

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1279
Tuesday, August 24, 2021, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bond, Chair Radney, Vice Chair Brown, Secretary Wallace	Barrientos	Wilkerson Chapman Sparger K. Davis	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on August 19, 2021, at 11:08 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

The City Board of Adjustment was held by videoconferencing and teleconferencing via, an online meeting and web conferencing tool. Members of the public were allowed to attend and participate in the Board of Adjustment's meeting via videoconferencing and teleconferencing by joining from a computer, tablet or smartphone using the following link:

<https://us02web.zoom.us/j/85326155861>
312-626-6799 Meeting ID: 853 2615 5861

The Board members and staff members attending in person are as follows:

Mr. Austin Bond, Chair
Ms. Burlinda Radney, Vice Chair
Mr. Steve Brown, Secretary
Mr. Tyler Wallace
Ms. Audrey Blank, City Legal
Mr. Dwayne Wilkerson, Tulsa Planning Office

Mr. Austin Chapman, Tulsa Planning Office
Mr. Kendal Davis, Tulsa Planning Office
Ms. Janet Sparger, Tulsa Planning Office

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Mr. Bond explained to the applicants and interested parties that there were only four board members present today. Motions from the Board will require an affirmative vote of three members. When there is less than a full Board, the Board will entertain a request to continue agenda items to a later meeting date, at which all five members of the Board may be present. Mr. Bond asked if there were any applicants that would like to postpone his or her hearing until the next meeting he or she could do so. The audience nodded their understanding and no one came forward to request a continuance.

Ms. Radney entered the meeting at 1:07 P.M.

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MINUTES

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; Barrientos absent) to **APPROVE** the **Minutes** of the July 27, 2021 Board of Adjustment meeting No. 1277.

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UNFINISHED BUSINESS

23160—Hall Estill – Stuart Van De Wiele

Action Requested:

Special Exception to allow a Public, Civic & Institutional/Governmental Service or Similar Functions use for a family justice center in an RS-3/OL/IL/CH zoned district (Sec. 5.020, Table 5-2, Sec. 15.020, Table 15-2); Variance of the 75-foot setback from Office and Residentially zoned properties in the IL Zoning District (Sec. 15.030-A, Table 5-3). **LOCATION:** 2821 South Sheridan Road East **(CD 5)**

Presentation:

Stuart Van De Wiele, Hall Estill Law Firm, 320 South Boston, Suite 200, Tulsa, OK; stated he represents Family Safety Center and there are members of the Board, the Executive Director, and members from the project team if there are technical questions about the site, they can help answer those questions. The center was started in 2006 to address family situations such as domestic violence or assault issues so that there would only be one agency in a singular location providing needed services. The original location was near 31st and Harvard and it is now in the Municipal Court Building since 2013. This is a new project that will involve the demolition of the existing buildings and the new agency will be built from the ground up. This will be a wrap-around service center for emergency protective orders and resources for children, family members, forensic medical assistance, legal support, all of those types of services from various agencies that all need to work together in an immediate fashion when those situations arise. The subject address is the current site for the Children's Advocacy Center and Child Abuse Network which have been there for several years. The center will provide offices for the Tulsa Police, Tulsa County Sheriff, District Attorney offices, court room spaces, all in connection with this function which are categorized as governmental services or similar functions under the Zoning Code. There is not a zoning district where this can be done by right, so regardless of zoning the center finds themselves before the Board asking for a Special Exception. There was a Special Exception granted for a Justice Center many years ago under a Use Unit 12 but because of those uncertainties the new construction and new operator and a different mix of uses it seemed that a new Special Exception was needed. As to the Variance, there is a hodgepodge of zoning districts on the subject property, including IL. There was discussion of rezoning the subject property but because of the Special Exception use the applicant would have had to come to the Board anyway. With these types of agencies money is always an issue so getting a zoning just to clean up the zoning and still have to come before the Board was deemed as a not wise use of funds. The IL zoning is what causes the larger required setback and obviously there will be no industrial use. Given the historical use of the property and the nature of the zoning classification, none of which the applicant created so they are not self-imposed, and the non-industrial use proposed by the applicant Mr. Van De Wiele believes is the hardship for the Variance request.

Mr. Brown stated he has concerns that there may not be enough protection between the residential and the adjacent properties because there can be a lot of anger in situations brought to the agency. Mr. Van De Wiele stated there are Tulsa Police and Tulsa Sheriff on site but from an operational flow there will not be that level of conflict and

confrontation on the site, and that has been taken into account. The City Councilor from this District had a neighborhood district meeting in July, and this project was discussed. By all accounts, the Councilor had good response and reports from the neighborhood. Mr. Van De Wiele stated he had one telephone call from a property owner and after discussion he was in favor of the project. There was another telephone call from a resident wanting to sell a residential piece of property.

Mr. Brown asked about what type of barrier there is between the subject property and the future center. Mr. Van De Wiele deferred to Ms. Holloway.

Interested Parties:

Angela Holloway, Project Manager and Architect, KKT Architects, 2200 South Utica Place, Suite 200, Tulsa, OK; stated the building has been zoned to help keep the respondents and the applicants separate. In traditional language the applicants would be called the victims and respondents the plaintiffs. The design is to keep any plaintiffs on the west side of the building and defendants would only enter the building on the south face of the building. The primary entrance to the building is located on the west side, the court room entrance is on the south side and on the north side is a secured fence. All public parking is on the west side and on the south side of the building. All staff parking, including Tulsa County Sheriff and Tulsa Police Department will be on the east side of the building. The building has been zoned to minimize conflict and to contain that possible conflict.

Ms. Radney asked Ms. Holloway about the distance of the setback for the majority of the site. Ms. Holloway it is just on the north end because the IL zoning piece runs between the Child Abuse Network and the subject proposed building and that does not impact the residential area.

