

**TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 500**

Tuesday, November 16, 2021, 1:30 p.m.
Williams Tower I
1 West 3rd Street, St. Francis Room
Tulsa, OK

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS
Charney, Chair Hutchinson, V.Chair Dunkerley Hicks Tisdale		S. Miller Jones Sparger	K. Edenborough, County Inspections

The notice and agenda of said meeting were posted at the County Clerk’s office, County Administration Building, 10th day of November, 2021 at 1:31 p.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-1 (Charney, Dunkerley, Hicks, Hutchinson "aye"; no "nays"; Tisdale "abstains"; none "absent") to **APPROVE** the Minutes of October 19, 2021 (No. 499).

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

29331—Jim Coleman

Action Requested:

Variance to reduce the required frontage in a CG District from 100 feet to 15.82 feet to permit a lot split (Section 730). **LOCATION:** 26919 West 51 Highway South

Presentation:

Jim Coleman, P. O. Box 351, Mannford, OK; stated he wants a lot split because of an old billboard sign on the subject property, and he is trying to sell the property, but the potential buyer does not want the billboard; the billboard has been on the property for about 40 years. The lot split would change the frontage so he can take the entire section out of the property that he wants to sell. He has had the property surveyed and it meets all the easement requirements and access easements.

Mr. Charney asked Mr. Coleman if the remaining frontage on the main street would be 15.82 feet? Mr. Coleman answered affirmatively stating there is an access easement on the west side of the lot, so it is not necessary to enter the property from the highway.

Mr. Dunkerley asked Mr. Coleman if he had any plans to build anything on the portion of property that the billboard sits on. Mr. Coleman answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **TISDALE**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Variance to reduce the required frontage in a CG District from 100 feet to 15.82 feet to permit a lot split (Section 730). The Board has found the hardship to be billboard prevents the sale of the property. The Board finds 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:

Lot 5 Block 1, Keystone Hills, Tulsa County, State of Oklahoma

2932—Chris Griffin

Action Requested:

Use Variance to allow an overnight campground for recreational vehicles, Use Unit 17, Automotive and Allied Activities, in an AG District (Section 310); Variance from the all-weather parking surface requirement (Section 1340.D). **LOCATION:** 3939 East 161st Street South

Presentation:

Chris Griffin, 32386 East 171st Street, Coweta, OK; stated he would like to have an RV park for overnight camping as well as the offer of surface parking. The intent in this request is to make the property better. The property has Section 8 all bills paid housing and the property is not zoned for that, but he purchased the property with that housing existing. He has even refinanced the property with the Section 8 housing on the property and he just discovered that the property is not zoned for the Section 8 housing. Mr. Griffin stated that he purchased the property in 2002 and has made many improvements to the property. Mr. Griffin stated that he has spoken with DEQ, the water department and the electrical utility about what he is proposing and they all have told him the infrastructure is fine. Mr. Griffin stated that he would like to start with 20 spaces as a test, then start razing buildings and increase the spaces to 40. Mr. Griffin stated that the photos he provided is actually a park in Wagoner that he would like to use a model for his proposal.

Mr. Hutchinson asked Mr. Griffin if he planned to have an office on site for the RV park. Mr. Griffin answered affirmatively stating that it would be a metal building for the office with a washer/dryer access inside.

Mr. Hutchinson asked Mr. Griffin if someone would be living on site. Mr. Griffin answered affirmatively.

Mr. Charney asked Mr. Griffin to state his hardship for his request. Mr. Griffin stated the hardship is that he is attempting to make the property better and the existing Section 8 housing. The property will become dilapidated in the future and will become inhabitable. The property is an eyesore and has existed that way for about 40 years. His proposal will bring in a higher clientele. Mr. Griffin stated that if the Board did not think an RV park is appropriate, he could turn the property into a parking area, because the City of Bixby has informed him that there will be about 1,400 houses built in the area in the future; those homeowners will need a place to park their boats and RVs.

Mr. Charney stated that when a piece of property is in the County and not within a municipal jurisdiction like the subject property, which is what this Board hears, the Board cares about the land use plan and the Board seeks input from the surrounding municipalities, and there is a belief by those that enforce the City of Bixby plan that this area has been designated as single family residential in the future. That is something that this Board needs to consider though it is not necessarily binding on the Board, but it is important. Mr. Charney asked Mr. Griffin if he thought if the designation of the area by the City of Bixby as having the best use pursuant to the City's belief, that the area have single family residential use. Mr. Griffin stated the apartments have existed for a long time and the City has never brought it to his attention, that the apartments are not what was envisioned for the area. The Tulsa County Maintenance Division is in the area, there is a dog grooming facility, there is a property that has large equipment pieces parked on grass, none of that has been addressed so he is not sure why this is a problem. Mr. Charney stated that it is the application requesting a Variance that triggers the questions.

Mr. Tisdale asked Mr. Griffin if he wanted a camping ground or a storage area because both concepts have been mentioned. Mr. Griffin stated that he is willing to do both. If people do not like the overnight campground and the City of Bixby is going to fight the proposal he would turn the property into a storage facility. He does not want to have anything that is going to be detrimental to the area.

