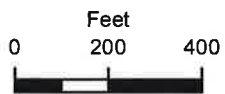


**LEGEND**

Tulsa Corporate Limits



**BOA-22988**

20-13 27

6.1



**BOARD OF ADJUSTMENT  
CASE REPORT**

**STR:** 215 Case Number: **BOA-22988**

**CZM:** 30

**CD:** 3

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

**APPLICANT:** Johnny Hoang

**ACTION REQUESTED:** Special Exception to increase the maximum allowable height of 4' for a fence located inside the street setback (Sec.45.080-A) and a Variance to allow a fence to be located inside the City of Tulsa right-of-way or planned right-of-way (Sec. 90.090-A).

**LOCATION:** 5101 and 5151 E PINE ST N

**ZONED:** IL

**PRESENT USE:** Medical Marijuana Grow Facility

**TRACT SIZE:** 1232313.09 SQ FT

**LEGAL DESCRIPTION:** BEG 50E SWC SW TH N920.50 TO PT ON SL RR ROW NE926.56 SE193.51 SE139.70 SE62.80 S858.63 TO PT ON SL SW W1282.97 POB LESS BEG 50N & 50E SWC SW TH N28 SE39.59 W28 POB SEC 27 20 13 28.290ACS,

**RELEVANT PREVIOUS ACTIONS:** None.

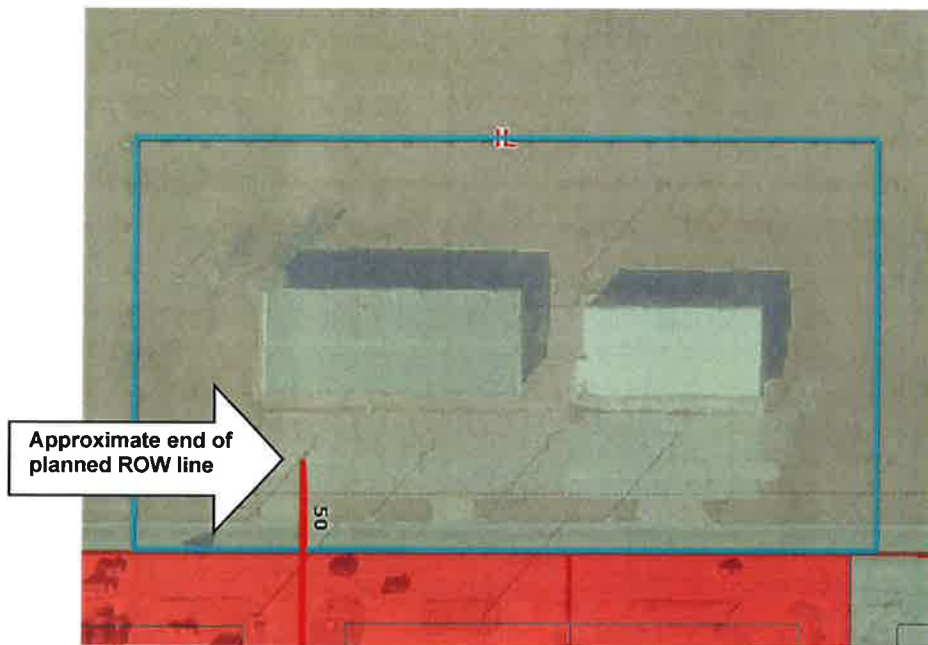
**RELATIONSHIP TO THE COMPREHENSIVE PLAN:** The Tulsa Comprehensive Plan identifies the subject property as part of a "Employment" land use designation and an "Area of Growth".

**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.

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

**ANALYSIS OF SURROUNDING AREA:** The subject tract is located East of the NE/c of E. Pine Street and N. Yale Ave. The property is fronting Pine Street which is classified as a Secondary Arterial which call for 100' of right of way (50' North from the Center line). Currently no sidewalk exists on the North side of Peoria.

