

SUBJECT TRACT:
CG ZONING EFFECTIVE 9/08/2020

PUD-843

PUD-131C

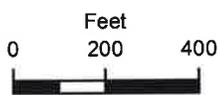
PUD-131E

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BOA-22986

4.1



**BOARD OF ADJUSTMENT
CASE REPORT**

STR: 9407
CZM: 39
CD: 5

Case Number: **BOA-22986**

HEARING DATE: 09/08/2020 1:00 PM

APPLICANT: Amanda Lowe

ACTION REQUESTED: Special Exception to permit a Horticulture Nursery Use in the CG district (Sec. 15.020, Table 15-2)

LOCATION: 10724 E 11 ST S

ZONED: CG

PRESENT USE: Variety of Commercial uses.

TRACT SIZE: 38999.43 SQ FT

LEGAL DESCRIPTION: Part of the West Half (W/2) of Lot One (1), MINGO VALLEY ACREAGE, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof, being more particularly described as follows, to-wit:

BEGINNING at a point 40 feet South and 170 feet East of the Northwest corner of Lot One (1), said point being on the South Right of Way of line of East 11th Street South; Thence East along said Right of Way line for 150 feet to the East line of said West Half (W/2) of Lot One (1); Thence South and along the East line of said West Half (W/2) of Lot One (1) for 260 feet; Thence West for 150 feet; Thence North 260 feet to the POINT OF BEGINNING.

RELEVANT PREVIOUS ACTIONS:

Subject property:

Z-7552: On 06.17.20 the TMAPC recommended approval of a re-zoning to CG and the City Council Subsequently **approved** the re-zoning on 07.09.2020. CG zoning Effective 9.08.2020

BOA-13911; On 01.23.86 the Board **approved** a Special Exception to allow building material sales (Use Unit 15) in a CS District.

BOA-13804; On 10.24.85 the Board **approved** a Special Exception to allow automobile sales in a CS District.

Surrounding properties:

Z-7535: On 02.19.20 the TMAPC recommended **denial** of a re-zoning from CS to IL w/ an optional development for the purposed of Medical Marijuana Cultivation, this decision was not appealed to City Council. Property located 1140 S. 107th E. Avenue.

BOA-18957: On 01.23.01 the Board **approved** a Special Exception to permit RV and Trailer sales in a CS District and a variance of the all-weather parking surface requirement, limited to one year. Property Located 10740 E 11th Street South.

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.

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 West of the SE/c of S. 107th E. Ave. and E. 11th Street South.

STAFF COMMENTS: The applicant is seeking a **Special Exception** to permit a Horticulture Nursery Use in the CG district (Sec. 15.020, Table 15-2)

Horticulture Nursery Uses are subject to the supplemental regulations of Sec. 40.225 if being used for Medical Marijuana Cultivation:

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 Horticulture Nursery Use in the 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.

Facing West on 11th Street



Subject property





Facing East on 11th Street

On **MOTION** of **CRADDOCK**, TMAPC voted **7-1-0** (Covey, Craddock, Kimbrel, Ray, Shivel, Van Cleave, Walker “aye”; Reeds, “nays”; none “abstaining”; Doctor, McArtor, Ritchey, “absent”) to recommend **APPROVAL** of the CH zoning for Z-7548.

Legal for Z-7548:

LT 1 & 2 BLK 3 CENTRAL PARK PLACE & S24.5 LT 3 BLK 15; LT 3 BLK 3, CENTRAL PARK PLACE, HODGE ADDN

6. **Z-7552 Stuart Van De Wiele** (CD 5) Location: East of the southeast corner of East 11th Street South and South 107th East Avenue requesting rezoning from **CS to CG**

STAFF RECOMMENDATION:

SECTION I: Z-7552

DEVELOPMENT CONCEPT: Repurpose existing building and property with expanded uses that may be allowed in a CG district. CG provides additional floor area opportunities and additional use opportunities.

DETAILED STAFF RECOMMENDATION:

CG zoning allows uses that are generally consistent with the Mixed-Use Corridor land use designation and,

The surrounding property has been developed with uses allowed in a CS district and a variety of special exceptions that allow light industrial uses in a CS district. CG zoning is generally consistent with that development pattern and,

The architectural style of the development in this area is like many light industrial development areas and the proposed zoning change the Mixed-Use Corridor land use designation for the area therefore,

Staff recommends approval of Z-7552 to rezone property from CS to CG.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The uses allowed in a CG zoning category allow more vehicular uses that are not currently allowed in the surrounding properties however many of the surrounding properties have been granted special exception uses for vehicular use categories. The mixed-use corridor

Land Use Vision:

Land Use Plan map designation: Mixed-Use Corridor

A Mixed-Use Corridor is a plan category used in areas surrounding Tulsa's modern thoroughfares that pair high capacity transportation facilities with housing, commercial, and employment uses. The streets 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. 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.

Areas of Stability and Growth designation: 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. 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.

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."

Transportation Vision:

Major Street and Highway Plan:

Multi-modal streets emphasize plenty of travel choices such as pedestrian, bicycle and transit use. Multimodal streets are located in high intensity mixed-use commercial, retail and residential areas with substantial

pedestrian activity. These streets are attractive for pedestrians and bicyclists because of landscaped medians and tree lawns. Multi-modal streets can have on-street parking and wide sidewalks depending on the type and intensity of adjacent commercial land uses. Transit dedicated lanes, bicycle lanes, landscaping and sidewalk width are higher priorities than the number of travel lanes on this type of street. To complete the street, frontages are required that address the street and provide comfortable and safe refuge for pedestrians while accommodating vehicles with efficient circulation and consolidated-shared parking.

Streets on the Transportation Vision that indicate a transit improvement should use the multi-modal street cross sections and priority elements during roadway planning and design.

Trail System Master Plan Considerations: None that affect this site.

Small Area Plan: None

Special District Considerations: Route 66 Overlay. This overlay designation changes sign standards but does not affect any uses.

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: *The site is currently occupied with a single-story office warehouse.*

Street View looking from northwest to southeast on next page.



