



**Board of Adjustment**

**Staff Report  
Variance BOA-23684**

**Hearing Date:** April 23, 2024  
**Prepared by:** Sean Wallace  
swallace@cityoftulsa.org  
918-596-7585

**Owner and Applicant Information**

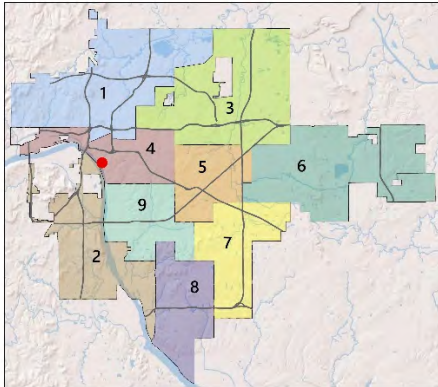
Applicant: City Design Studio  
Property Owner: City of Tulsa

**Property Location**

Riverside Park between W 19th St & S Elwood Ave  
Tract Size: ±10 acres

**Location within the City of Tulsa**

*(shown with City Council districts)*



**Elected Representatives**

City Council: District 4, Laura Bellis.  
County Commission: District 2, Karen Keith.

**Public Notice Required**

Newspaper Notice – min. 10 days in advance  
Mailed Notice to 300’ radius – min. 10 days in advance

**Request Summary**

Variance to reduce the required 30-foot setback for a parking area from Riverside Drive and for the required 70-foot setback for a parking area from the riverbank in the RDO-1 (Sec. 20.050-D, Table 20-2); Variance to reduce the screening requirement for a parking area from the public street and from the dual river trail (Sec. 20.050-D, 3.b(5)); Variance to reduce the requirement that one tree for every 20-feet of river trail be provided to allow preservation of existing trees (Sec. 20.050-D, 3.b(6)); Variance to eliminate the sidewalk installation requirement along Riverside Drive (Sec.20.050-D, 6.b(6)).

**Zoning**

Zoning District: AG, RM-2, RM-3  
Zoning Overlays: RDO-1

**Comprehensive Plan Considerations**

**Land Use**

Land Use Plan: Arkansas River Corridor  
Small Area Plans: None  
Development Era: Early Automobile

**Transportation**

Major Street & Highway Plan: None.  
planitulsa Street Type: None.  
Transit: N/A  
Existing Bike/Ped Facilities: East bank multi-use trail  
Planned Bike/Ped Facilities: None

**Environment**

Flood Area: Floodway  
Tree Canopy Coverage: 10-20%  
Parks & Open Space: Riverside Park

## Staff Analysis

Variance to reduce the required 30-foot setback for a parking area from Riverside Drive and for the required 70-foot setback for a parking area from the riverbank in the RDO-1 (Sec. 20.050-D, Table 20-2); Variance to reduce the screening requirement for a parking area from the public street and from the dual river trail (Sec. 20.050-D, 3.b(5)); Variance to reduce the requirement that one tree for every 20-feet of river trail be provided to allow preservation of existing trees (Sec. 20.050-D, 3.b(6)); Variance to eliminate the sidewalk installation requirement along Riverside Drive (Sec.20.050-D, 6.b(6)).

Table 20-2: RDO Building, Parking and Service Area Siting [1]

	RDO-1	RDO-2	RDO-3
<b>Build-to-Zones (BTZ) (minimum/maximum setback in feet)</b>			
<b>River BTZ (See Figure 20-1)</b>			
From dual river trail [2]	10/25[3]	10/25[3]	NA
From top of river bank [4]	50/75[5]	50/75[5]	NA
<b>Street BTZ (See Figure 20-2)</b>			
From major street	10/25	10/25[6]	10/25
<b>Building Façade in BTZ [9]</b>			
River BTZ (See Figure 20-3)	At least 60% of river-facing façade must be located in BTZ	River-facing façade must occupy at least 70% of the BTZ length [6][7]	NA
Street BTZ (See Figure 20-4)	At least 60% of street-facing façade must be located in BTZ	Street-facing façade must occupy at least 50% of the BTZ length [6][7]	Street-facing façade must occupy at least 50% of the BTZ length [8]
<b>Minimum Side Setback</b>	None required		
<b>Minimum Rear Setback</b>	Per underlying zoning		
<b>Minimum Parking Area Setback (feet)</b>			
From dual river trail [10]	20	20	NA
From top of river bank [4][10]	70	70	NA
From any street	30	30	30
<b>Minimum Service Area/Equipment Setback (feet)</b> (service areas, mechanical equipment, refuse collection areas, storage areas and loading docks)			
From Dual River Trail	50	50	NA
From Top of River Bank [4]	70	70	NA
From any Street	50	50	50

