

BOA-22775

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9.1

BOARD OF ADJUSTMENT CASE REPORT

STR: 9336

Case Number: **BOA-22775**

CZM: 48

CD: 7

HEARING DATE: 11/12/2019 1:00 PM

APPLICANT: Stephanie Dunn

ACTION REQUESTED: Verification of the 1,000 spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D)

LOCATION: 9402 E 55 PL S

ZONED: IL

PRESENT USE: Vacant

TRACT SIZE: 53025.81 SQ FT

LEGAL DESCRIPTION: LT 23 BLK 1, 5300 COMMERCE PARK

RELEVANT PREVIOUS ACTIONS:

Subject property: None

Surrounding Properties: **BOA-22720:** On 08/27/2019 the Board **accepted** a verification of spacing for a medical marijuana dispensary located at 5459 S. Mingo Road.

ANALYSIS OF SURROUNDING AREA: The subject tract is located on a cul de sac located at the SW/c of E. 55th Pl. and S. 94th E. Ave

STAFF COMMENTS: The applicant is requesting Verification of the 1,000 spacing requirements for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D)

40.225-D A medical marijuana dispensary may not be located within 1,000 feet of another medical marijuana dispensary.

Dispensaries who received their OMMA issued dispensary license prior to the December 1, 2018 are not subject to the 1,000 ft spacing requirement per Sec. 40.225-I.

40.225-I The separation distance required under Section 40.225-D must be measured in a straight line between the nearest perimeter walls of the buildings (or portion of the building, in the case of a multiple-tenant building) occupied by the dispensaries. The separation required under Section 40.225-D shall not be applied to limit the location of a medical marijuana dispensary for which a license was issued by the Oklahoma State Department of Health prior to December 1, 2018 for the particular location.

The applicant presented an exhibit with a circle drawn around their location and listing no dispensaries within that 1,000 ft. They listed the next closest dispensary at 5456 S. Mingo, Suite A. The verification of this dispensary, whose address should be 5659 S. Mingo Rd. per staff's records, was verified in BOA-22720.

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SAMPLE MOTION:

I move that based upon the facts in this matter as they presently exist, we (**accept/reject**) the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary.



View facing Northwest on 94th E. Ave.



View Facing East along E. 55th Pl



Subject Dispensary

Interested Parties:

McKenzie Dildy, Tall Grass Dispensary, 2811 East 15th Street, Tulsa, OK; stated his dispensary is open for business and he has had his license since January. He plans to dispense to his patients at that location and renovations are taking place.

Ms. Ross asked Mr. Dildy if he had received his spacing verification from the Board of Adjustment. Mr. Dildy answered affirmatively and stated that his dispensary is not within a 1,000 feet of any surrounding dispensaries.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we **DENY** the applicant's verification of spacing to permit a medical marijuana dispensary because there is another medical marijuana dispensary within 1,000 feet of the subject site; for the following property:

LTS 20 21 & 22 BLK 7, ROSEMONT HGTS, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond left the meeting at 1:52 P.M.

FILE COPY

22720—Charles Rogers

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 5459 South Mingo Road East (CD 7)

Presentation:

Charles Rogers, 4733 South Harvard, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board has received a copy of the applicant's OMMA license as shown on page 7.2 of the agenda packet.

Mr. Van De Wiele asked Mr. Rogers if he was aware of any other dispensary within his 1,000-foot radius. Mr. Rogers answered no.

Mr. Van De Wiele asked Mr. Rogers if he was aware of any other dispensary license within the 1,000-foot radius. Mr. Rogers answered no.

BOA - 22720

FILE COPY

Mr. Van De Wiele asked Mr. Rogers if he knew where the closest dispensary is located. Mr. Rogers stated he is not sure, but he knows there is one north of his location.

Ms. Ross stated that the map shows the closest dispensary is 1,008 feet away and she is concerned about the correct measurements.

Mr. Van De Wiele asked Mr. Rogers if he had hired Sizemore Weisz to map out his 1,000-foot radius. Mr. Rogers answered affirmatively.

Interested Parties:

Dennis Hart, 14030 East 24th Street, Tulsa, OK; stated that he is a barber and he owns the barber shop, and Mr. Rogers is going to lease on of his three suites. The plan is to open a barber school and the medical marijuana is going to pay for the school so youth can go to school free.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-1 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; Bond "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LT 3 LESS BEG SWC TH N5 SE7.08 W5 POB BLK 5A, TULSA SOUTHEAST IND DIST B5A-8 RESUB PRT BLK A TUL SE EXT, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond re-entered the meeting at 1:58 P.M.