6.2



**STAFF COMMENTS:** The applicant is requesting **Special Exception** to increase the maximum allowable height of 4' for a fence located inside the street setback (Sec.45.080-A) and a **Variance** to allow a fence to be located inside the City of Tulsa right-of-way or planned right-of-way (Sec. 90.090-A)

**Section 45.080 Fences and Walls**

**45.080-A** Fences and walls within required building setbacks may not exceed 8 feet in height, except that in required street setbacks fences and walls may not exceed 4 feet in height. However, in R zoned districts, fences up to 8 feet in height are permitted in side street setbacks of detached houses or duplexes located on corner lots and in street setbacks abutting the rear lot line of houses or duplexes located on double frontage lots. The board of adjustment is authorized to modify these fence and wall regulations in accordance with the special exception procedures of Section 70.120.

**90.090-A Measurement**

Required setbacks are measured from the applicable lot line, right-of-way, planned right-of-way or location referred to below. Building setbacks are measured to the nearest exterior building wall. Minimum setbacks that apply to other features (parking areas, fences, storage areas) are measured from the nearest point of the area or feature for which a setback is required. See 90.090-2 for information on structures and building features that are allowed to occupy setback and yard areas in R zoning districts. **Unless otherwise expressly stated, no part of any structure may be located within the street right-of-way, nor within the planned right-of-way of streets shown on the major street and highway plan, nor within 25 feet of the centerline of the right-of-way on streets not shown on the major street and highway plan.** If a variance of the prohibition against location of a structure within the right of way or planned right of way is granted by the Board of Adjustment, no part of any structure may be located within the street right-of-way, nor within the planned right-of-way of streets shown on the major street and highway plan, nor within 25 feet of the centerline of the right-of-way on streets not shown on the major street and highway plan, unless a license has been granted by the city, in the case of the right-of-way, or a removal agreement has been entered into, in the case of the planned right-of-way.

If approved, the property would be subject to a removal agreement with the City of Tulsa. It should also be noted that the fence has been installed without a permit.

**STATEMENT OF HARDSHIP:**

If I move the fence, it will defeat the purpose. as you may know, I am not in a good area. Before I purchased this property, the realtor had mention that there were two mugging on the parking lot. for security purposes, I would like some kind of protection inside the parking lot, with the business I am in ( medical grow ) I need a secure area for pick up and drop off.

**SAMPLE MOTION:**

**SPECIAL EXCEPTION:**

Move to \_\_\_\_\_ (approve/deny) a **Special Exception** to increase the maximum allowable height of 4' for a fence located inside the street setback (Sec.45.080-A).

- Per the Conceptual Plan(s) shown on page(s) \_\_\_\_\_ of the agenda packet.
- Subject to the following conditions (including time limitation, if any):  
\_\_\_\_\_.

The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**VARIANCE**

Move to \_\_\_\_\_ (approve/deny) a **Variance** to allow a fence to be located inside the City of Tulsa right-of-way or planned right-of-way (Sec. 90.090-A).

- 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;*

6.4

*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.”*



*Subject property: fence has been installed.*



*Subject property: Eastern building.*

*Facing East on Pine St.*



*Subject Property: Western Building*





*Facing West on Pine Street*

Case No 16119 (continued)

Applicant's Rebuttal:

Mr. Forman stated that he parked his car on the street in front of the boat during the time his home was being renovated. He pointed out that the boat is only on the property temporarily, and the asphalt and the boat will be removed after the restoration process has been completed.

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to DENY a Minor Special Exception to permit a sailboat and trailer to be parked within the front yard - Section 402.B.7.a.5.a. Parking or Storage of Recreational Vehicles - Use Unit 6; finding that boat storage and restoration is not appropriate in the front yard of the residential dwelling; on the following described property:

Lot 1, Block 4, Rondo Valley 4 Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16115

Action Requested:

Variance of the all-weather surface requirement for off-street parking - SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS - Use Unit 25, located NE/c of East Pine and North Yale.

Presentation:

The applicant, William Jones, 3800 First National Tower, Tulsa, Oklahoma, stated that he is appearing on behalf of his clients, who lease the property in question to Bama Pie Ltd. and Bama Pie Transportation Company. He informed that the 53-acre tract was previously a landfill for the City of Tulsa, and was later leased for the current use as a transportation center. Mr. Jones stated that approximately 15 tractors are parked on the property. He noted that an engineer study revealed that the water table is within 2' of the surface, and a gravel covering is in place. Mr. Jones stated that the complaint to Code Enforcement stemmed from the fact that the big trucks leaving the parking lot deposited gravel out on Pine Street. He explained that gravel is continually added to the parking area, and the engineer report concluded that ten years of packing will be required before a hard surface covering can be installed. Mr. Jones asked the Board to permit parking on a gravel surface at this location. A copy of the violation notice (Exhibit J-1) and photographs (Exhibit J-2) were submitted.