Mr. Brown asked if there was a barrier or a fence along the east side of the property between the residential area and the subject property. Ms. Holloway answered affirmatively.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; Barrientos absent) to **APPROVE** the request for a Special Exception to allow a Public, Civic & Institutional/Governmental Service or Similar Functions use for a family justice center in an RS-3/OL/IL/CH zoned district (Section 5.020, Table 5-2 & Section 15.020, Table 15-2); Variance of the 75-foot setback from Office and Residentially zoned properties in the IL Zoning District (Section 15.030-A, Table 5-3), subject to conceptual plan 2.27 of the agenda packet. The Board finds the hardship to be the historical multiple zoning classifications on the subject property. 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. In 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; for the following property:

A tract of land in the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) of Section Fourteen (14), Township Nineteen (19) North, Range Thirteen (13) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, and being more particularly described as follows, to-wit: BEGINNING at the Northeast Corner of Lot One (1), Block Forty-five (45), South Sheridan Acres; THENCE, S88°43'53"W for a distance of 120.00 feet; THENCE, S01°18'42"E for a distance of 100.00 feet; THENCE, S88°43'53"W for a distance of 492.71 feet; THENCE, N01°15'07"W for a distance of 295.26 feet; THENCE, N88°41'18"E for a distance of 612.40 feet; THENCE, S01°18'42"E for a distance of 195.72 feet to the Point of Beginning; Said Tract containing 3.88 acres more or less., City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

23172—Pat Fox

Action Requested:

Special Exception to allow a horizontal extension to a building with a non-conforming setback (Section 80.030-D). **LOCATION:** 3047 South Detroit Avenue East (**CD 4**)

Presentation:

Pat Fox, 103 East 22nd Street, Tulsa, OK; stated the subject property is located on the northeast corner of Detroit and 31st Street. The existing structure currently sits 15 feet from the south line of the lot which abuts 31st Street and that street is an urban arterial. The setback from an urban arterial is 35 feet and obviously that would not work even if there was no house on the lot, thus the Variance request. The Variance would allow for the horizontal expansion to the east and it would not go beyond the 15 feet. The house was built in the 1940s and the proposal is to add a master bedroom suite and a parking area under the master bedroom suite in the rear. The current garage is located on the west side of the house and that garage will not accommodate a car, so the cars are currently parked in the front yard. The existing concrete in the front yard will be removed so there will be an actual yard and not occupied by vehicles. The new access will be from 31st Street and the cars will be parked in the new parking area.

Mr. Bond asked Mr. Fox if he heard from any of the neighbors about the proposed project. Mr. Fox stated that he is not aware of any.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Wilkerson stated that there have been comments from City Engineering, the Board needs to be careful not to approve the proposed driveway and the approval is only for the setback modification. There are other constraints the Traffic Engineering may be looking at because there are other items that are not part of the Board's authority. Mr. Fox stated that in a point of time there will need to be an application for a right-of-way permit for the new driveway and any issues that may arise will be dealt with.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; Barrientos absent) to **APPROVE** the request for a Special Exception to allow a horizontal extension to a building with a non-conforming setback (Section 80.030-D), subject to conceptual plan 3.6 of the agenda packet for the horizontal building addition only. The Board does not intend to waive any requirements of streets and stormwater related to construction of the driveway in the right-of-way. 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; for the following property:

S7.50 LT 10 & ALL LT 11 BLK 7, TRAVIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23173—A-Max Sign Company

Action Requested:

Special Exception to allow a sign to be located in the right-of-way of South Peoria Avenue (Section 60.020-E); Variance to allow a sign to be located above the parapet (Section 60.040-C). **LOCATION:** 3334 South Peoria Avenue East **(CD 9)**

Presentation:

Angela Holloway, 3334 South Peoria Avenue, Tulsa, OK; stated the request is for a neon sign to be hung over the doorway that would hang over the easement for the building. The existing signs on the building also hang over the easement which is right up to the front door so any sign would hang over that easement.

Mr. Bond asked Ms. Holloway if she had a site plan showing the existing easements. Ms. Holloway answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; Barrientos absent) to **APPROVE** the request for a Special Exception to allow a sign to be located in the right-of-way of South Peoria Avenue (Section 60.020-E); Variance to allow a sign to be located above the parapet (Section 60.040-C), subject to the conceptual plan submitted today. The Board finds the hardship to be the building predates the existing Zoning Code, and the right-of-way extends right up to the building line of the existing property. 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. In 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; for the following property:

**LTS 9 & 10 LESS N18 LT 9 & E18 S52 LT 9 & LESS E18 LT 10 BLK 2, PEEBLES ADDN,
City of Tulsa, Tulsa County, State of Oklahoma**

23174—Eller & Detrich – Nathalie Cornett

Action Requested:

Special Exception to allow a fence greater than 8 feet in height within the required building setbacks (Section 45.080-A). **LOCATION:** 2552 East 16th Street South (CD 4)

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; stated the existing varies between eight and ten feet tall, as shown on page 5.9 in the agenda packet. The fluctuations in height are due to the changes in grade that exists on the property. Sixteenth Street dead ends into the Broken Arrow Expressway. The property owner owns the vacant lot, another house across 16th Street, and the abutting lot to the south. There is about a four to six-foot grade change sloping downward to the south. Ms. Cornett had several placed on the overhead projector showing the property and the fence as it exists. Because of the grade changes the pool and the back deck are built about four feet above grade. For privacy purposes the added height of the fence is needed so the fence can operate the same as an eight-foot-tall fence on a flat piece of property. The fence also serves as a noise barrier because the expressway is about 100 feet to the east. There are similar fences and barriers that can be seen driving on the Broken Arrow Expressway.

