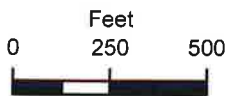


**SUBJECT TRACT**

**BOA-22886**



**BOARD OF ADJUSTMENT  
CASE REPORT**

STR: 9431  
CZM: 49  
CD: 7

Case Number: **BOA-22886**

**HEARING DATE:** 06/23/2020 1:00 PM (*Continued from 06/09/2020*)

**APPLICANT:** JR Donelson

**ACTION REQUESTED:** Variance of the Parking Area Design Standards to permit an existing gravel parking lot (Sec. 55.090)

**LOCATION:** 5630 S 107 AV E; 5628 S 107 AV E

**ZONED:** IL

**PRESENT USE:** Mulch Sod Sales and Landscaping

**TRACT SIZE:** 107737.39 SQ FT

**LEGAL DESCRIPTION:** LTS 3 & 4 LESS N60 E200 LT 3 & LESS BEG NWC LT 3 TH E314.89 SW162.53 S161.47 W296.76 N322.92 POB FOR HWY BLK 2; N60 E200 LT 3 BLK 2, GOLDEN VALLEY

**Subject Property:** None

**Surrounding Properties:**

**BOA-22886;** This requesting is a ***pending*** Variance request for the same relief sought by the subject the applicant to be heard on 4/14/20. Staff anticipates more requests of this nature along 107<sup>th</sup> E Ave between E 56<sup>th</sup> St S and E 61<sup>st</sup> St S. City of Tulsa Code enforcement has issued several notices of violation along 107<sup>th</sup> that are in violation of Sec. 55.090.

**BOA -18280;** The Board approved a variance of the all-weather surfacing requirements for a period of 2 years ending 01.12.2001. Property locate approximately 1,200' S of the SE/c of E 56<sup>th</sup> St S and S 107<sup>th</sup> E Ave.

**BOA-14124;** On 7.10.86 the Board ***approved*** a variance of the screening requirements and the off-street parking design standards. Property located 5845 S 107<sup>th</sup> E. Ave.

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:** The Tulsa Comprehensive Plan identifies the subject property as part of an area of "Employment " and an "Area of Growth".

**Employment** areas contain office, warehousing, light manufacturing and high tech uses such as clean manufacturing or information technology. Sometimes big-box retail or warehouse retail clubs are found in these areas. These areas are distinguished from mixed-use centers in that they have few residences and typically have more extensive commercial activity. Employment areas require access to major arterials or interstates. Those areas, with manufacturing and warehousing uses must be able to accommodate extensive truck traffic, and rail in some instances. Due to the special transportation requirements of these districts, attention to design, screening and open space buffering is necessary when employment districts are near other districts that include moderate residential use.

6.2

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

Included in your packets are photos of the storm drains along 107<sup>th</sup> E. Ave. immediately outside of the subject property. The requirement for an all-weather parking surface predates the improvements of 107<sup>th</sup> E. Avenue.

**ANALYSIS OF SURROUNDING AREA:** The subject tract is located S of the SW/c of E 56<sup>th</sup> St S and S 107<sup>th</sup> E Ave.

**STATEMENT OF HARDSHIP:**

Request for Variance:

We have operated Tulsa Sod & Mulch at the above location since November 2001. We have cleaned and made great improvements to our property since 2001 . We have installed concrete in the business parking locations and gravel is in the drive lanes leading to our landscape materials.

The Golden Valley subdivision, located east of Highway 169 is zoned industrial with approximately 20 businesses. Many of these businesses were operating prior to the City of Tulsa paving South 107<sup>th</sup> E. Ave. in 2015. To require our business and the other existing businesses in Golden Valley to comply with 'All weather' parking/driving surfaces is unrealistic. The City of Tulsa Zoning Code should have taken into consideration existing businesses such as ours when adopting a 'All off-street parking areas must be surfaced with a dustless, all-weather surface' policy.

Leaving our drive lanes gravel will not adversely affect surrounding properties. The intended purpose of reducing dust can be achieved with our 'Dust Abatement Program' for our business. It is impractical for my existing business and my neighbors to close and install an 'All Weather Surface'. The property to the west of this site is Highway 169, being 15 feet higher in elevation. Granting the 'Variance' will not change the character of the addition or will in no way cause detriment to the public. Granting the 'Variance' will in no way impair the purpose of the zoning code or the comprehensive plan.