- (5) The perimeter of parking lots must be screened from public streets and the dual river trail by one of the following methods:
- (a) A berm with a minimum height of 3 feet and a maximum slope of one vertical foot for every 4 horizontal feet. The berm must be planted with coniferous and deciduous trees at a rate of at least one tree per 20 linear feet of berm; or
  - (b) A masonry wall with a minimum height of 2 feet and maximum height of 3 feet, with a minimum 5-foot landscaped buffer containing at least one tree per 20 linear feet located on the outside of the wall.
- (6) Lots adjacent to the dual river trail must provide at least one tree for every 20 feet of trail or river frontage, as follows:
- (a) All trees required by this provision must be placed within 20 feet of the edge of the trail, trail easement, reserve area or trail right-of-way, as measured from the outer edge of the tree's trunk; and
  - (b) Trees placed within 20 feet of the river trail may not be counted towards meeting the requirements of any other minimum landscape or tree planting requirement of [Chapter 65](#).
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**b. Regulations**

- (1) No more than one driveway is allowed per 300 linear feet of public right-of-way in RDO-1 and RDO-2 districts.
  - (2) All access points to a public street must be shared by multiple tenants and park users.
  - (3) All parcels must provide vehicular and pedestrian connectivity (cross-access) with adjacent parcels.
  - (4) Internal pedestrian circulation systems must coordinate and connect with public spaces, sidewalks, dual river trail, transit stops and other transportation systems.
  - (5) All new dual river trails and re-positioned existing dual river trails must be located to avoid vehicular crossings.
  - (6) Public sidewalks with a minimum width of 5 feet must be installed along the entire street frontage on any lot abutting a major street.
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**STATEMENT OF HARDSHIP:** Please see statement included in packet.

Relevant Case History

- BOA-17543: On 10.22.96 the Board approved restaurant use on the subject property accessory to the Park Use.
- BOA-9055: On 5.20.76 the Board approved a Park Use on the subject property.

## **Comprehensive Plan Considerations**

### **Land Use Plan**

The subject property is designated as Parks and Open Space - includes parks, trails, public sports complexes, country clubs, stormwater facilities, forests, and cemeteries. While these individual uses differ greatly, the general goal of this designation is to ensure these areas remain in their current undeveloped state, and that new development in near proximity does not encroach in ways that undermine the purpose of the property. Active parks and open space should be further activated by development that faces these uses.

#### Surrounding Properties:

<u>Location</u>	<u>Existing Zoning/Overlay</u>	<u>Existing Land Use Designation</u>	<u>Existing Use</u>
North	RM-3	Parks and Open Space	River Parks
East	RM-2, RM-3	Arkansas River Corridor	Residential
South	RM-2	Parks and Open Space	River Parks
West	AG	Parks and Open Space	Arkansas River

### **Small Area Plans**

The subject properties are not in a Small Area Plan.

### **Development Era**

The subject property is in an area developed during the Early Automobile Era (1930s-50s), which retained a high degree of the connectivity from neighborhood streets to the arterial network, with mostly commercial, office, industrial, and other active uses along major streets and a mix of housing options and neighborhood-based uses like schools, churches, and libraries in the interior sections. Priorities in these areas include walkability, bikeability, access to public transit, historic preservation, housing type variety, mixed-use development, commercial revitalization, compatibility of scale for neighborhood development, and transitions between commercial corridors and residential areas.

### **Transportation**

Major Street & Highway Plan: Secondary Arterial

Comprehensive Plan Street Designation: None.

Transit: N/A

Existing Bike/Ped Facilities: River Parks east bank multi-use trail.

Planned Bike/Ped Facilities: None.

Arterial Traffic per Lane: 1,715 vehicles per lane per day on Riverside Drive.

### **Environmental Considerations**

Flood Area: The subject property is in the floodway.

Tree Canopy Coverage: Tree canopy in the area is 17%. Preserving the limited existing canopy should be encouraged, as well as measures to increase the canopy through landscaping. Street-lining trees in particular should be encouraged to spread the benefit of the tree canopy to the pedestrian realm.

