



Tulsa Metropolitan Area
Planning Commission

Case Number: Z-7615

Hearing Date: August 18, 2021

Case Report Prepared by:

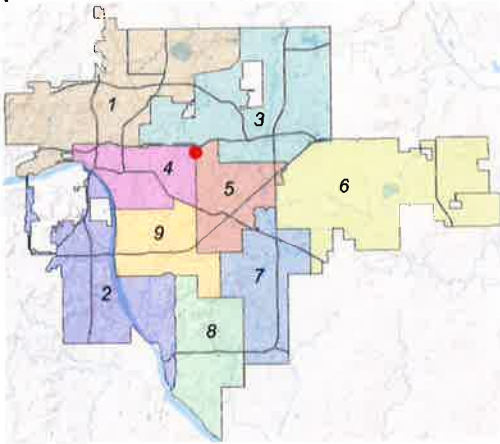
Dwayne Wilkerson

Owner and Applicant Information:

Applicant: Timothy Janak

Property Owner: Masood & Sonia Kasim

Location Map:
(shown with City Council Districts)



Applicant Proposal:

Present Use: Vacant

Proposed Use: Commerical CG

Concept summary: Change zoning to allow uses that may be more consistent with a neighborhood center land use designation and to support redevelopment of the existing property that is zoned OL with a non-conforming use.

Tract Size: 0.28 ± acres

Location: Southwest corner of East 4th Place South & South Yale Avenue

Zoning:

Existing Zoning: OL

Proposed Zoning: CG

Comprehensive Plan:

Land Use Map: Neighborhood Center

Stability and Growth Map: Area of Growth

Staff Recommendation:

Staff recommends denial of CG zoning however staff recommends approval of CS.

Staff Data:

TRS: 9304
CZM: 37

City Council District: 4

Councilor Name: Kara Joy McKee

County Commission District: 2

Commissioner Name: Karen Keith

SECTION I: Z-7615

DEVELOPMENT CONCEPT:

Change zoning to allow uses that may be more consistent with a Neighborhood Center land use designation and to support redevelopment of the existing property that is zoned OL. The fueling station and convenience store has been considered a nonconforming use since before 1969.

EXHIBITS:

- INCOG Case map
- INCOG Aerial (small scale)
- INCOG Aerial (large scale)
- Tulsa Comprehensive Plan Land Use Map
- Tulsa Comprehensive Plan Areas of Stability and Growth Map
- Applicant Exhibits:
 - Building floor plan

DETAILED STAFF RECOMMENDATION:

The CG district is primarily intended to accommodate established commercial uses, while providing protection to adjacent residential areas accommodating the grouping of compatible commercial and light industrial uses. The applicant requested CG zoning with the application packet submitted for Z-7615 but setback limitations in an that district may create an unusable site. Future building permit applications will require Board of Adjustment variances to allow signs, parking, and canopies to build in the planned right-of-way. Additional approvals will be required from the Engineering Services department in the City of Tulsa for removal agreements for all of those site features. It is unlikely that those agreements will be approved and,

The zoning code does not allow a development plan to reduce setback standards, so an optional development plan was not considered to be appropriate on this site. If the site is rezoned the subdivision compliance provisions of the Tulsa Subdivision and Development Regulations will continue to add restrictions for any redevelopment opportunities and will require Board of Adjustment approval and,

Many uses allowed in a CG district are not compatible with the expected land use development in the area however staff supports CS zoning and recognizes that its uses and supplemental regulations are consistent with a Neighborhood Center land use designation in the Tulsa Comprehensive Plan and,

Staff recommends Denial of Z-7615 to rezone property from OL to CG as requested by the applicant however, staff supports the possible rezoning of the site from OL to CS knowing that additional requirements for development in Tulsa may end up with a site that is still not developable as planned by the applicant.

SECTION II: Supporting Documentation

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

Staff Summary: The site is very small and has been a nonconforming use for decades with OL zoning. This site can provide some small-scale version of a Neighborhood Center but the subdivision regulations will require subdivision compliance and approximately 25 feet of additional right-of-way will be required along South Yale Avenue during that process. The acquisition of planned right-of-way will take away most of the parking on the lot and the existing

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canopy will need to be removed. Those requirements will only complicate redevelopment opportunities.

Land Use Vision:

Land Use Plan map designation:

Neighborhood Centers: This land use designation should include small-scale, one to three story mixed-use areas intended to serve nearby neighborhoods with retail, dining, and services. They can include apartments, condominiums, and townhouses, with small lot single family homes at the edges. These are pedestrian-oriented places served by transit, and visitors who drive can park once and walk to number of destinations.

