

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1231
Tuesday, June 25, 2019, 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 Bond, Vice Chair Ross, Secretary Radney Shelton		Wilkerson Chapman Sparger K. Davis	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on June 20, 2019, at 8:06 a.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.

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

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **APPROVE** the **Minutes** of the May 28, 2019 Board of Adjustment Special meeting (No. 1229).

UNFINISHED BUSINESS

22652—Robin Stanley

Action Requested:

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

LOCATION: 6026 South Memorial Drive East (overall parcel) – 6024 South Memorial Drive East (*tenant space*) (CD 7)

Presentation:

The application has been withdrawn by the applicant.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

PRT LT 1 BLK 1 DEBORAH ADD & PRT LT 13 BLK 1 THE FALLS ADD BEG NEC
LT 2 BLK 1 DEBORAH ADD TH N137.02 W233.63 S287 E75.29 N150 E160
POB,THE FALLS, DEBORAH ADDN, City of Tulsa, Tulsa County, State of
Oklahoma

NEW APPLICATIONS

22661—City of Tulsa – Tulsa Parks – Jackie Bubenik

Action Requested:

Special Exception to permit a parks and recreation use in an AG District (Table 25-1). **LOCATION:** 7301 South Riverside Drive (CD 2)

Presentation:

Staff requests a continuance to July 9, 2019.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a Special Exception to permit a parks and recreation use in an AG District (Table 25-1) to the July 9, 2019 Board of Adjustment meeting; for the following property:

A PART OF SECTION SEVEN (7), TOWNSHIP EIGHTEEN (18) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN AND A PART OF SECTION TWELVE (12), TOWNSHIP EIGHTEEN (18) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12; THENCE NORTH $89^{\circ}58'40''$ WEST ALONG THE NORTH LINE OF SAID SECTION 12, A DISTANCE OF 63.51 FEET TO A POINT;

THENCE SOUTH $0^{\circ}01'20''$ WEST PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 75.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF THE RIVERSIDE PARKWAY, SAID POINT BEING THE POINT OF BEGINNING.

THENCE SOUTH $9^{\circ}27'33''$ EAST ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 914.16 FEET TO A POINT; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF $29^{\circ} 20' 00''$, A RADIUS OF 1,348.24 FEET, FOR AN ARC DISTANCE OF 690.25 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF $1^{\circ} 01' 18''$, A RADIUS OF 44,789.56 FEET, FOR AN ARC DISTANCE OF 798.66 FEET TO A POINT;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY South $37^{\circ} 46' 15''$ East A DISTANCE OF 924.29 FEET TO A POINT;

THENCE South $52^{\circ} 13' 45''$ W, A DISTANCE OF 798.66 FEET TO A POINT;

THENCE South $37^{\circ} 46' 15''$ East, A DISTANCE OF 550.00 FEET TO A POINT;

THENCE North $52^{\circ} 13' 45''$ East, A DISTANCE OF 162.06 FEET TO A POINT;

THENCE South $37^{\circ} 46' 15''$ East, A DISTANCE OF 248.40 FEET TO A POINT;

THENCE South $82^{\circ} 46' 15''$ East, A DISTANCE OF 242.68.00 FEET TO A POINT;

THENCE North $52^{\circ} 13' 45''$ East, A DISTANCE OF 465.00 FEET TO A POINT

ON THE WEST RIGHT-OF-WAY OF RIVERSIDE PARKWAY;

THENCE CONTINUING South $37^{\circ} 46' 15''$ East ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 53.88 FEET TO A POINT ON THE NORTHERLY LINE OF BLOCK 20, "KENSINGTON" AN ADDITON TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF;

THENCE South $41^{\circ} 06' 06''$ West ALONG SAID NORTHERLY LINE OF BLOCK 20, A DISTANCE OF 359.52 FEET TO A POINT;

THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF $69^{\circ} 00' 00''$, A RADIUS OF 521.28 FEET, FOR AN ARC DISTANCE OF 627.77 FEET TO A POINT;

