



# CITY OF Tulsa

## Board of Adjustment

**Case Number: BOA-23539**

**Hearing Date: 06/13/2023 1:00 PM**

**Case Report Prepared by:**

Austin Chapman

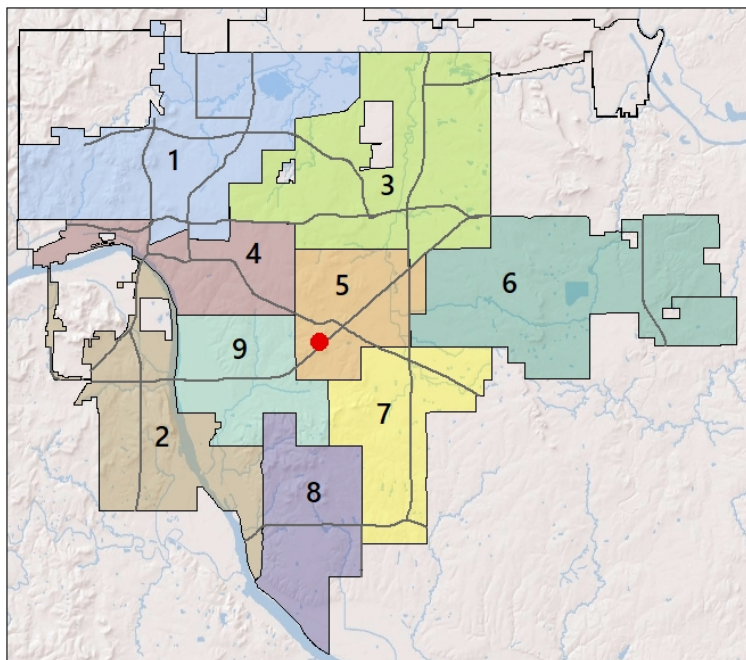
**Owner and Applicant Information:**

**Applicant:** Hunter's Precision RX, LLC

**Property Owner:** Tulsa County Area Vo Tech School

**Action Requested:** Special Exception to permit a Convenience Goods (Pharmacy) with a Drive-through facility in the OM district (Sec. 15.020, Table 15-2); Variance to allow drive-through facilities to be located on the street-facing side of the property (Sec. 55.100-C.2).

