

AGENDA
CITY OF TULSA BOARD OF ADJUSTMENT
Regularly Scheduled Meeting
Tulsa City Council Chambers
175 East 2nd Street, 2nd Level, One Technology Center
Tuesday, September 11, 2018, 1:00 P.M.

Meeting No. 1213

CONSIDER, DISCUSS AND/OR TAKE ACTION ON:

UNFINISHED BUSINESS

1. **22493—Robert Bingham, Jr.**
Special Exception to permit Commercial/Vehicle Sales and Service/Personal Vehicle Sale and Rentals Use in a CS Zoning District (Section 15.020); Variance to allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A). **LOCATION:** 7924 East 15th Street South (CD 5)

NEW APPLICATIONS

2. **22501—Christy Allen**
Special Exception to allow a Bed and Breakfast (short-term rental) in a RS-3 District (Section 5.020). **LOCATION:** 1635 South College Avenue East (CD 4)
3. **22503—Darla Murphy**
Special Exception to allow a Bed and Breakfast (short-term rental) in a RS-3 District (Section 5.020). **LOCATION:** 1411 South Louisville Avenue East (CD 4)
4. **22504—Veronica Montes**
Special Exception to permit a fence greater than 4 feet in the front setback (Section 45.080). **LOCATION:** 2671 North Quaker Avenue East (CD 1)
5. **22505—Mark Capron**
Variance to permit a structure to be located within City of Tulsa planned street right-of-way (Section 90.090-A); Variance of the removal agreement requirement with the City of Tulsa for structures in the planned street right-of-way (Section 90.090-A). **LOCATION:** 1202 & 1206 East 3rd Street South (CD 4)

6. **22506—Stephen Schuller**

Special Exception to allow a religious assembly use in the RS-3 District to permit the expansion of a parking area for an existing church (Section 5.020); Variance to allow a parking area within the required street building setback (Section 40.320). **LOCATION:** 3640 South New Haven Avenue East **(CD 9)**

7. **22507—Shannon Bolain**

Variance to allow a detached accessory building to exceed 18 feet in height and to exceed 10 feet in height to the top of the plate (Section 90.090-C.2); Variance to allow a non-all-weather parking surface material (Section 55.090-F). **LOCATION:** 8021 South 26th Avenue West **(CD 2)**

8. **22508—Ronnie Boswell**

Variance to permit a dynamic display sign to be located within 200 feet of an R District (Section 60.100-F). **LOCATION:** 2508 South Sheridan Road East **(CD 5)**

OTHER BUSINESS

9. **22481—Mark Capron**

Possible reconsideration of a Special Exception to permit a school use in an RS-3 District (Section 5.020-C). **LOCATION:** 3121 East Queen Street North **(CD 1)**

NEW BUSINESS
BOARD MEMBER COMMENTS
ADJOURNMENT

Website: www.cityoftulsa-boe.org

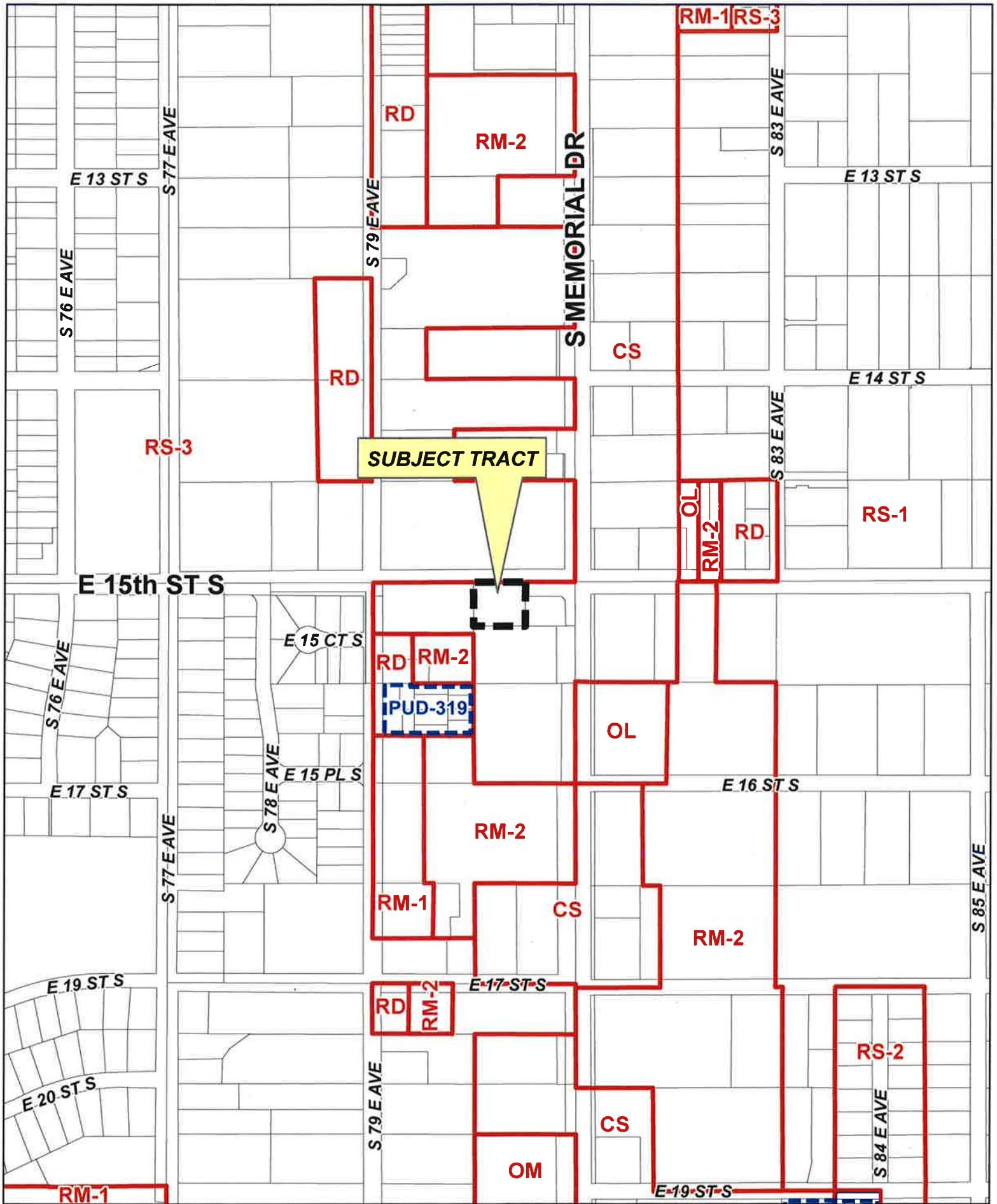
E-mail: esubmit@incog.org

CD = Council District

NOTE: If you require special accommodation pursuant to the Americans with Disabilities Act, please notify INCOG (918)584-7526. Exhibits, Petitions, Pictures, etc., presented to the Board of Adjustment may be received and deposited in case files to be maintained at Land Development Services, INCOG. **ALL** electronic devices **MUST** be **silenced** during the Board of Adjustment meeting.

NOTE: This agenda is for informational purposes only and is not an official posting. Please contact the INCOG Office at (918) 584-7526 if you require an official posted agenda.

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BOA-22493

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BOARD OF ADJUSTMENT CASE REPORT

STR: 9311

Case Number: **BOA-22493**

CZM: 38

CD: 5

A-P#:

HEARING DATE: 09/11/2018 1:00 PM (continued from 08/28/18)

APPLICANT: Robert Bingham, Jr.

ACTION REQUESTED: Special Exception to permit Commercial/Vehicle Sales and Service/ Personal Vehicle Sale and Rentals Use in a CS Zoning District (Sec. 15.020); Variance to allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R district (Sec. 15.040-A)

LOCATION: 7924 E 15 ST S

ZONED: CS

PRESENT USE: vehicle sales and rental

TRACT SIZE: 22442.2 SQ FT

LEGAL DESCRIPTION: W170 N 1AC NE NE NE SE SEC 11 19 13,

RELEVANT PREVIOUS ACTIONS:

Surrounding Properties:

BOA-21522; on 01.08.13, the Board **approved** a *special exception* to allow Heat & Air contractor (Use Unit 15) in a CS District. LOCATED: 7902 E 15TH ST S; (immediately west of the subject site).

BOA-17620; on 01.28.97, the Board **approved** a *special exception* to allow automobile sales in a CS district. LOCATED: 7902 E 15TH ST S; (immediately west of the subject site).

BOA-08452; on 01.23.75, the Board **upheld** the decision of the Building Inspector and **approved** a *special exception* to operate a car wash. LOCATED: 7902 E 15TH ST S; (immediately west of the subject site).

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of a "Mixed-Use Corridor" and an "Area of Growth".

Mixed-Use Corridors are Tulsa's modern thoroughfares that pair high capacity transportation facilities with housing, commercial, and employment uses. Off the main travel route, land uses include multifamily housing, small lot, and townhouse developments, which step down intensities to integrate with single family neighborhoods. Mixed-Use Corridors usually have four or more travel lanes, and sometimes additional lanes dedicated for transit and bicycle use. The pedestrian realm includes sidewalks separated from traffic by street trees, medians, and parallel parking strips. Pedestrian crossings are designed so they are highly visible and make use of the shortest path across a street. Buildings along Mixed-Use Corridors include windows and storefronts along the sidewalk, with automobile parking generally located on the side or behind.

1.2

The purpose of **Areas of Growth** is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the City where general agreement exists that development or redevelopment is beneficial.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts CS and RM-1 zoned tracts to the south; CS zoned tracts to the east and west; E. 15th St. S. is immediately north of the site.

CURRENT STAFF COMMENTS:

The Board requested that the applicant submit an exhibit showing the proposed parking area design to include striping and dimensions of the parking spaces.

PREVIOUS STAFF COMMENTS:

The applicant is before the Board requesting a **Special Exception** to permit personal car sales in a CS district (Section 15.020-C); and **Variance** to permit open air storage and display of merchandise for sale within 300 ft of an abutting R district (Section 15.040-A).

Car sales are permitted in the CS district only by special exception. A special exception is required as the proposed use is not permitted by right in the CS district because of potential adverse affect, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted.

The commercial lot currently contains what appears to be an office and shop space with a large parking area with cars on display. The subject property is surrounded by a mixture of land uses including automobile sales to the east; commercial space immediately south and a light industrial use on the west. As shown on the site plan the parking area will be located along E. 15th St. S. and the applicant will utilize the existing office and shop space on the site.

The applicant is also requesting a Variance of the requirement that no merchandise may be stored or displayed outside within 300 ft. of an abutting R district. The subject lot is within 300 ft of both a RM-2 and RD zoned area.

The applicant provided the following hardship statement: *"Movant has a Used Dealer license but is required by the Used Motor Vehicle Commission to obtain and provide them an exception to do business on CS zoned property. The current use restrictions on the property excludes the STORAGE AND DISPLAY OF MERCHANDISE (in our case, vehicles), thereby creating a hardship for a retail car lot that cannot be overcome without an exception for STORAGE AND DISPLAY of vehicle inventory parking. An exception would be consistent with the actual use of the property for more than 20 years, and consistent with the Zoning Code in its development of Anchor Corners. Finally, on Memorial Drive between 11th Street and 21st Street, there are approximately 20 used car lots, all on CS property, and denying an exception would be an inconsistent and unfair restraint on my business".*

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 neighborhood.

Sample Motion for the Variance:

Move to _____ (approve/deny) a Variance to allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R district (Sec. 15.040-A)

- Finding the hardship(s) to be _____.
- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions _____.

The granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;*
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;*
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;*
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;*
- e. That the variance to be granted is the minimum variance that will afford relief;*
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and*
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan."*

Sample Motion for a Special Exception

Move to _____ (approve/deny) a Special Exception to permit Personal Vehicle Sales and Rentals Use in a CS Zoning District (Sec. 15.020)

- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions (including time limitation, if any): _____.

The Board finds that the requested 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.

subject address is currently vacant and owned by the City of Tulsa. The City of Tulsa has leased the center to the Children's Museum. There was a special exception granted in 1975 for a community center in Owen Park that is a Use Unit 5 in a RS-3 District. The Children's Museum is similar to a community center for the activities for the children, except it is called a museum. The museum will be for children of all ages and will be a "hands on" creative learning center.

Mr. White asked Mr. Lilly if the museum would be expanding the building larger than the footprint currently exists. Mr. Lilly stated that it would not be expanded larger than the current building footprint.

Interested Parties:

Dee Simmons, 315 North Sante Fe, Tulsa, OK; stated that six years ago she became interested in the Children's Museum through the Tulsa World. She is a home owner in the Owen Park area and has lived there for 12 years. Six years ago she thought of the museum as a childrens museum without walls because they were traveling in a mobile center with their exhibits. She has mailed out letters to people of the neighborhood and she has received great support. The use of the community center is tried and true and is supported in every aspect by the community.

Brenda Barre, 568 North Guthrie, Tulsa, OK; stated that when she received her notification from the Board of Adjustment she contacted the neighbors, because they did not want any more social service organizations in their neighborhood. The neighborhood is in favor of the childrens museum going into the community center.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Special Exception to allow a Childrens Museum (Use Unit 5) in an RS-3 District (Section 401). Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

GOV LT 4 LESS TR BEG 664.4W OF NWC SE NW TH N150 E480 S TO EXPY NE ON EXPY 264.27 S TO SECR GOV LT 4 W TO POB SEC 2 19 12, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21522—Rob Coday

Action Requested:

Special Exception to allow Heat & Air contractor (Use Unit 15) in a CS District (Section 701, Table 1). **LOCATION:** 7902 East 15th Street South (**CD 5**)

FILE COPY

FILE COPY

BOA-21522

Presentation:

Rob Coday, P. O. Box 128, Kiefer, OK; stated wants to add a small addition to an existing building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a **Special Exception** to allow Heat & Air contractor (Use Unit 15) in a CS District (Section 701, Table 1), subject to conceptual plan 19.13. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

N/2 NW NE NE SE LESS W30 THEREOF FOR ST SEC 11 19 13 1.13AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21523—Gregory Helms

Action Requested:

Variance of the Parking setback from the centerline of the road from 50 feet to 30 feet in an R District (Section 1302.B, Table 1). **LOCATION:** 1120 East 34th Street South (CD 9)

Presentation:

William R. Grimm, 110 West 7th Street, Tulsa, OK; stated he is before the Board today on behalf of Aberson Development. There is a proposed demolition plan for a proposed parking lot on the northeast corner near an existing church. The existing structure on the northeast corner will be razed for the parking lot and will be located in a RS-3 zone. In conjunction with the entire project there is going to be another retail structure built in Center One.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Action Requested:

Special Exception to allow automobile sales (Use Unit 17) in a CS zoned district.

SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS - Use Unit 17, located 7092 East 15th Street.

Presentation:

The applicant, **Mike M. Naily**, represented by David W. Davis, 4606 South Boulder, Suite 416, submitted a site plan (Exhibit C-1) and photographs (Exhibit C-2). Mr. Davis stated Mr. Naily is proposing to use the subject property for automobile sales. He indicated the subject property is currently zoned CS district under Section 701. He stated the abutting property to the north and west are RS-3 zoned properties. Mr. Davis indicated that there is a church located to the north, duplexes to the west and a vacant lot to the northwest of the property. He explained that RD and RM-2 zoning is to the south of the subject property. He further explained that to the east there is property zoned CS, which is totally paved over as a parking lot with a business in the middle of the lot. He stated the CS property is owned by Cimarron Equipment, which is a heavy equipment dealership. Mr. Davis indicated that there are existing car wash bays on the subject property and the bays will not be opened to the public, but used for business solely. He stated that recently the subject lot has been used as a parking lot for the import sports business, which is at the corner of 15th and Memorial. He explained that unless Use Unit 17 is applied to this property, Mr. Naily will not be allowed to sell automobiles. He stated the subject property is well suited to the car sales business due to the car wash, the large lot and the sales office. He commented that the variance will not cause substantial detriment or impair the purpose of the zoning ordinance. He explained that there is currently a board fence, which separates this property from the residentially zoned properties. He indicated the owner will keep this fence in good repair. He commented that there will be lower traffic volume than a car wash or quick stop gas station, which has been used in the past on the subject property. Mr. Davis stated that lighting will be directed away from any residentially zoned areas and the hours of business will be primarily from 8:00 a.m. to 6:00 p.m., Monday through Saturday. He commented that since his client will be closed on Sundays he will not interfere with the church across the street.

Comments and Questions:

Mr. White asked Mr. Davis if the moving vans that are currently parked on the extra parking area of the subject property will be removed? Mr. Naily, 9113 East 74th, stated the moving van company rents the property to park their vans at this time. He further stated that there are two vans parked on the subject property currently.

Mr. Dunham asked the applicant if the moving van company will continue to use the parking lot? Mr. Naily stated the moving company will no longer park there once he purchases the property.

Case No. 17620 (continued)

Mr. Bolzle asked Mr. Davis if his client intends to only have 30 cars at any one time? He stated that his client has indicated he will only have 30 cars at one time.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** a **Special Exception** to allow automobile sales (Use Unit 17) in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17; per plan submitted; subject to a maximum of 30 cars for sale at any one time; subject to days and hours of operation being 8:00 a.m. to 6:00 p.m., Monday through Saturday; subject to no outside loud speakers; subject to lighting being directed away from the residential areas and the screening fence shall continue to be provided/maintained along the west and south property lines abutting the residential area; subject to the car wash not being open to the public; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lot 1, N190', Lot 2, Block 1, Villa Grove Gardens Amended, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17621

Action Requested:

Special Exception to allow an 8' fence in the front yard in an AG district. **SECTION 210.B.3. YARDS; Permitted Obstructions in Required Yards** - Use Unit 6, located 10901 South Louisville.

Presentation:

The applicant, **Liberty Construction of Tulsa/John F. Weiss**, 3701 South Harvard, submitted a site plan (Exhibit D-1) and an architectural drawing (Exhibit D-2). Mr. Weiss stated the property belongs to Bill and Kathy Bartmen. He explained that the owners want an exception from an 8' to a 10' wall height. He further explained that the property is unique that it is 1316' deep and 661' wide (approximately 20 acres).

Comments and Questions:

Mr. White questioned Mr. Weiss if he wanted to go from 8' to 10'? He answered affirmatively.

Mr. White informed the applicant that he is not advertised for a 10' high fence.

NEW APPLICATIONS:

8452

Action Requested:

Exception (Section 610 - Principal Uses Permitted in Commercial Districts - Section 1017 - Automotive and Allied Activities) to operate a car wash; and an Appeal (Section 1470 - Appeals from the Building Inspector) for refusing to permit mini-storage in a CS District and RD District located at 7902 East 15th Street.

Presentation:

W. O. Smith submitted the plot plan (Exhibit "C-1") pointing out the location of the proposed four bay car wash and 38 unit mini-storage, advising that the property would be screened as required and that the proposed self-service gas station is permitted in the CS District by right.

The Staff submitted to the Board a copy of the journal entry (Exhibit "C-2") of the District Court case on this property which states that the east 240' of the subject property shall be permitted CS commercial use, with the balance (RD) to be permitted for duplex purposes, off-street parking purposes or ingress and egress purposes from 15th Street, that no fence shall be required between the CS and RD properties, but that a 6' screening fence shall be provided along the entire western boundary of the tract before off-street parking use takes place unless this requirement is waived by the proper City authority.

David Pauling, Assistant City Attorney, suggested that the application be continued to later in the meeting in order that he might have sufficient time to review the journal entry prior to any action being taken.

In presenting his plan, Mr. Smith felt that the Church, which is located to the north, would prefer this type of operation rather than fast food operations that are permitted by right in the CS District. He pointed out that the mini-storage operation would create a limited amount of traffic. He felt that this plan would be more favorable in this area, advising that he will be forced to develop the tract in other commercial uses should the mini-storage operation be denied.

Protests:

The pastor for Memorial Drive Christian Church, 7903 East 15th Street, expressed concern in regard to the increased robberies which might occur and the increased traffic that would be created by the proposed development of the tract, pointing out that

1.23.75:180(9)

the Church is in use every evening with the exception of Saturday and that it is open every day from 8 a.m. to 10 p.m. He was also concerned with the Church's parking lot being used by the tenants of the mini-storage operation. He expressed concern in regard to the safety of the pre-school children, the decreased value of the Church property should the application be approved, and felt that the plans should have been reviewed with the area residents prior to the hearing.

Tom Olzawski, 1530 South 79th East Avenue, advised the Board that the area residents had requested that he appear before the Board on their behalf. He submitted to the Board a protest petition (Exhibit "C-3"), containing the names of nine area residents who object to the development that has been proposed. Mr. Olzawski advised that the residential lots in the immediate area are large, pointing out that the nine signatures represent 95% of the property owners in the area. The area residents felt that the proposed development would create many problems, in that the development would be lighted, an assumption, and that the rural atmosphere of the residential area would be interrupted. Also, the residents were concerned with the possibility of the development being an all-night operation with traffic being brought in to the residential area during the night hours, advising that the area is at present experiencing traffic problems with the convenience grocery at the intersection during the peak hours of the day. Mr. Olzawski felt that the residents were more concerned with the car wash and service station than they were with the mini-storage operation, stating that they would favor the mini-storage operation over a fast food operation if given the choice, because the fast food operation would generate a greater volume of traffic.

Mr. Smith advised the Board and protestants of the zoning history of the subject tract in order that they might be aware of how the application was taken to District Court and the reasons for the zoning which was granted by the Courts. He pointed out that the CS zoning would permit taverns, pool halls, gasoline stations, convenience groceries, etc., all of which would be detrimental to the residential area. He pointed out that the mini-storage permits a night watchman's quarters, advising that a guard would be on duty and that the traffic would not be increased because of the nature of the operation. He stated he was not aware of any mini-storage robberies in the area, but he did recognize the problems that the U-Totem had experienced.

Mr. Smith again reviewed the plot plan, advising that a copy of the plan had been sent to each property owner within 300', including the Church. He advised that the gas station is a self-service operation with landscaping and that there are no service bays, tire sales, etc., in conjunction with this type of station, and that the station is in operation from 7:00 a.m. to 9:00 p.m. six days a week.

Mr. Gardner advised that the majority of this property is permitted CS development which includes bars, family recreation centers, fast food operations, etc., many of which are high traffic generators, while the mini-storage operation is a low traffic generator. Although the property is permitted commercial usage, it is felt that the proposed use of the property would be the most compatible development in regard to the residential neighborhood. Mr. Gardner pointed out that the plot plan shows an access point to 79th East Avenue, while the journal entry states that there will be a 6' screening fence on the entire western boundary, with access being provided solely to 15th Street. The car wash is permitted by exception and the Board should determine that it is acceptable and compatible with the area, and the Board should consider whether or not the facility would be more suitable on the frontage or on the rear portion of the tract, with the lighting and hours of operation also under control of the Board.

It was pointed out that the Ordinance requires screening between the CS and RD, however, the Court did not envision a screening wall at this particular location; also, screening is required on the southern boundary of the tract.

Mr. Pauling advised the Board that he had reviewed the Court's journal entry and the judgments are clear. He pointed out that the screening on 79th East Avenue was required to prohibit access into the residential area.

Board Action:

On MOTION of SMITH, the Board upheld the decision of the Building Inspector (4-0) and then approved an Exception (Section 610 - Principal Uses Permitted in Commercial Districts - Section 1017 - Automotive and Allied Activities) to operate a car wash between the hours of 8:00 a.m. and 9:00 p.m., and

determined that mini-storage was not specifically listed in the Ordinance prior to the filing of this application (although it is now), and found the operation acceptable and compatible with the neighborhood on this specific site to permit a mini-storage operation, subject to screening being required on the entire western and southern boundaries thereby prohibiting access to South 79th East Ave., that no screening be required between the RD and CS tracts, and that the lighting be directed toward the use and away from the residential area, subject to the plot plan and as modified herein in a CS and RD District on the following described tract:

The N/2 of the NW/4 of the NE/4 of the NE/4 of the SE/4 of Section 11, Township 19 North, Range 13 East of the Indian Base and Meridian, Tulsa County, Oklahoma, LESS and EXCEPT the North 40 feet thereof and the West 30 feet thereof heretofore dedicated for street purposes.

(Blessing out 3:45 p.m.)

8455

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agricultural District) to use property for church and parking facilities in an AG District located at 25th Street and Garnett Road.

Presentation:

Walter Headrick, trustee of Christview Christian Church, advised that the Church was not aware of the two year time period of an exception and is now again requesting church use and parking facilities on the subject property.

Mr. Gardner advised that should the Board require the platting of this property, that this is the only piece of property with the exception of the tract to the south which has not been platted. Mr. Gardner, in discussing the platting of the property, advised that if there is no need for utility easements, etc., that are normally obtained through the platting and the right-of-way on Garnett is all that is required, the Planning Commission could waive the platting requirement in lieu of dedication by separate instrument.

The applicant stated his only objection to the dedication would be that the Church property would be narrowed, but after discussing the process with the Staff, he advised he would have no objections.



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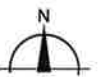
Subject Tract

BOA-22493

19-13 11

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

Aerial Photo Date: February 2018



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E 15th ST S

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Feet



**Subject
Tract**

BOA-22493

19-13 11

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

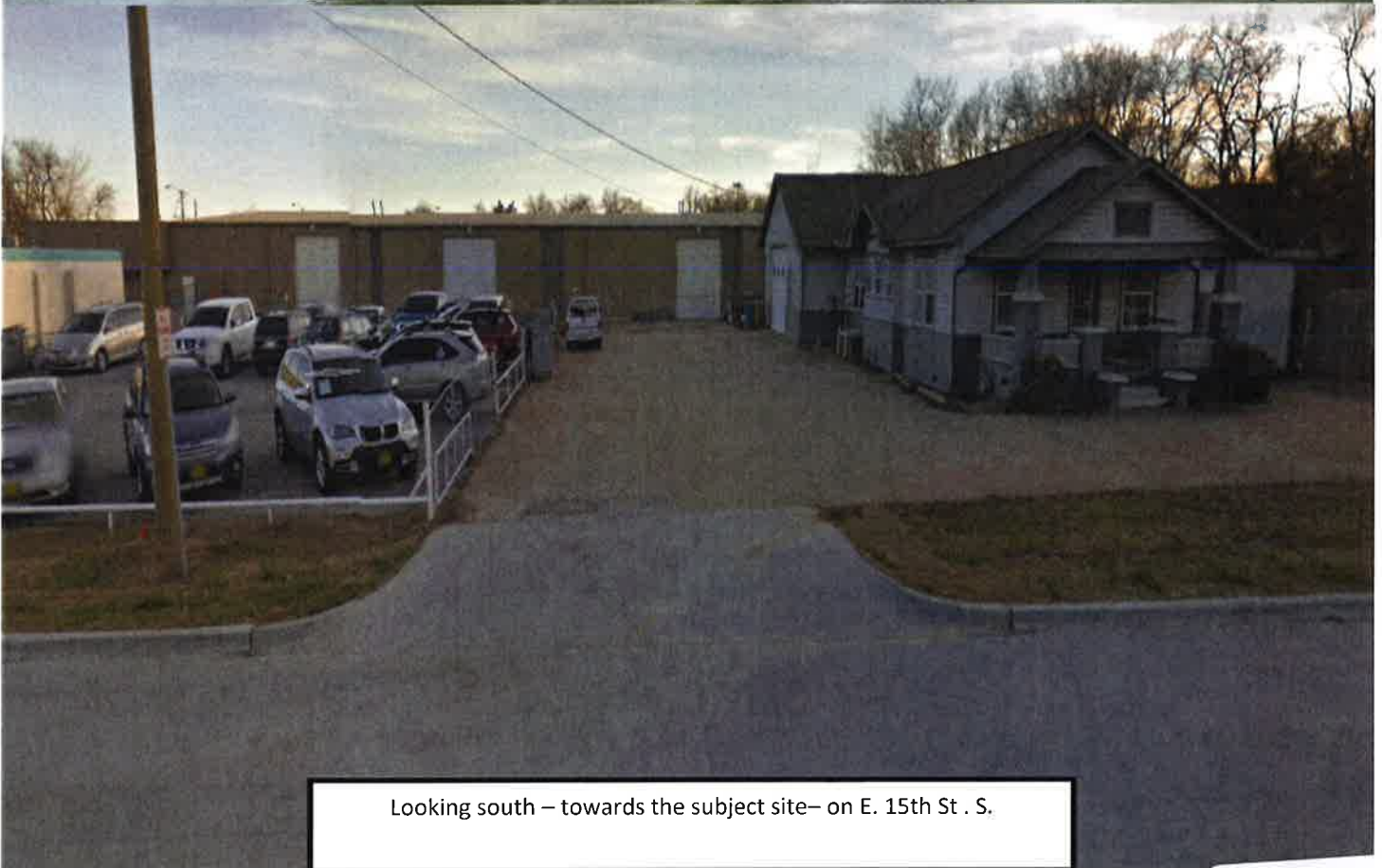
Aerial Photo Date: February 2018



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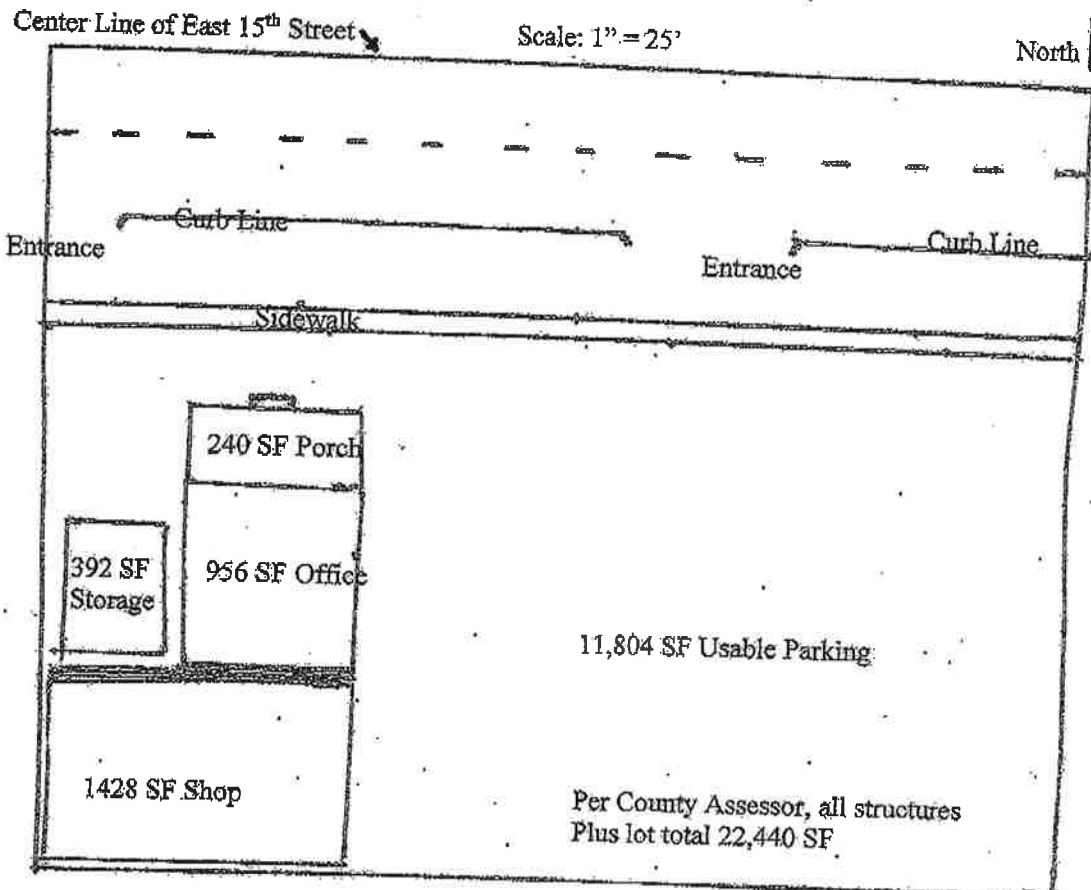


Looking east- towards the west side of the subject site- on E. 15th St .
S.



Looking south - towards the subject site- on E. 15th St . S.

SITE PLAN
7924 E. 15th St., Tulsa, OK 74112



Legal Description:

The West One Hundred Seventy (170) feet of the North One (1) acre of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE/4 NE/4 NE/4 SE/4) of Section Eleven (11), Township Nineteen (19) North, Range Thirteen (13) East of the Indian Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, LESS and EXCEPT the North Forty (40) feet thereof.

Zoning: CS

Exception Requested: Used Automobile Sales.

Current use of usable parking is Used Car Sales.

CHUCK LANGE
ZONING OFFICIAL
PLANS EXAMINER

TEL (918)596-9688
clange@cityoftulsa.org



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103

ZONING CLEARANCE PLAN REVIEW

LOD Number: 1

July 14, 2018

BOB BINGHAM
7944 E 15TH ST
TULSA, OK 74104

Phone: 918.665.2296

APPLICATION NO: **ZCO-005570-2018**

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location:

7924 E 15TH ST

Description:

USED AUTO SALES

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2nd STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. SUBMIT TWO (2) SETS [4 SETS IF HEALTH DEPARTMENT REVIEW IS REQUIRED] OF REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
2. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT WWW.INCOG.ORG OR AT INCOG OFFICES AT 2 W. 2nd ST., 8th FLOOR, TULSA, OK, 74103, PHONE (918) 584-7526.
3. A COPY OF A "RECORD SEARCH" **[X] IS [] IS NOT** INCLUDED WITH THIS LETTER. PLEASE PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.).

(continued)

1.17

REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT
WWW.CITYOFTULSA-BOA.ORG

Application No. ZC0-005570-2018

7924 E 15TH ST

JULY 14, 2018

Note: Please direct all questions concerning special exceptions, variances and all questions regarding BOA application forms and fees to an INCOG representative at 584-7526. It is your responsibility to submit to our offices documentation of any appeal decisions by an authorized decision making body affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf.

Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

1. **Sec.35.050-Q5:** Your proposed auto sale is designated a Commercial/Vehicle Sales & Service/Personal Vehicle Sales & Rentals Use and is located in the CS zoning district.

Review comment: A Special Exception, approved by the BOA, is required for auto sales at this location. This will require you to submit a Special Exception, reviewed and approved in accordance with the Special Exception procedures of Section 70.120, for Commercial/Vehicle Sales & Service/ Personal Vehicle Sales & Rentals to be allowed in the CS district.

2. **Section 15.040-A:** In the CS district, outdoor storage and outdoor merchandise display is prohibited within 300 feet of an abutting R district.

Review comment: The proposed car lot is located within 300 feet of an abutting R district and is not permitted. This will require you to submit a Variance reviewed and approved in accordance with the Variance procedures of Section 70.130, for outdoor storage and display of merchandise within 300 feet of an abutting R district.

Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code:

<http://www.tmapc.org/Documents/TulsaZoningCodeAdopted110515.pdf>

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

A hard copy of this letter is available upon request by the applicant.

END – ZONING CODE REVIEW

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.

Ulmer, Amy

From: Mike Allred <mike.allred@tulsacoxmail.com>
Sent: Thursday, July 26, 2018 4:44 PM
To: Ulmer, Amy
Subject: FW: CS zoning hardship statement for Robert Bingham, Case # BOA-22493

Importance: High

Hello Amy,

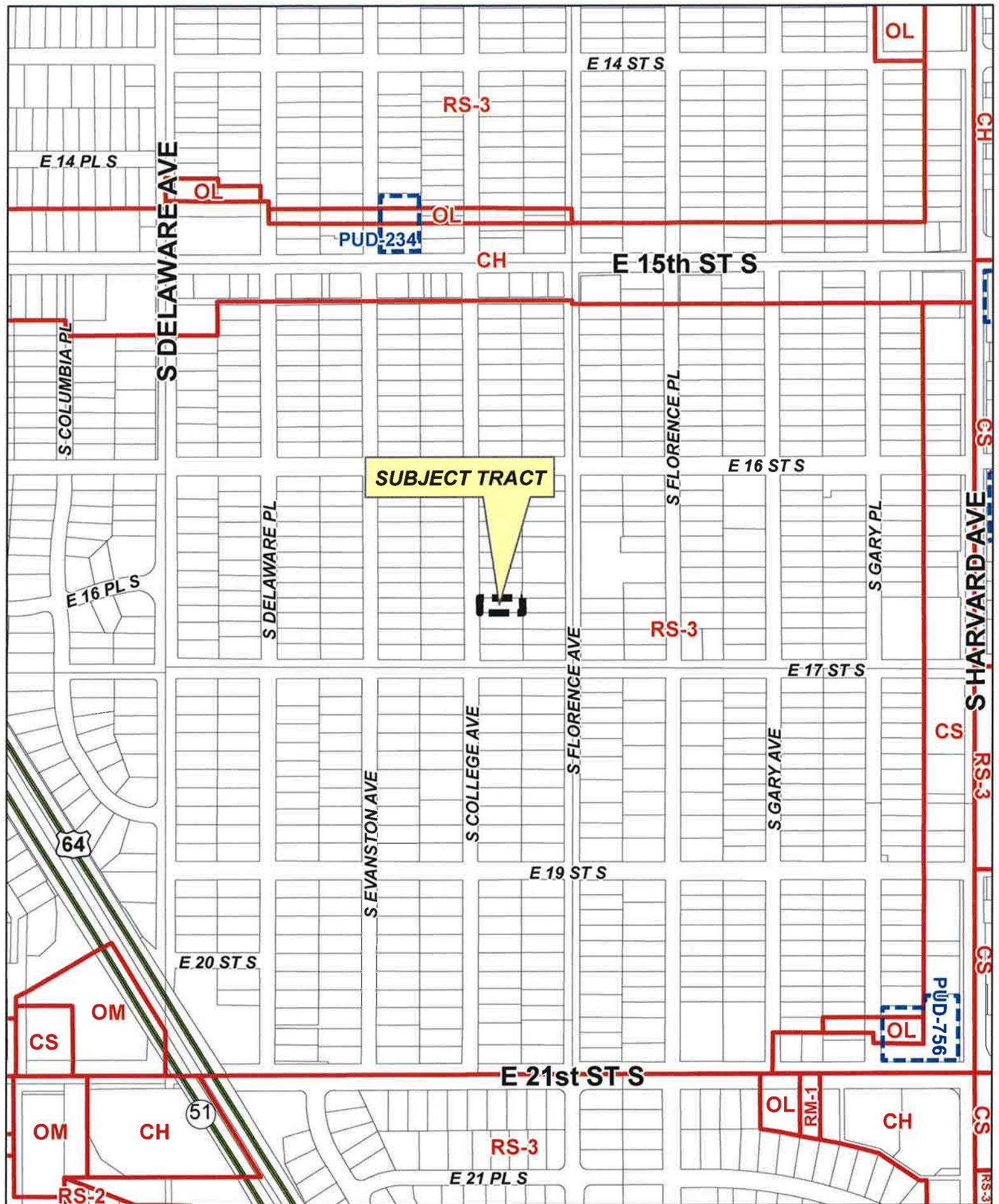
I've been asked to provide you with a "hardship" statement/amendment to an application for Administrative Adjustment already on file with the Tulsa Board of Adjustment. The Application was filed on 7-17-18 by Robert Bingham, Jr for the property located at 7924 E 15th S in Tulsa, Case # BOA-22493.

Please accept the following additional language to be inserted as the required "hardship" statement:

Movant has a Used Dealer license but is required by the Used Motor Vehicle Commission to obtain and provide them an exception to do business on CS zoned property. The current use restrictions on the property excludes the STORAGE AND DISPLAY OF MERCHANDISE (in our case, vehicles), thereby creating a hardship for a retail car lot that cannot be overcome without an exception for STORAGE AND DISPLAY of vehicle inventory parking. An exception would be consistent with the actual use of the property for more than 20 years, and consistent with the Zoning Code in its development of Anchor Corners. Finally, on Memorial Drive between 11th Street and 21st Street, there are approximately 20 used car lots, all on CS property, and denying an exception would be an inconsistent and unfair restraint on my business.

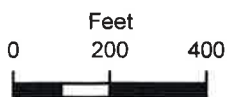
Please call if you have any questions and thanks.
Submitted on behalf of Robert Bingham,
Mike Allred
918-289-9591

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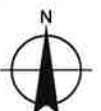


BOA-22501

2.1



19-13 08



BOARD OF ADJUSTMENT CASE REPORT

STR: 9308

Case Number: **BOA-22501**

CZM: 37

CD: 4

A-P#:

HEARING DATE: 09/11/2018 1:00 PM

APPLICANT: Christy Allen

ACTION REQUESTED: Special Exception to allow a Bed and Breakfast (short-term rental) in a RS-3 District (Section 5.020).