**STAFF COMMENTS:** The applicant is requesting a **Variance** of the Parking Area Design Standards to permit an existing gravel parking lot (Sec. 55.090). This request would permit the existing gravel

parking areas and drive lane that do not conform to the surfacing requirements, striping requirements of geometric standards for parking areas. A copy of Sec. 550.090 is included in your packets.

**SAMPLE MOTION:**

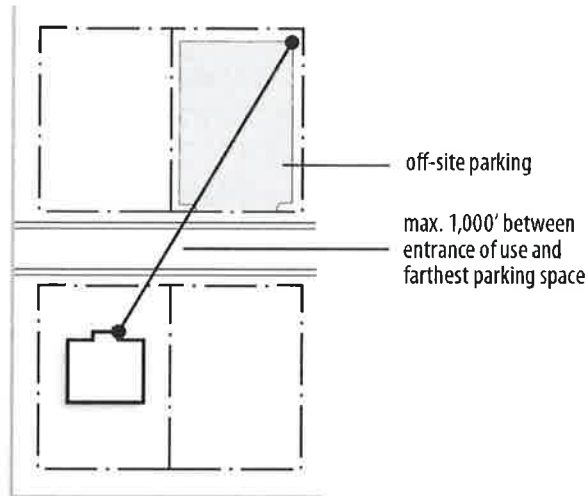
Move to \_\_\_\_\_ (approve/deny) a **Variance** of the Parking Area Design Standards to permit an existing gravel parking lot (Sec. 55.090)

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

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."*

Figure 55-4: Off-Site Parking Location



**3. Design**

Off-site parking areas must comply with all applicable parking area design regulations of [Section 55.090](#). Off-site parking proposed to take place on a newly constructed parking area must comply with the PK district lot and building regulations of [§25.030-C](#).

**4. Control of Off-Site Parking Area**

The property to be occupied by the off-site parking facilities must be under the same ownership as the lot containing the use to be served by the parking. The off-site parking area may be under separate ownership only if an agreement is provided guaranteeing the long-term availability of the parking, commensurate with the use served by the parking. The agreement must be filed of record in the county clerk's office of the county in which the property is located. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this chapter.

**Section 55.090 Parking Area Design**

**55.090-A Applicability**

The parking area design regulations of this section apply to all off-street parking lots for motor vehicles, whether containing required parking spaces or non-required parking spaces.

**55.090-B Ingress and Egress**

All parking areas must be designed to allow vehicles to enter and exit a street and cross public sidewalks in a forward motion, except that this requirement does not apply to lots with access on a minor street.

**55.090-C Stall Size**

Parking spaces must be at least 8.5 feet in width and 18 feet in length, exclusive of access drives and aisles. In parking areas where permanent wheel stops have been

installed, 2.5 feet of the parking space length (depth) beyond the wheel stop may be counted as part of the required stall length if that area is unobstructed and not part of another parking stall, drive aisle or sidewalk.