**Location Map:**



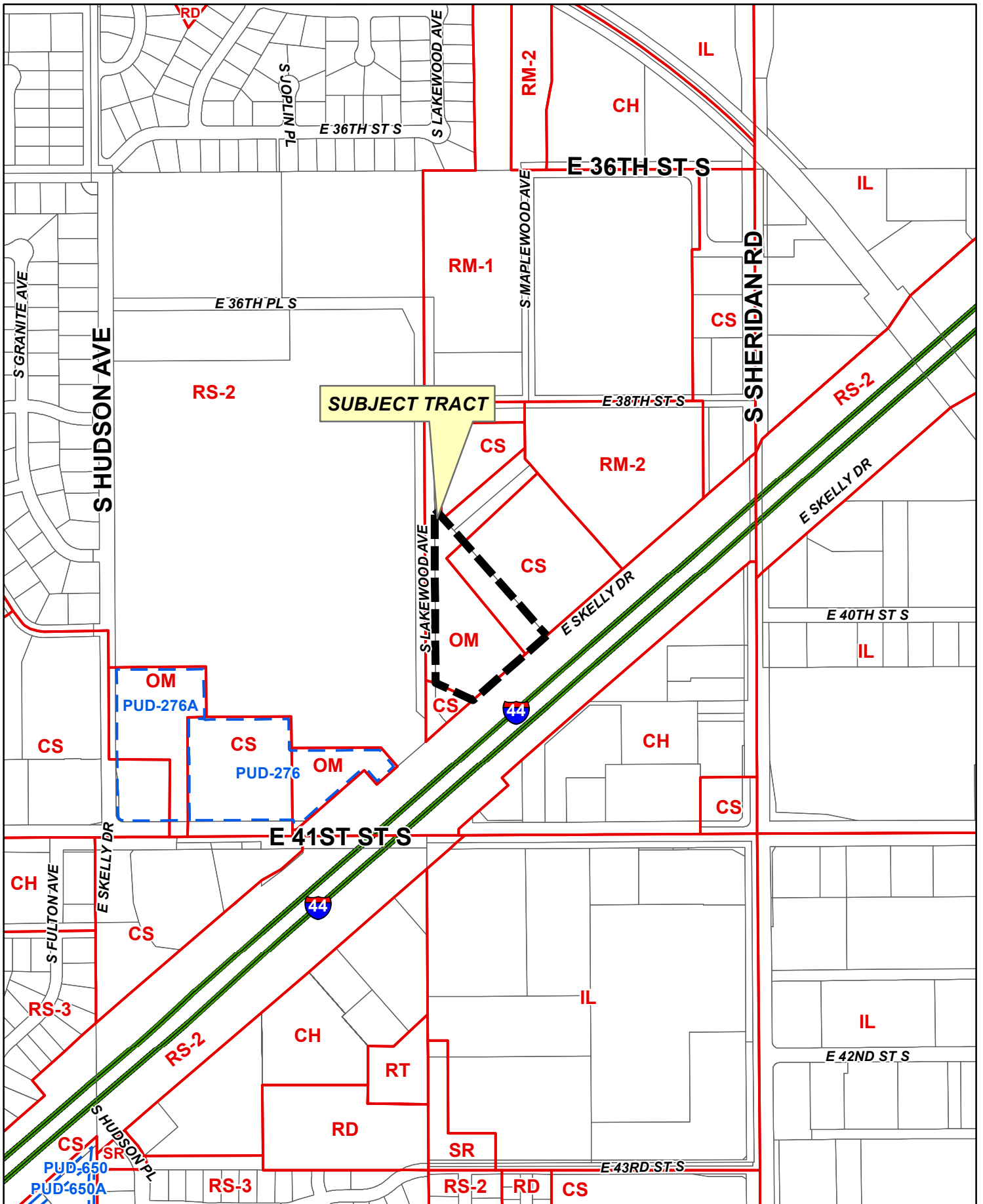
**Additional Information:**

**Present Use:** School/Office

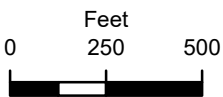
**Tract Size:** 4.26 acres

**Location:** 6111 E Skelly Dr S

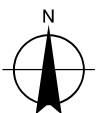
**Present Zoning:** CS, OM



**BOA-23539**

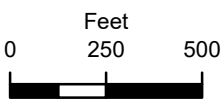


19-13 22



9.2





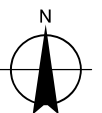
Subject  
Tract

**BOA-23539**

19-13 22

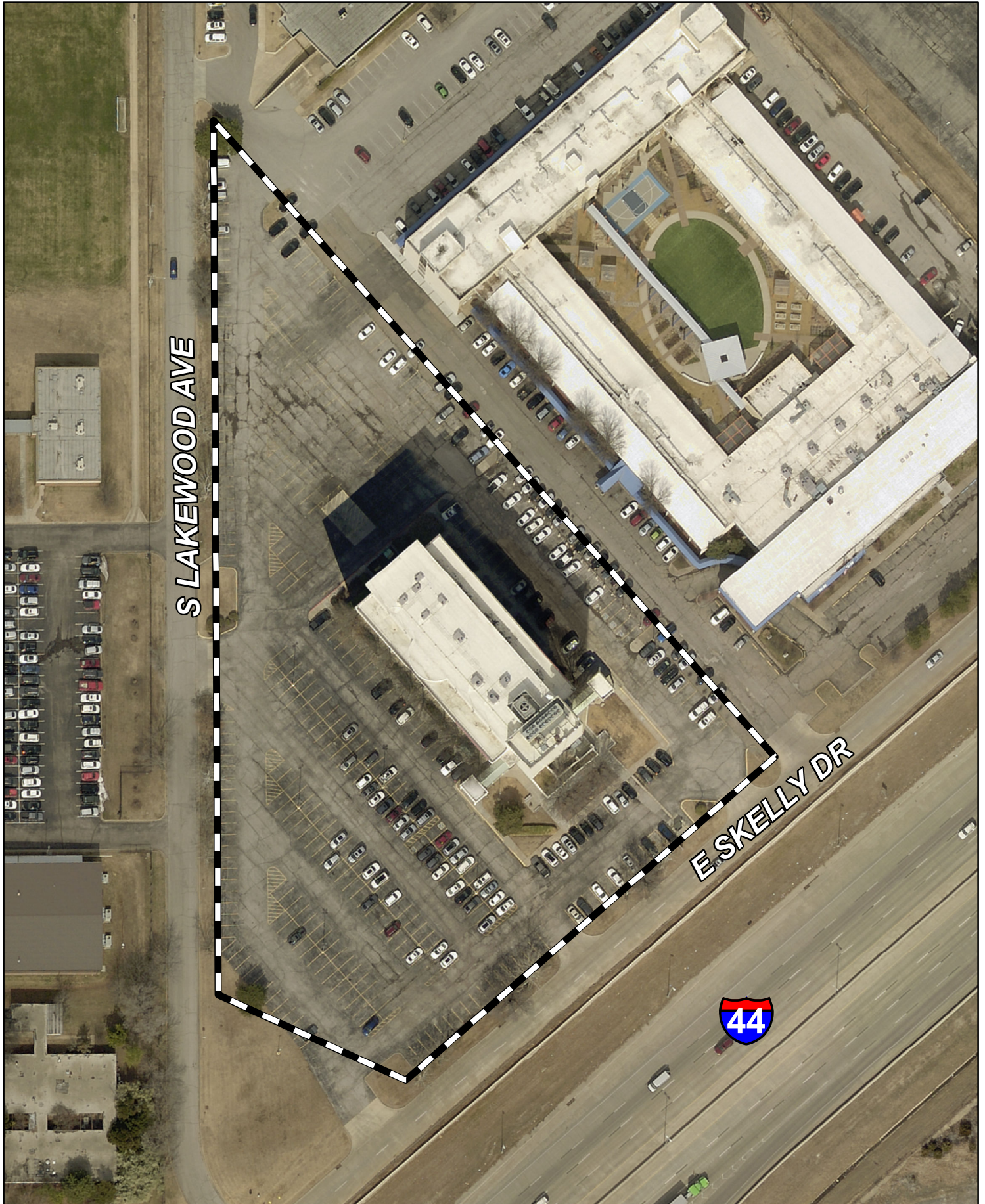
Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: 2020/2021



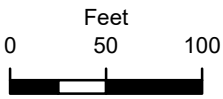
9.3





S LAKWOOD AVE

E. SKELLY DR



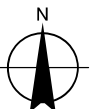
Subject Tract

**BOA-23539**

19-13 22

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

Aerial Photo Date: 2020/2021



9.4



**BOARD OF ADJUSTMENT  
CASE REPORT**

**STR:** 9322

**Case Number:** BOA-23539

**CD:** 5

**HEARING DATE:** 06/13/2023 1:00 PM

**APPLICANT:** Hunter's Precision RX, LLC

**ACTION REQUESTED:** Special Exception to permit a Convenience Goods (Pharmacy) with a Drive-through facility in the OM district (Sec. 15.020, Table 15-2); Variance to allow drive-through facilities to be located on the street-facing side of the property (Sec. 55.100-C.2)

**LOCATION:** 6111 E SKELLY DR S

**ZONED:** CS, OM

**PRESENT USE:** School/Office

**TRACT SIZE:** 185409.54 SQ FT

**LEGAL DESCRIPTION:** LT 1 BLK 1, TULSA SCOTTISH RITE SUB AMD RESUB PRT TULSA SCOTTISH RITE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

**RELEVANT PREVIOUS ACTIONS:**

**Subject property:**

**BOA-21609;** On 08/13/2013 the Board approved a Variance to allow more than 1 sign on the west elevation; and a Variance to allow an additional 181 sq. ft. of display surface area for 2 wall signs on the west elevation.

**BOA-07181;** On 10/21/1971 the Board approved a Variance to permit erecting a 160 square foot sign on a building in an OM District.

**BOA-06835;** On 12/03/1972 the Board approved a Variance to permit a total floor area of the projected office building not to exceed 60% of lot area, and a total floor area of the motel not to exceed 40% of the lot area.

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

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

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.

