

**BOARD OF ADJUSTMENT
CASE REPORT**

STR: 9416
CZM: 39
CD: 6

Case Number: **BOA-23142**

HEARING DATE: 07/27/2021 1:00 pm (*Continued from 06/22/2021*)

APPLICANT: Una Vang

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: 12911 E 31 ST S

ZONED: CS

PRESENT USE: Retail Space

TRACT SIZE: 48839.67 SQ FT

LEGAL DESCRIPTION: LT 1 LESS BEG SECR TH W194.96 CRV RT 47.17 N5 SE41.74 E194.97 S6
POB BLK 1, SOONER ACRES

RELEVANT PREVIOUS ACTIONS:

Subject Property: None.

Surrounding Properties:

BOA-22690; On 7.23.19 the Board accept a spacing verification for a medical marijuana dispensary. Property located 3151 S. 129th E. Ave. This is the conflicting dispensary space within 1,000' of the subject property.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of a "Neighborhood Center" and an "Area of Growth".

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.

Neighborhood Centers are small-scale, one to three story mixed-use areas intended to serve nearby neighborhoods with retail, dining, and services. They can include apartments, condominiums, and townhouses, with small lot single family homes at the edges. These are pedestrian-oriented places served by transit, and visitors who drive can park once and walk to number of destinations.

ANALYSIS OF SURROUNDING AREA: The subject tract is located at the NE/c of E. 31st St. S. and S. 129th E. Ave.

STAFF COMMENTS: The applicant is seeking a variance to be located within 1'000 feet of another dispensary located at 3151 S. 129th E. Ave. E. Per the applicant the distance between the two

1.2

REVISED 7/16/2021

dispensaries as 670.41 feet. Staff is unaware how the applicant's stated hardship would not be considered self-imposed.

Comments added since 6/22/2021 hearing:

At the request of the chair I have included Sec. 70.110 of the zoning code demonstrating how compliance to the spacing requirement is to be determined:

Section 70.110

Spacing and Separation Distance Verification

70.110-A Applicability

The spacing and separation distance verification procedure of this section applies whenever this zoning code requires that a use, structure or other development feature be separated or spaced a minimum distance from another use, structure or development feature. The procedure does not apply to a determination of compliance with building setback requirements that apply on individual lots.

70.110-B Action

The development administrator may rely upon the evidence provided by the applicant with an application for a zoning clearance permit to verify that the proposed use, structure or other development feature complies with the applicable spacing and separation distance requirements of this zoning code. Only other uses, structures, or development features that have been legally established by the issuance of a certificate of occupancy, an active building permit, active sign

TULSA ZONING CODE | March 7, 2021
page 70-29

Chapter 70 | Review and Approval Procedures
Section 70.120 | Special Exceptions

permit or active zoning clearance permit will be considered in determining compliance with the applicable spacing and separation distance requirements. It is the responsibility of the applicant to provide all information requested by the development administrator to aid in the determination. For purposes of determining whether spacing and separation distance requirements are met, a zoning-clearance-only permit for the use, structure or development feature from which the subject use, structure or development feature must be separated is valid for 180 days after it is issued.

70.110-C Appeal of Decision

Appeals of spacing and distance verification decisions of the development administrator may be appealed to the board of adjustment in accordance with §70.140.

The Board is not acting on an appeal of any decision that there was a dispensary within 1,000' of the subject tract. The applicant did not provide sufficient evidence to the permit office that there is not a dispensary within 1,000' and the applicant did not appeal that decision.

STATEMENT OF HARDSHIP:

I am requesting this variance due to many reasons. One reason was when we went into the lease, the closest dispensary to us which was Doctor Green seemed to have gone out of business because they took their sign down and everything was taken down in their dispensary. We knew of this because we did stop by to see to make sure. So we went along with the lease and got some renovations done. In doing so, we were then told that The City of Tulsa has regulations that all dispensaries need to be 1000 ft away from each other. Yes, we weren't aware of that in the first place but we weren't too worried at the time because we assume Doctor Green wasn't doing business there and that was the closest dispensary to us. But a week later there was a banner stating that in the place of Doctor Green, a new dispensary was coming. That was when we knew that we couldn't do much but try to apply for a variance. We are about 650ft from each other and they are in a small shopping center while we are right by the corner. I believe that we won't interfere with each other's business. Please Please reconsider this hardship for a variance. We have spent money and lots of time trying to make this work which we believe it can still work.

SAMPLE MOTION:

Move to _____ (approve/deny) a Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D)

- 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."*



Subject property



Conflicting dispensary visible from the parking lot of the conflicting dispensary.

