

**CITY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 791**  
Tuesday, March 14, 2000, 1:00 p.m.  
Francis F. Campbell City Council Room  
Plaza Level of City Hall  
Tulsa Civic Center

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

Dunham, Vice Chair  
Cooper  
Turnbo  
White, Chair  
Perkins

Beach  
Butler

Prather, Legal

The notice and agenda of said meeting was posted in the Office of the City Clerk on Monday, March 13, 2000, at 08:25 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair White called the meeting to order at 1:00 p.m.

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**MINUTES:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (Dunham, Turnbo, White, Cooper, Perkins "aye"; no "nays"; "no abstentions"; no "absences") to **APPROVE** the Minutes as amended, for February 8, 2000 (No. 789).

**Case No. 18625**

**Action Requested:**

Special Exception to permit the Use Unit 5, Private School Recreation and Athletic Facilities and Fields as shown on the site plan in the OM, OL and RM-1 zoning districts applicable to the site. SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street Parking and Loading Requirements. – Use Unit 5; and a Variance of the off-street parking requirements in Use Unit 5, Section 1205.C of the Zoning Code to permit the 720 off-street parking spaces provided for the football and soccer stadium bleachers to satisfy the combined off-street parking requirements for the football/soccer stadium, the athletic facilities building and the baseball and softball fields. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS and SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS, located at E. side of S. Wheeling & N. of E. 78<sup>th</sup> St.

**Presentation:**

Mr. Beach stated that the applicant made a timely request for a continuance of Case No. 18625 to March 28, 2000, to include an additional land use in the advertisement.

**Interested Parties/Protestants:**

None.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Continuance*** of Case No. 18625 to the hearing on March 28, 2000, regarding the following described property:

Lot 1, Block 15, Kensington, Blocks 15 & 17 and Tracts 1-3, as described below:  
Tract 1: A part of the S/2 NE of Section 7, T-18-N, R-13-E, being more particularly described as follows: Commencing at a point on the S line of the NE of Section 7, T-18-N, R-13-E and 50' W of the E line of said Section 7; thence N 89°48'42" W a distance of 880' to the POB; thence S 0°10'03" W a distance of 370'; thence N 89°48'42" W a distance of 414.1'; thence N 89°48'42" W a distance of 414.1'; N 0°10'03" E a distance of 554.75'; thence S 89°48'42" E a distance of 364.10'; thence S 0°10'03" W a distance of 185'; thence S 89°48'42" E a distance of 50' to the POB; Tract 2: A part of the S/2 NE of Section 7, T-18-N, R-13-E, more particularly described as follows: Commencing at a point on the S line of the NE of said Section 7, T-18-N, R-13-E, and 50' W of the E line of said Section 7; thence N 89°48'42" W a distance of 880'; thence S 0°10'03" W a distance of 370'; thence N 89°48'42" W a distance of 414.1' to the POB; thence continuing N 89°48'42" W a distance of 392.43'; thence N 0°10'03" E a distance of 554.89'; thence S 89°48'42" E a distance of 392.43'; thence S 0°10'03" W a distance of 554.75' to the POB; and Tract 3: A part of the S/2 NE of Section 7, T-18-N, R-13-E, more particularly described as follows: Commencing at a point on the S line of the NE of Section 7, T-18-N, R-13-E, and 50' W of the E line of said Section 7; thence N 89°48'42" W a distance of 880'; thence S 0°10'03" W a distance of 370'; thence N 89°48'42" W a distance of 806.53' to the POB; thence continuing N 89°43'42" W a distance of 298.47' to the E boundary of Block 13 Kensington Addition; thence continuing N 89°48'42" W a distance of 20' to the Ely right-of-way of S. Wheeling Ave.; thence N 0°10'03" E along said right-of-way, a distance of 555'; thence S 89°48'42" E a distance of 20' to a point on the Ely boundary of said Block 13, Kensington; thence continuing S 89°48'42" E a distance of 313.47'; thence S 0°10'03" W a distance of 554.89' to the POB, all in the City of Tulsa, Tulsa County, Oklahoma, and being located in an OL, OM, RM-1 and PUD 128B zoned district.

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**Case No. 18680**

**Action Requested:**

Variance of lot width requirement from 150' to 130'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6; a Variance of land area per dwelling unit from 26,250 SF to 8,995.60 SF for existing southerly home (second dwelling unit). SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of side yard requirement from 15' to 8.5' for existing southerly home (second dwelling unit). SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; and a Variance to permit two dwellings on one lot of record. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located at 1320 E. 27<sup>th</sup> Pl. S.

**Presentation:**

Mr. Beach stated that relief requested was not sufficient. It has been re-advertised for March 28, 2000.

**Interested Parties:**

None.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Continuance** for Case No. 18680 to March 28, 2000, regarding the following described property:

All that part of Lot 3 in Section 18, T-19-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, described as follows: Beginning at a point that is 1,650' N and 30' E of the SW/c of said Section 18; thence E 430.00'; thence N 315.00'; thence W 320.00'; thence S 194.00'; thence E 25.40'; thence S 101.00'; thence W 135.40'; thence S 20.00' to the POB

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**Case No. 18682**

**Action Requested:**

Appeal of Building Inspector's decision that this liquor store is over 300' from a proposed liquor store at 2616 North Cincinnati. SECTION 1214.C.3. USE UNIT 14. SHOPPING GOODS AND SERVICES, Use Conditions, located at 2616 N. Cincinnati.

**Presentation:**

Mr. Beach stated that he was concerned that there was a flaw in the notice. Mr. Beach spoke with Mr. Barnum regarding which property is the subject property, and it was identified as 2616 N. Cincinnati, not the parcel advertised. The legal description and address are in error. Mr. Beach stated that the notice is not valid for action today, the soonest would be April 11, 2000.

