

BOARD OF ADJUSTMENT
MINUTES of Special Meeting No. 512
Tuesday, October 18, 2022, 1:30 p.m.
Williams Tower 1
1 West 3rd Street, St. Francis Room
Tulsa, Oklahoma

Members Present

Charney, Chair
Hutchinson, V. Chair
Hicks
Houston
Tisdale

Members Absent

Staff Present

S. Miller
S. Tauber
J. Hoyt

Others Present

K. Edenborough,
County Inspections
Nicholas Williams,
Legal

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 13th of October at 11:23 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Charney called the meeting to order at 1:30 p.m. Mr. Charney stated that he needed to recuse himself on cases CBOA-2987, CBOA-2995, and CBOA-2998. He would like to move those three cases to the end of the Agenda, and he will leave at that time. At that time, Don Hutchinson will Chair. Mr. Charney left the meeting at 2:12 p.m. He also wanted to announce that Mr. Scott Houston was a new member of the Board.

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

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MINUTES

On **MOTION** of **Hutchinson**, the Board voted 4-0-1 (Charney, Hicks, Hutchinson, Tisdale all "aye"; no "nays"; Houston "abstained"; to **APPROVE** the Minutes of August 16, 2022 (No. 510).

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UNFINISHED BUSINESS

2978 - Vadim Balev

Action Requested: Variance of the minimum land area per dwelling unit requirement from 2.1 acres and the minimum lot area requirement from two acres in an AG district; and a Variance of the rear and side setbacks in an AG district to permit a lot split (Section 330). **Location:** 1406 East 163rd Place South (CD 3)

Presentation:

Mr. Balev is from out of state and was not able to attend the meeting. However, he did send pictures as per requested by the Board to show that the property had been cleaned up.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Tisdale stated that this property had been unsightly with trash and from the pictures he has cleaned all of that up.

Mr. Hicks stated that he had driven by there and a lot of extra effort had been made to clean up the property.

Board Action:

On **MOTION of CHARNEY**, the Board voted 5-0-0 (Charney, Hicks, Houston, Hutchinson, Tisdale all “ayes”, no “nays”, no “abstentions”) to **APPROVE** a Variance of the minimum land area per dwelling unit requirement from 2.1 acres and the minimum lot area requirement from 2 acres in an AG district; and a Variance of the rear and side setbacks in an AG district to permit a lot split (Section 330).

Finding the hardship to be the unusual width associated with the configuration of the tract as it exists given the broad nature of the subject lot. Given that there are lots immediately west of the applicants lot that show much narrower frontage, that unusual hardship rising from the broad nature of the applicants lot would justify the granting of the Variance.

Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the Variance to be granted will not cause substantial

detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property

LT 1 LESS S277.20 THEREOF BLK 2, FAULKENBERRY ESTATES, CITY OF BIXBY, COUNTY OF TULSA, STATE OF OKLAHOMA.

Mr. Charney stated that for the next item will please let the record reflect that I am formally recusing myself in the balance of the matters on the agenda and that I am leaving the room as required and leaving the building.

2987 - CRB Companies

Action Requested: Special Exception to permit a 140 ft. Wireless Communications Tower (Use Unit 4 - Public Protection and Utility Facilities) in an AG district (Section 1204.3) **Location:** 7847 N 71st E Ave **(CD-1)**

Presentation:

Troy Williams, with Branch Communications, 7335 South Louis Avenue, Suite 300, Tulsa, Oklahoma, 74136 stated that they are here to try to get a cell tower that 7847 North 71st East Avenue, Owasso, Oklahoma. We have redesigned the tower. Dropped the height to 240 feet and moved it over to meet 100% of the setback, so no Variances are required. The property is zoned AG and towers are allowed use in AG, of course with the Special Exception. Everybody keeps telling me to move this way or go this way. He thought the coverage maps that were provided shows the hole or the need in this area. The sites to the northwest, southwest, northeast, and southeast used to cover this area, but due to capacity, technology, and everything else the pattern keeps shrinking. This is an underserved area. All carriers are required to provide coverage to underserved areas, residential areas, commercial industrial areas, and schools. That is our next biggest thing at schools. The federal government mandates this. The pandemic as bad as it was it still is showed a weakness in a lot of telecommunications coverage areas due to a lot of people working from home and distant learning for schools. All the streaming services too. It is not just cell phones anymore, it is iPads, laptops, and everything. This site is designed to enhance cellular data, Wi-Fi, and FirstNet for first responders dedicated system just for them and it will enhance 911 capabilities in this area. He has been out to this location many times and he can text if he is outside. He could not use my phone inside. All wireless carriers must abide by the county ordinances in this jurisdiction in which we meet 100% of the ordinance. We also must adhere to the federal government. The 1996 Telecommunications Act requires a viable reason for denial and some of the opposition letters that were sent to us regarding say, property values. It is a known fact that areas with the best communication have the higher value. Smart Homes are the wave of the future. It is not just homes, it is businesses, schools, and everything. Visually, it is a monopole, it is a single pole looks like a light pole at a football stadium. Third, fifth and eighth and now that Tenth Circuit Court has already ruled that the need for wireless communications outweighs the visual aspects. Again, we tried to keep it simple monopole one pole, no guy wires, all that. The

biggest concern was the health and safety that is strictly protected under the 1996 Telecommunications Act, specifically section 704. He has documentation from National Councils Society, World Health Organization, Federal Communications Commission, all these different agencies that have done all these studies on RF (radio frequency.) Cellular RF is not what is nonionizing RF, unlike microwave, which is an ionizing agent, out in the sun you are getting ionizing RF. Infrastructure is vital to the growth and development of all communities and being able to connect by passing through them driving down the roads, and everything else is just as important. We humbly ask for your approval. He would be happy to answer any questions. If he cannot answer the questions, we have additional field representatives from AT&T, RF Engineering and Government Affairs.

Mr. Hutchinson stated that he had a few questions. If he was not mistaken, there are schools just to the east this location, Barnes Elementary. Mr. Williams stated that they had talked to the Owasso School District. This tower would encompass the school. If he read the minutes correctly, you have visited the several other property owners in this area have not been able to secure viable options.

Mr. Williams stated that we have agents that went out and met with multiple landowners. He knows everybody keeps telling us to go to south industrial district. We have met with them directly. They said no. We must turn in at least three viable candidates. This site was selected because it sits in the middle of existing sites. That way the handoff is going to be clean and smooth. Too far South it is going to leave a gap to the North for too far North is going to leave a gap to the South. And this side is virtually as you can see on their red is good, green, and blue are not good. Red is in building coverage, solid in building coverage, as well as outdoor of course.

Mr. Hutchinson stated that he knew this is a monopole, so it does not have any guy wire. That is correct? What is the tallest monopole that can go in? Mr. Williams stated that they have 190-foot monopoles.

Mr. Hutchinson stated that this one is 140 feet. You could not go any taller because then your setbacks come into play.

Mr. Williams stated that this site meets 100% of the setbacks. We slid it over in the compound and dropped the height.

Mr. Hutchinson asked how many carriers this will be able to handle. Mr. Williams stated that it is structurally designed to handle four.

Mr. Hutchinson asked if it is AT&T, you are looking at T-Mobile, US Cellular, Verizon or Dish. Mr. Williams stated that then you could also add to the tower to add additional carriers. We are going to build it up front to handle force, fully loaded antenna arrays.

Mr. Hutchinson stated that as this area continues to develop, unless the technology gets more sophisticated, there will end up being more towers throughout. He was talking

north and west. If you can see on that map, north and east is still a little blue area up there, blue, blue green, not a yellow would probably be another tower, eventually to cover that, but what this tower also does being in the middle, it offloads some of the capacity on the four sites that are trying to cover this area now. They used to cover, but capacity is picked up so much from every carrier, but wireless communications. It is not just cell phones anymore. It is data, a lot of data, videos, movies, streaming services. This site will offload those and enhance their capacities, that for coverage as well.

Mr. Houston stated that you mentioned there is a school to the east, Barnes Elementary. He was assuming they use iPads for the kids. Where do they sit on this map?

Mr. Hicks asked if he was the same applicant that applied previously. Mr. Williams stated that his company had, but he was not there. He had been here three times now. But yes, sir, same applicant. AT&T was there as well if the Board had any direct questions for them. Caleb Kramer was there representing CRB companies.

