BOARD OF ADJUSTMENT
CASE REPORT

STR: 149  Case Number: BOA-22856
CZM: 28
CD: 1
HEARING DATE: 3/10/2020 (Continued from 02/25/2020) 1:00 PM

APPLICANT: William Shirley

ACTION REQUESTED: Special Exception to permit a Low-impact Manufacturing and Industry Use in a CG district (Sec. 15.020, Table 15-2)

LOCATION: 1216 E APACHE ST N
ZONED: CG

PRESENT USE: Dispensary
TRACT SIZE: 22751.48 SQ FT

LEGAL DESCRIPTION: S175 LTS 15 & 16 BLK 2 & S175 W20 E200 N250 NE SEC 25 20 12 .08AC, EMERSON ADDN

RELEVANT PREVIOUS ACTIONS:
Subject property:
BOA-22692; On 07.23.2019 the Board accepted a verification of the 1,000 spacing requirements for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

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

Neighborhood Centers are small-scale, one to three story mixed-use areas intended to serve nearby neighborhoods with retail, dining, and services. They can include apartments, condominiums, and townhouses, with small lot single family homes at the edges. These are pedestrian-oriented places served by transit, and visitors who drive can park once and walk to number of destinations.

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 is located at the SW/c of N. Peoria Ave. and E. Apache Street.

STAFF COMMENTS: The applicant is requesting a Special Exception to permit a Low-impact Manufacturing and Industry Use in a CG district (Sec. 15.020, Table 15-2)
The property is currently used as a Medical Marijuana Dispensary and are looking to add Low-impact Medical marijuana manufacturing to the existing use. Extraction would not be allowed as a part of this application.

35.070-A Low-Impact Manufacturing and Industry
Manufacturing and industrial uses that do not, as part of their normal operations, generate noticeable off-site impacts in terms of noise, smoke, particulate matter, odors, or vibration. Typical examples of low-impact manufacturing and industrial uses include: commercial laundries and linen supply services, apparel manufacturing, bakery products manufacturing, production of medical marijuana edibles using medical marijuana components processed elsewhere, bottling plants, ice manufacturing, mattress manufacturing and assembly, microbreweries, micro distilleries, coffee roasting with a maximum roasting capacity of 45 kilograms per batch, musical instrument and parts manufacturing, newspaper printing and binderies.
Medical Marijuana Uses are subject to the Following supplemental regulations:

Section 40.225 Medical Marijuana Uses
The supplemental use regulation of this section apply to medical marijuana uses.

40.225-A A medical marijuana grower operation must be located inside an enclosed building.
40.225-B A medical marijuana processing facility, whether moderate-impact or high-impact, must be located inside an enclosed building.
40.225-C A medical marijuana dispensary must be located inside an enclosed building.
40.225-D A medical marijuana dispensary may not be located within 1,000 feet of another medical marijuana dispensary.
40.225-E Drive-through windows and drive-through lanes are prohibited for medical marijuana grower operations, processing facilities, dispensaries and research facilities.
40.225-F Medical marijuana grower operations, processing facilities and dispensaries must provide the following:

1. A ventilation/air filtration system that prevents odor from being detectible at the boundaries of the lot within which the building housing the medical marijuana grower operation, processing facility or dispensary is located, except that if such use is located in multiple-tenant building, the ventilation/air filtration system must prevent odor from being detectible outside the tenant space housing the use.

2. An electronic security system and surveillance camera.

40.225-G Medical marijuana grower operations, processing facilities, dispensaries and research facilities must be conducted and maintained in compliance with the license issues by the Oklahoma State Department of Health and in compliance with Oklahoma law, including but not limited to all applicable statutes, rules and regulations.

40.225-H No medical marijuana grower operation, processing facility, dispensary or research facility shall be permitted or maintained unless there exists a valid license, issued by the Oklahoma State Department of Health for the particular use at the particular location.

40.225-I The separation distance required under Section 40.225-D must be measured in a straight line between the nearest perimeter walls of the buildings (or portion of the building, in the case of a multiple-tenant building) occupied by the dispensaries. The separation required under Section 40.225-D shall not be applied to limit the location of a medical marijuana dispensary for which a license was issued by the Oklahoma State Department of Health prior to December 1, 2018 for the particular location.
SAMPLE MOTION:

Move to ________ (approve/deny) a Special Exception to permit a Low-impact Manufacturing and Industry Use in a CG district (Sec. 15.020, Table 15-2)

- 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.
Presentation:
Zach Downing, 2220 East 6th Street, Tulsa, OK; stated he owns the building that he would like to have a dispensary. Mr. Downing stated that he is not aware of any other dispensaries operating legally or illegally within the 1,000-foot radius.

Mr. Van De Wiele asked Mr. Downing if he knew where the nearest licensed holder and dispensary is located. Mr. Downing stated the nearest operating dispensary is located at 11th and Harvard, and the next nearest dispensary is located at 6th and Peoria.

Ms. Radney stated that she has personal knowledge of a business that is acting and looking like a dispensary located at 12th Place and Lewis Avenue, but it does not impact the applicant.

Mr. Van De Wiele asked Mr. Downing if he searched the OMMA list. Mr. Downing answered affirmatively. Mr. Downing stated there is one license outside of the 1,000-foot radius and the building is vacant.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On MOTION of ROSS, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we ACCEPT the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LOT 11 BLK 5, HILLCREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22692—Greenwood Wellness – Marvin Jones

Action Requested:
Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).
LOCATION: 1216 East Apache Street North (CD 1)

Presentation:
Marvin Jones, 8616 East 98th Street, Tulsa, OK; stated this location is at Peoria and Apache, and there are no dispensaries within the 1,000-foot radius that he is aware of.
Mr. Van De Wiele asked Mr. Jones where the closest operating dispensary or the closest licensed holder. Mr. Jones stated that the closest one he is aware of is 5,280 feet away and it is the Greenwood Cure at 1046 East Pine Street.

Ms. Radney asked Mr. Jones if that was just a licensee at 1046 East Pine Street. Mr. Jones stated that is his understanding.

**Interested Parties:**
There were no interested parties present.

**Comments and Questions:**
None.

**Board Action:**
On MOTION of ROSS, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we ACCEPT the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

S175 LTS 15 & 16 BLK 2 & S175 W20 E200 N250 NE SEC 25 20 12 .08AC, EMERSON ADDN, City of Tulsa, Tulsa County, State of Oklahoma

**22693—KKT Architects – Nicole Watts**

**Action Requested:**
Modification of a site plan previously approved in BOA-20556 to permit the addition of classrooms at Redeemer Covenant Church (Table 25-1). **LOCATION:** 5415 East 101st Street South (CD 8)

**Presentation:**
Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated this is an amendment to a previously approved site plan for a small building addition on the east side of the existing facility.

**Interested Parties:**
There were no interested parties present.

**Comments and Questions:**
None.

**Board Action:**
On MOTION of BOND, the Board voted 4-0-1 (Bond, Radney, Ross, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; absent) to APPROVE the request for a Modification
Subject property, location is currently Greenwood Wellness Medical Marijuana Dispensary

Intersection of Apache and Peoria from subject property
Facing South on Peoria from subject property
Subject Tract BOA-22856

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

Aerial Photo Date: February 2018