



Board of Adjustment

**Staff Report
BOA-23805**

Hearing Date: December 10, 2024

Prepared by: Erin Roark
eroark@cityoftulsa.org
918-596-7618

Owner and Applicant Information

Applicant: Freddy A. Valverde
Property Owner: Patriarch Properties LLC

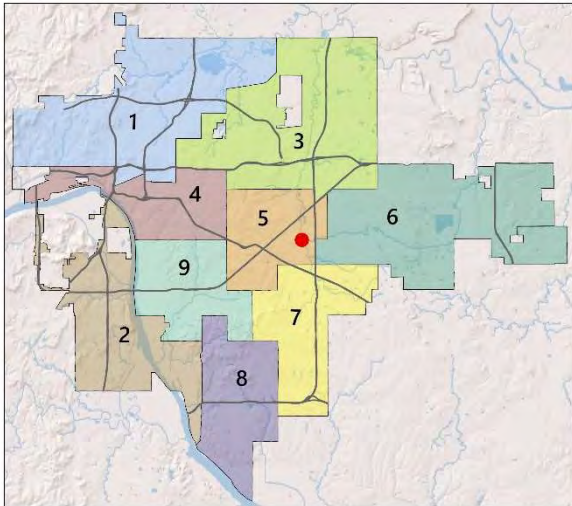
Property Location

9453 East 31st Street South

Tract Size: ±3.03 acres

Location within the City of Tulsa

(shown with City Council districts)



Elected Representatives

City Council: District 5, Karen Gilbert
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 of the 300-foot spacing requirement between a bar and another bar (Section 40.050-A.3).

Zoning

Zoning District: CS
Zoning Overlays: N/A

Comprehensive Plan Considerations

Land Use

Land Use Plan: Multiple Use
Small Area Plans: None
Development Era: Late Automobile

Transportation

Major Street & Highway Plan: Secondary Arterial
planitulsa Street Type: Multi-Modal Corridor
Transit: Regular Route
Existing Bike/Ped Facilities: Mingo Trail 11th Street to 41st Street Multi-Use Trail
Planned Bike/Ped Facilities: Bike Corridor

Environment

Flood Area: Tulsa Regulatory Floodplain/Floodway, 100- and 500-year Floodplain
Tree Canopy Coverage: 0-10%
Parks & Open Space: N/A

Staff Analysis

The applicant requests a variance of the 300-foot spacing requirement between a bar and another bar (Section 40.050-A.3). The proposed bar is within 300 feet of another bar located at 9421 East 31st Street South.

Section 40.050 Bars

The supplemental use regulations of this section apply to all bars, except accessory use bars.

40.050-A Bars are subject to all of the following separation distance requirements:

1. Public entrance doors of bars may not be located within 50 feet of any R-zoned lot, as measured in a straight line from the nearest point on the R-zoned lot (not including R-zoned expressway right-of-way) to the nearest public entrance door of the bar or the nearest portion of any outdoor seating/dining area, whichever results in a greater setback.
2. Bars may not be located within 300 feet of a public park, school or religious assembly use. The separation distance required by this paragraph must be measured from the nearest property line of such public park, school or religious assembly use to the nearest perimeter wall of the bar.
3. Bars may not be located within 300 feet of any other bar or sexually oriented business establishment, except in the CBD district. The required separation distance must be measured in a straight line between the nearest perimeter walls of the portions of the buildings occupied by the bar or sexually oriented business establishment.

Relevant Case History

- BOA-21747, July 22, 2014; The board of adjustment accepted a verification of spacing requirements for a proposed adult entertainment establishment (bar), subject to the action of the board being void should another adult entertainment establishment or other conflicting use be established prior to the establishment of this adult entertainment establishment.
- BOA-21898, June 9, 2015; The board of adjustment accepted a verification of the spacing requirement between an adult entertainment establishment (bar) from churches, parks, schools, and R districts subject to the action of the board being void should another above mentioned used or district be established prior to the adult entertainment establishment; and the board of adjustment approved a variance of the required spacing of 300 feet between adult entertainment establishments to allow a bar to operate within 300 feet of another bar in the same commercial complex, with the conditions that the approval have a time limit that shall expire either when the applicant's (Mr. Martinez) lease expires or when the other bar, Mr. Owilli's and Ms. Barnett's bar, ceases operation.