**55.090-D Parking Area Layout (Geometrics)**

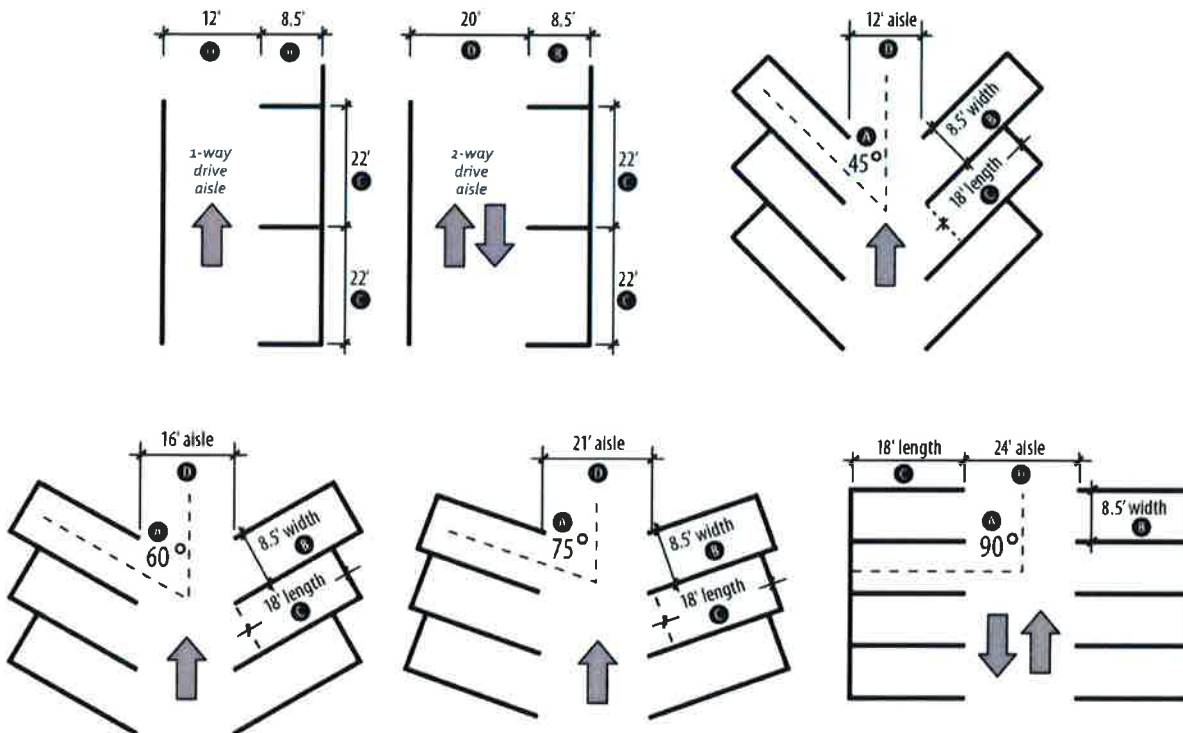
Parking areas must be designed and marked in accordance with the dimensional standards of [Table 55-5](#), which shows minimum dimensions for various parking layouts (angles). Requirements for layouts or angles not shown in [Table 55-5](#) may be interpolated from the layouts shown, as approved by the development administrator.

*Table 55-5: Parking Area Geometrics*

0°	8.5	22.0	12.0/20.0
	9.0	22.0	12.0/20.0
45°	8.5	18.0	12.0/20.0
	9.0	18.0	11.0/19.0
60°	8.5	18.0	16.0/21.0
	9.0	18.0	15.0/20.0
75°	8.5	18.0	21.0/22.0
	9.0	18.0	20.0/21.0
90°	8.5	18.0	-/24.0
	9.0	18.0	-/22.0
	10.0	18.0	-/20.0

= Stall Angle, = Stall Width, = Stall Length, = Aisle Width (1-way/2-way)

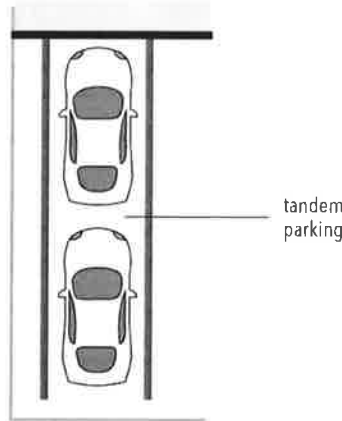
*Figure 55-5: Parking Area Geometrics*



**55.090-E Tandem Parking**

Tandem parking spaces may be used to satisfy parking requirements for household living uses when the spaces are assigned to the same dwelling unit. In all other cases parking spaces must be designed to allow each parking space to be accessed without passing through another parking space. Tandem parking arrangements must have a minimum stall of 8.5 feet and a minimum length of 36 feet.

