

# BOARD OF ADJUSTMENT CASE REPORT

**STR:** 9326 Case Number: **BOA-23116** 

**CZM**: 48 **CD**: 5

HEARING DATE: 05/25/2021 1:00 PM (Continued from 05/11/2021)

**APPLICANT**: Ryan Kuzmic

**ACTION REQUESTED:** Special Exception to permit Moderate-Impact Medical Marijuana processing

(Moderate-impact Manufacturing & Industry Use) in the IL district. (Sec. 15.020, Table 15-2)

LOCATION: 7438 E 46 ST S ZONED: IL

PRESENT USE: Medical Marijuana Grow TRACT SIZE: 10001.42 SQ FT

**LEGAL DESCRIPTION: LT 4 BLK 4, INDUSTRIAL EQUIPMENT CTR 2ND ADDN** 

RELEVANT PREVIOUS ACTIONS: None.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of an "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 on the South side of E. 46<sup>th</sup> St. between 74<sup>th</sup> and 76<sup>th</sup> E. Avenues.

**STAFF COMMENTS**: The applicant is requesting **Special Exception** to permit Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL district. (Sec. 15.020, Table 15-2)

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The zoning code descirbes Moderate-impact Marijuana Processing (Sec. 35.070-B.2) as the following:

2. Moderate-impact Medical Marijuana Processing Facility

An establishment in which the preparation, manufacture, processing or packaging of medical marijuana products by the holder of a medical marijuana processor license issued by the Oklahoma State Department of Health is conducted, in accordance with the terms of such license, and in which extraction processes are limited to use of non-flammable substances such as carbon dioxide, and to food-based and water-based extraction.

Medical Marijuana uses are subject to the supplemental regulations of Sec. 40.225:

#### Section 40.225 Medical Marijuana Uses

The supplemental use regulation of this section apply to medical marijuana uses.

40.225-A A medical marijuana grower operation must be located inside an enclosed building.

40.225-B A medical marijuana processing facility, whether moderate impact or high impact, must be located inside an enclosed building.

40.225-C A medical marijuana dispensary must be located inside an enclosed building.

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

40.225-E Drive through windows and drive through lanes are prohibited for medical marijuana grower operations, processing facilities, dispensaries and research facilities.

40.225-F Medical marijuana grower operations, processing facilities and dispensaries must provide the following:

- A ventilation/air filtration system that prevents odor from being detectible at the boundaries of the lot within which the building housing the medical marijuana grower operation, processing facility or dispensary is located, except that if such use is located in multiple tenant building, the ventilation/air filtration system must prevent odor from being detectible outside the tenant space housing the use.
- 2. An electronic security system and surveillance camera.

40.225-G Medical marijuana grower operations, processing facilities, dispensaries and research facilities must be conducted and maintained in compliance with the license issues by the Oklahoma State Department of Health and in compliance with Oklahoma law, including but not limited to all applicable statutes, rules and regulations.

> TULSA ZONENG CODE | July 1, 2020 page 40:12

Chapter 40 | Supplemental Use and Building Regulations Section 40,230 | Mining or Mineral Processing

- 40.225-H No medical marijuana grower operation, processing facility, dispensary or research facility shall be permitted or maintained unless there exists a valid license, issued by the Oklahoma State Department of Health for the particular use at the particular location.
- 40.225-1 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.

PLE MOTION: Move to (approve/deny) a <b>Special Exception</b> to permit Moderatect Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL ct. (Sec. 15.020, Table 15-2)
Per the Conceptual Plan(s) shown on page(s) of the agenda packet.
Subject to the following conditions (including time limitation, if any):

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



Subject property

CHUCK LANGE ZONING OFFICIAL PLANS EXAMINER

TEL (918)596-9688 clange@cityoftulsa.org



### **DEVELOPMENT SERVICES**

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

# **ZONING CLEARANCE PLAN REVIEW**

March 30, 2021

Phone: 918.401.9142

LOD Number: 1 Ryan Kuzmic 1602 S Main ST Tulsa, OK 74119

APPLICATION NO: COO-084153-2021

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: 7438 E 46 ST

Description: Moderate-impact Medical Marijuana Processing

**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 (SEE ATTACHED)
- 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 TWO (2) SETS OF DRAWINGS IF SUBMITTED USING PAPER, OR SUBMIT ELECTRONIC REVISIONS IN "SUPPORTING DOCUMENTS", IF ORIGINALLY SUBMITTED ON-LINE, FOR REVISION ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
- 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 <u>TULSAPLANNING.ORG</u>; 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)

