

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 814
Tuesday, March 13, 2001, 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	Turnbo	Beach	Prather, Legal
Cooper		Butler	Parnell,
Perkins			Neighborhood Insp.
White, Chair			

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Friday, March 9, 2001, at 2:20 p.m., as well as at the City Clerk's office, City Hall.

After declaring a quorum present, Chair, White called the meeting to order at 1:03 p.m.

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Mr. White announced that Case No. 19015 was withdrawn.

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Case No. 18967

Action Requested:

Applicant, **Steve Novick**, requested another Continuance for ninety days. He suggested that since the lease would be up on June 30, 2001, that the application would be withdrawn at that time. He also stated that there are interested parties who have relevant information that could not be present at this hearing.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Perkins "aye"; no "nays"; no "abstentions"; Cooper, Turnbo "absent") to **DENY** the Request for Continuance.

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Case No. 18993

Action Requested:

Mr. Beach stated that this case could be stricken from the agenda and re-advertised.

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Case No. 19000

Action Requested:

Mr. Beach stated that this case could be stricken from the agenda and re-advertised.

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Case No. 19009

Action Requested:

Mr. Beach stated that this case has been withdrawn.

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Case No. 19015

Action Requested:

Mr. Beach stated that this case has been withdrawn.

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MINUTES:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Perkins "aye"; no "nays"; no "abstentions"; Cooper, Turnbo "absent") to **APPROVE** the Minutes of February 27, 2001 (No. 813), as amended.

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UNFINISHED BUSINESS

Case No. 18967

Action Requested:

Appeal from the decision of the Administrative Official that the Juvenile Delinquency Center/Detention/Correctional Facility, Residential Treatment Center, or Transitional Living Center requires a Special Exception from the Board of Adjustment; OR in the alternative: a Special Exception to operate as a Juvenile Delinquency Center until June 30, 2001 in an RS-3 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS and SECTION 1202. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES – Use Unit 5; a Variance from the maximum floor area ratio of 0.5. SECTION 404.F.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS; a Variance from the minimum lot size of 12,000 square feet. SECTION 404.F.2. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS; a Variance from the minimum frontage of 100'. SECTION 404.F.3. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS; and a Variance from the minimum building setback of 25' from abutting properties located within an R

District. SECTION 404.F.4. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS.

Presentation:

Steven A. Novick, 1717 S. Cheyenne Ave., stated he is the attorney for the Brown Schools of Oklahoma. He informed the Board that the Variances requested were added by INCOG staff at the time of application but he and the applicant do not agree that those Variances are required with respect to this property. He stated that this is a duplex dwelling and there are six young people residing in each side. The court adjudicated these young people into the custody of Juvenile Affairs. He stated it is their belief that under the zoning code that each side of the duplex is operated as a single housekeeping unit, and the six person units constitute families.

Comments and Questions:

Mr. White asked Mr. Novick if he had read the staff comments. He responded that he had not read the comments. Mr. White asked Ms. Parnell to offer her comments while the applicant read the staff comments. Ms. Parnell commented that the information in the agenda packet covered her observations of her initial inspection. She stated that she has since learned that the young women living there do not attend public school, but the school system sends someone to teach them. It was her opinion that under the zoning code definition of a family, if they are disabled in some form then it allows for one or two caregivers. She stated that the day she was at the home there were fourteen caregivers and twelve girls. The complaint she received was just for parking, but she believed the use of the property caused the parking problem. Mr. White mentioned a letter from a policeman. Ms. Parnell explained that a detective called in a complaint after she began working on the case to investigate because of the high amount of traffic and large number of cars being parked at this duplex. Mr. White noted the complaint that cars were parked on the yard, blocking driveways and mailboxes. Ms. Parnell reported there were fourteen cars at the time of her first inspection: six on the front yard of one of the duplexes, four on the driveway and four cars on the street. Mr. Novick explained that the fourteen cars were there because they were having a staff meeting that day. The caregivers are on duty per shift. They have since changed the location for the staff meetings, so this problem has been corrected. He compared the education in the home to be functionally no different than home schooling. Mr. White asked if there was a staff member per side present at all times. Mr. Novick replied that was correct. Mr. Novick reminded the Board that most of these children have disabilities; some of them do not have permanent homes. Ms. Perkins asked if all the girls were not adjudicated and they have to be there. Mr. Novick responded in the affirmative.

Board discussion ensued.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **DENY** the **Appeal** of the decision of the Administrative Official that the Juvenile Delinquency Center/Detention/Correctional Facility, Residential Treatment Center, or Transitional Living Center requires a Special Exception from the Board of Adjustment; OR in the alternative: a **Special Exception** to operate as a Juvenile Delinquency Center until June 30, 2001 in an RS-3 zoned district.; a Variance from the maximum floor area ratio of 0.5; a Variance from the minimum lot size of 12,000 square feet; a Variance from the minimum frontage of 100'; and a Variance from the minimum building setback of 25' from abutting properties located within an R District, and the applicant will be given until June 30, 2001 to vacate the premises.