Environmental Considerations: None that would affect site redevelopment.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>	
East 11 th Street	Secondary with Multi Overlay	Arterial Modal	100 feet	(6 lanes) 3 each direction with landscape median

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	CS	Employment	Growth	Retail
East	CS	Mixed-use corridor	Growth	Dollar General
South	CS	Mixed-use corridor	Growth	Mobile Home Park
West	CG	Mixed-use corridor	Growth	Commercial use with light industry approvals

SECTION III: Relevant Zoning History

ZONING ORDINANCE: Ordinance number 11812 dated June 26, 1970 established zoning for the subject property.

Subject Property:

BOA-13911 January 1986: The Board of Adjustment **approved** a *Special Exception* to allow retail, building material sales business with minor wholesaling in a CS District, per plot plan submitted, on property located at the southeast corner of 11th Street and 107th East Avenue.

BOA-13804 October 1985: The Board of Adjustment **approved** a *Special Exception* to allow automobile sales in a CS zoned district, subject to a maximum of 12 cars being parked on the northeast portion of the subject lot and said cars being parked no further south than the southern boundary of the restaurant, on property located at 10724 East 11th Street.

BOA-12976 January 1984: The Board of Adjustment **approved** a *Variance* of the required 100' setback from the centerline of 11th Street to 89' to allow for new construction in a CS District under the provisions of Section 1670, per plans submitted, on property located at the southeast corner of 11th Street and South 107th East Avenue.

Surrounding Property:

Z-7535 February 2019: All concurred in **denial** of a request for *rezoning* a .42± acre tract of land from CS to IL for a medical marijuana grow facility, on property located northwest corner of East 12th Street South and South 107th East Avenue.

PUD-843 February 2016: All concurred in **approval** of a proposed *Planned Unit Development* on a 4.37± acre tract of land for mixed-use/commercial, on property located west of the southwest corner of East 11th Street and S. Garnett Road.

BOA-21889 May 2015: The Board of Adjustment **approved** a *Special Exception* to permit Use Unit 15 (other trades & services), Use Unit 16 (mini-storage) in a CS District (Section 701), with the condition that all the Use Units referred both in 15, 16, 12, and 14 are referenced in the letter from Tanner Consulting dated May 26th, 2015, per conceptual site plan 3.8, on property located at 10880 East 11th Street.

BOA-20547 September 2007: The Board of Adjustment **approved** a *Special Exception* to permit automobile and allied activities (Use Unit 17) in a CS District (Section 701), with conditions: limited to tire/wheel sales and service, automotive repair except engine work, no portable signs in place on the property, no outside storage of materials, parts or equipment, all refuse placed in appropriate containers, approval for a period of five years, on property located at 10705 East 11th Street South.

BOA-19709 November 2003: The Board of Adjustment **denied** a *Special Exception* to permit Use Unit 17 uses in a CS District, a *Variance* of the setback from an R District from 12' to 0' to permit a building at the property line, and a *Variance* of required screening from an R District, finding it is an inappropriate use for cart blanc Use Unit 17 in this area, and finding a lack of hardship, on property located at northwest corner of East 11th Street and South 107th East Avenue.

BOA-19331 March 2002: The Board of Adjustment **approved** a *Special Exception* to permit a Use Unit 15 (electrical contractor) in a CS district, on property located at 10705 East 11th Street.

BOA-18957 January 2001: The Board of Adjustment **approved** a *Special Exception* to allow RV and trailer sales in a CS zoned district and a *Variance* of the required all-weather surface parking to allow gravel parking, for a period not to exceed one year from the date of this hearing, on property located at 10740 East 11th Street.

BOA-18668 March 2000: The Board of Adjustment **approved** a *Special Exception* to allow an electrical contractor business (Use Unit 15) in a CS district, on property located at 1136 South 107th East Avenue.

BOA-14951 October 1988: The Board of Adjustment **approved** a *Special Exception* to permit Use Unit 17 (automotive uses) in a CS zoned district, a *Variance* to allow open air storage and display of merchandise for sale within 300' of an R District, per site plan submitted, subject to Traffic Engineering approval for the location of storage racks on the north and east sides of the property, and subject to the sales business being limited to pick-up camper shells and accessories, finding that the original plot plan has been revised and the variance of the setback from the street to the east and the variance of the parking requirements is no longer needed, on property located at east of the northeast corner of 11th and 107th East Avenue.

BOA-13933 February 1986: The Board of Adjustment **approved** a *Special Exception* to allow an automotive custom repair and related sales facility in a CS zoned district and a *Special Exception* to remove the screening requirements where existing physical features provide visual separation of uses; finding that there are similar uses in the area and the automotive facility will be compatible with the neighborhood, and finding that the RS zoned property to the north that would require screening is actually vacant land and a creek, on property located at 10877 East 11th Street.

BOA-13517 April 1985: The Board of Adjustment **approved** a *Special Exception* to permit a car wash in a CS zoned district with the restrictions that the exterior building materials of the car wash be compatible with the abutting apartment complex, there will be an attendant on duty seven days a week from 8:00am to 10:00pm, and that it is built per plot plan submitted, on property located at the northwest corner of 11th Street and 107th East Avenue.

BOA-13350 November 1984: The Board of Adjustment **approved** a *Variance* to allow a guttering and roofing establishment in a CS zoned district, per plot plan submitted, finding that due to the unusual circumstances of the land (in regard to the flood plain developed), on property located at east of the northeast corner of 107th East Avenue and

11th Street, finding that the literal enforcement of the Code would result in an unnecessary hardship to the applicant

Z-5462 December 1982: All concurred in **approval** of a request for *rezoning* a 2.3± acre tract of land from CS/RS-3 to CG for a Use Unit 21-Outdoor Advertising to allow a larger sign, on property located east of the northeast corner of 11th Street and Mingo Valley Expressway.

BOA-12137 August 1982: The Board of Adjustment **approved** a *Special Exception* to allow a Use Unit 17 (muffler shop) in a CS District as described using tilt-up rock panels, subject to all work being performed inside, that all storage be inside with no outside storage being permitted, that refuse be placed outside in covered containers, and that no manufacturing of mufflers take place at the subject location, on property located at 10705 East 11th Street.

BOA-11993 June 1982: The Board of Adjustment **denied** a *Special Exception* to locate a muffler shop in a CS District, on property located at 10705 East 11th Street.

Z-5484 March 1981: All concurred in **approval** of a request for *rezoning* a 2.1± acre tract of land from CS/RS-3 to CG commercial, on property located east of the northeast corner of 11th and Mingo Valley Expressway.