Case No. 18682 (continued)

**Comments and Questions:**

Mr. Dunham stated that this case would be re-advertised for the April 11, 2000 meeting. Mr. Beach stated that the applicant would need to bring the measurements of distance to prove his point.

**Board Action:**

On **MOTION** of **Turnbo**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Continuance** of Case No. 18682 to the hearing on April 11, 2000, on the following described property:

N 50' S 195' E 147' SE/4 SE/4 of Section 23, T-20-N R-12-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma

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**UNFINISHED BUSINESS**

**Case No. 18642**

**Action Requested:**

Variance of required number of parking spaces from 35 to 20 for a restaurant in a CH district. SECTION 1212.D. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Off-Street Parking and Loading Requirements, located at 3148 E. 11<sup>th</sup> St.

**Presentation**

**David Dyer**, 1116½ S. Gary Ave., stated he represented the owner of Big Brother's Holding Company. He submitted some drawings to the Board. He stated that previously the Board granted relief to park on an adjoining lot. He informed the Board that they have re-advertised to include the adjoining Lot 23 to meet the Board's requirements. He stated that by adding that lot they gained 13 parking spaces, which provides the total of 35 parking spaces required. The applicant requested to withdraw the case, as it needs no action.

**Comments and Questions:**

Mr. White asked if the applicant is leasing Lot 23. The applicant replied affirmatively. He stated that the lease agreement stipulates that it will run concurrent with the other lot, for the same period of time. Ms. Turnbo asked that a copy of the lease agreement be mailed to Mr. Beach at INCOG. There was discussion among the Board regarding a tie-agreement. Ms. Turnbo pointed out that the applicant does not own the property, therefore to comply, they need to provide the lease contract.

**Interested Parties/Protestants:**

None.

Case No. 18642 (continued)

**Board Action:**

The applicant has withdrawn the request in Case No. 18642. No Board action is needed.

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**Case No. 18655**

**Action Requested:**

Special Exception to permit storage of cars, trucks, boats, and other motor vehicles excluding mobile homes, garbage trucks, gas and oil supply trucks. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 23; a Special Exception of required hard surface parking to allow gravel parking behind building setback line. SECTION 222. MOTORIZED VEHICLES; and a Special Exception to allow a 6' screening fence. SECTION 212.A. SCREENING WALL OR FENCE, Specifications, located in the Southeast corner E. 11<sup>th</sup> St. & 129<sup>th</sup> E. Ave.

**Presentation**

**Randy Pickard**, 10051 South Yale, Suite 203, represented the applicant. The owners are Mr. and Mrs. Hamm. This case came before the Board in 1996 for a nearly identical application for Special Exception, in Board of Adjustment Case No. 17508. On October 22, 1996, the Board approved each of the same requests as in this case. Mr. Pickard indicated there was a lack of clarity in the minutes from the prior Board of Adjustment action in that previous case, as to whether the approval for uses requested and the gravel parking pertained to the entirety of the 3.7 acres or to only part of the property, which was to be used for an automobile towing/storage business. He stated that they are requesting an expansion of the former approval to permit the use unit requested and to allow for gravel parking. He stated that the owners and predecessors have used the gravel parking for at least twenty-five years. He added that in the last several months, additional gravel was placed over the hard packed gravel in the south area of the 3.7 acre tract, which has resulted in a drainage problem. The neighbor to the south, owners of a kennel operation, has made a significant complaint. Cecil Cotner of the City of Tulsa has reviewed this complaint and he has stated to Mr. and Mrs. Hamm that in his opinion, the placement of additional gravel over the hard packed gravel did not increase the impervious surface of the parking on the property. However, he did state that there appears to be a drainage problem as a result of water getting under the loose gravel that has not been packed down and the kennel has received water from the subject property. Mr. Cotner recommended that Mr. Hamm hire a civil engineer to address the problem, in a letter dated December 14, 1999. Mr. Hamm did hire Jack Spradling for the job. Mr. Spradling wrote a letter dated February 3, 2000 to Mr. Cotner enclosing the letter of agreement. The surveying company has done the field survey of the property and the civil engineering plans have been completed. The plan is to construct a curbing system on the south side of the property to direct the water west to South 129<sup>th</sup> East Avenue to drain properly into the storm drainage system. Mr. Pickard stated that in order for them to begin construction

of the curb system, they would need the special exception to be approved. Mr. Pickard offered photos of the subject property; the letter dated December 14, 1999 from Mr. Cotner, stating the impervious surface has not been increased; and the February 3, 2000 letter to Mr. Cotner from Mr. Spradling to the Board for exhibits.

**Comments and Questions:**

Ms. Turnbo stated that her understanding is that the 1996 approval was tied to the towing of cars with a 30-day limit for owners to pick them up, and a temporary one-year approval for this use. Mr. Pickard replied that he reviewed the minutes of the 1996 approval, and it states that the lease between the Hamm's and the towing company was a one-year lease, which has been renewed on one-year terms since 1996. He stated that he did not believe that there was a representation made that it would only be there for one year and that it was to be a temporary use. He stated that there was discussion of the temporary nature of it, but a one-year lease is common in the industry for such use. He agreed that it was stated at the Board meeting that the reason for approval of gravel parking was that it was not desirable to put in a hard surface for a use that might be changed later. Mr. Pickard stated he found only one statement regarding 'one year', and that stated it was simply a one-year lease, and that lease has been renewed on one-year terms since then.

Mr. Cooper asked Mr. Pickard if Mr. Spradling's report calls for a curbing system which includes a hard surface or curbing with gravel. Mr. Pickard responded that Mr. Spradling agreed with Mr. Cotner that there is no change in the impervious surface, that the gravel is sufficient, and the curbing will handle the drainage going south across the property line directing the drainage flow to the west.