Parks & Open Space: River Parks

**Sample Motion**

I move to *approve or deny* a Variance to reduce the required 30-foot setback for a parking area from Riverside Drive and for the required 70-foot setback for a parking area from the riverbank in the RDO-1 (Sec. 20.050-D, Table 20-2); Variance to reduce the screening requirement for a parking area from the public street and from the dual river trail (Sec. 20.050-D, 3.b(5)); Variance to reduce the requirement that one tree for every 20-feet of river trail be provided to allow preservation of existing trees (Sec. 20.050-D, 3.b(6)); Variance to eliminate the sidewalk installation requirement along Riverside Drive (Sec.20.050-D, 6.b(6))

- 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 the hardship to be \_\_\_\_\_.

In granting the Variance, the Board finds that the following facts, favorable to the property owner, have been established:

- 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;
- That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;
- 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;
- That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- That the variance to be granted is the minimum variance that will afford relief;
- 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
- 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.

**Property Description**

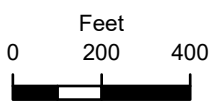
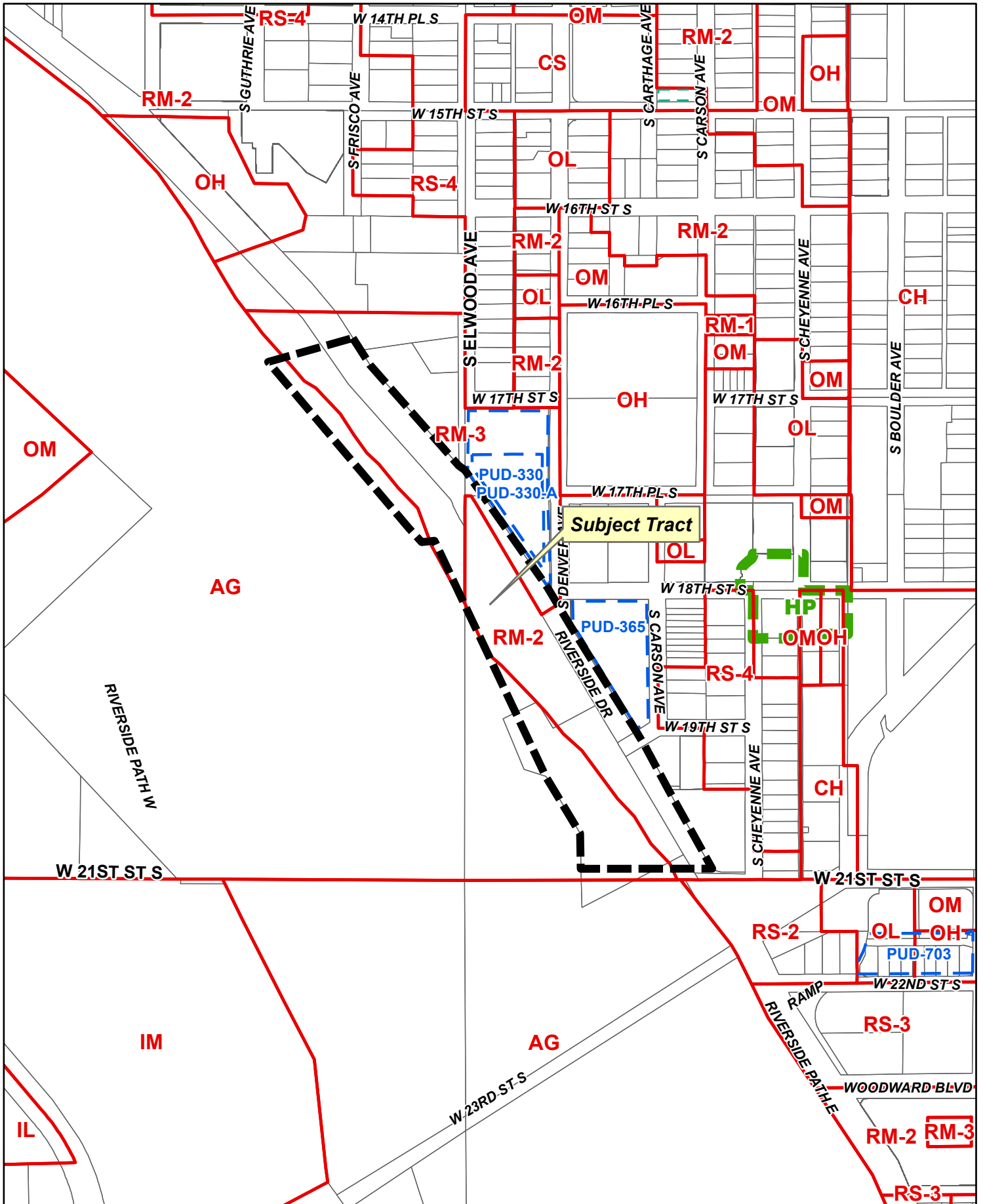
SE SE SE SE LESS S50 & LESS E50 & LESS BEG 50N & 50W SECR THEREOF TH W100 CRV LF TO PT 150N & 50W SECR SE SE SE SE TH S100 POB SEC 15 19 13 1.74AC, City of Tulsa, Tulsa County, State of Oklahoma

