

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 938
Tuesday, July 25, 2006, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham
Henke, Chair
Stead, Vice Chair
Stephens
Tidwell, Secretary

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, July 21, 2006, at 10:25 a.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Chair Henke called the meeting to order at 1:00 p.m.

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

MINUTES

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (Dunham, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; "absent") to **APPROVE** the Minutes of July 11, 2006 (No. 937).

UNFINISHED BUSINESS

Case No. 20297

Action Requested:

Special Exception to permit (Use Unit 17) Automotive Sales in a CS district (Section 701); and a Variance to permit open air storage and display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2), located: 10875 East Admiral Place.

Presentation:

Mr. Cuthbertson informed the Board the applicant made an untimely request for a continuance to the meeting on August 22, 2006.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20297 to the meeting on August 22, 2006, on the following described property:

E/2 E/2 W/2 LT 1 SEC 6 19 14, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20304

Action Requested:

Special Exception to modify the height of a fence in the required front yard to 6 ft. (Section 210.B.3), located: 2748 South Utica Avenue East.

Presentation:

Mr. Cuthbertson informed the Board that the applicant withdrew this case.

Board Action:

No action was required, on the following described property:

LT 19, ROCKBRIDGE PARK, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20311

Action Requested:

Verification of spacing requirement for a family day car home, located: 1626 East 31st Place North.

Presentation:

Mr. Cuthbertson informed the Board that the applicant has not taken care of the administrative defect, but she said that she would. She asked for another continuance.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20311 to the meeting on August 22, 2006; and Mr. Dunham stated he would be opposed to any further continuance on this case, on the following described property:

LT 10 BLK 2 , CUL-DE-SAC LANE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

Case No. 20293

Action Requested:

Reconsideration of: a Special Exception to permit a Bed and Breakfast (Use Unit 2) in an RS-3 district (Section 401); a Variance of the requirement that no required parking space may be accessed through another (Section 1301.F); and a Variance of the parking area dimensions for the width of a parking space from 8' 6" to 8' and for the width of a drive aisle from 24' to 13' (Section 1303.A), located: 1521 East 21st Street.

Mr. Cuthbertson informed the Board that the variances were on the agenda but the site plan has been modified such that the variances are not necessary.

Presentation:

Stephen Schuller reiterated that the variances are no longer needed to meet that part of the zoning code. He assured the Board that all of the zoning code requirements will be met under Section 1202.C.8. They will maintain a registry for three guest rooms only. There will be no cooking facilities in the guest rooms, no public restaurant; and meals will be served only to guests of the inn. He mentioned the sign they designed is 16" x 18", as shown in the agenda packet. They have not sought approval for rental of the structure for special events. They plan to limit the parking to three guest vehicles only. A site plan was provided (Exhibit H-1). A sprinkler system was installed. There is also a basement storm shelter. Mr. Schuller stated that Mrs. Mobbs is a health care professional with experience in first aid and certified in CPR.

Comments and Questions:

Ms. Stead verified the sign would not be illuminated. Mr. Stephens wanted to establish that any vehicle with a double axle would be prohibited there.

Interested Parties:

Greg Jennings, 2260 South Troost, stated he was in support of the application. He considered this to be an ideal location for a bed and breakfast, near a park, the river, and two major hospitals. He noted the remodeling maintained the historic nature of the neighborhood.

Chip Adkins, 1638 East 17th Place, President of the Swan Lake Neighborhood Association, stated they are in support of the application. They asked that the special exception be approved for this owner only.

Mr. Ackermann, City Legal Department, responded that the special exception runs with the property not the owner.