LOCATION: 1635 S COLLEGE AV E

ZONED: RS-3

PRESENT USE: residential

TRACT SIZE: 7000.12 SQ FT

LEGAL DESCRIPTION: LT 16 BLK 8, AVONDALE ADDN

RELEVANT PREVIOUS ACTIONS:

None relevant.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of an "Existing Neighborhood" and an "Area of Stability".

The **Existing Residential Neighborhood** category is intended to preserve and enhance Tulsa's existing single-family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code. In cooperation with the existing community, the city should make improvements to sidewalks, bicycle routes, and transit so residents can better access parks, schools, churches, and other civic amenities.

The **Areas of Stability** includes approximately 75% of the city's total parcels. Existing residential neighborhoods, where change is expected to be minimal, make up a large proportion of the Areas of Stability. The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life.

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by residential uses on all sides.

STAFF COMMENTS:

The applicant is before the Board requesting a Special Exception to permit a Bed & Breakfast in the existing house on the subject site. The request is to permit short-term (less than 30 days) lodging/rental on the site.

The following supplemental use regulations in **Section 40.060** apply to all bed and breakfast uses.

- Bed and breakfast are limited to a maximum of 12 guest rooms unless a lower limit is established by the board of adjustment as a condition of an approved special exception.
- The maximum length of stay for any guest is limited to 30 consecutive days.
- The owner/operator must maintain a register of bed and breakfast guests and on-site events for each calendar year and make the register available to city code enforcement upon request.
- Cooking facilities are prohibited in guest rooms.
- Signs are allowed in accordance with the sign regulations of the subject zoning district unless the board of adjustment establishes stricter conditions at the time of special exception approval.
- Public restaurants are prohibited. Meals may be served only to overnight guests and for on-site events expressly authorized by the board of adjustment at the time of special exception approval. The board of adjustment may authorize bed and breakfasts to be rented for events, such as weddings, receptions, anniversaries, private dinner parties, business seminars, etc. The use of bed and breakfasts for on-site events requires ex-press authorization of the board of adjustment, in accordance with the special exception procedures of Section 70.120. As part of approval of the special exception, the board of adjustment is authorized to establish the maximum number of on-site events per year and the maximum number of guests per any single event, based on the avail-ability of off-street parking and the facility’s likely impacts on the area.

Sample Motion

Move to _____ (approve/deny) a Special Exception to allow a Bed and Breakfast (short-term rental) in an RS-3 district. (Section 5.020).

- Subject to the following conditions (including time limitation, if any): _____

The Board finds that the requested 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.



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Feet



Subject
Tract

BOA-22501

19-13 08

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

Aerial Photo Date: February 2018

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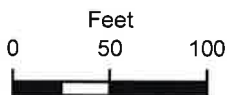


E 16 ST S

S FLORENCE AVE

S COLLEGE AVE

E 17 ST S



Subject
Tract

BOA-22501

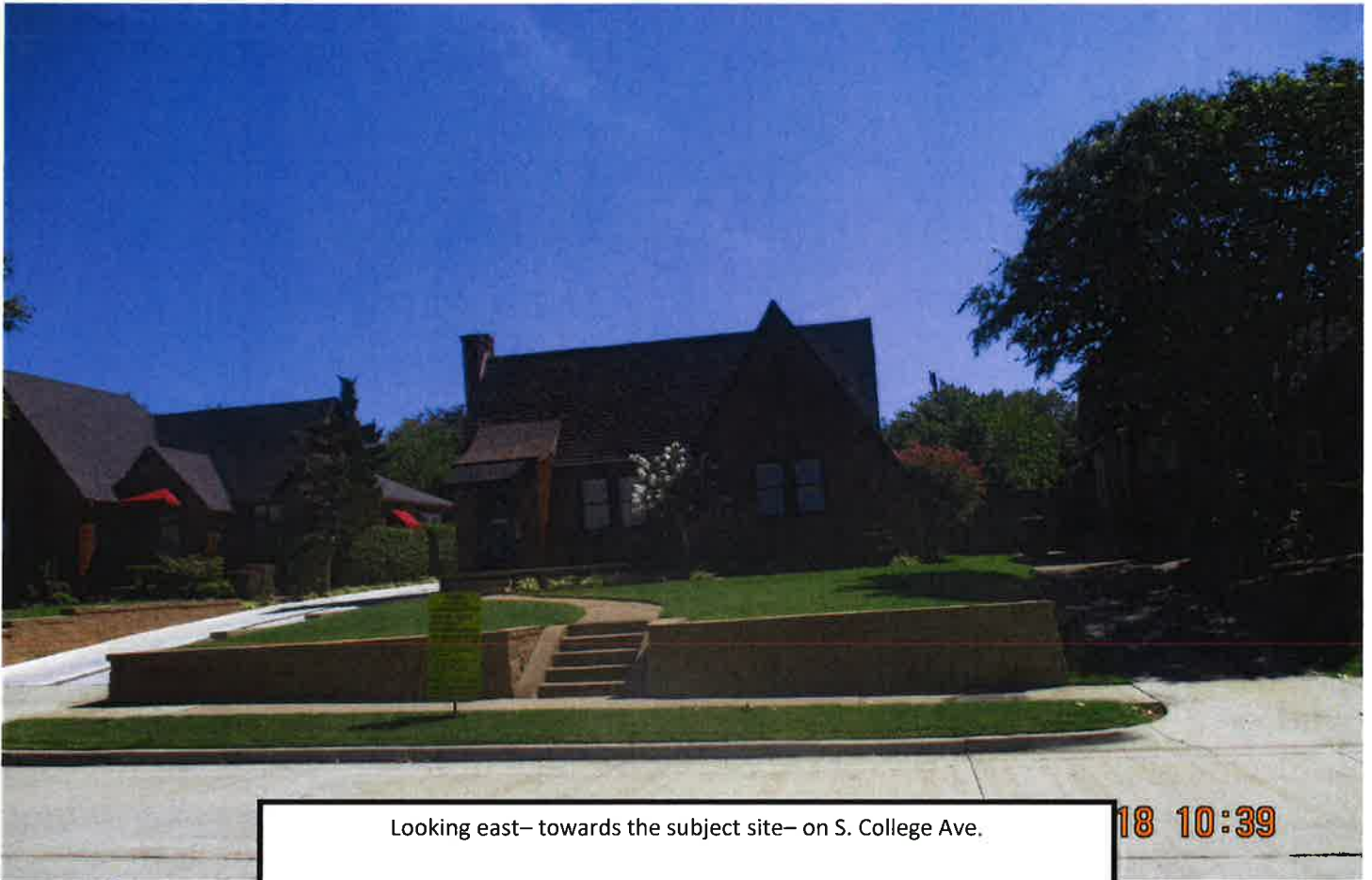
19-13 08

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

Aerial Photo Date: February 2018

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Looking east- towards the subject site- on S. College Ave.

18 10:39

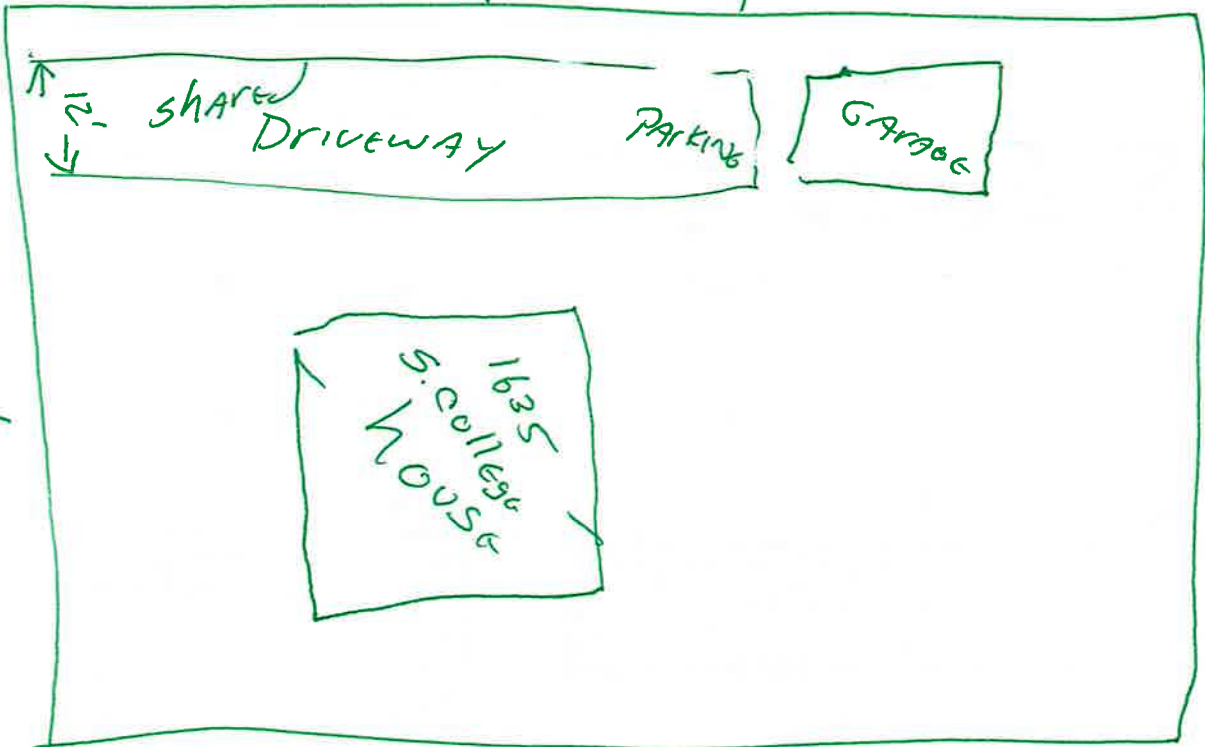


Looking east- towards the subject site- on S. College Ave.

08/31/2018 10:39

NEIGHBOR
DRIVE

SHARED 2 CAR DRIVEWAY



S. COLLEGE AVE

CHUCK LANGE
ZONING OFFICIAL
PLANS EXAMINER

TEL (918)596-9688
clange@cityoftulsa.org



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103

ZONING CLEARANCE PLAN REVIEW

LOD Number: 1

JUNE 21,2018

CHRISTY ALLEN
1416 S HARVARD AVE
TULSA, OK 74112

Phone: 918.606.8532

APPLICATION NO: ZCO-003032-2018

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: 1635 S COLLEGE AVE
Description: BED & BREAKFAST

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2nd STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601.

THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. SUBMIT TWO (2) SETS [4 SETS IF HEALTH DEPARTMENT REVIEW IS REQUIRED] OF REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
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(continued)

REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT WWW.CITYOFTULSA-BOA.ORG

Application No.

Address

Date

Note: Please direct all questions concerning special exceptions, platting and appeals of an administrative official decision and all questions regarding BOA application forms and fees to an INCOG representative at 918-584-7526. It is your responsibility to submit to our offices documentation of any appeal decisions by an authorized decision making body affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf. Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

Sec.35.050-G1: Your application is for a Bed & Breakfast which is located in an RS-3 zoning district. This use is allowed in the RS-3 district by Special Exception (*Table 5-2: R District Use Regulations*). In its approval the Board shall consider the following:

- A. The lot area is less than 12,000 ft² (Table 5-3),
- B. The lot area per unit is less than 12,000 ft² (Table 5-3),
- C. The lot width is less than 100 ft. (Table 5-3), and
- D. The building side yard setbacks are less than 25 ft. (Table 5-3, Sec.5.030 [4]).

Review Comment: Submit a copy of the Special Exception reviewed and approved per Sec.70.120 to allow a Bed & Breakfast in the RS-3 zoning district.

Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code:

<http://www.tmapc.org/Documents/TulsaZoningCodeAdopted110515.pdf>

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

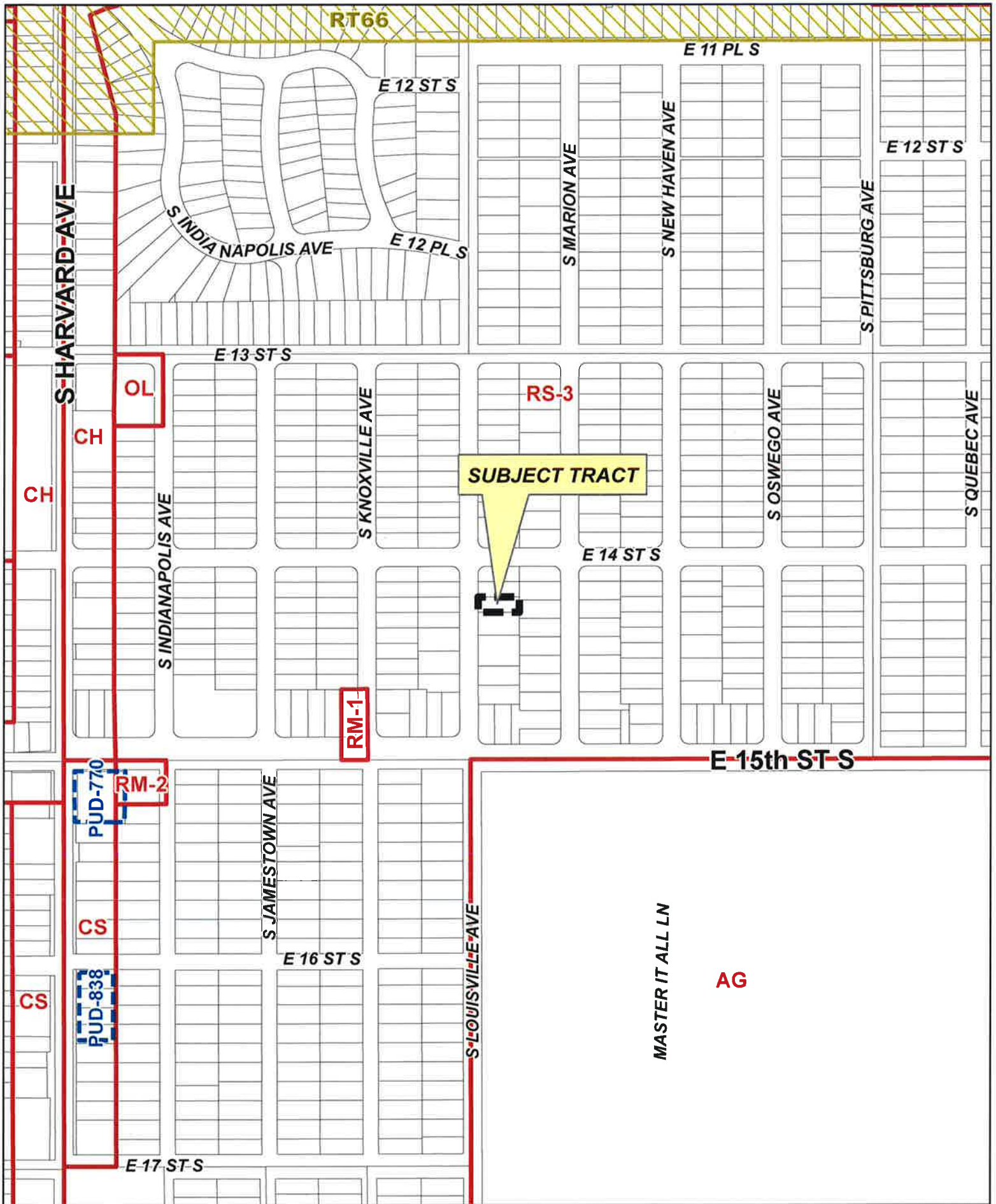
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END – ZONING CODE REVIEW

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BOA-22503

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19-13 09



BOARD OF ADJUSTMENT CASE REPORT

STR: 9309

Case Number: **BOA-22503**

CZM: 37

CD: 4

A-P#:

HEARING DATE: 09/11/2018 1:00 PM

APPLICANT: Darla Murphy

ACTION REQUESTED: Special Exception to allow a Bed and Breakfast (short-term rental) in an RS-3 district. (Section 5.020).

LOCATION: 1411 S LOUISVILLE AV E

ZONED: RS-3

PRESENT USE: residential

TRACT SIZE: 6751.83 SQ FT

LEGAL DESCRIPTION: LT-12-BLK-7, SUMMIT HGTS ADDN

RELEVANT PREVIOUS ACTIONS:

Surrounding Properties:

BOA-17716: on 5.13.97, the Board approved a special exception to allow a home occupation (sculptured nails) in a RS3 district per plan submitted. Property being located south of the southwest corner of S. New Haven Ave. & E. 14th St. S. (1416 S. New Haven)

BOA-15272: on 10.19.89 the Board approved a special exception to permit a home occupation, book binding business, in a RS-3 zoned district, per conditions. Property being located west of the northwest corner of East 15th Street South and South Knoxville Avenue (3511 East 15th St.)

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of an "Existing Neighborhood" and an "Area of Stability".

The **Existing Residential Neighborhood** category is intended to preserve and enhance Tulsa's existing single-family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code. In cooperation with the existing community, the city should make improvements to sidewalks, bicycle routes, and transit so residents can better access parks, schools, churches, and other civic amenities.

The **Areas of Stability** includes approximately 75% of the city's total parcels. Existing residential neighborhoods, where change is expected to be minimal, make up a large proportion of the Areas of Stability. The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality

of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life.

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by residential uses on all sides.

STAFF COMMENTS:

The applicant is before the Board requesting a Special Exception to permit a Bed & Breakfast in the existing house on the subject site. The request is to permit short-term (less than 30 days) lodging/rental on the site. Per the attached statement, no parties or special events will be held on the site; the applicant will be a on-site host.

The following supplemental use regulations in **Section 40.060** apply to all bed and breakfast uses.

- Bed and breakfast are limited to a maximum of 12 guest rooms unless a lower limit is established by the board of adjustment as a condition of an approved special exception.
- The maximum length of stay for any guest is limited to 30 consecutive days.
- The owner/operator must maintain a register of bed and breakfast guests and on-site events for each calendar year and make the register available to city code enforcement upon request.
- Cooking facilities are prohibited in guest rooms.
- Signs are allowed in accordance with the sign regulations of the subject zoning district unless the board of adjustment establishes stricter conditions at the time of special exception approval.
- Public restaurants are prohibited. Meals may be served only to overnight guests and for on-site events expressly authorized by the board of adjustment at the time of special exception approval. The board of adjustment may authorize bed and breakfasts to be rented for events, such as weddings, receptions, anniversaries, private dinner parties, business seminars, etc. The use of bed and breakfasts for on-site events requires ex-press authorization of the board of adjustment, in accordance with the special exception procedures of Section 70.120. As part of approval of the special exception, the board of adjustment is authorized to establish the maximum number of on-site events per year and the maximum number of guests per any single event, based on the availability of off-street parking and the facility's likely impacts on the area.

Sample Motion

Move to _____ (approve/deny) a Special Exception to allow a Bed and Breakfast (short-term rental) in an RS-3 district. (Section 5.020).

- Subject to the following conditions (including time limitation, if any): _____

The Board finds that the requested 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.

Case No. 17715 (continued)

Lots 5-8, E 20', Lot 9, 12-18, Block 36, Sheridan Hills, An Addition to the City of Tulsa, Tulsa County, Oklahoma.

Additional Comments:

Mr. White informed the applicant that the Planning District Concept has been modified or enhanced significantly. He explained that there are homeowner's association, neighborhood associations and Jeannie McDaniels from the Mayor's office will be able to give him information regarding the new concept.

Case No. 17716

Action Requested:

Special Exception to allow a home occupation (sculptured nails) in a RS-3 zoned district. **SECTION 402.B.4.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS - Use Unit 13, located 1416 South New Haven.**

Presentation:

The applicant, **L. Jean Wofford**, 1416 South New Haven, submitted a site plan (Exhibit M-1) and stated she would like to have a nail shop in her home. Ms. Wofford explained that the room that she will utilize has an outside entrance and her driveway will accommodate two (2) vehicles. She stated that her neighborhood does allow on street parking as well. Ms. Wofford indicated that she does not anticipate more than one car at her home at any one time. The hours of operation will be 9:00 a.m. to 8:00 p.m., Tuesday through Saturday.

Comments and Questions:

Ms. Turnbo asked the applicant how many vehicles does she personally own? Ms. Wofford stated she owns only one car.

Mr. Beach asked the applicant if she had a copy of the home occupation guidelines? She answered negatively.

Ms. Turnbo informed the applicant that she cannot have a sign nor hire someone to help in the shop and she cannot alter the exterior of the building to look like a business.

Mr. Beach stated that if the Board is inclined to approve this application, then INCOG can provide a copy of the home occupation guidelines.

Ms. Turnbo asked the applicant if she had any concerns with a 15 minute break between appointments so that the vehicle will be gone before the next client arrives? She stated she did not have a problem with that restriction.

05:13:97:726(25)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, Bolzle "absent") to **APPROVE** a **Special Exception** to allow a home occupation (sculptured nails) in a RS-3 zoned district. **SECTION 402.B.4.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 13; per plan submitted; subject to the home occupation guidelines and that there is to be only one customer at any one time with a 15 minute spacing between appointments; subject to the hours and days of operation being 9:00 a.m. to 8:00 p.m., Tuesday through Saturday; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lot 18, Block 8, Summit Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17717

Action Requested:

Special Exception to allow car wash in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17 and a Variance of setback from Sheridan Road from 50' to 20' to allow a car wash. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 2197 South Sheridan Road.

Comments and Questions:

Mr. Beach asked the applicant if he intended to build a mini-storage as well as the car wash? He answered affirmatively.

Mr. Beach explained to the applicant that he is not properly advertised for a mini-storage and he will have to re-advertise.

Presentation:

The applicant, **Larry D. Graves**, 8892 Haskell Drive, Broken Arrow, 74014, submitted a site plan (Exhibit N-1), proposal (Exhibit N-2) and photographs (Exhibit N-3). Mr. Graves stated he is requesting variance on CS property for a mini-storage and car wash facility. He further requested an 80' setback from the centerline of Sheridan Road, which the standard setback is 100'. He explained that the buildings to the south and north of the subject property are 10' closer than his request.

Case No. 15272

Action Requested:

Special Exception - Section 420 - Accessory Uses In Residential Districts - Use Unit 1206 - Request a special exception to allow a home occupation in a RS-3 zoned district, located 3511 East 15th Street.

Presentation:

The applicant, **Stephen Voorhies**, 3511 East 15th Street, Tulsa, Oklahoma, requested permission to continue the operation of a home occupation in his residence. He informed that he rents the property and has been binding books at this location for two years, with no complaints from his neighbors. Mr. Voorhies explained that his business consists of punching holes in small booklets and inserting a spiral binder, and that one room in his home is reserved for this operation. He stated that the binding business is only part-time work, but is presently his only means of support.

Comments and Questions:

Ms. Bradley asked if customers bring material to the home for binding, and the applicant replied that he picks up approximately 90% of the work, but there are a few customers that visit the home.

Mr. Jackere inquired as to the approximate number of customers that might visit the home during a one-week period, and Mr. Voorhies replied that he might have two customers per week.

In response to Ms. Bradley, the applicant stated that there are no big trucks used in the business, but all materials are transported by a pickup or van.

Mr. Jackere inquired as to the number of deliveries per month, and the extent of the business. Mr. Voorhies replied that there are approximately two deliveries per month, and the only work that he does in the home is the punching and binding of small booklets (Exhibit F-1).

Ms. Bradley remarked that she has viewed the property and the house is located further from the street than other residences in the area.

Mr. Chappelle asked the applicant why he is before the Board at this time, and he replied that someone turned him in to the City. He further stated that he has had no problem with the neighbors, and believes that he was reported by a competitor.

Protestants:

The resident at 1431 South Jamestown, who stated that he has recently purchased property adjacent to Mr. Voorhies' residence, pointed out that a business at this location would destroy the residential character of the neighborhood. He stated that he owns other property in the area and is opposed to the home occupation.

Case No. 15272 (continued)

Cleo Mace, 1512 South Jamestown, Tulsa, Oklahoma, stated that he does not live on 15th Street, but is concerned that permission to operate a home occupation on the subject property would set a precedent in the neighborhood for the approval of other such requests. He asked the Board to deny the application.

Interested Parties:

Bruce Combest, 1213 South Delaware Place, Tulsa, Oklahoma, owner of the subject property, informed the Board that Mr. Voorhies has been an ideal renter, and that there is not a sign on the property, or any other evidence that a business is being operated at this location.

Mr. Fuller asked if the binding process creates any noise, and Mr. Combest replied that the operation cannot be heard outside the house.

Applicant's Rebuttal:

Mr. Voorhies stated that there is no outside evidence that would suggest that he is conducting a business at this location, and invited the neighbors to visit his residence and examine the binding process.

Mr. Bolzie asked Mr. Mace if the possibility of setting a precedent in the area is his primary reason for opposing the application, and he answered in the affirmative.

In response to Mr. Bolzie, the resident at 1431 South Jamestown stated that he has not heard any noise, but has not lived at this location long enough to monitor the business and determine if it would cause a noise problem.

Additional Comments:

Mr. Gardner stated that both sides of 15th Street in this area has RS-3 zoning and is planned to remain residential. He pointed out that the principal use of the property in this application would remain residential if the application is approved, and must be occupied as a residence. Mr. Gardner pointed out that, if the Board is inclined to approve the request as presented, it would in no way effect any zoning change that might be requested now, or in the future. He informed that the approval of a home occupation would not be a basis for changing the zoning.

Mr. Bolzie asked if the exhibited booklet and spiral binder (8 1/2" by 6") will be the only type of binding produced at this location, and Mr. Voorhies answered in the affirmative. He further noted that he will move to a business location if the volume of business should increase.

Case No. 15272 (continued)

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** (Section 420 - Accessory Uses In Residential Districts - Use Unit 1206) to allow a home occupation for spiral book binding in a RS-3 zoned district; subject to a time limit of two years only; subject to no expansion of the business, and existing traffic flow being maintained (2 deliveries per week); finding that the business has been in operation for two years without detection; and finding that the home occupation, as presented, will not be detrimental to the neighborhood; on the following described property:

Lot 3, Block 5, Summit Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15274

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the Residential Districts - Use Unit 1206 - Request a variance of the required 10' setback from property line to 6' to permit an addition to line up with an existing dwelling, 2432 East 8th Street.

Presentation:

The applicant, **John Noveskey**, 1216 South 139th East Avenue, Tulsa, Oklahoma, submitted a plot plan (Exhibit G-1) for an addition to the east side of an existing dwelling. It was noted that the addition will not extend further into the required setback, but will align with the remainder of the house.

Comments and Questions:

Ms. Hubbard explained that the neighborhood has developed single family residential and the new addition will align with an existing encroachment. She informed that the required setback for RM-2 is 10', but only 5' is required for single family residential.

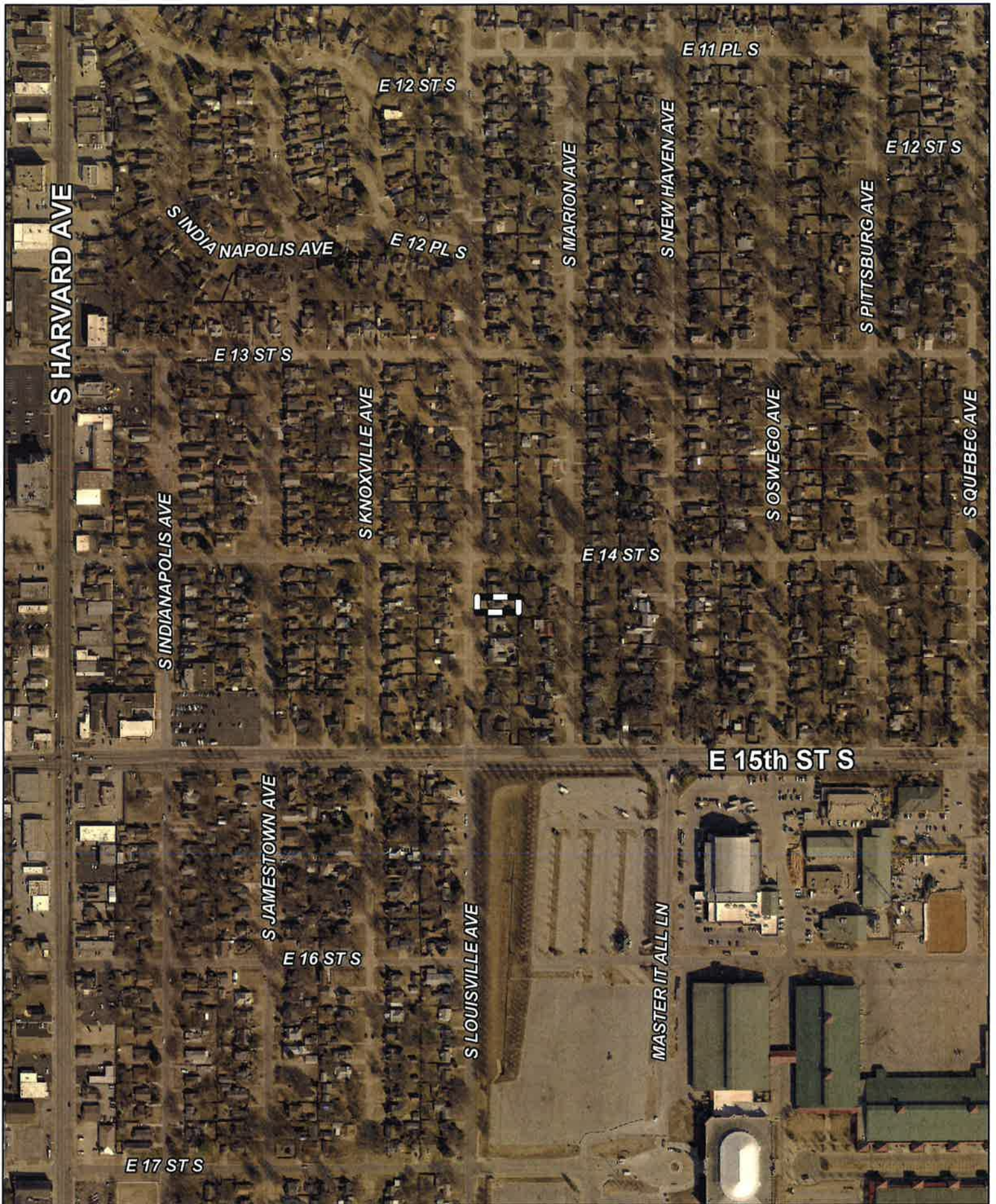
In response to Ms. Bradley, the applicant informed that the house was a multi-family facility, but that he is proposing to add a room and change it to a single family residence.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in the Residential Districts - Use Unit 1206) of the required 10' setback from the property line to 6' to permit an addition to line up with an existing dwelling; per plot plan submitted; finding that the proposed expansion will align with the existing dwelling which has been constructed over the zoning setback line; and finding that the area has developed predominately single family residential, which requires only a 5' side yard setback; on the following described property:

10.19.89:549(9)



0 Feet 200 400



Subject Tract

BOA-22503

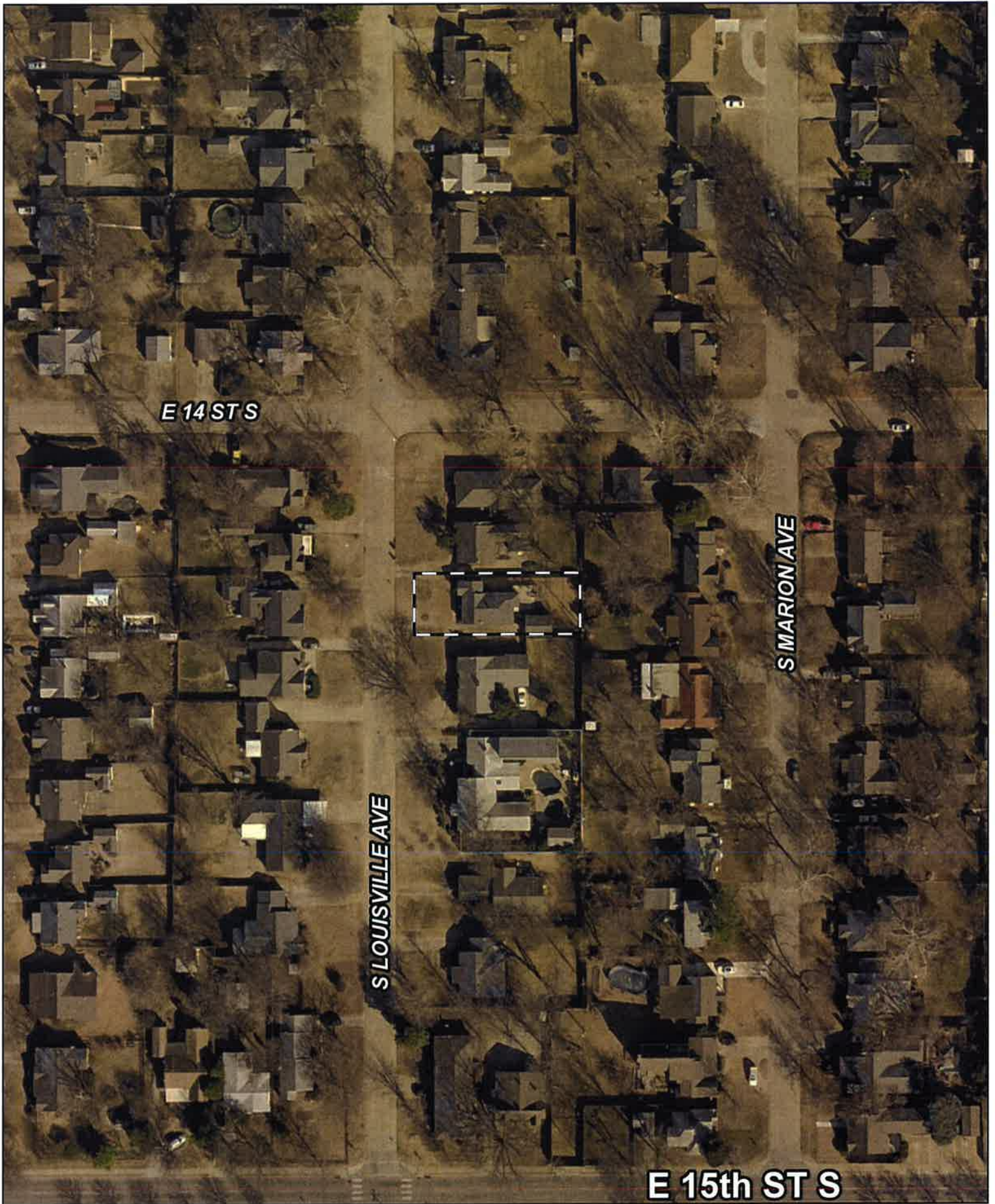
19-13 09

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

Aerial Photo Date: February 2018

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E 14 ST S

S MARION AVE

S LOUISVILLE AVE

E 15th ST S

0 50 100
Feet



Subject
Tract

BOA-22503

19-13 09

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

Aerial Photo Date: February 2018

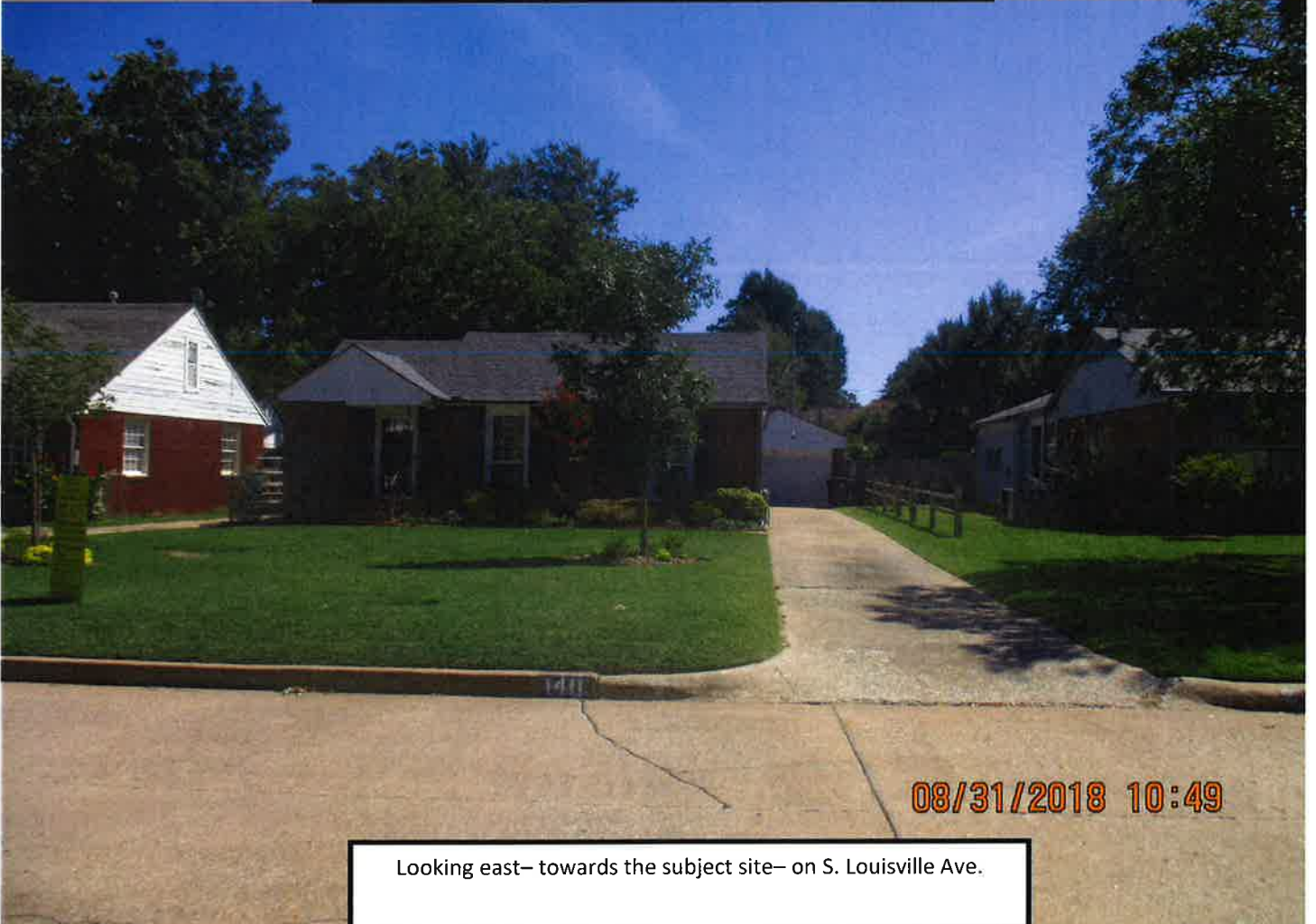
3.10





Looking east- towards the subject site- on S. Louisville Ave.

08/31/2018 10:49



Looking east- towards the subject site- on S. Louisville Ave.