Mr. Wallace asked Ms. Cornett for the height of the tallest portion of the fence. Ms. Cornett stated that it is 10'-3" on the northeast corner.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; Barrientos absent) to **APPROVE** the request for a Special Exception to allow a fence greater than 8 feet in height within the required building setbacks (Section 45.080-A), subject to conceptual plan 5.9 of the agenda packet. The Board is not granting any relief in the street setback. 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; for the following property:

E 80 OF N 150 LT 9, GLEN ACRES, City of Tulsa, Tulsa County, State of Oklahoma

23175—Christopher Wadleigh

Action Requested:

Variance to reduce the number of required vehicle parking spaces from 23 to 15 spaces (Section 55.040-B, Table 55-1); Variance of the required interior parking lot landscaping standards (Section 65.050); Variance of the required street frontage buffer requirements (Section 65060-C); Variance to allow a drive-through lane on a street-facing side of a property (Section 55.100-C. 2). **LOCATION:** 1905 East 21st Street South **(CD 9)**

Presentation:

Christopher Wadleigh, Cotti Foods, 29801 Rancho Santa Margarita Parkway, Rancho Santa Margarita, CA; stated the subject site has a building that is so old that the decision was made that it was not worth keeping the original building and that the site should be scraped and rebuilt and try to solve the traffic issue that occurs. The store is a very busy store, and a double kitchen was designed so that store could output an order every 2 ½ minutes on drive thru. There are three factors that are the reason for the Variance requests. The first is the parking, the parking spaces were not designed correctly the first time. The second issue is the landscaping, it is a very, very constrained site so it is hard to find a home for landscaping. The third issue is that the drive thru window faces a street, it faces a street today. He has been told that 70% of the business is through the drive-thru window, and the majority of the walk-in business comes from the hospital. The parking is the least of the issues, and he has seen cars trying to use the sidewalk as a turnaround do that will be dealt with. If the building cannot be scraped and rebuilt, then the company will be constrained to gut down to the framing and remodel, and it thought that the building can be so much better.

Mr. Brown asked Mr. Wadleigh about where the cars stack now when an order is not ready. Mr. Wadleigh stated that in the redesign of the site it was so difficult that there were 12 versions, and that is why the parking spaces in front of the building were removed to create a by-pass so the traffic could circulate back into the site and park.

Mr. Brown asked Mr. Wadleigh if it was considered to remove the by-pass lane in front of the property. Mr. Wadleigh stated the thought was that if a vehicle needed to circulate back around that they would not be driving around parked cars and going onto the sidewalk. The by-pass lane gives the opportunity for a vehicle to cut through without driving onto the sidewalk. If the Board wanted that to become a landscaping buffer or parking spaces it could be done, but the by-pass lane was a proposal for vehicles coming around.

Mr. Wadleigh stated that the current trash enclosure is also storage and a walk-in cooler, and everything has been pulled back into the building making it a standard trash enclosure; every part of the operation comes into the building.

Mr. Bond asked Mr. Wadleigh to state the hardship for his Variance requests. Mr. Wadleigh stated the hardship is the drive-thru window facing the street, the way the building functions with the traffic patterns and the entry and exit points of the site, no matter how many different positions they tried for the building nothing flowed properly. Regarding the parking, the way the site is currently parked the parking spaces at the bottom cause a blockage and that what causes the vehicles to drive on the sidewalk, and because the parking spaces are very old, they are not properly sized for current parking standards. With the proper sizing of the parking spaces there is no way to get all the parking spaces on the site to comply with the current Code. He has been told there are also issues with trash pickup so there is a need to have a proper approach to the trash enclosure. To make the site more functional, sadly, some of the parking has to be lost. Lastly, the landscaping. This is a highly constrained location, and he is already

squeezing in every parking space he can and try to create better traffic flow, so landscaping has been placed every possible place. The hardship is the site itself; it is a highly constrained site. Ms. Radney asked Mr. Wadleigh if there would be any exterior seating. Mr. Wadleigh stated there is nowhere to have outdoor seating. The problem with the new building is that the kitchen is bigger because there will be a double kitchen. What happens at the current location is the kitchen cannot keep up with the flow.

Mr. Brown asked Mr. Wadleigh if there has been any consideration given to the adjacent now vacant lot. Mr. Wadleigh stated that the Real Estate Department has told him that the vacant property cannot be obtained.

Mr. Wilkerson stated that he thinks that with some design considerations a landscape design that makes sense can be accommodated administratively instead of asking for a Variance of all the landscaping. One of the things he would push for administratively would be to eliminate the by-pass lane and place significant landscaping there to help stop any rogue traffic across the front. The other thing he would like to mention is, the request is for 15 parking spaces and the one parking space at the southwest corner does not meet the depth and length standards so there should be a provision for 14 spaces or fewer in case the construction drawings do not meet the standards. He thinks some thought needs to be given to a greater reduction to the parking standards which gives a place or two for trees and landscaping that are not shown now. Mr. Wadleigh stated that he is totally fine with working with whomever he needs to so the projection can be completed.

Ms. Radney asked Mr. Wadleigh about bicycle parking. Mr. Wadleigh stated that he had a discussion with the Civil Engineer prior to this meeting so he knows if that is a condition of this approval, he knows there needs to be bicycle parking on the site and it would be worked on. Mr. Chapman suggested that it would be in the interest to the Board to continue this case and give the applicant a clear indication of what the Board is looking for in an updated site plan. The request can then be re-noticed for the reduction in the parking.

