



Board of Adjustment

**Staff Report
BOA-23923**

Hearing Date: August 12, 2025
Prepared by: Erin Roark
eroark@cityoftulsa.org
918-596-7618

Owner and Applicant Information

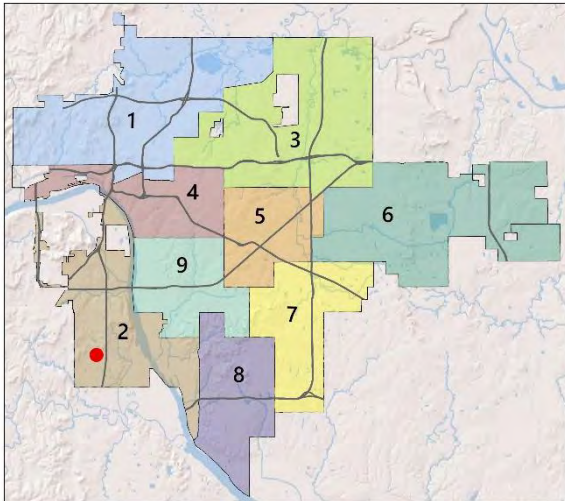
Applicant: Josh Miller
Property Owner: Joshua & Nicole Miller

Property Location

1903 West 78th Street South
Tract Size: ±2.62 acres

Location within the City of Tulsa

(shown with City Council districts)



Elected Representatives

City Council: District 2, Anthony Archie
County Commission: District 2, Lonnie Sims

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

Special Exception to permit an accessory dwelling unit in the AG-R district (Section 45.031-D); Variance of the requirement that an accessory dwelling unit be located at least 10 feet behind the principal building (Section 45.031-D).

Zoning

Zoning District: AG-R
Zoning Overlays: N/A

Comprehensive Plan Considerations

Land Use

Land Use Plan: Neighborhood
Small Area Plans: West Highlands/Tulsa Hills
Development Era: Late Automobile Era

Transportation

Major Street & Highway Plan: Residential Collector
planitulsa Street Type: N/A
Transit: N/A
Existing Bike/Ped Facilities: N/A
Planned Bike/Ped Facilities: Sidewalks

Environment

Flood Area: N/A
Tree Canopy Coverage: Greater than 50%
Parks & Open Space: Agricultural area

Staff Analysis

The applicant is requesting a special exception to permit an accessory dwelling unit (ADU) in the AG-R district (Section 45.031-D) and a variance of the requirement that an ADU be located at least 10 feet behind the principal building (Section 45.031-D). The proposed ADU will be 78 feet to the east of the principal dwelling.

Section 45.031 ADU, Accessory Dwelling Units

45.031-D Regulations

1. Where Allowed

Accessory dwelling units are allowed by special exception in RE, RS, AG, and AG-R districts. Accessory dwelling units are allowed by right in all other districts when accessory to a household living use.

8. Additional Regulations for Accessory Dwelling Units

b. Setbacks

An accessory dwelling unit must be located at least 10 feet behind the principal building. This required 10-foot separation distance must be open from the ground to the sky except that it may include walkways, patios, decks and similar structures that do not exceed 30 inches in height above finished grade.

Relevant Case History

- None found.

Statement of Hardship

The applicant’s statement of hardship is attached as a separate exhibit.

Comprehensive Plan Considerations

Land Use Plan

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	AG-R	Neighborhood	Residential
East	AG-R	Neighborhood	Residential
South	AG-R, RS-3	Neighborhood	Residential
West	AG-R	Neighborhood	Residential

Small Area Plans

The subject property is located within the West Highlands/Tulsa Hills 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: West 78th Street runs parallel to the southeast side of the subject property and is classified as a Residential Collector, which has a planned minimum right-of-way width of 60 feet.

Comprehensive Plan Street Designation: N/A

Transit: N/A

Existing Bike/Ped Facilities: N/A

Planned Bike/Ped Facilities: Sidewalks are recommended along street frontages.