**Exhibits**

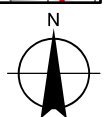
- Photos
- Case map
- Aerial (small scale)
- Aerial (large scale)
- Tulsa Comprehensive Plan Land Use Map

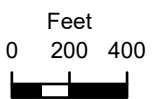
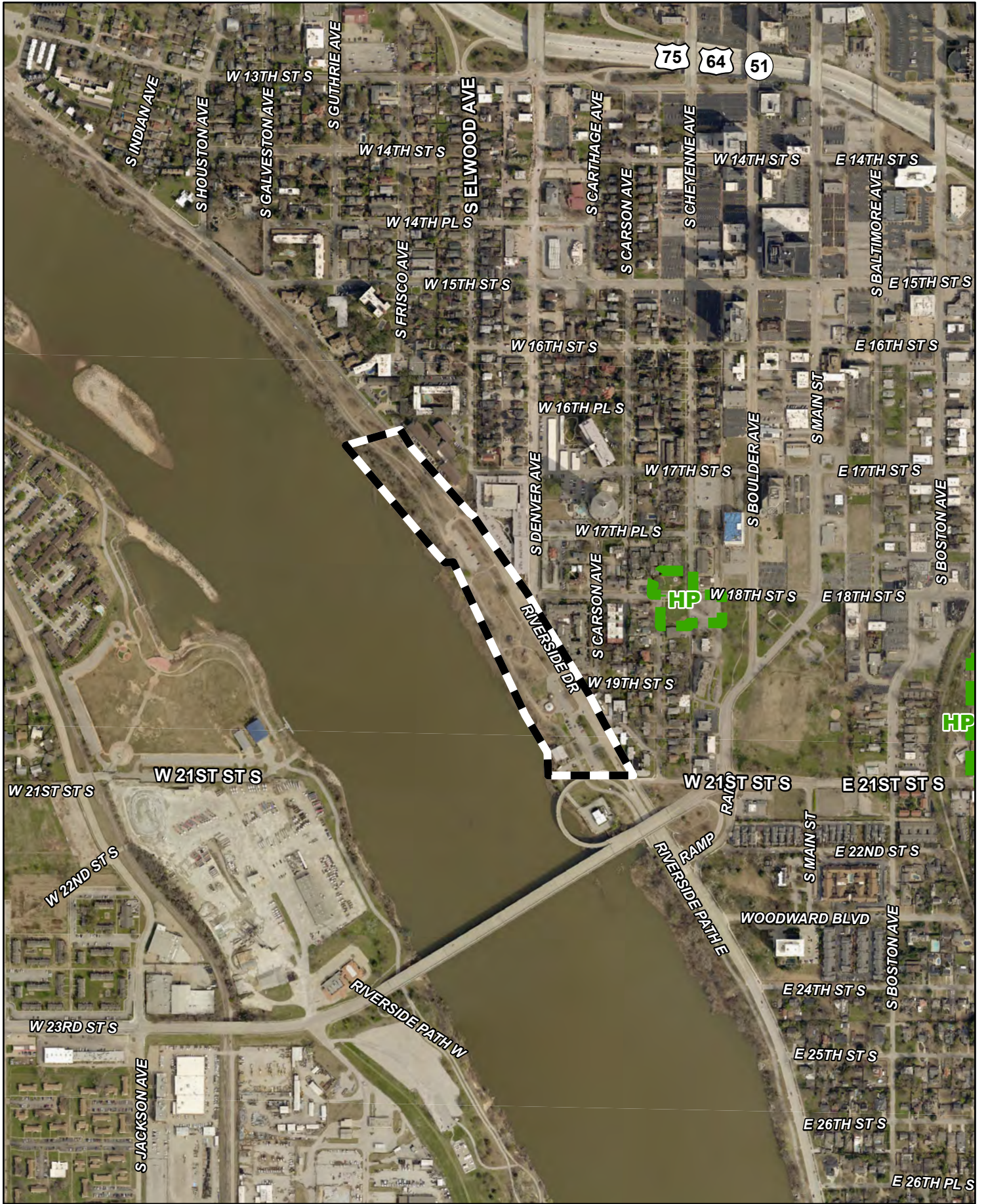