Statement of Hardship

A statement of hardship is included as a separate exhibit.

Comprehensive Plan Considerations

Land Use Plan

The subject property is designated as Multiple Use. Multiple Use areas are mostly commercial or retail uses, which include restaurants, shops, services, and smaller format employment uses. This land use designation is most common in areas of the city from earlier development patterns, with Local Centers being more commonplace in newer parts of the city. For single properties that are commercial but surrounded by Neighborhood, Multiple Use is the preferred designation.

Surrounding Properties:

<u>Location</u>	<u>Existing Zoning/Overlay</u>	<u>Existing Land Use Designation</u>	<u>Existing Use</u>
North	RS-3	Neighborhood	Residential
East	CS	Multiple Use	Commercial/Bank
South	CS	Multiple Use	Vehicle Repair/Restaurant
West	RS-3	Park and Open Space	Mingo Creek

Small Area Plans

The subject property is not located within a small area plan.

Development Era

The subject property is in an area developed during the Late Automobile Era (1950s-present), which has grown since the mainstreaming of automobile-centric lifestyles, with a high degree of separation between residential and nonresidential uses, and low levels of street connectivity. In these areas, transportation is nearly exclusively concentrated on the mile-by-mile arterial grid, and major streets are often both transportation corridors and destination corridors, which can lead to traffic congestion. Nonresidential uses are predominantly located at the intersections of major arterial streets. Priorities in these areas include commercial revitalization, placemaking, community gathering opportunities, conservation of natural areas, a high degree of privacy, one-stop shopping, and commuting routes.

Transportation

Major Street & Highway Plan: East 31st Street South runs parallel to the south side and South Mingo Road runs along the east side of the subject property. Both are classified as a Secondary Arterial, which calls for a total right-of-way width of 100 feet.

Comprehensive Plan Street Designation: East 31st Street South is designated as a Multi-Modal Corridor. Multi-modal streets support commercial and residential development along major arterial streets. These streets align with the recommendations for on-street bicycle infrastructure establish in the 2015 GO Plan, and they should be evaluated for feasibility with regard to the reallocation of street space for bicycle facilities.

Transit: Bus Route 300 runs along East 31st Street South.

Existing Bike/Ped Facilities: Mingo Trail 11th Street to 41st Street is a multi-use trail that runs along the west side of the subject property.

Planned Bike/Ped Facilities: The 2015 GO Plan recommends a bike corridor along East 31st Street South.

Arterial Traffic per Lane: East 31st Street South has an average annual daily traffic (AADT) count of 4,555 vehicles per lane. South Mingo Road has an average annual daily traffic (AADT) count of 3,663 vehicles per lane.

Environmental Considerations

Flood Area: The subject property is located within the Tulsa Regulatory Floodplain/Floodway, as well as the FEMA 100-year and 500-year floodplains.

Tree Canopy Coverage: Tree canopy in the area is 4%. 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. The area would benefit from additional trees, which also capture and treat runoff before it enters the river.

Parks & Open Space: N/A

Sample Motion

Variance

I move to approve or deny a 300-foot spacing requirement between a bar and another bar (Section 40.050-A.3),

- 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:

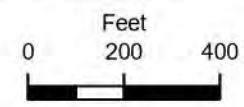
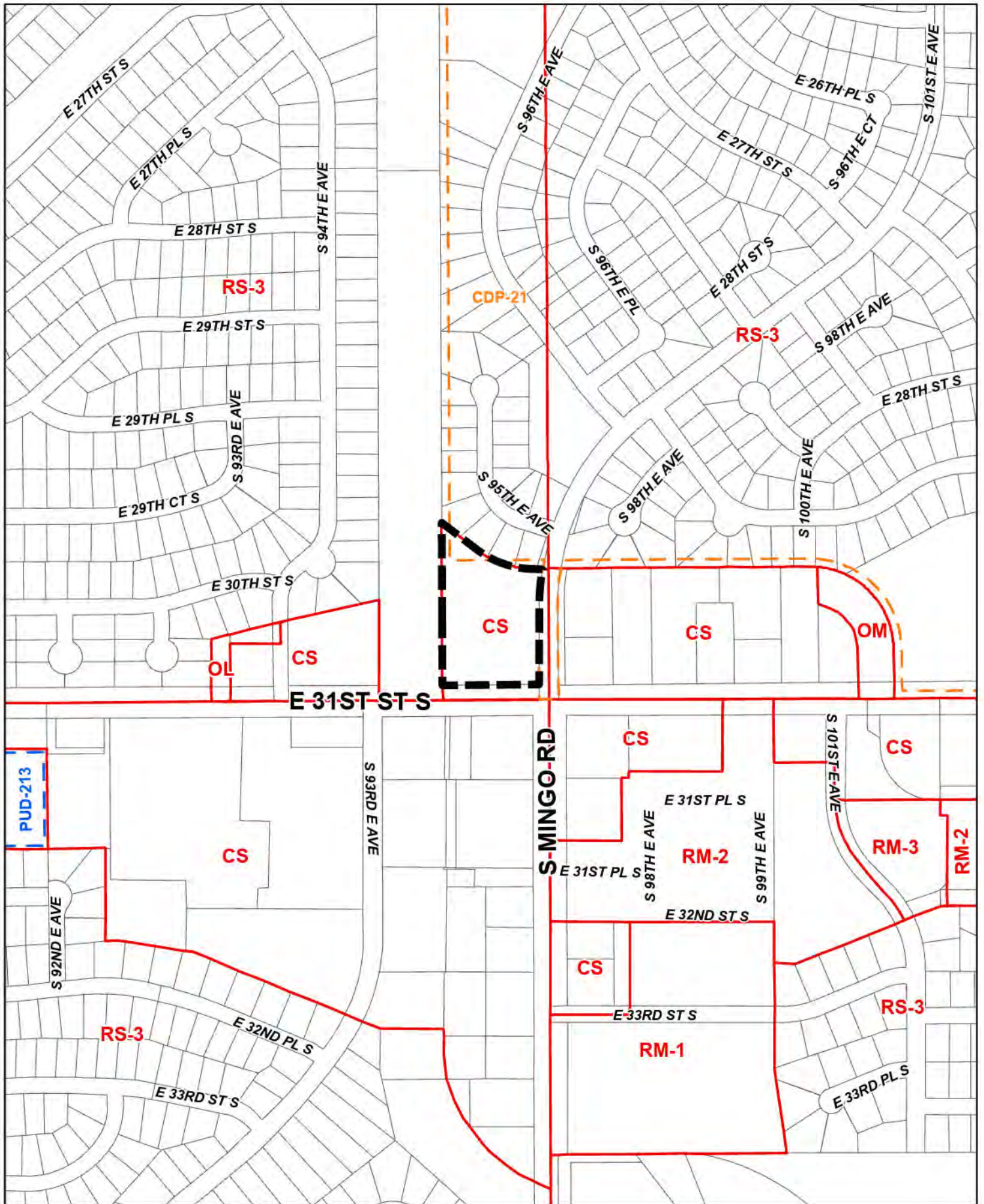
- That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- That literal enforcement 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

LTS 1 BLK 1 3100 CENTER ADDN RESUB LONGVIEW LAKE EST CTR 2ND ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

Exhibits

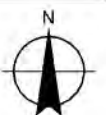
- Case map
- Aerial (small scale)
- Aerial (large scale)
- Tulsa Comprehensive Plan Land Use Map



