

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1212
Tuesday, August 28, 2018, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Back, Vice Chair Ross, Secretary Bond Radney		Miller Ulmer Sparger R. Jones	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on August 22, 2018, at 4:42 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

Ms. Ulmer read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **BACK**, the Board voted 4-0-1 (Back, Bond, Radney, Ross "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the **Minutes** of the August 14, 2018 Board of Adjustment meeting (No. 1211).

UNFINISHED BUSINESS

22481—Mark Capron

Action Requested:

Special Exception to permit a school use in an RS-3 District (Section 5.020-C).

LOCATION: 3121 East Queen Street North (**CD 3**)

Presentation:

Byron Todd, P. O. Box 330291, Tulsa, OK; stated he is the architect for the project. At the last meeting requested more information and one of those requests was a traffic report and information regarding the traffic light that is to be installed at Seminole and Harvard. That information was forwarded so it could be placed in the agenda packet.

Mr. Van De Wiele asked Mr. Todd if the traffic pattern had been changed from the Educare parking lot that was loading in and out of Seminole, and so that it is now loading off the north/south street. Mr. Todd answered affirmatively. Mr. Todd stated the main concern the neighborhood had was the congestion on Seminole. The new flow pattern takes all the traffic, potentially, off Seminole and by theory Educare would not contribute to any of the traffic on Seminole.

Mr. Van De Wiele stated there was an e-mail sent that commented about the drop off and pick up times for the elementary and the Educare facility, and he asked Mr. Todd to explain his understanding of the pick up and drop off procedure for both facilities. Mr. Todd stated the elementary has a specific school starting time, 7:30 A.M., and ending time, 3:00 P.M. Whereas, for Tulsa Educare the parents must park their car and walk their children into the building. Educare opens at 7:00 A.M. and parents start arriving any time after that, and Educare closes at 6:00 P.M. allowing the parents to pick up their children after work. So, the conflict between the parents and students arriving and departure don't align perfectly.

Mr. Van De Wiele asked Mr. Todd what the anticipated student count for Educare would be. Mr. Todd stated it would be 160 students on a daily basis.

Ms. Radney asked Mr. Todd if the new North Florence Place lane would be two-way traffic. Mr. Todd answered affirmatively. Ms. Radney stated after extensively studying the traffic report there would still be a lot of pedestrian traffic in the area of the basketball court and the bus stop, and that pedestrian traffic is not necessarily related to the elementary school but would still be coming down Queen Street, and she asked if Mr. Todd had considered that to have the traffic pattern circle back out to Harvard. Mr. Todd that is anticipated traffic flow, but the parents still drive where they want and park where they want. What is shown the anticipated traffic pattern, but if that is not the easiest way to arrive or leave the parents will find the path of least resistance. Ms. Radney stated that has been her concern since the beginning of this quest, and to her this diagram almost creates a similar problem on Queen as already exists on Seminole. Mr. Todd stated there are not many other choices to access the proposed site, it is either Seminole or Queen. Even the elementary school has problems it is not part of this project and the two facilities are not related. Tulsa Public Schools is the landlord because Educare is leasing the subject property, but the project is unrelated to the elementary school. The elementary school is operated by a different group and funded by different funds. Mr. Todd stated he thinks he has done everything he can to minimize Educare's impact on the neighborhood, and he thinks the elementary school will utilize the new north/south street. After a neighborhood meeting he left that meeting with the thought that the neighbors also thought it would improve the congestion that

they experience with the elementary school. The adjustments that were made to the original plan were not ideal for the subject project, but after additional comments at the last Board of Adjustment meeting there were more adjustments made by taking all the traffic off Seminole, so he is not sure what the next step would be.

Ms. Ross stated the traffic reports states that the existing no parking zones on Seminole and Queen streets should be enforced to help facilitate the movement of vehicles, and Ms. Ross asked who enforced this. Mr. Todd stated that it should be a Police action because he does not know of anyone else who has authority over the street.

Ms. Ross asked if the school could set out orange cones in the places where parents are parking during the drop off and pick up times so there can be no parking in these specific areas. Mr. Todd stated that would be a school issue, not a Tulsa Educare issue because Educare does not control the elementary school and has no say in their policies. Mr. Todd stated that he knows there are a certain number of teachers from the elementary school that patrol the area, but he does not think they go down the street because it is not TPS property.

Ms. Radney stated that her concerns are that even in the traffic study they noted several exceptions to the best practices for the way the traffic is being monitored and not having the proper signage. The idea that the public can count on the already over burden staff to monitor the south boundary isn't likely. Ms. Radney stated she appreciates the fact that Educare is no longer loading into the parking lot from Seminole, that is a fabulous improvement. She has an issue with the circulation pattern given the fact that parents will park wherever they can. Mr. Todd stated that Educare's parking will specifically take place in their parking lot because it is closest to the door of the facility, but what happens with the elementary school next door he cannot control. Mr. Todd stated that both TPS and the neighborhood thought the new plan would help the congestion.

Mr. Van De Wiele asked Mr. Todd about the size of the proposed parking lot. Mr. Todd stated this proposed parking lot has about 20% more parking than the previous three Educare facilities.

Mr. Van De Wiele asked Mr. Todd if he was concerned about the elementary school parents parking in the Educare parking lot. Mr. Todd stated that at the other facilities parents are not told to move on and he is not sure with the proximity if the other parents will use parking lot at this facility.

Ms. Back asked Mr. Todd if the proposed traffic signal plans had been worked out with the City, and the City is going to install the traffic signal. Mr. Todd stated that it is his understanding that construction for that traffic signal will start next summer.

Ms. Radney stated that it seems that the traffic flow would work better if it were all one-way, counter clockwise, because apparently Educare really does want the parents to

use the Queen Street access. If it were two lanes of one-way out, then it would allow for more stacking space taking some load off Seminole Street.

Interested Parties:

Chris Hudgins, Tulsa Public Schools, 3027 South New Haven, Tulsa, OK; stated he would like to clarify the bus drop off for the middle school and high school children, that is a staggered time which is about an hour later. The traffic circulation should not be issue because the elementary children are already at the school.

Connie Page, 3025 East Seminole Street, Tulsa, OK; stated she has studied the traffic report and she agrees with almost everything, but this is a mess and has been a mess for a very long time. The first she heard about the Educare facility was in the newspaper and was not given any other notice. Ms. Page stated that when she went to a meeting regarding the Educare facility they were touting that the north/south street that they were going to open up was going to be the solution for the Celia Clinton problem traffic that the neighborhood had been living with for years. Now she sees that it is still being discussed that Educare will use Queen Street and accessing the north/south street and exiting out onto Queen Street with the traffic flow pattern remaining the same. The traffic report states that the "no parking" should be enforced so there would be no parking in the yards. This plan will not help the Celia Clinton traffic problem with Educare utilizing the north/south Florence Street for their facility. Educare is divorcing themselves from the Celia Clinton Elementary issue, it is a good idea but it all goes together. The "no parking" has been the issue all along because nobody has enforced the "no parking". When the residents call the Police, they are told that the Police will not come to the school zone because they are too busy with more important issues. Ms. Page stated that she does not have any faith that the traffic flow will get any better but does have faith that it will get worse for the residents on Seminole and on Queen Street. The neighborhood has suffered for years with the elementary fiasco. Not only is the neighborhood being asked to give up the only green space in the area, where children come to fly kites, play basketball, and do many other things, but now the neighborhood is being asked to endure an increase in traffic where traffic was never meant to be. The streets are not in the best condition. They have not been designed, engineered or built with this amount of traffic in mind because it is not supposed to be that way. Ms. Page stated there is 50 minutes of traffic that the residents endure in the morning, and the afternoon. The "fix it" is not going to work. Ms. Page asked the Board to please consider the residents and deny this request.

Luwanna Horn, 3107 East Seminole, Tulsa, OK; asked where the "no left-hand turn" referenced in the traffic report was going to be located, because she is already on a dead-end street. She and the neighbors cannot even get out of their driveways because of the traffic. The street is 23 feet wide in front of her house, which is a measurement from her side of the street to the 7'-6" gravel lane on the south side of the street, which was laid down by the City. The neighborhood thought the gravel was the beginning of a third lane, but the Principal of the school informed the neighbors that the gravel was for parking. Ms. Horn stated the neighborhood does not want to lose the park and they are not in favor of the 160 additional cars coming into the neighborhood.

Ms. Radney asked Ms. Horn if she has observed anything different or improved since the new school year has started? Ms. Horn stated that she has not.

Bob Buchanan, 3107 East Seminole, Tulsa, OK; stated he sees 100 to 200 people using the park every week, and the loss of that green space bothers him. He has a problem with the fact that the neighborhood was never notified about these plans, they found out through the newspaper. The park was established when the neighborhood was first established about 80 years ago, and to allow a private party to lease land for a building that will take away the aesthetics of the neighborhood is disturbing.

Ms. Radney asked Mr. Buchanan if he observed whether the traffic patterns have improved or are different. Mr. Buchanan stated there is no difference. Ms. Radney asked Mr. Buchanan if he thought having curbs in the neighborhood would keep people from parking in the yards. Mr. Buchanan stated that is possible because there are no curbs along the streets now. Ms. Radney stated the school is there and not going away and she asked Mr. Buchanan what he thought it would take to make the school traffic more manageable. Mr. Buchanan stated there are no "no parking" signs on the streets so the installation of those so the no parking could be enforced would help.

Luwanna Horn came forward and stated that on page 29 of 38 of the traffic report is where the "no left turn" signs are referred to. Mr. Van De Wiele stated that he thinks the report is suggesting a restriction of the parents turning out of the parking lot.