Figure 55-6: Tandem Parking



**55.090-F Surfacing**

1. All off-street parking areas must be surfaced with a dustless, all-weather surface unless otherwise expressly stated in this zoning code. Pervious pavement or pervious pavement systems are allowed subject to the supplemental regulations of Section 55.090-F.4. Parking area surfacing must be completed prior to initiation of the use to be served by the parking.
2. All motorized vehicles designed for travel upon public streets and that are being parked, stored or displayed for sale must be parked, stored or displayed on dustless, all-weather surface. This surfacing requirement does not apply to junk or salvage yards. The board of adjustment is authorized to grant a special exception permitting the storage or display of motorized vehicles on a surface other than one consisting of a dustless, all-weather surface if the location complies with all applicable minimum building setbacks.
3. In RE and RS zoning districts, driveways serving residential dwelling units may not exceed 50% of the lot frontage or the following maximum widths, whichever is less, unless a greater width is approved in accordance with the special exception procedures of Section 70.120, or, if in a PUD, in accordance with the amendment procedures of Section 30.010-1.2. (Refer to the City of Tulsa Standard Specifications and Details for Residential Driveways #701-704).

Maximum Driveway Width

Lot Frontage	75'+	60' - 74'	46' - 59'	30' - 45'	Less than 30' [2]
Driveway Within Right-of-Way (feet) [1]	27'	26'	22'	20'	12'
Driveway Within Street Setback (feet)	30'	30'	--	--	--

[1] Maximum width applies to the composite of all driveways if multiple curb cuts are provided.

[2] Provided that for lot frontages less than 24 feet, a driveway up to 12 feet in width is permitted.

6.7

For approvals granted under the terms of the zoning code in effect prior to January 1, 2016, including (1) variances of maximum driveway coverage measured by width, square footage or percentage of yard and (2) establishment of PUD development standards that increase the maximum permitted driveway coverage measured by any such means, the foregoing maximums do not apply.

4. Pervious pavement or pervious pavement systems, including pervious asphalt, pervious concrete, modular pavers designed to funnel water between blocks, lattice or honeycomb shaped concrete grids with turf grass or gravel filled voids to funnel water, plastic geocells with turf grass or gravel, reinforced turf grass or gravel with overlaid or embedded meshes, resin-bound pervious pavement systems, or similar structured and durable systems are allowed as parking lot surfacing materials. Gravel, turf, or other materials that are not part of a structured system designed to manage stormwater are not considered pervious pavement or a pervious pavement system. Pervious pavement and pervious pavement systems must comply with the following:

- a. Materials must be installed and maintained in accordance with all applicable city standards. Damaged areas must be promptly repaired. Gravel that has migrated from a pervious pavement system onto adjacent areas must be regularly swept and removed.
- b. Accessible parking spaces and accessible routes from the accessible space to the principal structure or use served must comply with the building code.
- c. Pervious pavement or pervious pavement systems are prohibited in areas used for the dispensing of gasoline or other liquid engine fuels or where other hazardous materials are used or stored.
- d. Pervious asphalt, pervious concrete, or modular pavers may be used for drive aisles and driveways, but no other pervious pavement systems may be used in such areas unless expressly approved by the development administrator.
- e. Pervious pavement or pervious pavement systems that utilize turf grass may not be used to meet minimum off-street parking requirements, but may be used for overflow parking spaces that are not used for required parking and that are not occupied on a daily or regular basis.
- f. Pervious pavement or pervious pavement systems that utilize gravel with overlaid or embedded mesh or geocells may be used only in industrial zoning districts.
- g. Parking areas with pervious pavement or pervious pavement systems must have the parking spaces marked as required by this chapter, except that pervious pavement systems that utilize gravel or turf may use alternative marking to indicate the location of the parking space, including markings at the end of spaces on the drive aisle or curbing, wheel stops, or concrete or paver strips in lieu of painted lines.

#### **55.090-G Vertical Clearance**

All parking spaces must have overhead vertical clearance of at least 7 feet.



**55.090-H Landscaping and Screening**

See [Chapter 65](#).

**55.090-I Lighting**

See [Chapter 67](#).