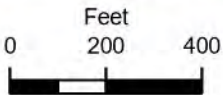
Subject Tract

BOA-23805

19-13 13



8.5



 Subject Tract

BOA-23805

19-13 13

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

Aerial Photo Date: 2022

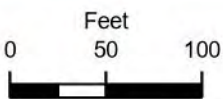


8.6



E 31ST ST S

S MINGO RD



Subject Tract

BOA-23805

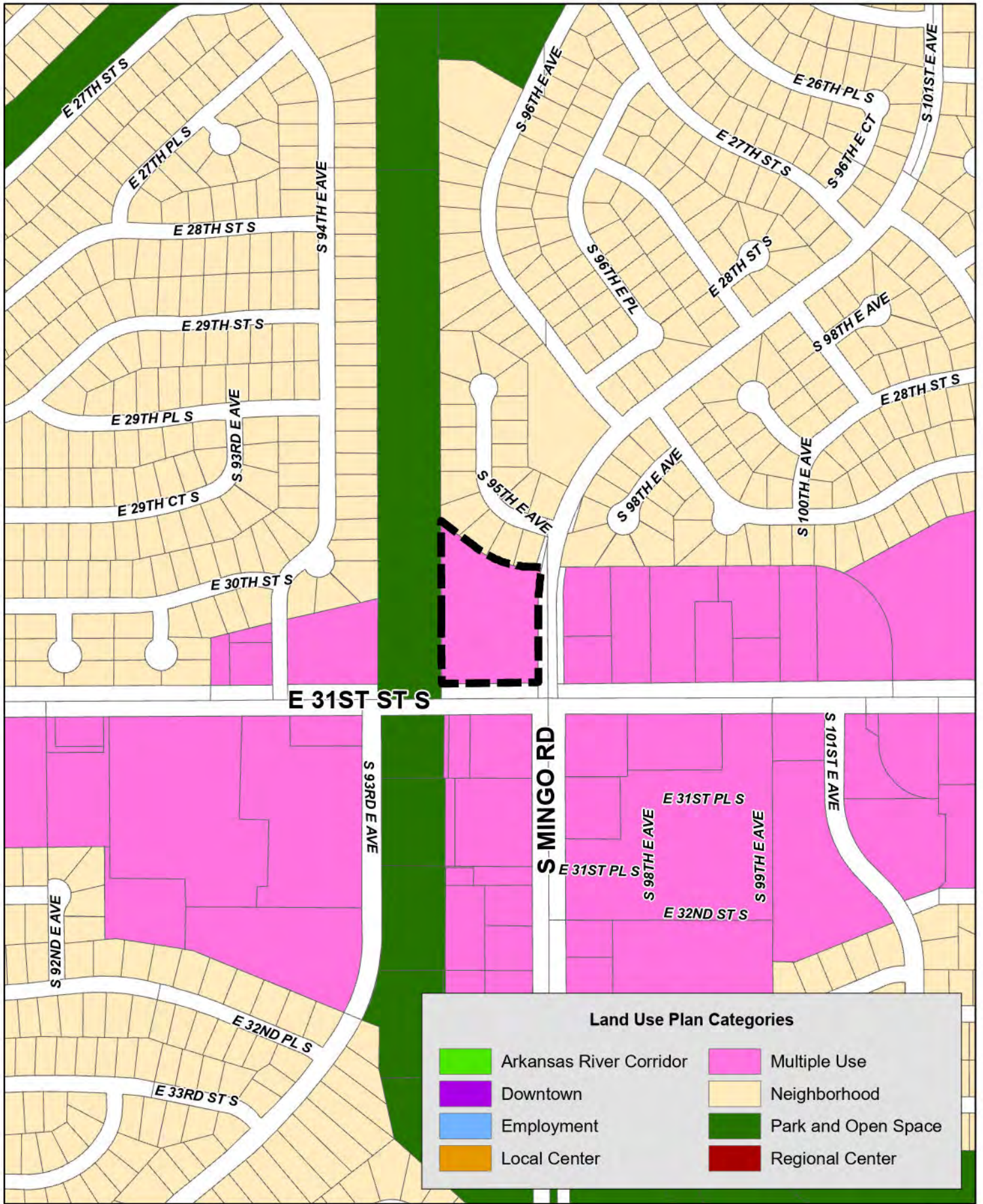
19-13 13









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

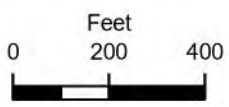
Aerial Photo Date: 2022



8.7



Land Use Plan Categories	
	Arkansas River Corridor
	Downtown
	Employment
	Local Center
	Multiple Use
	Neighborhood
	Park and Open Space
	Regional Center



 Subject Tract

BOA-23805
19-13 13



October 31, 2024

Attn: Board of Adjustment,

My client Fernando Ramirez, Sole Managing Member of "La Prima Bar LLC", signed a lease with Patriarch Properties LLC to use the facility formally known as "Calle 8 Bar".

He was not aware of the 300 feet spacing regulations, since there used to be a second Bar 2 spaces from his current location which closed on 2018. The former owner of "Calle 8 Bar" did not disclose the fact that behind the building, just across the creek, there is a bar that is less than 300 feet.

My client, Fernando Ramirez has been paying rent for location 9453 E 31st Street, for the last couple of months without being able to open his business, since City of Tulsa does not have a Certificate of Occupancy; for which I applied, and I was denied due to the 300 ft spacing.