Rebuttal:

Byron Todd came forward and stated he hopes that he was not misinterpreted that it was not Educare's problem regarding the existing traffic. It is just that it is outside the bounds of Educare's power to solve. If Educare does not get built the road won't be built, and he thinks the road is the best step forward in helping solve the congestion problems of the neighborhood. Before Seminole was used as the main access for the elementary school the traffic was all off Harvard, so it went from a very dangerous location to a more passive street. It is an inconvenience to the six residents that live on Seminole but overall to the students it is a much safer environment even though there are still issues. As for the park, as far as he knows, the Parks Department, Tulsa Public Schools went through all the legal venues to transfer ownership from the Parks Department to Tulsa Public Schools, and now TPS is leasing the property to Educare.

Mr. Van De Wiele asked Mr. Todd of the transfer had been completed. Mr. Todd stated he thinks they are in the final signature stages.

Mr. Van De Wiele asked Mr. Todd about whether the "no left turn" was a suggestion to restricting flow out of the elementary school parking lot. Mr. Todd stated the flow through the parking is one way going west to east, and when exiting onto Seminole there is a "no left turn" sign signifying that traffic should not go into the neighborhood or toward the dead end.

Mr. Van De Wiele asked Mr. Todd if there was anybody in the audience from the engineering firm that performed the traffic study. Mr. Todd answered no.

Comments and Questions:

Ms. Back stated that it is very unfortunate that the Celia Clinton Elementary school traffic challenges have caused this impact on the neighbors. However, enforcement is not something the Board has jurisdiction over, that is something that will have to go through the City. Educare is only responsible for negotiating their traffic impact and their impact on the neighborhood. It was a great expense to the applicant when the Board asked for him to redesign the site, and they did a good job with the redesign. Ms. Back stated she can support this request.

Mr. Bond stated there are some long standing issues in the neighborhood with traffic and the fact that there are no curbs, which all needs to be addressed by the City. For him it is whether this request is injurious to the neighborhood or detrimental to the public welfare.

Mr. Van De Wiele agreed with Ms. Back's comments, and the applicant's comments, that the traffic problem is out of their power to solve it, but TPS owns and operates the elementary school and they are the landlord of the subject property that is being developed. With the staggered starting times at Educare facility and the fact that those parents are parking in the parking lot, he does not know if there would be that much more of a burden added to the neighborhood. That street is going to be about 600 feet of authorized or unauthorized curb side parking that may take some of that off Seminole, and that is just his guess. The fact that Educare hired an Engineer is a good thing, but the questions that have been asked is should this be a one-way going clockwise around the facility and there is no one here to answer it. Should the new street be a dead end? The fact that this is a TPS owned piece of property certainly gives them the power to solve to the extent they can solve it, while he does not think an individual home owner has much stroke to get traffic enforcement on site TPS probably could. Mr. Van De Wiele stated the part of Tulsa he lives in has dealt with this with elementary schools, middle schools and there are campus police officers directing traffic. Mr. Van De Wiele stated that he does not know if he can support this request until he sees something that he not guessing at. Even if this were unrelated land owners, if the applicant is the one that is going to break camel's back, they may not be responsible for the other thousand straws, but they are responsible for the one that is causing the impact.

Ms. Back stated that she disappointed in that nothing has changed because it was her impression when the applicant was before the Board at the last meeting, she understood that the traffic issues would be worked on.

Ms. Radney agreed with Back. Her concern is that the Board is making a decision for posterity, and there has already been a fatality along what is the least line of use in this quadrant and she remembers that fatality. She cannot imagine that by adding more usage on the younger end of the scale that there won't still be more younger children

that have access to the properties. By not having a full safety audit for the Educare that is planned and referred to in the safety report the Board has, she thinks is remiss. She is not saying that this would not be a useful use of this land, but the Board is talking about the same issue the community has been dealing with for years. This adds to the problem in a way that is opening up for more questions than answers.

Ms. Ross stated that she believes this is a mess in the neighborhood during the school hours by just looking at the pictures that were presented. Ms. Ross agrees with Ms. Back. There is not an Educare there right now and it is a mess, so that is not Educare's traffic creating that. If the Board tells Educare they cannot build there, that does nothing for the neighborhood. It continues to be a mess, the residents continue not having the ability to get out of their driveways, there continues to be no "no parking" signs, no traffic signal, no additional north/south road, nothing. Ms. Ross stated that to her what makes the most sense that by adding the new north/south street there would be access to Queen Street through North Florence Place and through North Florence Street on Pine. That would be many more ways to get in and out of the property, but that would not help the residents to exit their driveway necessarily. Ms. Ross stated she thinks what it would do is divert more traffic to the north/south road from people coming in on Queen that are picking up at Clinton Elementary, because parents are not going to sit that long line, they will try to go a different route spreading the traffic out. The Educare facility is also going to have 20% more parking than the other facilities that are not currently at maximum capacity at any point during the day. The new traffic will also help the flow out where the people are trying to turn left off Seminole. Ms. Ross thinks it would be beneficial to the neighborhood, in a lot of ways, if Educare would build in the subject space. Educare will be moving the basketball court to the southwest corner of the property and will build a new court making it even better for the kids. Educare has also stated that the green space that remains can still be used to fly kites and for the children to use. Ms. Ross stated this is a very tough decision for the Board, but she believes this will ultimately help the problem, more so than the help the residents have right now which is none. Ms. Ross stated she would vote in favor of this request.

Board Action:

On **MOTION** of **BACK**, the Board voted 2-3-0 (Back, Ross "aye"; Bond, Radney, Van De Wiele "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a school use in an RS-3 District (Section 5.020-C), subject to the conceptual plan 2.39 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

NW SE SE LESS N25 FOR RD SEC 29 20 13 9.62ACS, City of Tulsa, Tulsa County, State of Oklahoma

On **MOTION** of **BOND**, the Board voted 3-2-0 (Bond, Radney, Van De Wiele "aye"; Back, Ross "nays"; no "abstentions"; none absent) to **DENY** the request for a **Special**

Exception to permit a school use in an RS-3 District (Section 5.020-C), finding that it will be injurious to the neighborhood or otherwise detrimental to the public welfare as presently presented; for the following property:

NW SE SE LESS N25 FOR RD SEC 29 20 13 9.62ACS, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22493—Rob Bingham

Action Requested:

Special Exception to permit Commercial/Vehicle Sales and Service/Personal Vehicle Sale and Rentals Use in a CS District (Section 15.020); Variance to allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A). **LOCATION:** 7924 East 15th Street South (**CD 5**)

Presentation:

Rob Bingham, 1013 West Grainger Street, Broken Arrow, OK; stated he purchased the property located next to his car dealership, and that property is currently zoned CS. The Used Motor Vehicle Parts Commission, when Mr. Mike Allred proposed coming onto the lot, said there needed to be a Special Exception on the subject property.

Mr. Van De Wiele asked Mr. Bingham if the subject property was going to be used as a used car lot. Mr. Bingham answered affirmatively.

Interested Parties:

Mike Allred, 1715 West 109th Street, Jenks, OK; stated he currently has a business located in Sapulpa and would like to move it closer to his business partner, who lives in the abutting neighborhood. Mr. Allred stated the business is technically a retail car lot, but he needs that designation to do what he does on a contract with Avis Rent-A-Car; sell rental vehicles nationwide, including Hawaii, that he never sees. Because of the contract with Avis he and his business partner have to have a retail dealer license in the State of Oklahoma. Mr. Allred stated he has been doing this for nine years. Generally, he carries about ten vehicles, two or three of which are driven by himself, his business partner or their wives drive. This is not a big retail operation. The stuff he sells for Avis never comes to the physical facility, it is sold on site at area airports all over the nation. Mr. Allred stated he has to have the designation of a retail used car lot to have the offices where he is trying to locate to now. He has spoken with the State and was told Tulsa does not want a proliferation of these lots and he understands that. This will not affect anything at this location; Mr. Bingham has a lot on the corner of 15th and Memorial. The Google photo shows cars parked on the lot and it has been that way for

20 years, so Mr. Bingham is doing what is being asked for in this request, and he has been doing it for 20 years.

Mr. Van De Wiele asked Mr. Allred if the subject property was currently being used as a used car lot. Mr. Allred answered affirmatively.

Mr. Allred stated there is a vacant lot in between the building structures, and Mr. Bingham existing car lot is located on the southwest corner. The center lot is part of this request, and it has been used basically as an additional holding lot for Mr. Bingham's existing used car lot and it has always been used that way. Mr. Allred stated that Mr. Bingham recently purchased the building on the west side of the proposed area it was assumed that it would be grandfathered in as all the other car lots have been on 11th Street and in the area, but the State has said it is necessary to receive a Special Exception for the subject area. Mr. Allred stated that he is now going through the proper channels to basically do what is already being done, and he cannot move his business from Sapulpa to Tulsa until he receives approval for the Special Exception.

Mr. Van De Wiele asked Mr. Allred if the lot was being used as a used car lot. Mr. Allred stated the lot is being used but the building is empty.

Mr. Van De Wiele asked Mr. Allred if he would house his business in the existing building. Mr. Allred stated that he will place his business in the building located on the west side of the subject property. Mr. Van De Wiele asked Mr. Allred what the parking lot would be used for. Mr. Allred stated the parking lot would be used for the storage of retail car sales currently owned by Mr. Bingham. Mr. Van De Wiele asked Mr. Allred if that included his eight to ten cars. Mr. Allred stated that Mr. Bingham will allow him to store some of his cars there if necessary. Mr. Allred and Mr. Van De Wiele discussed the placement of the buildings and fencing on the subject property as shown in the Google photos.

Becky Wrighten, 8338 East 12th Street, Tulsa, OK; stated she looked at the property on MLS and the property is listed as storage. She is opposed to any more car lots in the neighborhood. All the businesses that were once between 11th and 15th Streets on Memorial have turned into car lots. Ms. Wrighten stated that she thinks the applicant is asking for storage and she does not understand the need for businesses that do nothing to benefit the neighborhood. Ms. Wrighten asked the Board if this was to be a car lot or storage.

Mr. Van De Wiele stated that it will be both as the applicant has described it; they sell used cars for Avis Rental, but they do it without the cars being present on the lot primarily.