Mr. Griffin stated that each RV will have their own hook-ups for utility services and there will be no generators necessary. The property would have a lagoon system which has been DEQ approved. There will also be a trash area for the trash.

Mr. Dunkerley asked Mr. Griffin about the letters he had received but not yet reviewed. Mr. Griffin stated that he had received those letters yesterday after 2:00 P.M., the letter from the City of Bixby and the letter from the attorney of the neighboring land owner.

Mr. Dunkerley asked Mr. Griffin if he had spoken with the neighboring land owners because he had mentioned the willingness to change the plan or to make adjustments. Mr. Griffin stated that he has not spoken to the neighboring property owners because he just received the letters yesterday. Mr. Griffin stated there is a development that has been slated by the City of Bixby but he does not think it has been approved because the land is still for sale and he understands there is an oil and gas dispute.

Mr. Dunkerley stated that this is Mr. Griffin's application and he does not think this Board is going to tell him what to do with his application, but he would suggest that if there are substantial points that have just been made within the last 24 hours and the applicant has not had time to evaluate those statements, it could potentially be to his benefit to defer his application and have discussions with those parties and revisit this application at a future meeting. Mr. Griffin stated that he would take that into consideration but he would like to hear what the interested parties have to say today.

Mr. Charney asked Mr. Griffin if he had said the existing apartments are on a lagoon system. Mr. Griffin answered no, stating that the apartments are on an aerobic system. Mr. Griffin stated that DEQ had suggested the lagoon system and he is already digging the lagoon pond.

Interested Parties:

Darrell Kelly, 3842 East 161st Street South, Bixby, OK; stated his property is across from the subject property. The area is very rural and the major concerns he has is noise, the type of people that are going to be in the RV park, the type of surface for the parking, and the traffic. Mr. Kelly stated he would have less concerns about an RV storage facility than the RV park. Mr. Kelly stated that he has seen Mr. Griffin's vision for the property but he does not think it is reflected in the application and the drawings presented. He would like to see more details presented in the application package. Mr. Kelly stated that he has concerns also about the turning radius for the RVs entering into the park.

Linda McDonald, 16144 South 43rd East Avenue, Bixby, OK; stated she has lived across the street for 40 years. The apartments have always been an eyesore, especially the last couple of years. There are also \$600,000 houses being built next to the subject property and she thinks an RV park across the street would hurt the value. Typically RV parks have hunters, vagrants and people that go from place to place, so she is concerned about the quality of people that may stay there. This would increase the traffic and the County can't afford to repair the streets now and the repair that was done a few weeks ago is already starting to crack out, and that is

just with small residential traffic. The roads are small and not designed for large RVs. The area has always been a quiet residential area and there are nice houses being built. The neighbors would like to have the area maintained as a quiet residential area with nice houses and not have overnight people coming and going.

Mary Huckabee, Attorney, Conner and Winters, 4100 First Place Tower, 15 East 5th Street, Tulsa, OK; stated she represents NPR Family which owns the property to the east of the subject property. The property is currently agricultural property but it is slated to be developed as residential. The concern is that this property is just a low density agricultural property and it is being proposed to bring in 20 RVs in the first phase and eventually up to 40 RVs with an office with on site management and a laundry. That is the equivalent density of a medium sized apartment complex that is being proposed for the property that is zoned agricultural. The residents that are going to be using the RV facility are not people who are going to be part of the community and invested in the property. These people are just going to be passing through which compounds the problem of the density that is being proposed for the property with the RVs. There are RV generators even when there are plug-ins available and there is the noise associated with the loading in and out the RVs. There will be people sitting outside around the RV at night, eating and drinking and enjoying the festivities of camping. When that is multiplied by 20 up to 40 families that is quite a crowd that the neighboring residential homeowners would have to deal with. The trash and the dump station for the number of sites being proposed will inevitably lead to odors wafting onto the neighboring properties. The lack of infrastructure for this number of families on the subject property causes some public health concerns. If this Variance was granted to leave the property unpaved the dust will inevitably blow over onto the neighboring properties and accelerate the deterioration of the public roads. Under Oklahoma law the applicant has to show a hardship to be granted this relief. It is unfortunate that the applicant was never made aware that apartments are not compliant with the Zoning Code but that is a self-imposed hardship, and that is why a person is to do their due diligence when purchasing a property. There is nothing particular to this property that would warrant this relief especially given how detrimental this could be to the surrounding property owners. The solution to the fact that there are these apartments there isn't to just shift basically the equivalent number of units into temporary housing on an unpaved parking lot without infrastructure. There are other things this property could be properly developed for making it profitable to the property owner. As to the storage proposal she would suspect that her client would think it is the best use for the property, though she has not had a chance to speak to her client, given the visual impact of boats and RVs parked on the property. She thinks the traffic, the lights and security could be a problem.

Mr. Hutchinson asked Ms. Huckabee if her client had submitted the PUD to the City of Bixby. Ms. Huckabee stated that she is not working on that project so she does not know.

Ms. Miller stated that if the PUD is on the zoning map it must be approved and the Board has an official zoning map.

