



Board of Adjustment

Staff Report

BOA-23736

Revised July 18, 2024

Hearing Date: July 23, 2024

Prepared by: Sean Wallace

swallace@cityoftulsa.org

918-596-7585

Owner and Applicant Information

Applicant: Timothy Duray

Property Owner: Timothy Duray & Melissa Dobson

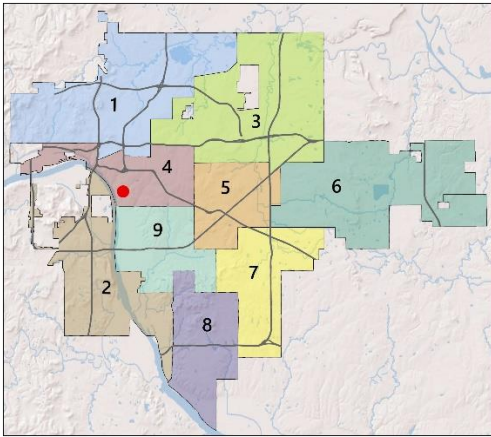
Property Location

211 East 25th Street

Tract Size: ±0.13 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

Posted Sign – min. 10 days in advance

Request Summary

Variance to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate in the rear setback (Section 90.090-C); Special Exception to allow an Accessory Dwelling Unit in an RS-2 zoning district (Section 45.031-D); Variance to allow more than 25% coverage by a detached accessory building in the rear setback in an RS-2 District (Section 90.090-C.2); Variance to allow for an accessory building to be within 3 feet from the side lot lines (Section 90.090-C.2.b).

Zoning

Zoning District: RS-2

Zoning Overlays: None

Comprehensive Plan Considerations

Land Use

Land Use Plan: Neighborhood

Small Area Plans: None

Development Era: Early Automobile

Transportation

Major Street & Highway Plan: N/A

planitulsa Street Type: N/A

Transit: N/A

Existing Bike/Ped Facilities: Midland Valley Trail & Cincinnati Avenue Signed Route

Planned Bike/Ped Facilities: Cincinnati Avenue signed route extension

Environment

Flood Area: N/A

Tree Canopy Coverage: 20-30%

Parks & Open Space: Gathering Place and Woodward Park

Staff Analysis

The applicant requests a special exception to allow an accessory dwelling unit in an RS-2 zoning district (Section 45.031-D); a variance to allow a detached accessory dwelling unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate in the rear setback (Section 90.090-C); a variance to allow more than 25% coverage by a detached accessory building in the rear setback in an RS-2 District (Section 90.090-C.2); and a variance to allow for an accessory building to be within 3 feet from the side lot lines (Section 90.090-C.2.b).

The applicant is proposing to build a new detached garage with an accessory dwelling unit (ADU). The ~~previous ADU was demolished, and the~~ new ADU has been partially constructed. An ADU is allowed by special exception in the RS-2 district.

Because the proposed accessory building would be located within the rear setback, it cannot exceed one story, an overall height of 18 feet, or a maximum height of 10 feet to the top of the top plate in the setback area. The proposed building is two stories and 24 feet tall. The proposed building also exceeds the maximum 25% accessory building coverage within the rear setback. With a footprint of 399 square feet, the building covers approximately 32% of the rear setback. Finally, accessory buildings within rear setbacks must be set back at least 3 feet from all interior lot lines. The proposed building is 1'-6" from the side lot line, exceeding the required setback by 1'-6".

Section 45.031-D Regulations

1. Where Allowed

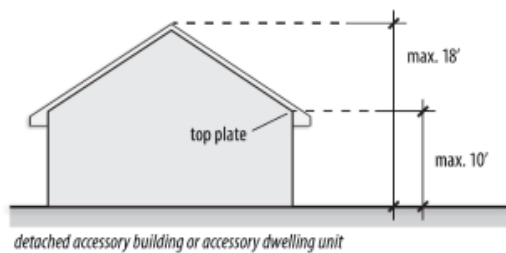
Accessory dwelling units are allowed by special exception in RE, RS, AG, and AG-R districts on lots occupied by a detached house. Accessory dwelling units are allowed by right in RD, RT, RM and RMH districts on lots occupied by a detached house.

2. Detached Accessory Buildings, including Accessory Dwelling Units, in RE, RS, RD Districts and RM Zoned Lots Used for Detached Houses or Duplexes.

a. Detached accessory buildings, including Accessory Dwelling Units, may be located in rear setbacks provided that:

- (1) The building does not exceed one story or 18 feet in height and is not more than 10 feet in height to the top of the top plate; and

Figure 90-9: Maximum Height of Accessory Buildings, Including Accessory Dwelling Units In Rear Setbacks (RE, RS and RD Districts or RM Zoned Lots Used for Detached Houses or Duplexes)



- (2) Building coverage in the rear setback does not exceed the maximum limits established in [Table 90-2](#):

Table 90-2: Accessory Building, Including Accessory Dwelling Units, Coverage Limits in Rear Setback

Zoning District	Maximum Coverage of Rear Setback
RS-1 and RE Districts	20%
RS-2 District	25%
RS-3, RS-4, RS-5 and RD Districts	30%
RM zoned Lots Used for Detached Houses or Duplexes	30%

- b. Detached accessory buildings, including accessory dwelling units, in the rear setbacks must be set back at least 3 feet from all interior lot lines. For lot lines abutting street right-of-way, detached accessory buildings, including accessory dwelling units, must comply with the same setback requirements that apply to principal buildings.

