

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 957
Tuesday, May 22, 2007, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

White
Henke, Chair
Stead, Vice Chair
Tidwell, Secretary

**MEMBERS
ABSENT**

Stephens

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, May 17, 2007, at 2:46 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20496

Action Requested:

Variance of the frontage requirement in a CS district (Section 703); a Variance of the required parking for a commercial use from 16 to 10; and a Variance of the required setback for a parking area within 50 ft. of an R district from the centerline of an abutting street (Section 1302.B); to permit a commercial redevelopment, located: Southwest corner of 53rd Street and South Peoria Avenue.

Presentation:

Mr. Henke noted the case was withdrawn regarding the above request.

LT 1 LESS N150 THEREOF BLK 2, N150 LT 1 BLK 2, RIVERVIEW VILLAGE
2ND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

MINUTES

On **MOTION** of **Tidwell**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the Minutes of March 27, 2007 (No. 953).

On **MOTION** of **Tidwell**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the Minutes of April 24, 2007 (No. 955).

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UNFINISHED BUSINESS

Case No. 20485

Action Requested:

Verification of spacing requirements for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway; and a variance of the spacing requirement for an outdoor advertising sign, located: 9001 South Union Avenue.

Presentation:

Mr. Cuthbertson informed the Board that the applicant was a few minutes away. Mr. Henke stated they would hear the case after the applicant arrived.

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Case No. 20489

Action Requested:

Special Exception to permit a manufactured home (Use Unit 9) in an RS-3 district (Section 401); and a Special Exception to permit the manufactured home permanently (Section 404.E.1), located: 3607 South Maybelle Avenue.

Presentation:

Vicki Smith, 3607 South Maybelle Avenue, was present. They proposed to place one mobile home across two lots. They put a mobile home on the property but the plans to attach it to a house changed when the house burned. They will remove the home when they bring in the newer one. They planned to skirt the home when they set it up. A site plan was provided (Exhibit A-1).

Comments and Questions:

Ms. Stead informed Ms. Smith they would need to pave the driving and parking surfaces with concrete or asphalt. Mr. Cuthbertson noted the applicants did not request a variance of the paving requirement. Ms. Smith stated she was unaware of that requirement. She pointed out there were no other paved drives in the neighborhood.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit a manufactured home (Use Unit 9) in an RS-3 district (Section 401); and a Special Exception to permit the manufactured home for thirty years from May 22, 2007 (Section 404.E.1), subject to: per plan, with skirting, tie downs, paving of drive and parking surfaces; existing home to be removed prior to the newer home being set; finding the special exceptions 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:

LT 31- 33, BLK 7, GARDEN CITY, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No. 20495

Action Requested:

Special Exception to permit a carport in the required front yard in a residential district (Section 210.B.10); a Variance of the maximum permitted coverage area for a carport; and a Variance of the maximum height of a carport at the perimeter and at the highest point (Section 210.B.10), located: 701 South Olympia Avenue West.

Presentation:

Sharon Clark, 701 South Olympia, stated they did not know they needed a permit to build the carport. They began the cement project in October 2006 and began the carport in January 2007. She stated that it would destroy the appearance of the house to remove the carport. She added that it improves the look of the neighborhood. She stated it would be safer and nicer than parking on the narrow street. She submitted photographs (Exhibit B-1).

Comments and Questions:

Ms. Stead noted they have built over the building line. Mr. Cuthbertson confirmed that finding. Ms. Clark responded that the contractor revised the plans. Mr. Cuthbertson stated that they enclosed the porch and they removed that section of the plan from the carport calculations. It is still six feet over the building line.

Interested Parties:

Jeffrey Donaldson, 719 South Quanah, stated he spoke with other neighbors and they were not in support of this application. He considered it unattractive. He was

Comments and Questions:

Mr. White recognized the sovereign Indian nation. He remembered history of cases with similar issues and expected the court would turn the case over if the Board denied this application. He thought the case came before this Board more as a courtesy.

