

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 990  
Tuesday, October 28, 2008, 1:00 p.m.  
Francis F. Campbell City Council Room  
Plaza Level of City Hall  
Tulsa Civic Center

**MEMBERS  
PRESENT**

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

**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 Wednesday, October 22, 2008, at 4:33 p.m., as well as at the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600.

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

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

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**UNFINISHED BUSINESS**

**Case No. 20248-A**

**Action Requested:**

Amendment to a previously approved site plan for a private school in an AG district (Section 301) and a Variance of the parking requirement for a school (Section 1205.C), located: 8621 South Memorial Drive.

**Presentation:**

**Fred Lechtenberger**, 705 South Elgin, Suite 107, Tulsa, Oklahoma, 74120, represented Regent Preparatory School. They proposed an amended site plan (Exhibit A-1) on 23 acres of the former Higher Dimensions Church. They plan to add a gymnasium, high school and sports fields.

Mr. Cuthbertson stated a site plan was in the agenda packet, however a revised site plan was provided to each Board member. He added the only change was the movement of the bleachers of the proposed football track/soccer facility on the east

side of the property, moving the bleachers 20 ft. to the west away from the eastern boundary line. They also provided proposed use conditions (Exhibit A-1).

**Comments and Questions:**

Mr. Tidwell asked for the current enrollment. Mr. Lechtenberger replied they have 320 students. Ms. Stead asked the distance from the proposed grandstand to the nearest home. He replied there is a 50 ft. buffer to the property line of the nearest homes. There is a small creek that runs through that area. Mr. Lechtenberger added they have made a couple of presentations to the neighborhood. The applicant has also agreed to plant additional trees along that area. Ms. Stead was concerned about 70 ft. overhead lights being intrusive to the neighborhood. Mr. Lechtenberger explained that the field would be lower than the neighborhood. The light study was in the information the applicant provided. He informed the Board they plan to use a surround-sound type system, with speakers in the stands directed up toward the stands.

**Kurt Minnick**, Chair of this project committee, 7748 East 24<sup>th</sup> Street, Tulsa, Oklahoma, 74129 stated their approach has been guided by what they would want to see in their neighborhood. They were pleased with the lighting, sound and lowered fields in the plans. They did not set any limits on the closing time.

Ms. Stead stated she was referring to the overhead lights, not all of the lights at the field. She questioned the number of parking spaces they can provide and stated they cannot count the on-street parking.

Mr. Stephens asked Mr. Lechtenberger to explain their hardship. He explained that to have a full service school with a stadium and gymnasium and they need a variance of the parking. Ms. Stead confirmed that the stucco house to the south would be removed. She expressed concern that they may not have enough parking in the future. She recognized the hardship to be the topography and drainage areas.

**Board Action:**

On **Motion** of **Stead**, the Board voted 4-1-0 (White, Henke, Stead, Tidwell "aye"; Stephens "nay"; no "abstentions"; no "absences") to **APPROVE** an Amendment to a previously approved site plan for a private school in an AG district (Section 301) and a Variance of the parking requirement for a school (Section 1205.C), specifically per plan submitted today, dated September 4, 2008, with a 40 ft. dimension shown between the east grandstand and the east property line; subject to narrative received from Regents Preparatory School, Proposed Use Conditions noting that #5 lighting and #6 sound system, these use conditions shall be amended by this Board to show field lighting and sound system for the football field will be turned off by 11:00 p.m. nightly; finding the hardship is not only that probably no two activities will take place at the same time, but also the topography of land and restricted water areas that are unusable for any other purpose; assuming the stucco and frame house to the south will be removed; in addition to

planting trees between the stadium and the neighborhood to the east, that the school make every effort to retain mature foliage if possible; all parking and driving surfaces to be concrete or asphalt; finding extraordinary and 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; and in granting the special exception 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. Cuthbertson had a question on the motion. He asked if they need to make a note in the motion related to the parking in the right-of-way. The Board and Mr. Ackermann discussed the question and decided it was not necessary.