08/31/2018 10:49

Application No. ZCO-007135-2018

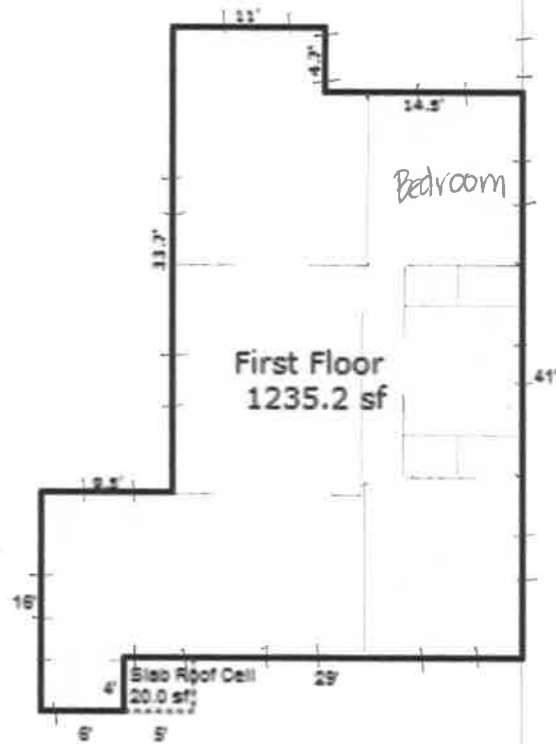
Murphy, 1411 S. Louisville E. Ave. Tulsa OK

- On-site host: I work and live on premises
- This application is for ONE (1) BEDROOM ONLY
- Quiet hours: 10 p.m. to 8 a.m.
- Non-smoking, no parties or events
- Parking (preferred): Driveway: 8.5' x 100'
- Room: one (1) interior door, two (2) unobstructed exterior windows, and one (1) smoke detector and one (1) nearby carbon monoxide detector
- Single-level home: Total of two (2) exterior doors, eleven (11) unobstructed exterior windows, two (2) smoke detectors, one (1) carbon monoxide detector, two (2) fire extinguishers.
- Nearest Fire Station: Tulsa Fire Department Station #7 (.7 miles away)
- Cleaning and Maintenance: Professionally landscaped, maintained, and cleaned. I support a "living wage" pledge for the cleaning of our home.
- We plan on listing bedroom on Airbnb (host and guest recommendation/rated system) ONLY
- Host Protection Insurance is in place

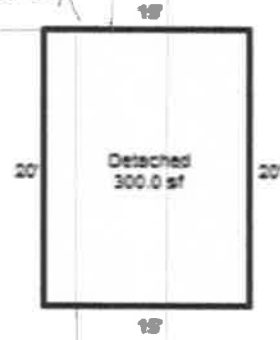
3.13

Sketch by Apex Sketch

Property Line



Detached
Garage
is
located
here ↗

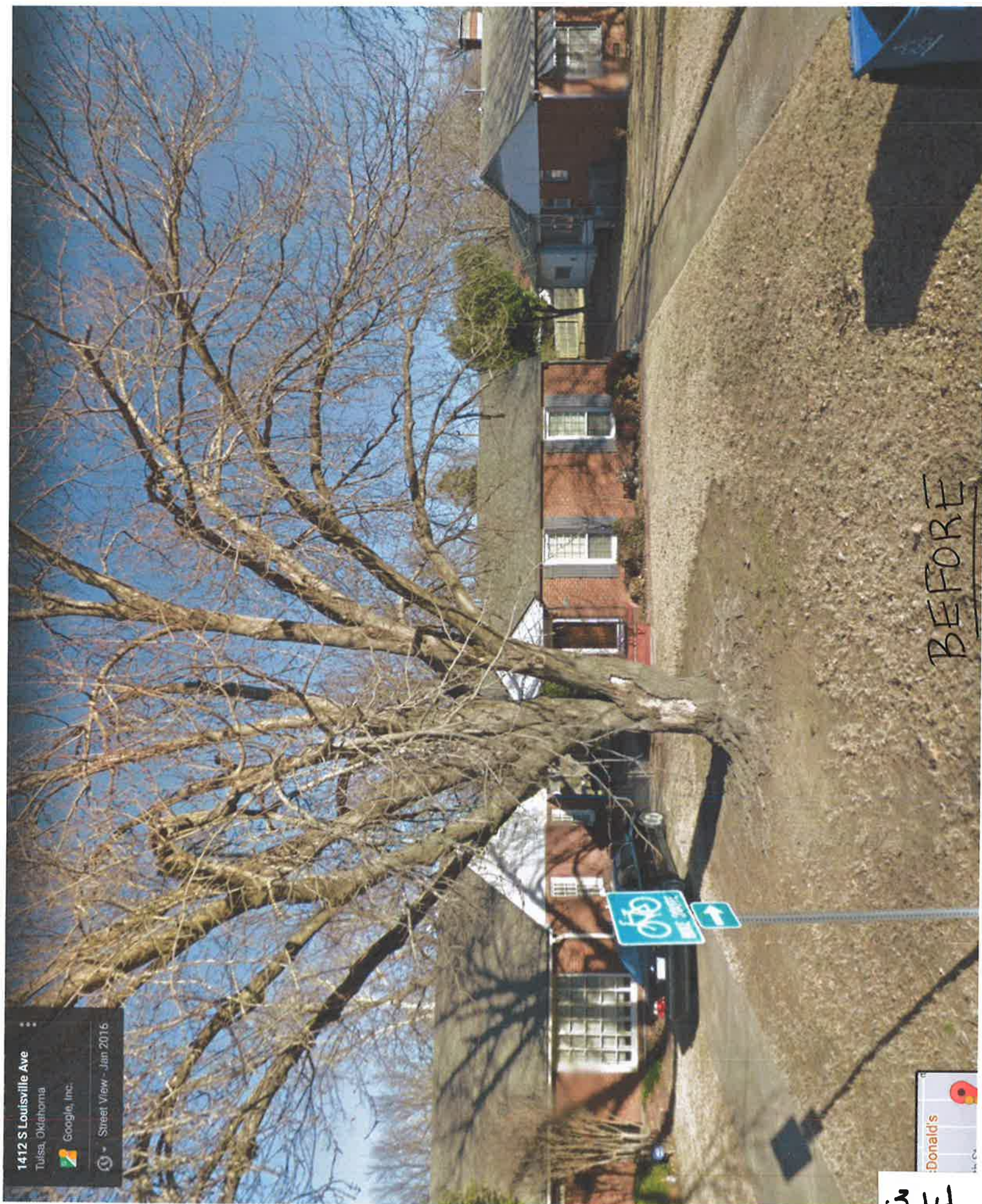


Driveway (100' x 8.5')

Property Line

Street ↓

8'5"



1412 S Louisville Ave

Tulsa, Oklahoma

Google, Inc.

Street View - Jun 2016

Donald's



3.14

BEFORE



AFTER

3.15

CHUCK LANGE
ZONING OFFICIAL
PLANS EXAMINER

TEL (918)596-9688
clange@cityoftulsa.org



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103

ZONING CLEARANCE PLAN REVIEW

LOD Number: 1

July 27, 2018

DARLA MURPHY
1411 S LOUISVILLE
TULSA, OK 74112

Phone: 918.724.4071

APPLICATION NO: ZCO-007135-2018

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: 1411 S LOUISVILLE
Description: Airbnb

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2nd STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. SUBMIT TWO (2) SETS [4 SETS IF HEALTH DEPARTMENT REVIEW IS REQUIRED] OF REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
2. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT WWW.INCOG.ORG OR AT INCOG OFFICES AT 2 W. 2nd ST., 8th FLOOR, TULSA, OK, 74103, PHONE (918) 584-7526.
3. A COPY OF A "RECORD SEARCH" **[X] IS [] IS NOT** INCLUDED WITH THIS LETTER. PLEASE PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.).

(continued)

REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT
WWW.CITYOFTULSA-BOA.ORG

Application No. ZCO-07135-2018

1411 S Louisville Ave

July 27, 2018

Note: Please direct all questions concerning special exceptions and appeals of an administrative official decision and all questions regarding BOA application forms and fees to an INCOG representative at 918-584-7526. It is your responsibility to submit to our offices documentation of any appeal decisions by an authorized decision making body affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf. Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

Sec.35.050-G1: Your application is for a Bed & Breakfast which is located in an RS-3 zoning district. This use is allowed in the RS-3 district by Special Exception (*Table 5-2: R District Use Regulations*). In its approval the Board shall consider the following:

- A. The lot area is less than 12,000 ft² (Table 5-3),
- B. The lot area per unit is less than 12,000 ft² (Table 5-3),
- C. The lot width is less than 100 ft. (Table 5-3), and
- D. The building side yard setbacks are less than 25 ft. (Table 5-3, Sec.5.030 [4]).

Review Comment: Submit a copy of the Special Exception reviewed and approved per Sec.70.120 to allow a Bed & Breakfast in the RS-3 zoning district.

Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code:

<http://www.tmapc.org/Documents/TulsaZoningCodeAdopted110515.pdf>

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

A hard copy of this letter is available upon request by the applicant.

END – ZONING CODE REVIEW

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.

Sparger, Janet

From: Chapman, Austin
Sent: Tuesday, August 28, 2018 1:11 PM
To: Sparger, Janet
Subject: FW: AirBNB objection - 1411 S. Louisville Avenue

Janet,

Please add this email to the file for BOA-22503.

Thanks,
Austin

From: Sherry Coffee <sherrycoffee222@gmail.com>
Sent: Tuesday, August 28, 2018 12:08 PM
To: Chapman, Austin <AChapman@incog.org>
Subject: AirBNB objection - 1411 S. Louisville Avenue

This email is a follow-up to our telephone conversation this morning in reference to the above subject.

The people at this address, David and Darla Rachelle Murphy, have been running an airbnb rental next door to me for over a month. They rent out a single bedroom in their home. They made no mention of it to me, but I began seeing different cars and trucks at their house on a regular basis. I emailed her via the "Nextdoor" website asking her if they were running an airbnb. She didn't respond until about a month later and said that they were. I emailed my city councilman about it and he responded that the rules and regulations were being rewritten regarding airbnb, and that there is nothing that can be done at this time.

About 2 weeks ago, David Murphy knocked on my door. He stated his intent was to inform me that they were going through the application process to operate an airbnb. I asked him why they were just now doing this, in light of the fact that they had been renting out their room for some time. He replied that they were not aware that there were any requirements by the City to run an airbnb. I told him that I did not like it that they were doing this. I cited my objections as follows. Their driveway is next to my house. I was sitting in my sunroom quietly reading one weekday afternoon, when this very loud pickup truck drove up in their driveway and started unloading suitcases. He stayed at their house approximately 4 nights. Each morning during his stay, I was awakened before 6 a.m. by the starting of his very loud truck. In addition, they allow people to bring their dogs. I have seen 2 large dogs over there. One night one of the men visitors took his dog for a walk down the street with no leash.

In addition to running the airbnb, Mrs. Murphy runs an online business through Etsy, called The Cottage Needle. She frequently conducts "Sit 'N Stiches" at restaurants up and down 15th street. She also has had people at her house on Wednesday evenings. On these occasions, her customers park in front of my house to attend her sewing sessions. Following is one of her invitations that she posts on the Nextdoor website (there are many more invitations on Nextdoor with restaurants as the address, but this one specifically cites "The Cottage Needle", which she runs out of her house:

NOV
01

Autumn Sit n' Stitch (cross stitch, knitting, etc.)

Wed, Nov 1, 2017, 6:30 PM - 8:00 PM
The Cottage Needle

Going? ▾

...

 1 Going

Event details

The Cottage Needle will be hosting an Autumn Sit n' Stitch at The Cottage.

Bring whatever stitchy project you're working on and stitch with all the friendly pumpkins and turkeys! Coffee, Iced Tea, and water will be provided :)

If you need a project, check out thecottageneedle.com for paper and .pdf patterns and supplies!

For more information (including address), please contact The Cottage Needle at [thecottageneedle at yahoo \[dot\] com](mailto:thecottageneedle@yahoo.com).

When Mr. Murphy dropped by my house that day, I told him that I had lived here for 4 years, with no "commercial businesses" near me. Now that they moved in 2 years ago, they are running two businesses - the embroidery business and now an airbnb. I expressed to him that I did not like it and that, in fact, I have even thought of selling my house and moving.

I moved here in a residential neighborhood - I do not want businesses next door to me. If there is anything more that I can do to stop this, please inform.

Thank you for your consideration.

Sherry Coffee
1415 S. Louisville Ave.
Tulsa, OK 74112
918 625-9323

Sparger, Janet

From: Chapman, Austin
Sent: Tuesday, September 4, 2018 8:09 AM
To: Sparger, Janet; Ulmer, Amy
Cc: Sherry Coffee
Subject: FW: Attachment
Attachments: Screen Shot 2018-08-31 at 5.46.54 PM.png

Janet,

Please add a copy of the attachment to the file for BOA-22503.

Best,

Austin Chapman | Assistant Planner
2 West 2nd Street Suite 800 | Tulsa, Oklahoma 74103
ph: 918.579.9471 | fax: 918.579.9574
web: www.incog.org | email: achapman@incog.org



Determining compliance to zoning or building code requirements is not a function of this office.
The Building Permits Division will address compliance upon application for a building permit or occupancy permit. {(918) 596-9456}

From: Sherry Coffee <sherrycoffee222@gmail.com>
Sent: Friday, August 31, 2018 6:03 PM
To: Chapman, Austin <ACHapman@incog.org>
Subject: Attachment

Here is an attachment regarding the airbnb hearing for 1411 S. Louisville Ave., Tulsa, OK 74112.








It is my email exchange through "nextdoor.com" with Darla Rachelle Murphy on 7/18/18

I also forwarded you, in a separate email, my email exchange with Blake Ewing dated 7/23/2018 in regard to this case.

Thank you for your attention to this matter.

Sherry Coffee
1415 S. Louisville Ave.
Tulsa, OK 74112
918 625-9323

3.21

- Inbox**
- Archive
- Compose
-  **question** 8/1
D Rachelle Murphy
-  **Fence** 7/20/17
D Rachelle Murphy
-  **Plant between our houses** 5/21/17
D Rachelle Murphy
-  **Dinner** 3/12/17
D Rachelle Murphy
-  **Saturday** 12/2/16
D Rachelle Murphy
-  **Hi There!** 11/10/16
D Rachelle Murphy
-  **New Neighbors - 1411 S** 11/10/16

question

Started on 7/18

You

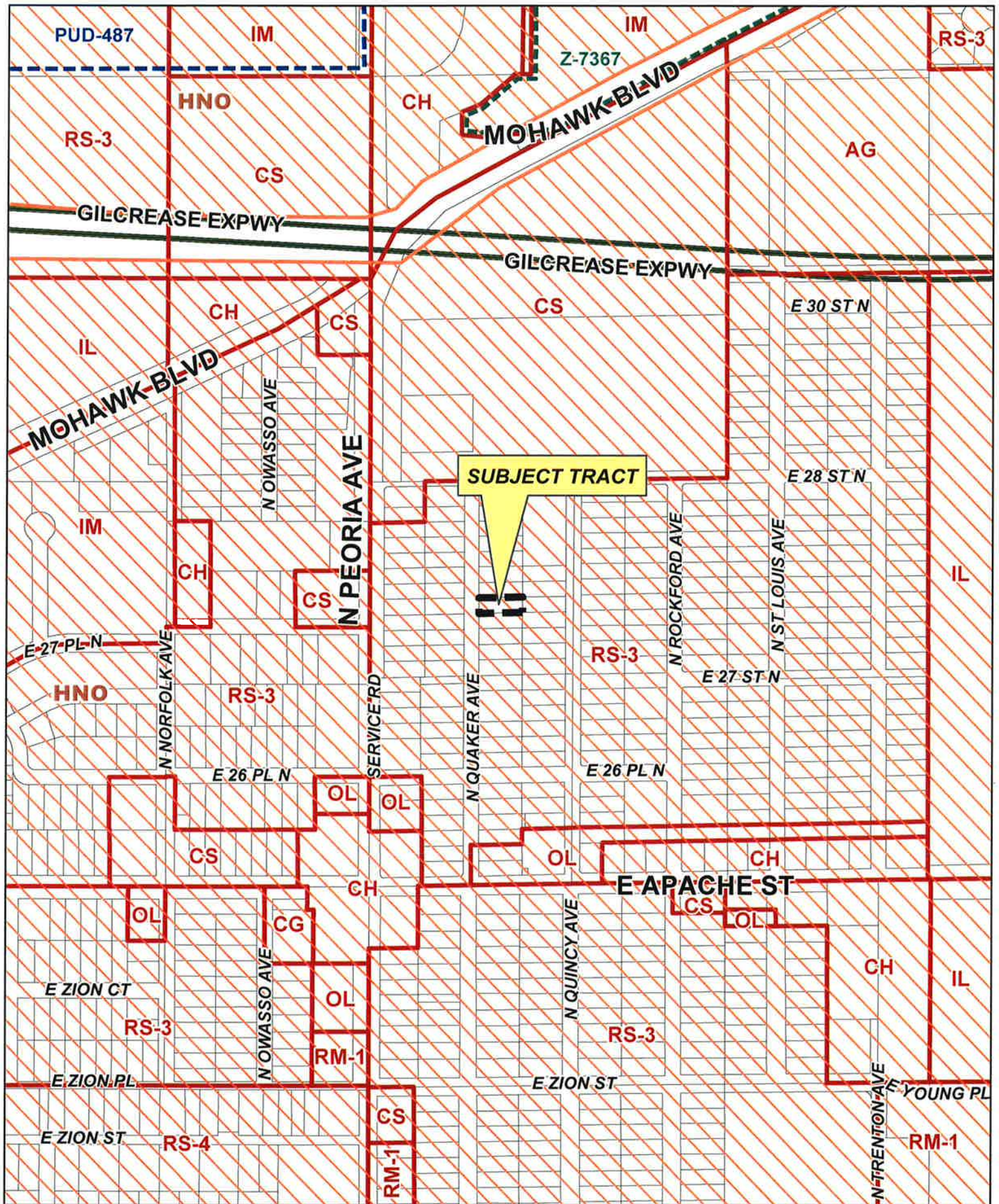
When you first moved in, you mentioned renting out your extra bedroom on Airbnb? Are you doing that? Is that why I have been awakened the last two mornings before 6 a.m. by the loud truck parked in front of your house?

8/1

D Rachelle Murphy, Summit Heights

 Sherry, Sorry for the delayed response to your message...I just read it :) So sorry that our guest's truck woke you up when he went to work. It was not intentional and we apologize for disturbing you.
Rachelle

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BOA-22504

4.1

BOARD OF ADJUSTMENT CASE REPORT

STR: 0319

Case Number: **BOA-22504**

CZM: 29

CD: 1

A-P#:

HEARING DATE: 09/11/2018 1:00 PM

APPLICANT: Veronica Montes

ACTION REQUESTED: Special Exception to to allow a fence to be greater than 4 feet within the street setback (Sec. 45.080-A)

LOCATION: 2671 N QUAKER AV E

ZONED: RS-3

PRESENT USE: Single Family Home

TRACT SIZE: 7000.12 SQ FT

LEGAL DESCRIPTION: LT-8-BLK-2, WINSTEAD ADDN

RELEVANT PREVIOUS ACTIONS:

None relevant.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of a "Existing Neighborhood" and an "Area of Growth".

The purpose of **Areas of Growth** is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the City where general agreement exists that development or redevelopment is beneficial.

The **Existing Residential Neighborhood** category is intended to preserve and enhance Tulsa's existing single family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code. In cooperation with the existing community, the city should make improvements to sidewalks, bicycle routes, and transit so residents can better access parks, schools, churches, and other civic amenities.

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by RS-3 zoned lots on all sides.

STAFFCOMMENTS:

The applicant is proposing a fence that is within the required street setback along N. Quaker Ave. As shown on the attached exhibit, the proposed fence will be 8 ft. in height in the front street setback. The required street setback in an RS-3 zoned district is 25 feet.

The Code (Section 45.080-A) limits fence and wall heights in the required front setback to 4 feet; however, the Code permits the Board of Adjustment to increase the permitted height through special

exception approval. The applicant has requested a **Special Exception** to allow a fence to exceed 4 feet in height in the front street setback.

Sample Motion

Move to _____ (approve/deny) a Special Exception to allow a fence to be greater than 4 feet within the street setback (Sec. 45.080-A)

- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions: _____

The Board finds that the requested 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.



0 50 100
Feet



Subject
Tract

BOA-22504

20-13 19

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

Aerial Photo Date: February 2018



4.4



0 200 400
Feet



Subject
Tract

BOA-22504

20-13 19

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

Aerial Photo Date: February 2018

4.5





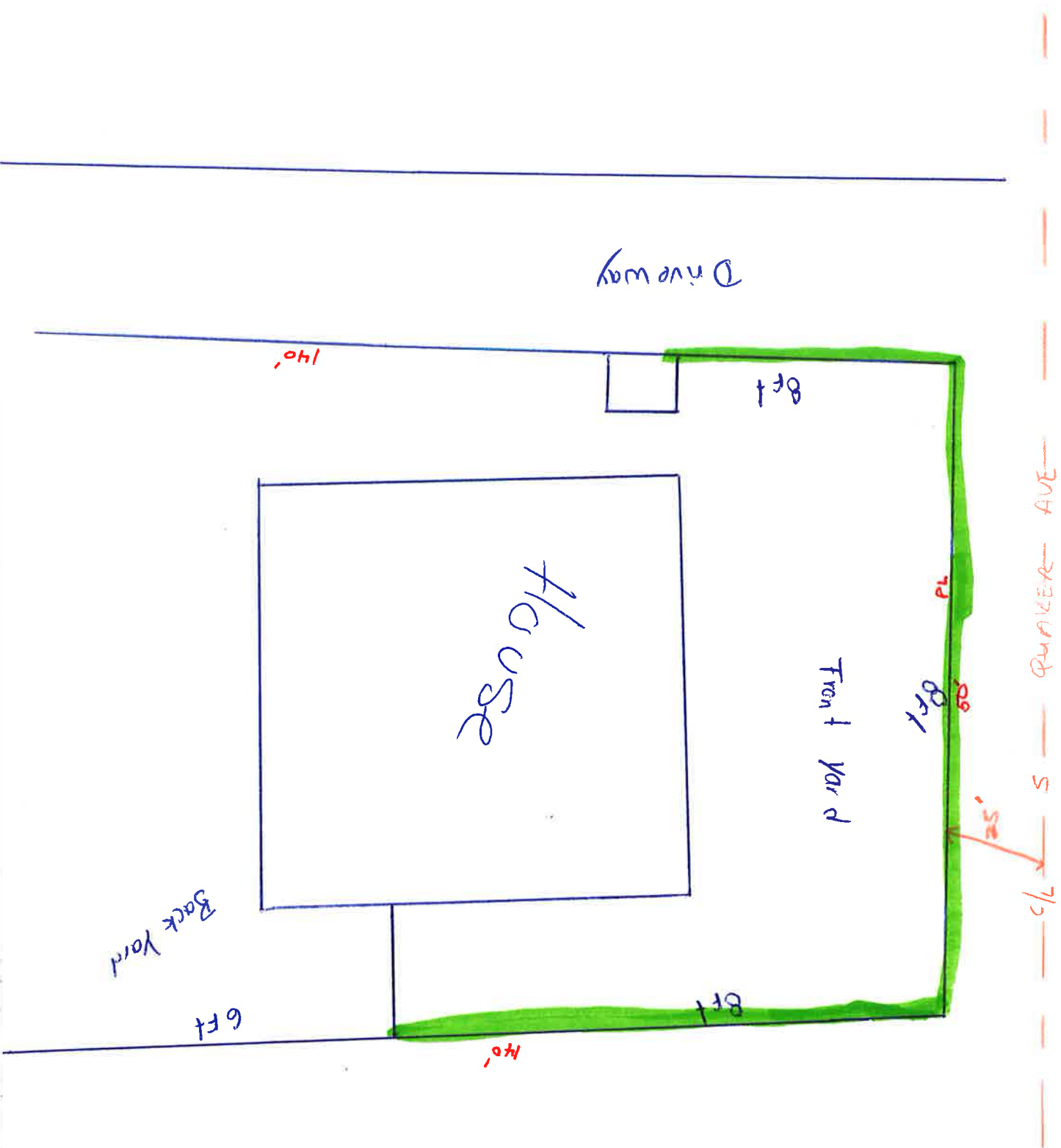
Looking east- towards the subject site- on N. Quaker Ave.

08/31/2018 10:15

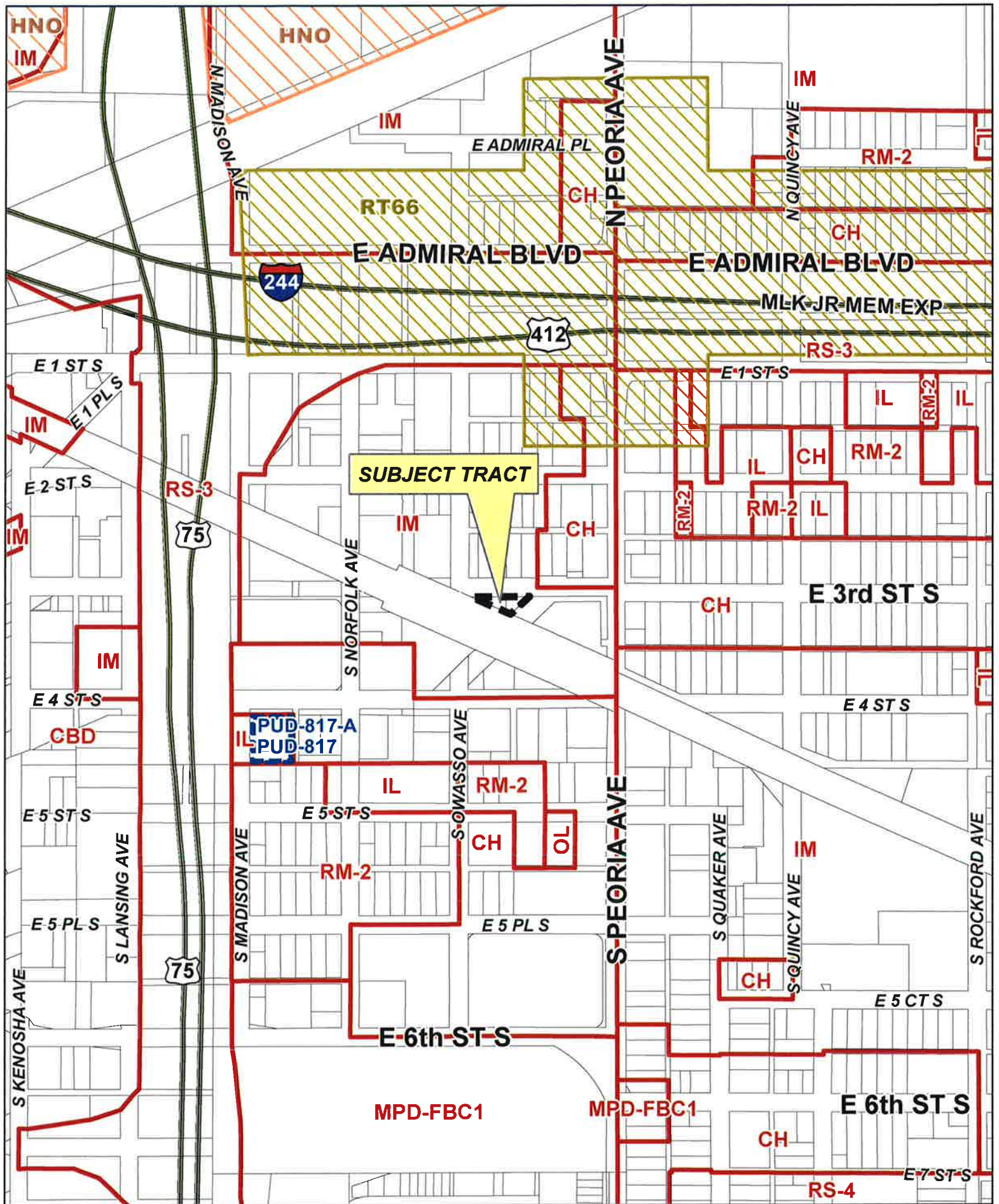


Looking east- towards the subject site- on N. Quaker Ave.

08/31/2018 10:15



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BOA-22505

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BOARD OF ADJUSTMENT CASE REPORT

STR: 9201

Case Number: BOA-22505

CZM: 36

CD: 4

A-P#:

HEARING DATE: 09/11/2018 1:00 PM

APPLICANT: Mark Capron

ACTION REQUESTED: Variance to permit a structure to be located within City of Tulsa planned street right-of-way (Sec. 90.090-A); Variance of the removal agreement requirement with the City of Tulsa for structures in the planned street right-of-way (Sec. 90.090-A)

LOCATION: 1206 E 3 ST S; 1202 E 3 ST S

ZONED: IM

PRESENT USE: vacant

TRACT SIZE: 5871.91 SQ FT

LEGAL DESCRIPTION: LOTS FOURTEEN (14) AND FIFTEEN (15), BLOCK EIGHTEEN (18), BERRY ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.
AND

THAT PART OF LOTS ELEVEN (11), TWELVE (12) AND THIRTEEN (13), BLOCK EIGHTEEN (18), BERRY ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT THIRTEEN (13); THENCE EAST ON THE NORTH LINE OF LOTS THIRTEEN (13), TWELVE (12), AND ELEVEN (11) TO THE NORTHEAST CORNER OF SAID LOT ELEVEN (11); THENCE SOUTHWESTERLY TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE M.K.T. RAILWAY, SAID POINT BEING FIVE AND FIVE-TENTHS (5.5) FEET NORTHWESTERLY OF THE SOUTHEAST CORNER OF SAID LOT THIRTEEN (13); THENCE NORTHWESTERLY ON SAID RIGHT-OF-WAY LINE TO THE SOUTHWEST CORNER OF SAID LOT THIRTEEN (13); THENCE NORTH ON THE WEST LINE OF LOT THIRTEEN (13) TO THE POINT OF BEGINNING.

RELEVANT PREVIOUS ACTIONS:

Surrounding Property:

BOA-21942; on 01.26.84, the Board **denied** a special exception to permit a soup kitchen and grocery pantry (Use Unit 5) in an IM district (Sec.901); Special Exception to permit required parking on a lot other than the lot containing the principal use (Sec.1301.D); Variance to reduce the required building setback (Sec.903). LOCATED: 302 S. Peoria Ave. E.

BOA-17710; on 05.13.97, the Board **denied** a variance to the required spacing between adult entertainment establishments from 300' to 18'. LOCATED: 11114 East Admiral Place (Tenant Space: 11118 East Admiral Place)

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of a "Downtown Neighborhood" and an "Area of Growth".

Downtown Neighborhoods are located outside but are tightly integrated with the Downtown Core. These areas are comprised of university and higher educational campuses and their attendant housing and retail districts, former warehousing and manufacturing areas that are evolving into areas where people both live and work, and medium- to high-rise mixed use residential areas. Downtown

Neighborhoods are primarily pedestrian-oriented and are well connected to the Downtown Core via local transit. They feature parks and open space, typically at the neighborhood scale.

The purpose of **Areas of Growth** is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

ANALYSIS OF SURROUNDING AREA: The subject tract abuts E. 3rd St. S. to the north; E. 4th St. S. to the east; vacant union pacific railroad property to the south and west.

STAFF COMMENTS:

The total planned right-of-way along E. 3rd St. S. is 80 ft.; therefore, the required building and/or structure setback along S. Peoria Ave. is 40 ft. from the centerline of the street. Based on the proposed site plan it appears that the proposed building along E. 3rd st. S. will extend into the planned street right-of-way (R-O-W).

The applicant has requested a **Variance** to permit to permit a structure to be located within the City of Tulsa planned street right-of-way (Sec. 90.090-A).

Per the code, structures are not allowed to project into the right-of-way or planned right-of-way of a public street, unless a license agreement has been granted by the city in the case of the right-of-way or a removal agreement has been entered into in the case of the planned right-of-way (Sec. 90.090-A).

The applicant has requested a **Variance** of the removal agreement requirement with the City of Tulsa for structures in the planned street right-of-way (Sec. 90.090-A).

Sample Motion for a Variance

Move to _____ (approve/deny) Variance to permit a structure to be located within City of Tulsa planned street right-of-way (Sec. 90.090-A); Variance of the removal agreement requirement with the City of Tulsa for structures in the planned street right-of-way (Sec. 90.090-A).

- Finding the hardship(s) to be _____.
- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions _____.

The Board finds that the following facts, favorable to the property owner, have been established:

“a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;

- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;*
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;*
- e. That the variance to be granted is the minimum variance that will afford relief;*
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and*
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan.”*

Ms. Turnbo asked the applicant if the subject property is opened to the public? He stated it is opened to the public. Mr. Irom commented he did not know about the spacing ordinance.

In response to Ms. Turnbo, Mr. Irom stated that if the renter has a band or dance it is opened to the public and that anyone can buy beer or sodas.

Ms. Turnbo asked the applicant if the club is private? He stated it is not a private club.

Ms. Turnbo asked the applicant if the renter opens his establishment to the public? He answered affirmatively.

Mr. Beach stated that if the public can buy beer or receive beer free, it qualifies as a beer bar.

Mr. Gardner stated he understands that the subject property is not open on a regular basis, but when it is open it qualifies as a beer bar.

Mr. Ballentine informed the Board that the advertisement on the door of the subject property gives the hours of operation, which are Friday through Sunday. He stated that the renter is charging an admission charge which is plainly posted on the subject property. Mr. Ballentine stated that it is his understanding that if a customer pays the \$5.00 cover charge they can go in and purchase a drink. He commented that security is provided when it is opened. He stated the subject property is a bar, which is opened regularly on Friday through Sunday.

Protestants:

Harold Pittenger, 11448 East 6th Street, representing the East Tulsa Mingo Valley Association and the Western Village Homeowners Association, stated that the two associations comprise of Planning District 5 and Council District 6, which have approximately 80,000 residents. Mr. Pittenger stated that the current business in the subject area that are adult entertainment businesses include the Magic Bottle, Pattie's Place, the Down Under and Francine's. He further stated that in the same subject area there are several private clubs. He explained that the sign posted at La Hacienda is a homemade wood sign with Christmas Lights to identify the area. Mr. Pittenger detailed that the shopping center is unkempt with an outside storage on the east end of the strip center which is an unsightly view for the residents. He stated the strip center is encompassed by residential areas. He informed the Board that Code Enforcement has been called regarding the subject area and have asked the owners to clean up the shopping center. He detailed that there have been a total of six (6) 911 emergency calls to the subject business. Prior to La Hacienda moving into the subject property there were a total of six (6) 911 emergency calls for burglary, shots being fired, etc. Mr. Pittenger stated that there are nine (9) tenant spaces located in

the subject shopping center and one is currently occupied by Pattie's Place. He explained that if La Hacienda's variance is approved, then 1/3 of the subject shopping center will be adult entertainment businesses. He stated that La Hacienda occupies two (2) tenant spaces. Within 1/4 mile there are four (4) bars, three (3) private clubs and an adult gift shop, which is a sexually oriented gift shop. Mr. Pittenger stated that due to the physical condition of the area, emergency calls and the element that the subject business attracts, the homeowners request the variance be denied.

Julia Beckwar, stated she owns the Wagon Wheel Mobile Home Park. She commented that she has had constant complaints from her tenants regarding the loud music, gun shots, etc. She requested the Board to deny the applicant's request.

Leslie Davie, 9134 East Newton Place, representing Kerr Elementary PTA, stated that Kerr Elementary is approximately 1/6 mile from La Hacienda. She commented that keeping the business open is not in the best interest of the children of the school.

The following names represent protestants who did not speak:

Richard Brazier, 2331 South 99th East Avenue, representing St. Mark's United Methodist Church, **Lou Stackler**, 6736 East 20th Place, **Marcene Tennyson**, 10925 East 4th Street, **Virginia Tennyson**, 408 South 109th East Avenue, **Marylin Shiever**, 435 South 108th East Avenue, **J. La Vern Flint**, 445 South 108th East Avenue, **Adele Hargland**, 510 South 108th East Avenue, **John & Gretchen Battaglia**, 341 South 117th East Place, **Barbara Norris**, 16 South 120th East Place, **Dianne Hyiubaugh**, 11350 East 3rd Street, **Barbara Fiszal**, 10 South 120th East Place, **Nancy Crayton**, 245 South 120th East Avenue, **Rae J. & Oleg Gable**, 11902 East 7th Street, **John & Sharon Kadel**, 327 South 119th East Avenue, **Ned Mayrath**, 10909 East 3rd Street, **Andrew Greenwood**, 11812 East 7th, **Marjorie Owen**, 240 South 118th East Avenue, **Bobbie Gray**, 2465 South 141st, **Mr. Sharp**, 10906 East 3rd.

Applicant's Rebuttal:

Mr. Irom stated he did not own the whole place. He explained that he has promised to fix the parking lot. Mr. Irom stated he did not realize that there was so much opposition regarding the subject property. He commented that the issue is not about closing the La Hacienda, because he can close the other bar that is not causing any problems. Mr. Irom expressed the opinion that the subject property is not a detriment to anyone in the surrounding area. He explained that the La Hacienda occupies 9,000 SF and Pattie's Place is approximately 1,000 SF. Mr. Irom indicated that he will close down Pattie's Place in order for the La Hacienda to continue business.

Comments and Questions:

Mr. Dunham stated he can appreciate the owners problems with leasing the subject shopping center, but there is no hardship to base the variance on.

Case No. 17710 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, Bolzle "absent") to **DENY** a Variance of the required spacing between adult entertainment establishments from 300' to 18'. **SECTION 1212a.C.3.c. ADULT ENTERTAINMENT ESTABLISHMENTS**; finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request; on the following described property:

W 216.4', E 584.8', N 427', Gov., Lot 8, LESS N 75' for Street, Sec. 6, T-19-N, R-14-E, unplatted, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17711

Action Requested:

Variance of the required setback from the centerline of Harvard from 100' to 50' to permit an addition to an existing building. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS**, located 1545 South Harvard.

Presentation:

The applicant, **Gene Shaw**, 1503 East 53rd Street, submitted a site plan (Exhibit J-1) and stated the surveyor indicated he had a 50' setback from the centerline of Harvard, but he only has 40'. He requested the variance to allow the addition to the existing building. Mr. Shaw indicated that the addition will not be any closer to Harvard than the property to the south of the subject property.

Comments and Questions:

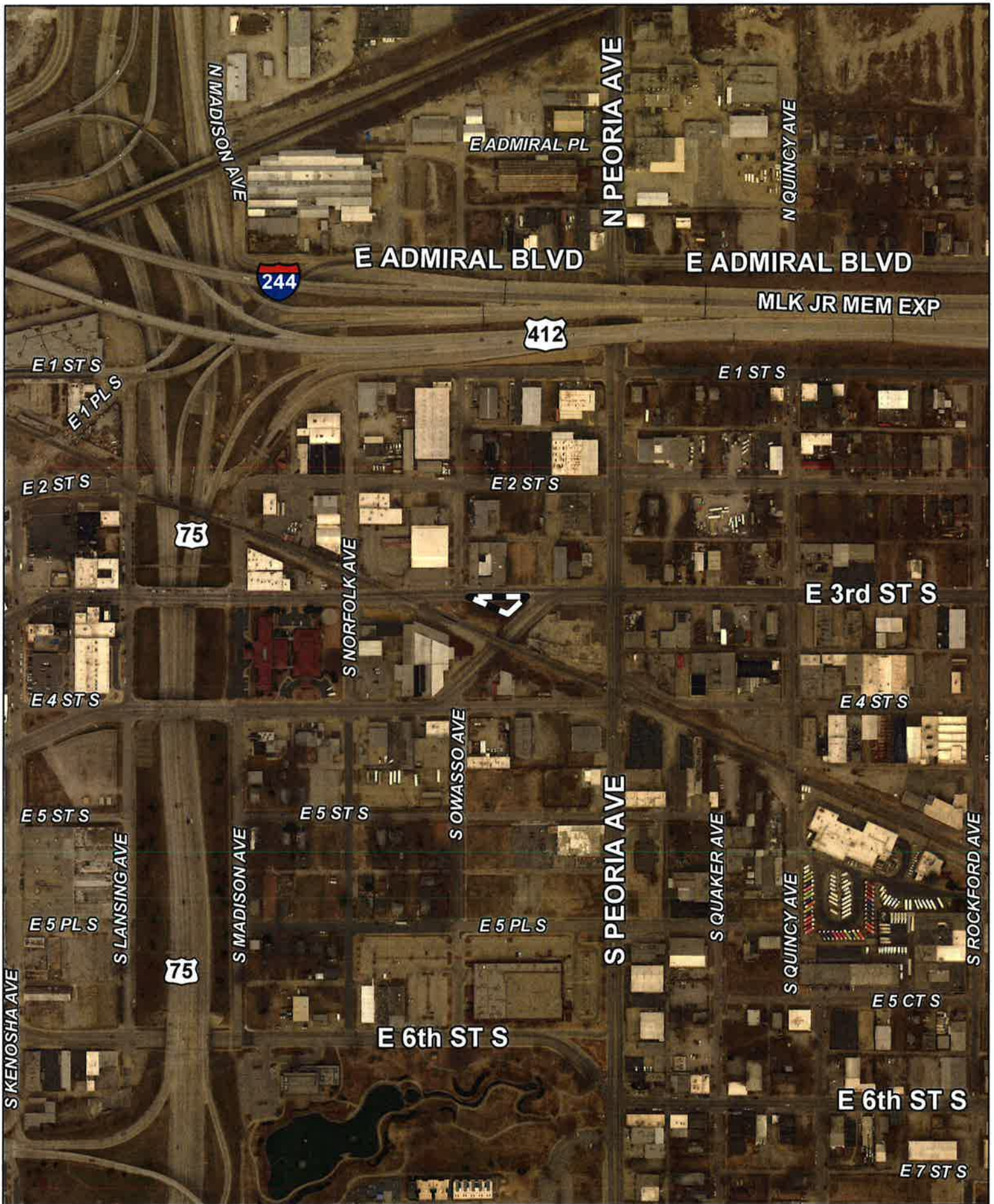
Mr. Beach informed the Board that the subject property had been approved previously, however the site plan that was submitted reflected a 50' right-of-way on Harvard and it is actually 40'. The applicant needs more relief than what the previous action granted.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, Bolzle "absent") to **APPROVE** a **Variance** of the required setback from the centerline of Harvard from 100' to 50' to permit an addition to an existing building. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS**; per plan submitted; finding that the requirements for a variance in Sec. 1605.C. has been met, on the following described property:

Lot 9, Block 1, Less W 10', Sunrise Terrace Addition, City of Tulsa, Tulsa County, Oklahoma.