**LT 38 BLK 3, MEMORIAL INDUSTRIAL PARK CORR, City of Tulsa, Tulsa County,
State of Oklahoma**

22690—Paul Bush

FILE COPY

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: 3151 South 129th Avenue East, Suite P (CD 6)

Presentation:

Paul Bush, 1533 South Owasso Avenue, Tulsa, OK; stated this dispensary the only dispensary on the OMMA list within the zip code 74134. The closest dispensary on the list that he could find is not currently operating, so there is nothing within the 1,000-foot radius that is operating.

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 exist presently, 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:

**PRT LT 1 BLK 1 & PRT LT 1 BLK 2 BEG 100N NWC BRIARGLEN MINI STORAGE
TH N225 E525 S5 W35 CRV LF 39.27 S85.78 SW154.47 W355 POB LESS BEG 25S
MOST W NWC LT 1 BLK 1 TH S58 E8 N58 W8 POB FOR ST,BRIARGLEN PLAZA
ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

22691—Zach Downing

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: 2220 East 6th Street South (CD 4)

CHUCK LANGE
ZONING OFFICIAL
PLANS EXAMINER

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



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103

ZONING CLEARANCE PLAN REVIEW

April 28, 2021

LOD Number: 1
Jeremy Cannon
3167 Castle Creek
Newcastle, OK 73065

APPLICATION NO: **BLDC-084979-2021**

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: **12911 E 31 ST**
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 2nd 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 / EMAILLED 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 REVISED OR 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 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 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.).

REVIEW COMMENTS

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

BLDC-084979-2021

12911 E 31 ST

April 28, 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.

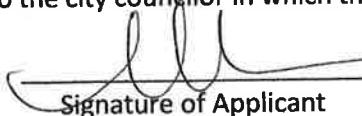
1. **Sec.40.225-D:** A medical marijuana dispensary may not be located within 1000 ft of another medical marijuana dispensary. The BOA is no longer processing Spacing Verifications.

Review Comment: Submit the following documentation so that your application may continue to be processed.

1. An aerial photograph identifying the location of the proposed dispensary at the center of a circle with a 1,000-foot radius, which is the required separation distance from another dispensary; and
2. Locate and identify the nearest dispensary on the map, including the distance from the proposed dispensary; and
3. Verification of having provided a copy of the Permit Application to the City Councilor for the city council district in which the subject property is located. (A copy of an e-mail will suffice.) To find the councilor for your district, click here. (<http://maps.cityoftulsa.org/citycouncil/>); and
4. A copy of the following affidavit:

Affidavit as to Spacing Verification

I, (Applicant) Uma Yang, being duly sworn upon oath, state that I have researched and examined or caused to be researched and examined, the spacing verification requirements and have provided a copy of the Permit Application to the city councilor in which the subject property is located.



Signature of Applicant

Subscribed and Sworn to Before Me this _____ Day of _____, 20 _____.

