#### CITY BOARD OF ADJUSTMENT

MINUTES of Meeting No. 829
Tuesday, October 23, 2001, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

# MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Dunham, Vice Chair Cooper Beach Butler Boulden, Legal

Turnbo

White, Chair

**Perkins** 

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600, on Thursday, October 18, 2001, at 10:50 a.m., as well as at the City Clerk's office, City Hall.

After declaring a quorum present, Chair, White called the meeting to order at 1:00 p.m.

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# Case No. 19216

# **Action Requested:**

Mr. Beach announced this case was withdrawn per Steven Schuller, the applicant.

## Case No. 19219

# **Action Requested:**

Mr. White clarified with the applicant that the legal description was correct.

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# **UNFINISHED BUSINESS**

# Case No. 19198

## **Action Requested:**

Variance of the maximum sign height from 20' to 26'-3". SECTION 302.B.2. ACCESSORY SIGNS IN THE AG DISTRICT, located 6841 S. Memorial Dr.

#### Presentation:

**Mike Moydell**, 1221 W. 3<sup>rd</sup>, stated that he has returned to ask relief for the maximum sign height. He submitted photographs (Exhibit A-1) of the site to the Board. He described the need showing the landscaping elevation from the restaurant to the street.

#### **Comments and Questions:**

Ms. Perkins commented that in a CH zoning district the maximum height would be 25'.

**Paula Baliss**, 4201 W. Memorial, Oklahoma City, Oklahoma, stated that 26'3" is the standard height they request for their signs in every city. Ms. Perkins asked if they could work with the 25' allowed in a CH zone.

# **Interested Parties:**

There were no interested parties who wished to speak.

#### **Board Action:**

On **Motion** of **Dunham**, the Board voted (White, Dunham, Turnbo, Perkins "aye", no "nays", no "abstentions", Cooper "absent") to **APPROVE** a **Variance** of the maximum sign height from 20' to 25', finding that the AG zoning is very unusual for this area and they could build 25' by right, and finding that it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan. on the following described property:

Lot 1, Block 2, Tract B, Woodland Hills Mall, City of Tulsa, Tulsa County, State of Oklahoma.

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## Case No. 19200

#### **Action Requested:**

Variance of the required number of parking spaces from 134 to 104. SECTION 1219.D. USE UNIT 19. HOTEL, MOTEL, AND RECREATION FACILITIES; Off-Street Parking Requirements, located S of SW/c E. 56<sup>th</sup> St. & S. Garnett Rd.

#### Presentation:

Mendy Ward, 7912 E. 31<sup>st</sup> Ct., Ste. 200, stated she came before the Board for a change in use and relief from the all-weather surface requirement. She stated she was not advertised correctly for the surface requirement and so came before the Board today. Since then the owner agreed to pave the parking lot and determined the maximum number of parking spaces to be 104. The property abuts the City of Tulsa property in the flood plain. She reminded the Board that indoor soccer is primarily a participant sport not a

spectator sport, therefore decreasing the need for parking spaces. The office is only open 8:00 a.m. to 5:00 p.m., which would leave their 28 parking spaces available for overflow parking. The need for parking would be primarily evenings and weekends.

## Interested Parties:

There were no interested parties who wished to speak.

# **Board Action:**

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye", no "nays", no "abstentions", Cooper "absent") to **APPROVE** a **Variance** of the required number of parking spaces from 134 to 104, finding that this use would rarely need the required spaces under the Code, and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the property described as follows:

Block 1, Garnett Place, less E 200', S 300.49' and less N 20' thereof, City of Tulsa, Tulsa County, State of Oklahoma.

# **NEW APPLICATIONS**

#### Case No. 19212

#### **Action Requested:**

Variance of the previously approved conditions (BOA-16534) to increase beds allowed from 285 beds to 320 beds. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS; BOA Imposed Special Exception Use Conditions, located 302 W. Archer.

Mr. White stated he would abstain from this case.

#### Presentation:

Mr. Beach informed the Board that this request could be considered as a special exception.

**Don Hoover**, 302 W. Archer, stated he is the Facility Administrator at the Avalon Correctional Center. He stated that his facility contracts with the Department of Corrections and the Bureau of Prisons to operate halfway house services for offenders who are on their way out of the system. These inmates are employed outside of the facility and they are assisted in finding housing when they leave.