Areas of Stability and Growth designation:

Area of Growth: An area of growth is a designation to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Areas of Growth are found throughout Tulsa. These areas have many different characteristics but some of the more common traits are close proximity to or abutting an arterial street, major employment and industrial areas, or areas of the city with an abundance of vacant land. Also, several of the Areas of Growth are in or near downtown. Areas of Growth provide Tulsa with the opportunity to focus growth in a way that benefits the City as a whole. Development in these areas will provide housing choice and excellent access to efficient forms of transportation including walking, biking, transit, and the automobile.”

Transportation Vision:

Major Street and Highway Plan:

Multi Modal Corridor: South Yale Avenue is considered a multimodal corridor. Future development should emphasize plenty of travel choices such as pedestrian, bicycle and transit use. Multimodal streets are located in high intensity mixed-use commercial, retail, and residential areas with substantial pedestrian activity. These streets are attractive for pedestrians and bicyclists because of landscaped medians and tree lawns. Multi-modal streets can have on-street parking and wide sidewalks depending on the type and intensity of adjacent commercial land uses. Transit dedicated lanes, bicycle lanes, landscaping and sidewalk width are higher priorities than the number of travel lanes on this type of street. To complete the street, frontages are required that address the street and provide comfortable and safe refuge for pedestrians while accommodating vehicles with efficient circulation and consolidated-shared parking.

Streets on the Transportation Vision that indicate a transit improvement should use the multi-modal street cross sections and priority elements during roadway planning and design.

Trail System Master Plan Considerations: None

Small Area Plan: None

Special District Considerations: None

Historic Preservation Overlay: None

DESCRIPTION OF EXISTING CONDITIONS:

Staff Summary:

The site is vacant and has previously been used as a single-story convenience store and a fueling station. OL zoning prohibits both uses. In 1969 a gas station was recognized as a non-conforming use during a board of adjustment case. Neither the Planning Commission Staff or applicant has determined if this is still a nonconforming use. The site may have lost its non-conforming status as outlined in Section 80.040-E.3 of the Tulsa Zoning Code. That section of the code clarifies that if the non-conforming use of a building is discontinued for 36 consecutive months or for 36 months during any 4-year period, the nonconforming use may not be re-established.

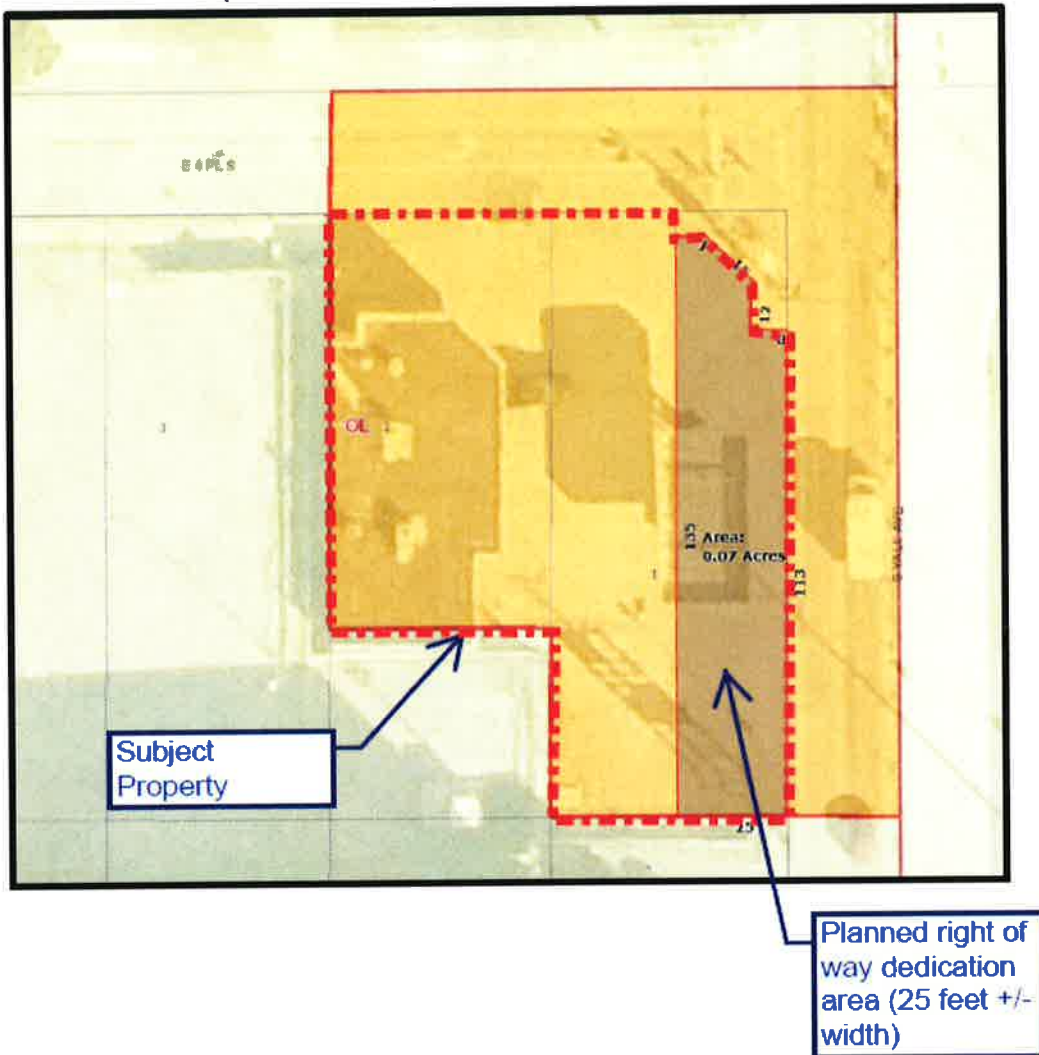
The site has multiple board of adjustment cases that have been heard with setback variances approved and canopy variances denied. Planned right of way for 50 feet width on Yale would not allow new gas canopy or building expansion on this site.

