

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1241
Tuesday, December 10, 2019, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Bond, Vice Chair Ross, Secretary Radney Shelton		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 December 5, 2019, at 8:20 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **BOND**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the October 22, 2019 Board of Adjustment meeting (No. 1239).

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today; Mr. Bond is on his way. Most motions the Board makes it will require an affirmative vote of three of the remaining four 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. Van De Wiele stated there are 26 items on this agenda. In those situations this agenda will take the balance of the afternoon so the Board will limit the applicant to five minutes for presentation, each interested party will be limited to three minutes, and the applicant will have a three minute rebuttal period; please be mindful of those time constraints. If the Board asks questions the time will be extended.

Mr. Bond entered the meeting at 1:07 P.M.

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UNFINISHED BUSINESS

22779—M D Haq

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: 6322 South Peoria Avenue East (**CD 2**)

Presentation:

Jessica Wright, 5440 South Boston, Tulsa, OK; stated a new exhibit has been provided to expand on the distance of the 1,000-foot minimum.

Mr. Van De Wiele asked Ms. Wright what the distance measured to. Ms. Wright stated the distance to the nearest dispensary is 1,072 feet.

Ms. Radney asked Ms. Wright who did the measuring for the distance. Ms. Wright stated that she performed the measuring.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 2.7 and the spacing exhibit that was provided today.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, 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 presently exist, 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:

LT 1 BLK 2, SOUTH PEORIA GARDENS RESUB PRT TOWNE PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22783—Tony Jordan

Action Requested:

Variance to reduce the required 25-foot rear setback in an RS-1/RS-2 District (Section 5.030, Table 5-3). **LOCATION:** 2407 East 26th Place South (**CD 4**)

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

This item was moved to the end of the agenda to allow the applicant time to arrive; for the following property:

PRT LTS 7 & 8 BEG 54.66W & 5S NWC LT 7 TH E280.72 S126.81 SW78.21 W78.21 S200 TO PT ON SL LT 7 CRVLF 26.65 SW125 TO SWC LT 7 CRVRT 41.15 NLY367.75 POB BLK 1, WOODY-CREST SUB, City of Tulsa, Tulsa County, State of Oklahoma

22792—Josh Kunkel

Action Requested:

Special Exception to permit a Large Commercial Assembly and Entertainment use (more than 250-person capacity) in an IL District to permit expansion of an existing gymnastics facility (Section 15.020-C). **LOCATION:** 7020 East 38th Street South (**CD 5**)

Ms. Shelton recused and left the meeting at 1:11 P.M.

Presentation:

Josh Kunkel, 2417 East Admiral Boulevard, Tulsa, OK; stated that there may have been a misunderstanding in the change of ownership. Aim High Academy has acquired the property in October 2016 from World of Gymnastics. Again, the use stayed the same, but the operation of the facility changed. The previous owners had large events and brought in bleachers but that is no longer the case. All of the large events are now held at the Cox Event Center because they are too large for the facility. Since the new owners have acquired the property there have been no known complaints or disputes between Aim High Academy and Belfour. The facility manager, Michelle, has been with the facility for 20 years spanning from World of Gymnastics to Aim High Academy. Aim High Academy is going to revise their current contract language to be more stringent regarding parking; only to park on Aim High Academy's parking lot. There will also be signage posted in the lobby stating that people are only to park in Aim High Academy's parking lot. Mr. Kunkel stated that Wednesday's are the busiest times for the most transition with classes, so he observed this after the last Board of Adjustment meeting. Between 6:15 P.M. on November 13, 2019 to 6:45 P.M., the peak of the transition, the lot was 70% full which is more than adequate parking spaces. There are 26 parking spaces required with the new addition and Aim High Academy has provided 61 parking spaces. Parking on the street is not included in the 61 parking spaces, and as of current day parking is allowed on the street. Aim High Academy's classes start in the late afternoon, so the many of the surrounding industrial uses hours of operation are approximately 7:00 A.M. to 4:00 P.M. or 8:00 A.M. to 4:00 P.M., and Aim High Academy largely operates in the evenings and the surrounding area is largely a ghost town.

Mr. Van De Wiele asked Mr. Kunkel what the typical class size is; what normally becomes a large event? Mr. Kunkel deferred to Ms. Patterson.

Interested Parties:

Jennifer Patterson, 7020 East 30th Street, Tulsa, OK; stated competitions are hosted at the Cox Business Center because there are over 1,000 children that come from different states. There has not been a competition at the subject site since January 2017. All that is held in the gym are regular classes that are approximately 50 to 100 children each hour, but they turn over each hour. The majority of those families just drop off the children, they do not stay and park.

Ms. Radney asked Ms. Patterson to explain how the parents would enter and exit the property. Ms. Patterson deferred to Ms. Holmes.

Michelle Holmes, 11415 East 62nd Place, Tulsa, OK; stated the cars enter from the west, travel through the parking, drop the children off at the door and leave from the east.

Ms. Radney asked Ms. Holmes if the area where the proposed tornado shelter is to be built is normally used for parking.

Josh Kunkel came forward and presented an exhibit to answer Ms. Radney's question. Mr. Kunkel stated that six parking spaces will be eliminated.

Ms. Radney asked if the bleachers had been removed. Ms. Holmes answered affirmatively. Ms. Holmes stated the bleachers were not permanent; they were brought in for one event.

Mike Phillips, 801 North 15th Street, Broken Arrow, OK; stated he owns the building to the west of the main academy. This is all about the parking and the children walking through an industrial area. The children walk through the area at night and there is very little lighting in the area. There is broken concrete in areas that the children might stumble on. Mr. Phillips stated that he looked at Aim High Academy's website and discovered that there is not only gymnastic training but birthday parties. He did have a meeting with the Belfour property manager and the manager did say there is no agreement with Aim High Academy; they have had a few incidents with the parking. Mr. Phillips stated he also met with Mr. Lynn Patterson who gave him a tour of the facility, and they discussed the situation. Mr. Phillips stated the plan has a Ninja center in it with a multitude of bathrooms and additional facilities. Mr. Phillips stated that the north side of the subject building is gigantic and has freight docks with stairway. The other area is the south area and if people are parking in the Belfour parking lot they could park in the south area of the subject property, though it is rather treacherous. Mr. Phillips read a contract that the gymnasium has parents sign. Mr. Phillips showed a picture of a parent and two toddlers walking at 7:09 P.M. past the Belfour entry because they had parked at the very west end of Belfour's parking lot.

Rebuttal:

Michelle Holmes came forward and stated that the parking policy that Mr. Phillips read has been revised and it has been circulated among the parents to make them aware of where they are allowed to park.

Ms. Radney asked Ms. Holmes when the new parking policy went into effect. Ms. Holmes stated the policy was e-mailed to the parents and they receive a copy every time they enroll with the start of each new session. Because of the seriousness of the issues the parking policy has been revised just recently.

Jennifer Patterson came forward and stated that all the birthday parties are held on Friday afternoons or evenings and on Saturdays. The birthday parties are scheduled one at a time only, and there is rarely a party that exceeds 25 to 30 children maximum, so the parking lot is never full for the birthday parties.

Lynn Patterson, 5516 West Orlando Circle, Broken Arrow, OK; stated he is here today to speak on behalf of AHA as a member of the Board of Trustees. He received notice from the architecture firm about the protest that had been lodged against the application for the Special Exception. Mr. Patterson stated that he has met with Mr. Phillips and he respects his coming forward and understands why he wants to protect his valuable property and protect their tenants. Mr. Patterson stated the protest bothered him

because of the language used in the protest, that being there were numerous complaints against Aim High Academy. As a Board Trustee there is a policy that in the event there is a policy breach in any respect the Executive Directors are to report that to the Board of Trustees who then can take immediate action. There were no reports made. Mr. Patterson stated he then met with Ms. Michelle Holmes and Ms. Jennifer Patterson and there was a long discussion. During the discussion it was confirmed that prior to October 2016, and before Aim High Academy's ownership of the property, the previous owners and the owner of Belfor had issues pertaining to parking disagreements. Subsequent to October 2016, the date Aim High Academy purchased the subject property from the Bradshaws, not one single complaint involving parking issues have been received by AHA from any representative of Belfor or from the owner of Belfor Properties or from any other entity. Ms. Holmes described the casual relationship that she had with Belfor as good in all respects, with no issues related to parking having ever been discussed between the parties except on two occasions; one of which concerned the blocking of AHA's dumpster and the other concerned a single request by Belfor to utilize AHA's parking spaces which was granted.