Relevant Case History

- None

Statement of Hardship

Exhibit attached

Comprehensive Plan Considerations

Land Use Plan

The subject property is designated as Neighborhood. **Neighborhoods** are mostly residential uses, which includes detached, missing middle, and multi-dwelling unit housing types. Churches, schools, and other low intensity uses that support residents’ daily needs are often acceptable, particularly for properties abutting Multiple Use, Local Center, or Regional Center land use areas. Multi-dwelling unit housing that takes access off an arterial is considered Multiple Use, Local Center, or Regional Center. If a multi-dwelling unit housing property takes access from a lower-order street separated from the arterial, then it would be considered Neighborhood.

Surrounding Properties:

<u>Location</u>	<u>Existing Zoning/Overlay</u>	<u>Existing Land Use Designation</u>	<u>Existing Use</u>
North	RS-2	Neighborhood	Vacant lot
East	RS-2	Neighborhood	Residential
South	RS-2	Neighborhood	Residential
West	RS-2	Neighborhood	Residential

Small Area Plans

The subject property is not within 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: N/A

Comprehensive Plan Street Designation: N/A

Transit: N/A

Existing Bike/Ped Facilities: The Midland Valley Trail and an on-street signed bike route on 25th Street and Cincinnati Avenue are located to the west of the subject property.

Planned Bike/Ped Facilities: The Tulsa GO Plan recommends an extension of the on-street signed route along Cincinnati Avenue north of 25th Street.

Arterial Traffic per Lane: N/A

Environmental Considerations

Flood Area: The subject property is not in a flood area.

Tree Canopy Coverage: Tree canopy in the area is 21%. Significant effort should be given to the preservation of mature stands of trees. Tree canopy removal should be minimized, and replacement of trees that need removing should be encouraged.

Parks & Open Space: The Gathering Place is nearby to the west, and Woodward Park is nearby to the east.

Sample Motion

Special Exception

I move to approve or deny a special exception to allow an accessory dwelling unit in an RS-2 zoning district (Section 45.031-D)

- 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.

Variances

I move to approve or deny a variance to allow a detached accessory dwelling unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate in the rear setback (Section 90.090-C); a variance to allow more than 25% coverage by a detached accessory building in the rear setback in an RS-2 District (Section 90.090-C.2); and a variance to allow for an accessory building to be within 3 feet from the side lot lines (Section 90.090-C.2.b)

- 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

Lot 9 Block 5, Sunset Terrace, City of Tulsa, Tulsa County, State of Oklahoma

Exhibits

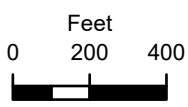
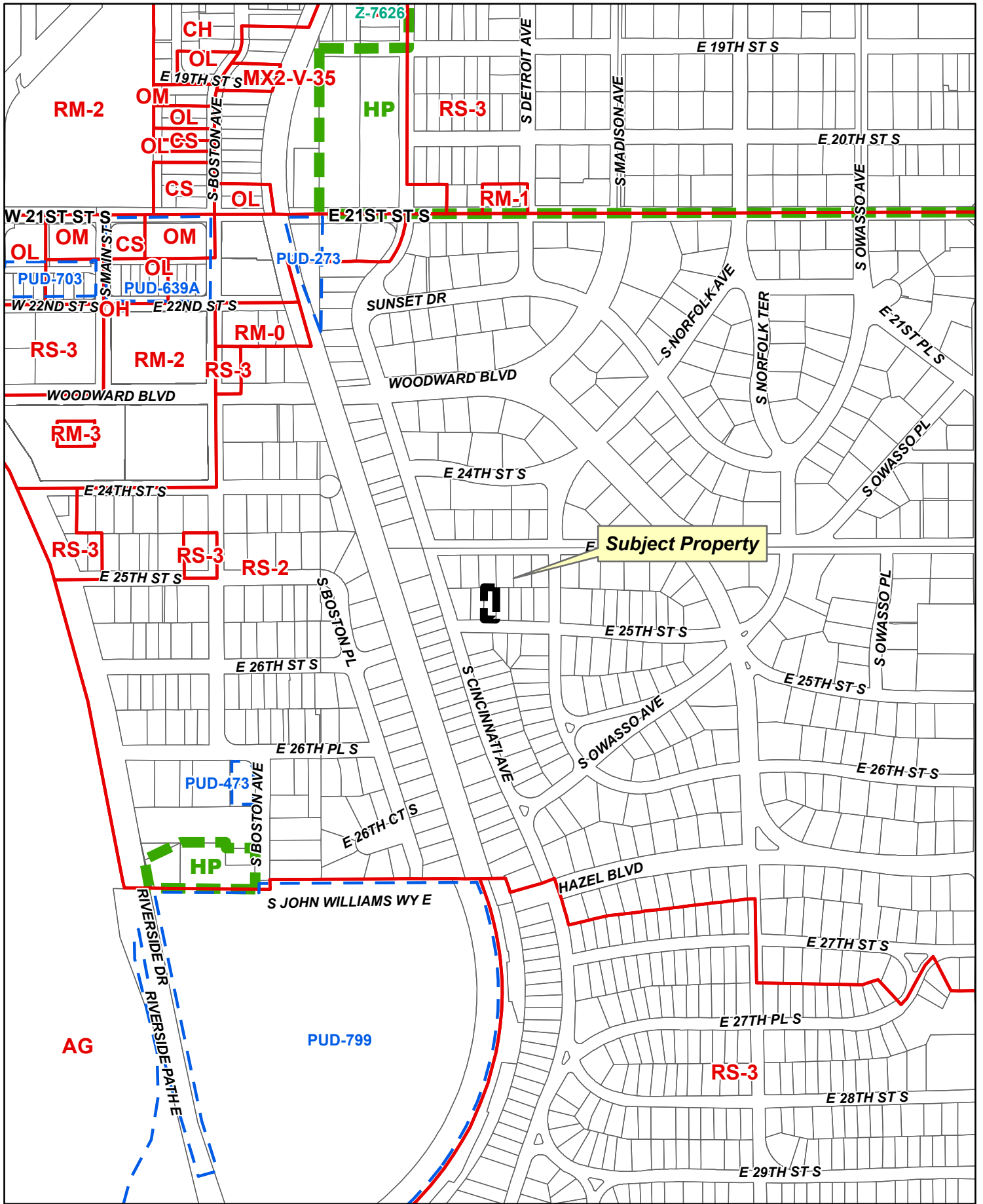
Case map