Arterial Traffic per Lane: N/A

Environmental Considerations

Flood Area: N/A

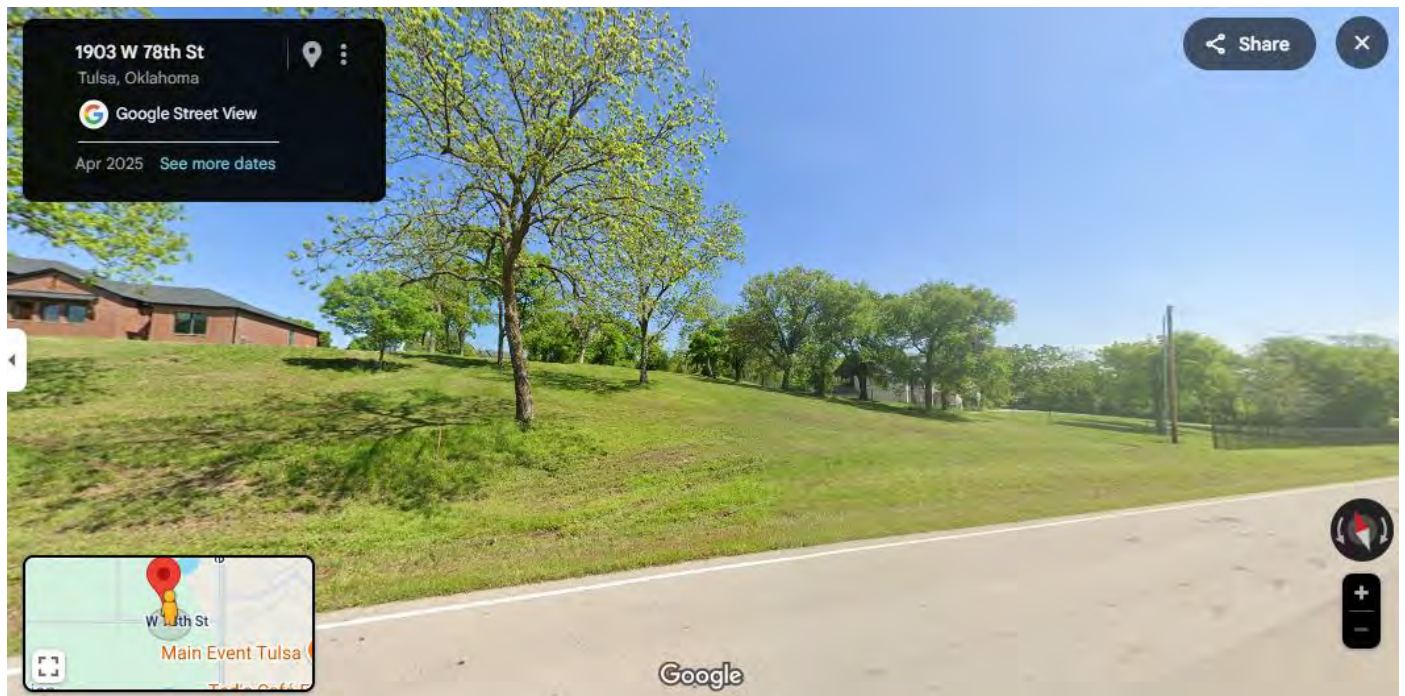
Tree Canopy Coverage: Tree canopy in the area is 57%. Development will naturally have an impact on tree canopy, but all effort should be taken to preserve a substantial portion of the tree canopy in these areas. These areas should have the highest level of preservation to maintain the existing habitat and recreational places in the city. Future land use planning for Future Growth areas should include the goal of tree canopy preservation.

Parks & Open Space: The subject property is in an area characterized by vacant, agricultural, and woodland areas.

Site Photos



View northwest from 78th Street, April 2025 (Image from Google Street View)



View northeast from 78th Street, April 2025 (Image from Google Street View)

Sample Motion

Special Exception

I move to approve or deny a special exception to permit an accessory dwelling unit in the AG-R 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.

Variance

I move to approve or deny a variance of the requirement that an accessory dwelling unit be located at least 10 feet behind the principal building (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 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

PRT SE BEG 963.66S & 370.03W NEC THEREOF TH W364.44 N312.62 E364.44 S312.68 POB SEC 10 18 12 2.616ACS UNPLATTED, City of Tulsa, Tulsa County, State of Oklahoma

Exhibits

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

supporting structure (excluding any guy lines) to the nearest point on the residential zoning district boundary line, excluding R-zoned freeways.