THENCE North $69^{\circ} 53' 54''$ West A DISTANCE OF 157.40 FEET TO A POINT;

THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF $43^{\circ} 30' 00''$, A RADIUS OF 1,100 FEET, FOR AN ARC DISTANCE OF 835.14 FEET TO A POINT;

THENCE NORTH $26^{\circ} 23' 54''$ West A DISTANCE OF 1,157.22 FEET TO A POINT;

THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF $13^{\circ} 49' 13''$, A RADIUS OF 599.98 FEET, FOR AN ARC DISTANCE OF 144.72 FEET TO A POINT;

THENCE North 12° 34' 41" West A DISTANCE OF 2,376.43 FEET TO A POINT, SAID POINT BEING 125.00 FEET SOUTH AND PERPENDICULAR TO THE NORTH LINE OF SAID SECTION 12;
THENCE South 89° 58' 40" East PARALLEL TO SAID NORTH LINE, A DISTANCE OF 149.05 FEET TO A POINT;
THENCE North 19° 17' 04" West A DISTANCE OF 52.98 FEET TO A POINT;
THENCE South 89° 58' 40" East PARALLEL TO SAID NORTH LINE OF SECTION 12, A DISTANCE OF 370.21 FEET TO THE POINT OF BEGINNING;

LESS AND EXCEPT A TRACT OF LAND CONTAINING 12.3131 ACRES (PUD 128-E-5 MINOR AMENDMENT) DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12; THENCE NORTH 89°58'40" WEST ALONG THE NORTH LINE OF SAID SECTION 12, A DISTANCE OF 63.51 FEET TO A POINT;
THENCE SOUTH 0°01'20" WEST PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 75.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF THE RIVERSIDE PARKWAY, SAID POINT BEING THE POINT OF BEGINNING.
THENCE SOUTH 9°27'33" EAST ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 914.16 FEET TO A POINT;
THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 08°13'31", A RADIUS OF 1,348.24 FEET, FOR AN ARC DISTANCE OF 193.55 FEET WITH A CHORD BEARING OF SOUTH 13°34'19" EAST FOR A CHORD DISTANCE OF 193.39 FEET TO A POINT;
THENCE SOUTH 80°32'27" WEST A DISTANCE OF 454.86 FEET TO A POINT;
THENCE NORTH 12°34'41" WEST A DISTANCE OF 1142.07 FEET TO A POINT, SAID POINT BEING 125.00 FEET SOUTH AND PERPENDICULAR TO THE NORTH LINE OF SAID SECTION 12;
THENCE SOUTH 89°58'40" EAST PARALLEL TO SAID NORTH LINE, A DISTANCE OF 149.05 FEET TO A POINT;
THENCE NORTH 19°17'04" WEST A DISTANCE OF 52.98 FEET TO A POINT;
THENCE SOUTH 89°58'40" EAST PARALLEL TO SAID NORTH LINE OF SECTION 12, A DISTANCE OF 370.21 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 2,341,048 SQUARE FEET OR 54.98 ACRES, MORE OR LESS, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present; Ms. Radney is stuck in traffic and is on her way. If you are on the first few cases on the agenda and would be more comfortable waiting until Ms. Radney arrives the agenda item can be moved further down the list.

UNFINISHED BUSINESS

22626—Barbara Carson

Action Requested:

Variance to reduce the required street setback in an RS-3 District (Table 5-3).

LOCATION: 252 South Quebec Avenue East (CD 4)

Presentation:

Barbara Carson, 624 South Denver, Tulsa, OK; stated that at the last meeting the case was continued in order to get an inspection or engineering report. As of this morning the report is being typed; the inspection is complete, but she does not have the report. Ms. Carson requested a continuance to the next Board of Adjustment meeting so the report can be reviewed and discussed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a Variance to reduce the required street setback in an RS-3 District (Table 5-3) to the July 9, 2019 Board of Adjustment meeting; for the following property:

LT 281 BK 1, RODGERS HGTS SUB, City of Tulsa, Tulsa County, State of Oklahoma

22651—Robin Stanley

Action Requested:

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

LOCATION: 8010 East 106th Street South (CD 8)

Presentation:

Robin Stanley, 8010 East 106th Street, Tulsa, OK; stated the facility will be located on the corner of the center next to Papa John's.