22721—D'Andre Miles

Action Requested:

Special Exception to allow a Market or Community Supported Farm Use in an RS-3 District and to permit on-site sale of products; **Variance** to reduce the minimum land area required for a Market or Community Supported Farm in a residential district from 2 acres to 0.44 acres (Section 5.020, Table 5.2 and Table 5.2 Note 1 and Section 40.090-A). **LOCATION:** 344 West 63rd Place North (CD 1)

Presentation:

D'Andre Miles, 2888 East 44th Place North, Tulsa, OK; stated he is the co-founder of Bell's Farm and Garden; the garden has been selling their product for three years. Mr.



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Subject
Tract

BOA-22720

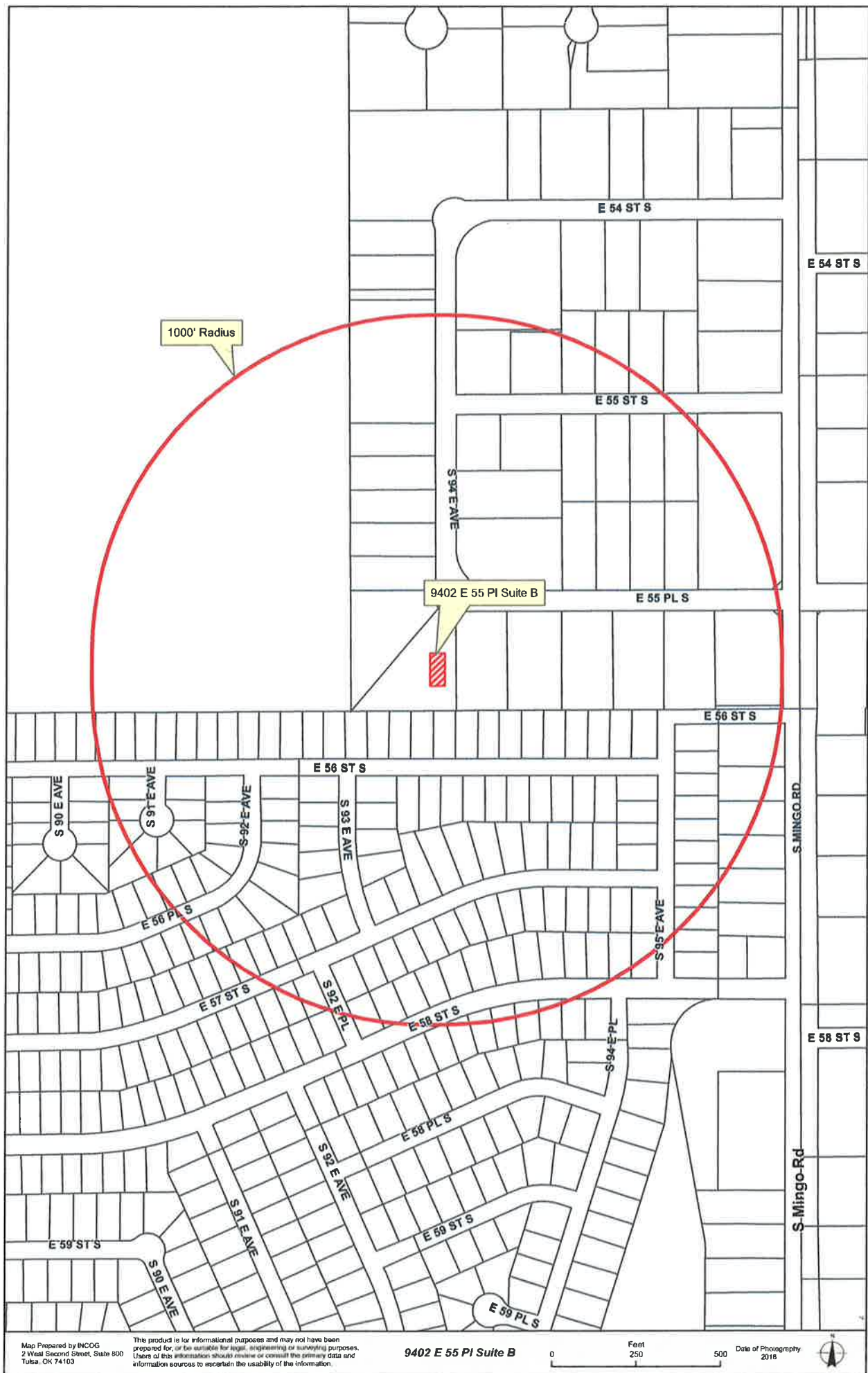
19-14 31

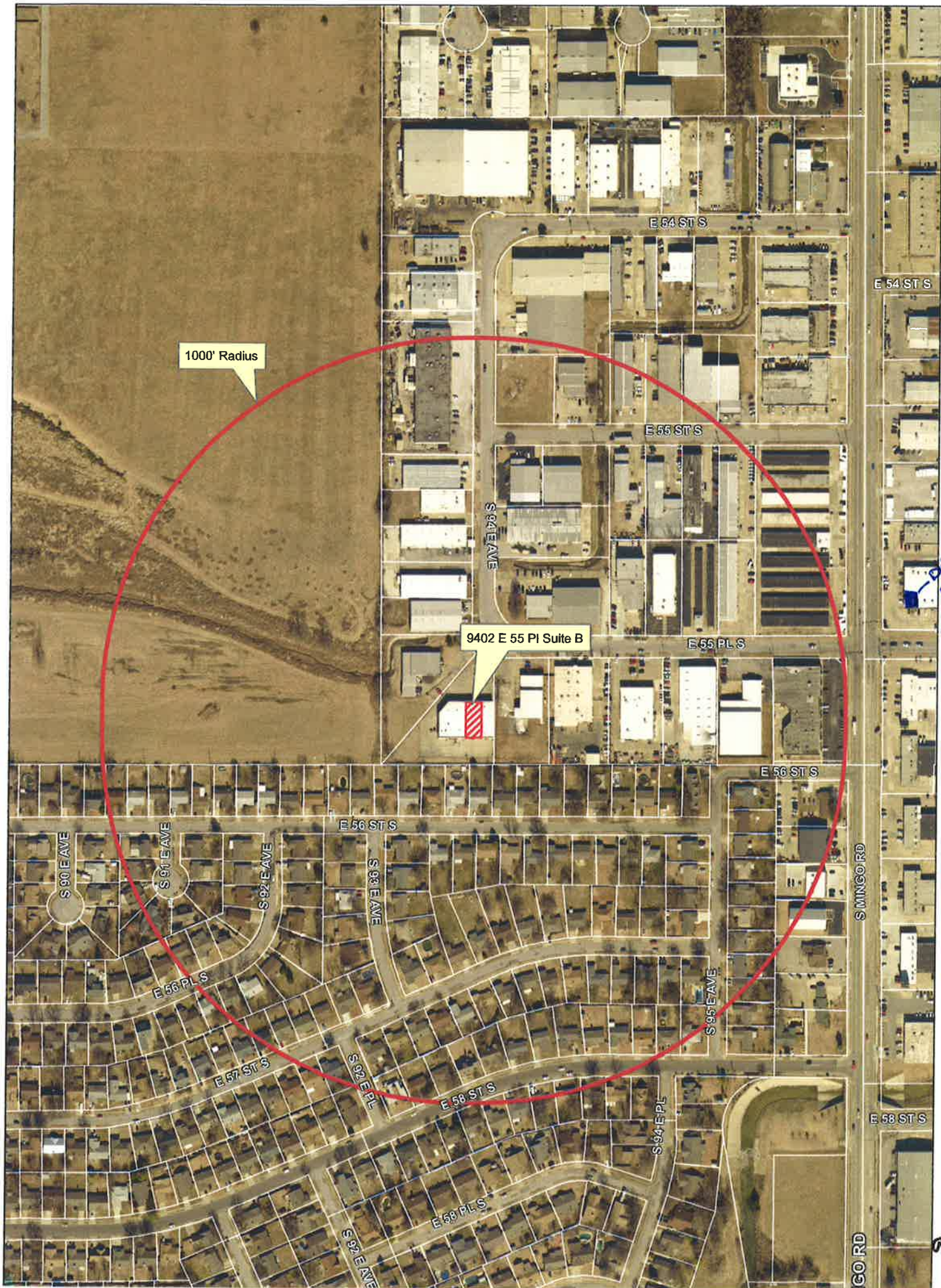
Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