*Subject property looking south on Riverside Dr (Image used from Google Street view)*



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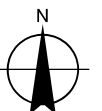


 Subject Tract

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

Aerial Photo Date: 2021



14.8





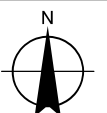
Subject  
Tract

0 115 230 460  
Feet

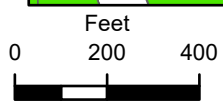
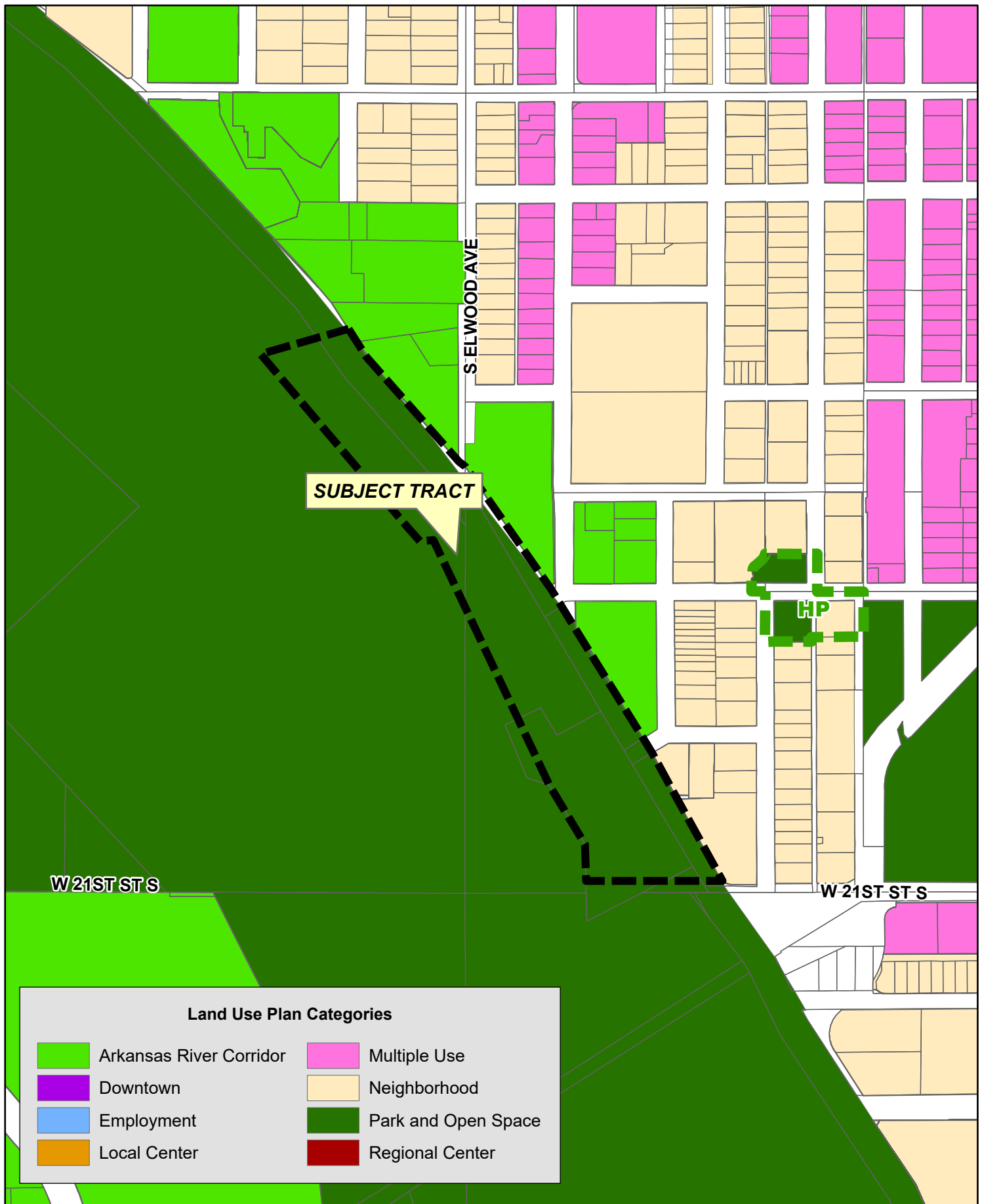
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Aerial Photo Date: 2021