The motion stands, on the following described property:

LT 1, BLK 1, HIGHER DIMENSIONS, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20794**

**Action Requested:**

Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign (on Utica Ave.) for a school in the RS-2 district (Section 402.B.4), located: 2520 South Yorktown Avenue.

**Presentation:**

**Jason Mills**, 320 South Boston, Tulsa, Oklahoma, 74103, with Cyntergy, represented Cascia Hall. They proposed a memorial sign to the three students that were killed last year (Exhibits B-1 and B-2). It would advertise events at the school near the main entry on Utica Avenue for their events on campus. It is an LED sign and it would be displayed in a way to be in character with the school and to be shielded from the R district. They plan to use other structures and landscaping to buffer. He added they would limit the hours of display from 7:00 a.m. to 10:00 p.m., and no animation, flashing or scrolling.

**Interested Parties:**

**Greg Jennings**, 2260 South Troost, was opposed to the sign and stated he did not hear a hardship. The property is surrounded by R district. He did not agree that the proposed screening would actually screen it from the residential properties. He reminded the Board this is only a 45 ft. wide collector street. He added that the brightness of the LED light cannot be decreased by a measurement of degree but

by increments of low, medium and high. He reminded the Board the school has a web site and does not need a sign to advertise events.

**Chris Bumgarner**, 2672 East 37<sup>th</sup> Street, Tulsa, Oklahoma, stated he represented Utica Place, LLC, owner of the property to the north. He added that he was assured the sign would be screened from his development. He referred to an email (Exhibit B-3) regarding this application and he asked that the sign not be seen from neighboring properties to the north.

**Applicant's Rebuttal:**

Mr. Mills stated it would be a convenience to the school when changing messages. He thought it was a good source to notify the public of school events.

**Board Action:**

On **Motion of Stephens**, the Board voted 3-2-0 (Stephens, Henke, Tidwell "aye"; White, Stead "nay"; no "abstentions"; no "absences") to **APPROVE** a Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign (on Utica Ave.) for a school in the RS-2 district (Section 402.B.4), with conditions for sign operating only 7:00 a.m. to 10:00 p.m.; leading edge begins 50 ft. from the curb; no blinking, flashing, or splashing lights; scrolling horizontal only; maximum illumination of 500 nits at night and 6500 nits during the day; additional landscaping to screen the sign from the front to future residences to the north; finding the hardship is the size of the campus, being almost 40 acres in the middle of town, and the need to advertise future events; per plan, pp. 2.9 and 2.10, and per conditions from the applicant. Those conditions being: add landscaping and trees to screen the sign from the future residences to the north, limit the hours of operation to between 7:00 A.M. and 10:00 P.M., at all times limit the brightness to below what is required by code and to reduce the brightness after sunset with the only intent to be visible and legible within the short viewing distance approaching from the south or the north on Utica Avenue, no flashing or blinking text or graphics in order to avoid distracting movement or attention grabbing animation; 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, on the following described property:

SW NE EXCEPT W40 TO CITY OF TULSA SEC 18 19 13, City of Tulsa, Tulsa County, State of Oklahoma

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**NEW APPLICATIONS**

**Case No. 20796**

**Action Requested:**

Variance of the required front yard in an RS-2 district from 30' to 20.5' (Section 403), located: 2187 South Owasso Avenue East.

**Presentation:**

**Lou Reynolds**, 2727 East 21<sup>st</sup> Street, Tulsa, Oklahoma, stated Steve and Sandra Walton, the owners, purchased this house two years ago. It is about 90 years old, three stories, 7,000 sq. ft., plus a 600 sq. ft. basement (Exhibit C-1). It was poorly maintained before they purchase it. The garage was detached. They proposed to build an attached garage. He submitted photographs (Exhibit C-2). The owners have been doing extensive renovations. He pointed out that the streets were dedicated unusually wide, and the large amount of green space around the house. He described the unique craftsmanship of the roofing and eaves. Mr. Reynolds noted the irregular shape of the lot and the elevations from the street. They have contacted all of the adjacent neighbors with support from those who responded.