Ms. Wrighten stated that she is opposed to taking away a business that was used for an office, and she would like to keep it that way.

Linda Junk, 8311 East 15th Street, Tulsa, OK; stated she has lived in the neighborhood for about 45 years and during that time the residences have disappeared, and it is being turned into an industrial area. The area does not need another car lot because there are probably 20 car lots within a 1-1/2-mile radius.

Rebuttal:

Rob Bingham came forward and stated his father and he started his business about 36 years ago. The zoning back then was different than it is now. He was told by the Used Motor Vehicles Parts Commission that his business was grandfathered in. Should he sell the property or lease it when he retires that he will have to have the corner lot properly zoned. Mr. Bingham stated he has also leased the property next door for 20 years from the fire protection company and he has displayed cars on the front line on 15th Street for over 25 years. Now that he has purchased the subject property he is trying to do the right thing that is required for the applicant to receive his license to sell cars. There is nothing being done differently than what has been for the last 25 plus years.

Ms. Back asked Mr. Bingham to state his hardship for the Variance request. Mr. Mike Allred came forward and stated the hardship is that he cannot store his vehicles outside, and with a car lot the vehicles need to be stored outside to advertise them. Mr. Allred stated the Special Exception is required by the State, so the property can be designated as a car lot. Mr. Allred stated he has sold about 13,000 cars this year for Avis. Mr. Allred stated that his office in Sapulpa is about 250 square feet and there are three people in that space that perform the wholesale selling. They never see the cars. They have sold about 30 retail cars in the last year, and he will not be a big stamp in the neighborhood. The building that appears to be an old gas station is vacant, there is a vacant lot next to it and there are no houses that abut that portion. The office space is needed for business that is done on the telephone and the computers. Mr. Allred stated that he does not care if he sells another retail car, but he has to have a retail license to do what he does for Avis and this is the perfect location for him. Mr. Allred respectfully requests approval of his application.

Mr. Van De Wiele asked Mr. Allred if his business model is selling autos electronically, is the State looking for you to have the right to operate that business in the subject location, why do they care about you (Mr. Allred) having the right to put a used car on the lot if used cars are not being sold on the lot. Mr. Allred stated there are two different designations in the State of Oklahoma. One, is a whole sale designation that a person does not have to have all the retail criteria, and that is if it is one-person business, but his business is a two-person business. The fact that this is a two-person business does not allow him to be a wholesale operation. The other designation is retail which encompasses the wholesale. To have a retail license there is certain criteria that has to be met. There must be a 32-square foot sign, a public bathroom, a telephone number in the telephone book, the business must be bonded, and the business must have all the necessary insurance which not necessarily needed under a wholesale license.

Mr. Allred stated that he is not going to tell the Board he is not going to have any retail sales on the property, because he sold about 30 last year. He keeps about eight to ten cars, and some of those are being driven. He has to have a place to put the vehicles and that is a retail lot.

Ms. Radney asked Mr. Bingham if he owned all of the property that is within the dotted lined box on the site map. Mr. Bingham answered affirmatively. Ms. Radney asked Mr. Bingham if he was leasing the paved portion of his business on the corner. Mr. Bingham answered affirmatively. Mr. Bingham stated that for 20+ the fire protection company used the office space and he leased the asphalt and the shop behind it for over 20 years. Ms. Radney asked Mr. Bingham if he now owned everything from the corner through the boxed in area on the map. Mr. Bingham stated there are two separate addresses, two separate properties but he purchased all of that when the fire protection company moved out. Ms. Radney asked Mr. Bingham if he wanted to continue to use the property that he was leasing before for the purposes of his retail sales. Mr. Bingham answered affirmatively. Ms. Radney asked Mr. Bingham if he wanted to now have office use in the converted house on the subject property with the ability to store up to eight cars. Mr. Bingham answered affirmatively; it would be inside and outside.

Ms. Briana Ross left the meeting at 2:31 P.M.

Mr. Allred came forward and stated that is where the hardship comes in. He cannot store his cars in the public or have them seen or advertise them without the Special Exception. Ms. Radney asked Mr. Allred if it was not sufficient to just have parking spaces, but the vehicles have to actually be designated for display for the retail. Mr. Allred stated he has cars for sale and to have those cars for sale he is going to have them on the lot.

Briana Ross re-entered the meeting at 2:32 P.M.

Mr. Allred stated the advertised request of "sales and rentals" may have been a misunderstanding when he made the application. He is not renting cars out of that location. He does business with Avis and he is selling their existing cars from their airport locations. There will be no renting going on the subject property.

Mr. Bond asked Mr. Allred to state the maximum number of cars he will place on the lot. Mr. Allred stated he has never had more than 15 cars and the total amount of cars including Mr. Bingham's vehicles there would be about 25 cars. Mr. Allred stated that he has nothing to do with Mr. Bingham's business.

Ms. Blank stated that Section 40.400-B stipulates that whenever vehicles sales are within 300 feet of an R zoned lot the off-street and vehicle display areas must comply with the parking area design standards of Section 55.090, the proposed lot must be striped and have driving lanes like a commercial parking lot.

Comments and Questions:

Mr. Van De Wiele asked Ms. Miller if the Board approved this subject to striping in accordance with the Code, what is the review process to ensure that it happens. Ms. Miller stated the Building Permit Office would do the review. Ms. Miller stated this is a relatively new regulation that is in the Code, as far as the striping of car lots.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-2-0 (Bond, Radney, Van De Wiele "aye"; Back, Ross "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to permit Commercial/Vehicle Sales and Service/Personal Vehicle Sale and Rentals Use in a CS District (Section 15.020); Variance to allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A) to the September 11, 2018 Board of Adjustment meeting; for the following property:

W170 N 1AC NE NE NE SE SEC 11 19 13, City of Tulsa, Tulsa County, State of Oklahoma

22494—Brad McMains

Action Requested:

Special Exception to allow a Personal Improvement Service in an OL District (Section 15.020). **LOCATION:** 5119 East 81st Street South (CD 8)

Mr. Van De Wiele stated that since there are so many interested parties in the audience regarding this case he is going to limit the interested party time to three minutes. There will be a lot of duplicative comments and the Board has seen all the e-mails and read them, so in the interest of time he asks that people not be repetitive in their comments. The Board wants to hear from everyone that wants to speak but the Board wants to be respectful of the rest of the applications on the agenda.

Presentation:

Brad McMains, 10051 South Yale Avenue, Suite 200, Tulsa, OK; stated the company name is Hunter Construction Management, and he is one of the principals of the company. The company purchased the property in 2009 and it was zoned OL at the time of purchase, and the property is still zoned OL. The development has been planned based on the original platting that was approved in 2009 for five building sites

on the subject property. Lot 4 is the property in question today. That building is in design for a dental office, for a husband and wife dental team that is relocating, and that building will consist of approximately 6,000 square feet; 4,000 square feet will be dental and 2,000 square feet will be tenant space. The tenant space in this building is proposing to have a personal improvement feature or service with the application of one tanning bed. The perspective tenant is not a tanning salon. The tenant does cryotherapy, which is deep tissue therapy, skin therapy, Botox, and juvederm therapy.

Mr. Van De Wiele asked Mr. McMains if the building was planned to have two businesses under one roof, will it have a single entrance? Mr. McMains stated there will be a single entrance that has a vestibule that splits off into two.

Mr. McMains stated that in 2009 the property was originally zoned in the 1990s and it was approved for a 45,000 square foot single story building. He has been working with the lay of the land so that he does not need to level every tree and build a 15-foot retaining wall on the back side, so he broke it into five buildings and the five buildings will all look similar to the one being presented today.

Mr. Van De Wiele had Ms. Ulmer place the Section of the Code that cites personal improvement service criteria on the overhead projector. Mr. Van De Wiele stated the Board has had this issue arise once before, the litany of items that are included in personal improvement service, whether the Board hears it or not he figures that is what a lot of the neighbors are going to be concerned about. Mr. McMains agreed. Mr. Van De Wiele stated that he will not get comfortable in granting the full range of personal improvement services. Mr. McMains stated that he does not want them. Mr. Van De Wiele stated the problem is that there is not a full exhaustive list here, so the Board cannot start checking things off. What typically the Board is more comfortable in doing is to approve a personal improvement service and limiting it to three, four or five items. Mr. McMains stated that he would be open to that as the owner, developer, and the builder of the site because building 5 is going to be his personal office.

Ms. Ross asked Mr. McMains if the name of the end user is Sandy Beaches Sun Spa, and that to her says tanning salon. Mr. McMains stated that he has been told there is only going to be one tanning bed; the gentlemen for Sandy Beaches is coming into Tulsa tomorrow from Dallas. Mr. McMains stated that the dentist would be happy to sign off on the fact that there would only be one tanning bed, because he does not want a tanning salon under his roof. Because the tenant does Juvéderm, Botox, cryotherapy and skin therapy he felt it would be complimentary to his dental business.