Rebuttal:

Chris Griffin came forward and stated that he has already addressed the entrance, it will be 36 feet wide at a minimum and will go in a full 50 feet so no RV or trailer will be left out on the street when coming through the gate. The Bixby letter stated that law enforcement has been to the property numerous times, Bixby can present all the documents they have for when the police came to the property and there have been zero drug raids at the apartment complex; he is a former Tulsa County Sheriff Reserve Deputy as well as Tulsa Police. There have been two arrests at the apartments that he knows of since he has owned them but no drug arrests since

he has been owner of the apartments. The property is zoned agricultural and he has been asked to grow marijuana on the property, which is a second choice. Another request has been to allow a pig farm, 130 pigs, but he thought that would be smelly so he turned the offer down. He wants to do the best he can for the area. The third option is to sell, the property is for sale. He had the property inspected before he purchased it and he would have thought the inspection would have notified him that the apartments were illegal, or he thought the bank would have notified him about the apartments being illegal. He has refinanced the property five times and not once did the bank tell him the apartments were illegal. Mr. Griffin presented pictures he has taken of the area within a mile of the subject property and explained the pictures. Mr. Griffin stated he has researched RV parks and they work and they work very well.

Mr. Charney stated that the Board is respectful of the applicant's desire to rehab the property and the Board respects people that want to do that. What the Board has to analyze is the particular use that is being sought, can it be authorized given the current zoning that is in existence.

Mr. Hutchinson asked Mr. Griffin about the research he did on RV parks and asked how many people stay long term in an RV park. Mr. Griffin stated a lot of people stay long term. There is a Wagoner County Sheriff at the RV park in Wagoner and he has been there for over 1 ½ months. The people that stay long term in the RV park are members of the community and not transients. He has found that a lot of travel nurses, oil field pipeline workers, students from out of state or out of town stay in RV Parks, people usually stay three or four months at a time.

Mr. Hutchinson asked Mr. Griffin if each RV would have their own electric meter. Mr. Griffin answered affirmatively. Mr. Griffin stated there would be no dump station on site.

Mr. Hicks stated that on page 3.25 in the agenda packet designates a dump station, and he asked about the plan. Mr. Griffin stated that is the actual sewage that runs into that area from each individual RV site; there is no pull-up dump station.

Comments and Questions:

Mr. Tisdale asked that if the neighborhood does not like this applicant's request, what they would want.

Mr. Charney stated this is a non-conforming existing use, and this use apparently has been grandfathered in and he thinks that is why the applicant had no problems refinancing. Mr. Charney stated the apartments exist and that is not before the Board today, it whether the Board wants to allow an additional significant density of the RVs. This property is within the fenceline of the City of Bixby, and he cares about the City's Comprehensive Plan. The property has single family use designated which would not allow a 20-unit apartment complex on the property, though that is not binding on the Board but it is relevant. Mr. Charney stated a lagoon system is a concern because there will be sanitary sewer there soon because of Bixby's future plan.

Mr. Tisdale agreed with Mr. Charney.

Mr. Hutchinson stated that what he sees in RV parks are people that have been there for several months. The RV parks he drives by are always clean, though he has not driven by one at night. He thinks this a good concept but not for this particular location.

Mr. Dunkerley thinks that any particular party has motives that are questionable, it is just a matter of trying to do the right thing. He has not heard an articulated hardship that the Board could work with within the boundaries the Board is given.

Mr. Hicks stated that if the applicant should come back before the Board he would like for him to spend more time on a site plan or exhibit, because there are things on the site plan presented today that concerns him.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale “aye”; no “nays”; no “abstentions”; “absent”) to **DENY** the request for a Use Variance to allow an overnight campground for recreational vehicles, Use Unit 17, Automotive and Allied Activities, in an AG District (Section 310); Variance from the all-weather parking surface requirement (Section 1340.D); for the following property:

E/2 E/2 SE SW SEC 21 17 13, OF TULSA COUNTY, STATE OF OKLAHOMA

2934—Mark Capron

Action Requested:

Modification to a previously approved site plan (CBOA-1690) to add an additional building and splash pad (Section 1205). **LOCATION:** 200 West 46th Street North

Presentation:

Mark Capron, Wallace Design Collective, 123 North Martin Luther King, Jr. Boulevard, Tulsa, OK; stated in 1999 this development had a Special Exception approved with the site plan that was associated with that approval. The original request was approved per site plan and any time there is a change the application has to come back before the Board. Today the same development is before the Board, but a couple of things have changed; another building is being added for an indoor pool and a playground is being removed for a splash pad in the same area. This is only an expansion of services. The new building is a separate building and is east of the existing building.

Mr. Hutchinson asked Mr. Capron if there were going to be soccer or football fields, or if they already exist on the site. Mr. Capron stated the fields are to the west and are existing. Mr. Hutchinson asked Mr. Capron if the children on the fields would be able to go over to the splash pads. Mr. Capron answered affirmatively.