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Case No. 18992

Action Requested:

Variance of required all-weather surface parking to permit gravel for a temporary produce and flower stand. SECTION 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS – Use Unit 2; and a Modify Request approved on BOA Case No.18715 approved dates to April 15, 2000, for 179 days per year for five years, located 8104 S. Sheridan.

Presentation:

Jeff Ogilvie, 8104 S. Sheridan, stated he requested the dates from April 15 for the next consecutive 179 days.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of required all-weather surface parking to permit gravel for a temporary produce and flower stand; and to Modify Request approved on BOA Case No.18715 approved dates, to be April 15, 2001 and next consecutive 179 days per year for five years, finding that it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

Lots 1 and 2, Block 1, Lucenta Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18997

Action Requested:

Variance to allow purchasing of artist's work on premises. SECTION 402.B.6.a. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6; a Variance to allow outside storage of artist's materials; and a Variance to allow display of artist's work outside of premises. SECTION 402.B.6.a. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions, located 4751 E. 6th St.

Mr. White stated he would abstain from this case.

Presentation:

Madalene Witterholt, 500 Kennedy Building, stated she was an attorney for the applicant. She stated that the applicant, Delmar Layman, is an internationally recognized metal sculptor. She submitted a large packet of exhibits (Exhibit C-1). Ms. Witterholt pointed out that the back of the property faces Yale Avenue. She noted that the driveway accesses Yale Avenue and was paved. Several businesses and churches are located along this portion of the street. Her client would like to display some of his artwork on the property. She described the sculptures and explained that they are too large to place inside the home. She informed the Board that he wants to use the detached garage for a shop and a fenced area on the back portion of the property for storage. Ms. Witterholt stated the driveway could park four to six cars easily; and though they would not sell on the lot, people do stop to look at the sculptures.

Comments and Questions:

Mr. Dunham asked if they have lived twelve years in the same location. Ms. Witterholt responded in the affirmative. He also commented that he did not see a sign. She replied that they do not plan to run a business on the property. Mr. Dunham commented on the large number of neighbors who signed the petition in support of the application. Mr. Dunham asked how many pieces of art are on display in the yard. She replied that there are six pieces and two of them are not for sale. Ms. Perkins asked how many of them would be permanent. Ms. Witterholt stated there are two pieces in the front yard that twelve would probably be the most at any one time.

Mr. White stated that legal counsel advised him he does not have any conflict in this issue and he may resume participation as Chair.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-1-0 (White, Dunham Perkins "aye"; Cooper "nay"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** to

Lot 26, Block 5, Kendall View Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18998

Action Requested:

Variance of the required setback from property line to 7" and 18" for existing accessory buildings. SECTION 210.B.5. YARDS, Permitted Obstructions in Required Yards and SECTION 402.B.1.0. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6, located 11301 E. 3rd St.

Presentation:

Therrel Pennel, 11301 E. 3rd St., stated he put up two accessory buildings in 1963, and did not realize they were so close to the property line. He added that he has electricity to both buildings and uses a drill press, and wood saw. They are portable buildings and are not on foundations. He submitted a petition (Exhibit B-1) of signatures from his neighbor in support of the application.

Comments and Questions:

Mr. White asked him if his woodworking was commercial in any nature. Mr. Pennel replied that it is not commercial. He added that he has used the buildings to store his wood and his saw.

Interested Parties:

Nancy Creighton, stated she is the president for the neighborhood association. She added that the applicants have been model neighbors and the association is in support of the application.

E.T. Watkins, 11336 E. 3rd St., came in support of the application. He stated that the buildings have been there for a long time.

Laddie Ondracek, 11327 E. 3rd, came in support of the application.

Joseph Piquet, 215 S. Garnett, stated he owns the Thrift Town store, behind Mr. Pennel's property. He made objection to the application because Mr. Pennel has made multiple complaints about neighbors and neighboring businesses to

Neighborhood Inspections. He added that if the applicant was particular about others abiding by the Code then he should abide by it also.

Mr. White stated he received a letter from Neighborhood Inspections in support of the application.

Mr. Cooper asked that Staff Comments be incorporated into these minutes: The three-foot setback rule for detached accessory buildings is not applicable in yards that abut a street. The required setback along Garnett Road is 85 feet from the centerline; along the north property line is three feet. The applicant stated the accessory buildings have existed in this location for almost 30 years. The application was filed because of a complaint to Neighborhood Inspections.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the required setback from property line to 7" and 18" for existing accessory buildings, per plan, finding it would not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

Lot 18, Block 1, Western Village, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18999

Action Requested:

Variance of the maximum square footage for an accessory building in an RS-3 district from 750 sq. ft. to 2,690 sq. ft. SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions, located 716 W. 71st St. S.