### **REVIEW COMMENTS**

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT WWW.CITYOFTULSA-BOA.ORG

COO-084153-2021 7438 E 46 ST March 30, 2021

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 variances, special exceptions, appeals of an administrative official decision, Master Plan Developments Districts (MPD), Planned Unit Developments (PUD), Corridor (CO) zoned districts, zoning changes, platting, lot splits, lot combinations, alternative compliance landscape and screening plans and all questions regarding (BOA) or (TMAPC) application forms and fees to a representative at the Tulsa Planning Office at 918-584-7526 or esubmit@incog.org. It is your responsibility to submit to our office documentation of any appeal decisions by an authorized decision making body 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.

**Sec.15.020 Table 15-2:** You are proposing an Industrial/Moderate-impact Medical Marijuana Processing Facility. This is in an IL zoning district. This will require a Special Exception approved by the Board of Adjustment.

**Review comment:** Submit a copy of the approved Special Exception as a revision to this application. Please contact Austin Chapman at 918-584-7526 or at <a href="mailto:achapman@incog.org">achapman@incog.org</a> for assistance with Special Exception.

Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code: http://tulsaplanning.org/plans/TulsaZoningCode.pdf

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

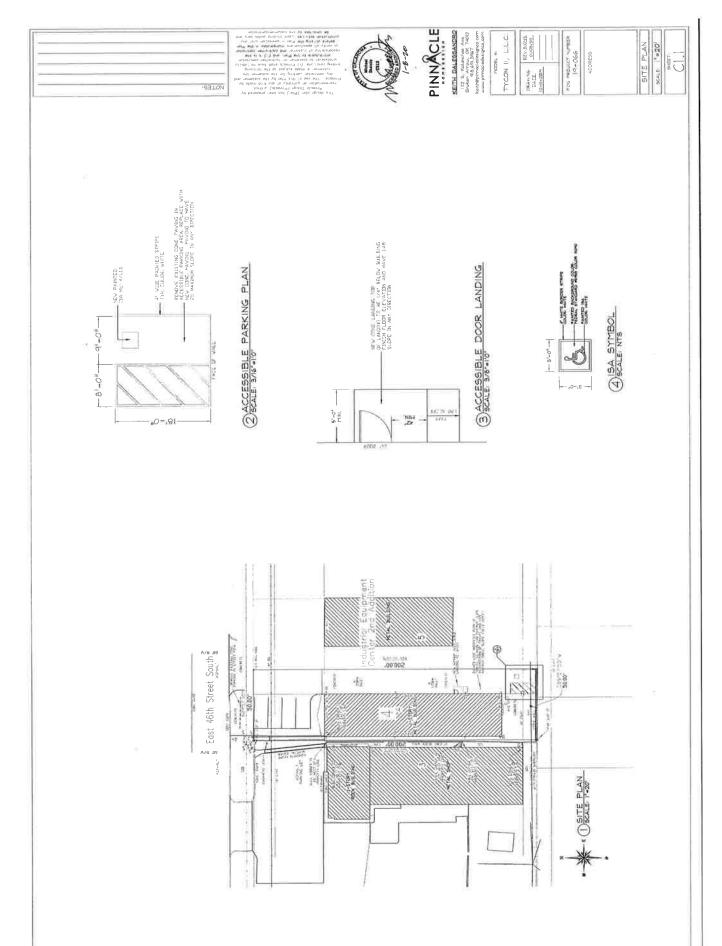
This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