Mr. Hicks asked Mr. Capron if there were any plans to relocate the existing playground. Mr. Capron stated the playground is being replaced with the splash pad.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Modification to a previously approved site plan (CBOA-1690) to add an additional building and splash pad (Section 1205). Finding the proposed modification is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief or meets the zoning requirements, per code; for the following property:

LT 1 BLK 1, TULSA DREAM CENTER, OF TULSA COUNTY, STATE OF OKLAHOMA

2935—CRB Companies, LLC

Action Requested:

Special Exception to permit a 145-foot communications tower (Use Unit 4 - Public Protection and Utility Facilities) in an AG District (Section 310 and Section 1204.3); Special Exception to reduce the required tower setback (110% of the tower height) from the adjoining AG zoned lots (Section 1204.3). **LOCATION:** 7845 North 71st Avenue East

Mr. Charney announced that he would like to move the last two items on the agenda before Item #5 on the agenda and move CRB Companies to the end of the agenda.

Board Action:

No Board action required at this time for the following property:

S/2 SE NE SW SEC 26 21 13 5ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2936—Sherri Coghill

Action Requested:

Special Exception to permit a single-wide mobile home in an RS District (Section 410).

LOCATION: 1655 East 71st Street North

Presentation:

Sherri Coghill, 1655 East 71st Street North, Turley, OK; stated that on July 1, 2021 she lost her house to a fire and she would like to replace it with a single wide mobile home. She lived in the house that was destroyed by fire for 75 years with her disabled sister. On the day of the fire, she took her sister to the doctor in a thunderstorm. While at the doctor's office, she was notified that her house was on fire and she lost everything. Ms. Coghill stated that she had never owned a mobile home before and feels that the sales person who knew the situation took advantage of her by selling her the single wide mobile home. The process of demolishing the old homestead and getting it removed was a painfully long and tedious process. Years before, her brother had asked to move a mobile home on the property and that was approved so she did not know there would be a problem until she started the process of getting the utilities. She thought that purchasing a prefabricated home would be the most efficient and more timely. She intends to live the rest of her life in the mobile home and she will make it look very nice with a wrap around porch and a deck. She will also add a wrought iron fence. She has chose to remain in Turley to try and help the community come back to the heyday of their times, Turley is her home town.

Mr. Hutchinson asked Ms. Coghill if the picture in the agenda packet is the mobile home she has moved on to the property. Ms. Coghill answered affirmatively. Mr. Hutchinson asked if it was skirted and had the proper tie downs and inspections. Ms. Coghill answered affirmatively. Mr. Hutchinson asked Ms. Coghill if she had a hard surface parking pad. Ms. Coghill answered affirmatively.

Interested Parties:

Jeff Kirkham, 1727 East 73rd Street North, Tulsa, OK; stated he has lived in his home for over 48 years. He and his neighbors have attended Board of Adjustment meetings since the 1980s and it was usually because of mobile home requests. His friend that lives west of the subject property had to be out of town today so he is representing the friend. The neighborhood has been trying to keep mobile homes out of the neighborhood since the 1980s. It sounds like a mobile home had been previously approved but not acted upon within the three year time limit and now it would appear the mobile home is a use that is not permitted by right in the RS District. Mr. Kirkham stated this request is written up wrong because in the staff comments it is written by staff that the applicant is proposing to place a 60 x 80 mobile home on the property, the mobile is already on the property. This offends him when this happens and believes a mobile home can bring down property values.

Mr. Charney stated that these cases are not treated as a formality and the Board does listen to the facts. Mr. Charney let Mr. Kirkham that he appreciated his comments and the Board will take them into account for this case.

Sharon King Davis, 4662 East 59th Street, Tulsa, OK; stated she has been friends with Sherri Coghill for about 60 years and she knows that she loves her family and her Turley roots. Ms. Davis thinks the mobile sales person should have checked to make sure a mobile home would be permitted on the property, Ms. Coghill thought everything was done because she knew her brother had received permission in the 1960s not knowing there was a three year time limit. The mobile home was delivered and set in place, and there was nothing sneaky about this.

Mr. Charney thanked Ms. Davis for her comments, and stated that it does help the Board make decisions when someone with a sterling reputation in the community steps up and supports a request.

Pam Slater, 6822 North Trenton, Tulsa, OK; stated she is Sherri Coghill's daughter. There are multiple houses in the area that are in bad shape and this structure is brand new. There are single wide mobile homes in the area that need a lot of work and this mobile is brand new and does not need work. Her mother keeps her yard immaculate and plants flowers.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Special Exception to permit a single-wide mobile home in an RS District (Section 410). The mobile home is to be skirted, have tie downs, and there is to be a hard surface parking pad. The board finds 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:

LOT 10 BLK 8, Golden Hill Addition, Tulsa County, State of Oklahoma

2937—Lorenda Christensen

Action Requested:

Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in an RS District (Section 240.2-E). **LOCATION:** 2137 S 59th W Ave

Presentation:

Lorenda Christensen, 2137 South 59th West Avenue, Tulsa, OK; stated her family are hobbyists in repairing boats and mechanical equipment, and she works from home in the health care industry. She has a lot of health care information which requires specific security. Her house is three bedrooms and she has two teenage sons so she does not have a spare room to set up an office. The proposed building would have a dual purpose, one for a home office and the other for a shop to hide an eyesore that is currently in her yard. If she is allowed to have this shop she could bring all the various boats and vehicles that are in the yard into the shop.