Presentation:

James Janzen, Jr., 716 W 71st St. S., stated his request for accessory building for travel trailer, boat and vehicles to keep them out of the weather.

Comments and Questions:

Ms. Perkins asked if there was any commercial enterprise running from the building. He replied there would not be any commercial endeavor.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of

Part of NW NE Beg. 880' W NE/c W/2 NE; thence S 396' W 110' N 396' E 110' POB, less N 75' thereof for road, Section 11, T-18-N, R-12-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19001

Variance to permit 3 mobile storage buildings accessory to a church for a temporary period. SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Uses Permitted – Use Unit 5, located 620 S. Garnett.

Lloyd Campbell, 8403 E. 81st St., stated he was pastor of Garnett Road Baptist Church. He stated they are adding on to their building. The two portable buildings were for temporary space for storage during the remodeling. The third building was already there and was not portable like the other two.

Mr. White asked if one year is a sufficient time for construction. He replied when they get the building permit, the building project would take six to nine months. They are awaiting approval of Storm Water Management.

There were no interested parties present who wished to speak.

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a ***Variance*** to permit 3 mobile storage buildings accessory to a church for a temporary period not to exceed 18 months from this date or the buildings will be removed 30 days following the completion of the building construction, whichever comes first, and finding that they would 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 described property:

03:13:01:814(8)

SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 1409 E. 37th Pl.

Presentation:

Suzanne Bedwell, 1409 E. 37th Pl, described the design plans and encroachment. She stated that the pergola would help stabilize the carport structure.

Comments and Questions:

Mr. Cooper asked for the hardship of the second Variance. Ms. Bedwell replied that the tree in the front yard near the driveway is a River Birch and leans somewhat over the street. Mr. Cooper noted the large size. She added that the trunk is split into three to four portions of twelve inches in diameter. Mr. Beach asked for the overall dimension of the carport. Ms. Bedwell replied that it is 18 ½ feet square to accommodate two cars. Mr. Beach responded that it is just barely large enough for two cars. She commented that she was trying not to impact her neighbors by keeping the size to a minimum, but that they did need protection for their two cars.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of required 5' side yard to 4' to permit an addition to an encroaching structure; a **Variance** of required 5' side yard to 2' to permit the addition of a carport; and a **Minor Special Exception** to allow a carport to extend 5' into the required 25' front setback, per plan submitted, finding the hardship to be the size of the lot and if the carport were any smaller it would not accommodate two cars, and the application applies only to the east half of Lot 10, Block 3, Leoki Place Addition, on the following described property:

Lot 10, Block 3, Leoki Place Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19004

Action Requested:

Variance to allow required parking to extend to lots not containing use. SECTION 1301.D. GENERAL REQUIREMENTS – Use Unit 12; and a Special Exception to permit a parking lot in an RM-2 district. SECTION 404.H. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located 1413 E. 15th St.

Presentation:

Brett Rehorn, 4909 E. 88th Pl., submitted a packet (Exhibit E-1), including a site plan to the Board. He stated he planned to open a restaurant at 1413 E. 15th and he will have a mixed beverage license. He reminded the Board that this same Special Exception request has been previously passed twice by this Board, but the parking lot was never built. He added that the reason for this was the previous tenants fell through on their lease. Mr. Rehorn stated there would be 36 parking spaces, two entrances from Rockford and two entrances from the alley. He also mentioned that he would need a Variance to use that lot for restaurant parking. He pointed out a letter in his packet from Charles Faudree in support of his new business and offer of permission to use their parking lot at night.

Interested Parties:

Steven Walter, 1428 S. Rockford, stated he lives directly north of the proposed parking lot. He stated in 1993 that a Variance was approved for parking on the subject lot. Mr. Walter added that when he moved there the subject lot was not vacant, but had a house on it. He read a portion of Section 101 of the Zoning Code, stating that it was written to protect the residents of an RM area, not for commercial endeavors. He asked the Board to deny the application as contrary to the intent and spirit of the Code. Mr. Walter also called their attention to Section 1607.103.f of the Code. He stated that the presence of a parking lot so close to his home would be annoying, with noises and vibrations. He submitted photographs (Exhibit E-2) to show the close proximity of the lot to his house on the side of his living room and bedroom. He stated that people out drinking and partying late at night so close to his house would be very detrimental to his peace and sensibilities. He pointed out there are two other residences across the alleyway, and an apartment house and two more residences to the east that would also be affected by a parking lot. He indicated there was a sexually oriented business in the same building, and within 100' of an R district. He commented that the Board did not approve egress into the alley with the last two approvals for a parking lot on this property. He stated that the alley was 14' at the widest point, and only 11' 8" at the most narrow point.

