

**TULSA COUNTY BOARD OF ADJUSTMENT  
CASE REPORT**

**TRS:** 9206

**CASE NUMBER:** CBOA-2831

**CZM:** 35

**CASE REPORT PREPARED BY:** Robi Jones

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

**APPLICANT:** Kenneth Johnson

**ACTION REQUESTED:** Use variance to allow use unit 25, Light Manufacturing Industry, in an AG district (Section 1225)

**LOCATION:** 7703 W 7 ST S

**ZONED:** AG

**FENCELINE:** Sand Springs

**PRESENT USE:** AG/Com/Industrial

**TRACT SIZE:** 50.63 acres

**LEGAL DESCRIPTION:** TR 2 W984.24 E1916 SW LESS S770 E368 & LESS W210 E1510 S520.65 SEC 6 19 12 50.63AC,

**RELEVANT PREVIOUS ACTIONS:**

Subject Property:

BOA-9792 December 1977: The Board APPROVED a *Special Exception* to permit a construction/demolition landfill in an AG district, on property located at 7703 W. 7<sup>th</sup> St. S.

Surrounding Property:

CBOA-2766 September 2019: The Board DENIED a *Use Variance* to permit Use Unit 3, Agriculture, in a residential neighborhood, on property located at 451 South 74<sup>th</sup> West Avenue.

**ANALYSIS OF SURROUNDING AREA:** The subject tract is located in an AG district and abuts AG zoning on the west, north, and east. There are three additional parcels to the east that are zoned RS with what appear to be residential uses. The parcels to the south are zoned CS and are within the corporate limits of Sand Springs. Surrounding uses appear to be single-family residential on large lots with some agricultural and commercial uses as well.

**STAFF COMMENTS:**

The applicant is before the Board requesting a *Use variance* to allow use unit 25, Light Manufacturing Industry, in an AG district (Section 1225)

A *Use Variance* to allow Use Unit 25, Light Manufacturing Industry, for Industrial Light uses is required as Use Unit 25 is not allowed by right in an AG district. Section 1225.1 describes Light Manufacturing Industry:

12.2

Light manufacturing and industrial uses having slight or no objectionable environmental influences by reason of the emission of odor, heat, smoke, noise, or vibration. The following use conditions will apply:

#### 1225.3 Use Conditions

- A. The uses included in Use Unit 25, which are located within 300 feet of an R District, shall be conducted with enclosed buildings. The use will be conducted within an enclosed building.
- B. The uses included in Use Unit 25, when located on a lot which is abutting an R District, shall be screened from the abutting R District, by the erection and maintenance of a screening wall or fence along the lot line or lines in common with the R District. The site plan shows a fence.

The applicant has supplied the following statement of hardship: "Requesting Use Variance for light industrial. Purpose to process our cannabis crop. I am asking that this be considered. Tulsa County Tax Assessor has already adjusted tax bracket from AG to AG/Commercial/Industrial due to fencing at grow (facility) for this reason, I ask you to approve this request."

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

#### Sample Motion:

"Move to \_\_\_\_\_ (approve/deny) a Use variance to allow use unit 25, Light Manufacturing Industry, in an AG district (Section 1225).

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 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.

septic and water installed on the west remaining five acres that they own. There is a 20'-0" wide driveway that leads to the property. Later his in-laws sold the 2 ½ acres with the house which is on the northeast portion of the property in question; they kept the five acres on the west rear portion and placed a travel trailer on it so they could stay in it when they visited. Now that the in-laws are in their 80's they would like to move back to Collinsville to be close to family. After purchasing a mobile home and applying for a permit they discovered that the easement requirement is 30'-0", so they would like approval for the existing 20'-0" easement.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Dillard stated that he has no problem with the request because 20 feet is wide enough to get in and out of the property. It is when the family goes to sell the property the vendor is going to want a 30-foot easement.

**Board Action:**

On MOTION of HUTCHINSON, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to APPROVE the request for a Variance of the minimum frontage requirement on a public street/dedicated right-of-way from 30 feet to 0 feet in the AG District (Section 207). The Board has found the hardship to be that the property is five acres and the 20-foot easement has been in existence for numerous years. 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:

S/2 NW NE SE SEC 13 22 13 5.00ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2766—Michael Parrish

**FILE COPY**

**Action Requested:**

Use Variance to permit Use Unit 3, Agriculture, in a Residential District (Chapter 4, Table 1). LOCATION: 451 South 74<sup>th</sup> West Avenue

**Presentation:**

**Michael Parrish**, 449 South 74<sup>th</sup> West Avenue, Tulsa, OK; stated the house he lives in and the structure next to it were built in 1955. The building next door was a casino in the 1950s and the 1960s. Last year he received a permit to raze a portion of the old

*CBOA - 2766*

**FILE COPY**

casino and to use the remaining structure for a greenhouse; the remaining portion is a concrete block walled structure.