Applicant's Rebuttal:

Mr. Schuller understood the exception runs with the land.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a Bed and Breakfast (Use Unit 2) in an RS-3 district (Section 401), with conditions: to limit to three guest rooms, other provisions in 1202.C.8 apply; the sign limited to two square feet of display surface and no illumination; no special events such as weddings, receptions as defined in 1202.C.8; oversized vehicles such as RV's or trailers are prohibited; subject to the parking plan as submitted today; approval of the special exception for a period of five years, finding it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

W. 64 E. 191.13 OF LT 4 BLK 28, PARK PLACE, City of Tulsa, Tulsa County,
State of Oklahoma

NEW APPLICATIONS

Case No. 20283

Action Requested:

Special Exception to permit an increase of a fence height in the required front yard from 4 ft. to 6.5 ft. (Section 210.B.3), located: 8146 East 14th Street South.

Ms. Stead recused herself from Case No. 20283.

Presentation:

Robert Haddox, 8146 East 14th Street, wanted to get his property in compliance with the zoning code. He began reducing the height of the pillars to his fence and he stated he needs help to finish the project. He needed more time to finish the job.

Comments and Questions:

Mr. Dunham commented that the applicant is asking for nine months to reduce the height of the fence.

Interested Parties:

Hank Brandt, 8937 East 15th Street, President of the Mingo Valley Homeowner's Association, submitted photographs of the subject property (Exhibit A-2). He expressed concern that drivers cannot see clearly at the corner because of the fence. He thought nine months was a little too long and he suggested the fence could be lowered in six months.

Al Nichols, 8525 East 16th Street, stated he is on the Board of Directors of the Mingo Valley Homeowner's Association. He submitted a photograph (Exhibit A-1) of the corner of 14th Street looking east, showing the interference of the driver's vision.

Leta Cosby, 8705 East 21st Street, was pleased to hear the applicant is going to comply with the zoning code.

Greg Jennings, 2260 South Troost Avenue, stated he does not like front yard fences. He would prefer to see wrought iron fences in a front yard because you can see through them. He added that even at four feet it can obstruct the view.

Jim Mautino, with Tower Heights Neighborhood, agreed that six months is enough time to lower the fence.

Applicant's Rebuttal:

Mr. Haddox stated he has large dogs and they have had two burglaries. He was willing to reduce the fence to 4 ft. in height in six months. Mr. Stephens asked if the fence was in place when he purchased the property. Mr. Haddox replied that he had the fence built after he purchased the property. Mr. Stephens noted that neither 14th Street nor 83rd Avenue is an arterial and he did not believe they would have a lot of traffic on either street.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-1 (Dunham, Stephens, Henke, Tidwell "aye"; no "nays"; Stead "abstained"; no "absences") to **DENY** a Special Exception to permit an increase of a fence height in the required front yard from 4 ft. to 6.5 ft. (Section 210.B.3), and the Board gave the applicant six months from July 25, 2006 to come into compliance with the zoning code, finding the conditions have not been met, on the following described property:

E138 LT 8 BLK 10, FOREST ACRES, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20305

Action Requested:

Special Exception to permit a public park (Use Unit 2) in a CO district (Section 801), located: 7600 South 103rd East Avenue.

Presentation:

Greg Warren, 1710 West Charles Page Boulevard, stated he is the Data Resource Manager for the Tulsa Parks Department. The Cancer Treatment Centers of America moved in next door and they contacted his department about improvements to the park. His department acquired the park through a storm water buy out and it has not been used for many years. Mr. Warren stated that access to the park would be through a mutual access agreement with the Cancer Treatment Center. They proposed simple improvements, such as: walking trails; bridges over the creek; shelters; and a splash pad. A Master Plan design was provided (Exhibit B-1).

Comments and Questions:

Ms. Stead recognized the plan is conceptual but she asked for some assurance there will be some sidewalks, and trail lighting. Mr. Warren replied there would be sidewalks, trails through the park and two bridges, and they would put in some lighting in the future. She asked for a copy of the access or easement agreement. He replied that it has been done but he did not submit the agreement. He stated there would not be any access from Mingo. Mr. Alberty noted there appeared to be some access to the north of the property. Mr. Warren replied access from the north was vacated.