Mr. Charney asked Ms. Christensen if she was proposing a 30 x 60 building. Ms. Christensen answered affirmatively.

Mr. Charney asked Ms. Christensen if she had spoken with the neighbors on either side of her. Ms. Christensen answered affirmatively stating that they have no objections. Ms. Christensen stated that both neighbors have storage sheds in their yards so she is going to try to line hers up with theirs so there will be no visibility issues. Ms. Christensen stated she was unable to contact the neighbor to the east.

Mr. Hutchinson asked Ms. Christensen about the building materials. Ms. Christensen stated that she would like to have a red iron steel structure with a concrete base. At this time there are no plans to insulate the building except for the home office.

Mr. Hutchinson asked Ms. Christensen if the building would have heat and air and a bathroom facility. Ms. Christensen stated there would be heat and air for the office area but not the entire building, and there are no plans for a bathroom at this time.

Mr. Hicks asked Ms. Christensen if the building would have a metal skin. Ms. Christensen answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 5-0-0 (Charney, Dunkerley, Hicks, Hutchinson, Tisdale “aye”; no “nays”; no “abstentions”; none “absent”) to **APPROVE** the request for a Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in an RS District (Section 240.2-E), subject to conceptual plan 7.6 of the agenda packet. The Board has found the hardship to be the large lot, larger than the normal RS zoned lot. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

W197 FEET & 3 INCHES N90 LT 9 BLK 1, SECOND WEST TULSA VIEW ACRES SUB, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney stated that in the next case he is quite familiar with the area. He has an ownership interest in some properties that are located in the area, though not adjacent to the subject property. He has no financial interests in this but his properties are nearby enough that he thinks in the Code Ethics statement that each Board member signs, that if there would even be the appearance of any detriment or benefit. He is not speaking to either, but it is best for him to recuse himself since he has property that is nearby. Given that ownership interest he is compelled by the Code of Ethics to recuse himself, and he feels that he must in this case. Mr. Charney stated he has no financial interest in the outcome of this case and it is irrelevant to him, but the Code requires an analysis above and beyond that so he is recusing himself. In that instance he will leave the meeting in Vice Chair Hutchinson's care and leave the meeting.

Mr. Charney recused himself and left the meeting at 3:07 P.M.

2935—CRB Companies, LLC

Action Requested:

Special Exception to permit a 145-foot communications tower (Use Unit 4 - Public Protection and Utility Facilities) in an AG District (Section 310 and Section 1204.3);
Special Exception to reduce the required tower setback (110% of the tower height) from the adjoining AG zoned lots (Section 1204.3). **LOCATION:** 7845 North 71st Avenue East

Presentation:

Ty Knot, CRB Companies, 7335 South Lewis Avenue, Tulsa, OK; stated CRB Companies is representing AT&T who is the carrier that will essentially be looking at the

proposed tower. CRB has essentially been to this side of Owasso and AT&T has identified a problem with 76th Street North and northward, north of the Macy's Distribution Center. What has been found that with Macy's going in, a new warehousing development going in north of the subject property and the substantial growth of Owasso has caused decreased coverage, calls are being dropped, internet streaming has been slowed tremendously because of the capacity. Today the tower is being proposed to improve the calls for customers traveling along 76th Street North and provide infrastructure. The tower is built for more than one carrier and the tower owner will have the ability to obtain other carriers for the area; it will be built for four different carriers. Mr. Knot explained page 3 and 4 of a handout that had been presented. Mr. Knot stated that the tower, that is important to AT&T, a few years ago they were awarded the contract per the Federal Government for FirstNet. FirstNet is for the first responders and it gets them a designated spectrum just for their communications. FirstNet worked with municipalities, first responders, ambulance, fire, everyone and they get their designated spectrum so only they can use that. What AT &T is doing, including this proposed tower, is a nationwide build out will be capable of doing that.

Mr. Hutchinson asked Mr. Knot about where the nearest tower is located other than the proposed tower. Mr. Knot stated AT&T's nearest tower is .97 miles southwest.

Mr. Hutchinson asked Mr. Knot if other areas in the region had been looked at. Mr. Knot answered affirmatively stating that this property is zoned AG, and the RF Engineers were requesting 185 feet to obtain all the coverage they wanted north and south. Mr. Knot stated that he spent several days in Owasso looking at different terrains, different locations and per the RF Engineers this tower has to be located on the north side of 76th Street North. The RF Engineers worked the plans to get the tower down to 145 feet because it could not be 185 feet for the subject location. The pole missed the 110% requirement by 18 inches on the north side property line.

Mr. Hutchinson asked about the RF Engineers reason for keeping the pole north of 76th Street North. Mr. Knot stated that it is to be able to have coverage, the issues are the new houses

being built and people working from home. All the carriers were not prepared for all the people working from home and the data usage. AT&T is attempting to pull all the houses in, take the load off the existing and still cover the Macy's Distribution Center because the center operates 24 hours a day. The consumption of the internet and the calls is tremendous in the area and that is how the RF Engineer determined the area.