Mr. White, asked if the preliminary plan has not been submitted for the drainage. Mr. Pickard replied that it has not been submitted to the city. The plan will be submitted subject to the approval of this Board. The city will want to know if zoning has been approved first.

**Protestants:**

**Mary Prater Hill**, stated she resides and operates a business at 1115 South 129<sup>th</sup> East Avenue. She stated that she and her husband have owned the kennel since about May 1991. Ms. Hill expressed extreme opposition to the Special Exception. She stated that there have been drainage problems since last summer, when Mr. Hamm put thirteen loads of additional gravel directly adjacent to her property. Last summer there was no rain, and then on Tuesday, September 7, 1999 around 09:30 or 10:00 p.m. there was an extremely hard downpour. She stated that within ten to fifteen minutes, the north wing of the kennel had approximately four to five inches of water in the building. She had not had a flooding problem since they purchased the property in 1991, until then. The DeShane Kennels' mission statement in essence states that they will provide

a safe, competent, caring and loving environment for the pets that are there for boarding and grooming. Ms. Hill described her efforts to get help to correct the emergency situation by digging ditches and setting up small pumps. She borrowed a sump pump and set it up to be ready 24 hours a day for another emergency. On December 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, she had to pump water again, and on December 9<sup>th</sup> due to an electrical problem, they could not start pump fast enough to prevent flooding in the kennel once again. The pump cannot be left on without someone checking it about every thirty minutes. Ms. Hill asked the Board not to grant this request, stating she has heard a lot of talk about engineering studies and plans, but it has gone on long enough. She stated she is filing a civil suit. Ms. Hill submitted photos and a letter from her attorney.

Mr. Cooper asked Ms. Hill if the curbing would solve the drainage problem, what would be the objection. Ms. Hill stated that the problem has gone on too long, and she does not trust that the problem will be corrected. The applicant's actions have caused a false perception the kennel as an unsafe facility. Mr. Cooper stated that it seems that the approval of this relief would be a help to her and a denial would definitely not help.

Ms. Perkins asked Ms. Hill when she said the applicant put in the thirteen loads of gravel. Ms. Hill stated the gravel was poured in June or July, and that there may have been gravel under the grass, but previously there was grass growing there for nine years.

**Carolyn Harter**, 1217 S. 129<sup>th</sup> E. Ave., stated that she lives to the south of Mary Hill. She represents herself and the owner of Pattern Concrete at 1116 S. 129<sup>th</sup> E. Ave. They both built their buildings within the last two years and they were asked to do PFPI's on drainage. Their total expenditures equaled \$43,000.00. They also used concrete, because it was required. She suggested that the Board require the applicant to pave the property and do a PFPI. Ms. Harter added that people can see through the fence, and she understood that it was supposed to be a solid fence.

**Nancy Craten**, 245 S. 120<sup>th</sup> E. Ave., came to represent the East Tulsa Mingo Valley Neighborhood Association and Western Village Association. These two associations' concerns go beyond this case. The corner where the subject property is located looks like a salvage yard and is not conducive to the intent of the Code. She stated that the neighborhood associations are pleased with the new businesses that have moved into the area. The association members request relief for the neighborhood from the applicant's non-compliance.

**James Mautino**, 14628 E. 12<sup>th</sup> St., representing the Tower Heights Association, stated that he understood that when the relief was approved in 1996 to allow gravel and the fence, it was approved as a one-year operation. The one-year

limit weighed heavily in the determination of the Board to allow gravel and a chain link fence with slats. Mr. Mautino submitted photographs of the subject property and the various trucks, cars, equipment and fencing that give the appearance of a salvage yard.

**Art Justice**, City Councilman, stated that the business on the subject property is not attractive to look at. There has been continual Code enforcement problems on that part of the property and the one behind it. He asked the Board to deny the Special Exceptions requested until the flooding problems are fixed.

**Eck Ruddick**, a member of the Tower Heights Neighborhood Association, stated that the former case in 1996 was approved only for one year. He asked the Board to consider this in making a decision.

**Applicant's Rebuttal:**

Mr. Pickard stated that applicant has submitted a solution to the drainage problem with a plan to use the curbing system. The applicant would request that approval be conditioned on the completion of those improvements. Mr. Pickard stated that the existing fencing is the one that was specifically approved by the Board and required by ordinance. He reminded the Board that the area is zoned CG not CS, and the area is in transition. This zoning does provide accommodation for the grouping of certain commercial and light industrial uses, which are compatible with one another.

**Comments and Questions:**

Ms. Perkins asked Mr. Pickard why they brought in thirteen additional loads of gravel. He responded that it was added on top of gravel that was already hard packed into the ground.

Mr. Dunham asked Mr. Pickard if it was his contention that the approval granted in 1996 was temporary or permanent. Mr. Pickard replied that it was not temporary. Mr. Dunham asked him why he is applying for the same relief today if it was permanent. Mr. Pickard stated he interprets in light of the case report that was presented to the Board by staff. Mr. Pickard stated the permanent relief applied to only part of the 3.76 acres. He added that the towing company's lease applies to about one and a half acres, and the use that is being requested now is the same use on the same 3.76 acres for the area to the south of the towing company.

Mr. Beach asked Mr. Pickard if the towing company located on the property is the same company that was there in 1996. Mr. Pickard stated that it is the same company. Mr. Pickard stated that if the Board would approve this for a period of time to allow applicant to construct the curbing system, the owners would be willing to build it prior to the grant of the Special Exception.



**Comments and Questions:**

Mr. Dunham asked for staff interpretation of the temporary approval. Mr. Dunham stated that he remembered the relief was supposed to be temporary but the minutes that were submitted do not say temporary. Mr. White stated that those minutes were of the meeting prior to the final vote because the balance of the case was heard in the following meeting. Mr. White specifically remembered that the woman who presented for the towing company stated it was a temporary need because they were going to relocate.