**Comments and Questions:**

Ms. Stead confirmed the garage would be stucco and framed to blend with the residence. She reminded Mr. Reynolds that the drive and parking would need to be paved with asphalt or concrete.

**Board Action:**

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required front yard in an RS-2 district from 30' to 20.5' (Section 403), with conditions for the exterior to be stucco and frame to blend with the residence; all driving and parking surfaces to be concrete or asphalt; finding the unusual topography and the triangular-like shape create a hardship, and finding this hardships are 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; per plan on page 3.6 of the agenda packet; on the following described property:

LOT 7 BLK 16, SUNSET PARK AMD, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20797**

**Action Requested:**

Variance of the minimum lot width required in an RS-3 district from 60 ft. to 52.5 ft. (Section 403) to permit a lot split, located: 1431 East 37<sup>th</sup> Street South.

**Presentation:**

**Matt Cozort**, 14537 South Gary Avenue, Tulsa, Oklahoma, proposed to tear down the house, split the lot, and build two houses. He pointed out that every lot on the block has been split except for the subject property. He planned to build 2,500 sq. ft. houses. He stated the existing house has been vacant for a while.

**Comments and Questions:**

Mr. Stephens asked for the hardship. Mr. Cozort indicated it was the only lot that was not split and he wanted to build two houses.

**Interested Parties:**

**Walland Krause**, 1434 East 37<sup>th</sup> Street, Tulsa, Oklahoma, 74105, stated his support of this application. He asked when the vacant house would be removed, as there were rodents and no one was taking care of the property.

**Barbara VanHanken**, 2212 East 38<sup>th</sup> Street, Tulsa, Oklahoma, 74105, stated she is a Board member of the Brookside Neighborhood Association. She asked for a continuance to give the neighbors time to get more information and discuss it.

**Joy Avery**, 1504 East 37<sup>th</sup> Street, Tulsa, Oklahoma, 74105, stated she lives across the street diagonally from the subject property. She added that she just received notice a couple of days before. (The notices were mailed on October 3, 2008.) She expressed concern that she did not know what the plans were for this property. She indicated that another project in the area was started, which was not compliant with the code.

**Melissa Waller**, 2226 East 38<sup>th</sup> Street, asked that the RS-3 minimum requirements be enforced. She was opposed to two homes being built there.

**Applicant's Rebuttal:**

Mr. Cozort pointed out similar lot splits in the area. Mr. Cuthbertson stated there were no Board actions specifically permitting the lot splits in the relevant history. Mr. Cozort was willing to show the neighbors his plans.

**Board Action:**

On **Motion** of **Stephens**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a Variance of the minimum lot width required in an RS-3 district from 60 ft. to 52.5 ft. (Section 403) to permit a lot split, for lack of a hardship, on the following described property:

LT 7 BLK 2, LEOKI PLACE, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20798**

**Action Requested:**

Special Exception to permit a communications tower (Use Unit 4) in an RM district (Section 401); and a Special Exception to remove the screening requirement around the perimeter of the tower compound (Section 1204.C.5.c), located: 2438 East 51<sup>st</sup> Street.