Interested Parties:

Dr. John Thompson, 8016 South Darlington, Tulsa, OK; stated he lives immediately to the east of the proposed development. Dr. Thompson presented a petition signed by 75 home owners in the neighborhood as well as many personal letters written by various home owners strongly opposing the Special Exception, a letter from the head of Holland Hall School representing over 1,000 students and their families strongly opposing the Special Exception, a letter from the Executive Director of Town Village Tulsa which a

community of 400 very active seniors strongly opposing the Special Exception. Dr. Thompson does not know if the Board has ever had a project before them that is so strongly opposed by the community. In approximately 2010 the current owners applied to change the zoning to a PUD to avoid the one-story restriction of the OL zoning, because they wanted to build a two-level structure above and adjoining the neighborhood. Hearings were held by TMAPC and attended by a large number of the home owners in the neighborhood. Members of the City Council and the Planning Commission even personally visited the site to see the problem first hand. Dr. Thompson presented pictures of the area to be placed on the overhead projector. The Planning Commission expressed their agreement that this was a unique and beautiful area of Tulsa that needed protection and agreed and approved almost all of the home owners' recommendations to protect the neighborhood in their approval of the PUD. Rather than accept the protections mandated by TMAPC the developer withdrew the application for a PUD and kept the OL zoning. The subject property directly abuts the neighborhood and is immediately on the south side and of the largest pond in the neighborhood. The subject property is at a higher elevation than the pond and the neighborhood, so the impact of development on this land is literally in the resident's back yards. The property directly across the street is Holland Hall School where 1,000 children attend school. The neighbors are very deeply concerned about the impact on the neighborhood, our peace and quiet, our home values, and our safety and security. All of the home owners in the neighborhood purchased their homes with the understanding that the subject property was zoned OL and would be low intensity office use. The neighbors believe strongly that the home values would be significantly degraded by any exception to allow a higher intensity use. This is a very peaceful pond, it is refuge to both people and wild life, and is one of the most special areas in Tulsa because of its nature. The neighbors strongly believe that the peace and quiet will be negatively impacted by the development on the subject property on the south bank of the pond to a much-degraded degree of injury if the Special Exception is granted. The hours of operation of the kind of business described in the application usually extend well into the night and weekends, which quite different than typical offices in OL zoning which are typically 8:00 to 5:00 operations. This would be extremely disturbing to the neighborhood where families and children typically enjoy the evening around the pond immediately next to the proposed building. This Special Exception would in absolutely no way follow the spirit or intent of the Zoning Code. The subject property sits on 81st Street which is still only a two-lane street with a center turn lane, and its entrance would be right over the crest of a hill, leading to serious safety risks. The granting of anything but the lowest intensity use is a public safety risk. The subject property also sits directly across from Holland Hall School and very close to the entrance of the school where traffic is already badly congested near school start and end times necessitating Police and Security Officers to direct traffic on 81st Street at the entrance. Dr. Thompson quoted from a letter written by J. P. Culley, "any rezoning of that area that will increase traffic will absolutely have a negative affect on Holland Hall's 1,000 students and families and would create a clear danger to the Officers who direct the school traffic and to nearly 300 student drivers and parents of the students. The original OL zoning took the traffic flow and patterns into account as the student population of Holland Hall has grown; it is hard to imagine justification for any change at this time." Dr. Thompson

stated that the subject building is only one of five proposed buildings planned by the developers of this small parcel of land. The density of buildings planned for this land already leads to considerable density of use. The neighbors are very concerned that if this Special Exception is allowed it will set a dangerous precedent that would make it difficult for the Board of Adjustment to deny other Special Exceptions for the other four proposed buildings, or for that matter any other OL zoned land. Dr. Thompson stated that once a Special Exception is granted for the subject property there is no guarantee that the type of personal improvement service would stay the same. The very name of the proposed business "Sandy Beaches Sun Spa" and the description of services strongly indicate this business among other things is a tanning salon; clearly not appropriate for the OL zoning. If not, just a tanning salon it could easily evolve into a purely tanning salon without the other services mentioned with terribly high-volume traffic, or into a totally different personal improvement service. The list of personal improvement services is quite long and includes some extremely undesirable operations to place next to a neighborhood. Businesses evolve, businesses fail, businesses are sold but zoning sticks. The type of business requested should very simply be in an area zoned for higher volume use. Dr. Thompson stated that this situation simply does not meet the requirements for a Special Exception to be granted, there is simply no extraordinary or exceptional circumstances peculiar to the subject property or proposed building that would result in unnecessary hardship by the literal enforcement of the terms of this Code. That operation can be carried out in a higher intensity use area. Its location, topography, and proximity to a neighborhood are all compelling reasons for it to be zoned as it currently is for the very lowest intensity use. The neighbors believe strongly that a Special Exception would not be in harmony with the spirit of the Code and would indeed be injurious to the neighborhood and public welfare, therefore, the residents respectfully ask that this Special Exception be denied.

Mr. Van De Wiele stated that he thinks what he was hearing was a statement against any development, and he wants to make sure that is not what he was hearing because the property can be developed under the OL zoning. Mr. Van De Wiele asked Dr. Thompson how he would see Botox being more impactful, more injurious to the neighborhood as opposed to a dentist office or a CPA office. Dr. Thompson stated the neighbors have no objections to the property being developed as it is intended under the OL zoning, and the residents do not expect the land to remain undeveloped. The problem is the hours of operation. A dentist's office is not going to be open until 9:00, 10:00 or 12:00 at night. A tanning salon, a place that provides the other personal improvement services very likely will be and will probably be open on a Saturday. The residents would like to maintain the peace and quiet that is currently enjoyed in the evenings and on the weekends.

J. P. Culley, Head of Holland Hall, 5666 East 81st Street, Tulsa, OK; stated there are 1,000 students that attend Holland Hall, ranging in age from three to eighteen or nineteen years of age. There are 225 employees that are at Holland Hall on a daily basis including summertime because there are active summer programs. Holland Hall employs three campus safety officers; director and a part-time person whom are charged with directing traffic on 81st three times throughout the course of a day; 8:00

A.M., 3:00 P.M., and 5:30 P.M. The amount of traffic at Holland Hall today is a lot more than it was five years ago because of the tremendous amount of growth in the area. Holland Hall has tried to get a warrant for a light in that space as far back as the 1980s, and it was finally granted in 2016. Holland Hall sees anywhere from 2% to 5% growth in the student population in their strategic plan.

Morad El-Baheb, 5118 East 80th Street, Tulsa, OK; stated he wants to reiterate the objection to the Special Exception. The application stated that this was for a dentist office and now the neighbors are hearing that 2/3 of the space will be for a business coming from Dallas that may have one tanning bed. This is inconsistent and he suspicious of the application and strongly urges the Board to vote no on this request.

Mr. Van De Wiele asked Mr. El-Baheb if this were a spa as opposed to a tanning salon would he have the same objections? Mr. El-Baheb answered affirmatively.

Lloyd Cheek, 5112 East 80th Street, Tulsa, OK; stated that in putting in any type of personal improvement service whether it is a spa, a tanning salon, what it actually doing is opening the entire back and exposing all the backyards to an atmosphere of serenity. The residents have spent an enormous amount of money on landscaping, security fencing in order to make the transition smooth. The neighbors will have to deal with a lot of windows in the back of the proposed building, so the clientele can enjoy a serene atmosphere. The problem is residents will no longer feel comfortable enough to go out in their yards to have family gatherings without feeling like strangers are peering down on them.

Mr. Bond asked Mr. Cheek how long he has lived in the neighborhood. Mr. Cheek stated that he has lived in his house for 21 years. Mr. Bond asked Mr. Cheek if he was aware the subject property was an adjacent OL zoned property. Mr. Cheek answered affirmatively.

Dennis Guy, 5318 East 80th Place, Tulsa, OK; stated there is a crest right before a person would turn to the right to go into the subject property. A person cannot see a car once it goes down the crest and he is very concerned about high traffic type businesses.

Bobbi Wimberly, 8222 South Yale, Tulsa, OK; stated she is the Executive Director for Town Village, and she is concerned for her residents. Town Village is not a nursing home or an assisted living facility, it is an active independent living facility. The residents are free to come and go as they choose, and they use the intersection as pedestrians. They walk to Whole Foods, Rib Crib, and all the other areas. Her residents are as elderly as 100 years of age. Her concern is the intensity of the traffic and her residents getting across the street in both directions safely.

Steve Harris, 7002 South Birmingham Court, Tulsa, OK; stated he lives about a mile from the subject property and he is also an attorney for one of the home owners. The developer understood when the property was purchased that it was zoned OL,

therefore, he did not hear anything in the presentation that indicated support for a hardship or any justification for a Variance other than having the option of expanding the classification.

Mr. Van De Wiele stated the request is not a Variance, so the applicant does not need a hardship. The Board generally deals in two arenas, and this request is a Special Exception.

Mr. Harris stated that it could be called a departure from OL zoning of which everybody else in the neighborhood understood and it should remain OL. The developer bought the property as OL. Mr. Harris wanted to know what the justification is for the Special Exception, there has to be some reason or rationale, some advantage to the community. He sees no advantage to the community in expanding the subject property because once the door is open the Board is making it easier for himself or some other lawyer to branch things out a little bit farther, over time the exception follows the rule. Mr. Harris urges the Board to deny this Special Exception.

Rebuttal:

Brad McMains came forward and stated he didn't think this was going to be easy, but he hoped it would have been. He is not asking for anything out of the ordinary. Mr. McMains stated the crest at 81st Street that has been discussed is in the plans with the City of Tulsa to be lowered; his design criteria for the development with one entrance at the crest will be lowered by nine feet from where it currently sits. The property west of the subject property has been approved and is designed for a shopping center, so congestion is only going to increase and that is why the City plans to expand 81st Street. The orientation of the property will not make it directly across the street from Holland Hall but will be several hundred feet down the road. Mr. McMains stated that he has met the criteria for the OL zoning in order to do anything other than what has to be done by Special Exception. Mr. McMains asks the Board to approve his application.

Ms. Ross stated that she looked up Sandy Beaches Sun Spa on line and looked at Sandy Beaches Sun Spa Dallas and nothing came up there. There are, however, several Sandy Beaches Sun Spas in and around Oklahoma City so she assumes it would be the same business because they are already in the state operating. Ms. Ross stated the Sandy Beaches Sun Spa in the Oklahoma City is mainly a tanning salon; they have seven different types of tanning beds and spray tanning. The only reason it makes a difference to her is that she believes when there are tanning facilities where people come and go throughout the day because they don't have to make appointments. Ms. Ross stated that customers of spa services usually have to make an appointment which would eliminate the traffic concerns but having a tanning salon with a membership club as well raises concerns. Ms. Ross stated that the proposed business has stated the business hours for the Oklahoma City location to be 10:00 A.M. to 6:00 P.M., Monday through Friday.

Mr. McMains appreciated Ms. Ross' comments and stated he would follow this up with the dentist, because the dentist will want to know this information.