Aerial (small scale)

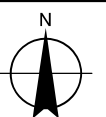
Aerial (large scale)

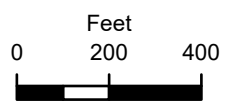
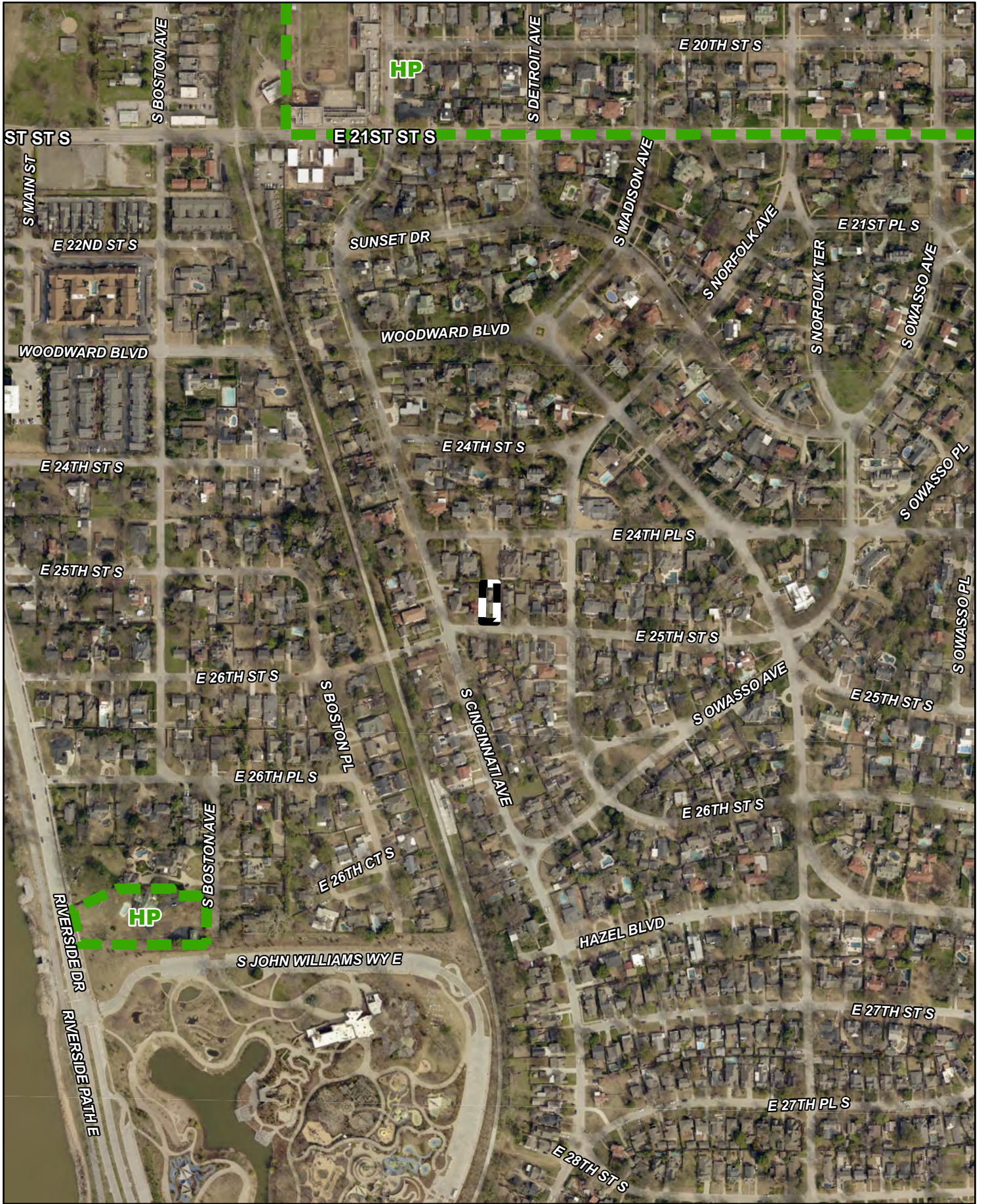
Photos