Current OL zoning would allow many uses including all office uses identified in our code, single family residential, short-term rental in the lodging category, artist and instructional services and three or more households on a single lot with a mixed-use building.

Street view looking southwest from the northeast corner of the site:



Illustration showing additional right of way requirement during the subdivision compliance review process



Environmental Considerations: None that would affect site redevelopment.

Streets:

<u>Exist. Access</u>	<u>MSHP Design</u>	<u>MSHP R/W</u>	<u>Exist. # Lanes</u>
East 4 th Place South	Residential Collector	60 feet minimum required as a minimum and the existing right of way is 60 feet.	3 lanes One lane each direction with east bound left turn lane
South Yale Avenue	Secondary arterial with Multi modal corridor designation	100 feet minimum. Existing right of way measures approximately 60 feet with approximately 25 feet west of the section line in S. Yale.	4 lanes From the center of the street

Utilities:

The subject tract has municipal water and sewer available.

Surrounding Properties:

Location	Existing Zoning	Existing Land Use Designation	Area of Stability or Growth	Existing Use
North	RS-3	Existing Neighborhood	Stability	Single Family Homes
East	RS-2	Existing Neighborhood	Stability	Single Family Homes
South	RS-3	Existing Neighborhood	Growth	Church / food pantry
West	RS-4	Existing Neighborhood	Growth	Church

SECTION III: Relevant Zoning History

History:

ZONING ORDINANCE: Ordinance number 14402 dated March 23rd, 1979, established zoning for the subject property.

Subject Property:

BOA-14804 April 1988: The Board of Adjustment **approved** a Variance of setback from the centerline of South Yale from 60' to 30' to allow for a business sign; per plan submitted; subject to the execution of the existing pole and will not extend further into the setback than the existing canopy.

BOA-12940 January 1984: The Board of Adjustment **denied** a Variance of the setback requirement from 60' to 27'; for a gasoline canopy in an OL District under the provisions of Section 1670.

BOA-11585 August 1981: The Board of Adjustment **denied** a Variance of the setback requirement from 60' to 27' from the centerline of Yale Avenue to permit the erection of service station canopies in an OL District.

BOA-10432 November 1980: The Board of Adjustment **approved** a Variance (Section 630 – Bulk and Area Requirements in the office District – Under the Provisions of Section 1670 - variances) request for a variance of the setback requirements from 55' to 44.33' from the centerline of Fourth Place.

Z-5224 March 1979: All concurred in **approval** of a request for *rezoning* a 0.28+ acre tract of land from RS-3 to OL on subject Property. Ordinance number 14402 dated March 23rd, 1979 amended Ordinance No. 11815 dated June 26, 1970 for the subject property.

BOA-6236 March 1969: The Board of Adjustment **approved** a Variance (Section 23) of the permitted use provisions of U-1C (Section 5 (d)) to permit replacing a sign for nonconforming service station, not less than 60' from the centerline of Yale Avenue, and not greater than 30' in height.

Surrounding Property:

BOA-23158 July 2021: The Board of Adjustment **approved** a Special Exception to allow a dynamic display sign in an RS-3 District for a Religious Assembly Use & a Variance to allow a dynamic display sign within 20 feet of the driving surface of E. 4th Street.

BOA-17964 March 1998: The Board of Adjustment **approves** a Variance of the setback from the centerline of S. Yale Ave. from 50' to 30' to allow for a sign per plan, there is a removal contract in case Yale Ave is widened.