Mr. Beach stated that the legal description used in the 1996 case covered more property than they intended for the use. Now they are asking for the same relief on the rest of the property.

Ms. Turnbo stated she remembers that the approval was for temporary relief. She stated that Mr. Bolzle talked about it as a good use since the Board does not like to waiver from the hard surface requirement, unless the use would damage the hard surface, and that temporary use of towing would not damage the hard surface. She stated it was just for towing cars not all of the other activities. Mr. Dunham agreed that this is what he remembers also. His concern is that it was not in the motion. Mr. Dunham stated that regardless of what was decided in 1996, the applicant is asking for additional land to be included in the Special Exception. Mr. Beach agreed that was his understanding, as well. Mr. Beach stated that the Board was presented with information that led them to believe that this business would be there for about a year, and with that information the Board approved gravel parking and tied it to the user, and the user happens to be there four years later.

Mr. White reminded the Board that the six-foot screening fence is required, but the existing chain link fence with slats was supposed to be temporary for not more than a year. Mr. White agreed with Ms. Turnbo and stated the area has improved significantly in the last four years, and what was intended to be temporary has long since passed.

Mr. Cooper asked Mr. Beach to read the uses permitted in a CG zoned district. Mr. Beach stated the CG zoning allows uses by right, to have off-street parking, offices, studios, and support services, eating establishments other than drive-ins, adult entertainment establishments unless within 150' of an R district, in which case they need a Special Exception, convenience goods and services, other trades and services, mini-storages, automobile repair and allied activities, drive-in restaurants, and hotel-motel and recreation facilities.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted (White, Dunham, Turnbo, Cooper, Perkins "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** the **Special**

Case No. 18655 (continued)

**Exception** to permit storage of cars, trucks, boats, and other motor vehicles excluding mobile homes, garbage trucks, gas and oil supply trucks, a **Special Exception** of required hard surface parking to allow gravel parking behind building setback line, and a **Special Exception** to allow a 6' screening fence on the following described property:

Beginning at the NW/c of Section 9, T-19-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma; thence E a distance of 330.26' to a point; thence S a distance of 495.65' to a point; thence W a distance of 330.26' to a point; thence N a distance of 495.65' to the POB containing 3.76 acres more or less

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**Case No. 18658**

**Action Requested:**

Special Exception or alternatively Variance to modify parking area setback to 55 feet from centerline of Yale Avenue as applied to change of use previously nonconforming. SECTION 1407.C. PARKING, LOADING AND SCREENING NONCONFORMITIES; a Variance of building setback from a residential district from 22 feet to 10 feet. SECTION 1302. SETBACKS; a Variance of building setback from centerline of Yale Avenue from 108 feet to 102 feet. SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS, located at 4910 E. 21<sup>st</sup> St.

## Presentation

**Roy Johnsen**, represented the applicant, Honda of Tulsa. He stated that at the last hearing the Board approved a Special Exception to permit the sale of motorcycles on Lots 1 and 2. The applicant requests relief from the parking setback requirement from Yale, remaining in alignment with the parking previously provided, considering the lack of depth of the property for a commercial use. Mr. Johnsen stated the applicant also requests relief from the building setback requirements from Yale and the residential district. He stated that the applicant has removed two old dilapidated buildings to replace with an attractive new one. He stated that they also request relief of the setback from Yale for the building, from 108' to 102', considering the shallow depth of the lots.

### Comments and Questions:

None.

**Interested Parties/Protestants:**

None.

Discussion by the Board ensued.

Case No. 18658 (continued)

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance to modify parking area setback to 55 feet from centerline of Yale Avenue as applied to change of use previously nonconforming; a Variance of building setback from a residential district from 22 feet to 10 feet; and a Variance of building setback from centerline of Yale Avenue from 108 feet to 102 feet. SECTION 703, per plan, finding the hardship to be the size of the lots and the depth of 32', finding that it will be an improvement to the neighborhood on the following described property:

Lots 1 - 2, Block 1, Gracemont First Addition to the City of Tulsa, Tulsa County, Oklahoma

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**New Applications**

**Case No. 18668**

**Action Requested:**

Special Exception to allow electrical contractor business (Use Unit 15) in a CS district. SECTION 704. SPECIAL EXCEPTION USES IN COMMERCIAL DISTRICTS, REQUIREMENTS – Use Unit 15, located at 1136 S. 107<sup>th</sup> E. Ave.

**Presentation**

The applicant, **Neal Roberts**, 5584 S. Garnett, stated that to his knowledge, the property has been vacant since 1980. He would like to set up his business on the subject property because of the location.

**Comments and Questions:**

Mr. Dunham asked the Interested Party if she is in favor of the action requested. She replied affirmatively.

**Interested Parties:**

Nancy Craten was present in support of the application.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow electrical contractor business (Use Unit 15) in a CS district on the property described as follows:

Case No. 18668 (continued)

The E 151.5' of the S/2 of Lot 2, less the S 120' thereof, less and except the E 5' of the E 151.5' of the S/2 of Lot 2, less the S 120' thereof, Mingo Valley Acreage, City of Tulsa, Tulsa County, Oklahoma

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**Case No. 18669**

**Action Requested:**

Special Exception to allow a manufactured home in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; a Special Exception to waive the one-year time limit to permanent. SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS; a Variance of the side yard requirement from 5' to 3'. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; and a Variance of the rear yard requirement from 20' to 7'. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts, located at 3670 S. Maybelle Ave.

**Presentation**

**Jennifer Wojciechowski**, 3670 S. Maybelle Ave., desires relief from the one-year time limit, to permanent. She stated she has four children that are doing well in the school system there, and a relative who helps her with childcare, lives within a block. She did not know when she moved in with her mobile home, that the permit was temporary.