Tulsa Comprehensive Plan Land Use Map



BOA-23736



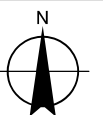


 Subject Tract

BOA-23736

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

Aerial Photo Date: 2021





E 24TH PLS

S CINCINNATI AVE

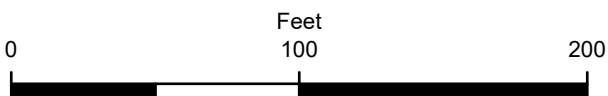
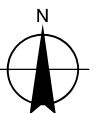
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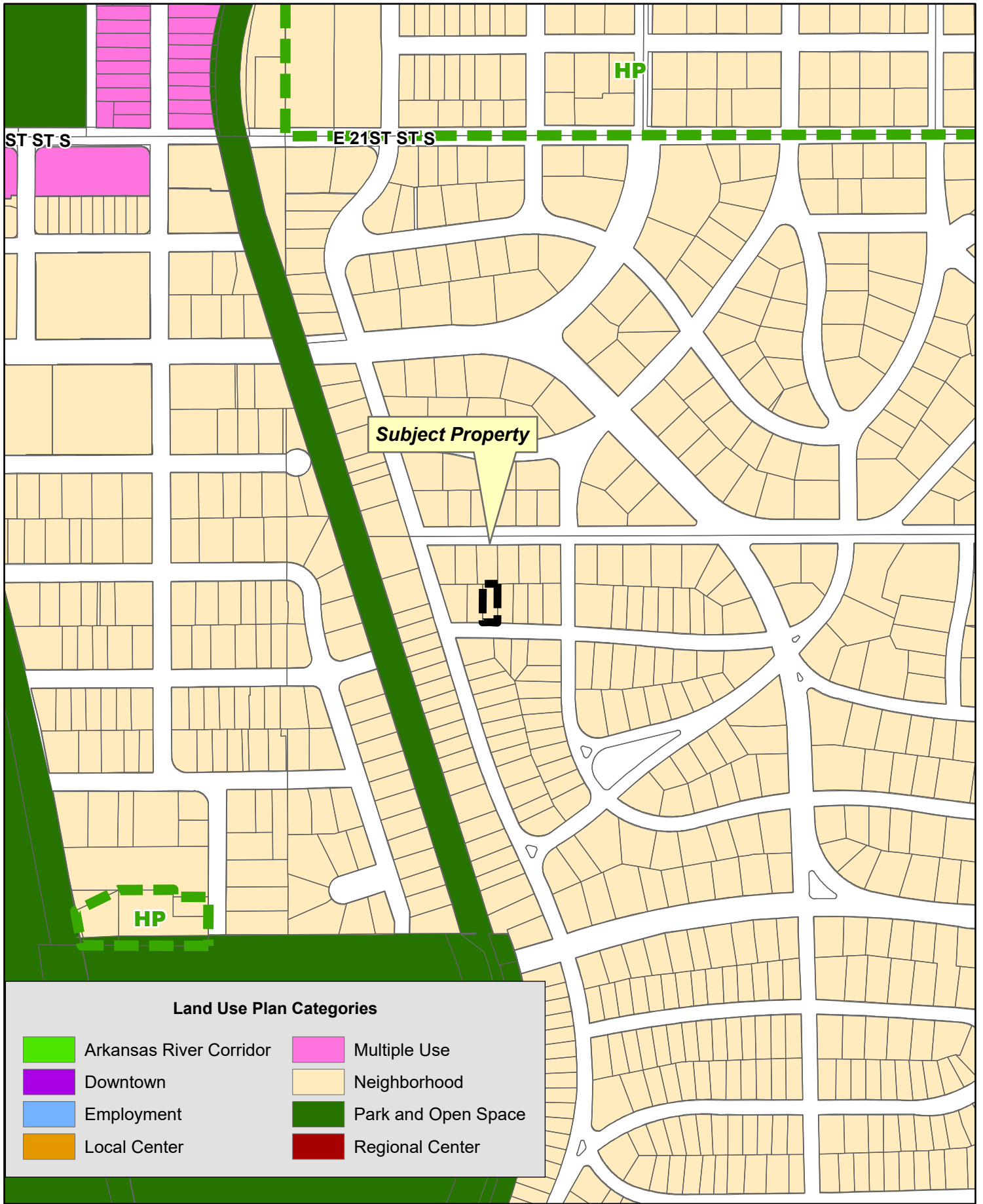
BOA-23736

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









Aerial Photo Date: 2021

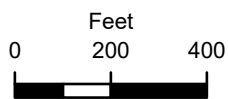


Subject Tract



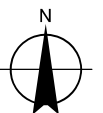
Land Use Plan Categories

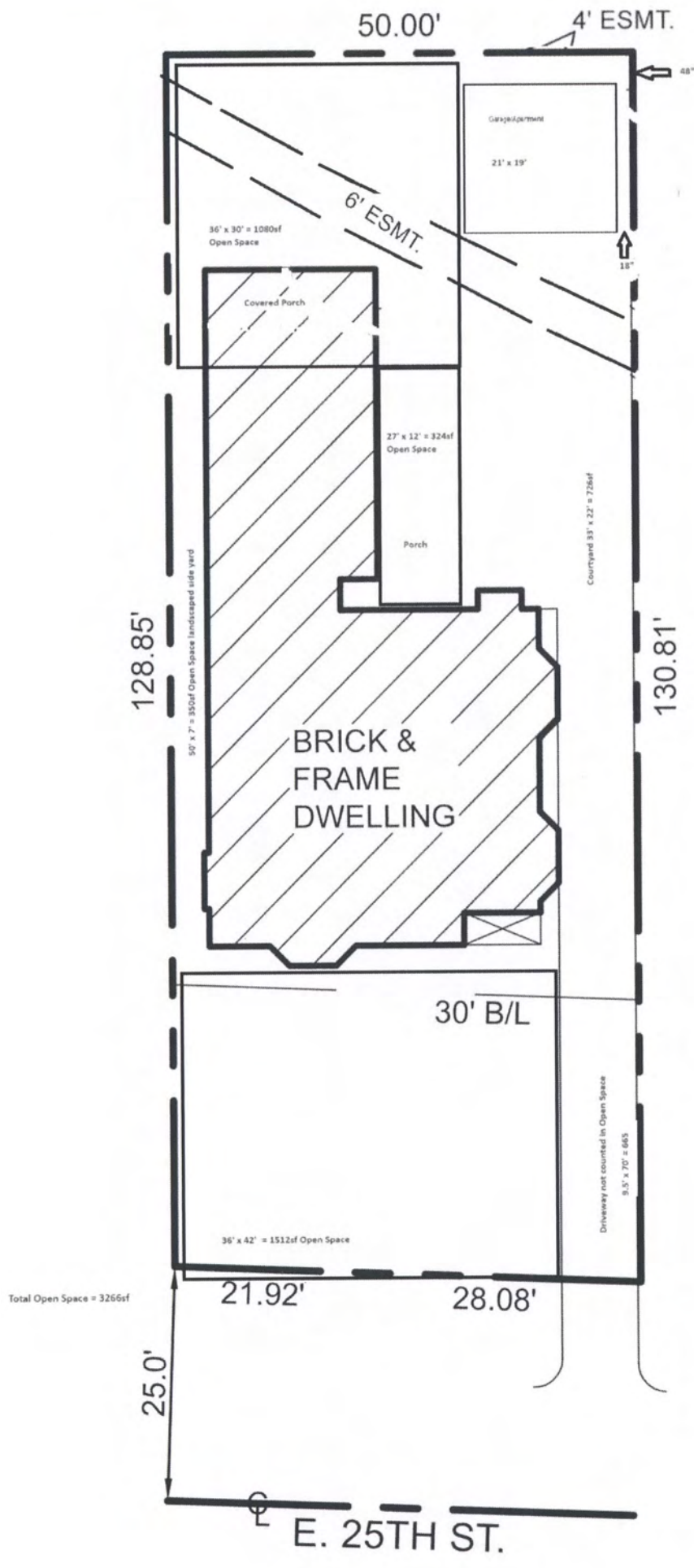
- | | |
|---|---|
|  Arkansas River Corridor |  Multiple Use |
|  Downtown |  Neighborhood |
|  Employment |  Park and Open Space |
|  Local Center |  Regional Center |