Comments and Questions:

Ms. Perkins asked how long Mr. Walters had lived there. He replied that he had lived there over twenty years.

Interested Parties:

Meg Walter, 1428 S. Rockford, stated that the last time this property was brought before the Board, the Board made them screen the parking lot. The Board also stipulated that the alley be screened with no ingress and egress to the alley.

Larry Kelly, 3136 E. 83rd, stated he is with Hearnden and Kelly Real Estate. They have represented the owner of the property since Chimi's left to find a replacement tenant. He spoke in defense of the owner of the massage clinic, stating it is not a

sexually oriented business, but it is a very reputable business. He added that they are providing more parking spaces than the City requires.

Bridgett Silver-Neal, 1427 S. Rockford, stated that she and her husband own their home across the street from Mr. and Mrs. Walter, and next door to the apartment building. She stated that the residential area is in transition and it is beginning on Rockford, since many of the houses have been remodeled and updated. They do not want the traffic, noise and commercial area coming into the neighborhood. They would like having the restaurant there, but not the parking lot that close to the residences.

Applicant's Rebuttal:

Mr. Rehorn stated that the new parking lot would be built to City Code with an eight-foot privacy fence, and five-foot buffer of landscaping. He stated that his restaurant is increasing the occupancy and will need the extra parking space. Mr. Cooper asked if the applicant had investigated other locations for the trash area. Mr. Rehorn replied that there was an existing garbage can that would be fenced in. He added that the trash area would be reconfigured with an entrance on the south and a new fence and gate. Mr. Cooper asked if they had considered any other location. Mr. Rehorn replied that he has not, but if that is a concern, he would consider relocating it.

Board discussion ensued.

Board Action:

On **MOTION** of **Cooper**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **DENY** a **Variance** to allow required parking to extend to lots not containing use; and a **Special Exception** to permit a parking lot in an RM-2 district, finding that it will not be in harmony with the spirit and intent of the Code, and would be injurious to the neighborhood or otherwise detrimental to the public welfare.

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Case No. 19005

Action Requested:

Variance of the provisions of Section 603, Table 3 of the Tulsa Zoning Code to reduce the required building setback line from 100' to 51' for 100' of the 310' property frontage on East 21st Street, subject to a site plan approved by the Board.
SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS
– Use Unit 11, located 2121 E. 21st St.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he was representing Tulsa Dermatology Clinic at 2121 E. 21st St. The property was constructed in 1968 or 1969 before the present Zoning Code was established. It projects beyond the

currently required building setback line established by the Major Street and Highway Plan. A site plan, photographs, and written portion of application (Exhibit F-1, F-2, and F-3) were submitted with the application. The purpose for the request is to permit the addition to waiting rooms, exam rooms, and establish a west exit to the building. He stated that the property to the west is closer to the 21st Street right-of-way. He pointed out that on 21st Street between Utica and Lewis the St. John Medical Center complex and the bank building on the northeast corner of Lewis and 21st Street are both constructed out to the right-of-way line. He noted there are some other businesses that were permitted Variances in this stretch of 21st Street.

Dunham out 3:38 p.m. to 3:40 p.m.

Mr. Norman stated the circumstances that prohibit the building from being expanded to the east or the south. There are two north-south easements immediately east of the existing building. He stated that he has talked with the owners of the properties to the east and west and they have no objection to this application.

Comments and Questions:

Mr. White asked about parking with this addition. Mr. Norman replied there are no parking requirements that would be generated by this project, and there is more than adequate parking space.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the provisions of Section 603, Table 3 of the Tulsa Zoning Code to reduce the required building setback line from 100' to 51' for 100' of the 310' property frontage on East 21st Street, subject to a site plan approved by the Board, per plan, finding the hardship to be the existing variances already granted along 21st Street to the east and west of this property, on the following described property:

Lots 13, 14, 15, 16, 17, and 18, Block 10, Woodward Park Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19006

Action Requested:

Modification of previously granted Special Exception (BOA #6564) for church use to permit use of church parking for non-church purposes and substitution of revised

site plan. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located 8181 E. 31st St.

Presentation:

Roy Johnsen, 201 W. 5th St., Ste. 501, stated he was representing John Calvin Presbyterian Church. He stated that the church was approved a Special Exception in 1970 before it was constructed. He informed the Board that in February of this year the City Council approved the rezoning of the west 220' of the subject property from RS-2 to PK, for parking. He explained that Reliable Chevrolet approached the church regarding their employees parking on the church parking lot during non-church use time, 7:00 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. to 2:00 p.m. on Saturday. He suggested the number of spaces be limited to not exceed 50 parking spaces and limited to the northwestern four parking rows.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On MOTION of Dunham, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a Modification of previously granted Special Exception (BOA #6564) for church use to permit use of church parking for non-church purposes and substitution of revised site plan, with the conditions that parking for non-church uses be limited to the northwest four parking rows, employee parking only and not the storage of vehicles, limit of 50 spaces, and permitted during the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, 7:00 a.m. to 2:00 p.m. on Saturday, on the following described property:

Lot 8, Block 1, Groveland Addition, City of Tulsa, Tulsa County, State of Oklahoma, less and except beginning at a point on the E line of said Lot 8, said point being a point on the S line of an existing 80' wide easement; thence Sly along said E line of Lot 8 a distance of 75'; thence Wly and perpendicular to the E line of Lot 8 a distance of 30'; thence Nly and parallel to said E line of Lot 8 a distance of 30.35' to a point; thence S 77°59'33" W a distance of 207.06'; thence S 17°22'56" E a distance of 20'; thence S 73°37'04" W a distance of 20'; thence N 17°22'56" W a distance of 20'; thence S 78°05'90" W a distance of 151.44' to a point on the W line of said Lot 8, said point being on the S line of said existing 80' wide easement; thence N 72°37'04" E along said easement line a distance of 418.73 to the POB, and less and except commencing at a point on the E line of said Lot 8, said point being a point on the N line of an existing 80' wide easement; thence S 72°37'04" W along said easement line a distance of 172.87' to the POB; thence S 72°37'04" W and continuing along the N line of said easement a distance of 20'; thence N 17°22'56" W a distance of 20'; thence N 73°37'04" E a distance of 20'; thence S 17°22'56" W a distance of 20' to the POB, and less and except beginning at the NE/c of Lot 8; thence S 48°34'30" W along the Nly line of Lot 8 a distance of 528.67' to the NWly/c of Lot 8; thence S 00°35'30" E along the W line of Lot 8 a distance of

351.82' to a point; thence NEly to a point on the E line of Lot 8, said point being N 00°35'30" W a distance of 505' from the SE/c of Lot 8; thence N 00°35'30" W along the E line of Lot 8 a distance of 572.19' to the NE/c of Lot 8 and the POB.

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Case No. 19007

Action Requested:

Special Exception to permit a U.S. Cellular 120' monopole wireless telephone transmission tower in an RS-3 zoned district. SECTION 1204.C.5. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions and SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 4; and a Special Exception to required 110% tower setback from an adjoining residential district. SECTION 1204.C.3. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions, located E of NE/c 69th E. Ave. & Tecumseh St.

Presentation:

Kevin C. Coutant, 320 S. Boston, stated he represents U.S. Cellular regarding property located generally south and east of the intersection of Virgin and N. Sheridan. He provided a list of the criteria required for approval of this application as follows: the height of the proposed tower is 120' monopole of galvanized steel; no residential structures in near proximity to the site; site located in an RS-3 district; no existing towers near site; surrounding uses are open to the north, open-airport to the east, industrial to the south, and open-then industrial to the west; topography generally flat; no tree coverage; three antennas mounted at 117', and engineered for collocation of two similar antenna facilities; pre-fabricated 12' x 20' building covered with rock aggregate material; ingress and egress along E. Tecumseh St.; tower needed to off-load tower at I-244 between Yale and Sheridan on Admiral and for service in the airport; tract is approximately 300' x 135', likely development would be industrial; no landscaping planned subject to Board of Adjustment requirements.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit a U.S. Cellular 120' monopole wireless telephone transmission tower in an RS-3 zoned district; and a **Special Exception** to required 110% tower setback from an adjoining residential district, per plan, finding the factors listed in the Zoning Code, Section 1204.C.5. were detailed in the applicant's submittal and the Board is in agreement and no landscaping will be required on the following described property:

Lot 18, Block 19, Mohawk Ridge Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Upon correction from legal counsel regarding landscaping requirements, **Mr. Dunham** modified his motion, and the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** the ***Special Exceptions requested*** and to **Continue** to the hearing on April 10, 2001, for additional advertisement and consideration of a waiver of landscaping requirements.

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Case No. 19008

Action Requested:

Special Exception of required 110% tower setback (88') from adjoining OL district to 46' to permit a U. S. Cellular 80' monopole wireless telephone transmission tower in a CH zoned district. SECTION 1204.C. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions and SECTION 1608. SPECIAL EXCEPTION – Use Unit 4, located 1107 S. Florence Pl.

Presentation:

Kevin C. Coutant, 320 S. Boston, stated this is a request for a monopole 80' tower, a wood pole for the aesthetic benefit to the neighborhood. He described the location and provided a response to the requirements as follows: the height of the tower would be an 80' wood monopole; approximately 120' from nearest residential structures, approximately 90' from residential district; no existing towers near site; service station to north, restaurant to east, parking lot to south, restaurant to west; topography is flat; no surrounding tree coverage; three antennas would be mounted, and engineered for collocation of two similar antenna facilities, color of antennas to blend with color of the pole; outdoor cabinet 5' x 12'; access easement to S. Florence Pl. for ingress and egress; tower necessary to provide coverage for the TU campus, in-building coverage for Skelly Stadium, University of Tulsa and off-load capacity from another tower, tract is 100' x 140', no landscaping is planned. A list of criteria for cellular towers and findings for the proposed monopole and site plan Exhibits I-2 and I-3) were provided to the Board.