Mr. Hutchinson asked Mr. Knot if the 145 monopole was going to have any guy wires. Mr. Knot answered no. Mr. Hutchinson asked if the monopole was going to be a steel structure. Mr. Knot answered affirmatively stating that it will look like a flag pole. The compound that will be at the base to house the equipment will be 40 x 40 foot square, and that has been worked out with the land owner.

Mr. Hutchinson asked Mr. Knot if the monopole was going to be erected between the new house currently being built and the shop that is there. Mr. Knot answered affirmatively.

Mr. Hutchinson asked Mr. Knot if his company erected other structures other than the flag pole look that might help blend this into the area. Mr. Knot stated the company has done some stelthing but it is difficult in Oklahoma because Oklahoma trees are not 80 or 100 feet tall, but that was not looked at in this case because it is not required for Tulsa County.

Interested Parties:

Christopher Leach, 7840 North 75th East Avenue, Owasso, OK; stated his property is to the east of the proposed monopole; 600 feet from the pole. The area of the proposed tower site is composed of small parcels with houses and is effectively a residential area. In addition, there is a high-density neighborhood 600 feet away and another neighborhood 1,000 feet away from the proposed site. The proposed tower will dominate the skyline for the entire area. It will be 145 feet high and will have four massive antennae arrays. This tower is inconsistent with the community image and will have an adverse impact on hundreds of homes. Mr. Leach stated he holds a Master of Science degree in telecommunications from Oklahoma State University. In his previous company he designed and deployed wireless networks for the U. S. Air Force. Mr. Leach stated there is no technical reason to use the proposed site. The proposed site is in a valley with a hill to the west and rising terrain to the north and south. This terrain will attenuate the signal and will require a taller tower than would be necessary in a more suitable location. There is a large industrial zone immediately to the south on 76th Street North that will easily accommodate this proposed tower while providing the same level of coverage and services to the community. The terrain south is higher which would allow a shorter tower plus the fiber optic cables and other infrastructure needed to support the tower are already on 76th Street North further simplifying the development and minimizing the impact on the community. Section 1204.3 of the Tulsa County Zoning Code lists nine goals and the proposed site violates at least four of those. The residents are not against progress. The residents are not simply saying no to having a cell tower nearby, the residents believe that improving infrastructure makes the County a better place to live. However, the residents strongly believe that the proposed site is not the best place for this type of development. The residents would request the Board to deny this application and in accordance with the Zoning Code encourage CRB Companies to locate the proposed tower in a nearby industrial zone. That would place the tower away from residential areas while still providing the same services to the community; 100 feet on the other side of 76th Street North will provide zero difference in coverage and would speak with any RF Engineer about that.

Denita Hancock, 7867 North 71st East Avenue, Owasso, OK; stated she lives directly north of the proposed site. Ms. Hancock stated that she purchased her property because it was out in the country, and she likes sitting in her back yard. She received information from the doctor

across the street about the potential harmful rays put out by towers, and she does not want her grandchildren to be exposed.

Kimberly Leach, 7840 North 71st East Avenue, Owasso, OK; stated the proposed tower would be 600 feet from her house. Ms. Leach stated that every neighbor she spoke to told her that place a tower in the middle of residential area would be a ridiculous place for a monopole. The neighborhood consists of \$400,000 and \$500,000 houses and the residents are livid. Both of the surrounding neighborhoods are flags of Owasso; the northern fence line is Owasso City Limits so this will affect people in the City of Owasso. The residents do not want the cell tower. Ms. Leach stated she is greatly concerned about the negative impact the tower will have on her property value, and even more concerned about the health of her family due to the proven negative effects that high radio frequency has on cognitive function, cardiovascular disease, and cancer development. While there are many factors that determine a property's value, according to a 2004 proximity impact study, houses within 1,000 feet of a cell tower have a 15% reduction in value, and her house is within 600 feet. There is significant correlation of poor health the closer a person lives to a cell phone tower and there are no studies that conclude that it is safe to live next to a communications tower. An accepted recommendation is not to live within 400 meters, about 1,300 feet of a cell tower. Most of the neighbors believe that if the tower is approved it will be a significant hardship because they would have to move. Ms. Leach asks the Board to consider the Zoning Code and honor the intent of the Code. The Code states "protecting residential areas and land is very important from potentially adverse impacts, encouraging the users of towers and antennas to locate them where the adverse impact to community is minimal, consider the public health and safety of towers and antennas and encourage the location of towers in non-residential areas". Ms. Leach stated these are critical and she asks the Board to consider that.

Charles Hancock, 7867 North 71st East Avenue, Owasso, OK; stated his property is just north of the proposed location of the tower. He submitted a series of ten pictures to the Board and he referenced them while explaining the pictures. The tower will be in the view of all the outdoor activities in his back yard and it will be ugly to see. Then if he decided to sell his property the tower would narrow down the number of people that would be interested in purchasing his property. It is not right for AT&T, a large company with all kinds of resources, to choose the proposed site and make it their place to the neighborhood's detriment. When he purchased his property from the neighbor to the south, he was asked to bury the electrical lines going into the house because he did not want electric poles blighting the neighborhood, and he complied with that request. A 145-foot communication tower will look much worse than electric poles would have looked.