Mr. Van De Wiele asked Ms. Stanley if she was aware of any other dispensaries that have opened or are in the process of opening within the 1,000-foot radius. Ms. Stanley stated she did not know of any.

Mr. Bond asked Ms. Stanley how long she had been operating her dispensary. Ms. Stanley stated that she has been operating as a CBD store since July 2018, and she received her dispensary license in December 2018. She did not have any product legally available until late March 2019, and she did not stock any product until late April.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

**LTS 21 & 22 BLK 1, AVALON PARK ON MEMORIAL PRT RSB TRINITY ADD AMD,
City of Tulsa, Tulsa County, State of Oklahoma**

22659—Nathan Young

Action Requested:

Variance of the minimum lot width, lot size and open space requirement in an RS-2 District to permit a Lot Line Adjustment (Table 15-2). **LOCATION:** 124 East 26th Street South (CD 4)

Mr. Bond recused and left the meeting at 1:11 P.M.

Presentation:

Nathan Young, 11063 South Memorial Drive, Tulsa, OK; stated he purchased Lot 2 along with Lot 1, and at the time of purchase it was one single lot. There was an approved zoning clearance only permit for the property that stated when the existing house was razed the lots would revert back to the two original lots, Lot 1 and Lot 2, and that reverted each lot back to 50 feet wide. Mr. Young stated he obtained building permits for both lots, built two houses, received Certificates of Occupancy, and everything was done, but after the building permit for Lot 2 it was discovered that the

owner of Lot 3 had the right to Tract C via adverse possession. Basically, it was an encroachment on the property that had been there for over 15 years giving that landowner the right to it. Mr. Young stated he deeded that portion to that landowner and that causes the need for the Variance. Mr. Young stated he did not realize any of this until the title company for the buyer brought the issue forward.

Mr. Van De Wiele asked Ms. Blank if the open space and the lot size the issues with the little sliver of Tract C? Mr. Wilkerson stated the open space requirement was based on the entire lot of Tract B. This was a non-conforming lot and the non-conformity cannot be increased, which would be done by taking that away. The property has to go through the process of reducing the open space.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-0-1 (Ross, Shelton, Van De Wiele "aye"; no "nays"; Bond "abstaining"; Radney absent) to **APPROVE** the request for a Variance of the minimum lot width, lot size and open space requirement in an RS-2 District to permit a Lot Line Adjustment (Section 5.030, Table 15-2), subject to conceptual plan 5.10 of the agenda packet. The Board finds the hardship to be the taking of the additional space by adverse possession, and the fact that permits were issued to the owner in spite of the reduced lot size. 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:

LT 2 BLOCK 14, RIVERSIDE DRIVE ADDN THIRD AMD, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond re-entered the meeting at 1:19 P.M.

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NEW APPLICATIONS

22662—City of Tulsa – Tulsa Parks – Jackie Bubenik

Action Requested:

Modification of a previously approved site plan to permit improvements to Plaza Tract Park approved in BOA-16444 (Table 5-2). **LOCATION:** 1404 South 145th Avenue East (CD 6)

Presentation:

Jackie Bubenik, City of Tulsa Parks Department, 175 East 2nd Street, Tulsa, OK; stated the City is attempting to clean up language. The old plan was approved per plan; the City went through this several years ago and the City needs the plan approved per conceptual plan so park like amenities can be placed in the park.