**STATEMENT OF HARDSHIP:** Please see attached.



**STAFF ANALYSIS:** Special Exception to permit a Convenience Goods (Pharmacy) with a Drive-through facility in the OM district (Sec. 15.020, Table 15-2); Variance to allow drive-through facilities to be located on the street-facing side of the property (Sec. 55.100-C.2)

Convenience Goods uses are described as follows per Sec. 35.050-L of the Zoning Code:

**1. Convenience Goods**

Retail sales uses that sell or otherwise provide (1) sundry goods; (2) products for personal grooming and for the day-to-day maintenance of personal health or (3) food or beverages for off-premise consumption, retail bakeries and similar uses that provide incidental and accessory food and beverage service as part of their primary retail sales business. Typical uses include convenience stores, drug stores, specialty food stores, package stores, gift shops, newsstands, florists and tobacco stores. Does not include small box discount stores or grocery stores.

Location Drive-through facilities Location and Design are prescribed as follows:

**55.100-C Location and Design**

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

**Facts staff finds favorable for variance request:**

- The lot is triangular in shape and is bounded to the south, west, and north by streets. These factors could present an undue hardship.

**Facts Staff find unfavorable for the variance request:**

- The applicant has not stated how relocating the proposed drive through to the East side of the property would create a hardship on the property owner.

**SAMPLE MOTION:**

**Special Exception:**

Move to \_\_\_\_\_ (approve/deny) a Special Exception to permit a Convenience Goods (Pharmacy) with a Drive-through facility in the OM district (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.

**Variance:**

Move to \_\_\_\_\_(approve/deny) a Variance to allow drive-through facilities to be located on the street-facing side of the property (Sec. 55.100-C.2):

- 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 (Image taken from google.com street view. Capture date: January 2023)***



**SAMGRESHAM**  
ARCHITECTURE  
400 NW 23RD STREET  
OKLAHOMA CITY, OK 73103  
(405) 842-2998

May 10, 2023

City of Tulsa  
Attn: Board of Adjustment  
175 E. 2<sup>nd</sup> St. Suite 1405  
Tulsa, OK 74103

**RE: Grand Lake Mental Health  
6111 E. Skelly Drive  
Tulsa, OK 74135**

### **VARIANCE REQUEST**

The request to install a drive-thru at the proposed new Pharmacy meets the criteria for the required hardships in the following ways.

1. The physical surroundings, shape or topographic conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner due to the location of the other buildings in the surrounding properties that also serve a variety of healthcare services to the public.
2. The literal enforcement of the zoning ordinance to prohibit drive-thrus is more intended to avoid fast-food restaurants, retail services, etc. and not a pharmacy drive-thru pick up function.
3. As a pharmacy, the drive-thru is needed to service a variety of customers including disabled and handicap patients that could utilize the drive-thru as a preferred option to walking into the building.
4. The current property owners did not create this hardship in that a pharmacy drive-thru would seem to be a needed option for its customers despite being in an Office Classification.
5. A variance to allow the pharmacy drive-thru is a minimal request and would not set any precedence to other types of drive-thrus in the zoning district.
6. Due to the location of the proposed drive-thru at the rear of the building and away from the main street access, the essential character of the neighborhood would be unaffected by the approval of this variance.
7. The convenience for the property owners customers to be able to drive-thru to pick up prescriptions has no adverse effects to the public good, and in fact would be of great service to the public.



*1. That the physical surroundings, shape, or topographic 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.*

The Applicant's intended use is for a commercial pharmacy that also provides a drive thru facility as a convenience for its' patients. The Applicant is locating here in large part due its relationship with GRAND Health (the property owner), who will be providing medical services to a wide range of behavioral health care clients. The Applicant's pharmacy provides needed prescriptions and medications to this patient population and its overall use is congruent with the nature of the building and surrounding community.

The OM (Office Medium Intensity) zoning classification allows for medical, dental or health practitioner offices but does not specify use for pharmacies or drive thru windows. The applicant intends on changing the shape of the subject property (adding a drive thru pharmacy window). If the strict letter of the regulations were carried out the Applicant would be unable to provide this necessary service to its patients or properly operate it pharmacy.

