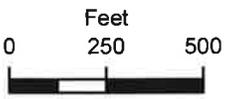


SUBJECT TRACT

11



CBOA-2826

20-13 06

7.1



**TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT**

TRS: 0306
CZM: 22

CASE NUMBER: CBOA-2826
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 07/21/2020 1:30 PM

APPLICANT: Roxanne Burch

ACTION REQUESTED: Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a CH District (Section 1203).

LOCATION: 6155 N PEORIA AV E

ZONED: CH

FENCELINE: Turley

PRESENT USE: Commercial

TRACT SIZE: 1.42 acres

LEGAL DESCRIPTION: LT 4 LESS W25 FOR RD, BUSSMAN SUB

RELEVANT PREVIOUS ACTIONS:

Subject Property: None Relevant

Surrounding Property:

CBOA-872 February 1989: The Board APPROVED a *Special Exception* (Section 910 - Principal Uses Permitted in Commercial Districts - Use Unit 1225) to allow for a machine shop in a CH zoned district, on property located at 6237 N. Peoria Avenue.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts CH zoning to the north, west and south. It abuts RS zoning to the east. Many commercial uses exist along N. Peoria Ave. There is a scattering of residential uses to the east.

STAFF COMMENTS:

The applicant is before the Board requesting a Use Variance to permit Use Unit 3, Agriculture, for a Horticulture Nursery in a CH District (Section 1203).

A Use Variance is required as Use Unit 3, Agriculture, is not a use permitted in a CH zoned district because of the potential adverse effects on neighboring properties. The agricultural use must be found to be compatible with and non-injurious to the surrounding area.

The applicant supplied the following statement: *"Wanting to change from Commercial to Commercial/Agriculture"*.

According to the site plan provided by the applicant, there is an existing building on the south side of the property that will be used for the Horticulture Nursery.

7.2

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure the proposed use of the land is compatible with and non-injurious to the surrounding area.

Sample Motion:

“Move to _____ (approve/deny) a Use variance for Use Unit 3, Agriculture, for a Horticulture Nursery in a CH district (Section 1203).

Approved 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 _____.

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.”



Looking east on N. Peoria Ave. - proposed building is on the right.

Case No. 872

Action Requested:

Special Exception - Section 910 - Principal Uses Permitted in Commercial Districts - Use Unit 1225 - Request a special exception to allow for a machine shop in a CH zoned district, located 6237 North Peoria Avenue.

Presentation:

The applicant, Edward Hyde, 7601 North 174th East Avenue, Owasso, Oklahoma, submitted a plot plan (Exhibit H-1) and asked permission to operate a machine shop on the subject property from 9:00 a.m. to 1:00 p.m., Monday through Saturday. He informed that the shop may occasionally be open from 7:00 a.m. to 4:00 p.m. The applicant explained that a machine shop is presently located next door to the proposed site, with a tire and muffler shop operating to the north.

Comments and Questions:

Mr. Looney asked if the building on the property has previously been used as a machine shop, and the applicant answered in the affirmative.

In response to Mr. Looney's question concerning screening, Mr. Hyde stated that there will be no need for screening because there is no outside storage of materials and all work will be conducted inside the building. The applicant remarked that he will not have employees at this time, and no more than two in the future.

Mr. Jones informed that the Code requires a 6' screening fence on the east property line to protect the residential neighborhood. He pointed out that the commercially zoned property to the north is developed residential, and the Board could require screening along that boundary if they find it appropriate.

Mr. Walker asked if deliveries will be made to the machine shop, and Mr. Hyde replied that his pickup is used for all deliveries.

In answer to Mr. Looney, the applicant informed that a lathe and mill will be the types of equipment used in the business.

Protestants:

Jo Fletcher, 6228 North Quincy, Tulsa, Oklahoma, stated that her house is directly behind the existing machine shop and is opposed to the noise and debris on the lot. She pointed out that the scrap metal poses a danger for the children in the neighborhood and provides a breeding place for rodents. Ms. Fletcher pointed out that the business south of the machine shop has installed a solid screening fence, beginning at the southwest corner of her property and extending to the south.

Case No. 872 (continued)

Mr. Looney asked the protestant if a continuance of the screening across the rear property line of the subject tract would alleviate her concerns, and she answered in the affirmative.

Mr. Tyndall asked Ms. Fletcher if she is opposed to the stated hours of operation, and she replied that she is in agreement with the hours that Mr. Hyde has mentioned. She informed that the existing shop opens early in the morning and is very noisy, with the employees talking loudly to be heard over the noise of the machines. Ms. Fletcher remarked that their voices can be heard inside her home and some of the machines make a high pitched noise that is very annoying.

There was discussion concerning screening of the residences in the CH Zone to the north.

Mr. Hyde remarked that he is leasing the property in question and is not sure the owner will install a screening fence. He explained that he will be forced to move to another location if that condition is imposed and the owner refuses to construct the fence.

Mr. Jones and Mr. Fields agreed that, although the existing machine shop is a nonconforming use, any new action on the property would then, according to the Code, require a 6' solid screening fence along the entire east property line.