Interested Parties:

Michelle Grounds, 1348 S. College Ave., stated that she is the president for the Renaissance Neighborhood Association. She stated that they have collected 130 signatures on a petition with photographs (Exhibit I-4) from neighborhood residents that oppose this cellular tower. They object to further commercial encroachment and consider it an eyesore in the neighborhood.

Scott Swearingen, 1131 S. College Ave., stated he is the past president of the neighborhood association. He stated that these uses are not compatible. He observed that 80' would be seven stories high and that is very high for the

neighborhood. He suggested that U.S. Cellular investigate locations on the north side of 11th street.

Comments and Questions:

Mr. White asked Mr. Swearingen when the house was removed from the subject property. Mr. Swearingen responded that it burned down about one year ago.

Interested Parties:

Marcel Freebie, stated she owns the property at 1111 S. Florence. She requests that the Board deny this application for the reasons previously stated. She expressed concern for possible dangers from the use of these towers.

Linda Stahlcup, 1220 S. Florence Ave., **Christopher Woods**, 2643 E. 14th Pl., stated opposition for reasons as given above.

Applicant's Rebuttal:

Mr. Coutant reminded the Board that the proposed location of the pole would not be near any home. He pointed out the pole would be placed on a CH zoned parcel. He stated that this company looked through out this area for an appropriate location. Mr. Coutant added that T.U. was approached and they were not open to such a proposal at this time. He explained that the engineering needs would require a pole rather than on top of a building. He countered the opposition regarding suitability to the medium intensity area, stating it is in compliance with the Comprehensive Plan.

Comments and Questions:

Mr. Dunham asked if the applicant could show the parameters for placing a tower that would fill this need. Mr. Coutant responded that they did not come with a map to show but he deferred to Doyle Grote.

Doyle Grote, 1210 S. Detroit, stated that the parameter search for the area would be from an 80' pole. He described the "wood-look" laminated pole and slim line antennas that are painted to match the pole. He indicated that the poles used have become shorter and less conspicuous.

Mr. Dunham stated that he would like to see a rendering of the pole design, a radio frequency map, and a letter from the University of Tulsa stating that the applicant has approached them and they declined to consider. He also suggested that the applicant meet with the neighborhood and provide this information to them and their city councilors.

Mr. Grote suggested that interested parties go see the similar structure at 57th and Memorial in a residential area or the one on 71st Street between Yale and Harvard on the north side of 71st.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19008 to the hearing on March 27, 2001 to give the applicant time to meet with interested parties.

Case No. 19010

Action Requested:

Special Exception to permit a U.S. Cellular 100' monopole wireless telephone transmission tower in an OL zoned district. SECTION 1204.C.5. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions; and a Special Exception of required 110% tower setback from adjoining residential and office districts. SECTION 1204.C.3.g. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions, located 3025 S. 116th E. Ave.

Presentation:

Kevin C. Coutant, 320 S. Boston, submitted a packet (Exhibits J-1, J-2, J-3) including a site plan and findings for the required criteria for cellular towers. The proposed location is in an OL district. He covered the findings as follows: the proposed pole is a 100' galvanized steel monopole; with apartments 300' to the north, stormwater detention in RS-3 district to the east, a childcare facility to the south, and office to the west; no existing towers suitable for need; topography is flat except for berms for stormwater detention facility; mature trees line along south boundary of site; proposed slim line antennas, pole engineered to collocate two similar antenna facilities; facility includes a pre-fabricated 12' x 20' building with exterior of rock aggregate material; access easement is to S. 116th E. Ave.; the tower is needed for in-building coverage to businesses and residences of the area, existing surrounding towers are not adequate for smaller phones; the tract is 100' x 120' and likely development would be office; no landscaping has been planned.

Comments and Questions:

Mr. Dunham noted that there were no plans for landscaping. Mr. Coutant responded that they are willing to meet the landscaping requirements.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit a U.S. Cellular 100' monopole wireless telephone transmission tower in an OL zoned district; and a **Special Exception** of required 110% tower setback from adjoining residential and office districts, finding the factors listed in the Zoning Code, Section 1204.C.5. were detailed in the

applicant's submittal and the Board is in agreement and the applicant agrees to meet the landscaping requirements, per plan, on the following described property:

Lot 3, Block 2, Dunham-Birkes-1 Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19012

Action Requested:

Variance to allow required off-street parking to be located on a lot other than the lot containing the use for which the required spaces are to be provided. SECTION 1301. GENERAL REQUIREMENTS – Use Unit 19; and a Special Exception to remove the screening requirement of Section 1212a.C.1 of the Tulsa Zoning Code. SECTION 1212a.C.1. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS, Use Conditions **were withdrawn**.