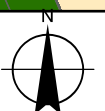


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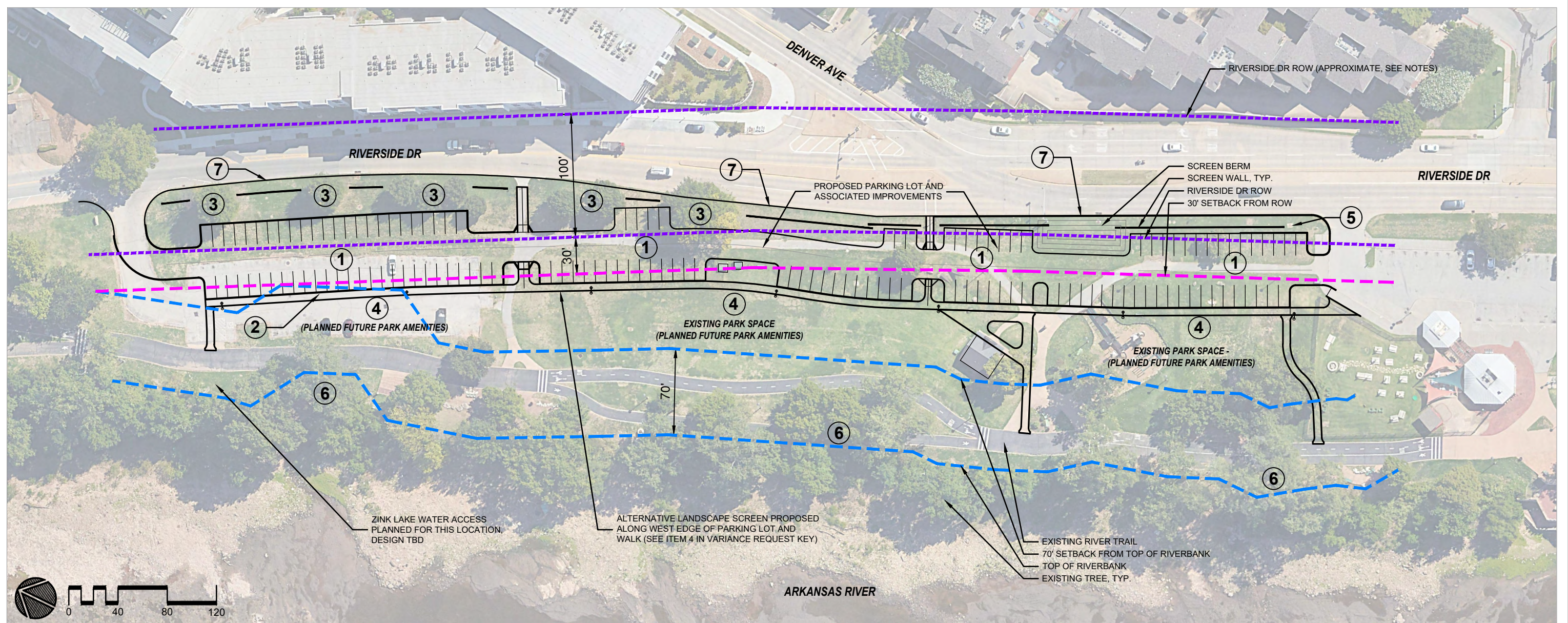


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14.10



**LEGEND (SETBACKS)**

	RIGHT-OF-WAY (APPROXIMATE)
	30' SETBACK FROM RIGHT-OF-WAY
	70' SETBACK FROM TOP OF RIVERBANK/ TOP OF RIVERBANK DELINEATION

**NOTES**

A. The project team anticipates meeting all River District Overlay (RDO) and other City of Tulsa zoning code requirements not specifically addressed in the variance requests on this plan, including parking lot, landscape, and lighting codes, in the final design for this project.

B. Right-of-way lines and dimensions shown in this plan are approximate. Information included in the Cosmopolitan Apartments P.U.D. NO. 330-A plat, recorded 12/14/2016, and provided by the City of Tulsa, was used as the basis for the right-of-way delineations shown in this plan.

C. The top of riverbank delineation is based on topographic survey completed by Fritz Land Surveying, LLC, dated July 18, 2023.