Board Action:

On **MOTION** of **WALKER**, the Board voted 3-0-0 (Looney, Tyndall, Walker, "aye"; no "nays"; no "abstentions"; Alberty, Eller, "absent") to **APPROVE** a **Special Exception** (Section 910 - Principal Uses Permitted in Commercial Districts - Use Unit 1225) to allow for a machine shop in a CH zoned district; subject to the installation of a 6' solid screening fence along the entire east property line; subject to no outside storage of materials; limiting the hours of operation from 7:00 a.m. to 4:00 p.m., Monday through Saturday; finding that there is a machine shop in operation next door to the subject tract, and the granting of the request will not be detrimental to the area; on the following described property:

Lot 7, Bussman Addition, Tulsa County, Oklahoma.



Subject
Tract

CBOA-2826

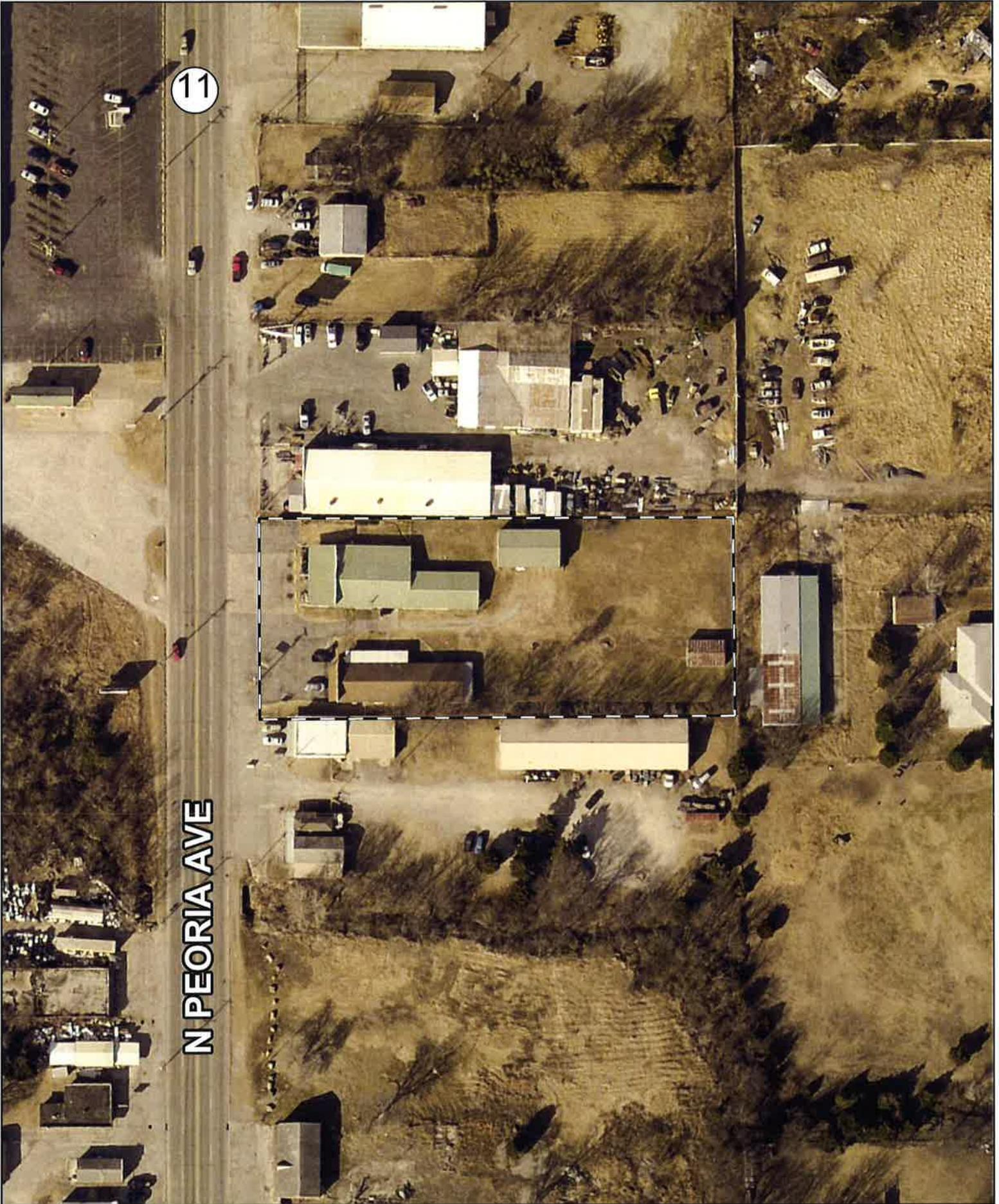
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Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

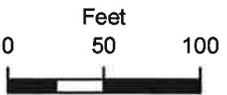
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N PEORIA AVE



 Subject Tract

CBOA-2826

20-13 06

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

Aerial Photo Date: February 2018 7.8





Owner

BURCH THOMAS DEAN AND ROXANNE

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