Notary Public _____ My Commission Expires: _____

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

www.tulsaplanning.org/plans/TulsaZoningCode.pdf

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

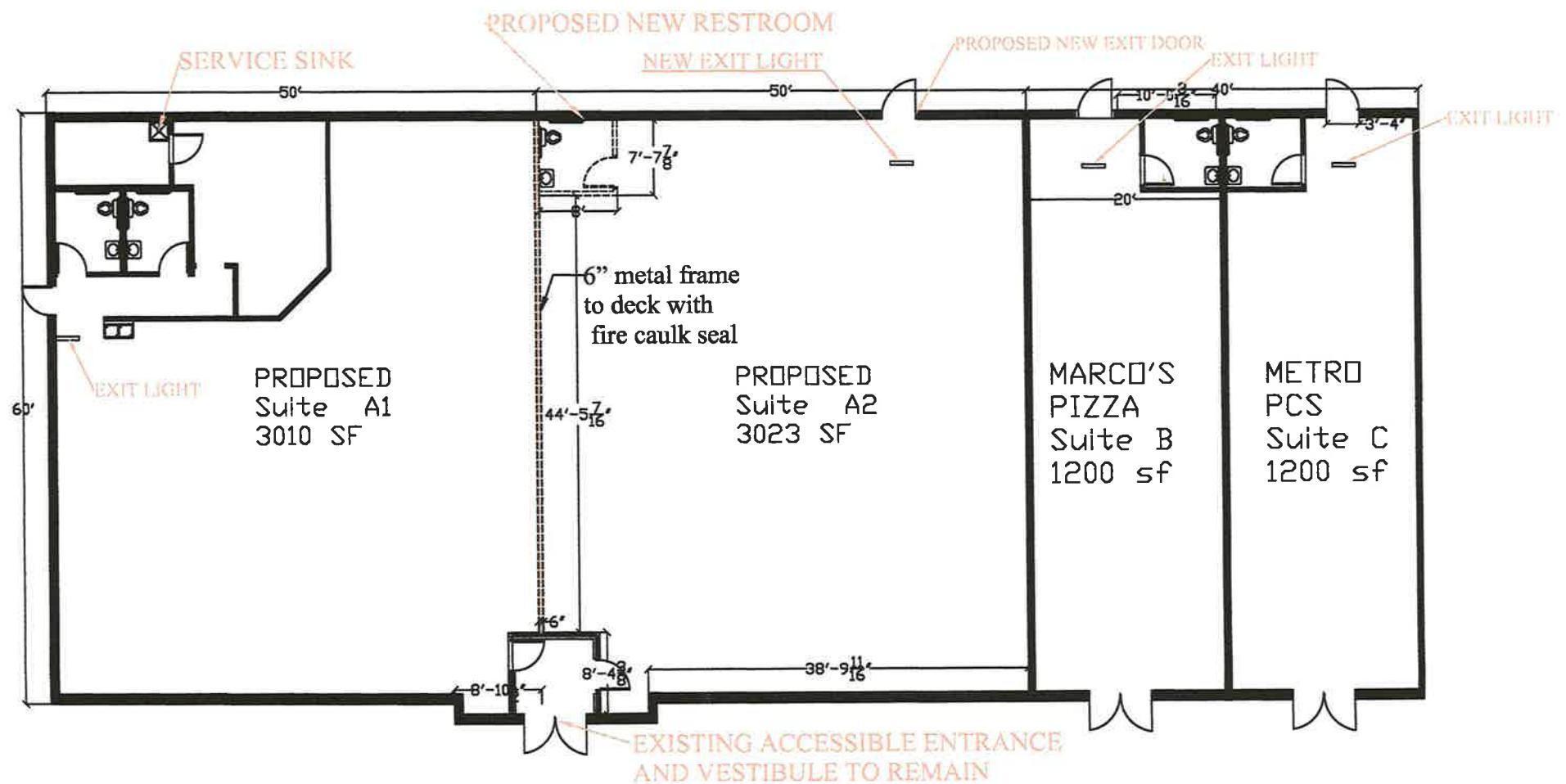
This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

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.



一一一

S 129TH E. AVE

INGRESS/ EGRESS

GARBAGE DISPOSAL

**PROPOSED
Suite A2
3023 SF**

MARCI
PIZZA
Sulte
1200

**PROPOSED
Suite A
3010 SF**

[View all NEW RESTROOMS](#)

ANSWER KEY

10
al

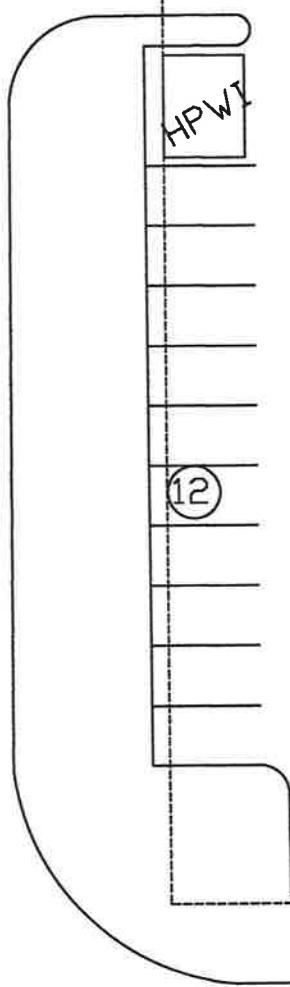
**PROPOSED
Suite A2
3023 SF**

MARCI
PIZZA
Sulte
1200

12

1

14



Google Maps dispensary



Rating ▾ Hours ▾ More filters

A Plus Dispensary

4.5 ★★★★☆ (82)

Cannabis store · 10330 E 21st St

Temporarily closed · (918) 340-5555



• "Very good dispensary."

670.41 FT
From Another
Dispensary

Mellow Mountain Dispensary

4.7 ★★★★★ (54)

Alternative medicine practitioner ·

10301 E 51st St Ste. F

Open until 10:00 PM · (918) 815-0451



• "My new go to dispensary."