Section 45.030 Accessory Buildings and Carports in R Districts

45.030-A Accessory Building Size

1. RE and RS-1 Districts

In RE and RS-1 districts, the total aggregate floor area of all detached accessory buildings not erected as an integral part of the principal residential building may not exceed 750 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1] [2]

2. RS-2, RS-3, RS-4, RS-5 and RM Districts

In RS-2, RS-3, RS-4, RS-5, and RM districts, the total aggregate floor area of all detached accessory buildings not erected as an integral part of the principal residential building may not exceed 500 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1] [2]

[1] For detached accessory buildings located within rear setbacks, see Section [90.090-C](#).

[2] See Section 45.031-D.6 for exceptions to these floor area limits for accessory buildings containing an Accessory Dwelling Unit.

45.030-B Carports

Carports are allowed in R zoning districts. Any carport that occupies all or a portion of the street setback or street yard area must be approved in accordance with the special exception procedures of [Section 70.120](#) and comply with the regulations of [§90.090-C1](#).

Section 45.031 ADU, Accessory Dwelling Units

45.031-A Definition

A dwelling unit that is located in an accessory building on the same lot as a household living use to which it is accessory and subordinate.

Examples of ADUs include carriage houses, garage apartments, and mother-in-law flats.

45.031-B Purpose

1. The purpose of allowing accessory dwelling units is to:
 - a. accommodate new housing units while preserving the character of existing neighborhoods;
 - b. allow efficient use of the city's existing housing stock and infrastructure;
 - c. provide housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and
 - d. provide a means for residents—particularly seniors, single parents, and empty-nesters—to remain in their homes and neighborhoods, and obtain extra income, security, companionship and assistance.

2. The ADU supplemental regulations are also intended to help ensure that that new buildings and modifications to existing buildings are designed with sensitivity to their context in terms of building placement, proportions, building materials, and similar design features.

45.031-C Applicability

These regulations apply to all accessory dwelling units, as defined by Section 45.031-A.

45.031-D Regulations

1. Where Allowed

Accessory dwelling units are allowed by special exception in RE, RS, AG, and AG-R districts. Accessory dwelling units are allowed by right in all other districts when accessory to a household living use.

2. Number

No more than one accessory dwelling unit is allowed per lot.

3. Methods of Creation

An accessory dwelling unit may be created only through the following methods:

- a. Constructing an accessory dwelling unit on a lot with a new or existing principal building; or
- b. Converting or increasing existing floor area within an accessory building on a lot with an existing principal building.

4. Density (Minimum Lot Area and Lot Area per Unit)

No additional lot area or lot area per unit is required for the accessory dwelling unit.

5. Open space (Minimum open space per unit)

No additional open space is required for the accessory dwelling unit.

6. Accessory Dwelling Unit Size

The size limitations in [Section 45.030](#) apply, provided that the maximum allowed square footage of an accessory building containing an Accessory Dwelling Unit is increased by 500 square feet. The maximum allowable floor area for accessory buildings containing an Accessory Dwelling Unit may be increased in accordance with the special exception procedures of [Section 70.120](#).

7. Building and Fire Codes

All accessory dwelling units are subject to applicable building and fire codes.

8. Additional Regulations for Accessory Dwelling Units

- a. Entrances

Building entrances to accessory dwelling units may not face the nearest side or rear property line unless there is an alley abutting that property line.

b. Setbacks

An accessory dwelling unit must be located at least 10 feet behind the principal building. This required 10-foot separation distance must be open from the ground to the sky except that it may include walkways, patios, decks and similar structures that do not exceed 30 inches in height above finished grade.

c. Exterior Finish Materials

The exterior finish material of any new accessory dwelling unit must be the same or visually match in type, size and placement, the exterior finish material of the principal building.

d. Roof Pitch

The roof pitch any new accessory dwelling unit must be the same as the predominant roof pitch of the principal building.

e. Second Story Windows

Any second-story window less than 10 feet from and oriented toward a lot line not abutting a right of way shall either use permanently translucent glazing or have a minimum sill height of 6 feet above the finished floor.

