

**BOA-22925**

17.1



**BOARD OF ADJUSTMENT  
CASE REPORT**

**STR:** 9302

Case Number: **BOA-22925**

**CZM:** 38

**CD:** 3

**HEARING DATE:** 06/09/2020 1:00 PM

**APPLICANT:** Brent Barnes

**ACTION REQUESTED:** Verification of the 1,000 spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D)

**LOCATION:** 7839 E ADMIRAL PL N

**ZONED:** CH

**PRESENT USE:** Commercial

**TRACT SIZE:** 22742.77 SQ FT

**LEGAL DESCRIPTION:** LT 5 LESS S30 & LESS BEG NWC LT 5 TH S408 ELY126.68 N419 W126 POB FOR STS, BLOOMFIELD HGTS

**ANALYSIS OF SURROUNDING AREA:** The subject tract is located West of the NW/c of N. Memorial Ave. and E. Admiral Pl.

**STAFF COMMENTS:**

The applicant is requesting a **Verification** of the 1,000' spacing requirements for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D)

**40.225-D** A medical marijuana dispensary may not be located within 1,000 feet of another medical marijuana dispensary.

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

The applicant provided the nearest dispensary as House of Bud, located 6914 E. Admiral Pl., which is 3,192.72' away.

Staff is aware that there has been a building permit issued at 7498 E Admiral P. S. for a dispensary that is approximately 750' away from the subject dispensary. Per City of Tulsa permitting this dispensary received their license prior to December 1<sup>st</sup>, 2018 and is not subject to the 1,000' spacing requirement. A copy of that license is included in your packet. At the time of the report the dispensary was not yet operating and had not received their final Certificate of Occupancy.

17.2



**SAMPLE MOTION:**

I move that based upon the facts in this matter as they presently exist, we **(accept/reject)** 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.



*Facing West on Admiral Pl.*



*Facing East on Admiral Pl.*



***Subject Property***

DANA L. BOX  
ZONING  
PLANS EXAMINER II

TEL (918)596-9657  
danabox@cityoftulsa.org



## DEVELOPMENT SERVICES

175 EAST 2<sup>nd</sup> STREET, SUITE 450  
TULSA, OKLAHOMA 74103

### ZONING CLEARANCE PLAN REVIEW

May 4, 2020

LOD Number: 1  
Brent Barnes  
7030 S. Yale Ave., Suite 104  
Tulsa, OK 74136

Phone: 918-492-2993

APPLICATION NO: **ZCO-059889-2020**

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: **7839 E. Admiral Pl.**

Description: **Medical Marijuana Dispensary**

#### INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

#### REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

\*\*REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2<sup>nd</sup> STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.\*\* (SEE #2, BELOW)

**SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.**

#### IMPORTANT INFORMATION

1. IF A DESIGN PROFESSIONAL IS INVOLVED, HIS/HER LETTERS, SKETCHES, DRAWINGS, ETC. SHALL BEAR HIS/HER OKLAHOMA SEAL WITH SIGNATURE AND DATE.
2. \*\*PURSUANT TO FEDERAL, STATE, AND LOCAL DECLARATIONS OF EMERGENCY ARISING FROM THE COVID-19 THREAT AND AS DIRECTED BY THE ADMINISTRATION, OUR OFFICE IS CLOSED TO THE PUBLIC UNTIL FURTHER NOTICE. PAPER SUBMITTALS (INCLUDING REVISIONS AND ADDENDUM) FOR ANY PROJECT IS NOT ACCEPTED AT THIS TIME. IF SUBMITTING REVISIONS FOR APPLICATIONS THAT PREVIOUSLY UTILIZED PAPER PLANS, EMAIL THE REVISED PLANS TO [COTDEVSVCS@CITYOFTULSA.ORG](mailto:COTDEVSVCS@CITYOFTULSA.ORG) OR SUBMIT ELECTRONIC PLAN REVISIONS ON THE PORTAL AT [HTTPS://TULSAOK.TYLERTECH.COM/ENERGOV4934/SELFSERVICE](https://tulsaok.tylertechnology.com/energov4934/selfservice). YOU WILL NEED TO REGISTER ON THE PORTAL IF YOU HAVE NOT PREVIOUSLY DONE SO.\*\*
3. INFORMATION ABOUT THE ZONING CODE, BOARD OF ADJUSTMENT (BOA), PLANNING COMMISSION (TMAPC), AND THE TULSA PLANNING OFFICE AT INCOG CAN BE FOUND ONLINE AT [WWW.TULSAPLANNING.ORG](http://WWW.TULSAPLANNING.ORG); IN PERSON AT 2 W. 2ND ST., 8TH FLOOR, IN TULSA; OR BY CALLING 918-584-7526 AND ASKING TO SPEAK TO SOMEONE ABOUT THIS LETTER OF DEFICIENCY.
4. A COPY OF A "RECORD SEARCH" [X] IS [ ] IS NOT INCLUDED WITH THIS LETTER. PLEASE PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.)