#### **Comments and Questions:**

Ms. Turnbo asked if they still follow the conditions as approved in 1994 that no murderers, sex-offenders, or drug dealers would be housed on this premises. He replied they comply with this condition. She asked Mr. Hoover that no more than 50 inmates receive visitors at any time. He replied that they comply with that requirement. He stated that they stagger the visiting hours over Saturday and Sunday and have not had a problem. Mr. Dunham commented that they would have the same conditions with the change of the number of beds.

## **Interested Parties:**

There were no interested parties who wished to speak.

#### **Board Action:**

On **Motion** of **Turnbo**, the Board voted 3-0-1 (Dunham, Turnbo, Perkins "aye", no "nays", White "abstained", Cooper "absent") to <u>APPROVE</u> a **Special Exception** of the previously approved conditions (BOA-16534) to increase beds allowed from 285 beds to 320 beds, and keeping the conditions previously approved in Case No. 16534: no more than 50 inmates receiving visitors at any given time; and no murderers, sex offenders or drug dealers being housed on the premises, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

Lot 1 - 7, Block 63, including the vacated south alley, Original Townsite, City of Tulsa, Tulsa County, State of Oklahoma.

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## Case No. 19213

## **Action Requested:**

Variance of side yard requirement of 5' down to 3.9'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6. located 8207 S. 68<sup>th</sup> E. Ave.

Ms. Perkins stated she would recuse herself from Case No. 19213.

#### Presentation:

Anthony Rice, 9408 S. Urbana, stated they encroached on the construction line on the west side of the house when they built and did not realize until the survey. The geometry of the lot is pie-shaped making it difficult to measure. A site plan (Exhibit B-1) was submitted to the Board.

# **Interested Parties:**

**Dr. Craig Stevens**, 8206 S. 69<sup>th</sup> E. Ave., stated that he was informally representing the residents that he spoke with in this area. He stated that they object to the application because of the breach of the covenant of this neighborhood, and because it obstructs the view.

#### **Comments and Questions:**

Mr. Dunham asked how it could obstruct his view if it is on the opposite side of the house. Mr. Stevens replied that it is because of the way the land is divided. Ms. Turnbo informed Mr. Stevens that the Board does not enforce covenants. Mr. White pointed out that the extreme enforcement would mean the builder would have to trim off that portion of the house. Dr. Stevens responded that they did not actually expect that kind of correction but to voice their concerns.

# Applicant's Rebuttal:

Mr. Rice commented that the five-foot side yard requirement is a City Code. Ms. Turnbo asked who built the house. Mr. Rice replied that he built it. He explained that he took the word of the one who laid out the measurements. He discovered that it was measured not on the arc but straight from one point to another.

# **Board Action:**

On **Motion** of **Dunham**, the Board voted 3-0-1 (White, Dunham, Turnbo "aye", no "nays", Perkins "abstained", Cooper "absent") to **APPROVE** a **Variance** of side yard requirement of 5' down to 3.9', per plan submitted today, finding the shape of the lot to be the hardship, making it difficult to establish the exact front building line, on the following described property:

Lot 21, Block 13, the Crescent, City of Tulsa, Tulsa County, State of Oklahoma.

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## Case No. 19214

# **Action Requested:**

Special Exception to allow automobile sales in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located 2607 E. Pine St.

## Presentation:

**Melissa Gibson**, 2607 E. Pine. St., stated her request for a special exception to allow auto sales in a CS zoned district. She stated that nothing would change from the existing conditions. There will be no extra lighting, no auto repairs, and no outside speakers. The screening is already in place and the all-weather surface also.

#### **Comments and Questions:**

Mr. White asked about landscaping. Ms. Gibson replied that the City building permit exempted her from the landscaping requirements. Mr. Beach responded that he would have to research the case regarding the landscaping but it could be legally non-conforming. Mr. Dunham asked for the days and hours of operation. Ms. Gibson replied they would be open no later than 5:00 p.m. Mr. Boulden noted that in a use unit 17 no open-air storage, or display of merchandise within 300' of an adjoining R district. He pointed out that she did not request relief for display of merchandise.

#### **Interested Parties:**

There were no interested parties who wished to speak.