Applicant's Rebuttal:

Mr. Moody replied that they asked for the variance to avoid legal issues. He felt they had grounds for a hardship because the grounds are that the literal enforcement of the zoning code works an unnecessary hardship on the applicant. He stated this is a reasonable and an appropriate case for a variance.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Verification of spacing requirements for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the south; and **DENY** Verification of spacing requirements for an outdoor advertising sign to the north, involving tribal lands; and to **APPROVE** a Variance of the spacing requirement from an outdoor advertising sign on the north, which is less than 1,200 ft. from the sign on tribal lands; finding the billboard to the north is located on tribal lands, which circumstance is not specifically defined in the zoning code; finding that in granting the variance, the extraordinary or exceptional conditions or circumstances which are peculiar to the land, specifically involving tribal lands, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

A tract of land in the southwest quarter of the southwest quarter (sw/4 sw/4); of Section 14, T-18-N, R-12-E of the IB&M, Tulsa County, Oklahoma, described as follows: commencing at the southwest corner of said SW/4 SW/4; TH N 0°00'15" E along the W ln of said SW/4 SW/4 927.95 ft; TH S 89°51'09" E 50 ft. to the POB; TH S 89°51'09" E 514.20 ft. to a pt on the W ROW of US Hwy 75; TH S 11°15'52" W along the W ROW ln of US Hwy 75 210.09 ft; TH S 22°34'52" W along the W ROW ln of US Hwy 75 51 ft; TH S 11°15'52" W along the W ROW ln of US Hwy 75 185.18 ft; TH N 89°51'09" W 417.43 ft; TH N 00°00'15" E 435.00 ft. to the POB.

Case No. 20497

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, pawn shops and another liquor store (Section 1214.C.3), located: 6161 South 33rd Avenue West.

Presentation:

Thomas Burns, 2855 East 21st Place, stated they originally made application and submitted everything to the City of Tulsa. There is a day labor business in the shopping center. He obtained a signed letter from the owner of the shopping center indicating that the Day Labor business is moving. Ms. Stead asked the applicant to provide a copy of that letter to the staff. The day labor business has not moved yet but they are going before the Board of Adjustment on June 12, 2007 to move to their new facility on Mingo. He did not know if they were not out of the facility yet. He asked the Board to show him how to proceed once the other business moves.

Comments and Questions:

Mr. Alberty commented the Board will continue to a date certain. He expressed concern that if the Labor Ready tenant continues to the full term of their lease, then technically the Board cannot take action until after they terminate the full term of their lease. Mr. Alberty pointed out there were too many unknowns for the Board to make a decision at this hearing. He suggested the Board continue to the meeting after the hearing of the Labor Ready application for the Mingo property.

Board Action:

On **Motion** of **name**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 20497, to the meeting on June 26, 2007, on the following described property:

LT 1 BLK 1, SUNWEST HIGHLANDS PLAZA, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20499

Action Requested:

Special Exception to permit Other Trades and Services (Use Unit 15) in a CS district (Section 701), located: 4200 block of South Garnett Road.

Presentation:

Steve Schuller, 1100 OneOk Plaza, 100 West 5th Street, commented on an error in the staff report that referred to the zoning of the subject property as an R district but it is a CS district. He represented the QuikTrip Corporation. Mr. Schuller stated the property was platted in 1997 and it is a two-lot subdivision. He pointed out the store is on Lot 1 and Lot 2 contains everything else in this subdivision.