J & J Buds and Dispensary

5.0 ★★★★★ (11)

Cannabis store · 10660 E 31st St S

Open until 7:00 PM · (918) 508-2824



✓ In-store shopping · ✓ In-store pickup

1.12



0 200 400

Subject Tract

BOA-23142

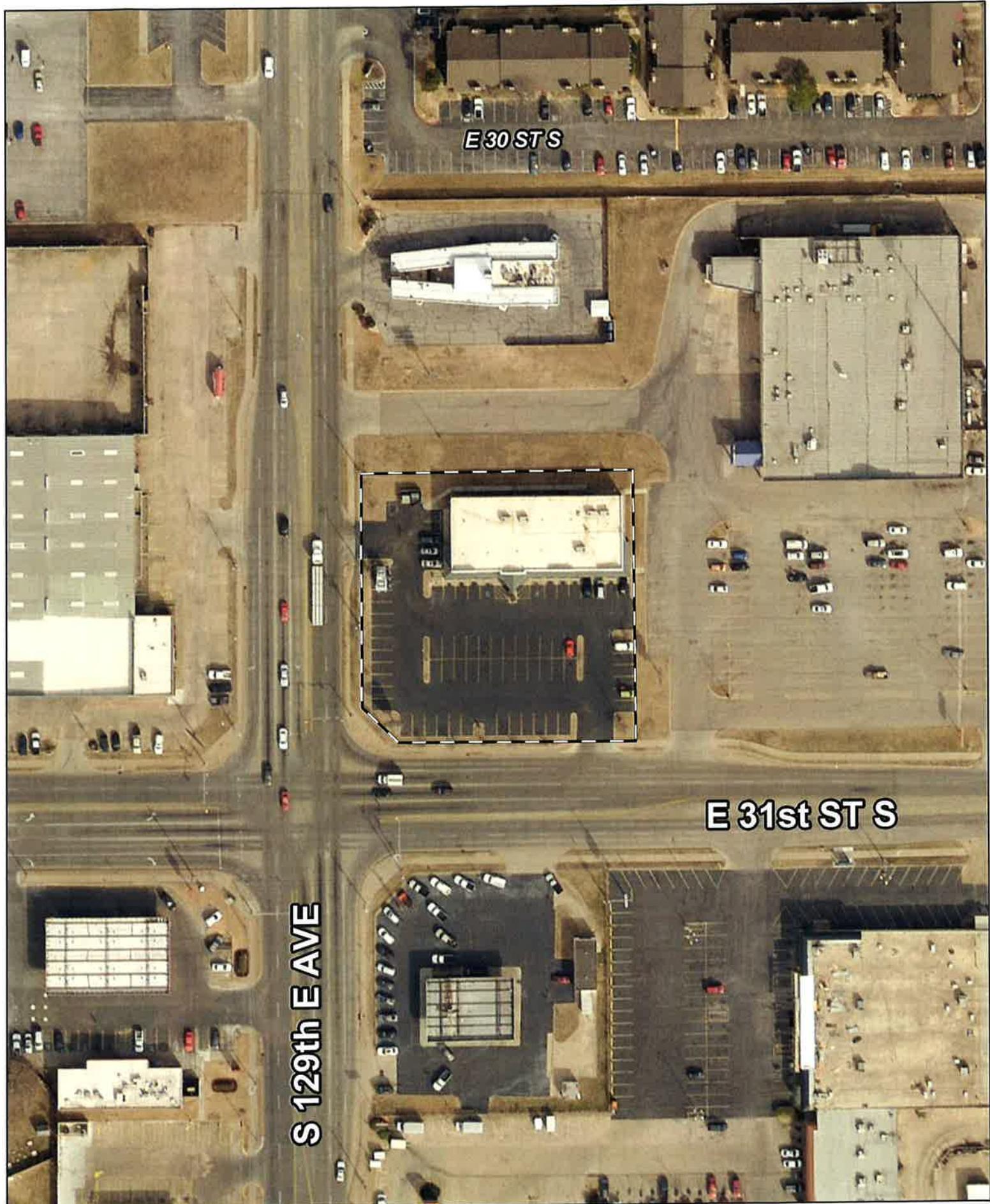
19-14 16

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

Aerial Photo Date: February 201

1.13





0 Feet
50
100



Subject
Tract

BOA-23142

19-14 16

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

Aerial Photo Date: February 2018



1.14

Comments and Questions:

None.

Board Action:

On **MOTION** of RADNEY, the Board voted 4-0-0 (Barrientos, Bond, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the required 5-foot side street setback in an RS-4 District for a non-conforming lot (Section 80.020-B); Variance to allow a building to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A), subject to conceptual plan 2.6 of the agenda packet. The applicant is to obtain a removal agreement with the City of Tulsa. The Board has found the hardship to be the narrowness of an existing non-conforming lot. 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 33' OF TH N 1/2 OF LT 1 BLK 3, ROOSEVELT ADDN, City of Tulsa, Tulsa County,
State of Oklahoma**

NEW APPLICATIONS

FILE COPY

23142—Una Vang

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:**
12911 East 31st Street South (CD 6)

BOA-23142

Presentation:

Una Vang, 2400 East 570 Road, Rose, OK; stated that when she went into the lease Dr. Green that is about 650 feet away was closed. About a week later a sign was put up showing a new dispensary was to open in the Dr. Green space. Ms. Vang stated that she has already had minor renovations done and the other dispensary is still not open, and that is her hardship.