*2. That the literal enforcement of the subject zoning code provision is not necessary to achieve the provisions intended purposes*

The applicant's intended use is cohesive with the OM zoning classification. This zoning classification already allows for general healthcare uses and the variance requested is simply to provide an additional health related business, helping to serve the property owner's patient population. The integrity of the OM zoning classification is not affected by this variance request and literal enforcement is not necessary to ensure intended businesses, such as the Applicant's, operate within the OM zoning district.

*3. 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.*

The Applicant's request, as evidenced by its building permit filed on 1/27/23, is unique to the property located at 6111 E Skelly Drive. The applicant has no other pending or open zoning appeals or variance requests. The Applicant is singularly focused on opening its pharmacy and drive thru service at the location referenced.

*4. That the alleged or practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner:*

The current property owner has been supportive of the Applicant's use since the leasehold arrangement was entered into. In fact, the current property owner specifically asked the Applicant to consider providing pharmacy services in the building as a much-needed amenity to their patient population. At no time did the current property owner create measures that would have caused undue hardship in the intended operation of the Applicant's business.

*5. That the variance to be granted is the minimum variance that will afford relief.*

The Applicant is only asking for a variance to allow a sub category of health care use (pharmacy) and a common ancillary service provided by most pharmacies (a drive thru). Pharmacy drive thrus have also shown to be a critical tool in helping patients get needed medications during healthcare emergencies such as the recent Covid pandemic. The Applicant is not seeking a major variance or zone change outside of the OM zoning classification. The variance granted causes minimum issues with the continuity of the zoning code or intended uses of the zoning code.

*6. 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.*

The subject property is on a commercial thoroughfare with a wide variety of businesses, houses of worship, retail, food establishments, and public uses. The building itself is a large office building with substantial parking and capacity for vehicle throughput and general use. The variance granted will have no effect on the commercial character of the neighborhood given the diversity of commercial use currently displayed. The Applicant believes the pharmacy will be a welcome addition to this area and will help serve the patient population that will also be using the property for mental health related services.

All development of the project will be encapsulated within the existing building footprint and the drive thru will be located well off the main road (Skelly Drive) negating any potential impact on adjacent property. Due to this limited footprint and general use case, there will be no impairment or use restrictions to development of adjacent property.

*7. 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.*

The Applicant's intended use is symmetrical with the OM zoning classification, as health care categories are already permitted within this zone. The current property owner will be utilizing the building to provide behavioral health care services and the Applicant's use is complimentary to this patient population. The variances granted will increase access to needed pharmacy services enhancing the public good and utility to all residents of Tulsa.

The variance requested for a pharmacy and related drive thru window in the OM zoning code in no way attempts to take advantage of the spirit of the zoning code or comprehensive plan. In fact, it is the opinion of the Applicant, that our profile enhances the OM zone for health care providers by providing an often overlooked but necessary service.





DEVELOPMENT SERVICES  
175 E 2ND ST., STE 405  
TULSA, OK 74103  
918-596-9456

# CITY OF TULSA

## CORRECTIONS SUMMARY

### BLDC-144364-2023 (6111 E SKELLY DR S Tulsa, OK 74135) Markup Summary #1

#### Note (1)



**Subject:** Note  
**Page Label:** 1  
**Status:**  
**Author:** tlegendre  
**Date:** 5/1/2023 1:17:30 PM  
**Color:** ■

1. Section 107.1 General. This project is required to be designed by a State of Oklahoma licensed architect as required by the State of Oklahoma. Plans shall be complete and clearly identifies all work proposed.