BOA-15111 April 1989: The Board of Adjustment **approved** a *Variance* to permit of front setback from the centerline of 4th Place from 52' to 51' to allow for an addition to the existing dwelling; per plot plan; finding that the variance request is in conformance with existing conditions in the immediate vicinity of the subject tract; Lot 386, block 2, Rodgers Heights Addition.

BOA-14656 November 1987: The Board of Adjustment **approves** a Variance of setback from the centerline of Yale Avenue from 60' to 30' to allow a gasoline island canopy; per plot plan submitted; subject to gasoline pumps being removed on 4th Place; finding that the property was platted in 1920's and numerous structures along South Yale Avenue encroach on the required setback; and finding that the granting of the variance request will not cause substantial detriment to the public good or impair the spirit, purposes and intent of the Code, or Comprehensive Plan; Lot 1 and the north 95.1' of Lot 2, block 1, Kendall View Addition.

BOA-7214 November 1971: The Board of Adjustment **approves** Special Exception to permit using property for church use and parking in an RS-3 District; and **approves** a Special Exception to permit a chain link fence in place of a solid fence, on a tract located at 510 South Yale Avenue.

BOA-6841 December 1970: The Board of Adjustment **denied** Special Exception to permit home beauty shop in an RS-2 district, on a tract located at 4904 East 4th Street.

BOA-6746 September 1970: The Board of Adjustment **denied** Special Exception to permit operating a children's day nursery in an RS-2 District, on a tract located at 4th street and Yale Avenue.

BOA-5568 September 1967: The Board of Adjustment **approves** a Special exception to permit erection of a sign for a church (sign will be 10 feet high and 8' x 10' in size) in a U-1C district.

BOA-3422 May 1960: The Board of Adjustment **approves** request for a modification of front yard requirements on 5th Street to permit addition to the present church (4 feet 4 inches from property line on 5th Street) and; request for approval of Lots 22 & 23 for Church purposes.

BOA-2687 June 1955: The Board of Adjustment grants **approval** to use Lot 6, Block 1, Kendall View Addition for church purposes.

BOA-2371 November 1952: The Board of Adjustment **approves** to waive the major street plan building set-back line of 25 feet along Yale Avenue and to waive the depth of lot requirement, land approval of lot 24 as from church purposes all on Lots 24, 25, 26, Block 4, Kendall View Addition.

BOA-2244 June 1951: The Board of Adjustment grants **approval** to use dwelling for nursery in connection with church on adjoining property on Lot 5, Block 1, Kendal View Addition at 4736 East 4th Place.

BOA-2110 March 1950: The Board of Adjustment **approves** Lots 4 and 5, Block 1, Kendall View Addition as parking lot for church.

BOA-1970 May 1948: The Board of Adjustment **approves** request waiver of building line requirements along Fifth Street to permit erection of a frame church building approximately 15 feet beyond the established building line on Lots 1, 2 and 3.

BOA-1883 January 1947: The Board of Adjustment grants **approval** of Lots 24, 25 and 26, Block 1, Kendall View Addition for church purposes.

BOA-1749 November 1945: The Board of Adjustment **approves** Lots 25 and 26, Block 4, Kendall View Addition as site for permanent church auditorium, being an extension of church use on Lots 1, 2 and 3, Block 4, Kendall View Addition.

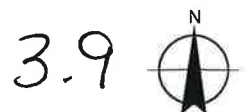
BOA-1631 November 1943: The Board of Adjustment grants **approval** to move building Lot 2, Block 4, Kendall View Addition to Lot 3, Block 4, and erection of addition to church building located on Lots 1 and 2, all building to be attached. Lot 3 not a part of original church property.