Mr. Hutchinson asked Mr. Parrish if he stated that he had a house on the property. Mr. Parrish answered affirmatively; his house address is 449 and the concrete block structure is 451.

Mr. Hutchinson asked Mr. Parrish if he wanted to have a greenhouse in the subject building. Mr. Parrish answered affirmatively and stated he has a permit for that and has had the permit for over a year.

Mr. Parrish stated that he has the only house on the street. Mr. Parrish presented photographs of the subject property showing what it looked like before he razed a portion of the subject building.

Mr. Hutchinson asked Mr. Parrish if the greenhouse would be for commercial operation. Mr. Parrish answered affirmatively.

Mr. Hutchinson asked Mr. Parrish about the utilities. Mr. Parrish stated there is a septic tank, there is a water meter for his house that is located 3 ½ blocks away on 73<sup>rd</sup> Street and he has repaired it several times. In order to have the greenhouse he will need to drill a well.

**Interested Parties:**

**Amy McAllister**, 416 South 73<sup>rd</sup> West Avenue, Tulsa, OK; stated she is representing her family and the property that Mr. Parrish labeled as the place with a lot of junk; she takes offense to that because it is her livelihood. Her family owns a lot of property in the area and have for many years, so there are plans for the property for family. Ms. McAllister stated that the main issue with this request is the water. The water meters provide very low pressure and having a greenhouse would make it difficult for the City to provide water. Ms. McAllister stated she is a custom home builder and she has built two houses about a mile north of the subject property, and she has installed two water wells, and both have collapsed. Her concern over water is warranted over this type of project. She is also concerned about the resell value of the property within a ten-mile radius because there is a school and very expensive houses in the area and having a commercial greenhouse in the area is a concern. Ms. McAllister stated she is in strong opposition to this request.

Mr. Hutchinson asked Ms. McAllister how close the school is to the subject property. Ms. McAllister stated that it is two miles northwest of the subject property.

**Rebuttal:**

**Michael Parrish** came forward and stated water is a problem for the area; he has the last water meter on the line, and he has had to repair leaks three times. Mr. Parrish stated there is an operating commercial greenhouse that is on the west side of his property.

*CBDA - 2766*

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**Comments and Questions:**

Mr. Crall stated that he has concerns about the request being inside a residentially zoned district.

Mr. Hutchinson stated that he has a concern with the project being on a piece of property that is zoned RS.

Mr. Dillard stated his concerns are that there is no water, no sewer, no public utilities, the property has been neglected, and he cannot see changing the zoning when the applicant has not been in compliance with the RS zoning, so he cannot support this request.

**Board Action:**

On MOTION of DILLARD, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Johnston "aye"; no "nays"; no "abstentions"; Charney "absent") to DENY the request for a Use Variance to permit Use Unit 3, Agriculture, in a Residential District (Chapter 4, Table 1) finding this would be injurious to the neighborhood; for the following property:

PRT SW BEG 1710S & 931.76W NEC SW TH N109 E345 S109 W345 POB LESS BEG 1710S & 741.76W NEC SW TH E155 N109 W155 S109 POB SEC 6 19 12 .47AC; PRT SW BEG 1710S & 741.76W NEC SW TH E155 N109 W155 S109 POB SEC 6 19 12 .38AC, OF TULSA COUNTY, STATE OF OKLAHOMA

**2768—Madison Freeman**

**Action Requested:**

Variance of the side setback from 15 feet to 10 feet in an AG District (Section 330, Table 3). **LOCATION:** 5710 East 96<sup>th</sup> Street North

**Presentation:**

**Madison Freeman**, 4021 Old Shawnee Road, Muskogee, OK; stated there was an old, old existing building on the property that was close to the ten feet from the setback. There is a portion that sticks out on the north side of the building and sticks out too far into the backyard. That portion cannot be moved forward because it would not allow enough space between the house and the building, and there is a huge tree that does not allow it to be moved backward.

Mr. Hutchinson asked Mr. Freeman if the old building had been razed. Mr. Freeman answered affirmatively.

**Interested Parties:**

There were no interested parties present.