They proposed to use the property for a facilities support and maintenance center. All of the activities would be inside the building on the property. There would be no outside activities or storage of materials. There would be a clean room that is dust free to work on circuit boards for cash registers, computers and electronic components. They proposed to do some training of their technicians to do this type of repair work. Larger equipment like coolers and refrigerators are repaired at the stores, not at this site. They also plan to construct a mock-up of the interior of their convenience stores to explore techniques for displays, and testing sizes and use of spaces. There would be some administrative offices also. They plan to comply with all zoning code requirements for parking, loading berths, setbacks, building height, floor area ratios and screening from an R district. He reviewed the uses surrounding this property. There would be no outside activity detrimental to the other properties. They expect much less traffic than one of their retail sites. They did not have a site plan at this time.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit Other Trades and Services in a CS district, subject to: the proposed building to contain administrative offices; training space with an interior store mock-up of a convenience store for training purposes; permitting also, business machine repair; computer repair; data processing machine repair; electrical repair; and electronic components repair; no outside storage of materials or equipment; all driving and parking surfaces be concrete or asphalt; all repairs to the services mentioned to be made inside the facility; no drive-through services with this approval; maintain screening to all of the apartments on the south and to the R district on the southwest corner; Kennebunkport formula to be used for any lighting; and landscaping according to the zoning code; finding the 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, on the following described property:

Part of Lot 2, Block 1, 4100 GARNETT CENTER, City of Tulsa, Tulsa County, Oklahoma, described as follows: Commencing at the Northwest corner of said Lot 2, thence South 00°08'29" West for 268.00 feet to the Point of Beginning of said tract of land; thence South 89°56'28" East for 448.35 feet; thence South 00°08'29" West for 163.00 feet; thence North 89°56'28" West for 7.26 feet; thence South 00°08'29" West for 209.66 feet; thence South 89°51'31" East for 259.76 feet to a point on the Easterly line of said Lot 2; thence South 00°08'29" West along said Easterly line for 38.00 feet to the Southeast corner of said Lot 2; thence North 89°51'31" West along the Southerly line of Lot 2 for 700.85 feet to the Southwest corner of said Lot 2; thence North 00°08'29" East along the Westerly line of Lot 2 for 410.02 feet to the Point of Beginning of said tract of land

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Case No. 20498

Action Requested:

Special Exception to permit governmental services – probation officer offices, NEC (Use Unit 2) and general office use (Use Unit 11) in an RM-2 district (Section 401); and a Variance of the parking requirement (Section 1211.D), located: Northeast corner of South Olympia Avenue and West Charles Page Boulevard.

Presentation:

Roy Johnsen, 201 West 5th Street, Suite 501, represented Buford Properties. The applicants have a good history of purchasing and improving properties. The subject property was a nursing home, which closed in 1998. It is zoned CS on the front toward Charles Page Boulevard and RM-2 on the back. The offices would be for probation officers for 11 to 15 year old juveniles. He suggested Use Unit 11 is more appropriate for this use. The office hours would be 8:00 a.m. to 5:30 p.m. The clients are on probation through the juvenile system and have a once a month appointment. The 25 officers do most of their work out in the community rather than in the office. This is not for incarcerated people. The most senior juvenile officers could not recall any incidents at their offices or any proximity to the offices. He submitted a 300 ft. radius map (Exhibit C-1), which showed the majority of neighbors were in support. He submitted signed petitions in support (Exhibit C-5) of the application. He pointed out that no owner-occupied properties were in opposition.

Comments and Questions:

Ms. Stead noted the estimate of a possible 25 client appointments per day. She expressed concern that the number might increase. She asked if sex offenders would be going to this facility. Mr. Johnsen replied that this type of convicted offenders go through the incarceration system, not juvenile probation.

Mr. Johnsen informed the Board that the 80 ft right-of-way on Olympia exceeds the normal footage.

Interested Parties:

Jeffrey Donaldson, 719 South Quanah, stated a family across the street from the subject property did not understand what they signed in support of the application. They did not understand the proposed use, only that additional parking was requested. He suggested other needed uses for this property in a historic neighborhood. He mentioned a violent crime on his own property.