Interested Parties:

Jarred Mendenhall, Superintendent of Union Public Schools, 5656 South 129th Street, stated appreciation for the conceptual drawing.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a public park (Use Unit 2) in a CO district (Section 801), limiting the area involved to a conceptual plan, Master Plan Design submitted today; and access will be through the Cancer Treatment Center in accordance with the access agreement; the City to furnish the access agreement to INCOG staff; and no access from the northern or western boundary; finding it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

PRT LT 4 BEG SWC TH N330 E305 S330 W305 POB BLK 1, PRT NE SW BEG
NEC NE SW TH S904.51 W699.28 N494.51 W620.01 N410 E1319.30 POB SEC
7 18 14 20.356ACS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20306

Action Requested:

Special Exception to permit Church use in an AG district (Section 301), located:
12121 East 41st Street South.

Presentation:

Nicole Peltier, 10830 East 45th Street, Suite 204, DeShazo, Tang and Associates, represented the Church of the Holy Spirit Anglican. They purchased the property with an existing house and barn. The house would be office space and the barn will be remodeled for the church sanctuary. The parking lot will actually be smaller than the site plan (Exhibit C-1) submitted. The access will only be from 41st Street and they will leave a large buffer to the north where there is a drainage swale. They plan to build a six foot privacy fence abutting the RS-3 district. They do not plan for any additional buildings. There will be no loud, live music late in the day. They will have Sunday and Wednesday traffic that will not be during peak traffic hours.

Comments and Questions:

Ms. Peltier replied to questions from the Board, stating they will re-plat the property. The privacy fence would probably be wood and it would be along the parking lot. The plan indicated 110 parking spaces but they are reducing it to 90 parking spaces.

Interested Parties:

Jared Tilson, 12020 East 39th Street, stated he lives directly behind the property. He was only concerned about the drainage area behind the barn, as it is subject to flooding when it rains hard. The Board members explained that the Board does not deal with the drainage issues.

Don Hughes, 3914 South 122nd East Avenue, stated the drainage problems are bad.

Two email letters were received, one in support and one stating concerns regarding this application (Exhibit C-2).

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit Church use in an AG district (Section 301), per plan with the exception that the parking lot will provide 90 parking spaces instead of 110 as shown on the plan; finding it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Mr. Henke asked if there was any discussion of the motion. Ms. Stead asked for the inclusion of a condition for a wood screening fence to be constructed to the RS-3 district.

Mr. Dunham **Amended** the above **Motion** to include a condition specifically for a wood screening fence to be constructed between the parking lot and RS-3 district, on the following described property:

THE EAST HALF (E/2) OF THE SOUTHEAST QUARTER (SE/4) OF THE SOUTHEAST QUARTER (SE/4) OF THE SOUTHWEST QUARTER (SW/4) LESS AND EXCEPT THE SOUTH 33 FEET FOR STREET, IN SECTION TWENTY (20), TOWNSHIP NINETEEN (19) NORTH, RANGE FOURTEEN (14) EAST, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA., DESCRIBED BY METES AND BOUNDS AS FOLLOWS: COMMENCING AT A FOUND BRASS CAP AT THE SOUTH QUARTER CORNER OF SAID SECTION 20, THENCE N 01°27'45" W ALONG THE EAST LINE OF SAID E/2 A DISTANCE OF 33.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 01°27'45" W ALONG SAID EAST LINE A DISTANCE OF 626.69 FEET TO THE NORTHEAST CORNER OF SAID E/2; THENCE S 88°50'19" W ALONG THE NORTH LINE OF SAID E/2 A DISTANCE OF 330.20 FEET TO THE NORTHWEST CORNER OF SAID E/2; THENCE S 01°27'29" E ALONG THE WEST LINE OF SAID E/2 A DISTANCE OF 626.72 FEET TO A POINT ON THE WEST LINE SAID E/2; THENCE N 88°49'57" E ALONG A LINE 33.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID E/2 A DISTANCE OF 330.24 FEET TO THE POINT OF BEGINNING. CONTAINING 5.0 ACRES, MORE OR LESS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20307

Action Requested:

Special Exception to permit a cell tower in an AG district (Section 301); and a Special Exception to reduce the setback from an adjoining R district (Section 1204.C.3.g.1), located: 8410 South Sheridan Road.