Mike Cooper, Director of External Affairs Government Relations for AT&T, 305 North Main Street, Broken Arrow, OK; stated he appreciates everyone's input today. Communications is infrastructure's quality of life. It is necessary to have the infrastructure in place to provide voice, video, and data communications today, it is no longer just wire lines it is wireless, so there are certain things required to build the network. AT&T is not the only company that is doing this, there have been over 350 towers placed in Oklahoma this past year and there will be that many more placed this year. The infrastructure bill that was just passed is to improve broadband nationwide. This particular project is part of the nationwide state, county and community build to improve service. Everyone during COVID has found what lack of high-speed internet access means to the children going to school remotely. What AT&T has done is to prioritize projects where it is known spectrum is lacking voice, video, and data network infrastructure. This is an area that has those issues because of the growth not just in industrial manufacturing but also residential. Engineers go out and look at places to design the network as necessary and a lot of times it is micro with macro towers included, small cells sometimes to boost the network

necessary for the latest technology. AT&T follows all the recognized world and national health and science regulations so they would never do something that impacted the health of customers. These placements in residential areas are not uncommon, it is done nationwide everywhere every day. There is a reason a tower is in a certain location and there is a reason why the height is what it is.

Mr. Hutchinson asked Mr. Cooper about what Mr. Leach had stated about the tower going on the south side of 76th Street North in the industrial park. Mr. Cooper stated that using the AT&T Engineer's information, with data on the traffic and what the capability is in the area, the proposed site is exactly where the cell tower needs to be placed.

Mr. Hutchinson asked Mr. Cooper if he could speak to the reduction in property values caused by a cell tower. Mr. Cooper stated he has heard that just like he hears about data on the health and safety issues, but he does not see any data that supports that. There are several factors in the location of the cell tower, depending on where a person is and what is going on in the network at any given time is the reason a cell tower is placed in a prime location to be able to take the highest capability to provide service to everyone. The idea is to not only have residential, commercial, and all coverage have all the same seamless technology is the reason to have integration in areas of lesser capability.

Mr. Hutchinson asked Mr. Cooper about the range of the proposed tower. Mr. Cooper stated he is not an Engineer, so he does not know.

Mr. Tisdale asked Mr. Cooper about the appearance of the proposed tower. Mr. Cooper deferred to Mr. Knot.

Neal Kessler, 6814 East 80th Street North, Owasso, OK; stated his property is due west of the proposed tower and his property about 1,500 feet away on a hill which would seem to be a better tower site because it is higher. The neighborhood is part of a residential estate area that is connected to an agricultural area, and most of the area was agricultural for a very long time. Within ½ mile of the proposed site there is about 190 houses that are valued from \$300,000 to \$750,000 plus about another 290 single family residential houses all of which would not enjoy the presence of a cell tower. He heard engineers talk like AT&T is the only game in town, but Cox is a carrier there also and manages quite a lot of the high-speed internet and telephone. There is no denying that there is a dead zone from 76th Street North to 86th Street North all along Sheridan, but he does not know why moving the cell tower to the commercial area would not help just as much as the proposed location.

Rebuttal:

Ty Knot came forward and stated that he thinks that Mr. Leach would also agree that almost all carriers place towers near residential areas because that is where the need is. It is possible that the tower could be moved but that does not fall into the AT&T structure and what they are trying to do, that is how this area was chosen. In this particular case, a tower is allowed in AG with a Special Exception approval. For this case, AT&T put their best foot forward and took the tower down from 185 feet to 145 feet which is something that was worked very hard on. The 1996 Telecommunications Act was to keep from discriminating against neighborhoods or parts of a town that could not receive access. To the point, if the tower is moved south that would take away from the neighborhood to the north? The subject property is zoned AG and kept the tower out of the residential area because it does not fit the plan.

Mr. Hutchinson asked Mr. Knot what the coverage radius of the proposed tower would be. Mr. Knot stated the proposed tower coverage is designated on the submitted map.

Mr. Hutchinson asked Mr. Knot if there would be future need for more towers as the area develops. Mr. Knot stated that if there are more people using data, streaming, and calling, a carrier would need to improve the infrastructure.

Mr. Tisdale asked if the impact would be the same if the tower were moved to the commercial property. Mr. Knot stated that according to the information he has been provided, moving the tower south does not work at any height.

Mr. Hicks asked Mr. Knot if there was a certain range close to the tower that does not receive the benefit because of being too close to the tower. Mr. Knot stated that unless a person is standing directly underneath the tower, it might affect it, but his personal experience is that it does not.

Mr. Tisdale asked Mr. Knot if AT&T tried to collaborate with the residents in the area. Mr. Knot stated AT&T went through the process, and Ms. Jones sent him several letters yesterday and this morning, but he did not hear about the quantity that had been mentioned at today's meeting. When AT&T goes into a community they receive letters about visual impact, unfortunately, the Telecommunications Act states that one of the main reasons a tower cannot be denied is because people do not want to look at it. AT&T understands that a monopole is a structure that not everyone wants to look at, but people also want to use their telephone and access the internet.