Michael Simmons, 315 North Sante Fe, stated he went to the neighborhood meeting regarding this application. He expressed concern that Tulsa County may not operate just as they informed the Buford Company. He suggested this case go through the PUD process to better the area. He provided a revitalization map (Exhibit C-3) to the Board.

Rick Munoz, 402 South Nogales, was unsure of the details of this case. He asked the Board to continue this case so they can better inform the neighborhood. Since the president of their neighborhood association signed the petition she has heard the concerns of the neighbors and would be in favor of a continuance.

Scott Smith, 730 South (inaudible), stated he thought the neighbors are categorically against the use as a probation center. He was opposed to the cluster of social service facilities in this area.

Laurie Keeley, 1802 West Cameron Street, President of the Owen Park Neighborhood Association, opposed the cluster of social services in the area (Exhibit C-2). She mentioned there is a woman that proposed to start an Early Childhood Development Program on the subject property, and has a grant for it.

Diedra Simmons, 315 North Sante Fe, spoke from experience as a counselor for juvenile offenders. She cautioned the Board that these young people do not always cooperate with those in authority to keep these appointments.

Mr. White out at 2:55 p.m.

Hayward Hill, 2326 South Garnett, a Branch Officer of the Juvenile Bureau, named several locations where they have had offices and he stated they did not have problems with their clients. They have seen an 85% success rate with their clients. Some of the young people are more comfortable with the officer than their family. He assured the Board that their clients do not cause problems at the probation facility.

Mr. White returned at 2:58 p.m.

Applicant's Rebuttal:

Mr. Johnsen reminded the Board they would office a total of twenty-five officers. There would be limited traffic. He added they have a good history of no incidents at a probation facility. In response to questions from the Board, Mr. Johnsen stated they proposed to reduce some parking on Olympia and add some spaces on the northeast portion of the property. The houses on the west side of Olympia do not have driveways and need on-street parking. The applicants proposed to expand additional office buildings. The officers are employees of Tulsa County, which is a state entity. He added this is not for the Department of Corrections or adult offenders. They have contracted for one year on this property.

Comments and Questions:

Mr. Henke noted the Board received four letters of opposition and one from City Councilor Jack Henderson (Exhibit C-4).

Ms. Stead did not think the site plan shown to the neighbors clearly indicated the proposed expansion. Mr. Henke noted the numerous property owners that signed

in support of the application. Mr. Tidwell stated this was not an appropriate location. Mr. White understood the neighbors concern regarding violence and crime. He added there is already a concentration of social service facilities in the area.

Board Action:

On **Motion** of **White**, to **DENY** the Special Exception to permit governmental services – probation officer offices, NEC (Use Unit 2) and general office use (Use Unit 11) in an RM-2 district (Section 401); and a Variance of the parking requirement (Section 1211.D), finding it would cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; and finding the special exception 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,

Mr. Alberty raised a question on the motion, asking if this includes the general office use (Use Unit 11) in an RM-2 district. Ms. Stead withdrew her second and Mr. White withdrew his motion.

On **Motion** of **White**, to **DENY** the Special Exception to permit governmental services – probation officer offices, NEC (Use Unit 2) to exclude the general office use requested (UU 11); and to **DENY** the Variance of the parking requirement (Section 1211.D).

Mr. Johnsen raised a question to the motion and was recognized by the Board. He asked if they were approving the general office use (Use Unit 11). Mr. Cuthbertson responded the general office use (UU 11) was excluded from the denial but not approved. He added that the variance of parking was only needed if the general office use (UU 11) was applied to the property. The Use Unit 2 does not have any parking requirements. Mr. Johnsen asked for a motion of approval for the Use Unit 11 without a variance of parking requirements. Mr. Alberty suggested that if the Board is only denying the probation office whether it is Use Unit 2 or Use Unit 11, that is one issue. He stated the second issue is if the Board is denying any office use on this property. The variance would only go with Use Unit 11.