Interested Parties:

Robert Sartin stated that he was an attorney with the law firm of Barrow and Grim, 110 West Seventh Street, Suite 900 in Tulsa, Oklahoma 74119, stated that he wanted to say first, this is the exact same application that you have denied once before. They may say that they have amended it, but they reduced the height of the tower from 145 feet to 140 feet. He would caution the Board that unless you want applicants whose applications are denied avoiding them coming back month after month, you must be consistent in your rulings. There is nothing that has changed here that is sufficiently material that would warrant revisiting this issue and changing a prior vote. All they did was lower the height by five feet and move the tower a few feet. The Tulsa County Zoning Code at Section 1204.3 sets forth the conditions for the placement of a cell tower. It states that the cell tower shall meet nine different requirements. Now we know that when the word shall be used in a statute or ordinance, it is mandatory. It is not discretionary. It is not subjective. The cell tower must meet these nine different criteria. This cell tower does not meet at least four of the criteria. First one is the cell tower must protect residential areas in land uses from potentially adverse impacts of the cell tower. Second, the or the application must encourage the location of cell towers in nonresidential areas. The third is that the application must encourage users of cell towers to locate them to the extent possible in areas where the adverse impact on the community is minimal. And the fourth prong is that the application must consider the public health in the safety of the communication towers. He would address each one of those. The first one, the application must protect the residential areas and land uses from potentially adverse impacts. You can see from the satellite images, there are hundreds of homes within one hundred, or a couple one hundred yards of this proposed location. Not only is the cell tower unsightly, but it will negatively affect the value of all those homes having the cell tower so close. The second factor encouraged location of towers and non-residential areas. In this instance, there is a Macy's distribution center close, where they can put the cell tower and it will be in a commercial setting, not in a residential setting. That is where the tower should go. The residents do not oppose a cell tower. They recognize

the necessity of cell tower. But there is no reason to put it right in the middle of a residential area when there is a commercial development adjacent. We know from the testimony of Mr. Knox at the last hearing that they discussed with Macy's putting the cell tower there, and for whatever reason it was too expensive or whatever reason they decided not to put it there. He did not think it is a basis to put it in the middle of a residential neighborhood just because it saves a few dollars that you did not want to pay Macy's to put the cell tower there.

The next factor is that the applicants should encourage users of towers and antennas to locate them, to the extent possible in areas where the adverse impact on the community is minimal. There is no question that placing a cell tower that is 140 feet tall is going to adversely affect hundreds of homes that are adjacent to it. There is no question that the impact in a commercial area would be less. The proposed cell tower should be placed where it has the least adverse impact possible. That would be in the industrial area. The last factors you should consider the public health and safety of the cell towers. You have a letter in your packet from Dr. Robert Lim, who is a professor of medicine with the OU College of Medicine. In his letter, he addresses the public health risks of placing cell tower in a concentrated residential area. As contrasted to placing the tower in a less concentrated area, which is what that commercial area would be. Here, he says you should place the tower away from the residential area because it will have less of an adverse effect on the public than placing the tower in a heavily populated area. Just by way of summary, the residents do not oppose the tower, they recognize the need for the tower. But this application should be denied because it does not place the tower in the least affected area as it can. For that reason, we would ask that you deny the application or at least require them to move into a commercial area.

Mr. Hutchinson stated that you say that net negatively affects the value of the home. Would you think it would be more negative that the tower is there or if there is zero coverage?

Mr. Sartin stated that he knew that there are some residents here to address the quality of the coverage. He did not pretend that he can address the quality of the coverage. He did not know that there is any evidence that if the tower was placed in a commercial setting, which is again, adjacent to where they want to place the tower. He did not know if there is any evidence that if there is a deficiency in coverage that exists today, would that deficiency be any better or any worse if the tower is placed in that commercial setting. These locations are so close, that he cannot imagine that there would be any type of an adverse impact by simply moving the tower from the proposed location to where it would be in a commercial setting and would not have that same adverse effect.

Mr. Hutchinson stated that he did not hear Mr. Williams say that the reason they did not locate in Macy's is because they could not agree on the price. He just said Macy's did not want them there.

Mr. Sartin stated that he was reading from the minutes of the meeting where this application was denied. In the minutes, it said that Mr. Knox, testified that they had

discussions with Macy's that they could not reach an agreement and there were, and he was paraphrasing, but accepting the effect of there was some cost, there were cost issues involved. My position would be that he did not know that the applicant is allowed to put the tower in the least expensive place where it can go, just to save a few dollars, he thought you must look to see what the impact is. And in this instance, he did not think there is going to be much of an adverse impact to a cell tower that is adjacent to a 500,000-foot warehouse, however big that thing is. It just is not going to be an issue there. So why, would you put it where it is going to negatively impact hundreds of families, just because the applicant could not make a deal with Macy's.

Mr. Tisdale stated that he had a question on this medical report. Does it go away by moving it across the street to a close by area?

Mr. Sartin stated that what Dr. Lim said, again, he is paraphrasing, but what he said is that if you are going to have a cell tower, you want to place it as far away from a heavily populated area as you can. You would not put a cell tower in the middle of a subdivision with one hundred homes, when you could move it and place it in a in a commercial area, that that is less populated.

His review of the letter is that Dr. Lin does not place any type of a distance. In other words, it should be at least (he was making this up) five hundred yards from a populated center. The last sentence of the third paragraph says moreover, people who live within three hundred feet of a cell tower receive an estimated 10,000 to 10 million times stronger signal than is needed for cell phone use. So that is the only distance that he sees in there.

Charles Hancock, 7867 North 71st East Avenue, Owasso, Oklahoma, 74055 stated that he lives in the house, just to the north of the subject property. The first thing that he would like to point out is that we have AT&T service. We live there every day. We do not have any problem with dropping calls, texts not getting through, or anything like that. Secondly, he would like to make sure that you understand, he thought this is just an oversight, but in the application, it says that the property that they are wanting to put it on is vacant, it is not vacant. There is a large residents as well as a large shop building on that property. There are four reasons that he did not want the tower next door to my house. Those are the health concerns, the degradation of the neighborhood, the loss of property value, and that there are other places that are more suitable. He would do his best to honor your request that he not repeat anything that has already been stated. Last year when this application was filed, he counted that there were nineteen people who submitted neighbors near where the tower is proposed to be. There were nineteen submissions from people asking that you deny the application. It appears from what he pulled off the web this morning that there were ten this time as well. His concerns are not just his concerns, they are concerns for a whole lot of the people, and most of the people in the neighborhoods.

The health issues certainly can be debated. In the letter that was written by Dr. Lim, he even admits that they can be debated. But he wants you to see my perspective of it. If

you look on page 37, of your package, Dr. Lim is the George Kaiser Family Foundation chair in surgery, he is the Vice Chair of Education, and Residency Program Director, Professor of Surgery for OU Medical School, here in Tulsa. This is not some Joe off the street, making this claim. This is my neighbor, and he can tell you from discussions with him, he takes this very seriously. And because he does and knows a lot more about it than Mr. Hancock did, he takes it serious as well. He would like to direct your attention to page 3.21 in your packet. That is a picture looking out from my back porch. It is looking to the southeast. The area in front of that large building, which is where the tower is supposed to go. Dr. Lim does make some references to the distance in the studies that they found that people, especially children living within a certain distance of these towers, the negative effects that they had, because of the studies that they have done on those children. That play set that you see in the picture is estimated to be 225 to 275 feet from where the tower will sit. That is well within what Dr Lim references. He is concerned about the health of our grandchildren. It will be a blight to the neighborhood. We had one of our neighbors when we were building our house that asked us if we would please bury the electric lines going to our property rather than have electrical poles to improve the looks of the neighborhood. He complied with that was glad to do so at an additional cost. This tower will be much more intrusive and look worse than those wooden poles would have looked. The property where it is sitting where that tower will be is 20 to 30 feet in elevation higher than my backyard where that porch is. It will dominate the sky there. If we were to decide that we wanted to sell that property, it would be one of the first things that anybody driving up to our property would see. If they stood out on the back porch to look at that area and consider whether is a place that they thought they could get serenity and joy, the view of that tower would have a very adverse effect on their desire to buy the property. The fewer people you have, who would desire to buy the property, the less value. The last item is that there are other places more suitable. He will not say any more specifics regarding that because others will address that. The tower does not belong in our backyard. Most people in the area do not want it there. He would ask you to tell CRB Companies please again to put the tower in a proper place, so it does not harm our grandchildren or neighbors or sales in our property. Thank you.