Special Exception to permit a nightclub use on a lot, which is within 150' of R, zoned land. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS, located SE/c of E. 66th St. S. & S. Memorial Dr.

Presentation:

Bill LaFortune, 2900 Mid-Continent Tower, expressed the applicant's desire and efforts to work with the neighborhood residents. He stated that he represented GBE of Tulsa, LLC., that is Graham Brothers' Entertainment, a thirty year old company. They operate high quality five-star nightclubs, employing over 1500 persons in cities including Dallas, El Paso, Phoenix, Nashville, and Oklahoma City. They propose to renovate the Woodland Hills Theater building. The patrons would pay one cover charge, and choose any one of five clubrooms with different styles of music. He pointed out that in a CS district the use would be allowed as a matter of right, with one stipulation, that if the lot line is within 150' of a residential boundary it requires a Special Exception. He stated that the applicant plans to construct an attractive screening fence where required by the Code. Mr. LaFortune described the high quality of the company shown by their history and attention to security, parking lot safety, responsible dispensing of alcohol, safe ride/designated driver programs.

Mr. White out at 4:53 p.m. and returned at 4:55 p.m.

Mr. LaFortune showed photographs (Exhibit K-1) to describe appropriate location with plenty of separation from R districts and land use that would be well within the boundaries of the Comprehensive Plan. He compared the traffic and hours of operation to the movie theatre, indicating a safer impact on traffic. He mentioned that GBE uses sound suppression construction.

Comments and Questions:

Mr. White asked if they would have outside speakers. Mr. LaFortune responded that they would not have any outside speakers.

Interested Parties:

Mr. Dunham informed the interested parties that a sign-in sheet would be available at the front of the room for all parties to sign that are opposed for the same reasons as stated by previous speakers. He reassured them that they would be just as effective by signing in. The sign-in sheet is labeled Exhibit K-5.

Frank Spiegelberg, 9032 E. 67th St., stated he has been a resident of Burning Tree since 1977, has represented the neighborhood association as an attorney and president on various occasions. He introduced the President of the Board, Don Branch, and numerous members of the association as a group. He submitted a petition of opposition signed by the neighborhood residents and photographs (Exhibits K-1, K-3). Mr. Spiegelberg gave his reasons for objection by describing the traffic congestion through the neighborhood on E. 65th St. S., S. 89th St., and S. 85th St. E., which is used as a shortcut to and from Woodland Hills Mall.

Cooper out at 5:25 p.m. and returned at 5:29 p.m. Mr. Spiegelberg reminded the Board there are no sidewalks for pedestrians in this neighborhood. He read the petition stating the opposition. He mentioned a traffic count that was done by the City of Tulsa Traffic Engineering Department, which would be submitted to the Board later by another interested party. He stated that in 1997 Mr. Eshelman conducted a traffic count on this short section of 85th Street from the north side of the mall. The count showed 3700 vehicles on Mondays and Thursdays, on Fridays it was 4700, 5200 on Saturday, and 3000 on Sunday traveled through the neighborhood via this short street.

Comments and Questions:

Mr. White asked if there was anyone from the area that did not oppose the application. Mr. Spiegelberg replied that one man responded that he does not sign anything and one other man that wanted time to think about it.

Raline Andrews, 8456 E. 64th Pl., expressed her opinion that the company is probably good and they have good policies in place. She stated that the primary source of income would be selling alcohol and they are there to make a profit. She added that even if the policy is not to let people drink and drive, but it would happen. She reminded the Board that from 41st St. to 71st St. on Memorial on Friday and Saturday nights the majority of drivers are teenagers. She also mentioned there is a day care center to the east of the movie theatre, which is open until 10:00 p.m. Ms. Andrews stated that between Thanksgiving and New Years holidays the mall is open later at night and the employees don't leave before midnight, thus creating another hazard with a thousand people in a nightclub.

Malcolm Smith, 320 S. Boston, stated that he was representing his parents who live in the Burning Tree neighborhood. He submitted a report of the traffic study (Exhibit K-2) that was performed at the intersection of 66th St. and 85th E. Ave. that indicated 500 cars per hour traveled through there. He made the point that the main reason people go to a bowling alley is to bowl, main purpose for a motel is sleeping, the main reason people go to clubs is to drink alcoholic beverages. He submitted that there is no compelling reason for this Special Exception to be granted to allow a bar at this location.

Comments and Questions:

Ms. Perkins asked if the survey shows how many cars turn north onto 85th E. Ave. Mr. Smith replied that the count was of the traffic on that short portion of 85th E. Ave.