Mr. Brown asked Mr. Wadleigh about employee parking. Mr. Wadleigh stated he would need to find out.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; Barrientos absent) to **CONTINUE** the request for a Variance to reduce the number of required vehicle parking spaces from 23 to 15 spaces (Section 55.040-B, Table 55-1); Variance of the required interior parking lot landscaping standards (Section 65.050); Variance of the required street frontage buffer requirements (Section 65060-C); Variance to allow a drive-through lane on a street-facing side of a property (Section 55.100-C. 2) to the September 28, 2021 Board of Adjustment meeting; for the following property:

LTS 13 THRU 15 LESS BEG SWC LT 15 TH N14.88 E1 S8 SE8.08 W5 POB BLK 2, REDDIN THIRD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23176—Sean Leary

Action Requested:

Special Exception to permit a fence that exceeds 4 feet in the street setback (Section 45.080-A); Variance to permit a fence inside the City of Tulsa right-of-way (Section 90.090-A). **LOCATION:** 1345 South 129th East Avenue (**CD 6**)

Presentation:

Sean Leary, 9524 East 81st Street, Tulsa, OK; stated he represents the owner of the subject property, and the request is to have a 6-foot fence in lieu of the 4-foot standard fence. Currently there is a 2 x 3 welded wire fence attached to T posts along the perimeter of the property. The neighboring property has a 6-foot tubular fence that it abuts to. There are several properties in the neighborhood that have fences more than four feet in height. The proposed fence would increase the overall aesthetics of the neighborhood. Currently he is working with Chris Kovac with the City, and he has informed him that since there is a discrepancy in the setback road right-of-way, between the Tulsa County plats and the survey data so Mr. Kovac is working on that. If it is found that the fence is in the right-of-way he will need to go through an entirely different process. Mr. Kovac informed Mr. Leary that the height of the fence should be the only thing considered at the moment.

Mr. Brown asked Mr. Leary about the design of the proposed fence. Mr. Leary stated that it would be wrought iron.

Mr. Bond asked Mr. Leary if he had heard anything from the neighbors. Mr. Leary stated that as far as he knows there are no issues.

Interested Parties:

Margie Sweet, 13111 East 14th Street, Tulsa, OK; stated she has several concerns. The existing wire fence holds horses and goats. The proposed fence does not fit the neighborhood and she does not understand why it needs to be so tall. Most of the houses in the neighborhood have no fencing, and if there is a fence it is chain link fencing or wire fencing. MS. Sweet stated that she is also concerned about drainage issues.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; Barrientos absent) to **APPROVE** the request for a Special Exception to permit a fence that exceeds 4 feet in the street setback (Section 45.080-A); Variance to permit a fence inside the City of Tulsa right-of-way (Section 90.090-A), subject to conceptual plan submitted today and page 7.9 of the agenda packet. The fence is to conform with the exhibit presented today. 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 the hardship to be the unique pre-existing condition of the City right-of-way and the existing use. In 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; for the following property:

LTS 1 THRU 3 & 6 THRU 8 & S20 VAC 13TH ST ADJ ON N & LESS W25 LTS 6 THRU 8 FOR RD BLK 5, ROMOLAND, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

There was a Work Session held and the following were in attendance in addition to the Board members and other staff attending the Board of Adjustment hearing:

Nathan Foster, INCOG staff

Michael Skates, City of Tulsa Development Services

Adam Murray, City of Tulsa Building Plans Review Manager

Chuck Lange, City of Tulsa, Zoning Review Specialist

Serena Poteet, City of Tulsa, Certificate of Occupancy Coordinator and Certificate of Compliances

The following items were to be discussed:

- Discussion with representatives of the Permit Center to explain the process for obtaining Zoning Clearance Permits, Building Permits, Certificates of Occupancy, Sign Permits and Certificates of Compliance.
- Presentation from Tulsa Planning Office staff regarding the Neighborhood Infill Overlay and related Zoning Code Amendments (ZCA-19).

Michael Skates, Director of Development Services, City of Tulsa, 175 East 2nd Street, 4th Floor, Tulsa, OK started the work session.

Development Services administer plan review and permits for residential and commercial construction. Everything associated with that, both the public infrastructure and the private infrastructure, plan review and inspections is what Development Services covers. There is a staff of approximately 65 people. Certificate of Compliances are the forms that are filled primarily by the Fire Marshal on behalf of the applicants who are looking for dispensary processing and growing to receive a license from the OMMA.

Dwayne Wilkerson stated that Nathan Foster with INCOG is in attendance, and he primarily deals with the Planning Commission and City Council.

Mr. Bond stated that the Board is curious as to how the Certificate of Occupancy works, because that comes before the Board since the medical marijuana state law passed. What the Board sees a lot is an applicant comes before the Board with an existing Certificate of Occupancy or one that has been filed during the process, and the Board decided a few years ago that the Certificate of Occupancy was going to be the document that was important because that is when the City said this is open or prepared for business. Mr. Bond asked for a tutorial on the Certificate of Occupancy; what does it mean, what does it entail, what does it allow someone to do once they have the COO, when does it occur and when is it filed and when is it granted? One of the things the Board hears a lot from applicants is that they applied with the State, the State has said ok, but the City has not given approval. What the Board has seen lately is that someone has transferred a Certificate of Occupancy, transfer of ownership and the Board is concerned that this is becoming a trend.

Michael Skates stated that the City is currently looking at the process and looking for ways to streamline the process. There have been meetings with the Fire Marshal's office; should the COC come first or should the COO come first. On the COO the process being considered is how it works and when does it apply; that should be completed by the end of the year and placed on the City website, so it gives guidance to those seeking various types

of Certificate of Occupancy for different reasons. The goal is to determine whether the applicant needs a Certificate of Occupancy or is a Building Permit needed.