Section 45.040 Compressed Natural Gas (CNG) Refueling Appliances

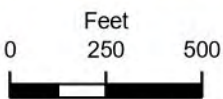
Private (restricted access), consumer-oriented (home), CNG refueling appliances are permitted as an accessory use to lawfully established household living uses in all zoning districts.

Section 45.050 Dumpsters

45.050-A Regulations

Dumpsters established or placed on or after the effective date specified in [Section 1.030](#) are subject to the following regulations:

1. Dumpsters may only be placed with the written permission of the owner of the subject property.
2. Dumpsters must be located on a dustless, all-weather surface.
3. Dumpsters may not:
 - a. Obstruct motorized or non-motorized traffic;
 - b. Reduce any sidewalk or walkway designed for the passage of pedestrians to less than 5 feet in width;
 - c. Be located within 10 feet of a fire hydrant or fire suppression connection;
 - d. Be located in a required parking space or required landscape area; or
 - e. Be located in a street setback or side setback.



Subject Tract

BOA-23923

18-12 10

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

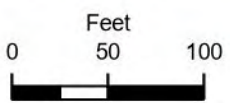
Aerial Photo Date: 2025



11.9



W 78TH ST S



Subject Tract

BOA-23923

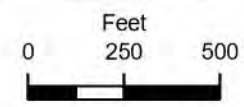
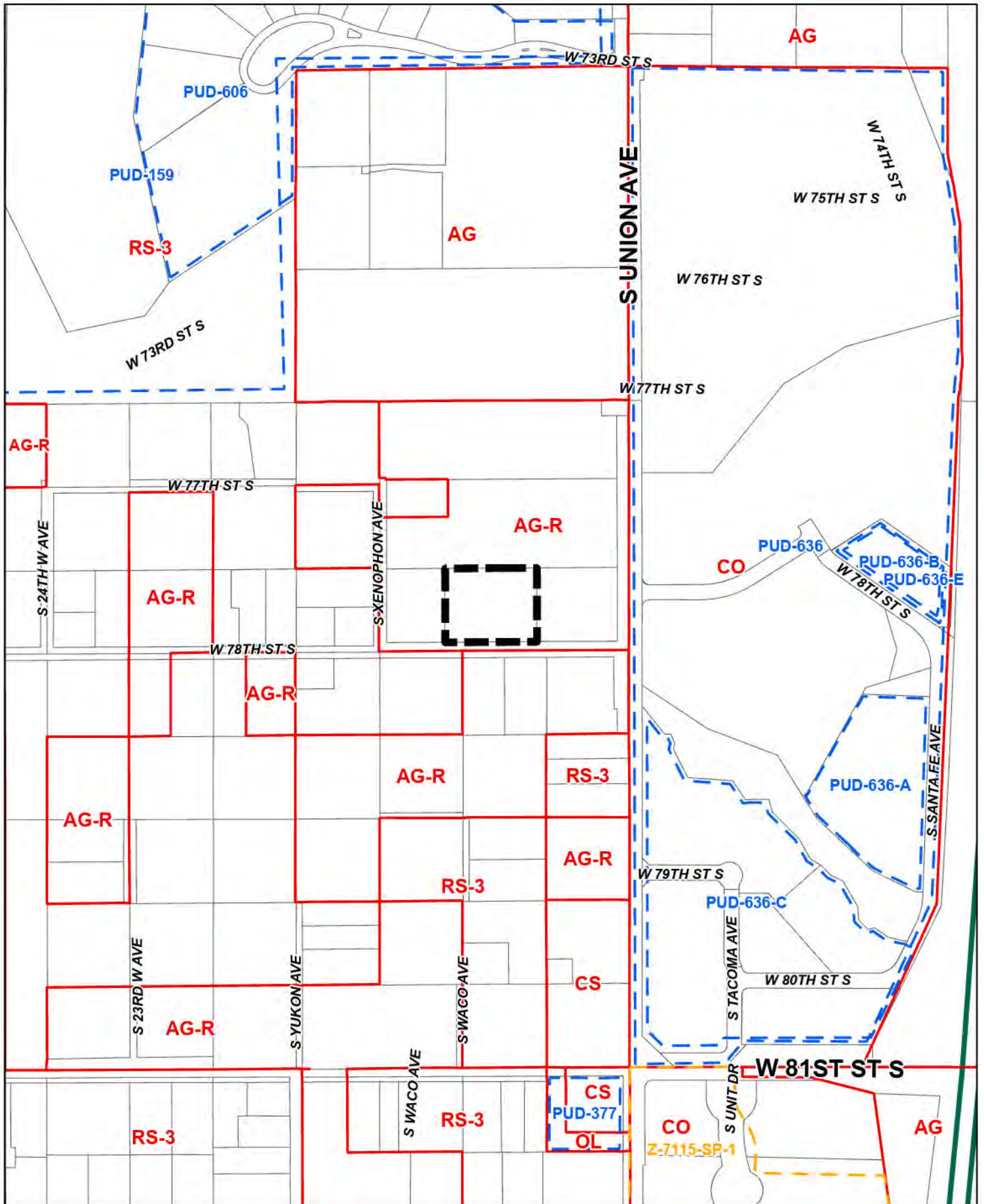
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Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: 2025