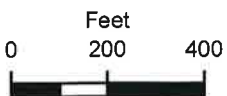
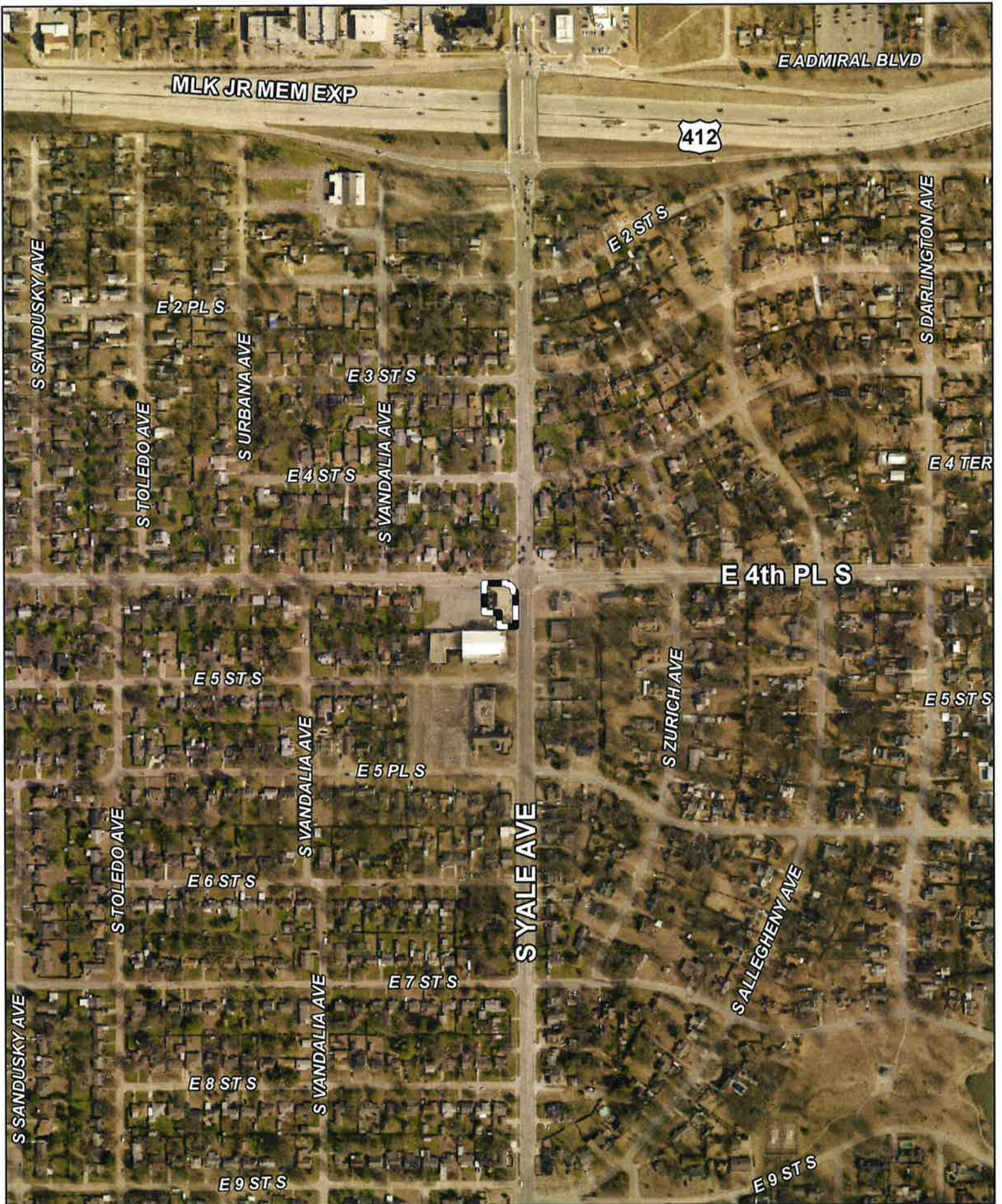
BOA-1303 December 1939: The Board of Adjustment grants **approval** of Lots 22 and 23, Blk. 1, Kendall View Addition.

BOA-1191 August 1935: The Board of Adjustment **approved** permit to erect a church building on Lot 21, Block 1, Kendall View Addition, which property has been used for church purposes for some time and submits a petition of neighboring property owners agreeing to same.

BOA-674 July 1929: The Board of Adjustment grants **approval** to permit to build a Church on Lots 1-2, Block 4, Kendall View Addition.

BOA-150 August 1925: The Board of Adjustment **approves** an appeal from the decision of the Building Inspector in refusing permit for the construction of an addition to an existing laundry building, account same nonconforming to the requirement of the district.