**Comments and Questions:**

Mr. White asked about the placement of the mobile. The applicant replied that it was placed, as a previous home was set-up there, to line up properly for the sewer line. He also asked if someone else owns the lot to the north. Ms. Wojciechowski replied affirmatively, and stated that there was a mobile home on it twelve years ago. Since then, she stated it has been empty, until she moved her home onto the subject property. Mr. White also noted that there are numerous other mobile homes in the area.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a manufactured home in an RS-3 district; a Special Exception to waive the one-year time limit to permanent; a Variance of the side

Case No.18669 (continued)

yard requirement from 5' to 3'; and a Variance of the rear yard requirement from 20' to 7', per plan, finding the hardship is the location of the sewer line, and that the home is already in place.

Lot 1, Block 4, Hardesty Addition, City of Tulsa, Tulsa County, Oklahoma

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**Case No. 18670**

**Action Requested:**

Special Exception to allow a manufactured home in an RS-3 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; a Special Exception to waive the time limit from one year to two years. SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located at 2814 E. 39<sup>th</sup> Ct. N.

**Presentation:**

The applicant, **Ricky Scott**, 2814 E. 39<sup>th</sup> Ct. N., stated that the mobile home is already in place, and occupied since 1993. He stated that he was asking for a permanent relief but the agenda stated to waive the time from one year to two years.

**Comments and Questions:**

Mr. Dunham asked Mr. Prather if the Board would have to continue the case regarding the time element. Mr. Prather stated they could only act on the request for two years and continue the case to another hearing regarding a permanent relief.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Special Exception*** to allow a manufactured home in an RS-3 zoned district; and a ***Special Exception*** to waive the time limit from one year to two years be **Continued** to give time for additional notice for the hearing date, April 11, 2000, on the property described as follows:

Lot 14, Block 3, Lakeview Heights II, City of Tulsa, Tulsa County, Oklahoma

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**Case No. 18671**

**Action Requested:**

Variance of required front yard from 25' to 21.8'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6; and a Variance of required rear yard from 14' to 13.3'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located at 4110 E. 53rd Pl.

**Presentation:**

**Richard Winfield**, the builder and potential homeowner of the subject property came before the Board, stated that the footing was poured when he was away from the site. He stated he did not realize the foundation was over the building line until the later part of January. He submitted a stem wall survey, which shows the error. He stated the foundation was placed on the property crooked. The applicant is asking for approximately three feet, adding that it is one corner of the garage that is over the building line. He submitted a letter in favor of the action requested.

**Comments and Questions:**

Mr. White stated that the stem wall survey shows a different foot print than the site plan approved by the Board, in Case No. 17984. Mr. Winfield replied that they ditched the first house plan, from March 1998, and used a second house plan, approved by the building permit office. Ms. Perkins stated that if the footprint was not the same as approved by this Board, and it was going to cause an encroachment of the building lines, and required rear yard, then the applicant should have come back to the Board. Mr. Winfield stated that there would not have been a problem if the footing man had laid the footing properly. Mr. Beach stated that it would have been a problem because this floor plan is not the same as the one the Board approved per plan. Ms. Turnbo stated that when it is approved per plan, that is the plan you have to build. She added that when the applicant changed his mind, he needed to start all over again, and come before the Board again. Mr. White asked for a copy of the new house plan. Mr. Winfield stated that all he had was the stem wall survey. Ms. Turnbo asked how many homes Mr. Winfield has built. He replied that he had built several homes in north Tulsa. Ms. Turnbo reminded him that when this Board approves a plan, then the applicant has to build what he said he would build. Mr. White stated that from the approved plan and the stem wall survey, that he might have cleared the building lines, but it is a significantly different house than the original plans. Mr. White stated that the northwest and southwest corners cross the building lines. Mr. Dunham stated that the Board is not inclined to approve relief to hardships that are self-imposed, and this is self-imposed. Mr. Dunham added that he would be inclined to approve this plan, because it is a difficult lot and is not going to have a detrimental effect on anyone.

**Interested Parties/Protestants:**

None.

## Case No. 18671 (continued)

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Variance*** of required front yard from 25' to 21.8'; and a ***Variance*** of required rear yard from 14' to 13.3', per plan, finding the hardship to be the configuration of the lot, on the property described as follows:

All that part of Lots 8 & 9, Novell Woods Addition to the City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit: Commencing at the NE/c of said Lot 9 thence along the N boundary of Lot 9 as follows: N 89°56'12" W a distance of 9.39'; thence on a curve to the right having a radius of 388.50' a distance of 63.98'; thence N 80°30'03" W a distance of 10.00'; thence on a curve to the left having a radius of 338.50' a distance of 55.75'; thence N 89°56'12" W a distance of 181.21' to the POB; thence S 00°03'26" W a distance of 109.52'; thence N 78°14'46" W a distance of 0.00'; thence on a curve to the right having a radius of 902.73' a distance of 136.94'; thence N 11°59'14" E a distance of 49.08' to a point on the S right-of-way line of E. 53<sup>rd</sup> Pl. S.; thence S 76°49'07" E a distance of 0.00'; thence on a curve to the left having a radius of 50.00' a distance of 43.63'; thence on a curve to the right having a radius of 75.00' a distance of 48.28'; thence S 89°56'12" E a distance of 34.98' to the POB.

\* \* \* \* \*

**Case No. 18672**

**Action Requested:**

Minor Special Exception to approve an amended site plan for an addition to a Wal-Mart store, located at 7777 E. 42<sup>nd</sup> Pl. S.

**Presentation:**

**Chris Parnee**, with Perry Butcher and Associate Architects, stated he was representing Walmart Stores, Inc. He stated that Walmart would like to expand their building by creating an interior space of 4,556 square feet of enclosed area, and add a new space of 2,622 square feet to the garden area. He stated that this would impact the existing parking area. The parking ratio is 6.29 per 1,000 square feet, and the addition would decrease the parking to 5.29 per 1,000 square feet.