Each bar is set in a different Lot and Block, with different access roads, so there will be no interference between businesses.

The Bar that sits on 31st Street just West of Mingo Rd, uses the 31st access road.

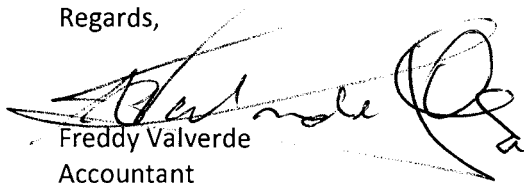
My client's Bar sits North on Mingo Rd, with 2 access roads, the main one North Mingo Rd and secondary access on the corner of 31st St and Mingo Rd.

A couple of years ago, all 3 bars were open at the same time and there were no complains by any of them, regarding customer hardship.

Please, we ask you respectfully to approve the Variance so my customer can start working instead of breaking his lease with possible penalties.

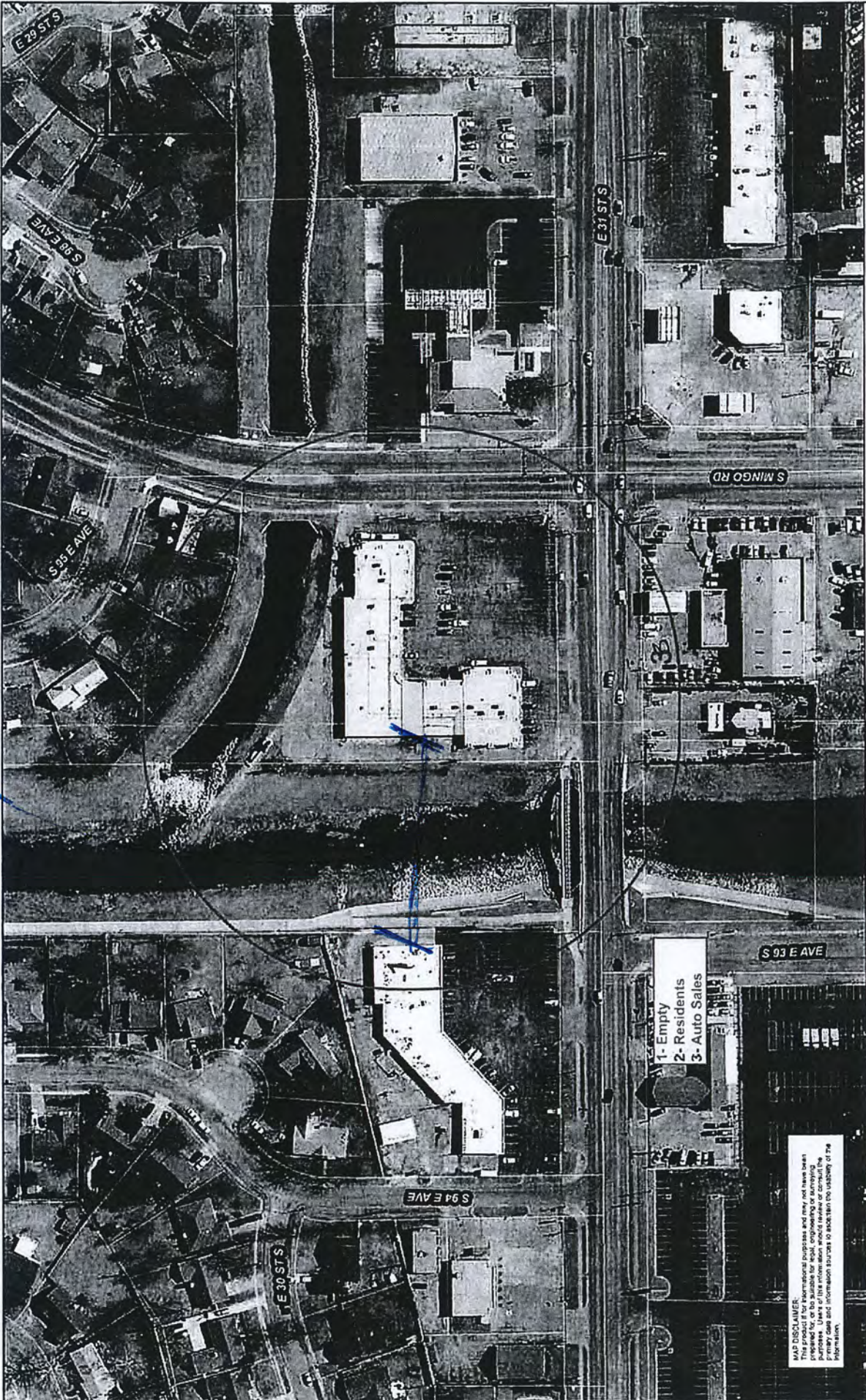
Thank you very much for your time and consideration.