05:13:97:726(16)



0 200 400
Feet

 Subject Tract

BOA-22505

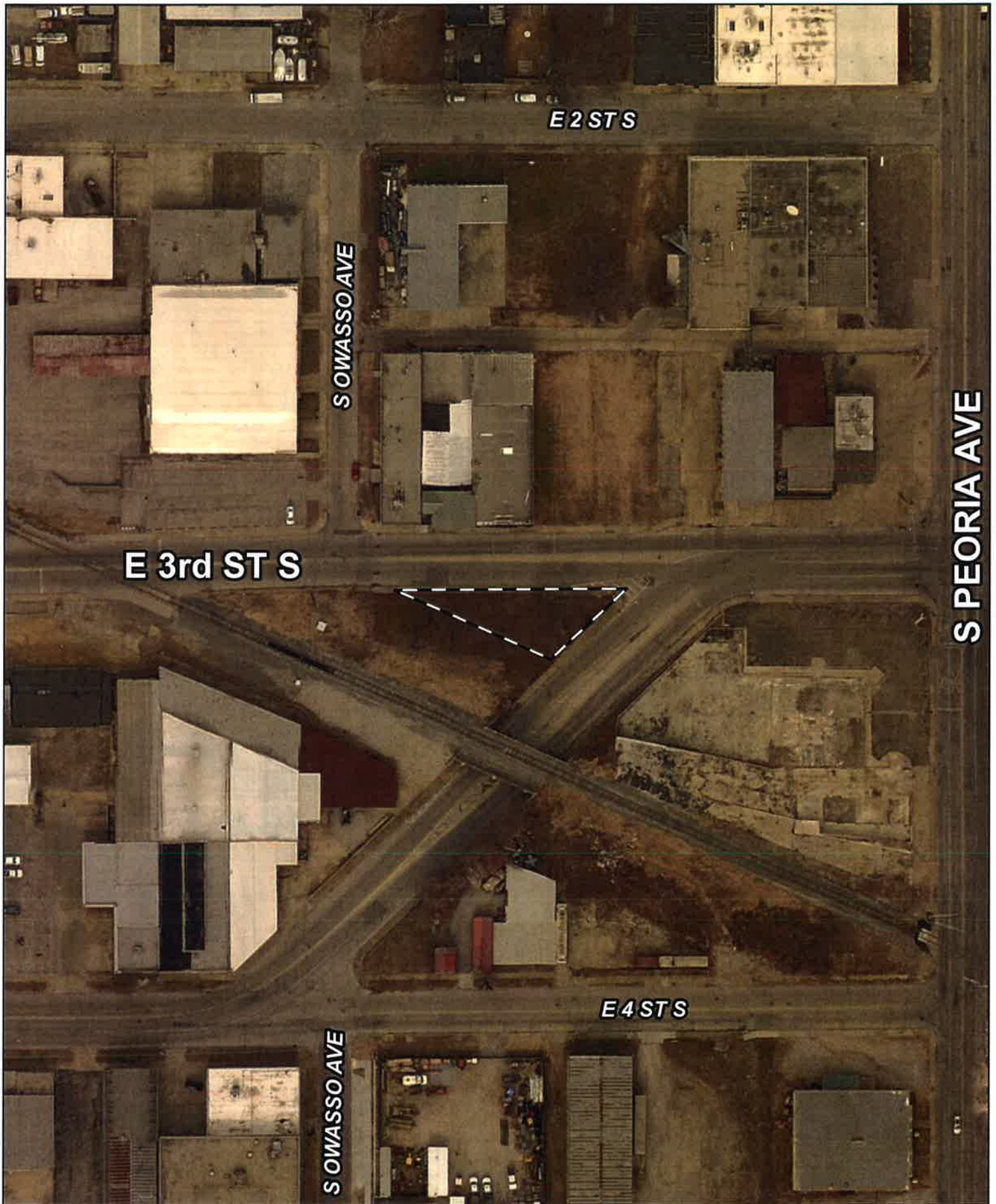
19-12 01

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

Aerial Photo Date: February 2018



5.8



0 50 100
Feet



Subject
Tract

BOA-22505

19-12 01

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

Aerial Photo Date: February 2018

5.9



REQUEST FOR VARIANCE TO CITY OF TULSA BOARD OF ADJUSTMENT**THIRD STREET DEVELOPMENT**

Tulsa's downtown has seen unprecedented growth over the past few years, spurred by an increasing demand for live/ work/ play in close proximity and walkable neighborhoods. One of the natural trajectory for expansion is into the Pearl District which is designated as a downtown neighborhood in the Comprehensive Plan.

Medium density developments in this area, characterized by walkability, smaller footprints, well-designed units, lesser off-street parking, will provide the "missing middle" while aligning with the neighborhood scale. This is the type of development we propose to build on our 5060 sf triangular piece of property located on East Third Street South, west of Owasso Avenue.

This mixed-use development will have a compact footprint with mostly commercial and one or two residential units on the first level. The second level will be all residential lofts, ideal for young professionals that the Pearl District is aiming to attract. The property sits at the nexus of bike routes and bus rapid transit networks which make it an ideal urban location, well connected to downtown. Developing this small tract of forgotten land will contribute to the tax base and invest in the neighborhood's revitalization.

Hardship:

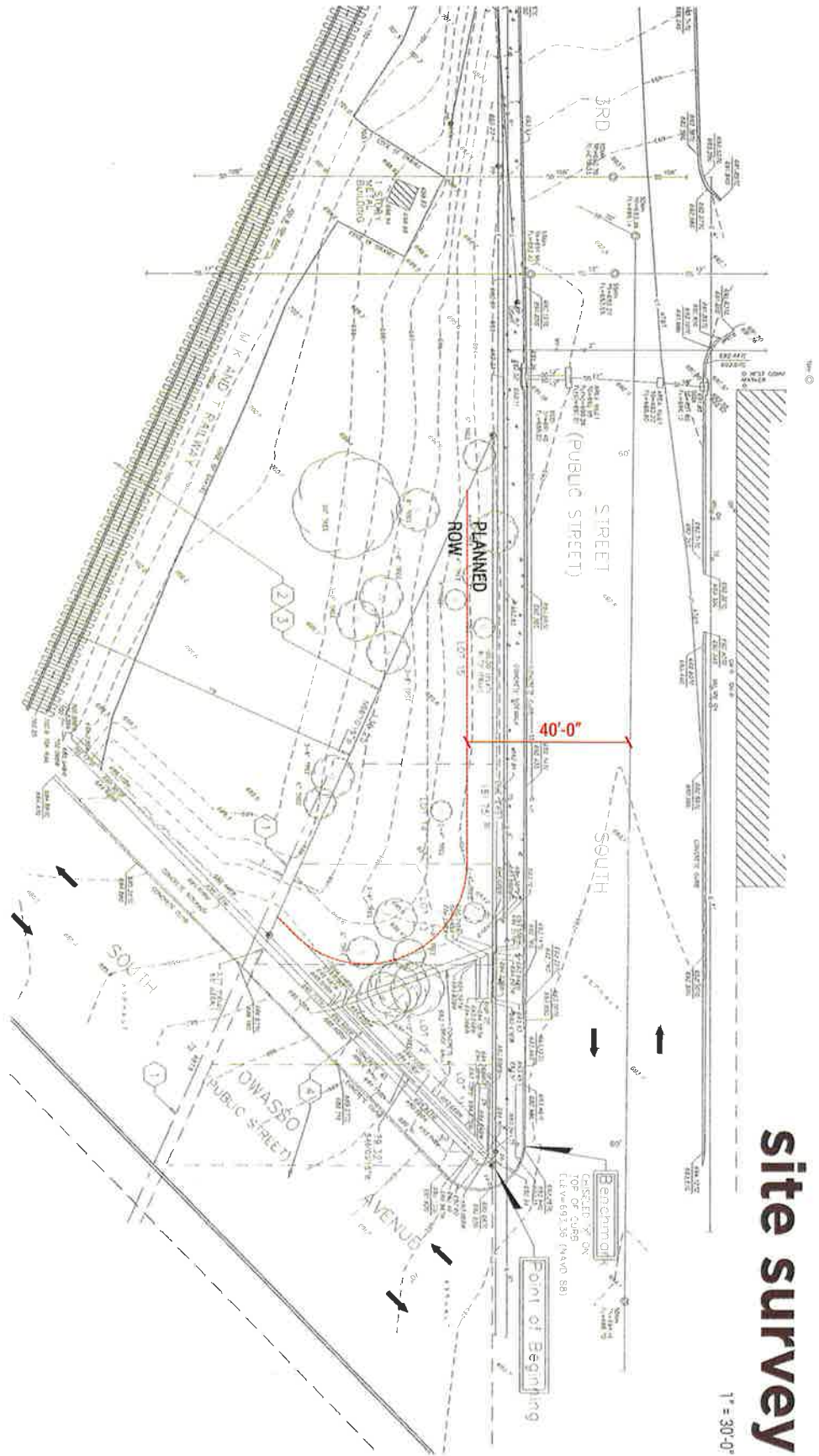
The triangular site is inaccessible on two sides, the southwest boundary being the railroad, and the southeast boundary is the 4th Street railroad underpass, making the north boundary the only direction available for public access. The north property line is also the longest at 181.75 feet. Setting back 10 feet from this line disproportionately reduces the buildable footage from 5060 sf to 2833 sf, which falls under the minimum lot requirement for MX1-P zoning. This creates hardship to development on the site.

August 8 2018

August 8 2018

site survey

1" = 30'-0"



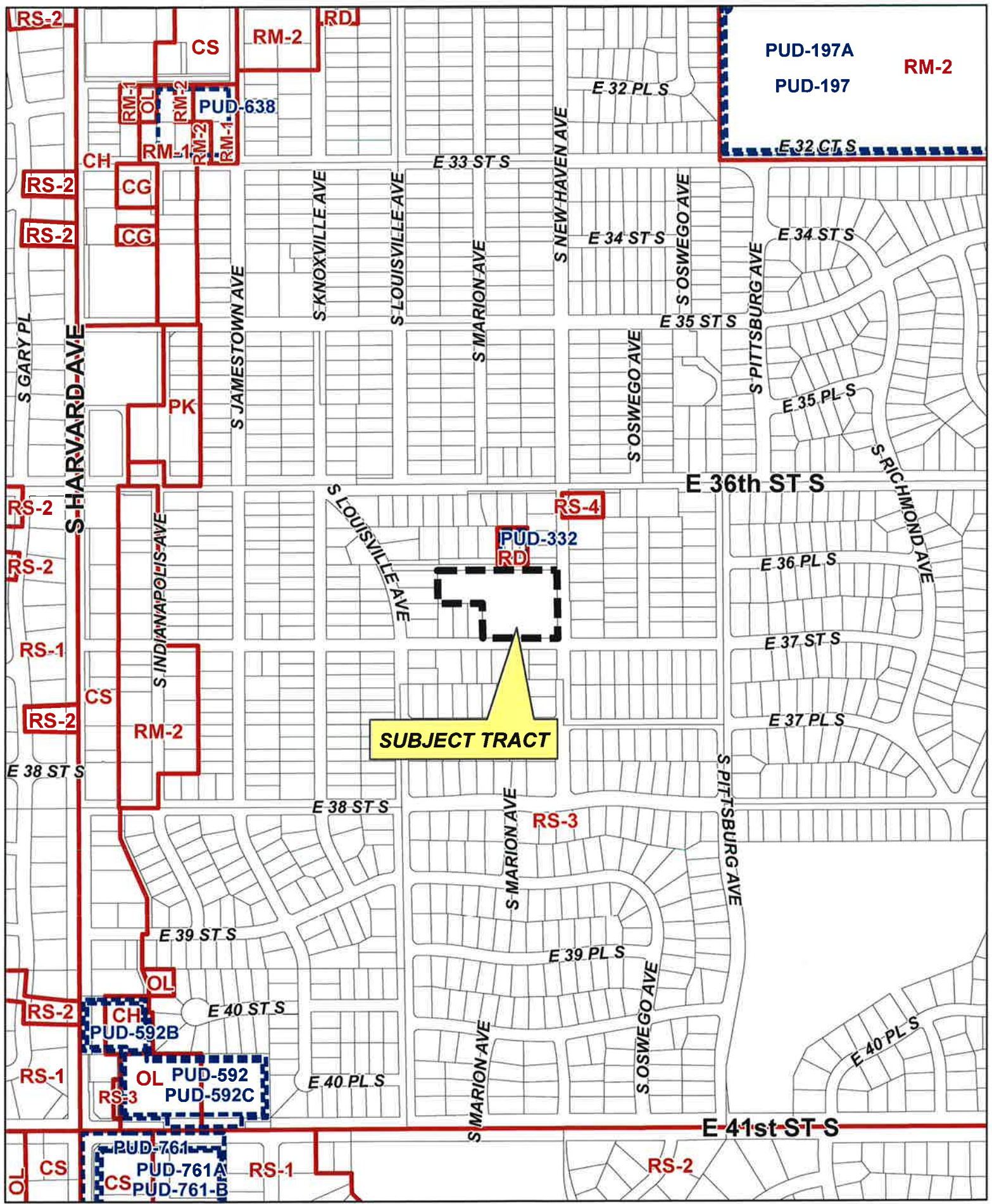
August 8 2018



view 1

August 8, 2018





BOA-22506

6.1

BOARD OF ADJUSTMENT CASE REPORT

STR: 9321

Case Number: **BOA-22506**

CZM: 47

CD: 9

A-P#:

HEARING DATE: 09/11/2018 1:00 PM

APPLICANT: Stephen Schuller

ACTION REQUESTED: Special Exception to allow a religious assembly use in the RS-3 district to permit the expansion of a parking area for an existing church (Section 5.020); Variance to allow a parking area within the required street building setback (Section 40.320).

LOCATION: 3640 S NEW HAVEN AV E

ZONED: RS-3

PRESENT USE: Vacant Land and Church Property

TRACT SIZE: \pm 2.5 acres

LEGAL DESCRIPTION: E305 & N165 W180 E485 BLK 10 LESS N25 THEREOF FOR ST, 36TH STREET SUBURB, ERHARDT RESUB S140 LESS E305 B10 THIRTY SIXTH ST SUBURB

Subject Site:

BOA 22169; on 12.13.16 the Board **denied** a Modification of a previously approved Special Exception (BOA 2446) to expand a religious assembly use to permit expansion of a accessory parking area in the RS-3 district (Section 5.020).

BOA 22099; on 06.28.16 the Board heard a request to approve a special exception to permit a religious assembly use in the RS-3 district to allow expansion the parking area on the subject site. After discussion the Board continued the case to the 07.26.16 hearing to give the applicant additional time to submit a detailed landscape plan to the Board. Before the 07.26.16 hearing the applicant withdrew the application.

BOA 21499; on 11.27.12 the Board **approved** a Variance of required setback from abutting R district from 25' to 10' to allow a storage building for a church on the subject site.

BOA 2446; on 08.12.53 the Board **approved** a request to construct a church on the subject site.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of an "Existing Neighborhood" and an "Area of Stability".

The **Existing Residential Neighborhood** category is intended to preserve and enhance Tulsa's existing single family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code. In cooperation with the existing community, the city should make improvements to sidewalks, bicycle routes, and transit so residents can better access parks, schools, churches, and other civic amenities.

The **Areas of Stability** includes approximately 75% of the city's total parcels. Existing residential neighborhoods, where change is expected to be minimal, make up a large proportion of the Areas of Stability. The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation, improvement or replacement of existing homes, and small scale infill projects. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life.

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by RS-3 zoned residences.

STAFF COMMENTS:

The applicant is requesting a Special Exception to allow a religious assembly use in the RS-3 district to permit the expansion of a parking area for an existing church (Section 5.020) In April, 2016 the TMPAC approved a lot combination (LC-839) to combine the subject lots. As shown on the submitted plan the applicant is proposing to expand the church use to the western portion of the site by constructing a new parking area with 38 new parking stalls. A Special Exception is required as the expanded parking lot shown on the conceptual plan was not a part of the original approval (BOA - 2446) to allow a church use on the RS-3 zoned site.

The supplemental use regulations below apply to religious assembly uses in AG and R districts.

- **40.320-A** In AG and R zoning districts, religious assembly uses must be located on lots with a minimum lot area of one acre and a minimum lot width of 100 feet.
- **40.320-B** In AG and R zoning districts, off-street parking on the site of a religious assembly use is prohibited in street building setbacks.

The applicant has requested a Variance to allow off-street parking within the 25 ft. street setback as shown on the attached site plan.

Sample Motion for a Special Exception

Move to _____ (approve/deny) a Special Exception to allow a religious assembly use in the RS-3 district to permit the expansion of a parking area for an existing church (Section 5.020)

- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions (including time limitation, if any): _____.

The Board finds that the requested 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.

Sample Motion for a Variance

Variance to allow a parking area within the required street building setback (Section 40.320).

- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions (including time limitation, if any): _____.
- Finding the hardship(s) to be _____.

The Board finds that the requested 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.

The Board finds that the following facts, favorable to the property owner, have been established:

- “a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;*
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;*
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;*
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;*
- e. That the variance to be granted is the minimum variance that will afford relief;*
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and*
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan.”*

application would be denied. Mr. Van De Wiele asked the applicants and the interested parties if they understood and asked the applicants or interested parties what they would like to do. The audience nodded their understanding and no one requested a continuance.

Mr. Bond re-entered the meeting at 2:08 P.M.

22169—David M. Frohling

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Action Requested:

Modification of a previously approved Special Exception (BOA-2446) to expand a religious assembly use to permit expansion of an accessory parking area in the RS-3 District (Section 5.020). **LOCATION:** SW/c of East 36th Place South and South New Haven Avenue East (CD 9)

Presentation:

Chris Medrano, 3640 South New Haven, Tulsa, OK; stated this application is for the purpose of extending an existing parking lot for additional parking stalls. The addition is for approximately 40 parking spaces in the lot that originally had two duplexes on it. The church is attempting to provide a facility that is adequate for their members to worship on Sundays and Wednesday nights. The intended use of the parking lot is to grow to fit the size of the property and the existing interior square footage of the building. The church currently has a need for additional parking spaces for members that live in the area. Just as every religious facility has the church has its own style of worship. One of the keys to the cornerstone of the church is family and worship together in the same building. The existing building has adequate square footage for the members but there is not adequate parking to accommodate all the members. Currently the older children are being pushed out of the existing facility into a leased facility a few blocks away in order to adequately park at the facility. The additional parking will allow the church to bring the children back into the worship service and have them a part of the Sunday activities. The subject building in the 1950s was one of the first buildings for the church in northeast Oklahoma. One of the reasons the neighbors to not see the need is because the church is trying to provide space for growth, not just on the subject property but throughout all of northeast Oklahoma. From the subject building the church has continued to push people to facilities closer to their homes to include three congregations that meet in east Tulsa, four congregations that meet in Sapulpa, three congregations that meet in Owasso, one congregation in Pryor, two congregations in Claremore, and one congregation in Henryetta. The church does not desire or shown a pattern of creating a mega church and with all the facilities it brings the church to approximately 8,000 members in northeast Oklahoma that have originated from the subject property starting point. The church does not have a desire to overburden the particular area but the building does have the capabilities to house all of the family members other than the ones meeting there now. Traditionally, twice a year there is a congregation where all the congregations meet together. The church

defines the individual congregations as wards and those are normally between 300 and 600 members. Those are consolidated into larger geographical areas which are called stakes and there could be approximately 4,000 members in the stake. Of the 8,000 members in northeast Oklahoma there is not a single paid staff person that attend any of the facilities because they are all managed by volunteers. For the church to worship they need the right size facility, the right size congregation so there are enough people for the nursery class, cub scouts, boy scouts, and Sunday school teachers. Having the parking lot will afford the church the opportunity to bring those people together to worship as a family.

Mr. Van De Wiele asked Mr. Medrano if there will be a consolidation within at least Tulsa or the greater Tulsa area? Will there be church members from leased facilities brought into the subject church site? Mr. Medrano stated the young single adults who are part of this community are meeting in a leased facility but the church has not stressed the building or the parking lot. The church has not done so because, one, being a good neighbor if the church stresses the parking lot it is a problem. If there is no room for people to park they will drive away and go home. In order to retain membership the church has moved members to another facility temporarily. The size of the congregation is limited to how the church can park. The bi-annual conference used to be held at the subject church but because it has grown to over 500 attendees the church now broadcasts to the other facility. When the church had the opportunity to acquire a piece of property to extend the parking lot they saw it as an opportunity to bring members back into the building.

Mr. Van De Wiele asked Mr. Medrano to give the Board an estimated parishioner count of where the church is on a typical worship day and where they see themselves going, because there have been letters from neighbors that state they have never seen the parking lot full. Mr. Medrano stated the church has two congregations that are meeting in the subject building that are regular family congregations with the typical services. The Riverside ward has a membership of approximately 630 members with about 200 in solid attendance. The New Haven ward has approximately 673 members with about 220 in solid attendance; they meet at different times. The subject church has a membership of 152 with an average of 86 in attendance, and they are not a typical family congregation but have age appropriate classes.

Mr. Van De Wiele asked Mr. Medrano if the congregation of 152 or 86 is anticipated in blending into one or both of the other two wards. Mr. Medrano answered affirmatively and the church could move them tomorrow.

Stephen Schuller, 100 West 5th Street, Suite 1100, Tulsa, OK; stated he is serving as attorney for the Church of Jesus Christ Latter Day Saints. Mr. Schuller stated that he handed in a revised site plan today which shows more detail than what was previously provided particularly with the service water drainage. Today's site plan conforms to all the zoning code requirements for the proposed additional parking lot and it exceeds the City's minimum landscaping requirements. Mr. Schuller believes it is a site plan that is sensitive to the surrounding residential area. Under the current zoning code churches

are permitted in the residentially zoned districts as institutions of religious assembly and off street parking is a recognized accessory use. The church's use of its existing property was approved by the Board of Adjustment in 1953 and it was constructed shortly thereafter. Earlier this year the two subject additional lots were offered to the church and purchased. The church wants to only expand their existing parking by approximately 40 spaces to serve the two congregations that meet at the subject building. The two congregations meet at different times but they overlap so the proposed parking lot is much needed. The building size is fully sufficient for their purposes but the parking lot is not. The Special Exception is in harmony with the spirit and intent of the zoning code. The proposed parking lot meets all of the Zoning Code setback requirements, all the screening requirements, the outdoor lighting of the parking lot and the landscape exceeds the requirements. By design the church is required to comply with the City's stormwater runoff regulations to prevent water runoff onto the neighboring properties. There are open landscape spaces on the site that are designed by a Civil Engineer to catch the surface water runoff with onsite underground water storage. This Special Exception will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The plan improves parking flow within the parking area. Mr. Schuller presented photos of the housing across the street from the church to show their landscaping in relation to the proposed church parking lot expansion. The additional lot substantially reduces the prospects of the church parking on the street. The church is very determined to their cars off the street and to park on the lots they have and the proposed lot they want to expand into. Mr. Schuller stated there is hostility among the neighbors, and the Board has encouraged the church and the protestants to meet with each other to find common ground. The church held such a meeting Monday evening, November 14th and only two neighbors showed up. The other neighbors, it was found out, met separately and resolved not to attend the church's meeting. There is a letter written by an attorney on behalf of one of the neighbors that suggests a compromise, which is really not a compromise at all, that calls for more than 30% reduction of the number of parking spaces, requires nearly half of the land on the two subject lots to be set aside for landscaping which is considerably in excess of the zoning code requirements, and also calls for large caliper trees that would take a few seasons to recover from the transplant. There is really no compromise offered by the protestants that has any corresponding benefit to the church. The letter goes on to say that they object to the modification of the church's Special Exception because they want to preserve the residential character of the neighborhood. There will not be any change to the residential area. The church and its parking lot has been in the neighborhood for 60 years. There are a lot of churches throughout Tulsa that are located within residential neighborhoods with larger parking lots than the subject lot and they have no adverse affect on the neighborhoods, surrounding property values, etc. Some of the neighbors will object to the four driveway accesses and he looked at other churches that are in residential areas, and there are quite a few that have four or more driveways that feed into abutting residential streets. It is not unprecedented for a church to have four driveways, it helps them manage their traffic flow efficiently. What it comes down to is bringing the church's congregates, their families, their visitors, participants under the same roof instead of compelling them into other facilities leased for the programs. This is critical to the church members exercise

of their religion, worship together with their family, friends and their fellow congregates. It is an unreasonable burden on them to deny them this opportunity. This minor parking lot expansion is vitally important to the church to adequately meet their requirements for programs and to allow them to organize their facility to serve their worship objectives. This Special Exception should be approved.

Interested Parties:

Bill Ross, 8006 South Birch Avenue, Broken Arrow, OK; stated he owns property at 3717 East 37th Place and that particular property has flooded twice in the last 30 years. The neighbors are most concerned about the City Engineers look very closely where all the water is going to run off from the asphalt parking lot because the area has flooded many times with twice getting into the house. He likes the church being in the neighborhood and the planned parking lot. It is just that the drainage causes concern.

Mr. Van De Wiele stated that this Board does not address stormwater issues, that is part and parcel in the permitting department and the City Engineering Department. All construction projects have to go through a city engineering approval process where all the infrastructure is reviewed. All the utilities, including stormwater drainage, are addressed at that point. While the Board understands that drainage concerns are there this Board does not contemplate those and their approvals because that is handled by a different department within the City.

Jennifer Harmon, 3523 South Louisville Avenue, Tulsa, OK; stated she is the neighborhood advocate and has been for quite some time. Ms. Harmon presented a 1967 picture of the subject church and she stated that it does not appear there is a parking lot in the rear of the church lot so there have been parking lot additions. Ms. Harmon stated that she has had meetings with Mr. Medrano and appreciates the conversations despite the fact that they are still at an impasse. The reason several of the neighbors did not go to the meeting was because several decided they just did not want to attend because they were still very troubled, disappointed and traumatized by what has been happening. There was no collaborated effort for neighbors not to attend the meeting. This is the second time the church has applied for the parking lot expansion in the last six months. In the original proposal the preconstruction activities in order to get the parking lot included leveling all the trees which included the trees they were asked to preserve the last time they applied. It also included demolishing two duplexes. The first application was continued but the neighbors and the church could not reach an agreement. The things the neighbors wanted to discuss was the preservation of the trees, a lot less concrete, and the landscaping and that did not happen because the church pulled their application and decided to level the duplexes and trees first and reapply later. In preparation to demolish the duplexes and in the removal of the trees an owl was lost. On the surface the preparatory activities seem straight forward, however given their end result, the removing of the trees, the razing the duplexes the neighbors know that affordable housing was removed and they know that removing all the mature trees has removed a wind barrier, shade, a sound barrier and a temperature barrier. The church removed 25,000 square feet of leaf surface area. The neighbors that abut the lot where the duplexes and the trees were now wake

BOA-22169

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up to nothing sunlight in their windows and a view of a parking lot. Since the church's first application the neighbors have been forced to watch, the space they have called home for decades, the value character of the neighborhood be obliterated layer by layer. What is scary to the neighbors is that the church wants to put more asphalt in and the church wants the Board's approval without conditions. To the neighbors the ongoing degradation of a residentially zoned space exemplifies why all of you have the authority to at least set some kind of regulations or conditions to ensure their quality of life. On the church's current application they are requesting to modify an original Special Exception and in those minutes it states "to erect a church building" it does not say anything about a parking lot. The church wants to add 41 parking stalls to an enormous existing parking lot, the one that now has an amplified heat island effect without all the trees. It is the neighbors understanding that the church is only required to have 74 parking stalls and they have 101 parking stalls, and now they want 41 more. The church has stated that they need the addition, that they are congested and that the parking stalls are full but that is not the case. Ms. Harmon stated that ministry is her business with years of training so she understands the church stating they have different needs and overlapping services but she does not know that the church has brought anything before the Board to substantiate that is a giant need. The church parking lot is never full and there is ample street parking. The neighborhood is zoned RS-3 and that is in all four directions for several blocks. The subject lot is in the heart of the neighborhood and the neighborhood is not right off Harvard and not right next to a mixed use. The neighbors know that parking lots are not allowed by right in RS-3 but someone can apply for approval and like everyone else the church can follow the procedures to do so. This is an existing neighborhood and an area of stability. The Zoning Code makes it clear, "the intent of development in an existing neighborhood should be to preserve and enhance existing homes and not remove them permanently. In areas of stability change is expected to be minimal and small scale infill to preserve the valued character of the area". Adding roughly 18,000 square feet of asphalt is not a small scale infill project. Ms. Harmon stated that since all the trees are gone she sees a heat island effect from the existing lot and it became worse when the trees were removed. The church has met a base minimum requirement and 2" caliper trees are going to be able counter effect the heat island effect. The issue with the lighting is the taller light poles and the light intrusion that is already happening. The six foot screening works if the older mature trees were still there but it is hard to know how the six foot screening is going to overcome for the people that are sitting elevated on Louisville. The current plan for parking is not consistent with the vision of the Comprehensive Plan. It fails to demonstrate that it won't be and won't continue to be injurious to the neighbors. With the loss of the trees this becomes a quality of life issue. The neighbors obviously prefer no parking lot but to make the best of the situation and to preserve as much of the residential character of the area the neighborhood retained the services of an engineer, Mr. James Sotillo of Equal Land Management. Mr. Sotillo worked for the people that are restoring the soil and the large trees for the Gathering Place. Ms. Harmon stated that she put out a survey and about ten neighbors responded and they were ten that are in the immediate area, and she shared the survey with Mr. Medrano. When the duplexes with their concrete existed and the existing parking lot it was calculated that would equal about 28 parking spaces. If the church needed to make up

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the other 13 spaces the parishioners could park in the street because there is a long part of 37th Street that is not in front of anyone's house. The neighbors plan has 28 spaces, has the six foot opaque fencing, larger caliper trees, shorter light poles for lighting, a four foot brick screening along 36th Place and instead of sod it calls for prairie grass for water retention. This proposal is essentially less asphalt and more green space and it is with the understanding from Mr. Sotillo that it absolves the church from the expense of all the water retention paraphernalia because there is less concrete. Ms. Harmon stated that she is a theologian with her specialty in community ministry and by virtue of that call she is the neighbors advocate. Her attention to the RLUIPA has never been off her radar because as an advocate if she felt that anything about the neighbors plan was a burden to the church practicing their religious activity she would be the first person to say this cannot be done. The neighbors proposed plan does not burden the church. She knows the church does not want to compromise the 13 parking spaces, but they have also said in their application that they affirm their willingness to accept reasonable conditions of approval if needed. What the neighbors have is a compromise that is reasonable and does not place a substantial burden on the church, it aligns with the vision of the Comprehensive Plan, it does work toward preserving the valued character of the area, and it obviously will not be injurious to the neighborhood. It is sustainable and will enhance the area and the neighbors' quality of life. The neighbors respectfully request the Board deny their application for a 40+ space parking lot, and if the Board is inclined to approve some parking the neighbors would request that the conditions derive from the neighbors plan.

Mary Huckabee, Attorney, 1820 East 16th Place, Tulsa, OK; stated she is an attorney at Connor and Winters and she represents Dr. and Mrs. William Cody. Dr. and Mrs. Cody have lived in their home since 1972 and they share their north fence with the two lots that are at issue today and they share their east fence with the current existing parking lot. This matter has been before the Board previously. At the June 28th meeting the church requested a Special Exception to expand its parking area on the subject site. The neighbors surrounding the church, including the Codys, expressed concern that extending the large existing parking lot into the neighborhood would injure the residential character of the Sonoma neighborhood. At that time the Board continued the hearing to allow the church time to confer with the neighbors and reach a compromise that accomplished the neighbors concerns and preserved some of the existing mature trees on the lot. Rather than taking that time to consult with the neighbors or to consider the trees or the parking issues the church disregarded the neighbors and the Board's own concern and withdrew their application. The church then brought in equipment to clear the lot and razed the duplexes that had been providing affordable housing. Since that time the church then began consulting with the neighbors. Today the church is before the Board asking for consideration of the application again. Now they are free of the affordable housing and the mature trees that were previously holding back their application. The Codys use to look out at the green canopy of their neighbors but should the Board approve this application their new view will be of light poles and they will hear the sounds of cars coming and going. The proposed parking lot footprint will far exceed the footprint of the duplexes. Obviously that is an issue not before the Board but it is a factor that is resulting in the Codys opposition. The church

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already has dozens of spaces than necessary. Per the Zoning Code the church only needs 74 spaces and they currently have 101 spaces, and they are now asking the Board to grant the Special Exception to have a total of 142 spaces which is 68 more than the church needs pursuant to the Zoning Code. On the rare occasion should the church need extra spaces there is plenty of parking on the street. Today the church has brought forth an issue of combining an additional facility, a congregation that needs a facility, with the congregation that meets at the subject church. That is the first the neighbors have heard of that in spite of having meetings with the church's counsel. Even if that is the case the largest congregation is 180 meeting at one time and add in the 86 for a total 266 congregates at any one given time. Worse case scenario. The Zoning Code has built in that not every single person attending church drives a car so the policy of the Zoning Code is to divide the number of seats by three. Divide the 266 by three and the solution is 89. Worse case scenario. Even if you divide the 266 by two it is 133 which is very close to the neighbor's proposal of an alternate plan. Dr. and Mrs. Cody strongly oppose any parking lot on the subject site they have attempted along with Ms. Harmon and the Sonoma Midtown Neighborhood Association to reach a compromise. Dr. Cody hired an engineer to prepare a parking plan that creates a visual and sound buffer of green space between the Cody's home and the lot while still accommodating significant additional parking. The plan provides for better screening, larger trees and limits traffic access from the parking lot onto 36th Place to one outlet while eliminating just 13 of the proposed 41 spaces. With the elimination of those spaces the footprint is reduced to match the footprint of the duplexes that previously sat on the subject site. The landscape plan created by James Sotillo would improve water retention on the lot and prevent stormwater runoff from damaging Dr. and Mrs. Cody's property and straining the City's already stretched stormwater system in the area. The church is well aware of the neighbors concerns. The church met with the neighbors, including Dr. and Mrs. Cody, reviewed the results of the survey that Jennifer Harmon circulated among the neighbors, but in spite of being aware of the results the plan that is presented to the Board today is nearly identical to the plan that was presented at the June meeting. When the neighbors presented the alternative plan to the church they entirely rejected it. Ms. Huckabee stated that she inquired afterwards to see if there would be a counter offer or room for compromise the answer was that they had none and that the matter would be settled before the Board today. On behalf of Dr. and Mrs. Cody Ms. Huckabee asked the Board to reject the application in total. If the Board is unwilling to reject the application in total the Codys ask the Board do what the church thusfar has been unwilling to do. She asks the Board to reach a compromise solution that respects the concerns of the neighbors. The alternative plan provides significantly more parking for the church while protecting the Cody's and their neighbors from the light, sound, traffic and runoff that inevitably result from any parking lot.

Patricia Seibert, 2145 South Florence Avenue, Tulsa, OK; stated she represents the Tulsa Audubon Society. One of the goals of the Comprehensive Plan for future development is to bring nature into the city. Preservation of existing green space is mentioned several times in the Comprehensive Plan. Sadly, because of the reckless disregard of the neighbors and their living space, the LDS Corporation has made preservation impossible however restoration is a possibility. The small forested section

that everyone has been discussing forms a real eco-system. The continuous presence of trees and green space that roughly meanders along the former creek bed is the base of a habitat. The variety of mature trees are host to a wide variety of animals, both resident and migrant including the resident Barred Owls. The mature native species of trees are the vital link for the birds. They provide food, shelter and nesting locations, and when the trees were removed all the other vegetation was removed as well. A huge space of the exo-system was taken out. The fragmentation of this system increases competition for territory among the birds and the other creatures and migrant species of birds. Nature and development can go hand in hand but only if people of vision and appreciation for both make it happen. The plan shown to the neighbors is unimaginative, hasn't changed since the beginning, it seeks to maximize payment and provides a few bushes and trees to placate landscaping requirements. The plan is totally lacking in details. The corporation has refused to address the pleas of the neighbors at every turn. It will no doubt forge ahead with a plan that is the most cutrate and expedient for themselves unless this Board requires otherwise. The Sonomo Midtown neighborhood has done an enormous amount of research, consulted the Comprehensive Plan for Tulsa, many local planning organizations, ecological land management, and other groups of professionals to design an appropriate plan that will meet the needs of the church and the neighborhood. She and her colleagues at the Tulsa Audubon have seen the alternative design commissioned by the neighborhood and it is innovatiive, imaginative, environmentally sound and it is ecologically sustainable. Tulsa, and especially this neighborhood, deserves so much better than an enormous amount of pavement bordered by a few bushes and some saplings. On behalf of Tulsa Audubon she respectfully requests the Board deny the application and require a plan that addresses a substantial loss of habitat by restoring what was destroyed.

Ryan Cardamone, 3639 South Louisville Avenue, Tulsa, OK; stated his property backs up to the back portion of the subject lot. The reason he purchased the house is because of the forest like setting. Mr. Cardamone stated that his neighbor on the north side had been approached to sell because the church wants to build a school. This is not about a parking lot it is about making money.

Mr. Bond asked Mr. Cardamone if the owner of the subject property, regardless of who it might be, decided to rebuild a duplex on the property would he have a problem with that and does he think it would change the character of the neighborhood. Mr. Cardamone stated he does not think it would change the character of the neighborhood as long as the trees were left.

Mr. Van De Wiele asked Ms. Miller to state what the current lighting standards are in the Zoning Code because he has heard mention by several people about the lighting. Ms. Miller stated the lights must be shielded down and away from properties.

Chip Atkins, 1638 East 17th Place, Tulsa, OK; stated he has been coming to the Board for 30 years and this is the best alternative plan he has seen in 30 years. For a neighborhood to spend their own money on engineering and getting other professional

landscapers to draw a plan has never been seen before. Mr. Atkins asked when does a neighborhood receive notice of a Special Exception change and what triggers that notification? Ms. Miller stated the Zoning Code requires that everyone within a 300 foot radius of a subject property receive notice ten days prior to a meeting. Mr. Atkins asked what triggers the notification process. Mr. Van De Wiele stated it is the filing of an application.

Mr. Atkins stated that the church's application was not for the Special Exception originally, it was for a lot combination. Ms. Miller stated there was an application for a lot combination which is a different application and that did not require notifications. Mr. Atkins asked if that was part of this Special Exception. Ms. Miller stated that it was not. A lot combination is a separate application that goes before the Planning Commission. Mr. Atkins asked if the lot combination modified the Special Exception by adding the duplex lot to the church lot. Ms. Miller stated that it did not. Mr. Atkins asked why. Ms. Miller stated that is because the Special Exception is what this Board is considering right now. The lots can be combined but the applicant cannot automatically get the uses for the Special Exception until they appear before the Board of Adjustment. Mr. Atkins stated that he understands that but the applicant modified the Special Exception when they added the lot to the original property. Ms. Miller stated that the Special Exception is only good on the legal description as it was originally approved. The legal description does not expand just because the lot is combined. Mr. Atkins asked why. Mr. Van De Wiele stated that if it did the applicant would not need to be here today. The original application filed in the 1950s was on the original lot and they have a Special Exception for that lot. If a person combines 50 acres through a lot combination and on the 50 acres there are houses, gas stations, dental offices the person does not get to have a 50 acre tract, the person has to come to this Board to change the uses on each one of those lots in the 50 acres. Mr. Atkins stated that he understands that. Mr. Atkins stated the church added the lot to the Special Exception. Mr. Van De Wiele stated the church did not. They added the lot to the existing lot; they combined two lots. It is an erasing of a property line it is not a change of use. The Special Exception is the use.

Mr. Atkins stated that he lives in midtown with Christ the King Church, Methodist Church, a synagogue and they are all within three blocks of each other. There are enormous parking issues with people parking on the street. The maximum sized parking lot is Christ the King Church and it is the same as the subject church, and that congregation is almost three times the size of the subject church. The synagogue has the same issue. He sees this as a self imposed hardship. He has heard several neighbors come forward saying this proposal will be hard on their property. It will be hard on the property values. As a person who owns several properties in Swan Lake, Yorktown and other places means buying places next to a parking lot is cheaper. A parking lot devalues property. A parking lot does not help property values and he can prove it. This is injurious to the neighborhood because it will bring down the property values. Mr. Atkins hopes the Board denies this application.

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Dale Roberson, 3155 East 68th Street, Tulsa, OK; stated she lives in Council District 2 but she is here representing the people who have an interest but could not attend today. Everyone is concerned about what is going on the neighborhood. After listening today she is more concerned because it seems obvious that in the long run the church is planning to expand which will cause more changes and more hardship for the neighborhood. What is going on in the neighborhood could set a bad precedent for other neighborhoods in the City of Tulsa. The neighborhood has tried to make the best of a very tragic situation and the residents have presented an alternative proposal that is thoughtful, innovative and well researched. She hopes the Board will support the alternative plan as the best option for restoring the balance that formerly existed within a stable neighborhood.