#### **Board Action:**

On **Motion** of **Dunham**, the Board voted 3-1-0 (White, Dunham, Perkins "aye", Turnbo "nay", no "abstentions", Cooper "absent") to **APPROVE** a **Special Exception** to allow automobile sales in a CS zoned district, per plan, subject to no more than four cars offered for sale; no lighting other than the existing security lighting; days/hours of operation 8:00 a.m. to 5:00 p.m. Monday through Friday; no outside speakers; no inoperable vehicles stored on the premises; no mechanical work on the premises; finding it 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; and to **CONTINUE** Case No. 19214 to the meeting on November 27, 2001 to advertise for additional relief of the 300' setback requirement, on the following described property:

Lot 728, Block 56, Tulsa Heights and Lot 11, Block 1, Waverly Place, except tract 20' square in NE/c thereof; all in City of Tulsa, Tulsa County, State of Oklahoma.

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## Case No. 19217

#### **Action Requested:**

Special Exception to allow a manufactured home in an RS-1 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 6; and a Special Exception to extend the one-year time limit. SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located SE/c E. 14<sup>th</sup> St. & 173<sup>rd</sup> E. Ave.

Mr. White stated he would abstain from this case.

#### Presentation:

**Patricia A. Breon**, stated she was the property owner of 17304 E. 14<sup>th</sup> St. She introduced Kathy Flannigan and Rick Vaughn with Oak Creek Village.

**Kathy Flannigan**, 11306 E. Admiral, submitted photographs (Exhibit C-1) to the Board. She described the proposed plan to move a mobile home on the subject property. There are mobile homes on either side of the property. The loan application shows an appraisal of \$172,000.00 with the mobile home on the land so it would not decrease the value of the land.

**Rick Vaughn**, stated that the home would be anchored on concrete footings, with skirting, and a 6/12 pitched roof. It is 32' x 64' manufactured home with triple dormers, and would look like a stick built home.

#### **Interested Parties:**

Mr. Dunham noted for the record that the Board received four letters (Exhibit E-1) of objection to the application.

**Mrs. Carl Turner**, 1213 S. 173<sup>rd</sup> E. Ave., stated there was an empty mobile set behind the barn but no one ever lived in one on the property. She does not want it to set a precedent for mobile homes in the area. She stated they have spent years improving their own property and do not want to lose property value. They have already had one bad experience with a mobile home in the neighborhood that required a lot of cleanup.

## **Comments and Questions:**

Ms. Turnbo encouraged Ms. Turner to see the picture of the kind of home that they propose to build. Ms. Turner questioned the change in the time limit. Ms. Turnbo explained that it is an allowed exception in the zoning code.

Ron Gratiff, stated he owns property at 1402, 1410, and 1426 S. 173<sup>rd</sup> E. Ave., directly across the street to the west of the subject property. He stated that his primary residence is at 1402, and it is a 12-year-old manufactured home. He considers the proposed home to be attractive. He added that the owners have improved the property considerably.

**Carl Edmondson,** 17317 E. 14<sup>th</sup> St., stated he owns the property across the street from the subject property. He stated his concern for the rising water table in the area, causing his fences to fall.

James Mautino, 14628 E. 12<sup>th</sup> St., expressed concerns as listed above.

#### Applicant's Rebuttal:

Mrs. Breon informed the Board that they invested in an aerobic sewer system after they purchased the property. She stated that they thoroughly

investigated the construction of these types of homes and were satisfied that it is good quality. They have improved the property and will continue to improve it to increase the value. The existing mobile home will be removed.

## **Board Action:**

On **Motion** of **Perkins**, the Board voted 3-0-1 (Dunham, Turnbo, Perkins "aye", no "nays", White "abstained", Cooper "absent") to **APPROVE** a **Special Exception** to allow a manufactured home in an RS-1 zoned district; and a **Special Exception** to extend the one-year time limit to 100 years, finding it 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, on the following described property:

Lot 1 and 4, Block 8, Lynn Lane Estates, City of Tulsa, Tulsa County, State of Oklahoma.

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#### Case No.19218

#### **Action Requested:**

Variance of the allowable size for an accessory building from 500 sq. ft. to 1,130 sq. ft. for an addition to existing garage and carport. SECTION 210.B.5. YARDS, Permitted Obstructions in Required Yards – Use Unit 6; and a Variance of the required 5' side yard to 2'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 2023 E. Xyler St. N.

#### Presentation:

**Fred Stevenson**, 1003 E. Zion Ct., stated he needs a variance of the allowable size of an accessory building and a variance of the required side yard.