Comments and Questions:

Ms. Radney stated that her own family has a history of businesses that relate to small children, her mother operated two dance studios when she was a child. The family has also had day care centers, so this idea of ingress and egress and parents parking is something that she is intimately familiar with. Ms. Radney acknowledges that there may not have been official complaints by the neighbor but that does not negate the fact that there is a photo that is demonstrating that whether they complain or not, there is a continuing problem with the clientele for the gymnasium actually parking in places that are off site. She does not think anybody contests the fact that it is not a safe location for them to be, and to be walking. Ms. Radney stated she is sympathetic to and understands why the gymnasium wants to have the tornado shelter, there is a history of traumatic events that have occurred. She definitely can see why they want to make the investment and she does not see the loss of the six parking spaces as being that material; they would be able to continue using the building as a gymnasium by right if they were not making this modification. Ms. Radney stated that she is not going to say is satisfied with the arrangement that has currently been shared with the Board today about how to handle the parking situation; she is not satisfied with that.

Ms. Ross stated she agrees with a lot of what Ms. Radney said. She thinks she will vote in favor of the action that is requested because she does not think the six parking spaces will make a difference. It is more about communicating with the parents; there has to be signage directing people stating "AHA Parking Here Only" or something along those lines making it clear.

Mr. Bond stated he supports the application. When it comes down to six spaces versus installing a tornado shelter that will be used by a hundred children, he is going to err on the side of installing the tornado shelter. Mr. Bond sympathizes with the protestant, but this is a commercial area; the protestant has the ability to secure his parking lot.

Mr. Van De Wiele stated he agrees with Mr. Bond's position in this case. Mr. Van De Wiele stated that his thought would be that the Board has heard they do not do large events, and he would make that part of the motion. He is generally in support of the application for the reasons that Mr. Bond has stated.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-2 (Bond, Ross, Van De Wiele "aye"; no "nays"; Radney, Shelton "abstaining"; none absent) to **APPROVE** the request for a Special Exception to permit a Large Commercial Assembly and Entertainment use (more than 250-person capacity) in an IL District to permit expansion of an existing gymnastics facility (Section 15.020-C), subject to conceptual plan 4.6 of the agenda packet. There is to be no competitions occurring at the subject site. 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:

BEG 30S & 147.59W NEC SE SW TH W267.50 S215 E255.5 S215 E11.97 N430 POB SEC 23 19 13 1.3794ACS, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 1:41 P.M.

Mr. Chapman stated that he has spoken with the applicant in case BOA-22783, and the applicant stated he does not want to continue with the request.

22783—Tony Jordan

Action Requested:

Variance to reduce the required 25-foot rear setback in an RS-1/RS-2 District (Section 5.030, Table 5-3). **LOCATION:** 2407 East 26th Place South (**CD 4**)

Presentation:

The applicant was not present.

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"; "abstaining"; none absent) to **DENY** the request for a Variance

to reduce the required 25-foot rear setback in an RS-1/RS-2 District (Section 5.030, Table 5-3); for the following property:

PRT LTS 7 & 8 BEG 54.66W & 5S NWC LT 7 TH E280.72 S126.81 SW78.21 W78.21 S200 TO PT ON SL LT 7 CRVLF 26.65 SW125 TO SWC LT 7 CRVRT 41.15 NLY367.75 POB BLK 1, WOODY-CREST SUB, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22794—Tom Neal

Action Requested:

Special Exception to exceed allowable driveway width both within the street setback and within the right-of-way (Section 55.090-F3). **LOCATION:** 4002 South Columbia Place East (**CD 9**)

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated the property is located just north of Edison High School and post war large suburban lots of about ½ acre. The house is a 1950 ranch style with a small garage that does not accommodate the large cars of today. The homeowner will eventually like to expand the garage but now he would like to have a circular drive in the front and make the current two-car drive wider. The neighborhood does not have curbs but there are asphalt roads with a small ditch and culvert.

Mr. Van De Wiele asked Mr. Neal if it was the circular drive or the wider driveway on 40th that is exceeding the allowable? Mr. Neal stated that it is both.

Mr. Van De Wiele asked Mr. Neal if he heard of any issues raised by the neighbors. Mr. Neal stated that he is not aware of any.

Mr. Van De Wiele asked Mr. Neal if the house was on a dead-end street without a traditional cul-de-sac on either end of the street. Mr. Neal answered affirmatively.

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) to **APPROVE** the request for an **Special Exception** to exceed allowable driveway width both within the street setback and within the right-of-way (Section 55.090-F3), subject to conceptual plan 5.7 of the agenda packet. 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:

ALL LT 1 & E1/2 LT 2 BLK 2, DEATHERAGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22795—A-Max Sign Company

Action Requested:

Variance to permit two additional wall signs on the East elevation in an OL District with one street frontage (Section 60.060-B). **LOCATION:** 4436 South Harvard Avenue East (**CD 9**)

Presentation:

Brian Ward, A-Max Sign Company, 9520 East 55th Place, Tulsa, OK; stated the subject building has recently been remodeled on the front. Currently there are no tenants in the building. The request is to allow two additional wall signs. This particular building is addressed as 4436 in the front and 4438 in the rear of the building. The front part of the building contains approximately 2,800 square feet and the rear part of the building contains approximately 3,100 square feet. There is an existing monument sign and the plans are to remodel that sign listing the addresses of 4436 and 4438. What makes this property unusual is that the rear of the building has no visibility and no signage to identify the tenants in the rear. The request is for two 32-foot signs for each tenant, the one in the front and the one in the rear. There was a case approved in 2016 at 4408 South Harvard for the Utica Park Clinic, which is almost identical to this request.

Mr. Van De Wiele asked Mr. Ward if the signs are going to be lit. Mr. Ward answered affirmatively. Mr. Ward stated that what is being proposed is a sign with a metal background and cut out letters, so the only part illuminated at night would be the lettering.

Ms. Ross asked Mr. Ward if the signs would be on the east and west sides of the building. Mr. Ward stated that both signs would be on the east side of the building facing Harvard with the monument sign out on Harvard facing north and south for traffic.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that if this were a new monument sign, he would not vote in favor of it. The two 32-foot signs are not overly large, and they are not as intrusive as the signs that are closer to Harvard.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; "abstaining"; none absent) to **APPROVE** the request for a **Variance** to permit two additional wall signs on the East elevation in an OL District with one street frontage (Section 60.060-B), subject to conceptual plan 6.10 of the agenda packet. The Board has found the hardship to be the layout of the building and the building having two addresses. The existing monument sign shown on page 6.4 is to stay in addition to the two wall signs. 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:

N.90 OF S. 180 OF LT 3 BLK 2, VILLA GROVE PARK, City of Tulsa, Tulsa County, State of Oklahoma

22796—Royalty Buds

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: 107 North Lewis Avenue East (**CD 3**)

Presentation:

Ashlee Reamy, 107 North Lewis Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Ms. Reamy if she needed to space her dispensary before receiving a license. Ms. Reamy stated she already has a license.

Mr. Van De Wiele asked Ms. Reamy if she had provided a copy of the license. Ms. Reamy stated that she does not think so.

Mr. Van De Wiele stated the Board is in receipt of the applicant's spacing exhibit on page 7.9 of the agenda packet. Mr. Van De Wiele asked Ms. Reamy if she aware of any other license holder or operating dispensary within the 1,000-foot radius. Ms. Reamy stated she is not aware of any.

Mr. Van De Wiele requested that the applicant, should the request pass today, get a copy of dispensary license to INCOG.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, 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 presently exist, 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:

LT 14 BLK 4, OHIO PLACE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22797—Gibbs Green Delivery Service, Inc.

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: 4604 North Peoria Avenue East (CD 1)

Presentation:

Katherine and Andre Lark, 4604 North Peoria Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 8.9 of the agenda packet, and the spacing exhibit on page 8.5.

Mr. Van De Wiele asked Ms. Lark if she was aware of any other dispensary license holder or dispensary operating with the 1,000-foot radius. Ms. Lark answered no.