Adam Murray came forward and stated he did not come prepared with a formal presentation but came for a Q&A session with the Board. Around November 2018 the law was passed to allow medical marijuana to become a legal entity in the State. It all started with the Oklahoma Medical Marijuana Authority, OMMA, establishing guidelines and not discussing those guidelines with any jurisdictions in the State. The applicant would come to the City stating that OMMA sent them to receive a Certificate of Occupancy and that application was changing the use because prior to November 2018 there was no use for a medical marijuana business. The building code cites change of use as one of the requirements for when a Certificate of Occupancy is required. Given the number of business that were flooding in after November 2018 the position that Ms. Serena Poteet now fills became much more prevalent in the role of dealing with an influx of applications. About 70% of all applications for permitting are marijuana related. When a person blindly calls stating they need a Certificate of Occupancy so they can receive an OMMA accreditation or license, the question becomes is the person already in the space or are they wanting to occupy the space? Early on the person would already be in the space because of the wild west scenario of moving in and taking over. Since then, with the Fire Marshal's help, the people have been educated to let them know they can't just move in and start operating a business. Typically, once it is found out what the applicant needs it usually morphs into a building permit process. On the chance the applicant is in a good spot they can move forward with the application for a Certificate of Occupancy; they would submit a site plan and a floor plan, then go through the review process which entails archiving old records, and then see if everything meets the Zoning Code and Building Code requirements. The application is the same as a building permit; they go through a review process. Upon approval five inspectors go to the site, one from each trade – electrical, plumbing, mechanical, building and the Fire Marshal's office. Once all these inspectors have signed off the applicant will receive the Certificate of Occupancy. If all goes well, the customer tells the City they have met all their requirements and they are ready for the Certificate of Occupancy.

Mr. Brown asked Mr. Murray how the City handles smell. Mr. Murray stated that is an item that the City does not regulate in the review process, that is handle by the Inspectors. The Inspectors have started asking for a letter from a licensed Mechanical Engineer that says they have designed the ventilation system to regulate the overabundance of odor that may be produced, whether it is processing or growing and typically a dispensary does not have that issue.

Mr. Brown asked where the complaints about smell come from. Mr. Murray stated that typically they are from neighbors. Neighborhood Inspections is the department that will go out and write the citation. The actual containment about the smell is in the Zoning Code.

Mr. Bond asked Mr. Murray if the COO is the City saying the applicant is subject to other State requirements, is this the equivalent to the City the applicant is open for business? The Board, a lot of times, asks who came first. Mr. Murray stated the Certificate of Occupancy is recognized as the legal document that allows a building to house "X" number of occupants and a specific type of occupancy. Paired together with the Zoning Code there is an allowance for a building to contain a specific use and number of people. Then there are

times that certain specific regulations relating to the business itself. The Certificate of Occupancy is like the golden ticket.

Mr. Bond asked Mr. Murray if an applicant has to have a State licensure approval to receive the COO when they come to the City for a dispensary. Mr. Murray stated the City use to require that the applicant submit a copy of their license before issuing a Certificate of Occupancy. Through revisions of the Code, whether it be through the OMMA regulations or the Zoning Code, the requirement is now an applicant cannot receive a license without a Certificate of Occupancy. That is where the Fire Marshal's office steps in with the Certificate of Compliance. The Fire Marshal has deemed the Certificate of Compliance to not be achievable without the Certificate of Occupancy. So, between the Certificate of Compliance and the Certificate of Occupancy and the license, which does not come until after the Certificate of Occupancy, it becomes a three-headed monster. The pre-requisite to the Certificate of Compliance is the Certificate of Occupancy because the Fire Marshal's office will not sign the compliance form without proof of the applicant going through the steps of becoming compliant.

Mr. Bond asked Mr. Murray if a Certificate of Occupancy just exists if an applicant does not use it or is the Certificate of Occupancy lost? Mr. Murray stated the certificate definition in the Building Code is that it is tied to the location not to an individual or business entity. So, if a building is approved for said use, it is not tied to the name of the business, the individual operator of the business. Typically, the golden ticket would not be established without an occupant. So if the space is empty there may not be anything in terms of a Certificate of Occupancy.

Mr. Bond stated that the Board has seen someone that had a Certificate of Occupancy, but nothing was going on. Mr. Murray stated that has happened too. The City has started to learn that just because the City Codes are met and the location has a Certificate of Occupancy there is a snag on the customer's side with taking the certificate to OMMA and receiving a license because of other regulations that are required, i.e., a 1,000 feet from a school. So there could be a Certificate of Occupancy for a medical marijuana business at a location but there will never be a business open its doors there because they can never receive a license from the State.

Mr. Bond asked who invalidates the Certificate of Occupancy in those types of cases. Mr. Murray stated that typically it is the next party that comes along. What the City is seeing now is the competing dispensary, which is within a 1,000 feet of the dispensary that never opened, can't open because they are found to be within a 1,000 feet of another dispensary, but that dispensary never opened because they could not receive a license, or maybe they opened and are now closed.

Mr. Bond asked Mr. Murray who makes the call of the validity of a Certificate of Occupancy? Mr. Murray stated the Certificate is valid, it never expires. It is valid until another proposed use changes the use of the Certificate. If a Certificate of Occupancy is issued to McDonald's and they quit selling hamburgers, the Certificate for that location will not say McDonald's and it will not be tied to Ronald McDonald, and if they move out and Burger King moves in the Certificate is still good because it is still for a restaurant, it is not tied to an individual or name. If a dispensary opens and another dispensary within a 1,000 feet wants to open, and they can't because on record is a Certificate of Occupancy for the dispensary that is no

longer open that customer who seeks relief of the 1,000 feet has to provide proof that the other business is not in operation. The City puts it on the applicant to provide proof from OMMA that says the location is no longer in operation and/or they cannot get their license to open. That is the only thing that relieves the City from requiring the spacing verification and/or nullifies the certificate on the location for an address.

Ms. Radney asked Mr. Murray if the City goes to OMMA to see if there is an actual valid license at an address. Mr. Murray stated the City does not go to OMMA; the City has no contact with OMMA. The City places the burden on the applicant who seeks relief of the requirement to go to OMMA and come back to the City with proof and paperwork that says the location they are trying to say is no longer in operation is truly no longer in operation.