Mr. Bond stated that the Board can vote to either approve or deny this application but they do not have the authority or power to implement an alternative plan. Mr. Van De Wiele stated the Board can approve the application for less than but the Board cannot give more. This is a modification request and the modification could be conditioned.

Bernard Richard Gardner, III, 3715 East 38th Street, Tulsa, OK; stated he is a federal real estate professional. He lives approximately two blocks from the subject lot. He is before the Board as an advocate for families and children who chose to live in the neighborhood. The neighbors are interested in the quality of life in the neighborhood and they are interested in the religious upbringing for the children and families. The neighborhood is a stable neighborhood that is growing and improving. He moved into the neighborhood after living in far south Tulsa after living there for about 24 years. When he first moved to 111th and Sheridan it was a beautiful pastoral area to live in but what he found in 24 years south Tulsa is now gridlocked. There are no sidewalks. There are no parks. There are no amenities that a lot of people value. Everyone has a shared interest in living in what is considered a more progressive cosmopolitan area with a walkable community with mass transit, with sidewalks, with properties closer together and protected for the residents that live there. In the midtown neighborhood, that is being represented today, the appraisals are growing faster than they are in the suburbs. They are accessible with public transportation. There is good shopping, restaurants, recreation parks, sidewalks and there is no gridlock in midtown. It is becoming a walkable community. In the neighborhood there is a corporate entity, a tax exempt entity which for the advantage of occasional visitors presiding predominantly outside of the neighborhood here is being proposed a permanent irrevocable destruction of any possibility of future residential use. The home site is at issue today. Mr. Gardner stated that he is concerned about what he is hearing today and witnessed in the process of becoming aware of what is happening within the heart and core of the neighborhood. What he sees taking place is the filling in of a Tulsa stormwater easement which would interfere with the City's access for maintenance, repair, expansion or replacement of the utility feature. He sees, without permit, the razing of homes which are family centers for residents of the neighborhood. This concerns him as a citizen of Tulsa. These activities concern him that they are examples of flagrant disregard for the rule of law in this situation and for the values of the residents of the neighborhood and the citizens of Tulsa. The neighbors are asking the Board for their

help. Mr. Gardner stated that it is his professional opinion if the Special Exception is granted it will cause irreparable damage to the quiet enjoyment and the values of the entire neighborhood. It will place specific damages for the home owners living downstream in the flood plain with the increased runoff of the new land use. This will also place specific and adverse burden on the owners and residents in a narrow area between the subject resident sites of these properties between Harvard and 36th Street. These impacts will affect the values of homes, families, children and residents of the neighborhood. Mr. Gardner stated that the applicant stated the proposed parking lot would have no change to the neighborhood and meets all requirements for a Special Exception but there are two criteria for a Special Exception. One, that the request be in harmony with the spirit and intent of the Zoning Code and secondly, that it will not be injurious to the neighborhood. He asks the Board to consider the possibility of this thriving neighborhood and the City of Tulsa for the long term.

David Frohling, 438 East Madison Street, Knoxville, MO; stated he is the applicant for the Board of Adjustment application and is the architect for the church. In hearing everything that has been said today, the firm he works for has been the architectural firm for the church for the past 25 years and he has been working with the church for the last 10 years. He did the 2012 renovation of the church that included the location of the storage building which came before the Board and everything is in compliance. A lot combination was done which added the duplex property to the church property and the reason for the hearing today is to expand the church parking lot onto the two subject properties, all of which is now under 3640 South New Haven. After the last Board of Adjustment meeting it was within the church's right to take down the trees and demolition permits were acquired to raze the houses. A water shed permit was acquired even though it was not absolutely necessary but it was done, however, there was no dirt moved. The church filled in the holes that were created by the removal of the duplexes and the trees. The church has not done anything in violation and have done everything by the book and are asking for a Special Exception that is required to do this legally and be in compliance with the Tulsa Code.

Rebuttal:

Chris Medrano came forward and stated that so much of what has been said does not have any substance value. The church is not here to play games. They want to demonstrate a need. The church numbers are not wrong just because they talk about 200, those are 200 members in attendance but the membership for the Riverside church is 632. The church would be able to have more of the members of the church that live in the area attend this facility so that is where the church has been burdened. No one here can pretend to understand how a 100% volunteer church works unless they are a part of one. Two hours prior to the meeting the church bishops meet and there are three hours of service for each one of the congregations. There is an overlap period where there are two congregations in the church at the same time, and that continues on as there are a large amount of people in the building. Trying to turn over that many people requires more parking stalls than the second and third hour. In order to get the parishoners safely in and out of the building the parking spaces are required. During the last Board of Adjustment meeting Ms. Jennifer Harmon stated that if there

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was going to be anything done could the church please wait until September. Ms. Harmon has been real good about communicating with the church and in doing so she has stated that she has concerns about the start and ending of construction if the parking lot is approved. The church thought they would be doing the house demolition and the parking lot expansion at the same time because they did not think they would be denied, so it was part of the real estate transaction. Mr. Frohling stated that anyone can Google the church, he is not aware of any Latter Day Saints K through 12 school in the entire world. There is not, has not and will not be any plans of a school; there are no additional plans. There is not a monetary gain for anyone to gain by this action. The neighbors have said so much about the church not willing to communicate but they have tried to communicate. Protestant after protestant has come forward and said exactly what they think the church needs. There was an 18 year old young man that was at the church the day the trees were removed, and he was cursed and damned to hell and made to feel so uncomfortable that he refused to return to the area. The hostility has been on site and through the media has not been on of fostering a compromise. The neighbors provided a plan and said accept this. Ms. Harmon even said, and defended today, that the neighbors had a strategy meeting and stated they did not want to meet with the church. The church has not been given the opportunity to work through a compromise. The church is here willing to listen to what is said and take those things into consideration.

Stephen Schuller came forward and stated that if a person looks at the two lots in an aerial photo they contained two duplexes and some trees. What the church has proposed is a compromise because if the owners of the duplexes had razed the duplexes and built bigger ones they could have removed any of the trees without ever coming before the Board of Adjustment. The church is offering additional landscaping, more than what is seen at other churches and other church parking lots, additional stormwater runoff provisions to protect the area from flooding so this is a real compromise from the previous subject lots owner's could have done. There are wider setbacks than what is required. The protestant that lives on Louisville complained about not having trees on the parking lot side but the aerial shot shows the trees are still on his property and the property adjacent to this lot. What has been lost are trees that are going to be replaced by healthy trees.

Comments and Questions:

Ms. Back stated that she was not in attendance at the June meeting because she was not on the Board, and she agrees that the church had every right to fell the trees because it is their property. However, the Board acted in good faith by continuing the case and in asking the church to consider the trees and the neighbors. She sees an absolute impasse. She also has real concern that in 1958 churches were historically smaller neighborhood churches, they were not regional churches. They were not dealing with larger congregations that are seen today or what is considered a mega church. When neighborhoods are designed and subdivisions are layed out, especially an RS-3 with the smaller lots, most of the churches are on arterial streets and are not internal to a subdivision area. Her concern is where does it stop? And where is the line that determines where this becomes injurious to the neighborhood?

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Mr. Van De Wiele stated that he knows the neighbors do not want a parking lot, but parking lots are ancillary uses to congregations. The problem with churches is that they have big parking lots that are empty five or six days a week and half of the day on church day. Technically, he believes the applicant was within their right to withdraw the first application and raze the houses. What he is surprised at, and what has been discussed for two hours, is everyone is arm wrestling over 10 to 12 spaces. He is wildly shocked and disappointed that someone did not say let's agree to cut it by six or seven, and the Board would be back to what they do today. Mr. Van De Wiele stated that the trees that were on the lot, at the last meeting there was a lot of discussion about owls and trees. There were a lot of those trees that were in PSO powerline easements and a bunch of them were nasty ugly trees, and he does not mean to offend anyone, but there were certainly a mature tree or two on this lot that could have been protected. In construction there is a good chance of killing trees but what he does not want to lose sight of is that ultimately what we are here for is whether the church should be able to expand its parking lot. Mr. Van De Wiele believes that churches do not have an abundant cash flow to say let's buy property, do what is necessary and build it and they will come. He tends to think there is a need projected in the future for the Latter Day Saints Church to move members back in to the facility. He can imagine how seven to ten spaces would break the church's back or frankly how seven to ten spaces will break the neighborhood's back. He is shocked that the Board has been here for two hours talking about this application. He tends to agree that the bulk of the trees in the neighborhood are in other people's lots and to spite what everyone wants to think it is the property owner's tree because it is their property no matter how much you like looking at it. He is inclined to say it is a fair modification to add onto the parking lot but it is also a fair concession to give up a little of the parking. He is disappointed in what the Board has seen today.

Mr. Bond stated that at the last meeting there was a lot of talk about trees and about owls. Today he has heard a lot of talk about someone's exercise of religion. He does not care what a person's religion is and if he allowed that to come into sway here he would be acting in an unAmerican manner. It is not an issue of religion, it is an issue of parking so his vote will be contingent on how the Board treats anyone. Based on that, neighborhoods have character and the Zoning Code states that. There are elements to that character. Mr. Bond stated that he heard evidence today, from neighbors who believe the expansion of the parking lot will be in detriment to that character and will be injurious to that character. Mr. Bond stated that he has not heard evidence from neighbors and stakeholders that believe the parking lot would be beneficial. So based on that and the Zoning Code he does not think it is incumbent on him to support a compromise. He will not vote for this modification.

Mr. Van De Wiele stated that he has that same concern, but the Board has also heard from the same people saying this is injurious but it wouldn't be if there were 30 parking spaces. That is his struggle. One space is less injurious than 40 spaces but how much hair splitting is the Board to do.

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Mr. Bond stated that he thinks what a lot of the neighbors are saying is they do not want any more parking. The neighbors are taking a lateral approach. The church is taking a lateral approach. That is why there has been four hours sucked up today that no one is going to get back and we are happy to do it. Mr. Bond stated that what he is hearing and interpreting is that the expansion of parking in a residential district from someone that is not a resident but there by Exception and not by right the neighbors are saying that is injurious.

Mr. White stated that his concern is from the first application and what they wanted to do with the expansion. The Board has had similar cases over the years and the most recent was the large church around 39th and Lewis that wanted to expand the congregation, and they had larger parking issues. The Board denied that application. That church subsequently moved to 91st and Memorial area. Mr. White stated this church is not located on a busy thoroughfare and it can be limited in growth because of that. He feels that by expanding the parking like they are proposing would indeed be injurious to the neighborhood. Just on a financial basis, the parking lot will lower the property values. He visited the site before and after and it is not pretty, it has lost some of the character. Mr. White stated that he lives in mid-town and he can appreciate the concept of the mid-town character. He can not support the application as is stated.

Ms. Back stated in dealing with the Comprehensive Plan with it being part of the existing residential neighborhood category and the areas of stability, the category states it is intended to preserve and enhance Tulsa's existing single family neighborhoods. Development activities in these areas should be limited to the rehabilitation or improvement of existing homes, and small scale in-fill projects as permitted. In areas of stability, the Comprehensive Plan talks about existing neighborhoods where change is expected to be minimal. Ms. Back stated that as it stands she cannot support the application.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Back, Bond, White "aye"; Van De Wiele "nay"; no "abstentions"; Flanagan absent) to **DENY** the request for a Modification of a previously approved Special Exception (BOA-2446) to expand a religious assembly use to permit expansion of an accessory parking area in the RS-3 District (Section 5.020), finding that it is injurious to the surrounding area; for the following property:

E305 BLK 10 LESS N25 FOR ST; E90 S140 N165 W180 E485 BLK 10; W 90 OF S 140 OF N 165 OF W 180 OF E 485 BLK 10, 36TH STREET SUBURB, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back left the meeting at 2:10 P.M.

- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

All of Lots 2, 3, 4 and 5, Block 9, and that part of the vacated alleyway and existing alleyway which lies between Lots 2, 3 and 4 and Lots 5, 6 and 7, Block 9, all in PLEASANT VIEW ADDITION, City of Tulsa, Tulsa County, State of Oklahoma, and also Lots 32 and 33, Block 1, COLLEGE ADDITION, City of Tulsa, Tulsa County, State of Oklahoma, and that part of the vacated alleyway and existing alleyway which lies between the aforementioned Lot 5, Block 9, PLEASANT VIEW ADDITION, and Lots 31, 32 and 33, Block 1, COLLEGE ADDITION. CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22099—Josh Lamb

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Action Requested:

Special Exception to allow a religious assembly use in the RS-3 District to permit the expansion of a parking area for an existing church (Section 55.080-D).

LOCATION: 3718 & 3726 East 36th Place South (CD 9)

Presentation:

Josh Lamb, 1501 East 6th Street, Tulsa, OK; before the applicant started his presentation Mr. Van De Wiele asked Mr. Lamb if he had the opportunity to meet with the attorneys from both sides. Mr. Lamb stated that he has not. Mr. Van De Wiele asked if it was something that he would consider a continuance to allow the opportunity for both sides to talk. Mr. Lamb deferred to Mr. Medrano.

Steven Medrano, 3640 South New Haven, Tulsa, OK; stated that currently regarding the impact to wildlife the only notice he has had is from a local organization that represents the owls in the community. There has been some discussion regarding the owls and through that a discussion with the neighbors that live in the area has ensued. It has not been founded that there is an owl habitat living within the property. Mr. Medrano stated there has been confusion regarding the properties. There are three vacant houses; two duplexes and a house that faces Louisville west of the duplexes. Mr. Medrano believes that it was originally thought that the house facing Louisville was part of the duplex development but that property does not belong to the church. The habitat of the owls is in the forestry of the backyard of that house and is isolated.

Mr. Van De Wiele stated the hearing will move forward in hearing this application.

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Mr. White stated the Board has concerns because the agenda packet is received on Thursday or Friday, then there is a newspaper article appears over the weekend, then the 10:00 P.M. news runs a story regarding the owls last night so there are concerns. The Board has had many instances where something similar has come up well late into the game. The Board members can make a decision and will make the decision based on the facts that are presented to the Board. The Board has found that it works far better if the interested parties, who have not spoken together, will start talking to each other. That would be the property owner, the church, the attorneys for both sides, the wildlife groups, and anyone else involved would discuss the issue outside of this venue and reach a median ground.

Mr. Medrano stated that he believes that has already been done. This has not gone to litigation and there are no protestors standing on the sidelines. There has been a meeting with a lady from the homeowner's association and the owl society, so he does not know that there is still an issue for us to have a meeting. He does not feel that a derailment is the appropriate way to move if there is no longer an item of contention. He is prepared to bring the photos of the trees that are involved in this discussion and he has spoke with the neighbors. There does not seem to be an issue like there was in the beginning.

Josh Lamb came forward to make his presentation and stated that there are two existing lots that contain older duplexes. The church would like to expand their parking lot because currently the parishioners are parking along the street. There would be not additional points of ingress or egress but will enter from the existing church parking lot. The lady that lives on the far west end of the church parking lot uses that curb cut to turn around because she cannot turn around in her driveway. There was a discussion with her yesterday and that curb cut will remain and the church will allow her to use that right-of-way. Mr. Lamb stated that the proposal has been through the planning review at Development Services.

Interested Parties:

Jennifer Harmon, 3523 South Louisville Avenue, Tulsa, OK; stated she is the President of the Sonoma Midtown Neighborhood Association and the founder of Barred Owls of Midtown Tulsa. Ms. Harmon stated that she just heard about this meeting within the last 48 hours. She has spoken with Mr. Medrano just before the meeting and she believes he has misstated a little of what she understood about the habitat of the owls. The concern with the owls is that primarily if the houses are demolished they will also demo a lot of mature tall trees which are in fact a part of the yearly habitat of the owl parents. Ms. Harmon had a map placed on the overhead projectors with designated areas outlined and she explained what the outlined areas represent. Ms. Harmon stated the owl parents have chosen a hollowed out tree to nest in and raise their clutch. The owls start nesting in February and the eggs hatch around the first week of April. The owls' fledglings stay in the tree until around the first week of May and they begin to climb out, learn to fly and learn to hunt. The fledglings will start moving southward after the parent owls push them out of the nest, and that has been

the behavioral pattern of these particular parent owls. The parents will push the babies very far. They will not push the babies miles away but only a few blocks away. Ms. Harmon stated that her concern about the removal of the duplexes and the mature trees is that will the trees be removed while the babies are still there, because owls are protected raptors under federal law, and will the tree removal cut off the owls' highway. Owls use the trees, the older and the more dense trees, to travel similar to a highway. Ms. Harmon stated that she did speak with Mr. Medrano yesterday and did receive information from the International Owl Society. Ms. Harmon stated that she would prefer that the trees not be removed at all, and if the parking lot is approved could the mature trees stay. Ms. Harmon stated that she did ask Mr. Medrano if it were possible to not remove any of the trees west of the fence line that is west of the last duplex.

Mr. Van De Wiele stated that the area Ms. Harmon is referring to is not church property.

Ms. Harmon stated that the owls do not live in the duplex area but the way the owls move through the trees they will be more inclined to stay in the dense tree line along the fence and she has discussed this with the Cornell and the International Owl Society. So it became a question of if the Board approved the parking lot and the church did not save any of the trees could the church wait up to 60 days to do so. The International Owl Society has informed her it would be appropriate to wait until September to be sure the nesting season is over.

Mr. Van De Wiele asked Ms. Harmon if the owls migrated to another area in 60 days. Ms. Harmon stated that barred owls do not migrate. The parent owls are there and the babies will only go next door. Ms. Harmon stated that in about 60 days the babies will be scouting for their own tree.

Mr. Van De Wiele asked Ms. Harmon how many trees are on the lot where the owls are. Ms. Harmon stated there are a lot of trees. Ms. Harmon stated that she is speaking for the trees for the owls but as a neighborhood the opposition is that by taking out all of the trees there will be a giant bare parking lot thus no shade and lowering property values. The blank space will change the footprint of the neighborhood.

Mr. Van De Wiele asked staff if there are landscaping requirements for this proposal. Ms. Miller stated there are landscape requirements for parking lots but it is up to the applicant as to how they want to meet those requirements.

Mr. Van De Wiele asked Ms. Harmon how many mature trees she would estimate to be on the two lots. Ms. Harmon stated that she thinks there are seven or eight mature trees and they create a substantial amount of shade.

Ms. Harmon stated that the request is not allowed by right but if the discussion is going to take place it is appropriate to say this is an established habitat and has been established and the City has recognized it. So everyone has to try to work through this.

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Mr. Van De Wiele asked Ms. Harmon if she said she had visited with the owl society. Ms. Harmon stated that she had visited with the International Owl Society. Mr. Van De Wiele asked Ms. Harmon if the Owl Society stated the owls were using the property to the west more than the subject property. Ms. Harmon stated the owls are using all of the trees on both sides, but the trees are more west to the west of the fence line. Mr. Van De Wiele asked Ms. Harmon if the owls were going to stay in the more dense trees. Ms. Harmon answered affirmatively.

Ms. Snyder asked Ms. Harmon if earlier she was asking that the trees not be removed until September because she did not want the baby owls to start nesting in them. Ms. Harmon answered affirmatively. Ms. Harmon stated that she records data about them every day and right she must inform PSO where the owls are located every day because of the tree trimming. Ms. Harmon stated that is been recorded that one of the baby owls is going east toward New Haven, but two of the baby owls are moving toward the duplexes.

Mr. Van De Wiele asked Ms. Harmon how she knows all of this. Ms. Harmon stated there are cameras placed everywhere that observes the owls. This season there are 1,004 data entries of information on these particular owls based on observing them inside the cavity of the tree and observing their every movement and every direction. All the neighbors make recordings onto a spread sheet and the information is forwarded to Cornell.

Ms. Snyder asked Ms. Harmon if someone was living in the house to the west of the duplexes. Mr. Medrano spoke from the audience and stated that house is abandoned. Ms. Snyder asked if there was anyone living in the duplexes. Mr. Medrano stated the duplexes are currently vacant.

Mr. Van De Wiele asked Ms. Harmon if she had data entries showing the owls in the trees along the fence line. Ms. Harmon stated the data entries have just started for this season and this is the first year that the recording process has been set up with Cornell.

Mr. White stated that this Board makes decisions and interpretations based upon the Zoning Code, and there is nothing in the Zoning Code that guarantees life which is not good for the case of the owls. But, in fact, state law and federal law will supersede the Zoning Code. Mr. White asked Ms. Harmon if there was any state or federal law that she is aware of that protects the rights of the owls to prevail over the wishes of the property owner. Ms. Harmon stated she is not before the Board to save all of the owls on the planet and not here to say the owls should prevail. The neighbors do everything possible to preserve the owls' safety so they can live and do what they do. Ms. Harmon stated that the only law that protects the owls in specific situations is the Migratory Bird Act. So if she does not appear before the Board and the church were to take out the trees and kills the owls she would obviously contact the Game Warden because the owls are protected raptors. So her starting point is knowing that the proposal is not allowed by right she asks if the church can wait to take out the trees for at least 60 days.

Mr. White stated that the conditions for the Special Exception the applicant is requesting is that it will be in harmony with the spirit and intent of the Code, will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Ms. Harmon stated that she wants the owls to be safe and if the trees are going to be taken out do it safely and do not hurt the owls because they are protected by federal law.

Ms. Miller stated the purpose of the Zoning Code is protecting the public health, safety and general welfare. Also, implementing Policies and Rules of the Comprehensive Plan and other relevant official adopted plans of the City, the Comprehensive Plan does talk about protecting natural habitat in the City. There is a link in looking at a factor like this situation.

Jean McQueary, 3711 East 36th Place, Tulsa, OK; stated she lives in the last house on 36th Place on the north side. She is the person who cannot get out of their driveway if there is curbing all along 36th Place. She is not concerned about the parking lot but she needs to have access out of her driveway.

Mr. Van De Wiele stated that the Board has heard from the applicant that they are willing to leave some sort of turn-around for her to utilize.

Mr. Medrano came forward and stated that he would like to verify "existing" so there is no confusion. Mr. Medrano stated there is a driveway that starts at the curb cut and extends all the way to and underneath the carport. There is a saw cut in the concrete that is a standard setback for the City easement and that is the proposal that the saw cut remain.

Mr. Van De Wiele added that Ms. McQueary does not have the right to use the church driveway as a turn-around though it sounds like the church is willing make an accommodation for that in their application.

James Weigant, 3738 South Indianapolis, Tulsa, OK; stated that he lives about three blocks from the subject property. He has lived in the neighborhood for about 3 ½ years and walked by the subject property many times. When the church was first being built he thought it was quaint and nice and appropriate. The current parking is devoid of anything natural and the size of the parking being proposed is basic with no imagination. He is surprised that a development of the proposed size in a neighborhood does not require some islands and trees incorporated. He thinks there should be something other than bare asphalt.

Lisa Griffith, 3603 East 36th Street, Tulsa, OK; stated her husband's family built the house they now live in 1950. Her sister-in-law lives across the street and her wooded area backs up to 37th Street and the owls started in that area. The owls have been in those trees for years. She just discovered them four years ago. Most people do not realize the owls are in their trees because they are very hidden. People do not notice them. The owls do not even go that high into the trees and people still do not notice the

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owls because they look very similar to the tree bark. She has seen the owls in the trees from the Louisville to New Haven area which is under discussion.

Mr. Van De Wiele asked Ms. Griffith to clarify which trees she is referring to. Ms. Griffith stated that she has taken pictures of the owls in the trees that the church is talking about taking down and in the trees to the west. That area is where the owls hung out.

Ms. Snyder asked Ms. Griffith if she knew how long the owls live. Ms. Griffith stated the owls mate for life and they do not leave their neighborhood once they establish themselves, and she thinks they live about 18 years.

Ms. Griffith invited the Board to come to the neighborhood to see the owls so they could see for themselves what the residents are talking about. The owls are hanging out in the very area that is under discussion today, just south of 36th Street between 36th and 37th streets between Louisville and New Haven.

Mr. Bond asked Ms. Griffith if she thought the expansion of the parking lot would be in keeping with the character of the neighborhood. Ms. Griffith stated that she is not crazy about the church installing another parking lot because they have a huge parking lot as it is, and she knows that because she walks by the parking lot every night while walking her dogs. She is even more concerned about the trees and any trees being removed. The trees are a part of midtown and what everyone likes, and which is why the owls like it too. The trees keep the area cooler.

Rebuttal:

Steven Medrano came forward and stated that he would like to address three things. In regards to the landscaping, unfortunately, at this period he understands that in this process some of the documents being seen are conceptual drawings. The church is seeking the right to install the parking and have not filed the permit. The plan does not show a lot of architecture because it is not a completed drawing because there has been not approval received for the Variance. Mr. Medrano stated that he came before the Board a few years ago and received a Variance for a shed. The neighbor complained that she would be receiving all the visual impact of that shed so there was a compromise at a loss of parking spaces to move it over the two properties, and the church agreed. During that same period the church spent between \$40,000 and \$80,000 on exterior landscaping which exceeded well over \$120,000 to \$140,000 worth of improvements so the property would look more like the houses around it. The church does plan to landscape the proposed addition and the islands would match the character of the building. The church is willing, if the City approves, to leave the neighbor the approach so that they will have a good ingress and egress.

Mr. Van De Wiele stated that the church may not own that right-of-way. Mr. Medrano stated that he believes it is the City's but if the City would allow that to remain the church would afford the expense to make sure there is a turn-around there. The church will financially accommodate what the City allows them to do.

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Mr. Medrano stated that a lot of the trees are in the illegal boundary of the PSO power equipment so there is trimming and/or removal that has to be done. Typically PSO will give you the option of defacing one side of the tree or take the tree off. There are several trees on the south side that will need to be addressed. One of the big trees that provided so much shade, that the neighbors all loved, fell during the last storm and took out power lines so it had to be removed before PSO would come in and re-establish power. Mr. Medrano had several pictures placed on the overhead projector showing the trees around the proposed parking lot area. Mr. Medrano stated that according to the Federal Migratory Act, according to the Act itself and speaking with Oklahoma City Wild Life Department, unfortunately for the owl it is only protected while it is nesting. Mr. Medrano stated the owl is always protected but its habitat is only protected while it is nesting. Once the owl is out of the nest the trees can be safely removed and when the owls want to nest the following year and the tree is gone they would find another tree. Mr. Medrano stated that has not been any reported nesting in the trees the church has. By law the church is allowed to cut down a tree that had an owl's nest once the babies have left the nest. Mr. Medrano stated that if the Board is using the law and following the law the church is within its rights to remove the tree, but if the Board is ruling only the Variance request and not the law then he would suggest there be a continuance to allow legal counsel from both parties could be involved.

Mr. Flanagan stated that is exactly what Mr. White suggested 45 minutes ago. Mr. Medrano agreed.

Mr. Medrano stated that if the neighbors are happy with the solution and the Board is happy with that too, then the church is square. But if the church has a burden of proof that it is not destroying a habitat then he thinks legal counsel would need to be involved.

Mr. Van De Wiele asked Mr. Medrano which island would the tree that the neighbors are so concerned about fit in, using sketch shown on page 14.11. Mr. Medrano stated that tree would not be in an island but would be in the northwest corner of the greenscape.

Mr. Van De Wiele asked Mr. Medrano if the church would accommodate the request made by Ms. Harmon by waiting 60 days to accommodate migration and nesting. Mr. Medrano answered affirmatively. Mr. Medrano stated that he spoke with the Oklahoma State Wild Life Department and they suggested that the church would be safe after the first week of June and Ms Harmon agreed. Mr. Medrano stated that Ms. Harmon has a more intimate relationship with the owls because she is actually studying them, and in her opinion the owls are more adolescent at this point in time. Mr. Medrano stated that he would be happy to give her the 60 days.

Mr. Van De Wiele asked staff what the landscaping requirements are for the proposed parking lot. Ms. Miller stated that every tree has to be within 50 feet of every parking space. Ms. Miller stated that it also tricky to preserve trees when there is so pavement being added to an area though there is a certain way that can be done. Ms. Miller

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stated a staff member in INCOG is a landscape architect and would be willing to work with the church.

Mr. Medrano stated that when the church erected the tall retaining wall they did not have a legal obligation to preserve the trees but they had an obligation as good neighbors to restore the trees. At great expense the church changed the design of the wall; there are no tie backs in the wall. The wall has a lip on it so that it leans on itself so the tree roots did not have to be disturbed. The church has arborists come to do the pruning and the deep root fertilization and that is the same thing that will happen with the proposed parking lot. Mr. Medrano stated that the City has also provided the church with guidelines as to how the water runoff has to be captured before it can be released into the storm drain which has been incorporated into the proposed site plan.

Mr. White asked Mr. Medrano how many spaces there were in the current proposed design of the parking lot. Mr. Medrano stated there are 44 parking spaces. Mr. White asked Mr. Medrano if he was going for maximum density. Mr. Medrano stated that in that particular design there is a standard building plan that matches the church's congregations. There are so many parking lots per number of members. Whatever the building occupancy is there is a ratio for the parking. The building has the capacity for the congregation to grow larger than the parking lot can accommodate. As a point of interest, the church did not approach the home owners for the purchase of the houses, the owners approached the church. Mr. White asked Mr. Medrano if the current parking lot available meets the Tulsa Zoning Code for the church size. Mr. Medrano stated that he is not sure. Mr. White asked Mr. Medrano if the church parking lot is full at each service. Mr. Medrano stated the church has two congregations that meet. One of the congregations does not have the membership to fill the parking lot but the other does, and that congregation also uses New Haven and fire lane along the sidewalk inside the property that is not actually marked.

Comments and Questions:

Mr. White stated that he has too many questions and open ended issues. He still thinks there should be a discussion period by all interested parties outside the venue of this meeting. This is heading toward being an emotional issue and state or federal law in questionable. And does the church really need that much parking space to meet their requirements? Mr. White stated that he would not want to see anything damage the owls but that is not in the prevue of this Board because that is state or federal law.

Mr. Flanagan agrees with Mr. White. He believes it would be prudent that everyone gets together and they could collectively reach a decision. Mr. Flanagan stated should the church scrap the parking lot plan they still own the property and could decide to cut down every tree and still be within their rights.

Mr. Van De Wiele stated that if the Board decides to continue this case, the Board needs to provide the parties with a detailed list of the information that the Board wants or needs to see. Mr. Van De Wiele stated that he believes the Board can fit the concept of the issue with the birds within the confines of "detrimental to the public welfare" or

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harmony with the neighborhood. Mr. Van De Wiele would like to see the one tree kept and have the applicant come back with a detailed site plan showing the landscaping, including the subject tree, and others. It sounds like the church is agreeable to a construction time frame as to when the trees would or would not be removed. Churches and church parking lots in the middle of neighborhoods are compatible with the Zoning Code. Mr. Van De Wiele appreciates Ms. Harmon's honesty and he thinks the Board could reach an approval but he would like to see a more detailed landscape plan incorporating as many of the mature trees as possible.

Mr. Bond stated that it sounds like there is good faith on both sides and a willingness to work together. The best chance to protect the trees is for the church to work with the community. He would like to see the good faith effort put together to work out a plan and reach a compromise that benefit everyone for years to come.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to allow a religious assembly use in the RS-3 District to permit the expansion of a parking area for an existing church (Section 55.080-D) to the Board of Adjustment meeting on July 26, 2016. The Board requests the applicant bring a detailed landscape plan to this meeting; for the following property:

E90 S140 N165 W180 E485 BLK 10; W 90 OF S 140 OF N 165 OF W 180 OF E 485BLK 10, 36TH STREET SUBURB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22101—Heather Earnhart

Action Requested:

Variance to reduce the required rear (street) setback to permit construction of a swimming pool (Section 90.090-C). **LOCATION:** 2921 East 56th Place South (CD 9)

Mr. Van De Wiele recused himself and left the meeting at 3:21 P.M.

Presentation:

Heather Earnhart, 2929 East 56th Place, Tulsa, OK; stated she has lived there for 15 years and she purchased the house next door. She and her husband are completely renovating 2921 East 56th Place and adding a three car garage. They would also like to add a swimming pool. In December 2015 they were measuring 25 feet from the center of the street for the setback, and now the pool permit was denied because the setback is now 30 feet from the building line not the center of the street. They would like to have a diving pool and not just a wading pool.

Presentation:

Janely Gomez, 2468 South 127th East Avenue, Tulsa, OK; no presentation was made, but the applicant was available for questions.

Mr. Henke asked staff if the other carports located in the area were approved. Ms. Back stated that she did not locate any approvals for any carports within the neighborhood.

Mr. Henke asked Ms. Gomez when she moved into the neighborhood. Ms. Gomez stated that she moved into the neighborhood three years ago. Mr. Henke asked Ms. Gomez if the other carports in the neighborhood were in existence when she moved into the house. Ms. Gomez stated that they were.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Tidwell, White "aye"; no "nays"; no "abstentions"; Snyder, Van De Wiele absent) to **APPROVE** the request for a **Special Exception** to permit a carport in the required front yard in an RS-3 district (Section 210.B.10.g), per plan on page 7.8 and will not be attached to the house. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 16 BLK 4, STACEY LYNN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21499—David Frohling

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Action Requested:

Variance of required setback from abutting R district from 25 feet to 10 feet to allow a storage building for a church (Section 404.F.4). **LOCATION:** 3640 South New Haven Avenue East **(CD 9)**

Presentation:

David Frohling, 300 South Jefferson, Suite 301, Springfield, MO; stated the property currently does not have any outside storage. Currently trailers are parked along the back property line, they're not secure nor are they safe. This request will allow permanent outdoor storage for the church. The proposed storage building is more than the typical wooden structure that is purchased from Lowe's or Home Depot. The proposed building is a wood framed, brick veneer structure approximately 12'-0" x 14'-0". Adjacent to that will be a dumpster that will be fully enclosed by a six foot tall

BDA-21499

composite fence. This material will be same material that is along the west property line. There is currently a six foot tall cedar privacy fence that is deteriorating and it will be replaced.

Interested Parties:

Dr. Karen Dawson, 2656 East 35th Street, Tulsa, OK; stated she owns the property behind the church. She spoke with a gentleman from the Latter Day Saints church and she recommended that the storage building be moved to the center of their property line and not place it at the edge of her property. Her renter is very concerned about the placement of the dumpster because she will be parking within ten feet of it everyday. She requests that the proposed storage building be placed at the center of the property line.

Mr. Henke tends to agree with Dr. Dawson's request.

Chris Magrotto, 12110 East 7th Street, Tulsa, OK; stated he is the owner's representative. He has toured the property with Dr. Dawson and pending the Board's approval of the variance the church will be willing to adjust the placement of the proposed storage building to the south in the church parking lot to meet her needs. There is currently a five foot easement for a storm sewer that runs between two residential properties, so the building would be centered between the two residential properties placing it adjacent to the City's property.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Tidwell, White "aye"; no "nays"; no "abstentions"; Snyder, Van De Wiele absent) to **APPROVE** the request for a **Variance** of required setback from abutting R district from 25 feet to 10 feet to allow a storage building for a church (Section 404.F.4), this will be per plan that was submitted today, November 27, 2012, labeled C801 for the structure. The location of the structure will be adjacent to the west property line centered in a north-south dimension on the west property line. Finding that the hardship is the church and lot is very large, and the proposed structure is small. 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:

E305 BLK 10 LESS N25 FOR ST, E305 B10 THIRTY SIXTH ST SUBURB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2446

Church of Jesus Christ
of Latter Day Saints
E 2 1/2 Acres of
Block 10, 36th Street
Suburb

This being date set down for public hearing on the application of the Church of Jesus Christ of Latter Day Saints for permission to erect a church on the East 2 1/2 acres of Block 10, 36th Street Suburb Addition. There appeared several protestants.

After considerable discussion from both sides it was,

MOVED by Daniel (Grubb) that this matter be granted.
All members voting yea. Carried.

Case No. 2447

Trinity Free Will
Baptist Church
Section 34-20-13

This being the date set down for public hearing on the application of the Trinity Free Will Baptist Church for permission to erect a church on a tract of land in Section 34-20-13. There being no protest it was,

MOVED by Grubb (Daniel) that this matter be granted.
All members voting yea. Carried.

Case No. 2440

Theodore Spangenburg
Pt. of Lot 3, Block 2,
Exposition Gardens

This being the date set down for public hearing on the application of Theodore Spangenburg for permission to extend a non-conforming use on a part of Lot 3, Block 2, Exposition Gardens Addition. There appeared no protest.

MOVED by Grubb (Lashley) that this matter be granted.
All members voting yea. Carried.

Case No. 2443

Brookside Masonic
Building Corporation
Lot 2, Block 1, Sub.
Tracts 8, 9, 10,
Evergreen Sub.

This being the date set down for public hearing on the application of the Brookside Masonic Building Corporation for permission to use Lot 2, Block 1, Sub. Tracts of 8, 9, 10, Evergreen Subdivision for lodge purposes. There being no protest it was,

MOVED by Lashley (Daniel) that this matter be granted.
All members voting yea. Carried.

Case No. 2448

K. T. Johnson
Lot 6, Block 1,
Flanagan Addition

K. T. Johnston request for permission to use Lot 6, Block 1, Flanagan Addition for off-street parking in conjunction with business on adjacent property.

MOVED by Daniel (Grubb) that this matter be set down for a public hearing.
All members voting yea. Carried.

Case No. 2449

Jane DeArman
W 1/2 of Lot 3, E 50'
of Lot 4, Block 8,
North Tulsa

Jane DeArman request for permission to operate a convalescence home on the West half of Lot 3, and the East 50 feet of Lot 4, Block 8, North Tulsa Addition.

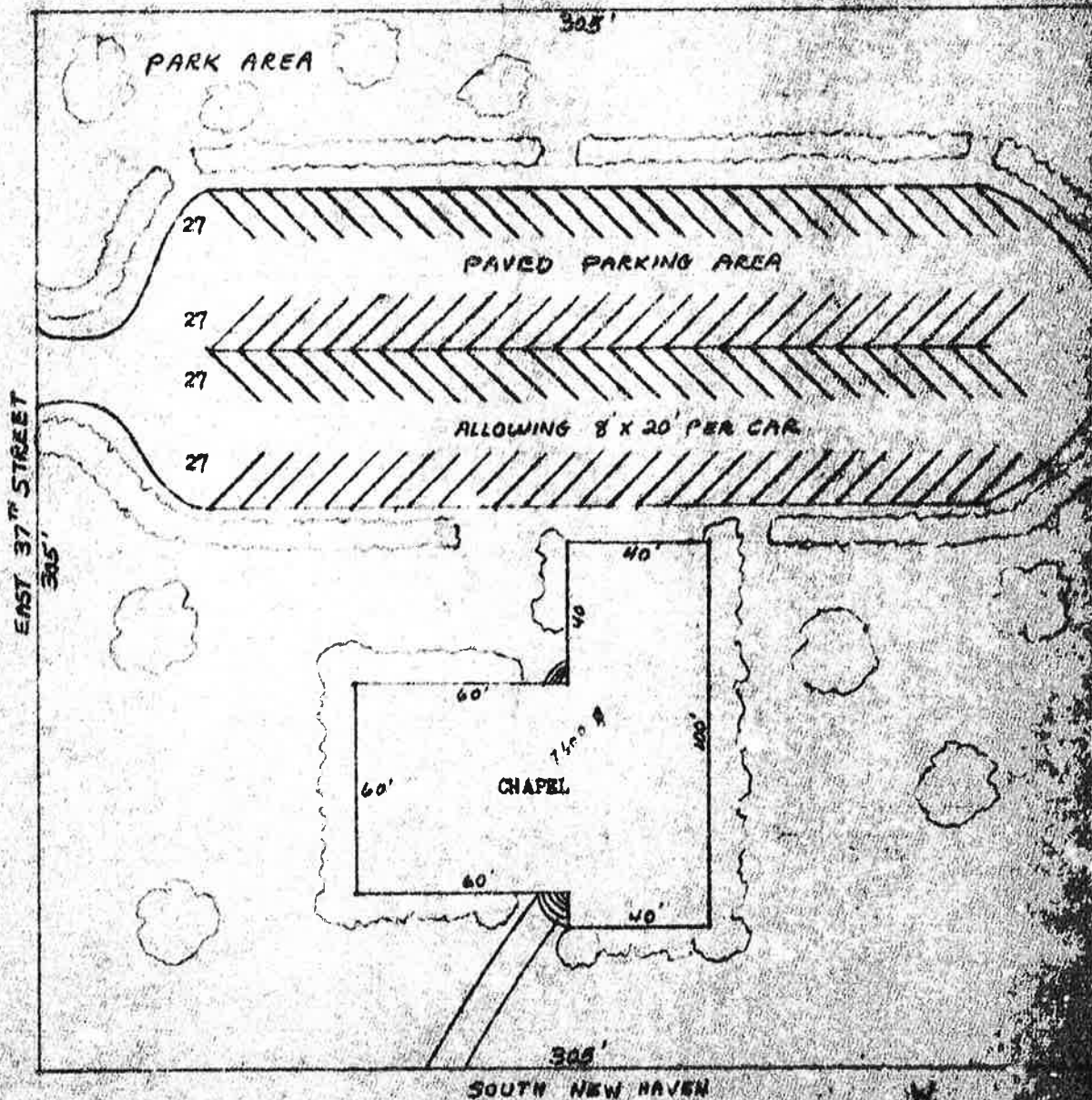
MOVED by Grubb (Lashley) that this matter be set down for a public hearing.
All members voting yea. Carried.