Ms. Radney asked Mr. McMains what the boundaries were of the original PUD relative to the property. Mr. McMains stated it is the same property and same exact footprint. His intent asking for a PUD was that it made it easier, while under the OL zoning even though the property is divided into five separate tracts its cross parking in the parking areas. He felt the PUD was an easier approach for individual property sales and that proved to not be the case. Ms. Radney asked Mr. McMains if he had been able to receive a PUD would all five tracts been under the PUD or just the subject property fall under the PUD? Mr. McMains stated all five tracts would have been under the PUD.

Ms. Radney asked Mr. McMains what the occupancy level would be for the proposed building. Mr. McMains stated that the buildings will be professional office buildings with the parking underneath and that it would also depend on the square footage of the building, the use of the building.

Comments and Questions:

Ms. Ross stated that she would really like to hear from the potential tenant because she does not buy what has been told to the developer, or possibly the dentist, about what the business is; she thinks it is mostly tanning if it is what she saw on line. That falls well under a personal improvement designation and it is not an offensive business to have next to you like a tattoo parlor in some people's minds. It would impact traffic and the issue with that is there are four more buildings to be built, and then how would the Board say no to that type of use throughout the rest of the development. Ms. Ross stated she would not want to see a lot of personal improvement or retail type use in that little district in the future.

Mr. Bond stated the subject property is zoned OL and it has been zoned that way for a long time, and he does not want to ignore the neighbor's concerns. Mr. Bond thinks if the Board takes the applicant at his word and pose restrictions based upon what he has advertised he does not see one tanning bed, reasonable business hours as something that will be harmful. He does think the residents may win the battle but lose the war in trying to preserve the integrity of the neighborhood. What is being presented today does not look that bad. There are a lot of things that can be done by right without receiving approval from the Board of Adjustment. Mr. Bond encouraged any type of compromise the neighborhood and developer could attain, because it could look a lot worse.

Mr. Van De Wiele stated there are so many comments that are generic to any designation, i.e., traffic concerns, the crest of the hill. Certainly, there are zoning designations that would encourage or permit heavier traffic patterns. He does not think the type of use that is being suggested, if it is closer to what the applicant is presenting versus what was found on line, he does not see that as a tremendous traffic load. If there is a plan to cut the hill down it will be a massive inconvenience, but it will probably address those things. The subject property is pretty heavily wooded and to peek over into somebody's pool seems to be irrational to him. Anything could be built on the subject property and have floor to ceiling windows on the north side to enjoy the

serenity out the back window. If there is a methodology or a list of personal improvement services, and hours of operation and the days of week for operating he could support this request. Mr. Van De Wiele stated that a high traffic walk-in tanning salon is not something he would approve there. The Board does not typically limit approvals to certain tenants, so it would have to be very specific, because at some point the City loses the ability to monitor and police and enforce. Mr. Van De Wiele stated that there is a type of this use that he can support but he does not think he has seen it today.

Ms. Back stated that the applicant has stated that the tenant has said he would like to see services to compliment his services, so if that is the case that would make sense. This is a perspective tenant that has not even signed a lease yet, so if the Board drills down the stipulations based on the perspective tenant and they don't get the tenant then there are guidelines and rules for any future tenant, and that gives her concerns from the developer's side. She hears the neighbor's concerns and she is not too concerned about the use because a lot of the uses are allowed in medical. The Board is spending a lot of time on how to pigeon hole it when it really comes down to tanning beds. Why doesn't the Board just say, "no tanning beds"?

Mr. Van De Wiele stated the definition in the Code of personal improvement services is not an exhaustive list, because it does include things like today's request. There are things that are not on the list that would be personal improvement services.

Ms. Back asked why the Board does not go with the day spa uses and approve the space for day spa uses excluding tanning? If that is what the applicant is looking for.

Ms. Radney stated she does not have as much objection to the use and agrees that the hours of operation are relevant. She can understand the concerns of the neighborhood regarding the privacy screening issues. The point about the intensity is valid.

Board Action:

On **MOTION of BOND**, the Board voted 1-4-0 (Bond "aye"; Back, Radney, Ross, Van De Wiele "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a Personal Improvement Service in an OL District (Section 15.020), subject to conceptual plans 4.8, 4.9 and 4.10 of the agenda packet. The hours of operation are to be restricted from 8:00 A.M. to 5:30 P.M., Monday through Friday. There is to be no more than one tanning bed or tanning apparatus is to be permitted to be used at one time. Other restrictions on tattoos and piercings remain in place and are specifically not be allowed on the premises. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LOT 4 BLOCK 1, OFFICES AT HOLLAND LAKE, THE City of Tulsa, Tulsa County, State of Oklahoma

On **MOTION** of **BACK**, the Board voted 3-2-0 (Back, Bond, Radney "aye"; Ross, Van De Wiele "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a Personal Improvement Service in an OL District (Section 15.020), subject to conceptual plans 4.8, 4.9 and 4.10 of the agenda packet. The hours of operation will be 8:00 A.M. to 7:00 P.M., Monday through Friday. There is to be no more than one tanning bed or tanning apparatus in use. There is to be no tattoos, no piercings and no fortune telling. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LOT 4 BLOCK 1, OFFICES AT HOLLAND LAKE, THE City of Tulsa, Tulsa County, State of Oklahoma

22495—Ricky Jones

Action Requested:

Special Exception to allow the driveway widths for the entire subdivision to exceed 20 feet on the lot and 20 feet in the right-of-way in an RS-4 District to permit a width of 35 feet on the lot and within the right-of-way (Section 55.090-F.3).

LOCATION: Winchester Park Subdivision (CD 2)

Presentation:

Erik Enyart, Tanner Consulting, 5323 South Lewis Avenue, Tulsa, OK; stated Tanner Consulting did not do the original rezoning for the platting for Winchester Park, but were engaged to do a rezoning application to assist with the open space. Tanner Consulting was guided by staff to rezone to RS-4 which was done with an optional development plan that tightened it down to RS-3 zoning standards in some respects. The zoning code will still require that the driveway widths be restricted to RS-4 zoning requirements. Tulsa City Council has approved a zoning code text amendment that will go in affect September 18th. In the interim he is requesting the Board's approval with a Special Exception that aligns with the new City Zoning Code standards for the subject subdivision. The lots are 65 feet wide and that will allow for a 32 foot wide driveway in the side lot and 28 foot driveway width in the right-of-way.

Ms. Back left the meeting at 3:49 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Ms. Back re-entered the meeting at 3:52 P.M.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow the driveway widths for the entire subdivision to exceed 20 feet on the lot and 20 feet in the right-of-way in an RS-4 District to permit a width of 30 feet on the lot and 28 feet within the right-of-way (Section 55.090-F.3), subject to the conceptual plans shown on the plat in the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

All of Winchester Park, a Subdivison in the City of Tulsa, Tulsa County, State of Oklahoma

22496—Andrew Lawson

Action Requested:

Special Exception to allow for a bar within 150 feet of an R District (Section 15.020-G); Verification of the 300-foot spacing requirement for a bar from public parks, schools, other bars, religious assemblies, and sexually oriented business establishments, and the public entrance doors 50 feet from an R-zoned lot (Section 40.050). **LOCATION:** 6 South Gillette Avenue East & 2224 East Admiral Boulevard (CD 4)

Presentation:

Ed Sharrer, Executive Director for Kendall Whittier Main Street, 2205 East Admiral Boulevard, Tulsa, OK; stated the Lawsons would like to convert the historic Phillips 66 station #473 to a patio bar. They appreciate the history of this property and will name the bar 473. The property has historically consisted of two lots and the southern lot use to have a Craftsman house that was modified to include auto repair inside, and it has since been demolished. There will be a small bar inside the historic Phillips station and will have a seating area outdoors on a patio that will be covered, and climate controlled as much as possible. The bar will be a wine and cocktail bar with local craft beers. The application meets the spacing requirement of 50 feet from an R zoned lot. The properties that are immediately to the south are zoned OL and those lots are 50 feet wide, so the spacing requirement is met. There are some properties located within a 150-foot radius and a 300-foot radius. There are no uses that would require additional spacing. There are no schools, churches, or other bars within 300 feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing for the proposed bar subject to the action of the Board being void should another conflicting use be established prior to this bar, per Exhibit 6.8. I move to **APPROVE** the request for Special Exception to allow for a bar within 150 feet of an R District (Section 15.020-G), subject to conceptual plan 6.9 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 2 BLK 21; LT 1 BLK 21, GILLETTE-HALL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Miller left the meeting at 4:01 P.M.

22499—Ryan Strode

Action Requested:

Variance of the minimum street setback requirement to permit an unenclosed accessory parking area (Table 55-4). **LOCATION:** 1408 South Harvard Avenue East (CD 4)

Ms. Miller re-entered the meeting at 4:04 P.M.

Presentation:

Ryan Strode, 4329 East 56th Place, Tulsa, OK; stated this is an existing building located at 1408 South Harvard. There will be changes made to the exterior other than some windows will be installed. There will be no changes made to the parking lot. The owners would like to eliminate the landscaping requirements on the 14th Street side of the building. The situation is either the landscaping requirements can be met, or the parking requirements can be met, but not both because of the limited size of the lot.

Mr. Van De Wiele asked Mr. Strode what triggered the need to request a Variance if nothing is being changed. Mr. Strode stated the permit for remodeling the building.

Mr. Strode stated there will be a fence erected in the back to shield the property from the adjacent property as much as possible.

Interested Parties:

Kara Folkins, 1435 South Gary Place, Tulsa, OK; stated there is quite a difference in the use of the property because it will become a restaurant. That change of use is what is changing the need for the parking and landscaping to change if she understands the Code correctly.

Mr. Van De Wiele stated that and maybe the combination of the building permit, but the property is zoned CH.

Ms. Folkins thinks the parking being on 14th Street may increase the safety concerns for people. Mr. Van De Wiele stated there is not a request before the Board today regarding the parking. How a building is used dictates how many parking spaces are required. Whatever the 4,500 square foot building is intended to be used for is satisfied by the 14 parking spaces on the lot.