BOA-11386 March 1981: The Board of Adjustment **approved** a *Special Exception* to permit a Use Unit 15 for other trades and services in a CS District and a *Special Exception* to waive the screening requirement on the north property line until such time that the north portion of the property is developed residentially or is sold, all subject to plans submitted, with the condition that no outside storage will be permitted, on property located at east of the northeast corner of 107th and 11th Streets.

BOA-11040 June 1980: The Board of Adjustment **approved** an *Exception* to permit an electrical contractor in a CS District with the screening fence to be constructed all around the building as drawn on the submitted plot plan, with access being also screened, (gates) as shown on the plot plan, no outside storage shall exceed the height of the screening fence, outside storage limited to lighting poles and arms, on property located at 10705 East 11th Street.

BOA-09990 June 1978: The Board of Adjustment **approved** an *Exception* to operate a retail glass outlet and an *Exception* to remove the screening requirement cannot be achieved, per plot plan, in a CS and RS-3 District, on property located at 10737 East 11th Street.

BOA-07212 November 1971: The Board of Adjustment **approved** a *Special Exception* to permit operating a sales and service of travel trailers (camping trailers) and articles incidental to recreation and camping activities, on property located at 10884 East 11th Street.

Z-3972 August 1971: All concurred in **approval** of a request for *rezoning* a 27.998± acre tract of land from CS to RM-1 for Multi-family, on property located southwest corner of 11th Street and Garnett Road.

Z-3854 February 1971: All concurred in **approval** of a request for *rezoning* a 1.8± acre tract of land from RS-3/CS to RM-2 for apartments, on property located north side 11th Street, east of Mingo Valley Expressway.

BOA-05814 March 1968: The Board of Adjustment **approved** a *Variance* of the permitted use provisions of U-3A to permit the erection of pumps, lights, and canopy for a service station, subject to the plot plan submitted, on property located at southwest corner of 107th East Avenue and 11th Street.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **COVEY**, TMAPC voted **8-0-0** (Covey, Craddock, Kimbrel, Ray, Reeds, Shivel, Van Cleave, Walker, "aye"; no "nays"; none "abstaining"; Doctor, McArtor, Ritchey, "absent") to recommend **APPROVAL** of the CG zoning for Z-7552 per staff recommendation

Legal for Z-7552:

Part of the West Half (W/2) of Lot One (1), MINGO VALLEY ACREAGE, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof, being more particularly described as follows, to-wit:

BEGINNING at a point 40 feet South and 170 feet East of the Northwest corner of Lot One (1), said point being on the South Right of Way of line of East 11th Street South; Thence East along said Right of Way line for 150 feet to the East line of said West Half (W/2) of Lot One (1); Thence South and along the East line of said West Half (W/2) of Lot One (1) for 260 feet; Thence West for 150 feet; Thence North 260 feet to the POINT OF BEGINNING.

Case No. 13909 (continued)

the business down; finding that it is evidenced by the advertising signs and yard displays that this is a business, and not a home occupation, operating on the property at this time; on the following described property:

Lot 10, Block 3, Crescent Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13910

Action Requested:

Variance - Section 240.2(a) - Permitted Yard Obstructions - Use Unit 1205 - Request a variance to allow a 6' roof overhang of a carport into the required yard, located at 7030 East 31st Street South.

Presentation:

The applicant, Bob Swanson, 2700 East 51st Street, Tulsa, Oklahoma, who submitted a location map (Exhibit H-1) and photographs (Exhibit H-2), informed that he is the architect for Woodlake Assembly of God and asked the Board to allow the roof of a carport to overhang the required setback. The proposed east wing will have a carport for loading and unloading passengers and only a portion of the roof overhangs the setback.

Comments and Questions:

Ms. Bradley asked if the carport will be located where construction is now in progress and Mr. Swanson answered in the affirmative.

Mr. Gardner pointed out that only 6' of the roof overhangs into the required setback.

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 4-1-0 (Bradley, Chappelle, White, Wilson, "aye"; Clugston, "nay"; no "abstentions"; none, "absent") to APPROVE a Variance (Section 240.2(a) - Permitted Yard Obstructions - Use Unit 1205) to allow a 6' roof overhang of a carport into the required yard; per photographs submitted; finding a hardship demonstrated by the irregular shape of the lot; on the following described property:

Lot 1, Block 1, Woodlake Village Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13911

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 15 - Request a special exception to allow a wholesale, retail, building material sales in a CS district; or

1.23.86:456(14)

Case No. 13911 (continued)

Use Variance - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 23 - Request a use variance to allow wholesale/retail exterior building material sales in a CS zoned district, located on the SE/c of 11th Street and 107th East Avenue.

Presentation:

The applicant, Robert Nichols, 111 West 5th Street, Tulsa, Oklahoma, who represented Forrest Siding Supply, a contract purchaser for the lot at the above stated location, submitted a plot plan (Exhibit 1-1) and explained that his client sells siding supplies primarily, with approximately 6% of the business wholesale. Mr. Nichols suggested that, if the Board determines that the special exception requested does not fit the business, a use variance may be needed to permit this operation in the CS zoned district under Use Unit 23. He remarked that this use is a lighter one than those in the surrounding neighborhood.

Comments and Questions:

Ms. Clugston asked if the railroad cars will be removed from the lot and Mr. Nichols replied that they will be moved from the lot and a new facility constructed.

Ms. Wilson inquired if this business is connected with the Green Country Siding Company to the east and Mr. Nichols answered that they are different businesses.

Mr. Jackere stated that the Board would have to determine if the wholesale is accessory to the retail or if the business is principally wholesale. If the case is the former it is by special exception and if the latter, by a variance.

Mr. Nichols stated that his client has informed him that 94% of the business is retail and 6% is wholesale.

Mr. Nichols commented that the business is now operating at 1350 North Louisville, but has outgrown that building and the owner would like to relocate on the subject tract.

Mr. Clugston asked if the new business will be conducted the same as the one that is now in operation on Louisville and Mr. Nichols replied that it is the same type of business and that his client would like to operate under Use Unit 15.

Mr. Garrlott, Code Enforcement, stated that his office would view the business as a Use Unit 15.

Ms. Wilson asked where the entrance to the parking lot would be located and Mr. Nichols informed that there are curb cuts on 107th East Avenue and 11th Street.