**Presentation:**

**Kevin Coutant**, 320 South Boston, Suite 500, Tulsa, Oklahoma, represented U.S. Cellular. He stated that **Hank Madden**, an RF Engineer, **Gary Tetter**, the Project Manager, and **Denny Redman**, the Site Acquisition Professional for this project were present to answer questions as needed. Mr. Coutant stated the tower would be a flagpole in an RM district. They planned to construct a wrought iron type fence around the perimeter of the tower base. They would be willing to construct a masonry fence per the Board's conditions. There would be no equipment tower, as it will be in an existing adjoining equipment building as displayed on the aerial photographs (Exhibit D-1). The wiring would be underground and on the interior of the flagpole. He stated the tower meets the 110% setback from residential property. Surrounding property includes commercial to the west, apartments and office to the north, apartments and single-family to the east and apartments and a PUD with an independent-living project to the south. The need is that the existing facility will be demolished due to the I-44 expansion project. He pointed out that other potential locations are also unavailable due to the same expansion project. There would be no lighting at the top of the tower. There would be an option for two collocations. US Cellular would have flush-mount antennas at the 104 ft. level.

**Comments and Questions:**

Ms. Stead asked about the presence of a propane tank. Mr. Coutant stated there would be no propane tank and they would be connected to electricity from underground. He referred to page 5.27 in the agenda to show the Board their compliance with the factors required by the zoning code. He reviewed those factors as they pertained to this application. There would be no lighting on the top of the pole. The 110 ft. height of this pole will be comparable to the existing antenna.

**Interested Parties:**

**Brian Freese**, 5241 South Birmingham Place, Tulsa, Oklahoma, 74105, stated he is a resident of the Lewis Crest Neighborhood. He submitted a petition (Exhibit D-2) of opposition. He read the petition, indicating the tower would negatively impact the residential character of their well-established neighborhood. He continued that it would be an undesirable element and could negatively impact the property values. He added that it would set a dangerous precedent of allowing future towers in other residential areas. Mr. Freese responded to Ms. Stead that this flag pole is much larger than a standard flag pole. They were concerned about the size

of a flag on a pole this large, which would be ¼ of the height of the pole by standard measurements. He showed photographs (Exhibit D-1) with the pole superimposed to indicate the impact of the flag and pole. They suggested alternate sites, including the northwest and southwest corners of 51<sup>st</sup> and Lewis. He also expressed their concern about decreased property values.

**Mr. Stephens out at approximately 2:49 p.m. and returned at 2:51 p.m.**

**Joe Warlick**, 2534 East 53<sup>rd</sup>, Tulsa, Oklahoma, expressed concerns for light pollution and maintenance of the flag or a pole without a flag moved to the north of the proposed site.

**Theresa Noonan**, 5146 South Atlanta Avenue, Tulsa, Oklahoma, 74105, opposed to the pole for the aesthetic affect and decreased property value.

**Judy Freese**, 5241 South Birmingham Place, Tulsa, Oklahoma, 74105, was opposed for the reasons previously listed. She added that this is one of a few cases they have dealt with that would negatively impact the residential character of the neighborhood.

**Applicant's Rebuttal:**

Mr. Coutant responded that this tower reflects the finest objectives of the zoning code. He pointed out that it is stealth, not extremely tall, and as unobtrusive as possible. He stated the public service it provides is a challenge, since the I-44 widening project is taking more than one possible location site. He reminded the Board the tower site exceeds the 110% required distance to the neighborhood on the east, and is at 200% of the distance. Mr. Henke asked about the other existing towers locations. Mr. Coutant reviewed those for the Board and told the Board that relocating relatively close to the site is very important to the operation of the network. He stated that the plans for this pole are to be as unobtrusive as possible.

**Denny Redman**, 11413 East 20<sup>th</sup> Street, stated he surveyed the area, and the best location they could find was on the apartment complex properties. He informed the Board that available locations to provide the appropriate coverage were very limited.

**Comments and Questions:**

Discussion ensued between the Board, staff and the applicant regarding other locations, communication with other carriers, collocating, and fencing.