BY DATE
CHKD. BY DATE

SUBJECT EAST 28 ACRES OF BLOCK 10
36th STREET SUBURB ADDITION

SHEET NO. OF
JOB NO.

PROPOSED BUILDING SITE & PARKING AREA
CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS



BOA-2446



0 250 500
Feet



Subject
Tract

BOA-22506

19-13 21

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

Aerial Photo Date: February 2018



6.32

E 36th ST S

S NEW HAVEN AVE

E 37 ST S

S LOUISVILLE AVE



Subject
Tract

BOA-22506

19-13 21

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

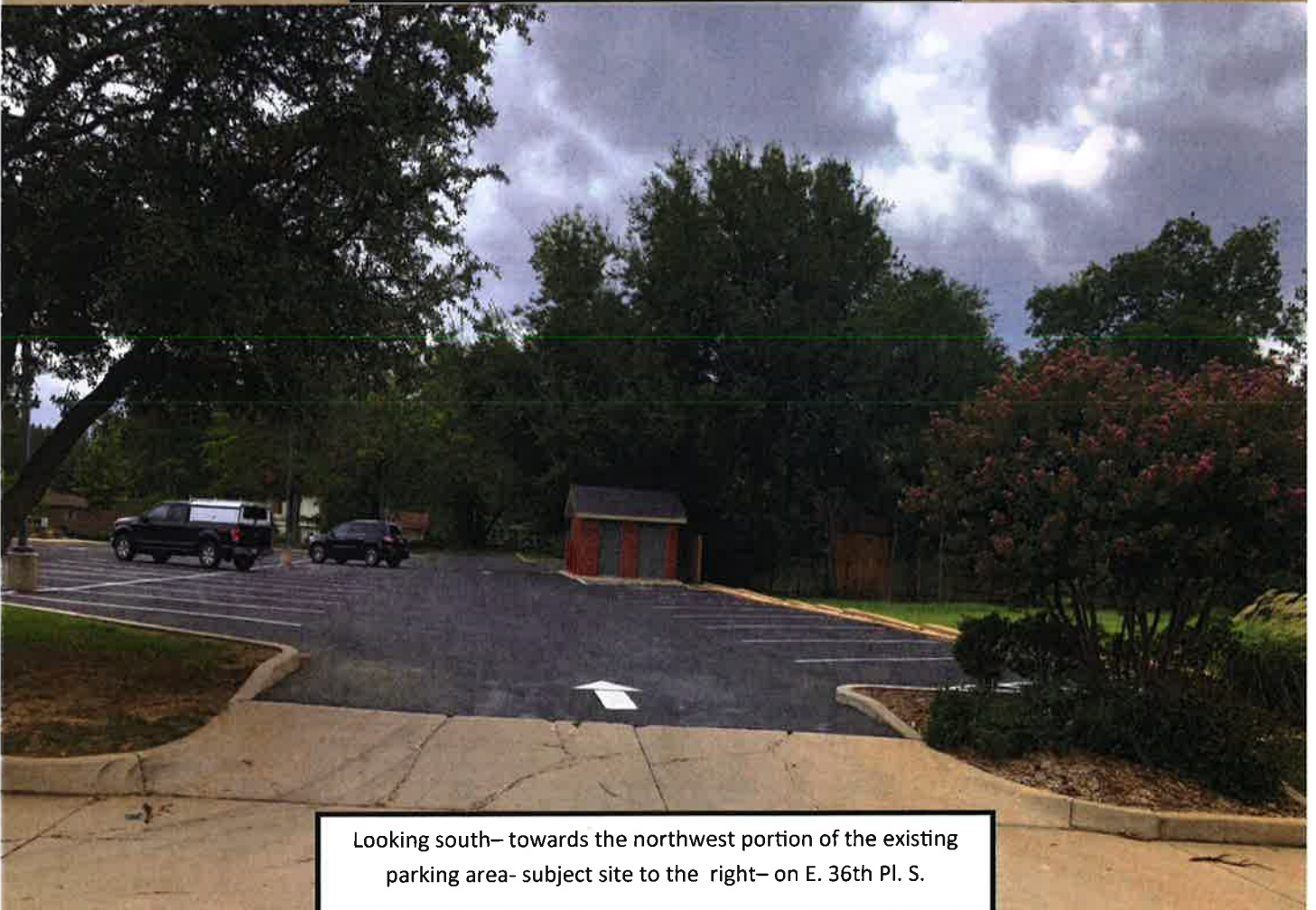
Aerial Photo Date: February 2018

6.33

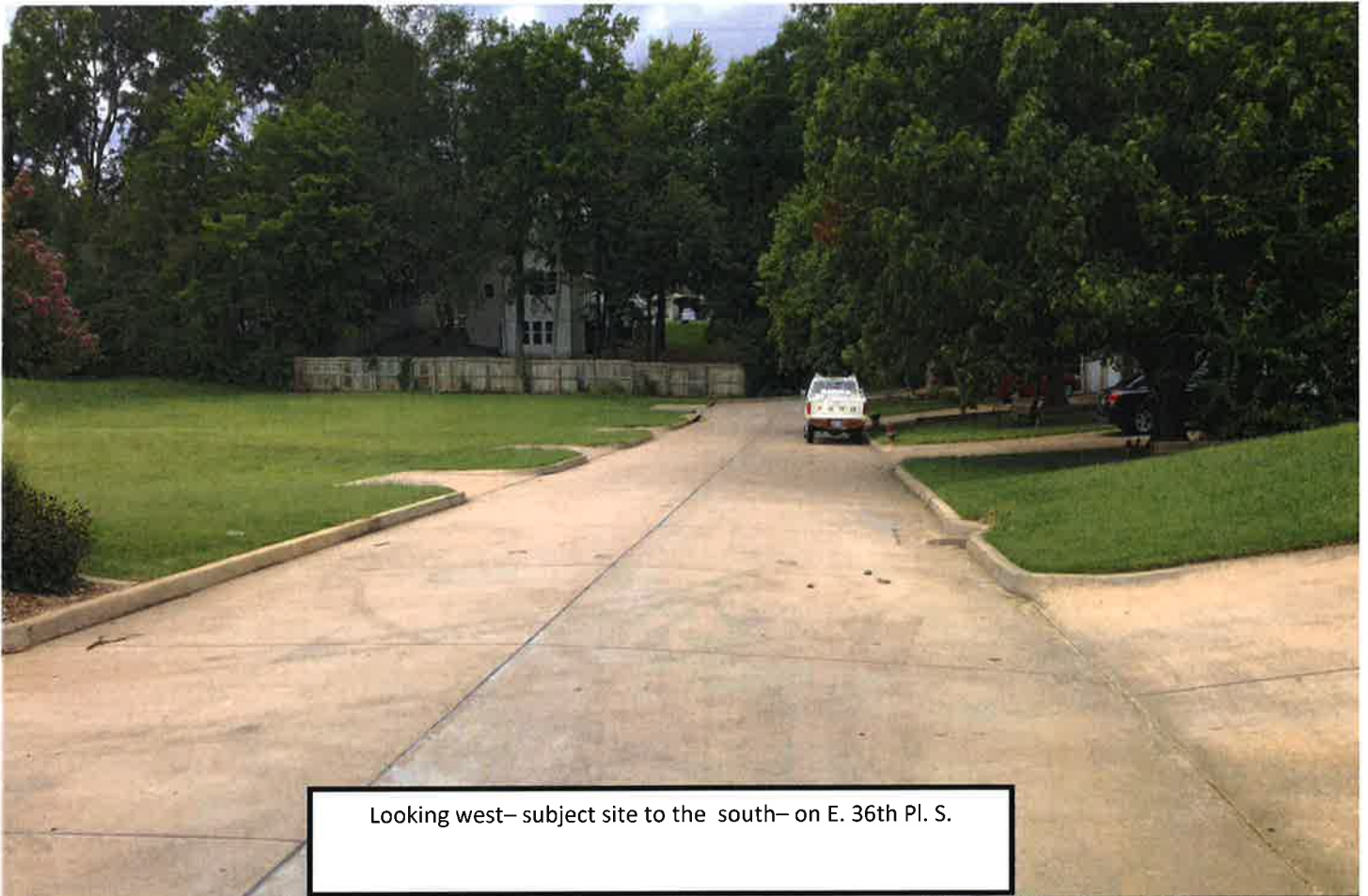




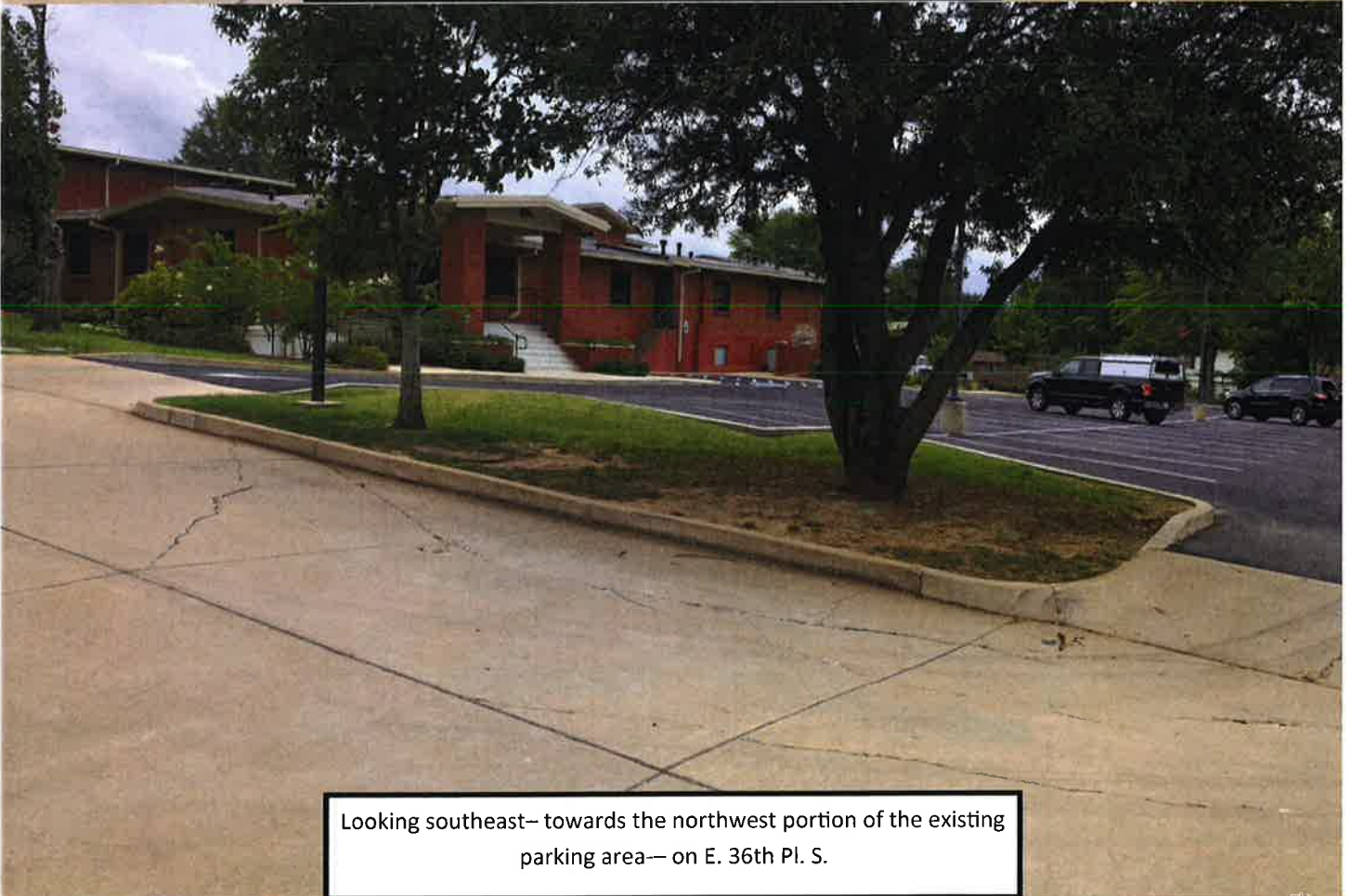
Looking southwest— towards the vacant subject site— on E.
36th Pl. S.



Looking south— towards the northwest portion of the existing
parking area- subject site to the right— on E. 36th Pl. S.



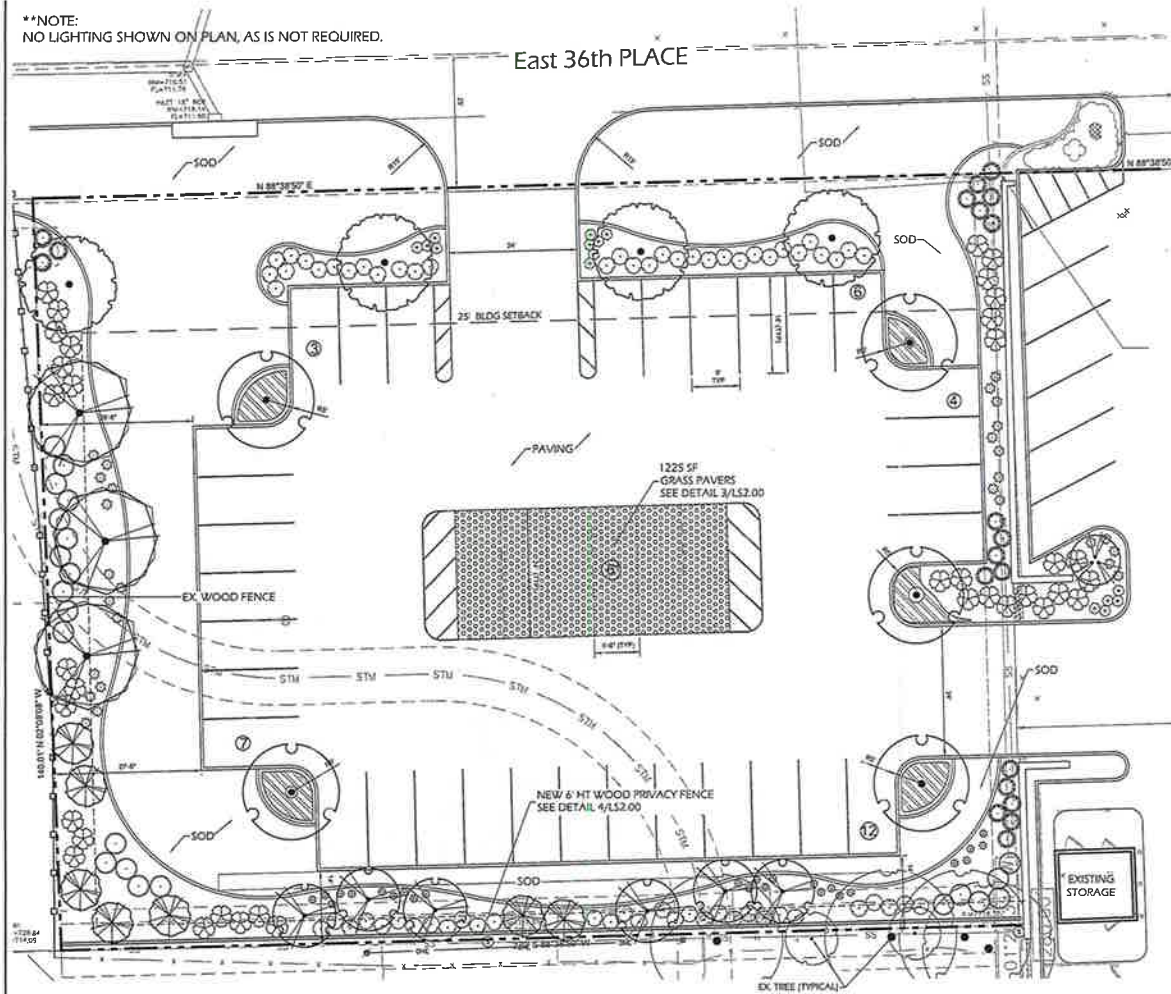
Looking west— subject site to the south— on E. 36th Pl. S.



Looking southeast— towards the northwest portion of the existing parking area— on E. 36th Pl. S.

6.36

**NOTE:
NO LIGHTING SHOWN ON PLAN, AS IS NOT REQUIRED.



PARKING LOT CURRENT SUBMITTAL

PARKING STALLS 38
NEW PAVING 13,767 SF



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THE CHURCH OF JESUS CHRIST LATTER DAY SAINTS

PARKING LOT EXPANSION
3640 S NEW HAVEN, TULSA, OK 74135

REVISIONS	DATE	DESCRIPTION

ISSUE	PERMIT PLAN
DATE:	JULY 25TH, 2018
PROJECT #	18032
DESIGN:	BN
DRAWING:	BN
CHECKED:	DA
SHEET TITLE	PLANTING PLAN
SHEET #	LS1.00

East 36th PLACE

25' SETBACK

10'-0"

11,112

EX. LANDSCAPING

E: 2578
N: 4107

EX. TREE (TYPICAL)

EX. LANDSCAPING

E: 2578
N: 4107

EX. TREE (TYPICAL)

PARKING LOT PREVIOUS SUBMITTAL

PARKING STALLS	<u>42</u>
NEW PAVING	<u>16,943 SF</u>

[illegible]

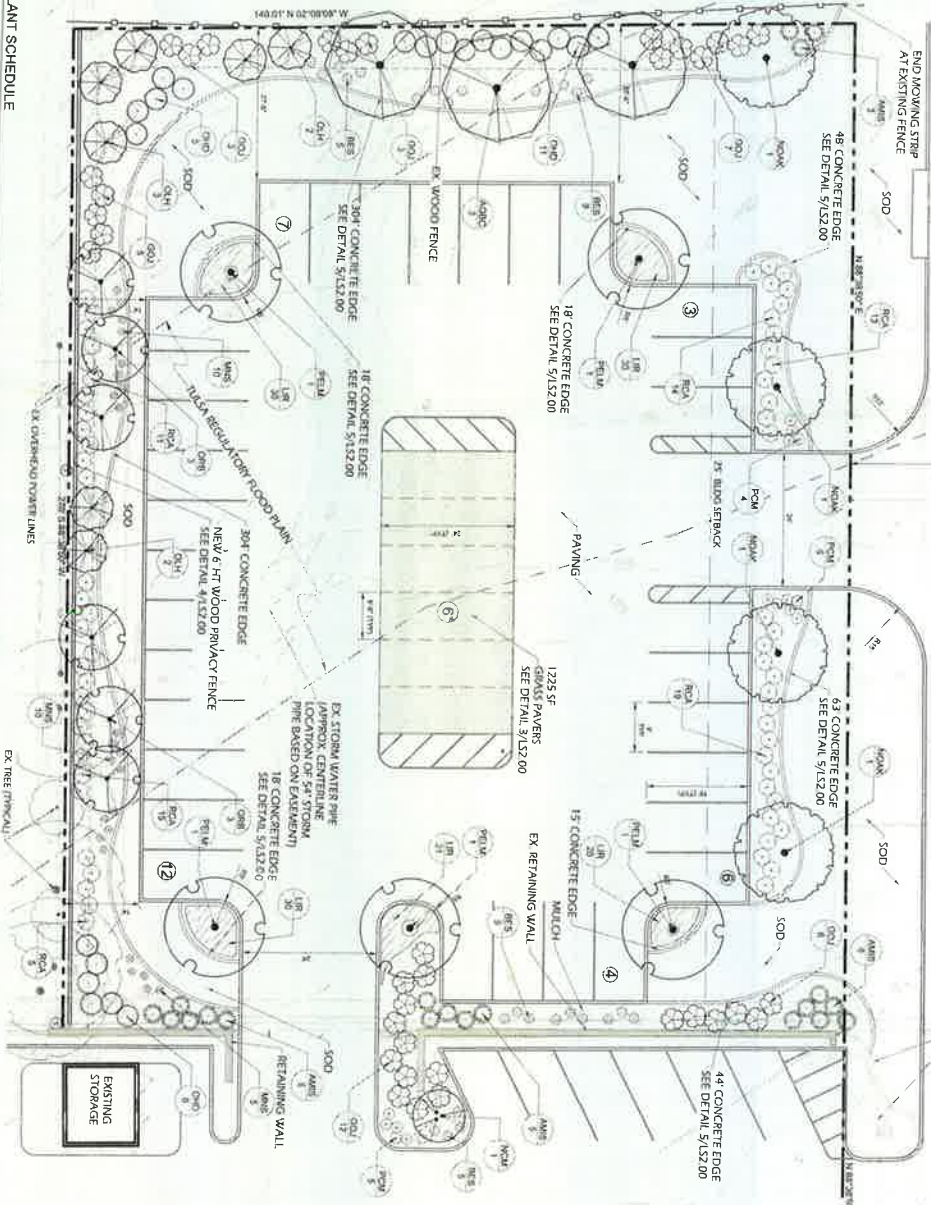
**The Church of Jesus Christ
Latter Day Saints**
Parking Lot Expansion
East 36th Place and New Haven
Tulsa, Oklahoma

ISSUE NO.	XXX
ISSUE DATE	DECEMBER 9, 2014
PROJECT NUMBER	XXX
DRAWN BY	SDI
CHECKED BY	DTA
SHEET NO.	
CITY	
LANDSCAPE PLAN	
SHEET	LS1.0

**NOTE:
NO LIGHTING SHOWN ON PLAN, AS IS NOT REQUIRED.

East 36th PLACE

EX LANDSCAPING & CURB



NO.	QTY	COMMON NAME / BOTANICAL NAME	SIZE	COL.
1	1	DOGWOOD	12" - 14"	70L
2	1	DOGWOOD	12" - 14"	70L
3	1	DOGWOOD	12" - 14"	70L
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I, **Dan Alaback**, REGISTERED PROFESSIONAL LANDSCAPE ARCHITECT, CERTIFY THAT THE PLAN SHOWN IS MY OWN WORK AND THAT I AM A MEMBER OF THE CITY OF TULSA LANDSCAPE ARCHITECTS ASSOCIATION.

SIGNED: **Dan Alaback**
DATE: 07.25.2018

GENERAL LANDSCAPE NOTES

CALL 311 FOR INFORMATION ON THE LOCATION OF LANDSCAPE UTILITIES PRIOR TO DIGGING. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES OR ACTION ON THE ROAD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACTION OF ANY OF THE CONTRACTOR'S EMPLOYEES OR SUBS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACTION OF ANY OF THE CONTRACTOR'S EMPLOYEES OR SUBS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACTION OF ANY OF THE CONTRACTOR'S EMPLOYEES OR SUBS.

PLANTING AND MAINTENANCE

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PERMIT PLAN

DATE: 07/25/2018

PROJECT: 16031

DRAWN: BN

CHECKED: BN

SHEET: 11

THE CHURCH OF JESUS CHRIST

LATTER DAY SAINTS

PARKING LOT EXPANSION

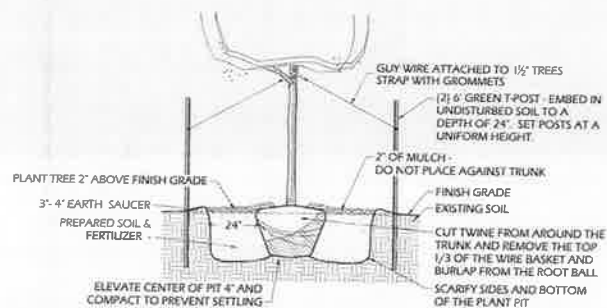
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ALABACK

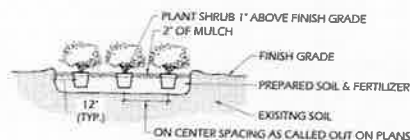
LANDSCAPE ARCHITECT

1000 N. 10TH ST. SUITE 100

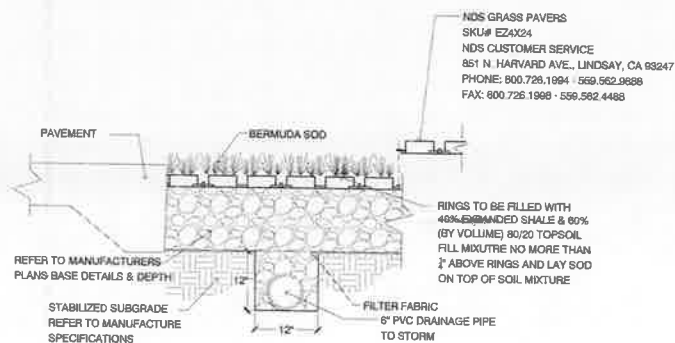
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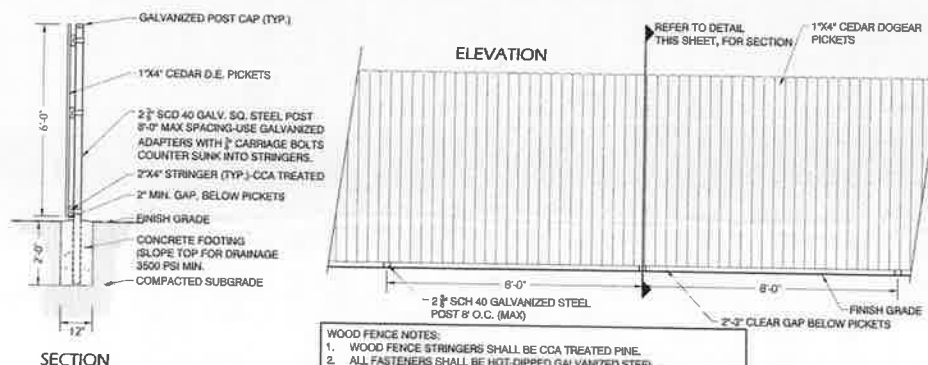
1 TREE PLANTING - WITH STAKING
SCALE: NTS



2 SHRUB PLANTING
SCALE: NTS



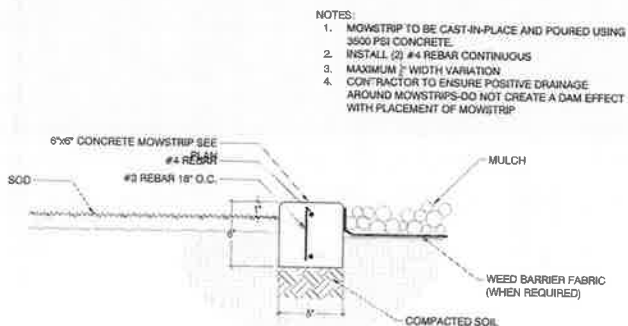
3 GRASS PAVERS SECTION



4 6' WOOD PRIVACY FENCE

WOOD FENCE NOTES:

1. WOOD FENCE STRINGERS SHALL BE CCA TREATED PINE.
2. ALL FASTENERS SHALL BE HOT-DIPPED GALVANIZED STEEL.
3. "PICKET SIDE" SHALL FACE PARKING LOT (LDS PROPERTY)



5 CONCRETE MOWING EDGE

CHUCK LANGE
ZONING OFFICIAL
PLANS EXAMINER

TEL (918)596-9688
clange@cityoftulsa.org



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103

ZONING CLEARANCE PLAN REVIEW

LOD Number: 1

August 6th, 2018

Bryon Neely
Alaback Design
3202 E 21st Street
Tulsa, OK 74114

Phone: 918.742.1463

APPLICATION NO: ZCO-007661-2018

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: 3640 S New Haven
Description: Parking lot expansion

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2nd STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. SUBMIT TWO (2) SETS [4 SETS IF HEALTH DEPARTMENT REVIEW IS REQUIRED] OF REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
2. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT WWW.INCOG.ORG OR AT INCOG OFFICES AT 2 W. 2nd ST., 8th FLOOR, TULSA, OK, 74103, PHONE (918) 584-7526.
3. A COPY OF A "RECORD SEARCH" **IS NOT** INCLUDED WITH THIS LETTER. PLEASE PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.)

(continued)

6.40

REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT
WWW.CITYOFTULSA-BOA.ORG

Application No.

Address

Date

Note: As provided for in Section 70.130 you may request the Board of Adjustment to grant a variance from the terms of the Zoning Code requirements identified in the letter of deficiency below. Please direct all questions concerning variances, special exceptions, appeals of an administrative official decision, Master Plan Developments Districts (MPD), Planned Unit Developments (PUD), Corridor (CO) zoned districts, zoning changes, platting, lot splits, lot combinations, alternative compliance landscape and screening plans and all questions regarding (BOA) or (TMAPC) application forms and fees to an INCOG representative at 584-7526. It is your responsibility to submit to our offices documentation of any appeal decisions by an authorized decision making body affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf.

Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

1. **Sec.5.020 Table 5-2:** BOA 2446:8/08/1953 approved a special exception to allow a church at 3640 S New Haven. The proposed parking area was not included in this approval. A Special Exception is required to allow this parking area to be designated accessory parking for the existing church. **Review comment:** You are required to submit a copy of the BOA Special Exception, to allow the parking lot expansion for a Public, Civic & Institutional/Religious Assembly Use in the RS-3 district, that has been reviewed and approved in accordance with Section 70.120 Special Exceptions.

Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code:
<http://www.tmapc.org/Documents/TulsaZoningCodeAdopted110515.pdf>

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

A hard copy of this letter is available upon request by the applicant.

END – ZONING CODE REVIEW

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.



DECLARATION

STATE OF OKLAHOMA)
) SS
 COUNTY OF TULSA)

Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah Corporation Sole, undersigned, being the sole owner(s) of all ownership interests, both legal and equitable, in the following described property, to-wit:

The East 305 feet of Block 10, 36th Street Suburb, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, less the North 25 feet for Road;

And

The East 90 feet of the South 140 feet of the North 165 feet of the West 180 feet of the East 485 feet of Block 10, 36th Street Suburb, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof;

And

The West 90 feet of the South 140 feet of the North 165 feet of the West 180 feet of the East 485 feet of Block 10, 36th Street Suburb, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof;

hereinafter the "Combined Parcel", declare and covenant as follows:

1. The properties in the Combined Parcel shall not be sold, conveyed or mortgaged separate and apart from any of the other properties within the Combined Parcel; and
2. Any attempted sale, conveyance or mortgage of the properties within the Combined Parcel, separate and apart from any of the other properties within the Combined Parcel shall be void.

The covenants of this Declaration shall run with the land within the Combined Parcel and shall be binding on all parties or successors in interest having or acquiring any right, title or interest in any part thereof.

This Declaration is for the benefit of the City of Tulsa, Oklahoma which has standing to enforce its terms and may not be amended or terminated without approval from the Tulsa Metropolitan Area Planning Commission, or its successor agency, which shall include a finding that post-amendment/termination, then existing structures on the property meet all application Building Code requirements or satisfy Code Equivalencies.

It is further declared that the above described properties, for regulation purposes, shall be governed by the Building and Zoning Codes of the City of Tulsa or Tulsa County, Oklahoma, as applicable, and the Subdivision Regulations adopted by the Tulsa Metropolitan Area Planning Commission.

Signed and delivered this 10th day of June, 2016.



Corporation of the Presiding
 Bishop of the Church of Jesus Christ of
 Latter-day Saints, a Utah Corporation
 Sole

BY: [Signature]

STATE OF UTAH)
) SS

CORPORATE ACKNOWLEDGEMENT

COUNTY OF SALT LAKE)

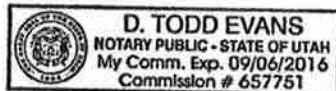
This instrument was acknowledged before me on this 10th day of June, 2016, by
Terry F. Budd as AUTHORIZED AGENT of Corporation of the Presiding Bishop of the Church of Jesus
Christ of Latter-day Saints, a Utah Corporation Sole

My Commission Number: 657751
My Commission Expires: 01e Sept 2016

[Signature]

Notary Public

LC-778



THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

QUICK FACTS

This statement supplements the application to expand the parking facilities of an existing chapel of The Church of Jesus Christ of Latter-day Saints. It answers questions about how the chapel is used and its impact on the neighborhood. It also explains the chapel's religious importance to The Church of Jesus Christ of Latter-day Saints (sometimes called the Mormon Church) and its local members.

What will the expansion look like?

The proposed expansion is dictated by worship needs. The Church has proposed the smallest plan that will reasonably accommodate the religious needs of its local congregations.

How is the chapel used?

Use of the chapel will remain the same, but the parking expansion will relieve overcrowding and accommodate modest growth. The chapel is used on Sundays and, on a limited basis, some weekday evenings. There is no day school, day care, soup kitchen, bingo or any other commercial or political use. There is no daytime administrative staff apart from occasional maintenance personnel.

Key to Mormon Terminology

Ward or Branch – a local congregation of members living in a geographically defined area
Stake – a diocese-like grouping of 8-10 congregations
Bishop – the lay minister of a congregation
Stake President – the lay leader of a stake
Meetinghouse – another word for the chapel
Cultural Hall – a multipurpose room used for classroom space, overflow seating, and weekday youth and women's activities
Relief Society – the women's ministry
Primary – the children's ministry
Young Men's and Young Women's – the two halves of the congregation's youth ministry
Priesthood – all males ages 12 and over participate in the Church's lay priesthood; priesthood status does not signify clergy.
Calling – all congregation members serve in "callings" to staff the congregation (e.g., teaching Sunday School, leading the music, coordinating youth activities); there is no professional clergy or staff.

Sunday Worship: Sunday services last three hours, consisting of a congregational meeting in the sanctuary (about an hour) followed by two sessions of classroom instruction. Classroom instruction is specialized so that children, youth, and adults receive the gospel in settings appropriate to specific interests and levels of understanding.

For a description of worship services and a schedule of nearby Sunday meetings, visit <http://mormon.org/worship/>. Visitors are always welcome.

Limited use on Weekdays: Besides Sunday services, the congregation will continue to use the proposed chapel on some weekday evenings (Tuesdays, Wednesdays or Thursdays)

for its youth ministry, scouting, or women's meetings. Evening activities are usually small and typically conclude by 9:00 p.m. There may also be a one-hour, early-morning gospel study class for teenagers on school days. Friday night or Saturday activities are seldom, and are limited to religious or family-themed gatherings. When food is involved, it is prepared at home and brought to the gathering. All activities have a central purpose to knit together the religious community, provide Christian service, and strengthen faith.

How will the expansion impact neighbors?

As the same congregations will continue to use the chapel at the same times and in virtually the same ways, the parking expansion will have little impact on the community. The expansion will alleviate parking congestion, both on-site and nearby, where members are forced to park on the street because there are insufficient stalls.

- **Traffic:** With virtually no daytime use during the week, the chapel will remain quiet and will bring almost no traffic during commute times for six days of the week. The proposed expanded lot meets all code criteria and will be sufficient to accommodate parking needs, even as the congregation grows modestly over time.
- **Local Use Only:** The current chapel, even with the proposed expanded lot, will not become a “megachurch.” Unique religious beliefs of The Church of Jesus Christ of Latter-day Saints ensure limited use:
 - In the LDS Church, members attend services where they live. All congregations have geographic boundaries. This means the proposed chapel will continue to be regularly used only by people who live within those defined boundaries.
 - Also, the LDS Church caps the size of its congregations for religious reasons. There is no paid ministry. Local members run the Church by participating in volunteer “callings.” Church doctrine teaches that all members need the opportunity to actively participate, and that can only happen if congregations remain small.
 - Congregations subdivide when average attendance exceeds a certain limit. If congregations sharing a chapel grow too large, another chapel is built elsewhere so the congregations have space to subdivide.

We are a part of this community.

Members of The Church of Jesus Christ of Latter-day Saints care deeply about this community. We live and work here and actively volunteer in schools and other community endeavors. The current chapel, including the proposed parking lot expansion, will continue to provide an attractive home for local worship and enable us to further contribute to the community at large.

Why is the chapel, including the proposed parking expansion, so important?

The Church and its local members critically need the proposed parking lot expansion because the existing facilities do not accommodate the current congregations. Although logistical in nature, parking is no less important to the Church and its members’ religious observance than other aspects of its facilities. As one court stated, “the LDS church has as an integral part of its faith the need to gather under one roof to express its strength in unity and to gain strength to express its individual faith.” *Church of Jesus Christ of Latter-day Saints v. Jefferson County*, 741 F. Supp. 1522, 1524 (N.D. Ala. 1990). Insufficient parking telegraphs a harmful message—that the building is too full to accommodate all who wish to attend. Parking congestion discourages attendance, especially for the elderly, those with special needs, and families with young children, for whom it is especially difficult

to repeatedly circle the block or to park at a distance and walk. And even for those lucky enough to get a parking spot, inadequate parking negatively impacts worship in other ways—it causes members to arrive late, which is disruptive and impairs the quality of religious services. LDS doctrine mandates an atmosphere of quiet contemplation for sacred rituals, including partaking of the Sacrament of the Lord's Supper. Additionally, inadequate parking hampers missionary efforts. All Church chapels display a sign outside their doors inviting "visitors" to worship services. The message may be ineffective and seem disingenuous if there is nowhere for prospective members to park. For these reasons, denial of the requested parking expansion would work a "substantial burden" on the Church and its members.

Is RLUIPA implicated?

The Church's critical need for the proposed expansion is such that a denial of this application or other unreasonable limitation on the ability to move forward with the expansion would trigger the protections of the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"). 42 U.S.C. § 2000cc. Congress passed RLUIPA unanimously and the courts have upheld its constitutionality. RLUIPA does two things: First, whenever a land use decision substantially burdens the exercise of religion, including the expansion of an existing worship facility, RLUIPA obligates the government to demonstrate that the regulation is "the least restrictive means" of furthering a "compelling" government interest. This is the strictest possible judicial standard. *Id.* § 2000cc(a). Critically, a land use decision can impose a substantial burden in violation of RLUIPA *even if* the zoning scheme itself is "facially neutral and generally applicable."¹

Substantial Burden: Courts applying RLUIPA interpret the term "substantial burden" to mean conduct that "pressures" or "influences" the free exercise of religion. See *Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114, 1138 fn. 13 (10th Cir. 2013), *aff'd*, 134 S. Ct. 2751; *Guru Nanak Sikh Soc. v. County of Sutter*, 456 F.3d 978 (9th Cir. 2006); *Midrash Sephardi v. Town of Surfside*, 366 F.3d 121 (11th Cir. 2004); *Adkins v. Kaspar*, 393 F.3d 559 (5th Cir. 2004). "That the burden would not be insuperable would not make it insubstantial." *Sts. Constantine & Helen Greek Orthodox Church, Inc. v. City of New Berlin*, 396 F.3d 895 (7th Cir. 2005). Preventing or making it unreasonably difficult to build a worship site, restricting the size of a congregation, or otherwise limiting religious observance have all been held to be "substantial burdens."

Second, RLUIPA separately prohibits (1) treating assemblies on less than "equal terms" with nonreligious assemblies, (2) discriminating on the basis of religion, or (3) imposing land use regulations that exclude or unreasonably limit religious assemblies from a jurisdiction. *Id.* § 2000cc(b). RLUIPA requires local governments to pay the attorneys' fees of successful plaintiffs, 42 U.S.C. §§ 1988 (b)-(c), and, in addition, allows for the award of money damages.² Both of

¹See, e.g., Okla. Stat. Ann. tit. 51, § 253 ("[N]o governmental entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability."); *Bethel World Outreach Ministries v. Montgomery County Council*, 706 F.3d 548, 557 (4th Cir. 2013) ("[T]he substantial burden provision protects against non-discriminatory, as well as discriminatory, conduct that imposes a substantial burden on religion."); *International Church of Foursquare Gospel v. City of San Leandro*, 673 F.3d 1059, 1066-67 (9th Cir. 2011) ("The district court, by concluding that the Zoning Code as a neutral law of general applicability could impose only an incidental burden on religious exercise, committed reversible legal error [because t]his conclusion misinterprets our precedent and effectively writes RLUIPA's substantial burden provision out of RLUIPA."), *cert. denied*, 132 S. Ct. 251 (2011).

²See, e.g., *Reaching Hearts Int'l, Inc. v. Prince Georges County*, 478 Fed. Appx. 54 (4th Cir. 2012) (affirming award of \$879,506.40 in attorneys' fees and expenses to prevailing church in RLUIPA claim); *Reaching Hearts Int'l, Inc. v. Prince Georges County*, 368 Fed. Appx. 370 (4th Cir. 2010) (awarding \$3,714,822.36 in damages to prevailing church for County's violation of its rights under RLUIPA and the Equal Protection Clause);

RLUIPA's provisions codify established constitutional rules; so, any violation of RLUIPA also constitutes a violation of federal and state constitutions, as well as Oklahoma's state version of RLUIPA. *See* Okla. Stat. Ann. tit. 51, § 253.