Ms. Radney stated the Board has the converse problem because the Board has assumed the practice of spacing from the COO, regardless of whether there is anything happening there or not. Mr. Murray stated the applicant is asking of the Board what has already been asked of them by the City, which is to show they are not within a 1,000 feet of another dispensary, and they can't only in the fact that they say the other location is not operational, but the other location probably has a Certificate of Occupancy, but it never opened, or they closed the doors. Mr. Murray stated that he does not believe the City, nor the Board can take an applicant's word that another business is not in operation.

Michael Skates came forward and stated that sometimes when an applicant comes to the Board, he thinks they do not have all the information and they have not really investigated a site. When the City does issue a COO, the applicant is sent to the INCOG, and the GIS Division actually puts the dispensaries on a map. Discussions with INCOG and the Legal Department have ensued about how to rescind a Certificate of Occupancy, but it is still being worked on. The City does its best to guide an applicant and hopefully it is before any money is spent. Right now there is not a good setup online, and the City is actively looking to streamline the process and look at ways to rewrite the description and make it more descriptive of how the process works.

Mr. Bond asked who has the authority to grant relief based a use or a non-use of a COO? He thinks that would help the Board a lot. This is a situation in which the Board is struggling to give an answer because he does not think there is a legally sufficient answer for the Board right now.

Mr. Bond asked if someone transfers or sells a Certificate of Occupancy to another licensed medical marijuana facility, is that the same issue? Can a person sell or transfer a COO?

Ms. Radney stated the Board still falls back on the language they used in motions when the Board was responsible for the spacing of dispensaries; it is critical to her thinking on these votes because the language states that the Board's granting of the spacing at the time was contingent upon there not being an establishment of another business. As much as she appreciates the City's clarity brought to this session today, it has made it really clear that the Board's default to the Certificate of Occupancy is probably misplaced at this point.

Mr. Chapman stated that when a person comes to the INCOG office to apply for a Variance, it is always within that person's right, once they are issued a Letter of Deficiency stating the 1,000-foot violation, to appeal that decision. The situation that is described where there is

an active Certificate of Occupancy on a building that was never occupied or has been closed for a period of time and not being used as a dispensary, he does not know if the Board has had that issue as much as there is a landlord that has a building where a dispensary moved out and they are in the process of getting another dispensary to move in, he thinks it is rare for the Board to deal with a situation where there is an outstanding COO for a dispensary that has never opened or has closed. It is always within an applicant's ability to appeal the City's decision to deny a Certificate of Occupancy or the spacing. There is a good argument to be made for an existing Certificate of Occupancy that has never been utilized for a dispensary and that prevents from another dispensary opening. It is harder to make the case when the dispute is whether there is another dispensary in the location, at which point the applicant can appeal that decision.

Mr. Bond where does the applicant appeal that case, and who makes the final determination on the validity of a Certificate of Occupancy. Mr. Chapman stated that it would be Mr. Skates department. The applicant would apply for permits, they would be issued a Letter of Deficiency (LOD) stating a Variance is needed, or the applicant can appeal that decision to say the Permit Center is wrong and that is appealed to the Board of Adjustment.

Ms. Radney stated that she would like to know what the language is in the Ordinance.

Mr. Bond stated that what he understands, right now, is that if there is a question about validity of a Certificate of Occupancy, the applicant can then come to the City and a determination can be made on that validity, the applicant then has the appeal option to come to the Board of Adjustment. Mr. Bond asked if that was the proper process because the Board is being asked to skip that, approve the relief.

Mr. Murray stated that he does not think the applicant can come to the Board of Adjustment for regarding the Certificate of Occupancy, but they can come to the Board regarding the Zoning. If an application is made and it is reviewed, and the applicant receives an LOD based on the Zoning category and/or some other aspect of the property, the Zoning Code allows the applicant to come to the Board of Adjustment to ask for relief. Mr. Bond asked who determines the validity of a Certificate of Occupancy, because what he hears from Mr. Chapman is that the Board of Adjustment determines the validity, and the City is saying that the Board does not.

Mr. Murray stated that he thinks that there is a difference between Certificate of Occupancy and an application for a Certificate of Occupancy is being drawn. If there is another dispensary within 1,000 feet, the applicant's application is not approvable to receive the Certificate of Occupancy. Mr. Bond asked if the applicant was being denied a Certificate of Occupancy and the applicant is then challenging the validity of the existing Certificate of Occupancy, who makes the determination on that existing Certificate of Occupancy? Mr. Murray stated the Building Code stipulates that the Certificate of Occupancy remains intact and in existence until another use changes the status, it is not tied to an individual. It can only be revoked by the building official which is Mr. Skates.

Mr. Chapman stated that to that point, if he applies to open a dispensary and receives a Letter of Deficiency stating there is another dispensary within 1,000 feet, that is the point

that the determination has been made that there is another dispensary at which point a challenge to the zoning portion to the Board of Adjustment, not the Building Code.

Chuck Lange came forward and stated that what the City is saying is if there is another dispensary within 1,000 feet it is because there is a Certificate of Occupancy for a location not necessarily a license for the location. The City has no way knowing if the customer received a license or not.

Mr. Bond still questioned who verifies the validity of the Certificate of Occupancy. Mr. Murray stated an applicant comes to the Board for a Variance if they want one for zoning related issues. In order for an applicant to come to the Board of Adjustment they have to go through INCOG and make an application. As the applicant goes through the process to apply for a Variance request, he would hope that INCOG staff reviews the request and if they had questions they would contact the City, then the two departments would work together to determine whether the application is valid to come before the Board for a request of relief.

Mr. Chapman displayed the process for appeals to the Board of Adjustment for spacing verifications.

Ms. Radney stated the Board has heard those cases, and on occasion the appeal is lost based on the language that has to be used regarding an existing business, because the Board can only space between existing businesses. The Board has deferred to the idea that a Certificate of Occupancy implies the existence of a business. But the City has helped her to understand that is not necessarily true. She guesses the burden is upon the applicant to demonstrate that the Certificate of Occupancy may be attached to a space where there is not an existing business. The Board has had to hear appeals of decisions on spacing and then have the same people turn around and request a Variance on spacing.