Regards,

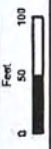


Freddy Valverde
Accountant
Fame 4 Business Solutions LLC

67 → 256' Distance



Date of Photography: Mar 01 2014



BOA - 21898

- 1- Empty
- 2- Residents
- 3- Auto Sales

MAP DISCLAIMER:
 This product is for informational purposes and may not have been
 prepared by a licensed professional surveyor or other qualified
 professional. Users of this information should exercise caution. The
 primary data and information sources to establish the usability of the
 information.

Map Prepared by INCOG
 2 West Second Street, Suite 800
 Tulsa, OK 74103

Note: The County Assessor's parcel boundary lines may not match the aerial photography
 physical features shown in the boundary lines were digitized using the County Assessor
 land record maps.

8.10

4.17

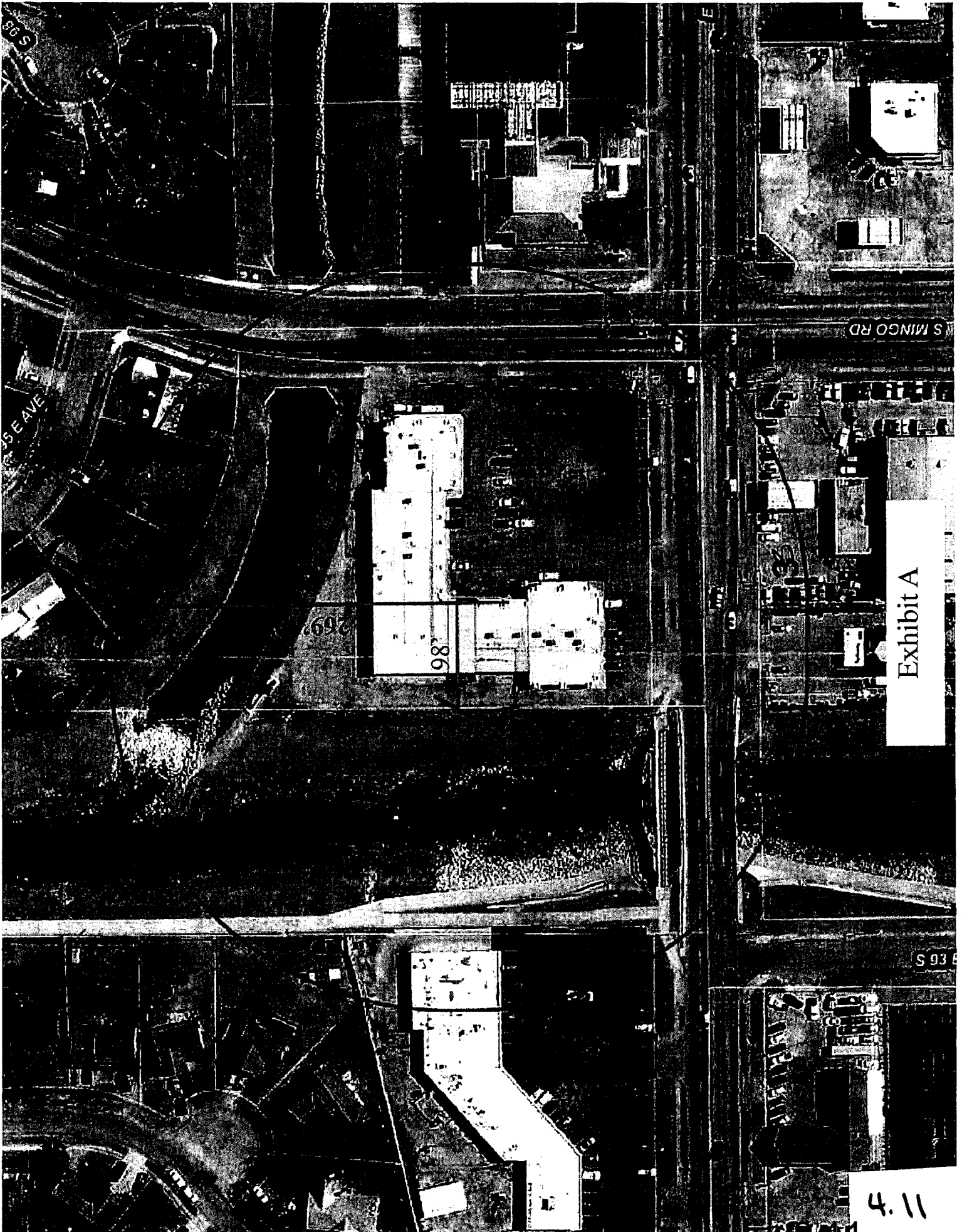


Exhibit A

4.11

8.11



DEVELOPMENT SERVICES

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

CITY OF TULSA

PLAN CORRECTIONS SUMMARY

ZCO-189106-2024 (9459 E 31ST ST S Tulsa, OK 74129) Markup Summary #1

Zoning ZCO-189106-2024 (3)



Subject: Zoning ZCO-189106-2024
Page Label: 1
Author: Jeffrey Bush
Date: 8/15/2024 1:43:12 PM
Status:
Color: ■
Layer:
Space:

Review Comment: According to Table 55-1 of the Tulsa Zoning Code a bar use with a floor area of 2080sqft has a minimum of 24 required parking spaces. Please provide a site plan indicating the minimum parking required.



Subject: Zoning ZCO-189106-2024
Page Label: 1
Author: Jeffrey Bush
Date: 8/15/2024 1:46:45 PM
Status:
Color: ■
Layer:
Space:

40.050-A.3
Bars may not be located within 300 feet of any other bar or sexually oriented business establishment, except in the CBD district. The required separation distance must be measured in a straight line between the nearest perimeter walls of the portions of the buildings occupied by the bar or sexually oriented business establishment.

Review Comment: It appears as if there is another bar located within 300' of your proposed location. In order to permit a bar within 300' of another bar you'll need to seek a variance for the spacing requirements. Contact the Tulsa Planning Office for further instructions at 918-596-7526 or Planning@cityoftulsa.org Otherwise provide plans indicating no other bars are within 300' of the proposed location.