Rebuttal:

Ryan Strode came forward and stated that there are several other high traffic businesses on Harvard, where they either had to meet parking or meet the landscaping requirements. Right across the street there is no landscaping. The subject property will meet the landscaping requirements adjacent to Harvard because there is room to do so.

Questions and Comments:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for **Variance** of the minimum 15-foot street setback requirement to permit an unenclosed accessory parking area with five parking spaces along East 14th Street (Table 55-4), subject to conceptual plans 7.15 of the agenda packet. The Board finds the hardship to be the topographical limitations and the nature of the subject property. The Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;

- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

LTS 1 & 2 LESS E15 THEREOF FOR ST BLK 12, EAST LAWN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22500—Wallace Engineering – Mike Thetford

Action Requested:

Special Exception to permit low-impact manufacturing and industry in the CBD District (Section 15.020). **LOCATION:** 9 West Mathew Brady Street North (CD 4)

Presentation:

Lou Reynolds, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated he represents the applicant, Baird Valve Company. There are several industrial zoned properties within the vicinity. Baird Valve has been operating in this location since 1936. Baird is the company that made Tulsa the oil capital of the world after the oil left; they have been the gold standard of valves, seatings, fittings, and parts and are recognized for their quality in the industry. They bought the subject property in 1973 and on the western portion of the property was the John Martin Manufacturing Company, a competitor of Baird's. Baird plans to continue what they have been doing and would like to expand the use a little. At this time Baird owns 23 lots in this downtown area. Where Guthrie Green is located Baird sold that block to GKFF for Guthrie Green. To the north of that Baird sold most of the block to Griffin Communications where Channel 6 was relocated to. Baird owns the property across the street from Griffin Communications and spent \$500,000 on an exterior update and updating the parking area. Mr. Reynolds had pictures placed on the overhead projector showing the subject location area and explained what is there today, including the subject old gas station, and explained what is owned by Baird. Mr. Reynolds stated the open space of the subject lot is fenced in because the gas station was inspected and has been declared unsafe, and contractors have stated that the station is beyond repair; the demolition of the structure is not before the Board today and it is not the issue. The conceptual site plan shows a building that just shy of being 4,000 square feet with a brick façade and a concrete wainscot that will match the area and tie into the Brady District. There will be trees in planters along Brady. Mr. Reynolds respectfully requests the Board approve this request.

Mr. Van De Wiele asked Mr. Reynolds if the three- or four-story building was existing. Mr. Reynolds answered affirmatively. Mr. Van De Wiele asked Mr. Reynolds how much of the site picture is new and how much is old. Mr. Reynolds stated that there is a façade with building behind it. Mr. Van De Wiele asked Mr. Reynolds why the applicant

did not rezone the property to IL. Mr. Reynolds stated that two or three years ago Baird rezoned the property to CBD from IL under advice from another party, because of the ownership of Ida Red thus eliminating parking issues in respect to Ida Red. When Baird changed the zoning, they were not thinking they were zoning it against their use that they were utilizing for the existing building.

Mr. Reynolds stated that Baird is an unusual industrial activity because it is very technical, but it is not very industrial. Pick up trucks move the product in and out of the alley not large 18-wheeler trucks. The reason for today's request is because of a gaff. When they rezoned all of their property they could have carved out the Ida Red piece but did not. The design of the building is to have the commercial façades and convert them if the building ever became available for a commercial demand using the proposed store front windows for doorways. Mr. Reynolds stated that one day the applicant thinks the property will be commercial use and is building the proposed building to convert to it.

Mr. Van De Wiele stated that the small gas station is what the Board is going to hear about and he asked if his client had a report stating the little gas station building is beyond repair. Mr. Reynolds answered affirmatively. Mr. Van De Wiele stated he read in an e-mail about historic registry referencing the small gas station. Mr. Reynolds stated the little gas station is not on the registry of historic places. The district has a historic concept and it could be registered, but it is not historically registered and has not been.

Mr. Reynolds stated that Special Exceptions have been approved in the CBD District. The applicant has designed the plan to fit into what is there, and the demolition of the little gas station has nothing to do with the use. If the building were taken down tomorrow the use would still be happening because it is grandfathered in. Baird is very invested in the regrowth of the area and have been for a long time.

Interested Parties:

Victoria Schulz, 1715 South Troost Avenue, Tulsa, OK; stated she is a life long resident of Tulsa. She realizes that it is so common in the day and time that we live to have the outlook that when someone owns a property he should be able to do or build what he wants. Unfortunately, that way of thinking has cost Tulsa dearly. The downtown area is full of parking lots that were former historic buildings, some were beautiful Tulsans are still fortunate to have the Mayo. The Blue Dome was a gas station and it is unique, and it is historical. Tulsans now see the value of preserving something as simple as a former gas station. Ms. Schulz stated that there are very few original buildings left in the East Village. The beautiful and unique East Second Library came to a point that it needed repairs and it was also told that it was not repairable. The call was made to tear down the library instead of repairing it thus preserving that historic library. All that remains of that library is cupola and ironically it stands in front of the Tulsa Historical Society. Tulsa's lack of preserving or not repairing old buildings, whether they are historic or in a historic area, needs to stop. The City of Boston would not be what it is today, but it is a city with heart and a determination of preservation.

The owner of this property will not always be the owner. The bigger picture should be what is the best and better for this historic part of downtown for years to come. She would ask the Board of Adjustment to see the bigger picture and ask them to put together to purchase this property from this owner because Tulsans see the bigger picture and it is not a parking lot.

Shane Hood, 4919 East 26th Place, Tulsa, OK; stated that first Tulsans have to thank Baird because they have been in Tulsa for 93 years. They are responsible for a lot of what has happened in the arts district. Mr. Hood stated he is in opposition of granting the Special Exception. The Special Exception would result in approximately a 4,000 square foot expansion of an existing facility to house additional CNC machines that are used to manufacture small scale oil and gas regulators, valves and other small parts for Baird. This expansion would result in the demolition of the existing structure at the corner of Brady and Main. Low impact manufacturing is a tricky use when it comes to appeasing the masses. The list of possible low impact manufacturing uses in the Zoning Code reads like a laundry list of desirable types of potential development in a district like the arts district; bakery product manufacturing, micro-breweries, micro distilleries, coffee roasting, and musical instrument manufacturing. That definition seems to describe main street which is what is being discussed right now; Prairie Artisan Ales, Antoinette's Bakery, Chimera Coffee, Tulsa Violin Shop. Proposing a Special Exception for these uses excites the neighborhood and excites the people in Tulsa. On the other hand, the definition encompasses a lot of uses that elicits a completely different response from the citizens. The area in question is zoned the Central Business District, CBD, and the purpose of the district according to the Tulsa Zoning Code is to accommodate and encourage the most desirable, most productive, most intense use of land without regard to the regulation, building height, floor area, land coverage and parking requirements all the while preserving and promoting the public and private investment of the existing central core area. The definition/purpose of CBD zoning promotes but also allows one to question in a circumstance like this whether a proposed use or Special Exception is the most desirable or the most productive in whether it promotes the public or private investment in the area. In this case we must take the determination that the demolition of an existing building, an approval of a Special Exception request, and the subsequent expansion of an existing manufacturing facility would be the most desirable outcome for this corner. According to 2012 Arts District Small Area Plan, which was created in conjunction with the City of Tulsa and as part of the Brady Planning Group the arts district is an area where property owners have chosen to rehabilitate warehouses and commercial structures for new uses. The district is known far and wide as an arts, music and entertainment district with distinct historic character. A renewed interest in housing close to downtown has prompted developers to see the arts district as a prime area for residential investments. The success of developments over the past decade, such as the Guthrie Green, Philbrook Downtown, the Woody Guthrie Center have led to the area becoming the future home of the Bob Dillon Center and the OK Pop Museum. This coupled with existing assets, such as, Cains Ballroom and the Brady Theatre in the arts district, has the arts district positioned to become a world-wide destination as the headquarters of Americana music in the future. The character of the arts district could be described as

informal, creative, historic and urban in its active day and evening. Workers, visitors and residents comfortably interact on the street; they tend to their shops, enjoy a meal, shop and engage in conversation. The Small Area Plan was developed to foster an active pedestrian friendly mixed-use neighborhood boasting a historic feel and identity as an arts and entertainment destination. The goals of these plans includes creating and maintaining a historical and aesthetically distinctive area through the preservation and restoration of historic structures and other assets. A specific action item in the Plan was to establish a nationally registered historic district as recommended by the owner's association, the City of Tulsa, and the Oklahoma Preservation Office. As the center of the oldest existing commercial area of Tulsa this district was placed on the National Register of Historic Places almost exactly eight years ago, September 3, 2010. The Brady Historic District encompasses 37 commercial, industrial and mixed-use buildings of predominately utilitarian brick nature in an eight-block area dating back to 1906. One of these brick buildings is the gas station located on the northwest corner of Brady and Main. The building was built in 1925, was a Texas Company Filling Station #5 and later known as Texaco, and it actually predates the Blue Dome by a year. The filling station is a direct link back to the area when Tulsa was the oil capital of the world and is linked to the history of Tulsa. It also bookends the only intact original section of Main Street left in Tulsa. Both sides of Main Street, between Brady and Cameron, are the original buildings from the 1910s and the 1920s. Once the building is gone Tulsa loses that distinction forever. Per the Downtown Master Plan historic and architecturally significant buildings should be rehabilitated and leased to new tenants as the highest preference. Mr. Hood believes there is still room for manufacturing in the arts district but when that requires a request for a Special Exception to change the allowable use in a district and results in the demolition of a historic asset and forever alters the character of a historic district than it should not be taken lightly. Instead of worrying whether or not the new proposed manufacturing would be low decibel, clean and completely closed off from public sight, smell or sound we should be developing uses in this area, and specifically this corner, that are open to public view, have direct impact on sight, smell and sound. That is what makes a successful arts and entertainment district. That is what is fuel to revitalization of this particular district. Decades of planning and solid road maps, like Tulsa's Comprehensive Plan, the Arts District's Small Area Plan, Tulsa's Zoning Code, and the Downtown Tulsa Master Plan should not be ignored and rendered obsolete by granting a Special Exception for use. That would be in direct opposition of the stated goals and desires of the neighbors, the district, and the City. The Board should find that the requested Special Exception is not in harmony with the spirit and intent of the Code because it will be injurious to the arts district and detrimental to the welfare of the City of Tulsa in general.