**Section 55.100 Stacking Spaces for Drive-through Facilities**

**55.100-A Spaces Required**

In addition to the parking required for each use, establishments with drive-through facilities must provide stacking spaces for each drive-through station as indicated in [Table 55-6](#):

*Table 55-6: Drive-through Stacking Space Requirements*

Use	Minimum Spaces (per lane)
Automated teller machine	2 (measured from ATM)
Bank	3 (measured from teller or service area)
Car wash, automated or customer-operated	2 (measured from vehicle entrance)
Car wash, attendant hand wash	3 (measured from vehicle entrance)
Drug store	2 (measured from pick-up window)
Restaurant drive-through	3 (measured from order board)
Kiosks	2 (measured from service window)
Other	As determined by the development administrator

**55.100-B Dimensions**

Each lane of stacking spaces must be at least 8 feet in width and at least 18 feet in length. Stacking lanes must be delineated with pavement markings.

**55.100-C Location and Design**

1. Stacking lanes must be located on the subject property. They may not be located within required driveways or drive aisles, parking spaces or loading areas and may not interfere with access to parking and ingress and egress from the street.
2. All areas associated with drive-through facilities, including drive-through signs, stacking lanes, trash receptacles, loudspeakers and service windows must be located to the rear or on the non-street-facing side of the property. Drive-through lanes must be set back at least 10 feet from abutting R- or AG-R- zoned lots, and a screening wall or fence must be provided along the common lot line in accordance with the F1 screening fence or wall standards of [§65.070-C](#).

**55.100-D Pedestrian Access**

The principal pedestrian access to the entrance of the use from a public sidewalk may not cross the drive-through facility stacking lane.

**Section 55.110 Accessible Parking for People with Disabilities**

Accessible parking facilities must be provided in accordance with the building code.

**Section 55.120 Loading**

Unenclosed off-street loading areas may not be located within 50 feet of any abutting R- or AG-R- zoned properties unless the loading areas is screened on all sides abutting the R- or AG-R- zoned property in accordance with the F1 screening fence or wall standards of [§65.070-C](#).



*Gutter outside of business on 107<sup>th</sup> E Ave.*



*Gutter on 107<sup>th</sup> E Ave.*



*Subject Property*



*Subject property*



*Subject Property*



*Facing South on 107<sup>th</sup> E. Ave.*



*Facing North on 107<sup>th</sup> E. Ave.*



Neighborhood Investigations  
WORKING IN NEIGHBORHOODS

**NOTICE OF VIOLATION – ZONING**

To: MORAN, JAMES R JR  
5630 S 107TH EAST AVE  
TULSA, OK 74146

Date: 2/18/2020  
Case: ZONV-027889-2020

Compliance Date: 3/4/2020

Dear Property Owner and/or Occupant,

You are hereby notified of zoning code violations at (legal) LTS 3 & 4 LESS N60 E200 LT 3 & LESS BEG NWC LT TH E314.89 SW162.53 S161.47 W296.76 N322.92 POB FOR HWY BLK 2 GOLDEN VALLEY

City of Tulsa, TULSA County State of Oklahoma; And located at the address of:  
5630 S 107TH EAST AVE

**Violations:**

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Home Occupations    | <input type="checkbox"/> Mobile Storage Units       | <input type="checkbox"/> Recreation Vehicles |
| <input type="checkbox"/> Commercial Vehicles | <input type="checkbox"/> Garage/Yard Sales          | <input type="checkbox"/> Fences and Walls    |
| <input type="checkbox"/> Accessory Uses      | <input checked="" type="checkbox"/> Parking Surface | <input type="checkbox"/> Permit Needed       |

Additional comments, descriptions or directions: ALL OFF-STREET PARKING MUST BE CONFINED TO AN ALL-WEATHER PARKING SURFACE SUCH AS CONCRETE OR ASPHALT

**See back of page for what the resolution of each violation requires.**

You still have time to correct the issue(s) at your property. To comply, must correct all violations prior to the compliance deadline listed on this notice above. If you are unable to correct any or all the violation(s) listed above, contact the Code Official listed below to work out an acceptable plan to bring your property into compliance. Ensure that all family members, employees, and/or contractors, etc. are familiarized with and adhere to these regulations. Additional notices will not be sent if recurring violations are found in the future.

Failure to make the correction may result in the issuance of a criminal citation or civil remedial penalties not to exceed \$1,000.00 per day. Failure to comply may also result in revoking or withholding permits, certificates or other forms of authorization issued by the City of Tulsa; and/or any other remedies allowed by law.