8.12



DEVELOPMENT SERVICES

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

CITY OF TULSA

PLAN CORRECTIONS SUMMARY



Subject: Zoning ZCO-189106-2024
Page Label: 1
Author: Jeffrey Bush
Date: 8/15/2024 1:40:28 PM
Status:
Color: ■
Layer:
Space:

1. Sec.70.080-C: Applications for a Building Permit shall include a site plan that provides zoning data for the Zoning review portion of the Building Permit application. You may have submitted a site plan that does not sufficiently cover all pertinent zoning data necessary for a complete review.

Review comment: The zoning site plan is required to provide the following:

Submit a site plan that provides the additional information listed in italics

- North arrow
- Appropriate drawing scale;
- Legal description of the lot;
- Actual shape and dimensions of the lot;
- Location and dimensions of all easements;
- Lot lines and names of abutting streets;
- Public rights-of-way as designated on the Major Street and Highway Plan (MSHP) (Contact INCOG @ 918-584-7526 for Right-of-Way information on the MSHP) or follow the link below:

<https://incog.maps.arcgis.com/apps/instance/sidebar/index.html?appid=1154e58d87484b1f9c6aeb6ce13a2b44>

- The location and dimensions of existing buildings or structures, including distances to lot lines;
- The location, dimensions and height of proposed buildings or structures;
- Architectural projections for existing and proposed buildings and structures, i.e. stairs, porches, balconies, fireplaces, roof overhangs, etc.;
- The intended use of existing and proposed buildings, structures or portion of the lot;
- The setbacks from the proposed new buildings to the centerline of abutting Right-of-Way;
- Location and dimensions of parking areas. This includes the parking spaces, the maneuvering areas necessary to enter and exit the spaces and the drives providing access to the parking spaces and maneuvering areas from a public or private street or other parking areas.
- NOTE: The zoning review for your permit application will resume after a zoning site plan is submitted. Additional deficiencies may be found and are required to be resolved prior to approval of your application.