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

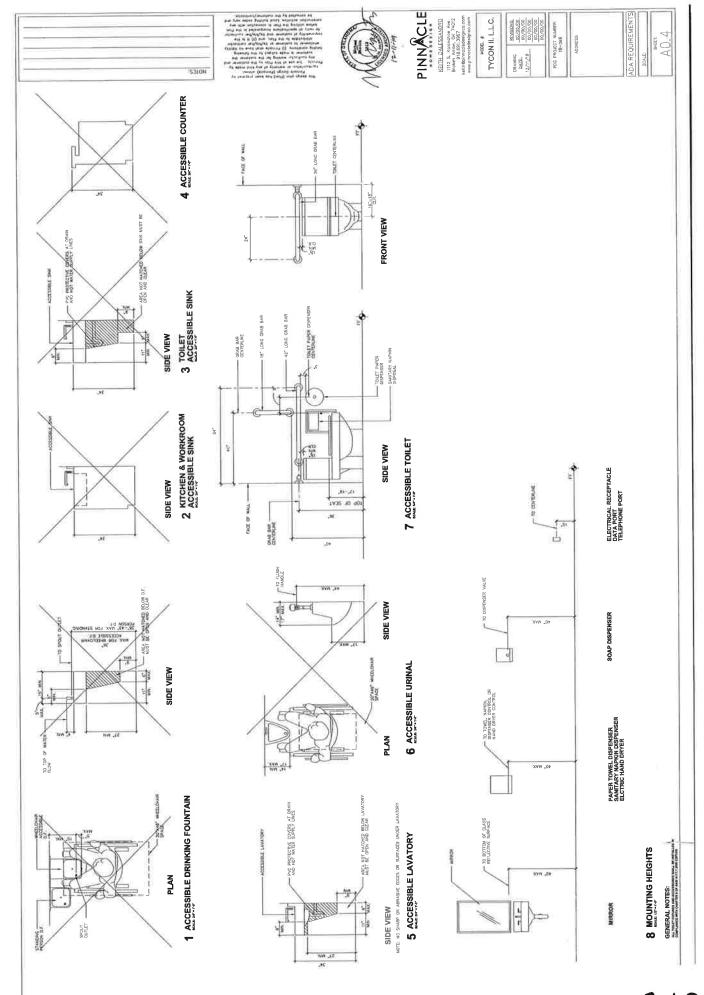
### **END - ZONING CODE REVIEW**

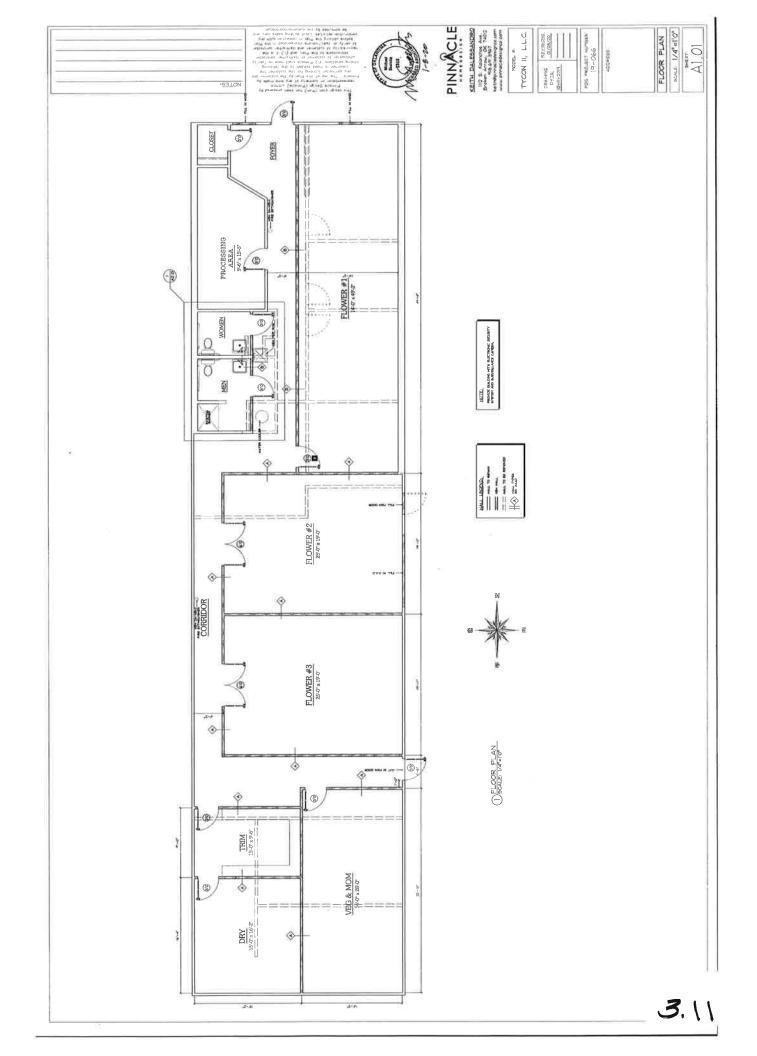
NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION, ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