1.23.86:456(15)

Case No. 13911 (continued)

Mr. Nichols stated that he would like to withdraw the use variance request.

Board Action:

On MOTION of WILSON and SECOND by WHITE, the Board voted 5-0-0 (Bradley, Chappelle, Clugston, White, Wilson, "aye"; no "nays"; no "abstentions"; none, "absent") to APPROVE a Special Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 15) to allow a retail, building material sales business with minor wholesaling in a CS district; per plot plan submitted; finding that building material sales is compatible with the area and is in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

W/2 of Lot 1, Mingo Valley Acreage Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13912

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1217 - Request a special exception to allow a body shop in a CS zoned district.

Use Variance - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1217. - Request a use variance to allow a body shop because of the small portion of the lot which falls within a RS-3 zoned district, located at 4501 North Peoria Avenue.

Presentation:

The applicant, Raymond Reed, 5123 North Frankfort, Tulsa, Oklahoma, submitted a plot plan (Exhibit J-1) of a proposed body shop. He explained that a screening fence is not shown on the drawing, but one is planned in the back (east), one on the south side and a partial one on the north (from the back of the lot to the body shop).

Comments and Questions:

Ms. Wilson asked the applicant if there is a building on the lot at this time and he replied that there is not, but a 3,000 sq. ft. building will be constructed. Mr. Reed informed that he plans to employ 4 to 6 people and have the business open Monday thru Friday, 8 a.m to 6 p.m.

Mr. Gardner informed that the area is a mixture of light to moderate type usage and that the use proposed by the applicant is compatible with the neighborhood.

Mr. Reed stated that he intends to purchase the lot if the Board grants the special exception to allow the body shop.

1.23.86:456(16)

4.17

Case No. 13803 (continued)

street from 50' to 46' to allow for the construction of an addition to an existing structure, located at 5862 East 22nd Place.

Presentation:

The applicant, Ralph Hanson, 3719 South Wheeling, Tulsa, Oklahoma, submitted a plot plan (Exhibit F-1) for an addition to an existing structure. Mr. Hanson stated that he is extending the living room of a residence owned by Mr. and Mrs. Wyman Hart.

Comments and Questions:

Ms. Bradley asked if the extension of the living room will be 4' and the applicant replied that the addition will be 4' toward the street.

Protestants: None.

Board Action:

On MOTION of WILSON and SECOND by CLUGSTON, the Board voted 3-1-0 (Bradley, Chappelle, Wilson, "aye"; Clugston, "nay"; no "abstentions"; White, "absent") to APPROVE a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of setback from street from 50' to 46' to allow for the construction of an addition to an existing structure; finding a hardship demonstrated for the minor variance by the design of the house; on the following described property:

Lot 6, Block 6, Mary Francis Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13804

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1217 - Request a special exception to allow automobile sales in a CS zoned district, located at 10724 East 11th Street.

Presentation:

The applicant, Jim C. Vanderpool, 10724 East 11th Street, Tulsa, Oklahoma, asked the Board to allow him to sell used cars on his property at the above stated address.

Comments and Questions:

Ms. Bradley asked if there is an office and warehouse on the property and the applicant answered in the affirmative.

Ms. Wilson made inquiry as to what is located to the east of the subject tract. Mr. Vanderpool informed that there is a camper sales and service business east of his lot.

10.24.85:450(9)

Case No. 13804 (continued)

Mr. Gardner pointed out that the old railroad restaurant is in the northwest corner of the block and Mr. Vanderpool's land is in an L shape around the restaurant.

The applicant informed that he will have a maximum of 12 cars on the lot at any given time, and that the cars will be parked only on the front portion of the lot. He stated that he also operates Green Country Siding on the subject tract.

Protestants: None.

Board Action:

On MOTION of BRADLEY and SECOND by CLUGSTON, the Board voted 4-0-0 (Bradley, Chappelle, Clugston, Wilson, "aye"; no "nays"; no "abstentions"; White, "absent") to APPROVE a Special Exception (Section 710 - Principal Uses Permitted In Commercial Districts - Use Unit 1217) to allow automobile sales in a CS zoned district; subject to a maximum of 12 cars being parked on the northeast portion of the subject lot and said cars being parked no further south than the southern boundary of the restaurant; on the following described property:

The North 175' of the W/2 of Lot 1, Mingo Valley Acreage Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13805

Action Requested:

Special Exception - Section 440 - Special Exception Uses in Residential Districts - Use Unit 1215 - Request a special exception to allow a beauty shop as a home occupation, located at 3215 West 40th Street.

Presentation:

The applicant, Louise Ratliff, 3215 West 40th Street, Tulsa, Oklahoma, requested that she be allowed to use approximately 1/2 of her garage for a beauty salon. She stated that there will be no exterior changes to the house and she will have one station, with no employees. The applicant informed that she has adequate parking for her clients in the driveway of her home.

Comments and Questions:

Mr. Clugston inquired as to the hours of operation for the beauty shop. Ms. Ratliff replied that she would like to have it open from 9:00 a.m. until 7:00 p.m., thus providing evening service for the working women of the neighborhood.

10.24.85:450(10)

Case No. 18951 (continued)

lawful use exists, then the provisions of Title 42, which require that vehicles to be parked for display or sale on an all-weather material shall not apply to any non-conforming parking space that was constructed of a material other than all-weather material prior to July 1, 1970.

Interested Parties:

Sheryl Dyer, P.O. Box 14260, Tulsa, OK 74159-1460, stated she represented the Renaissance Neighborhood Association. She submitted a petition of disagreement (Exhibit E-3) signed by 43 neighbors and members of the neighborhood association, and a list of houses removed from the neighborhood (Exhibit E-4). She stated that she lives at 1122 S. Birmingham Pl., and as a resident she recognized that Mr. Bearden has been a long time business owner in their neighborhood association, and she does not want to make a hardship on him, but she would like to see the lot surfaced with black top or something.

Applicant's Rebuttal:

Mr. Bearden stated that the business has been at this location since 1925. He informed the Board that before they acquired the business and removed the house in about 1966, there was a parking problem along the street. He stated that this was his solution to that problem. He stated that they add gravel and grade it periodically, so that it is well maintained. He indicated that he was never informed to pave the lot. He stated that the ground absorbs the rainwater, and does not cause oily run-off as asphalt lots, or have potholes from asphalt deterioration.