### Comments and Questions:

Mr. Beach stated that they are not adding to the parking lot or creating anything new, that would require any additional landscaping. Mr. Parnee stated that there are 695 parking spaces available.

### Protestants:

None.

Case No. 18672 (continued)

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Minor Special Exception** to approve an amended site plan for an addition to a Wal-Mart store, per plan, on the following described property:

A tract of land, containing 11.8406 acres, being a part of Lot 1, Block 2, Industrial Equipment Center, City of Tulsa, Tulsa County, State of Oklahoma, being described as follows, to-wit: Beginning at a point, said point being the NEly/c of said Lot 1, Block 2; thence due S along the E line of Lot 1, Block 2 a distance of 600.84' to the SE/c thereof; thence due W along the S line of said Lot 1, Block 2 a distance of 444.30' to a point of curve; thence along a curve to the right having a central angle of 12°28'18" and a radius of 765.00' a distance of 166.52' to a point; thence N 3°28'57" E a distance of 245.36'; thence N 58°30'14" W a distance of 282.93' to a point on the Wly line of Lot 1, Block 2; thence N 18°27'48" along said Wly line a distance of 445.00' to the Nwly/c thereof; thence S 71°32'12" E along the Nly line of Lot 1, Block 2, a distance of 732.64' to the POB of said tract of land.

\*\*\*\*\*.

**Case No. 18673**

**Action Requested:**

Variance of required setback from the centerline of North Owasso from 50' to 35'. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 15; and a Special Exception to waive the required screening along the west property line abutting an R district to allow driveway access to the minor street. SECTION 1215.C. USE UNIT 15. OTHER TRADES AND SERVICES, Use Conditions, located on the SE/c E. Apache & N. Owasso.

**Presentation:**

**Brenda Miller**, Executive Director for Tulsa Development Authority, stated they are requesting modifications to the existing ordinances. She stated that Farley's Cleaners is operating at Apache and Peoria. She added that when Peoria is widened, and construction is complete, Farley's will be at the corner of Apache and Peoria. They are moving their location to the west, in a new facility.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required setback from the centerline of North Owasso from 50' to 35'; and a **Special Exception** to waive the required screening along the west property line abutting an R district to allow driveway access to the minor street, per plan, finding the hardship to be the limited access on Apache because of the existing median, on the following described property:



Case No. 18673 (continued)

Lots 15 & 16, Block 2, Emerson Addition and S 175' of W 20' of E 200' of N 250',  
Section 25, T-20-N, R-12-E, City of Tulsa, Tulsa County, State of Oklahoma

\*\*\*\*\*.

**Case No. 18674**

**Action Requested:**

Variance of rear yard requirement of 25' down to 13'. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 6, located at 2403 S. Boston.

**Presentation:**

**Doug Morrison**, 2403 S. Boston Ave., homeowner of this property, requests a variance due to the placement of the house on the lot. The previous owner requested a variance in 1989, the plan was slightly different, but the variance was the same. The applicant stated that he would take care of the water problem as stated in Case No. 15041. Mr. Beach suggested the applicant to ask for a special review by the City of Tulsa, Storm Water Management, obtain a letter from them and send a copy to INCOG.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of rear yard requirement of 25' down to 13', per plan, finding the hardship to be the house is existing and the angle of the house makes an expansion limited, and that special consideration to correct the water run-off problem across the property to the south.

Lot 6, Block 10, Riverside Drive Addition Third, City of Tulsa, Tulsa County, State of Oklahoma

**Case No. 18675**

**Action Requested:**

Special Exception of Section 401 to allow a manufactured home in an RS-3 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; and a Special Exception to permit the manufactured home permanently. SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located W of SW/c E. Latimer & N. Mingo Rd.

**Presentation:**

**William J. Bryant**, 9526 E. Latimer, stated he requests to move a manufactured home on the subject property permanently.

**Comments and Questions:**

Mr. White noted that the home to be moved in is a doublewide, and there are already four other structures on the property. The applicant stated that one is a shop directly behind the house Mr. Bryan lives in. There is a stucco house directly next to the shop, which is vacant. There is a stucco house that is to the west of his house, next to the park, which he plans to have demolished. His current house would also be demolished.

**Interested Parties:**

**Dale Warner**, attorney, 2512 E. 21<sup>st</sup> St., representing John Timmons stated that they contend that the applicant is actually asking to put one mobile home in a residential area permanently. There are no mobile homes close to this property and it amounts to a zoning change.

**Applicant's Rebuttal:**

Mr. Bryan stated that the house is in bad condition including timber underneath is rotting, the floor is falling in, the ceiling has already collapsed three inches, there is a space heater that is no longer functional, and leaking pipes. He was told that the wood siding should be removed and timbers in the walls have deteriorated should be replaced. He has sought several home repair companies, and the estimated cost would be \$60,000 to repair.

**Comments and Questions:**

Ms. Turnbo asked if he planned to put the mobile home on a permanent foundation. Mr. Bryan stated that is his intention. She also asked if he understood that he would also have to construct an all-weather surface driveway, for two cars. He replied that he planned to use the two existing gravel driveways. Mr. Dunham informed him that when he tears down the houses and moves the mobile home in, he would have to meet the new code, which would not permit a gravel driveway.