The Church appreciates that the proposed expansion may trigger strong feelings, and that some in the community may oppose any increase in parking space. The Church is sensitive to such apprehension, and expresses its willingness to work with the community to resolve any concerns with the design of the lot that do not impact religious exercise. Respectfully, however, an outright denial of the requested expansion would work a substantial burden on the Church and its members whether or not the community agrees that parking has religious significance. Critically, RLUIPA defines "religious exercise" to mean "any exercise of religion, whether or not compelled by, or central to, a system of religious belief," and expressly to include "[t]he use, building, or conversion of real property for the purpose of religious exercise." *See* 42 U.S.C. § 2000cc-5(7)). Thus, "[t]he need for religious institutions to have the ability to develop 'a physical space adequate to their needs and consistent with their theological requirements'" is at the heart of the RLUIPA's land-use provisions." *See Church of Hills of Twp. of Bedminster v. Twp. of Bedminster*, 2006 WL 462674, at *5 (D.N.J. Feb. 24, 2006) (quoting 146 Cong. Rec. S7774-01, 7774 (daily ed. July 27, 2000) (Joint Statement of Sen. Hatch and Sen. Kennedy on the Religious Land Use and Institutionalized Persons Act of 2000)) (emphasis added).³ In any event, "RLUIPA bars inquiry into whether a particular belief or practice is 'central' to a [claimant's] religion." *Cutter v. Wilkinson*, 544 U.S. 709, 725 n.13 (2005) (quoting RLUIPA).

Moreover, while aesthetic interests or generalized concerns about enforcing traffic and zoning laws are certainly "legitimate," they "do not constitute compelling governmental interests" under RLUIPA. *See Rocky Mountain Christian Church v. Board of County Com'rs of Boulder County*, 612 F. Supp. 2d 1163, 1175 (D. Colo. 2009), *aff'd*, 613 F.3d 1229 (10th Cir. 2010), *cert. denied*, 131 S. Ct. 978 (2011). As the U.S. Supreme Court emphatically stated: The compelling interest test is not "water[ed] ... down but really means what it says." *See Church of the Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 546 (1993) (internal citations and quotation omitted); *see also Barr v. City of Sinton*, 295 S.W.3d 287, 305-06 (Tex. 2009) ("[T]he assertion that zoning ordinances are per se superior to fundamental, constitutional rights, such as the free exercise of religion, must fairly be regarded as indefensible.") (internal quotations omitted); *Grace Church v. City of San Diego*, 555 F. Supp. 2d 1126, 1140 (S.D. Cal. 2008) ("preservation of industrial lands for industrial uses does not by itself constitute a 'compelling interest' for purposes of RLUIPA"); *Westchester Day School v. Village of Mamaroneck et al.*, 504 F.3d 338, 353 (2d. Cir. 2007) (generalized "interest in enforcing zoning [and] traffic regulations" not compelling); *Fortress Bible Church v. Feiner*, 734 F.Supp.2d 409, 508 (S.D.N.Y. 2010) (residents' concerns about "the proposed project's size, impacts to traffic and safety, impacts

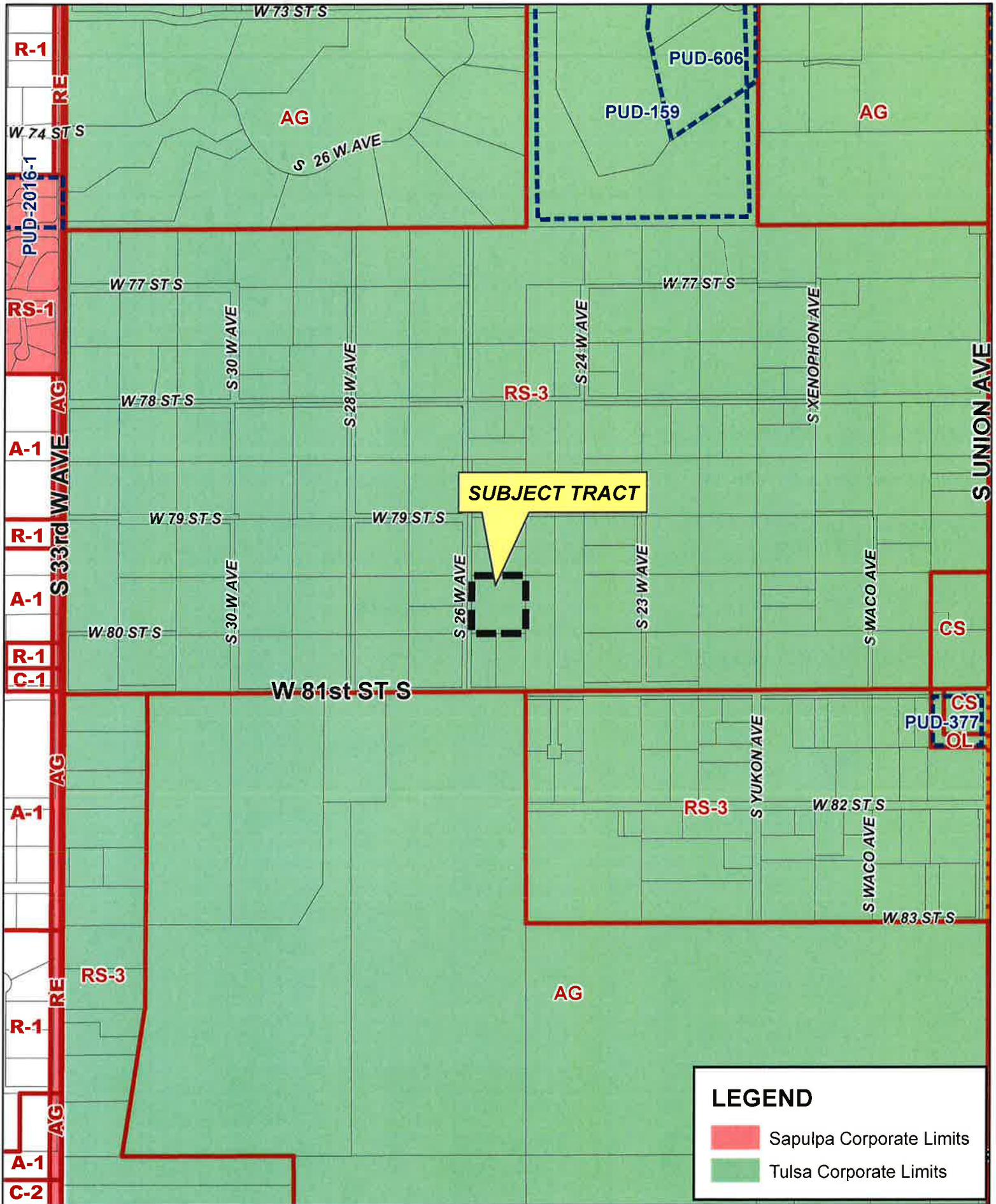
Rocky Mtn. Christian Church v. Board of County Com'rs of Boulder County, 2010 WL 148289, *7 (D. Colo. Jan. 11, 2010) (ordering Boulder County to pay \$1,341,991 in attorneys' fees and expenses to prevailing church in RLUIPA claim).

³ Courts have recognized that denial of adequate parking that impacts religious observance violates RLUIPA. *Lighthouse Community Church of God v. City of Southfield*, 2007 WL 30280 at **6, 28 (E.D. Mich. Jan. 3, 2007) (where there were "too few parking spaces for plaintiff's proposed use of the building," "denial of the parking variance . . . [was] a violation of RLUIPA"); *Cottonwood Christian Center v. Cypress Redevelopment Agency*, 218 F. Supp. 2d 1203, 1212 (C.D. Cal. 2002) (substantial burden may exist where, *inter alia*, the "physical constraints of its current facility also limit [religious claimant's] ability to conduct many of its different programs" and "to conduct outreach to potential new members").

to police and fire resources, aesthetic impacts, and impacts to steep slopes” are not compelling interests), *aff’d*, 694 F.3d 208 (2d. Cir. 2012).

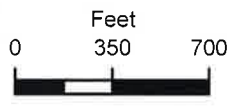
And even compelling government interests are not enough to justify a “substantial burden” on religious exercise unless the zoning decision at issue is the “least restrictive means” of achieving that interest. *See* 42 U.S.C. § 2000cc(a); *Congregation ETZ Chaim v. City of Los Angeles*, 2011 WL 12472550, at *7 (C.D. Cal. July 11, 2011) (noting that “broad interest in protecting the health, safety and welfare of its citizens, and parking and traffic concerns in relation to those interests” are not compelling absent “evidence that any traffic or parking concerns actually existed, nor that such concerns could not be mitigated in such a way as to allow the [church’s] use at the subject property”) (internal quotations omitted) (emphasis added); *Cottonwood Christian Center v. Cypress Redevelopment Agency*, 218 F. Supp. 2d 1203, 1229 (C.D. Cal. 2002) (holding that an outright denial of church’s zoning application was not the least restrictive means of achieving compelling interest, but was instead like “using a sledgehammer to kill an ant”).

Of course, RLUIPA and constitutional mandates need not come into play. As Congress noted, the best way to “avoid the preemptive force” of RLUIPA is to construe discretionary land use criteria in favor of the expansion, or impose reasonable conditions of approval that do not substantially burden religious exercise. *See* 42 U.S.C. § 2000cc-3(e). Here, the Church’s application meets all relevant criteria and should be approved. Moreover, the Church affirms a willingness to accept reasonable conditions of approval, if needed.



BOA-22507

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18-12 10



BOARD OF ADJUSTMENT CASE REPORT

STR: 8210

Case Number: **BOA-22507**

CZM: 51

CD: 2

A-P#:

HEARING DATE: 09/11/2018 1:00 PM

APPLICANT: Shanon Bolain

ACTION REQUESTED: Variance to allow a detached accessory building to exceed 18 ft in height and to exceed 10ft in height to the top of the plate (Section 90.090-C.2); Variance to allow a non-all-weather parking surface material (Section 55.090-F).

LOCATION: 8021 S 26 AV W

ZONED: RS-3

PRESENT USE: Residential

TRACT SIZE: \pm 2.31 acres

LEGAL DESCRIPTION: NE SE SE SW LESS W25 THEREOF FOR RD SEC 10 18 12 2.31ACS,

RELEVANT PREVIOUS ACTIONS:

Surrounding properties:

BOA- 22446; on 5.09.06 the Board **approved** a *Variance* to allow a non-all-weather parking surface material (Section 55.090-F); *Variance* to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-B); located at 8015 S. 28th W. Ave.

BOA- 20256; on 5.09.06 the Board **approved** a *Variance* of the maximum size of an accessory building in an RS-3 District; a *Variance* of the maximum height of the top plate for an accessory building; located at 8025 S 28th AV W.

BOA-20209; on 2.28.06 the Board **approved** a *Variance* of the maximum permitted size of an accessory building ; located at 8255 S. Yukon Ave.

BOA-16885; on 12.27.94 the Board **approved** a *Variance* of the maximum 750 sq. ft. for a detached accessory building ; located at 2627 W. 79th St.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of an "Existing Neighborhood" and an "Area of Stability".

The Existing Residential Neighborhood category is intended to preserve and enhance Tulsa's existing single-family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code. In cooperation with the existing community, the city should make improvements to

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sidewalks, bicycle routes, and transit so residents can better access parks, schools, churches, and other civic amenities.

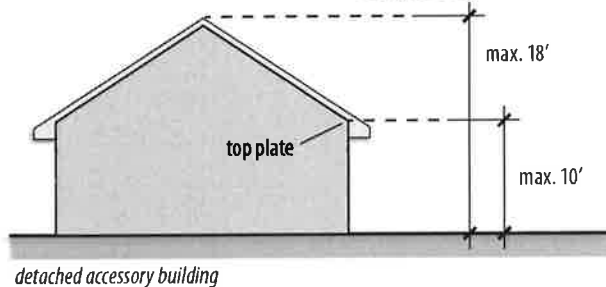
The Areas of Stability includes approximately 75% of the city's total parcels. Existing residential neighborhoods, where change is expected to be minimal, make up a large proportion of the Areas of Stability. The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life.

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by RS-3 zoned residences

STAFF COMMENTS:

The Code states that detached accessory buildings in RS districts may be located in the required rear setbacks if the building does not exceed one story or 18 feet in height and is not more than 10 feet in height to the top of the plate (Section 90.090-C.2).

Figure 90-9: Maximum Height of Accessory Buildings In Rear Setbacks (RE, RS and RD Districts or RM Zoned Lots Used for Detached Houses or Duplexes)



As shown on the attached site plan, the proposed shop will exceed the 18' overall height requirement and will be more than 10 feet in height to the top of the plate. The applicant has requested a **Variance** to allow the detached accessory building exceed 18' in height to allow a overall height of 21' and to exceed 10' in height to the top of the plate to allow for 16'.

The applicant has also requested a **Variance** to allow a non-all-weather parking surface to allow a new gravel driveway from S. 26th W. Ave. The applicant provided the following statement: "To start I'm putting down 4 inches of gravel/crusher for preparation of a asphalt driveway once project is over but will be on gravel during process. The shop site will be prepped with 4 inches of gravel and if approved will have 4 inch cement with mesh under lean to and in shop with a asphalt approach".

Sample Motion

Move to _____ (approve/deny) a **Variance** to allow a detached accessory building to exceed 18 ft in height and to exceed 10ft in height to the top of the plate (Section 90.090-C.2); a **Variance** to allow a non-all-weather parking surface material (Section 55.090-F)

Finding the hardship(s) to be _____.

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

- Subject to the following conditions _____.

The Board finds that the following facts, favorable to the property owner, have been established:

- "a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;*
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;*
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;*
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;*
- e. That the variance to be granted is the minimum variance that will afford relief;*
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and*
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan."*

g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

LT 10 BLK 2, FAIRWAY ESTATES THIRD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22446—Brett Fuller

FILE COPY

Action Requested:

Variance to allow a non-all-weather parking surface material (Section 55.090-F);
Variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-B). **LOCATION:** 8015 South 28th West Avenue (CD 2)

Presentation:

Brett and Taylor Fuller, 8015 South 28th West Avenue, Tulsa, OK; stated the Variance requested for the non-all-weather parking surface will be temporary until the existing structure is demolished and final grade is established, and then it will become a concrete surface.

Mr. Van De Wiele asked Mr. Fuller if the building that is designated as the shop/guest suite on the plan will remain. Mr. Fuller answered affirmatively.

Mr. Van De Wiele asked Mr. Fuller if he was only replacing the existing house. Mr. Fuller answered affirmatively.

Mr. Van De Wiele asked Mr. Fuller if at that point would he be leaving the gravel drive. Mr. Fuller answered no and stated that the entirety of the drive would become concrete at that point; from the street all the way to the new accessory structure and house.

Mr. Van De Wiele asked Mr. Fuller what time frame he is looking at for the project. Mr. Fuller stated that once the accessory structure is built and he guesses at the most it would be about five years.

Mr. Van De Wiele asked Mr. Fuller if there were other gravel driveways and accessory buildings in the neighborhood. Mr. Fuller answered affirmatively.

Mr. Van De Wiele asked Mr. Fuller he had heard anything from the neighbors, whether it be positive or negative. Mr. Fuller stated that he received a telephone call from the neighbor directly across the street and they are in support of the request, and there was a neighbor about a ½ mile to the east and south of 81st Street, stating that the

BOA - 22446

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notification process being too small of an area and that she had not received a notice of this request.

Ms. Back asked Mr. Fuller to state his hardship for the request to the Board. Mr. Fuller stated the hardship is that it is a significantly large lot for an RS-3 area; many areas in the neighborhood are zoned AG. There is movement within the neighborhood and engagement with INCOG to rezone the entire area to AG.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Back asked Ms. Miller about the possibility of the area going back to an AG zoning as opposed to staying RS-3. Ms. Miller stated she has met multiple times with the neighbors and the Councilor for this area, and everyone is meeting again next Tuesday evening. Ms. Miller stated Council is considering+ an "opt in rezoning program" to those that want to go back to the AG zoning or RE zoning; RE zoning is ½ acre lots. This area was oddly zoned RS-3 in 1970 even though it is large lots.

Mr. Van De Wiele asked Ms. Miller how this would impact this application if the property were zoned RE or AG. Ms. Miller stated it would not have made a difference.

Board Action:

On **MOTION of FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to allow a non-all-weather parking surface material (Section 55.090-F) to allow a new gravel driveway from South 28th West Avenue; Variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-B), subject to conceptual plans 3.19 and 3.20 of the agenda packet. The Board finds the hardship to be the fact that this is a large lot that is zoned RS-3. The approval is subject to the condition that the non-all-weather parking surface will have a time limit of five years from today's date, June 12, 2023. The Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;

BQA-22446

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- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

NE SW SE SW LESS W25 SEC 10 18 12, City of Tulsa, Tulsa County, State of Oklahoma

22447—John Watchous

Action Requested:

Special Exception to allow a personal improvement use in an OM District (Section 15.020). **LOCATION:** 1222 South Lewis Avenue East (CD 4)

Ms. Blank stated the western portion of the subject property is zoned RS-3 and it appears the legal description for the Special Exception includes the RS-3 portion. The Board will need a legal description for just the OM portion of the subject property because that is what the Special Exception will apply to if granted.

Ms. Miller stated if the Board chooses to grant this request, and they make the motion to only cover the OM portion of the subject property, before the applicant would receive the paperwork required to take to the City Permit office he could send the legal description for just the OM portion of the subject property so the records could be adjusted at INCOG.

Presentation:

John Watchous, 1401 South Boulder Avenue, Tulsa, OK; stated there are two commercial buildings located on the lot and the Special Exception request is for the OM portion to allow personal improvement use. The personal improvement use approval would allow for barber shops, nail salons, yoga studios, etc.

Mr. Van De Wiele asked if the request would apply to both buildings. Mr. Watchous stated that he would prefer to apply it to both, but it was to be limited he would request that it be limited to the vacant building, which is 2311.

Mr. Van De Wiele asked Mr. Watchous if there is a vacant lot there also. Mr. Watchous answered affirmatively and stated there was a house there that had been torn down by the owner.

Mr. Watchous stated that he thinks this is a fair request since there is IL and IM to the north of the subject property, and across Lewis there is CH and IL. This seems like a logical fit for the area with all the redevelopment that is happening along 11th, the Pearl District and Kendall Whittier moving toward 15th Street.

Case No. 20256

Action Requested:

A Variance of the maximum size of an accessory building in an RS-3 District; and a Variance of the maximum height of the top plate for an accessory building, located: 8025 South 28th Avenue West.

Presentation:

Don Favor, 8025 South 28th West Avenue, stated his house faces 81st Street.

Comments and Questions:

Ms. Stead asked for the hardship. Mr. Favor stated he needs more room to store his yard equipment. He has lost some expensive equipment by theft. Mr. Dunham and Mr. Henke both noted the unusually large yard for an RS-3 district and that it abuts an AG district. Mr. Favor responded to questions, stating he does not plan to have commercial activity, or provide living quarters. He proposed a metal building at the highest point 14 ft., with an overhead door.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On Motion of Henke, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum size of an accessory building in an RS-3 District; and a Variance of the maximum height of the top plate for an accessory building from 10 ft. to 12 ft., finding that by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, specifically the large lot size in the RS-3 zoned area; finding the literal enforcement of the terms of the Code would result in unnecessary hardship; finding that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, contingent on there being no commercial activities, no living quarters and removal of the existing building, and total square footage of 1,500 for accessory buildings, on the following described property:

SE SW SE SW LESS W25 THEREOF FOR RD SEC 10 18 12 2.31ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20257

Action Requested:

Variance of the building setback from the centerline of E. 12th St. from 50 ft. to 38 ft.; and a Special Exception to remove the screening requirement along S. St. Louis Ave. and E. 12th St.; to permit an office development in the OMH and OH

Comments and Questions:

Mr. Dunham asked him to address the 50' distance from an R district versus the 300' distance required in the zoning code. Ms. Stead asked about the placement of a security fence the applicant referred to in the application.

Mr. Howard indicated they planned to limit the number of vehicles to five to eight for sale on the lot at a time. The one-story frame structure would serve as the office. On the east of the property is an existing wood privacy fence, which he stated they would be willing to replace if requested by the Board. He added the security fencing would be about three feet high. They plan to use the lot for used car sales and parking limousines overnight. Mr. Ackermann pointed out that limousine services is a Use Unit 17, which is within the same use category as car sales and car repair. Mr. Howard stated they proposed to use the existing ambient lighting. He added there would be no maintenance, body work or mechanical work of any kind operated on the premises. They planned to put down asphalt for an all-weather surface and had no plans for landscaping. He stated the hardship is that it is a property that needs to be used and this is a use that would fit.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On Motion of Henke, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a Special Exception to allow Use Unit 17 - to permit sales of used cars in a CS zoned district; and a Variance of the 300 foot distance from an R district to display merchandise on the property, due to a lack of hardship, on the following described property:

LT 11 BLK 12, SHERIDAN HILLS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20209

Action Requested:

Variance of the maximum permitted size of an accessory building to permit a 2400 sq. ft. accessory building, located: 8255 South Yukon Avenue.

Presentation:

Bill Ryan, introduced his wife also, Renee Ryan, 8255 South Yukon, stated they have a two and one-half acre tract, with low density zoning. They are surrounded by houses on one to four acres. There is AG property on the south. He stated they proposed to build a 40' x 60' storage building/garage. He needs to store lawn equipment, ATV's with trailers and other such items. He pointed out there are other accessory buildings of similar size on nearby properties (Exhibit D-1). -Mr. Ryan planned to build it with the same materials as his home. He described it as

one story, rock and stone, same overhead doors for garage, concrete approach, and the same type of exterior lighting.

Interested Parties:

John Campbell, stated he lives directly to the west across Yukon and was in support of the application.

Earl Pregler, 11354 East Independence, stated he owns Ivis, Inc., and owns 80 acres to the south. He plans to develop the eighty acres in the future.

Board Action:

On Motion of Henke, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum permitted size of an accessory building to permit a 2400 sq. ft. accessory building with conditions: a one-story structure, with the same materials as the house finding the hardship is the large size of the land; extraordinary and exceptional condition does not apply generally to other properties in same use district; and finding it 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:

S495.4 LESS N142.6 LT 12, ROSS HOMESITE SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20210

Action Requested:

Variance of the setback for a sign from the centerline of an abutting street (Section 1221.C.5), located: 1350 South Boulder Avenue.

Presentation:

James Adair, 7508 East 77th Street, stated the property line is 30' from the centerline of the street and the required setback is 40'. The existing building is closer to the center of the street than the setback, at 36'. They proposed to place a 28 square foot sign in the planter area to identify an occupant of the building. A site plan (Exhibit E-1) was provided.

Interested Parties:

There were no interested parties who wished to speak.

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 setback for a sign from the centerline of an abutting street (Section 1221.C.5), per plan, finding the street conditions and circumstances peculiar to the

Case No. 16875 (continued)

Lots 1-3, Block 1, Kendall Addition, Lots 5-9, Block 2, less north 6.75' of Lot 5,
Block 2, Kendall Addition, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 16916

Action Requested:

Amended site plan approval - Use Unit 14, located northwest corner of East 42nd
Street and South Memorial Drive.

Presentation:

The applicant, **Harrison French**, 502 Southwest A, Bentonville, Arkansas, submitted
an amended site plan (Exhibit B-1) and requested that the store at this location
(Wal-Mart) be permitted to connect a drive-through canopy to the existing building. He
informed that the canopy will serve as protection for customers using the pharmacy.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo,
"aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the amended site
plan, as presented.

Lot 1, Block 2, Industrial Equipment Center, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 16885

Action Requested:

Variance of the maximum 750 sq ft for a detached accessory building - **SECTION**
402.B.1.d. Accessory Use Conditions - Use Unit 6, located 2627 West 79th Street.

Presentation:

The applicant, **Sara Hobbie**, 2627 West 79th Street, was represented by **Gary**
Hobbie of the same address. He submitted a plot plan (Exhibit C-1) and explained
that an existing 26' by 24' accessory building will be removed and replaced by a 30'
by 45' structure. Mr. Hobbie submitted photographs (Exhibit C-2) and noted that the
2½-acre is large enough to support the proposed building.

12:27:94:671:(3)

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Case No. 16885 (continued)

Comments and Questions:

Ms. Russell informed that the applicant has an existing 649 sq ft accessory building and the new structure will contain 1350 sq ft (approximately 2000 sq ft total).

Mr. Bolzle inquired as to the use of the building, and Mr. Hobbie stated that he restores cars and does woodworking.

In reply to Mr. Bolzle, the applicant stated that there will be no cooking or bathing facilities in the accessory building.

Protestants:

None.

Board Action:

On MOTION of BOLZLE, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a Variance of the maximum 750 sq ft for a detached accessory building - **SECTION 402.B.1.d. Accessory Use Conditions** - Use Unit 6; per plan submitted; subject to a maximum of two accessory buildings on the property containing a total of 1999 sq ft; subject to *no bathing or cooking facilities being installed and no commercial use*; finding that the tract is large and approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

NE/4, NW/4, SE/4, SW/4, Section 10, T-18-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16886

Comments and Questions:

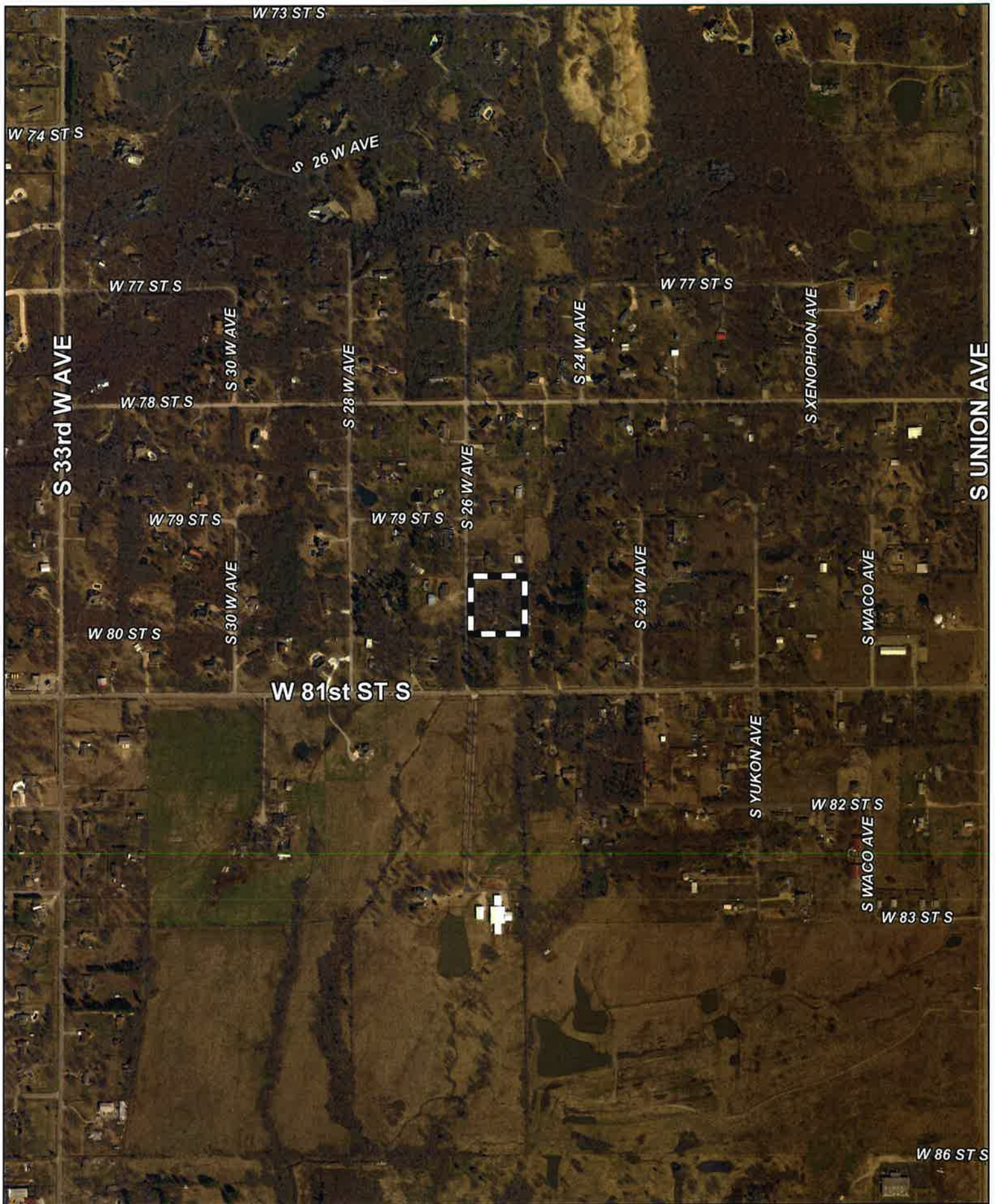
Ms. Russell advised that the case was originally scheduled for hearing on January 24, 1995; however, some notices to property owners stated that the case would be heard at this meeting. She stated that the application will be heard on January 24th as scheduled.

Case No. 16887

Action Requested:

Variance of the all-weather requirement for off-street parking and a variance of the screening requirement - **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** and **SECTION 1302.A. SETBACKS** - Use Unit 15 located 9721 East 61st Street.

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0 Feet 350 700



Subject Tract

BOA-22507

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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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0 Feet 50 100



Subject
Tract

BOA-22507

18-12 10

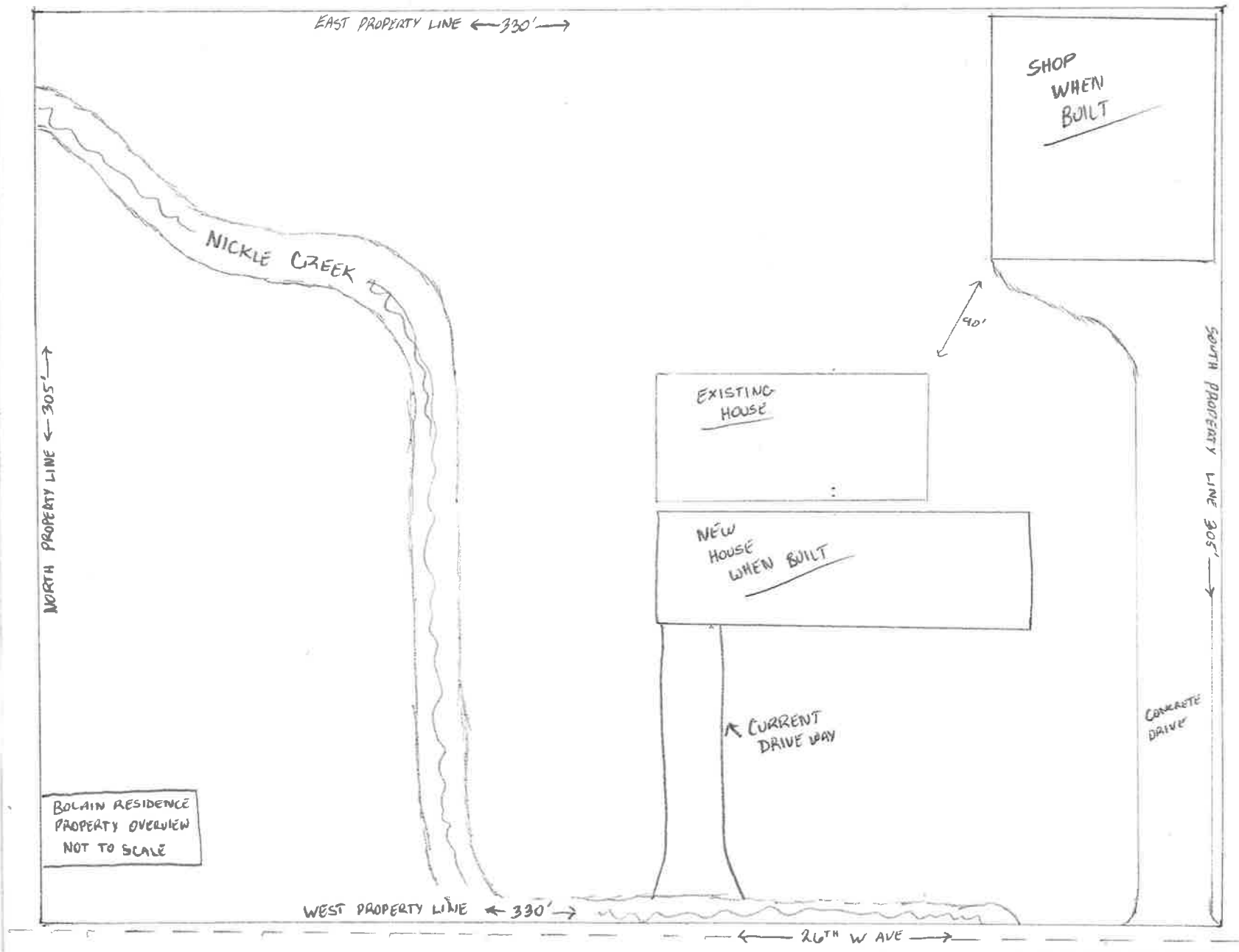
Note: Graphic overlays may not precisely
align with physical features on the ground.

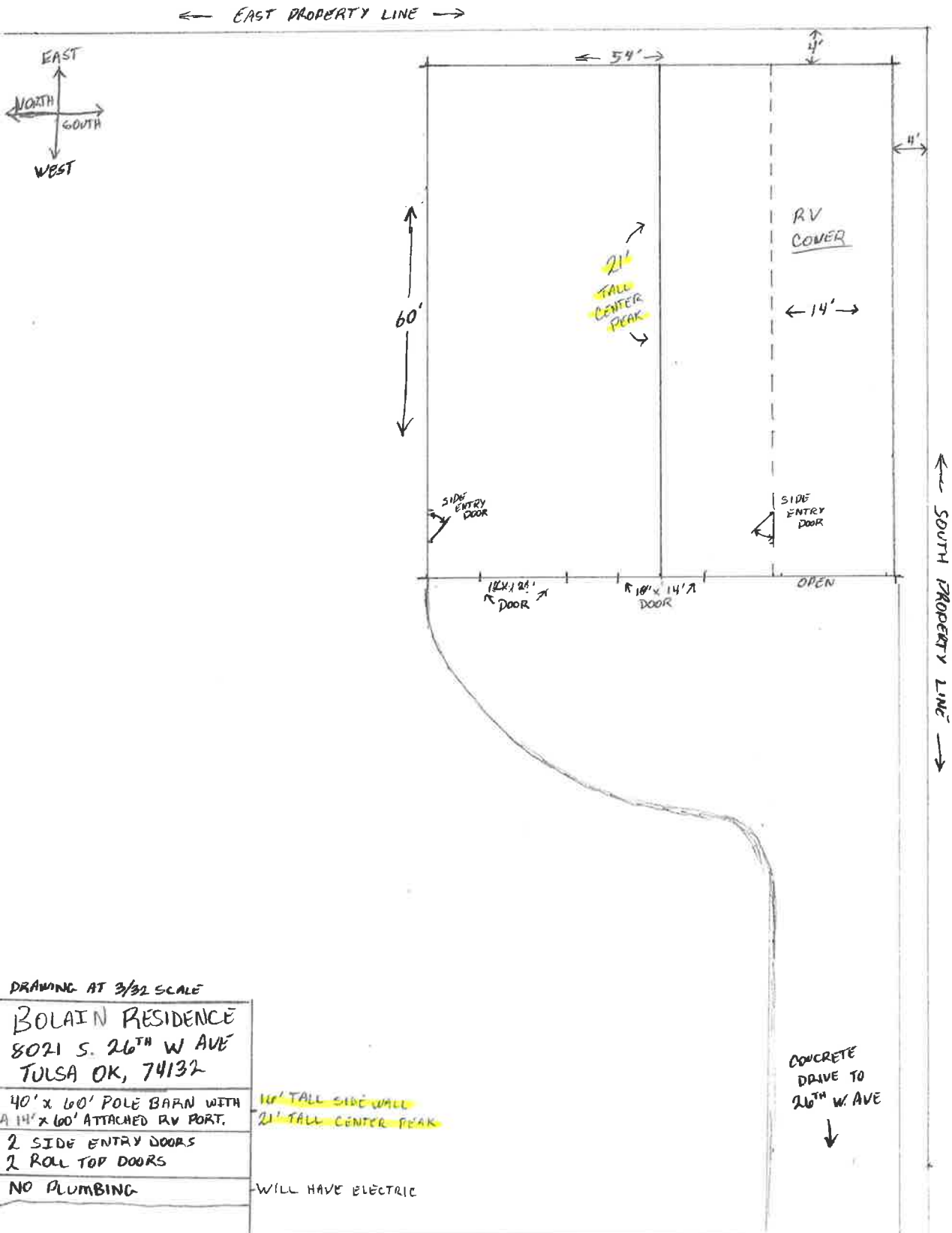
Aerial Photo Date: February 2018

7.14











Post Frame Supply, LLC

Craco Truss & Post Frame Supply
30257 S. Sizemore Road Park Hill, OK 74451
Business: 918-457-1111 Fax: 918-457-3583
Sales Associate: Brandy Bronson

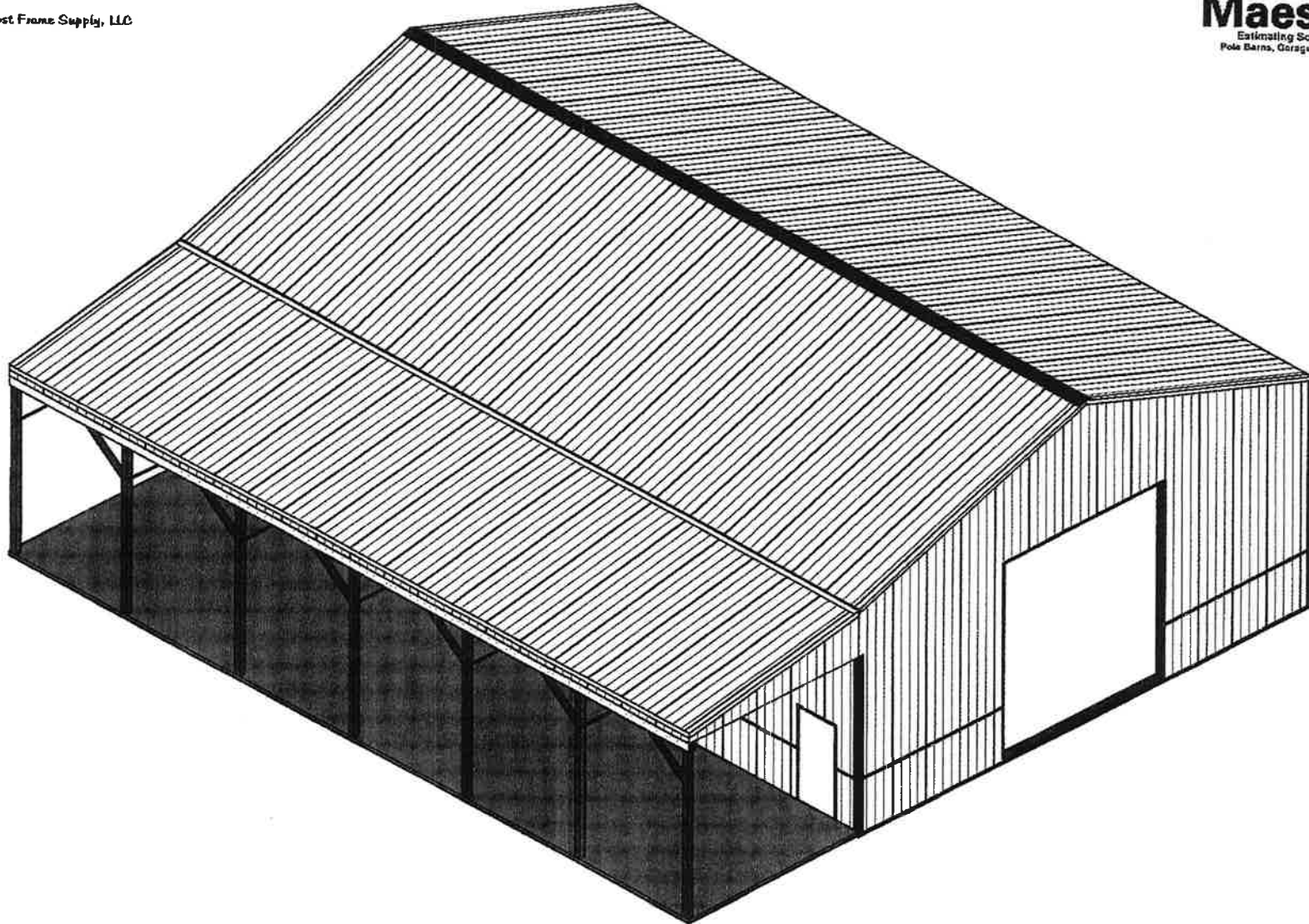
Building Specifications

Building Width 40'
Building Length 60'
Building Height 15' 7 1/8"
Eave Overhang 0 in.
Gable Overhang 0 in.
Pitch of Roof 4 in./12
Style of Building Post Frame

Customer Name Boone McLaughlin
Customer Address A&C Barn Builders Skiatook, OK 74070
Customer Phone Call 918-693-1110
Estimate Number 16385
Date of Estimate 7/17/2018 This quote is good for 5 days.

powered by Symun Systems, Inc. www.symun.com

Note: The reports, elevations, diagrams, and drawings included in this estimate are not architectural blueprints. The builder is responsible for structural integrity, proper usage of materials, and adhering to local building codes. Always be sure to verify the materials and drawing packet with your local building inspector, engineer, or architect. Every effort has been made to create accurate and detailed drawings and reports. However, due to the number of combinations of materials that can be used, there exists the possibility for errors. This packet is an estimate and should be reviewed by the builder before starting the project. Symun Systems, Inc accepts no responsibility for engineering, building codes violations, or the structural integrity of the building.