The Board received a letter of opposition (Exhibit E-5) to this application from Councilor Gary Watts, District 4.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **DENY** Case No. 18951, finding it was unlawful non-conforming; and to **UPHOLD** the administrative official's determination.

Case No. 18957

Action Requested:

Special Exception to allow RV and trailer sales in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17; and a Variance of the required all-weather surface parking to allow gravel parking. SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located 10740 E. 11th St.

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Presentation:

Emmett Bean, 1880 E. 11th, stated he has owned the subject property for about 27 years, and operates his business there. He asked for more time to sell his merchandise and property, as they are in the process but it is taking longer than he would like.

Comments and Questions:

Mr. White asked what he thought would be a reasonable time to accomplish this. Mr. Bean suggested it would take about one year. Ms. Bean stated that 10880 E. 11th is the correct address.

Interested Parties:

Carolyn Harder, stated she represented the East Tulsa Mingo Valley Neighborhood Association, in support of the application, at least for a temporary variance. She indicated that Mingo Valley, Western Village, Wagon Wheel, and Magic Circle neighborhood associations were all in agreement to support this request. She suggested six months to one year.

Janet Miller, 1249 S. 105th E. Ave., stated she was also with East Tulsa Mingo Valley representation, and the Crescent Heights Neighborhood. She spoke in support of the application for the maximum time available. She informed the Board that his property was always well kept. She did not feel this variance would be a detriment to the community.

James Mautino, 14628 E. 12th St., from Tower Heights Neighborhood Association, spoke in support of the application. He considered one year to be a reasonable time limitation.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4 0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow RV and trailer sales in a CS zoned district, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and a **Variance** of the required all-weather surface parking to allow gravel parking, for a period not to exceed one year from the date of this hearing, finding that 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:

E/2 Lot 1 and N 20' vacated street adjacent on S, less N 40' for street, Mingo Valley Acreage, City of Tulsa, Tulsa County, State of Oklahoma.

6. **Z-7535 Bob Stinchcomb** (CD 5) Location: Northwest corner of East 12th Street South and South 107th East Avenue requesting rezoning from CS to IL with an optional development plan

STAFF RECOMMENDATION:

SECTION I: Z-7535

DEVELOPMENT CONCEPT: Repurpose a vacant building that was used for a rock-climbing training and recreational facility. The optional development plan does not provide additional development limitations other than the use limitations in Section II.

DETAILED STAFF RECOMMENDATION:

The Mixed-Use Corridor land use designation does not encourage light manufacturing or warehouse uses and,

The surrounding property has been developed with standards and uses allowed in a CS district and a variety of special exceptions that allow light industrial uses in a CS district and,

The architectural style of the development in this area is similar to many light industrial development areas and the proposed zoning change with the provisions of the optional development plan is consistent with the Mixed-Use Corridor land use designation for the area therefore,

Staff recommends approval of Z-7535 to rezone property from CS to IL with the optional development plan standards outlined in Section II below.

SECTION II: OPTIONAL DEVELOPMENT PLAN STANDARDS

The optional development plan standards will conform to the provisions of the Tulsa Zoning Code for development in an IL district with its supplemental regulations except as further refined below. All uses categories, subcategories or specific uses and residential building types that are not listed in the following permitted uses categories are prohibited:

PERMITTED USE CATEGORY

- A) PUBLIC, CIVIC, AND INSTITUTIONAL
 - Utilities and Public Service Facility (minor)
 - Wireless Communication Facility (includes all specific uses)

- B) COMMERCIAL
 - Animal Service
 - Boarding or shelter

Grooming
Veterinary
Broadcast or Recording Studio
Commercial Service (includes all permitted specific uses)
Financial Services (includes all permitted specific uses)
Office (includes all permitted specific uses)
Parking, Non-accessory
Restaurants and Bars
Restaurant
Retail Sales (includes all permitted specific uses)
Studio, Artist, or Instructional Service
Trade School
Vehicle Sales and Service (includes all permitted specific uses)

- D) INDUSTRIAL
Low Impact Manufacturing and Industry but only for a Low-Impact medical Marijuana Processing Facility use
- F) AGRICULTURAL
Horticulture Nursery but limited to indoor growing operations.

SECTION III: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The uses outlined in Section II are consistent with the Mixed-Use Corridor land use designation.

Land Use Vision:

Land Use Plan map designation: Mixed-Use Corridor

A Mixed-Use Corridor is a plan category used in areas surrounding Tulsa's modern thoroughfares that pair high capacity transportation facilities with housing, commercial, and employment uses. The streets 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. 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.

Areas of Stability and Growth designation: 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. 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.

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.”

Transportation Vision:

Major Street and Highway Plan: No special street designations have been assigned along any of the abutting streets.

Trail System Master Plan Considerations: As a part of the GO Plan, the part of East 11th Street South that connects with South 107th East Avenue is designated as a Bike Route with painted Bike lane, though the cross streets that give access to the subject property do not carry a trail and/or route designation.

Small Area Plan: There are no small area plans that require consideration in this area.

Special District Considerations: There are no special districts that require consideration in this area.

Historic Preservation Overlay: There are no historic preservation overlays that require consideration in this area.

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary: The existing site will not significantly change. An existing single-story building will be repurposed.

Street view from southeast looking northwest:



Environmental Considerations: There are no environmental considerations that would affect site re-development.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 12 th Street	Undesignated	50 feet	2
South 107 th East Avenue	Undesignated	50 feet	2

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	CS	Mixed-Use	Area of Growth	Addco Electric

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		Corridor		
South	CS	Mixed-Use Corridor	Area of Growth	Mobile Home Park/Accurate Fire Equipment Company
East	CS	Mixed-Use Corridor	Area of Growth	Mobile Home Park/ James Transmissions
West	CS	Mixed-Use Corridor	Area of Growth	A&A Mini Storage

SECTION IV: Relevant Zoning History

Staff Summary:

Of the Special Exceptions that have been granted for and around the subject property, most are now permitted by right in a CS district, although all of these previously approved uses (excluding the variance to allow a mobile home park in a CS district) are allowed by right in all other commercial and industrial zoning districts. These uses include: Self-service Storage facilities, Wholesale and distribution, Personal Vehicle Sales and Rentals, Building Services, Building Supplies and Equipment, Personal Vehicle Repair and Maintenance, Warehouses, Convenience goods, and Fueling Station. While the proposed zoning of IL would be limited to the of growing medical marijuana and uses that would be allowed in a commercial district, this use is classified Horticulture Nursery, which is limited strictly to Industrial zoning districts and Agriculture.