Neil Kessler, 6814 East 80th Street North, Owasso, Oklahoma, 74055, stated that he lives approximately 1500 feet up the hill to the west of the proposed tower site. In the interest everybody's time, he would not be going to repeat a lot of what has been said before. But he would make a couple quick points. Yes, this tower is allowed in agricultural zoning. At one time, this area of Western Owasso was considered very rural. However, there are two hundred homes in the area that are a part of the residential estate zoning and almost three hundred homes in that immediate area that are on Residential Three Zoning. That is all within less than half a mile of the site. There are one hundred more homes being built within the site. He agreed that kind of goes with the need but there is a lot of high value homes being built in this area that will be in view of this tower. In the past year alone of the 25 or 30 closing listings, he could find the average house sale was around \$410,000, on .65 acres. We are far from agricultural in that area. There was a comment made earlier concerning Barnes Elementary. He is a member of the Owasso School Board, and he could assure you

that the schools are on a wired network. We also have our own private wireless network that we radio between. So other than private cell phones, there would not be a strain from the school or a need from the school for a tower in that area. Other than that, he thought everybody else has covered what he had to say. Thank you.

Mr. Hicks asked Mr. Kessler what your personal cell service is. Mr. Kessler stated that his house is built out of concrete, and he had no problems within my home making cell phone calls. He owns a small business and conducts it from my home and make calls all day.

Donita Hancock, 7867 North 71st East Avenue, Owasso, Oklahoma, 74055, stated that she was getting up here because she planned to do it, but she was going to respect your time. She respects you all being here and all the volunteering that you do. But my main concern is the health issue. She had Googled and she did not know what EMF scanner.com is, but it suggests that a safe distance is fourth of a mile or 1320 feet. Our house falls deep is our very worst. She believed Dr. Lim said that that was one of the things that they have discovered in some studies that it does either progresses Alzheimer's or it does help you start that and that is horrible disease. She went through it with her mom. She is trying to avoid it and all the way that she can. We have lived in that area there for five years, and we have never had a drop call. We have a AT&T with no cell service problems whatsoever. Everybody keeps saying, Macy's but there are all kinds of other land over there that she does not know if it is available or not. Macy's is not the only option. She thought there are other options out there.

Christopher Leach, 7840 North 75th East Avenue, Owasso, Oklahoma, 74055, stated that he would like to begin by stating that he holds a Master of Science degree in telecommunications from Oklahoma State University. With my last company, he designed and deployed wireless networks for the United States Air Force. Some of this is a bit of repeat. The area of the proposed tower site is comprised of small parcels with houses and is effectively a residential area. In addition, there was a high-density neighborhood six hundred feet away, and another neighborhood one thousand feet away, this tower will dominate the skyline for the entire area. It will be 140 feet high and have four massive antenna. This tower is inconsistent with the community image and will have an adverse impact on hundreds of homes. Please note that this proposed site is financial and not technical. The proposed site is in a valley with a hill to the west and rising terrain to the north and south. This terrain requires a taller tower that would be necessary in a more suitable location. Locating a tower like this is not a game of inches or even feet. Carriers have multiple options when building a tower in each area. They can adjust the height of the tower, the design of the antennas, the power of the radios and the frequencies used. All these things work together to provide the right balance of coverage and capacity. There is a large industrial area industrial zone to the south on 76th Street that will accommodate this tower. The key is that it will provide the same level of coverage and services to the community. We are talking 1500 feet to the south. By choosing the right antennas power and height, they can provide all the same services. All their mandates as far as underserved areas, services to the community, all will be still maintained in that industrial area. The terrain is higher there, which will allow

for better coverage. Plus, the fiber optic cables, and other infrastructure needed to support the tower are already on 76th Street North further simplifies the development and minimizes the impact on the community. Now, previous speaker talked about that industrial area is in the acceptable zone from the engineers because that was testified at the last area. We know that the RF Engineers have stated that that is an acceptable place that provides the right service. He could go into detail on that if you want but he thought it had been covered. Staff stated it last time we were here that the Telecom Act of 1996 does not supersede local zoning ordinances. That was confirmed by Staff last time. In closing, we are not against progress, and we are not simply saying no to having a cell tower nearby. We agree that improving infrastructure makes our county a better place to live. However, we strongly believe that the proposed site is not the best place for this type of development. According to both the City of Owasso and Tulsa County, that the future development plan for this area is residential, one of the aspects is to encourage away from residential areas, so this is we are going to have more density here. Our request to the board is to encourage CRB to locate this tower in the industrial area by denying this application for a special exemption. This will place the tower away from residential areas while still providing the same services to our community.

Mike Cooper, 305 North Main Street, # 315, Broken Arrow, Oklahoma, 74012, stated that he represented AT&T. Thank you for hearing our proposal today. AT&T, Southwestern Bell, have been in the state for over one hundred years, he has worked for them for about half of that, approximately 50 years. You know, 35 to 40 years ago, it was all about whether the poles in my yard or not. Then when we started eliminating poles and when to bury cables about whether the pedestals in my yard or not, was all based about property values and things like that. If he could give you something that we did prior to this, AT&T in the other communications company are on this track, and we have been on it for about five years to improve the nation's communication network, modernize it, make it effective, efficient and a secure network. We were awarded since 9-11, to create FirstNet communication network for first responders. They have their own secure network away from everything else in times of emergency. We have all been working to do that. Last year, we placed over 389 towers in the state of Oklahoma, we are going to double that this year. We have had placed hundreds of small cell technology, which are a smaller device that goes in conjunction with the lower tower, so it makes sure that you have continuous 5g coverage. If he could, he would give you this, it has to do about a study that was done prior to this and he will talk to you about the Telecom Act and what the regulators at the federal state or local level, were looking at to eliminate some of these concerns. Because whether it is on property value, or RF, cause harm to us and because we take the health and the safety of our customer seriously, period, we simply do and always it has been at the very forefront of everything we do. That is why we acknowledge any of the questions even the comments that we have today. We appreciate all of that. But what we did in working with the regulators, the Federal Communication, the federal agency responsible for regulating wireless carriers, RF emissions is adopted very conservative RF exposure limits to protect the public. These limits apply to all wireless carriers and technology including 4g and 5g. AT&T Wireless sites, including small cells and 5G, that they comply with these vigorous standards and RF exposures from a AT&T small cell sites or

anything else that we do concerning 5g technology or anything dealing with RF. The things that we place now are significantly below those limits. That is backed up by the experts. We all have opinions, but we go by the experts and that is the FCC, World Health Organization, American Cancer Society, Cancer Institute, FDA, Food and Drug Administration, the European Commission. Governments like from Great Britain, Canada, Sweden, Australia, all those folks all back up and say that there are no threats to your safety and health. Even if they are very conservative requirements are well below those standards. The other thing that he would say, on the issue about the property is if you can drive around any metro site in the state of Oklahoma, particularly Tulsa, which is where we are. And just recently, there has been towers that have been placed, between new homes that have been developed so and then also small cells which are a smaller site, but certainly have not taken the property value down. The studies that we had done, particularly the one that was out in the Silicon Valley, we had that done because naturally knows people the values of their homes are expensive and concentration of people and concentration of work hours. It is a little bit different than this rural setting.

There is precedent that we have had towers everywhere else. We met the FCC, and the Telecom Act is even having regulation on, there is a shot clock, and it is 60 or 90 days that you have for approval if you meet the requirements. This site certainly meets the requirements. There are no self and health hazard per their standards, we do not believe that it hurts property value. It really meets all the requirements that are necessary. That is why we were back here today. Before it was previously denied because we asked for a Variance on that. There have been many different locations to look at. But again, our experts and we have some of them in the room, this is the site to place out in that area. He personally went out there and sat at the site. Of course, he has talked to many people within the county and the city over Owasso, the corporate folks in that region, and it is a horrible site, to look out there and he could hardly get a satellite feed to get his location on that because all my troubles looking at the right side. It is an area of limited technology there. We meet all the requirements.

Mr. Hutchinson asked Mr. Cooper, since he works for ATT, are they your cell phone carrier. AT&T does not have eminent domain authority. Is that correct? Mr. Cooper stated that he does have AT&T and that he is not the legal person.