11.10



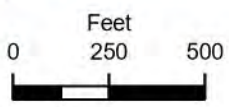
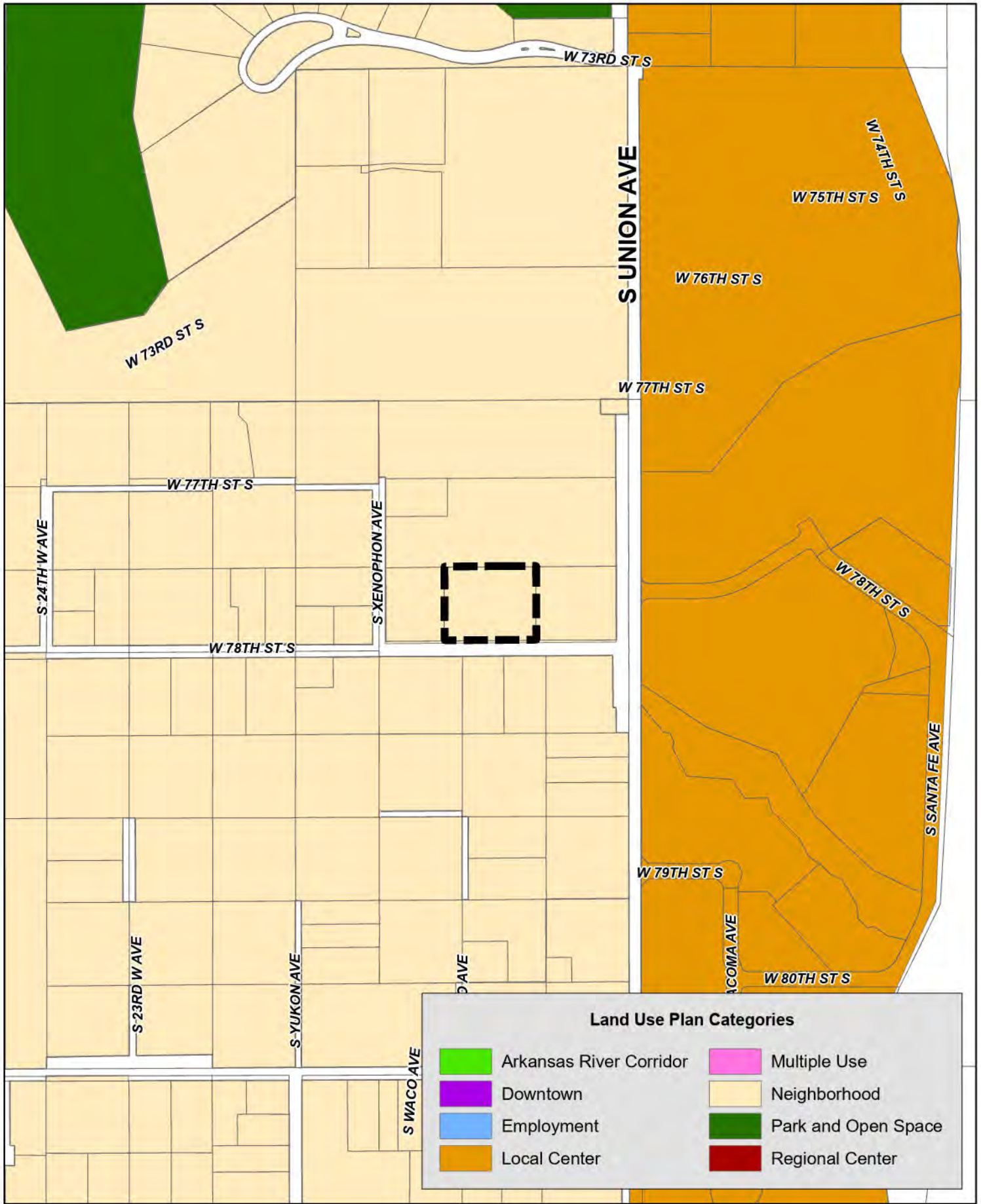
 Subject Tract