9790 (continued)

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 3-0 (Guerrero, Jolly, and Walden "aye", Smith "out", Purser "absent") approved the Variance (Section 1460 - Repairs - Under the Provisions of Section 1670) to enclose a porch on a detached garage; and upheld (the Appeal Section 1650 - Appeals from the Building Inspector) a decision of the Building Inspector for refusing to permit the remodeling of a garage on the basis that the cubic content of a nonconforming building may not be altered or increased on the following described tract:

Lot 123 of the Resubdivision of Lots 1 to 10, Block 2, Rogers Heights Addition to the City of Tulsa.

9791

Action Requested:

Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) of the setback requirements from 100' to 91' to permit an addition to the present building in a CG District located at 2648 North Cincinnati Avenue.

Presentation:

The applicant George Bell, 2344 West Tecumseh, advised that he operates a restaurant at the subject location and wishes to make an addition to the restaurant. A 9' variance in the setback is needed. Mr. Bell stated that he is proposing to increase the kitchen area of the restaurant. The applicant submitted a plot plan (Exhibit "K-1") showing the present and proposed structure.

The Staff submitted a correspondence (Exhibit "K-2") from the owners of the restaurant stating that the addition would be an asset to the restaurant as well as encourage investment.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 4-0 (Guerrero, Jolly, Smith and Walden "aye", Purser "absent") approved the Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) of the setback requirements from 100' to 91' to permit an addition to the present building, per plot plan submitted on the following described tract:

Lot 1, Block 1, Archer Heights Addition to the City of Tulsa Okla.

9792

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1202 - Area-Wide Exception Uses) for an exception to permit a construction/demolition land-fill in an AG District located at 7703 West 7th Street.

12.15.77:250(17)

12.7

9792 (continued)

Presentation:

The applicant Ted Rauch was not present, but was represented by Charles Rauch, 1543 East 49th Place, who requested an exception to locate a demolition land-fill in the 7700 Block of West 7th Street. Mr. Charles Rauch advised that materials going into the land-fill will be that of dirt, rocks, tree materials, but no organic matter. He stated that the proposed land-fill is an abandoned rock quarry and the roads will be maintained with rock from the abandoned quarry. The hours of operation will be from 8:30 a.m. until approximately 6:00 p.m., and closed on Sundays. Mr. Rauch informed that the entrance will be from the expressway at 81st then north to 7th Street. Mr. Rauch submitted an Engineering Report for a Demolition Land-fill (Exhibit "L-1") at the subject location and advised that he has received a letter from the Tulsa City-County Health Department recommending the proposed site. He added that the Health Department suggested watering down the roads to prevent dust problems. Mr. Rauch submitted an application (Exhibit "L-2") of which he has applied for a license for construction and demolition of the land-fill, also correspondence from the Oklahoma State Department of Health informing of the items to be included in the engineering report for a construction/demolition type solid waste disposal site. He also submitted a proposed demolition land-fill plan (Exhibit "L-3") showing the site of the land-fill on the subject property.

The Staff submitted a copy of the correspondence (Exhibit "L-4") given the applicant listing the operation requirements for a sanitary land-fill.

Protests: None.

Board Action:

On MOTION of WALDEN, the Board 4-0 (Guerrero, Jolly, Smith and Walden "aye", Purser "absent") approved the Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1202 - Area-Wide Special Exception Uses) to permit a construction/demolition land-fill in an AG District subject to the plot plan and all other standards submitted on the following described tract:

The North 1,000' of the South 2,049' of the West 500' of the East 3,916' of the East 1,916' of the SW/4 of Section 6, Township 19 North, Range 12 East, Tulsa County, Oklahoma.

9793

Action Requested:

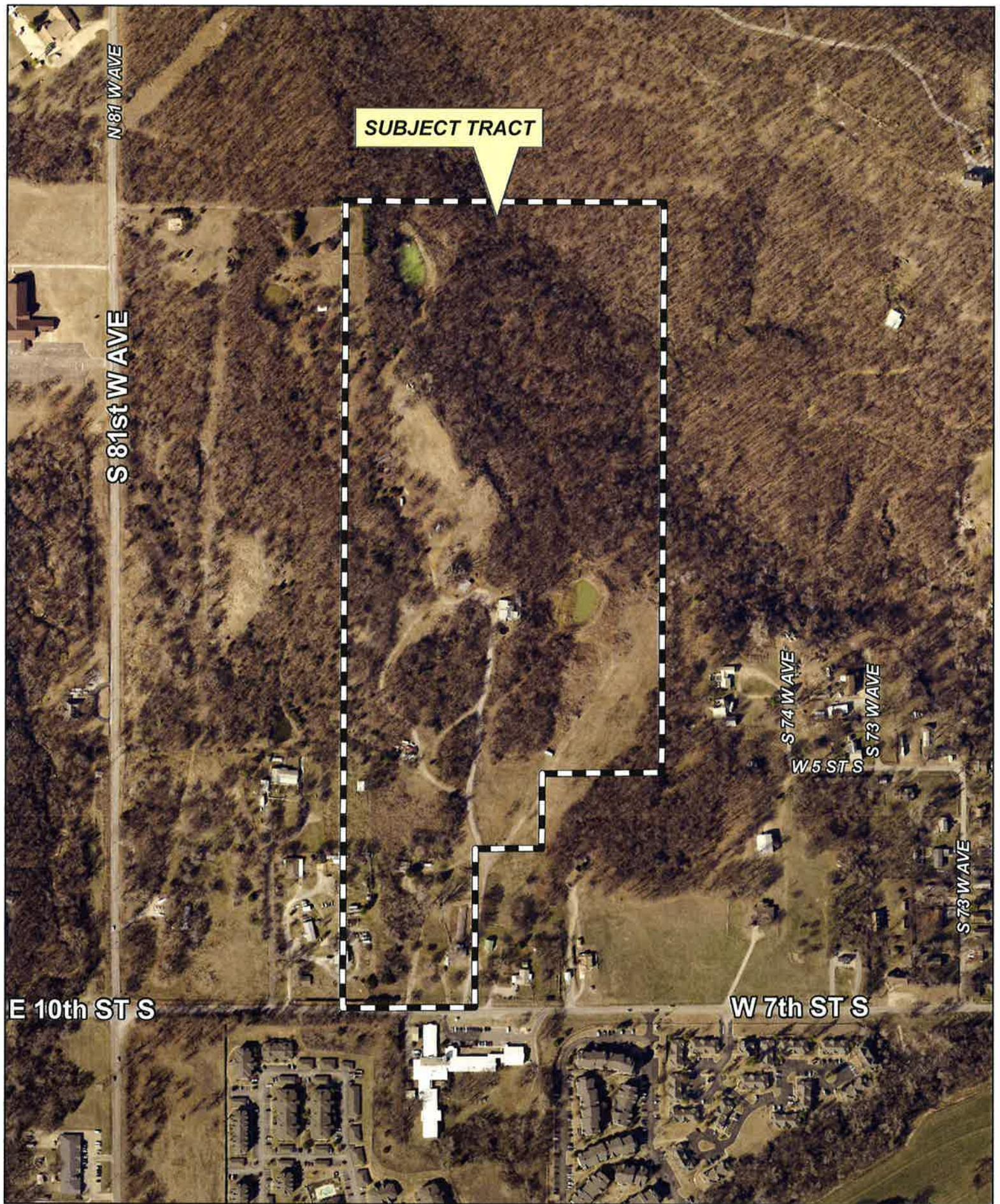
Variance (Section 630 - Bulk and Area Requirements in the Office Districts - Under the Provisions of Section 1670) of the Bulk and Area Requirements in an OM and OL District to permit computation of permitted floor area on the entire tract in common ownership located on the Northeast corner of 66th Street and Yale Avenue.

Presentation:

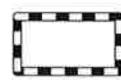
Attorney Roy Johnsen, representing the Warren Interest, requested a variance of the 21-acre site located south of St. Francis and north of 66th Street which contains the Warren and Kelly Medical buildings

12.15.77:250(18)

12.8



0      Feet  
200      400



Subject  
Tract

**CBOA-2831**

19-12 06

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

Aerial Photo Date: February 2018

12.9



① Building 1 24x34 (Industrial) TAX INCREASE 50% AG / 50% IND.  
USE Pest Control office / Farm / Product Storage  
Proposed 12x18' Room for Processing

EAST Fence line 40'  
West Fence line 362'  
SOUTH Fence line 210'  
NORTH Fence line 2325'

② Building 2 Barn / Farm Storage (Industrial) TAX INCREASE 50% AG / 50% INDUSTRIAL  
24x36

EAST Fence 150'  
WEST Fence 280'  
SOUTH Fence 210'  
NORTH Fence 2325'

③ 100x270' Fence in Area (Grow) (Industrial)  
Fence 8' tall x 3 strands B.Wire Top x 9 Gauge  
TAX INCREASE 100% INDUSTRIAL

④ 24'x108' HoopHouse (Grow)  
100% TAX INCREASE (INDUSTRIAL)

⑤ Building 4  
24x30  
USE Barn / Storage (Agriculture)

⑥ Building 5  
40x70 Home

# PLAT OF SURVEY

A TRACT OF LAND LOCATED IN THE SW $\frac{1}{4}$  OF SECTION 6, TOWNSHIP 19 NORTH, RANGE 12 EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF.