Mr. Hicks asked Mr. Cooper if he could tell him how many new towers of this nature have been put up within the Owasso city limits within the last two years.

Mr. Cooper stated that there had been one by the school and he remembered the one at the school because he remembered we collaborated with him to create an ordinance so we could place cell towers in their areas, because they really did not have anything that set that up. He knew that they have been able to apply capital as capital is available. Of course, he would say Oklahoma is in the AT&T footprint, we are about 3% of the company so you can see where capital flows. But he will tell you there is a major capital build going on right now. He knows the folks that work in this business, they are quite busy between that fiber optics.

Mr. Tisdale asked about a health letter. Mr. Cooper stated that the last time he thought it was looked at was 2019 was the last most vigorous study on this. But again, when he says what the standards from FCC are, and they are very conservative, because they wanted to make sure they were right as well. We even go below that. Our equipment and the things that we do are below the standards that FCC requires. Because again, we are concerned with those things as well.

Kim Leach, 7840 North 75th East Avenue, Owasso, Oklahoma, 74055, stated that her living room is about five hundred feet from the proposed tower site. She did scientific research of selling development drug for a large company called Genentech in South San Francisco for 14 years, and it is not safe to live within a quarter mile from one of these towers, and she did not even think it is safe to live within half a mile of one of these towers. Her children are already going to be bombarded by the one over the seventh-grade center. There is one at the FFA building right over our high school. They are going to be exposed to these RF frequencies for six to eight hours a day already. The one over my house will bombard us 24 hours a day. Also, saying experts say it is safe when no one has proven that these are safe. No one has proven that it is okay to live five hundred feet from a 5g tower. She wanted to remind everyone in this room that in the 1950s people were sold cigarettes at a hospital bedside. That was fine. Only now do we think that is completely unacceptable. In the nineties international flights, everyone smoked. There was a smoking section and there was a nonsmoking section. Well guess what everyone was exposed to the cigarettes, and it was not healthy. Now we think that is ridiculous. But it happened for decades. These, she believes, will be proven dangerous, but it is not on us the residents who will be living next to them and bombarded with the radio frequencies. We do not have to prove them dangerous. They must prove them safe. They have not done that yet. That is why she really would like to encourage all of you to listen to the letters. Listen to the neighbors. This is a residential area with nice homes. She does not want to move; she loves her house and pool. She cannot live under this tower. Thank you.

Robert Sartin, 110 West Seventh Street, Suite 900, Tulsa, Oklahoma, 74119, stated that he wanted to begin by answering the question you asked about the power of eminent domain. Every citizen in the state of Oklahoma has the power to condemn. It is not just governmental authorities. It is not just utilities. Anybody can. But the reason they do not go that route is because you must prove need, you must prove that it is the least offensive way to go. It is not too different than what you are doing here today. AT&T certainly has that right. He had that right. Everybody does. But you still must prove the same things that you would have to prove to prevail here. What he really wanted to do rather than address what Mr. Williams with AT&T said is he wanted to ask what he did not say. He did not tell you why they cannot move this tower to the industrial or to the commercial area. The local ordinance is clear. If you are going to allow this you need to allow it in the least offense, or the least adverse effect as they can. No one has gotten up here and said that it would have more of an adverse effect move this to an industrial area or commercial area. He has heard no one say why they cannot move this to the commercial area. He thought if there was some reason whether it was technological or

financial, or whatever reason was they think they cannot move it to that industrial area, he thought they would have the burden of coming up here and showing you that. In the absence of that, he thought that is the answer. You must deny this application, because he thought the tower needs to be moved to a less affected area. So that is really what he was going to produce.

Troy Williams, CRP Companies Branch Communication, 7335 South Louis Avenue, Suite 300, Tulsa, Oklahoma, 74136, stated that everyone is talking about moving and moving and moving, we have gone to the industrial park, we went directly to Macy's, it was not just about money. It has also got to be 165 feet at Macy's. We must be higher, but you still must meet the setbacks of the ordinance. That was an issue because one they did not really want it, then would not fit, we cannot put it on the very back side of the property or up against property lines so that there was a lot of things involved with that. Secondly, she mentioned the homes in this area are over \$410,000. They have \$200,000 in the build a tower; you have \$300,000 worth of AT&T equipment going on the ground in that facility and each carrier thereafter. It gets taxed, just like a property's increased values and things like that. Power, most of the power is a balance. It is not just blasting. He thought that the doctor had some numbers, skates grade on how much power you can use, you cannot blast power out. It is a balance. The receiver must be close. So, they have a balance to get the signal out to get the signal back. If you are blasting power in blast as much as you want, you will never get a call back in. So that was the other thing. One of the biggest things Mr. McWilliams is here is that this is his property. He is allowed to develop his property the way he wants to his agricultural zone. It has always been agricultural zone when they develop the neighborhood. Towers are allowed in agriculture. You really cannot, tell Mr. McWilliams what to do on his property. He cannot tell you what to do on your property. We are just trying to find a balance here. But anyway, that is all. If you need any specific questions addressed. He thought it has been hit hard.

Mr. Hicks stated that when he got up the first time, and he could have heard you wrong, he thought Mr. Williams mentioned that you had to prove or at least you had to identify three different sites? Well, we can pick one of them. Is that correct?

Mr. Williams stated that he has been doing sites for almost twenty-seven and a half years, okay. Sites are zoning permit. When they give RF Engineer or whoever gives me a search ring, they give me a latitude and longitude as a circle, and a quarter mile. If he can stay within that quarter mile, everything works, the height that he needs and everything else, we must go out and get three candidates. Well, this site was getting difficult to get three candidates because we thought we had the deal in the industrial park at 165 feet, then things did not work out. Then we went to two or three other locations. Those did not work out because they did not meet setbacks and things like that. Lots of different shapes. Mr. McWilliams agreed to let us put it all the way back, but by his barn or shop, if you will. The east side is of the site is on his shop wall. You are in it is the towers moved right up pretty much next to it. That is how we got to that site.

We tried multiple locations, but there are zoning setbacks, heights, and restrictions. Money is always an issue, but you can usually get around that if you got the right site. If it is a short road, you can offset things if things like that.

Mr. Hicks stated that he had another question. You mentioned about equipment on the ground. What about sound electric humming and stuff like that coming from that equipment? He did not see anything in here and he was curious about it.

Mr. Williams stated that now a lot of carriers are using outdoor equipment cabinets that are sealed and insulated, there is no noise other than the wind blowing through the fence. We have a generator on this site for emergencies. If power goes out, we have an eight-hour battery backup in these units. If it goes out over eight-hours, usually a little bit before because it is all run through DC, so the power charges the batteries. It can run for eight hours before we have the generator kicks on but if the if the generator kicks on going to be power in the area, because nobody is going to have power.

Mr. Hutchinson asked Mr. Williams if the generator kicks home once a week for 10 minutes to charge the battery. Mr. Williams stated that they do once a month for a test.

Comments and Questions:

Mr. Hicks stated that he had the same concerns that he had last time that came in the applicant came in from the Tulsa County Growth Plan meant for this area in the Owasso improvement area. It is residential. He thought there was a growth map that shows us this as a targeted growth area for residential. He looked at this one area aerial on 3.5. He thinks of that neighborhood, that densely neighborhood that is just to the northeast of this. If they were wanting to put that tower in the center of that neighborhood, we would be okay with it. He would not be okay with it. For the same reason, thinking that type of neighborhood has been targeted not only by Tulsa County, but by Owasso, that same stuff is going to happen in the same area, and he have a tough time agreeing with it. He does not deny that the facts show that there is an area that needs to be served. He just has a problem with the site.

Mr. Hutchinson stated that he did not have a problem with the site. He did not last time. He does not this time. He thought it becomes part of the scenery. This coverage is everything. He personally did not think it would hurt anyone's property value. If he did, he would not be in favor. That is his take on it.

Mr. Tisdale stated that he thought that is what he was processing on it. What are we tasked with? He hears Mr. Hicks about the density, but it is a property that is owned and agriculturally zoned right now. There is extenuating circumstance that have been brought up, but nobody presented a clear picture.