Presentation:

Peter Kavanaugh, 1620 Handley Drive, Dallas, Texas, with Verizon Wireless, stated there is an existing 250 ft. tower on the property and Verizon considered that tower and found they could not use the structure because it does not meet FCC regulations for their antennas. He submitted a photograph of the existing tower (Exhibit D-1). He proposed to build a 120 ft. monopole tower adjacent to the other tower. There would not be any lights on the monopole. He submitted coverage maps (Exhibit D-2) to show the need for this tower. This tower would not have any noise or interfere in any other types of telecommunications. It would be available for collocation.

Comments and Questions:

Ms. Stead asked about the distance to the residential district. Mr. Kavanaugh replied it would be 60 ft. from the nearest residential property line. It is heavily wooded in that area. She noted a children's center for a church is located nearby and she asked if they could build a brick wall like they agreed to do on a school yard in a recent case. She asked about additional screening that might be required. Mr. Cuthbertson stated that according to the code they are required to

provide screening on any boundary of the utility yard that is within a certain distance of a residential district. The literal interpretation would require a screening fence on the western and northern sides. She asked if they could also add the expanded metal wire on top of the wall and a wrought iron gate. Mr. Kavanaugh replied they could do the wrought iron gate.

Mr. Stephens out at 2:15 p.m.

Interested Parties:

Mark Peatridge, attorney with the Hall, Estill Law Firm et al, 320 South Boston, Suite 400, represented Mr. and Mrs. Tippeconnic.

Mr. Stephens returned at 2:17 p.m.

Their property is adjacent to the north of the subject property. He questioned if a new tower would be in harmony with the spirit and intent of the code. The existing tower was there when they developed the neighborhood. He commented that it was an exclusive neighborhood. He submitted three affidavits (Exhibit D-3). He referred to Section 1204 of the zoning code is to protect the residential districts; encourage new tower construction in non-residential areas; and to encourage collocation.

Mr. Dunham out at 2:24 p.m.

Mr. Peatridge submitted photographs (Exhibit D-4) of homes in the neighborhood and the existing tower.

Mr. Dunham returned at 2:26 p.m.

Mr. Peatridge indicated that just because there is an existing tower does not mean there should be another tower.

Linda Tippeconnic, 8433 South Kingston Avenue, stated they built their home after the existing tower was in place because they felt the land was worth it. They wanted to build on the hill and not to disturb the natural surroundings any more than necessary. She stated that they have contacted the tower owners in the past because there were loose pieces on the tower that made noise when the wind blew. The neighborhood works to preserve the natural state of the area as much as possible.

Nadine Barton, 6609 East 86th Place, stated she lives in Chimney Hills. She opposed the original tower. At that time all of the towers were in non-residential areas. She opposed the application.

Kevin Morris, 9810 East 85th Street, asked what the maximum number of towers allowed is.

Ron Wuerch, P.O. Box 700778, Tulsa, Oklahoma, stated his company is under contract to handle the development and marketing of Sheridan Oaks Estates. He stated that he has found the existing tower makes an impact on the sale of surrounding properties.

Greg Jennings, 2260 South Troost Avenue, submitted a photograph of a cell tower that resembles a pine tree (Exhibit D-1) in comparison to the design of the existing tower. He stated the cell towers are polluting the skyline and landscape of the Tulsa area. He added he would rather see a tower like he proposed than the existing tower.

Dave Tippeconnic, 8433 South Kingston Avenue, stated the wireless company has alternative tower designs.

Applicant's Rebuttal:

Mr. Kavanaugh responded that there are no health related issues or radio frequency issues caused by a cellular tower.