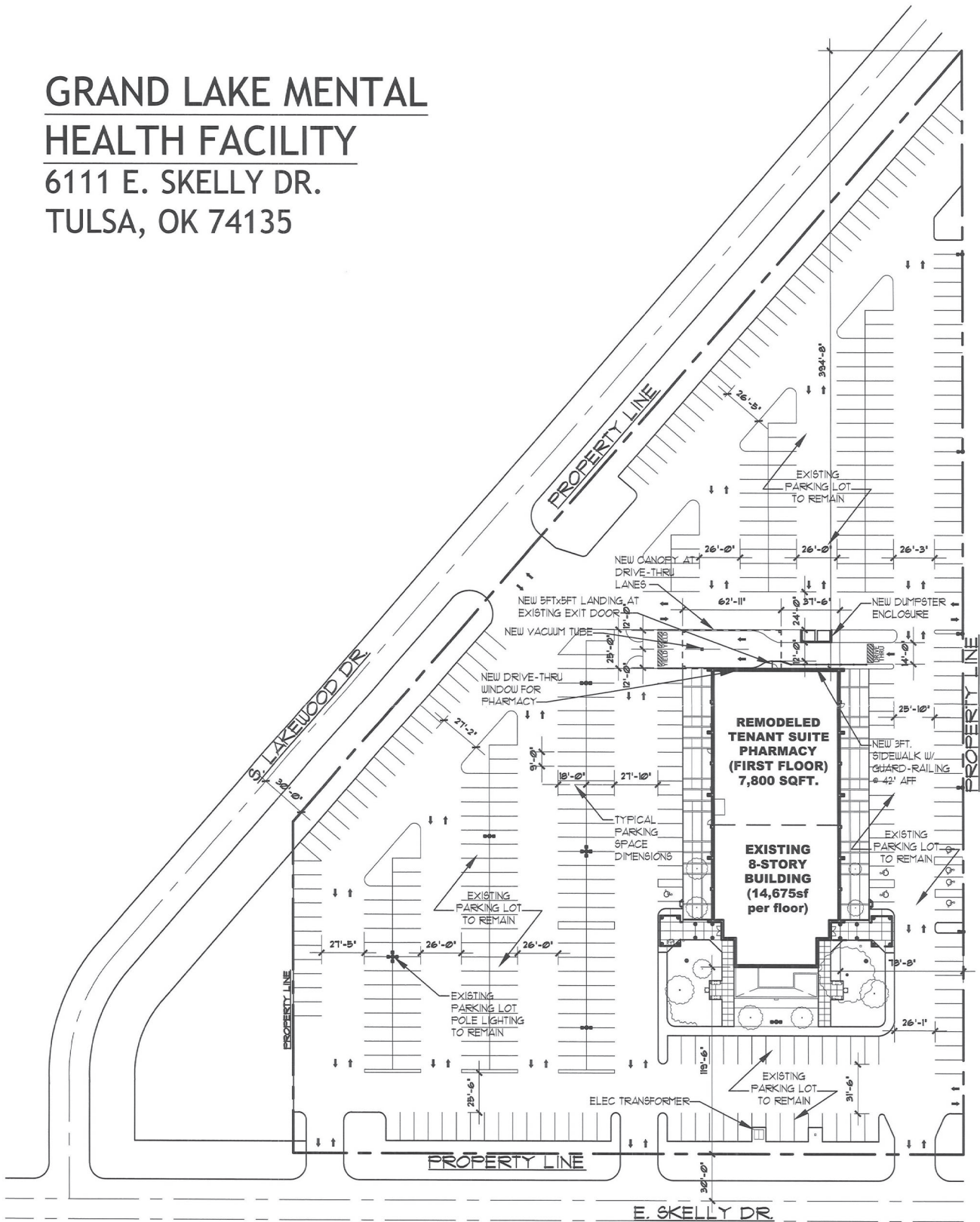
#### Zoning BLDC-144364-2023 (1)



**Subject:** Zoning BLDC-144364-2023  
**Page Label:** 3  
**Status:**  
**Author:** Jeffrey Bush  
**Date:** 4/24/2023 9:47:50 AM  
**Color:** ■

Section 15.020 Table 15-2: The proposed plan indicated two uses (Commercial/Retail Sales/Convenience Goods/Pharmacy ; Other/Drive-in or Drive-Through Facility/Drive-through). They are located in an OM zoned district. Both of these uses require a Special Exception approved by the BOA. Review Comment: Submit An approved BOA Special Exception to allow Use in an OM district. Contact INCOG for further instructions and next steps. 918-584-7526.

**GRAND LAKE MENTAL  
HEALTH FACILITY**  
6111 E. SKELLY DR.  
TULSA, OK 74135



PROPOSED  
SITE PLAN  
SCALE: 1"=60'-0"  
A11

PRELIMINARY  
NOT FOR CONSTRUCTION