Mr. Houston stated that he was torn between the fact that we are progressing, and telecommunications is the future. He believed the science is not clearly defined yet, on the safety of these. He agreed with the point of would we want that tower sitting in the middle of one of these neighborhoods? We all would say no we would not want that.

Mr. Tisdale stated that they are a city neighborhood now. Well, they are protecting the future to me, but it cannot change the fact that they are sitting in neighborhoods now. They have been there.

Mr. Hicks stated that he remembered the last time this came up. He took time and drove around Owasso. Every tower that he saw, it may have been next to neighborhood, but it was either a school or it was I did not see any towers that were like in the middle of the neighborhood.

Mr. Hutchinson stated that whenever he looked at these cases that come before us, he looks as though if it is right next door to him, or on his property. If it were on my property, or right next door to me, it would not bother me. As far as the safety, he thinks they are safe because if they are not, every guy that works on these towers is going to be dead. Because he is on it and he is not five hundred foot or a quarter mile from it, he is on it. That is way he looks at it.

Board Action:

On **MOTION** of **HICKS**, to **DENY**. There was not a second. The Motion to Deny has failed.

On **MOTION** of **TISDALE**, the Board voted 3-1-1 (Houston, Hutchinson, Tisdale all "ayes", Hicks "nay", no "abstention", Charney "absent") to **APPROVE** a **Special Exception** to permit a 140 ft. Wireless Communications Tower (Use Unit 4 - Public Protection and Utility Facilities) in an AG district (Section 1204.3) per the Conceptual Plan contained in the Agenda packet.

The Board finds that the requested **Special Exception** will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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

2995 - Joseph R. Farris

Action Requested: Special Exception to permit Use Unit 24, Mining and Mineral Processing, for the continued use of a mining and mineral processing business (Section 1224) in an AG district (Sec. 310, Table 1). **Location:** NW/c of North 145th E. Ave. and E. 66th Street North **(CD-1)**

Presentation:

Joe Farris, 1335 East 35th Place, Tulsa, Oklahoma, 74105 stated that he is a lawyer with the firm of Franden Farris Et Al. We are in the building next door on the floor above INCOG. As you know, Mr. Chairman, this is the second time we have been here. We were here on August 16, 2022 and made our presentation for this Special Exemption that we are requesting for mining and mineral processing and subject site. At our last presentation, you ask us if we would consult with two of the parties that were here in opposition to our request, namely being the Coulter family. Mr. Coulter was here. He is not here today. That speaks volumes. We will tell you later that we have had several meetings with Mr. Coulter representing the family and we have come to an accommodation that is mutually satisfactory. Mr. Dempster with the City of Owasso was here last time, and he is back. Mr. Van Valkenburgh will discuss the meetings he has had with Mr. Dempster, and they can have a dialogue with you about their issues. He knew that we have a new member, and we have Mr. Tisdale was not here in the last time. He knew they did not want to hear the whole schmeer again, as they say. But for the benefit of the Board members that were not here. Let me try to be as brief as I can with respect to our application. First, the applicants are the Cummings family and Anchor Stone. The Cummings family owns these four, five-acre tracts and this track here and Anchor Stone owns this track. This area you can see is part of the permitted area already, this area already is permitted because of an application a few years ago. He would also point out that this red line here represents the Rogers County/Tulsa County line. The quarry up until our last application was approved for this area was entirely in Rogers County. The new area would be the Cummings family tracks, and the Anchor track. This area of it now that he is showing with the pointer is the Coulter family operation and industrial operation. These areas are not part of the permit, but they are properties that Anchor Stone has since acquired. This is the area about which we are talking. If he could describe the Anchor Stone operations of quarry operation and what happens there. What happens here is we mined limestone, and we crush it and sell it. The Cummings family and the Anchor Stone application, if approved would allow us to mine this area. There would be no scale up in operations. If the exemption is granted and here is why, the rock crusher is located here. There is one rock crusher, and it will not be moved. There is no reason to. As the limestone is removed, it is taken to the rock crusher by trucks in there, processed into smaller size, limestone for delivery. The hours of operation will remain the same that they have always been. There will be no increase in truck traffic because once again, there is no scale up in operation. What we are requesting is to increase the footprint of the quarry and thereby create more inventory which will extend the life of the quarry. No scale up and operations, no increase in traffic. He wanted to point out that the limestone strata in this area, and we just recently took a core sample up to the Coulter property is 80 to 90 feet thick. This land cries out

to be a quarry. That is where the rock is. That is why we have not only the Anchor Stone quarry, but to the south as you would see more the other maps is the Green Hill quarry. This is an area where the limestone has outcroppings above the surface. That is why we will speak to Mr. Dempster about this. This land is not suitable for development for residential, as some developers in the area have recently found out to their chagrin, when they tried to excavate to put in sewers, and found out that you must blast through rock to get sewers to the proper depth.

The operations of a quarry are regulated by several governmental authorities. The last we were here we submitted to the board a copy of the state mine regulations, ODM. We also supplemented the record since then, with the monthly mine inspection reports. We supplement a month to date. To show that we are inspected regularly by the Department of Mines. We monitor vibrations 24/7, even though we are not required to do so, so that we can show each time we have a shot, that we do not exceed the regulations with respect to the shots. Speaking of the shots that which are a euphemism for dynamite, or whatever explosive device is used, are regulated by the Bureau of Alcohol, Tobacco, and Firearms. Those shots must be done in strict compliance with those regulations and in fact, they are so scientific that they are designed that the shots will go off a split second apart and interfere so that they tend to cancel each other out. And we have been so effective at this that we have never, ever had a complaint that has been upheld causing damage to any of these surrounding areas. Never. That is how careful they are. We did a noise study and that's part of the record, to determine that the shots are not the loudest thing that happens in this neighborhood, the Air National Guard fighter jets operate in proximity, a motorcycle going down the street, a leaf blower, a lawn mower not one of the new electric ones, but a regular gas-powered lawnmower creates higher decibels than the shots from time to time. And this is one of the most interesting metrics of all, if we took all our shots in a year and get them in succession, one right after the other, it would last 22 seconds. If we had three times all shots, which we will never have, it would last a minute, a minute, throughout an entire year. We are carefully regulated by Department of Mines, ATF, noise, and vibration studies to show that we are in strict compliance with all those regulations.

Now, the thing that we anticipate the most and we anticipated last time we were here was the argument that the existence and operation of a quarry would interfere with the neighborhoods in the area. And so, gentlemen, please look at this. You can see the encroachment of the neighborhood around the quarry, and you can also see the Green Hill quarry to the south. This is a competing quarry permitted all the way up to here. This is an area we are seeking right here. If anyone says that having a quarry in this area is going to interfere with the growth of the neighborhoods, what he had placed in front of the lectern is an aerial photo from 1976. Let me show you where the quarry is in that photo. Right there. This is the difference or a much bigger look what has happened. He submitted most significantly most dramatically the Stone Canyon neighborhood as far as he knew the most expensive neighborhood is built a nine iron away. Right here is Stone Canyon and guess why it is called Stone Canyon? That is rock, limestone. He submitted to you if these million dollar plus homes can locate there, then the quarries operations are not injurious to the neighborhood. These two pictures speak for

themselves. There is nothing frankly that you can add to that. This is where the rock is. We need limestone. It is ubiquitous. It is in everything, roads, houses. It is a very benign product, others own toxic operations and yet, we still failed to mention that the DEQ (Department of Environmental Quality) also inspects us. Again, no violations. And Anchor Stone has a pristine record. The Cummings family who has lived here for years, wants to monetize the valuable rock that is under their land. And we respectfully request that you approve the Special Exception that they and Anchor Stone are asking you to grant so that we can extend the quarry operations and not conflict with the neighborhood. Mr. Dempster will talk about the sewer extension that the City was Owasso made and it goes along here, around here, and he has this tag there. That is where the elementary school is. He pointed to Anchor Stone properties. Anchor owns the homes and the land adjacent to the quarry all the way around. Anchor Stone gratuitously granted five-acres to the City of Owasso to build that extension along here. The city thinks that this area is suitable for development for residential. They want to hook up their sewer to that. We included in the record, which we submitted to Mr. Hoyt a few days ago, a letter from engineer Justin Morgan, who is with Tanner Engineering, where Mr. Morgan opines, let me just read his words to you because they are clear. "His inspection shows the depth of rock ranges from the surface the outcrop to eighteen inches deep. Sanitary sewer gravity mains within an urban subdivision run an average depth of eight feet. It is safe to assume any sanitary sewer extension on this property would require extensive rock excavation." He goes on into more detail, but he concludes in Mr. Farris's opinion, this property is not suited for development as an urban subdivision with public sanitary sewer. And it is unlikely anyone would ever attempt such a development. With all due respect to Mr. Dempster, this land cries out to be a quarry, it does not cry out to be an urban subdivision. You will also notice the floodplain that runs here, all this area too, which makes you wonder, well, this area, we have a floodplain here. With that, he would rest for the moment. And again offer Mr. VanValkenburgh to respond to Mr. Dempster about the negotiations that they have and discussions they have had.