The Board members discussed the need for more information regarding reasons they cannot collocate on the existing tower. They discussed the need for camouflage of the towers near residential districts and for location sites in non-residential areas.

Mr. Ackerman referred to Zoning Code Section 1204.C.5.a.6 regarding the design of the tower having characteristics that reduce or eliminate visual obtrusiveness. This provides for consideration of alternatives to the design. Section 2 refers to the proximity to existing towers also.

Mr. Dunham asked the applicant how long it would take for them to provide proof that they cannot collocate on the existing tower and to offer alternative designs. Mr. Kavanaugh replied they would need until the meeting on August 22, 2006.

Mr. Dunham recognized Mr. Peatridge to speak. Mr. Peatridge objected to a continuance, in that they did not meet the requirements of the zoning code. He added that they have not shown they are entitled to a special exception.

Mr. Alberty suggested that in interpreting the FCC regulations, the fact there is already an existing tower, the Board does not have any obligation to approve another tower in this location. They have met the obligation to provide one carrier with this location. To construe that the FCC requires the public to be served does not stretch it to give a competitive advantage to anyone else. The existing tower was tested in district court and was granted approval. The fact that it may or may not serve other carriers is a moot point.

Board Action:

On **Motion** of **Stead**, the Board voted 4-1-0 (Dunham, Henke, Stead, Tidwell "aye"; Stephens "nay"; no "abstentions"; no "absences") to **DENY** a Special Exception to permit a cell tower in an AG district (Section 301); and a Special Exception to reduce the setback from an adjoining R district (Section 1204.C.3.g.1), finding the R district is within 60 ft. of the existing tower upon which there are antennas and a second tower would be injurious to the neighborhood, on the following described property:

S/2 SW SE NE & SE SE NE LESS BEG SECR SE SE NE THN610.05 W146.61
SW82.14 SW404.29 SW206.92 E499.63POB SEC 15 18 13 10.335AC, City of
Tulsa, Tulsa County, State of Oklahoma

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Case No. 20310

Action Requested:

Special Exception to permit a Cell Tower (Use Unit 4) in an AG district (Section 301); and a Special Exception to modify the setback requirement from an AG district to permit a 100 ft. monopole tower (Section 1204.C.3.g.1), located: Southwest corner of North Delaware Avenue and East 46th Street North.

Presentation:

Lou Reynolds, 2727 East 21st Street, Suite 200, stated the property to the west is AG, all in a flood plain and the elevation drops steeply downhill, therefore there is no other spot on the property for a tower. He added they are set back more than 110% from R-zoned property. The setback is for the AG property to the west that is under common ownership and cannot be developed. He submitted an affidavit (Exhibit I-1) from the Verizon engineer verifying there is no other site for them to collocate.

Comments and Questions:

Ms. Stead asked what they propose to build to protect the children in the neighborhood and the school. Mr. Reynolds stated the applicant is open to the Board's suggestions for screening. He also submitted a letter (Exhibit I-2) stating they are in compliance with the FCC regulations.

Ms. Stead out a 3:03 p.m. and returned at 3:05 p.m.

Photographs, a site plan and a coverage map were provided (Exhibits I-3, I-4 and I-6). He pointed out that the vast majority of the east side is screened by mature trees. The residential neighborhoods do not front to this site.

Interested Parties:

Rick Thomas, President of the Lakeview Heights Housing Association, 2826 East 46th Street North. He did not think the applicant gave a very good representation

of their neighborhood. He asked the Board to consider the design, landscaping, wall, and safety. The City of Tulsa keeps the property adjacent to the subject property mowed and children and families enjoy the area just like a park.

Greg Jennings, 2260 South Troost, submitted photographs (Exhibit I-5) of towers camouflaged as pine trees.

Chip Adkins, 1638 East 17th Place, indicated if this tower was in compliance with the code they would not have to seek relief.