Mr. Bond asked Ms. Vang when she received her Certificate of Occupancy from the City. Ms. Vang stated she has not yet received that certificate. Mr. Bond asked Ms. Vang if she knew whether the other dispensary has received their Certificate of Occupancy. Ms. Vang answered no. Mr. Chapman informed the Board that the location previously went through a Spacing Verification before this Board, and it was issued a Certificate of Occupancy. To the best of his knowledge it was operating legally, and they never relinquished their Certificate of Occupancy.

Mr. Bond asked Ms. Vang what steps she took to see if the other dispensary was operating. Ms. Vang stated she drove by it multiple times and there is still a sign stating, "Buzzing Dispensary Coming Soon".

Mr. Barrientos how long after the lease was initiated was the sign seen? Ms. Vang stated that it was about a week. In order for her to proceed she has to receive a Certificate of Occupancy and a Certificate of Compliance, so she needs the Variance approval.

Ms. Radney asked Ms. Vang if she had any photos showing the vacant space and the sign for the dispensary coming soon. Ms. Vang answered no.

Ms. Radney asked Ms. Vang to describe what she saw. Ms. Vang stated there was no cash register, the floors were torn up, nothing in the space and no sign. Ms. Radney asked Ms. Vang if she had contacted the landlord to find out if it was still an active lease. Ms. Vang answered no.

Mr. Bond asked staff if the Certificate of Occupancy means that a business is open conducting business and is there a process for the Certificate of Occupancy to be revoked? Mr. Chapman stated a business owner can cancel the Certificate of Occupancy but at the point in time that it has been issued there is not a mechanism that it expires. In this situation he cannot speak to that but considering the timeline it sounds like the next dispensary already had a lease agreement in place or some type of understanding that there was going to be another dispensary in the space.

Ms. Radney asked if the Certificate of Occupancy goes with the space or does it go with the business that has applied for it. Mr. Chapman stated the Certificate of Occupancy goes with the space. Ms. Radney asked if the Board is measuring between issued Certificates of Occupancy authorizing dispensaries? Mr. Chapman answered affirmatively stating for the purposes of the City and the Certificate of Occupancy Dr. Green and Buzzing are an established dispensary. The only thing that needs to be

done through the City is to obtain the OMMA license update to receive a State dispensary license.

Mr. Bond asked Mr. Chapman if an applicant looked at the OMMA website would the website still reflect that there was still a licensed dispensary in the other location? Mr. Chapman stated that if prior to this if he had been contacted it would have been his statement that there is still a dispensary at the Dr. Green location because he would have no evidence otherwise.

Ms. Radney stated that what is interesting to her is if Dr. Green does not exist as an entity that has a license to sell marijuana, she is not sure why a person would be required to measure from one building to another building that also does not have a license to dispense marijuana. Just because the building has a Certificate of Occupancy does not necessarily mean that the spacing measurement step has been satisfied.

Mr. Bond stated that according to the City there is a COO for Dr. Green and the Board has also used the COO as a ruling point, but it sounds like there is a change of ownership that would have been required to require additional OMMA license. Ms. Radney stated she learned last week that a license can be purchased and transferred to a new entity if one of the owners moves along with the sale of the license. It sounds to her that what was an existing enterprise dissolved, but it struck that in the spacing language there is language about the spacing between buildings or businesses. Mr. Bond stated the question for future applicants will be who does the applicant contact to discover the 1,000-foot radius and he thinks it will be the City. He does not think that would negate the business's COO. Ms. Radney stated that it is her understanding that the City only issues the Certificate of Occupancy if, and only if, the spacing measurement is satisfied so if the business goes away there is no spacing between businesses even though it has not been effectively cancelled. It has in fact become void because there is no business to measure between. That has always been one of the vague points of this Ordinance, that there is a measurement between existing businesses and it all being void in the event that a pre-existing business within the 1,000-foot boundary were discovered at a later date. Mr. Bond stated he believes that is a question for the City and Legal, what negates the COO?

Ms. Blank stated that Mr. Chapman described what the current process is accurately. Once the Certificate of Occupancy is issued to the place not to the business, many times a business is sold, and a new owner comes in if the business is the same and there is a Certificate of Occupancy it carries forward the new owner is allowed to have that type of business there still.

Mr. Bond stated that in other words the thumbnail for the 1,000-foot spacing is still going to be there because the license still exists.

BOA - 23142

FILE COPY

Interested Parties:

Mac Shayya, 3305 West Oakland Street, Broken Arrow, OK; stated that Dr. Green and the landlord had a disagreement, and he had a shop next door and he agreed with the landlord to take over the Dr. Green space as soon as it was vacated. He signed the lease, received his tax identification number and the other paperwork, and he just finished the Certificate of Occupancy. He is waiting for the OMMA license which takes about 30 days.