Mr. Hutchinson stated that he had one comment, and a question. He appreciated you taking the time out to visit with the City of Owasso and the Coulter family to try to produce agreements that is very much appreciated about this Board. We appreciate when an applicant reaches out to somebody else, sometimes it does not happen. My question on this exhibit here, is what is the green corner at the bottom?

Mr. Farris stated that they recently acquired that property.

Mr. Hicks stated he had clarification questions for the Staff. He noticed in the packet the dotted line encompasses he thought part of the area they already have approval to do Mr. Hoyt stated that was correct.

Mr. Hicks asked if Mr. Farris could clarify to us what the parcels colored blue and green, the differences are.

Mr. Farris stated that the blue is the area we are asking for and the green is already ours.

Interested Parties:

Ryan Dempster, 200 South Main Street, Owasso, Oklahoma, 74055, stated that they did meet, and he met with representatives of the quarry. They were good meetings. They met with the Coulter's, and they have visited with us also. He did get another call from a resident out there about their concerns. Those are really the only two citizens he can speak of that he visited with. The Coulters did say we were in a good place now. Our meetings went well with the quarry. They disagreed with this in their meeting. He has been doing this for 30 years, the right amount of money you can develop about anything. We are developing. We have a neighborhood about a half a mile, and they are blasting sewer in right now. They do develop in that rock. Keys Landing Two are blasting right now. Presley Hollow they are blasting through the rock now to put in the sewer. It is developable land. But with that said, we are aware, and we are in discussions, and it is all in good faith. We understand and we appreciate everything that the Board and Staff has done and considered, and we are meeting with them.

Kirk Van Valkenburgh, 1624 East 37th Street, Tulsa, Oklahoma, 74105, stated that the creek being here again, this is the Cumming's property. They do not want to develop, that they want to do what they are doing. They have even said we should go to Grow Owasso and see if we could get an amendment, so this ownership is reflected. Because they are only here because the rocks here. That is all.

Mr. Hicks asked Mr. Farris if he mentioned that the Coulters produced an agreement. He knew they were not there, but did you say something? Mr. Farris stated that yes, that Mr. Coulter called Anchor this morning to say that he would not be here and to say appreciated the negotiations.

Comments and Questions:

Mr. Tisdale stated that taking a second look at the figure since the quarry has been there for a long time. It looked like a neighborhood had encroached upon them. If the crusher is not moving, it is not going to impact further.

Mr. Hutchinson stated that back in 2017, whenever they were here, he was against that, but those issues have been addressed. The reasons why he was against it back then they have been addressed today. That is why he told Mr. Farris that he appreciated him getting with the other entities, because that is extremely important. He thanked him and Anchor Stone for going that route. In doing that, he could support it. He also understands what Mr. Dempster said with the right amount of money that could be developed and he understands that because we have seen it.

Mr. Hicks asked if we would need to put any conditions on it that they have already indicated, like, the crusher is not moving, hour of operations would be the same.

Mr. Hutchinson stated that what his thought was is that the conditions of what he mentioned, nothing is changing.

Mr. Tisdale stated that he agreed. If they were going to move it, he thought with what was specified, but nothing is changing.

Board Action:

On **MOTION** of **HICKS**, the Board voted 4-0-1 (Hicks, Houston, Hutchinson, Tisdale all "ayes", no "nays", Charney "recused") to **APPROVED** a Special Exception to permit Use Unit 24, Mining and Mineral Processing, for the continued use of a mining and mineral processing business (Section 1224) in an AG district (Sec. 310, Table 1) subject to no conditions since there are no changes in the operation.

The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

A tract of land in the Southeast Quarter (SE/4) of Section Thirty-three (33), Township Twenty- one (21) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows: commencing at the Southeast corner of said Southeast Quarter; thence S 89°54'45"W along the South line of said Southeast Quarter a distance of 1,108.07 feet to the point of beginning; Thence continuing S 89°54'45"W a distance of 210.00 feet; thence N 0°02'05" E a distance of 1,039.97 feet; Thence N 89°55 '00"E a distance of 210 feet; Thence S 0°02'05"E a distance of 1,039.93 feet to the point of beginning.

AND

A tract of land in the Southeast Quarter (SE/4) of Section Thirty-three (33), Township Twenty- one (21) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof, being more particularly described as follows: Commencing at the Southeast corner of said SE/4; Thence S 89°54'45" W along the South line of said SE/4 a distance of 1,318.07 feet to the point of beginning; Thence continuing S 89°54'45" W a distance of 210.00 feet; Thence N 0°02'05" E a distance of 1,039.98 feet; Thence N 89°55'00" E a distance of 210.00 feet; Thence S 0°02'05" E a distance of 1,039.97 feet to the Point of Beginning.

AND

A tract of land in the Southeast Quarter (SE/4) of Section 33, Township 21 North, Range 14 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows: Commencing at the Southeast corner of said SE/4; thence S

89°54'45" W along the South line of said SE/4 a distance of 898.07 feet to the point of beginning; thence S 89°54'45" W a distance of 210.0 feet; thence N 00°02'05" E a distance of 1,039.95 feet; thence N 89°55'00" E a distance of 210.0 feet; Thence S 00°02'05" E a distance of 1,039.93 feet to the point of beginning, according to the Recorded Plat thereof.

AND

A tract of land in the Southeast Quarter (SE/4) of Section Thirty-Three (33), Township Twenty- One (21) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State

of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows to-wit: Commencing at the South East corner of said Section 33: Thence S 88°39'38" W a distance of 867.26 feet to the point of beginning; thence S 88°39'38" W a distance of 30.00 feet; thence N 01°12'47" W a distance of 1,039.93 feet; thence S 88°40'08" W a distance of 1,752.65 feet; thence N 01°11'27" W a distance of 937.75 feet; thence N 88°38'00" E a distance of 1,323.32 feet; thence N 01°14'57" W a distance of 659.51 feet; thence N 88°37'30" E a distance of 1,322.65 feet; thence S 01°19'02" E a distance of 1,696.75 feet; thence S 88°54'16" W a distance of 669.31 feet; thence S 01°11'45" E a distance of 34.24 feet; thence S 88°39'51" W a distance of 197.03 feet; thence S 01°12'46" E a distance of 910.77 feet; said tract containing 3,478,925.45 square feet or 79.87 acres more or less.

AND

A tract of land in the Southeast Quarter (SE/4) of Section Thirty-Three (33), Township Twenty- one (21) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows: Commencing at the Southeast corner of said Southeast Quarter; thence S 89°54'45" W along the South line of said Southeast Quarter a distance of 1,528.07 feet to the point of beginning; thence continuing S 89°54'45" W a distance of 210.00 feet; thence N 0°02'05" E a distance of 1,040.00 feet; thence N 89°55'00" E a distance of 210.00 feet; thence S 0°02'05" E a distance of 1,039.98 feet to the point of beginning.

LESS & EXCEPT: (Tract described in that certain original Mining Agreement between Cummins Land & Cattle Co., L.L.C. and Anchor Stone Co. dated May 14, 2013):

A tract of land that is part of the Southeast Quarter (SE/4) of Section 33, Township 21 North, Range 14 East, of the Indian Base and Meridian in Tulsa County, Oklahoma, and more particularly described as follows:

Beginning at the Northeast corner of said Southeast Quarter (SE/4); Thence S 00°00'30" E and along the East line of said Southeast Quarter (SE/4) a distance of 1172.47 feet; thence N 89°29'52" W a distance of 1035.24 feet; thence S 00°34'19" W a distance of 407.68 feet; thence N 89°50'50" W a distance of 99.79 feet; thence S 01°21'52" W a distance of 28.51 feet; thence N 89°59'13" W a distance of 596.09 feet; thence N 00°23'28" E a distance of 937.68 feet to a point on the north line of the South Half of the Northwest Quarter of the Southeast Quarter (S/2 NW/4 SE/4); thence N 89°56'07" E and along said North line a distance of 405.85 feet to a point on the West line of the East Half of the Southeast Quarter (E/2 SE/4); thence N 00°02'37" E and along said West line a distance of 659.67 feet to a point on the North line of the Southeast Quarter (SE/4); thence N 89°55'04" E and along said North line a distance of 1322.90 feet to the point of beginning. Said tract contains 2,048,703.32 square feet / 47.032 acres.