**Board Action:**

On **MOTION** of **Turnbo**, the Board voted 4-1-0 (White, Dunham, Turnbo, Perkins "aye"; Cooper "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** of Section 401 to allow a manufactured home in an RS-3 zoned district; and a **Special Exception** to permit the manufactured home permanently, with the condition that it will have a permanent foundation and remove the two houses on the property, per plan submitted, finding that it will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

The E 95' of the W 200' of the N/2, N/2, NE/4, NE/4, SE/4 of Section 36, T-20-N, R-13-E of the IBM and the W 105' N/2, N/2, NE/4, NE/4, SE/4 less the N 25' for road, of Section 36, T-20-N, R-13-E containing .34 acres in the City of Tulsa, Tulsa County, State of Oklahoma.

**Case No. 18676**

**Action Requested:**

Variance of required frontage of 150' on an arterial street to 15' for two lots. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 16, located, located on the NW/c E. 41<sup>st</sup> St. & S. 109<sup>th</sup> E. Ave.

**Presentation:**

**Ted Sack**, with Sack and Associates, stated he is representing the owner of Lot 3, Block 1 of Ravenwood Addition. Presently the lot is not developed and only has 30' of frontage on 41<sup>st</sup> Street. The proposal is to develop a mini-storage on tract B, and leave tract A vacant, with possibility of a motel or other use at a later time.

**Comments and Questions:**

Mr. Dunham asked Mr. Sack if he had seen the staff comments on this case. Mr. Sack had not seen the comments. Mr. Dunham explained that they only want one driveway going onto 41<sup>st</sup> Street to serve both lots. Mr. Sack replied that is what is proposed.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required frontage of 150' on an arterial street to 15' for two lots, per plan, finding the hardship to be the existing configuration of the lot, and with the condition that only one driveway access to 41<sup>st</sup> Street to serve the connecting lots, on the following described property:

Lot 3, Block 1, Ravenwood of the City of Tulsa, Tulsa County, State of Oklahoma

\*\*\*\*\*.

**Case No. 18677**

**Action Requested:**

Special Exception to allow a single-family dwelling unit on CS zoned property, for security purposes. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 6, located 10759 E. Admiral Pl.

**Presentation:**

**Julie Guy**, 107 E. Admiral Pl., is the owner of the property and business at that address. She stated that they have a security problem, with recent burglaries. She would like to remodel the clubhouse, which has sewer and plumbing, and has just been used for storage, for a security office. The swimming pool was filled in.

Case No. 18677 (continued)

**Interested Parties:**

**Nancy Craten**, 245 S. 120<sup>th</sup> E. Ave., stated she was not sure what needed to be secured or if a mobile home was to be moved in.

**Comments and Questions:**

Ms. Guy added that they want to add a 12' extension as shown per plan. Ms. Turnbo asked if someone would live there or just stay at nights. Ms. Guy stated she wants someone to live there.

**Board Action:**

On **MOTION** of **Dunham**, the **Board** voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a single-family dwelling unit on CS zoned property, for security purposes, per plan, finding it will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

The N 253.30' of the E 125' of the S 525.41' of Block 1, Holiday Park, City of Tulsa, Tulsa County, State of Oklahoma.

\*\*\*\*\*.

**Case No. 18678**

**Action Requested:**

Special Exception to waive the screening requirement from abutting R districts. SECTION 1212.C.2. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Use Conditions – Use Unit 12, located at 7153 S. Lewis.

**Presentation:**

**Ron Lee**, for Taco Cabana, P.O. Box 704, Ketchum, OK came before the Board with his request.

**Interested Parties/Protestants:**

None.

**Board Action:**

On **MOTION** of **Dunham**, the **Board** voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to waive the screening requirement from abutting R districts on the following described property:

S 101.19' of Lot 1, Block 1 of the Conoco Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma

\*\*\*\*\*.

**Case No. 18679**

**Action Requested:**

Variance of the required rear yard from 20' to 15'. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS – Use Unit 6, located at 2119 East 18<sup>th</sup> Street South.

**Presentation:**

**Jon Condrin**, 10124 S. Maplewood, stated the subject property is only 50' wide. It is in the historical district, and the historical society has made certain requirements that force him to put his garage in the backyard.

**Comments and Questions:**

Ms. Turnbo, asked if Mr. Condrin has approval by the Tulsa Preservation Society. He replied affirmatively. She indicated that this is a legitimate hardship, in keeping the integrity of historical neighborhoods.

**Board Action:**

On **MOTION** of **Turnbo**, the **Board** voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required rear yard from 20' to 15', per plan, and approval by the historical society, on the following described property:

Lot 14, Block 2, Woodward Park Addition, City of Tulsa, Tulsa County, State of Oklahoma

\*\*\*\*\*.

**Case No. 18681**

**Action Requested:**

Special Exception to allow Use Unit 12a, abutting an R district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 12a, located at 1229 S. Memorial.

**Presentation:**

**Mary Phelin**, 5737 E. 58<sup>th</sup> St., stated she is the owner of the subject property, it is currently leased out, and she would like to expand the existing building. The drawing of the plans is not accurate, there are some changes regarding bathrooms and square footage.

**Comments and Questions:**

Mr. White asked if this was a residence. The applicant replied that it is not a residence but office space, it just looks like a house. Ms. Turnbo asked for the hours of operation and nature of the business. The applicant replied 12:00 noon to 02:00 a.m. and it is a club. Ms. Turnbo commented it is a bar. Mr. White asked if applicant if she proposes to pave for parking in the back. She replied that she would meet any requirements. Mr. White asked about the lot on the

south, where a sign reads, additional parking. Ms. Phelin replied that it was not her property.

**Protestants:**

**Alan Nichols**, 8525 E. 16<sup>th</sup> St., stated he was representing the Mingo Valley Homeowners Association. He commented that he had some confusion about the Use Unit 12.a. The neighborhood association is recommending denial of this special exception due to the proximity of a residential district, and is not in compliance with the recent zoning distance requirement for a U.U. 12a usage. He stated that in the opinion of the homeowners association, this type of business is injurious to a residential neighborhood and detrimental to the public welfare.