Ms. Radney asked Mr. Shayya if he had to apply for a new Certificate of Occupancy with the City as a new business. Ms. Shayya answered affirmatively stating because it was a new business, and he did not want to take over the Dr. Green OMMA license.

Mr. Chapman asked Mr. Shayya if he had received a Certificate of Occupancy or a Certificate of Compliance? Mr. Shayya stated he received both for the location because he cannot receive the OMMA license without a Certificate of Compliance from the City.

Mr. Barrientos asked Mr. Shayya when he signed the lease. Mr. Shayya stated it was about five months ago stating that his sign went up three days after Dr. Green left.

Mr. Brown asked Mr. Shayya if any construction had started. Mr. Shayya answered no because the space was already set up as a dispensary and all he had to do was get his business name and license number on the space.

Mr. Bond asked Mr. Shayya for the date on his new Certificate of Occupancy and the Certificate of Compliance. Mr. Shayya stated it was May 17, 2021 and it was for the Certificate of Occupancy. Mr. Chapman stated the paperwork is for a Certificate of Compliance and asked Mr. Shayya if he had a separate application for a Certificate of Occupancy. Mr. Shayya answered affirmatively stating that it was dated April 14, 2021. Mr. Chapman stated that Mr. Shayya did not receive a new Certificate of Occupancy, he updated the information, but Mr. Shayya did receive a Certificate of Compliance which is what is necessary for the State OMMA license.

Ms. Radney asked if the permit performed the 1,000-foot spacing when they issued the Certificate of Compliance. Mr. Chapman stated that presumed they would, but they also would have relied on evidence provided them by Mr. Shayya, and to everyone's knowledge there were no other licensed dispensaries with a Certificate of Occupancy.

Mr. Bond asked Ms. Vang asked her if she was in the application process now. Ms. Vang stated she cannot be in the application process until she receives approval for her Variance request and that is the hardship for this request. Ms. Vang stated that when she noticed Dr. Green was no longer open, she signed the lease, did some minor renovations, and then noticed the Buzzing sign for "Open Soon". At the time she started this she did attempt to contact Mr. Chapman a couple of times, but she was told they were moving, and she was not able to speak to Mr. Chapman. At that point in time, to the best of her knowledge, she assumed there was no longer a dispensary at the Dr. Green location.

Mr. Barrientos asked if there was any place online where a person could search for other dispensary locations. Mr. Chapman stated that at the time this application was taken a person could have gone through the Tyler Energov System at the City, but due to the ransom ware attack it is unavailable, but a person could check to see what permits had been issued on a specific property which would have reflected the Dr. Green location and that there was a Certificate of Occupancy.

Ms. Radney asked Ms. Vang for the day she executed her lease. Ms. Vang stated that it was March 30th.

Mr. Bond asked Ms. Vang for the date she made her application with the City. Ms. Vang stated she owns other dispensaries that are not located in Tulsa, so she knew she had to receive the Certificate of Occupancy and the Certificate of Compliance before proceeding so she has not done anything yet. She knew that when she saw the sign, she had to receive approval for a Variance in order to proceed.

Mr. Shayya came forward and stated that he signed a lease on February 25th, and the sign went up within a week of that date.

Comments and Questions:

Mr. Bond stated the Board is starting to see more applicants in similar situations, so this is not the last case to be heard. His thoughts are that the City is the entity that regulates this, the City is the entity that informs the Board where there is a COO, and he understands the applicant's thought process. This is a heavily regulated industry. The state legislature has told the public that marijuana is legal for the sale of medicinal purposes, so the City decided to regulate the locations. There are a few locations within the City that were grandfathered in before the Ordinance was passed. There is a permitting process in place and the Board needs to respect that.

Ms. Radney stated that she thinks regulations should be discernable and understandable. She does not think that people need to be specialists to understand how to be compliant. To the extent that the interested party that represents the new business coming into the former Dr. Green location understood or at least proceeded as though he understood that he would be receiving a new Certificate of Occupancy; that would have been her understanding as well. Ms. Radney asked if the original language that used to be read as part of a motion still existed. Mr. Chapman read from minutes for a former case, "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". Ms. Radney asked what is meant by the terminology "established"? The fact that there used to be a dispensary established in a location that went through the proper channels and received a Certificate of Occupancy but dissolved, that only relates to Dr. Green. Now new entities are being discussed that are trying to establish a business and by what method should the Board expect a regular citizen to approach that task? Mr. Chapman stated that a person needs to contact the

Permit Office and confirm through the application of a Zoning Clearance Permit at the bare minimum, which would secure the spot. Applicants have also come to the INCOG offices, just because his name was mentioned he does not know what Ms. Vang is speaking of about the offices changing because the INCOG offices have been in the same location for 10 years. He takes pride in being available to the public but for these purposes if the Board is to approve a Variance, he does not know what process the Board expects if a person is not going to go through the Permit Center first to receive the clearance before leases are signed.

