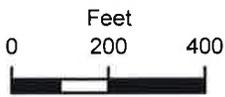


SUBJECT TRACT

LEGEND

-  Sand Springs Corporate Limits



CBOA-2789

3.1

19-10 02



**BOARD OF ADJUSTMENT
CASE REPORT**

STR:9002

Case Number: CBOA-2789

CZM:33

HEARING DATE: 01/21/2020 1:30 PM

APPLICANT: Michael Abboud

ACTION REQUESTED: Use Variance to allow Overnight Campground for Recreational Vehicles, Use Unit 17, in an AG district (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

LOCATION: 19301 W WEKIWA RD S

ZONED: AG

PRESENT USE: Vacant

TRACT SIZE: 33.55 acres

LEGAL DESCRIPTION: W/2 SE SE LESS 1.45AC TO HWY & S/2 NE SE SE & SE SE SE SEC 2 19 10, SANDEL MANUFACTURED HOME PARK

RELEVANT PREVIOUS ACTIONS:

Subject Property: None relevant

Surrounding Property:

CBOA-2778 November 2019: The Board voted to **APPROVE** the request for a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Commercial General District (Section 710, Table 1), on property located at 19271 West Wekiwa Road.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts the Sand Springs corporate limits on the west which is the site of a mobile home park with both RMH and RE zoning. Highway 412 abuts the northern portion of the parcel with the exception of one AG zoned parcel with a residential use. The CG zoned property to the east is a residential property with an AG Use Variance to permit a Horticulture Nursery. Properties to the south are zoned AG with residential uses.

STAFF COMMENTS:

The applicant is before the Board requesting a **Use Variance** to allow an Overnight Campground for Recreational Vehicles, Use Unit 17, in an AG district (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

The applicant provided the following statement: *"The primary utilization of the property shall continue to be for agricultural purposes. The intention is to preserve the properties existing wildlife habitat, as the property is one of the last remaining undeveloped tracts in the area, while allowing recreational visitors to experience the area in its natural state. This limited recreational use would not be injurious to the public good nor materially impair the purpose and intent of the existing zoning ordinance."*

3.2

A **Use Variance** is required because an Overnight Campground for Recreational Vehicles, Use Unit 17, is not permitted in an AG zoning district due to potential adverse affect. The site plan provided by the applicant indicates that the Overnight Campground will be constructed in four phases and will contain 20 pad sites after the last phase is completed. The pads will be located on the western boundary of the property. The applicant lives in the residence located on the eastern border of the property.

The applicant proposes unpaved (gravel) parking spaces for each pad site. The Code requires all paving surfaces be paved to maintain a minimum level of aesthetics, but more importantly to control air-borne particles like dust and to control the tracking of dirt and mud onto public streets. The applicant is requesting a **Variance** of the all-weather parking surface requirement (Section 1340.D).

Sample Motion:

“Move to _____ (approve/deny) a Use Variance to allow Overnight Campground for Recreational Vehicles, Use Unit 17, in an AG district (Section 310); and a Variance from the all-weather parking surface requirement (Section 1340.D).

Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: _____.

Finding the hardship to be _____.

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

Mr. Charney agreed. Mr. Charney stated the legal test is if the Board believes it would be injurious to the neighborhood, and he does not think it will be.

Board Action:

On **MOTION** of **HUTCHINSON**, the Board voted 4-0-1 (Charney, Crall, Hutchinson, Johnston "aye"; no "nays"; Dillard "abstaining"; none "absent") to **APPROVE** the request for a Special Exception to permit Use Unit 13, Convenience Goods and Services, in an IM District to allow a Medical Marijuana Dispensary; Special Exception to permit Use Unit 27, Heavy Manufacturing and Industry, in an IM District to allow a Medical Marijuana Processing Facility that uses butane-based extraction methods (Section 910, Table 1), subject to conceptual plan 4.13 in the agenda packet. Finding the Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

All that part of East Half of the Northwest Quarter of the Northeast Quarter (E/2 NW/4 NE/4) of Section Seven (7), Township Nineteen (19) North, Range Twelve (12) East, all lying South of the MK & T Railroad Right-of-Way and LESS the Charles Page Boulevard Right-of-Way, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof.