Subject
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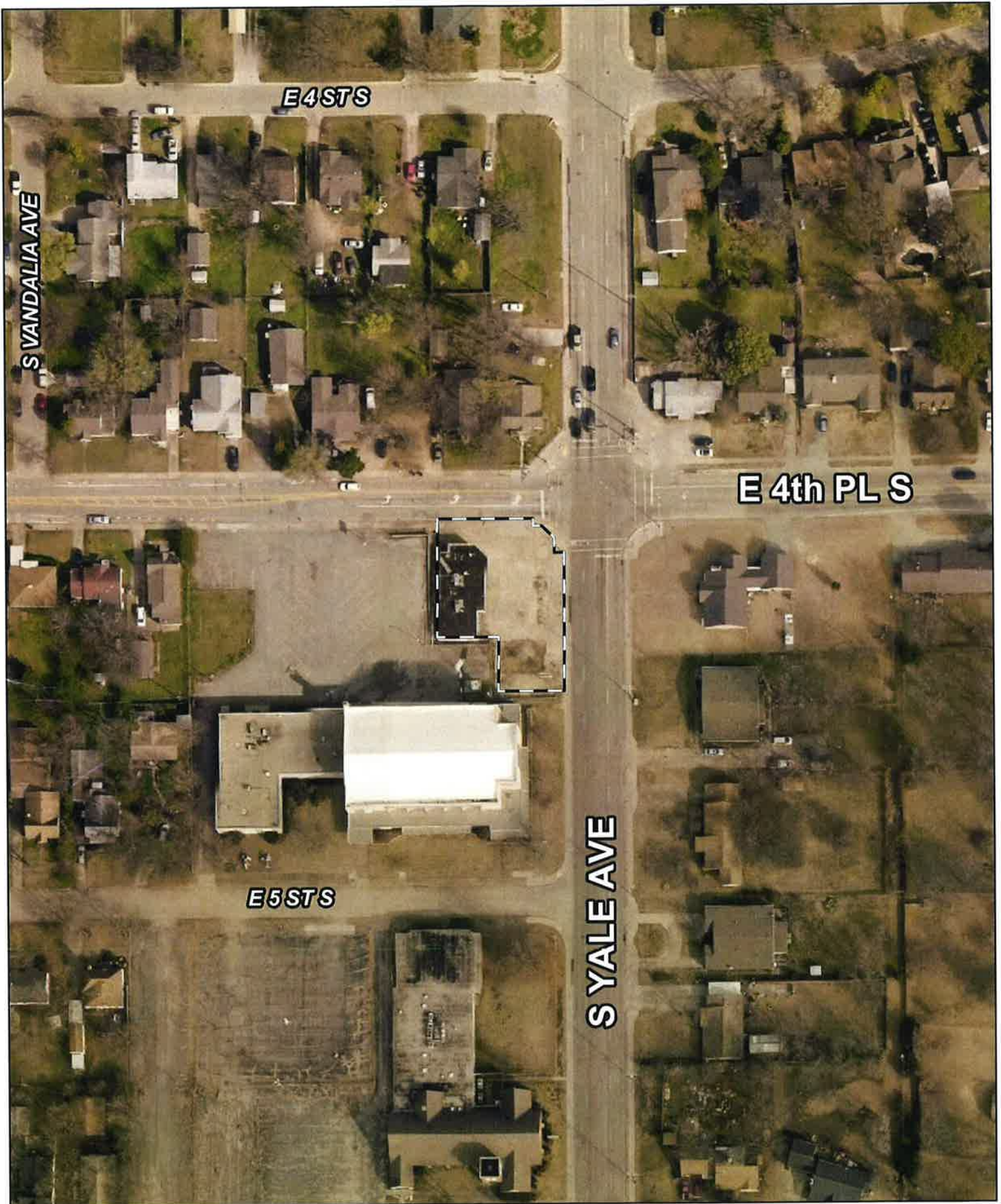
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Aerial Photo Date: 2020/2021