Mr. Van De Wiele asked Mr. Hood how a balance is struck in wanting to keep the historic buildings versus at a point when they become too dilapidated to be repaired. Mr. Hood stated that his experience with the comment "too far beyond repairs" is really not the truth. The biggest tool developers have is historic tax credits, and that is something that can be used in projects like this. Mr. Hood stated there are many examples of this exact type of situation in multiple different cities. Mr. Hood stated he also understands business and how this works. The City of Tulsa has no real teeth to

protect any building, and the owner of this building could raze it with no problem. So what citizens do is come to these meetings and make a case for preserving and following the studies and what is preference for the City of Tulsa. Mr. Hood stated he moved here about 15 years ago, and what he has seen is that a lot of money is spent developing plans, doing studies, looking at things like this, seeing that the best use for this is area is to preserve it and restore it or rehabilitate it. At the same time the City says to tear it down. Mr. Hood stated he was on the Tulsa Preservation Commission for a year and it was a frustrating situation because people found they could just wait things out and do whatever they wanted to do. Mr. Hood stated that he thinks it is important to be here today and say something.

Mr. Van De Wiele asked Mr. Hood if his issues was more of the use or more of the tear down. Mr. Hood stated that there is issue with both of them. There is a missed opportunity to develop that corner because it could be an amazing vibrant corner. The flip side of that is if it becomes an additional 4,000 square feet of manufacturing because the corner then becomes dead. He appreciates the idea of designing infill that can have flexibility in the future so that can become commercial at some point without stipulation that it becomes commercial in the next four or five years.

Mr. Van De Wiele asked Mr. Hood if the proposed expansion were built and leased out as a bar, restaurant or commercial use would he have the same concerns he has today. Mr. Hood stated his concern would be the original building. He thinks the original building with the right vision has more opportunity than the proposed expansion.

Ms. Ross stated that Mr. Reynolds has stated that Baird has been there since 1936 and that was not an arts district back then but a thriving manufacturing business. Throughout the years she has heard that they have given land, leased buildings, and done a lot to make the district what it is today. She is having a hard time saying too bad to a business that has been there for almost for a 100 years because it would be better suited for a bar or restaurant. Mr. Hood stated he thinks we are dealing with the Code, the Zoning Code states it best. Mr. Hood believes what the Board is being asked for is injurious to the neighborhood. And the Board is also being asked what is the best use for the corner? What is the desired use for the corner? That is what has to be addressed. There is so much to be thankful for, for what Baird has done and the development that has happened in the area. Ms. Ross stated the property is not for sale but there still has to be a viable buyer for the corner to be different.

Ms. Radney asked Mr. Hood how integral this corner is as it relates to the planning of the area. Mr. Hood stated that if you think about the arts district that corner is the welcoming point. There is the tavern on one side and this original building on the other side. It is the gateway to Cain's Ballroom. It is where that stretch begins. It is important to have activity on both sides of the street because it pulls people from one block to the next, across and over to the Brady.

Ms. Radney asked Mr. Hood if the CBD zoning that the corner already has would be exactly what it would need in order to be successful. Mr. Hood answered affirmatively.

Ms. Radney stated therefore the CBD zoning would not seem like an error, it would seem like visionary insight.

Ms. Back stated the area was actually IL originally, and it was rezoned to CBD in 2016 by Wallace Engineering, and the reason behind that was because of the apartment above Ida Red. There cannot be apartments in IL zoning, so the CBD was taken to the corner which would have taken it to the gateway that was mentioned.

Blake Ewing, 175 East 2nd Street, Tulsa, OK; stated that the Downtown Master Plan was developed by downtown stake holders over a course of a year around 2010. The Downtown Master Plan says historic and architecturally significant buildings should be rehabilitated and leased to new tenants as the highest preference. New uses should be sought for historic buildings. They may no longer function in their original design and alternately industrial buildings can find new life as creative office, commercial or mixed-use spaces. New development should enhance Tulsa's historic character. Buildings should have a significant amount of transparency and connectivity at the street level which is important. The Urban Design section says new parking lots should be discouraged. New parking lots, if allowed, should only be located at the rear of buildings or on the side of buildings in rare instances. Where a parking lot abuts a sidewalk there is to be a visual screen or a landscaping buffer between the parking lot and the sidewalk. It is important to listen to the public. The Downtown Master Plan was created by the people of the City of Tulsa in coordination with the PlanIt Tulsa, so it was a product of a collaborative community effort to say what kind of downtown the citizens want to create. Mr. Ewing agrees with Mr. Hood's sentiments because there are very few in the community as capable of speaking about architecture and development in downtown. This is a two-point issue. The building matters but also the zoning matters and the uses matter. Downtown is the highest density part of the community. It is a place built for people. Cities that thrive and downtowns that thrive do so because they think about the human experience first. Mr. Ewing acknowledges the history of the subject district and the variety of uses the public has seen over time, he thinks it is important as decisions are made today that things are being pushed through the filter of which decision impacts the people on that street, and how will the citizens on those streets benefit from these decisions. While he addresses the use, it is the manufacturing use while valuable to the local economy and an important part of the history of the district it does not best contribute to the human experience in that district. Maybe at no other intersection in the city is the human experience as important as it is at the corner of Main and Brady. Mr. Ewing stated that people will always hear about the cost or the structural soundness of a building, but often when an owner does not want to do the work of preserving a historic building the convenient declaration is made that the building is unsound and not savable. Downtown is full of examples of former structurally unsound buildings that have been saved and are now contributing greatly to the vibrancy of downtown Tulsa. Building new things says something great about a community. Every time a building goes up it does something positive for the fabric of the community morale. Nothing tells the story of who Tulsans are better than when the citizens reinvent. Mr. Ewing stated that he appreciates the property owner and their contributions to what has gone on in the district, and they have been willing in the past

to partner with the visionary redevelopers to take the old buildings that were seemingly past their prime and breathe new life into them. His encouragement on behalf of the people that elected him is to ask the Board to deny this request.

Ms. Radney asked Mr. Ewing if the change in zoning would be injurious to the residents above Ida Red. Mr. Ewing stated he has no concerns about the noise or the smell or the things that come with manufacturing, his concern is when land use decisions are being made in general inside the downtown area we should always think first about what is being done with the property and how it affects the neighborhood as a whole. This is too important of a district and that is too important of a corner to give up the opportunity for what CBD zoning allows, which is uses that are compatible with the human experience.

Ed Sharrer, 1719 West Easton Court, Tulsa, OK; stated the property owner's presentation did not put too fine a point on this by saying the property could be made into a parking lot. The fact that it could become a parking lot if the Special Exception is denied indicates to him that perhaps the owner does not really need the space for their manufacturing. Mr. Sharrer feels as though this body is being asked to provide a little bit of political cover for the demolition of the structure. If the Board approves the Special Exception then the owner can expand their space and tear down the historic gas station, and if the Board does not approve the Special Exception then the owner is on his own for if and when they apply for a demolition permit. Mr. Sharrer stated that in his work with Kendall-Whittier Main Street there have been 41 new businesses move into the district, 30 that have moved in within a block and a half of Admiral and Lewis, and this year the doors were opened on a building that was burned out and it is now productive use because it was completely rehabbed. Certainly, on the most desirable corner of the Tulsa arts district at Main Street and Brady this property could be salvaged using historic tax credits just as any other property that has been revitalized. The historic structure should be saved. It is the last block Tulsa has left that is intact and the oldest part of the City from the day it was founded. There would be plenty of people that would be happy to put a use in that space. Mr. Sharrer stated the Special Exception really comes down to the use of the structure; there could be future plans. He appreciates the rendering of what it could be in the future, but this would be a missed opportunity. Mr. Sharrer feels that denying the Special Exception at least takes the expediency out of tearing down the structure, and to go back to the drawing board like they have done so many other times.

John Beasley, 2418 South Louisville, Tulsa, OK; stated the arts district is the go to place these days for him and his family. Being a life-long resident of the area, he has seen many changes and many positive changes over the past six to eight years in the subject area. This is the oldest intact block on Main Street and for it to have lasted for more than 90 years for it to end today would be a shame. He recognizes that the owner can still raze it, but he would urge the Board to be cautious because the decision today to grant the Special Exception would guarantee the destruction which is something that could be regretted someday. If the Board denies the Special Exception the Board will not regret their role in helping preserve this historic corner.