(continued)

17.6

**REVIEW COMMENTS**

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT [www.tulsaplanning.org/plans/TulsaZoningCode.pdf](http://www.tulsaplanning.org/plans/TulsaZoningCode.pdf)

ZCO-059889-2020

7839 E. Admiral Pl.

May 4, 2020

**Note:** As provided for in Section 70.130 you may request the Board of Adjustment (BOA) to grant a variance from the terms of the Zoning Code requirements identified in the letter of deficiency below. Please direct all questions concerning separation distance acceptance and all questions regarding BOA application forms and fees to the BOA Planner at the Tulsa Planning Office at 918-584-7526 or [esubmit@incog.org](mailto:esubmit@incog.org). It is your responsibility to submit to our office documentation of any decisions by the BOA affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf. Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

1. **Sec. 40.225-D:** A medical marijuana dispensary may not be located within 1000 feet of another medical marijuana dispensary.
2. **Sec. 40.225-H:** The separation distance required under *Sec.40.225-D* must be measured in a straight line between the nearest perimeter walls of the buildings (or portion of the building, in the case of a multiple-tenant building) occupied by the dispensary.  
**Review comment:** Submit a copy of the BOA accepted separation distance of 1000' from other dispensaries. Please direct all questions concerning separation distance acceptance and all questions regarding BOA application forms and fees to the **BOA Planner at the Tulsa Planning Office at 918-584-7526 or [esubmit@incog.org](mailto:esubmit@incog.org).**

**Note:** All references are to the City of Tulsa Zoning Code. Link to Zoning Code:

[www.tulsaplanning.org/plans/TulsaZoningCode.pdf](http://www.tulsaplanning.org/plans/TulsaZoningCode.pdf)

**Please notify the reviewer via email when your revisions have been submitted**

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

A hard copy of this letter is available upon request by the applicant.

**END – ZONING CODE REVIEW**

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.

State of Oklahoma

# License Certificate

NON - TRANSFERABLE

## COMMERCIAL DISPENSARY LICENSE

HEREBY GRANTED TO

### HERBAL JUNCTION MARKET LLC

7498 E. Admiral Pl, Tulsa, OK, 74115

THE LICENSE IS ISSUED BY THE OKLAHOMA STATE DEPARTMENT OF HEALTH, OKLAHOMA MEDICAL MARIJUANA AUTHORITY TO CERTIFY THE ABOVE HAS FULFILLED THE REQUIREMENTS OF TITLE 63 O.S. § 420A ET SEQ. AND THE OKLAHOMA ADMINISTRATIVE CODE AT TITLE 310 CHAPTER 681. THE LICENSE IS SUBJECT TO THE REPRESENTATIONS MADE ON THE APPLICATION THEREFOR, AND MAY BE SUSPENDED OR REVOKED FOR CAUSE AS PROVIDED BY LAW AND RULE. LICENSEE SHALL OBSERVE AND COMPLY WITH ALL APPLICABLE LAWS, ORDINANCES, RULES AND REGULATIONS OF THE STATE OF OKLAHOMA.