AND

That part of the Northeast Quarter of the Northeast Quarter (NE/4 NE/4) of Section Seven (7), Township Nineteen (19) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows, to-wit:

BEGINNING at the Southwest corner of said NE/4 NE/4; thence North on the West line of said NE/4 NE/4 a distance of 556.90 feet to a point; thence Northeasterly at an angle of 110°15' to the left a distance of 70.57 feet to a point, said point being 581.70 feet North and 66.07 feet East of said Southwest corner; thence S 01°59'59" E a distance of 581.70 feet to a point on the South boundary line of said NE/4 NE/4; thence West on the South boundary line of said NE/4 NE/4 a distance of 86.36 feet to the POINT OF BEGINNING., OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Dillard re-entered the meeting at 2:10 P.M.

2778—Marc Najjar

Action Requested:

Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Commercial General District (Section 710, Table 1). LOCATION: 19271 West Wekiwa Road

Presentation:

Timothy Janak, P. O. Box 52707, Tulsa, OK; stated he represents Mr. Najjar and the property owner, Super Moon, LLC. The property is located in far western Tulsa County and it has been vacant for some time. There is a warehouse on the property and that is where the growing facility will be located; the warehouse is approximately 4,975 square feet. Most of the land is zoned CG, Commercial General, however, a small portion is zoned AG thus the Variance request. About 1/3 of a mile to the east of the subject property is a trucking company, Mohawk Materials, that operates 18-wheelers and is a sand or cement facility. There is also a trailer park east of the subject property another 1/3 mile. Mr. Najjar is purchasing the subject property from Super Moon, and the intention is to have the growing facility in the warehouse. There will be an eight-foot fence erected around the warehouse and the manager of the facility will live in the house that is west of the facility. From that standpoint it is believed there will be adequate security for the grow house. There will be no retail.

Mr. Charney asked Mr. Janak to share the scope of the process. Mr. Janak stated that the plants within the warehouse will be substantial because it is planned to use the entire square footage of the warehouse for growing.

Mr. Hutchinson asked Mr. Janak if all 3-1/2 acres is zoned CG. Mr. Janak stated that parts of the property is zoned agriculture.

Interested Parties:

Michael Abboud, 19301 West Wekiwa Road, Sand Springs, OK; stated he owns 33 acres west of the subject property. As the request was presented by the applicant it sounds like the subject property is in the middle of an agricultural area but there are several residential properties near the site. Mr. Abboud stated that his back door is within 100 yards of the subject property and the neighbor across the street has property within 100 yards. Mr. Abboud stated he has several concerns and issues with the request. A concern is the decline of property values. The smell this type of facility will emit is best described as a skunk like smell. There are numerous chemicals involved in the cultivation of marijuana. Another concern is how the chemical runoff will be disposed of. He would like to know about the operating history of the applicant. The proposed ten-foot tall fence, not an eight-foot tall fence, will cause a blind spot on for traffic coming down 193rd pulling onto Wekiwa Road; Wekiwa is a heavily trafficked road. If this is such a good proposal, why is it necessary to erect a ten-foot tall fence around the facility? Mr. Abboud stated he has security concerns because the applicant had to file an application with OMMA and that it is on their website, so the site is published to the public and everyone will know it is there. Marijuana is not a normal agriculture crop due to the odor, the demand, and the need for high security. Mr. Abboud thinks this would also violate existing nuisance laws because of the odor alone. Mr. Janak stated the property is zoned CG and needs to be zoned heavy or medium industrial along the back. How will this be regulated and what is the recourse for the neighbors? This property is in the middle of a sleepy rural community with a lot of

homeowners in nice homes, not on the Sand Springs line in an industrial area. This request is not in the interest of the public good and is injurious to the neighborhood.

Mr. Charney stated the use being sought on the subject property is permitted as a matter of right in the AG District. This is not the manufacturing use like heard earlier; this is to allow the horticultural use not the manufacturing of the product.

Ms. Teresa Tosh stated that it is the Oklahoma Medical Marijuana Association (OMMA) that oversees the legislature. When the legislature was passed, they were behind and now they are trying to catch up. As they are putting into effect the rules that will govern the marijuana industry in all facets, the growing, the processing, and the dispensing, they now realize they need some way to improve their ability to make people comply. Now there is a letter of compliance which is filled out by a local jurisdiction which would be the County. The County will need to inspect facilities and so will OMMA make inspections once a year.

Mr. Nolan Fields stated that it is important to understand that the state's OMMA has the sole authority to regulate this industry. When it comes to compliance issues, that is the only facet the County has and that is similar to conforming compliance as for any commercial agricultural or other type of business that would have a new operation. The County really has nothing to do with the medical marijuana aspect of this industry, that is purely the State. If there are citizen concerns, it is important to follow up with the OMMA first and then Code compliance would fall under the County.