**Board Action:**

On **Motion of Stead**, the Board voted 3-2-0 (Henke, Stead, Tidwell "aye"; White, Stephens "nay"; no "abstentions"; no "absences") to **DENY** the Special Exception to permit a communications tower (Use Unit 4) in an RM district (Section 401); and a Special Exception to remove the screening requirement around the perimeter of



the tower compound (Section 1204.C.5.c), finding the location of the tower would be detrimental to the neighborhood, on the following described property:

LOT-1-BLK-1, SPANISH GARDENS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20799**

**Action Requested:**

Variance of the 5 ft. side yard requirement to permit the replacement of a non-conforming porte-cochere structure (Section 403), located: 1122 East 20<sup>th</sup> Street South.

**Presentation:**

**Paula Inman**, 1122 East 20<sup>th</sup> Street, Tulsa, Oklahoma, 74120, proposed to restore the porte-cochere, which was destroyed by a falling tree (Exhibit E-1). The wrought-iron posts were within the five-foot side yard. The home is within the North Maple Ridge Historic District. They have received a Certificate of Appropriateness from the Tulsa Preservation Commission. They desire to restore it to the original state to preserve the historic nature of the home and neighborhood. The neighbors are in favor and previously signed a petition.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion of Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the 5 ft. side yard requirement to permit the replacement of a non-conforming porte-cochere structure (Section 403), per plan as shown on page 6.6 of the agenda, finding the structure, which was damaged more than 50% of the replacement cost, will be enhanced in the restoration; and finding a certificate of appropriateness has been issued; and the Board concurs it should be rebuilt; finding the circumstances are peculiar to this 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, on the following described property:

LTS 3 & 4 BLK 8, MAPLE RIDGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20800**

**Action Requested:**

Special Exception to permit a Rock Quarry (Use Unit 24 - Mining and Mineral Processing) in an AG district (Section 301), located: Northwest of the intersection of 129<sup>th</sup> East Avenue and 46<sup>th</sup> Street North.

**Presentation:**

**Roy Johnsen**, 201 West 5<sup>th</sup> Street, Suite 501, Tulsa, Oklahoma, 74103, represented Greenhill Properties, LLC.

**Ms. Stead out at 3:30 p.m.**

Mr. Johnsen submitted a narrative and aerial (Exhibit F-1 and F-2). He indicated an L-shaped portion of property may have been left out of a previous case in the quarry area. It has been extended and this application would extend it further. He proposed to clear the record so that it can continue to be used for quarry. He noted the trucking route and conveyor system, which will keep the trucks primarily off of the road. The property along Highway 169 will be preserved for conventional industrial use or perhaps commercial use in the future. Mr. Johnsen added that the portion of property to the south of 46<sup>th</sup> Street in Tulsa County was sold, and will be restricted and not used for quarry. He informed the Board that conditions included in the approved 2003 case are applicable in this case also. They include extensive regulations for control. They added setbacks for the quarry walls, the Spavinaw water line, and from utility lines for water and sewer.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

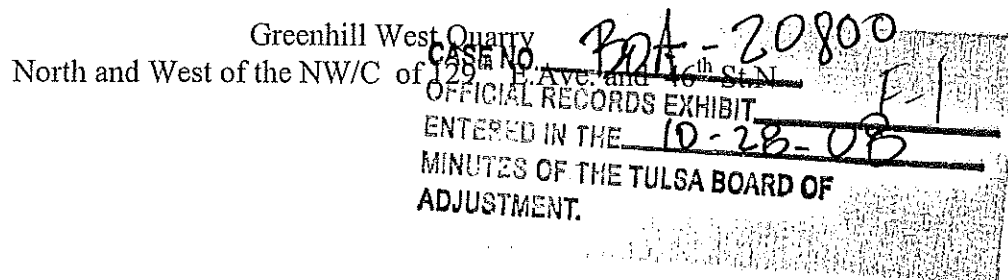
On **Motion of White**, the Board voted 4-0-0 (White, Stephens, Henke, Tidwell "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** a Special Exception to permit a Rock Quarry (Use Unit 24 - Mining and Mineral Processing) in an AG district (Section 301), subject to the conditions submitted, including narrative and use conditions, as from Case No. 19674 on September 23, 2003, subject to the differences in the changes in setbacks according to new requirements; 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, on the following described property:

A TRACT OF LAND BEING PART OF THE EAST HALF OF THE SOUTHWEST QUARTER (E/2 SW/4) AND PART OF THE WEST HALF OF THE SOUTHEAST QUARTER (W/2 SE/4) OF SECTION EIGHT (8), TOWNSHIP TWENTY (20) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID E/2 SW/4; THENCE SOUTH 88°41'42" WEST ALONG THE SOUTHERLY LINE OF SAID E/2

SW/4 FOR 923.58 FEET; THENCE NORTH 0°49'37" WEST FOR 187.53 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE CONTINUING NORTH 0°49'37" WEST FOR 1265.12 FEET; THENCE NORTH 0°21'56" WEST FOR 988.13 FEET; THENCE NORTH 88°09'39" EAST FOR 901.06 FEET TO A POINT THAT IS 10.00 FEET EASTERLY OF AS MEASURED PERPENDICULARLY TO THE EASTERLY LINE OF SAID E/2 SW/4 AND THE WESTERLY LINE OF SAID W/2 SE/4; THENCE SOUTH 01°24'15" EAST PARALLEL WITH SAID EASTERLY LINE OF SAID E/2 SW/4 AND THE WESTERLY LINE OF SAID W/2 SE/4 FOR 2285.76 FEET TO A POINT THAT IS 50.00 FEET NORTHERLY OF AS MEASURED PERPENDICULARLY TO THE EXISTING RIGHT-OF-WAY OF 46<sup>TH</sup> STREET NORTH; THENCE NORTH 89°02'23" WEST FOR 0.00 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY 50.00 FEET NORTHERLY OF AS MEASURED PERPENDICULARLY TO SAID EXISTING RIGHT-OF-WAY OF 46<sup>TH</sup> STREET NORTH ON A CURVE TO THE LEFT WITH A RADIUS OF 34,567.50 FEET AND A CENTRAL ANGLE OF 01°32'42", SAID CURVE HAVING A CHORD BEARING OF NORTH 89°48'44" WEST AND A CHORD DISTANCE OF 932.05 FEET FOR AN ARC LENGTH OF 932.08 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND. SAID DESCRIBED TRACT CONTAINS 47.815 ACRES, MORE OR LESS. AND A TRACT OF LAND BEING PART OF THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (W/2 W/2 NE/4 SE/4) AND PART OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (S/2 S/2 NE/4 SE/4) OF SECTION EIGHT (8), TOWNSHIP TWENTY (20) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NE/4 SE/4; THENCE SOUTH 88°42'51" WEST ALONG THE NORTHERLY LINE OF SAID NE/4 SE/4 FOR 989.16 FEET TO THE NORTHEAST CORNER OF SAID W/2 W/2 NE/4 SE/4; THENCE SOUTH 01°22'33" EAST ALONG THE EASTERLY LINE OF SAID W/2 W/2 NE/4 SE/4 FOR 35.48 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE CONTINUING SOUTH 01°22'33" EAST ALONG SAID EASTERLY LINE FOR 951.78 FEET TO A POINT ON THE NORTHERLY LINE OF SAID S/2 S/2 NE/4 SE/4; THENCE NORTH 88°42'37" EAST ALONG SAID NORTHERLY LINE FOR 659.24 FEET TO A POINT ON THE EAST LINE OF THE W/2 E/2 NE/4 SE/4; THENCE SOUTH 01°21'51" EAST ALONG SAID EASTERLY LINE FOR 329.07 FEET TO A POINT ON THE SOUTH LINE OF SAID NE/4 SE/4; THENCE SOUTH 88°42'32" WEST ALONG SAID SOUTHERLY LINE FOR 988.77 FEET TO THE SOUTHWEST CORNER OF SAID NE/4 SE/4; THENCE NORTH 01°22'53" WEST ALONG THE WESTERLY LINE OF SAID NE/4 SE/4 FOR 1235.28 FEET; THENCE NORTH 80°50'10" EAST FOR 332.78 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND. SAID DESCRIBED LAND CONTAINS 14.501 ACRES, MORE OR LESS.