Your property is an important investment for you and the community. I urge you to make the necessary corrections to eliminate all violations so that no further enforcement will be necessary.

Please understand that it is ultimately the responsibility of the owner to ensure these violations are corrected. Any civil agreements or rental agreements do not alleviate the owner of this responsibility.

Thank you

LLOYD ADAMS  
City of Tulsa – Working in Neighborhoods  
ladams@cityoftulsa.org  
918-596-7598

6.14

**Appeals:** You may appeal the administrative official's decision by filing a complete appeal application (1) with the



Neighborhood Investigations  
WORKING IN NEIGHBORHOODS

**NOTICE OF VIOLATION – ZONING**

To: MORAN, JAMES JR  
5628 S 107TH EAST AVE  
TULSA, OK 741466715

Date: 2/17/2020  
Case: ZONV-027892-2020

Compliance Date: 3/3/2020

Dear Property Owner and/or Occupant,

You are hereby notified of zoning code violations at (legal) N60 E200 LT 3 BLK 2 GOLDEN VALLEY

City of Tulsa, TULSA County State of Oklahoma; And located at the address of:  
5628 S 107TH EAST AVE

**Violations:**

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Home Occupations    | <input type="checkbox"/> Mobile Storage Units       | <input type="checkbox"/> Recreation Vehicles |
| <input type="checkbox"/> Commercial Vehicles | <input type="checkbox"/> Garage/Yard Sales          | <input type="checkbox"/> Fences and Walls    |
| <input type="checkbox"/> Accessory Uses      | <input checked="" type="checkbox"/> Parking Surface | <input type="checkbox"/> Permit Needed       |

Additional comments, descriptions or directions: ALL OFF-STREET PARKING MUST BE CONFINED TO AN ALL-WEATHER PARKING SURFACE SUCH AS CONCRETE OR ASPHALT

**See back of page for what the resolution of each violation requires.**

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Your property is an important investment for you and the community. I urge you to make the necessary corrections to eliminate all violations so that no further enforcement will be necessary.

Please understand that it is ultimately the responsibility of the owner to ensure these violations are corrected. Any civil agreements or rental agreements do not alleviate the owner of this responsibility.

Thank you,

LLOYD ADAMS

City of Tulsa – Working in Neighborhoods  
ladams@cityoftulsa.org  
918-596-7598

6.15

**Appeals:** You may appeal the administrative official's decision by filing a complete appeal application (1) with the official listed above c/o the Tulsa City Clerk AND (2) with the Director of the Tulsa Planning Office at INCOG, at the

## **Tulsa Sod & Mulch**

**5628 So. 107<sup>th</sup> E. Ave.  
Tulsa, Oklahoma 74146**

February 26, 2020

Ms. Lori Wright  
City of Tulsa District No. 7

Re: Notice of Violation

A Notice of Violation – Zoning from Neighborhood Investigations was issued on February 18, 2020 for our business at 5628 and 5630 So. 107<sup>th</sup> E. Ave. The violation was stated, Zoning Code: '42.55.090-F All weather surface' violation.

We have operated our businesses at this location since 2001. The parking surface was gravel when we began operating our business. The previous owner had a house, grass and gravel. We do have a Dust Abatement Program in place for our business, considering our location next to highway 169. A copy of that program is attached to this letter.