Roger Harrington, 19224 West Wekiwa Road, Sand Springs, OK; stated he lives directly across the street from the subject property and he has lived there 40 years. Mr. Harrington stated he has concerns with the ten-foot fence because his house would be about 65 feet from the fence. Another concern is the increase in traffic because there is a lot of traffic now. The site is about ¼ mile from the river and there is a creek on the subject property that dumps into the river, so he is concerned about water quality. There are children that use a school bus stop in the area and they also ride their bicycles up and down the road. Mr. Harrington stated the warehouse is a former truck repair shop, and the property has been run down for several years.

Rebuttal:

Timothy Janak came forward and stated that he is an attorney and Marc Najjar is his client, and he is the one with the license for the growing facility. Mr. Najjar is purchasing the subject property from Super Moon, LLC which is a real estate company. Mr. Janak stated he is before the Board today for the applicant but at the same time he represents Super Moon, LLC.

Mr. Charney stated that the site plan depicts a fence only on the front of the property, and he asked Mr. Janak if the Board is inclined to approve this request would the applicant object to having a fence around the entire facility. Mr. Janak stated that he and Mr. Najjar have discussed that and have decided to put a fence around the growing facility itself.

Mr. Crall asked Mr. Janak if the fence was just for aesthetic reasons or does it have a purpose? Mr. Janak stated the fence is for security.

Mr. Charney asked Janak if this was a growing only operation and if that was all he was before the Board today to ask for. Mr. Janak answered affirmatively.

Mr. Hutchinson asked Mr. Janak if there were security requirements necessary from OMMA. Mr. Janak answered affirmatively. Mr. Janak stated the fence is required and it is required to be covered, meaning that it can be a chain link fence with a covering through it so there is no visibility to the public.

Mr. Hutchinson asked Mr. Janak if there were security cameras required. Mr. Janak stated that there will be security cameras, but he cannot speak to the exact regulation.

Mr. Hutchinson asked Mr. Janak if there would be semi-trucks coming on to the property to haul out the harvested product. Mr. Janak answered no.

Mr. Johnston asked Mr. Janak about the odors that can be expected for just growing plants. Mr. Janak stated the plant growing will be inside the building; the temperature and lighting is regulated which enhances the growth of the plant. There is no issue of an odor going outside the building. Mr. Johnston asked if there would be any ventilation. Mr. Janak stated there has to be temperature control so to that extent there is ventilation for the plants.

Mr. Janak stated that there are numerous growing facilities on Charles Page Boulevard that are larger than what is being proposed, and a person cannot smell anything while on Charles Page Boulevard.

Mr. Hutchinson asked staff if there would be charcoal filters in the ventilation process. Ms. Tosh stated that there is a requirement for ventilation. Depending on what is used, like CO2 for growing, then the facility must be vented every day. There are filters in place that are part of the requirement for the very reason that there have been multiple complaints regarding odor.

Mr. Charney stated that the pictures of the facility it is an overgrown unsightly facility. Sometimes the Board has granted Variances with the condition that the facility be cleaned up and maintained. Mr. Charney asked Janak what will occur in regard to cleaning up the facility and the maintenance of the facility. Mr. Janak stated the intention is to clean up both the outside and the inside. The building has been abandoned for quite some time and it is believed this will improve the area. The outside grounds will be taken care of so that it no longer looks like a deserted auto repair shop.

Mr. Wilkerson stated the Code stipulates in Section 240 that only allows a 4'-0" tall fence in the street yard, so he is not sure where the street yard is in this context. The

applicant will be limited to 4'-0" in the front yard and eight feet beyond that. The provisions of the Code will not allow a ten-foot fence under any circumstance.

Michael Abboud came forward and stated the neighborhood wants to have the property cleaned up, but who will want to move next door to a mass scale marijuana growing facility in the country? The neighborhood will be better off with the property staying in the condition it is today than to allow this growing facility. This is a bomb being dropped on the property owners around the facility. The house that has been discussed is not right next door to the facility and people could get around whatever security there is. This facility is in the middle of a neighborhood and he asks the Board to deny this request.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 5-0-0 (Charney, Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the request for a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a Commercial General District (Section 710, Table 1), subject to conceptual plan 5.8 of the agenda packet. There must be an eight-foot security fence surrounding the grow facility and any such fencing is to be done in conformity with the Tulsa County Code. The property is to be cleaned up, both the grounds and the building, and it is to be continued after the clean-up in a commercially reasonable manner. The Board has found the hardship being the unusually sized configuration of the tract being surrounded by AG with a portion of the subject tract being AG as it exists today allowing the use being sought as a matter of right. There is to be a three-year time limit on the approval, November 2022. 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:

The West 348.56 feet of the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) of Section One (1), Township Nineteen (19) North, Range Ten (10) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof; LESS AND EXCEPT a tract beginning at a point 24.75 feet East of the Southwest corner of Section One (1); thence East on the South line a distance of 323.81 feet; thence North at right angles to last described course a distance of 112 feet to a point that is the center of Wekiwa Road; thence Westerly on the center line of said road to a point 220 feet North and 25.25 feet East of the Southwest corner of Section One (1); thence South on a line parallel to the West line of said Section One (1), a distance of 220 feet to the point of beginning, LESS AND EXCEPT a tract for highway, described as beginning at the

Northwest corner of the said Southwest Quarter of the Southwest quarter (SW/4 SW/4) thereof; thence East along the North line of the said Southwest Quarter of the Southwest Quarter (SW/4-SW/4) a distance of 348.6 feet thence South a distance of 52.1 feet; thence South 85°52' West a distance of 349.5 feet to a point on the West line of the said Southwest Quarter of the Southwest Quarter (SW/4 SW/4) thence North along the West line a distance of 77.8 feet to the Point of Beginning; AND LESS AND EXCEPT the North 25 feet of Wekiwa Road; AND LESS AND EXCEPT the West 50 feet of the North 797.67 feet, AND LESS AND EXCEPT the West 30 feet of the South 200.00 feet for road and the South 5 feet including any previously dedicated right of way; AND LESS AND EXCEPT the North 601.53 feet to the East 323.81 feet of the West 348.56 feet of the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) of Section One (1), Township Nineteen (19) North, Range Ten (10) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, LESS AND EXCEPT a tract of highway described as BEGINNING at the Northwest corner of the said Southwest Quarter of the Southwest Quarter (SW/4 SW/4) thereof; thence East along the North line of the said Southwest Quarter of the Southwest Quarter (SW/4 SW/4) a distance of 348.6 feet thence South a distance 52.1 feet; thence South 85°52' West a distance of 349.5 feet to a point on the West line of said Southwest Quarter of the Southwest Quarter (SW/4 SW/4); thence North along the West line a distance of 77.8 feet to the Point of beginning; AND LESS AND EXCEPT the West 50 feet for the road, commonly known as 19215 West Wekiwa Road, Sand Springs, OK 74063 (the "Property"), OF TULSA COUNTY, STATE OF OKLAHOMA

2779—Matt Blair

Action Requested:

Special Exception to permit Use Unit 5 (Community Service & Similar Uses) in the RS District (Section 410). LOCATION: 5323 South 65th Avenue West

Presentation:

Matt Blair, 3749 South 63rd West Avenue, Tulsa, OK; stated the subject Jane Adams school building is to be purchased and repurposed for a community hub location. The plans are to be put in a licensed family practice medical clinic, a counseling center, and an urban garden center. There are stipulations in the contract with Tulsa Public Schools that there will not be a public or private education facility. The plan is to also have a fitness center and potentially some life and trade skills for the community development. Hopefully, there will be a sports complex on the ten acres one day. This will offer the ability for people to have services for free, but it will not be a free clinic. This will be a community hub. The highest quality of care will be offered in a community location for anyone or everyone no matter what their socio demographics might be. Clean up on the inside of the building is currently being done and there are some issues with the building not being Code compliant, and this will probably be the most highly



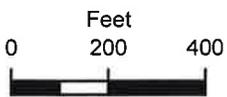
412

412

S 193rd W AVE

W WEKIWA RD

S 196 W AVE



Subject Tract

CBOA-2789

19-10 02

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

3.10





CrossTimbers RV Retreat 20 Pad site Layout

Road (---)