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City of Tulsa Board of Adjustment Case No. 20800



Narrative:

Greenhill Properties, L.L.C. requests approval of a Special Exception to permit within an 47.8 acre tract (Area "A") owned by Greenhill Properties, L.L.C. and located within an AG Agriculture Zoning District the mining, quarrying and extraction of stone, sand and gravel, including processing, crushing, washing, sale and loading of crushed rock, sand and gravel for utilization off the premises under the provision of Use Unit 24, Mining and Mineral Processing and pursuant to applicable federal and state laws, regulations and permits.

Additionally, the application includes a request for approval of a Special Exception to permit within an 14.5 acre tract (Area "B") owned by Anchor Stone Company and located within an AG Agriculture Zoning District the mining, quarrying and extraction of stone, sand and gravel, including processing, crushing, washing, sale and loading of crushed rock, sand and gravel for utilization off the premises under the provision of Use Unit 24, Mining and Mineral Processing and pursuant to applicable federal and state laws, regulations and permits.

Tract A is adjacent on the East to an 80 acre tract (Tract "C"), owned by Greenhill Properties L.L.C. Tract C was the subject property of BOA -19674, pursuant to which, the Board of Adjustment on September 23, 03, approved Use Unit 24. Mining and Mineral Processing and within Tract C, quarry operations have been commenced by APAC Oklahoma, Inc. as Lessee.

Tract B is adjacent on the West to Tract C and has been previously mined in part and is a probable nonconforming use, established before applicable zoning restrictions, and is adjoined by properties to the south and east that are presently or have previously been used for quarry purposes. Tract B is included in this application to establish of record authorization for quarry use.

All of the property around or adjacent to the proposed site is within the IM, IH or AG zoning districts and generally lies above the major limestone deposit within this part of northeastern Oklahoma. Because of the limestone deposit at or near the surface, all of the immediate area is planned for industrial uses.

Use Conditions:

It is proposed that the approval of the requested Special Exception be subject to the following

conditions which are consistent with the use conditions established by the Board of Adjustment pursuant to its approval of BOA 19674:

1. The quarry shall be operated in accord with the following:
    - a. The Oklahoma Department of Mines, Non-Coal Mining Rules and Regulations and permits thereunder; including blasting requirements set forth within Title 460:10-31-8.Chapter 10.
    - b. The Oklahoma Department of Environmental Quality Rules and Regulations and permits thereunder;
    - c. The Federal Mining Safety and Health Act (MSHA) which establishes safety regulations for quarry operations;
    - d. All applicable ordinances and regulations of the City of Tulsa and the City-County Health Department.
  2. The quarry walls shall be setback a minimum distance from the property boundaries as follows:
    - a. 50 feet from the northern right-of-way line of East 46<sup>th</sup> Street North;
    - b. 400 feet from the centerline of the southernmost City of Tulsa Spavinaw water flow line;
    - c. 10 feet from the west property line of Tract A.
    - d. 0 feet from the east property line of Tract A.
    - e. 0 feet from the property lines of Tract B.
  3. No flyrock from the quarry shall be permitted.
  4. No blasting within 500' of public water/sewer lines.
  5. Copies of blasting reports submitted to the Oklahoma Department of Mines shall be provided to the City of Tulsa Public Works Department.
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**OTHER BUSINESS**

On **Motion of White**, the Board voted 4-0-0 (White, Stephens, Henke, Tidwell "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** the 2009 City of Tulsa Board of Adjustment Meeting Schedule submitted today.

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There being no further business, the meeting adjourned at 3:52 p.m.

Date approved: 12/9/08

  
Chair