One of the key differences between commercial and industrial zoned districts is the allowance of light industry uses (such as manufacturing, horticultural nurseries, etc.) that would not be permitted in commercial. Though it could be argued that this area looks like an industrial district due to most of the uses permitted in CS also being permitted in industrial districts, it should be noted that the Special Exceptions that were granted were for activities that would have been permitted by right in CG and there has not been any action taken to rezone or request a Special Exception for any uses more intensive than what would be permitted in a commercially zoned district until now.

Commercial and Industrial districts have very different and distinct characteristics. According to our code, a CS district is “primarily intended to accommodate convenience, neighborhood, subcommunity, community, and regional shopping centers by providing a range of retail and personal service uses” and an IL district is “primarily intended to provide areas suitable for manufacturing, wholesaling, warehousing, and other industrial activities that have few if any adverse land use or environmental impacts”. Additionally, the subject property and surrounding properties within 300’ ft carry a land use designation of Mixed-Use Corridor. As outlined by the City of Tulsa’s Comprehensive Plan, Mixed-Use Corridors are described as “modern thoroughfares that pair high capacity transportation facilities with housing, commercial, and employment

uses” and land uses such as “multifamily housing, small lot, and townhouse developments, which step down intensities to integrate with single family neighborhoods.” By rezoning to IL, the land use intensity would effectively step up, which directly in conflict with the vision for this area set forth by the City of Tulsa’s Comprehensive Plan.

IL has a fundamentally different character to CS as a result of the additional, higher intensity uses that it allows that do not complement the spirit and character of this neighborhood in terms of zoning or land use.

ZONING ORDINANCE: Ordinance number 11812 dated June 26, 1970 established zoning for the subject property.

Subject Property:

BOA-10285 January 1979: The Board of Adjustment **approved** an *Exception* to permit Use Unit 15 in a CS District, subject to the building being a tilt-up concrete panel construction, earth-tone in color, and for warehousing and office combination, on property located at the northwest corner of 12th Street and 107th East Avenue.

Surrounding Property:

PUD-843 February 2016: All concurred in **approval** of a proposed *Planned Unit Development* on a 4.37± acre tract of land for commercial, on property located west of the southwest corner of East 11th Street and South Garnett Road.

BOA-21889 May 2015: The Board of Adjustment **approved** a *Special Exception* to permit Use Unit 15 (other trades & services), Use Unit 16 (mini-storage) in a CS District (Section 701), on the condition that all the Use Units referred both in 15, 16, 12, and 14 are referenced in the letter from Tanner Consulting dated May 26th, 2015, on property located at 10880 East 11th Street.

BOA-20871 February 2009: The Board of Adjustment **approved** a *Special Exception* to permit a mini-storage facility (Use Unit 16) in a CS district (Section 701) with the conditions that the new units be painted to match the existing storage units and have no open air storage, on property located at 10540 East 11th Street.

BOA-20056 June 2005: The Board of Adjustment **approved** a *Special Exception* to allow the sale of manufactured homes in a CS-zoned district within a mobile home park, on property located at 1211 South 107th Avenue East.

BOA-18957 January 2001: The Board of Adjustment **approved** a *Special Exception* to allow RV and trailer sales in a CS zoned district and a *Variance* of

the required all-weather surface parking to allow gravel parking for a period not to exceed one year from the date of the hearing, on property located at 10740 East 11th Street.

BOA-18668 March 2000: The Board of Adjustment **approved** a *Special Exception* allow electrical contractor business (Use Unit 15) in a CS district, on property located 1136 South 107th East Avenue.

BOA-13911 January 1986: The Board of Adjustment **approved** a *Special Exception* to allow a retail, building material sales business with minor wholesaling in a CS district, per plot plan submitted, on property located on the southeast corner of 11th Street and 107th East Avenue.

BOA-13804 October 1985: The Board of Adjustment **approved** a *Special Exception* to allow automobile sales in a CS zoned district, subject to a maximum of 12 cars being parked on the northeast portion of the subject lot and said cars being parked no further south than the southern boundary of the restaurant, on property located at 10724 East 11th Street.

BOA-12703 July 1983: The Board of Adjustment **approved** an *Exception* for storage and office space for electrical contractors in a CS zoned district, under provisions of Section 1680, with the condition that there be no outside storage at all, on property located at the southeast corner of 107th East Avenue and 11th Street.

BOA-11875 April 1982: The Board of Adjustment **approved** a *Variance* to allow a mobile home park in a CS District and a *Variance* of the setback from the west property line from 50' to 30' from 107th East Avenue, with a solid screening fence to be erected on the north property line, on property located at the northeast corner of 12th Street and 107th East Avenue.

BOA-11028 May 1980: The Board of Adjustment **approved** an *Exception* to permit automobile repair in a CS District, subject to the insertion in the lease that the property not be used for junk or salvage automobiles or any outside work or repair and that the Board be furnished a copy of the lease for the file, on property located at 10532 East 12th Street.

BOA-10798 November 1979: The Board of Adjustment **approved** an *Exception* to permit mini-storage buildings in a CS District and **approved** an *Exception* to remove the screening requirement where existing physical features provide visual separation of uses, per plot plan submitted, with the units painted earth tones, on property located at southeast of 11th Street and Mingo Valley.

BOA-10265 December 1978: The Board of Adjustment **approved** an *Exception* to use the property for Use Unit 15, other trades and services, per plot plan

submitted, for an office-warehouse, on property located southwest of 12th Street and 107th East Avenue.

BOA-10264 December 1978: The Board of Adjustment **approved** an *Exception* to permit Use Unit 15, other trades and services, the site to be used for warehousing and offices as presented, with the stipulation that the applicant return to the Board with his final plans prior to the issuance of a building permit, on property located at the southeast corner of 12th Street and Mingo Valley Expressway.

BOA-10208 November 1978: The Board of Adjustment **approved** an *Exception* to permit Use Unit 15 (other trades and services) in a CS District and a *Variance*, of the setback requirements from 25' to 0' on the south, per plot plan submitted, on property located south and east of 11th Street and Mingo Valley Expressway.