BOA-23736

19-14 04





Total Open Space = 3266sf

**SOUTH Elevation
(Front)**

24'

19'

9'



**EAST Elevation
(Right side)**

Gutters this direction tie into drainage

← All trim, PVC

No Windows

**100% Non-combustible
concrete shingle siding.**





Gutters this direction tie into drainage

**WEST Elevation
(Left Side)**

8"

Railing to stair landing

10' wide porch

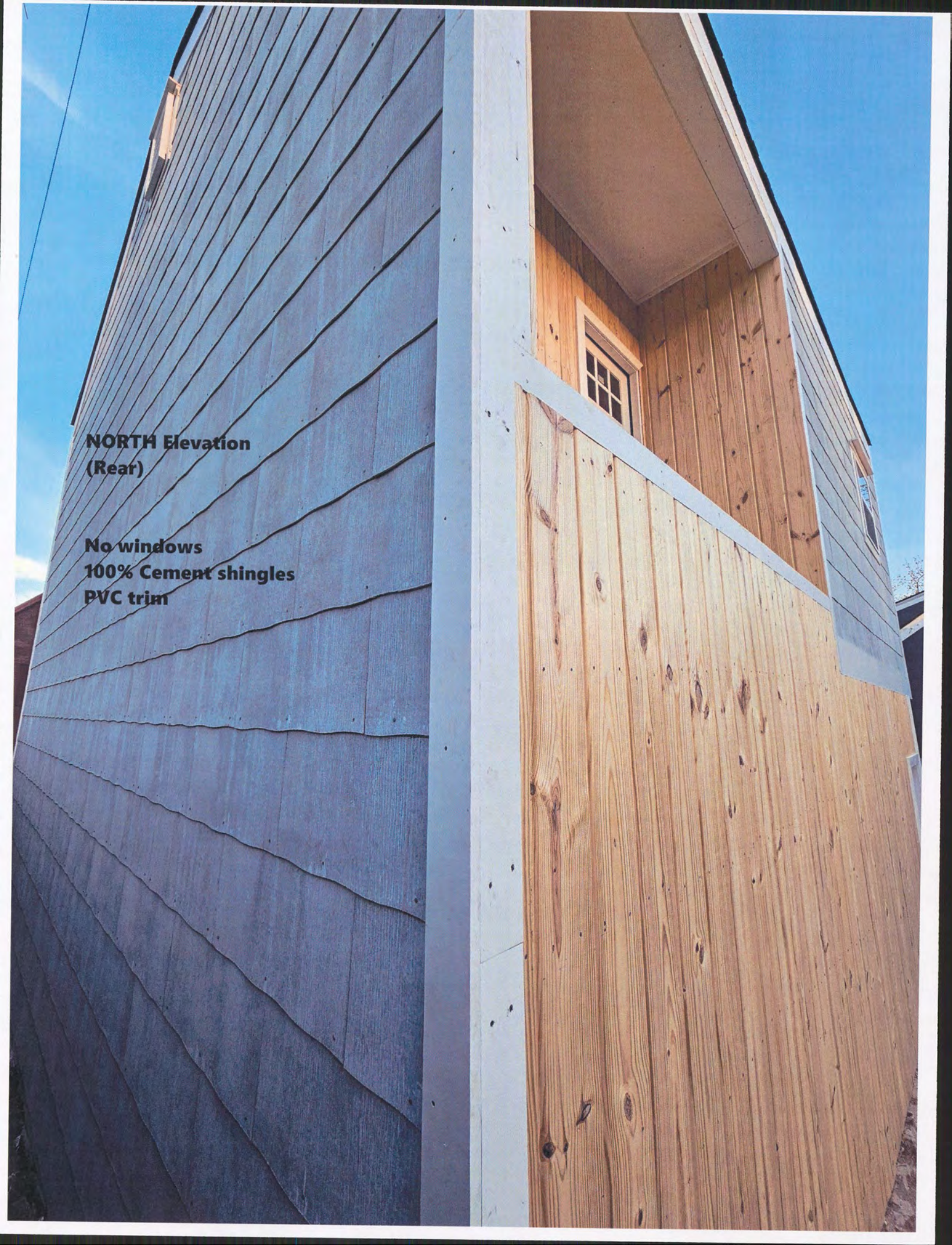
↓ **36" deck**

36" LH

Stairs detailed separately

101"