Applicant's Rebuttal:

Mr. Reynolds reminded the Board that this tower will be available for collocation with multiple carriers. He indicated they will not obstruct any one's view. It would be more effectively screened in the woods than most other towers in Tulsa. He added that it is a monopole and antennas would be inside the pole. He suggested they could paint the pole to blend with the surroundings. He was agreeable to present any requests from the Board regarding other types of camouflage. He stated that this tower would not be an excessive burden on a neighborhood. There is not an existing tower with potential for collocation.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a Cell Tower (Use Unit 4) in an AG district (Section 301); and a Special Exception to modify the setback requirement from an AG district to permit a 100 ft. monopole tower (Section 1204.C.3.g.1), having examined Section 1204.C.5.a.b.c.d all provisions pertaining to towers and require the following: monopole height will not exceed 100 ft.; collocation will be provided on the inside of the monopole, rather than outside as shown on the plan submitted; removal of mature trees must be kept to a minimum; finding it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

ALL BLK 1, LAKE-VIEW HGTS AMD RESUB PRT B1-2 & B3-6, City of Tulsa,
Tulsa County, State of Oklahoma

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Case No. 20312

Action Requested:

Special Exception to permit an office use in an RM-2 district (Section 401), located: 1419 South Denver West.

Presentation:

James Hinds, 1611 South Denver, attorney, represented the Tulsa Postal Employees Community Federal Credit Union. They own and have occupied the

subject property since 1983. They have obtained a lot combination for Lots 7, 8, 9, and 10. He informed the Board that the building is in disrepair and is not adequate for the credit union.

Comments and Questions:

Mr. Dunham noted they offered a conceptual plan (Exhibit E-1) rather than an actual site plan.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit an office use in an RM-2 district (Section 401), with condition that they fulfill the Lot Combination on Lots 7, 8, 9, 10 and 11; sidewalks to be included in the construction; per the conceptual plan; (for the record: if they intend to build over the existing alley right-of-way, the alley-way will have to be closed); having read the conditions for a special exception as set forth in the staff comments and finding those conditions have been met, on the following described property:

LT 9 BLK 1 , LT-10-BLK-1 , LT 11 LESS W15 TRI BLK 1, and the W/2 of the adjacent alley of said lots, CAMPBELL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20314

Action Requested:

Verification of the spacing requirement for a Liquor Store; 300 ft. from a blood bank, plasma center, day labor hiring center, pawn shop and another liquor store (Section 1214.C.3), located: 1603 South Peoria Avenue East.

Presentation:

Keith Ward, 1029 East 18th Street, owner of the Purple Haze, LLC, has a lease with the owner of this real estate. He obtained the 300 ft. perimeter of the property from the county assessor. He used a laser instrument to measure the 300 ft. perimeter and found none of those types of businesses identified in the zoning code to be within the 300 ft.

Interested Parties:

Betty Leman, 1719 South Owasso, represented her synagogue, B'nai Emunah, which is outside of the 300 ft. radius. She wanted to know the spacing requirements from a liquor store to a church or child care facility. Mr. Cuthbertson

responded per request of Mr. Henke, stated that no spacing requirement exists in the code for liquor stores from any uses other than those listed on the agenda.

Chip Adkins represented the Swan Lake Neighborhood. He stated they were not opposing the liquor store. He suggested the spacing requirements needed to be changed to include child care facilities, schools, and churches.

Applicant's Rebuttal:

He stated it would be a significant upgrade from the previous business on this property. Mr. Ward stated he was open to discussing the application with the interested parties. He added that he also lives in the neighborhood.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** Verification of the spacing requirement for a Liquor Store; 300 ft. from a blood bank, plasma center, day labor hiring center, pawn shop and another liquor store (Section 1214.C.3), as the spacing has been demonstrated today, on the following described property:

W 80 LTS 15 & 16 BLK 9, ORCUTT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20315

Action Requested:

Variance of the required parking for a commercial shopping center from 845 to 818 (Section 1219) and a Variance of the spacing requirement for a dance hall from an R district (Section 1219.C.2) to permit the expansion of an existing dance hall, located: 11654 East 21st Street South.