BOA-07774 February 1973: The Board of Adjustment found that a florist operation is permitted by right in a CS District and found the warehousing (storage) and wholesale activities to be accessory to the principal retail operation and permitted the use, on property located at 12th Street and Mingo Valley Expressway.

BOA-07212 November 1971: The Board of Adjustment **approved** an *Exception* to permit operating a sales and service of travel trailers (camping trailers) and articles incidental to recreation and camping activities, on property located at 10884 East 11th Street.

TMAPC Comments:

Applicant Comments:

Bob Stinchcomb 3609 East 31st Street, Tulsa, OK

Mr. Stinchcomb stated he has a medical marijuana dispensary at 31st and Yale Avenue and he stated he is very up to date and knowledgeable about the qualifications of things that is required to comply with OMMA. He stated this is not a facility that people will be coming in and out of other than employees. Mr. Stinchcomb stated there's no retail whatsoever in this particular location.

Ms. Kimbrel stated there are concerns about safety from the neighboring residents. She asked if he had talked to neighboring residents?

Mr. Stinchcomb stated "no", he had not.

Ms. Kimbrel asked if he had thought about ways to improve or modify the development area to address safety?

Mr. Stinchcomb stated growing is all they are going to be doing and they are not looking to do any other kinds of business. He stated the OMMA is quite detailed

in the information that they require the applicant to provide them to make the certifications necessary.

Mr. Ritchey asked if the applicant could take them through the daily operations such as shipping and receiving and what he expects the traffic to be in addition to just the daily workers,

Mr. Stinchcomb stated there would not be any outside people coming in or doing delivery. Mr. Stinchcomb stated he has done some development and research and has spent four and a half months in Israel a couple of years ago and this is really a passion for him because he sees it helping a lot of people and he is really excited about the opportunity to help.

Mr. Ritchey stated to help us kind of see the scale of this if he understands correctly the applicant is growing and then that product goes to the dispensaries. He asked if the applicant was taking it in a car or do, they bring a semi-truck and they're taking it tons at a time.

Mr. Stinchcomb stated it will be by car and you have to have a transport license. He stated there will an 8 foot fence around the property and they are required to have ventilation for the property.

Interested Parties:

Jennifer Rios 1211 South 107th East Avenue, Trailer #30, Tulsa, OK 74128

Ms. Rios stated she was the Manager of the Park East Mobile Home Park and has lived in this neighborhood for 13 years. She stated she has watched her neighborhood fall apart. Ms. Rios stated there is government housing addition behind the mobile home park that was formerly known as Sierra Point and is now known as Oak Brooks Crossing. She stated there is a lot of homeless people in the area and she gets phone calls from residents who need help dealing with the issues that arise with vandalism and homeless sleeping on porches or in storage sheds. Ms. Rios stated they had 4 vehicles stolen from their property last year and 4 home break ins. She stated this community is falling apart and needs help they don't need a medical marijuana dispensary. Ms. Rios stated Tulsa Public Schools just announced it cutting bus routes and transportation to the students so children will be walking further to school or will be using public transportation on East 11th Street. She stated the cars speed down the road and this is not safe for the children who are walking to school and Ms. Rios is asking that Planning Commission deny this request.

Mr. Shivel asked if the speeding cars are on 107th East Ave.

Ms. Rios stated "yes", there are speeding cars that come in and out of Sierra Point and you can hear the engines all the way into the office. She stated there is trash all over the place and if maintenance and herself didn't pick up the trash along South 107th East Ave. it would look like a landfill. Ms. Rios stated a Dollar

General store just opened and she had to put up an eight foot tall sheet metal fence that cost \$30,000 last year to keep the residents from the apartment complex from cutting through 11th and 12th Street and breaking into people's cars on their way to Dollar General.

Ms. Kimbrel asked if Ms. Rios has spoken with the applicant about her concerns?

Ms. Rios stated she believes the owner sent an email and she tried calling the number but didn't get any response.

Ms. Kimbrel stated so the applicant is not aware of the concerns.

Ms. Rios stated "no".

Mr. Stinchcomb stated he would like to say thank you to Ms. Rios for being concerned. He stated this is not a dispensary and there won't be any public coming into the facility. He stated his friends and his wife will be there. Mr. Stinchcomb stated there will be an eight foot fence that goes around the property that's required by the OMMA. He stated other requirements they will comply with is a video security system so there will be video of the persons causing the trouble in the neighborhood so they can be prosecuted. He stated it will be almost like Fort Knox. Mr. Stinchcomb stated they have a medical marijuana dispensary now and he is very familiar with the laws and the requirements that are necessary.

Mr. Craddock stated he had a few concerns. One of the main concerns is the mixed-use corridor that has been placed on this property and the need for IL zoning. He stated once again we are taking an area that the master plan calls for mixed-use corridor and are wanting to do different things to it. He stated the neighbors actually should be able to rely on the plan that is implemented for that area. Mr. Craddock stated he did not see a need to push this to the IL zoning and he doesn't think the change complies with the mixed-use corridor. He stated he doesn't support this application.

Ms. Kimbrel stated she agreed with Mr. Craddock's concerns. She stated from her understanding Planning Commission has to assess that the zoning not be injurious to the neighborhood and the surrounding community and she feels like there is ample evidence that this application could be injurious, and they are already dealing with a lot of concerns. Ms. Kimbrel stated she would like to have seen a little bit more engagement, response and support for addressing these concerns between the applicant and the surrounding community considering the issues that have been presented to us if we granted this zoning change.

Mr. Ritchey stated he wanted to clarify that the IL zoning request is with an optional development limiting the uses. He stated this state overwhelmingly said that medical marijuana is something they wanted and to him a medical marijuana grow facility would be the same as a medical prescription compounding

pharmacy or anything else that's going to have a use that probably is appropriate in CS. He stated however, zoning laws were created that said this can only occur in IL zoning. Mr. Ritchey stated he thinks a hybrid area was found of having IL with optional development. He stated he understands the concerns of residents but this is a legal business that the citizens of Oklahoma overwhelmingly voted for and the applicant has explained that there are no semi-trucks, they are not going to have hundreds of thousands of dollars in cash, tempting people to come in there and break in. He stated it's not open to the public and will be an 8AM-5PM nursery basically. Mr. Ritchey stated as long as he keeps seeing the optional development plans and knows that staff is taking a strong look, he will be voting in support of these moving forward unless he sees that it's just such a ridiculous thing that wouldn't even belong in a CS zoned area. He stated he certainly respected everyone's opinions and understands the concerns.