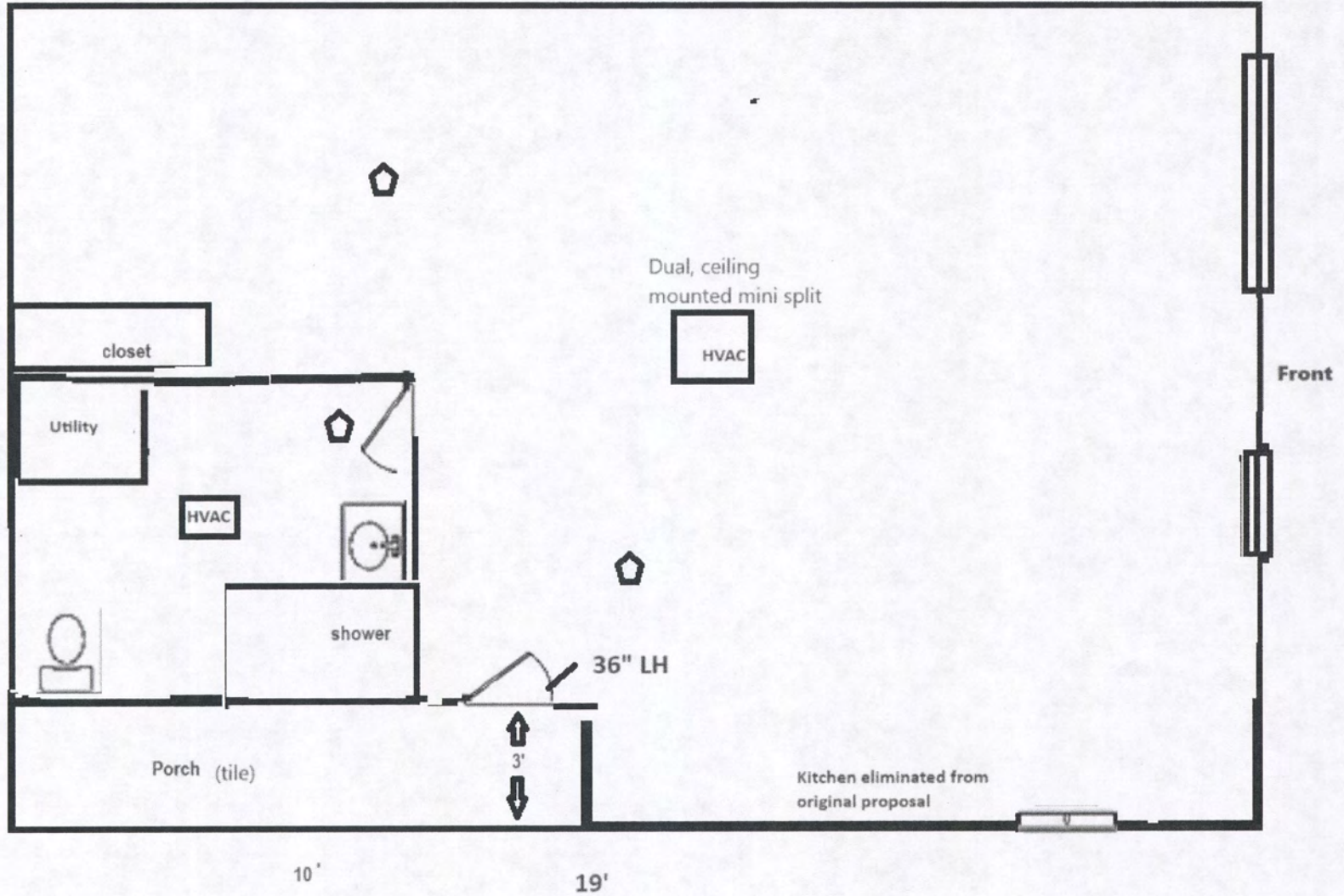
**NORTH Elevation
(Rear)**

**No windows
100% Cement shingles
PVC trim**

⬡ = Smoke & CO1 Detectors

Studio layout. No separate bedroom

21'
R40 Blown in attic insulation
R19 insulation in walls
5/8" Finished Drywall ceiling and walls



Front

Kitchen eliminated from original proposal

This is the actual layout of the sewer lines superimposed on satellite image.



From: [Brent Gathright](#)
To: [Tulsa Planning Office](#)
Subject: BOA-23736
Date: Monday, July 15, 2024 8:35:33 PM
Attachments: [BOA-23736.pdf](#)

Hello I am a neighbor writing in support of the variance being requested by BOA Case 23736. I have watched the garage apartment go up and don't see any issue with the variance knowing that many of the older homes throughout the neighborhood have similar garage apartments.
CAUTION: This email originated from outside of the organization. Do not reply, forward, click links, or open attachments unless you recognize the sender and know the content is safe. Please report using the Phish Alert button in the Outlook Desktop Client if this message contains potentially unsafe content.

Brent Gathright
1102 East 24th Place
Tulsa, OK 74114

From: [Scott Fisher](#)
To: [Tulsa Planning Office](#)
Cc: [Chariny Herring](#)
Subject: Case Number: BOA-23736
Date: Monday, July 15, 2024 6:03:11 PM

Dear City of Tulsa Board of Adjustment,

I respectfully request that case BOA-23736, scheduled for Tuesday, July 23rd at 1:00 PM, be postponed to a date the following week, as I am unable to attend in person on the originally planned date. If rescheduling is not feasible, I would like to take this opportunity to express my concerns regarding the zoning variances requested by Mr. Duray.