Case No. 16115 (continued)

Comments and Questions:

Mr. Doverspike inquired as to the portion of the tract that will be utilized for parking, and the applicant submitted a location map (Exhibit J-3) depicting the parking area.

Protestants:

None.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a Variance of the all-weather surface requirement for off-street parking for 10 years only - SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS - Use Unit 25; per the revised plan and notations (location map) submitted; subject to the existing concrete approaches on Pine being extended approximately 100'; finding that the use, per conditions, will be compatible with the area and in harmony with the Code; on the following described property:

All that part of the S/2 of the SW/4, lying South of the St. Louis & San Francisco Railroad Company Main Line Right-of-Way and lying West of the Howard Branch Right-of-Way, a Branch of the St. Louis & San Francisco Railroad Company, in Section 27, T-20-N, R-13-E of the Indian Base and Meridian in Tulsa County, Oklahoma, particularly described as follows: Beginning at a point 50' East and 50' North of the Southwest corner of said Section 27; thence N 0°01'07" E parallel to and 50' E of the West boundary of said Section 27, a distance of 870.44' to a point in the Southerly right-of-way line of the main track, Cherokee sub-division of the St. Louis & San Francisco Railroad Company as now located and constructed; thence N 84°34'36" E along said Southerly right-of-way line of said main tract of the St. Louis & San Francisco Railroad Company Right-of-Way a distance of 2,184.71'; thence S 5°25'24" E along said Southerly right-of-way line of said main track of the St. Louis & San Francisco Railroad Company Right-of-Way a distance of 50.00'; thence S 35°37'27" E a distance of 575.49' (530.00' per Deed) to the intersection with the Westerly right-of-way line of the Howard Branch of the St. Louis & San Francisco Railroad Right-of-Way; thence S 9°39'07" W 0.00'; thence to the left along a curve of radius 1,627.21' along said Westerly right-of-way line of the Howard Branch Right-of-Way a distance of 361.06'; thence S 3°03'41"E along the Westerly right-of-way line of said Howard Branch a distance

Case No. 16115 (continued)

of 199.93' to a point on the North right-of-way of Pine Street; thence due West along the North right-of-way of Pine Street being 50' North and parallel to the South line of said Section 27, a distance of 2,505.11' to the Point of Beginning; City of Tulsa, Tulsa County, Oklahoma.

Case No. 16116

Action Requested:

Variance of the maximum height for a fence in a required front yard from 4' to 6' - **SECTION 210.B. Permitted Obstructions in Required Yards** - Use Unit 6, located 3513 South Richmond Avenue.

Presentation:

The applicant, **Charles Underwood**, 3513 South Richmond Avenue, Tulsa, Oklahoma, submitted photographs (Exhibit K-1) and stated that he has lived at the current location for approximately 13 years. He informed that the fence in question is located 20'2" from the curb, and does not pose a safety hazard and is not an eyesore. Mr. Underwood stated that the fence was installed because of the noise created during the night by the abutting property owners, and to screen the debris that has accumulated on the lot.

Comments and Questions:

Mr. Bolzle inquired as to the distance from the front of the house to the end of the fence, and Mr. Underwood replied that it extends approximately 12' into the front yard.

Protestants:

**June Walker**, 3519 South Richmond, Tulsa, Oklahoma, submitted photographs (Exhibit K-2), and stated that she is the abutting property owner referred to by the applicant. Ms. Walker stated that she is only opposed to the portion of the fence that extends into the front yard. She pointed out that the fence is not in harmony with the character of the neighborhood, and has a negative impact on the value of her property.

Comments and Questions:

Mr. Gardner stated that the reason for limiting the fence height in a front yard is to prevent limitation of light and air, and obstruction of the neighbors view.