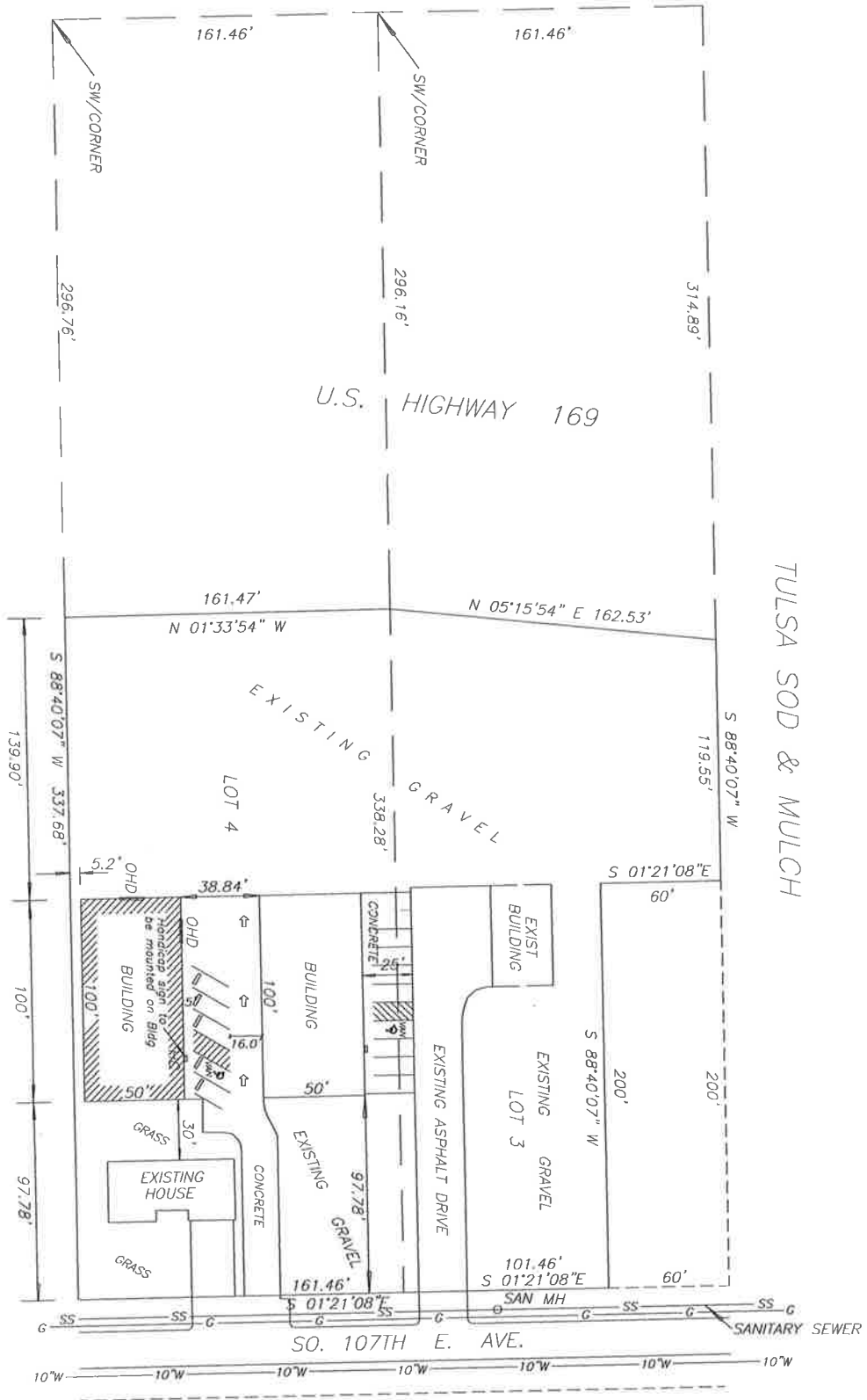
We and other business owners along 107<sup>th</sup> E. Ave. believe it was very unprofessional of the City of Tulsa to show up at our businesses, issuing a notice of violation with a threat of a criminal citation of up to \$1000.00 per day, without knowing the history of this property or other properties at this location. It is apparent that the City of Tulsa and the Zoning Code did not take into account existing businesses when this requirement was initiated, which affects a large number of existing businesses along 107<sup>th</sup> E. Ave. and in the City of Tulsa.

We will exercise our option and make an application to the City of Tulsa Board of Adjustment, requesting a Variance to 'All Weather Surface' requirement as an existing business, unless Ms. Wright you can intercede on our behalf and other businesses, before the City Council.

Thank you,

James Moran Jr  
Tulsa Sod & Mulch





6.17



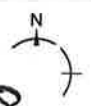
 Subject Tract

**BOA-22886**

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

19-14 31

Aerial Photo Date: February 201

  
6.18



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169

S107 EAVE



Subject Tract

**BOA-22886**

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



19-14 31

Aerial Photo Date: February 2016

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