**Comments and Questions:**

Ms. Turnbo asked if this bar was grandfathered in legally. Mr. Dunham stated that the application for expansion triggered this case. He added that they are not and cannot be in compliance with the 300' distance from a residential district, but they would be covered by the non-conforming use. Mr. Prather stated that according to Section 1408, under B.4 it states that no such use that is less than 300' from an R district and is non-conforming as to off-street parking shall continue more than one year from the date this provision first became effective. Mr. Prather added that the question here is whether this is permissible for a Special Exception for a 12a. Mr. Dunham stated that if this application is denied, then the bar can continue as it exists.

**Jan McGee**, on behalf of Councilor Sam Rupe, called attention to a letter submitted by him and entered in the agenda packet in opposition of the application. As read by Mr. White, Mr. Rupe stated in the letter that this neighborhood recently received 1999 bond funds to upgrade the infrastructure including streets, drainage and water lines. The investment of City funds would help stabilize the neighborhood property values and quality of life for the homeowners. He stated that it would be a shame to give these improvements to these homeowners and then devalue the neighborhood with a bad zoning decision. Ms. McGee added that Councilor Rupe would request usage to a bar only.

**Jack Waterfill**, 8820 E. 16<sup>th</sup> St., stated he has lived there since 1949. He is a co-founder of the homeowners association. He spoke for the association, stating that this application is contrary to the homeowners' interests; and he quoted a recent newspaper regarding alleged illegal gambling in that bar.

**Interested Parties:**

**Lessie McGill**, 1240 S. Memorial, Apt. 3B, stated that she has lived directly across from the club for 3½ years. She stated that she has been in there and not

Case No. 18681 (continued)

seen any gambling, and it is strictly a karaoke bar. She added that the expansion would only improve the property and the looks of the neighborhood. They are very careful and keep security guards on the premises.

**Applicant's Rebuttal:**

Ms. Phelin, stated there is only a two-foot strip of gravel and the rest of the front is grass. She stated that the club has never been a sexual club.

**Board Action:**

On **MOTION** of **Dunham**, the **Board** voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow Use Unit 12a, abutting an R district, limited to bar use only and no other, specifically no sexual entertainment, for the following described property:

Lot 3, Block 3, Forest Acres, City of Tulsa, Tulsa County, State of Oklahoma

\*\*\*\*\*.

**Case No. 18683**

**Action Requested:**

Special Exception to permit a concrete ready mix plant in an IL zoned district for one year. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 26, located 290' East of SE/c E. Pine & 129<sup>th</sup> E. Ave.

**Presentation:**

**Stephen Schuller**, 100 W. 5<sup>th</sup> St, came representing Bryan Adair. Mr. Schuller identified the compatible zoning districts of the surrounding properties. He stated that the comprehensive plan calls for the area to be developed for industrial uses. Mr. Schuller pointed out that the site plan reveals that the concrete ready mix facility would be limited to a specific area in the center of the property. He added that it would generate no dust, smoke, or odors. Mr. Schuller emphasized that the request is for one year only.

**Comments and Questions:**

Ms Turnbo asked Mr. Schuller if he had read the staff comments. He stated he has read them. Ms. Turnbo commented that without the authority of the Corp of Engineers, there can be no fill material or land clearing. Mr. Schuller stated that they have a copy of the letter and will comply.

**Protestants:**

**Mark Kitchens**, stated he represents GOGI Investors, Inc. and Twin Cities Ready-Mix, the company directly diagonal to the subject property. He stated that he is not here against competition, but what he opposes is some unfair advantages. Mr. Kitchens stated that his company looked at this same property

and did not get it because it was not zoned properly for the business. He added that they were told that it would cause a lengthy delay to get it rezoned. Mr. Kitchens described the process that his company went through to properly set up this type of company, and asked if the applicant would be required to meet all of the same requirements. He questioned why the applicant would only ask for one year instead of five or more.

**Comments and Questions:**

Ms. Turnbo asked Mr. Kitchens how long his company has been at their location. He replied that they have been there about 1½ years. She asked him how long they plan to stay. He stated they plan to stay permanently. She asked if they are not set up temporarily. He stated they are not set up temporarily.

**Interested Parties:**

**Jeff Lower**, attorney, 7666 E. 61<sup>st</sup> St., Suite 240, stated he is representing the Samson family that own the twenty acres directly adjacent to the south of the subject property and 200+ acres to the south and east. He stated that their concerns are mainly environmental. He called the Board's attention to a creek running through the property. His clients do not want their property affected downstream by any materials used at the site.

**Nancy Craten**, 245 S. 120<sup>th</sup> E. Ave., came representing East Tulsa Mingo Valley Association. She stated that the association has environmental concerns. She stated that she was pleased they are working with the EPA, and that it is a temporary facility.

**Applicant's Rebuttal:**

Mr. Schuller assured the Board that this is definitely a temporary site, while the company looks for a permanent location. He stated that the facility would not be near the creek or reserve area, and there is no danger of polluting the creek.

**Comments and Questions:**

Ms. Perkins asked if the proposed facility was just for a paving project. Mr. Schuller stated it is for paving and construction projects.

**Board Action:**

On **MOTION** of **Dunham**, the **Board** voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Special Exception*** to permit a concrete ready mix plant in an IL zoned district for one year, with no further extension of time, on the property described as follows:



Case No. 18683 (continued)

N/2, NW/4, NW/4 Section 33, T-20-N, R-14-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, less and except the W 30' of the N/2 of the NW/4 of the NW/4 of Section 33, T-20-N, R-14-E, all in the City of Tulsa, Tulsa County, Oklahoma.

\*\*\*\*\*.

There being no further business, the meeting was adjourned at 3:55 p.m.

Date approved: April 11, 2000

  
Chair