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Subject
Tract

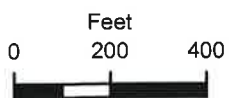
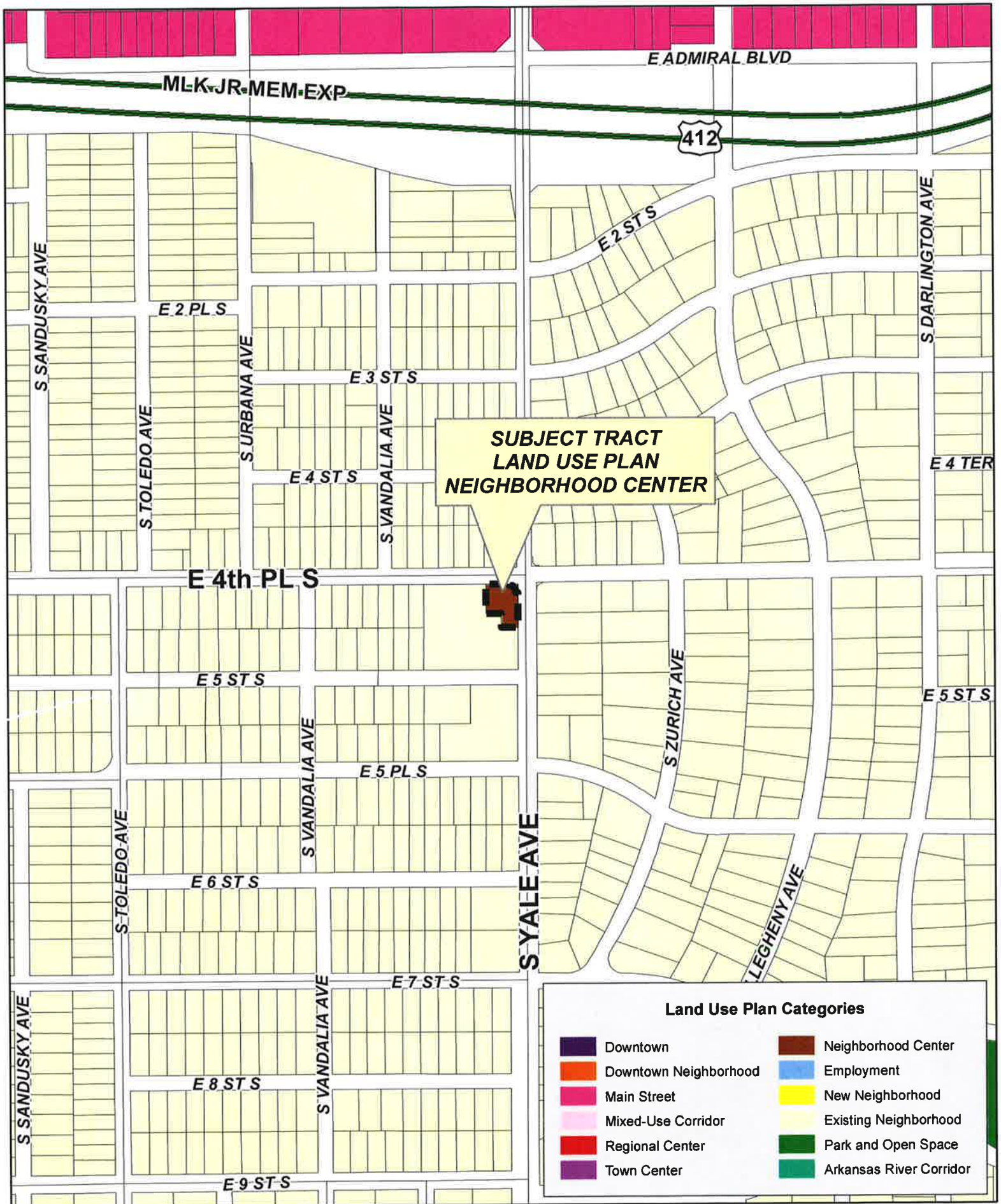
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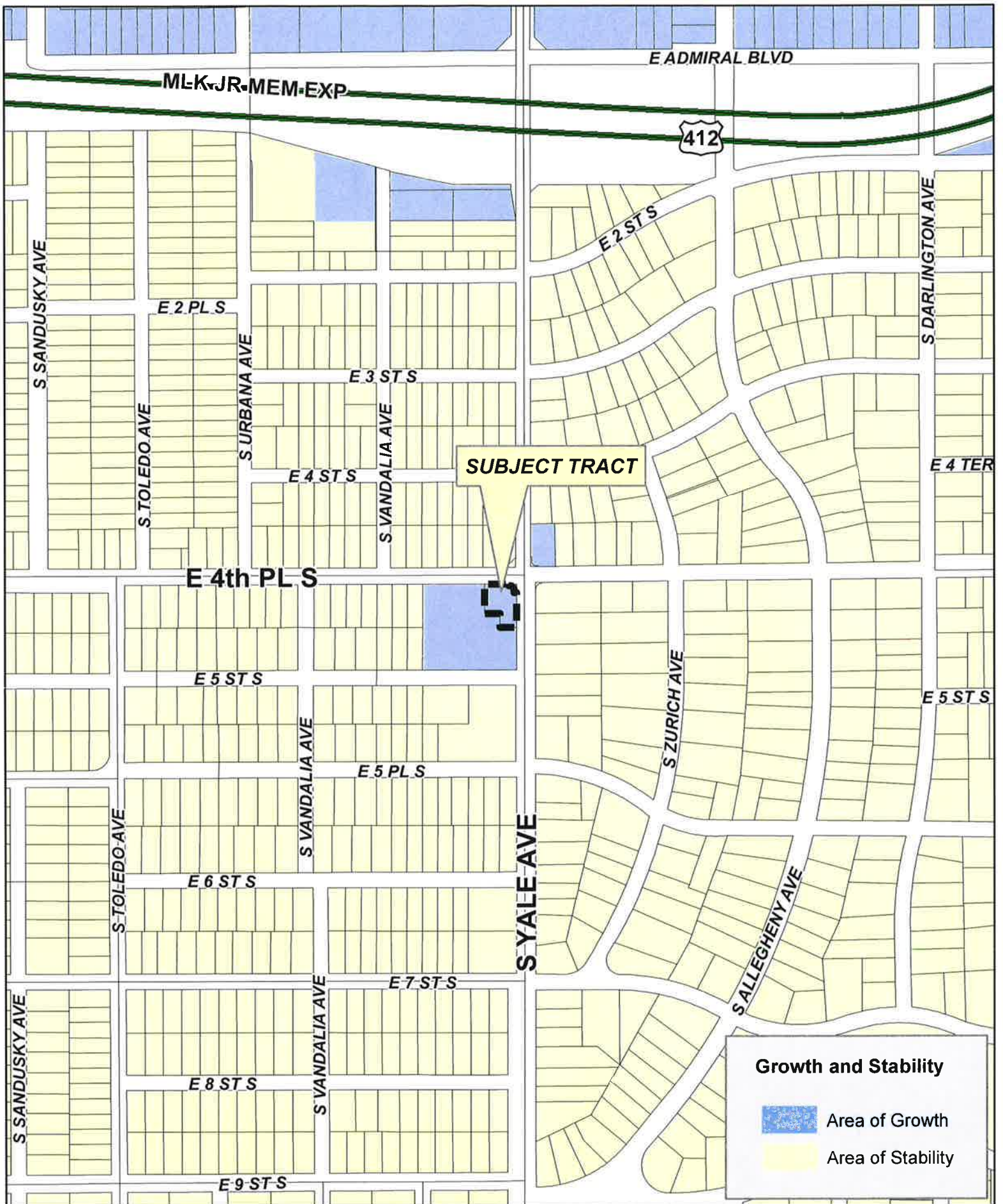