Ms. Stead stated she would not want to approve Use Unit 11, because it would include massage parlors. Mr. Ackermann pointed out the proposed amendment to the zoning code was to include massage therapy rather than massage parlors, which fall under Adult Entertainment. The amendments to the code were not adopted. Mr. Johnsen was in favor of the Board excluding massage therapy. Mr. Johnsen stated the applicant would also be open to a continuation of this case to resolve any misunderstanding or issues of the neighbors.

Ms. Stead brought up the issues of the appearance of clustering of social services and the possibility that the neighbors were not aware of the plans to expand this facility. She stated that she would not be in favor of additional officers at this

facility. Mr. Johnsen expected that the Board would include conditions with an approval and asked the Board to do so. Mr. Alberty reminded the Board that in the CS portion of the property, office use is by right. The only portion that needs the special exception is the RM-2.

Mr. Henke stated the Board would go back into discussion.

As the Board discussed the parking, Mr. Cuthbertson commented that many of the parking spaces proposed are off-site and cannot be considered in the calculations. He added the Board could approve a variance based on the site plan. Mr. Alberty interjected that the Board does not have jurisdiction in the right-of-way, so approval of a variance of the parking requirement would have to be subject to a license agreement with the City.

Ms. Stead withdrew her second of the second motion and Mr. White withdrew his second motion.

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **DENY** the Special Exception to permit governmental services – probation officer offices, NEC (Use Unit 2); and to **DENY** the Variance of the parking requirement (Section 1211.D) as stated, finding special exception would be injurious to the neighborhood, and otherwise detrimental to the public welfare; and finding a lack of a hardship for the variance,

On **Motion** of **White**, to **APPROVE** general office use (Use Unit 11) in an RM-2 district (Section 401), finding the 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,

Discussion: Mr. Henke asked if they needed to include the hours of operation as a condition. The consensus of the Board was that they do not need to include a condition.

Mr. Alberty asked permission to ask a question on the motion, which he was granted. He asked if the general use is for the existing building and including any future expansion, since the whole property zoned RM-2 was under consideration. Mr. White replied the approval is for the existing building only.

Ms. Stead withdrew her second from the fourth motion.

On **Amended Motion** of **White**, voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** general office use (Use Unit 11) in an RM-2 district (Section 401), for the building as it currently exists; 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:

LTS 5 6 & 7 BLK 2, LTS 8 9 10 BLK 2, LT 11 BLK 2, LT 12 BLK 2, LT 13 BLK 2,
CROSBIE HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20500

Action Requested:

Variance of the maximum permitted display surface area of non-residential signs in the RS-3 district, a Variance of the maximum permitted height of a sign, and a Variance of the maximum number of signs permitted in an RS-3 district (Section 402.B.4); to permit wall sign identification of the Children's Hospital at St. Francis and wall sign identification of The Heart Hospital at St. Francis, located: Southeast corner of 61st Street and South Yale Avenue.

Mr. Henke recused himself from Case No. 20500, out at 3:47 p.m..

Presentation:

Roy Johnsen deferred his remarks to follow the interested party's remarks.

Greg Jennings, 2260 South Troost, stated he was not in objection to the application. He noted this campus-like property is zoned RS-3. He added It is a high intensity area with one new building and an addition to the existing structure. He commented they did not have LED lighting and were at some distance from the residential neighborhood. He considered these signs appropriate and important for direction to those going to a large campus.