David Wilson, 127 East 57th Street, Tulsa, OK; stated he has worked on the corner of Main and Brady in the manufacturing plant since he was 26 years old, and he is now 65. The owner of the company is now 94 years and he would be embarrassed to say that he was a visionary, but he feels very strongly that he was. The things that he has done, when he owned almost half of the buildings in the Brady District, to promote everything that has happened there has been simply astounding. One way, it is astounding that he purchased derelict buildings when there was nothing but about 80 drunks on Main Street. Where the Tavern Restaurant is located used to be the Probst Liquor store and they sold more Night Train wine than any other liquor store in the United States; that was the kind of problem there was in the Brady District. Despite this, John Martin, an inventor that worked for Continental Oil Company, built the subject building in 1936 and he lived in the Mayo Hotel his adult life and he died in 1973. Mr. Tipsword, who had been in the gas tubular business, had accumulated enough wealth to purchase John Martin Manufacturing. That little building produced enough profit since 1980 to purchase everything purchased in the Brady District without a bank loan. This proposal will be a million-dollar addition and the reason it will be a million dollars is because of the detail in the building. The company does not intend to be on the corner for more than five or six years. Soon to be announced, will be that GKFF is going to build 400 apartments where the Western Supply building is located. WPX has plans for the area also. Both of these projects will take four to five years to develop. The mass of people, 400 to 600 employees, 400 apartments, is going to create a demand for services and things that are not in the Brady District now. There is probably an additional \$300,000 into the building with the store fronts with the brick bases, whether it is converted to one tenant or three tenants, the property will be converted into retail space with very little expenditure and be done quickly. Mr. Wilson knows that everyone loves the gas station, and he hates the fact that the gas station is only 400 square feet, is in such terrible shape because it is too old, it has served its purpose and it has not been a gas station since the 1950s, the gas station could be taken apart brick by brick and completely rebuild the gas station to how it looked for a price of about \$200,000 to use it as a 400 square foot retail space. The owner wants to use the space for manufacturing for the next four to five years until the demand increases then all the manufacturing will be moved from the John Martin building and what is behind that, and the property will be leased out for retail space. The retail space will do what everyone is asking, to draw people in. Mr. Tipsword grew up near the Brady District and threw papers in the Brady District in the 1920s and the 1930s, so he knows the area. Mr. Wilson asked the Board to consider the owner's vision for the area and grant the Special Exception.

Amanda DeCort, 1324 South Indian Avenue, Tulsa, OK; stated she is with the Tulsa Foundation for Architecture and was formerly was with the City of Tulsa Historic Preservation program for about ten years. She moved to Tulsa in 2005 to head up the City's historic preservation program, and in 2005 the sidewalks were being rolled up at 4:30 so everyone could beat it out of downtown. At that time Tulsa had just torn down the historic Skelly building for a surface parking lot, Trinity Episcopal had torn down a historic parking structure to put in a surface parking lot, and preservation was not something that was really done. A lot has changed since then, and she hopes things do

not go backwards. In 2010 the Brady Village owner's association wanted to list their district in the national registry of historic places, they actually put some of their TIF funds toward that effort and worked with her to list the Brady historic district in the national register, and the gas station is a contributing building. This block is the last block of Main Street that has all its historic buildings intact on both sides of the street. Ms. DeCort stated that she is hoping this will not become another victim. The owner's association and the merchant's association and everyone who participated in the Small Area Plan, and Baird Manufacturing was involved in those plans, she appreciates everything they did for the district. Preservation and adaptive reuse of existing buildings don't have to be mutually exclusive, and she knows the plans that were adopted by the City calls specifically for the retention and adaptive reuse of historic buildings whenever possible. Ms. DeCort stated that she hopes the Board of Adjustment today stands by the plan, the plans that everyone worked on. This is the oldest gas station in Tulsa and it is a national register listed historic property. Ms. DeCort respectfully requests that the Board does not grant the Special Exception.

Rebuttal:

Lou Reynolds came forward and stated the first thing he learned in doing public service is that no good deed goes unpunished. The Brady District is planned for historic purposes, but the gas station building has not been registered with the National Registry and is not on the register and it can be removed. The plan says industrial use is consistent with the historical past of the Brady District and with the intent of the Comprehensive Plan and the Brady Small Area Plan. The Small Area Plan points out that the creative and industrial production happening side by side is a unique signature of the area. The Board has to be mindful of that and there is plenty of support for what is being done here. The Plan is not applicable in its detail, it is what the Zoning Code says, and the Zoning Code is looked to for what is the standard for a Special Exception. The gas station structure is not the issue, it is not at all part of what is happening. Manufacturing was going on when the apartments were built. The manufacturing has no impact on the apartments. There is not an adverse impact. The highest and best use is what happened in John Martin Manufacturing, it bought nearly six blocks of the Brady District from that one building. That is the quality and nature of what goes on here. The owner has not chosen to avail himself of historic tax credits because it will not make a difference to the property. The issue gets down to the standard for the Special Exception. The request is not injurious to the neighborhood, it is not detrimental to the public welfare because there is no public welfare negatively impacted by the use because the use is not the taking down of the little gas station, and it is in harmony with the spirit and intent of the Zoning Code. This is a permitted use subject to a Special Exception in this zoning district. This is simply business.

Mr. Van De Wiele stated that he thinks the question may be whether this area is on the historic registry as an area or is the building in and of itself?

Mr. Reynolds came forward and quoted, "contributing resources do not retain sufficient integrity to individually merit register listing", so the building is not listed as national

registered type property. There is nothing to prevent the building from being razed. There is no restriction on razing a building.

Ms. Radney stated that she understands that in order to escalate to be designated as a historic structure the owner would actually participate, so this particular owner has a property that has been designated as eligible to be elevated and has actually decided not to. Mr. Reynolds stated that is not correct. It has been found that it is a contributing structure. The owner could register the contributing structure on the National Register of Historic Places, but it has been chosen not to.

Comments and Questions:

Mr. Bond stated the Board does not have the power to stop the destruction of this building, if the Board did he would be one of the first people to try and stop it. What the Board is here to decide is whether to permit a low impact manufacturing industry in the CBD District. This area was zoned CBD, rightly, wrongly, whatever the intent was that is what happened. He is not willing to take two steps forward and one step back. The Downtown Master Plan harkens back to not the 1980s when this part of downtown was a blight on Tulsa, it is going back farther than that when this was a downtown neighborhood. That is what downtown is trying to get back to. The question the Board has to decide is do we allow a Special Exception to permit low impact manufacturing. He does not believe this type of light industrial manufacturing has any place in a downtown neighborhood. He appreciates what the company has done but it is not the Board's job to try to preserve a market condition for them, so they can get \$60 a square foot.

Ms. Back stated that once the Board approves a Special Exception it goes in perpetuity with the land, so if the Board approves this the low impact manufacturing the property would still have the Special Exception to be utilized on the property. Ms. Back stated that she looked at this carefully and she believes Wallace Engineering rezoned the subject property at the client's request, and the property is one lot of record. So, when the property was rezoned it is a lot of record that was rezoned. The Board cannot save it and it is not something they are tasked with. Ms. Back believes that CBD is the better zoning for the subject property, and it lines up with the Downtown Master Plan. Ms. Back stated she cannot support this request.

Ms. Ross stated that she disagrees with Mr. Bond and Ms. Back respectfully. What she heard was that this was an IL District until 2016, and that Baird voluntarily made the property part of the CBD District, so they could accommodate Ida Red and the apartments, which were both properties that owned and leased or sold to make the area a more thriving area. If Baird had not sold or leased the properties, they have to date in the area there would be no talk of a Brady Arts District because it would be nonexistent. If Baird had known that the CBD District went to the corner Ms. Ross does not think they would have done that voluntarily because it is property that is attached to their manufacturing facility that was still operating. She understands the gas station has historic significance, but she thinks the plans are not injurious to the neighborhood. She thinks it is smart of Baird to build the proposed building out in a commercial way so that

it can be turned into retail five or six years in the future. Ms. Ross stated if the building is erected then in five or six years it will be a thriving corner, but it will not if the station is razed and it becomes parking lot. Ms. Ross stated she can support this request.

Mr. Bond stated that he does not think the Board should be in the habit of allowing light industrial uses inside what is now becoming a vibrant downtown neighborhood.

Ms. Back stated that it is her understanding that Baird never operated or ran manufacturing on the Ida Red and the gas station site, that was not a part of their manufacturing though they did own the land.

Ms. Radney stated that she thinks the issue at hand is the change in use from CBD back to light industrial. She believes that Baird made a sound investment in the area, and the payoff for that change of use is echoing all throughout the district today. She does not necessarily understand the logic from the manufacturer wanting to return to a type of zoning and a type of use that to this point has not generated the kind of growth and activity that the City is seeing now, and it does not align with the Comprehensive Plan. The exhibits are very compelling, and this was a very good argument obviously had thought about the shift, and they were not capable of making an error in terms of the boundaries. It was thoughtful, and they have changed their minds and their intentions for the use of the property. Ms. Radney would hate to see the little gas station go but she does not think that at the end of the day she would not support the structure on the corner. It is taking a corner that is a walkable, engageable corner and is turning it into a hard corner that is inconsistent with the direction of the rest of the district. The district has developed in that way because there is a Comprehensive Plan and because of the CBD zoning. To put a halt to that is more than just about \$45 a square foot or \$60 a square foot, it is about all the other investors in the district who have made commitments mindful of the direction that the district is going in. This is a retreat and for that reason Ms. Radney stated she cannot support this request.

Mr. Van De Wiele agreed that Board does not have the authority to stop the razing of the little gas station, and he does not know of anyone that has the authority to stop the razing of the little gas station. He thinks if the Board approves the requested use it would necessitate the removal of the structure, and the removal of that structure would not be in harmony with the spirit and intent of the Code and could be injurious to this neighborhood. For that reason, Mr. Van De Wiele stated he will not support this request.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Back, Bond, Radney, Van De Wiele "aye"; Ross "nay"; no "abstentions"; none absent) to **DENY** the request for **Special Exception** to permit low-impact manufacturing and industry in the CBD District (Section 15.020). The Board finds the requested Special Exception will not be in harmony with the spirit and intent of the Code, and will be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**S30 LT 2 & ALL LT 3 LESS E50 S30 LT 2 BLK 29, TULSA-ORIGINAL TOWN, City of
Tulsa, Tulsa County, State of Oklahoma**

OTHER BUSINESS

None.

NEW BUSINESS

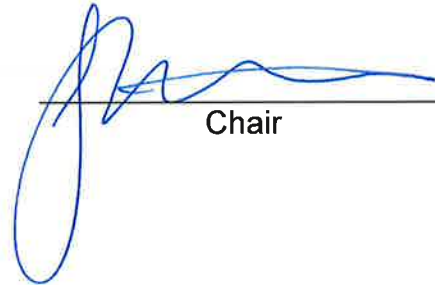
None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 5:46 p.m.

Date approved: 9/25/18



Chair