The bearing base for said tract is S 00°00'30" E along the East line of the Southeast Quarter (SE/4) of Section 33, Township 21 north, Range 14 East of the Indian Base and Meridian in Tulsa County, Oklahoma.

AND

A tract of land in the southeast quarter (se/4) of section thirty- three (33), township twenty- one (21), range fourteen (14) east of the Indian base and meridian, Tulsa county. state of Oklahoma, according to the U.S. government survey thereof, being more particularly described as follows, to-wit:

Beginning at the southeast corner of said section 33, thence S 89'54'45" W along the south line of said section 33 a distance or 351.19 feet, thence N 00'05'15" W a distance of 943.68 feet. thence S 89'50'52" E a distance of 351.48 feet to the east line of said section 33, thence S 00'04'11 W, along said east line a distance of 942.21 feet to the point of beginning.

AND

A tract of land in the southeast quarter (se/4) of section thirty- three (33), township twenty- one (21), range fourteen (14) east of the Indian base and meridian, Tulsa county. state of Oklahoma, according to the U.S. government survey thereof, being more particularly described as follows, to-wit:

Beginning at a point on the south line of said section 33, said point being 351.19 feet west of the southeast corner of said section 33 thence S 89'54'45" W along said south line, a distance of 516.88 feet, thence N 00'02'06" E a distance of 910.77 feet, thence N 89'54'55" E a distance of 197.03 feet, thence N 00'03'07" E a distance of 34.24 feet, thence S 89'50'52" E, a distance of 317.83 feet, thence S 00'05'15" E a distance of 943.68 feet to the point of beginning.

2997 - Eric & Kimberly Loffer

Action Requested: Variance of the minimum lot area and land area required in an AG district to permit a lot split (Sec 330) **Location:** 12802 N. 143rd E. Ave Collinsville, OK (CD-1)

Presentation:

Eric Loffer, 39998, North 4030 Road, Collinsville, Oklahoma, 74021, stated that we have a lot with a home on it that is 2.3 acres. We are letting them equally split it so their daughter may put a 2200 square foot modular home to be bricked around on a piece of land. There is a several lots in there that slip there are a lot of modular homes in that area.

Mr. Charney stated that there is street frontage on North 143rd across the entire frontage.

Mr. Loffer stated that they had already done their preliminaries on the water meter. We have had rural water come out to do the pressure test for 15 days. We were approved for a water meter. We have had our surveys done and everything is equally split. There is a driveway already existing there.

Mr. Charney stated that it appears from our material that we were distributed, sir, that the two tracks he should say immediately to the south of the subject track are narrower and have had a narrower sort of approach to them for years.

Mr. Loffer stated that there is one across the street also.

Mr. Charney stated it would be important to us to know that there would not be any other just one other residents on it. No other splitting after that. Sometimes it is important for our board to know that you are seeking one lot split, and we have had a few folks come in for two or three or four. We remind them no, that is what a plat is for. But in this instance, is just the one last split.

Mr. Charney stated that if it were an important, conditioned us for you to recognize it or not been either further splitting of the lot, you understand. You also made a commitment if it is important, and it could be to some members of our board that new structure would be a brick structure. It would be modular in nature, but it would have brick on that forefoot up around the entire perimeter. Sometimes that is important to members of our borders as we are doing this.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Charney stated that this is something that seems reasonable consistent with other matters that we have addressed in this fashion. The chair would entertain any motion that anyone cares to make please.

Board Action:

On **MOTION** of **HICKS**, the Board voted 4-0-1 (Charney, Hicks, Houston, Tisdale all “ayes”, no “nays”, Hutchinson “abstained”) to **APPROVE** a Variance of the minimum lot area and land area required in an AG district to permit a lot split (Sec 330) per conceptual plan shown on page 5.7 in our agenda packet. Finding a hardship to be the size of lot is large. each individual track would be over an acre, and it is complementary to the other surrounding properties.

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

N330.5 E/2 W/2 SE SE LESS E25 THEREOF FOR RD SEC 33 22 14 2.314ACS, CITY OF COLLINSVILLE, COUNTY OF TULSA, STATED OF OKLAHOMA.

2998 - Robert E. Parker

Action Requested: Variance to reduce the required street yard in the RS District (Sec. 430.1) **Location:** 7301 E. 89th Pl. N. **(CD-1)**

Presentation:

Marsha Richardson, 8522 East 61st Street, Tulsa, Oklahoma, 74133, stated that she is with Mr. Parker's office. We filed an application for a Variance for a lot in the Magnolia Ridge, Phase Two Addition, specifically lot one and block two. There was a Scriveners error on the original Platt. This lot was labeled on the north side as being seventy feet, South 45 feet. Unfortunately, those dimensions were used when the owners obtained a permit to build a home. Now we have found the error, the surveyor did a Scriveners Error Affidavit, setting out their error, but the home has since been built, and it is seven and a half feet over that building line. It is also on a utility easement, but we have been able to successfully vacate those. At this point, we are hoping to get a Variance for that seven and a half feet.

Mr. Hutchinson stated that he thought he understood. He stated that he did not have any questions. He thought this is standard.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson stated that he did not have a problem with it. It is one of those he thought it was common. Some of these lot size that are like this round corner. He can support it.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-1 (Hicks, Houston, Hutchinson, Tisdale all "ayes", no "nays", Charney "recused") to **APPROVE** Variance to reduce the required street yard in the RS District (Sec. 430.1) per the Conceptual Plans shown on page 6.7 of the Agenda packet. Finding the hardship to be Scriveners error plus this is a very uniquely shaped lot in the configuration of it.

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

LOT 1 BLOCK 2, MAGNOLIA RIDGE PHASE II, CITY OF OWASSO, COUNTY OF TULSA, STATE OF OKLAHOMA.

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NEW APPLICATIONS

3001 - Sarah Townsend

Action Requested: Variance of the street frontage requirement in an AG-R district from 30 ft to 0 ft (Section 207) **Location:** 10316 E 120th St N (CD 1)

Presentation:

Sarah Thompson, 10316 East 120th Street North in Collinsville, Oklahoma, 74021, stated that she was there because she is looking for a Variance on the minimum street frontage requirement on AG land. She was looking to have it reduced out to zero so she can continue with the lot split.

Mr. Charney stated that this is a very deep lot from his review. It is an extremely deep with a broad amount of frontage and goes back to a triangular section.

Ms. Thompson stated that they are right next to a railroad.

Mr. Charney stated that he saw that, and he knew that railroad. Is it to your goal to place a residence towards the rear of the lot and or another track behind the existing house?

Ms. Thompson stated that it will be closest to the north part of track two, she was here in May or June, to get my permit to put the house on there. And then to reduce the requirement of the 150 feet with requirements.

Mr. Charney stated that sometimes it is important for us to know before we would grant this that this proposed access easement that is shown on page 7.7 of our materials, that there be that we might condition this upon the actual filing and access easement of record. He would suggest that be of record and that it speak to items like maintenance, that it is permanent. It is a permanent access easement. Sometimes it is important for our board to hear from the applicant that that will be of record prior to seeking the actual building permit is going to be necessary to have perpetual legal access back to it. It will be important for your any mortgage lending and for a multitude of reasons. It is often a requirement that we make.

Mr. Hutchinson asked if she was looking at modular home. Ms. Thompson stated that it was a manufactured home. Mr. Hutchinson stated that he was assuming this is your parents to the north and you will have your own septic.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Hutchinson stated that he could support it if the access easement is filed.