Mr. Brown stated that as for the City, Dr. Green's dispensary even if its no longer there is still a dispensary. He thinks that leaves the Board considering the 1,000-foot spacing for an additional dispensary.

Ms. Radney stated she is going to be in support of the Variance request because she does not believe there is an established business at this moment. In her opinion there is a dissolved business, so she thinks the measurement is from a dissolved entity as opposed to an established entity.

Mr. Barrientos agreed with Ms. Radney. He thinks there is so much room for error.

Ms. Radney wonders what entity is the first and the last resort for information about dispensaries.

Mr. Bond stated the Board debated as a body in the past and had considerable input and advice that was taken from the City and City Legal. What was decided is that it is when the City puts their seal of approval on a location and issues the Certificate of Occupancy.

Mr. Bond again informed the applicant that the Board is normally a five-person body, and he wants to give people a chance to request a continuance, because he is surmising that today's vote be a 2-2 vote which would deny the request. From what has been heard from the City, the COO never lapsed, tied to the place not the business creating the 1,000-foot bubble. Mr. Bond asked Ms. Vang if she wanted to discuss a continuance or would she want the Board to make a motion?

Ms. Radney stated that she has not heard is whether there is still an existing license for Dr. Green, that would make a difference to her. Ms. Radney stated that if the Board were to grant this applicant this Variance, then almost assuredly the Board would have to grant the dispensary a Variance. Mr. Chapman stated the opposing dispensary does not need a Variance, he has already gone through the City process and is waiting on his OMMA license. Mr. Radney asked Mr. Chapman if he was saying that since the opposing party has his Certificate of Compliance he is done. Mr. Chapman answered affirmatively.

Mr. Brown stated he is leery of setting a precedent of the reduced distance putting the Board in a difficult situation.

BOA - 23142

FILE COPY

Ms. Radney stated that she appreciates that argument, but she finds the Board is good at looking at each case individually. She has confidence in the Board's ability to be discernable.

Ms. Vang came forward and asked for a continuance.

Board Action:

On MOTION of RADNEY, the Board voted 4-0-0 (Barrientos, Bond, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to CONTINUE 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) to the July 27, 2021 Board of Adjustment meeting; for the following property:

LT 1 LESS BEG SECR TH W194.96 CRV RT 47.17 N5 SE41.74 E194.97 S6 POB BLK 1, SOONER ACRES, City of Tulsa, Tulsa County, State of Oklahoma

23143—Keith Robertson

Action Requested:

Variance to allow a drive-through lane on a street-facing side of a property (Section 55.100-C.2). LOCATION: 11240 East 17th Place South (**CD 6**)

Presentation:

Robert Wright, 7225 South Columbia Place, Tulsa, OK; stated he is the developer for the subject project and Keith Robertson is the Architect. The Variance request is to allow a drive-thru lane at the subject. Everyone overlooked the last line of the requirements for drive-up window, that line says "no residential street" so now he is before the Board.

Mr. Bond asked Mr. Wright if the neighbors had been spoken to about the proposed project. Mr. Wright stated there was a call for meetings for the Zoning and only three people attended but there were no objections.

Mr. Bond asked Mr. Wright what type of establishment is requesting the drive-up window. Mr. Wright stated that it is a private pharmacy.

Mr. Brown asked Mr. Wright if there would be any customers walking into the building. Mr. Wright answered affirmatively stating that there will be walk-in customers and drive-thru customers.

Mr. Bond asked Mr. Wright to state his hardship for the Variance request. Mr. Wright stated that if the building layout were to be flipped there would be cross trafficking with the drive-up traffic.

**INVOICE (INV-00171715)
FOR CITY OF TULSA**

BILLING CONTACT
Makram Shayya
Stay BuzznInc



INVOICE NUMBER	INVOICE DATE	INVOICE DUE DATE	INVOICE STATUS	INVOICE DESCRIPTION
INV-00171715	04/14/2021	04/14/2021	Due	NONE

REFERENCE NUMBER	FEES NAME	TOTAL
COC-087640-2021	COO Update Fee	\$343.50
	Permit and Licensing System Maintenance Fee	\$4.00
	Record Retention Fee	\$7.50
	System Development Fee	\$29.04
3151 S 129Th Ave E Tulsa Tulsa, OK 74134	SUB TOTAL	\$384.04

REMITTANCE INFORMATION	TOTAL
City of Tulsa 175 E 2nd St., Suite #450 Tulsa, OK 74103	\$384.04

TULSA CITY BOARD OF ADJUSTMENT
CASE NO. BoA- 23142
OFFICIAL RECORD EXHIBIT
ENTERED IN THE 6/22/21
MINUTES OF THE TULSA CITY BOARD
OF ADJUSTMENT

BILL
Maki
StayOKLAHOMA
Medical Marijuana
AuthorityCERTIFICATE OF COMPLIANCE
FOR OMMA BUSINESSES

Instructions: This form is to be completed and submitted with the application or renewal of your OMMA business license. Your application or renewal will not be processed if the Certificate of Compliance is not completed and submitted.