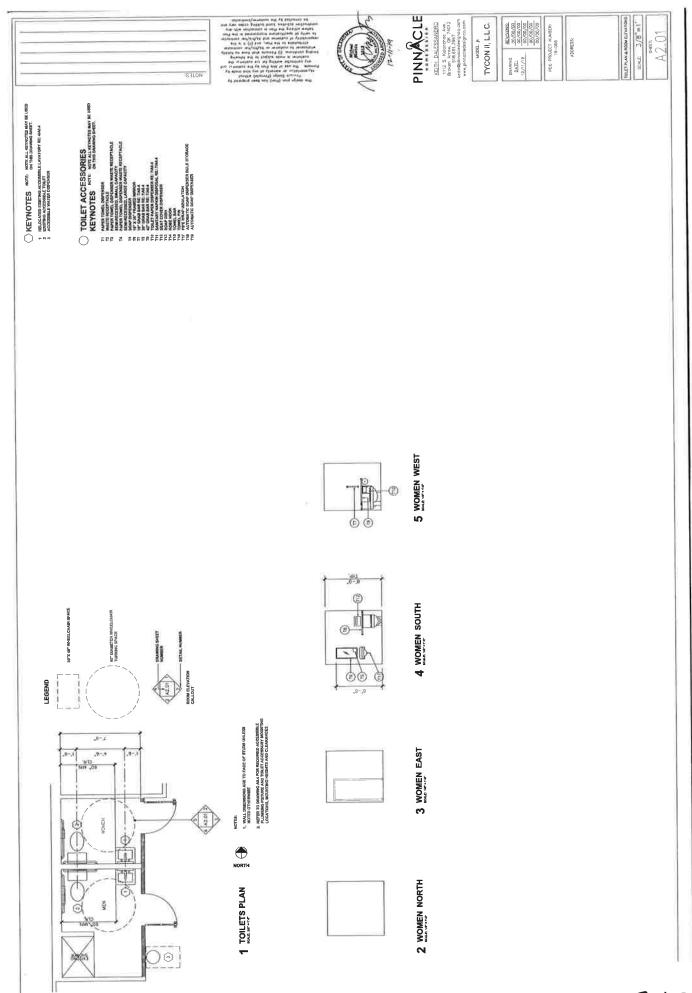
KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.