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 presently exist, 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:

BEG 65W & 40N SECR SE TH W140 N150 E155 S135 SW21.24 POB SEC 12 20 12 .531AC, City of Tulsa, Tulsa County, State of Oklahoma

22798—Mercedes Costeira

Action Requested:

Special Exception to allow a personal improvement use in an OM District to permit a hair salon (Section 15.020, Table 15-2). **LOCATION:** 10720 East 21st Street South (**CD 6**)

Presentation:

Mercedes Costeira, 3304 North Battle Creek Drive, Broken Arrow, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele if there would be any other activity going in the facility other than a hair salon. Ms. Costeira answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow a personal improvement service in an OM District to permit a beauty salon (Section 15.020, Table 15-2). 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:

N130 W140 E/2 E/2 NW NE LESS BEG NWC TH S75 NE55.91 E89.96 N50 W140 POB SEC 18 19 14 .25AC, City of Tulsa, Tulsa County, State of Oklahoma

22799—Baxter and Banks c/o Dirk Van Veen

Action Requested:

Special Exception to permit Low-impact Manufacturing and Industry Use in a CH District (Section 15.020, Table 15-2). **LOCATION:** 1111 South 79th Avenue East (CD 5)

Presentation:

Dirk Van Veen, Baxter and Banks, 814 East 3rd Street, Tulsa, OK; stated the property has CH zoning on three sides and CS zoning on the fourth side. Mr. Van Veen stated he processes third party edibles for other processors. There is low temperature cooking.

Mr. Van De Wiele asked Mr. Chapman if the designation of low impact in CH does not permit extraction but just a bakery. Mr. Chapman stated that it is the production of medical marijuana edibles using tinctures or oils that were extracted elsewhere.

Mr. Van De Wiele asked Mr. Van Veen if there had been any issues or contact with any surrounding property owners. Mr. Van Veen stated the only people he has met with is the restaurant supply across the street and they are in full support. He does not think the property to the south is occupied. The industrial grinding business seems to come and go on the north side.

Ms. Radney asked if the building to the south is a residence? Mr. Van Veen answered affirmatively but he is not sure that it is occupied. The lawn is maintained but he has never seen any people there.

Mr. Van De Wiele asked Mr. Van Veen if he would be using the red brick structure as his office. Mr. Van Veen answered affirmatively.

Interested Parties:

Blake Keeley, 1111 South 79th East Avenue, Tulsa, OK; no presentation was made but the interested party was available for any questions from the Board.

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) to **APPROVE** the request for a **Special Exception** to permit Low-impact Manufacturing and Industry Use in a CH District (Section 15.020, Table 15-2), subject to conceptual plan 10.9 and 10.10 of the agenda packet. 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:

S/2 NW NE NE NE LESS W50 FOR ST SEC 11 19 13, City of Tulsa, Tulsa County, State of Oklahoma

22800—Paul Emmons

Action Requested:

Special Exception to allow a Bed & Breakfast in the RS-3 District. (Section 5.020, Table 5-2). **LOCATION:** 1535 South Florence Place East (**CD 4**)

Presentation:

Paul Emmons, 1535 South Florence Place, Tulsa, OK; stated he would like to have a bed and breakfast that would accommodate two adults in the 200 square foot one-room garage attic apartment. The garage is situated at the rear of the house. The space currently serves as a guest room for visiting relatives and friends. Mr. Emmons stated that he did make an attempt to lease the space on a long-term basis, but it did not allow him the flexibility that short terms rentals would provide for his visitors. He has off street parking for renters who may have a vehicle. Mr. Emmons stated that he and his wife live in the residence and have no plans to rent the house for short or long-term rentals. The target market is for parents of Tulsa University students visiting the campus. It is his plan to use Airbnb web service to market the property, source customers, collect rents and taxes; basically, take care of the administrative tasks. Mr. Emmons would respectfully request the Board approve his request.

Mr. Van De Wiele asked Mr. Emmons if he said he lived on the property and plan to continue to do so. Mr. Emmons answered affirmatively.

Mr. Van De Wiele asked Mr. Emmons if the only portion of the property he is asking for the Special Exception is the garage apartment in the rear of the property. Mr. Emmons answered affirmatively.

Ms. Ross asked Mr. Emmons how many people the garage apartment sleeps. Mr. Emmons stated two.

Ms. Ross asked Mr. Emmons if he said the parking would be off street. Mr. Emmons answered affirmatively.

Interested Parties:

Victoria Holoman, 1543 South Florence Place, Tulsa, OK; stated that she agrees with and respects the wishes of the Emmons, but she lives two houses away from them and she is strongly opposed to granting the Special Exception because the street is already packed with parking. Ms. Holoman stated her house is one of the few houses on the street that has a two-car garage, so all the residents are forced to park on the street and multiple residences have multiple cars. There is also a concern of property values if this is granted.

Thomas Holoman, 1543 South Florence Place, Tulsa, OK; stated that one of the concerns of the neighborhood is how many parking spots are actually available at the back of the subject house. Just because a person has granted some parking for tenants does not mean that the person is parking on the street, and basically doing a tradeoff between the two.

Elaine Meek, 1920 South Florence Place, Tulsa, OK; stated she lives about three blocks south of the subject property and has lived there for almost 24 years. The houses in the neighborhood were built in the 1920s and the 1930s, and the houses have single land driveways. A lot of the residents have to park on the street. Merritt's Bakery is also located in the neighborhood and the employees have to park on the street also. The University of Wash is located on the corner of 15th and Florence Place, and a lot of the people using that facility have to park on the street; the facility's parking lot is hard to get into and out of or it is full. The residents like the business tenants in the neighborhood but the parking is a problem. The neighbor's concerns about this is the additional parking will create more traffic problems on the street.

Ron Ross, 1512 South Gary Avenue, Tulsa, OK; stated that Florence Park is one of the best preserved historic areas in the City of Tulsa. It is an area with really nice old homes. A bed and breakfast is nothing more than a motel in his opinion; a person drives up, unpack bags, stay the night, eat breakfast and leave. It is a motel. If a person wants a motel it should be in the correct zoning not in Florence Park.

Charlotte Lazar, 1914 South Evanston Avenue, Tulsa, OK; stated she feels that people should be able to do what they want with their property. She has nothing against the homeowners, but she has seen what some of the bed and breakfast places have done to Florence Park, and she does not want to see Florence Park saturated with them. Many of the early bed and breakfasts were party houses with a lot of people parking; they were misused. Ms. Lazar wants to know that someone's feet will be held to the fire so that it will not become a party house. Ms. Lazar stated that she too is concerned about the parking.

Mr. Van De Wiele stated that unless the application includes a request to have events on site, it is not part of this Board's approval.

Rebuttal:

Paul Emmons came forward and stated he has a two-car garage and he and his wife park both of their cars in the garage at night.

Ms. Radney asked Mr. Emmons if he intended to be on site when he has guests present. Mr. Emmons answered affirmatively.

Ms. Radney asked Mr. Emmons if he intended to require the guests park off street. Mr. Emmons answered affirmatively.

Mr. Bond asked Mr. Emmons if he had spoken to his neighbors about his plans. Mr. Emmons stated that he has spoken to the two people across the street and they are in support, the neighbor to the north is in support, and two other neighbors who are also in support.

Ms. Radney asked Mr. Emmons if there was a cooking facility in the apartment. Mr. Emmons stated there is a microwave in the apartment.

Ms. Radney asked Mr. Emmons if he had leased the garage apartment before. Mr. Emmons answered affirmatively.

Ms. Radney asked Mr. Emmons if he did not receive approval today would he likely consider re-leasing the apartment. Mr. Emmons answered no.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-1-0 (Radney, Ross, Shelton, Van De Wiele "aye"; Bond "nay"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow a Bed & Breakfast in the RS-3 District. (Section 5.020, Table 5-2), subject to conceptual plan 11.22 of the agenda packet. There is to be no parties, events, showers, etc. allowed at the garage apartment. There is to be no more than one vehicle allowed on the premises or on the street by someone renting the garage apartment. The main house is to remain owner occupied. The garage apartment is the only portion allowed to be rented, the house itself cannot be rented out through Airbnb. There is to be a two-year time limit on the approval of this Special Exception, December 2021. The garage apartment rental is to be limited to two occupants with at least one occupant who must be 18 years of age or older. 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:

LT 16 BLK 3, EXPOSITION HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22801—Terrance Lewis

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: 4735 South Memorial Drive. East, Suite C (**CD 7**)

Presentation:

Tammy Bailey, 6813 East 15th Street, Tulsa, OK; stated she represents Terrance Lewis.

Mr. Van De Wiele stated the Board has a copy of the applicant's approval letter for the license on page 12.8 of the agenda packet, and the spacing exhibit on page 12.9.

Mr. Van De Wiele asked Ms. Bailey if she was aware of any other dispensary license or any other operating dispensary within the 1,000-foot radius. Ms. Bailey answered no.

Ms. Shelton asked Ms. Bailey where the measurement was taken from because she is unable to tell from the exhibit. Ms. Bailey stated she used a site guide to determine the 1,000 feet.

