that sort. This will be a yoga center and ranch wedding event center. The property where the gravel easement is located was proposed in April, 2000 for a change of zoning from AG to RS-3 residential single family high density neighborhood but it was denied. The target group of clients is the weekend wedding warriors; weddings would be Friday and Saturday.

Mr. Hutchinson asked Mr. Haley about birthday parties. Mr. Haley stated they would hold birthday parties any time.

Mr. Haley stated that he owns the property so he will be taking care of any trash, why would he want to trash his own property?

Comments and Questions:

Mr. Dillard stated he finds it unfortunate that the Board has to make a land use decision because you don't find anyone nicer than the applicants, that is the hard part.

Mr. Hutchinson stated that he likes to see young people wanting to do a business venture like this, but he also sees the other side of it. There have been totally enclosed wedding venues on 200 acres and people complain about the noise. Mr. Hutchinson stated he cannot support this request in this location.

Mr. Charney stated that he knows the subject tract and knows the area. He feels like something can be done with the land but he does not see a commercial use which is surrounded by residential. The fact that the Comprehensive Plan of Owasso shows it to be residential, not that the Board is always bound by that, but it is pretty good first evidence. The subject property also has very difficult access. Mr. Charney stated he cannot support the intense use requested.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Crall “absent”) to **DENY** the request for a Special Exception for Use Unit 2, Area-Wide Special Exception Uses, for a wedding and events center (Section 1202). The use requested, outdoor wedding venue, music and festivities use is not appropriate given the surrounding residential tracts on two sides and

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

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

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-0 (Charney, Dillard, Hutchinson, Johnston “aye”; no “nays”; no “abstentions”; Crall “absent”) to **DENY** the request for a Variance from the all-weather parking surface requirement (Section 1340.D); Variance of the minimum frontage requirement on a public street/dedicated right of way from 30 feet to 0 feet in the AG District (Section 207) finding there is not enough information given the denial of the requested Special Exception; for the following property:

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

2798—Hanford Jenkins

Action Requested:

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

Presentation:

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

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

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

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

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

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

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

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

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

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

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

Ms. Tosh stated that creates another issue.

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

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

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

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

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 5:15 p.m.

Date approved: _____

2/18/2020

David E. Charney
Chair