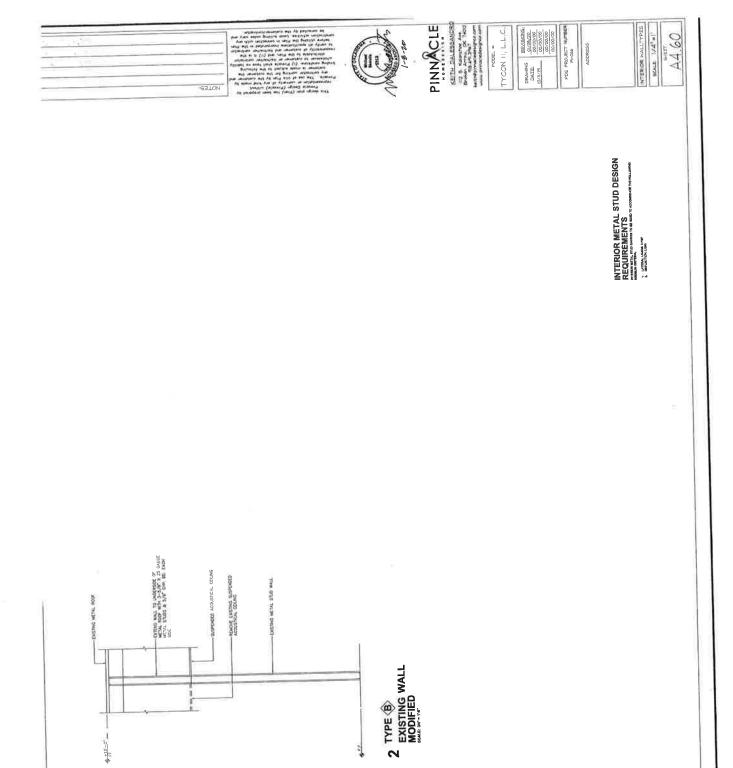


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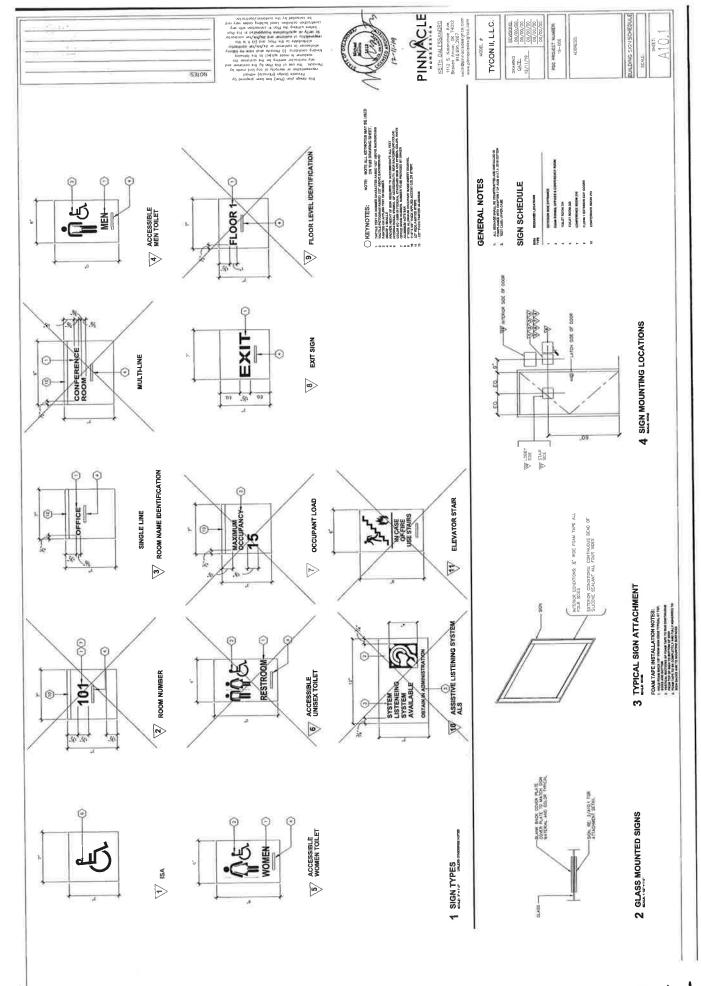






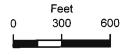
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BOA-23116

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**BOA-23116** 

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

Aerial Photo Date: February 2018



## Sparger, Janet

From:

Joseph Wallis <heath@svenskraft.com>

Sent:

Tuesday, May 11, 2021 12:59 PM

To:

esubmit

Subject:

Against BOA-23116

I'm writing to speak out AGAINST BOA-23116.

There is no reason for this increase in intensity. These groups operations currently surround my business which is directly behind the proposed modification. Their odors currently carry off property which is against city ordinance. Allowing for more intensive operation will only make matters worse. I have a public facing business and it is embarrassing to explain to customers the odors these businesses generate onto my property.

Svenskraft