Mr. Charney stated that he agreed with Mr. Hutchinson. It is the classic case when it would make sense to permit it whenever you have a very unusually configured tract of land to begin with. So again, he was comfortable with it so long as the easement is of record.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 5-0-0 (Charney, Hicks, Houston, Hutchinson, and Tisdale all “ayes”, no “nays”, no “abstentions”) to **APPROVE** a Variance of the street frontage requirement in an AG-R district from 30 ft to 0 ft (Section 207) per the conceptual plan shown on page 7.7 in our agenda packet, subject to the following conditions that the road easement be filed at the county. Finding the hardship to be this very peculiar piece of property, very long and skinny and nature, kind of triangle shaped.

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

**TR IN S/2 N/2 SW W OF RR LESS W1936 LESS N25 THEREOF SEC 6 21 14 2.53ACS,
CITY OF COLLINSVILLE, COUNTY OF TULSA, STATED OF OKLAHOMA.**

3006 - Michael Ramos

Action Requested: Variance of the minimum lot area, land area per dwelling unit in the AG district to permit two dwelling units on one lot of record. (Section 330, Table 3) **Location:** 13030 N 143rd E Ave (CD-1)

Presentation:

Lorenzo Ramos, 13030 143rd East Avenue, Collinsville, Oklahoma, 74021, stated that he is Michael's father. We would like to have a Variance to be able to build him a home in the West side of the lot. Right now, we are at 2.87 acres. On the picture you sent us of the track plots, we are the fourth property to the South has already done exactly what we are wanting to do. We already had the EPA and the perc test. They said it would be good to go.

Mr. Charney stated that if he understood the nature of how this lays in there, the publicly dedicated street, North 143rd, terminates your lot. There would be a publicly dedicated bit of frontage, right to this new driveway. He wanted to a double check with Staff, that there is no lot split being sought. It is just a permission for two dwelling units to be on this larger tract.

Mr. Ramos stated that he did not know if it would be best off to split it, but he is eventually going to be inherited the whole thing.

Mr. Charney stated that sometimes, some might suggest that if one were needing financing on a new structure, wishing to mortgage one structure and not the other, there are times when a lot split could be beneficial to your family. That is not for us to decide. But he wanted them to know, sometimes that there may be something, not knowing your circumstances, and the financing associated with what your plans are, that could impact whether a lot split may be of record and that is technically a different action than what is before us today. Today we could determine whether you may permit an additional dwelling unit on this very long piece of land already deep and direct. Sometimes we are comfortable doing that, but we are not here to address the lot split if you should ever need that it is a different matter. It appears that the drive that will be servicing the new home will come right in from the dedicated cul-de-sac. It looks like straight back to your to the new home. The overall tract is just under three-acres as it sits currently.

Mr. Hutchinson stated that if he was not mistaken, this is just north of Mr. Loffer's. Did you also get with the water company? Have a pressure test to make sure there is enough water?

Mr. Ramos stated that they were not aware of because we did not know if we could build to begin with. When we call the office, they said the number one priority was the perc test. Because if that did not pass, they are not able to build there. So once that passed, we would apply for this, and we did not do the water. He did know that the

water company recommended a 5/8th line if we were to go further back. But he did not know about a pressure testing.

Mr. Hutchinson stated that if the Board votes to approve this, he will just recommend before you spend any money to make sure that you have adequate water and can get infrastructure.

Mr. Hicks asked if Mr. Ramos if your neighbors had given any comments or anything about this request.

Mr. Ramos stated that the neighbor to our East was simply curious, but she said she found that is for him and his babies was her major comment. She was okay. Otherwise, she would have been here.

Interested Parties:

None

Comments and Questions:

Mr. Charney stated once again, we have a Variance and not a lot split, but to permit two dwelling units. Given the nature of the lot, we have had some large, unusually configured tracks before us today. He thought that this is another example of one such lot.

Mr. Hutchinson stated that one thing about this situation is that he thought that we are going to continue to see more of this because everyone has the two-and-a-half-acre track and all they do is they cannot do anything else with it. He thought that this is a particularly effective use of the land.

Board Action:

On **MOTION** of **TISDALE**, the Board voted 5-0-0 (Charney, Hicks, Houston, Hutchinson, Tisdale) to **APPROVE** a Variance of the minimum lot area, land area per dwelling unit in the AG district to permit two dwelling units on one lot of record. (Section 330, Table 3) per the conceptual plans shown on 8.7 of the Agenda packet. Finding the hardship be the unusual shape of the land.

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

N188.68 W/2 E/2 SE SEC 33 22 14 2.87AC (TR 13 PH 1), CITY OF COLLINSVILLE, COUNTY OF TULSA, STATE OF OKLAHOMA.

3007 - Greg Nichols

Action Requested: Variance of the allowable square footage for accessory building(s) in the RS district; (Section 240.2.E) **Location:** 21488 W. 13th PI S. (CD 2)

Presentation:

Greg Nichols, 21488 West 13th Place, Sand Springs, Oklahoma, 74063, stated that he wanted to build on the vacant lot next to him, just to have some man space. He lives with three females, and he needs some time alone.

Mr. Charney stated that he heard your requirement and the building you are proposing looks to me to be around three thousand or so square feet fifty by sixty. One of the things that sometimes is important to us, have you had a conversation with any of your neighbors around you regarding this?

Mr. Nichols stated that he had spoken to most of them. He had four or five phone calls. You may have some emails from a few of them that are on board with this. If you stand in his yard, he can look three different directions and see three different buildings just like the one he wants to build.

Mr. Charney asked if he had anyone who expressed discontent, not that that is controlling on us, but it is good for us to have a big picture. Has anyone said we do not like this. Mr. Nichols stated this not to him.

Mr. Charney asked if this building would honor the same building setback lines that the home is on. Mr. Nichols stated that this was correct.

Mr. Charney stated that sometimes it is important for us to hear the maximum height of a building. Mr. Nichols stated that he would like to put a second floor on part of it. So, 16-to-18-foot sidewalls.

Mr. Charney stated that it is important occasionally to members of our Board that this is not intended for commercial business. You will not have the people meeting you there on site to run and operate a business. Mr. Nichols stated that this is for personal hobbies, storage of tractors and trailer, and recreational vehicles.

Mr. Charney asked if we were to condition our approval on that it would be for personal use, you would be okay with that. Mr. Nichols stated that was correct.

Mr. Charney stated that sometimes it is also important for us to know whether they are planning to be a dwelling unit in or not, or whether it is just for storage. Mr. Nichols stated that it was just for storage.

Mr. Hutchinson asked if Mr. Nichols had talked to the neighbors, and the neighbor to the north, did you mention anything about having 16-foot walls?

Mr. Nichols stated that his neighbor asked me what he had said to my wife to get his wife to approve. He is wanting to build his building bigger. So that is really all the discussion. He did not care how tall it was. Because two lots over for me to the west, there is a building there that already has 16-foot side walls.

Mr. Hutchinson stated that we know we have had people in this neighborhood talk about the height because it messes up their views and stuff like that.

Mr. Charney stated that because height is relevant in a residential neighborhood. You said there is an existing one at 16 feet right now. Mr. Nichols stated that yes, two lots to the west.

Mr. Charney stated that for some reason that does not show up on our aerial, but he thought it cut off right about there.

Mr. Hicks asked if he was planning to add a concrete hard surface driveway access to the building. Mr. Nichols stated yes, he was going to put a circle drive tied into the driveway that I have so he can loop it around and then do a garage door on one side of it to where I can have a garage door to back in a boat or whatever.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Charney asked if there were any thoughts regarding the proposed building on as depicted on our page 9.7.

Mr. Hicks stated that he was a little familiar with the area right there and there are other lots that have large metal shops on them.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 5-0-0 (Charney, Hicks, Houston, Hutchinson, Tisdale) to **APPROVE** a Variance of the allowable square footage for accessory building(s) in the RS district; (Section 240.2.E) per the conceptual plans shown on page 9.7 of our agenda packet, with no conditions. The hardship to be he has two lots. This is the oversize lot. He owns lot 12 and 13. He has combined into one lot.

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

**LT 13 BLK 2; LT 12 BLK 2, CANDLESTICK BEACH, CITY OF SAND SPRINGS,
COUNTY OF TULSA, STATE OF OKLAHOMA.**

DRAFT

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OTHER BUSINESS

None

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NEW BUSINESS

None.

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BOARD COMMENTS

None.

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There being no further business, the meeting adjourned at 3:47 p.m.

Date approved: _____

Chair