09/23/2019

LICENSE NUMBER:

DAAA-NKGI-3CRN



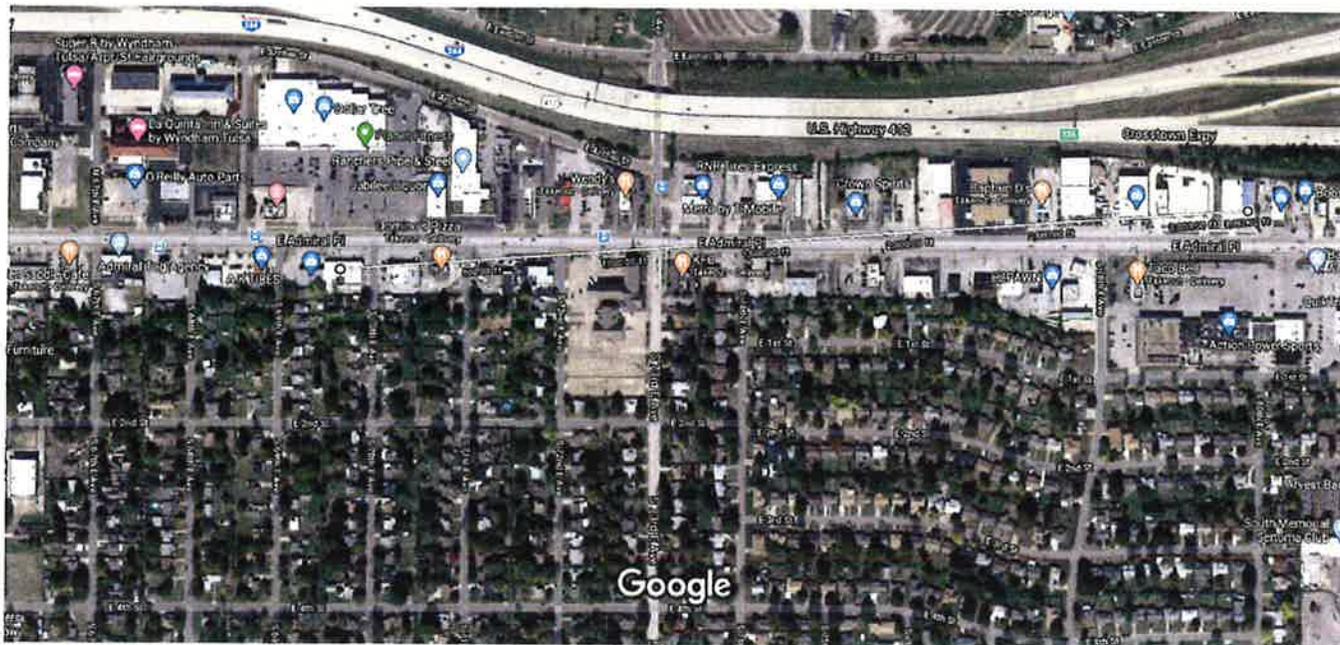
*Tom Bates*

TOM BATES, J.D.  
Interim Commissioner  
Oklahoma State Department of Health

DO NOT COPY

17.8

Google Maps



Imagery ©2020 Maxar Technologies, USDA Farm Service Agency, Map data ©2020 200 ft

Measure distance

← Total distance: 3,192.72 ft (973.14 m)

- House of Bud -

**Eller Detrich**  
A Professional Corporation

Philip J. Eller  
Kevin H. Wylie  
R. Louis Reynolds  
Shanann Pinkham Passley  
Daniel C. Cupps  
Andrew A. Shank  
Heidi L. Shadid  
Mac D. Finlayson  
Steven P. Flowers  
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*Of Counsel*

Donald L. Detrich  
Katherine Saunders, PLC  
Jerry M. Snider  
John H. Lieber  
Joshua M. Tietsort  
Kenneth E. Crump Jr.

June 2, 2020

**VIA EMAIL**

City of Tulsa Board of Adjustment  
c/o Tulsa Planning Office  
Attn: Austin Chapman  
[achapman@incog.org](mailto:achapman@incog.org)

Re: BOA-22925 and BOA-22926

Dear Members of the Board:

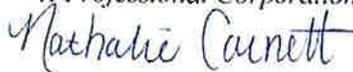
Herbal Junction owns a dispensary located at 7498 E. Admiral Place, just south to the east and west of the proposed dispensary locations at 7839 and 7435 E. Admiral Place (BOA-22925 and BOA-22926, respectively). Herbal Junction has approved building plans from the City of Tulsa and is finishing its renovations to obtain its Certificate of Occupancy. Renovations are expected to be completed within a week's time with the dispensary slated to open on or around June 11, 2020. A copy of the approved building permit is enclosed herein.