**VARIANCE REQUEST KEY - (ITEM NUMBERS BELOW CORRESPOND TO NUMBERS ON PLAN)**

- 20.050-D, Table 20-2, page 20-12 - Setback requirements - Owner requests a variance to allow construction of the proposed parking lot within the Riverside Drive right-of-way and the 30' setback from the Riverside Drive right-of-way. Owner proposes a minimum 10' setback from Riverside Drive to allow preservation and expansion of park space west of the proposed parking lot.
- 20.050-D, Table 20-2, page 20-12 - Setback requirements - Owner requests a variance to allow construction of the proposed parking lot within the 70' setback from top of riverbank. Owner proposes a portion (approximately 125 linear feet) of the parking lot be constructed within the 70' setback from top of riverbank. Existing and future park space would still provide approximately 60' minimum setback from top of riverbank.
- 20.050-D, 3.b(5), page 20-18 - Owner requests a variance to allow existing landscape and mature trees in select locations between Riverside Drive and the proposed parking lot to satisfy screening requirements. Constructing a berm or screen wall and planting additional trees in these locations would require removal and/or significant detrimental impact to healthy, mature existing trees.
- 20.050-D, 3.b(5), page 20-18 - Owner requests a variance to allow existing and proposed landscape between the proposed parking lot and existing river trail to satisfy screening requirements. Future park improvements may significantly alter topography and planting within the screening buffer area. In lieu of constructing a berm or wall that may be removed in the near future, the Owner proposes to satisfy screening requirements with a vegetative screen such as native and pollinator-friendly plants incorporated into a linear stormwater bioswale or similar landscape feature adjacent to the proposed parking lot. Future park development may incorporate seatwalls and/or landforms that serve as both park amenities and screening elements.
- 20.050-D, 3.b(5), page 20-18 - Owner requests a variance to omit screen wall or berm requirements where constructing a wall or berm conflicts with existing utilities.
- 20.050-D, 3.b(6), page 20-18 - Owner requests a variance to allow existing trees in the park and along the riverbank to satisfy part or all of this requirement. Owner proposes preservation of a minimum of 50 existing trees to satisfy this requirement. Should the actual existing tree count fall short of the required

number of trees, Owner proposes to compensate by planting the additional number of trees required within the riparian corridor and/or park space.

7. 20.050-D, 6.b(6), page 20-20 - Owner requests a variance to omit a sidewalk along Riverside Drive. Owner proposes that the combination of proposed walks in the site plan and the existing river trail provide adequate pedestrian access and circulation. In addition, there are no existing sidewalks on either end of the site to which a new sidewalk can connect.

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;
  - a. Setback requirements from Riverside Drive curvature would eliminate significant open space within the River Parks lawn, paving most of the open space between the existing two lots in this area. These requirements would eliminate quality parks space, which the River Design Overlay exists to protect. Per Section 20.050-A, the RDO exists to *“support and enhance the river corridor as a lively people-oriented destination, connecting nodes of high-quality development with parks and open spaces.”* Planned design allows for the maximum preservation of open space, 1.72 acres of open space, while creating enough parking to provide access to Zink Lake.
  - b. Existing berm on western extent of site design creates a topographical challenge that our design incorporates. By adhering strictly to setback requirements, the open space between parking and Riverside would be less desirable due to the location of this berm.
  - c. Trees located between Riverside Drive and the proposed parking lot on the western side of site design (labeled 3 on attached site plan) are considered physical surroundings that represent an unnecessary hardship. RDO compliance would require tree removal, which is a practical difficulty given the complexity of tree removal for trees of this age. RDO Section 20.050-D(3)a also describes the importance of tree preservation as part of landscaping standards: *“To establish a distinctive landscape character along the river corridor through preservation of existing trees/vegetation, enhanced landscape standards and promotion of native, drought-tolerant and non-invasive landscaping.”* By preserving these trees, we prevent an unnecessary hardship and simultaneously create screening between the proposed parking lot and Riverside Drive.
  - d. RDO compliance would require construction of a wall or berm in conflict with existing utilities. To comply, the project would need to move utilities, which represents an unnecessary hardship and practical difficulty. Requested Variance 5 would omit this requirement and omit unnecessary removal of existing asphalt to construct a berm that conflicts with utilities.
  - e. Sidewalk requirements also represent an unnecessary hardship due to physical surroundings, as sidewalks in this location would be duplicative of pedestrian/bike amenities provided by River Parks trails. Additionally, a sidewalk in this location would not connect to an existing sidewalk network based on the physical surroundings of this area.
2. That the literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;
  - a. Literal enforcement of zoning code provisions that conflict with the requested variances would detract from the Purpose and Intent of the River Design Overlay established in Section 20.050-A:

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Purpose and Intent	Proposed Site Plan Alignment with Purpose and Intent
Support and enhance the river corridor as a lively people-oriented destination, connecting nodes of high-quality development with parks and open spaces;	Proposed design provides access to high-quality dining, integrated with the maximum amount of open space on this site. Commercial activity is balanced with recreational space, creating a welcoming environment for all types of River Parks users.
Protect the city’s investment as well as the investments of property owners, developers and others who enjoy the benefits of the Arkansas River corridor;	Site design maximizes the value of public and private space. City investments are enhanced by creating more park space, and the restaurant benefits due to its location within the river corridor. Providing additional parking will allow this restaurant, long challenged by access issues, to succeed alongside new boat facilities, which will also create parking demand.
Encourage development that enhances the appearance of the Arkansas River corridor and the surrounding area;	Proposed development on this site overlooks the Arkansas River and capitalizes on this location with views and integration with River Parks trails. This restaurant also already exists and any changes to the site via enhanced landscaping will only benefit the Arkansas River corridor.
Ensure development and redevelopment that is sensitive to the area's natural resources and environmental qualities	This proposed parking lot utilizes green stormwater design to minimize development impacts on the area’s natural resources. Creating and preserving open space will provide the most space for natural flora and fauna, as well as integration between the riparian ecosystem and park space. Tree preservation will also achieve the RDO’s environmental goals.
Establish the area as an interconnected, pedestrian-oriented, cultural and recreational destination, attracting both residents and visitors to the Arkansas River	Site plan will increase space for pedestrian-oriented activities, as well as public art, placemaking, and riverfront activities that engage residents and visitors alike. Site design increases space between parking and trail amenities, enhancing the pedestrian experience in this area. Increased open space is providing relocation area for public art currently in storage and under maintenance.
Foster a sense of community and civic pride.	By creating a high-quality park space, this project will increase engagement with and stewardship of the River Park system. The new Zink Lake will be an asset that invokes pride among Tulsans.

Furthermore, setback requirements exist to create screening between development and Riverside Drive, which is naturally created by trees on at least half of this site. Screening requirements are met through tree preservation, a screening wall, and berms. Sidewalk requirements are intended to create pedestrian access to the Arkansas River. However, the site design provides access to River Parks trails,

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which represent a superior pedestrian experience, while providing multi-modal connectivity set-aside from Riverside Drive itself.

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 design of this site responds to the specific existing conditions: mature trees, connecting existing parking facilities to the proposed parking, maximizing green space within the River Parks system, and providing ample access to a high-quality commercial development and new boat launch amenities. Increased parking also increases access for individuals with disabilities, through ADA requirements. Proposed variances maximize the location of this site by working with existing restaurant and parking, while balancing new parking with increased open space.

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

Practical difficulties and unnecessary hardships are due to environmental and utility based challenges. These are pre-existing conditions that are not created by the site design.

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

- Variance 1: The requested variance from the Riverside Drive setback is the minimum amount of space needed to expand parking supply per mayoral directive, while still providing open space between the river and parking.
- Variance 2: Only one segment of proposed design interferes with the 70' river setback due to the bend in the river on the west side of this site. In this area, the variance requested is the minimum amount of additional space needed to incorporate new parking and preserve existing trees.
- Variance 3: Variance to berm and screening wall requirements on the western segment of the design allows for preservation of natural tree screening.
- Variance 4: Request modifies berm or wall requirements where such features would interfere with proposed designs, such as a linear stormwater bioswale, seatwalls, and landforms. A screening berm and walls are provided elsewhere in the site design, and the exception is made to accommodate other planned topographical features and alternative screening.
- Variance 5: A wall or berm would entirely conflict with utilities. Variance requested avoids this conflict.
- Variance 6: Variance requests tree preservation to satisfy planting requirements by providing the same level of shade, density, and screening. Additional planting in the riparian corridor or park space may mitigate any tree count short of planting requirements if needed.
- Variance 7: Sidewalk omission prevents the hardship of building a redundant pedestrian facility and creating a "sidewalk to nowhere." Accordingly, this variance must extend across the entirety of the site, as providing some sidewalk would only exacerbate sidewalk gaps and limited connectivity outside the trail. Connection to the trail are provided.

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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; and

This proposed site plan is not located within the neighborhood. Restaurant development is preexisting and an important commercial node for neighbors. Existing residents will have improved access to the restaurant, trails, and new boat launch. This proposal will only increase use of adjacent properties, as all adjacent properties are components of the River Parks system, or a water processing area, which will remain inaccessible to the public.

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.

This project will enhance the public realm significantly, resulting in a higher quality of life for all Tulsans, as well as visitors to our region. By enhancing and expanding park space, this project will only further align with the purposes, spirit, and intent of this zoning code. Parking will increase access to River Parks and correspondingly improve the public good via a historic civic investment.