Mr. Van De Wiele stated the dot designating the subject facility should be in the middle of the circumference.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, 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 presently exist, we **CONTINUE** the applicant's verification of spacing to permit a medical marijuana dispensary to January 14, 2020 Board of Adjustment meeting; for the following property:

N150 LT 4 BLK 2, JONES TRUCKING CTR, SECOND RESEARCH & DEVELOPMENT CTR RESUB, City of Tulsa, Tulsa County, State of Oklahoma

22802—Santale Cephus

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: 10301 East 51st Street South (CD 7)

Ms. Radney recused and left the meeting at 2:52 P.M.

Presentation:

Santale Cephus, 10301 East 51st Street, Suite F, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Cephus if he had his license yet. Mr. Cephus answered affirmatively. Mr. Van De Wiele asked Mr. Cephus to present a copy of the license to the INCOG staff if the Board is inclined to approve this request today. Mr. Cephus presented a copy of his license to the Board.

Mr. Van De Wiele stated the Board is in receipt of the applicant's spacing exhibit on page 13.8 of the agenda packet.

Mr. Van De Wiele asked Mr. Cephus if he was aware of any other license holder or another operating dispensary in the 1,000-foot radius. Mr. Cephus answered no.

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, Ross, Shelton, Van De Wiele "aye"; no "nays"; Radney "abstaining"; none absent) I move that based upon the facts in this matter as they presently exist, 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:

**LTS 5 THRU 20 & 15 VAC ALLEY BEG 5S NEC LT 5 TH W195 S240 E195 N240
POB BLK 54, ALSUMA, City of Tulsa, Tulsa County, State of Oklahoma**

Ms. Radney re-entered the meeting at 2:55 P.M.

22803—Ed Mackey

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: 2777 South Memorial Drive East (**CD 5**)

Presentation:

Tammy Bailey, 6813 East 15th Street, Tulsa, OK; stated she represents Mr. Ed Mackey.

Mr. Van De Wiele stated the Board is in receipt of the applicant's license on page 14.7 of the agenda packet and the spacing exhibit on page 14.3.

Ms. Ross asked Ms. Bailey if the license was expired. Ms. Bailey stated the license is not expired, but the new license will not be issued until this verification is approved.

Mr. Van De Wiele asked Ms. Bailey if she was aware of any other license holder or operating dispensary within the 1,000-foot radius. Ms. Bailey answered no.

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 presently exist, 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:

LT 10 LESS W10 FOR ST BLK 2, TRI CENTER, City of Tulsa, Tulsa County, State of Oklahoma

22804—Jesse Keefe

Action Requested:

Variance to allow a lot to have less than 50% open space (Section 80.020-B);

Variance to allow an accessory structure to exceed one story, 18 feet in height

overall & 10 feet in height to the top of the top plate (Section 90.90.C); Variance to

allow an accessory building to cover more than 30% of the rear setback (Section

90.090-C.2); Variance to allow accessory buildings to exceed 40% of the floor area of the principal structure (Section 45.030-B); Special Exception to allow an addition to a nonconforming structure (Section 80.030-D). LOCATION: 1611 South Trenton Avenue East (CD 4)

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated he represents the Keefes. The lot is a small nonconforming lot just off Cherry Street with an existing tiny house, about 800 square feet. The Keefe's would like to expand the house by adding a second floor which will go before the Preservation Commission as well. The homeowners would also like to replace the existing garage with a contemporary sized garage at the rear of the lot; there is alleyway access. The proposed garage will be about 24'-0" by 28'-0" which would allow two cars. The homeowners would also like to have their Grandmother, who currently lives in the house, live on the second floor of the accessory building. The current garage is forward more than the proposed garage will be, and the remaining 40% is mainly existing driveway that is already in place.

Mr. Van De Wiele asked Mr. Neal if the height Variances belonged to the principal house. Mr. Neal stated they did not.

Mr. Neal stated the main issue with the principal house is that it is too far forward; it is in line with the existing houses on the block but all of those do not meet contemporary required setbacks.

Mr. Van De Wiele asked Mr. Neal if he would be going farther out toward Trenton. Mr. Neal stated he would not. The existing house will simply be extruded upward, and the porch will remain a one-story porch as it is now.

Mr. Van De Wiele asked Mr. Neal if the garage after the rebuild would match the character, roofline, etc. of the principal structure. Mr. Neal answered affirmatively.

Mr. Van De Wiele asked Mr. Neal if the Board's approval is a predicate to the Preservation Commission. Mr. Neal answered affirmatively. Mr. Neal stated he did not want to spend their time until he knew if this would be allowed.

Ms. Shelton asked Mr. Neal if had any elevations. Mr. Neal stated that he did not because he wanted to receive approval from the Board first.

Mr. Van De Wiele asked Mr. Neal to state his hardship. Mr. Neal stated the hardship would be the size of the nonconforming lot and the fact that the existing house is so tiny.

Mr. Van De Wiele asked Mr. Neal if this sort of redevelopment is common in this area. Mr. Neal stated that directly across the street is a new building that went before the Preservation Commission that is several times larger than this proposal.

Interested Parties:

There were no interested parties present.

Questions and Comments:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to allow a lot to have less than 50% open space (Section 80.020-B); Variance to allow an accessory structure to exceed one story, 18 feet in height overall & 10 feet in height to the top of the top plate (Section 90.90.C); Variance to allow an accessory building to cover more than 30% of the rear setback (Section 90.090-C.2); Variance to allow accessory buildings to exceed 40% of the floor area of the principal structure (Section 45.030-B); Special Exception to allow an addition to a nonconforming structure (Section 80.030-D), subject to conceptual plans 15.13 and 15.14 of the agenda packet. The Board has found the hardship to be that this house preceded the Comprehensive Zoning Plan and all restrictions thereof. The south facing windows of the accessory building be opaque on the second floor. The accessory building finishes and accessories of the remodeled roofline is to match the principal structures, all predicated by approval from the Historic Preservation Commission. 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.

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:

LT 14 BLK 14, ORCUTT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22805—Homero Lopez

Action Requested:

Special Exception to exceed allowable driveway width both within the street setback and within the right-of-way (Section 55.090-F3). **LOCATION:** 5347 East 33rd Street South (CD 5)

Ms. Radney stated that in the course of her business as a realtor she wants to disclose that Mr. Lopez and herself have met before; it has been many years ago. She did not have any dealings one to one.

Presentation:

Homero Lopez, 5347 East 33rd Street, Tulsa, OK; stated he lives in a corner house and he would like to expand his driveway to a circular drive. He has six children who have started driving and two of them have cars.

Mr. Van De Wiele asked Mr. Lopez if he had heard from any of his neighbors. Mr. Lopez stated that he has not.

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) to **APPROVE** the request for a Special Exception to exceed allowable driveway width both within the street setback and within the right-of-way (Section 55.090-F3), subject to conceptual plan 16.7 and the pictures on 16.4 of the agenda packet. 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:

LT 8 BLK 2, YORKSHIRE ESTATES RESUB L2-4 B3 & ALL B4-13, City of Tulsa, Tulsa County, State of Oklahoma

22806—Okie Gold, LLC / Best Dispensary – Charles Sherwood

Action Requested:

Special Exception to allow Low-impact Manufacturing and Industry uses in the CH District (Section 15.020, Table 15-2). **LOCATION:** 1502 South Harvard Avenue East (**CD 4**)

Presentation:

Charles Sherwood, 1502 South Harvard, Tulsa, OK; stated that he would like to perform light manufacturing processing. He has invented products after receiving his Master's Certificate and has studied every plant from A to Z. He has spent over 1,500 hours in clinical research and trials from Israel. This has allowed him to come up with new products, one of which is a topical lotion. Mr. Sherwood presented exhibits and letters from interested parties that have no objections to his request.

Mr. Van De Wiele asked Mr. Sherwood if he would be performing extractions at the subject facility. Mr. Sherwood stated that he will not.

Mr. Van De Wiele asked Mr. Sherwood if he has a dispensary at the subject location. Mr. Sherwood answered affirmatively.

Mr. Bond asked Mr. Sherwood if there was an existing dispensary right behind his facility. Mr. Sherwood answered affirmatively. Mr. Bond asked Mr. Sherwood if that dispensary was his. Mr. Sherwood stated that it is not. Mr. Bond asked Mr. Sherwood if he knew who owned the other dispensary. Mr. Sherwood stated that it is Dr. Green.

Mr. Van De Wiele asked Mr. Sherwood when he received his dispensary license. Mr. Sherwood stated that it was October 30, 2018.