Mr. Johnsen showed the location of the proposed identification of the Children's Medical Hospital. It has changed slightly, the location is the same but the panda is larger. The square footage for the sign is 531 sq. ft. They were moving the sign for the Heart Hospital along with the relocation of this facility to the subject property. The sign and site plans, as well as the old sign plan, were provided (Exhibits D-1, D-2 and D-3).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 3-0-1 (White, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; Stephens "absent") to **APPROVE** a Variance of the maximum permitted display surface area of non-residential signs in the RS-3 district, a Variance of the maximum permitted height of a sign, and a Variance of the maximum number of signs permitted in an RS-3 district (Section 402.B.4); to permit wall sign identification of the Children's Hospital at St. Francis and wall sign identification of The Heart Hospital at St. Francis, per presentation and plans submitted; by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement

of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

BEG 350S & 300E NWC NW TH E1020.83 S1147.88 W1020.83 N1147.88 POB
SEC 3 18 13 26.89ACS, BEG 60E SWC GOV LT 4 TH E250 N1147.88
E1020.83 N300 NW141.42 W430.98 S5 W650 SW39.05 S210 SW52.5 S250 W5
S876.81 E10 S20 TO POB SEC 3 18 13 14.767ACS, City of Tulsa, Tulsa
County, State of Oklahoma

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Case No. 20501

Action Requested:

Variance to permit a sign containing an LED message board located in an OL/IL district within 200 ft. of an R district to 55 ft. (Section1221.C.2.c), located: 9755 East 61st Street South.

Presentation:

Bob Dail, 9520 East 55th Place, with Amax Sign Company, stated this area is in transition from residential homes to retail and industrial businesses. They proposed to place a small sign on the east side of the property with a message center to communicate to 61st Street. He stated the hardship would be the literal enforcement of the zoning code, when it is an atypical area. A sign plan and site plan were provided (Exhibits E-1 and E-2).

Interested Parties:

Charla Paul, 5932 South 99th East Avenue, stated she represented Gerald and Karen Hix, at 5945 South 99th East Avenue. They did not object to placing the sign to the west of the entrance. She commented there will be another company moving in that will have signs. She was opposed to moving the sign to the east. She submitted photographs (Exhibit E-3).

Greg Jennings, asked for restrictions on the changeable copy, frequency of change and other.

Applicant's Rebuttal:

The applicant showed photographs to give perspective. He stated there is no visibility from the R district. He added there would be one line copy with limited messages. The letters are only 10 inches high.

Board discussion ensued.

The Board recognized Mr. Jennings to speak again. He commented that the state standard is a new message every eight seconds and limited to three messages.

The Board recognized Ms. Paul to speak again. She informed the Board there is a fire station on 99th Street that uses their street at the top of the hill.

Mr. Tidwell out at 4:15 p.m.

Mr. Dail responded that they seriously considered the type of sign they needed. They would put in the necessary controls to meet the conditions of the Board.

Mr. Tidwell returned at 4:19 p.m.

Ms. Stead asked for the hardship. Mr. Dail replied the placement of this sign causes no public harm and is not visible to any R district where people live. Ms. Stead responded that causing no harm is not a hardship under the code. Mr. Dail commented that when he made application staff agreed that the area is not the typical geographic R/OL combination.

Board Action:

On **Motion of Tidwell**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Variance to permit a sign containing an LED message board, that is allowed to be scrolling located in an OL/IL district within 200 ft. of an R district to 55 ft., by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan,

Mr. Henke asked for discussion on the motion.

On **Amended Motion of Tidwell**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Variance to permit a sign containing an LED message board, that is allowed to be scrolling located in an OL/IL district within 200 ft. of an R district to 55 ft.; per plan, with conditions: no flashing, blinking or twinkling lights; by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

LT 6 & 7 LESS BEG SECR LT 7 TH W10 NE14.14 S10 POB BLK 1, GUY COOK
SUB, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

Case No. 20479

Action Requested:

Reconsideration of Case No. 20479:

Special Exception to permit a carport in the required front yard in an RS-3 (Section 210.B.10); Variance of the side yard setback for a carport to .5 ft. (Section 210.B.10.b); and a Variance of the height of a carport (Section 210.B.10.d), located: 3152 South Cincinnati Avenue East.