—

July 15, 2023

Dear Zoning Board Members,

Subject: Case Number: BOA-23736

I am writing to express my concerns about the proposed zoning variances requested by Timothy Duray for his building project at 211 E. 25th Street, Tulsa, OK 74114. Understanding that zoning laws are designed to maintain the harmony and integrity of our neighborhoods, I strongly believe these variances should not be granted.

Our community's regulations on property line setbacks and height restrictions are critical for ensuring privacy, access to natural light, and maintaining a comfortable environment for all residents. Allowing a building that is too tall and too close to property lines disrupts the architectural balance and scale, making the structure feel imposing and out of place.

Having myself returned to Oklahoma after several years in California, I experienced firsthand the disadvantages of high-density living where personal space and privacy were compromised. This experience accentuates the importance of our local zoning laws which embrace and protect the spaciousness that defines our Midwestern lifestyle.

Although we were aware of ongoing construction at Mr. Duray's residence, it wasn't until March that I observed his accessory dwelling unit (ADU) was excessively large and too close to the property lines. A plumbing subcontractor I recommended mentioned to him the need for a building permit due to the project's scale. On March 31st, 2024, I advised Mr. Duray that his construction seemed to violate local setback and height ordinances. He had not applied for a building permit at that time, although he had secured permits for electrical and plumbing work. Despite this advice, Mr. Duray only applied for the necessary building permit after I contacted 311, which indicates his awareness of the non-compliance with local regulations.

This sequence of events illustrates a concerning approach to our community's regulations, where seeking forgiveness rather than permission seems to be the strategy—a practice that undermines the integrity of our zoning laws and community trust.

Our reliance on zoning laws extends beyond preserving the physical appearance of our neighborhood; it also protects the economic value of our properties. Permitting variances for larger, more imposing structures could reduce property values and diminish the quality of life

that makes our city attractive to residents.

Therefore, I urge the board to consider these points carefully and reject the zoning variances requested by

Mr. Duray. Our community's long-term health, aesthetics, and values should guide our decisions, ensuring development that is both responsible and respectful of our established norms.

Thank you for considering my concerns. I trust that the board will make a decision that best preserves the character and quality of our community.

Sincerely,

Scott Fisher and Chariny Herring

215 E. 25th Street
Tulsa, OK 74114

Mailing Address:
2526 E. 71st St Suite J
Tulsa, OK 74136

Cell: 858.699.1172
Fax: 918.471.2854

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Good, Felicity

From: Scott Fisher <scottmfish@gmail.com>
Sent: Thursday, July 18, 2024 11:43 AM
To: Tulsa Planning Office
Cc: Chariny Herring
Subject: Case Number: BOA-23736 - Supplementary Info

The supplementary images attached are intended to provide additional clarity on the concerns initially raised in comments submitted on Monday, July 15th.

Furthermore, the Staff Analysis (4.2) notes that *"The previous ADU was demolished, and the new ADU has been partially constructed."*

However, prior to Mr. Duray's purchase of the property at 211 E 25th St, there was not an existing ADU. Refer to historical images in Figures 8 and 9.

1. **Architectural Imbalance and Scale:** These images emphasize the issues with the building's placement too close to the side and rear property lines, as viewed from the backyard of 215 E. 25th Street. This proximity disrupts the human scale typically considered in architectural design, making the space feel constricted and overshadowed, potentially overwhelming for residents.
2. **Detail of property line:** The removal of the fence reveals that the Accessory Dwelling Unit (ADU) does not comply with the required setbacks, exacerbating the issue of encroachment and contributing further to the sense of overcrowding.
3. **Potential Boundary Issue:** There's a concern that the ADU foundation may extend over the property line, contradicting the estimates mentioned in the staff analysis that suggested the ADU is approximately 1'6" from the property line. This is best illustrated in Figures 2 and 3.