Mr. Chapman stated that both dispensaries received their state licenses before December 1, 2018.

Mr. Bond asked Mr. Sherwood what the manufacturing process would entail. Mr. Sherwood stated there would be no extractions, no propane, no CO2, or anything like that. Mr. Sherwood stated that most of the products are made with honey, some Everclear alcohol, and coconut oil, and the appliance used is an appliance that can be found in the home kitchen.

Interested Parties:

Craig Boilla, 7327 East 66th Street, Tulsa, OK; stated that he and Mr. Sherwood have been friends for quite awhile and he has neuropathy from his hips downward. Mr. Boilla read letters and submitted letters from interested parties that are in favor of Mr. Sherwood's request.

Bob Martin, 1514 South Harvard, Tulsa, OK; stated that Mr. Sherwood is definitely concerned about health and the cannabis issue is all about helping people to deal with chronic pain. Mr. Martin stated that he is favor of the request.

Comments and Questions:

None.

Board Action:

On **MOTION of BOND**, the Board voted 5-0-0 (Bond Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow Low-impact Manufacturing and Industry uses in the CH District (Section 15.020, Table 15-2). 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:

LTS 1 THRU 3 LESS BEG NWC LT 1 TH E140 S153.24 W15 N50 E5 N98.24 W130 N5 POB BLK 1, EXPOSITION HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22807—3 Leafs Dispensary

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: 2400 North Yale Avenue East – *Tenant Space: 2664 North Yale Avenue East (CD 1)*

Presentation:

Rachede Wilson, 10 West 50th Place North, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Wilson if he had been issued his license yet. Mr. Wilson stated that he does not because today's meeting is a requirement to receive it.

Mr. Van De Wiele stated the Board has the applicant's spacing exhibit on page 18.7 of the agenda packet.

Mr. Van De Wiele asked Mr. Wilson if he was aware of any other license holder or dispensary within the 1,000-foot radius. Mr. Wilson stated that he was not aware of any.

Mr. Van De Wiele asked Mr. Wilson if the closest dispensary, as shown on page 18.8, is Mary Jane's Tree House which is more than two miles away. Mr. Wilson answered affirmatively.

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 presently exist, 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:

BLK 1 LESS BEG NEC THEREOF TH S30 NW21.22 W35 N15 E50 POB & LESS BEG SWC THEREOF TH E130 N157 W130 S157 POB & LESS S50 E50 W170 BLK 1, SMITHDALE, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond left the meeting at 3:35 P.M.

22808—Shelby Swanson

Action Requested:

Special Exception to allow Low-impact Manufacturing and Industry uses in the CBD District in order to permit a coffee roasting business (Section 15.020, Table 15-2). **LOCATION:** 310 East 1st Street South (**CD 4**)

Mr. Bond re-entered the meeting at 3:37 P.M.

Presentation:

Shelby Swanson, 4634 South Trenton Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Ms. Swanson about the building was she was going to occupy. Ms. Swanson stated the building has a different spaces in it and she will be on the end of the building.

Mr. Van De Wiele asked Ms. Swanson about possible noticeable smells from the roasting process. Ms. Swanson stated that within about a 100 yards while the beans are being roasted people would be able to smell fresh coffee, but that would be all there is.

Mr. Van De Wiele asked Ms. Swanson how often she would be roasting. Ms. Swanson stated that it will be two or three times a week, possibly every day; she roasts two or three times a week in the current location but suspects it may increase based on the opening of the retail site.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow Low-impact Manufacturing and Industry uses in the CBD District in order to permit a coffee roasting business (Section 15.020, Table 15-2), subject to conceptual plan 19.6 of the agenda packet. 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:

E90 LT 6 BLK 86, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

22809—Weldon Bowman

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: 7 North Harvard Avenue East (CD 4)

Presentation:

Travis Harris, W Design, 815 East 3rd Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 20.7 and the spacing exhibit on page 20.8 of the agenda packet.

Mr. Van De Wiele asked Mr. Harris if he was aware of any other license holder or dispensary within the 1,000-foot radius. Mr. Harris stated that he was not aware of any.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, 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 presently exist, 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:

LT 7 LESS W5 HWY & N7 E133 LT 8 BLK 4, WALNUT PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22810—KKT Architects

Action Requested:

Variance to increase the maximum 35-foot building height in a Residential District (Section 5.030, Table 5-3); Variance to increase the maximum 32 square feet display area for sign serving a non-residential use in an R District (Section 60.050-B-2a). **LOCATION:** 131 East 31st Place South and 3137 South Boston Court East **(CD 4)**

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Suite 200, Tulsa, OK; stated this request was before the Board at the last meeting to receive a Special Exception for the use on the residentially zoned property. Ms. Watts stated she is back before the Board today for a Variance for the building height and sign requirements. If the building were in a commercial zoning the building and the signs would be in conformance. The sign is about 200 square feet and it is made of glass.

Ms. Shelton asked Ms. Watts why she did not present this at the last meeting. Ms. Watts stated there was a miscommunication among all the parties when GKFF put the first packet together. The intention was for it all to be together but there was a communication that was dropped.

Ms. Shelton asked Ms. Watts if there would be any additional request? Ms. Watts stated there would not.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to increase the maximum 35-foot building height in a Residential District (Section 5.030, Table 5-3); Variance to increase the maximum 32 square feet display area for sign serving a non-residential use in an R District (Section 60.050-B-2a), subject to conceptual site plan 21.33, 21.32, 21.34 and 21.35 of the agenda packet using 21.32, 21.34 and 21.35 for the conceptual elevations. The Board has found the hardship to be the nature of the building and the pre-approval for the entire surrounding area that has been planned for the Gathering Place Children's Museum. 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 that is part of the vacated plat of RIVER ACRES, an addition to the City of Tulsa filed as Plat #1416; AND a part of the vacated plat of RIVERDALE, an addition to the City of Tulsa filed as Plat #2626; AND a part of Lot 1 of Block 1 of 3200 RIVERSIDE DRIVE ADDITION, an addition to the City of Tulsa filed as Plat #2917; AND Lot 7, of the AMENDED PLAT OF PRISCILLA HEIGHTS ADDITION, an addition to the City of Tulsa, filed as Plat #1387, said plats filed at the office of the Tulsa County Clerk; AND a part of an unplatted tract lying adjacent thereto in the East Half (E/2) of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of the Northeast Quarter (NE/4) of Section 24, Township 19 North, Range 12 East of the Indian Base and Meridian in the City and County of Tulsa, State of Oklahoma, according to the U.S. Government Survey thereof, all of which being more particularly described by metes and bounds as follows : Commencing at the Northeast corner of said NW/4 of the NW/4 of the NE/4 of Section 24; thence due West along the North section line of said Section 24 a distance of 247.50 feet to a point; thence South 0°09'37" West a distance of 40.00

feet to the Point of Beginning, said point of beginning being the point of intersection of the Southerly right of way line of East 31st Street South and the East boundary line of said vacated plat of RIVER ACRES; thence due West along the said Southerly right of way line of East 31st Street South a distance of 478.15 feet to a point on the Easterly right of way line of South Riverside Drive, said point also being the Northwest corner of Block 1 of said vacated plat of RIVER ACRES; thence South 12°37'00" East along said Easterly right of way line of South Riverside Drive a distance of 288.29 feet to a point of curve; thence continuing along said Easterly right of way line of South Riverside Drive, along a curve to the right having a radius of 1519.39 feet and a central angle of 8°55'59" a distance of 236.89 feet to a point of tangency; thence continuing along said Easterly right of way line of South Riverside Drive, South 3°41'00" East, a distance of 75.00 feet; thence on a curve to the right having a length of 156.95 feet, a radius of 432.00 feet, a central angle of 20°48'58", a chord bearing of South 83°16'31" East, and a chord length of 156.09 feet to a point of tangency; thence South 72°52'02" East a distance of 487.75 feet to a point on the East line of line of Block 1, of said 3200 RIVERSIDE DRIVE ADDITION; thence North 00°16'26" East a distance of 221.35 feet to the Southeast corner of Lot 7, of said AMENDED PLAT OF PRISCILLA HEIGHTS ADDITION; thence North 00°16'26" East a distance of 50.00 feet to the Northeast corner of said Lot 7; thence North 56°59'58" West a distance of 88.26 feet to the North corner of said Lot 7; thence along a curve to the right having a length of 56.82 feet, a radius of 40.00 feet, a central angle of 81°23'19", a chord bearing of South 72°06'00" West, and a chord length of 52.16 feet to the Northwest corner of said Lot 7; thence North 26°42'52" West a distance of 54.02 feet to the Southeast corner of of Lot 8, of said AMENDED PLAT OF PRISCILLA HEIGHTS ADDITION; thence North 89°56'52" West a distance of 98.78 feet to the Southwest corner of said Lot 8; thence along the East boundary line of said vacated RIVER ACRES being the same as the West boundary line of said AMENDED PLAT OF PRISCILLA HEIGHTS ADDITION, North 0°09'37" East a distance of 400.66 feet to the Point of Beginning., City of Tulsa, Tulsa County, State of Oklahoma

22811—Roberta Rutledge

Action Requested:

Special Exception to permit a Bed and Breakfast use in an RS-3 District (Section 5.020, Table 5-2). **LOCATION:** 3615 East 15th Street South (CD 4)

Presentation:

Roberta Rutledge, 535 South Peoria, Tulsa, OK; stated the request is for a second family residence in an RS-3 District, sleeping up to eight for an Airbnb short term rental.