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

LOD Number: 1 REVISED

August 11, 2020

Johnny Hoang  
5101 E. Pine Street  
Tulsa, OK 74115

Phone: 626-200-8898

APPLICATION NO: **ZCO-055746-2020**

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: **5101 E. Pine Street**

Description: **Fence**

#### 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.

**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. SUBMIT ELECTRONIC PLAN REVISIONS ON THE PORTAL AT [HTTPS://TULSAOK.TYLERTECH.COM/ENERGOV4934/SELFERVICE](https://tulsaok.tylertechnology.com/energov4934/selfservice). YOU WILL NEED TO REGISTER ON THE PORTAL IF YOU HAVE NOT PREVIOUSLY DONE SO.
3. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT [WWW.INCOG.ORG](http://WWW.INCOG.ORG) OR AT INCOG OFFICES AT 2 W. 2<sup>nd</sup> ST., 8<sup>th</sup> FLOOR, TULSA, OK, 74103, PHONE (918) 584-7526.
4. A COPY OF A "RECORD SEARCH"  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)

## REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT  
[WWW.CITYOFTULSA-BOA.ORG](http://WWW.CITYOFTULSA-BOA.ORG)

ZCO-055746-2020

5101 E. Pine Street

August 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 all questions regarding BOA application forms and fees to the INCOG BOA Planner at [918-584-7526](tel:918-584-7526). 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.45.080-A:** Fences and walls within required building setbacks may not exceed 8 feet in height, except that in required street setbacks fences and walls may not exceed 4 feet in height.

**Review comment:** The proposed fence is for a property located in the IL zoning district. The street setback along E. Pine St. is 10'. Technically the fence can be inside the 10' setback it but it can't exceed 4' in height inside that setback. You must seek a Special Exception to increase the height.

2. **Sec.90.90-A:** Required setbacks are measured from the applicable lot line, right-of-way, planned right-of-way or location referred to below. Minimum setbacks that apply to other features (parking areas, fences, storage areas) are measured from the nearest point of the area or feature for which a setback is required. Unless otherwise expressly stated, no part of any structure may be located within the street right-of-way, nor within the planned right-of-way of streets shown on the major street and highway plan, nor within 25 feet of the centerline of the right-of-way on streets not shown on the major street and highway plan. If a variance of the prohibition against location of a structure within the right of way or planned right of way is granted by the Board of Adjustment, no part of any structure may be located within the street right-of-way, nor within the planned right-of-way of streets shown on the major street and highway plan, nor within 25 feet of the centerline of the right-of-way on streets not shown on the major street and highway plan, unless a license has been granted by the city, in the case of the right-of-way, or a removal agreement has been entered into, in the case of the planned right-of-way.

**Review comment:** Your plan indicates that your fence is inside the planned right-of-way, which is 50' from the centerline of Pine Street. You need a variance to allow a fence inside the planned right-of-way.