Herbal Junction's state dispensary license was issued prior to December 1, 2018 and thus did not require approval a spacing verification pursuant to Section 40.225-I of the Tulsa Zoning Code. Herbal Junction received its Certificate of Compliance to renew its state license from the City of Tulsa on October 18, 2019. A copy of the Certificate of Compliance is also enclosed.

The proposed dispensaries are located within 1000 feet of Herbal Junction. Therefore, we respectfully request the Board deny both applications to verify spacing for the proposed dispensaries at 7839 and 7435 E. Admiral Place.

Sincerely,

**ELLER & DETRICH**  
A Professional Corporation

  
Nathalie M. Cornett



[www.EllerDetrich.com](http://www.EllerDetrich.com)

2727 East 21st Street, Suite 200, Tulsa Oklahoma 74114-3533

17.10

# CITY OF TULSA

# Building Permit - COMMERCIAL

|   |                                       |   |
|---|---------------------------------------|---|
| <b>Permit Number</b><br>BLDC-047110-2019  | <b>Date Issued</b><br>2/12/2020       | <b>Building Official</b><br> |
| <b>Construction Address: 7498 E ADMIRAL PL N - TOMMY-LEE ADDN</b>   |                                       |   |
| <b>Work Class:</b> Alteration   | <b>Contractor:</b><br><b>Address:</b> |   |
| <b>EROSION CONTROL</b><br>Where construction disturbs the earth, a Placement of Erosion Control Inspection (PEC) must be requested by the responsible party and approved by the Building Inspector <b>BEFORE</b> further work.  |                                       |   |
| This permit is subject to compliance with all applicable codes and City ordinances and can be cancelled for failure to comply with any applicable construction standard or for failure to comply with any applicable WIN construction Schedule or WIN Letter of Understanding.  |                                       |   |
| <b>Building ISupit</b>  |                                       |   |
| Building Code: IBC 2015, IEBC 2015  | Fully Sprinklered: No                 | Partially Sprinklered: No   |
| Building Area: 3,240  | Fire Wall:                            | COO Required: Yes   |
| Permit Area: 2,566  | FRTW: Yes                             | Special Inspections: No   |
| Alarm: No   |                                       |   |
| Sprinkler Standard:   |                                       |   |
| <b>Use Group</b>  | <b>Sq Ft</b>                          | <b>Const. Type</b>  |
| M Mercantile  | 2,566                                 | IIB   |
|   | 2,566                                 |   |
| <b>Permit Notes</b><br>Alteration for Herbal Junction Dispensary  |                                       |   |
| <b>Zoning CLange</b>  |                                       |   |
| Zoning District: CH   | <u>Required Setbacks:</u>             |   |
| Required Parking:   | Front:                                | Rear:   |
| PUD Number:   | Left:                                 | Right:  |
| MPD Number:   |                                       |   |
| Screening Fence Required: No  |                                       |   |
| Allowable Building Height (ft):   |                                       |   |
| <b>Use/Permit Notes:</b><br>Use: Commercial/Retail Sales/Medical Marijuana Dispensary   |                                       |   |
| <b>Permit Notes:</b><br>I/R only with change in use. No approval is granted for any construction or use violating any provision of Title 42. No other structures are included in this permit. No change in footprint or increase in cubic content of structure for which approval is granted. No increase in required off-street parking.   |                                       |   |
| <b>W/S/D RJordan</b>  |                                       |   |
| Cert of Elevation Req'd: No   | <u>Easements</u>                      |   |
| Floodplain: No  | NPL (ft): 10.0                        | EPL (ft): 10.0  |
| IDP #:  | SPL (ft): 25.0                        | WPL (ft): 0   |
| <b>Permit Notes</b><br>Approval of proposed alteration/interior build-out for commercial building at the address stated herein. No increase to impervious surface area or alteration to stormwater drainage system. Approval does not include permission for construction or encroachment of any kind upon City of Tulsa owned property, Rights-of-Way (ROW) or utility easements whether actual or planned. The development shall not create a public hazard upon any property within the City or in immediately adjacent areas through the obstruction, impairment, sedimentation, blockage or alteration of the stormwater drainage system. Signage and ROW requires separate permits. All construction must be compliant with Tulsa Revised Ordinances including Title 51 and Title 11. |                                       |   |

17.11



# COMPLIANCE CERTIFICATIONS

Based upon information provided by applicant(s) to the political subdivision at this time.