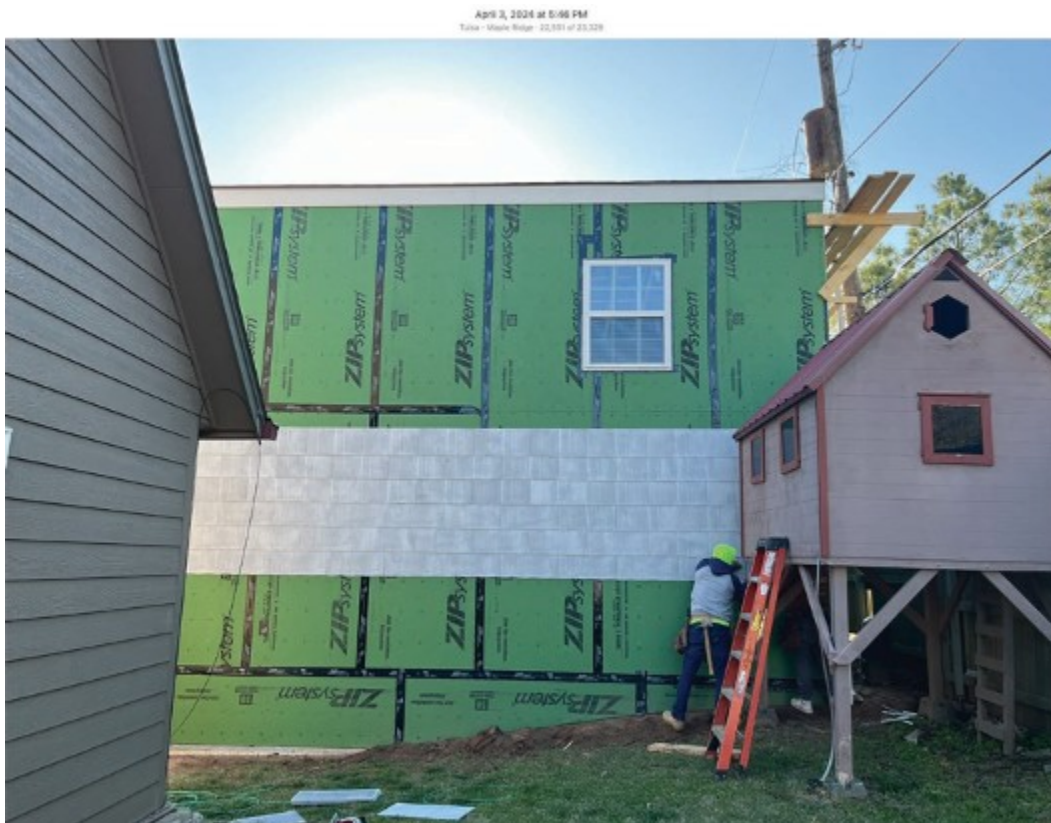


Figure 1 – Human Scale: Buildings are often designed with human scale in mind, ensuring they are comfortable and relatable to people at street /ground level. Tall structures built without adequate setbacks can make the observer feel dwarfed and uncomfortable, disrupting the human scale.



Figure 2 – With removed fence it becomes clear the ADU is not in compliance with setbacks.



Figure 3 – Fence line showing that the ADU foundation may be over the property line showing that the building is potentially closer to the property line than the estimate of 1'-6" mentioned in Staff Analysis in BOA-23736.

March 30, 2024 at 2:43 PM
Tulsa - Maple Ridge - 22,642 of 23,329



Figure 4- Looking West from 215 E. 25th Street



Figure 5- A playhouse located in the back yard of 215 E 25th illustrates scale and proximity of Mr. Duray's ADU to the side lot line.



Figure 6- Looking North from the backyard of 215 E. 25th Street – post removal of playhouse.

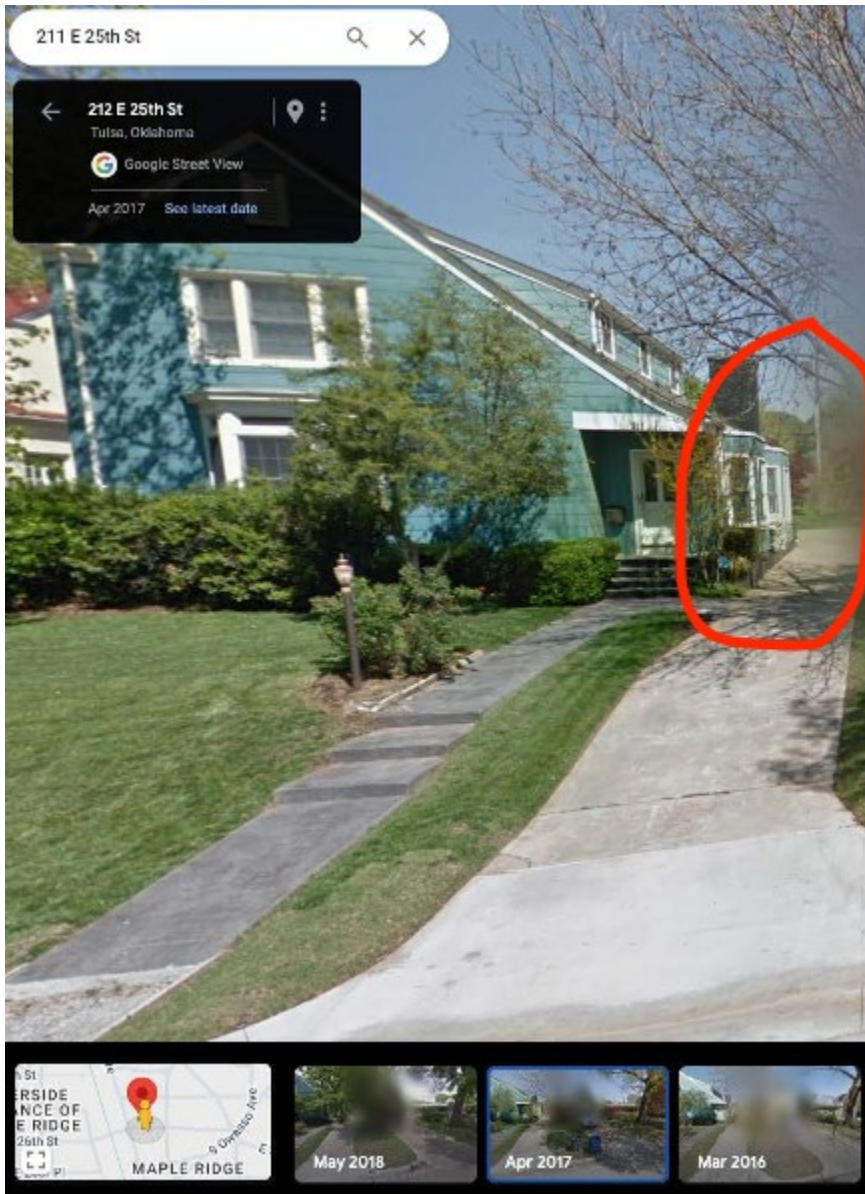


Figure 8 - Google Maps - Street View - Showing no previous ADU at location of new ADU construction. (April 2017)



Figure 9 - Google Earth - No previous ADU at location of new ADU construction. (June 2022)

Thank you for taking the time to review this supplementary information.

Scott Fisher and Chariny Herring
215 E. 25th St
Tulsa, OK 74114

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