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

<http://www.tmapc.org/Documents/TulsaZoningCode.pdf>

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

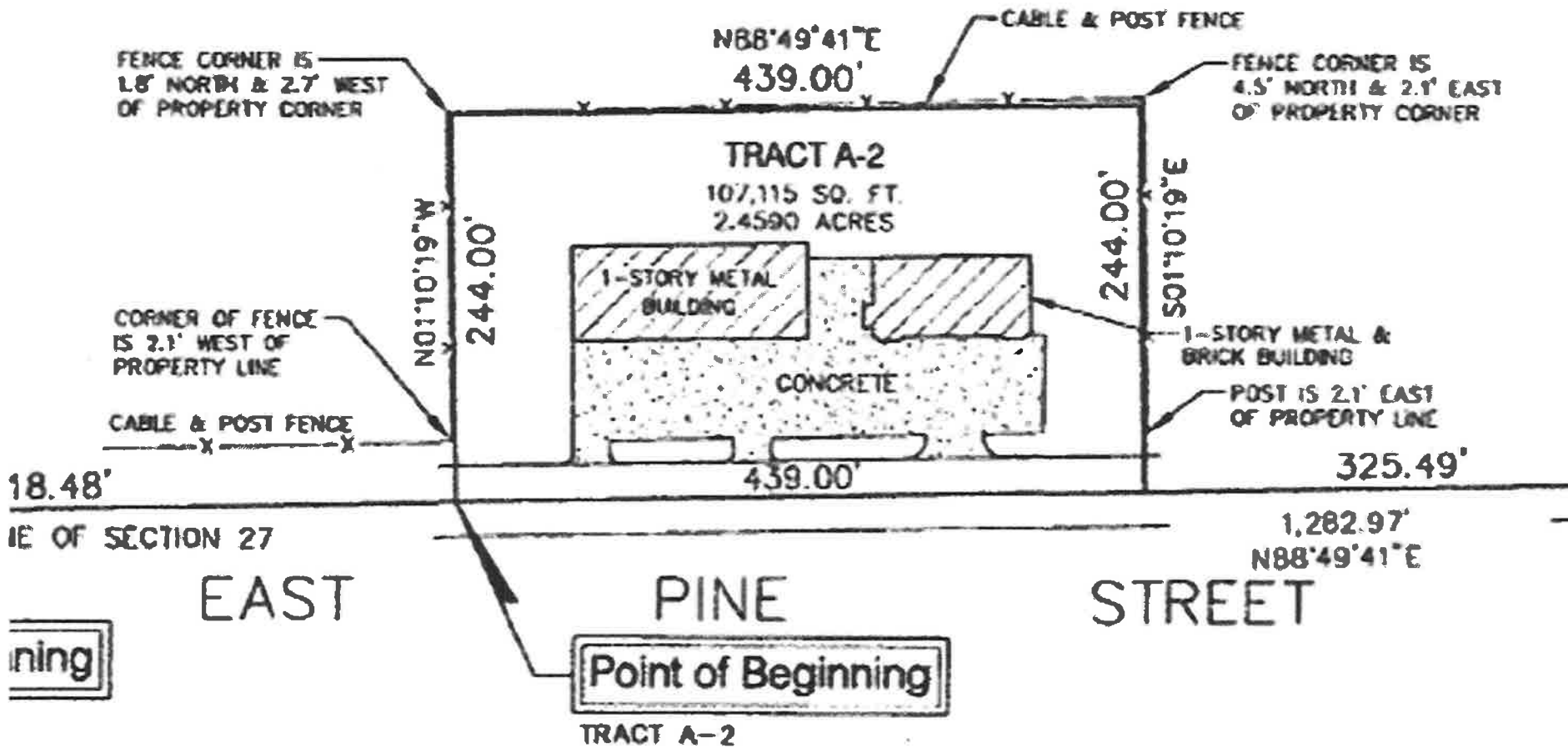
This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

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.