Mr. Van De Wiele asked Mr. Bubenik if anything currently was being planned to be added to the park? Mr. Bubenik stated the playground will be replaced, the shelter, benches and similar items.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **APPROVE** the request for a Modification a previously approved site plan or conditions to permit future improvements to Plaza Tract Park that was originally approved as a part of BOA-16444 (Table 5-1), subject to conceptual plan 7.10 of the agenda packet and to include future modifications and improvements commensurate with park amenities, with no further Board of Adjustment approval required. The Board finds that the requested Modification 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:

PRT SE NE BEG SECR NE TH W1000 N550 E1000 S550 POB LESS BEG 679.11W
SECR NE TH W320.89 N550 E189.49 SE179.43 SW380.23 TH ON SELY CRV LF
242.83 POB 9 19 14 10.146ACS, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Radney entered the meeting at 1:21 P.M.

22663—City of Tulsa – Tulsa Parks – Jackie Bubenik

Action Requested:

Modification of a previously approved site plan to permit improvements to McClure Park approved in BOA-16866 (Table 5-2). **LOCATION:** 7440 East 7th Street South (CD 3)

Presentation:

Jackie Bubenik, City of Tulsa Parks Department, 175 East 2nd Street, Tulsa, OK; stated the City is attempting to clean up language. The old plan was approved per plan; the City went through this several years ago and the City needs the plan approved per conceptual plan so park like amenities can be placed in the park. The City will be replacing the playground and a couple of amenities in the park.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **APPROVE** the request for a Modification a previously approved site plan or conditions to permit future improvements to McClure Park that was originally approved as a part of BOA-16866 (Table 5-1), subject to conceptual plan 8.13 of the agenda packet, and to include future modifications and improvements commensurate with park amenities, with no further Board of Adjustment approval required. The Board finds that the requested Modification 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:

PRT S/2 SE BEG 334.78N SECR SE TH W1915.33 N30 W767 N954.34 E2641
S984.34 POB LESS TR BEG 343N & 60W SECR SE TH W15 N15 E15 S15 POB &
LESS W40 & LESS E60 & LESS N35 THEREOF FOR STS SEC 2 19 13
55.77ACS,VANCE RESUB L8 B1 & ALL B12 PAMELA ACRES, PAMELA ACRES,
City of Tulsa, Tulsa County, State of Oklahoma

22664—City of Tulsa – Tulsa Parks – Jackie Bubenik

Action Requested:

Modification of a previously approved site plan to permit improvements to Patrick Park approved in BOA-10255 (Table 15-2). **LOCATION:** 5123 East Dawson Road (CD 3)

Presentation:

Jackie Bubenik, City of Tulsa Parks Department, 175 East 2nd Street, Tulsa, OK; stated the City is attempting to clean up language. The old plan was approved per plan; the City went through this several years ago and the City needs the plan approved per conceptual plan so park like amenities can be placed in the park. The City will be replacing the playground, the shelter and other park like amenities in the park.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **APPROVE** the request for a Modification a previously approved site plan or conditions to permit future improvements to Patrick Park that was originally approved as a part of BOA-10255 (Table 5-1), subject to conceptual plan 9.13 of the agenda packet, and to include future modifications and improvements commensurate with park amenities, with no further Board of Adjustment approval required; for the following property:

NE NW SW & S/2 NW SW LESS APPROX .391ACS FOR DAWSON RD SEC 27 20 13 29.609ACS, City of Tulsa, Tulsa County, State of Oklahoma

22665—City of Tulsa – Tulsa Parks – Jackie Bubenik

Action Requested:

Modification of a previously approved site plan to permit improvements to Langenheim Park approved in BOA-17321 (Table 5-2). **LOCATION:** 4701 South Harvard Avenue East (CD 9)

Presentation:

Jackie Bubenik, City of Tulsa Parks Department, 175 East 2nd Street, Tulsa, OK; stated the plan has changed for Langenheim Park; the City is in discussion with the neighborhood. There will still be improvements, but it will not be per the plan the Board has; the plan will be modified. Mr. Bubenik stated that the City still requests that the

language be cleaned up from “per plan” to “conceptual plan” to give the City the flexibility to do park like amenities.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **APPROVE** the request for a **Modification** a previously approved site plan or conditions to permit future improvements to Langenheim that was originally approved as a part of BOA-8971 and BOA-17321 (Table 5-1), subject to conceptual plan 10.12 as modified and the modified plans which are to be approved by the City, and to include future modifications and improvements commensurate with park amenities, with no further Board of Adjustment approval required; for the following property:

LT 5 PATRICK HENRY VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

22667—Debbie Leonard

Action Requested:

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

LOCATION: 6914 East Admiral Place (CD 3)

Presentation:

Debbie Leonard, 3457 South 95th East Avenue, Tulsa, OK; no formal presentation was made by the applicant, but she was available for any questions from the Board.

Mr. Van De Wiele asked Ms. Leonard if her dispensary was named The House of Bud. Ms. Leonard answered affirmatively.

Mr. Van De Wiele asked Ms. Leonard if she was aware of any other dispensaries that are open or are in the process of opening within the 1,000-foot radius. Ms. Leonard stated that she does not.

Ms. Ross asked Ms. Leonard why her circle on her 1,000-foot radius exhibit veer to the right. Ms. Leonard stated she is not sure why, but that her dispensary is on one side of the building she is located in.

Ms. Radney stated that on the map The House of Bud appears in the center of the 1,000-foot radius circle but it looks as though the 1,000-foot radius does not reach out correctly.

Ms. Leonard stated that there is not another dispensary for about 1 ½ miles from her location.

Mr. Van De Wiele asked Ms. Blank if the Board can accept the verbal testimony from the applicant that there is nothing within the 1,000-foot radius. Ms. Blank stated that it is at the Board's discretion; it is helpful to be consistent in what is required from applicants and in the decision process.

Ms. Ross stated that for purposes of the record the Board needs to have an accurate map.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) to the July 9, 2019 Board of Adjustment meeting; for the following property:

LTS 1 2 BLK 1, 3RD CRESTVIEW ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

22668—1Architecture, LLC – Nick Denison

Action Requested:

Special Exception to allow a High-Impact Medical Marijuana Processing Facility in an IM (Industrial-Moderate) District (Section 15.020). **LOCATION:** 1316 South Sheridan Road East (CD 5)

Mr. Van De Wiele recused and left the meeting at 1:38 P.M.

Presentation:

Nick Denison, 1Architecture, 1319 East 6th Street, Tulsa, OK; stated he is representing the owner of the subject site today. The site is located in an industrial moderate zoning

district and the owner would like to be able to do high impact processing using the butane processing. There has been another entity to the north approved for the same high impact processing.

Ms. Ross asked Mr. Denison to explain what is involved in high impact processing. Mr. Denison stated there are different types of processing but this one would be butane processing. Mr. Denison stated the owner has a more profound knowledge of the process and they were to be here today but have not made it.

Ms. Radney asked Mr. Denison where the other entity is located in relation to his subject site and asked if all the buildings were contiguous. Mr. Denison stated the 15,000 square foot facility is all one building with a smaller building in front. Mr. Denison stated the site that was approved for processing is north of the subject site and it is across 13th Street.

Ms. Shelton asked Mr. Denison if the subject site would have a retail center. Mr. Denison stated that it will be a growing facility primarily.

Mr. Bond asked Mr. Denison what type of emissions would there be with the butane manufacturing. Mr. Denison stated he did not know.

Ms. Ross asked Mr. Denison if his client was a national corporation that does this process or is the client some one local. Mr. Denison stated the owner of the building is local and his client is leasing the facility and they are based in Texas. Ms. Ross asked if it was an individual. Mr. Denison stated there are three partners.

Ms. Shelton asked Mr. Denison if there would be any outdoor storage or will all the product be kept indoors. Mr. Denison stated there would be no product kept outside.