## 1 The proposed uses satisfy the political subdivision's applicable zoning classifications and ordinances.

YES  NO  The political subdivision has no applicable codes for which to certify compliance at this time. *See Attached* DATE: **OCT 3 1 2019**

Andy Teeter

Printed Name of Official

Fire Marshal

Title

A.C. Teeter

Signature of Official

## 2 All applicable safety codes of the political subdivision are satisfied.

YES  NO  The political subdivision has no applicable codes for which to certify compliance at this time. *See Attached* DATE: **OCT 3 1 2019**

Andy Teeter

Printed Name of Official

Fire Marshal

Title

A.C. Teeter

Signature of Official

## 3 Any other applicable fire codes of the political subdivision have been satisfied.

YES  NO  The political subdivision has no applicable codes for which to certify compliance at this time. *See Attached* DATE: **OCT 3 1 2019**

Andy Teeter

Printed Name of Official

Fire Marshal

Title

A.C. Teeter

Signature of Official

## 4 All electrical, plumbing, waste (including environmental waste) codes required by the political subdivision have been satisfied.

YES  NO  The political subdivision has no applicable codes for which to certify compliance at this time. *See Attached* DATE: **OCT 3 1 2019**

Andy Teeter

Printed Name of Official

Fire Marshal

Title

A.C. Teeter

Signature of Official

## 5 All applicable building or construction codes of the political subdivision have been satisfied.

YES  NO  The political subdivision has no applicable codes for which to certify compliance at this time. *See Attached* DATE: **OCT 3 1 2019**

Andy Teeter

Printed Name of Official

Fire Marshal

Title

A.C. Teeter

Signature of Official

## 6 Any other ordinances/requirements of the political subdivision that are applicable at this time have been satisfied by the applicant.

YES  NO  The political subdivision has no applicable codes for which to certify compliance at this time. *See Attached* DATE: **OCT 3 1 2019**

If YES, Description of Requirement:

Andy Teeter

Printed Name of Official

Fire Marshal

Title

A.C. Teeter

Signature of Official

## 7 And see, as applicable, the additional information provided by the political subdivision attached here:

YES The political subdivision provided additional attachments.  NO The political subdivision did not provide additional attachments.

**Fire Marshal's Office  
Tulsa Fire Department**

1760 Newblock Park Drive  
Tulsa, Oklahoma 74127  
Phone: 918-596-9422  
Fax: 918-596-9383

**INSPECTION NOTICE**

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October 30, 2019

**Herbal Junction Market LLC**  
7498 E ADMIRAL PL  
Tulsa, OK 74103

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**The violations listed below were noted during an inspection on: October 29, 2019**

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**INSPECTION NOTES:**

On this date inspected for Code Compliance for OMMA License Renewal

Dispensary- Herbal Junction LLC. Dispensary -DAAA-NKGI-3CRN - Owner- Randy Hendrix-  
(918)851-8508

The building is currently swept clean.

They currently do not have COO for a dispensary

The owner states he consulting with an architect and will be submitting plans for Change of Use.

No work has been done on the current Building Permit- 034340-2019- Building Permits Expire 6 months from last action.

Upon 2020 OMMA Renewal- Certificate of Compliance Inspection- If this Business has not received Certificate of Occupancy as a Dispensary CoC will be marked Non- Compliant

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**VIOLATIONS:**

**F 102.3 Change of use or occupancy**

[A] Changes shall not be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the International Building Code. Subject to the approval of the fire code official, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for purposes in other groups without conforming to all of the requirements of this code and the International Building Code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

---

**Fire Marshal's Office  
Tulsa Fire Department**

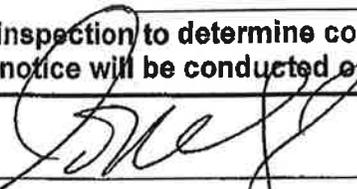
1760 Newblock Park Drive  
Tulsa, Oklahoma 74127  
Phone: 918-596-9422  
Fax: 918-596-9383

**INSPECTION NOTICE**

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A reinspection to determine compliance with  
this notice will be conducted on or after:

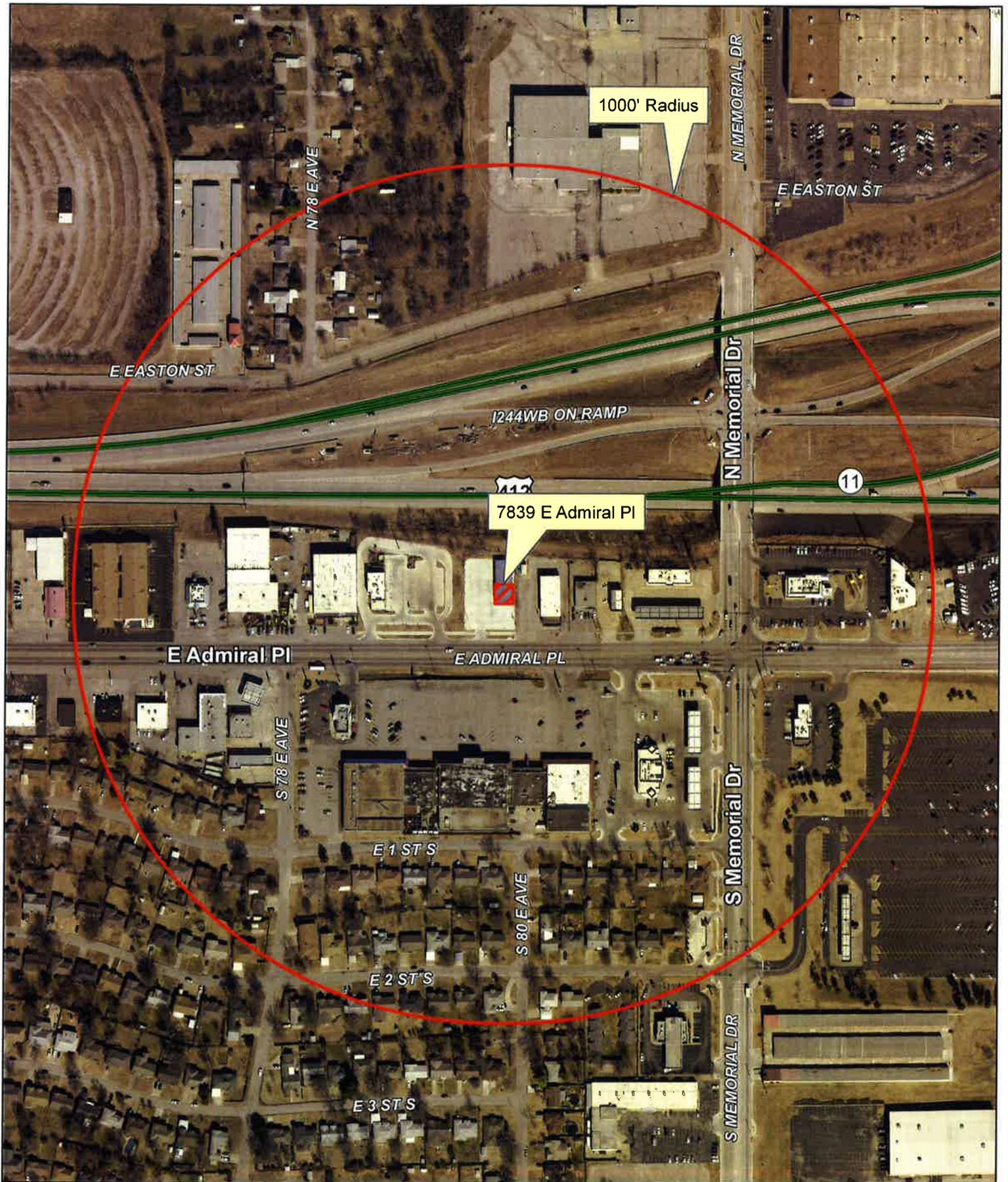
---

  
Seibel (Stoops), Adrienne  
Inspector

\_\_\_\_\_  
Property Representative

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**Right To Appeal** Any person aggrieved by a decision of the code official may appeal the decision to the Building, Housing and Fire Prevention Appeals Board. The initiation of such an appeal shall be in writing and shall be filed with the Board no later than twenty(20) days after the code official's decision was served. For information on how to file an appeal please call 596-9422 and request an appeal process packet.



0 Feet 150 300

**BOA-22925**

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

Aerial Photo Date: February 2018



17.16