Mr. Craddock stated he understands the use but what he is looking at specifically at, again, modifying zoning areas and saying, let's just change it again. He stated this has been done for decades and the neighbors need to be able to rely on staff and Planning Commission to provide consistencies or we are going to end up with the same result again and again. Mr. Craddock stated it has nothing to do with the use of the product, but it's very specifically to do with what is being done to the neighborhood and trying to alter the zoning already.

Mr. Reeds stated while he agrees that there is an optional development plan on top of an IL and it's essentially the same as a CS or CG, which is what surrounds the subject property he believes this is spot zoning for the sake of getting a use that fits the needs of the owners proposed grow facility. He stated he doesn't have any objection to medical marijuana grow facilities and he supports the industry as well but he won't support this application because he feels like they are making it too easy.

Mr. Covey stated he will try to be consistent with how he voted in the past or at least the past few weeks. He stated he thinks a business at this location is fine whether its medical marijuana related or not he thinks it could be a stabilizing force for the neighborhood and any business that would provide jobs and help the neighborhood he thinks would be a good thing. Mr. Covey stated however, when medical marijuana was approved Planning Commission was presented with regulations that said if it was a growing facility it would only be allowed in existing IL or IM district. Mr. Covey stated what he has seen over the past few weeks and months is a up zoning approach, where there is a CS and the request is for IL with an optional development plan. He stated this is not how this was presented to Planning Commissioners when the regulations were enacted. Mr. Covey stated there's not a bit of IL zoning anywhere to be found on the zoning map where the subject property is located and he will second Mr. Reeds comments on spot zoning. Mr. Covey stated he would take this position going

forward with regard to matters similar to this one. He stated there is no IL zoning on the map and doesn't believe there should be IL zoning. Mr. Covey stated his vote is going to be no and if those regulations need to be looked at again in another capacity or something along that line then he is open to that but that's not how the current regulations were presented.

Mr. Ritchey asked staff if a dispensary allowed by right in CS zoning?

Staff stated "yes", it does have to go through the spacing verification but it is allowed.

Mr. Ritchey stated with the three types of businesses that exist surrounding medical marijuana the only one not allowed in CS is growing. He asked if there was anything that differentiates a large scale versus a small scale grow operation. Mr. Ritchey stated he understands we want to protect the residents; they should know what they're getting when they move into a neighborhood, but he thinks this maybe doesn't necessarily belong in IL only.

Staff stated it's not just medical marijuana that this would deal with it's also a horticultural nursery. He stated if you were growing tomatoes you couldn't do that here unless it was IL with a development plan.

Ms. VanValkenburgh stated Mr. Ritchey asked about the types of businesses that needed the IL zoning surrounding the medical marijuana and growing was mentioned but processing also needs Industrial zoning.

Mr. Ray stated there have been several of these applications lately and he has supported all of them that he could but he cannot support this one. He stated he thinks the IL portion of the optional development plan is being moved one block to close and he will be voting no.

TMAPC Action; 10 members present:

On **MOTION** of **CRADDOCK**, TMAPC voted **6-4-0** (Covey, Craddock, Doctor, Kimbrel, Ray, Reeds, "aye"; Ritchey, Shivel, Van Cleave, Walker, "nays"; none "abstaining"; McArtor, "absent") to **DENY** the rezoning to IL with the optional development plan for Z-7335.

* * * * *

7. **Z-7536 James Spoon** (CD 9) Location: South of the southwest corner of East 34th Street South and South Yale Avenue requesting rezoning from **OL** to **CS**

STAFF RECOMMENDATION:

SECTION I: Z-7536

I. Nature of Request

The Subject Property is located at 10724 East 11th Street, Tulsa, Oklahoma 74128.

The Subject Property is 39,000 sq. ft. and contains a single structure (approximately 20,000 sq. ft.) which is internally divided into eight (8) separate tenant spaces. There is one (1) two-story tenant space on the south end of the property that is used as a commercial office for an oil field service company. The remaining seven (7) tenant spaces consist of single story commercial spaces featuring a rollup garage door, small offices and an open shop floor; these spaces have historically been used by tenants for vehicle customization, boat repair, general contractors and various utility contractors, transmission repair facilities and similar uses.

The Subject Property is currently under consideration for being rezoned to Commercial General (CG) in order to align the zoning on the property with its current and historical uses.

This request is to allow for a special exception for Horticulture Nursery use on the Subject Property. The entirety of such use would be conducted indoors and would be conducted in full compliance with Oklahoma law and regulation as well as Tulsa Zoning Code requirements.

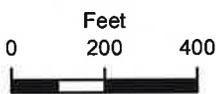
This request will be in harmony with the spirit and intent of the Zoning Code as the Zoning Code was recently amended to allow (by special exception) this type of use. Moreover, the rezoning will have gone through multiple layers of public hearing and review before the Tulsa Metropolitan Area Planning Commission and the Tulsa City Council. An approval of such rezoning is perhaps the best evidence of such harmony.

Given the nature of the business operations of being conducted entirely indoor, no direct sales to the public, and that all business traffic (which will be minimal) will be on and off of 11th Street, etc., there is no potential for injury to the neighborhood detriment to the public welfare.

II. Legal Description

Part of the West Half (W/2) of Lot One (1), MINGO VALLEY ACREAGE, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof, being more particularly described as follows, to-wit:

BEGINNING at a point 40 feet South and 170 feet East of the Northwest corner of Lot One (1), said point being on the South Right of Way of line of East 11th Street South; Thence East along said Right of Way line for 150 feet to the East line of said West Half (W/2) of Lot One (1); Thence South and along the East line of said West Half (W/2) of Lot One (1) for 260 feet; Thence West for 150 feet; Thence North 260 feet to the POINT OF BEGINNING.



Subject Tract

BOA-22986

19-14 07

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

Aerial Photo Date: February 2018



4.36

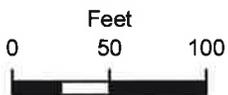


E 11th ST S

S 107 E AVE

E 11 PLS

E 12 STS



Subject Tract

BOA-22986

19-14 07

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

Aerial Photo Date: February 2018

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