Mr. Hutchinson asked Mr. Knot if there was a rule about the distance a tower has to stay away from a house. Mr. Knot answered no stating the 110% setback is a Tulsa Ordinance.

Mr. Dunkerley asked if there were other possibilities for the tower but not chosen because of the effectiveness. Mr. Knot stated that there has to be a partnership with the landowner and AT&T is not purchasing the property but entering into an agreement with the landowner. Mr. Knot stated he did visit with about 12 other landowners in the area and there are times where the radio frequency is perfect, but an agreement cannot be reached. Mr. Knot stated that he did visit with Macy's before speaking with the RF Engineer about height and Macy's was not interested. Even if Macy's were interested and the tower height went to 185 feet it does not mean that the lease part would work. It is both the availability and the functionality where a tower is placed.

Christopher Leach came forward and stated that Mr. Knot just stated that Macy's is technically valid, but an agreement could not be reached. Technically the industrial area is the correct place. It is Mr. Knot's job to get the deal done, this property is the cheapest option. The subject property is in a valley and the radio frequency is terrible, it is not the right place.

Comments and Questions:

Mr. Hicks asked staff how AT&T's intent to use the property conflict or contradict Tulsa County's use of the property. Ms. Jones stated that Owasso would like to see the future land growth be residential and it is the same as the Tulsa County land use plan.

Ms. Miller stated that Ms. Jones has created a land use plan by going into the fence lines, like the Owasso Comprehensive Plan, then land use plans in the Owasso Comprehensive Plan and in the unincorporated Tulsa Comprehensive Plan are exactly the same.

Mr. Hicks asked if the Telecommunications Act allowed things that might not be allowed by the County Code. Ms. Miller stated the Telecommunications Act does not trump the requirements in the Tulsa County Zoning Code. The amendment to add the requirements for cell towers came after the Telecommunications Act, and she would assume that Legal has reviewed that and that it is not conflicting. Tulsa County still has their process and their requirements.

Mr. Tisdale stated that his concern is that there may be another option.

Mr. Dunkerley agreed with Mr. Tisdale. He thinks this a tough issue because his opinion is that we live in a society that wants these services and the Board has to act on the information they are provided. It appears there is a need in the area for coverage but potentially there might be a better solution. The industrial area is close by and that is a factor. It is not like this cell tower would be far away from an industrial area, it is right there. This is a tough issue.

Mr. Hutchinson stated he can see the cell tower going onto the subject property because it comes down to the feasibility and whether it will work. Towers are everywhere and they become a part of the scenery. Mr. Hutchinson stated he does not have an issue with this request.

Mr. Hicks agreed with Mr. Hutchinson about how the tower becomes a part of the scenery, but this area is heavily residential and that concerns him. This proposal goes against the future intent of the area.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted **1-3-0** (Hutchinson “aye”; Dunkerley, Hicks, Tisdale “nays”; no “abstentions”; Charney “absent”) to **APPROVE** the request for a Special Exception to permit a 145-foot communications tower (Use Unit 4 - Public Protection and Utility Facilities) in an AG District (Section 310 and Section 1204.3); Special Exception to reduce the required tower setback (110% of the tower height) from the adjoining AG zoned lots (Section 1204.3), subject to the conceptual plan in the agenda packet.

Section 1204.3.E provides the following:

1. Factors to be considered in granting a special exception. In addition to any other requirement of this section, the following factors shall be considered in the determination to grant or deny a special exception for an antenna or tower:
 - a. Height of the proposed tower
 - b. Proximity of the tower to residential structures, residential district boundaries and existing towers
 - c. Nature of uses on adjacent and nearby properties
 - d. Surrounding topography
 - e. Surrounding tree coverage and foliage
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness
 - g. The total number and size of antennas proposed and the ability of the proposed tower to accommodate collocation
 - h. Architectural design of utility buildings and accessory structures to blend with the surrounding environment
 - i. Proposed ingress and egress
 - j. The need of the applicant for a communications tower within the immediate geographic area to provide an acceptable level of communications service to the area
 - k. The size of the tract and the most likely future development as indicated by the Comprehensive Plan, planned infrastructure, topography, and other physical facts
 - l. Landscaping
2. Collocation of facilities should be encouraged wherever practical by allowing reasonable extra height or tower diameter necessary to support multiple antennas.

Finding the Special Exception to not be in harmony with the spirit and intent of the Code and will be injurious to the neighborhood or otherwise detrimental to the public welfare, **THE MOTION FAILED** for the following property:

S/2 SE NE SW SEC 26 21 13 5ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

Review and Approval of 2022 Meeting Schedule.

On **MOTION** of **TISDALE**, the Board voted 4-0-0 (Dunkerley, Hicks, Hutchinson, Tisdale “aye”; no “nays”; no “abstentions”; Charney “absent”) to **ACCEPT** the 2022 Meeting Schedule as presented.

NEW BUSINESS

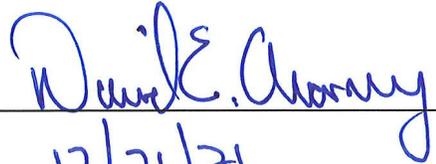
None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 4:08 p.m.

Date approved:



12/21/21

Chair