Mr. Van De Wiele asked Ms. Rutledge if she had any contact with neighboring property owners or neighboring property occupants. Ms. Rutledge stated she has spoken with the neighbors to the west and to the east, and there were no complaints.

Mr. Van De Wiele asked Ms. Rutledge how large the house is. Ms. Rutledge stated that it is about 1,800 square feet, two bedroom and one bath.

Mr. Van De Wiele asked Ms. Rutledge how she would sleep eight people in a two-bedroom, one bath house? Ms. Rutledge stated she would have a queen bed in one bedroom and two bunk beds in the other room, a hide-a-bed in the living room and an inflatable mattress for children.

Ms. Rutledge stated there would be no parties and no events.

Mr. Van De Wiele asked Ms. Rutledge if she had sufficient parking on site. Ms. Rutledge answered affirmatively. Ms. Rutledge stated there is an extensive driveway with parking in the front yard also; the front yard is fenced.

Ms. Rutledge stated she is hoping to cater to vendors from the Fair Grounds, contractors, Tulsa University students and people attending events.

Mr. Van De Wiele asked Ms. Rutledge if the front yard parking space was paved. Ms. Rutledge stated the space is not paved but it is matted. Mr. Van De Wiele stated that no one can park or drive on anything other than asphalt or concrete, so there is no yard parking.

Ms. Radney asked Ms. Rutledge if there was a turn-around near the garage in the rear. Ms. Rutledge stated she has a big truck, so she pulls into the driveway, backs into the yard and then pull out facing forward.

Mr. Van De Wiele asked Ms. Rutledge if there was room in the back for a car to turn around. Ms. Rutledge stated there is not an extended concrete pad but there is room.

Ms. Ross asked Ms. Rutledge how much she intended to rent the facility out for per night. Ms. Rutledge stated that she intends to charge about \$90.00 a night. She will have the place professionally cleaned each time someone checks out, and she will also have the place professionally landscaped.

Ms. Radney asked Ms. Rutledge if she would be opposed to a requirement to have a paved turn-around in the front yard. Ms. Rutledge stated she would not be opposed.

Ms. Radney asked Ms. Rutledge if she would be living on the property. Ms. Rutledge stated that she would not. Ms. Radney asked Ms. Rutledge what her occupancy plan will be. Ms. Rutledge stated she would be the contact through Airbnb and Ring Doorbell. Ms. Radney asked Ms. Rutledge how far away she lives from the subject site. Ms. Rutledge stated that she lives out quite a way, but her business partner lives at 27th and Peoria, and she has a cleaning person who lives about a mile away.

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) to **APPROVE** the request for a **Special Exception** to permit a Bed and Breakfast use in an RS-3 District (Section 5.020, Table 5-2). There is to be a limit to six-person maximum occupancy on the property. An all-weather surface is to be added so that cars do not back out onto 15th Street, and all parking will be required to be off-street parking. There is to be a four-year time limit on this approval, December 2023. 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:

W. 50 S. 145 OF LT-4-BLK-6, SUMMIT HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22813—Tracy K. Turner

Action Requested:

Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 5408 East 11th Street South (**CD 5**)

Presentation:

Tracy Turner, 5408 East 11th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Ms. Turner to tell the Board where the other dispensary or dispensaries are located thus causing the need for a Variance. Ms. Turner stated that to the west of her site there is another dispensary about four blocks away, about 879 feet away. To the east there is a dispensary that is 1,001 feet away. At the time she started all of this she was under the impression that the dispensary to the west was not going to open.

Mr. Van De Wiele asked Ms. Turner to state her hardship. Ms. Turner stated the hardship is that there is nothing in the area but car lots. On her side of the street there is a vintage mall, car lot, motel, car lot, car lot, strip mall, car lot, body repair, tire repair, car lot. There is no shopping in the area for anybody that lives in the area. Ms. Turner stated she has held an indoor flea market for the neighborhood so they could enjoy locally made goods; trying to bring shopping back into the area.

Ms. Radney asked Ms. Turner what her actual application date was. Ms. Turner stated that her application date for OMMA was August 13th. Ms. Radney asked Ms. Turner what her actual application date to the Board of Adjustment was. Ms. Turner stated she applied the day before the deadline, November 6th.

Mr. Van De Wiele asked Ms. Turner if she remembered when she made her application to the City for the zoning clearance. Ms. Turner stated it was September 12th.

Mr. Van De Wiele asked Mr. Chapman if the dispensary that is over 800 feet away has been spaced. Mr. Chapman stated that it is not subject to spacing. Mr. Van De Wiele asked Mr. Chapman if it had been one year since that license issuance to receive the Certificate of Compliance. Mr. Chapman stated that they have gone through City Permitting and they were in operation well before they received their Certificate of Occupancy, but as of the 22nd of November he saw that the permit had been released.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he has never been a big fan of nothing but car lots and used tire stores on 11th Street, but he is not convinced that can pose as a hardship. He is struggling with the hardship.

Ms. Radney thinks this complicated by the fact that the dispensary that is within the 1,000 feet is one of those special unicorns that has flown under the radar. The fact that they're there first in right has something to do with the fact that they did not have to come before the Board of Adjustment. This would be one those that she would be inclined to grant the Variance.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) to **DENY** the request for a Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) for lack of hardship; for the following property:

BEG 35S & 380.43E NWC NE NW ON EL ERIE AVE TH S200 E250 N200 W250 POB LESS N15 E90 THEREOF SEC 10 19 13 1.12AC, SMITHVILLE 2ND ADDN SUB L4-9 B1 SMITHVILLE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22814—Olsson, Inc. – Todd Lipe

Action Requested:

Special Exception to allow a school in an IM District. (Section 15.020, Table 15-2).

LOCATION: 1421 South Sheridan Road South (CD 5)

Presentation:

Todd Lipe, Olsson, Inc., 1717 South Boulder, Suite 600, Tulsa, OK; stated this property was the former PennWell facility located at the corner of 15th and Sheridan Road. Part of the property is zoned CH and the other portion is zoned IM. The application is to operate a school in the existing building and the IM zoning requires the Special Exception.

Mr. Van De Wiele asked Mr. Lipe what type of school this will be. Mr. Lipe stated the school is going to be a relocation of the existing Tulsa Honor Academy which will operate a middle school and a high school, charter school at this location.

Mr. Van De Wiele asked Mr. Lipe how many students will be at the school. Mr. Lipe deferred to Ms. Pollock.

Elsie Urueta Pollock, 1907 South Boston Avenue, Suite C, Tulsa, OK; stated she is the founder and Executive Director of Tulsa Honor Academy (THA). THA currently has 520 scholars serving grades 5 through 9. The academy currently operates in the old Burbanks Elementary School building and the school no longer fits in the facility. The middle school, which is a non-traditional middle school, so it is grades 5 through 8, is currently located in that building. There were no vacant Tulsa Public School (TPS) facilities. THA is a TPS authorized charter school and THA partners with TPS, and they lease THA any vacant buildings they may have but there were none. So, THA brought in a prefab school that was in Arkansas and it currently fits the 9th grade. Because the prefab only fits the 9th grade THA has to find one large enough for the high school, and this is the only facility that was found relatively close to the east side which is where most of the scholars come from. The plan is to start with the high school because there is no space for them. As the facility is developed THA will move all the students. At full enrollment the school will be at a minimum of about 900 students, maximum close to 1,000 students. The high school will be approximately 550 students, the middle school will be 400 to 440 students.

Mr. Van De Wiele asked Ms. Pollock if over a period of time will the school be operating in two locations. Ms. Pollock answered affirmatively.