BOA-23923

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11.11



Subject Tract

BOA-23923

18-12 10



11.12

Variances

Proof of Hardship

The Board of Adjustment is allowed to approve variances only after determining that the following conditions exist. Below, describe how your request satisfies **each** of these conditions.

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;

Due to the ~~steep~~ slope of the topography of the land 10 feet or more behind the principal building and the density of the tree canopy, the proposed location is optimal because it does not cause water runoff issues and preserves trees.

2. That the literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;

The proposed ADU will be of similar size and character of many of the other houses in the neighborhood, and there are many homes with similar locations in proximity to the ^{to the} street and their adjacent neighbors.

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 conditions of the topography and the trees are uniquely specific to the property in question and not related to the zoning classification.

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

The hardship is naturally occurring.

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

yes, there is no other relevant relief

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

see #2

7. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the zoning code or the comprehensive plan.

it will not - see #2

Special Exceptions

The Board of Adjustment is allowed to approve special exceptions only after determining that the following conditions exist. Below, explain how your requests satisfy these conditions:

1. The special exception will be in harmony with the spirit and intent of the Zoning Code; and

The ADU is for my wife's aging parents. They want to ^{be} proximate to my wife, who is a nurse practitioner, so she may care for them as they age. This is within the spirit and intent of the zoning code.

2. The special exception will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

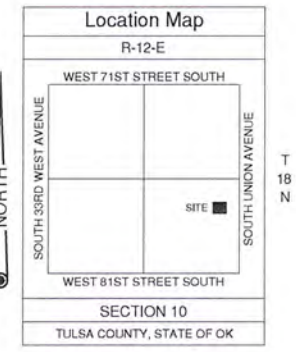
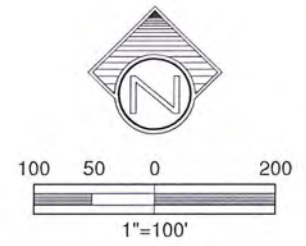
The ADU will be of similar size, character and lot location of many other homes in the neighborhood.

Conditions

In granting any special exception, the Board may make appropriate conditions or safeguards, may limit the approval to a specified period of time and may require a bond or other guarantee necessary to enforce compliance with the conditions.

If your application is approved, you will likely need additional permits.

Call 918.596.9456 to speak with the Permit Center or Development Services Plans Review.



Note: Principal (Existing) Dwelling @ 3,231 Square Feet as provided by client;
Proposed ADU @ 2,066 Square Feet as provided by client.

Date: 07/08/2025
Job No. 25-027

Miller Exhibit
Part of the NE/4 of the SE/4
Section 10, T-18-N, R-12-E
Tulsa County, State of Oklahoma

tep Tulsa Engineering & Planning Associates, Inc.
9810 East 42nd Street, Suite 100, Tulsa, OK 74146
Phone: 918-252-9621 Fax: 918-340-5999
Certificate of Authorization No. CA 531 PE/LS Renewal Date June 30, 2027

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