7.19

Boone McLaughlin
Estimate Number: 16385
7/17/2018

Job Name: A & Barn Builders

Truss ID: T-1

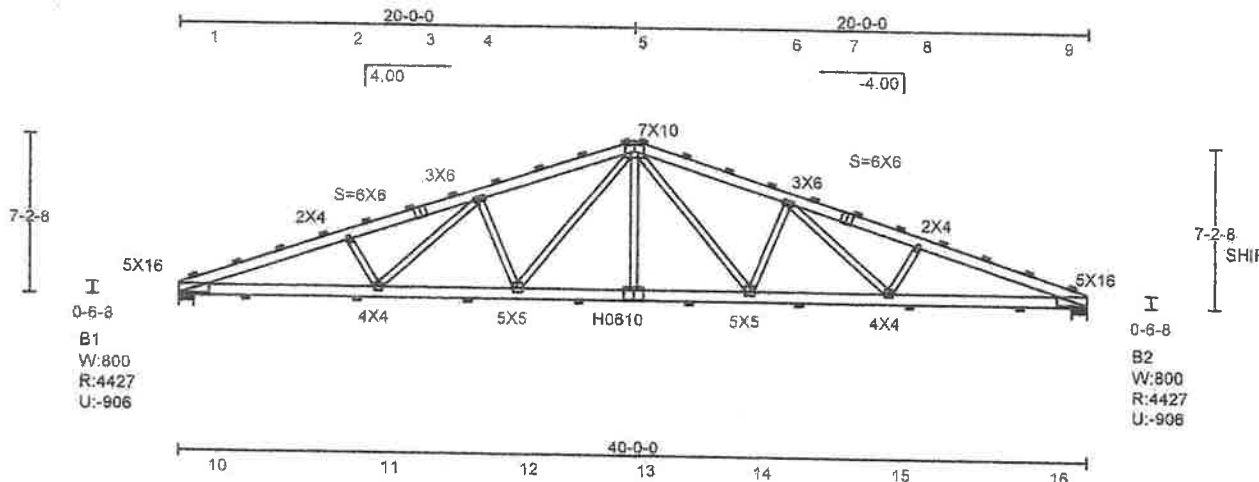
Qty: 13

BRG	X-LOC	REACT	SIZE	REQ'D
1	0- 4- 0	4427	8.00"	5.22"
2	39- 8- 0	4427	8.00"	5.22"
MAX DEFLECTION (span) :				
L/745 MEM 5-6 (LIVE) LC 42				
L = -0.63" CC = -0.26" CL = -0.89"				
CRITICAL MEMBER FORCES:				
TC	COMP. (OUR.)	TENS. (OUR.)	CSI	
1-2	-10614(1.15)	2058(1.60)	0.78	
2-3	-10283(1.15)	2015(1.60)	0.70	
3-4	-10161(1.15)	2030(1.60)	0.67	
4-5	-8685(1.15)	1828(1.60)	0.61	
5-6	-8685(1.15)	1828(1.60)	0.61	
6-7	-10160(1.15)	2030(1.60)	0.67	
7-8	-10283(1.15)	2015(1.60)	0.70	
8-9	-10614(1.15)	2058(1.60)	0.78	
BC	COMP. (OUR.)	TENS. (OUR.)	CSI	
10-11	-1815(1.60)	9929(1.15)	0.85	
11-12	-1513(1.60)	8663(1.15)	0.87	
12-13	-985(1.60)	6578(1.15)	0.56	
13-14	-985(1.60)	6578(1.15)	0.56	
14-15	-1513(1.60)	8663(1.15)	0.87	
15-16	-1815(1.60)	9929(1.15)	0.85	
WB	COMP. (OUR.)	TENS. (OUR.)	CSI	
2-11	-578(1.15)	405(1.60)	0.09	
4-11	-327(1.60)	1453(1.15)	0.36	
4-12	-1491(1.15)	526(1.60)	0.56	
5-12	-323(1.60)	2480(1.15)	0.63	
5-13	-716(1.15)	716(1.15)	0.18	
5-14	-523(1.60)	2480(1.15)	0.63	
6-14	-1491(1.15)	526(1.60)	0.56	
6-15	-327(1.60)	1453(1.15)	0.36	
8-15	-578(1.15)	405(1.60)	0.09	

TC 2x8 SP 2400F-2.0E
BC 2x8 SP 2400F-2.0E
WB 2x4 SP #2-138
Lumber grades designated with "138" use design values approved 1/30/2013 by ALSC. Kcr (creep factor) = 2.00
IRC/IBC truss plate values are based on testing and approval as required by IRC 1703 and ANSI/TPI and are reported in ESR-1118.
ASCE7-10 SNOW LOAD DESIGN CRITERIA:
Pg = 20 psf, Ce = 1.0, I = 1.0, Ct = 1.10
Designed for a post-frame building application.
20 psf Live Load applied to bottom chord in accordance with IRC/IBC code provisions.

[PMI]=PLATE MONITOR USED-See Joint Report
Designed per ANSI/TPI 1-2014
Fabrication Tolerance = 20.0%
Bearings designed for an FcPwp value of the lesser of the truss chord lumber value or 565 for all bearings.
Refer to Joint QC Detail Sheets for Cg Factors and Rotational Tolerances.
NOT loaded for 200 lb non-concurrent moving BCLL due to sufficient total access from below.
This truss is designed using the ASCE7-10 Wind Specification
Bldg Enclosed = Yes.
Truss Location = Not End Zone
Exp Category = C
Bldg Length = 80.00 ft, Bldg Width = 40.00 ft
Mean roof height = 13.80 ft, mgh = 115
Occupancy Category 13. Dead load = 7.8 psf
Designed as Main Wind Force Resisting System
- Low-rise and Components and Cladding
Tributary Area = 200 sqft

This design based on chord bracing applied per the following schedule:
BC max O.C. From to
TC 24.00 0- 0- 0 40- 0- 0
UPLIFT REACTION(S) :
Support C&C Wind Non-Wind
1 -906 lb
2 -906 lb
HORIZONTAL REACTION(S) :
support 1 -151 lb
support 2 -151 lb



All connector plates are ALPINE Wave 20 ga., unless preceded by "H" for High Strength 20 ga., "S" for Super Strength 18 ga. Plates are to be positioned per Joint Detail Report. Circled plates and false frame plates are positioned as shown above. Shift gable stud plates to avoid overlap with structural plates.

****WARNING** READ AND FOLLOW ALL NOTES ON THIS DRAWING!**
****IMPORTANT** FURNISH THIS DRAWING TO ALL CONTRACTORS INCLUDING THE INSTALLERS.**

Trusses require extreme care in fabrication, handling, shipping, installing and bracing. Refer to and follow the latest edition of BCSI (Building Component Safety Information, by TPI and WTCA) for safety practices prior to performing these functions. Installers shall provide temporary bracing per BCSI. Unless noted otherwise, top chord shall have properly attached structural sheathing and bottom chord shall have a properly attached rigid ceiling. Locations shown position as shown above and on the Joint Details report, unless noted otherwise.

Alpine, a division of ITW Building Components Group Inc., shall not be responsible for any deviation from this drawing, any failure to build the truss in conformance with ANSI/TPI 1, or for handling, shipping, installation & bracing of trusses.
A seal on this drawing or cover page listing this drawing, indicates acceptance of professional engineering responsibility solely for the design shown. The suitability and use of this drawing for any structure is the responsibility of the Building Designer per ANSI/TPI 1 Sec.2

For more information see this job's general notes page and these web sites:
ALPINE: www.alpineitw.com; TPI: www.tpinet.org; WTCA: www.sbcindustry.org; ICC: www.iccsafe.org



FIRM LICENSE NO.: 2356
7/17/2018

Cust: A & Barn Builders			
WO: Drive_G_1807052_L000			
JD: Drive_G_1807052_L00006_J00001			
Dsgnr:	#LC = 44	WT/PLY:	337#
TC Live	20.00 psf	LiveDur	L=1.15 P=1.15
TC Snow(PF)	15.40 psf	SnowDur	L=1.15 P=1.15
TC Dead	4.00 psf	Rep Mbr Bnd / Comp / Tens	1.00 / 1.00 / 1.00
BC Live	0.00 psf	O.C.Spacing	5- 0- 0
BC Dead	3.00 psf		
Bldg Code:	IBC-2015	DEFL RATIO:	L/240 TC: L/180



2820 N. Great SW Pkwy, Grand Prairie, TX 75050

TRUSPLUS 6.0 VER: T6.5.21

7.20

Ulmer, Amy

From: shanon bolain <tinydancero2o4@yahoo.com>
Sent: Thursday, August 23, 2018 12:14 AM
To: Ulmer, Amy
Subject: Re: BOA-22507

Amy,
Thanks for getting in touch. To start I'm putting down 4 inches of gravel/crusher for preparation of a asphalt driveway once project is over but will be on gravel during process. The shop site will be prepped with 4 inches of gravel and if approved will have 4 inch cement with mesh under lean to and in shop with a asphalt approach.

[Sent from Yahoo Mail on Android](#)

On Wed, Aug 22, 2018 at 12:59 PM, Ulmer, Amy
<aulmer@incog.org> wrote:

From: Ulmer, Amy
Sent: Wednesday, August 22, 2018 12:59 PM
To: 'tinydancer0204@yahoo.com' <tinydancer0204@yahoo.com>
Subject: BOA-22507

Hello,

I am reviewing your Board application (BOA-22507) and need some additional information. Will there be any parking surfaces/ driveways that are not all-weather surface material? I will need this information by 8/28 so I can send out the notices on time. Let me know if you have any questions.

Amy Ulmer | Land Development Planner

2 West Second Street, Suite 800

Tulsa, OK 74103

918.579.9437

918.579.9537 fax

aulmer@incog.org

Jeff S. Taylor
Zoning Official
Plans Examiner

TEL(918) 596-7637
jstaylor@cityoftulsa.org



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103

ZONING CLEARANCE PLAN REVIEW

8/4/2018

Shannon Bolain

tinydancero2o4@yahoo.com

APPLICATION NO: BLDR-006781-2018 (PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Project Location: 8021 S 26th W Ave

Description: Accessory Building

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT

175 EAST 2nd STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601.

THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. SUBMIT TWO (2) SETS [4 SETS IF HEALTH DEPARTMENT REVIEW IS REQUIRED] OF REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
2. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT WWW.INCOG.ORG OR AT INCOG OFFICES AT 2 W. 2nd ST., 8th FLOOR, TULSA, OK, 74103, PHONE (918) 584-7526.
3. A COPY OF A "RECORD SEARCH" ☐ **IS** ☒ **IS NOT** INCLUDED WITH THIS LETTER. PLEASE PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.).

(continued)

REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT
WWW.CITYOFTULSA-BOA.ORG

Application No. **BLDR-006781-2018**

Note: As provided for in Section 70.130 you may request the Board of Adjustment to grant a variance from the terms of the Zoning Code requirements identified in the letter of deficiency below. Please direct all questions concerning variances, special exceptions, appeals of an administrative official decision, Master Plan Developments Districts (MPD), Planned Unit Developments (PUD), Corridor (CO) zoned districts, zoning changes, platting, lot splits, lot combinations, alternative compliance landscape and screening plans and all questions regarding (BOA) or (TMAPC) application forms and fees to an INCOG representative at 584-7526. It is your responsibility to submit to our offices documentation of any appeal decisions by an authorized decision making body affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf.

Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

1. Site plan: Your application did not include a complete site plan. The zoning clearance review for your permit application will resume after a complete site plan is submitted. Please note that additional deficiencies may be found and will need to be resolved prior to approval of your application. The site plan must show:

- Legal description of the property;
- Boundaries and dimensions of property and names of bordering streets. All property lines must be shown;
- Location, dimensions and identification of existing and proposed buildings, structures and driveway.
- Distances from all property lines to the proposed building or structures, and the distance from the proposed work to the centerline of the street;
- Identify any easements and public rights of way;
- Include all architectural projections; i.e. stairs, porches, balconies, fireplaces, etc.;
- Location of all utility service lines and meters;
- North arrow.

Revise and resubmit your site plan containing the information listed above and resubmit the changes as a revision.

Below is a link to our "Residential Construction Permit Procedures" booklet. In the booklet you will find information concerning the required drawings needed for applying for a permit.

http://www.cityoftulsa.org/media/1259/res_09102014.pdf

2. 90.90.C: Detached Accessory Buildings

a. Detached accessory buildings may be located in rear setbacks in RE, RS and RD districts, provided that:

- (1)** The building does not exceed one story or 18 feet in height and is not more than 10 feet in height to the top of the top plate; and

(2) Building coverage in the rear setback does not exceed the maximum limits established in Table 90-2:

Review Comments: Revise plans to indicate that the detached accessory building will not exceed one story or 18 feet in height and is not more than 10 feet in height to the top of the top plate or apply to the BOA for a variance to allow an accessory structure to exceed 18 feet in height.

3. **55.090-F Surfacing.** All off-street parking areas must be surfaced with a dustless, all-weather surface unless otherwise expressly stated in this zoning code. Pervious pavement or pervious pavement systems are allowed subject to the supplemental regulations of §55.090-F4. Parking area surfacing must be completed prior to initiation of the use to be served by the parking.

Review Comments: Provide an all-weather parking surface from the public street to the accessory building or apply to the Board of Adjustment for a Variance (section 70.120) to allow a material other than an approved material meeting the requirements of 55.090-F.

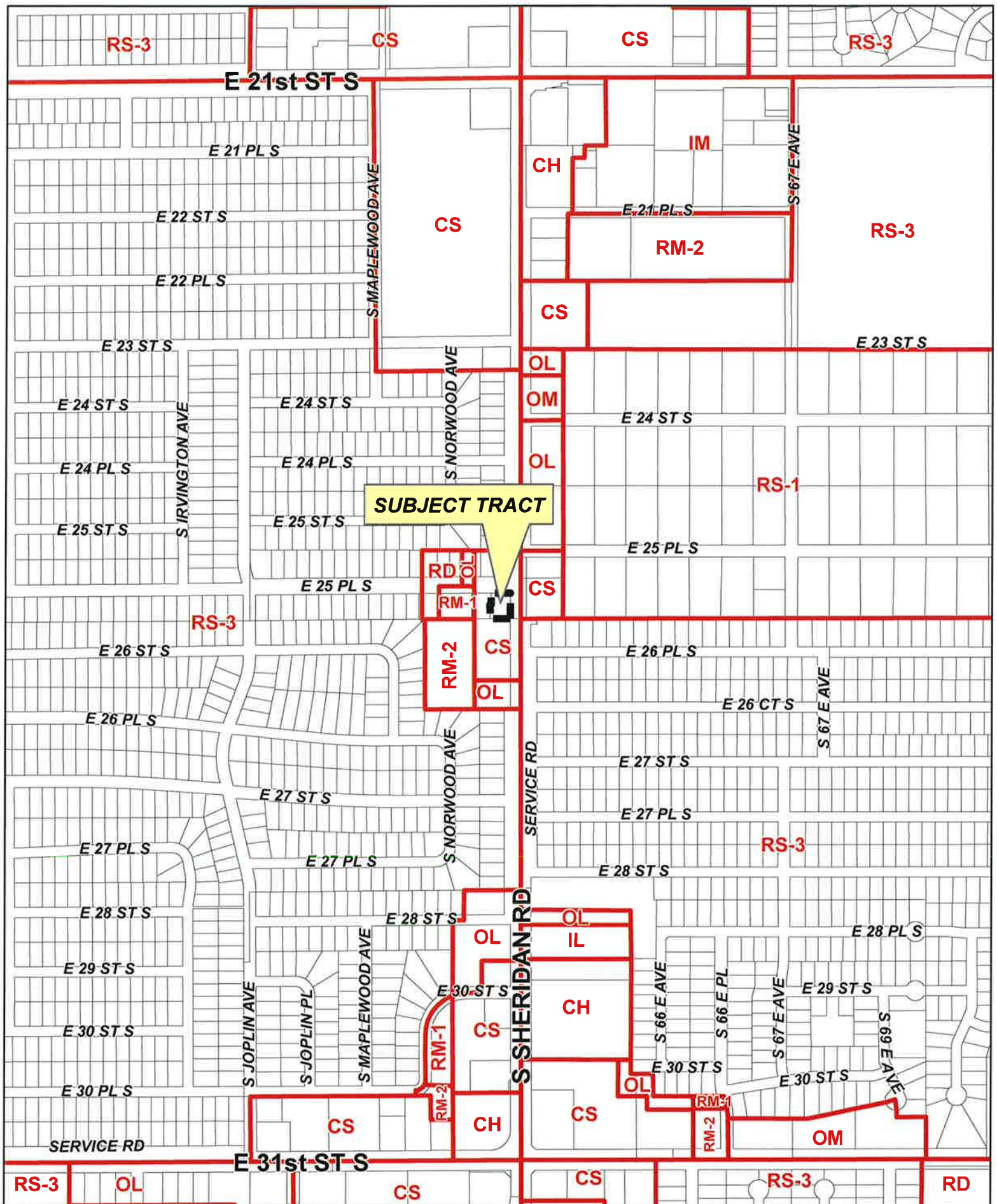
This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

A hard copy of this letter is available upon request by the applicant.

END –ZONING CODE REVIEW

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

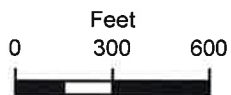
KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.



SUBJECT TRACT

BOA-22508

8.1



19-13 15



BOARD OF ADJUSTMENT CASE REPORT

STR: 9315

Case Number: **BOA-22508**

CZM: 38

CD: 5

A-P#:

HEARING DATE: 09/11/2018 1:00 PM

APPLICANT: Ronnie Boswell

ACTION REQUESTED: Variance to permit a dynamic display sign to be located within 200 ft of an R district (60.100-F)

LOCATION: 2508 S SHERIDAN RD E

ZONED: CS

PRESENT USE: commercial

TRACT SIZE: 12192.49 SQ FT

LEGAL DESCRIPTION: LT 1 LESS BEG SWC TH N125 E 17.50 S55.70 W5.50 S69.30 W12 POB BLK 2, BICKING TERRACE ADDN

RELEVANT PREVIOUS ACTIONS:

Subject Property:

BOA-9676: on 9.15.77, the Board approved an exception to locate a muffler shop in a CS district.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of a "Mixed use Corridor" and an "Area of Growth".

Mixed-Use Corridors are Tulsa's modern thoroughfares that pair high capacity transportation facilities with housing, commercial, and employment uses. Off the main travel route, land uses include multifamily housing, small lot, and townhouse developments, which step down intensities to integrate with single family neighborhoods. Mixed-Use Corridors usually have four or more travel lanes, and sometimes additional lanes dedicated for transit and bicycle use. The pedestrian realm includes sidewalks separated from traffic by street trees, medians, and parallel parking strips. Pedestrian crossings are designed so they are highly visible and make use of the shortest path across a street. Buildings along Mixed-Use Corridors include windows and storefronts along the sidewalk, with automobile parking generally located on the side or behind.

Areas of Growth are found throughout Tulsa. These areas have many different characteristics but some of the more common traits are close proximity to or abutting an arterial street, major employment and industrial areas, or areas of the city with an abundance of vacant land. Also, several of the Areas of Growth are in or near downtown. Areas of Growth provide Tulsa with the opportunity to focus growth in a way that benefits the City as a whole. Development in these areas will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile.

ANALYSIS OF SURROUNDING AREA: The subject tract is surrounded by CS zoned lots on all sides.

STAFF COMMENTS:

The applicant is proposing to install a 6'-3" x 3'-1" dynamic display sign on the northeast portion of the property at the corner of E. 25th Pl. S. and S. Sheridan Rd. as shown on the submitted plans and photo. It appears that the proposed dynamic display sign is within 200 ft. of an RM-1 zoning district to the west and an RS-3 zoning district to the southeast.

The Code requires that no dynamic display sign, if visible from an R district other than street, highway or freeway right-of-way, shall be located within 200 feet of the R district. The Code attempts to protect nearby and visible R districts from the impacts of digital signs. The applicant is requesting a variance to allow proposed dynamic display sign within 200' of an R-zoned district.

Sample Motion

Move to _____ (approve/deny) a Variance to permit a dynamic display sign to be located within 200 ft. of an R zoning district (Section 60.100-F).

- Finding the hardship(s) to be _____.
- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions _____.

The Board finds that the following facts, favorable to the property owner, have been established:

"a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;

c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;

d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;

e. That the variance to be granted is the minimum variance that will afford relief;

f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and

g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan."

Presentation:

Melfred Ferguson applied to locate a beauty shop at the subject location for his wife advising that the beauty shop will be built into the garage, no signs. He also advised the Board of a large driveway approximately 50' or 60' wide on a rectangular lot and stated that a maximum of two customers will be there at one time. Chairman Jolly questioned whether the applicant had received a copy of the home occupation requirements and again informed the applicant that he was not allowed to change the structure to look other than a single-family residence and no signs are allowed.

Protests: None.

Board Action:

On MOTION of SMITH, the Board (3-0) approved the Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a home beauty shop, as presented on the following described tract:

Lot 4, Block 3, Willow Springs Estates Addition, Tulsa County, Oklahoma.

At this point of the meeting the Chairman took the Chair and continued at 2:18.

9676

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1217 - Automotive and Allied Activities) to locate a muffler shop in a CS District located at 2508 South Sheridan Road.

Presentation:

Don Laden, 2626 East 21st Street, representing Pronto Muffler who purchased the property at 25th Street and South Sheridan Road. The property is zoned CS and was previously owned by Texaco and operated as Jim's Service Station. The applicant is requesting to locate a new building of approximately 2,800 square feet to be used as a muffler shop. Mr. Laden advised that all activities will be conducted inside of the building, and there will be no outside storage and no nighttime activities. He submitted a plot plan (Exhibit "E-1") showing the proposed location of the new building and advised that he felt that a muffler shop is not incompatible with the present use. He also stated that there are other commercial uses in the District and advised that the noise should be no greater than that of a service station. Mr. Laden made mention of the curb cuts already in existence.

Mr. Gardner of the TMAPC Staff, stated that the Board should be concerned with any outside storage, where the trash receptacles are located and the noise. All activities should be within the building and the Board should also be concerned with the size of equipment.

Protests: None.

Board Action:

On MOTION of GUERRERO, the Board (4-0) approved the Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1217 - Automotive and Allied Activities) to locate a muffler shop in a CS District as presented per plot plan submitted, on the following described tract:

East 100' of Lot 1, Block 2, Bicking Terrace Addition to the City of Tulsa, Oklahoma.

9678

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670 - Variances) of the side yard requirements from 5' to 6" in an RS-3 District located at 7427 East 74th Street.

Presentation:

Jim Edgar, attorney for Nelson Johnson, owner of the property applied for a variance of the side yard requirement from 5' to 6" advising that the applicant built a decorative rock fence around his property and on the west side the applicant made an addition of 9' to be used for storage area. Attorney Edgar stated that Mr. Nelson built the fence and when he later added the roof it became a building and was not aware that by adding a roof would violate the subject conditions. Attorney Edgar stated that the roof does not detract from the neighborhood and is a very desirable addition. He submitted photos (Exhibit "F-1") showing the proposed storage. Upon questioning by the Board, he stated that the roof does not have a controlled water run-off.

Nelson Johnson, property owner, stated that the builders built the addition earlier and he put the fence around it, and according to his plot plan his house set back 9' and he felt it was not necessary for a survey, but if necessary he will get one. Mr. Johnson submitted photos (Exhibit "F-2") stating that the residence to the west extends to within 3' of the property line. He stated that there was 6' for access of emergency vehicles in case of fire and he felt that the added storage would not contribute to fire. Upon questioning by the Board, Mr. Nelson stated that the overhang will be exactly on the property line.

Mr. Gardner of the TMAPC Staff, stated that the principle reason for the separation is for fire protection. The Board should be aware of whether the building extension has made it more dangerous.

Protests:

Raymond Yarroll, 7421 East 74th Street, stated that he resides next door to the subject location and felt that the extension was in violation of the Restrictive Covenants. He stated that the homes need to be at least 10' apart and this proposed addition detracted from the homes and he felt it would be harder to sell his home, and in case of fire it would be too dangerous for his home. Mr. Yarroll advised that he called a surveyor, the Arjay Company, to make a field inspection to see if they could locate the existing property pins on Lot 19, Block 10 of the Quail Creek Subdivision, and the northeast corner pins had been concreted in with the corner fence post and was 6" over the



0 Feet
300 600



Subject
Tract

BOA-22508

19-13 15

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

Aerial Photo Date: February 2018

8.6





E 25th St

E 25th Pls

E 25th Pls

S SHERIDAN RD

E 26th Pls

SERVICE RD

0 50 100
Feet



Subject
Tract

BOA-22508

19-13 15

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

Aerial Photo Date: February 2018

8.7



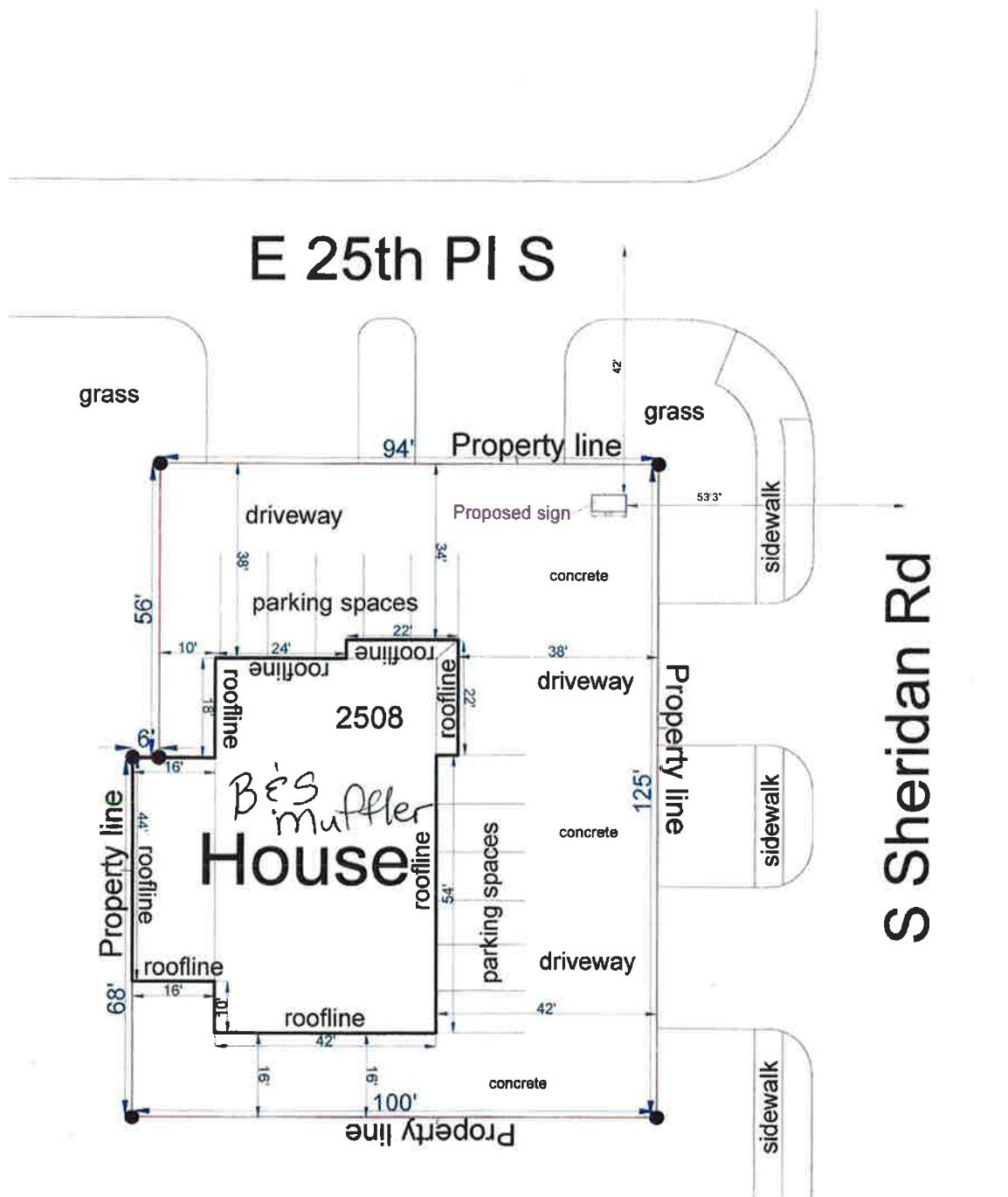
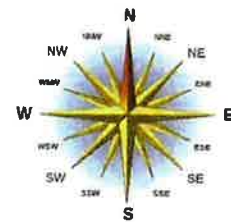
SITE PLAN

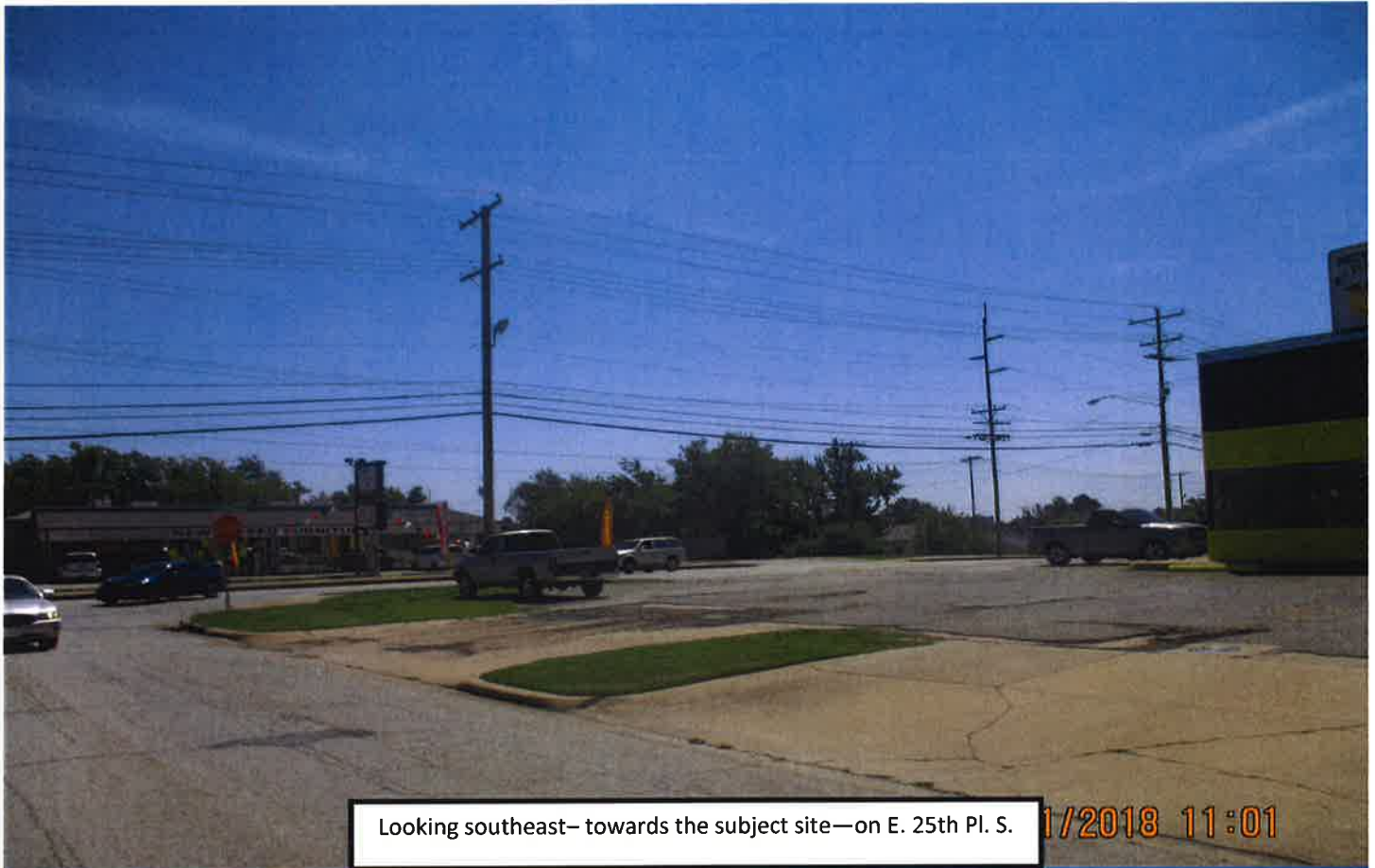
Address: 2508 S Sheridan Rd

City, State, ZIP: Tulsa, Oklahoma 74129

County: US

Scale 1":20'





Looking southeast— towards the subject site—on E. 25th Pl. S.

1/2018 11:01

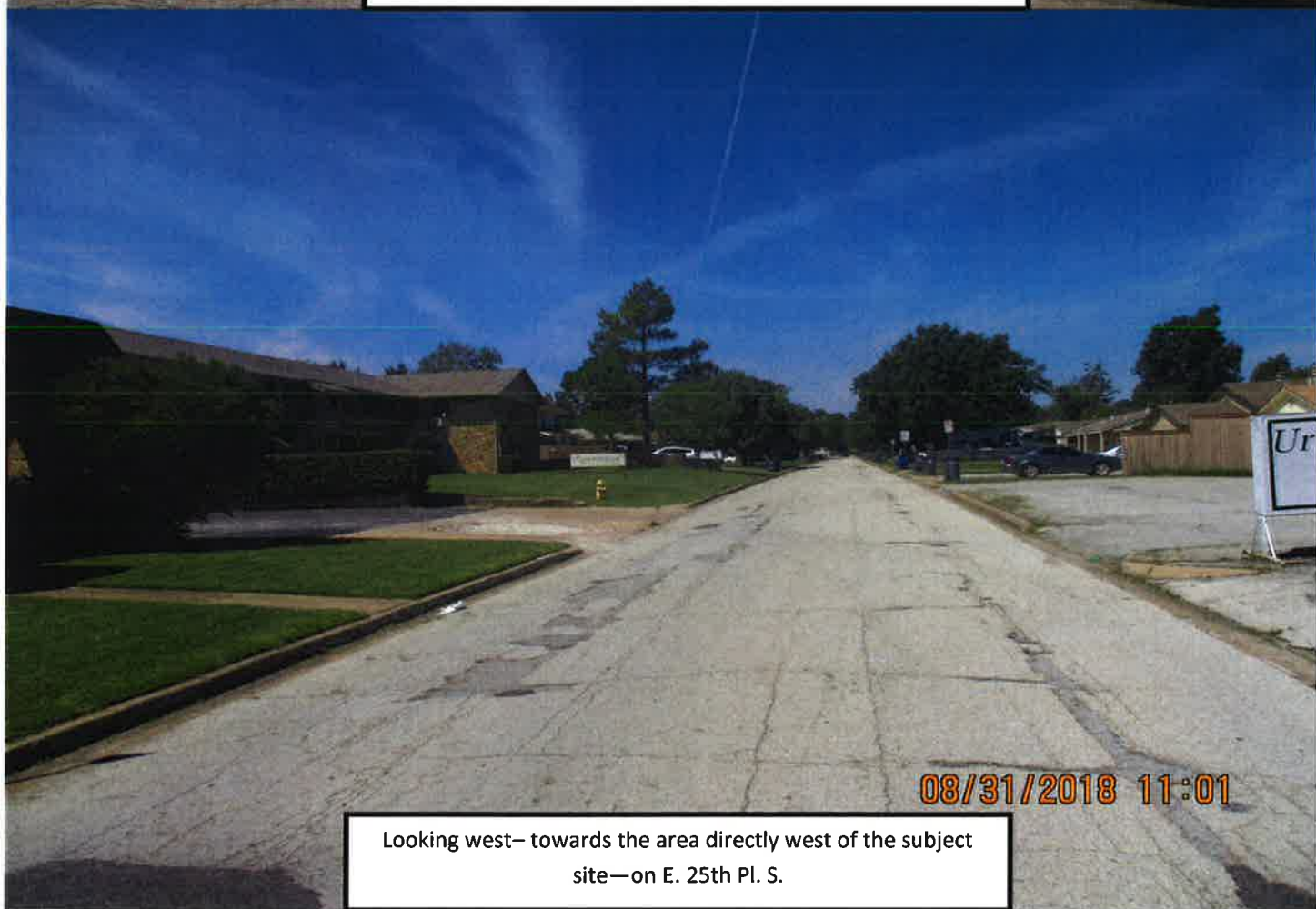


Looking southeast— towards the subject site—on E. 25th Pl. S.

08/31/2018 11:01



Looking southeast— towards the subject site—on E. 25th Pl. S.



Looking west— towards the area directly west of the subject site—on E. 25th Pl. S.

6'3"
WE ARE OPEN
3'1"

14'

42' (from E 25th Pl. S. C/L)

Pole is set 10' deep

53'3" (from S. Sheridan Rd C/L)

BOB KOLIBAS
SIGN PLANS EXAMINER
TEL (918)596-9664



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103-3227

SIGN PLAN REVIEW

May 29, 2018

LOD Number: 1

Green Country LED's
P.O. Box 1946
Muskogee OK 74402

Phone: (918)622-0651

APPLICATION NO: SIGN-001921-2018 (PLEASE REFERENCE WHEN CONTACTING OUR OFFICE)
Location: 2508 S. Sheridan Rd.
Description: Dynamic Display Ground Sign

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2nd STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A \$55 RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. SUBMIT TWO (2) SETS OF REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
2. INFORMATION ABOUT ZONING CODE, THE INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND THE TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT WWW.INCOG.ORG OR AT INCOG OFFICES AT 2 WEST 2ND STREET, 8TH FLOOR, TULSA, OK, 74103 OR TELEPHONE (918) 584-7526.
3. PRESENT THIS LETTER TO INCOG WHEN APPLYING FOR BOARD OF ADJUSTMENT OR PLANNING COMMISSION ACTION.

(Continued)

REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT WWW.INCOG.ORG

Application No. SIGN-001921-2018

2508 S Sheridan Road

May 29, 2018

This letter of deficiencies covers Sign Plan Review items only.

For ground, monument, pole & outdoor advertising structure sign applications only, you may receive additional letters from other disciplines such as Water/Sewer/Drainage for additional deficiencies regarding Utility Easement placement which are not addressed in this letter.

Section 60.100 Dynamic Displays

1.) **60.100-F** Dynamic displays may not be located within 200 feet of any of the following: (1) an R district (other than street, highway or freeway right-of-way); (2) a residential development area. This separation distance does not apply if the dynamic display is not visible from the referenced district, area or lot, and the requirements may be modified in R and AG districts if approved through the special exception process.

Review Comments: The proposed dynamic display freestanding sign appears to be located within 200 feet of an RM-1 Residential zoning district to the West and RS-3 zoning district to the Southeast. You may pursue a variance from the BOA to permit a dynamic display sign to be located within 200 feet of an RM-1 and RS-3 zoning districts. **Note:** Additional requirements may be administered for dynamic displays by the BOA.

NOTE: Please direct all questions concerning variances, special exceptions, appeals of an administrative official, Planned Unit Developments (PUD), Corridor (CO) zoned districts, zoning changes, platting, lot splits, lot combinations, alternative compliance landscape plans and all questions regarding (BOA) or (TMAPC) application forms and fees to an INCOG representative at 584-7526. It is your responsibility to send the decision of any actions by the BOA or TMAPC affecting the status of your application for a Sign Permit to our office so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf.

END – ZONING CLEARANCE AND SIGN CODE REVIEW

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A CITY OF TULSA SIGN PERMIT.

**ITEM #9 – POSSIBLE RECONSIDERATION
OF BOA-22481—MARK CAPRON**