Ms. Pollock stated charter schools are public schools; essentially, they are tiny independent school districts. Unlike traditional district schools THA does not receive any funding for facilities, so THA has to fund raise and take general operating funds to pay for the facility. Public schools already receive very limited funding and THA receives about \$.75 for every dollar that a traditional school district receives. So, it is taking THA sometime to build out the entire facility. THA has already raised the \$1.5 million dollars

to remodel the high school portion of the building and THA is currently executing a capital campaign. THA will have to raise a total of \$4 million dollars, but the plan is to have that raised and begin construction of the second portion of the building in the fall of 2022. For approximately two or three years it will just be the high school.

Mr. Van De Wiele asked Ms. Pollock how much of the building is located within the CH zoning district and how much of it is located in the IM zoning district. Mr. Lipe stated about a third of the south portion of the building is located in CH.

Mr. Van De Wiele asked Mr. Lipe why he didn't rezone the property rather than request a Special Exception. Mr. Wilkerson stated there was no conversation about that as an option.

Ms. Pollock stated that 95% of the students qualify for a reduced lunch; 95% of the scholars are students of color; 85% of the students are Hispanic; the school serves the largest group of Hispanic students out of any public school in the Tulsa metro. THA also has 78% of the students qualify as bilingual students; many of the students, either themselves or their parents are immigrants. The school serves a very needy population. This year THA was the only middle school in the metro that received an "A", which means that the top 3.6% of schools receive an "A". A student does not have to have good grades to get into the school. The students that start with THA in the 5th grade are two and a half grade levels behind. The students are making exceptional gains, and this is a quality school. The school needs a building to keep working with the families. At this point there is no other option in terms of where the children will go for the next school year.

Mr. Van De Wiele asked Ms. Pollock why she did utilize one of the closed TPS facilities when they come online rather than this option. Ms. Pollock stated that there was no TPS announcement until last week and she had already made a lot progress on the subject facility. Also, there is only one school, Jones, in East Tulsa that was under capacity and that facility is very small so it would not be large enough for the high school. The reason Jones is being closed is that even though it was under capacity, but the quality of the building is dilapidated. TPS is able to save funds by moving the students into nearby elementary facilities rather than spend money on a facility that is no longer suitable for use.

Interested Parties:

Katherine Sebert, 1510 South 75th East Avenue, Tulsa, OK; stated she lives about ½ mile from the PennWell building. She is the President of Moeller Heights Neighborhood Association, and she has spoken with her contacts in Moeller Heights and Leisure Lanes and everyone has agreed that this will be a positive usage. Ms. Sebert stated she posted the notice on NextDoor.com which is a way for neighborhoods to communicate, and if anyone had any negative comments they would be here today, they are not.

Randy Wright, 8824 East 37th Place, Tulsa, OK; stated he owns the property just south of the subject site. He is afraid the school will put limitations on his rental property,

a small shopping center, as to who he can lease to. When he purchased the shopping center there were no limitations on who he could lease to. He would never put drugs over education, but he does have a dispensary in the shopping center currently. What will happen with that?

Mr. Van De Wiele asked Mr. Wright if his property was directly south of the subject site. Mr. Wright answered affirmatively. Mr. Van De Wiele stated he has had conversations with INCOG staff and with City Legal, and he does not want to give legal advice, but his understanding is that the state law says a dispensary cannot be within 1,000 feet of a school even if the dispensary is there first, properly licensed, properly spaced, duly opened and running. If a school opens up within a 1,000 feet of a dispensary it is his understanding that OMMA will give the dispensary 30 days to vacate.

Mr. Wright stated that from a business standpoint, he cannot see marijuana dispensary waving their flag 300 feet from the school opening, but is there a way the dispensary can stay in the shopping without curbside advertising? Mr. Van De Wiele stated this has now come to the point where he would have to give legal advice, but there are lawyers in the rear of this room that are for hire. Mr. Van De Wiele stated that from the City Zoning Code standpoint there are certain businesses, adult entertainment facilities, are prohibited within certain distances from schools. Therefore, it would limit the potential tenant pool.

Barbara Medford, 2816 East 89th Street, Tulsa, OK; stated she represents the property owners directly to the east of the subject site in the CH zoning, a retail strip center. They too have some of the same concerns. There is not a dispensary or anything like that, but there are traffic concerns. How will the traffic impact strip center and what will their limitations be for leasing to others? Ms. Medford asked if a Special Exception has different restrictions than a rezoning of the subject property? Ms. Medford stated the property owners are not opposed to the proposed use, but they are concerned.

Mr. Wilkerson stated that it is a use limitation not a zoning limitation. Mr. Van De Wiele stated there is not a difference if it were zoned school zoning versus industrial zoning.

Rebuttal:

Elsie Urueta Pollock came forward and stated that there is no doubt that there will be a higher traffic count in the morning and in the afternoon when children are being dropped off or picked up. One of the things that was very appealing about the subject facility is that the parking lot is 350 car spaces and that will not be used. There has been numerous discussion about how the lot can be designed so that buses and cars can drive through thus limiting the traffic on major streets. The first day of school is August 4th so the goal is to start construction in late January. The timeline would allow for the owner with the dispensary ample time to find another location before the site starts operating as a school.

Comments and Questions:

Mr. Bond stated he is highly in support of this application.

Ms. Radney stated this is the best likely use for the space, to repurpose it.

Ms. Ross stated she will vote in favor of this application. She thinks it is exciting to hear about what is being done with the children and about the school.

Ms. Shelton stated she is in favor of this application, but she has major reservations about the site planning. She thinks this is a great location, but she hopes the school considers how they allow traffic to flow through the site. The curb cuts located at 15th and Sheridan are a concern.

Todd Lipe came forward and stated there is no immediate plans to close the two curb cuts at the intersection. The entrance to the school will not be where the old PennWell entrance is located, the entrance will be in the back. Due to budget constraints the school is not wanting to close the subject curb cuts on the corner, however, all student, parent and bus access will be off either Sheridan or 14th Street, not 15th and not at the intersection. The entry will be into the parking lot on the north side of the building and the bus circulation will come through the parking lot and exit on Sheridan.

Mr. Chapman stated that anything that will be accomplished through a subdivision plat, the applicant has to demonstrate that has been accomplished already, so that includes a review of the infrastructure including sidewalks. Also, Traffic Engineering will look at access points and Traffic Engineering could request that the applicant restrict some access points, especially that close to the intersection.

Mr. Wilkerson stated that there is nothing in the Subdivision Regulations or Zoning Code that would prohibit the existing configuration today. So, there is nothing the nothing the Traffic Engineering or Engineering could really rely on.

Ms. Pollock stated that the school has discussed about placing chains across the curb cuts so parents cannot enter on the corner. The school takes their scholars safety very seriously.

Mr. Van De Wiele stated that in looking at the standard of is this detrimental to the neighborhood he would say no, but it is clearly going to be detrimental at least one member of the neighborhood.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a school in an IM District (Section 15.020, Table 15-2), subject to conceptual plan 24.7 of the agenda packet. The ingress and egress for student pick up and drop off be prohibited from entering at the existing curb cut on East 15th Street and the existing most southern curb cut on South Sheridan Road. And to

include future modifications and improvements commensurate with school amenities, with no further Board of Adjustment approval required. 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:

SW SW NW LESS N30 & S40 & W50 N590 S630 FOR STS LTS 7 & 8 BLK 7 WREN PARK ADD ARE INCLUDED HEREIN SEC 11 19 13 6.334ACS; W130 SE SW NW LESS N30 & S40 FOR STS SEC 11 19 13 1.761ACS, City of Tulsa, Tulsa County, State of Oklahoma

22815—Eller & Detrich – Lou Reynolds

Action Requested:

Variance to permit a drive-thru ATM facility to be located at the front, street-facing side of the property (Section 55.100-C). **LOCATION:** 3516 East 31st Street South (CD 9)

Ms. Ross left the meeting at 4:56 P.M.

Presentation:

Lou Reynolds, 2727 East 21st Street, Suite 200, Tulsa, OK; stated the request is to allow an ATM on the front street facing side of the building. The lot is the former Eddy's Restaurant, and the lot is 124'-0" wide and 280'-0" deep. The building is under construction; 35,000 square foot building.

Ms. Ross re-entered the meeting at 4:58 P.M.