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State of Oklahoma

License Certificate

NON-TRANSFERABLE

COMMERCIAL DISPENSARY LICENSE

HENRY GRANTED TO

JADE WELLNESS CENTER LLC

9402 E 55TH PL B, TULSA, OK, 74145

THE LICENSE IS ISSUED BY THE OKLAHOMA STATE DEPARTMENT OF HEALTH, OKLAHOMA MEDICAL MARIJUANA AUTHORITY TO CERTIFY THE ABOVE HAS FULFILLED THE REQUIREMENTS OF TITLE 61 O.S. § 420A ET SEQ. AND THE OKLAHOMA ADMINISTRATIVE CODE AT TITLE 310 CHAPTER 001. THE LICENSE IS SUBJECT TO THE REPRESENTATIONS MADE ON THE APPLICATION THEREFOR, AND MAY BE SUSPENDED OR REVOKED FOR CAUSES AS PROVIDED BY LAW AND RULE. LICENSEE SHALL OBSERVE AND COMPLY WITH ALL APPLICABLE LAWS, ORDINANCES, RULES AND REGULATIONS OF THE STATE OF OKLAHOMA.

01/29/2020

LICENSE NUMBER:

DAAA-NJ7J-28N7



Tom Bates

TOM BATES, L.D.
Interim Commissioner
Oklahoma State Department of Health

DO NOT COPY

CHUCK LANGE
ZONING OFFICIAL
PLANS EXAMINER

TEL (918)596-9688
clange@cityoftulsa.org



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103

ZONING CLEARANCE PLAN REVIEW

LOD Number: 1

October 1, 2019

Stephanie Dunn
3905 W Utica ST.
Broken Arrow, OK 74011

Phone: 916.289.0591

APPLICATION NO: BLDC-043639-2019

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: 9402 E 55 PL

Description: Medical Marijuana Dispensary

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2nd STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. IF A DESIGN PROFESSIONAL IS INVOLVED, HIS/HER LETTERS, SKETCHES, DRAWINGS, ETC. SHALL BEAR HIS/HER OKLAHOMA SEAL WITH SIGNATURE AND DATE.
2. SUBMIT TWO (2) SETS OF DRAWINGS IF SUBMITTED USING PAPER, OR SUBMIT ELECTRONIC REVISIONS IN "SUPPORTING DOCUMENTS", IF ORIGINALLY SUBMITTED ON-LINE, FOR REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
3. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT WWW.INCOG.ORG OR AT INCOG OFFICES AT 2 W. 2nd ST., 8th FLOOR, TULSA, OK, 74103, PHONE (918) 584-7526.
4. A COPY OF A "RECORD SEARCH" ☒ **IS** ☐ **IS NOT** INCLUDED WITH THIS LETTER. PLEASE PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.).

(continued)

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REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT
WWW.CITYOFTULSA-BOA.ORG

BLDC-043639-2019

9402 E 55 PL

October 1, 2019

Note: As provided for in Section 70.130 you may request the Board of Adjustment (BOA) to grant a variance from the terms of the Zoning Code requirements identified in the letter of deficiency below. Please direct all questions concerning separation distance acceptance and all questions regarding BOA application forms and fees to the INCOG BOA Planner at 918-584-7526. It is your responsibility to submit to our office documentation of any decisions by the BOA affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf. Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

1. Sec.40.225-D: A medical marijuana dispensary may not be located within 1000 feet of another medical marijuana dispensary.

2. Sec.40.225-H: The separation distance required under *Sec.40.225-D* must be measured in a straight line between the nearest perimeter walls of the buildings (or portion of the building, in the case of a multiple-tenant building) occupied by the dispensary.

Review comment: Submit a copy of the BOA accepted separation distance of 1000' from other dispensaries. Please direct all questions concerning separation distance acceptance and all questions regarding BOA application forms and fees to the INCOG BOA Planner at 918-584-7526. The separation required under *Sec.40.225-D* shall not be applied to limit the location of a medical marijuana dispensary for which a license was issued by the Oklahoma Department of Health prior to December 1, 2018 for the particular location.

Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code:

<http://www.tmapc.org/Documents/TulsaZoningCode.pdf>

Please notify the reviewer via email when your revisions have been submitted

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

A hard copy of this letter is available upon request by the applicant.

END – ZONING CODE REVIEW

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.



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

Aerial Photo Date: February 2018



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Subject
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