Interested Parties:

Travis Anderson, 1202 South Sheridan Road, Tulsa, OK; stated he is the neighbor to the north of the subject property, and he owns Sequoyah Industrial. Mr. Anderson stated the really safe product that he uses is ethanol and he does like butane; it is a fairly safe product if it is used in a closed loop extraction system and if the butane is stored correctly. Mr. Anderson stated that his facility has eight-inch concrete walls, 30-foot high ceilings, and an interior self-contained ceiling with an explosion proof and spark proof room for the butane facility. Butane is completely different from ethanol. Ethanol burns and butane explodes. Mr. Anderson stated he has fire protection that starts with eight-inch mains. Grow houses in the City of Tulsa and in Tulsa County now require fire protection sprinkler systems. This is a learning experience in the industry as well as the people that are responsible at the City for making the decisions. Mr. Anderson stated that he does not have a neighborhood that is within 300 feet of his facility, and the subject site has neighbors to the west within 30 feet.

Rebuttal:

Nick Denison came forward and stated his client is starting with a metal shell and the owner is prepared to do whatever is required with the butane processing.

Mr. Bond asked Mr. Denison if there were any obnoxious emissions with the butane processing. Mr. Denison stated that he is not aware of any.

Comments and Questions:

Ms. Ross stated she needs more information about the applicant's processing. Is it injurious to the neighborhood? Is it detrimental to the public welfare? She needs more information.

Ms. Radney stated this is outside the scope of her expertise, but she does appreciate that the facility to the north presented the Board with a lot more information in his case so the Board knew what they would be doing to ensure public safety. It would be nice to have more information in this case.

Ms. Shelton stated that she does not want to approve this assuming the applicant will do right with the safety factors.

Mr. Bond asked Ms. Blank if there were extraction models that are permitted within the City. Mr. Wilkerson stated that he believes that is managed through the Fire Code, and that is part of the building code. Mr. Wilkerson stated that was part of the discussion when it was decided what processes should be called high impact and which should be moderate and which should be light, and the Fire Code was relied on heavily throughout that discussion and what the Fire Marshall had to say.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-1 (Bond, Radney, Ross, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **CONTINUE** the request for a Special Exception to allow a High-Impact Medical Marijuana Processing Facility in an IM (Industrial-Moderate) District (Section 15.020) to the July 9, 2019 Board of Adjustment meeting; for the following property:

BEG NEC SE NE TH W200 S280.93 E200 N280.93 POB LESS N30 & E50 FOR ST SEC 10 19 13 .864AC, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 1:55 P.M.

22669—W Design

Action Requested:

Special Exception to permit a business support service use (Table 10-2) to allow for a catering service. LOCATION: 1115 South Lewis Avenue East – **Tenant Space (CD 4)**

Presentation:

Weldon Bowman, W Design, 815 East 3rd Street, Suite C, Tulsa, OK; stated he is before the Board on behalf of his client, 624 Catering; a Justin Thompson restaurant group. The request is to permit business support service in an MX2-P-U zoned district. The subject property is located at 11th and Lewis in a new development called the Fernweh Shops; there are two separate buildings and they are both under construction. This property was zoned CH prior to W Designs involvement. Mother Road Market and the subject property was rezoned MX2 to help with the overall development. Mother Road Market is directly across the street from the subject property and close to the future shops at Mother Road Market. All three developments are intended to be developed in harmony and usages with one another and are very loosely under the same ownership. Due to the MX-2-P-U zoning there will be 14-foot ceilings along Lewis; will have the main public entry from Lewis; there will be the required glazing glass requirements along the frontage; and there is a 30-foot parking buffer along Lewis. His client, 624 Catering, is going to occupy 2,514 square feet of the north building in the northern portion of that building. This will be the corporate headquarters for 624 Catering, as well as their catering kitchen. The offices, tasting room and conference room will occupy the majority of the space. These rooms will be located along the glass frontage of Lewis Avenue, as well as the customer entry. The kitchen is located along the back side of the building and will use less than the overall space. The backside of the building will have the parking; there is a six-foot masonry wall that has been installed on top of a three-foot retaining wall making about a nine-foot wall buffer from the neighbors to the east. The kitchen will serve at times as an experimental kitchen or research and development for the restaurants of the Justin Thompson restaurant group. All the plans were submitted to the City months ago and have been approved; the Health Department has approved the plans; and the only thing the Letter of Deficiency mentioned was the zoning thus the request for the Special Exception.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a business support service use (Table 10-2) to allow for a catering service, subject to conceptual plan 13.9 of the agenda packet. The approval is