Due to the depth of the lot and the single access drive there are limited options for orientation of the building. Basically, the tenant spaces are stacked north to south as opposed to single store fronts on 31st Street. The back of the building has been leased to an Orthodontist, a credit union has a lease on the north end, and there are negotiations going on for a retail tenant. The ATM will be served by a drive-thru aisle and will be accessible by pedestrians. The hardship for the request is the narrowness and the depth of the lot, and the resulting linear building layout of a multi-tenant building. The building is about 80 feet from the street and will set behind the strip shopping center to the west.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for an **Variance** to permit a drive-thru ATM facility to be located at the front, street-facing side of the property (Section 55.100-C), subject to conceptual plan 25.11 of the agenda packet. The Board has found the hardship to be the layout of the existing property and the building is unique to the structures in the area. 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:

W125 E200 LT 2 LESS N15 THEREOF FOR STREET, ALBERT PIKE 2ND SUB, City of Tulsa, Tulsa County, State of Oklahoma

22816—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit alternative compliance parking ratios in an RM-2 District (Section 55.050-K) to reduce the required number of parking spaces for an apartment use. **LOCATION:** 3320 East 37th Street South (**CD 9**)

Presentation:

Lou Reynolds, 2727 East 21st Street, Suite 200, Tulsa, OK; stated he represents Mr. Tim Yardy. Mr. Reynolds stated the request for an alternative parking ratio is based on a parking study that is provided in the Zoning Code. The building is built to the street on 36th Street and 37th Street, and the building is built to the street on Indianapolis. The

dumpster has been screened that is on the 37th Street side. There is ¼ mile of multi-family zoning, from 36th Street to 38th Street on the west side of Indianapolis. There is almost an 1/8 mile of multi-family zoning in the east side of Indianapolis. The parking study was done from the eight projects that are on the west side of Indianapolis, and the four that are on the east side of Indianapolis. The study was conducted five times, between October 15th and November 6th at 7:00 A.M. and 7:00 P.M. by Camille Saunders of W Design. There was a neighborhood meeting last week and one of the neighbors requested a count to be taken in the middle of the night. That count was performed at 9:00 P.M. The results were virtually similar. What was shown is that the apartments to the north of 36th Street has 19 units with 16 parking spaces, which is about 34% Variance between today's Code and what exists. At 7:00 A.M. there were eight vacancies, and at 7:00 P.M. there were eleven vacancies, and at 9:00 P.M. there were six vacancies. Moving through the apartments it can be seen that the vast majority of them has parking that does not comply with the Code at an average between 30% to 50%, and that the parking is about 50% vacant most all the time. There is a state of flux through the entire neighborhood with the twelve different projects. Academic data was also looked at from Urban Land Institute from the Institute of Transportation Engineers, referring to academic data accounting for the existence of surplus parking spaces is a growing trend, and the existing parking minimums are too high. These findings in the study are consistent. There are three transit stops within a ½ mile; one on 31st Street, one on Harvard, and one on 41st, and there is another one at 41st and Yale. This is very unique for Tulsa to be that well served. Much of the parking areas in the vicinity of the project are underutilized. This will not cause any adverse effect on traffic. This will not cause any adverse effect on the neighborhood or the residents. Mr. Reynolds respectfully request the Board approve this request.

Interested Parties:

Randall Hauch, 3647 South Harvard Avenue, Tulsa, OK; stated he is the neighbor to the north. He thinks the apartment will be great for the neighborhood, but he disagrees with the parking study. A lot of the apartments being dealt with are low income with no cars because the residents walk through his parking lot daily. Mr. Hauch stated the Enclave Apartment is a very nice apartment complex located at 41st and Peoria, and it appears there is a parking problem. Every night there is five to ten cars in the old Village parking lot. This is what he concerned about with the reduced parking spaces.

Charles McBride, 6169 South Richmond Avenue, Tulsa, OK; stated he is the owner/broker of Bailey-Foristell which is a property management company; he manages the shopping center located at 3711 South Harvard. Mr. McBride stated he is in favor of the project. While there are a lot of tenants in the apartment buildings that walk the increased revenue will make everyone's property values rise. There is very little parking on Indianapolis, whether it is morning, noon or night. There is more than enough street parking to make up for the shortage that is projected. He does not find the ratio of one parking space per bedroom to be accurate today particularly with new complexes. Mr. McBride stated he is in favor of the project and thinks it will be fantastic for the neighborhood.

Jennifer Harmon, 3523 South Louisville Avenue, Tulsa, OK; stated she is with the neighborhood association and is an alert neighbor captain, and the association supports the project. Ms. Harmon stated that the neighborhood appreciates that Mr. Yardy and Mr. Reynolds hosted a gathering at the library for the residents. Overall everyone expressed that they wanted the project to move forward. The projects that Mr. Yardy has invested in for the neighborhood has led to a heightened demand for young professionals, and the residents appreciate that.

Tim Yardy, 3541 South Rockford Avenue, Tulsa, OK; stated that he has improved the clientele of the street. If a person is a young professional just out of college and want to live in midtown there are not many options. His target is young professionals and most of the people he spends time with and socialize with do not want to own cars; they use Uber and Lyft. This is a generational change in the number of vehicles owned. He is not targeting the people that have two cars because those people are normally in a house.

Tammy DeAngelos, 3207 East 34th Street, Tulsa, OK; stated she lives in the historic Ranch Acres Neighborhood and is a resident and property owner. She has many rental properties and businesses in Tulsa specifically along the Harvard corridor. Ms. DeAngelos stated that her father resides at the Luxor Condominium Complex; he is an owner. She was not able to attend the meeting last week, but she has met with Mr. Yardy and was introduced to the project. The homes in Ranch Acres, while they are historic, are very impacted by Harvard Avenue. The proposed building will be very tall, and the top story will look into the back yards of those houses, and the roof tops of the buildings on Harvard in front of the proposed building. She studied the project and looked at the area properties and realized there are other properties that do the same thing. She is in favor of progress, but she does have concerns. She disagrees with the parking study. Ms. DeAngelos is concerned about what the City has planned for the Harvard corridor because she thinks the potential parking will be an impact on Indianapolis, and the ingress and egress onto Indianapolis, Harvard, 36th Street and 41st Street. There will be 44 cars coming and going which is a concern. Ms. DeAngelos stated that she would like to rescind her letter of objection and have it a letter of concern.

Rebuttal:

Lou Reynolds came forward and stated that he believes the parking study meets the obligations of Section K in the Zoning Code, and there will not be a negative impact on safety. He does not believe it will have a negative impact on the neighborhood.

Ms. Radney asked Mr. Reynolds if he had any comments on the suggestion that the other multi-family units are servicing either a more affordable housing or subsidized housing and the applicability of their parking patterns to something that is going to be more of a market rate? Mr. Reynolds stated the complexes that are housing the lower income people, they ebb and flow.

Mr. Van De Wiele asked Mr. Reynolds if the MidTowner plan is for 30 one-bedroom units and three two-bedroom units. Mr. Reynolds answered affirmatively. Mr. Van De

Wiele asked how it came to require 44 parking spaces. Mr. Reynolds stated the 30 units is time 1.25 parking spaces. Mr. Van De Wiele asked Mr. Reynolds if, ultimately, he is asking for one parking space per unit. Mr. Reynolds answered affirmatively.

Comments and Questions:

Mr. Van De Wiele stated that he believes the parking study shows that not even one parking space per unit, maybe, but it would seem that one space per unit would be sufficient. Young professionals not owning cars is becoming a newer way of living.

Mr. Bond and Ms. Ross both stated they are in support of the project.

Ms. Radney stated that she is not confident in the parking study but nor does she agree that 44 parking spaces are required. Ms. Radney stated she is in favor of the project.

Ms. Shelton stated that she is in favor of the project, but she thinks it is not just the reduction in parking it is also the diversity of transportation options.

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) to **APPROVE** the request for an **Special Exception** to permit alternative compliance parking ratios in an RM-2 District (Section 55.050-K) to reduce the required number of parking spaces for an apartment use, subject to conceptual plans 26.9 and 26.10 of the agenda packet. 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:

LT 24 BLK 2; LT 23 BLK 2; N10 LT 21 & ALL LT 22 BLK 2, 36TH STREET SUBURB, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

OTHER BUSINESS

None.

* * * * *

NEW BUSINESS

None.

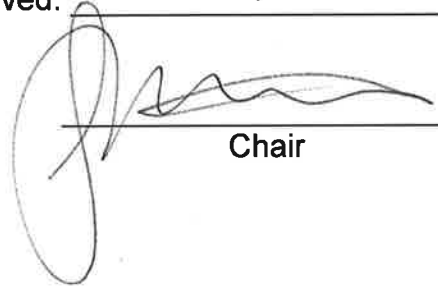
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BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 5:47 p.m.

Date approved: 2/11/2020 _____

 _____
Chair