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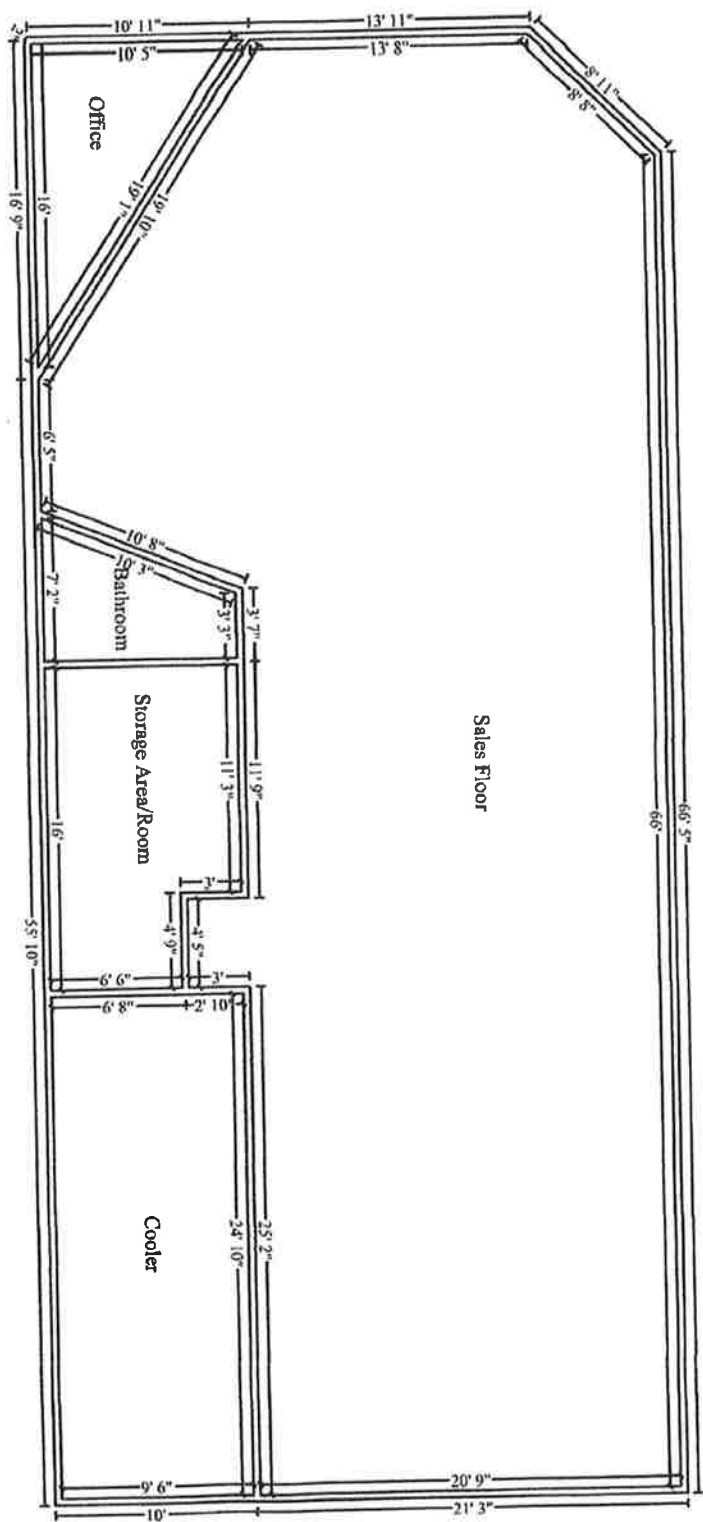




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Main Level