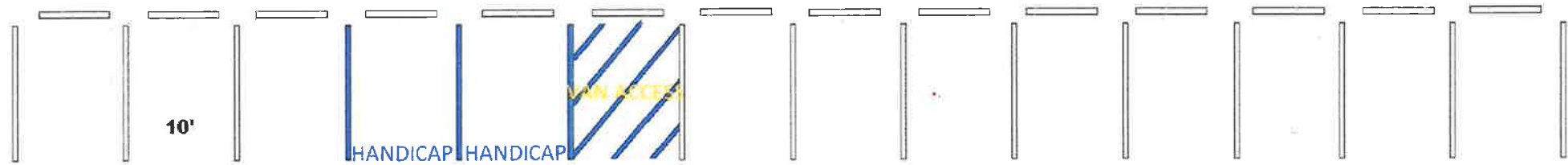
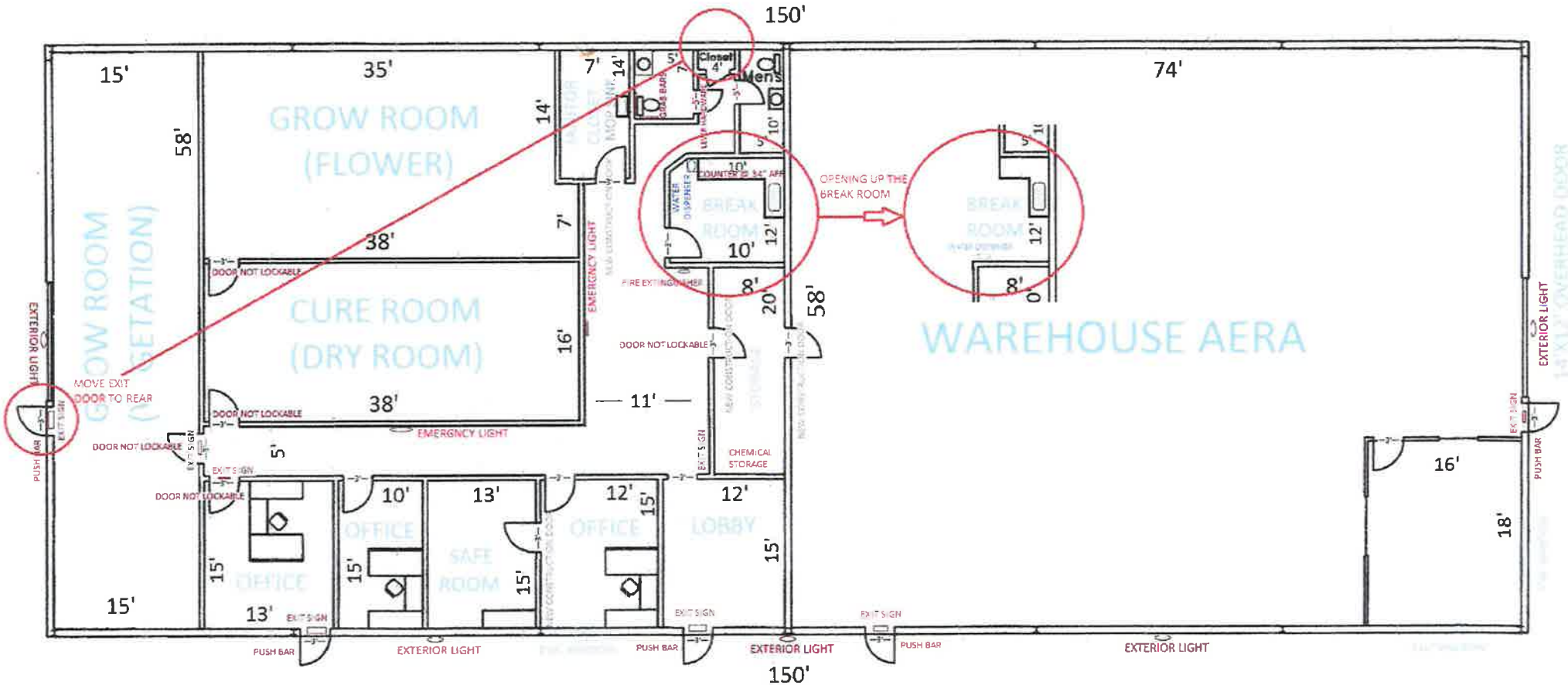






# REVISED FLOOR PLAN

THE CITY OF TULSA BUILDING CODE  
REQUIRES THAT THIS SET OF  
APPROVED PLANS SHALL BE KEPT AT  
THE BUILDING SITE, OPEN TO  
INSPECTIONS OF THE BUILDING  
OFFICIAL OR HIS AUTHORIZED  
REPRESENTATIVE AT ALL  
REASONABLE TIMES



NOTE: ALL EGRESS DOORS SHALL BE READILY OPENABLE FROM THE EGRESS SIDE WITHOUT THE USE OF A KEY OR SPECIAL KNOWLEDGE OR EFFORT  
THE UNLATCHING OF ANY EGRESS DOORS SHALL NOT REQUIRE MORE THEN ONE OPERATION

217



DAWSON RD

N YALE AVE

E UTE ST

N DARLINGTON PL

N ERIE AVE

E TECUMSEH ST



E PINE ST

E OKLAHOMA PL

N BRADEN AVE

N FULTON AVE

E OKLAHOMA ST

E OKLAHOMA ST

N VANDALIA AVE

N WINSTON AVE

N ALLEGHENY AVE

N CANTON AVE

E NEWTON CT

E NEWTON PL

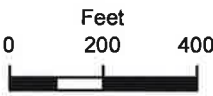
E NEWTON ST

E NEWTON ST

N DARLINGTON PL

N ERIE AVE

E MARSHALL CT



Subject Tract

**BOA-22988**

20-13 27

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

Aerial Photo Date: February 2018



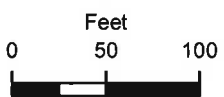
6.18



**E PINE ST**

**N BRADEN AVE**

**N CANTON AVE**



*Subject Tract*

**BOA-22988**

20-13 27

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

*Aerial Photo Date: February 2018*

6.19