## **Comments and Questions:**

Ms. Perkins asked why he needs a carport if he has an existing garage and carport. Mr. Stevenson responded that the owner of the property was present and could answer the question.

John Jones, 2023 E. Xyler, replied that the existing carport is attached to the garage at the back of the house, and the new carport would be on the side of the house. He felt it would make the house look better and improve the neighborhood. Ms. Perkins asked about the building materials. He stated it would be a wood A-frame, open-sided, with a gable. Mr. Beach determined that it would be an unattached carport. Mr. Dunham determined the dimensions.

# **Interested Parties:**

There were no interested parties who wished to speak.

#### **Board Action:**

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye", no "nays", no "abstentions", Cooper "absent") to **DENY** a **Variance** of the allowable size for an accessory building from 500 sq. ft. to 1,130 sq. ft. for an addition to existing garage and carport; and a **Variance** of the required 5' side yard to 2', finding a lack of hardship, on the following described property:

Lot 10, Block 4, Coats 2<sup>nd</sup> Addition amended, City of Tulsa, Tulsa County, State of Oklahoma.

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## Case No. 19219

# **Action Requested:**

Special Exception for mobile home in an RM-1 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; and a Special Exception to extend the one-year time limit. SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located 1144 E. Haskell.

#### Presentation:

**Michael Sund**, 1247 N. Allegheny, stated he purchased the property for a permanent residence. He plans to improve the mobile home and property. Letters of support (Exhibit E-1) were submitted.

## **Comments and Questions:**

Ms. Perkins asked the age of the mobile home. Mr. Sund replied that it was a 1972 model. He pointed out there are two more mobile homes across Peoria in the same housing addition. Mr. Sund proposed to tie-down and skirt the home.

#### Interested Parties:

**Raymond Miller**, 1116 E. Haskell Pl., stated he has improved his own property and neighborhood.

#### Mr. Cooper arrived at 2:44 p.m.

He stated that the subject property is an eye sore. He added that he owns other lots on Haskell. He submitted letters of objection (Exhibit E-2). He does not know of any other mobile homes in the neighborhood.

# Applicant's Rebuttal:

Mr. Sund admitted the home does not look good now, but he has plans to improve it for a permanent residence. He stated there was also a third mobile home in the neighborhood but it burned out. He has spoken with other residents in the area and they were in support of the application.

#### **Comments and Questions:**

Mr. Beach asked Mr. Sund to describe his plans to make the house look better. Mr. Sund replied he planned to add on about 15' with a peaked roof, an unattached garage toward the middle and back of the property, and a front porch across front. He planned to use wood siding over the exterior of the mobile.

#### **Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye", no "nays", no "abstentions", no "absences") to **DENY** a **Special Exception** for mobile home in an RM-1 zoned district; and a **Special Exception** to extend the one-year time limit, finding it would not be in harmony with the spirit and intent of the Code, and would be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lots 5 and 6, Block 4, Frisco Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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#### Case No. 19220

#### Action Requested:

Variance of required front yard of 30' down to 28'4". SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 135 E. 26<sup>th</sup> Ct.

#### Presentation:

The applicant, **Susan Haas**, 135 E. 26<sup>th</sup> Ct., stated she would like for her architect to speak for her.

**Steve Brown**, 3015 S. Madison, stated that the project is a front porch across the front of the house. He stated part of the porch is covered with the roof and part is open to the sky. Mr. Brown described the house at the end of a dead end street. The street is divided by a 30' landscaped island with 20' paved streets on either side. There is no plan to enclose the porch.

# **Interested Parties:**

There were no interested parties who wished to speak.

# **Board Action:**

On **Motion** of **Dunham**, the Board voted (White, Dunham, Turnbo, Perkins, Cooper "aye", no "nays", no "abstentions", no "absences") to **APPROVE** a **Minor Variance** of required front yard of 30' down to 28'4", per plan, on condition that the porch remain open and not be enclosed, finding the hardship to be the center island and porch not enclosed affects the setback in this instance, and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

Lot 5, Block 6, Riverside View, City of Tulsa, Tulsa County, State of Oklahoma.

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#### Case No. 19221

# **Action Requested:**

Variance of the 50' setback requirement from the centerline of East 21<sup>st</sup> Street down to 35'. SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS – Use Unit 11, located 2538 E. 21<sup>st</sup> St.