Mr. Skates stated that INCOG GIS staff has a map that shows those dispensaries that have been issued a Certificate of Occupancy for as far as dispensaries, processing and growing, but as Mr. Murray has said the City does not have a way of knowing if the customer has actually received a license from OMMA. Ms. Radney stated that then says that the Certificate of Occupancy is not necessarily confirming an existing business, what it is confirming is an approved use.

Mr. Skates stated that the only way to confirm is to go to the OMMA website and look at the dispensaries for Tulsa County and/or processing or growing and see if a particular business is listed. The only other option is to use Google or drive to the site. The validity of the license is with OMMA not the Certificate of Occupancy.

Serena Poteet came forward and stated the OMMA license is tied to the specific address that is provided by the applicant, and that has to match the information that is on the Certificate of Occupancy. So whether or not a valid business exists at an address if the business is licensed to be there OMMA has licensed them to exist in that space. She has had people tell her that other businesses have taken over leasing a dispensary but does not operate because they hold the zoning distance and keep that distance in play.

Mr. Chapman stated the Board appeals a specific decision, it is not necessarily going to have an affect on the other Certificate of Occupancy, it is what the specific application is. When a person makes an application to appeal a decision, what is being said is that the City is wrong, and the City misread the Zoning Code and the applicant is saying he has rights to operate at a specific location. Mr. Chapman stated that he does not know how relevant it is for an applicant to say they did not know "they were there" and who arrived at the site first when granting a Variance, in that as much as what is the physical hardship on the location. That is where the dividing line should come. Per the Code an applicant is spaced from the Certificate of Occupancy.

Ms. Radney believes the Board has fallen into the habit of spacing between Certificates of Occupancy because it was not possible to have a legal business without the Certificate of Occupancy. To get the license to do the business there has to be an issued Certificate of Occupancy. Now that there are buildings with a Certificate of Occupancy where business is not being transacted that is giving her pause because now the Board is back to the "first in time" argument. Now we are down the rabbit hole of who had the Certificate of Compliance first, she is not yet clear on how much deference should be given to the Certificate of Compliance because the applicant cannot receive a license and not receive an OMMA number until all the steps have been completed, i.e., building permits and the Certificate of Occupancy steps. When the applicants are competing and talking about who is first in time the Board is stuck with existing business. It has always given her pause to fall back on the Certificate of Occupancy for exactly the reason that is being discussed now. An existing business, to her, is a business that can perform a transaction that is a legal use, which cannot be done without the OMMA license and a Certificate of Occupancy at the same time. She has a very high bar on telling an applicant no on a Variance because there are many nuances to whether in fact the thing that is being spaced between is actually an existing business because that is what the language says that the Board has to use. Ms. Radney stated she is much more assertive in her reading of an existing business and more liberal in her belief in granting the Variances.

Ms. Radney wanted to know exactly what is a Certificate of Compliance? When an applicant comes before the Board with a Certificate of Compliance, not a Certificate of Occupancy, what does that mean? Mr. Skates stated that it is basically a Fire Marshal inspection on an existing Certificate of Occupancy. Ms. Radney asked if that means an applicant is in compliance with the Codes for the continuation of the legal use. Mr. Skates stated the business should already be in compliance with the Code and have a Certificate of Occupancy in good standing. The Certificate of Compliance is a Fire Marshal inspection on the Certificate of Occupancy.

Mr. Bond asked about the Comprehensive Plan, i.e., a homeless shelter. Interested parties come before the Board saying the request is detrimental to their property, there are safety issues, etc. By listening to the neighbors is the only way the Board has of determining if something is detrimental to a neighborhood. The Board balances that with the City's Comprehensive Plan, does the plan stipulate where to place these social services? Mr. Chapman stated the Permit Center is not directly involved with the Comprehensive Plan. He does not have a strong answer to that question because so many of them are a Special Exception city wide, so there is not a zoning district that will allow it by right. The intent is, and the way the Code is written, something like that would be dispersed around the City. No area should be overly concentrated, at least by the way the Code reads, and in downtown

that is not the case; the Board has heard exceptions from that rule several times. There is not a clean answer as to where that should go because the way the Code is written there is a half mile spacing between them. It is not every social service, but it would be homeless day center type uses.

Mr. Wilkerson stated there is nothing in the Comprehensive Plan that gives guidance on where any of the social service uses are supposed to be. The reason the Zoning Code has dimensional standards and separation distances for all kinds of things, is because the basic concept was determined some time ago that if it is a plasma center or a billboard or dispensary that if they are closer than a prescribed distance then there needs to be a Variance or Special Exception, and it needs to be looked at on a case-by-case basis. The spacing requirements were put there so they are not concentrated.

Mr. Wilkerson stated there was mention about making decisions based on interested parties being present at a meeting, and that is important to get a feel on how a neighborhood thinks about itself and the uses that are acceptable in different neighborhoods. But the decision on whether a Special Exception use, in particular, can be put somewhere needs to be looked at more globally than just whether or not an interested party attends a meeting. Whatever the end result is, the Board really does start to shape a community based on decisions, and if it solely based on what a few of the neighbors had to say, good or bad, and it is not in alignment with the neighborhood association, but the Board thinks a use is the correct use then it is the Board's right and authority to make the tough decisions.

Mr. Bond stated the people on the Board takes this job seriously and take communication with the City seriously, and the best civil servants he has ever seen work for the City of Tulsa. There have been instances lately where there is not a return telephone call, the Board ask questions that are important because come to the Board to make decisions that will make a direct impact on their life. The Board takes that seriously.