Please visit [HERE](#) and type in the business address to determine whether the appropriate political subdivision to fill out and sign the form is the city or the county in which the business is located. After entering the address, the link provided will supply the information reflected in the EXAMPLE below. If the name of the city appears in the blank under the caption "City Name", then the city identified in the blank is the appropriate political subdivision to complete and sign the form. If the city name does not appear, but instead "UNINCORPORATED" appears in the blank under the caption "City Name", then the county is the appropriate political subdivision to sign and complete the form, and you should contact an appropriate county official, such as the Board of County Commissioners Chairperson.

EXAMPLE**APPLICANT INFORMATION** — PLEASE PRINT OR TYPE CLEARLY

Please choose one

 NEW APPLICATION RENEWAL APPLICATION LOCATION CHANGE APPLICATION

License # (if applying for renewal or location change)

Stay Buzzin Inc.

Business Name

License Type GROWER PROCESSOR DISPENSARY TRANSPORTER LABORATORY RESEARCH EDUCATION

3151 S. 129th E. Ave. Suite P

Tulsa

Ok

74134

Current Physical Street Address of Business

City

State

Zip

Mailing Address of Business (if different from above)

Tulsa

staybuzzn@gmail.com

City

State Zip

County in which Business is Located

Email Address of Business

Phone Number of Business

Name of Business Owner(s) **Najwa Raouda, Makram Shayya, Alaa Shayya**
separated by commas**CITY/COUNTY OFFICIAL INFORMATION** — To be completed by the City or County Official

Andy Teeter Deputy Chief/ Fire Marshal

Contact Name & Title

(Choose one) CITY COUNTY

ateeter@cityoftulsa.org

918-596-9422

5/17/2021

Email Address

Phone Number

Date Completed

OMMA.ok.gov

TULSA CITY BOARD OF ADJUSTMENT
CASE NO. *B-A-23142*
OFFICIAL RECORD EXHIBIT
ENTERED IN THE *6/22/21*
MINUTES OF THE TULSA CITY BOARD
OF ADJUSTMENT

1.23

CERTIFICATE OF COMPLIANCE

COMPLIANCE CERTIFICATIONS

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

Stay Buzzin Inc.

Licensee Name

Print

Clear Form

- 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

DATE: 5/17/2021

Andy Teeter

Fire Marshal

A. C. Teeter

Printed Name of Official

Title

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

DATE: 5/17/2021

Andy Teeter

Fire Marshal

A. C. Teeter

Printed Name of Official

Title

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

DATE: 5/17/2021

Andy Teeter

Fire Marshal

A. C. Teeter

Printed Name of Official

Title

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

DATE: 5/17/2021

Andy Teeter

Fire Marshal

A. C. Teeter

Printed Name of Official

Title

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

DATE: 5/17/2021

Andy Teeter

Fire Marshal

A. C. Teeter

Printed Name of Official

Title

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

DATE: 5/17/2021

If YES, Description of Requirement:

Andy Teeter

Fire Marshal

A. C. Teeter

Printed Name of Official

Title

Signature of Official

- 7 And see, as applicable, the additional information provided by the political subdivision attached hereto.

 YES The political subdivision provided additional attachments. NO The political subdivision did not provide additional attachments.TULSA CITY BOARD OF ADJUSTMENT
CASE NO. BOA- 23142

OFFICIAL RECORD EXHIBIT

ENTERED IN THE 6/22/21

MINUTES OF THE TULSA CITY BOARD
OF ADJUSTMENT

1.24

BIL
Mail
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Zoning Compliance Certification Addendum

Property Address: 3151 S. 129th E. Ave. S.
Tulsa, OK 74134

Subject property is zoned CS, and the proposed use is permitted by right. A medical marijuana dispensary may not be located within 1,000 feet of another medical marijuana dispensary, and the spacing must be verified in a hearing before the Board of Adjustment.

Subject property is zoned _____, and the use is permitted if a special exception is granted by the Board of Adjustment.

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.

All medical marijuana uses are subject to the supplemental regulations of Section 40.225 of the Tulsa Zoning Code.

TULSA CITY BOARD OF ADJUSTMENT
CASE NO. B-4-23142
OFFICIAL RECORD EXHIBIT
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