Presentation:

Warren Morris, attorney, 2532 East 46th Place, represented **Stephen Mendenhall**, the applicant. He stated that this center has been in bad shape for a number of years.

Stephen Mendenhall, 4545 South Lewis Avenue, was present.

Mr. Morris identified the front door and emergency exits for the Board. He added that the front door is 308 ft. from an R district.

Interested Parties:

Louis Dillon, 2142 South 117th East Avenue, represented the Bread of Life Church, which has been located there for seven years. He stated the church is

less than 100 ft. from the mall. He pointed out the large number of people who live in the area.

Vernal Dillon, 2142 South 117th East Avenue, complained of a lot of noise from that area but she was not sure if it was from the dance hall.

Mr. Cuthbertson stated a dance hall is a Use Unit 19. Mr. Ackermann added that they are not classified as an adult entertainment establishment, which has a spacing requirement. Mr. Alberty stated when they proposed to expand the use; it prompted the need for a variance of the spacing from an R district. Ms. Stead asked for the hardship.

Applicant's Rebuttal:

Mr. Morris stated he provides a security guard to monitor the parking lot and keep bottles and such off the lot. He mentioned the large portion of vacant footage in the mall. He pointed out the number of walls between their space and the exterior of the building that would prevent noise outside the building. He stated the hardship is the design of the building and they are not asking to expand any further to the south. Ms. Stead asked for the days and hours of operation. Mr. Morris stated they would be open Tuesday through Sunday from 8:00 p.m. to 2:00 a.m. and would be closed on Monday. He stated they have not had any visits by police or complaints filed against this operation.

Mr. Dillon spoke up stating it will not be 300 ft. from his property.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required parking for a commercial shopping center from 845 to 818 (Section 1219) and a Variance of the spacing requirement for a dance hall from an R district (Section 1219.C.2) to permit the expansion of an existing dance hall, on the conditions: days and hours of operation are Tuesday through Sunday, 8:00 p.m. to 2:00 a.m., closed on Mondays; during open hours the facility will provide security to patrol the grounds; finding parking spaces are adequate for the tenancy; and 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, on the following described property:

LT 1 BLK 1, BURRIS SQUARE, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 20316

Action Requested:

Special Exception to permit a church and church related facilities (Use Unit 5) in the IM, OL, and RS-3 districts, located: 2250 East Apache Street North.

Presentation:

William Jones, 15 East 5th Street, Suite 3800, stated they had planned to use the RS-3 area behind the OL that his client is acquiring, for a youth recreational area. He indicated he may not have made this clear when he applied. Mr. Alberty stated that would fall under church related facilities.

Comments and Questions:

Ms. Stead suggested the need for cleaning up the property first. Mr. Jones assured the Board the church has every intention of cleaning it up and doing the project right. Ms. Stead determined this is actually a conceptual plan.

Interested Parties:

Dale Foster, 2476 North Lewis, stated he came to the hearing to find out what the application is all about. He is involved in proceedings for the sale of his property and wanted to be sure it did not affect the current zoning.

Comments and Questions:

The Board members were in agreement this project would be an improvement.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a church and church related facilities (Use Unit 5) in the IM, OL, and RS-3 districts, with conditions for sidewalks on Lewis; maintain existing sidewalks on Apache Street; for a new plat; per conceptual plan; finding it is compatible with the neighborhood and will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

N/2 NE NE NE LESS E40 & LESS N40 & LESS W205 E245S125 THEREOF
SEC 30 20 13 , E/2 E/2 NW NE NE LESS N40 THEREOF FOR RD & LESS BEG
67N SWC THEREOF TH SELY33.94 TO PT ON CRV RT44.58 S6.78 W44.99
N67 POB SEC 30 20 13 2.30ACS, City of Tulsa, Tulsa County, State of
Oklahoma

There being no further business, the meeting was adjourned at 4:12 p.m.

Date approved: 8/8/06

Frank X. McTeague
Chair