Nathan Foster, INCOG staff, stated the amendments that are going to be discussed will be going to the Planning Commission on September 15th, it will have a recommendation of approval from staff and the people that have worked on drafting it. The Zoning Code was updated in 2016 to include the option to have a Special Area Overlay, this will actually be the fifth overlay as proposed. A few examples in town, the first is the River Design Corridor; along the Arkansas River, west and east side, there are additional design requirements that are a supplement to whatever the underlying zoning is. That essentially sets up additional restrictions if property is to be developed within that corridor; that was done as an effort when many of the decisions were made to make investments in the Arkansas River and some of the improvements to the Gathering Place to basically ensure appropriate development occurred within that corridor. It works in a way that does require us to go in one by one and change underlying zonings or adjustment underlying zonings within an area. Instead, we are essentially able to write the standards within a unified way and adopt it holistically through a geography. That is what is being done with this one as well. About two years ago, the City engaged in a housing study for the downtown area and the near downtown neighborhoods. That housing study returned evidence of a shortage of housing by about 4,000 units, and that is in the geography being discussed today, and it identified the missing units as not being a detached single-family home or a mega apartment complex, but instead a missing middle housing. That is many of the housing types we have in the Zoning Code that fall in between those two specified types previously mentioned. We

are talking about duplexes, townhomes, multi-unit houses as described in the Zoning Code, cottage house developments and small-scale apartment developments within this area. One of the first things looked at after the results of the housing study were received, one there is a need here for the additional housing types, two, through the engagement with those neighborhoods throughout the housing study we learned there is actually a desire here from even existing neighbors and property owners within the areas to see more of that diversity and that variety of housing being inserted into these neighborhoods. In that vein, we began to look at the existing regulations, specifically the Zoning Code that exists within the office and that we work on to keep updated and to monitor to make sure we're reacting and responding to the needs of the community. A big implementation measure that was sought through the housing study was to adjust our existing regulations to essentially get out of the way of allowing some of these opportunities to take place in those near downtown neighborhoods. A lot of these areas already do allow some diversity of housing, there is some multi-family residential, there is some commercial zoning, and within those districts there are more options for what could be built or constructed. A lot of them were restrictive, several being exclusively single-family zoned areas. As we started to look at the types of uses, we wanted to allow we wanted to identify specifically where those areas were within the boundary within the housing study area, and we wanted to start removing some of those barriers. What the infill overlay does is it sets up a unified set of standards for this geography that, one, permits those uses listed rather than requiring rezoning or a Special Exception through the Board of Adjustment it allows them as "by right" uses within the geography. Underneath there was also an issue related to lot sizes, most of all in this area of geography were platted well before any of the zoning restrictions that we have today were contemplated which resulted in many of these lots not even conforming to the Code as it is today. There were a lot of assessments of the existing lot patterns in the area to come up with a more appropriate size so that in addition to allowing these uses we also adjusted the lot restrictions to make sure they could actually be built rather than just permitting the uses and allowing to run into the lot barriers. Within the overlay itself what ultimately was landed on was a 40-foot-wide lot width, a 4,000 square foot lot area, took out lot area per unit density requirements that up how much lot you have to have based on the number of units, and the overall number of units was limited on any one lot at one time. The most the proposal will allow would be an eight-unit apartment complex. Mr. Chapman has provided the Board with a copy of the Zoning Code changes; this text has already been approved by the Planning Commission and by City Council, and it will be effective in the Zoning Code on August 31st. However, it is essentially a zoning district with no home right now, so what we are in the midst at this moment is the map amendment component of the overlay process. We have now adopted the district; we have now adopted the standards and we are going out to the neighborhoods and recommending that this standard be applied to the geography that the Board has before them today. There was a meeting last night with the Riverview, Tracy Park, Cherry Street, and Pearl District area; last Tuesday we met with Crosby Heights, Owen Park, Easton Heights Neighborhood on the west side, and tonight there will be a meeting at Rudisill Library and will meet with the Greenwood, Joe Lewis, Dunbar Neighborhoods to speak about the same thing. When we go to the Planning Commission on September 15th with the recommendation, we can provide the Commission with an illustration of where there is support for the request, where there are objections to the request, and ultimately hope that they will recommend approval and adoption of the overlay for the area defined so we can start opening up some more of the housing types and choices and the opportunities within those neighborhoods. We know there is a need for it, and we know people are looking for it.

Mr. Brown asked Mr. Foster about the participation. Mr. Foster stated that it has been good. In addition to the housing study engagement, that included neighborhood leaders for each of the areas, we did a series of events in January 2021 before we drafted the text. In those virtual on-line meetings where infill was discussed, and the idea was proposed we probably averaged around 40 participants in each of the meetings; in January there were four meetings. The in-person meetings that have been conducted so far, related to the map amendments, there were 40 people at the first meeting and last night there were about 20 people. The final opportunity for public engagement will be next week on the 30th. One last component of this is any area that was adopted into the overlay area, single-family detached homes would now have the right to build an accessory dwelling unit without a Special Exception and without relief from the Board of Adjustment.

Ms. Radney asked if there would be size limitations on the accessory building. Mr. Foster answered affirmatively, stating still the same accessory building size restrictions that exist today. He has heard from several people that there are issues with the size restrictions, and it is something that is preliminarily being looked at in the office; those are city wide restrictions on accessory buildings.

Mr. Chapman stated there is another set of Zoning Code amendments included in the packet. There is a Zoning Code implementation team that looks at the Zoning Code and what is being looked at is inconsistencies, things that are not working, and it is less policy driven issues like an overlay. If there are questions about those you can send him an e-mail.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Bond asked if the Board could receive an update on the appellate court cases. He realizes each case is unique before the Board, but it is important that the Board gets it right and if something is not being done right or being communicated effectively the Board would like to know.

There being no further business, the meeting adjourned at 4:38 p.m.

Date approved: _____

Chair