limited to catering and food services and related enterprises as located on conceptual plan 13.9. The Board finds that the requested Special Exceptions will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LTS 15 - 21 BLK 4, BOSWELL'S ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22670—Mary Jane’s Treehouse, LLC

Action Requested:

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

LOCATION: 2030 East Pine Street North, Suite A – *Tenant Space (CD 1)*

Presentation:

Meosha Maxwell, 2030 East Pine Street, Tulsa, OK; no formal presentation was made by the applicant, but she was available for questions.

Mr. Van De Wiele stated the Board is in receipt of the applicant’s spacing verification exhibit as shown on page 14.7 of the agenda packet. This is similar to the earlier case, as the Board is not being shown the 1,000-foot radius on the exhibit.

Ms. Maxwell stated that Good Greens is located at 1333 North Utica and they just opened in April 20th and they are 1,400 feet away. Mr. Van De Wiele asked Ms. Maxwell if she was aware of any other dispensaries open in the area. Ms. Maxwell stated there is another, Greenwood Wellness, and they are located on Apache about Virgin Street which is not close at all.

Mr. Van De Wiele stated that what the Board needs to see is a diagram showing 1,000 feet from the subject site. Ms. Maxwell stated what she provided is what she was told to bring; she has been dealing with the City since March. Ms. Maxwell stated that she has had her license since January 2019, but she did not open her location until February 1st. Ms. Maxwell stated this is the last step in her process and the City told her she needed to appear before the Board.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he does not think this is the same type situation as the case previously presented today, where information was inaccurately shown. The Board does have the applicant’s testimony that she reviewed the OMMA information and Green Goods is the closest dispensary.

Mr. Bond stated he is comfortable with this request because of the phrase, "the action of the Board being void should another medical marijuana dispensary be established".

Ms. Ross disagreed. She wants to see an accurate depiction of all the businesses. This looks like the site is in a shopping center and there are other businesses there. And the Board needs to verify that there are no other dispensaries, so the Board needs to see a list of all the businesses within the 1,000-foot radius. That is the job of the Board, the people who verify the radius and it cannot be done based on testimony. She thinks this will be inconsistent with the prior decision made today if the Board allows just a testimony.

Mr. Van De Wiele stated the Board is not the entity verifying the 1,000-foot radius, the applicant is the one who is verifying the 1,000-foot radius and the Board is accepting the applicant's verification.

Ms. Shelton stated that the Board should be consistent. What she does not want to do is continue this for two weeks since the applicant has done her due diligence.

Ms. Radney stated that she too wants the Board to be consistent. She will acknowledge that the document the applicant provided to the Board is affirming the location of the nearest dispensary which is outside of the 1,000-foot radius, and that is what the applicant is charged with delivering to the Board. The Board has grown accustomed to seeing a diagram and her issue with the previous case today is that the diagram was not accurate.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Radney, Shelton, Van De Wiele "aye"; Ross "nay"; no "abstentions"; absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LT 2 BLK 2; LT 1 BLK 2, BRADEN-MARTIN SUB L8-9 & 18-19 SPRINGDALE, City of Tulsa, Tulsa County, State of Oklahoma

22671—Jaime Ramirez

Action Requested:

Special Exception to permit an Indoor Assembly & Entertainment (larger than 250-person capacity) Use in an IL District (Table 15-2); **Variance** from the parking design standards to permit gravel parking for non-required parking spaces (Section 55.090). **LOCATION:** 5745 East Admiral Place **(CD 5)**

Presentation:

Jaime Ramirez, 5745 East Admiral Place, Tulsa, OK; stated he just purchased the subject property and he owns the property west of the subject site, United Concrete. He was having a hard time finding a place large enough for his family and friends to celebrate holidays, birthdays, anniversaries, etc. He decided he could use the building as an event center. Mr. Ramirez stated that he will not be selling alcohol and there will no cooking in the building.

Mr. Van De Wiele asked Mr. Ramirez what he used the existing gravel area for currently. Mr. Ramirez stated his business has 20-foot trailers and that area is used to turn around and take the trailers into his concrete shop. Mr. Ramirez stated he removed the fence between the two properties and now it looks as if it is one property.

Mr. Van De Wiele asked Mr. Ramirez if the back area, that is currently gravel, has been gravel since he has been in business at that location. Mr. Ramirez answered affirmatively.

Ms. Ross asked Mr. Ramirez if he knew the square footage of the building. Mr. Ramirez stated that it is 4,000 square feet.

Mr. Van De Wiele asked Mr. Ramirez what his hours of operation would be for the events, if he is approved today. Mr. Ramirez stated that he plans to be open until 2:00 A.M.; he will have the person holding the event sign a form stating that an event will close at 1:00 A.M. and all clean up is to be completed and everyone is to be out of the building by 2:00 A.M.

Mr. Van De Wiele asked Mr. Ramirez if he was going to require a security guard to be present at all events. Mr. Ramirez answered affirmatively.

Mr. Van De Wiele asked Mr. Ramirez if there were any residences close to the subject property. Mr. Ramirez stated the closest house is north of Highway 412.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Radney, Shelton, Van De Wiele "aye"; Ross "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit an Indoor Assembly & Entertainment (larger than 250-person capacity) Use in an IL District (Table 15-2); Variance from the parking design standards to permit gravel parking for non-required parking spaces (Section 55.090), subject to conceptual plan 15.10 of the agenda packet. The Board has found the hardship to be the pre-existing use and the industrial nature of the existing property.

Concrete or asphalt will be required on the lot up to the north line of the building. The Board finds that the requested Special Exceptions will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. 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:

E/2 LT 5 & W80 LT 6 LESS S30 THEREOF FOR STREET BLK 1, GREENLAWN, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

None.

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NEW BUSINESS

None.

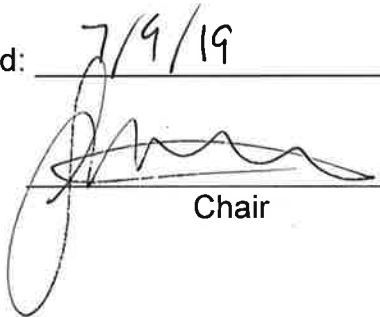
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BOARD MEMBER COMMENTS

Mr. Van De Wiele started a discussion with the other Board members regarding what the Board would like to see from an applicant for spacing verifications. After a lengthy discussion the Board decided they would like to the following provided by the applicants before presenting their case to the Board:

- ❖ a Letter of Deficiency (LOD) from the City.
- ❖ a copy of their State license.
- ❖ an aerial map clearly marking the applicant's business location.
- ❖ show a circular radius around the applicant's subject location of 1,000 feet in all direction.
- ❖ mark any known operating dispensaries and the location of all medical marijuana dispensary licenses issued within the 1,000-foot radius circle.
- ❖ show the nearest State license issued from the subject site property, even if it is outside the 1,000-foot radius circle.
- ❖ the Board does not deem it necessary to identify every use within the 1,000-foot radius circle.

There being no further business, the meeting adjourned at 3:05 p.m.

Date approved: 7/9/19


Chair