Interested Parties:

Win Oxner, 6432 S. 88th E. Pl., **Janice Shweir**, 6424 S. 88th E. Ave., **Tina Campbell**, 6437 S. 87th E. Ave. were in opposition to the application for reasons previously stated.

Applicant's Rebuttal:

Mr. LaFortune stated the applicant respects the opinions and concerns of the neighborhood residents. He asked the Board to separate emotions and speculations from the matters of zoning and appropriate uses according to the Code in this location. The club has a good-bye line of employees to see the customers out the one exit. He stated this is one of the ways they identify those who may need a ride or designated driver.

Board discussion ensued.

Mr. Dunham asked the applicant for the expected days and hours of operation.

Roger Gearhart, 5511 Highland Ct., Midland, Texas, responded that their operations are generally open five days per week from 7:00 p.m. to 2:00 a.m., Wednesday through Sunday.

The Board recognized Councilor Byrd, who wished to speak.

City Councilor Clay Byrd, 6717 E. 65th St., asked how large this club is in proportion to the largest bar or nightclub within the city. Mr. LaFortune responded to the question, stating the lower floor is 24,833 square feet. Councilor Byrd expressed concern for the large size and multiple bars within one. He stated he was concerned that the largest bar and the largest mall in the region would be in such close proximity. He pointed out that many of the homes were there prior to the large commercial development. He questioned packing the largest of everything into one area.

Board Action:

On **MOTION** of **Dunham**, to **DENY** a **Special Exception** to permit a nightclub use on a lot, which is within 150' of R zoned land. The motion died for lack of a second.

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit a nightclub use on a lot, which is within 150' of R zoned land, with conditions there be no outside speakers or activity other than parking on the parking lot, security personnel in parking lot for the hours of operation, 7:00 p.m. to 2:00 a.m., Wednesday through Sunday, and an 8' masonry wall on north boundary, on the property described as follows:

The N 363.10' of Lot 2, Block 3, and a tract of land containing 2.5000 acres, more or less, that is part of Lot 3 in Block 3, said tract of land being described as follows, to-wit: Beg. at a point that is the NW/c of said Lot 3; thence S 0°03'42" W along the western line of Lot 3 for 210.02'; thence S 89°56'20" E for 530.14' to a point on the Ely line of Lot 3; thence N 0°03'42" E along the Ely line of Lot 3 for 100.51' to a point of curve; thence Nly, NWly, and Wly, along the Ely line of Lot 3, on a curve to the left, with a central angle of 0°04'03" and a radius of 110.00' for 172.92' to a point of tangency; thence S 89°59'39" W along the Nly line of Lot 3 on said tangency for 420.01' to the POB of said tract of land; and all of Lot 2, Block 3, and a tract of land containing 2.5000 acres, more or less, that is part of Lot 3, Block 3, said tract of land being described as follows, to-wit: Beg. at a point that is the NW/c of said Lot 3; thence S 0°03'42" W along the western line of Lot 3 for 210.02'; thence S 89°56'20" E for 530.14' to a point on the Ely line of Lot 3; thence N 0°03'42" E along the Ely line of Lot 3 for 100.51' to a point of curve; thence Nly, NWly, and Wly along the Ely line of Lot 3, on a curve to the left, with a central angle of 0°04'03" and a radius of 110.00' for 172.92' to a point of tangency; thence S 89°59'39" W along the Nly line of Lot 3 on said tangency for 420.01' to the POB of said tract of land, all being located within Woodland Hills Mall, Blocks 2, 3, 4 and 5, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19014

Action Requested:

Minor Special Exception of required front yard from 30' to 25' to permit an existing dwelling. 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 1327 S. Pittsburg Ave.

Presentation:

Mary Powell came to present her application.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Minor Special Exception** of required front yard from 30' to 25' to permit an existing dwelling, per plan, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lot 16, Block 1, Electa Heights, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19013

Action Requested:

Special Exception to allow the overnight boarding of dogs and cats under Use Unit 15 in the CS zoning district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 14 & 15, located 2225 E. 61st St.

Presentation:

Bill LaFortune, 2900 Mid-Continent Tower, stated he represented Jeremy Shaddrick. He stated the company proposed to open a daytime veterinary clinic and overnight boarding for pets. He added that if the boarding is related to the veterinary care it is allowed under Use Unit 14. He informed the Board that it would not include dog runs or activity outside; all care would be provided indoor and enclosed. He indicated that Mr. Shaddrick plans to use noise suppression walls, individual stalls, and concrete floors.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow the overnight boarding of dogs and cats under Use Unit 15 in the CS zoning district, under the following conditions: that no outside activity, storage or dog runs, that noise suppression be installed on the northern-most walls, on the property described as follows:

Lot 2, less E 50' thereof, Block 1, Southern Village Center, City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 6:30 p.m.

Date approved: April 10, 2001


Chair