#### Presentation:

**Ed Horkey**, 4411 S. Sheridan, stated he was representing Carrie and Pamela Lowe, that have a dental practice on the subject property. He stated that the hardship was the abutting property to the east has an Oklahoma Natural Gas drying and switching station that is enclosed stands above grade about three feet. A site plan (Exhibit G-1) was submitted.

#### **Comments and Questions:**

Mr. Dunham noted that the staff comment suggested a removal contract.

#### **Interested Parties:**

There were no interested parties who wished to speak.

#### **Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye", no "nays", no "abstentions", no "absences") to **APPROVE** a **Variance** of the 50' setback requirement from the centerline of East 21<sup>st</sup> Street down to 35', per plan, finding the existing natural gas drying station and distribution point and other signs would make this sign difficult to see otherwise, and in case the right-of-way is ever required to meet the Major Street and Highway Plan that there would be a removal contract, and finding that it will not cause substantial detriment to the public good or

impair the purposes, spirit, and intent of the Code, or Comprehensive Plan. on the property described as follows:

The E 80.60' of the W 241.00' of the N 193.00' of Lot 29, Herters 2<sup>nd</sup> Sub-Division, City of Tulsa, Tulsa County, State of Oklahoma.

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## Case No.19222

# **Action Requested:**

Special Exception to allow auto sales on the west 90' of subject tract. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17; and a Special Exception to allow auto repair on the west 60' of subject tract. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS, located 12545 A&B E. 21<sup>st</sup> St.

#### Presentation:

Mark Smiling, 8908 S. Yale, Ste. 450, submitted a packet of exhibits (Exhibit H-1) to the Board. He explained to the Board that 50' was deeded back to the owner by the mini-storage. They would like the same special exception to the back of the lot as the front of the lot. The applicant was unable to produce the documents to prove that the Board had approved the relief he indicated the owner had obtained for auto repair.

#### **Comments and Questions:**

After much discussion and confusion the Board determined that auto repair was denied in Case No. 19803 on July 25, 2000, and only auto sales was approved in Case No. 16285 in 1983. There was also confusion over which parts of the property were actually involved.

## Dunham out at 3:10 p.m.

Mr. Boulden commented to Mr. Smiling about open-air storage and display of merchandise within 300' of an adjoining R district. Mr. Cooper noted that he was not advertised for that relief.

#### Dunham returned at 3:13 p.m.

#### **Interested Parties:**

**Eric Paschal**, 12420 E. 14<sup>th</sup> Pl., submitted letters of objection (Exhibit H-2). He stated that the appearance of this property has been degrading the area. He expressed his opinion that this application would be detrimental to east Tulsa.

James Mautino, 14628 E. 12<sup>th</sup> St., stated that they went through a lot of effort with Neighborhood Inspections to get this area cleaned up. He stated

that the property is not land-locked, but can be accessed. Mr. Mautino suggested that they should apply for re-zoning.

# Applicant's Rebuttal:

Mr. Smiling stated that they want the exception to be consistent on the whole property. Mr. White noted that the case map outlines more property than the legal description and the Board does not have a record of previous approval for auto repair.

Mr. Smiling withdrew Case 19222 in order to review the files and obtain the correct information for a future case.

#### **Board Action:**

No Board action was needed for Case No. 19222, on the following described property:

A tract of land located in Lot 1, Block 1, Stacey Lynn Third Annex, being more particularly described as follows: Beg. at the most NWly SW/c of Lot 1, Block 1, Stacey Lynn Third Annex; thence N 00°00′00" E along the W line of Lot 1, Block 1, Stacey Lynn Third Annex a distance of 50.00′; thence S 89°47′00" E and parallel with the S line of Lot 1, Block 1, Stacey Lynn Third Annex, a distance of 150.00′; thence S 00°00′00" W and parallel with the W line of Lot 1, Block 1, Stacey Lynn Third Annex, a distance of 50.00′ to the most NEly SW/c of Lot 1, Block 1, Stacey Lynn Third Annex; thence N 89°47′00" W along the S line of Lot 1, Block 1, Stacey Lynn Third Annex a distance of 150.00′ to the most NWly SW/c of Lot 1, Block 1, Stacey Lynn Third Annex a distance of 150.00′ to the most NWly SW/c of Lot 1, Block 1, Stacey Lynn Third Annex the POB AND Lot 1, Block 1, Shannon Park Plaza, all in the City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 3:34 p.m.

Date approved:

Chair

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