Presentation:

Lou Reynolds, 2727 East 21st Street, stated the applicant has torn down the previous carport to rebuild a structure more in line with the neighborhood. The height is 12 ft. 6 in. for the new structure. It does not interfere with the sight line. The applicant talked with Ms. Walsh, the interested party that was opposed to the size of the previous carport. She is in favor with this one with the stipulation that it is not enclosed. A site plan and photographs were provided (Exhibit F-1 and F-2).

Interested Parties:

Greg Jennings, expressed surprise that the carport in the photograph was approved by the Board. He question if what was built is the same as what was approved. He stated that he did not have a problem with this carport but in theory he had a big problem with carports.

Applicant's Rebuttal:

Mr. Reynolds responded that they moved the new carport over one foot rather than the previous six inches. He stated the garage is very small and it is difficult to get in and out of a modern car. He also pointed out this lot is deep and narrow. The house is toward the front and was built before the zoning code.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit a carport in the required front yard in an RS-3 (Section 210.B.10); Variance of the side yard setback for a carport to .5 ft. (Section 210.B.10.b); and a Variance of the height of a carport , subject to this being per plan as shown on page 11.6 in the agenda packet, finding the 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; finding in granting the variance the platting of the property so many years ago necessitates giving the variance because the finding the literal enforcement of the terms of the code would result in

an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

N.60 LT 7, PEEBLES SECOND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW BUSINESS

Presentation:

Mr. Cuthbertson stated the new business:

Request for Interpretation of the Use Unit classification of a Biodiesel Production Facility with any applicable use conditions and restrictions, requested by the City Permit Office.

He stated the permit office suggested this is a Use Unit 27, which is heavy industrial classification permitted only in Industrial Use districts by right and in IM districts by special exception. Tulsa BioFuels, LLC submitted additional information to the permit office, which caused the permit office to reconsider a possible IL or IM classification.

Todd Stephens, 1538 East 5th Street South, introduced himself and his business partner, **Randy Kimberlin**.

Mr. Henke out at 4:38 p.m. and returned at 4:40 p.m.

Mr. Stephens suggested that the most consistent Use Unit designation for their facility would be Use Unit 25, IL zoning. He stated that IH is not appropriate zoning for their business.

He stated their company name is Tulsa BioFuels, LLC, founded in October 2005. The mission is to produce clean burning, alternative fuel for use in Tulsa. He explained they take a waste product, waste cooking grease and convert it to Biodiesel fuel. They obtain the waste product from local restaurants, produce the fuel and sell it to local companies, such as Tulsa Transit, Tulsa Public Schools and the City of Tulsa. They are fully funded and ready to start operations. He stated this is the final step before they begin. He informed the Board that this fuel burns about 70% cleaner than conventional diesel.

Mr. Stephens stated that Biodiesel is not a petroleum product. It is produced from vegetable oil or animal fats or oils. The fuel is produced at low temperatures and low pressure thresholds. It can be used in any diesel engine. It is a registered fuel

with the EPA. It is ten times less toxic than table salt and more biodegradable than sugar.

Mr. Kimberlin reviewed the process of production for the Board.

Comments and Questions:

Mr. Kimberlin and Mr. Stephens responded to questions from the Board. The waste product is the viscosity of cooking oil. The EPA will monitor all discharges and emissions during processing. Mr. Kimberlin replied there are no open tanks and it is a closed loop process. The facility will be smaller than a gas station.

Mr. Alberty noted that they plan to produce under three million gallons per year. This is considered to be a small production. He suggested this would be a good measure of a Use Unit 25, should the Board so decide. He thought any larger operation should probably be considered a Use Unit 26.

The Board discussed with the attorney the issues involved in the guidelines for a Use Unit 25 versus a Use Unit 26.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Tidwell**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") **Interpreted** the Use Unit classification of a Biodiesel Production Facility that produces up to three million gallons per year to be a Section 1225, Use Unit 25.

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There being no further business, the meeting adjourned at 5:12 p.m.

Date approved: 6/12/07


Chair