Pad site 

Phase I - Pad sites 1 - 5

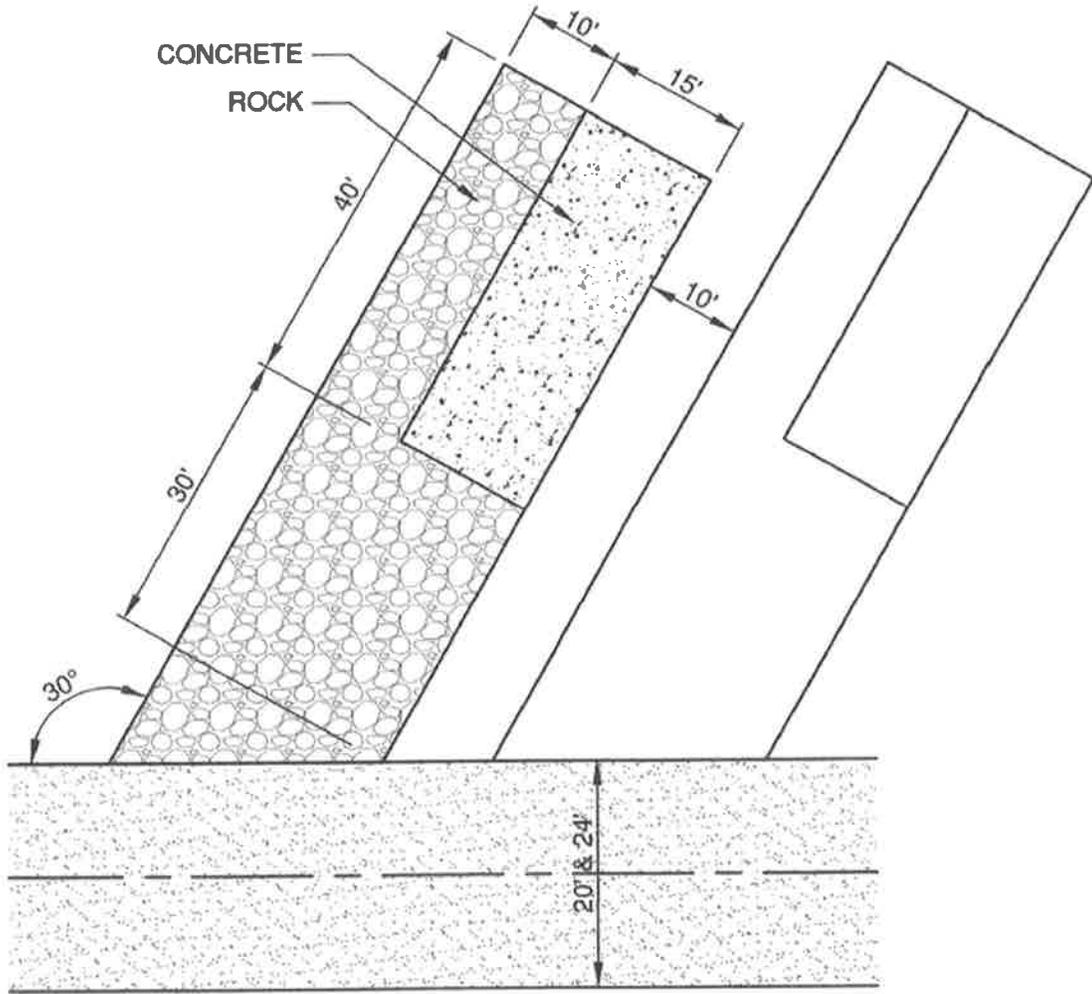
Phase II - Pad sites 6 - 10

Phase III - Pads sites 11 - 15

Phase IV - Pad sites 16 - 20

3.11

CrossTimbers RV Retreat: Padsite and Road Dimensions



Jones, Robi

From: Michael Abboud, CFA <MAbboud@trustok.com>
Sent: Friday, January 3, 2020 10:13 AM
To: Jones, Robi
Subject: RE: Overnight Campground

Robi,
The property does have existing electrical and water on the property but for that portion of it, as it relates to the project, I've spoken with DEQ for septic, AEP on electric and plan to get a permit from the city of Sand Springs for a water tap. I have not moved forward just yet on applying for permits as I wanted to see how the variance hearing goes first. Just let me know if I need to do something otherwise.
Thank you,

Michael Abboud, CFA
Senior Vice President
(918) 744-0553 | Office
(918) 744-5088 | Fax
MAbboud@TrustOk.com
6120 S. Yale Ave., Suite 1900 | Tulsa, OK 74136 | Office
PO Box 3627 | Tulsa, OK 74101 | Mail
www.TrustOk.com



From: Jones, Robi <rjones@incog.org>
Sent: Thursday, January 2, 2020 3:55 PM
To: Michael Abboud, CFA <MAbboud@trustok.com>
Subject: FW: Overnight Campground

Michael,

I am working on your case. The following is from the permit department. If approved, it looks like you will need several permits. Do you already have electrical and water on the property?

Robi

**THIS PAGE
INTENTIONALLY
LEFT BLANK**